

THE BOARD OF TRUSTEES OF THE CHEROKEE DEVELOPMENT AUTHORITY, CHEROKEE, OKLAHOMA MET IN SPECIAL SESSION IN CITY HALL AT 112 N GRAND AVE., IN CHEROKEE, OKLAHOMA ON THE 26<sup>TH</sup> DAY OF APRIL, 2023, AT 5:00 P.M.

PRESENT: Chris Muhlbaier, Luke Hague, Adrienne Wessels,  
Mayor Kolby Arnold

ABSENT: Chelsey Guffy

Thereupon, the Chairman introduced a Resolution which was read by the Secretary. Trustee **Kolby Arnold** moved that the Resolution be adopted and Trustee **Chris Muhlbaier** seconded the motion. The motion carrying with it the adoption of the Resolution prevailed by the following vote:

AYE: Chris Muhlbaier, Luke Hague, Adrienne Wessels, Mayor Kolby Arnold

NAY: None

The Resolution as adopted is as follows:

**RESOLUTION NO. 2023-01**

A RESOLUTION AGREEING TO FILE APPLICATION WITH THE OKLAHOMA WATER RESOURCES BOARD (THE "OWRB") FOR FINANCIAL ASSISTANCE THROUGH THE CLEAN WATER STATE REVOLVING FUND (CWSRF) PROGRAM, WITH THE LOAN PROCEEDS BEING FOR THE PURPOSE OF FINANCING SEWER SYSTEM IMPROVEMENTS SERVING THE CITY OF CHEROKEE, OKLAHOMA; APPROVING AND AUTHORIZING A CLEAN WATER SRF LOAN FROM THE OKLAHOMA WATER RESOURCES BOARD IN THE TOTAL AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$1,335,000.00; APPROVING THE ISSUANCE OF A PROMISSORY NOTE IN THE TOTAL AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$1,335,000.00, SECURED BY A PLEDGE OF REVENUES AND A AUTHORIZING ITS EXECUTION; AUTHORIZING THE CHAIRMAN OR VICE-CHAIRMAN OF THE AUTHORITY TO EXECUTE A CERTIFICATE OF DETERMINATION ESTABLISHING THE PRINCIPAL AMOUNT AND INTEREST RATE PERTAINING TO THE REFERENCED PROMISSORY NOTE; APPROVING AND AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT FOR CLEAN WATER SRF LOAN; APPROVING AND AUTHORIZING THE EXECUTION OF A MORTGAGE WITH POWER OF SALE AND SECURITY AGREEMENT; RATIFYING AND CONFIRMING A LEASE AGREEMENT AND OPERATION AND MAINTENANCE CONTRACT PERTAINING TO

THE CITY'S WATER, SANITARY SEWER, AND GARBAGE SYSTEMS LEASED TO THE CHEROKEE DEVELOPMENT AUTHORITY; RATIFYING AND CONFIRMING A SALES TAX AGREEMENT; APPROVING VARIOUS COVENANTS; APPROVING PROFESSIONAL SERVICES AGREEMENTS; APPROVING AND AUTHORIZING PAYMENT OF FEES AND EXPENSES; AND CONTAINING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Cherokee Development Authority, Alfalfa County, Oklahoma (the "Borrower"), was organized under Title 60, Oklahoma Statutes 2021, Sections 176-180.4, as amended, for the purpose of furthering the public functions of The City of Cherokee, Oklahoma (the "City"); and

WHEREAS, the Borrower is authorized and has determined to construct improvements to the Borrower's wastewater system, including sewer line replacements and manhole rehabilitation (the "Project") in order to better serve the customers of said Borrower and in payment of part of the cost thereof, to seek money in the form of a Clean Water SRF Loan from the Oklahoma Water Resources Board (the "Board") in the amount of not to exceed \$1,335,000.00; and

