
LOAN AGREEMENT

by and between

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

And

**NBH BANK
as Lender**

**Limited Tax General Obligation Advancing Improvement
Loan, Series 2023
in the Principal Amount of Up to \$5,000,000**

Dated as of _____, 2023

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LOAN AGREEMENT

This **LOAN AGREEMENT** (this “Agreement”) is made and entered into as of _____, 2023, by and between **CHAPEL HEIGHTS METROPOLITAN DISTRICT, IN THE CITY OF COLORADO SPRINGS, COLORADO**, a quasi-municipal corporation and political subdivision of the State of Colorado duly organized and existing as a metropolitan district under the constitution and laws of the State of Colorado (the “District”), **NBH BANK**, in its capacity as lender (the “Lender”).

WITNESSETH:

WHEREAS, all capitalized terms used and not otherwise defined herein shall have the respective meanings assigned in Article I hereof; and

WHEREAS, the District is a quasi-municipal corporation and political subdivision of the State of Colorado duly organized and existing as a metropolitan district under the constitution and laws of the State of Colorado; and

WHEREAS, the Service Plan for the District dated July 2, 2019 was approved by the City Council of the City of Colorado Springs pursuant to a resolution adopted on January 14, 2020; and

WHEREAS, at an election of the qualified electors of the District, duly called and held on Tuesday, 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 general obligation indebtedness to fund certain public improvements, including, without limitation, a water system, a sanitary sewer system, street improvements, traffic and safety improvements, parks and recreation facilities, transportation improvements, television and relay improvements mosquito control, security improvements and fire protection improvements (collectively, the “Public Improvements”); and

WHEREAS, the returns of the Election were duly canvassed and the result thereof duly declared; and

WHEREAS, 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 C.R.S. § 32-1-204.5, and with the division of securities created by C.R.S. § 11-51-701, within forty-five days after the election; and

WHEREAS, the Board of Directors of the District (the “Board”) has determined that it is in the best interests of the District that it incur indebtedness to finance the cost of certain of the Public Improvements; and

WHEREAS, NBH Bank (the “Lender”) has agreed, subject to the terms and conditions of this Agreement, to make an advancing improvement loan in the original principal amount of up to \$5,000,000 (the “2023 Loan”) to allow the District to finance costs of certain Public Improvements; and

WHEREAS, C.R.S. § 32-1-1001(1)(e) authorizes the District “[t]o borrow money and incur indebtedness and evidence the same by certificates, notes, or debentures, and to issue bonds, including revenue bonds, in accordance with the provisions of part 11 of this article, and to invest any moneys of the special district in accordance with part 6 of article 75 of title 24, C.R.S.”; and

WHEREAS, the 2023 Loan is being obtained by the District from the Lender and the 2023 Note is being issued by the District to the Lender which is a “financial institution” or “institutional investor” and therefore neither the 2023 Loan nor the 2023 Note will be applied against the mill levy limit on general obligation indebtedness of the District imposed by C.R.S. § 32-1-1101(6)(a); and

WHEREAS, the creation of the indebtedness authorized herein will not cause the District to exceed the maximum general obligation indebtedness authorized by Colorado law; and

WHEREAS, the 2023 Loan is being obtained by the District from the Lender, and the 2023 Note is being issued by the District to the Lender which is an “accredited investor” as defined under Sections 3(b) and (4)(2) of the Federal Securities Act of 1933, as amended, by regulation adopted thereunder by the U.S. Securities and Exchange Commission, in a transaction not involving a public offering, and as such the 2023 Loan and 2023 Note will be exempt from registration under the Colorado Municipal Bond Supervision Act; and

WHEREAS, the District has duly authorized the execution and delivery of this Agreement, the 2023 Note, and the other Financing Documents to which the District is a party; and

WHEREAS, all other things necessary to make this Agreement, the 2023 Note and the other Financing Documents to which the District is a party, when executed and delivered by the District, the valid agreements and obligations of the District enforceable against the District in accordance with their respective terms, have been done.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the parties hereto agree as follows:

ARTICLE I.

DEFINITIONS

In this Agreement, except as otherwise expressly provided or where the context indicates otherwise, the following capitalized terms shall have the respective meanings set forth below:

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

“*Advance*” means a disbursement of the Loan proceeds from the Unfunded Advance Amount pursuant to the terms hereof, including the Initial Funded Amount disbursed on the Closing Date.

“*Advance Date*” means, with respect to the applicable Advance, the date on which such Advance is disbursed by the Lender.

“*Advance Period*” means the period from the Closing Date to December 1, 2025, unless such date is extended pursuant to Section 2.1(g) hereof.

“*Advance Request Certificate*” means a properly completed certificate requesting an Advance under Section 2.1(g) hereof in substantially the form set forth in Exhibit B attached hereto, in form and substance reasonably acceptable to the Lender.

“*Advancing Amount*” means the principal amount of \$5,000,000.

“*Agreement*” means this Loan Agreement, as amended or supplemented from time to time.

“*Assessed Valuation*” means either the preliminary or final certified assessed valuation of the District each year as set forth in a certificate from the County.

“*Assessed Valuation Increment*” means the difference between the most recent Assessed Valuation and the immediately preceding calendar year’s Assessed Valuation, unless the most recent Assessed Valuation is less than the prior year’s Assessed Valuation, in which event there shall be no Assessed Valuation Increment and the base Assessed Valuation for determining any future increment shall be the preceding year’s higher Assessed Valuation and not the lower recent Assessed Valuation.

“*Authorized Denominations*” means the denomination of \$100,000 or any integral multiple of \$1,000 in excess thereof.

“*Authorized Person*” means the President of the District and any other individual at the time designated to act on behalf of the District hereunder and under the other Financing Documents to which the District is a party, by a written certificate furnished to the Lender containing the specimen signature of such Person or Persons and signed on behalf of the District by its President or Vice President.

“*Authorizing Resolution*” means the resolution adopted by the Board on _____, 2023 authorizing the District to incur the indebtedness of the 2023 Loan and to execute and deliver the 2023 Note, this Agreement, and the other Financing Documents to which the District is a party.

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

“*Board of County Commissioners*” means the Board of County Commissioners for the County.

“*Bond Counsel*” means (a) as of the Closing Date, Greenberg Traurig, LLP, Denver, Colorado; and (b) as of any other date, Greenberg Traurig, LLP, Denver, Colorado, or such other attorneys selected by the District and acceptable to the Lender with nationally recognized expertise in the issuance of tax-exempt debt.

“*Business Day*” means any day of the week on which the Lender is conducting its banking operations nationally and on which day the Lender’s offices are open for business in Denver, Colorado.

“*Calculated Advance*” means the amount equal to no greater than ____ percent (___%) of the Assessed Valuation Increment, as set forth in an Advance Request Certificate.

“*Closing*” means the concurrent execution and delivery of the 2023 Note, this Agreement, and the other Financing Documents by the respective parties thereto and the issuance and disbursement of the proceeds of the 2023 Loan and application of the proceeds thereof in accordance with the provisions hereof and the other Financing Documents.

“*Closing Date*” means the date on which the Closing occurs.

“*Closing Memorandum*” means the closing memorandum, dated as of the Closing Date, setting forth the disbursement and application of the proceeds of the 2023 Loan, approved by the Lender and the District.

“*Collateral*” means (a) the Pledged Revenue, and (b) all amounts from time to time credited to the Loan Payment Fund and the Pledged Revenue Fund in accordance with the terms and provisions of this Agreement and the Custodial Agreement, together with investment earnings thereon.

“*Colorado Municipal Bond Supervision Act*” means Title 11, Article 59, C.R.S.

“*County*” means El Paso, Colorado.

“*C.R.S.*” means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

“*Custodial Agreement*” means the Custodial Agreement, dated as of _____, 2023, by and among the District, the Lender and the Custodian, as amended or supplemented from time to time in accordance with the provisions thereof and hereof.

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

“*Debt*” of any Person means on any date, without duplication, (a) all obligations of such Person for borrowed money and reimbursement obligations which are not contingent; (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments; (c) all obligations of such Person to pay the deferred purchase price of property or services; (d) all obligations of such Person as lessee under capital leases; (e) all Debt of others guaranteed by such Person; and (f) all payment obligations of such Person, in addition to any obligations set forth in clauses (a) through (e) above arising under any swap, cap, collar, interest rate futures contract, interest rate option contract or other similar arrangement and under any foreign exchange contract, currency swap agreement, foreign exchange futures contract, foreign exchange option contract, synthetic cap or other similar agreement; provided that it is understood

that Debt does not include contingent obligations of such Person to reimburse any other Person in respect of surety bonds or letters of credit to the extent that such surety bonds or letters of credit support Debt of such Person or any operating leases, payroll obligations, accounts payable, services contracts (specifically, without limitation, agreements for legal, auditing, bookkeeping, accounting, advisory, engineering and maintenance services), utilities or taxes incurred or payable in the ordinary course of business of such Person; and further provided, that for purposes of this definition, if any of the agreements or contracts set forth in clause (f) above relate to any other obligation of a Person which is otherwise included in this definition of Debt, such agreements and contracts shall constitute Debt only to the extent that the payment obligations of such Person thereunder, less any amounts receivable by such Person thereunder, exceed or are expected to exceed the interest payable on the related Debt.

“*Default*” means an event, act or occurrence which, with the giving of notice or the lapse of time (or both), would become an Event of Default.

“*Determination of Taxability*” means after the Closing Date there has been rendered a final judgment or order of a court of competent jurisdiction or a final ruling or decision of the Internal Revenue Service to the effect that due to any action or omission of action on the part of the District the interest on the 2023 Note is includable for federal income tax purposes in the gross income of the Lender pursuant to Section 103(b) of the Internal Revenue Code, and the rules and regulations promulgated thereunder. A judgment or order of a court of competent jurisdiction or a ruling or decision of the Internal Revenue Service shall be considered final only if no appeal or action for judicial review has been filed and is pending and the time for filing such appeal or action has expired.

“*District*” means Chapel Heights Metropolitan District, City of Colorado Springs, Colorado, and its successors.

“*Election*” means the election held by the District on May 5, 2020.

“*Event of Default*” has the meaning set forth in Section 6.1 hereof.

“*Federal Securities*” means direct obligations of (including obligations issued or held in book entry form on the books of), or obligations the principal of and interest on which are guaranteed by, the United States of America.

“*Financing Documents*” means this Agreement, the 2023 Note, the Authorizing Resolution, and the Sale Certificate, as the same may be amended or supplemented from time to time.

“*Fiscal Year*” means the period commencing on the first day of January of any calendar year and ending on the last day of December of the same calendar year.

“*Initial Funded Amount*” means an amount equal to \$_____.

“*Interest Differential*” has the meaning set forth in Section 2.3 hereof.

“*Interest Payment Date*” means December 1 of each year, commencing on December 1, 2023.

“*Interest Period*” means, solely for the purpose of determining the Net Effective Interest Rate, the period from and including (i) the Closing Date to, but not including, the first Interest Payment Date thereafter; and (ii) each six-month period from and including one Interest Payment Date to, but not including, the next Interest Payment Date; provided that with respect to the six-month period ending on the Maturity Date, such Interest Period shall include the Maturity Date.

