

**NOTICE OF JOINT SPECIAL MEETING & AGENDA OF
MAYBERRY, COLORADO SPRINGS COMMUNITY AUTHORITY
and
MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NOS. 1 - 8**

Thursday, April 8, 2021

10:00 a.m.

Due to Executive Orders issued by Governor Polis and Public Health Orders implementing the Executive Orders issued by the Colorado Department of Public Health and Environment, and the threat posed by the COVID-19 coronavirus, public attendance will be via teleconferencing. The meeting can be joined through the directions below:

<https://us02web.zoom.us/j/7636703470>

Meeting ID: 763 670 3470

Call In Number: 1-720-707-2699

Board of Directors, Mayberry, Colorado Springs Community Authority

John Mick, President	Designee for District Nos. 3, 5 and 6
Jason Kvols, Secretary	Designee for District Nos. 2, 4 and 8
Lee Merritt, Treasurer	Designee for District No. 7

Boards of Directors, Mayberry, Colorado Springs Metropolitan District Nos. 1 - 8

John Mick, President	District 1 & 3-8 - Term to May 2022	District 2 – Term to May 2023
Lee Merritt, Treasurer	District 1 & 3-8 - Term to May 2023	District 2 – Term to May 2022
Jason Kvols, Secretary	District 1 & 3-8 - Term to May 2022	District 2 – Term to May 2023
VACANT	District 1 & 3-8 - Term to May 2022	District 2 – Term to May 2023
VACANT	District 1 - Term to May 2022	District 2-8 – Term to May 2023

1. ADMINISTRATIVE MATTERS

- a. Call to Order/ Declaration of Quorum/Excusal of Absences if any
- b. Reaffirmation of Disclosures of Potential or Existing Conflicts of Interest
- c. Approval of Agenda

2. PUBLIC COMMENT (Items not on the Agenda; Comments limited to three minutes per person)

3. CONSENT AGENDA ITEMS (These items are considered to be routine and will be approved by one motion. There will be no separate discussion of these items unless requested, in which event, the item will be removed from the Consent Agenda and considered in the Regular Agenda. **Enclosures included in electronic packets; hard copies available upon request.**)

- a. Approval of Minutes from March 10, 2021 Joint Special Meeting of the Mayberry Colorado Springs Metropolitan District Nos. 1-8 (**enclosure**)
- b. Approval of Minutes from March 29, 2021 Joint Special Meeting of the Mayberry, Colorado Springs Community Authority and Mayberry Colorado Springs Metropolitan District Nos. 2 & 3 (**enclosure**)
- c. Approve Payment of Claims for the Period Ending April 8, 2021 (**to be distributed**)
- d. Approval of Funding and Reimbursement Agreements for Operations and Maintenance with Mayberry Communities, LLC (District Nos. 1-8) (**enclosures**)

- e. Approval of Intergovernmental Agreement Regarding Payment of Reimbursements for Capital Expenses between Mayberry, Colorado Springs Community Authority and Mayberry, Colorado Springs Metropolitan District No. 1 (**enclosure**)
- f. Approval of First Amendment to 2010-2015 Operations Funding Agreement (**enclosure**)
- g. Ratification of Engagement of Collins, Cockrel & Cole, P.C. as Special Counsel to Mayberry, Colorado Springs Metropolitan District No. 1 for Intergovernmental Agreement Regarding Funding of Capital Expenses between Mayberry, Colorado Springs Community Authority and Mayberry, Colorado Springs Metropolitan District No. 1 (**enclosure**)
- h. Approval of Public Improvements Acquisition and Reimbursement Agreement with Ellicott Utilities Company (**enclosure**)
- i. Approval of Funding and Reimbursement Agreement (Operations and Maintenance) with Ellicott Utilities Company (**enclosure**)
- j. Approval of Public Improvements Acquisition and Reimbursement Agreement with Bob and Carol Mick Trust (**enclosure**)
- k. Approval of Funding and Reimbursement Agreement (Operations and Maintenance) with Bob and Carol Mick Trust (**enclosure**)
- l. Approval of Transaction Based Informed Consent to Representation regarding entering into capital pledge agreements and associated agreements related to the issuance by the Authority of its Series 2021 A Bonds and Series 2021B Bonds (**enclosure**)
- m. Approval of Transaction Based Informed Consent to Representation regarding entering into an intergovernmental agreement for reimbursement of capital expenses (**enclosure**)
- n. Approval of Transaction Based Informed Consent to Representation regarding entering into an establishment agreement to create an authority (**enclosure**)

