

Carbondale & Rural Fire Protection District
Special Meeting of the Board of Directors
April 24, 2024
12:00 p.m.

Agenda

- A. Call to order & roll call
- B. Consider Resolution 2024-003
- C. Other Business
- D. Adjourn

CERTIFIED RECORD

OF

PROCEEDINGS

CARBONDALE & RURAL FIRE PROTECTION DISTRICT

RELATING TO A

LEASE PURCHASE AGREEMENT WITH ALPINE BANK

(Attach copy of notice of meeting, as posted)

STATE OF COLORADO)
)
GARFIELD, GUNNISON AND PITKIN)
COUNTIES)
)
CARBONDALE & RURAL FIRE PROTECTION)
DISTRICT)

The Board of Directors of Carbondale & Rural Fire Protection District, in Garfield, Gunnison and Pitkin Counties, Colorado, met in regular session held via WebEx: <https://carbondalearfire-421.my.webex.com/meet/CRFPD>, on Wednesday, the 24th day of April, 2024, at the hour of 12:00 p.m.

The following members of the Board of Directors were present, constituting a quorum:

- President*
- Vice-President*
- Secretary/Treasurer*
- Director*
- Director*

Pursuant to the provisions of C.R.S. 24-6-402 and the Supplemental Public Securities Act, one or more members of the Board participated in this meeting and voted on the foregoing matters through the use of a conference telephone or other telecommunications device.

Thereupon there was introduced the following resolution:

RESOLUTION 2024-003

WHEREAS, Carbondale & Rural Fire Protection District, in Garfield, Gunnison and Pitkin Counties, Colorado (the “District”), is a quasi-municipal corporation and a political subdivision duly organized and existing under the laws of the State of Colorado; and

WHEREAS, Section 32-1-1001(1)(f) of the Colorado Revised Statutes, as amended (“C.R.S.”), authorizes the District to acquire, dispose of, and encumber real and personal property including, without limitation, rights and interests in property, leases, and easements necessary to the functions or the operation of the District; and

WHEREAS, the District is the owner of certain land (the “Site”), and the facilities, improvements, and fixtures located or to be located thereon, presently consisting of a fire station known within the District as [the Main Fire Station] (together with the Site, the “Leased Property”), as further described in the Lease (hereinafter defined); and

WHEREAS, the Board of Directors of the District (the “Board”) has determined that it is in the best interests of the District and its residents and taxpayers to finance the construction of improvements and renovations to its fire station located at 300 and 301 Meadowood Drive, Carbondale, CO 81623 for District purposes (the “Project”); and

WHEREAS, the Board has been presented with a lease purchase financing by Alpine Bank, a Colorado banking corporation (the “Bank”) in an amount not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000), at an estimated interest rate of [5.75]% per annum, for a period not to exceed 15 years; and

WHEREAS, in order to finance the Project, the Board has determined and hereby determines that it is in the best interests of the District to enter into the lease purchase financing and lease the Leased Property to the Bank pursuant to a Site Lease (the “Site Lease”), and to lease such property back from the Bank pursuant to the terms of a Lease Purchase Agreement (the “Lease”); and

WHEREAS, pursuant to the Lease, and subject to the right of the District to annually terminate the Lease and other limitations as therein provided, the District will pay certain Base Rentals (as defined in the Lease) in consideration for the right of the District to use the Leased Property; and

WHEREAS, the District’s obligation under the Lease to pay Base Rentals and Additional Rentals (as defined in the Lease) shall be from year to year only; shall constitute a currently budgeted expenditure of the District; shall not constitute a mandatory charge or requirement in any ensuing budget year; and shall not constitute a general obligation or other indebtedness or multiple fiscal year direct or indirect District debt or other financial obligation of the District within the meaning of any constitutional or statutory limitation or requirement concerning the creation of indebtedness or multiple fiscal year financial obligation, nor a mandatory payment obligation of the District in any ensuing fiscal year beyond any fiscal year during which the Lease shall be in effect; and

WHEREAS, the Lease is being entered into with the Bank, which is an “accredited investor” as defined under Regulation D promulgated by the Securities and Exchange Commission, and the Lease is therefore exempt from registration under the Colorado Municipal Bond Supervision Act; and

WHEREAS, the Supplemental Public Securities Act, part 2 of article 57 of title 11, C.R.S. (the “Supplemental Act”), provides that a public entity, including the District, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act to an issue of securities, including any financial contract; and