“*Lender*” means NBH Bank, in its capacity as lender of the 2023 Loan.

“*Maturity Date*” means December 1, 2042.

“*Net Effective Interest Rate*” has the meaning set forth in Section 2.2(e) hereof.

“*Non-Use Fee*” means an amount equal to 0.25% of the difference between the Advancing Amount and the sum of all Advances made as of December 1, 2025.

“*Participant*” has the meaning set forth in Section 7.2(c) hereof.

“*Patriot Act*” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Title III of Pub. L. 107 56 (signed into law October 26, 2001).

“*Permitted Investments*” means any investment or deposit permissible for the District under then applicable law.

“*Person*” means an individual, a corporation, a partnership, an association, a joint venture, a trust, an unincorporated organization or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

“*Pledged Revenue*” means the moneys derived by the District from the following sources, net of any costs of collection:

- (a) the Required Mill Levy Revenue;
- (b) the portion of the Specific Ownership Tax which is collected as a result of imposition of the Required Mill Levy; and
- (c) any other legally available moneys which the District determines, in its absolute discretion, to transfer to the Custodian for deposit into the Pledged Revenue Fund.

“*Principal Payment Date*” means December 1 of each year, commencing on December 1, 2023 through and including the Maturity Date.

“*Project*” means the acquisition, construction, and installation of the Public Improvements the debt for which was approved at the Election including, without limitation, necessary or appropriate equipment, to the extent authorized by the District’s Service Plan.

“*Project Costs*” means, in the reasonable determination of the District, the District’s costs properly attributable to the Project or any part thereof, including without limitation:

- (a) the costs of construction, acquisition, labor and materials, of machinery, furnishings, and equipment, and of the restoration of property damaged or destroyed in connection with construction work;
- (b) the costs of insurance premiums, indemnity and fidelity bonds, financing charges, bank fees, taxes, or other municipal or governmental charges lawfully levied or assessed;
- (c) administrative and general overhead costs;
- (d) the costs of reimbursing funds advanced to the District in anticipation of reimbursement from loan or bond proceeds, including any intrafund or interfund loan;
- (e) the costs of surveys, appraisals, plans, designs, specifications, and estimates;
- (f) the costs, fees, and expenses of printers, engineers, architects, financial consultants, legal advisors, construction managers, or other agents or employees;
- (g) the costs of publishing, reproducing, posting, mailing, or recording documents;
- (h) the costs of contingencies or reserves;
- (i) the costs of amending the Service Plan of the District and the costs of issuing the Loan, including, without limitation, the Commitment Fee;
- (j) the costs of amending this Agreement or any other Financing Document;
- (k) the costs of repaying any short-term financing, construction loans, and other temporary loans, and of the incidental expenses incurred in connection with such loans;
- (l) the costs of acquiring any property, rights, easements, licenses, privileges, agreements, and franchises;
- (m) the costs of demolition, removal, and relocation; and
- (n) all other lawful costs as determined by the Board.

“*Public Improvements*” has the meaning set forth in the recitals hereto.

“*Required Mill Levy*” has the following meaning: (a) Subject to paragraph (b) below, an ad valorem mill levy imposed upon all taxable property of the District each year in an amount equal to 30 mills; provided that the foregoing mill levy may be adjusted to take into account

legislative or constitutionally imposed adjustments in the State’s method of calculating assessed valuation after January 1, 2006 so that to the extent possible, the actual revenues generated by such mill levy are neither diminished nor enhanced as a result of such changes and among other adjustments, a change in the ratio of actual valuation of assessable property shall be deemed a change in the method of calculating assessed valuation; (b) notwithstanding anything herein to the contrary, in no event may the Required Mill Levy be established at a mill levy rate which would cause the District to exceed the maximum tax increases permitted by the District’s electoral authorization, and if the Required Mill Levy as calculated pursuant to the foregoing would cause the amount of taxes imposed in any year to exceed the maximum tax increase permitted by the District’s electoral authorization, the Required Mill Levy shall be reduced to the point that such maximum tax increase is not exceeded.

“*Required Mill Levy Termination Date*” means December 31, 2060.

“*Required Mill Levy Revenue*” means the revenue received by the District from the Required Mill Levy.

“*Sale Certificate*” means the certificate executed by the President of the District or any member of the Board dated on or before the date of execution and delivery of the Financing Documents, setting forth those determinations that may be delegated to such officials pursuant to C.R.S. § 11-57-205(1), subject to the parameters and restrictions contained in the Authorizing Resolution.

“*Service Plan*” the service plan for the District dated July 2, 2019, as approved by the City Council of the City of Colorado Springs, Colorado pursuant to the Act, including without limitations all amendments and supplements thereto.

“*Specific Ownership Tax*” means the specific ownership tax that is collected by the County and remitted to the District pursuant to C.R.S. § 42-3-107, or any successor statute.

“*Supplemental Public Securities Act*” means Title 11, Article 57, Part 2, C.R.S.

“*Tax Certificate*” means the tax compliance certificate to be signed by the District in a form acceptable to Bond Counsel, relating to the requirements of Sections 103 and 141-150 of the Tax Code.

“*Tax Code*” means the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder.

“*Unfunded Advance Amount*” means, as of the date of calculation, an amount equal to the Advancing Amount less the sum of all Advances funded by the Lender as of such date.

“*2023 Loan*” means the Limited Tax General Obligation Advancing Improvement Loan from the Lender to the District in the 2023 Loan Amount, the repayment of which is evidenced by the 2023 Note.

“2023 Loan Amount” means the original principal amount of the 2023 Loan, which is up to \$5,000,000.

“2023 Loan Balance” means the 2023 Loan Amount less any payments of principal received by the Lender for application to the 2023 Loan.

“2023 Note” means the promissory note evidencing the indebtedness of the 2023 Loan, dated of even date herewith, from the District, as maker, to the Lender, as payee, issued in an original principal amount equal to the 2023 Loan Amount.

“2023 Taxable Rate” means on and after a Determination of Taxability, a fixed rate equal to ____% per annum.

ARTICLE II.

2023 LOAN

Section 2.1 Authorization; Agreement to Make 2023 Loan; 2023 Note; Advances.

(a) **Authorization.** In accordance with the Constitution of the State of Colorado; the Supplemental Public Securities Act; the Special District Act; the Election; and all other laws of the State of Colorado thereunto enabling, in order to obtain the 2023 Loan, the District shall enter into the Financing Documents and issue the 2023 Note in Authorized Denominations and in physical form for the purpose of financing the costs of certain Public Improvements.

(b) **Supplemental Public Securities Act.** The District hereby elects to apply all of the provisions of the Supplemental Public Securities Act to this Agreement, the 2023 Loan, the 2023 Note and the other Financing Documents to which the District is a party. Each of the 2023 Note shall recite that it is issued under the authority of Title 11, Article 57, Part 2, C.R.S. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of such 2023 Note after its delivery for value.

(c) **Agreement to Make 2023 Loan; 2023 Note.** (i) The Lender hereby agrees to extend the 2023 Loan to the District in the Advancing Amount subject to the terms and conditions of the Sale Certificate and this Agreement. The 2023 Loan shall be evidenced by the 2023 Note in substantially the form set forth in Exhibit A attached hereto. (ii) The indebtedness of the 2023 Loan shall be evidenced by the 2023 Note. On the Closing Date, the District shall execute and deliver the 2023 Note payable to the Lender, the form of which is set forth in Exhibit A attached hereto. With respect to each Advance funded by the Lender from time to time hereunder, the Lender shall maintain, in accordance with its usual practices, an account or accounts evidencing the indebtedness resulting from each such Advance and the amounts of principal and interest payable and paid from time to time hereunder on the 2023 Loan Balance. In any legal action or proceeding with respect to any Advance of the 2023 Loan, the entries made in such account or accounts shall be conclusive evidence (absent manifest error) of the existence and amounts of the obligations therein recorded. The Note shall evidence the indebtedness of the

2023 Loan and the obligation of the District to pay the principal amount of each Advance funded by the Lender hereunder, as such amounts are outstanding from time to time.

(d) **Registration; Lost 2023 Note.** The District shall maintain a book for the registration of ownership of the 2023 Note. Upon any transfer of the 2023 Note as provided herein, such transfer shall be entered on such registration books of the District. If any 2023 Note is lost, stolen, destroyed or mutilated, it may be replaced by the District in accordance with and subject to the limitations of applicable law.

(e) **Transfer of 2023 Note.** The 2023 Note may be transferred in whole, but not in part, provided that the following conditions are met. The transfer of such 2023 Note is limited to (a) an Affiliate of the Lender, (b) a trust or other custodial arrangement established by the Lender or one of its Affiliates, the owners of any beneficial interests in which are limited to “qualified institutional buyers” as defined in Rule 144A promulgated under the Securities Act of 1933, as amended, or (c) a qualified institutional buyer that is a commercial bank with capital and surplus of \$5,000,000,000 or more, provided that as a condition precedent to any such transfer, such buyer shall deliver to the District a sophisticated investor letter in substantially the form delivered by the Lender on the Closing Date. In addition, any transfer of the 2023 Note must be in compliance with the securities laws of the United States of America.

(f) **Initial Funded Amount.** On the Closing Date the Lender shall make available the proceeds of the Initial Funded Amount, and such moneys shall be applied as follows: (i) the amount of \$_____ shall be disbursed to the District for payment of Project Costs previously incurred by the District; (ii) the amount of \$_____, shall be used to pay all costs of issuance in connection with the incurrence of the 2023 Loan, as set forth in the closing memorandum prepared by RBC Capital Markets, as the placement agent; and (iii) the amount of \$_____, representing the fee of Bank’s counsel, shall be retained by Bank for payment to Bank’s counsel.

(g) **Advances.** During the Advance Period, the Lender hereby offers to make one or more Advances; provided that notwithstanding anything herein to the contrary, the Lender shall not be required to make any Advances hereunder so long as any Event of Default has occurred and is uncured, and the Lender shall not be obligated to make Advances more frequently than one time per calendar year and no later than the Advance Period. The termination date of the Advance Period may be extended by one year upon the written request of the District and payment by the District to the Lender of the Non-Use Fee. The Lender shall make an Advance in a dollar amount which is equal to the Calculated Advance. The proceeds of each Advance shall be disbursed by the Lender directly to the District for payment of Project Costs.

Section 2.2 Interest Rates; Interest Payments; Principal Payments.

(a) **Interest Computations; Compounding.** All interest due and payable under this Agreement shall be calculated on the basis of a 360-day year and twelve 30-day months. Interest not paid when due shall remain due and owing, but shall not compound or bear additional interest. In the event that any interest is due but unpaid on and after the Maturity Date, interest shall thereafter be payable, in whole or in part, on each Interest Payment Date; provided that the

District shall have the right to pay all principal and interest on the 2023 Loan in full on any date after the Maturity Date.

(b) ***Interest Rates.***

- (i) *Interest Rate.* Commencing on the Closing Date and until the Maturity Date, the 2023 Loan Balance shall bear interest at the per annum interest rate of ____%.
- (ii) *Determination of Taxability.* Commencing on the date of a Determination of Taxability, the 2023 Loan Balance shall bear interest at the 2023 Taxable Rate.

