

INTERGOVERNMENTAL AGREEMENT FOR REFUNDING OF SUBORDINATE BONDS

WHEREAS, District 1, District 2, and some (but not all) of the parties to the Civil Action amicably resolved their differences leading up to the Civil Action, memorializing the terms of their settlement in a Settlement Agreement which was completely executed as of November 13, 2020; and

WHEREAS, the parties to the Settlement Agreement agreed to restructure the Subordinate Bonds so that District 2 and the Waterbury property would be responsible for the debt incurred by the Subordinate Bonds and District 1, the remaining property in District 1, and Waterbury would remain responsible for the debt incurred by the Senior Bonds; and

WHEREAS, the El Paso County District Court entered a judgment in the Civil Action that held in part that the Exclusion Order was valid and the Waterbury Property could lawfully be excluded from District 1 and included in District 2; and

WHEREAS, KO1515, LLC, one of the parties to the Civil Action, has filed an appeal of the judgment in the Civil Action; and

WHEREAS, District 1 and District 2 desire to enter into this Agreement to modify some of the terms of the Settlement Agreement to effectuate the intent of the parties set forth above despite the pendency of the appeal of the Civil Action; and

WHEREAS, the Districts find that entering into this Agreement is in the best interests of the Districts and their residents and property owners.

NOW THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Districts agree as follows:

**COVENANTS AND
AGREEMENTS**

1. Re-Issuance of Subordinate Bonds. Contemporaneously with this Agreement and in any event no later than December 31, 2020, District 1 agrees to re-issue the Subordinate Bonds to modify the terms as follows:

- a. The principal amount of the Subordinate Bonds will be reduced from \$2,450,000 to \$500,000.
- b. Accumulated interest prior to the date of re-issuance shall be waived and no longer be an obligation of District 1. No accumulated interest will be paid with the reissuance transaction.
- c. District 1 and the Waterbury property excluded from District 1 will continue to be responsible for the pledged revenues to service the debt imposed by the Subordinate Bonds and the Senior Bonds, as set forth in the existing Series

2011 indenture, including both the continuance of the pledge of the Limited Tax Obligation and the \$4,000 per lot as pledged therein;

- d. The interest rate of the Subordinate Bonds after reissuance shall be reduced from 9% per annum to 8% per annum.
- e. The intent of the parties is that the re-issuance of the Subordinate Bonds shall constitute a taxable event allowing the holders of the Subordinate Bonds to realize capital gains or losses as applicable.
- f. To the extent reasonably necessary, District 1 and District 2 shall cooperate with bond counsel to execute such documents to reflect the above intent of the transaction.

2. Creation of Debt Service Tax District. District 1 will take such actions as necessary to request that the El Paso County Assessor create a tax district consisting of the remaining property in District 1 plus the excluded Waterbury Property which will impose the required mill levy to provide debt service pledged revenues for both the Senior Bonds and the re-issued Subordinate Bonds.

3. Costs of Subordinate Bond Re-Issuance Transaction. District 2 agrees to pay all reasonable costs of the Subordinate Bonds re-issuance transaction set forth above, including the cost of retaining bond counsel, underwriting counsel (if necessary), and to reimburse District 1 for the cost of District 1 General Counsel and the District 1 Accountant for professional services and opinion of general counsel required to complete the transaction. District 1 anticipates that the cost of its general counsel and accountant services will not exceed \$10,000.00.

4. District 2 Refinancing of Subordinate Bonds. After the reduction in principal and re-issuance of the subordinate bond has occurred, District No. 2 agrees (at its sole cost and expense) to initiate the process to take on the obligation for debt service and payment of the new bond. This will occur through the cancellation of the newly re-issued subordinate bond, and the issuance of a new bond by District No. 2 covering the property within District 2 boundaries (including Waterbury) only. This transaction will be implemented as soon as practicable and will be completed in any event not later than December 1, 2021. The only bond debt remaining on District 1 then will be the existing Senior Bonds, the debt service for which will continue to be paid by District 1 and the Waterbury property that was included in District 2. All pledged revenues (including the \$4,000 per lot as pledged therein) will continue to be collected from all such properties consistent with the Series 2011 indenture.

