

RESOLUTION NO. 11-2021

**A RESOLUTION RECOGNIZING AND CONTINUING THE GOLF
COURSE ENTERPRISE FUND OF COLORADO CITY
METROPOLITAN DISTRICT
AS AN ENTERPRISE UNDER ARTICLE X, SECTION 20
OF THE COLORADO CONSTITUTION**

WHEREAS, Colorado City Metropolitan District (the “District”) is a Metropolitan District as defined in § 32-1-103(10), C.R.S., duly formed and operating under Colorado law; and

WHEREAS, pursuant to § 32-1-1004(2)(c), C.R.S, the District is authorized to provide parks and recreation facilities and programs; and

WHEREAS, pursuant to § 32-1-1001(1)(e), C.R.S. and § 32-1-1101(1)(d), C.R.S., the District has the authority to issue revenue bonds; and

WHEREAS, the District has developed and established the infrastructure and facilities to provide for and operate a golf course, known as Hollydot Golf Course, for the purpose of providing golf services to residents of and visitors to the District; and

WHEREAS, the Taxpayers Bill of Rights, Colorado Constitution Article X, Section 20, (“TABOR”) defines an enterprise as a government-owned business authorized to issue its own revenue bonds and receiving under 10% of annual revenue in grants from all Colorado state and local governments combined; and

WHEREAS, the Board of Directors of the District (the “Board”) hereby finds and determines that the District’s golf services are operated as a government-owned business, providing services and facilities for the benefit of its customers in a manner generating revenue that, with such other funds as may be available, is used to operate such business, and that the Enterprise constitutes an enterprise under TABOR; and

WHEREAS, by this Resolution, the Board intends to continue operation of its golf services through its Golf Enterprise Fund (the “Enterprise”), to confirm that the Enterprise constitutes an enterprise under TABOR, and to set forth provisions regarding powers and governance of the Enterprise; and

WHEREAS, the Board hereby finds that the continued provision of District golf services through the Enterprise contributes to the health, safety, welfare, and prosperity of the District, its residents and landowners and is in the best interests of the District and its customers.

**THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE
COLORADO CITY METROPOLITAN DISTRICT AS FOLLOWS:**

Section 1. *Golf Enterprise Fund.* The Board hereby finds and determines that the District has historically provided, at least since January 1, 2020, and will continue to provide golf services to the Colorado City area by and through its Golf Enterprise Fund, in accordance with all applicable Colorado laws, including without limitation operation and maintenance of the Hollydot Golf Course; provision of golf instruction, programs, and events; sale of goods and services related to golf or the golf course; and lease of property for purposes related to golf or the golf course. The Board further (i) recognizes and confirms that the Enterprise is an “enterprise” within the meaning of TABOR and (ii) declares its intent that the Enterprise be operated and maintained so as to exclude its activities from the application of TABOR.

2. *Operation of Enterprise.*

- a. The Enterprise shall separately account for all income and expenditures of its golf services.

b. The Enterprise shall continue to strictly limit the receipt of all annual revenue in grants, per the meaning under TABOR, from all Colorado state and local governments combined ("Grants") to 10% or less of the total annual revenue of the Enterprise.

c. The Enterprise shall have no authority to levy or collect taxes, whether sales taxes, use taxes, excise taxes, or ad valorem taxes.

d. As consideration for the services of the Enterprise, the Enterprise is authorized to set rates, fees, and charges to cover costs of its golf services.

e. The Enterprise may contract for the provision of various administrative services, and the Enterprise may also contract with any government or government-owned business for any lawful purpose.

f. All assets to be operated and maintained by the Enterprise shall remain in the ownership of the District. The District hereby assigns the use and management of all such assets, whether real or personal, to the Enterprise.

g. The Manager of the District is hereby appointed the manager of the Enterprise, and said manager shall take care of and manage all of the assets assigned to the Enterprise for the purpose of providing golf services to residents of the District and all other customers.

h. The Manager is hereby directed to establish, and thereafter to maintain, separate accounts, including separate accounting systems for the Enterprise, and to provide summaries of the fiscal status of the Enterprise to the Board from time to time as requested by the Board, provided that funds from the Enterprise may be combined with other District funds for investment purposes.

i. The Board may combine the budget and/or audit for governmental services and other District funds with those of the Enterprise.

j. The Enterprise shall have all powers and authority granted to it under the Special District Act and any other applicable law, except for the power to impose taxes.

