Abigail R. Germaine
[address redacted] Ste. 300, [address redacted]
T: [phone redacted] | E: [email redacted]
www.elamburke.com

MEMORANDUM

To: Victor Urban Renewal Agency[1]

From: Abigail R. Germaine, Elam & Burke, P.A.

Date: February 17, 2026

Re: Victor Urban Renewal Agency (VURA) Tax Increment Revenue Funding for Teton County Fire Protection District (TCFPD or Fire District)

As counsel to the Victor Urban Renewal Agency ("VURA" or the "Agency"), we have been asked to address an issue regarding VURA providing financial support to the Fire District. The following is an overview of the relevant law governing the Agency's ability to provide financial support to the Fire District and an analysis of key considerations and limitations on the same.

The Agency has inquired as to whether it may utilize tax increment funding revenue for the financial support of the Fire District. In summary, yes, the Agency may likely utilize tax increment funding ("TIF"), to financially support the Fire District related to public infrastructure, subject to key limitations outlined in greater detail below. In order to fully address the issue of the Agency's ability to provide financial support to the Fire District, a brief overview of Agency's powers and authority under the Idaho Code is warranted.

I. Agency Funding Authority Generally.

Under the Idaho Urban Renewal Law of 1965 (the "Urban Renewal Law"), Chapter 20, Title 50, Idaho Code, an urban renewal agency is vested with the powers to, undertake and carry out urban renewal projects and related activities within its area of operation and to arrange for improvements by any person or agency, public or private, of services, public utilities, or other facilities in connection with an urban renewal project. *See* IDAHO CODE § 50-2007(a), (b). These powers also include the authority to arrange for the installation and construction of public facilities and other buildings or public improvements. *Id.* §50-2007(b). In conjunction with an urban renewal agency's authority under the Urban Renewal Law, public bodies may cooperate with an

[1] For distribution to the Joint Working Group—City of Victor, Teton County Fire Protection District, and Victor Urban Renewal Agency.

agency's urban renewal project. *Id.* § 50-2015(a). As used in the Urban Renewal Law, a "public body" is "the state or any municipality, township, board, commission, authority, district, or any other subdivision or public body of the state." *Id.* § 50-2018(3). Under the Idaho Code, the Fire District would be considered a public body. A public body's cooperation with an urban renewal agency includes conveying property, incurring expenses of public improvements, and doing "any and all things necessary to aid or cooperate in the planning or carrying out of an urban renewal plan and related activities." *Id.* § 50-2015(a).

Furthermore, under the Local Economic Development Act (the "Act"), Chapter 29, Title 50, Idaho Code, cities and urban renewal agencies are vested with powers to "raise revenue to finance the economic growth and development of urban renewal areas and competitively disadvantaged border community areas." IDAHO CODE § 50-2902. To that end, the Act provides for "the allocation of a portion of the property tax levied against taxable property located in a revenue allocation for a limited period of time to assist in the financing of urban renewal plans" and "to prevent or arrest the decay of urban areas due to the inability of existing financing methods to promote needed public improvements." *Id.* Under the Act, an authorized municipality is authorized to create a revenue allocation area as part of an urban renewal plan for the financing of urban renewal projects. *See id.* § 50-2904.

Based on the foregoing authority, the Agency would likely be able to use its revenue funds to financially support Fire District projects and infrastructure improvements. However, the Agency would not be permitted to allocate money directly to the Fire District's operating budget. As a result, the Agency can allocate funds to the Fire District public infrastructure (e.g., fire trucks, ladders, fire station, etc.) and, most commonly, water, sewers, sidewalks, etc. for new buildings. *See, e.g.,* IDAHO CODE § 50-2007(b). However, there are some key limitations on what type and how much financial support VURA can provide TCFPD.

II. Statutory Limits on Municipal Funding.

In reaction, in part, to the use of revenue allocation funds to fund the construction of the Hugh Nichols Public Safety Building and the Library Square projects, two public buildings, without voter approval, in 2016, the Idaho Legislature amended the Act, by adding a new section, Idaho Code Section 50-2905A, which limited the use of revenue allocation funds for construction of a municipal building unless such construction project is approved by 60% of the qualified electors in the city.

There was strong sentiment at the time that the use of revenue allocation proceeds to fund public buildings was an end-run around Article VIII, Section 3 of the Idaho Constitution, which precludes a city from incurring any indebtedness, or liability, exceeding in that year the income and revenue provided for such year without approval of two-thirds of the qualified electors voting at an election held for that purpose. Members of the public wanted the opportunity to vote on the construction of the public buildings; buildings which also would not generate tax revenue. Idaho Code 50-2905A was amended to include a "multipurpose sports stadium complex" to the list of projects where use of revenue allocation proceeds to fund construction of the facility would trigger a vote.