(c) ***Interest Payments.*** Interest payments on the 2023 Loan shall be due and payable on each Interest Payment Date to the extent of available Pledged Revenue.

(d) ***Principal Payments.*** Principal payments on the 2023 Loan shall be due and payable on December 1 of each year, commencing December 1, 2023 to the extent of available Pledged Revenue.

(e) ***Maximum Interest Rate.*** Notwithstanding the foregoing provisions, the maximum Net Effective Interest Rate that the District is authorized to pay with respect to the 2023 Loan is 18%. The 2023 Loan shall not bear interest at a rate in any particular Interest Period that would cause the Net Effective Interest Rate on the 2023 Loan, calculated as of the end of such Interest Period, to exceed 18%. For purposes of the foregoing, the “Net Effective Interest Rate” shall mean, as of the end of any Interest Period, the total amount of interest accrued hereunder on the 2023 Loan from the date of execution of this Agreement through the last day of such Interest Period, divided by the sum of the products derived by multiplying the principal amount of the 2023 Loan outstanding in each year by the number of years from the date of this Agreement to the last day of such Interest Period (or the date on which such principal amount was actually paid, if earlier). In addition to the foregoing, to the extent amounts due to the Lender have not been fully repaid, the provisions of Section 2.3 hereof shall apply. In no event shall the total repayment cost and the annual repayment limitations contained in the Election be exceeded in the repayment of the 2023 Loan.

Section 2.3 Application of Maximum Rate to Interest Differential. If the interest due and payable on any of the 2023 Loan computed at the applicable rates as provided in Section 2.2(b) hereof is in excess of the amount actually paid by the District as a result of the provisions of Section 2.2(e) hereof, the difference between the interest due and owing on such 2023 Loan at the applicable interest rate then borne by such 2023 Loan as provided in Section 2.2(b) and the actual interest paid by the District on such 2023 Loan (the “Interest Differential”) shall remain an obligation of the District. If at any time there is an Interest Differential owed to the Lender, any reduction in interest rate that would result from the application of the provisions of Section 2.2(b) hereof shall not reduce the rate of interest below the maximum Net Effective Interest Rate as computed pursuant to Section 2.2(e) hereof until such time as such Interest Differential has been repaid to the Lender.

Section 2.4 Prepayment of 2023 Loan. The District may, at its option, on any date on or after December 1, 2027, prepay the 2023 Loan in whole or in part at a prepayment price equal to the principal amount of the 2023 Loan so prepaid, plus accrued interest thereon to the date of such prepayment, without any prepayment penalty.

(a) **Application of Prepayments.** Any prepayment of principal of any of the 2023 Loan shall be accompanied by a payment of interest accrued thereon to the date of such prepayment, and any partial prepayment of any 2023 Loan shall be applied to the principal payments on the 2023 Loan, in the inverse order of the principal payment dates as set forth on Exhibit B attached hereto starting with the Maturity Date for the 2023 Loan.

(b) **Notice.** Notice of any prepayment of all or any portion of the 2023 Loan shall be given by the District to the Lender at least ten (10) days prior to the prepayment date, unless the Lender agrees in writing to a shorter notification period.

Section 2.5 Manner of Payments. All payments to be made hereunder by or on behalf of the District to the Lender shall be made, and shall not be considered made until received, in lawful money of the United States of America in immediately available funds. The District shall make each payment hereunder in the manner and at the time necessary so that each such payment is received not later than 12:00 p.m., Denver time, on the day when due. Any payment received after 12:00 p.m., Denver time, shall be deemed made on the next succeeding Business Day. Notwithstanding any provisions to the contrary herein, neither the Lender nor any successor holder of the 2023 Note shall be required to present the 2023 Note to the District to receive any principal or interest payments due.

Section 2.6 Fees; Costs and Expenses. Subject to annual appropriation by the Board, the District agrees to pay all reasonable costs and expenses of the Lender in connection with (a) the preparation, execution and delivery of this Agreement or any other documents, including the other Financing Documents, which may be delivered by any party in connection with the transactions contemplated under this Agreement and the other Financing Documents; (b) the filing, recording, administration (other than normal, routine administration), transfer, amendment, maintenance, renewal or cancellation of this Agreement and all amendments or modifications thereto (or supplements hereto), including, without limitation, the reasonable fees and actual out-of-pocket expenses of counsel for the Lender; and (c) the reasonable fees and actual expenses of accountants and other consultants of the District. In addition, subject to annual appropriation by the Board, the District agrees to pay promptly all actual costs and expenses incurred by the Lender, including, without limitation, the reasonable fees and actual expenses of external counsel, for (i) any and all amounts which the Lender has paid relative to its curing of any Event of Default under this Agreement or any of the other Financing Documents; (ii) the enforcement of this Agreement or any of the other Financing Documents; or (iii) any action or proceeding relating to a court order, injunction, or other process or decree restraining or seeking to restrain the District from paying any amount hereunder. The officer or employee of the District at any time charged with the responsibility of formulating budget proposals for the District is hereby directed to include in the annual budget proposals submitted to the Board, in any year in which this Agreement shall be in effect, items for all payment of the costs and expenses referred to in the preceding paragraph required for the ensuing Fiscal Year under this

Agreement. Notwithstanding this directive regarding the formulation of budget proposals, it is the intention of the District that any decision to effect an appropriation for the payment of any such costs and expenses shall be made solely by the Board and not by any other official of the District.

Section 2.7 Obligations Unconditional. The District's obligation to repay the 2023 Loan and all of its other obligations under this Agreement from the Pledged Revenue and the other Collateral in accordance with the terms and provisions of this Agreement shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment which the District may have against the Lender, any Participant, or any other Person, including, without limitation, any defense based on the failure of any nonapplication or misapplication of the proceeds of the 2023 Loan hereunder, and irrespective of the legality, validity, regularity or enforceability of all or any of the Financing Documents, and notwithstanding any amendment or waiver of (other than an amendment or waiver signed by the Lender explicitly reciting the release or discharge of any such obligation), or any consent to, or departure from, all or any of the Financing Documents or any exchange, release, or nonperfection of any Collateral securing the obligations of the District hereunder or under the other Financing Documents and any other circumstances or happening whatsoever, whether or not similar to any of the foregoing.

Section 2.8 Waivers. To the fullest extent permitted by law: (a) the District hereby waives (i) presentment, demand, notice of demand, protest, notice of protest, notice of dishonor and notice of nonpayment; (ii) the right, if any, to the benefit of, or to direct application of, any security hypothecated to the Lender until all obligations of the District to the Lender hereunder, howsoever arising, have been paid; (iii) the right to require the Lender to proceed against the District hereunder, or against any Person under any guaranty or similar arrangement, or under any agreement between the Lender and any Person or to pursue any other remedy in the Lender's power; (iv) all statutes of limitation; and (v) any defense arising out of the election by the Lender to foreclose on any security by one or more non-judicial or judicial sales; (b) the Lender may exercise any other right or remedy, even though any such election operates to impair or extinguish the District's right to repayment from, or any other right or remedy it may have against, any Person, or any security; and (c) the District agrees that the Lender may proceed against the District or any Person directly and independently of any other, and that any forbearance, change of rate of interest, or acceptance, release or substitution of any security, guaranty, or loan or change of any term or condition thereunder or under any Financing Document (other than by mutual agreement between the District and the Lender) shall not in any way affect the liability of the District hereunder.

Section 2.9 Pledge of Pledged Revenue and Collateral. The 2023 Loan shall be payable solely from the Pledged Revenue and the Collateral, and the Pledged Revenue and the Collateral are hereby pledged to the payment of the 2023 Loan and the 2023 Note, as provided herein and in the Custodian Agreement.

The Lender may not look to any general or other fund of the District for the payment of the principal of and interest on the 2023 Loan, except the Pledged Revenue and Collateral pledged thereto by this Agreement. The 2023 Loan shall constitute a limited tax general

obligation of the District. The payment of the 2023 Loan is not secured by an encumbrance, mortgage or other pledge of property of the District, except for the Pledged Revenue and the Collateral. No property of the District, subject to such exception, shall be liable to be forfeited or taken in payment of the 2023 Loan and the 2023 Note.

The District hereby assigns, transfers, pledges, hypothecates, delivers and grants to the Lender a first priority security interest in and to the Pledged Revenue and the other Collateral to secure the payment of the principal of and interest on the 2023 Loan. Except as otherwise provided herein, the lien on the Pledged Revenue and the Collateral shall be subject to no other liens without the prior written consent of the Lender. The District represents and warrants that the Pledged Revenue and the other Collateral is not, as of the Closing Date, and shall not be subject to any other lien or encumbrance without the prior written consent of the Lender except as otherwise provided herein.

Section 2.10 Limitations of Electoral Authorization. The amounts payable to the Lender as principal of, and interest on the 2023 Loan shall not exceed the maximum annual repayment costs or total repayment costs authorized by the qualified electors of the District voting at the elections held by the District as of the date hereof. Any amounts due and owing by the District pursuant to this Agreement which do not constitute principal of or interest on the 2023 Loan or which exceed such authorized repayment costs shall be subject to prior appropriation by the Board.

Section 2.11 Conditions to Closing. The making by the Lender of the 2023 Loan is conditioned upon the satisfaction of each of the following on or prior to the Closing Date:

(a) ***Financing Documents.*** All Financing Documents and other instruments applicable to the 2023 Loan are in form and content satisfactory to the Lender; have been duly executed and delivered in form and substance satisfactory to the Lender and have not been modified, amended or rescinded and are in full force and effect on and as of the Closing Date and executed original or certified copies of each thereof shall have been delivered to the Lender.

(b) ***Certified Proceedings.*** The Lender is in receipt of an executed original or certified copy of the Authorizing Resolution of the District, which shall be in form and content satisfactory to the Lender and duly and properly authorize the District to issue the 2023 Note, to execute and deliver this Agreement and the other Financing Documents to which the District is a party, and perform all acts contemplated hereunder and thereunder, together with such other certifications as to the specimen signatures of the officers of the District authorized to sign this Agreement and the other Financing Documents to be delivered by the District hereunder and as to other matters of fact as shall reasonably be requested by the Lender.

(c) ***District Certificate.*** The District has provided the Lender with a certificate certifying that on the Closing Date each representation and warranty on the part of the District contained in this Agreement and in any other Financing Document to which the District is a party is true and correct and no Event of Default, or event which would, with the passage of time or the giving of notice, constitute an Event of Default, has occurred and is continuing and no default exists under any other Financing Document to which the District is a party, or under any

other agreement by and between the District and the Lender relating to the 2023 Loan and certifying as to such other matters as the Lender might reasonably request.

(d) ***Other Proceedings.*** All proceedings of any Party taken in connection with the transactions contemplated by this Agreement and the other Financing Documents, and all instruments, authorizations and other documents applicable thereto, are satisfactory to the Lender and its counsel.

(e) ***Opinion of Bond Counsel.*** The Lender shall have received a letter of Bond Counsel dated as of the Closing Date, with respect to such matters as the Lender may require, including the ability of the Lender to rely upon an opinion of Bond Counsel delivered to the District to the effect that (i) the obligation of the District to pay the principal of and interest on the 2023 Note constitutes a valid and binding general obligation of the District, (ii) the Loan Agreement and the 2023 Note are valid and binding obligations of the District, enforceable against the District in accordance with their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity, and (iii) which opinion shall address the status of the interest on the 2023 Loan for state and federal income tax purposes; and otherwise in form and substance satisfactory to the Lender and its counsel.

