
MEMORANDUM

TO: Poudre River Public Library District

FROM: Seter & Vander Wall, P.C., Kim J. Seter, Esq., Elizabeth A. Dauer, Esq., and Cameron J. Richards, Esq.

DATE: May 3, 2019

RE: Legal Status Report for May 13, 2019 Trustees' Meeting

Fort Collins Urban Renewal Authority Project Discussions and Negotiations

Task: Work with the Executive Director and the Board to review and evaluate the Library District's participation in the planned Drake Road and College Avenue redevelopment.

Status: The City of Fort Collins Urban Renewal Authority ("URA") is proposing to fund a redevelopment project utilizing Tax Increment Financing. The URA and developer, Brinkman Brothers, presented their proposal at the March Board meeting. The URA provided some information concerning the project, including estimated program costs, estimated tax increment revenues, fiscal impact modeling, and a draft intergovernmental agreement. Documents provided by the URA assume the District agrees to a contribution of 66% of its incremental revenue, or \$17,886 annually up to a maximum cap of \$573,000 for the project.

The Board discussed the possible budget impacts of pledged tax increment revenue and concerns regarding the project. At the March meeting, the Board provided direction to the Executive Director and to legal counsel to continue discussion and negotiation with the URA.

The URA and the Library agreed in principal to an IGA that incorporates the total contribution cap of \$573,000, allows the District to retain any future mill levy increases that may be obtained through voter approval, and contains a specific list of improvements the District mill levy increment may be used for. A draft was presented at the April Board meeting

At the April meeting, the Board approved signing the IGA subject to final legal review.

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Action: Legal review is complete and an execution copy has been prepared for signature.

Review of Bylaws

Task: Review the District’s bylaws for any changes or updates that are necessary or inconsistent with changing law.

Status: The review of bylaws was requested as part of the ongoing review of policies. We will work with the committee of Ms. Quijano, Mr. Frey and Ms. Schultz to make appropriate and necessary revisions.

Legal counsel will provide suggestions on revisions at the June 2019 meeting.

Action: None at this time.

Options for Funding Future Facilities Development

Task: Summarize financing options the District can consider to fund future facilities development.

Status: The District has three options to pay for the construction of new libraries or the improvement of existing branches: (1) Cash out of reserve/budgeted funds; (2) General obligation bonds; and (3) Lease/purchase financing with or without certificates of participation. Each is summarized below. We recommend use of certificates of participation as a simple and cost-effective approach.

Cash on Hand: Availability of this “pay as you go” option depends on the scale of the project, the District’s financial position, and budget considerations for not only the next year, but in years to come. It is often best to utilize cash on hand to provide current services.

General Obligation Bonds: The most common form of government financing. Bonds are secured by the full faith credit and taxing power of the government issuer. Bonds offer low interest rates and are attractive to investors due to their double tax-exempt status. However, the issuance of debt through general obligation bonds requires an election as does the corresponding increase in taxes pursuant to Art. X, §20 of the *Colorado Constitution* (“**TABOR**”).

Lease/Purchase with or without Certificates of Participation (“COP”): Libraries are in a unique position to take advantage of sale/lease back

financing. From a legal perspective, this method involves selling or leasing a property that is owned by the District. The funds received are used to buy new or improve old facilities. The property sold/leased by the District is leased back to the District which pays rent consisting of principal and interest to the investor[s]. The lease back to the District contains an option to purchase the property at the end of the lease for a nominal fee, often \$1.00. Lease/purchase financing does not constitute long-term debt obligations of the issuing authority, and is therefore exempt from state and local laws that require voter approval under TABOR.

We recommend lease/purchase financing as the best option. However, we are ready to assist on any method the District may ultimately pursue.

Update: At the March meeting, the Board requested legal counsel and Ms. Miller, the Director of Finance, discuss how much in lease/purchase financing the District could pursue under its current budgetary and financial limitations. To date, this has not occurred, but a conversation will be held shortly concerning this.

Action: No action is required at this time. This item is being retained as placeholder for future considerations.