Idaho Code Section 50-2905A states:

> Election Necessary for Expenditures on Certain Projects. (1) Notwithstanding any other provision of this chapter, on and after the effective date of this act, *it shall be unlawful for an urban renewal agency to expend revenue collected under this chapter on project costs when either the amount of revenue collected under this chapter, or the amount of revenue collected under this chapter plus any other public funds*, not including federal funds or federal funds administered by a public body, *contributes to fifty-one percent (51%) or more of the total project cost and the project is for construction of a municipal building or a multipurpose sports stadium complex, or the remodel of such a building or complex, with a total project cost exceeding one million dollars ($1,000,000) unless such construction project is first approved in an election by sixty percent (60%) of the participating qualified electors residing within the borders of the qualified municipality*. An election pursuant to this section shall be in accordance with the provisions of chapter 1, title 34, Idaho Code. *The total project cost described in this subsection shall not include the cost of any infrastructure or belowground improvements including, but not limited to, water, sewer, storm drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, or unoccupied auxiliary structures.* This section shall not be construed to require an election regarding bonds issued prior to the effective date of this act.
>
> (2) For purposes of this section, the following terms shall have the following meanings:
>
> (a) "Multipurpose sports stadium complex" means a place or venue for indoor or outdoor sports, concerts, or other events that contains a field or other playing surface or area either partly or completely surrounded by a tiered structure designed to allow spectators to stand or sit and view the event;
>
> (b) "*Municipal building*" means only an administrative building, city hall, library, courthouse, *public safety or law enforcement buildings*, other judicial buildings, *fire stations*, jails, and detention facilities that are not subject to property taxation *whether they are, or are intended to be, owned or operated by or leased to a public body for the public's benefit;*
>
> (c) "Project costs" shall have the same meaning as provided in section 50-2903(15), Idaho Code;
>
> (d) "Public body" shall have the same meaning as provided in section 50-2018(3), Idaho Code;
>
> (e) "Public funds" shall mean the funds collected or received by a public body but shall not include grants or donations from private entities or individuals to the public body.

Idaho Code Section 50-2905A (emphasis added).

This statutory provision would apply to the Agency's use of revenue allocation funds to fund the construction of a Fire District building or station. Meaning, if revenue allocation funds alone, or combined with other public funds contributes to 51% or more of the total project costs

for a municipal building, or the remodel of a municipal building has a total project cost exceeding $1,000,000, the project requires voter approval. Likewise, the statutory language would prohibit the Agency from constructing the building and then leasing it to the Fire District. Any attempt to work around this statute will be met with heightened scrutiny.

There are two exceptions that may provide project funding options:

1. To the extent the Fire District acquires a building within a revenue allocation area and the total cost to remodel the building is less than $1,000,000, the Agency could fund the improvements with revenue allocation proceeds; and
2. The statute provides an exception from voter approval for belowground infrastructure, including, but not limited to, water, sewer, storm drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets,

III. Property Disposition.

The Agency has broad authority to dispose of real property to another public agency without consideration or an appraisal. *See*, Idaho Code Sections 50-2011 and 50-2015. Typically, this is done with the expectation that the entity receiving the property will proceed with development on the land. It is unclear whether the disposition of a parcel to the Fire District knowing the Fire District will construct an administrative building on the site is an end-run of Idaho Code 50-2905A. Certainly, there is an argument that the property contribution should be included in the 51% calculation triggering the voter approval requirement. It is an open question. Again, for the Agency to financially participate, as permitted under Idaho Code 50-2905A, the site for a Fire District building would need to be within the boundaries of the Agency's District.

IV. Donation of Funds.

The Agency has broad authority to coordinate projects with other public agencies. Revenue allocation funds are used for brick-and-mortar projects, staying away from funding other public entities' operations costs. The Agency could not make a large payment to the Fire District without there being an explanation for its use. If the use is for construction of the municipal building, then Idaho Code 50-2905A would apply. As noted, any attempt to end-run the requirements set forth in Idaho Code 50-2905A will be met with scrutiny.

V. House Bill 436 Considerations.

One final consideration comes by way of Idaho Code section 50-2906(4), as amended by House Bill 436 (enacted by the Idaho Legislature during its 2025 Session, then signed into law and made effective retroactively to January 1, 2025 (hereinafter "HB 436")). Section 50-2906(4) now allows a Fire District to withdraw from an Urban Renewal District or to opt out of being included in a new District. If the Fire District withdrew or opted out of being included in an existing or new Agency district, it would not be eligible to receive Agency funding.

VI. Summary.

Agency participation in funding infrastructure or Fire District projects within a revenue allocation area is limited to the two (2) exceptions outlined in Idaho Code 50-2905A: 1) funding a remodel/new build with a total cost less than $1,000,000; and 2) funding belowground infrastructure projects. The Agency may be able to justify a percentage portion of the cost of a fire truck, or other personal property, that will be used within the boundaries of the Agency district.

In summary, the Agency would likely be able to allocate funds to the Fire District for financial support of infrastructure improvements and projects. However, such financial support would have limitations as described above.