WHEREAS, the Board has approved a loan application of the Borrower and the Borrower has determined to borrow money from the Board to accomplish the Project and to evidence such loan by the issuance of the Borrower's Series 2023 Clean Water SRF Promissory Note to Oklahoma Water Resources Board in the original principal amount of not to exceed \$1,335,000.00 (the "2023 Note"), said 2023 Note being secured by a lien on the revenues derived from the water, sanitary sewer, and garbage systems, as well as certain rental revenues (hereinafter collectively, the "System") and a lien on the proceeds of a one percent (1.0%) sales tax levied pursuant to Ordinance No. 1242 of the City (referred to herein as the "Sales Tax Revenue"); provided said mortgage and pledge of revenues shall be on a parity in all respects with the Borrower's (i) Series 2005 Drinking Water SRF Promissory Note to Oklahoma Water Resources Board dated September 30, 2005, issued in the original principal amount of \$1,455,000; and (ii) Series 2015 Clean Water SRF Promissory Note to Oklahoma Water Resources Board dated June 26, 2015, issued in the original principal amount of \$2,640,000 (collectively, the "Existing Indebtedness"); and

WHEREAS, it is the desire of the Borrower to authorize the execution and delivery of any and all documents necessary or attendant to the issuance of the 2023 Note.

NOW, THEREFORE, BE IT RESOLVED BY THE TRUSTEES OF THE CHEROKEE DEVELOPMENT AUTHORITY, ALFALFA COUNTY, OKLAHOMA:

Section 1. Application. The Borrower shall file an Application(s) with the Oklahoma Water Resources Board seeking financial assistance through the OWRB Clean Water State Revolving Fund (CWSRF) Program; and the Chairman or Vice Chairman and Secretary or Assistant Secretary of the Authority are hereby authorized to execute said Application(s) for and on behalf of the Borrower. The Borrower is further authorized to advance to the Oklahoma Water Resources Board the necessary application fees in connection with the referenced Application(s).

Section 2. Issuance of Note. The Borrower is hereby authorized to accept said loan and issue its 2023 Note payable to the Board and secured by a pledge of revenue derived from the

operation of the System and a year-to-year pledge of certain sales tax revenue. The officers of the Borrower are hereby authorized and directed to execute said 2023 Note and to do any and all lawful things to effect said loan and secure said loan from the Board, provided that the principal amount of the 2023 Note shall not exceed \$1,335,000.00, and the rate of interest on the 2023 Note shall be a fixed rate of interest of not to exceed four and one-half percent (4.5%) per annum inclusive of administrative fees of one half of one percent (1/2%), with the term of the Note to be approximately thirty (30) years following completion of the Project. The Chairman or Vice Chairman shall be authorized to execute a Certificate of Determination establishing the principal amount, maturity, and rate of interest on the 2023 Note.

Section 3. Execution of Loan Agreement for Clean Water SRF Loan. The Loan Agreement for Clean Water SRF Loan by and between the Borrower and the Board (the "Loan Agreement") is hereby approved and the Chairman or Vice Chairman and Secretary or Assistant Secretary of the Borrower are hereby authorized to execute same for and on behalf of the Borrower, and to do all other lawful things to carry out the terms and conditions of said Loan Agreement.

Section 4. Designation of Local Trustee and Execution of Trust Agreement. The Borrower hereby designates BOKF, NA, to serve as local trustee (the "Local Trustee") of certain funds in relation to the 2023 Note. The Trust Agreement by and between the Borrower and the Local Trustee, pertaining to the 2023 Note (the "Trust Agreement") is hereby approved and the Chairman or Vice Chairman and Secretary or Assistant Secretary are hereby authorized to execute same for and on behalf of the Borrower, and to do all other lawful things to carry out the terms and conditions of said Trust Agreement.

Section 5. Execution of Mortgage with Power of Sale and Security Agreement. The Mortgage with Power of Sale and Security Agreement by the Borrower in favor of the Board (the "Mortgage"), whereby the Borrower gives a mortgage on the System to the Board to secure payment of the 2023 Note is hereby approved and the Chairman or Vice Chairman and Secretary or Assistant Secretary are hereby authorized to execute same for and on behalf of the Borrower, and do all other lawful things to carry out the terms and conditions of said Mortgage.

Section 6. Lease Agreement. The Lease Agreement and Operation and Maintenance Contract between the Borrower and the City dated as of January 1, 2002 (the "Lease Agreement"), whereby the City leased its water, sanitary sewer, and garbage systems to the Borrower and whereby the Borrower agreed to operate and maintain said systems, is hereby ratified and confirmed and the term of said Lease Agreement shall extend until the 2023 Note is paid.

Section 7. Sales Tax Agreement. The Borrower hereby ratifies and confirms the Sales Tax Agreement dated as of June 1, 2015 (the "Sales Tax Agreement"), by and between the City and the Borrower, which Sales Tax Agreement pertains to a year-to-year pledge of certain sales tax revenue for purposes of securing the 2023 Note and all indebtedness secured on a parity therewith.

