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MEMORANDUM

TO: Poudre River Public Library District

FROM: Seter & Vander Wall, P.C.

DATE: March 16, 2022

RE: Legal status Report

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

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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. The District's ability to obtain funds through a sale/lease back transaction depends on the value of the assets available for sale.

In other words, in its simplest form, the District:

1. Sells a piece of property; and,
2. Utilizes the proceeds to build or improve other property; and,
3. Continues to occupy the original property under a lease with an option to repurchase.

Lease/purchase financing does not constitute long-term debt obligations of the issuing authority, and is therefore exempt from laws that require voter approval through a TABOR election. The Colorado Supreme Court has determined this is not a "debt" because the District is not required to pay the rent. It may choose to default on the rent and let the investor(s) keep the building.

We recommend lease/purchase financing as the best option. Nearly all of our library district clients have financed facilities in this manner, and it is common throughout Colorado. However, we are ready to assist with any method the District may ultimately pursue.

Action: No action is required at this time.

TIF FINANCING

Task: Review basic elements of TIF financing

Status: Tax Increment Financing is an economic development tool usually utilized to fund Urban Renewal Authorities. TIF financing affects the library because:

A. The assessable value of a TIF area is determined and then fixed.

B. The revenue derived from the library mill levy on any growth in assessable value for a period of 25 years thereafter is called the Tax Increment.

C. The Tax Increment is diverted from the library to an Urban

Renewal Authority to be used to finance public infrastructure or provide other incentives to development.

The Timnath Development Authority URA has been collecting tax increment from the Library District since the Library District was formed. The Timnath Development Authority encompasses the majority of the Town of Timnath and surrounding agricultural lands. The end of the 25-year period to collect tax increment will be in 2029.

Action: None at this time.