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## 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: January 9, 2020

RE: Legal Status Report for January 13, 2020, Trustees' Meeting

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### 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.

You were provided a redline copy of changes in October, and a first reading was considered in November. The proposed changes can be adopted, or any suggested modifications discussed. The redline is reattached to this report for your consideration.

**Action:** Consider adopting changes to bylaws by motion, second, and majority vote of a quorum of the Board.

### District Boundary Map

**Task:** Work with the Larimer County Assessor to obtain an updated District boundary map and ensure accuracy.

**Status:** This project began with notice of an annexation of real property into the Town of Wellington. Prior to the case of *Wellington v. Board of Trustees of the Fort Collins Regional Library District*, 216 P.3<sup>rd</sup> 611 (Colo. App. 2009), property annexed into Wellington was being removed from the District. Given the pace of growth around Larimer County and the possibility of a future election, we requested the County Assessor provide an updated map showing District boundaries to verify no properties have been improperly excluded from the District.

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The Larimer County Assessor will be providing the information. Further update will be provided as necessary.

**Action:** No action is required at this time.

### **Options for Funding Future Facilities Development**

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

**Status:** **No change. This item is for informational purposes.**

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.

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

**Poudre River Library District**  
Board of Trustees

**BYLAWS**

These Bylaws of the Board of Trustees (the "Board") of the Poudre River Public Library District (the "District") are adopted this 7<sup>th</sup> day of January, 2008-20 at the District's regular monthly meeting ~~to govern Board action pursuant to §24-90-109(a), Colorado Revised Statutes.~~

~~The District is a political subdivision of the State of Colorado, established and existing pursuant to §§24-90-101 et seq. of the Colorado Revised Statutes. These bylaws are adopted pursuant to C.R.S. §24-90-109(a).~~

**I. NAME**

The name of this organization shall be the Poudre River Public Library District ~~(the "District"), a political subdivision of the State of Colorado, established and existing pursuant to §§ 24-90-101 et seq., Colorado Revised Statutes (the "Library Law"), as formed by Larimer County and the City of Fort Collins (the "Appointing Authorities").~~

**II. BOARD OF TRUSTEES**

**Section 1. Appointment and Makeup.** The management and control of the ~~Poudre River Public Library District (the "District")~~ shall be vested in a Board of seven (7) trustees (the "Trustees") appointed in accordance with ~~§24-90-108 statute,~~ all of whom must reside within the boundaries of the District.

**Section 2. Number, Geographic Areas and Term Terms of Trustees.** ~~The Board of Trustees shall consist of seven (7) members, all of whom must reside within the boundaries of the District's legal service area. Each term shall be four (4) years, and no Trustees shall serve no more than two (2) consecutive four (4) year terms. Terms which shall be staggered so that at least one or and no more than two Trustees positions are appointed or reappointed each year. A Trustee's term shall expire on the day of the annual meeting and the term of a newly appointed Trustees shall begin at the annual meeting.~~

~~Unless mandated by State statute, no Trustee may serve more than two complete terms. For the purpose of the two terms limitation, any appointment to fill a vacancy with a remaining unexpired term shall only be considered a completed term if the unexpired term exceeds 24 full months from the date the Trustee takes his or her oath of office.~~

**Section 3. Vacancies.** ~~Vacancies may occur due to the expiration of a Trustee's term and any reappointment, resignation or disqualification because of residency. All vacancies shall be filled for the remainder of the unexpired term as soon as possible in the manner in which Trustees are regularly chosen. Appointment of New Trustees. When the term of an existing Trustee will expire, and such Trustee is either ineligible for reappointment or elects not to be reappointed, a new Trustee shall be appointed in accordance with procedure consistent with C.R.S. §24-90-108(2)(c).~~

**Section 4. Vacancies.** ~~Vacancies shall be filled for the remainder of the unexpired term as~~

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soon as possible in the manner in which Trustees are regularly chosen. Appointment of New Trustees. When a vacancy exists or will be created due to an expiring term, a new Trustee shall be appointed in accordance with procedures of C.R.S. §24-90-108(2)(c).

**Section 5. No Salary.** ~~A~~ Trustees shall not receive a salary or other compensation –as a Trustee, but necessary traveling and subsistence expenses actually incurred may be paid from the Library Fund. Reimbursement of permitted expenses shall be governed by a separately approved policy.

**Section 6. Removal of a Trustee.** A Trustee may be removed only by a 2/3majority vote of the ~~a~~Appointing ~~a~~Authorities~~y~~ and only upon a showing of good cause. Good cause shall include, but not be limited to, failure to attend, without justification, three consecutive regular monthly meetings of the Board.