4. LEGAL MATTERS

- a. Conduct Public Hearing on Inclusion of Property from District No. 1 (Colorado Springs Mayberry Inc., Property, Approximately 476.91 Acres) and Consider Adoption of Resolution No. 2021-04-01: Resolution and Order for Inclusion of Property (Colorado Springs Mayberry Inc., Property, Approximately 476.91 Acres) (**enclosure**)
- b. Conduct Public Hearing on Inclusion of Property from District No. 2 (Colorado Springs Mayberry Inc., Property, Approximately .80 Acres) and Consider Adoption of Resolution No. 2021-04-02: Resolution and Order for Inclusion of Property (Colorado Springs Mayberry Inc., Property, Approximately .80 Acres) (**enclosure**)
- c. Conduct Public Hearing on Exclusion of Property from District No. 2 (Colorado Springs Mayberry Inc., Property, Approximately 5.34 Acres) and Consider Adoption of Resolution No. 2021-04-03: Resolution and Order for Exclusion of Property (Colorado Springs Mayberry Inc., Property, Approximately 5.34 Acres) (**enclosure**)
- d. Conduct Public Hearing on Inclusion of Property from District No. 3 (Colorado Springs Mayberry Inc., Property, Approximately 147.02 Acres) and Consider Adoption of Resolution No. 2021-04-04: Resolution and Order for Inclusion of Property (Colorado Springs Mayberry Inc., Property, Approximately 147.02 Acres) (**enclosure**)
- e. Conduct Public Hearing on Exclusion of Property from District No. 3 (Colorado Springs Mayberry Inc., Property, Approximately 1.87 Acres) and Consider Adoption of Resolution No. 2021-04-05: Resolution and Order for Exclusion of Property (Colorado Springs Mayberry Inc., Property, Approximately 1.87 Acres) (**enclosure**)

5. FINANCIAL MATTERS

- a. Public Hearing on 2020 Budget Amendment and Consider Adoption of Resolution No. 2021-04-06 (District No. 1) (**enclosure**)
- b. Public Hearings on 2021 Budget Amendments and Consider Adoption of Resolution Nos. 2021-04-07 (District No. 2), 2021-04-08 (District No.3) and 2021-04-09 (Authority) (**enclosures**)
- c. Discuss Status of Issuance of 2021 Bonds
 - i. Limited General Obligation Bonds
 - ii. Water and Sewer Revenue Bonds

6. DEVELOPMENT, ASSET, AND WATER MATTERS

- a. Review bid Tabulation and Project Manager's Recommendation. Consider Award of Contract for Phase 1 Overlot Grading Project (Mayberry, Colorado Springs Community Authority) (**to be distributed**)
- b. Consider approval of Cost Share Agreement with Mayberry Communities, LLC for Earthwork Project (**enclosure**)

7. OTHER BUSINESS

Next Regular Meeting – November 11, 2021

8. ADJOURNMENT

MINUTES OF A

JOINT SPEICAL MEETING OF THE BOARDS OF DIRECTORS

OF THE

MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NOS. 1 - 8

Held: Wednesday, March 10, 2021

Due to Executive Orders issued by Governor Polis and Public Health Orders implementing the Executive Orders, issued by the Colorado Department of Public Health and Environment (CDPHE), and the threat posed by the COVID-19 coronavirus, the meeting was held via teleconference.

ATTENDANCE

The meeting was held in accordance with the laws of the State of Colorado. The following directors were in attendance:

Johnn Mick, President
Jason Kvols, Secretary

The following dirctors were absent:

Lee Merritt, Treasurer

Also present were: Jennifer Gruber Tanaka, Esq., White Bear Ankele Tanaka & Waldron, Attorneys at Law, District General Counsel; AJ Beckman, Public Alliance, LLC, District Manager; Seef LeRoux, CliftonLarsonAllen, LLP, District Accountant; Brad Simons, PE, MMI Water Engineers, LLC, District Engineer; Kristine Lay, Esq., Kutak Rock, LLP, Bond Counsel; Sam Hartman, D.A. Davidson & Co., Underwriter; Matt Ruhland, Esq., Special Counsel to District Nos. 3-7, Collins, Cockrel & Cole; and Randy Goodson, Foley Development

ADMINISTRATIVE MATTERS

Call to Order

The meeting was called to order.