(f) ***Opinion of General Counsel.*** The Lender shall have received an opinion of counsel to the District dated as of the Closing Date and addressed to the Lender (or a reliance letter addressed to the Lender), with respect to such matters as the Lender may require, including opinions as to the validity of the District's organization and existence; to the effect that all governmental approvals, if any, necessary for the District to execute, deliver and perform its obligations under this Agreement and the other Financing Documents to which the District is a party have been duly obtained; that the Authorizing Resolution was duly and properly adopted, is in full force and effect, and has not been rescinded as of the Closing Date; that this Agreement and the other Financing Documents to which the District is a party have been duly authorized, executed, and delivered by the District; and otherwise in form and substance acceptable to the Lender and its counsel.

(g) ***No Change in Law.*** No law, regulation, ruling or other action of the United States, the State of Colorado or any political subdivision or authority therein or thereof shall be in effect or shall have occurred, the effect of which would be to prevent the District from fulfilling its obligations under this Agreement or the other Financing Documents to which the District is a party.

(h) ***Payment of Costs and Expenses.*** All fees of the Lender's counsel, not to exceed \$30,000, fees of Bond Counsel, general counsel and any other fees and expenses due and payable in connection with the execution and delivery of this Agreement, the 2023 Note, and the other Financing Documents and the transactions contemplated hereunder and thereunder shall have been paid by the District or duly provided for.

(i) ***Due Diligence.*** The Lender shall have been provided with the opportunity to review all pertinent financial information regarding the District; all agreements, documents, and any other material information relating to the District or the Pledged Revenue; and any other pertinent data relating to District or the Pledged Revenue as shall be reasonably requested by the Lender and its counsel.

(j) ***Accuracy and Completion.*** All information provided by the District to the Lender shall be, as of the Closing Date, complete and accurate in all material respects.

(k) ***No Breach or Other Violation With the Lender.*** The District shall not, as of the Closing Date, be in violation or breach of any other agreement with the Lender.

(l) ***No Material Adverse Change.*** No material adverse change has, in the sole opinion of the Lender based on their respective business expertise, occurred with respect to the District's business operations, financial condition or performance, as reflected in the most recent financial statements provided to the Lender or as otherwise known by the Lender.

(m) ***Colorado Municipal Bond Supervision Act.*** The Lender shall be in receipt of evidence satisfactory to the Lender that the 2023 Loan is exempt from the registration requirements of the Colorado Municipal Bond Supervision Act.

(n) ***Other Certificates and Approvals.*** The Lender shall have received such other certificates, approvals, filings, opinions and documents as shall be reasonably requested by the Lender or its counsel.

(o) ***Other Legal Matters.*** All other legal matters pertaining to the execution and delivery of this Agreement and the other Financing Documents and the full and timely performance of the transactions contemplated hereunder and thereunder shall be reasonably satisfactory to the Lender and its counsel.

ARTICLE III.

FUNDS AND ACCOUNTS

Section 3.1 Acknowledgment of Funds and Accounts. The following funds and accounts are established and created pursuant to the Custodial Agreement and shall be held and administered by the Custodian in accordance with the provisions thereof: the Pledged Revenue Fund and the Loan Payment Fund.

ARTICLE IV.

REPRESENTATIONS AND WARRANTIES OF THE DISTRICT

While any obligations hereunder or under any of the other Financing Documents are unpaid or outstanding, the District continuously represents and warrants to the Lender as follows:

Section 4.1 Due Organization. The District is a quasi-municipal corporation and political subdivision of the State of Colorado duly organized and existing as a metropolitan district under the constitution and laws of the State of Colorado.

Section 4.2 Power and Authorization. The District has all requisite power and authority to own and convey its properties and to carry on its business as now conducted and as contemplated to be conducted under the Financing Documents; to execute, deliver and to perform its obligations under this Agreement and the other Financing Documents; and to cause the execution, delivery and performance of the Financing Documents. The principal of and interest on the 2023 Loan due and owing by the District under this Agreement do not exceed the District's voted debt authorization and comply with the Service Plan.

Section 4.3 No Legal Bar. The District is not in violation of any of the provisions of the laws of the State of Colorado or the United States of America or any of the provisions of any order of any court of the State of Colorado or the United States of America which would affect its existence, or its powers referred to in Section 4.2. The execution, delivery and performance by the District of this Agreement and of the other Financing Documents (a) will not violate any provision of any applicable law or regulation or of any order, writ, judgment or decree of any court, arbitrator or governmental authority, (b) will not violate any provisions of any document constituting, regulating or otherwise affecting the operations or activities of the District, and (c) will not violate any provision of, constitute a default under, or result in the creation, imposition or foreclosure of any lien, mortgage, pledge, charge, security interest or encumbrance of any kind other than liens created or imposed by the Financing Documents, on any of the revenues or other assets of the District which could have a material adverse effect on the assets, financial condition, business or operations of the District, on the District's power to cause the Financing Documents to be executed and delivered, or its ability to pay in full in a timely fashion the obligations of the District under this Agreement or the other Financing Documents.

Section 4.4 Consents. The District has obtained all consents, permits, licenses and approvals of, and has made all registrations and declarations with any governmental authority or regulatory body required for the execution, delivery and performance by the District of this Agreement and the other Financing Documents.

Section 4.5 Litigation. There is no action, suit, inquiry or investigation or proceeding to which the District is a party, at law or in equity, before or by any court, arbitrator, governmental or other board, body or official which is pending or, to the knowledge of the District, threatened in connection with any of the transactions contemplated by this Agreement or against or affecting the assets of the District, wherein an unfavorable decision, ruling or finding (a) would adversely affect the validity or enforceability of, or the authority or ability of the District to perform its obligations under, the Financing Documents; or (b) could reasonably be expected to have a materially adverse effect on the ability of the District to conduct its business as presently conducted or as proposed or contemplated to be conducted.

Section 4.6 Enforceability. This Agreement and each other Financing Document to which the District is a party constitute the legal, valid and binding obligation of the District, enforceable against the District in accordance with its terms, except as such enforceability may

be limited by bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity.

Section 4.7 Changes in Law. To the knowledge of the District, there is not pending any change of law which, if enacted or adopted could have a material adverse effect on the assets, financial condition, business or operations of the District, on the District's power to issue or its ability to pay in full in a timely fashion the obligations of the District under this Agreement or the other Financing Documents.

Section 4.8 Financial Information and Statements. The financial statements and other information previously provided to the Lender or provided to the Lender in the future are or will be complete and accurate and prepared in accordance with generally accepted accounting principles. There has been no material adverse change in the District's financial condition since such information was provided to the Lender.

Section 4.9 Accuracy of Information. All information, certificates or statements given to the Lender pursuant to this Agreement and the other Financing Documents will be, to the best of the District's knowledge, true and complete when given.

Section 4.10 IRS Listing. The District has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that the District is an issuer of obligations whose arbitrage certifications may not be relied upon.

Section 4.11 Tax-Exempt Status. The District has not taken any action or omitted to take any action, and knows of no action taken or omitted to be taken by any other Person, which action, if taken or omitted, would adversely affect the exclusion of interest on the 2023 Loan from gross income for federal income tax purposes or the exemption of such interest from State of Colorado income taxes.

Section 4.12 Financing Documents. To the District's knowledge, each representation and warranty of the District contained in any Financing Document to which the District is a party is or will be true and correct as of the Closing Date.

Section 4.13 Regulations U and X. The District is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U or X issued by the Board of Governors of the Federal Reserve System); and no proceeds of the 2023 Loan will be or have been used to extend credit to others for the purpose of purchasing or carrying any margin stock.

Section 4.14 Default, Etc.. The District is not in default in the performance, observance, or fulfillment of any of the obligations, covenants or conditions contained in any Financing Document to which it is a party or other resolution, agreement or instrument to which it is a party which would have a material adverse effect on the ability of the District to perform its obligations hereunder or under the other Financing Documents to which it is a party, or which would affect the enforceability hereof or thereof.

Section 4.15 Sovereign Immunity. Except as provided in Title 24, Article 10, C.R.S., the District does not enjoy any rights of immunity on the grounds of sovereign immunity in respect of its obligations under this Agreement or any of the other Financing Documents.

Section 4.16 No Filings. No filings, recordings, registrations or other actions are necessary to create and perfect the pledges provided for herein; the obligations of the District hereunder are secured by the lien and pledge provided for hereby; and the liens and pledges provided for herein constitute valid prior liens subject to no other liens except as provided herein.

Section 4.17 Outstanding Financial Obligations. Except for the 2023 Loan and the 2023 Note, on the Closing Date the District has no other outstanding Debt having a lien on the Pledged Revenue or the Collateral or any portion thereof.

Section 4.18 No Rating, Etc.. None of the 2023 Loan or the 2023 Note shall be: (a) assigned a separate rating by any rating agency, (b) registered with the Depository Trust Company or any other securities depository, (c) registered or otherwise qualified for sale under the “Blue Sky” laws, (d) issued pursuant to any type of offering document or official statement, or (e) assigned a CUSIP number by Standard & Poor’s CUSIP Service.

ARTICLE V.

COVENANTS OF THE DISTRICT

While any obligations hereunder or under any of the other Financing Documents are unpaid or outstanding, the District continuously warrants and agrees as follows:

Section 5.1 Performance of Covenants, Authority. The District covenants that it will faithfully perform and observe at all times any and all covenants, undertakings, stipulations, and provisions contained in this Agreement and the other Financing Documents to which it is a party and all its proceedings pertaining thereto as though such covenants, undertakings, stipulations, and provisions were set forth in full herein (for the purpose of this provision the Financing Documents shall be deemed to continue in full force and effect notwithstanding any earlier termination thereof so long as any obligation of the District under this Agreement shall be unpaid or unperformed). The District covenants that it is duly authorized under the constitution and laws of the State of Colorado, including, particularly and without limitation, the Act and the Supplemental Public Securities Act, to issue the 2023 Note and to execute and deliver this Agreement and the other Financing Documents to which it is a party, and that all action on its part for the issuance of the 2023 Note and the execution and delivery of the Financing Documents to which it is a party has been duly and effectively taken and will be duly taken as provided herein, and that the 2023 Loan, the 2023 Note, and this Agreement are and will be valid and enforceable general obligations of the District according to the terms hereof and thereof.

Section 5.2 Laws, Permits and Obligations. The District will comply with all applicable laws, rules, regulations, orders and directions of any governmental authority and all agreements and obligations binding on the District, noncompliance with which could reasonably be expected to have a material adverse effect on the District, its financial condition, assets or ability to perform its obligations under this Agreement and/or the other Financing Documents to

which it is a party; provided that the District may in good faith contest such laws, rules, regulations, orders and directions and the applicability thereof to the District to the extent that such action could not reasonably be expected to have a material adverse effect on the District's ability to perform its obligations hereunder.

Section 5.3 Tax Covenants.