Section 8. Covenants of Borrower. Until payment in full of the 2023 Note and performance of all obligations owing to the Board under the Loan Agreement and the instruments executed pursuant hereto, unless the Board shall otherwise consent in writing, the Borrower hereby represents its intent to abide by and carry out the covenants contained in the Mortgage and the Loan Agreement, which covenants are incorporated herein in their entirety.

Section 9. Professional Services Agreement. The Borrower is authorized to enter into a legal services agreement with The Public Finance Law Group PLLC, as the Borrower's Bond Counsel and with Oklahoma Municipal Law PLLC, as Borrower Counsel, and a professional services agreement with Municipal Finance Services, Inc., as the Borrower's Financial Advisor. The Borrower hereby authorizes Municipal Finance Services, Inc., to prepare and submit the referenced Application(s) on behalf of the Borrower and to take such other action as is necessary to obtain financing for the referenced Project.

Section 10. Project Costs Disbursement Account; Fees and Expenses. The Borrower is authorized to establish an account or accounts as necessary to serve as the Project Costs Disbursement Account described in the Loan Agreement. Upon closing of the referenced loan, the officers of the Borrower are hereby authorized to disburse (from loan proceeds or other available funds of the Borrower) those fees and expenses set forth on Exhibit "A" hereto, together with such other fees and expenses as will be set forth on the Borrower's Closing Order to be executed in connection with the closing of the financing referenced herein.

Section 11. Necessary Action. The Chairman or Vice Chairman and Secretary or Assistant Secretary of the Borrower are hereby further authorized on behalf of the Borrower to accept, receive, execute, attest, seal and deliver the above mentioned documents and all additional documentation, certifications and instruments and to take such further actions as may be required in connection with the transactions contemplated hereby, and are further authorized to approve and make any changes to the documents approved by this Resolution, for and on behalf of the Borrower, the execution and delivery of such documents being conclusive as to the approval of any terms contained therein.

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ADOPTED AND APPROVED THIS 26<sup>TH</sup> DAY OF APRIL, 2023.

CHEROKEE DEVELOPMENT AUTHORITY

*Kelley K Arnold*

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Chairman

ATTEST:

*Amber K. Wilhite*  
Secretary



STATE OF OKLAHOMA            )  
  )SS  
COUNTY OF ALFALFA         )

I, the undersigned, Secretary of the Cherokee Development Authority, Alfalfa County, Oklahoma, an Oklahoma public trust, do hereby certify that the above and foregoing is a true, full and correct copy of an excerpt from the minutes of a meeting of the Board of Trustees of said public trust held on the date above stated, all as recorded in the official minutes of such meeting. I further certify that the "Open Meeting Law" was complied with for such meeting.

GIVEN UNDER MY HAND THIS 26<sup>TH</sup> DAY OF APRIL, 2023.



*Amber J. Wilhite*  
Secretary

EXHIBIT "A"

Fees and Expenses Paid at Closing

The Public Finance Law Group PLLC	
Legal Fee and Out-of-Pocket Expenses	\$37,500, plus reimbursement of expenses of \$2,500
Kennedy Law Firm	
Legal Fee and Out-of-Pocket Expenses	\$18,750
Municipal Finance Services, Inc.	
Financial Advisory Fee and Expenses	\$37,500, plus reimbursement of expenses of \$2,500
BOKF, NA	
Trustee Bank Acceptance Fee	\$500

PURSUANT TO THE LEGAL NOTICE AS IS REQUIRED BY THE OKLAHOMA OPEN MEETING ACT INCLUDING THE POSTING OF NOTICE AND AGENDA AS IS REQUIRED BY THE TERMS THEREOF, THE CITY COMMISSION OF THE CITY OF CHEROKEE, OKLAHOMA (THE "CITY") MET IN SPECIAL SESSION AT CITY HALL AT 112 N. GRAND AVE., IN SAID CITY ON THE 26<sup>TH</sup> DAY OF APRIL, 2023, AT 5:00 P.M.