Declaration of Quorum and Confirmation of Director Qualifications

Mr. Beckman noted that a quorum for each of the Boards was present.

Reaffirmation of Disclosures of Potential or Existing Conflicts of Interest Ms. Tanaka advised the Boards that, pursuant to Colorado law, certain disclosures might be required prior to taking official action at the meeting. Ms. Tanaka reported that disclosures for those directors with potential or existing conflicts of interest were filed with the Secretary of State's Office and the Boards at least 72 hours prior to the meeting, in accordance with Colorado law, and those disclosures were acknowledged by the Boards. Ms. Tanaka noted that a quorum was present and inquired into whether members of the Boards had any additional disclosures of potential or existing conflicts of interest with regard to any matters scheduled for discussion at the meeting. No additional disclosures were noted. The Boards determined that the participation of the members present was necessary to obtain a quorum or to otherwise enable the Boards to act.

Combined Meetings The Districts are meeting in a combined Board meeting. Unless otherwise noted below, the matters set forth below shall be deemed to be the actions of the Mayberry, Colorado Springs Metropolitan District Nos. 1-8, inclusive, collectively.

Approval of Agenda Mr. Beckman presented the Boards with the proposed agenda for the meeting. Upon motion of Mr. Kvols, seconded by Mr. Mick, the Boards unanimously approved the agenda as presented and excused the absence of Director Merritt.

PUBLIC COMMENT None.

CONSENT AGENDA The Boards were presented with the consent agenda items. Upon motion of Mr. Kvols, seconded by Mr. Mick, the Boards unanimously took the following actions:

- a. Approved the Minutes from January 20, 2021 Joint Special Meeting of District Nos. 1 and 2, and Joint Organizational Meeting of District Nos. 3 through 8.
- b. Ratified the engagement of North Slope Capital Advisors as Municipal Advisors for 2021 Bonds (District Nos. 2-8)
- c. Ratified the Independent Contractor Agreement for District Management Services with Public Alliance LLC (District Nos. 1-8)
- d. Ratified the engagement of Collins Cockrel & Cole as Special Counsel (District Nos. 3 - 7)
- e. Ratified the engagement of Filsinger Energy Partners, Inc. for appraisal of the assets of Ellicott Utility Company (District No. 2)
- f. Ratified the engagement of John Burns Real Estate Consulting for Market Value Assessment (District No. 2)
- g. Approved the Independent Contractor Agreement with Rampart Surveys, LLC for Survey Services (District No. 1)

LEGAL MATTERS

Approval of Mayberry, Colorado Springs Community Authority Establishment Agreement by, between and among Mayberry, Colorado Springs Metropolitan District Nos. 2-8

Ms. Tanaka and Mr. Ruhland reviewed the Establishment Agreement with the Boards. Upon motion of Mr. Kvols, duly seconded by Mr. Mick, the Boards unanimously approved the Establishment Agreement.

Member Appointments for the Authority Board (District Nos. 2-8)

Following discussion upon motion of Mr. Kvols, duly seconded by Mr. Mick, the Boards unanimously appointed the following directors to the Board of the Mayberry, Colorado Springs Community Authority for each of the Member Districts as follows:

Director Mick: District Nos. 3, 5, and 6
Director Kvols: District Nos. 2, 4, and 8
Director Merritt: District No. 7

FINANCIAL MATTERS

Status of Issuance of 2021 Bonds

Mr. Hartman reported that the Preliminary Limited Offering Memorandum for the Limited General Obligation Bonds is expected to be circulated later in the week with the revised indenture to be circulated sometime next week, and the Market Study is expected in approximately two weeks. He then explained that the next step for the issuance of the Water and Sewer Revenue Bonds is the completion of the valuation of the water and sewer infrastructure. Once the necessary data is provided to Filsinger Energy Partners, Inc., their analysis is expected to take approximately 30 days. Director Kvols reported that the information has been substantially compiled and will be provided within the next 24 hours.

Discuss Developer Funding Process

Mr. Beckman reported that he has discussed the process with the District's Accountant as well as Directors, Kvols and Mick and Mr. Goodson and is confident that the process will work more smoothly going forward. The expected turn around for funding going forward should be approximately 30 days.

Claims Listing for the Period Ending January 31, 2021

Mr. LeRoux reviewed the claims totaling \$31,232 with the Board. Upon motion of Mr. Mick, duly seconded by Mr. Kvols, the Boards unanimously approved the claims.

