

CERTIFIED RECORD

OF

PROCEEDINGS

**CHAPEL HEIGHTS METROPOLITAN DISTRICT
IN THE CITY OF COLORADO SPRINGS, COLORADO**

Relating to a resolution authorizing the incurrence of:

**Up to \$ _____
Chapel Heights Metropolitan District
Limited Tax General Obligation Advancing Improvement Loan
Series 2023**

Adopted _____, 2023

STATE OF COLORADO)
)
 CITY OF COLORADO SPRINGS)
)
 CHAPEL HEIGHTS)
 METROPOLITAN DISTRICT)

The Board of Directors of Chapel Heights Metropolitan District met in special session at the offices of _____, and via video/telephonic means, on _____, _____, 2023, at the hour of _ :00 _M.

In accordance with Section 11-57-211, C.R.S., one or more of the members of the Board participated in this meeting and voted through the use of telecommunication devices, and there was at least one person physically present at the designated meeting area to ensure that the physical location of the public meeting was in fact accessible to the public.

The following members of the Board of Directors were present either in person or by telephone conference call, constituting a quorum:

Present:

Absent:

Thereupon there was introduced the following resolution:

RESOLUTION

A RESOLUTION OF CHAPEL HEIGHTS METROPOLITAN DISTRICT AUTHORIZING THE INCURRENCE OF A LIMITED TAX GENERAL OBLIGATION ADVANCING IMPROVEMENT LOAN IN A PRINCIPAL AMOUNT NOT TO EXCEED \$_____ ; APPROVING A LOAN AGREEMENT, PROMISSORY NOTE, A CUSTODIAL AGREEMENT AND OTHER DOCUMENTS IN CONNECTION THEREWITH; PROVIDING DETAILS CONCERNING THE LOAN AND FUNDS APPERTAINING THERETO; RATIFYING ACTS PREVIOUSLY TAKEN CONCERNING SAID LOAN; REPEALING ALL RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR OTHER MATTERS RELATING THERETO.

WHEREAS, capitalized terms used and not otherwise defined in the recitals below shall have the respective meanings ascribed to such terms in Section 1 hereof; and

WHEREAS, the District is a quasi-municipal corporation and political subdivision of the State of Colorado (the “**State**”), duly and regularly created as a metropolitan district under the constitution and laws of the State, in particular Title 32, Article 1, C.R.S., as amended (the “**Act**”); and

WHEREAS, the District is authorized by the Act and its Service Plan to borrow moneys and to issue bonds or promissory notes to evidence such borrowing; and

WHEREAS, at the election of the qualified electors of the District, duly called and held on May 5, 2020 (the “**Election**”), in accordance with law and pursuant to due notice, a majority of those qualified to vote and voting at the Election voted in favor of, inter alia, the issuance of indebtedness and the imposition of taxes for the payment thereof, for the purpose of providing certain improvements and facilities, such ballot questions being set forth in the closing transcript for the Loan; and

WHEREAS, pursuant to § 32-1-1101.5(1), C.R.S. the results of the Election were certified by the District by certified mail to the board of county commissioners of each county in which the District is located or to the governing body of a municipality that has adopted a resolution of approval of the special district pursuant to § 32-1-204.5, C.R.S within 45 days after the Election, and with the division of securities created by § 11-51-701, C.R.S.; and

WHEREAS, the District has not previously issued any indebtedness pursuant to the authority of the Election; and

WHEREAS, the members of the Board of Directors of the District (the “**Board**”) have been duly elected or appointed and qualified; and

WHEREAS, the Board has heretofore determined that it is necessary to issue debt to pay the costs of constructing and installing certain public facilities and improvements, including the cost of acquiring necessary real property, the debt of which was approved at the Election, including, without limitation, necessary or appropriate equipment (the “**Project**”); and

WHEREAS, the Board has determined that it is in the best interests of the District, and the taxpayers thereof, that the Project be financed with debt and that for such purpose the Loan shall be incurred; and

WHEREAS, based on the anticipated uses of the proceeds of the Loan, the Board hereby determines to allocate the principal amount thereof to the authorized but unissued indebtedness from the Election as set forth in the Loan Agreement; provided that such allocation is based upon the Board's estimates of the use of proceeds at the time of incurrence of the Loan, that actual uses of proceeds may vary from this estimate within the limitations of the Election, and that such variance shall not require an amendment to the Loan Agreement or notice to or consent of any person; and

