

TRUSTEE'S BILL

ORDINANCE NO.

NO. 00-16
Series of 2000

00-16
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AN ORDINANCE OF THE TOWN OF HUDSON, COLORADO AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF THE TOWN'S ADJUSTABLE RATE LIMITED OBLIGATION INDUSTRIAL DEVELOPMENT REVENUE BONDS (CHEMICAL & METAL INDUSTRIES, INC. PROJECT) SERIES 2000, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$4,500,000, TO PROVIDE FINANCING OF THE ACQUISITION, CONSTRUCTION, IMPROVEMENT AND EQUIPPING OF A MANUFACTURING FACILITY ON BEHALF OF CHEMICAL & METAL INDUSTRIES, INC.; RATIFYING CERTAIN ACTION HERETOFORE TAKEN; AUTHORIZING THE EXECUTION AND DELIVERY BY THE TOWN OF A TRUST INDENTURE, A LOAN AGREEMENT, A TAX REGULATORY AGREEMENT, THE BONDS AND CLOSING DOCUMENTS IN CONNECTION THEREWITH; APPROVING THE USE AND EXECUTION OF AN OFFICIAL STATEMENT IN CONNECTION WITH SAID BONDS; MAKING DETERMINATIONS AS TO THE SUFFICIENCY OF REVENUES AND AS TO OTHER MATTERS RELATED TO THE FINANCING OF THE PROJECT AND THE BONDS; AND REPEALING ACTION HERETOFORE TAKEN IN CONFLICT HEREWITH.

WHEREAS, the Town of Hudson, Colorado (the "Town"), is a statutory town and political subdivision of the State of Colorado (the "State") duly organized and operating under the Constitution and laws of the State; and

WHEREAS, the Town is authorized and empowered by the County and Municipality Development Revenue Bond Act, Article 3 of Title 29 of the Colorado Revised Statutes, as amended (the "Act"), to finance one or more manufacturing, industrial, commercial, agricultural or business enterprise projects (which includes any land, building or other improvement and all real and personal properties); and

WHEREAS, the Town is further authorized by the Act to issue industrial development revenue bonds for the purpose of defraying the cost of financing any project, including the payment of principal and interest on such industrial development revenue bonds for not exceeding three years, the funding of any reserve funds which the governing body of the Town may deem advisable to establish in connection with the retirement of such industrial development revenue bonds or the maintenance of the project and all incidental expenses incurred in issuing such industrial development revenue bonds, and to secure payment of such industrial development revenue bonds as provided in the Act; and

WHEREAS, representatives of Chemical & Metal Industries, Inc. (the "Company"), have presented to the Town a proposal whereby the Town will issue limited obligation industrial development revenue bonds pursuant to the Act to finance the acquisition, construction,

improvement and equipping of an approximately 7,200 square foot office and laboratory building and an approximately 30,000 square foot production plant and warehouse facility owned by the Company (the "Project"); and

WHEREAS, the Project is located within the boundaries of the Town, and will be operated by the Company; and

WHEREAS, the Board of Trustees of the Town (the "Board") has considered the request of the Company and has concluded that the issuance of limited obligation industrial development revenue bonds for such purposes will promote industry and develop trade or other economic activity within the Town, and will promote employment and the maintenance of a balanced and stable economy in the Town, thereby promoting the public health, welfare, safety, convenience and prosperity, and that the Town should issue limited obligation industrial development revenue bonds, subject to the conditions set forth herein; and

WHEREAS, the action herein contemplated is not prohibited by the Constitution and laws of the State; and

WHEREAS, the Town will issue, sell and deliver the Town of Hudson, Colorado Adjustable Rate Limited Obligation Industrial Development Revenue Bonds (Chemical & Metal Industries, Inc. Project), Series 2000, in the aggregate principal amount of \$4,500,000 (the "Bonds"), under a Trust Indenture, dated as of September 1, 2000 (the "Indenture"), by and between the Town and U.S. Bank National Association, as trustee thereunder, for the purposes set forth above; and

WHEREAS, the Company will enter into a Loan Agreement, dated as of September 1, 2000 (the "Agreement"), by and between the Town and the Company, which will provide for payments sufficient to pay the principal of, premium, if any, and interest on the Bonds and to meet other obligations as herein and therein provided; and