WHEREAS, pursuant to Section 32-1-902(3), C.R.S., and Section 18-8-308, C.R.S., all known potential conflicting interests of each member of the Board were disclosed to the Colorado Secretary of State and to the Board in writing at least 72 hours in advance of this meeting; additionally, in accordance with Section 24-18-110, C.R.S., the appropriate Board members have made disclosure of their personal and private interests relating to the execution and delivery of the Lease in writing to the Secretary of State and the Board; finally, said officials have stated for the record immediately prior to the adoption of this Resolution the fact that they have said interests and the summary nature of such interests and the participation of said officials is necessary to obtain a quorum or otherwise enable the Board to act; and

WHEREAS, federal income tax law requires that issuers of tax-exempt obligations comply with certain post-issuance requirements set forth in the Internal Revenue Code; and

WHEREAS, for the purpose of maximizing the likelihood that certain applicable post-issuance requirements of federal income tax law needed to preserve the tax-exempt status of the Lease are met, the Board desires to adopt the Post-Issuance Compliance Procedures, attached hereto as Exhibit A.

WHEREAS, at this meeting, there has been presented to the Board the proposed forms of: (i) the Site Lease; and (ii) the Lease; and

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Lease.

THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF CARBONDALE & RURAL FIRE PROTECTION DISTRICT:

Section 1. Recitals Incorporated. The foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Board.

Section 2. Ratification and Approval of Prior Actions. All actions heretofore taken by the Board or the officers, agents or employees of the District relating to the Site Lease, the Lease, the selection of the Bank, or directed toward the financing of the Project and the leasing of the Leased Property are hereby ratified, approved and confirmed.

Section 3. Finding of Best Interests. The Board hereby finds and determines pursuant to the Constitution and laws of the State of Colorado that the leasing of the Leased Property pursuant to the terms set forth in the Site Lease and the Lease, is in the best interest of

the District and serves a valid public purpose and the Board hereby authorizes and approves the same.

Section 4. Supplemental Act. The Board hereby elects to apply all of the Supplemental Act to the Site Lease and the Lease and in connection therewith delegates to each of the Chairman or any other officer, employee or director approved by the Board of the District the independent authority to make any determination delegable pursuant to Section 11-57-205(1)(a-i), C.R.S., in relation to the Lease and the Site Lease.

Section 5. Approval of Site Lease and Lease. The District shall enter into the Site Lease with the Bank. The District shall work with the Bank's representatives to prepare a final form Site Lease that is mutually acceptable to the Bank and the Board acting by and through the Chairman or any other officer or director authorized by the Board to act on behalf of the District, in consultation with the District's legal counsel. The term of the Site Lease shall not extend beyond December 1, 2054.

The District shall enter into the Lease with the Bank. The District shall work with Bank's representatives to prepare a final form Lease that is mutually acceptable to the Bank and the Board acting by and through the Chairman or any other officer or director authorized by the Board to act on behalf of the District, in consultation with the District's legal counsel. The Board approves the leasing of the Leased Property for an annual rental amount not to exceed \$[249,678.64] (the "Rental Payment").

Section 6. Lease Subject to Annual Appropriation. No provision of this Resolution, the Site Lease or the Lease shall be construed as creating or constituting a general obligation or multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The term of the Lease shall not extend beyond December 31, subject to annual renewal if such Rental Payment is appropriated by the Board for the District budget in the subsequent fiscal year. The aggregate renewal period shall not exceed fifteen (15) years, with a final maturity date of December 1, [2039], and the District shall have no obligation to make any payment except in connection with the payment of the Rent Payment and other amounts due under the Lease in accordance with the provisions of the Lease.

Section 7. Execution of Miscellaneous Documents. The Secretary, Assistant Secretary, Treasurer, or any other officer of the District is directed to attest all signatures and acts of any official of the Board or the District in connection with the matters authorized by this Resolution, and to place the District's seal on the Site Lease and the Lease and all other additional certificates, documents and other papers associated with the transactions and other matters authorized by this Resolution. The Chairman and any other official, employee and agent of the District are hereby authorized to execute and deliver the Site Lease, the Lease, and any and all additional agreements, certificates, documents and other papers and to perform all other acts that they may deem necessary or appropriate to implement and carry out the transactions and other matters authorized or contemplated by this Resolution for and on behalf of the District.

