F.O.I.A. REQUEST

FOIA #: 20180216

February 16, 2018

Community High School District 99
Administrative Service Center
ATTN: Hank Thiele, FOIA Officer
6301 Springside Avenue,
Downers Grove, IL 60516

Delivered via e-mail to: foia@csd99.org, hthiele@csd99.org

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RE: FOIA Request (20180216)

Dear FOIA Officer Thiele and members of the Board of Education,

According to Board Policy 2.25 ("Access to District Public Records"), the Superintendent, serves as the official Freedom of Information Officer for the District ("The Superintendent shall serve as the District's Freedom of Information Officer and assumes all the duties and powers of that office as provided in FOIA and this policy.")

Please consider this written communication to be a Freedom of Information Act Request for the following public records.

RECORDS REQUESTED:

Since 1996, the District has issued sixteen (16) different series of debt instruments. Bonds related to the 1998 Referendum are in red.

1. $17,175,000 GO Limited Tax School Bonds - Series 1996A
2. $1,415,000 GO Refunding Bonds - Series 1996B
3. **$39,497,015.45 GO School Bonds - Series 1998**
4. **$9,998,360.60 GO School Bonds - Series 1999**
5. $2,000,000 Limited Tax Debt Certificates - Series 2001
6. $4,589,206.60 GO Limited Tax Capital Appreciation School Bonds - Series 2002A
7. $10,999,420 Taxable GO Limited Tax School Bonds - Series 2002B
8. **$38,120,000 GO Refunding Bonds - Series 2004**
9. $540,000 GO Limited Tax Debt Certificates - Series 2006
10. $4,250,000 GO Limited Tax Debt Certificates - Series 2007
11. $3,635,000 GO Limited Tax Debt Certificates - Series 2008

12. $10,000,000 GO Alternate Revenue Source Bonds Series 2011
13. $21,550,000 GO Refunding School Bonds – Series 2014
14. $3,500,000 GO Limited School Bond - Series 2016
15. $4,650,000 Taxable GO Refunding Debt Certificates – Series 2016A
16. $1,915,000 GO Limited School Bonds – Series 2017

Within each of the board approved bond and debt certificate contracts for the above documented issuances, the District has agreed to written covenants wherein it pledges that it will establish a special *trust fund* into which the property taxes and/or pledged revenues will be placed for the benefit of the holders of the debt. For obvious reasons, property tax receipts, state aid, or other revenue collected for the principal and interest payments to be paid to the holders of one debt instrument *must not* become commingled with tax receipts, state aid, or other revenue collected for any other issuance.

The language from Section 8 of the 2011 Alternate Revenue Source Bond Resolution demonstrates the unique nature of the *contractually required* fund:

> "There is hereby **established a special fund** of the District known as the 'Alternate Bond Fund of 2011' (the 'Bond Fund'). The Pledged Revenues and the Pledged Taxes shall be set aside **as collected and be deposited into** the Bond Fund, which is a **trust fund** established for the purpose of carrying out the covenants, terms and conditions imposed upon the District by this Resolution." 2011 ARS Resolution "Section 8. Bond Fund" @ p.13 (May 16, 2011). (Emphasis added)

According to Article 8 of the School Code of Illinois, upon the receipt of property tax collections, the school district treasurer is required to distribute each payment of property taxes received from the county treasurer into each individual operating fund *and bond fund* in accordance with the ratio of each individual extension to the total extension. If that distribution is made proportionately by the treasurer, the treasurer's books would have a record of *each* collection of revenue in the daily ledger of each discrete trust fund. The result would be multiple ledger entries each fiscal year as property taxes are received and/or state aid/revenue is received. The ledger would also show the two distributions which are customarily made as the debt is annually serviced. In addition, monthly earned interest would be booked leading to at least twelve more ledger entries per year. In total, it would be rare to have *less than* two dozen individual ledger entries in any one fiscal year.

Furthermore, section 2.5 of the FOIA Act (5 ILCS 140/2.5) provides that "[a]ll records relating to the obligation, receipt, and use of public funds of the State, units of local government, **and school districts** are public records subject to inspection and copying by the public." (Emphasis added) The Act, therefore, explicitly states that "**all**" records relating to each of the discrete trust funds are subject to inspection.