PRESENT: Chris Muhlbaier, Luke Hague, Adrienne Wessels,  
Mayor Kolby Arnold

ABSENT: Chelsy Guffy

(OTHER PROCEEDINGS)

Thereupon, the following resolution was introduced and caused to be read by the City Clerk. Commissioner **Kolby Arnold** moved passage of the Resolution and Commissioner **Chris Muhlbaier** seconded the motion. The motion carrying with it the approval of said Resolution was approved by the following vote:

AYE: Chris Muhlbaier, Luke Hague, Adrienne Wessels,  
Mayor Kolby Arnold

NAY: None

The Resolution so approved is as follows:

**RESOLUTION NO. 2023-01**

A RESOLUTION APPROVING ACTION TAKEN BY THE CHEROKEE DEVELOPMENT AUTHORITY AUTHORIZING ISSUANCE, SALE AND DELIVERY OF A PROMISSORY NOTE OF THE AUTHORITY TO THE OKLAHOMA WATER RESOURCES BOARD; RATIFYING AND CONFIRMING A LEASE AGREEMENT AND OPERATION AND MAINTENANCE CONTRACT PERTAINING TO THE CITY'S WATER, SANITARY SEWER, AND GARBAGE SYSTEMS LEASED TO THE CHEROKEE DEVELOPMENT AUTHORITY; RATIFYING AND CONFIRMING A SALES TAX AGREEMENT; AND CONTAINING OTHER PROVISIONS RELATED THERETO.

WHEREAS, the Cherokee Development Authority (the "Authority") did, by its Resolution adopted April 26, 2023, authorize the issuance, sale and delivery of its Series 2023 Clean Water SRF Promissory Note to Oklahoma Water Resources Board; and

WHEREAS, the City Commission hereby determines that the actions taken by the Authority should be authorized and approved; and



WHEREAS, the City hereby determines that such other action necessary or attendant to accomplishment of the referenced financing should be considered by the City Commission of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSIONERS OF THE CITY OF CHEROKEE, OKLAHOMA:

Section 1. Issuance of Note. That the issuance, sale and delivery of the Cherokee Development Authority, Alfalfa County, Oklahoma, Series 2023 Clean Water SRF Promissory Note to Oklahoma Water Resources Board in the principal amount of not to exceed \$1,335,000.00 (the "2023 Note"), all as approved by said Authority on April 26, 2023, be and hereby is authorized, approved and ratified.

Section 2. Approval. That all actions heretofore taken by the Authority in connection with the issuance, sale and delivery of the 2023 Note and all other aspects of the transaction be and are hereby authorized, approved and ratified.

Section 3. Lease Agreement. The Lease Agreement and Operation and Maintenance Contract between the Borrower and the City dated as of January 1, 2002 (the "Lease Agreement"), whereby the City leased its water, sanitary sewer, and garbage systems to the Borrower and whereby the Borrower agreed to operate and maintain said systems, is hereby ratified and confirmed and the term of said Lease Agreement shall extend until the 2023 Note is paid.

Section 4. Sales Tax Agreement. The City hereby ratifies and confirms the Sales Tax Agreement dated as of June 1, 2015 (the "Sales Tax Agreement"), by and between the City and the Authority, which Sales Tax Agreement pertains to a year-to-year pledge of certain sales tax revenue for purposes of securing the 2023 Note and all indebtedness secured on a parity therewith.

Section 5. Necessary Action. That the Mayor or Vice Mayor and City Clerk or Deputy City Clerk be and hereby are authorized and empowered to execute and deliver for and on behalf of the City any and all other documents or instruments reasonably necessary to accomplish the issuance, sale and delivery of the 2023 Note and all other aspects of the transaction.

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PASSED AND APPROVED THIS 26<sup>TH</sup> DAY OF APRIL, 2023.

THE CITY OF CHEROKEE, OKLAHOMA

By Kelley K Arnold  
Mayor

ATTEST:

By Annice L. White  
City Clerk



STATE OF OKLAHOMA    )  
  )SS  
COUNTY OF ALFALFA    )

I, the undersigned, City Clerk of The City of Cherokee, Oklahoma, do hereby certify that the above and foregoing is a true, full and correct copy of an excerpt from the minutes of a meeting of the City Commission of said City held on the date above stated, all as recorded in the official minutes of such meeting. I further certify that the "Open Meeting Law" was complied with for such meeting.

GIVEN UNDER MY HAND THIS 26<sup>TH</sup> DAY OF APRIL, 2023.



*Amber L. Wilhite*  
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City Clerk