**Section 7. Powers and Duties.** The Board ~~of Trustees~~ shall have those duties, ~~and~~ responsibilities, ~~and powers~~ set forth ~~as authorized powers under~~in §§24-90-101, *et seq.*, C.R.S., as ~~such~~ may be revised from time to time. In addition, the Board shall have all powers necessary or incidental to the specific powers granted by statute or those powers reasonably necessary to perform its duties and responsibilities.

**Section 8. Authorization.** Membership on the Board does not, under any circumstances, authorize a Trustee to represent or bind the Board in any official capacity whatsoever except as such authority is granted and approved in writing by a vote of the Board taken at a regular or special meeting.

### III. MEETINGS OF THE BOARD OF TRUSTEES

**Section 1. All Business Conducted at Open Meetings.** All business of the Board shall be conducted only during regular or special meetings hereinafter provided for, and all such regular and special meetings shall be open to the public, subject to the right of the Board to meet in executive session.

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**Section 92. Regular Meetings.** A regular meeting of the Board shall be held every month, unless otherwise ordered by the Board, for the purpose of transacting the business of the District. ~~All business of the Board shall be conducted only during regular or special meetings hereinafter provided for, and all of such regular and special meetings shall be open to the public, subject to the right of the Board to meet in executive session.~~

**Section 103. Special Meetings.** Special meetings may be called by any Trustee or the Executive Director for any purpose, including for the purpose of planning and goal setting or the study and discussion of matters to come before the Board. Minutes will be taken at all special meetings and will be part of the public record. Special meetings may be called upon 24 hours' notice to the Trustees and to the public. Notice to the public shall be given in the manner required by law.~~Time and Place.~~ ~~The time and place of all regular and special meetings will be announced in advance as required by law.~~

**Section 144. Notice; Open Meetings; Executive Sessions.** Notice of all meetings of three (3) or more Trustees shall be given in the manner prescribed in §24-6-402(c), C.R.S., regardless if such meeting is a regular or special meeting. ~~At a minimum, the Board shall cause notice of meetings to be posted in designated public places no less than twenty-four (24) hours prior to the meeting.~~ All meetings shall be open to the public, except that at any regular or special meeting, the Board may proceed into executive session upon a majority vote of two-thirds (2/3) of the quorum present for the purpose of considering any matters permitted under §24-6-402(4), C.R.S. The Board shall retain executive session records for ninety (90) days after the date of the executive session in compliance with Section 24-6-402(2)(d.S)(II)(E), C.R.S.

~~Section 12. Special Meetings. Special meetings may be called by any Trustee or the Executive Director for any purpose, including for the purpose of planning and goal setting or the study and discussion of matters to come before the Board. Minutes will be taken at all special meetings and will be part of the public record. Special meetings may be called upon 24 hours' notice to the Trustees and to the public. Notice to the public shall be given in the manner required by law.~~

**Section 135. Quorum.** A majority of the Trustees of the District shall constitute a quorum necessary for the transaction of any business at any regular or special meeting of the Board. The act of the majority of Trustees constituting a quorum at a regular or special meeting shall be the act of the Board.

**Section 146. Public Participation in Meetings.** ~~Citizens-Members of the public~~ shall be invited to participate in all regular or special meetings of the Board during a portion of the agenda set aside for this purpose. ~~The president shall determine a time limit for comments based upon the number of persons wishing to speak~~A time limit for public comment may be set upon the approval of the Board to ensure the efficient transaction of business.

**Section 157. Annual Meeting.** The regular meeting of the Board for the month of March of each year shall be designated as the annual meeting. At the annual meeting the officers shall be elected to serve for the ensuing year.

**Section 168. Roll Call Votes.** A Trustee may call for a roll call vote at any time on any matter of business.

~~Section 179. Parliamentary Authority~~**Rules Governing Conduct of Meetings.** Robert's Rules of Order Revised, most recent edition, shall govern ~~in~~ the proceedings of the Board in all cases where not in conflict with these bylaws.

#### IV. OFFICERS

**Section 18. Designation of Officers.** The officers of the Board shall consist of a president, a vice president, treasurer, ~~and~~ a secretary and such other officers as the Board ~~deems may deem~~ necessary.

**Section 192. Date of Election.** All officers of the Board shall be elected ~~by the Board~~ at the annual meeting by a majority vote of the quorum present.

**Section 203. Term of Office.** Officers shall serve ~~for one~~ (1) year terms ~~and shall begining their terms of office~~ at the ~~next~~ meeting immediately following their election.

**Section 214. Number of Terms of Office.** A Trustee serving as an officer of the Board shall not be eligible to serve more than two consecutive terms in the same office, except by affirmative vote of two-thirds (2/3) of the Trustees of the District.

