

RESOLUTION NO. 40 - 23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS, COLORADO, APPROVING THE ISSUANCE OF THE UPPER COTTONWOOD CREEK METROPOLITAN DISTRICT NO. 3 LIMITED TAX GENERAL OBLIGATION BONDS, SERIES 2023, IN AN AMOUNT NOT TO EXCEED \$4,155,000 AND RELATED BOND DOCUMENTS.

WHEREAS, by Resolution No. 111-22, City Council approved the Special District Policy on August 9, 2022, a City Financial Policy Regarding the Use of Districts (the "Policy"), providing for certain financial and other limitations in the use of special districts as an available method in financing public infrastructure; and

WHEREAS, pursuant to the provisions of Title 32, Colorado Revised Statutes, and pursuant to proper notice having been provided as required by law, City Council held a public hearing and approved the formation and a service plan ("Service Plan") of the Upper Cottonwood Creek Metropolitan District No. 3 (the "District") by resolution in 2006, and the District was subsequently created; and

WHEREAS, pursuant to the provisions of Title 32, Colorado Revised Statutes, and pursuant to proper notice having been provided as required by law, City Council held a public hearing and approved a second amendment of the service plan ("Amended Service Plan"), which specifically revised the maximum debt limit for this District by Resolution No. 144-21, dated October 26, 2021; and

WHEREAS, both the Policy and the Service Plan require that prior to the District issuing bonds or similar indebtedness, it must first obtain City Council's approval of the proposed issuance and that City Council must review such issuance for compliance with the Service Plan and applicable laws; and

WHEREAS, the District has submitted for review, and City Council has reviewed, various related debt instrument documents, including a draft bond resolution, a preliminary opinion of the District's bond counsel, a preliminary opinion of the District's general counsel, and a preliminary opinion of an external financial advisor (the "Bond Documents"); and

WHEREAS, City Council considered the Bond Documents as well as all other testimony and evidence presented at the March 28, 2023, City Council meeting; and

WHEREAS, the District, having presented evidence that it has satisfied the conditions of approval and other Service Plan prerequisites, requests approval of the issuance of indebtedness in a structure substantially similar to, and consistent with, the Bond Documents.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS THAT:**

Section 1. The above and foregoing recitals are incorporated herein by reference and are adopted as findings and determinations of City Council.

Section 2. In reliance upon and based solely upon the information presented by the District, City Council hereby finds that the issuance of indebtedness by the District, in a structure substantially similar to, and consistent with, the Bond Documents, complies with the Service Plan and applicable laws.

Section 3. Issuance of indebtedness by the District in the form of Limited Tax General Obligation Bonds in the principal amount of up to \$4,155,000, and with an interest rate not to exceed 6.0% annually, as further described in the Bond Documents, is hereby approved; provided, however, that such indebtedness shall be solely an obligation of the District, and the City shall have no liability or other responsibility therefore.

Section 4. These bonds shall be structured to have an optional call date for refunding at the discretion of the District board at par and no later than December 1, 2027.

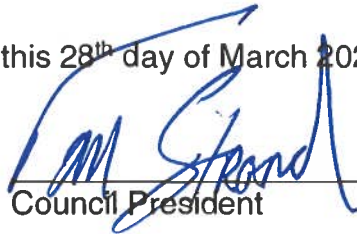
Section 5. The bonds, including any refundings thereof or subsequent bond issuances by the District, shall be fully discharged on or before December 31, 2056, and the District's debt service mill levy shall not be certified beyond tax year 2056 (certified in 2055), unless the majority of the District board is comprised of residents of the District and City Council approves such bonds or certification in advance.

Section 6. The issuance of debt in a structure substantially similar to, and consistent with, the Bond Documents, subject to minor changes and revisions as may be approved by City staff, is hereby approved.


Section 7. The approvals contained herein shall be effective for a maximum of one (1) year from the date of this resolution. If the District desires to issue this debt at any time after March 28, 2024, a new City Council approval will be required.

Section 8. This resolution shall be effective upon its approval by City Council, being the date appearing below.

DATED at Colorado Springs, Colorado, this 28<sup>th</sup> day of March 2023.

  
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Council President

ATTEST:

  
Sarah B. Johnson, City Clerk