Discuss use of Bill.com for invoice processing and

Following discussion, upon motion of Mr. Mick, duly seconded by Mr. Kvols, the Boards unanimously approved using Bill.com

issuance of checks

and designated Mr. Beckman and Director Mick as the District representatives with invoice and payment approval authority. Mr. LeRoux will proceed with setting up the Bill.com invoice approval and payment issuance platform.

Acceptance of Unaudited Financial Statements as of December 31, 2020

Mr. LeRoux reviewed the unaudited financial statements. Upon motion of Mr. Mick, duly seconded by Mr. Kvols, the Boards unanimously accepted the unaudited financial statements as presented.

DEVELOPMENT, ASSET, AND WATER MATTERS

Review and Discuss Mayberry Pump Testing

Mr. Beckman reported that he has been in contact with Tom Dea with Colorado Water Well Corp. regarding the status of the Independent Contractor Agreement with the District and the status of the pump testing. Mr. Dea reported to Mr. Beckman that he will provide the executed agreement in the next day or two, and that he expects to perform the pump testing by the end of next week.

Discuss Status of District No. 2's conveyance of certain water infrastructure, water rights and sewer infrastructure to District

Director Kvols noted that the next step in this process is the completion of the Filsinger evaluation which was previously discussed. Ms. Tanka noted that the conveyance of the infrastructure will require the confirmation of the physical assets, property interests and water rights being conveyed which will require review and confirmation by Mr. Simons as the District's Engineer and Mr. Curtis as the District's Water Counsel.

Update Regarding Discussions with Cherokee Metropolitan District

Director Kvols reported that discussions are ongoing.

Water and Wastewater Coordination

Mr. Kvols noted that discussions related to the issuance of bonds is limited to the acquisition of an additional 34.16-acre feet of water necessary to serve the project. He reported that he has a meeting with representatives from the Cherokee Metropolitan District tomorrow morning.

SCADA alarms for lift stations

Director Kvols reported that the equipment for the SCADA alarm systems for the lift stations has been received. One of the two phone lines needed has been installed and Cherokee Metropolitan District is in the process of removing its equipment.

Discussion Regarding
Development Activities

Lots 71 and 72 of the
Viewpoint Estates
subdivision

Director Kvols reported that Mr. Simons previously gathered the information needed for the owners to submit to the building department and the developers of the property should have everything they need to proceed.

Mayberry Colorado
Springs filings, including
infrastructure inspection
and testing

Mr. Kvols reported that the inspections and testing will occur as necessary to stay abreast of development.

Sunset Village, including
wastewater collection,
conveyance, and treatment

Mr. Kvols reported that agreements for sewer taps will be forthcoming. Mr. Kvols then noted that much of the Development activity is presently being privately funded and noted that it may be more efficient to leave such items off of the District's Agenda for the time being. Ms. Tanaka discussed the need for the District to be appropriately engaged.

OTHER BUSINESS

There was no other business.

Next Joint Regular Meeting

The next joint regular meeting is scheduled for November 11, 2021, at 9:00 A.M.

ADJOURNMENT

There being no further business to come before the Boards, upon motion, second and unanimous vote, the meeting was adjourned.

The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Secretary for the Districts

MINUTES OF A

JOINT SPEICAL MEETING OF THE BOARDS OF DIRECTORS

OF THE

MAYBERRY, COLORADO SPRINGS COMMUNITY AUTHORITY BOARD

AND

MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NOS. 2 AND 3

Held: Wednesday, March 29, 2021

Due to Executive Orders issued by Governor Polis and Public Health Orders implementing the Executive Orders, issued by the Colorado Department of Public Health and Environment (CDPHE), and the threat posed by the COVID-19 coronavirus, the meeting was held via teleconference.

ATTENDANCE

The meeting was held in accordance with the laws of the State of Colorado. The following directors were in attendance:

Johnn Mick, President
Jason Kvols, Secretary
Lee Merritt, Treasurer

Also present were: Jennifer Gruber Tanaka, Esq., White Bear Ankele Tanaka & Waldron, Attorneys at Law, District General Counsel; AJ Beckman, Public Alliance, LLC, District Manager; Carrie Bartow, CliftonLarsonAllen, LLP, District Accountant; Kamille Curylo, Esq. and Tanya Lawless, Esq., Kutak Rock, LLP, Bond Counsel; Anastasia Khokhryakova, Esq., Ballard Spahr, LLP, Disclosure Counsel; Brooke Hutchens and Sam Hartman, D.A. Davidson & Co., Underwriter; Matt Ruhland, Esq., Special Counsel to District Nos. 2 and 3, Collins, Cockrel & Cole; Stephanie Chichester, North Slope Capital Advisors, Municipal Advisor, and Randy Goodson, Foley Development

ADMINISTRATIVE MATTERS

Call to Order

The meeting was called to order.