(a) The District covenants for the benefit of the Owners of the 2023 Note that it will not take any action or omit to take any action with respect to the 2023 Loan, any funds of the District, or any facilities refinanced with the proceeds of the 2023 Loan, if such action or omission (i) would cause the interest on the 2023 Loan to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Tax Code, (ii) would cause interest on the 2023 Loan to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code, or (iii) would cause interest on the 2023 Loan to lose its exclusion from Colorado taxable income or Colorado alternative minimum taxable income under present Colorado law.

(b) In the event that at any time the District is of the opinion that for purposes of this Section it is necessary to restrict or to limit the yield on the investment of any moneys held by the District, the District shall so restrict or limit the yield on such investment or shall so instruct the Lender in a detailed certificate.

(c) The District specifically covenants to comply with the provisions and procedures of the Tax Certificate.

(d) The District has designated the 2023 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.

(e) The covenants contained in this Section shall remain in full force and effect until the date on which all obligations of the District in fulfilling such covenants under the Tax Code and Colorado law have been met, notwithstanding the payment in full or defeasance of the 2023 Loan.

Section 5.4 [Reserved].

Section 5.5 Bonding and Insurance. The District shall carry general liability coverage, workers' compensation, public liability, and such other forms of insurance on insurable District property upon the terms and conditions, and issued by recognized insurance companies, as in the judgment of the District would ordinarily be carried by entities having similar properties of equal value, such insurance being in such amounts as will protect the District and its operations. In addition, each District official or other Person having custody of

any District funds or responsible for the handling of such funds, shall be bonded or insured against theft or defalcation at all times.

Section 5.6 Other Liabilities. The District shall pay and discharge, when due, all of its liabilities, except when the payment thereof is being contested in good faith by appropriate procedures which will avoid financial liability and with adequate reserves provided therefor.

Section 5.7 Proper Books and Records. The District shall keep or cause to be kept adequate and proper records and books of account in which complete and correct entries shall be made with respect to the District and the Pledged Revenue. The District shall (a) maintain accounting records in accordance with generally recognized and accepted principles of accounting consistently applied throughout the accounting periods involved; (b) provide the Lender with such information concerning the business affairs and financial condition (including insurance coverage) of District as the Lender may request in writing; and (c) without request, provide the Lender with the information set forth in Section 5.8 hereof.

Section 5.8 Reporting Requirements.

(a) The District shall notify the Lender promptly of all litigation or administrative proceedings, threatened in writing or pending, against the District which would, if adversely determined, in the District's reasonable opinion, have a material effect on the District's financial condition arising after the date hereof.

(b) The District shall provide the following to the Lender at the times and in the manner set forth below:

- (i) the District shall furnish to the Lender its unqualified audited financial statements for a Fiscal Year prepared in accordance with generally accepted accounting principles consistently applied, in reasonable detail and audited by a firm of independent certified public accountants selected by the District, together with a certificate of no default, not later than the earlier of two weeks after completion of the audited financial statements or 270 days after the last day of such Fiscal Year;
- (ii) as soon as available, but in no event later than February 28 of each Fiscal Year, the District shall furnish to the Lender the District's final approved budget for such Fiscal Year, together with the certification of the Required Mill Levy for the 2023 Loan for collection in such Fiscal Year and, as soon as available, shall furnish a copy of any proposed amendments thereto; and
- (iii) by October 1 of each Fiscal Year, a certification of valuation issued by the County assessor containing the preliminary certified actual value and assessed valuation of the District for such Fiscal Year;

- (iv) by February 28 of each Fiscal Year, a certification of valuation issued by the County assessor on or about December 10 in each year, containing the final certified actual value and assessed valuation of the District for the prior Fiscal Year; and
- (v) promptly upon written request of the Lender, the District shall furnish to the Lender such other reports or information regarding the Pledged Revenue or the assets, financial condition, business or operations of the District and development updates, as the Lender may reasonably request.

(c) The District shall promptly notify the Lender of any Default or Event of Default of which the District has knowledge, setting forth the details of such Default or Event of Default and any action which the District proposes to take with respect thereto.

(d) The District shall notify the Lender as soon as possible after the District acquires knowledge of the occurrence of any event which, in the reasonable judgment of the District, is likely to have a material adverse effect on the financial condition of the District or affect the ability of the District to perform its obligations under this Agreement or under any other Financing Document.

(e) The District shall promptly notify the Lender when the District acquires knowledge of the occurrence of a Determination of Taxability or of an event that could trigger the occurrence of a Determination of Taxability.

Section 5.9 Visitation and Examination. Unless otherwise prohibited by law, the District will permit any Person designated by the Lender to visit any of its offices to examine the District's books and financial records, and make copies thereof or extracts therefrom, and to discuss its affairs, finances and accounts with its principal officers, all at such reasonable times and as often as the Lender may reasonably request.

Section 5.10 Further Assurances. The District shall do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged and delivered, such amendments hereto and such further acts, instruments, and transfers as the Lender may reasonably require for the better assuring, transferring, and pledging unto the Lender the Pledged Revenue and the Collateral.

Section 5.11 Covenant to Impose Required Mill Levy; Allocation of Pledged Revenue. The District hereby covenants as follows:

(a) For the purpose of paying the interest on and the principal of the 2023 Loan as the same become due and payable, the District covenants that it shall take all actions necessary to cause to be levied by the Board of County Commissioners on all of the taxable property in the District, general ad valorem taxes in the amount of the Required Mill Levy until the Required Mill Levy Termination Date, at which time it shall no longer be required to impose the Required Mill Levy.

(b) Upon receipt of the tax revenues from the Required Mill Levy imposed as set forth above, the District shall immediately transfer such amounts to the Custodian for deposit in accordance with the Custodian Agreement. Said taxes shall be applied as set forth in this Agreement and the Custodian Agreement. Nothing herein contained shall be so construed as to prevent the District from applying any other funds or revenues that may be in the treasury of the District and available for that purpose, to the payment of the interest on or principal of the 2023 Loan as the same respectively accrue and mature, and upon the application of any other such funds or revenues as aforesaid, the mill levy or levies herein provided may thereupon, to that extent, be diminished, except as otherwise provided in the definition of Required Mill Levy.

(c) Said direct annual taxes levied to pay the 2023 Loan shall be in addition to any, and all other, taxes levied to effect the purposes of the District. No statutory or constitutional provisions enacted after the delivery of the 2023 Loan herein authorized shall in any manner be construed as limiting or impairing the obligation of the District to levy ad valorem taxes for the payment of the principal of and interest on the 2023 Loan.

(d) The foregoing provisions of this Section are hereby declared to be the certificate of the Board to the Board of County Commissioners, showing the aggregate amount of taxes to be levied for the purpose aforesaid by the Board of County Commissioners from time to time, as required by law, and for the purpose of paying the 2023 Loan as the same shall become due and payable as provided herein.

(e) The amounts necessary to pay the interest on the 2023 Loan and to discharge the principal thereof when due, are hereby appropriated for said purposes, and such amounts as appropriate for each year shall also be included in the annual budget and appropriation resolutions to be adopted and passed by the Board in each year, respectively, until the 2023 Loan has been fully paid, satisfied, and discharged.

(f) Said taxes shall be levied, assessed, collected and enforced at the time and in the form and manner and with like interest and penalties as other general taxes in the State, and when collected said taxes shall be paid to the District as provided by law. The Board shall take all necessary and proper steps to enforce promptly, or to cause the appropriate officials of the Board of County Commissioners to enforce promptly, the payment of taxes levied.

Section 5.12 Additional Debt. The District shall not issue or incur any additional Debt without the prior written consent of the Lender.

Section 5.13 Continued Existence. The District shall maintain its existence and shall not merge or otherwise alter its corporate structure in any manner or to any extent as might materially reduce the security provided for the payment of the 2023 Loan.

Section 5.14 District Operations. The District shall manage its finances and day to day operations in an economical and efficient manner and in accordance with all applicable laws, rules and regulations.

Section 5.15 Enforcement and Collection. The District shall diligently take all action within its control to collect all Pledged Revenue and shall take all necessary and proper action to enforce such collection.

Section 5.16 Material Adverse Action. The District shall not take any action or consent to any action that would materially adversely affect any portion of the Pledged Revenue.

Section 5.17 No Change in Financing Documents. The District shall not cancel, terminate, amend, supplement, modify or waive any of the provisions of any of the Financing Documents or consent to any such cancellation, termination, amendment, supplement, modification or waiver, without the prior written consent of the Lender. The District shall take no action under any of the Financing Documents to which it is a party inconsistent with the rights of the Lender under this Agreement including, without limitation, its obligations to make payments to the Lender hereunder.

Section 5.18 References to the Lender. The District shall not refer to the Lender in any official statement, offering memorandum, or private placement memorandum without the Lender's prior written consent thereto, which shall not be unreasonably withheld; provided, however, references to the Lender contained in audited financial statements are permitted.

Section 5.19 Termination of Agreement; Defeasance. So long as the District's obligations hereunder remain unpaid or unperformed, the District shall not terminate this Agreement. At such time as all amounts due to the Lender hereunder have been duly paid, or provided for, this Agreement shall terminate. There shall be deemed to be such due payment when the District has placed in escrow or in trust with a commercial bank exercising trust powers, or with the Lender, an amount sufficient (including the known minimum yield from Federal Securities in which such amount may be initially invested) to meet all requirements of principal, interest, and premium, if any, on the 2023 Note, as the same become due at the Maturity Date or upon prepayment. The Federal Securities shall not be subject to redemption or prepayment at the option of the issuer, and shall become due at or prior to the respective times on which the proceeds thereof shall be needed, in accordance with a schedule established and agreed upon between the District and the Lender at the time of the creation of the escrow, or the Federal Securities shall be subject to redemption at the option of the holders thereof to assure such availability as so needed to meet such schedule. The sufficiency of any such escrow funded with Federal Securities shall be determined by a certified public accountant.

Section 5.20 No Exclusion of Property. The District shall take no action nor consent to any action that could have the effect of excluding property from its boundaries if such action or actual exclusion would have a materially adverse effect on the amount of Pledged Revenue that would otherwise be received by the District.

Section 5.21 No Lien or Security Interest. The District shall not grant or permit to be granted any lien on or security interest in the Pledged Revenue or other Collateral securing the obligations of the District hereunder, except in accordance with the provisions of this Agreement.

ARTICLE VI.

