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MEMORANDUM
ATTORNEY-CLIENT PRIVILEGE

TO: Penny Postoak Ferguson, County Manager
FR: Peggy A. Trent, Chief Counsel
DA: May 14, 2024
RE: Library Employee Benefit Expenses

Issue:

May Library employee benefit expenses be paid from the countywide supplemental retirement and compensated absences funds within the County General Fund instead of the Library Taxing District Levy fund?

Short Answer:

Yes. The Library District can use funds from sources other than a tax levy for specific library purposes, as per K.S.A. 12-1225 (j). The County can use unrestricted funds from the countywide supplemental retirement and compensated absences within the General Fund for Library employee benefit expenses, as the Library District is a taxing subdivision of the County under K.S.A. 12-1223.

Background:

The Board of County Commissioners of Johnson County, Kansas (“BOCC”) approved a supplemental retirement match for County employees, including Library employees in 2001 that

became effective January 1, 2002. The contribution was budgeted in the countywide supplemental retirement within the General Fund. In addition, the County also paid for Library employees' sick and vacation payouts based on the County's policy. Both the supplemental retirement match and compensated absence have been budgeted and approved by the BOCC through the Countywide Budget of the General Fund through 2024. If the 2025 budget is approved by the BOCC as proposed later this year, the Library District will be paying for the Library's employee expenses through the Library Taxing District Levy Fund.

Analysis:

The Johnson County Library District ("Library District") was established under K.S.A. 12-1222 and is a political or taxing subdivision of the County. K.S.A. 12-1223. The Library District can levy an annual tax to maintain and support a public library. K.S.A. 12-1220. The Library District must set a yearly budget subject to approval by the Board of County Commissioners. K.S.A. 12-1225b(b).

Under K.S.A. 12-122, operations of the Library District are managed and administered under policies and procedures adopted by the Board of County Commissioners, including employee pay plans and benefits. Additionally, the Library District has the power ...

(j) as to money received from sources other than a tax levy for library purposes, in its discretion, to place such money in a separate fund or funds, or to place the money in the fund to which the tax levy money is credited unless the grantor or donor directs how and for what purpose the money shall be handled and spent.

K.S.A. 12-1225 (j). The County's contribution to the Library District is consistent with the legislature's vision that the Library District would receive funds from sources other than a tax levy to support its operations.

The Johnson County Park and Recreation District and Johnson County Wastewater have different taxing authorities and structures. The Johnson County Park and Recreation District was established under K.S.A. 19-2859 and has the power to levy taxes as a separate taxing entity. K.S.A. 19-2862. The Board for the Park District is responsible for the general supervision and policymaking of the Park District. Park District employees are not county employees. K.S.A. 19-2868. However, the BOCC approves the budget of the Parks District. K.S.A. 19-2876. See also K.S.A. 12-1669. As such, the Park District covered all expenses for supplemental retirement and compensated absences for Park District employees, as approved by the BOCC.

Johnson County Wastewater, established by Charter Resolution No. 29-92 and subsequent amendments, is an enterprise district operating within Johnson County. Wastewater is not a separate taxing authority. It collects fees associated with new construction, upkeep of existing infrastructure, permit issuance, and use of existing infrastructure by users. Additionally, Johnson County Wastewater is permitted to charge connection fees, user charges, and service fees. This ability to operate within the County as an enterprise district allows Johnson County Wastewater to recoup all expenses associated with operating the district. In 2002, the County approved the budget for the supplemental retirement match and compensated absences for Johnson County Wastewater employees as part of the General Fund. In the following years, the costs associated with these employee expenses were captured from Wastewater through the cost allocation model.

Conclusion.

The BOCC has approved the disbursement of vacation and sick leave accruals, as well as supplemental retirement benefits, for library employees as part of the County's budget. There is no wrongdoing in using unrestricted funds within the General Fund to cover library employee benefit expenses. The Library District is a political subdivision of the County, and its employees are

considered County employees. Therefore, using County funds to cover employee benefit expenses is an appropriate expenditure.