Declaration of Quorum and Confirmation of Director Qualifications

Mr. Beckman noted that a quorum of the Boards was present.

Reaffirmation of Disclosures of Potential or Existing Conflicts of Interest

Ms. Tanaka advised the Boards that, pursuant to Colorado law, certain disclosures might be required prior to taking official action at the meeting. Ms. Tanaka reported that disclosures for those directors with potential or existing conflicts of interest were filed with the Secretary of State's Office and the Boards at least 72 hours prior to the meeting, in accordance with Colorado law, and those disclosures were acknowledged by the Boards. Ms. Tanaka noted that a quorum was present and inquired into whether members of the Boards had any additional disclosures of potential or existing conflicts of interest with regard to any matters scheduled for discussion at the meeting. No additional disclosures were noted. The Boards determined that the participation of the members present was necessary to obtain a quorum or to otherwise enable the Boards to act.

Combined Meetings

The Colorado Springs Community Authority Board ("the Authority") and Mayberry Colorado Springs Metropolitan District No. 2 ("District No. 2") and Mayberry Colorado Springs Metropolitan District No. 3 ("District No. 3") are meeting in a combined meeting. Unless otherwise noted below, the matters set forth below shall be deemed to be the actions of the Authority and District Nos. 2 and 3, collectively.

Approval of Agenda

Mr. Beckman presented the Boards with the proposed agenda for the meeting. Upon motion of Director Merritt seconded by Director Kvolts the Boards unanimously approved the agenda as presented.

DIRECTOR MATTERS

Election of Officers for Mayberry, Colorado Springs Community Authority

The Authority discussed the election of officers. Following discussion, upon motion of Director Kvolts, seconded by Director Merritt the Authority unanimously elected the following slate of officers:

President: John Mick
Treasurer: Jason Kvolts
Secretary: Lee Merritt

PUBLIC COMMENT

None.

CONSENT AGENDA

The Boards were presented with the consent agenda items. Upon motion of Director Mick, seconded by Director Kvolts, the Boards unanimously took the following actions:

- a. Approved of Minutes of the March 17, 2021 Inaugural Meeting of Mayberry, Colorado Springs Community Authority.
- b. Ratified the Engagement of Collins Cockrel & Cole as Special Counsel for Pledge Agreements for the 2021 General Obligation Bonds (District Nos. 2 & 3)
- c. Approved the Engagement with Ballard Spahr for Disclosure Counsel Services for the 2021 General Obligation Bonds
- d. Ratified the Independent Contractor Agreement with Development Services Inc. for Project Management Services, subject to finalization by legal counsel

LEGAL MATTERS

None

FINANCIAL MATTERS

2021 Bonds

Ms. Curylo reviewed the following resolutions with the Boards. Ms. Hutchens and Mr. Hartman reviewed with the Boards the overall structure for the 2021 Bonds. Ms. Chichester, as Municipal Advisor, provided her recommendations and Mr. Ruhland, as special counsel for District Nos. 2 and 3, also provided his recommendations, both noting they have reviewed the various documents, provided comments which were appropriately addressed, and expressed no concerns with the Boards moving forward as presented.

Authority:

Resolution No. 2021-03-10 of the Mayberry, Colorado Springs Community Authority Board authorizing the issuance of the Special Revenue Bonds, Series 2021A and Subordinate Special Revenue Bonds, Series 2021B in a combined maximum aggregate principal amount not to exceed \$25,000,000, approving, ratifying, and confirming the execution of certain related agreements and documents; making determinations and findings as to other matters related to such financing transactions; authorizing incidental action; and repealing prior inconsistent actions.

It was noted that the Director Mick, will be the primary Authorized Delegate as defined in Resolution 2021-03-10 and Director Merritt, will be the alternate Authorized Delegate.

Following discussion, upon motion of Director Merritt, seconded by Director Mick, the Board unanimously approved Resolution No. 2021-03-10 of the Mayberry, Colorado Springs Community Authority Board.