5. District 2 Failure to Refinance Subordinate Bond. In the event that District 2, after making reasonable attempts, is unable to issue the bonds to replace the Subordinate Bonds on or before December 1, 2021 as set forth in paragraph 4 above, District 2 agrees to reimburse District 1 on an annual basis beginning on December 1, 2021 for the debt service due and owing for that year on the Subordinate Bonds.

District No. 2 hereby agrees that it is its intention to repay the amounts District No. 1 has paid for debt service on the Subordinate Bonds pursuant to this paragraph 5, to the extent it has funds available from the imposition of its taxes, fees, rates, tolls, penalties, and charges and from any other revenue legally available, after the payment of its annual debt service obligations, and annual operations and maintenance expenses, which repayment is subject to annual budget and appropriation. It is hereby agreed and acknowledged that this reimbursement obligation evidences an intent to reimburse District No. 1 hereunder, but that the provisions of this paragraph 4 shall not constitute a debt or indebtedness of District 2 within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple fiscal year financial obligation, and the making of any reimbursement hereunder shall be at all times subject to annual appropriation by District 2. Subject to all applicable requirements, the Districts may elect to convert amounts owed by District 2 pursuant to this section 5 into a multiple fiscal year debt obligation. Such action shall be subject to approval by the Districts' Boards of Directors at duly held public meetings.

6. Modification and Termination. This Agreement may be modified, altered, amended or terminated only by written agreement of both Districts.

7. Entire Agreement. This Agreement, together with the Certified Record of Proceedings 4-Way Ranch Metropolitan District No. 2, El Paso County, Colorado Relating to Amendments to the Resolution Authorizing the District's Subordinate Limited Tax General Obligation Bonds, Series 2011B (the "Amending Resolution"), and the Settlement Agreement, embodies the complete agreement between the Districts regarding the subject matter herein and supersedes all prior agreements and understandings, if any. Except as expressly and necessarily superseded by this Agreement, the remainder of the Settlement Agreement remains in full force and effect.

8. No Third Party Beneficiaries. The Districts do not intend to benefit any person not a party to this Agreement. No person or entity, other than the Districts, shall have any right, legal or equitable, to enforce any provision of this Agreement.

9. Assignment. Neither District shall assign the Agreement in whole or in part without prior written consent of the other District.

10. Severability. If any provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding and all of the remaining provisions of this Agreement shall continue in full force and effect to the extent practicable. Provided however, that this Agreement and the Amending Resolution must both be adopted in order for either to take effect.

11. Waiver. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default herein be deemed a waiver of any subsequent default herein

12. Notification. All notices or other communications required by the Agreement or by law to be served on, given to or delivered to either party hereto, by the other party shall be in writing and shall be deemed duly served, given or delivered when personally delivered to the party to whom it is addressed or in lieu of such personal service, when deposited in the United States' mail, first-class postage prepaid, addressed to the following:

District No. 1

4-Way Ranch Metropolitan District
No. 1
c/o Burg Simpson Eldredge Hersh
& Jardine, P.C.
Attn: Brian Matisse
40 Inverness Drive East
Englewood, CO 80112
bmatise@burgsimpson.com

District No. 2

4-Way Ranch Metropolitan District
No. 2
c/o Seter & Vander Wall, P.C.
Attn: Barbara Vander Wall 7400 E.
Orchard Road, #3300
Greenwood Village, CO 80111
bvanderwall@svwpc.com

13. Governing Law. This Agreement shall be governed by the laws of the State of Colorado. Court venue and jurisdiction shall exclusively be in the Colorado District Court of the County of El Paso, Colorado.

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