

RESOLUTION 23-28

A RESOLUTION OF THE SOUTH WEBER CITY COUNCIL APPROVING THE ISSUANCE OF THE LOCAL BUILDING AUTHORITY OF SOUTH WEBER CITY, UTAH LEASE REVENUE BOND, SERIES 2023

WHEREAS, the Local Building Authority of the South Weber City, Utah (the “*Issuer*”) has been duly organized as a Utah nonprofit corporation by the South Weber City, Utah (the “*City*”) solely for the purpose of (a) accomplishing the public purposes for which the City exist by acquiring, improving or extending any improvements, facilities or properties (whether real or personal) and appurtenances to them which the City is authorized or permitted by law to acquire, including, but not limited to, public buildings or other structures of every nature or any joint or partial interest in the same, and (b) financing the costs of such projects on behalf of the City in accordance with the procedures and subject to the limitations of the Local Building Authority Act, Title 17D, Chapter 2 of the Utah Code Annotated 1953, as amended (the “*Act*”) and other applicable Utah law; and

WHEREAS, the Act provides that the Issuer may issue and sell its bonds for the purpose of paying the costs of acquiring, improving or extending a project (as such term is defined in the Act), and such bonds shall be secured by a pledge and assignment of the revenues received by the Issuer under the leasing contract (as such term is defined in the Act) with respect to the project financed or refinanced with the proceeds of the sale of such bonds and may be secured by (a) a mortgage (as defined in the Act) covering all or any part of such project, (b) a pledge and assignment of the leasing contract for that project, (c) amounts held in reserve funds or (d) such other security devices with respect to the project as may be deemed most advantageous by the Issuer; and

WHEREAS, the City Council of the City (the “*Council*”) desires the Issuer to undertake the construction of a certain project pursuant to the Act consisting of the acquisition, construction and improvement of a public works facility (the “*Project*”) on certain real property located in the City the (“*Property*”); and

WHEREAS, the Issuer and the City will enter into that certain Master Lease Agreement (the “*Lease*”), the form of which is attached hereto as *Exhibit B*, pursuant to which the Issuer has agreed (a) to Acquire or to cause the Acquisition (as such terms are defined in the Lease) of the Project and (b) to lease the Property to the City, all on the terms and conditions set forth in the Lease; and

WHEREAS, the Council has heretofore reviewed and approved the plans and specifications for the Project in satisfaction of the requirements of Section 17D-2-302 of the Act; and

WHEREAS, pursuant to and in accordance with the provisions of the Act and the Indenture, the Issuer has determined that it is in the best interest of the Issuer and the City (a) to issue its Local Building Authority of the South Weber City, Utah Lease Revenue Bonds, Series 2023 (the “*Series 2023 Bonds*”) pursuant to this Resolution and an Indenture of Trust (the “*Indenture*”), the form of which is attached hereto as *Exhibit C*, to provide funds for the purpose of (i) paying a

portion of the costs of constructing the Project as provided in the Lease and (ii) paying costs of issuance relating to the issuance, sale and delivery of the Series 2023 Bonds, (b) to lease the Leased Property (as defined in the Lease) to the City in consideration of certain Base Rentals (as defined in the Lease) and Additional Rentals (as defined in the Lease) to be paid as provided in the Lease, which will be sufficient (so long as the City extends the term of the Lease for each successive one-year renewal term) to pay the principal of, and premium, if any, and interest on, the Series 2023 Bonds and certain other costs and expenses as provided in the Lease; and

WHEREAS, the Issuer desires to secure its payment obligations under the Indenture by executing and delivering one or more Leasehold Deed of Trust, Assignment of Rents and Security Agreement (the “*Deed of Trust*”), attached hereto as *Exhibit D*, for the benefit of the holders of the Series 2023 Bonds; and

WHEREAS, in the opinion of the Council, it is in the best interest of the City and the Issuer that the Designated Officer be authorized to (i) determine whether to pursue a competitive sale, negotiated sale or private placement for the sale of the Bonds, (ii) if a competitive sale is pursued, accept or reject the bids received for the Bonds pursuant to the PARITY[®] electronic bid submission system and determine the best bid received that conforms to the parameters, deadlines and procedures set forth in the notice of sale prepared in connection with the advertisement for sale of the Bonds, (iii) if a negotiated sale is pursued, select an underwriter for the Bonds, (iv) if a private placement is pursued, select a purchaser for the Bonds and (v) approve the final principal amount, maturity amounts, interest rates, dates of maturity and other terms and provisions relating to the Bonds and to execute the Certificate of Determination containing such terms and provisions;