This FOIA is a request for certain records related to these "trust funds" … trust funds that have held either property taxes, state aid, or other identified revenue. *Since 1996, over*

<u>$145,000,000 has flowed into and out of these trust funds on their way to the various holders of the District's debt instruments.</u>

To prove the existence of these debt service trust funds, attached is a document produced by the District's Controller (Mr. Mark Staehlin) as part of the Fiscal Year 2015 budget process. (See attached pages from July 17, 2014 memo) Mr. Staehlin has been the Controller for more than two decades and is the individual who is responsible for properly documenting the receipt and disbursement of all funds for each of the trust funds. He clearly is aware of the trust fund accounting requirements.

The following statements made by Mr. Staehlin, and found within the 2015 Budget document, demonstrate the existence of the records sought for review by this FOIA.

Under the Heading "Non-Operating Funds" on page 6:

> Mr. Staehlin stated: "The Debt Service Fund provides for annual retirement of principal and interest on the District's general obligation debt. **<u>The District uses separate accounts or "sub-funds" to track the different types of debt obligations and the specific funding sources used to repay them</u>**. All sub-funds are combined for budgetary and financial reporting purposes." (Emphasis added)

Additionally, the various trust funds related to the November 3, 1998 Referendum ($49,500,000 to fund capital renovations and improvements) have collected unused balances over the 20-year term of the bonds. Mr. Staehlin documents this fact as well within page 7 of the 2015 Budget document:

> Mr. Staehlin stated: "In addition, any interest earned on annual debt service levy proceeds collected for the original $49.5 million of bonds can eventually be applied to the MFP sub-fund. **<u>Currently that accumulated interest is about $1.3 million and is being held in the Debt Service Fund until the last of the original bonds are retired in 2017</u>**. **<u>We expect to transfer the $1.3 million, and any other similar interest earned in the Debt Service Fund through 2017, to the MFP [Master Facility Plan] sub-fund at that time."</u>** (Emphasis added)

- Note the use of the pronoun "We" ("We expect …") in the last sentence. The use of the word "We" implies that Mr. Staehlin *<u>and others</u>* "expect to transfer" the accumulated surplus of property taxes and interest to the O&M fund. It is assumed that *<u>the others</u>* that make up the "We" include members of the Board of Education.

Mr. Staehlin expressly states that $1,300,000 of surplus funds has been collected … and not distributed to bond holders over the many years or *<u>returned to the taxpayers via abatement</u>*.

As documented by Mr. Staehlin within various annual budget records, vast amounts of *<u>idle</u>* property taxpayer monies (and interest earned on those monies) have been accumulating in one or more bond trust funds. Instead of reducing one or more bond levies over the last twenty years … and thereby reducing the tax burden of the property owners … ***<u>the apparent plan of the</u>***

current board (and past boards) has been to squirrel the funds away and keep them for the district's use.

The public records of the district reveal that there has *not* been a single occurrence during his 20+ years as Controller of Mr. Staehlin recommending to the Board of Education that an annual bond levy be *abated* by the amount of the accumulated *surplus* in any one of the sixteen (16) bond/debt certificate trust funds previously listed within this letter. Additionally, no records can be located within the records of the District that reveal *any board member ever proposing an abatement* of any of these "slush fund" monies.

The only "abatement" of a bond levy during Mr. Staehlin's tenure occurred in levy year 2002 when $50,000 was abated from the Series 1999 2002 levy after the Site and Construction Fund for the referendum projects was depleted once the projects had been completed.

Every year for almost twenty years, a bond or debt certificate trust fund has accumulated a fund balance in excess of what is needed to pay the upcoming interest and principal payments.

For example, the Series 2014 GO Refunding School Bond has a debt repayment schedule that calls for interest to be paid to the bondholders on June 1st and both principal *and* interest to be paid on December 1st. Up until the annual debt principal payment is made on December 1st, the *idle* monies along with the June and September property tax receipts collected as part of the previous year's levy are irrevocably pledged to and shall be used only for the purpose of paying the principal of and interest on the Bonds.

However, once the December 1st principal and interest payment has been made, the fund's balance is no longer irrevocably pledged to any particular bond still outstanding. The then current levy, and the following year's extension/collection, is pledged for the following June 1st and December 1st payments. Any post-December 1st fund balance … especially a $1,300,000 fund balance … simply floats within the district's bank account earning even more interest.