EVENTS OF DEFAULT AND REMEDIES

Section 6.1 Events of Default. The occurrence of any one or more of the following events or the existence of any one or more of the following conditions shall constitute an Event of Default under this Agreement (whatever the reason for such event or condition and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree, rule, regulation or order of any court or any administrative or governmental body), and there shall be no Event of Default hereunder except as provided in this Section; provided that except for Events of Default occurring under clause (a) through (f) of this Section, which will be deemed to have occurred as of the date of the Default, no Event of Default will be deemed to have occurred hereunder unless and until the Lender provides written notice of the same to the District:

- (a) the District fails or refuses to impose the Required Mill Levy;
- (b) the District fails or refuses to transfer the Pledged Revenue to the Custodian pursuant to the terms and provisions of this Agreement and the Custodial Agreement;
- (c) the occurrence and continuance of an event of default or an event of nonperformance under any of the other Financing Documents to which the District is a party after the expiration of any grace period;
- (d) any representation or warranty made by the District in this Agreement or in any other Financing Document to which the District is a party or any certificate, instrument, financial or other statement furnished by the District to the Lender, proves to have been untrue or incomplete in any material respect when made or deemed made;
- (e) the District shall initiate, acquiesce or consent to any proceedings to dissolve the District or to consolidate the District with other similar entities into a single entity or the District shall otherwise cease to exist;
- (f) a change occurs in the financial or operating conditions of the District, or the occurrence of any other event that will have a materially adverse impact on the ability of the District to generate Pledged Revenue sufficient to satisfy the District's obligations under this Agreement and the District fails to cure such condition within the time specified by the Lender in a written notice from the Lender informing the District of an occurrence under paragraph;
- (g) (i) the District shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it or seeking to adjudicate it insolvent or a bankrupt or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts; or (B) seeking appointment of a receiver, trustee, custodian or other similar official for itself or for any substantial part of its property, or the District shall make a general assignment for the benefit

of its creditors; or (ii) there shall be commenced against the District any case, proceeding or other action of a nature referred to in clause (i) above and the same shall remain undismissed; or (iii) there shall be commenced against the District any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its property which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal, within 60 days from the entry thereof; or (iv) the District shall take action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii) or (iii) above; or (v) the District shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due;

(i) this Agreement or any other Financing Document, or any material provision hereof or thereof, (i) ceases to be valid and binding on the District or is declared null and void, or the validity or enforceability thereof is contested by the District (unless being contested by the District in good faith), or the District denies it has any or further liability under any such Financing Document to which it is a party; or (ii) any pledge or security interest created hereunder fails to be fully enforceable with the priority required hereunder; or

(j) any funds or investments on deposit in, or otherwise to the credit of, any of the funds or accounts established hereunder shall become subject to any writ, judgment, warrant or attachment, execution or similar process and the same is not released or dismissed within ten (10) Business Days.

Section 6.2 Remedies Upon Occurrence of Event of Default.

(a) Upon the occurrence and during the continuance of any Event of Default, the Lender may take any one or more of the following actions:

- (i) apply all amounts constituting Pledged Revenue to the unpaid principal of the 2023 Loan and all interest accrued and unpaid thereon in accordance with the terms of this Agreement;
- (ii) take any other action or remedy available under the other Financing Documents or any other document, or at law or in equity.

(b) Notwithstanding anything to the contrary herein, acceleration shall *not* be a remedy for the occurrence or continuance of an Event of Default.

Section 6.3 Notice of Default. Notwithstanding any cure period described above, the District will immediately notify the Lender in writing when the District obtains knowledge of the occurrence of any Event of Default or any event which would, with the passage of time or the giving of notice, constitute an Event of Default.

Section 6.4 Delay or Omission No Waiver. No delay or omission of the Lender to exercise any right or power accruing upon any default shall exhaust or impair any such right or power or shall be construed to be a waiver of any such default, or acquiescence therein; and

every power and remedy given by this Agreement may be exercised from time to time and as often as may be deemed expedient.

Section 6.5 No Waiver of One Default to Affect Another; All Remedies Cumulative. No waiver of any Event of Default hereunder shall extend to or affect any subsequent or any other then existing Event of Default or shall impair any rights or remedies consequent thereon. All rights and remedies of the Lender provided herein shall be cumulative and the exercise of any such right or remedy shall not affect or impair the exercise of any other right or remedy.

Section 6.6 Other Remedies. Nothing in this Article VI is intended to restrict the Lender's rights under any of the Financing Documents or at law or in equity, and the Lender may exercise all such rights and remedies as and when they are available. Neither the District nor the Lender shall be liable for consequential, indirect, punitive, or special damages arising under this Agreement.

ARTICLE VII.

MISCELLANEOUS

Section 7.1 Loan Agreement and Relationship to Other Documents. The warranties, covenants and other obligations of the District and the rights and remedies of the Lender that are outlined in this Agreement and the other Financing Documents are intended to supplement each other. In the event of any inconsistencies in any of the terms in the Financing Documents, all terms will be cumulative so as to give the Lender the most favorable rights set forth in the conflicting documents, except that if there is a direct conflict between any preprinted terms and specifically negotiated terms (whether included in an addendum or otherwise), the specifically negotiated terms will control.

Section 7.2 Assignments, Participations, etc. by the Lender. Any assignment or participation by the Lender is not subject to the District's consent. In connection with any such assignment or participation, the Lender may disclose to any proposed assignee or participant any information that the District discloses pursuant to this Agreement and the other Financing Documents. Any such assignment or participation is also subject to the following conditions:

(a) The rights, options, powers and remedies granted in this Agreement and the other Financing Documents will extend to the Lender and to its successors and assigns, will be binding upon the District and its successors and assigns and will be applicable hereto and to all renewals and/or extensions hereof.

(b) In addition, the Lender may collaterally assign and pledge, without the consent of the District, all or any portion of the obligations owing to it to any Federal Home Loan Bank, any Federal Reserve Bank, or the United States Treasury as collateral security pursuant to Regulation A of the Board of Governors of the Federal Reserve System and any Operating Circular issued by any such Federal Home Loan Bank or Federal Reserve Bank; provided that any payment in respect of such assigned obligations made by the District to the Lender in accordance with the

terms of this Agreement shall satisfy the District's obligations hereunder in respect of such assigned obligation to the extent of such payment. No such collateral assignment shall release the Lender from its obligations hereunder.

(c) The Lender may at any time, without the consent of the District, sell to one or more commercial banks or other Persons (a "Participant") participating interests in its rights and obligations hereunder or under the other Financing Documents; provided, however, that (i) the Lender's obligations hereunder shall remain unchanged, (ii) the Lender shall remain solely responsible for the performance of such obligations, and (iii) the participation of one or more Participants shall not reduce or alter the Lender's obligations hereunder or affect in any way the rights or obligations of the District hereunder and the District has the right to continue to deal solely with the Lender. The Lender shall give notice of the sale of such participation and the name and address of the Participant to the District within 30 days of the date of such sale. In the case of any such participation, the Participant shall be entitled to the benefit of Sections 2.9 and 7.3 hereof as though it were also the Lender hereunder, and if amounts outstanding under this Agreement are due and unpaid, or has been declared or has become due and payable upon the occurrence of an Event of Default, each Participant shall be deemed to have the right of setoff in respect of its participating interest in amounts owing under this Agreement to the same extent as if the amount of its participating interest were owing directly to it as a lender under this Agreement.

Section 7.3 Litigation/Indemnification. The District agrees, to the extent permitted by law and subject to annual appropriation by the Board and as set forth herein, to indemnify and hold harmless the Lender and its agents, employees, officers, directors and controlling Persons, together with any Participant and its agents, employees, officers, directors and controlling Persons (hereinafter collectively referred to in this Section as the "Indemnitees") from and against any and all claims, damages, liabilities, settlements, judgments, losses, legal fees and costs or expenses incurred (including all reasonable fees and disbursements of the Indemnitees' legal counsel and allocated cost of in-house counsel and staff and all of the Indemnitees' reasonable travel and other out-of-pocket expenses incurred in connection with the investigation of and preparation for any such pending or threatened claims and any litigation and other proceedings arising therefrom) arising out of or based upon (a) the 2023 Loan; or (b) the holding or owning by the Lender, the Participant, or their respective nominees of any collateral securing the obligations of the District hereunder; or (c) any matters for which neither the Lender nor any Participant has any liability as set forth under Section 7.16 of this Agreement; provided, however, that the District shall not be required to indemnify the Indemnitees for any claims, damages, losses, liabilities, settlements, judgments, legal fees or costs or expenses to the extent proven to be caused by the Lender's or the Participant's willful or negligent failure to make lawful payment under the 2023 Loan. Nothing in this Section is intended to limit the District's obligations contained in Article II hereof.

If any action, lawsuit or claim shall be brought or asserted against the Indemnitees in respect of which indemnity may be sought by the Indemnitees from the District under this Section, the Indemnitees shall promptly notify the District in writing, and the District shall promptly assume the defense thereof, including, but not limited to, the employment of counsel (the selection of which has been approved by the Indemnitees and such approval shall not be

unreasonably withheld), the payment of all legal fees and expenses and the right to negotiate and consent to settlement; provided, however, that the District shall not settle any such action which may adversely affect the Lender without the Lender's written consent, which consent shall not be unreasonably withheld.

In the event that the Indemnitees shall be advised by counsel experienced in matters of banking or securities laws that the Indemnitees have defenses or causes of action separate from those of the District, or that there is otherwise a conflict of interest, the Indemnitees have the right to employ their own counsel ("Independent Counsel") to defend the Indemnitees against such action at the expense of the District, who shall pay all reasonable legal fees and expenses incurred by such Independent Counsel to the extent permitted by law and subject to annual appropriation by the Board. The Indemnitees' selection of Independent Counsel shall be approved by the District, and such approval shall not be unreasonably withheld. With respect to claims against the Indemnitees defended by Independent Counsel, the Indemnitees have the right to negotiate settlement of any such claims; provided, however, that the District shall not be liable for any such settlement effected by the Indemnitees without the written consent of the District, which consent shall not be unreasonably withheld.

The obligations of the District under this Section shall be in addition to any rights that any Indemnitee may have at common law or otherwise and shall survive the payment in full of all amounts owing to the Lender hereunder. If indemnification pursuant to this Section shall be found to be unlawful or invalid for any reason, then the District and each Indemnitee shall to the extent lawful make contributions in payment of any liabilities incurred pursuant to the above referenced issuance, sale and distributions and statements or omissions in accordance with the respective fault of the District and each Indemnitee.

Nothing in this Section shall be considered a waiver, express or implied, to any protections afforded to the District pursuant to Title 24, Article 10, C.R.S., or under any other current law.

Section 7.4 Notice of Claims Against the Lender; Limitation of Certain Damages. In order to allow the Lender to mitigate any damages to the District from the Lender's alleged breach of its respective duties under the Financing Documents or any other duty, if any, to the District, the District agrees to give the Lender written notice no later than 10 days after the District knows of any claim or defense it has against the Lender, whether in tort or contract, relating to any action or inaction by such parties under the Financing Documents, or the transactions related thereto, or of any defense to payment of the obligations of the District hereunder for any reason. The requirement of providing timely notice to the Lender represents the parties' agreed-to standard of performance regarding the duty of the Lender to mitigate damages related to claims against the Lender. Failure by the District to give notice to the Lender shall not waive any claims of the District but such failure shall relieve the Lender of any duty to mitigate damages prior to receiving notice.

Section 7.5 Notices. Notice of any record shall be deemed delivered when the record has been (a) deposited in the United States Mail, postage pre-paid; (b) received by overnight

delivery service; (c) received by facsimile; (d) received by email; or (e) when personally delivered at the following addresses:

if to the District: Chapel Heights Metropolitan District
c/o Spencer Fane, LLP
1700 Lincoln Street, Suite 2000
Denver, Colorado 80203
Attn: Russ Dykstra

if to the Lender: NBH Bank
7800 E Orchard Rd., Suite 300
Greenwood Village, CO 80111
Attn.: Clint Woodman

Section 7.6 Payments. Payments due on the 2023 Loan shall be made in lawful money of the United States. All payments shall be applied by the Lender to principal, interest and other amounts due under the 2023 Note and this Agreement in accordance with the terms of this Agreement.