Section 3. *Preservation of All Metropolitan District Powers.* This Resolution shall in no manner, express or implied, be interpreted to limit, constrain, or waive any or all other powers held by the District by means of its continued status as a metropolitan district in accordance with Colorado law, including without limitation those powers set forth in the Special District Act, §§ 32-1-101, *et seq.*, C.R.S. Any new golf-related services to be provided by the District shall be inferred to be provided by and through the Enterprise, unless and until the District Board expressly determines that said services are not considered to be an enterprise, or if such services are provided and funded in a manner contrary with the standards in TABOR.

Section 4. *Revenue Bonds.* The Enterprise, through its Governing Body, is authorized to issue bonds, notes or other obligations payable solely from the revenues derived or to be derived from the functions, services, benefits, or facilities of such Enterprise or from any other available funds of such Enterprise. Such bonds or other obligations may be issued without voter approval provided that during the fiscal year of the District preceding the year in which the bonds or other obligations are authorized, the Enterprise received under 10% of its annual revenue in Grants, or during the current fiscal year of the District, it is reasonably anticipated that such Enterprise will receive under 10% of its revenue in Grants. Nothing in this section shall be construed to require voter approval where such approval is not otherwise required by the Constitution and laws of the State.

Section 5. *Governing Body.* For all purposes under the Constitution and laws of the State of Colorado, the governing body of the Enterprise shall be the Board of Directors of the District. The Governing Body shall be subject to all applicable laws, rules and regulations pertaining to Board. The Governing Body may adopt such lawful bylaws for its operations as deemed necessary or convenient by the Governing Body. The Enterprise will be deemed to be in session when the Board is in session. It shall not be necessary for the Governing Body to meet separately from the regular and special meetings of the Board, nor shall it be necessary for the Governing Body to

specifically announce or acknowledge that actions taken thereby are taken by the Governing Body. The Governing Body may conduct its affairs in the same manner and subject to the same laws that apply to the Board for the same or similar matters. Public notice of meetings of the Board shall constitute such notice for the Governing Body, notwithstanding the existence or absence of a reference in such notice to the Governing Body. Minutes of the Governing Body may be combined with minutes of the Board.

Section 6. *Instrumentality, Immunity.* The Enterprise shall be deemed to be an “instrumentality” of the District as such term is used in C.R.S. § 24-10-103(5), and as such is a “public entity” entitled to such benefits, burdens and immunities as may be available to it under the Colorado Governmental Immunity Act, Part 1 of Article 10, Title 24, C.R.S.

Section 7. *Ratification of Actions.* All actions heretofore taken by the District and by the officers thereof not inconsistent herewith toward recognizing and confirming the Enterprise as an “enterprise” under TABOR or taken by the Board as the Governing Body of the Enterprise are hereby ratified, approved and confirmed.

Section 8. *Severability.* If any paragraph, clause, or provision of this Resolution is judicially adjudged invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remaining paragraphs, clauses, or provisions hereof, the intention being that the various paragraphs, clauses or provisions hereof are severable.

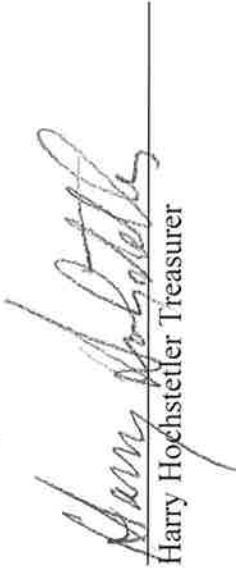
Adopted this 14th day of September, 2021.

COLORADO CITY METROPOLITAN DISTRICT

By: _____


Neil Elliot, President

ATTEST:


Harry Hochstetler Treasurer