Section 8. Declaration of Findings. The Board hereby determines and declares that:

- (a) The Rental Payment represents the fair market value of the use of the Leased Property.
- (b) The District is under no economic or practical compulsion to appropriate moneys to make payments under the Lease pursuant to the Lease. In making such determinations, the Board has considered the current fair market value of the Leased Property, the cost of acquiring, constructing or equipping property similar to the Leased Property, the Project's uses and purposes, the benefit of the Project to the District's residents and taxpayers, and the expected eventual vesting of the full title to the Leased Property in the District.
- (c) The duration of the Lease, including all optional renewal terms authorized under this Resolution, does not exceed the weighted average useful life of the Leased Property.

Section 9. Bank Qualification. The District hereby designates the Lease as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Internal Revenue Code, as amended.

Section 10. No Recourse against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Board, or any officer or agent of the District, acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the Base Rentals. 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 executing and delivering the Site Lease and the Lease, the Bank and its successors and assigns specifically waive any such recourse.

Section 11. Repealer. All bylaws, orders, and resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, or resolution, or part thereof, heretofore repealed.

Section 12. Severability. If any section, subsection, paragraph, clause or provision of this Resolution or the documents hereby authorized and approved (other than provisions as to the payment of Base Rentals by the District during the Lease Term, provisions for the quiet enjoyment of the Leased Property by the District during the Lease Term and provisions for the conveyance of the Leased Property to the District under the conditions provided in the Lease) shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution or such documents.

Section 13. Effective Date. This Resolution shall be in full force and take effect immediately upon its passage and approval.

ADOPTED AND APPROVED this 24th day of April, 2024.

(S E A L)

President

ATTESTED:

Secretary/Treasurer

Thereupon, _____, moved the adoption of the foregoing Resolution. The motion to adopt the Resolution was duly seconded by _____, put to a vote, and carried on the following recorded vote:

Those voting AYE:

Those voting NAY:

Thereupon the President, as Chairman of the meeting, declared the Resolution duly adopted and the Secretary/Treasurer was directed to enter the foregoing proceedings and resolution upon the minutes of the Board.

Thereupon, after consideration of other business before the Board, the meeting was adjourned.

STATE OF COLORADO)
)
GARFIELD, GUNNISON AND PITKIN)
COUNTIES)
)
CARBONDALE & RURAL FIRE PROTECTION)
DISTRICT)

The undersigned, as the Secretary/Treasurer of Carbondale & Rural Fire Protection District, hereby certifies that the foregoing pages constitute a true and correct copy of that portion of the record of proceedings of the Board of Directors of said District relating to the adoption of a Resolution authorizing a Site Lease and a Lease Purchase Agreement with Alpine Bank, adopted at a regular meeting of the Board held via WebEx: <https://carbondalefire-421.my.webex.com/meet/CRFPD>, on Wednesday, the 24th day of April, 2024, at the hour of 12:00 p.m., as recorded in the official record of proceedings of said District kept in my office; that the proceedings were duly had and taken; that the meeting was duly held; that the persons therein named were present at said meeting and voted as shown therein; that each director of the Board was informed of the date, time, place, and purpose of the meeting; and that a notice of meeting, in the form herein set forth at page 1, was posted at on the District's website at least 24 hours prior to the meeting, in accordance with law.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the District, as of the 24th day of April, 2024.

Secretary/Treasurer

EXHIBIT A

POST ISSUANCE COMPLIANCE PROCEDURES

The Carbondale & Rural Fire Protection District, in Garfield, Gunnison and Pitkin Counties, Colorado (the “District”), hereby adopts the procedures described herein (the “Procedures”) as its written procedures for post-issuance compliance and remedial action applicable to tax-advantaged bonds, notes, leases, certificates of participation or similar (collectively, “Obligations”) heretofore and hereafter issued or executed and delivered by it or on its behalf, including the April 30, 2024 Lease Purchase financing issued by the District (the “Financing”). These Procedures are intended to supplement any previous post-issuance compliance and remedial action procedures that may have been adopted by the District and any procedures evidenced in writing by any tax document for any Obligations heretofore or hereafter issued, entered into or executed and delivered by it or on its behalf, the related information returns filed in connection with any Obligations and the instructions to such information returns.