Section 7.7 Applicable Law and Jurisdiction; Interpretation; Severability. This Agreement and all other Financing Documents will be governed by and interpreted in accordance with the internal laws of the State of Colorado, except to the extent superseded by Federal law. Invalidity of any provisions of this Agreement will not affect any other provision. THE DISTRICT AND THE LENDER HEREBY CONSENT TO THE EXCLUSIVE JURISDICTION OF ANY STATE COURT SITUATED IN DENVER, COLORADO, AND WAIVE ANY OBJECTIONS BASED ON *FORUM NON CONVENIENS*, WITH REGARD TO ANY ACTIONS, CLAIMS, DISPUTES OR PROCEEDINGS RELATING TO THIS AGREEMENT, THE 2023 Note, THE PLEDGED REVENUE, ANY OTHER FINANCING DOCUMENT, OR ANY TRANSACTIONS ARISING THEREFROM, OR ENFORCEMENT AND/OR INTERPRETATION OF ANY OF THE FOREGOING. Nothing in this Agreement will affect the Lender's rights to serve process in any manner permitted by law. This Agreement, the other Financing Documents and any amendments hereto (regardless of when executed) will be deemed effective and accepted only at the Lender's offices, and only upon the Lender's receipt of the executed originals thereof. Invalidity of any provision of this Agreement shall not affect the validity of any other provision.

Section 7.8 Copies; Entire Agreement; Modification. The District and the Lender hereby acknowledge the receipt of a copy of this Agreement and all other Financing Documents.

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING, EXPRESSING CONSIDERATION AND SIGNED BY THE PARTIES ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. THE TERMS OF THIS AGREEMENT MAY ONLY BE CHANGED BY ANOTHER WRITTEN AGREEMENT. THIS NOTICE SHALL

ALSO BE EFFECTIVE WITH RESPECT TO ALL OTHER CREDIT AGREEMENTS NOW IN EFFECT BETWEEN THE DISTRICT AND THE LENDER. A MODIFICATION OF ANY OTHER CREDIT AGREEMENT NOW IN EFFECT BETWEEN THE DISTRICT AND THE LENDER, WHICH OCCURS AFTER RECEIPT BY THE DISTRICT OF THIS NOTICE, MAY BE MADE ONLY BY ANOTHER WRITTEN INSTRUMENT. ORAL OR IMPLIED MODIFICATIONS TO ANY SUCH CREDIT AGREEMENT ARE NOT ENFORCEABLE AND SHOULD NOT BE RELIED UPON.

Section 7.9 Waiver of Jury Trial. TO THE EXTENT PERMITTED BY LAW, THE DISTRICT AND THE LENDER HEREBY JOINTLY AND SEVERALLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO ANY OF THE FINANCING DOCUMENTS, THE OBLIGATIONS THEREUNDER, ANY COLLATERAL SECURING THE OBLIGATIONS, OR ANY TRANSACTION ARISING THEREFROM OR CONNECTED THERETO. THE DISTRICT AND THE LENDER EACH REPRESENTS TO THE OTHER THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY GIVEN.

Section 7.10 Attachments. All documents attached hereto, including any appendices, schedules, riders and exhibits to this Agreement, are hereby expressly incorporated by reference.

Section 7.11 No Recourse Against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Public Securities Act, if a member of the Board, or any officer or agent of the District, acts in good faith in the performance of his duties as a member, officer, or agent of the Board or the District and in no other capacity, no civil recourse shall be available against such member, officer or agent for payment of the principal of, premium, if any, and interest on the 2023 Loan. Such recourse shall not be available either directly or indirectly through the Board or the District, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the delivery of the 2023 Note evidencing the 2023 Loan and as a part of the consideration for such transfer, the Lender and any Person purchasing or accepting the transfer of the obligation representing the 2023 Loan specifically waives any such recourse. This Section shall not limit recourse against any Person guarantying payment of the 2023 Loan, in his capacity as guarantor, whether or not such Person is also a member or officer of the Board or the District.

Section 7.12 Conclusive Recital. Pursuant to Section 11-57-210 of the Supplemental Public Securities Act, this Agreement is entered into pursuant to certain provisions of the Supplemental Public Securities Act. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of this Agreement after delivery for value.

Section 7.13 Amendment. This Agreement may be amended or modified only with the written consent of the District and the Lender.

Section 7.14 Limitation of Actions. Pursuant to Section 11-57-212 of the Supplemental Public Securities Act, no legal or equitable action brought with respect to any legislative acts or proceedings in connection with the authorization or issuance of the 2023 Loan shall be commenced more than 30 days after the authorization of the 2023 Loan.

Section 7.15 Pledge of Revenues. The creation, perfection, enforcement, and priority of the Pledged Revenue and other Collateral to secure the 2023 Loan as provided herein and in the 2023 Note shall be governed by Section 11-57-208 of the Supplemental Public Securities Act, this Agreement, the 2023 Note, and the Authorizing Resolution. The amounts pledged to the payment of the 2023 Loan shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge shall have a priority over any or all other obligations and liabilities of the District, except as may be otherwise provided in the Authorizing Resolution or in this Agreement. The lien of such pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against the District irrespective of whether such persons have notice of such liens.

Section 7.16 No Liability. Any action taken or omitted by the Lender under or in connection with the Financing Documents, if taken or omitted in good faith and without willful misconduct or gross negligence, shall be binding upon the District and shall not put the Lender under any resulting liability to the District, including any liability for (a) the form, sufficiency, correctness, validity, genuineness, falsification and legal effect of any demands and other documents, instruments and other papers relating to the 2023 Loan even if such documents, should prove to be in any or all respects invalid, insufficient, fraudulent or forged; (b) the general and particular conditions stipulated therein; (c) the good faith acts of any Person whatsoever in connection therewith; (d) failure of any Person (other than the Lender, subject to the terms and conditions hereof) to comply with the terms of the 2023 Loan; (e) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telex, telegraph, wireless or otherwise, whether or not they be in code; (f) errors in translation or errors in interpretation of technical terms; (g) for any other consequences arising from causes beyond the Lender's control; or (h) any use of which may be made of the proceeds of the 2023 Loan, except to the extent of any direct, as opposed to indirect, consequential, or special damages suffered by the District which direct damages are proven by the District to be caused by the Lender's willful or negligent failure to make lawful disbursements under the 2023 Loan.

Section 7.17 No Waiver; Modifications in Writing. No failure or delay on the part of the Lender in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other right, power or remedy. The remedies provided for herein are cumulative and are not exclusive of any remedies that may be available to the Lender at law or in equity or otherwise. No amendment, modification, supplement, termination or waiver of or to any provision of this Agreement, nor consent to any departure by the District therefrom, shall be effective unless the same shall be in writing and signed by the Lender. Any amendment, modification or supplement of or to any provision of this Agreement, and any consent to any departure by the District from the terms of any provision of this Agreement, shall be effective only in the specific instance and for the specific purpose for which made or given. No notice to or demand on the District in any case shall entitle the District to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of the Lender to any other or further action in any circumstances without notice or demand.

Section 7.18 Payment on Non-Business Days. Whenever any payment hereunder shall be stated to be due on a day which is not a Business Day, such payment may be made on the next

succeeding Business Day, and such extension of time shall not in such case be included in the computation of the amount due. This Section shall have no effect upon the calculation of the days required hereunder for notices; provided that notices which are due on non-Business Days can be given on the next day which is a Business Day.

Section 7.19 Electronic Storage; Electronic Signatures. This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same Agreement. The parties hereto agree that the transaction described herein may be conducted and related documents may be stored by electronic means. This Agreement may be executed using electronic signatures in accordance with Title 24, Article 71.3, C.R.S., also known as the Uniform Electronic Transactions Act. Any electronic signature so affixed shall carry the full legal force and effect of any original, handwritten signature. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 7.20 Execution in Counterparts. This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same Agreement.

Section 7.21 Severability. Any provision of this Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or nonauthorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

Section 7.22 Headings. Article and Section headings used in this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

Section 7.23 Waiver of Rules of Construction. The District and the Lender hereby waive any and all provisions of law to the effect that an ambiguity in a contract or agreement should be interpreted against the party responsible for its drafting.

Section 7.24 Integration. This Agreement is intended to be the final agreement between the parties hereto relating to the subject matter hereof and this Agreement and any agreement, document or instrument attached hereto or referred to herein shall supersede all oral negotiations and prior writings with respect to the subject matter hereof.

Section 7.25 Patriot Act Notice. The Lender hereby notify the District that pursuant to the requirements of the Patriot Act they are required to obtain, verify and record information that identifies the District, which information includes the name and address of the District and other information that will allow the Lender to identify the District in accordance with the Patriot Act. The District hereby agrees that it shall promptly provide such information upon request by the Lender.

Section 7.26 Lender Representations. The Lender hereby represents that it is a “financial institution” or “institutional investor” within the meaning of C.R.S. § 32-1-1101(6)(a)(IV), and an “accredited investor” as defined under Sections 3(b) and (4)(2) of the federal Securities Act of 1933, as amended, by regulation adopted thereunder by the U.S. Securities and Exchange Commission.

Section 7.26 Continuing Disclosure Undertaking. In connection with the District’s compliance with any continuing disclosure undertakings (each, a “Continuing Disclosure Undertaking”) entered into by the District on and after February 27, 2019, pursuant to SEC Rule 15c2-12 promulgated pursuant to the Securities and Exchange Act of 1934, as amended (the “Rule”), the Lender acknowledges that the District may be required to file with EMMA a notice that the District has incurred obligations under this Agreement and notice of certain subsequent events reflecting financial difficulties in connection with this Agreement. The District agrees that it shall not file or submit, or permit to be filed or submitted, with EMMA any documentation that includes the following unredacted sensitive or confidential information about the Lender or its affiliates: address and account information of the Lender or any affiliate of the Lender; e-mail addresses; telephone numbers; fax numbers; names and signatures of officers; employees and signatories of the Lender or its affiliates; or any account information for any related agreement, unless otherwise required for compliance with the Rule or otherwise required by law. The District acknowledges that the Lender is not responsible for the District’s compliance or noncompliance with the Rule or any Continuing Disclosure Undertaking.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have executed this Loan Agreement as of the date set forth above.

NBH BANK, as Lender

By: _____
Name: Clint Woodman
Title: Director

(S E A L)

CHAPEL HEIGHTS METROPOLITAN DISTRICT, as Borrower

Attest:

By: _____
Name: _____
Title: Secretary or Assistant Secretary

By: _____
Name: _____
Title: President or Vice President

**EXHIBIT A
FORM OF NOTE**

THIS NOTE MAY ONLY BE TRANSFERRED BY THE REGISTERED OWNER HEREOF SOLELY TO (A) AN AFFILIATE OF NBH BANK (THE “LENDER”), (B) A TRUST OR OTHER CUSTODIAL ARRANGEMENT ESTABLISHED BY THE LENDER OR ONE OF ITS AFFILIATES, THE OWNERS OF ANY BENEFICIAL INTERESTS IN WHICH ARE LIMITED TO “QUALIFIED INSTITUTIONAL BUYERS” AS DEFINED IN RULE 144A PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (C) A QUALIFIED INSTITUTIONAL BUYER THAT IS A COMMERCIAL BANK WITH CAPITAL AND SURPLUS OF \$5,000,000,000 AND WHICH HAS EXECUTED A LETTER CONTAINING REPRESENTATIONS AND WARRANTIES AS TO IT BEING A SOPHISTICATED INVESTOR. IN ADDITION, ANY TRANSFER OF THIS NOTE MUST BE IN COMPLIANCE WITH THE SECURITIES LAWS OF THE UNITED STATES OF AMERICA.