WHEREAS, there has presented to the Council at this meeting the proposed form of each of the following agreements: (a) the Indenture; (b) the Lease, (c) the Deed of Trust, and (d) the Bond Purchase Agreement (defined below) (collectively, the “*Operative Agreements*”), in connection with the issuance of the Series 2023 Bonds and the financing of the Project; and

WHEREAS, the Issuer proposes to adopt a Bond Resolution dated as of the date of this Resolution for the Issuance of its Series 2023 Bonds (the “*Bond Resolution*”), attached hereto as *Exhibit F*.

NOW THEREFORE BE IT RESOLVED by the Council of South Weber City, Davis County, State of Utah, as follows:

Section 1. Approval of Issuance of Series 2023 Bonds. For the purposes enumerated in the preamble to this Resolution and paying the costs and expenses incidental thereto and to the issuance of the Series 2023 Bonds hereinafter described, the Council hereby approves the issuance of the Series 2023 Bonds by the Issuer pursuant to the Act and in accordance with and subject to the terms, conditions and limitations established in the Indenture and in the Bond Resolution and in accordance with and subject to the terms, conditions and limitations established in the Indenture.

Section 2. Terms of the Series 2023 Bonds.

(a) The Series 2023 Bonds shall be dated as of their date of original issuance and delivery (the “*Dated Date*”), shall mature on the dates and in the principal amounts, and shall bear interest

from the Dated Date, payable at the interest rates provided in the Certificate of Determination (as defined in the Bond Resolution). The Series 2023 Bonds shall be issued in authorized denominations and shall be executed and payable as provided in the Indenture.

(b) There is hereby delegated to the Designated Officer of the Issuer (as defined in the Bond Resolution), subject to the limitations contained in this Resolution, the power to determine and effectuate the following with respect to the Series 2023 Bonds and the Designated Officer is hereby authorized to make such determinations and effectuations:

(i) the aggregate principal amount of the Series 2023 Bonds; *provided* that the aggregate principal amount of the Series 2023 Bonds shall not exceed \$10,000,000;

(ii) the maturity date or dates and principal amount of each maturity of the Series 2023 Bonds to be issued; *provided, however*, that the final maturity of all Bonds shall not be later than 26 years from their date or dates;

(iii) the interest rate or rates of the Series 2023 Bonds, *provided, however*, that the average interest rate to be borne by any Bond shall not exceed 5.50% per annum;

(iv) the sale of the Series 2023 Bonds to the purchaser of the bonds (the "Purchaser") of the Series 2023 Bonds and the purchase price to be paid by the Purchaser for the Series 2023 Bonds; *provided, however*, that the discount from par of the Series 2023 Bonds shall not exceed two percent (2.00%) (expressed as a percentage of the principal amount);

(v) the Series 2023 Bonds, if any, to be retired from mandatory sinking fund redemption payments and the dates and the amounts thereof;

(vi) the optional redemption date of the Series 2023 Bonds, if any;

(vii) the use and deposit of the proceeds of the Series 2023 Bonds; and

(viii) any other provisions deemed advisable by the Designated Officer not materially in conflict with the provisions of this Resolution.

The Authorized Officer shall make such determinations as provided above and shall execute the Certificate of Determination containing such terms and provisions of the Series 2023 Bonds, which execution shall be conclusive evidence of the actions or determinations of the Authorized Officer as to the matters stated therein.

(c) The Series 2023 Bonds shall be subject to redemption prior to maturity as provided in the Indenture.

(d) The Series 2023 Bonds shall be in substantially the forms set forth in the Indenture, which forms are hereby incorporated herein by this reference, and the provisions for the signatures, authentication, payment, places of payment, medium of payment, transfer, exchange, registration, number and other provisions thereof, to the extent not provided herein, shall be as set forth in the

Indenture as finally executed and are hereby approved and hereby incorporated herein by this reference. The form of the Series 2023 Bonds, submitted to this meeting as part of the recitals to the Indenture be, and the same hereby is, approved, and when the same shall be executed on behalf of the Issuer in the manner contemplated by the Indenture and this Resolution in the aggregate principal amount herein provided, they shall represent the approved form of the Series 2023 Bonds of the Issuer.