District No. 2

Resolution No. 2021-03-11 of the Mayberry, Colorado Springs

Metropolitan District No. 2 authorizing the execution and delivery of a Capital Pledge Agreement to provide for the payment of the Authority's Special Revenue Bonds, Series 2021A and Subordinate Special Revenue Bonds, Series 2021B and certain other debt obligations thereunder in a maximum aggregate principal amount of up to \$25,000,000, approving, ratifying, and confirming the execution of certain related agreements and documents; making determinations and findings as to other matters related to such financing transactions; authorizing incidental action; and repealing prior inconsistent actions.

Mr. Ruhland noted that he has reviewed the resolution and has no comments or concerns. Following discussion, upon motion of Director Merritt, seconded by Director Mick, the Board unanimously approved Resolution No. 2021-03-11 of the Mayberry, Colorado Springs Metropolitan District No. 2.

District No. 3

Resolution No. 2021-03-12 of the Mayberry, Colorado Springs Metropolitan District No. 3 authorizing the execution and delivery of a Capital Pledge Agreement to provide for the payment of the Authority's Special Revenue Bonds, Series 2021A and Subordinate Special Revenue Bonds, Series 2021B and certain other debt obligations thereunder in a maximum aggregate principal amount of up to \$25,000,000, approving, ratifying, and confirming the execution of certain related agreements and documents; making determinations and findings as to other matters related to such financing transactions; authorizing incidental action; and repealing prior inconsistent actions.

Mr. Ruhland noted that he has reviewed the resolution has no comments or concerns. Following discussion, upon motion of Director Merritt, seconded by Director Mick, the Board unanimously adopted Resolution No. 2021-03-12 of the Mayberry, Colorado Springs Metropolitan District No. 3.

Valuation Report by Filsinger Energy Partners

Director Kvols reported that he will be meeting with representatives from Filsinger Energy Partners tomorrow. He expects their report to be completed within the next week.

**DEVELOPMENT,
ASSETT, AND WATER
MATTERS**

Conveyance of District No. 2's conveyance of certain

Director Kvols reported that this matter is directly related to the valuation report by Fissinger Energy Partners and may be

water infrastructure, water rights and sewer infrastructure to the District.

pursued following the completion of the report.

OTHER BUSINESS

None.

Next Joint Regular Meeting

The next joint regular meeting is scheduled for November 11, 2021, at 9:00 A.M.

ADJOURNMENT

There being no further business to come before the Boards, upon motion, second and unanimous vote, the meeting was adjourned.

The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Secretary for the Authority and District Nos. 2 and 3

**FUNDING AND REIMBURSEMENT AGREEMENT
(Operations and Maintenance)**

This **FUNDING AND REIMBURSEMENT AGREEMENT** (the “**Agreement**”) is made and entered into as of the 8th day of April, 2021, by and between MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado (f/k/a Ellicott Town Center Metropolitan District) (the “**District**”), and MAYBERRY COMMUNITIES, LLC, a Colorado limited liability company (“**Communities**”). The District and Communities are collectively referred to herein as the “**Parties**”.

RECITALS

WHEREAS, the District has been duly and validly organized as a quasi-municipal corporation and political subdivision of the State of Colorado, in accordance with the provisions of Article 1, Title 32, Colorado Revised Statutes (the “**Special District Act**”), with the power to provide certain public infrastructure, improvements and services, as described in the Special District Act, within and without its boundaries (collectively, the “**Public Infrastructure**”), as authorized and in accordance with the Second Consolidated Amended and Restated Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 1 & 2 and Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 3-8 (the “**Service Plan**”); and

WHEREAS, Communities has directed or intends to direct certain development activities or cause development activities to occur with respect to property included within and without the boundaries of the District (the “**Project**”), which depend upon the timely delivery of the Public Infrastructure; and

WHEREAS, the District has incurred and will incur costs in furtherance of the District’s permitted purposes, including but not limited to: costs in the nature of general operating, administrative and maintenance costs, such as attorney, engineering, architectural, surveying, district management, accounting, auditing, insurance, and other costs necessary to continued good standing under applicable law (the “**Costs**”); and

WHEREAS, the District does not presently have financial resources to provide funding for payment of Costs that are projected to be incurred prior to the anticipated availability of funds; and