The following term is defined on page 27 of the Bond Resolution for the 2014 GO Refunding School Bonds:

"'Reserve Portion of the Bond Fund' means the portion of the Bond Fund funded in excess of the amount of debt service payable each year."

Within the same resolution at pages 29-30, the following was recorded as one of the covenants of the contract (See resolution page 23 – "The Board and the District certify, covenant and represent as follows:"):

"3.2. Purpose of Bond Fund. The Bond Fund (other than the Reserve Portion of the Bond Fund) will be used primarily to achieve a proper matching of revenues and earnings with principal and interest payments on the Bonds in each bond year. It is expected that the Bond Fund (other than the Reserve Portion of the Bond Fund) will be depleted at least once a year, except for a reasonable carry over amount not to exceed the greater of (a) the earnings on the investment of moneys in the Bond Fund (other than the Reserve Portion of the Bond Fund) for the immediately preceding bond year or (b) 1/12th of the principal and interest payments on the Bonds for the immediately preceding bond year.

The District will levy taxes to produce an amount sufficient to pay all principal of and interest on the Bonds in each bond year. To minimize the likelihood of an insufficiency, the amount extended to pay the Bonds may in most years be in excess of the amount required to pay principal and interest within one year of collection. This over-collection (if any) may cause the Bond Fund as a whole to fail to function as a bona fide debt service fund. **Nevertheless, except for the Reserve Portion of the Bond Fund, the Bond Fund will be depleted each year as described above.** The Reserve Portion of the Bond Fund will constitute a separate account not treated as part of the bona fide debt service fund. The Reserve Portion of the Bond Fund is subject to yield restriction requirements except as it may otherwise be excepted as provided in 5.2 below. It is also subject to rebate requirements." Emphasis added

The above language found within the Series 2014 resolution is a covenant found within bond resolutions as a means of protecting *both* the bond holders and the taxpayers. As stated within the Resolution, the "over-collection" may cause the Bond Fund as a whole to fail to function as a "bona fide debt service fund"; and instead, morph into becoming what a taxpayer would rightfully call a "slush fund."

The records of the district reveal that at no time since Mr. Staehlin was appointed Controller has a single bond fund been "depleted" in accordance with the contractual promise made to the taxpayers within the various bond resolutions.

During the past twenty years, board members should have targeted the various trust funds' balances on December 2nd of every year to be at or near zero ($0.00). Instead, elected members of the Board of Education have squirreled away over $1,300,000 of taxpayer monies into nearly invisible accounts that *do not appear in either the monthly Treasurer's Report or the annual financial statements*.

The current members of the board must honor these covenants for the 2017 tax year; and to do so, an accounting must be made of the various trust funds.

The purpose of this FOIA is to produce that accounting so that the public is more fully informed of the management of their property taxes.

ACTUAL FOIA REQUEST – DAILY LEDGERS:

The FOIA is a request for the *daily ledger* for each of the following eight (8) discrete trust funds (Bond Fund and Reserve Portion of the Bond Fund) from the time each trust fund was initially created at the time of closing on each bond issuance.

1. **$39,497,015.45 GO School Bonds - Series 1998**
   a. **Bond Fund**
   b. **Reserve Portion of the Bond Fund**
2. **$9,998,360.60 GO School Bonds - Series 1999**

a. **Bond Fund**
b. **Reserve Portion of the Bond Fund**

3. **$38,120,000 GO Refunding Bonds - Series 2004**
    a. **Bond Fund**
    b. **Reserve Portion of the Bond Fund**
4. **$21,550,000 GO Refunding School Bonds – Series 2014**
    a. **Bond Fund**
    b. **Reserve Portion of the Bond Fund**

The requested records would provide an accounting of all transactions and ledger entries documenting source of funds into and destination of funds out of each of the eight (8) previously listed individual Debt Service Funds ("trust funds") created and maintained as required by the School Code, the Illinois Program Accounting Manual and the individual bond resolution.

This accounting would include but not be limited to:

1. The "Daily Ledger" revenues into the individual debt service fund accounts identifying by date all interest/investment income identified by source (bank deposit interest, investment income interest,), tax collection revenues, pledged revenue deposits, interfund transfers or any other revenue source;
2. The "Daily Ledger" withdrawals and expenditures from the individual debt service fund accounts by date, identifying by date all expenditures and transfers out of the seven individual debt service fund accounts ;
3. All cash balance entries of the individual debt service fund accounts by date.