(e) Upon the occurrence of an Event of Nonappropriation (as such term is defined in the Lease) or an Event of Default under the Lease or the Indenture, the trustee for the Series 2023 Bonds (the “Trustee”) shall be entitled to exercise such rights and remedies (including but not limited to the appointment of a receiver) as are provided in the Indenture or as are otherwise provided to the Issuer under the Act or other applicable law; *provided, however*, that no deficiency judgment upon foreclosure of the lien of the Indenture may be entered against the Issuer, the City, the State of Utah or any political subdivision of the State of Utah, except as otherwise expressly provided in the Indenture and as permitted by the Act.

Section 3. Limited Obligations. The Series 2023 Bonds, together with the interest and premium, if any, thereon, are not general obligations of the Issuer but are limited obligations and, except for the security provided by the Indenture, pursuant to Section 17D-2-505 of the Act, are payable solely out of Base Rentals received by the Trustee under the Lease and certain other amounts received under the Indenture. Nothing in this Resolution, the Indenture or the Series 2023 Bonds shall be construed as requiring the State of Utah or any political subdivision of the State of Utah to pay any of the Series 2023 Bonds or to pay any of the premium (if any) or interest thereon or to appropriate any money to pay the same. Pursuant to Section 17D-2-505 of the Act and the Indenture, the Series 2023 Bonds shall be secured by the Trust Estate, which is specifically pledged, mortgaged, hypothecated, assigned and otherwise secured in the Indenture, subject to Permitted Encumbrances, for the equal and ratable payment of the Series 2023 Bonds and any bonds hereafter issued on a parity with the Series 2023 Bonds under the Indenture and shall be used for no other purpose than to pay the principal of, and premium, if any, and interest on, the Series 2023 Bonds and such additional parity bonds, except as may be otherwise expressly authorized in the Indenture. Neither the full faith and credit nor the taxing powers of the State of Utah or any political subdivision of such State is pledged to the payment of the principal of, or premium, if any, or interest on, the Series 2023 Bonds or other costs appertaining thereto. The Series 2023 Bonds and the interest and premium, if any, thereon do not now and shall never constitute an indebtedness of the Issuer, the City, the State of Utah or any political subdivision of such State within the meaning of any State constitutional provision or limitation nor give rise to or be a general obligation or liability of nor a charge against the general credit or taxing powers of the State of Utah or any political subdivision of the State of Utah. No breach of any covenant or agreement in the Indenture or the Lease shall impose any general obligation or liability upon, nor a charge against, the City or the general credit or taxing power of the State of Utah or any of its political subdivisions. THE OBLIGATION OF THE CITY TO PAY BASE RENTALS AND OTHER AMOUNTS UNDER THE LEASE IS ANNUALLY RENEWABLE AS PROVIDED THEREIN. THE OBLIGATION OF THE CITY TO MAKE SUCH PAYMENTS WILL NOT CONSTITUTE A DEBT OF THE CITY, THE STATE OF UTAH OR ANY POLITICAL SUBDIVISION THEREOF. NEITHER THE ISSUANCE OF THE SERIES 2023 BONDS NOR THE EXECUTION AND DELIVERY OF THE LEASE DIRECTLY OR CONTINGENTLY OBLIGATE THE CITY TO APPROPRIATE ANY MONEY TO PAY ANY RENTALS UNDER THE LEASE OR TO PAY ANY RENTALS BEYOND THOSE APPROPRIATED FOR THE CITY’S THEN CURRENT FISCAL YEAR OR OBLIGATE THE

STATE OF UTAH OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE CITY TO THE EXTENT PROVIDED IN THE LEASE) TO PAY ANY RENTALS DUE TO THE ISSUER UNDER THE TERMS OF THE LEASE. NO PERSON EXECUTING THE SERIES 2023 BONDS OR THE LEASE SHALL BE SUBJECT TO PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THE ISSUANCE OF THE SERIES 2023 BONDS OR THE EXECUTION OF THE LEASE.

