

ORDINANCE NO. 22 - 96

AN ORDINANCE BY THE CITY OF COLORADO SPRINGS, COLORADO EXTENDING THE EFFECTIVE DATE OF ORDINANCE NO. 22-51, INCREASING THE NOT TO EXCEED AMOUNT OF THE BONDS TO \$21,500,000 AND AUTHORIZING THE EXECUTION AND DELIVERY BY THE CITY OF CERTAIN LOAN DOCUMENTS FOR PALOMA GARDEN

WHEREAS, the City of Colorado Springs, in the County of El Paso and State of Colorado (the "City"), is a home-rule city and Colorado municipal corporation; and

WHEREAS, the City is authorized by the County and Municipality Development Revenue Bond Act, constituting Article 3, Title 29, Colorado Revised Statutes, as amended (the "Act") and the Colorado Supplemental Public Securities Act, Article 57, Title 11, Section 201 *et seq.*, Colorado Revised Statutes, as amended (the "Supplemental Act"), to finance one or more projects (which includes any land, building or other improvement and all real and personal properties) to the end that residential facilities for low- and middle-income persons or families may be provided; and

WHEREAS, the City is further authorized by the Act and the Supplemental Act to issue revenue bonds (defined under the Act to include bonds, notes, or other securities evidencing an obligation and issued under the Act) for the purpose of defraying the cost of financing any project, including the payment of principal and interest on such revenue bonds for not exceeding three years, the funding of any reserve funds which the City may deem advisable to establish in connection with the retirement of such revenue bonds or the maintenance of the project and incidental expenses incurred in issuing such revenue bonds, and to secure payment of such revenue bonds as provided in the Act and the Supplemental Act; and

WHEREAS, the City Council of the City of Colorado Springs, Colorado (the "City Council") previously adopted Ordinance No. 22-51 attached hereto as Exhibit A (the "Initial Ordinance") authorizing the City to issue its City of Colorado Springs, Colorado Multifamily Housing Revenue Bonds (Paloma Garden Project) Series 2022, in the aggregate principal amount not to exceed \$19,000,000 (the "Bonds") for the acquisition, construction, improvement and equipping of a senior affordable multifamily housing facility, consisting of approximately 127 units containing complete residential facilities known as Paloma Garden, for low- and middle-income persons or families located at 920 South Chelton Road and 3140 Mallard Drive, Colorado Springs, Colorado 80910 (the "Project"), which is within the boundaries of the City; and

WHEREAS, the Project will be owned and operated by Paloma Garden VOA Senior Housing LLLP, a Colorado limited liability limited partnership, including any subsidiaries, affiliates, successors or assigns (but only if such subsidiaries, affiliates, successors or assigns are acceptable to the City) (the "Borrower"); and

WHEREAS, due to increasing costs, the Borrower has requested that the City increase the not to exceed amount of the Bonds to \$21,500,000, not to exceed 54% of the eligible aggregate basis of the Project, which amount may be subject to certain adjustments by the City; and

WHEREAS, there have been presented to the City Council at this meeting revised, proposed forms of the following documents: (a) the Financing Agreement (the "Financing Agreement"), by and among the City; FirstBank, a Colorado state banking corporation, as the initial purchaser of the Bonds (the "Bank"), and the Borrower, which will provide for the issuance of the Bonds; and (b) the Tax Regulatory Agreement (the "Tax Regulatory Agreement"), by and among the City, the Bank and the Borrower (collectively, the "Loan Documents"); and

WHEREAS, the City Council desires to ratify the Initial Ordinance, extend the effective date of the Initial Ordinance, increase the not to exceed amount of the Bonds, and approve the Loan Documents; and

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS, COLORADO:

Section 1. The Initial Ordinance and all of the obligations of the City described in the Initial Ordinance are hereby ratified.

Section 2. The Initial Ordinance is hereby ratified and amended to increase the not to exceed amount of the Bonds to \$21,500,000, not to exceed 54% of the eligible aggregate basis of the Project, which amount may be subject to certain adjustments by the City.

Section 3. The City hereby awards the Project up to \$21,500,000 of its private activity bond volume cap allocation.

Section 4. The Loan Documents, be, and the same are in all respects hereby approved, authorized and confirmed, and the Mayor of the City or his designee or designees is hereby authorized and directed to execute, and the City Clerk of the City or any Deputy or Assistant City Clerk of the City are hereby authorized and directed to affix the seal of the City to, and attest, in substantially the forms and content as presented to the City on this date, such documents, but with such changes, modifications, additions and deletions therein as are not inconsistent with the intent of this Ordinance and are approved by bond counsel or the City Attorney, their execution thereof to constitute conclusive evidence of their approval of any and all changes, modifications, additions and deletions from the forms thereof presented at this meeting.

Section 5. All actions not inconsistent with the provisions of this Ordinance heretofore taken by the City Council or any officer or employee of the City in furtherance of the issuance of the Bonds are hereby ratified, approved and confirmed.

Section 6. If any section, paragraph, clause or provision of this Ordinance and the Bond Documents shall for any reason be held to be invalid or unenforceable, the

invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 7. All acts, orders, resolutions, ordinances or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof heretofore repealed.

Section 8. City Council deems it appropriate that this Ordinance be published by title and summary prepared by the City Clerk and that this Ordinance be available for inspection and acquisition in the office of the City Clerk.

Section 9. This Ordinance and all of the obligations of the City described herein shall terminate on June 1, 2023 if the Bonds have not been issued (the "Expiration Date"); provided, however, the Chief Financial Officer or an authorized representative of the City is hereby authorized to extend the Expiration Date to a later date in their sole discretion.

Section 10. This Ordinance shall be in full force and effect from and after its final adoption and publication as provided by the home rule charter of the City (the "Charter").

Introduced, read, passed on first reading and ordered published this 13th day of December 2022.

Finally passed: January 10, 2023

A handwritten signature in blue ink, appearing to read "Tom Stord", written over a horizontal line.

Council President

Mayor's Action:

Approved on January 12, 2023.

Disapproved on _____, based on the following objections:

John W. Suthers
Mayor


Council Action After Disapproval:

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of _____, on _____.
- Council action on _____ failed to override the Mayor's veto.

Council President

ATTEST:

Sarah B. Johnson
Sarah B. Johnson, City Clerk



COS _____
CAO ms

I HEREBY CERTIFY that the foregoing ordinance entitled “AN ORDINANCE BY THE CITY OF COLORADO SPRINGS, COLORADO EXTENDING THE EFFECTIVE DATE OF ORDINANCE NO. 22-51, INCREASING THE NOT TO EXCEED AMOUNT OF THE BONDS TO \$21,500,000 AND AUTHORIZING THE EXECUTION AND DELIVERY BY THE CITY OF CERTAIN LOAN DOCUMENTS FOR PALOMA GARDEN” was introduced and read at a regular meeting of the City Council of the City of Colorado Springs, held on December 13, 2022; that said ordinance was finally passed at a regular meeting of the City Council of said City, held on the 10th day of January 2023, and that the same was published by title and in summary, in accordance with Section 3-80 of Article III of the Charter, a newspaper published and in general circulation in the Gazette, at least ten days before its passage.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City, this 10th day of January 2023.


Sarah B. Johnson, City Clerk



1st Publication Date: December 16, 2022

2nd Publication Date: January 18, 2023

Effective Date: January 23, 2023

Initial: SBJ
City Clerk