WHEREAS, the Note shall be issued pursuant to the provisions of Title 32, Article 1, Part 11, C.R.S., and all other laws thereunto enabling; and

WHEREAS, the Board specifically elects to apply the provisions of Title 11, Article 57, Part 2, C.R.S., to the Note; and

WHEREAS, the incurrence of the Loan and issuance of the Note shall not involve a public offering, and shall be made exclusively to the Bank as a financial institution or institutional investor within the meaning of §32-1-1101(6)(a)(IV), C.R.S., and as an "accredited investor", as that term is defined under sections 3(b) and (4)(2) of the federal "Securities Act of 1933" by regulation adopted thereunder by the Securities and Exchange Commission, and will be exempt from registration under the Colorado Municipal Bond Supervision Act; and

WHEREAS, pursuant to Section 32-1-903(3) C.R.S., and Section 18-8-308, C.R.S., all known potential conflicting interests of the Directors were disclosed to the Colorado Secretary of State and to the Board in writing at least 72 hours in advance of this meeting; additionally, in accordance with Section 24-18-110, C.R.S., the appropriate Board members have made disclosure of their personal and private interests relating to the issuance of the Note in writing to the Secretary of State and the Board; finally, the Board members having such interests have stated for the record immediately prior to the adoption of this Resolution the fact that they have such interests and the summary nature of such interests and the participation of those Board members is necessary to obtain quorum or otherwise enable the Board to act; and

WHEREAS, after consideration, the Board has determined that the incurrence of the Loan and issuance of the Note is in the best interests of the District and the occupants, users, and taxpayers thereof; and

WHEREAS, at or prior to this meeting, the Board has been presented with substantially final forms of the Documents; and

WHEREAS, the Board desires to authorize the incurrence of the Loan and the execution of the Documents and all ancillary or related documents in connection therewith; and

WHEREAS, the Board has engaged RBC Capital Markets, LLC (the "**Placement Agent**") to act as placement agent with respect to the Loan; and

WHEREAS, the Board desires to adopt the Post Issuance Compliance Policy as the policy and procedures that the District will follow with respect to the Loan and all other tax-exempt obligations; to delegate to the Authorized Delegate pursuant to Section 11-57-205(1), C.R.S., the authority to make certain determinations regarding the Loan as more specifically set forth herein, subject to the limitations set forth herein; and authorize the execution and delivery of and performance under the Documents and the execution, completion, and delivery of such certificates and other documents as may be necessary to effect the intent of this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF CHAPEL HEIGHTS METROPOLITAN DISTRICT:

Section 1. Definitions. As used herein, capitalized terms shall have the respective meanings set forth in the preambles hereto and the Loan Agreement, and the following terms shall have their respective meanings below, unless the context indicates otherwise.

“**Act**” means Title 32, Article 1, C.R.S.

“**Bank**” means NBH Bank, Denver, Colorado, in its capacity as lender of the Loan, and its permitted successors and assigns.

“**Board**” means the Board of Directors of the District.

“**Bond Counsel**” means Greenberg Traurig, LLP.

“**Code**” means the Internal Revenue Code of 1986, as in effect on the date of delivery of the Loan.

“**Custodial Agreement**” means that certain Custodial Agreement by and between the District and the Custodian, as acknowledged and consented to by the Bank, as amended or supplemented from time to time with respect to the Loan.

“**Custodian**” means Community Banks of Colorado, and its successors and assigns, as custodian under the Custodial Agreement.

“**District**” means Chapel Heights Metropolitan District, a quasi-municipal corporation and political subdivision of the State, and its successors.

“**Documents**” means collectively, the Loan Agreement, the Promissory Note, and the Custodial Agreement.

“**Loan**” means the Limited Tax General Obligation Advancing Improvement Loan made by the Bank to the District hereunder in the principal amount not to exceed \$_____.

“**Loan Agreement**” means that certain Loan Agreement by and between the District and the Bank pursuant to which the Loan is being made by the Bank to the District.

“**Placement Agent**” has the meaning set forth in the recitals hereto.

“Post Issuance Compliance Policy” means the Post Issuance Compliance Policy setting forth the District’s written procedures for post-issuance compliance and remedial action applicable to tax-advantaged bonds, notes, leases, certificates of participation, or similar obligations, including, without limitation, the Loan.