In conclusion, given the fact that certain outstanding referendum bonds (Series 2014) are nearing their final maturity, it is critical that all **accumulated** monies are utilized for the **final** debt service payment(s) and that proper property tax levy abatements are approved by the Board of Education reducing the tax burden of property owners.

This timing of abating the 2017 debt service levies is restricted by the County Clerk's extension process. Therefore, in order to place the issue properly before the Board of Education at an upcoming meeting, these records must be made available as quickly as possible.

I also request that all charges and fees be waived because this request is not for commercial purposes and is in the public interest.

/s/ Scott O'Connell

Scott O'Connell

COMMUNITY HIGH SCHOOL DISTRICT 99
OFFICE OF THE DISTRICT CONTROLLER

TO: Board of Education

VIA: Dr. Mark McDonald

FROM : Mark Staehlin MS

DATE: July 17, 2014

RE: Tentative Budget for Fiscal Year 2014-15

The purpose of this memo is to provide narrative support to the attached schedules of Fund Balances, Revenues and Expenditures for the Tentative Operating Budget for the 2014-15 fiscal year. For comparison, the schedules also present last year's actual and budgeted figures along with the fiscal year 2014-15 Tentative Budget. The revenue and expenditure exhibits reflect a percentage change column comparing the Tentative Budget against last year's actual amounts.

This is a "Tentative Budget" as it represents the first opportunity for members of the Board of Education and community to review the proposed budget for the next school year. It will be available for review until the September 15, 2014 meeting of the Board of Education when the administration will be recommending formal approval of the Budget. Changes may be made to the Tentative Budget up until the point in time it is formally approved. Illinois law requires formal adoption of the budget by the end of September.

Overview

For the last five years we have been concerned that the State would take action to either reduce our revenues or shift new expenditure responsibilities down to us. The State did make some more significant cuts this year, by reducing our General State Aid and pro-rating several mandated categorical program reimbursements more deeply than previous years. The judicial stay should delay impact from the State pension "reform" for at least another year. Going forward, we will continue to try to strengthen revenues and reduce expenditures wherever it makes sense to do so - as we are still bracing for significant negative fallout from the State.

Our stabilization strategy includes continuing to address as many large capital problems as we can before any greater negative financial action by the state is imposed on us. We also continue to look for creative ways to pay down long-term debt without sacrificing services to our students or community. The 2014-15 Tentative Budget reflects a transfer of $600,000 from our Operating Funds to retire long-term debt issued for critical capital projects and significant technology improvements that are benefiting our students and community members. It also reflects a plan to call and refinance $26.2 million of outstanding bonds to (slightly) reduce our Debt Service Fund tax rate and also retire other outstanding debt. These actions are supported by our District Strategic Plan (DSP) which directs us to maximize available resources.

The 2014-15 Tentative Budget also follows the DSP and redirects resources to areas that we believe will have the greatest positive impact on student performance. Our 1:1 student device will grow from 200 to 1,500 student participants next year. In addition, we continue to add targeted instructional positions to support the Math and AVID program areas.

Tuition and Other: 5.5% of Total Operating Expenditures
Last year total tuition based costs were about $3.8 million and exceeded budget because of unexpected increases in students requiring out of building placements. This year we expect the costs to be about $4.3 million for a 15.4% increase. Tuition students are those placed in programs outside of our two campuses in facilities better suited to serve the intense needs of these children. We continue to monitor and actively manage this area of our budget, however there are aspects of these placements that we cannot control. For example, we have 14 very high cost students coming into our District next year. In most years, we have a similar number of students aging out or leaving our District. In 2014-15 we have 14 students leaving our program by the end of the school year, but 13 of them do not leave until late Spring. Accordingly, we need to budget for the costs of their placements for almost the entire year.

CONTINGENCIES

Contingencies have not been included in the Operating Budget line items. This makes the Operating Budget a more useful monitoring tool throughout the fiscal year and a better device upon which to base future year projections. A fixed amount of contingency for each fund is used to provide some measure of protection between the Operating Budget and the legally adopted budget. These amounts total $1.0 million for all Operating Funds combined. The contingency amounts are noted, individually by fund, under the subtotal of each fund's expenditures and revenues.