WHEREAS, the Company intends to cause to be issued and delivered to the Trustee by U.S. Bank an irrevocable direct pay letter of credit (the "Letter of Credit") in support of the payment of the principal, purchase price upon tender, and interest on the Bonds; and

WHEREAS, the Bonds will be offered by an Official Statement (the "Official Statement") containing information with respect to the Town, the Bonds, and the Letter of Credit; and

WHEREAS, there have been presented to the Board and are on file with the Town Clerk, the following documents in substantially final form: (a) the proposed form of the Indenture, (b) the proposed form of the Agreement, (b) the proposed form of the Purchase Agreement dated as of September 6, 2000 (the "Purchase Agreement"), by and among the Town and U.S. Bancorp Piper Jaffray Inc. (the "Underwriter"), (d) the proposed form the Tax Regulatory Agreement, dated as of September 1, 2000 (the "Tax Regulatory Agreement"), by and among the Town, the Trustee and the Company and (e) the proposed form of the Official Statement;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF HUDSON, COLORADO:

Section 1. All action (not inconsistent with the provisions of this Ordinance) heretofore taken by the Board and the officers of the Town directed toward the financing of the Project and the authorization, issuance and sale of the Bonds, is hereby ratified, approved and confirmed.

Section 2. The Town shall finance the cost of the Project by lending the proceeds of the Bonds to the Company in accordance with the provisions of the Agreement.

Section 3. To defray a portion of the cost of the Project, there is hereby authorized an issue of industrial development revenue bonds designated: "Town of Hudson, Colorado Adjustable Rate Limited Obligation Industrial Development Revenue Bonds (Chemical & Metal Industries, Inc. Project), Series 2000," in the aggregate principal amount of \$4,500,000. Defined terms used in this Section 3 and not defined herein shall have the same meanings ascribed to such terms in the Indenture and Agreement unless the context shall clearly otherwise require. The Bonds are issuable as fully registered bonds without coupons in the authorized denominations set forth in the Indenture. The Bonds shall be dated as of their date of delivery and shall mature (subject to prior redemption as provided in the Agreement) on September 1, 2020, and shall bear interest as provided in the Indenture. The Bonds will initially bear interest at the Weekly Interest Rate. In no event shall the Bonds bear an interest rate greater than the Maximum Rate (12%). It is estimated by the Underwriter that the Net Effective Interest Rate will initially be not in excess of approximately 7%.

The Bonds shall be payable, shall be subject to redemption and tender prior to maturity, shall carry such registration privileges, and shall be in substantially the form as set forth in the Indenture.

Section 4. The following determinations and findings are hereby made in accordance with Sections 29-3-113, 29-3-114 and 29-3-120 of the Act:

(a) The Agreement obligates the Company to pay the amount necessary in each year to pay the principal of and the interest on the Bonds.

(b) The Town has not required that a reserve fund be funded with proceeds of the Bonds. No reserve fund has been deemed necessary with respect to the Bonds and the Project.

(c) In the Agreement, the Company has covenanted to maintain, or cause to be maintained, its property (including, without limitation, the Project) in good repair and to carry, or cause to be carried, all proper insurance with respect thereto.

(d) The Revenues and other amounts payable under the Agreement are sufficient to pay, in addition to all other requirements of the Agreement and this Ordinance, all sums referred to in paragraphs (a) and (c) of this Section 4.

(e) The Revenues and other amounts payable under the Agreement are sufficient to pay, in addition to all other requirements of the Agreement and this Ordinance, all taxes or payments in lieu of taxes, if any, levied upon the Project.

Section 5. Proceeds from the sale of the Bonds and special funds from the Revenues from the Project shall be invested and reinvested in such securities and other investments specified in, and otherwise in accordance with, Section 29-3-109 of the Act and the Indenture.

Section 6. The forms, terms and provisions of the Indenture, the Agreement and the Tax Regulatory Agreement presented to the Board are hereby approved. The Town shall enter into the Indenture, the Agreement and the Tax Regulatory Agreement in substantially the forms of such documents presented to the Board, with only such changes therein, if any, as are not inconsistent herewith. The Mayor is hereby authorized and directed to execute the Indenture, the Agreement and the Tax Regulatory Agreement and the Town Clerk or her designee is hereby authorized and directed to affix the Town seal to and to attest and countersign such documents. The Mayor is hereby authorized and directed to take such actions as are deemed necessary by Bond Counsel to comply with Section 147(f) of the Code.

