

Topic 2: West Greeley Project

501(c)(3) Structure Summary

Bottom line. The proposed 501(c)(3) is intended to act as the project's temporary borrowing and ownership vehicle. It would receive tax-exempt bond proceeds through a conduit financing structure, oversee development and early operation of the entertainment assets, repay debt primarily from project revenues, and transfer the facilities to the City after the bonds are repaid. Because project revenues may not be strong enough on their own to support the financing, the structure also contemplates a City moral obligation backstop for debt reserves.

1. What role would the 501(c)(3) play?

The 501(c)(3) would serve two main roles: conduit borrower and temporary owner/operator of the entertainment district assets.

- As conduit borrower, the nonprofit would receive bond proceeds from a public issuer and be responsible for repaying that debt from pledged project revenues.
- As temporary owner/operator, it would hold the leasehold or ownership interests needed for financing, oversee development of the arena, ice center, hotel, and waterpark, and manage compliance during the bond period.
- After debt is fully repaid, the project materials state that ownership of the facilities would transition to the City.

2. What is conduit financing, in simple terms?

Conduit financing is a pass-through borrowing structure. A public issuer sells tax-exempt bonds, the money is lent to the project entity, and the project entity—not the issuer—is expected to repay the debt.

- Investors buy bonds issued by a qualified public issuer.
- Bond proceeds are loaned to the 501(c)(3).
- The 501(c)(3) uses the money to build or acquire the project.
- Debt service is paid over time from project revenues and other pledged support.
- The main advantage is lower-cost tax-exempt financing compared with conventional taxable borrowing.

3. Why use this structure?

- It can lower borrowing costs through tax-exempt financing.
- It allows a specialized nonprofit entity to handle complex financing, compliance, contracting, and project oversight.
- It is intended to support project delivery without the City issuing the bonds as direct general obligation debt.
- It can keep ownership structured for eventual transfer of the finished facilities to the City.

4. Why is a City moral obligation pledge being discussed?

Because the financing relies heavily on project revenues. If investors believe those revenues could be uneven or weaker than forecast, they may require added comfort before buying the bonds at acceptable rates.

- A moral obligation pledge is not the same as a full legal guarantee of the bonds.
- In practical terms, it means the City could be asked to consider appropriating funds to replenish a debt service reserve if project revenues fall short and reserves are drawn down.
- This is meant to improve market confidence while still keeping the 501(c)(3) as the formal borrower.
- The City would still have real financial, policy, and reputational exposure if the project underperforms.

5. How would the cash flow work?

- Bond proceeds would fund project costs, reserves, and financing-related costs.
- The 501(c)(3) would use project revenues first to cover operations and then debt service.
- A debt service reserve fund would provide a backup cushion for bond payments.
- If the reserve were depleted, the City could be asked to restore it through annual appropriation under the moral obligation structure.
- If the project performs well and all obligations are met, excess benefits ultimately flow back to the City, and ownership would transfer after final repayment.

6. Governance and legal cautions

The structure only works if the nonprofit remains genuinely organized and operated for a public purpose. A 501(c)(3) cannot simply be a shell used to pass tax-exempt financing advantages to private parties.

- Any benefit to private developers, managers, landlords, or affiliates must be incidental to the public purpose.
- The nonprofit should have independent governance, arm's-length agreements, and clear documentation showing that it serves public rather than private interests.
- Overdependence on one private party, above-market or poorly structured contracts, or effective control by a private manager can create tax-exemption risk.
- Because this project is in Colorado, any City support also must be structured carefully for TABOR compliance, including annual appropriation concepts rather than an irrevocable multi-year pledge.

Helpful Definitions

Tax-exempt financing: lower-cost borrowing available for qualified projects because investors receive a tax benefit. Investors get a tax benefit because the interest on tax-exempt bonds is usually not subject to federal income tax, which lets them keep more of their earnings. That is why they may accept a lower interest rate, helping the project borrow more cheaply

Project revenues: the money earned by the arena, hotel, and waterpark from operations and customer activity.

TABOR compliance: making sure the financing structure follows Colorado's rules on government debt and long-term payment commitments. TABOR requires that a Colorado local government generally cannot create certain multi-year debt or financial obligations without voter approval unless the structure is designed to avoid creating a legally binding long-term obligation.