1. Responsible Person. The District has assigned to the position of Fire Chief or his/her designee (the “Responsible Person”) the responsibility for ensuring post-issuance and remedial action compliance with the requirements of any tax and financing documents for Obligations. The Responsible Person has or will review any prior post-issuance compliance and remedial action procedures, these Procedures, any tax documents for any Obligations heretofore or hereafter issued, entered into or executed and delivered by it or on its behalf, the related information returns, if any, filed in connection with any Obligations (such as IRS Forms 8038 or 8038-G) and the instructions to such information returns, and consult with bond counsel (bond counsel for the Financing was Kline Alvarado Veio, P.C.) and other professionals as needed.

2. Succession Planning. The District will ensure that, when the current Responsible Person leaves such person’s current position at the District, the responsibility for financing and tax covenant compliance will be explained in detail to his or her successor, such successor will be provided compliance training (as further described in the following section).

3. Training. Compliance training for the Responsible Person should include, among other things, attendance at post-issuance compliance trainings organized by the Internal Revenue Service or entities such as the Colorado Municipal League, the Colorado Special District Association, the Government Finance Officers Association or similar organizations.

4. Procedures for Timely Expenditure of Proceeds. The District understands that at least 85% of the net sale proceeds of new money Obligations must be spent to carry out the projects financed with the proceeds of the Obligations within three years of the date such Obligations are originally issued, entered into or executed and delivered. The District will treat as “sale proceeds” any amounts actually or constructively received by the District from issuance or execution and delivery of the Obligations, including amounts used to pay accrued interest other than pre-issuance accrued interest. “Net sale proceeds” means the sale proceeds less any amounts deposited into reasonably required reserve or replacement or rental payment reserve funds. The District has established or will establish reasonable accounting procedures for tracking and reporting to the Responsible Person the expenditure of net sale proceeds.

5. Compliance with Arbitrage Yield Restriction and Rebate Requirements. The Responsible Person will create a system to ensure that, not less than six months prior to each five-year anniversary of the closing date for Obligations, the District will retain an arbitrage rebate consultant to prepare a report determining the yield of the Obligations under the Internal Revenue Code of 1986, as amended (the “Code”), and whether there is any amount owed to the Internal Revenue Service under Section 148 of the Code.

6. Procedures to Comply with Remediation Requirements. The Responsible Person will establish and maintain a system for tracking and monitoring the use of the facilities financed or refinanced with the proceeds of Obligations to ensure that the use of all of such facilities will not violate the private business tests or the private loan financing test under Section 141 of the Code. If, after the issuance or execution and delivery of Obligations, the use of the facilities financed or refinanced with the proceeds of Obligations changes so that the private business tests or the private loan financing test would be met, or if another violation of these procedures occurs which requires correction, the District will, in connection with consulting bond counsel, undertake a closing agreement through the Voluntary Closing Agreement Program of the Internal Revenue Service or take one of the actions permitted by the Code and associated regulations.

7. Ongoing Procedures. The Responsible Person will review any prior procedures, these Procedures, tax and financing documents relating to Obligations, information returns for obligations and related instructions to such information returns, and the status and use of the obligation-financed or refinanced facilities on at least an annual basis and at the following intervals: (a) six months prior to each five-year anniversary of the issue or execution and delivery date of the Obligations; (b) within 30 days of the date the Obligations are finally retired, defeased, refunded or terminated; (c) when any rebate payment is made; (d) when a facility financed or refinanced with proceeds of Obligations is placed in service; (e) if the District determines that a facility planned to be financed or refinanced with proceeds of Obligations will not be completed; and (f) if any of the representations, statements, circumstances or expectations of the District that are set forth in the tax or financing documents for Obligations are no longer true, have changed or have not come to pass as described in such documents. This review will be made for the purposes of identifying any possible violation of federal tax requirements related to Obligations and to ensure the timely correction of those violations pursuant to the remedial action provisions outlined above or through the Voluntary Closing Agreement Program. If any possible violation is identified, the Responsible Person will notify the District and the District’s counsel so that any existing or expected violation can be corrected.

8. Recordkeeping. The Responsible Person will develop and implement a system for maintaining records relating to these Procedures. Such records must be kept and maintained for the life of the related Obligations, and any Obligations that refund or refinance such obligations, plus at least four years (or such longer period as may be required in related tax documents for such obligations). These records may be maintained on paper, by electronic media or by any combination thereof.