

RESOLUTION 2023-1

RESOLUTION OF THE SALIDA HOSPITAL DISTRICT, COLORADO, APPROVING A VOLUNTARY REFUND OF OVERCOLLECTED REVENUES FROM THE DISTRICT'S GENERAL OPERATING MILL LEVY FOR FISCAL YEARS 2018 TO 2021

WHEREAS, the Salida Hospital District is a quasi-municipal corporation and political subdivision of the State, duly organized and existing under the Constitution and laws of the State, particularly Article 1 of Title 32, C.R.S., and

WHEREAS, the District is subject to Article X, Section 20 of the Colorado Constitution, commonly referred to as the Taxpayer's Bill of Rights or "TABOR"; and

WHEREAS, TABOR was approved by State voters in 1992 and requires, among other things, voter approval for any "new tax, tax rate increase, mill levy above that for the prior year, valuation for assessment ratio increase for a property class, or extension of an expiring tax, or a tax policy change directly causing a net tax revenue gain to any district." TABOR creates, in effect, a four-year statute of limitations for TABOR violations; and

WHEREAS, under state law in effect at the time of the creation of the District (1963), the District was authorized to impose a mill levy of not more than 2 mills for operating purposes; and

WHEREAS, there have not been any voter-approved changes to the District's general operating mill levy; and

WHEREAS, since 1993, the District's general operating mill levy has ranged from a high of 1.944 in 2018 (for collection in 2019), to a low of 1.135 mills in the 2001 (for collection in 2002); and

WHEREAS, the general operating mill levy for the last four fiscal years has been: 1.944 mills (2018), 1.787 mills (2019), 1.870 mills (2020), and 1.672 mills (2021); and

WHEREAS, because the District has not received voter-approval to increase the mill levy from its post-TABOR low of 1.135 mills, and rather than subject the District to potential TABOR lawsuits, the Board of Directors of the District (the "Board") wishes to issue a voluntary refund equal to the amount of revenue received from the District's general operating mill levy in excess of 1.135 mills during fiscal years 2018 to 2021, totaling \$1,819,537 principal plus \$486,344 interest through March 1, 2023 for a total of \$2,305,881 (the "Refund Amount"); and

WHEREAS, pursuant to Section 1 of TABOR, the District may use "any reasonable method" for a refund, including tax credits, rate reductions, and direct payment; and

WHEREAS, further, Section 1 of TABOR states that "refunds need not be proportional when prior payments are impractical to identify or return." Colorado courts have

interpreted this provision of TABOR to recognize a refund to current property owners as sufficient and a “reasonable method.” *See Bolt v. Arapahoe County School District Number Six*, 898 P.2d 525 (Colo. 1995) (holding by District Court, not addressed on appeal).

WHEREAS, the Board finds and determines that it would be impractical to return the Refund Amount to parties who no longer own property in the District; and

WHEREAS, accordingly, the Board wishes to refund the Refund Amount by direct payment by check to current owners of property in the District’s jurisdictional limits, as of January 1, 2023 as identified by the Chaffee County Assessor, the Saguache County Assessor and the Fremont County Assessor, in an equal amount to each property owner, provided that multiple owners of one property will only receive one refund; and

WHEREAS, the Board wishes to finance payment of the Refund Amount through the use available revenue of the District; and

WHEREAS, the Board believes it is in the best interests of the District to take the actions set forth herein.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SALIDA HOSPITAL DISTRICT, COLORADO, AS FOLLOWS:

Section 1. Recitals; Ratification and Approval of Prior Actions. The foregoing recitals are incorporated herein as findings of Board. All actions heretofore taken, not inconsistent with the provisions of this Resolution, by the Board or the officers, agents, or employees of the District relating to the subject matter of this Resolution, are hereby ratified, approved, and confirmed.

Section 2. Voluntary Refund. The Board hereby approves a voluntary refund of the Refund Amount to current property owners in the District’s jurisdictional limits in accordance with TABOR by issuing direct payment by check. The Board authorizes and directs the Chief Executive Officer and the Vice President of Finance to take such actions as are reasonably necessary to effectuate such refund, as directed by the Chief Executive Officer. For an avoidance of doubt, this is a one time refund only and will be mailed to eligible recipients on or about March 1, 2023.

Section 3. Severability. If any part, section, subsection, sentence, clause, or phrase of this Resolution is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Resolution and the Board hereby declares it would have passed this Resolution and each part, section, subsection, sentence, clause, or phrase thereof regardless of the fact that any one or more parts, sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 4. Effective Date. This Resolution shall be effective immediately upon approval of the Board.

ADOPTED AND APPROVED this January 24th, 2023.

SALIDA HOSPITAL DISTRICT,
COLORADO



Chairman

(SEAL)

Attest:

SHDunn
SHDunn (Jan 31, 2023 08:09 MST)

Secretary/Treasurer


Resolution 2023-1


Final Audit Report


2023-01-31


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