Section 4. Authorization to Execute and Deliver Operative Agreements. The forms, terms and provisions of each of the Operative Agreements are each hereby approved in substantially the forms presented at this meeting and attached hereto, with such insertions, omissions and changes as shall be approved by the Issuer as provided in the Bond Resolution and, to the extent that the City is a party to any such document, the Mayor of the City (the “*Mayor*”), the execution of such documents by the Issuer and Mayor being conclusive evidence of such approval. The appropriate officers of the Issuer are hereby authorized and directed to execute, attest and countersign, the Indenture and each of the other Operative Agreements to which the Issuer is a party and to affix or imprint the seal of the Issuer thereon. The Mayor is hereby authorized and directed to execute and the City Recorder of the City (the “*City Recorder*”) to attest and countersign the Lease and each of the other Operative Agreements to which the City is a party.

Section 5. Approval of Bond Purchase Agreement and Sale of the Bonds.

(a) The Bonds are hereby authorized to be sold to the Purchaser, on the terms and conditions set forth in the Certificate of Determination and a Bond Purchase Agreement (the “*Bond Purchase Agreement*”), a form of which is attached hereto as *Exhibit E*, and upon the basis of the representations therein set forth; *provided* that such terms shall not exceed the limitations set forth in Section 2 herein. The Bond Purchase Agreement is hereby authorized and approved. To evidence the acceptance of the Bond Purchase Agreement, the Mayor is hereby authorized to execute and deliver, in substantially the form attached hereto as *Exhibit E*, with such insertions, deletions, changes, omissions and variations as the Mayor may deem appropriate (such approval of the Mayor of any such changes shall be conclusively established by the execution of the Bond Purchase Agreement).

(b) The Bonds shall be delivered to the Purchaser and the proceeds of sale thereof applied as provided in the Certificate of Determination.

(c) The Mayor is hereby authorized to do or perform all such acts and to execute all such certificates, documents and other instruments as may be necessary or advisable to provide for the issuance, sale and delivery of the Bonds, and the City Recorder is hereby authorized, empowered and directed to attest such execution and to countersign.

Section 6. Other Actions with Respect to the Series 2023 Bonds and the Indenture and Lease.

The officers and employees of the City shall take all action necessary in conformity with the Act to carry out the issuance of the Series 2023 Bonds and the execution and delivery of the Operative Agreements, including, without limitation, the execution and delivery of any closing and other documents required to be delivered in connection with the sale and delivery of the Series 2023 Bonds and the execution and delivery of the Indenture. If the Mayor or the City Recorder shall be unavailable to execute, countersign or attest (as applicable), any of the Operative Agreements and/or the other documents that they are hereby authorized to execute, countersign and attest, the

same may be executed, countersigned, and attested (as applicable) by the Mayor Pro Tem or by the Deputy City Recorder, respectively.

Section 7. Filing of Resolution. The City Recorder, as Secretary of the Issuer, is hereby authorized and directed to file a certified copy of this Resolution in the records of the Issuer promptly following the adoption hereof.

Section 8. Resolution Irrepealable. After any of the Series 2023 Bonds are delivered by the Trustee to the Purchaser upon receipt of payment therefor, this Resolution shall be and remain irrepealable until the Series 2023 Bonds and interest thereon shall have been fully paid, canceled and discharged.

Section 9. Severability. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution; *provided, however,* that nothing in this Section shall be construed to amend or modify the limitations provided in Section 4 hereof.

Section 10. Conflicting Resolutions. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

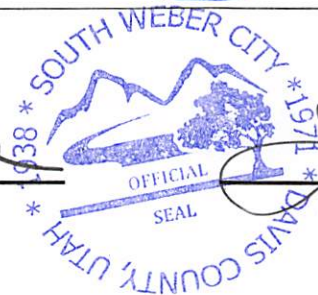
Section 11. Effective Date. This Resolution shall be effective immediately upon its approval and adoption.


Section 12: Repealer Clause: All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

PASSED AND ADOPTED by the City Council of South Weber, Davis County, on the 27th day of June 2023.

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| Roll call vote is as follows: | | |
| Council Member Halverson | <input checked="" type="radio"/> FOR | <input type="radio"/> AGAINST |
| Council Member Petty | <input checked="" type="radio"/> FOR | <input type="radio"/> AGAINST |
| Council Member Soderquist | <input checked="" type="radio"/> FOR | <input type="radio"/> AGAINST |
| Council Member Alberts | <input checked="" type="radio"/> FOR | <input type="radio"/> AGAINST |
| Council Member Dills | <input checked="" type="radio"/> FOR | <input type="radio"/> AGAINST |


Rod Westbrook, Mayor




Attest: Lisa Smith, Recorder