NON-OPERATING FUNDS

Non-Operating Funds include the Debt Service and Capital Project Fund types. These are shown separately from the Operating Fund group because the transactions in these fund types are so large and erratic that they would distort year-to-year comparisons of normal operations.

The Debt Service Fund provides for annual retirement of principal and interest on the District's general obligation debt. The District uses separate accounts or "sub-funds" to track the different types of debt obligations and the specific funding sources used to repay them. All sub-funds are combined for budgetary and financial reporting purposes.

The Long Term Debt section of this exhibit depicts combined outstanding debt issues and classifies them by the funding source that we have been using to pay them off. In 2014-15 we expect to pay off $584,000 of our total long-term debt obligations with Operating Fund sources. We also anticipate refinancing some higher interest rate bonds and using about $1.5 million of the anticipated $2.0 million of savings to pay off more of the Debt we would normally retire through our Operating Funds.

Capital Projects Funds are used mainly to account for the proceeds of bonds issued for Life Safety, Construction, or Site Acquisitions. Expenditures in these funds are restricted to the purchase of land or for larger capital projects. Separate "sub-funds" are also used in the Capital Projects Fund to account for individual projects and/or funds generated from different sources.

There are two major sub-funds existing in the combined Capital Project Fund at this time. One is to account for the proceeds from the sale of our Woodridge property. We refer to this sub-fund as the Master Site Plan (MSP) sub-fund because when the proceeds were received the District determined those proceeds should be primarily used to expand, renovate and improve the sites in the District to best serve our students.

There is about $225,000 left in the MSP sub-fund as of June 30, 2014. Last year we used $1.8 million to complete the purchase and build-out of the new Transition House facility on Venard.

The second sub-fund is referred to as the Master Facility Plan (MFP) sub-fund. It was created in 1997 when the District issued $49.5 million in referendum bonds to expand and make major renovations to both campuses. The Main Street wing, South High cafetorium and field houses at each campus were significant additions resulting from this project.

This project was managed by an outside professional construction management firm and went very poorly. The project went more than 12% over budget resulting in extensive litigation costs and an eventual settlement with the construction manager. Litigation with about a dozen of the 78 individual subcontractors continued on for years. Ultimately the District was left with more than a $5.0 million deficit in the MFP sub-fund.

Rather than using Operating Funds or issuing more debt to offset the MFP sub-fund deficit, the District has been working down this deficit by applying other non-operating revenue sources, such as builder contributions and discretionary interest income earned on other non-operating funds to it. In addition, any interest earned on annual debt service levy proceeds collected for the original $49.5 million of bonds can eventually be applied to the MFP sub-fund. Currently that accumulated interest is about $1.3 million and is being held in the Debt Service Fund until the last of the original bonds are retired in 2017. We expect to transfer the $1.3 million, and any other similar interest earned in the Debt Service Fund through 2017 to the MFP sub-fund at that time. As of June 30, 2014 the MFP sub-fund deficit is about $3.2 million.

STATE (ISBE) BUDGET FORM

Upon approval from the Board of Education, copies of the Tentative Budget will be on display at all District buildings and at several public libraries throughout the communities that we serve. We use a standardized form issued by the State Board of Education (ISBE) for this purpose.

The standardized legal budget form also will include a large offsetting revenue and expenditure amount in the Educational Fund. Payments by the State of Illinois made directly to the Teacher's Retirement System for the State's portion of our certified staff's pension contributions has been estimated to be $14.3 million for next year. Although the District does not handle this amount directly, generally accepted accounting principles require that we reflect this payment made "on behalf" of the District by the State as both a revenue and expenditure in our audited financial statements. Reflecting this transaction in our legal budget will provide the auditors with the appropriate budgetary information that they require.

If you would like a copy of this State form for your own files, please contact me.

BUDGET HEARING AND APPROVAL OF FINAL BUDGET

The Tentative Budget is required to be on public display for at least 30 days. After that has occurred, a Public Hearing must be held before formal action to approve the Final Budget can be taken by the Board of Education. Our August 18, 2014 Board Meeting is less than 30 days from our July 21, 2014 meeting. Accordingly, we intend to simply leave the budget on display longer and have the hearing and formal Board action at the **September 15, 2014** meeting.