Section 7. The form, terms and provisions of the Bonds, in substantially the form contained in the Indenture, are hereby approved, with only such changes therein, if any, as are not inconsistent herewith. The Bonds shall be executed on behalf of the Town with the manual or facsimile signature of the Mayor of the Town, shall have impressed or imprinted thereon (by facsimile or otherwise) the official seal of the Town, and shall be attested with the manual or facsimile signature of the Town Clerk.

Section 8. The distribution of the Official Statement by the Underwriter in connection with the offering of the Bonds is hereby approved. The Mayor is hereby authorized to execute and deliver the final Official Statement on behalf of the Town.

Section 9. The officers and employees of the Town shall take all action in conformity with the Act necessary or reasonably required to effectuate the issuance of the Bonds and shall take all action necessary or desirable in conformity with the Act to pay from the proceeds of the Bonds a portion of the costs of financing the Project, and for carrying out, giving effect to, and consummating the transactions contemplated by this Ordinance, the Indenture, the Agreement, the Purchase Agreement and the Tax Regulatory Agreement including, without limitation, the execution and delivery of any closing documents to be delivered in connection with the sale and delivery of the Bonds.

Section 10. In the Agreement, the Company has agreed to pay all costs of financing the Project which are not paid out of the proceeds of the Bonds from other legally available moneys of the Company.

Section 11. The Bonds shall be special, limited obligations of the Town, payable solely from the Revenues and funds pledged therefor under the Indenture; the Bonds shall never constitute a debt, indebtedness or multiple fiscal year direct or indirect debt or other financial obligation of the Town, the State or any other municipality, county or political subdivision of the State, within the meaning of the Constitution or statutes of the State or of any other municipality,

county or political subdivision of the State; and the Bonds shall never constitute nor give rise to any pecuniary liability of, or charge against the general credit or taxing powers of, the Town, the State or any other municipality, county or political subdivision of the State.

Section 12. Nothing contained in this Ordinance or in the Bonds, the Indenture, the Agreement, the Tax Regulatory Agreement, the Official Statement or any other instrument shall give rise to a pecuniary liability or a charge upon the general credit or taxing powers of the Town, the State or any other municipality, county or political subdivision of the State.

Section 13. The breach by any party of any agreement contained in this Ordinance, the Bonds, the Indenture, the Agreement, the Tax Regulatory Agreement or any other instrument shall not impose any pecuniary liability upon the Town or a charge upon, or charge against the general credit or taxing powers of, the Town, the State or any other municipality, county or political subdivision of the State, none of which has the power to pay out of its general fund, or otherwise contribute, any part of the cost of financing the Project, or the power to operate the Project as a business or in any manner.

Section 14. The Town has not condemned and shall not condemn any land or other property for the Project.

Section 15. After the Bonds are issued, this Ordinance shall be and remain irrevocable until the Bonds and the interest thereon shall have been fully paid, cancelled and discharged.

Section 16. If any section, paragraph, clause or provision of this Ordinance 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 Ordinance.

Section 17. All bylaws, orders, resolutions and ordinances, or parts thereof, of the Town inconsistent herewith, and with the documents hereby approved, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance, or part thereof.

Section 18. This Ordinance shall be in full force and effect 30 days after publication, following final passage. This Ordinance shall be recorded in a book kept for that purpose, shall be authenticated by the signatures of the Mayor and the Town Clerk, and shall be published in accordance with law.

INTRODUCED, READ IN FULL, AND PASSED ON FIRST READING the 12th day of July, 2000, at a regular public meeting of the Board of Trustees of the Town of Hudson, Colorado.

[SEAL]

TOWN OF HUDSON, COLORADO

Attest:

By _____
Mayor

By _____
Town Clerk

INTRODUCED, READ IN FULL, AND ADOPTED ON SECOND READING on the 26th day of July, 2000, at a regular public meeting of the Board of Trustees of the Town of Hudson, Colorado.

[SEAL]

TOWN OF HUDSON, COLORADO

Attest:

By _____
Mayor

By _____
Town Clerk