“Project” has the meaning in the recitals hereto.

“Promissory Note” means the Note, the form of which is attached to the Loan Agreement.

“Service Plan” means the Service Plan for the District approved by the City Council of the City of Colorado Springs on January 14, 2020.

“State” means the State of Colorado.

“Supplemental Public Securities Act” means Title 11, Article 57, Sections 201, *et seq.* of the Colorado Revised Statutes, as amended from time to time.

Section 2. Authorization. For the purpose of providing funds to defray a portion of the costs of the Project, the Board, on behalf of the District, in accordance with the Act and the Supplemental Public Securities Act, shall incur the Loan in the principal amount not to exceed \$ _____, and with an initial interest rate not to exceed ____%, which does not exceed the 18.00% maximum Net Effective Interest Rate permitted by the terms of the Election.

Section 3. Promissory Note Details. The Promissory Note shall be issued and contain such terms and provisions as set forth in the Loan Agreement.

Section 11-57-204 of the Supplemental Public Securities Act provides that a public entity, including the District, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Public Securities Act. The Board hereby elects to apply all of the Supplemental Public Securities Act provisions to the Loan and Promissory Note, including the provisions regarding delegation of the District.

Section 4. Execution of Promissory Note; Signatures. The Promissory Note shall be executed on behalf of the District by the manual or facsimile signature of the President of the District, sealed with the corporate seal of the District, and attested by the manual or facsimile signature of the Secretary of the District. In case any officer who shall have signed the Promissory Note shall cease to be such officer of the District before the Loan has been incurred, such Promissory Note with the signatures thereto affixed may, nevertheless, be delivered, as though the person or persons who signed such Promissory Note had remained in office.

Section 5. Form of Promissory Note. The Promissory Note, in the form set forth in the Loan Agreement, is herein incorporated by reference and is hereby approved with only such changes therein as are not inconsistent herewith.

Section 6. Approvals, Authorizations, and Amendments. The forms of each of the Documents are hereby approved. The District shall enter into and perform its obligations under each of the Documents in the forms of such documents presented at this meeting with such changes and additions therein as shall be approved by the President or the Secretary; the President or the

Secretary are each hereby authorized and directed to approve such additions, changes and completions to the Documents as necessary to effectuate the purposes of this resolution; the President or the Secretary are each hereby authorized to execute the Documents, and the Secretary or any Assistant Secretary or the Treasurer are each hereby authorized to execute and to affix the seal of the District thereto, and the President and Secretary or any Assistant Secretary or the Treasurer are each further authorized to execute and authenticate such other documents, instruments or certificates as are deemed necessary or desirable by Bond Counsel or counsel to the District in order to incur and secure the Loan. Such Documents are to be executed in the forms hereinabove approved, provided that such Documents may be completed, corrected or revised as deemed necessary by the parties thereto in order to carry out the purposes of this resolution. Copies of all of the Documents shall be delivered, filed and recorded as provided therein.

The proper officers of the District are hereby authorized and directed to prepare and furnish to Bond Counsel certified copies of all proceedings and records of the District relating to the Loan and such other affidavits and certificates as may be required to show the facts relating to the authorization and issuance thereof as such facts appear from the books and records in such officers' custody and control or as otherwise known to them.

The approval hereby given to the various Documents referred to above includes an approval of such additional details therein as may be necessary and appropriate for their completion, and for deletions therefrom and for additions thereto, as may be approved by the President or Secretary prior to the execution of the Documents. The execution of any instrument by the appropriate officers of the District herein authorized shall be conclusive evidence of the approval by the District of such instrument in accordance with the terms hereof.

Section 7. Tax Covenants. It is hereby covenanted and agreed by the District that it will not make, or permit to be made, any use of the original proceeds of the Loan, or of any moneys treated as proceeds of the Loan within the meaning of the Code and applicable regulations, rulings, and decisions, or take, permit to be taken, or fail to take any action, which would adversely affect the exclusion from gross income of interest on the Loan under Section 103 of the Code and applicable regulations, rulings, and decisions.

The District further covenants to pay from time to time all amounts required to be rebated to the United States pursuant to Section 148(f) of the Code and any temporary, proposed, or final Treasury Regulations as may be applied to the Loan from time to time. The payment of such rebate amounts as required by this paragraph supersedes all other provisions of this Resolution concerning the deposit and transfer of interest earnings to or from any other fund or account. Moneys set aside to pay such rebate amounts pursuant to this paragraph are not subject to any lien created hereunder for the benefit of the holder of the Note. This covenant shall survive the payment in full or the defeasance of the Loan.

