

MEMORANDUM

TO: Carissa Hansen, Director and the Library Board

FROM: John T. Shockley

DATE: August 13, 2021

RE: West Fargo Public Library Mill Levy



I. INTRODUCTION/BACKGROUND

This memorandum relates to the authority of the City of West Fargo to set the West Fargo Public Library’s (the “Library”) mill levy. In 1990, the West Fargo City Commission (the “City Commission”) voted and approved a levy of six (6) mills for Library services. In 2005, the City Commission increased the mill levy for the library above six (6) mills. This memorandum provides a brief overview of the authority that gives the City of West Fargo the authority to levy more than the mill levy limit prescribed by N.D.C.C. §§ 40-38-02 and 57-15-10(4) for Library service.

II. LAW AND ANALYSIS

The City of West Fargo previously adopted a home rule charter. North Dakota Cities that have adopted a home rule charter may exercise the powers and authorities contained in N.D.C.C. § 40-05.1-06, if those powers are included in its charter and implemented through an ordinance. These powers include the authority to control finances, levy and collect property taxes, and establish debt and mill levy limitations. N.D.C.C. § 40-05.1-06.

The North Dakota Attorney General has said that the home rules powers to establish debt and mill levy limitations give home rule entities the authority to determine the method by which the entity functions and services are financed. See N.D.A.G. 2006-L-07. Thus, if a city has in its charter, the powers in N.D.C.C. § 40-05.1-06(2), it may increase the mill levy above the mill levy limitation set by North Dakota law.

In addition, Article III, subsection 2 of the Home Rule Charter permits the City Commission to promulgate the City budget without regard to the specific dedications of mill levies to specific purposes as long as the total of the budget does not exceed to the total mill authorized to be levied by the City.

The Home Rule Charter was approved by a majority of the voters of the City at a regular election on June 14, 1994, and amended on June 10, 2014. Article III, subsection 2 of the Home Rule

Charter gives the City the power to establish debt and mill levy limitations. The City Commission may distribute the City budget without regard to specific dedications so long as the total of the budget does not exceed the total mill levied by the City. This allows the City to allocate funds between different City departments.

III. CONCLUSION

As a result, the City of West Fargo is permitted to levy more mills than the mill levy limit prescribed by N.D.C.C. §§ 40-38-02 and 57-15-10(4) for Library service.