**UNITED STATES OF AMERICA
STATE OF COLORADO
CHAPEL HEIGHTS METROPOLITAN DISTRICT
CITY OF COLORADO SPRINGS, COLORADO
LIMITED TAX GENERAL OBLIGATION
ADVANCING IMPROVEMENT LOAN, SERIES 2023**

US Up To \$5,000,000.00 _____, 2023

FOR VALUE RECEIVED, CHAPEL HEIGHTS METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado duly organized and existing as a metropolitan district under the constitution and laws of the State of Colorado (hereinafter referred to as “Maker”), promises to pay to the order of NBH BANK, its successors and assigns (hereinafter referred to as “Payee”), at such place as Payee or its agent, designee, or assignee may from time to time designate in writing, the principal sum of up to FIVE MILLION AND NO/HUNDRED DOLLARS (US \$5,000,000.00) (this “2023 Note”) pursuant to the terms of the Loan Agreement dated of even date herewith by and between Maker and Payee (the “Loan Agreement”), in lawful money of the United States of America.

This 2023 Note shall bear interest, be payable, and mature pursuant to the terms and provisions of the Loan Agreement. All capitalized terms used and not otherwise defined herein shall have the respective meanings ascribed in the Loan Agreement.

Amounts received by Payee under this 2023 Note shall be applied in the manner provided by the Loan Agreement. All amounts due under this 2023 Note shall be payable without setoff, counterclaim or any other deduction whatsoever by Maker.

Unless payments are made in the required amount in immediately available funds in accordance with the provisions of the Loan Agreement, remittances in payment of all or any part

of the amounts due and payable hereunder shall not, regardless of any receipt or credit issued therefor, constitute payment until the required amount is actually received by Payee in funds immediately available at the place where this 2023 Note is payable (or any other place as Payee, in Payee's sole discretion, may have established by delivery of written notice thereof to Maker) and shall be made and accepted subject to the condition that any check or draft may be handled for collection in accordance with the practice of the collecting bank or banks. Acceptance by Payee of any payment in an amount less than the amount then due shall be deemed an acceptance on account only and any unpaid amounts shall remain due hereunder, all as more particularly provided in the Loan Agreement.

In the event of nonpayment of this 2023 Note, Payee shall be entitled to all remedies under the Loan Agreement.

It is expressly stipulated and agreed to be the intent of Maker and Payee at all times to comply with applicable state law and applicable United States federal law. If the applicable law (state or federal) is ever judicially interpreted so as to render usurious any amount called for under this 2023 Note or under the Loan Agreement, or contracted for, charged, taken, reserved or received with respect to the indebtedness evidenced by this 2023 Note, then it is Maker's and Payee's express intent that all excess amounts theretofore collected by Payee be credited on the principal balance of this 2023 Note (or, if this 2023 Note has been or would thereby be paid in full, refunded to Maker), and the provisions of this 2023 Note shall immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and under the Loan Agreement. All sums paid or agreed to be paid to Payee for the use, forbearance and detention of the indebtedness evidenced hereby and by the Loan Agreement shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the rate or amount of interest on account of such indebtedness does not exceed the maximum rate permitted under applicable law from time to time in effect and applicable to the indebtedness evidenced hereby for so long as such indebtedness remains outstanding.

Maker and any endorsers, sureties or guarantors hereof jointly and severally waive presentment and demand for payment, protest and notice of protest and nonpayment, all applicable exemption rights, valuation and appraisal, notice of demand, and all other notices in connection with the delivery, acceptance, performance, default or enforcement of the payment of this 2023 Note and the bringing of suit and diligence in taking any action to collect any sums owing hereunder or in proceeding against any of the rights and collateral securing payment hereof. Maker and any surety, endorser or guarantor hereof agree (a) that the time for any payments hereunder may be extended from time to time without notice and consent; (b) to the acceptance of further collateral; (c) to the release of any existing collateral for the payment of this 2023 Note; (d) to any and all renewals, waivers or modifications that may be granted by Payee with respect to the payment or other provisions of this 2023 Note; and/or (e) that additional makers, endorsers, guarantors or sureties may become parties hereto all without notice to them and without in any manner affecting their liability under or with respect to this 2023 Note. No extension of time for the payment of this 2023 Note shall affect the liability of Maker under this 2023 Note or any endorser or guarantor hereof even though Maker or such endorser or guarantor is not a party to such agreement.

Failure of Payee to exercise any of the options granted herein to Payee upon the happening of one or more of the events giving rise to such options shall not constitute a waiver of the right to exercise the

same or any other option at any subsequent time in respect to the same or any other event. The acceptance by Payee of any payment hereunder that is less than payment in full of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the options granted herein or in the Loan Agreement to Payee at that time or at any subsequent time or nullify any prior exercise of any such option without the express written acknowledgment of Payee.

Maker (and the undersigned representative of Maker, if any) represents that Maker has full power, authority and legal right to execute, deliver and perform its obligations pursuant to this 2023 Note and this 2023 Note constitutes the valid and binding general obligation of the Maker, payable solely from the Pledged Revenues and the Collateral, as set forth in the Loan Agreement.

All notices or other communications required or permitted to be given hereunder shall be given in the manner and be effective as specified in the Loan Agreement, directed to the parties at their respective addresses as provided therein.

This Note is governed by and interpreted in accordance with the internal laws of the State of Colorado, except to the extent superseded by federal law. Invalidity of any provisions of this 2023 Note will not affect any other provision.

Pursuant to Section 11-57-210 of the Colorado Revised Statutes, as amended, this 2023 Note is entered into pursuant to and under the authority of certain provisions of the Supplemental Public Securities Act, being Title 11, Article 57, Part 2 of the Colorado Revised Statutes, as amended. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of this 2023 Note after delivery for value and shall conclusively impart full compliance with all provisions and limitations of said statutes, and this 2023 Note shall be incontestable for any cause whatsoever after delivery for value. This Note is issued pursuant to Title 32, Article 1 of the Colorado Revised Statutes (the "Act"), is in compliance with all provisions and limitations of the Act and this 2023 Note shall be incontestable for any cause whatsoever after delivery for value.

The District has designated the 2023 Loan and this Note 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.

TO THE EXTENT PERMITTED BY LAW, MAKER HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT SITUATED IN DENVER, COLORADO, AND WAIVES ANY OBJECTION BASED ON FORUM NON CONVENIENS, WITH REGARD TO ANY ACTIONS, CLAIMS, DISPUTES OR PROCEEDINGS RELATING TO THIS NOTE, THE LOAN AGREEMENT, THE PLEDGED REVENUE, ANY OTHER FINANCING DOCUMENT, OR ANY TRANSACTIONS ARISING THEREFROM, OR ENFORCEMENT AND/OR INTERPRETATION OF ANY OF THE FOREGOING.

MAKER HEREBY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO THIS NOTE, THE LOAN AGREEMENT, OR ANY OF THE OTHER FINANCING DOCUMENTS, THE OBLIGATIONS THEREUNDER, ANY COLLATERAL

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SECURING THE OBLIGATIONS, OR ANY TRANSACTION ARISING THEREFROM OR CONNECTED THERETO. MAKER REPRESENTS TO PAYEE THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY GIVEN.

THE PROVISIONS OF THIS 2023 Note MAY BE AMENDED OR REVISED ONLY BY AN INSTRUMENT IN WRITING SIGNED BY MAKER AND PAYEE. THERE ARE NO ORAL AGREEMENTS BETWEEN MAKER AND PAYEE WITH RESPECT TO THE SUBJECT MATTER HEREOF.

IN WITNESS WHEREOF, an authorized representative of Chapel Heights Metropolitan District, as Maker, has executed this 2023 Note as of the day and year first above written.

(S E A L)

CHAPEL HEIGHTS METROPOLITAN DISTRICT, as Borrower

By: _____
Name: _____
Title: President or Vice President

Attest:

By: _____
Name: _____
Title: Secretary or Assistant Secretary

[Signature Page to 2023 Promissory Note]

(FORM OF ASSIGNMENT) ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ the within Note and all rights thereunder, and hereby irrevocably constitutes and appoints _____ to transfer the within Note on the records kept for the registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within Note in every particular, without alteration or enlargement or any change whatever. The signature must be guaranteed by an eligible guarantor institution as defined in 17 CFR § 240.17 Ad- 15(a)(2).

Signature Guaranteed by Member
of the Medallion Signature Program:

Address of Transferee:

Social Security or other tax identification number of transferee:

(END OF FORM OF ASSIGNMENT)

[END OF FORM OF 2023 PROMISSORY NOTE]

EXHIBIT B

to

LOAN AGREEMENT

[Form of Advance Request Certificate]

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

ADVANCE REQUEST CERTIFICATE

The undersigned is an Authorized Person under that certain Loan Agreement dated as of _____, 2023 (the “Loan Agreement”) by and between Chapel Heights Metropolitan District (the “District”) and NBH Bank (the “Lender”). All capitalized terms used in this Advance Request Certificate shall have the respective meanings assigned in the Loan Agreement. The Authorized Person hereby makes a request to the Lender for an Advance, and in support thereof certifies as follows:

1. The most recent Assessed Valuation is equal to \$_____, as set forth in the attached certificate from the County with respect to the [preliminary][final] certified assessed valuation of the District.
2. The Assessed Valuation Increment is equal to \$_____, which is the amount of the difference between the most recent Assessed Valuation and the immediately preceding year’s Assessed Valuation.
3. The District believes that based upon the amount of the Assessed Valuation Increment and the formula set forth in the Loan Agreement, the Calculated Advance should be \$_____.
4. The amount of the Advance requested hereby does not exceed the lesser of: (A) the Calculated Advance, or (B) the current Unfunded Advance Amount.
5. No Event of Default has occurred which has not been cured, and no litigation is now pending or threatened concerning the District’s authority to borrow the amount of the Advance requested hereby, to pledge the Pledged Revenues to the payment thereof, to impose the Required Mill Levy, or to apply the proceeds thereof as provided in the Loan Agreement.
6. The undersigned is authorized by the District and all applicable laws, rules, and regulations to sign and deliver this Advance Request Certificate.

Dated this ___ day of _____, 20__.

**CHAPEL HEIGHTS METROPOLITAN
DISTRICT**

Authorized Person

BANK APPROVAL

In response to the above Advance Request Certificate, the Bank hereby agrees that the Calculated Advance is \$_____, and agrees to make an Advance to the District in such amount.

APPROVED BY:

NBH Bank

By: _____

Title: _____