WHEREAS, the District has determined that delay in the provision of the Public Infrastructure and the conduct of other service functions by the District will impair the ability to provide facilities and services necessary to support the Project on a timely basis; and

WHEREAS, Communities is willing to loan funds to the District, from time to time, on the condition that the District agrees to repay such loans, in accordance with the terms set forth in this Agreement; and

WHEREAS, the District is willing to execute one or more reimbursement notes, bonds, or other instruments (“**Reimbursement Obligations**”), in an aggregate principal amount not to

exceed the Maximum Loan Amount (as defined below), to be issued to or at the direction of Communities upon its request, subject to the terms and conditions hereof, to further evidence the District's obligation to repay the funds loaned hereunder; and

WHEREAS, the District anticipates repaying moneys advanced by Communities hereunder, including as evidenced by any requested Reimbursement Obligations, with the proceeds of future bonds, ad valorem taxes, or other legally available revenues of the District determined to be available therefor; and

WHEREAS, the District and Communities desire to enter into this Agreement for the purpose of consolidating all understandings and commitments between them relating to the funding and repayment of the Costs; and

WHEREAS, the Board of Directors of the District (the "**Board**") has determined that the best interests of the District and its property owners will be served by entering into this Agreement for the funding and reimbursement of the Costs; and

WHEREAS, the Board has authorized its officers to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and Communities agree as follows:

COVENANTS AND AGREEMENTS

1. Loan Amount and Term. Communities agrees to loan to the District one or more sums of money up to \$200,000 (as the same may be subsequently increased by agreement of the Parties hereto and execution of a supplement or addendum to this Agreement) (the "**Maximum Loan Amount**"). These funds shall be loaned to the District in one or a series of installments and shall be available to the District through December 31, 2022 (as the same may be amended pursuant to an annual review evidenced by supplement or amendment hereto, the "**Loan Obligation Termination Date**"). Thereafter, Communities may agree to renew its obligations hereunder by providing written notice thereof to the District, in which case the Loan Obligation Termination Date shall be amended to the date provided in such notice, which date shall not be earlier than December 31 of the succeeding year.

2. Prior Costs Incurred. The Parties agree and acknowledge that Communities has incurred Costs on behalf of the District prior to the execution of this Agreement in anticipation that the same would be reimbursed as provided herein (the "**Prior Costs**"). Reimbursement for Prior Costs shall be made in accordance with, and subject to the terms and conditions of this Agreement governing the reimbursement for Costs, except that any Prior Costs reimbursed in accordance with this Agreement shall not be included in the calculation of the Maximum Loan Amount under Section 1 of this Agreement.

3. Use of Funds. The District agrees that it shall apply all funds loaned by Communities under this Agreement solely to Costs of the District as set forth from time to time in the annual adopted budget for the District, and pursuant to any contracts entered into with third

parties to perform functions for the District under such adopted budget. It is understood that the District has budgeted or will budget as revenue from year to year the entire aggregate amount which may be borrowed hereunder to enable the District to appropriate revenues to pay the Costs included within the District's annual budget. Communities shall be entitled to a quarterly accounting of the expenditures made by the District, upon request, and otherwise may request specific information concerning such expenditures at reasonable times and upon reasonable notice to the District.

4. Manner for Requesting Advances.

a. The District shall from time to time determine the amount of revenue required to fund budgeted expenditures by the District, but such determination shall be made not more often than monthly. Each determination shall be made based upon the expenditures contained in the adopted budget for the District and upon the rate of expenditures estimated for the next succeeding month and such other factors as the Board may consider relevant to the projection of future financial needs. Not less than fifteen (15) days before the beginning of each month, the District shall notify Communities of the requested advance for the next month, and Communities shall deposit such advance on or before the beginning of that month. The Parties may vary from this schedule upon mutual agreement.

b. Upon receipt of advances hereunder, the District shall keep a record of such advances made. Failure to record such advances shall not affect inclusion of such amounts as reimbursable amounts hereunder; provided that such advances are substantiated by the District's accountant. Communities may provide any relevant documentation evidencing such unrecorded advance to assist in the District's final determination.

5. Obligations Irrevocable.

a. The obligations of Communities created by this Agreement are absolute, irrevocable, unconditional, and are not subject to setoff or counterclaim.

b. Communities shall not take any action which would delay or impair the District's ability to receive the funds contemplated herein with sufficient time to properly pay approved invoices and/or notices of payment due.