The District hereby designates the Loan as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code. The aggregate face amount, and/or issue price, of all tax-exempt obligations issued or executed and delivered by the District, together with governmental entities which derive their issuing authority from the District or are subject to substantial control by the District, will not be more than \$10,000,000 during calendar year 2023 unless otherwise approved by Bond Counsel.

Section 8. Post Issuance Tax Compliance Policy; Responsible Person. The Post Issuance Compliance Policy, in substantially the form presented to the Board at or prior to this meeting, is hereby approved by the Board and adopted as the Post Issuance Compliance Policy of the District. The Board hereby designates the person so identified therein as the “Responsible Person.”

Section 9. Limitation of Actions. In accordance with the Supplemental Public Securities Act, no legal or equitable action may be commenced with respect to this resolution authorizing the incurrence of the Loan and issuance of the Promissory Note more than thirty (30) days after the date set forth below which is the date of adoption and approval of this resolution.

Section 10. Ratification. All actions not inconsistent with the provisions of this resolution heretofore taken by the Board and the officers of the District directed toward effecting the Project, and the incurrence of the Loan for purposes of the Project be, and the same are hereby ratified, approved and confirmed.

Section 11. Contract with Bank. After the Loan has been incurred, this resolution shall constitute a contract between the District and the Bank and shall be and remain irrevocable until such Loan and the interest thereon shall have been fully paid, satisfied and discharged.

Section 12. Severability. If any section, paragraph, clause or provision of this resolution 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 resolution.

Section 13. Repealer. All acts and resolutions in conflict with this resolution are hereby rescinded, annulled and repealed. This repealer shall not be construed to revive any act or resolution, or part thereof, heretofore repealed.

Section 14. Effective Date. This Resolution shall take effect immediately upon adoption and approval.

[Remainder of Page Intentionally Left Blank]

ADOPTED AND APPROVED this ____ day of _____, 2023.

President

(SEAL)

Secretary or Assistant Secretary

A motion for adoption of the Resolution was then duly made and seconded, and, upon being put to a vote, was passed and adopted on the following vote:

Those Voting Yes: All present

Those Voting No: None

Absent: None

A majority of the members of the Board having voted in favor thereof, the presiding officer declared said motion carried and said minutes are approved and official. The Secretary was directed to enter the foregoing proceedings and resolution upon the records of the minutes of the Board.

Thereupon, the Board of Directors considered other matters unrelated to the resolution.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting adjourned.

President

(SEAL)

Secretary or Assistant Secretary

STATE OF COLORADO)
)
CITY OF COLORADO SPRINGS)
)
CHAPEL HEIGHTS)
METROPOLITAN DISTRICT)

The undersigned, as the Secretary or Assistant Secretary of Chapel Heights Metropolitan District, City of Colorado Springs, Colorado, hereby certifies that the foregoing pages constitute a true and correct copy of that portion of the record of proceedings of the Board of Directors of said District relating to the adoption of a resolution authorizing the incurrence of a loan from NBH Bank, to the District, and the execution of a loan agreement, a custodial agreement and related documents, adopted at a special meeting of the Board held at the offices of _____ and via video/telephonic means, on _____, _____, 2023, at the hour of _____ M., as recorded in the official record of proceedings of said District kept in my office; that the proceedings were duly had and taken; that the meeting was duly held; that the persons therein named were present at said meeting and voted as shown therein; that each director of the Board was informed of the date, time, place, and purpose of the special meeting; and that a notice of meeting, a copy of which is attached hereto as Appendix A, was posted within the boundaries of the District at least 24 hours prior to the meeting, in accordance with law.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the District, this _____ day of _____ 2023.

(S E A L)

Secretary or Assistant Secretary

**APPENDIX A
NOTICE OF MEETING**

**PUBLIC NOTICE OF A SPECIAL MEETING
OF THE BOARD OF DIRECTORS OF
CHAPEL HEIGHTS METROPOLITAN DISTRICT
AND
NOTICE OF FINAL DETERMINATION TO ISSUE GENERAL OBLIGATION
INDEBTEDNESS**