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Alternative revenue streams for public infrastructure financing

Every new development and redevelopment project has certain basic public infrastructure needs – including roadway, water, sewer, drainage, park, streetscape and landscape improvements – that must be considered in advance of, or concurrent with, vertical development. Today’s challenging economic environment requires land owners, developers, investors, cities and counties to think creatively when considering financing alternatives for necessary public infrastructure. As a result of reduced availability of private funding, in order to make projects financially feasible, it has become necessary in many circumstances to look beyond single-source financing. Infrastructure financing has become multifaceted and often it is necessary to combine numerous revenue streams to assure sufficiency of revenues and financial feasibility of a project.

■ **District Revenues.** Historically, special districts organized under Title 32 of the Colorado Revised Statutes have played an important role in financing public infrastructure in Colorado, with the most common form of special district being metropolitan districts. Special districts are governmental entities with the capacity to impose and collect taxes and fees, and to issue tax-exempt bonds to finance public infrastructure. There also are improvement districts with authority to impose property taxes and issue debt to finance improvements, including general improvement districts and business improvement districts organized and governed by a municipality pursuant to CRS Title 31, and public improvement districts, organized and governed by a county pursuant to CRS Title 30. Like special districts, these



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improvement districts have authority to collect property taxes and impose fees for facilities or services they provide. These special and improvement districts may issue tax-exempt or taxable bonds, notes and loans,

each secured by tax and fee revenues, the proceeds of which may be used to finance public infrastructure.

Other types of improvement districts have authority to impose special assessments for infrastructure costs against “specially benefitted” property. Districts authorized to impose special assessments include special improvement districts organized and governed by either a municipality or a municipal district pursuant to CRS Title 31, and local improvement districts organized and governed by a county pursuant to Title 30. These districts may issue revenue and/or special assessment bonds secured by special assessment revenues, the proceeds of which may be utilized to finance infrastructure. Additionally, LIDs have the unique power, with appropriate electoral authority, to levy sales tax.

■ **Shared Revenues.** Certain revenues also may be available as a result of negotiated contractual sharing arrangements with local jurisdictions such as cities and counties. In order to incentivize growth, a jurisdiction may be willing to share certain tax revenues generated, or anticipated to



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be generated, by a development or redevelopment project.

A municipality may also be willing to consider the creation of an urban renewal authority or a downtown development authority to develop a revenue stream known as tax-increment financing to assist in financing infrastructure. Unlike districts, URAs and DDAs do not have independent taxing authority. Instead, TIF utilizes incremental increases in revenue generated from the property, sales, lodging and/or use taxes imposed by existing, overlapping taxing entities, which increases result from one or more redevelopment projects, to finance the public infrastructure within that redevelopment area. TIF revenues must be utilized to clear, redevelop, rehabilitate or conserve property in the designated area, including by provision of public facilities such as streets, public utilities, and educational facilities.

Revenues generated by TIF may be utilized directly by a URA or DDA, or may be the subject of a negotiated agreement with another local government, such as an metropolitan district, pursuant to which the MD may undertake qualifying urban renewal projects. With respect to URAs, TIF revenues may be available for a period of 25 years following adoption by the URA of an urban renewal plan, and with respect to DDAs, for a period of 30 years, with a possible 20-year extension.

■ **Privately Generated Revenues.** Finally, a property owner may consider imposing a public improvement fee by recording covenants against a development’s real property. A PIF typically is imposed on all taxable retail sales, lodging sales and/or construction materials sales. The PIF functions like a sales tax and is calculated as a percentage of sales transactions. However, because a PIF is imposed privately by covenant, a PIF is NOT a tax. The use of PIF revenues is not subject to the same statutory and constitutional limitations as district property taxes and fees, and there is a broader allowance for use as compared to district revenues. Covenants imposing a PIF define the appropriate use for PIF revenues, which use must “touch and concern” the property and be reasonably related to providing a benefit to the physical use of the encumbered property.

A PIF can be a substantial source of revenue in retail and mixed-use developments for funding of public infrastructure. PIF revenues may be combined with other revenues, such as property taxes and fees of districts, and pledged to repayment of taxable or tax-exempt bonds.

Although not addressed herein, many of the revenue streams discussed also can be utilized to operate and maintain the public infrastructure once it is installed. Once infrastructure needs are ascertained, determining the availability of revenue streams, and determining when and how these revenues can be utilized either alone or in combination, requires assembling a team of experts to address matters pertaining to real estate, land use, elections and financing, and to assure compliance with state and federal law requirements.▲