**Section 225. Vacancies.** Any vacancy occurring during the regular term of any office, for any reason, shall be filled by a Trustee elected by a vote at a regular or special meeting of the Board for the remaining portion of the term of such office.

**Section 236. Removal.** Any officer may be removed by an affirmative vote of two thirds (2/3) of the Trustees of the District taken at a regular or special meeting of the Board when in such Trustees' reasonable judgment ~~the best interest~~ of the District will be served thereby.

#### V. DUTIES OF OFFICERS

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**Section 241. President.** The president shall, subject to the direction and supervision of the Board, be the principal executive officer of the District. The president shall preside at all meetings of the Board. The president shall sign all leases, deeds, mortgages, or contracts unless authority to do so is delegated to another Trustee or the Executive Director. The president shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board from time to time.

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**Section 25. Vice President.** The vice president shall assist the president and shall perform such duties as may be assigned by the president or the Board. In the absence of the president, the vice president shall have the powers and perform the duties of the president.

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**Section 263. Secretary.** The secretary shall oversee the keeping of the minutes of the meetings of the Board and shall perform all other duties delegated by the Board or that may be incidental to the office of secretary, including, without limitation, such as the publishing of legal notices and the execution of legal documents as such may be required. In the absence of the secretary, any other Trustee may carry out the powers and perform the duties of secretary as authorized by the Board.

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**Section 274. Treasurer.** The treasurer, or his/her designee, shall be the custodian of District funds, all of which, regardless of their source, shall be deposited in an account or accounts authorized by resolution of the Board. Administrative procedures will be followed that conform to proper accounting internal controls.

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## VI. COMMITTEES

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**Section 281. ~~Appointment and Membership~~Creation and Powers.** An ad hoc or standing committees may be created by the Board for any specified purpose. Committee with its members shall be appointed by the President. A committee for any specific purpose and shall be automatically dissolved when its stated purposes have been fulfilled unless the Board authorizes its continued existence. A committee of the Board may consist solely of Trustees, a combination of Trustees and Library staff and/or members of the public, or may perform its function without participation of any Trustees solely of library staff or members of the public at the Board's discretion. Committees shall report to the Board and shall have no power to act for the Board except as such authority shall be explicitly granted.

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## VII. EXECUTIVE DIRECTOR AND STAFF

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**Section 291. Employment of Executive Director.** An Executive Director shall be engaged or employed by the Board to serve as the chief administrative officer of the District.

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**Section 302. Duties of Executive Director.** The Executive Director, under the supervision and direction of the Board, shall implement the policies adopted by the Board, recommend individuals for employment by the Board, perform all other acts necessary for the orderly and efficient management and control of the library, and perform all duties incident to the position of Executive Director including those contained in the Executive Director's contract and such other duties as may be prescribed from time to time by the Board.

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**Section 34. Staff.** All other District staff shall be employed by the Board upon the recommendation ~~the recommendation~~ of the Executive Director.

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## VIII. POLICIES AND ADMINISTRATION

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**Section 132. Governance.** The Board shall adopt and revise administrative policies by which the Executive Director shall conduct the affairs of the District. These policies shall be available to the public.

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**IX. FISCAL YEAR**

**Section 133.** The fiscal year of the District shall begin on the first day of January of each year and shall end on the 31st day of December, of each year.

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**X. AMENDMENTS TO BYLAWS AND POLICIES**

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**Section 134. Amendment by Vote.** Bylaws and administrative policies may be altered, amended or repealed at any public meeting of the Board upon the by affirmative vote of three-quarters (3/4) of the sitting Board (exclusive of vacancies).

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**Section 235. Notice Proposed Amendment.** Notice of any proposed bylaw or policy changes must be presented in written form and notice provided to all Trustees at least fifteen (15) days prior to consideration for adoption any vote on the adoption of such amendment.

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**Section 36. Automatic Amendment.** These bylaws shall at all times conform to the Library Law as such Law may be revised from time to time. Such amendments as may be necessary to affect such conformation shall be automatic and these bylaws shall be updated from time to time by the act of the Board to reflect such statutorily mandated automatic -amendments.

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~~Amended and Restated on this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, at a regular meeting of the Poudre River Library District Board of Trustees. Adopted this 7<sup>th</sup> day of January, 2008 by the Board of Trustees.~~

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~~Amended on February 1, 2010 at a regular meeting of the Board of Trustees to reflect the District name change. Revised and approved on November 12, 2012 at a regular meeting of the Board of Trustees. Revised and approved on February 11, 2013 at a regular meeting of the Board of Trustees.~~

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Secretary

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