6. Interest Prior to Issuance of Reimbursement Obligations. With respect to each loan advance made under this Agreement prior to the issuance of any Reimbursement Obligation reflecting such advance, the interest rate shall be simple interest at the prime rate of interest, plus two points per annum, to the earlier of the date the Reimbursement Obligation is issued to evidence such advance, or the date of repayment of such amount. Upon issuance of any such Reimbursement Obligation, unless otherwise consented to by Communities, any interest then accrued on any previously advanced amount shall be added to the amount of the loan advance and reflected as principal of the Reimbursement Obligation, and shall thereafter accrue interest as provided in such Reimbursement Obligation.

7. Terms of Repayment; Source of Revenues.

a. Any funds advanced hereunder shall be repaid in accordance with the terms of this Agreement. The District intends to repay any advances made under this Agreement from ad valorem taxes, fees, or other legally available revenues of the District, net of any debt service or current operations and maintenance costs of the District. Any mill levy certified by the District for the purpose of repaying advances made hereunder shall not exceed 50 mills, as may be adjusted for constitutional or legislative changes in assessment ratio, and shall be further subject to any restrictions provided in the District's Service Plan, electoral authorization, or any applicable laws.

b. The provision for repayment of advances made hereunder, as set forth in Section 7(a) hereof, shall be at all times subject to annual appropriation by the District.

c. At such time as the District issues Reimbursement Obligations to evidence an obligation to repay advances made under this Agreement, the repayment terms of such Reimbursement Obligations shall control and supersede any otherwise applicable provision of this Agreement, except for the Maximum Reimbursement Obligation Repayment Term (as defined below).

8. Issuance of Reimbursement Obligations.

a. Subject to the conditions of this Section 8 and Section 9 hereof, upon request of Communities, the District hereby agrees to issue to or at the direction of Communities one or more Reimbursement Obligations to evidence any repayment obligation of the District then existing with respect to advances made under this Agreement. Such Reimbursement Obligations shall be payable solely from the sources identified in the Reimbursement Obligations, including, but not limited to, *ad valorem* property tax revenues of the District, and shall be secured by the District's pledge to apply such revenues as required hereunder, unless otherwise consented to by Communities. Such Reimbursement Obligations shall mature on a date or dates, subject to the limitation set forth in the Maximum Reimbursement Obligation Repayment Term defined herein, and bear interest at a market rate, to be determined at the time of issuance of such Reimbursement Obligations. The District shall be permitted to prepay any Reimbursement Obligation, in whole or in part, at any time without redemption premium or other penalty, but with interest accrued to the date of prepayment on the principal amount prepaid. The District and Communities shall negotiate in good faith the final terms and conditions of the Reimbursement Obligations.

b. The term for repayment of any Reimbursement Obligation issued under this Agreement shall not extend beyond twenty (20) years from the date of this Agreement ("**Maximum Reimbursement Obligation Repayment Term**").

c. The issuance of any Reimbursement Obligation shall be subject to the availability of an exemption from the registration requirements of § 11-59-106, C.R.S., and shall be subject to such prior filings with the Colorado State Securities Commissioner as may be necessary to claim such exemption, in accordance with § 11-59-110, C.R.S., and any regulations promulgated thereunder.

d. In connection with the issuance of any such Reimbursement Obligation, the District shall make such filings as it may deem necessary to comply with the provisions of § 32-1-1604, C.R.S., as amended.

e. The terms of this Agreement may be used to construe the intent of the District and Communities in connection with issuance of any Reimbursement Obligations, and shall be read as nearly as possible to make the provisions of any Reimbursement Obligations and this Agreement fully effective. Should any irreconcilable conflict arise between the terms of this Agreement and the terms of any Reimbursement Obligation, the terms of such Reimbursement Obligation shall prevail.

f. If, for any reason, any Reimbursement Obligation is determined to be invalid or unenforceable, the District shall issue a new Reimbursement Obligation to Communities that is legally enforceable, subject to the provisions of this Section 8.

g. In the event that it is determined that payments of all or any portion of interest on any Reimbursement Obligation may be excluded from gross income of the holder thereof for federal income tax purposes upon compliance with certain procedural requirements and restrictions that are not inconsistent with the intended uses of funds contemplated herein and are not overly burdensome to the District, the District agrees, upon request of Communities, to take all action reasonably necessary to satisfy the applicable provisions of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder.

9. No Debt. It is hereby agreed and acknowledged that this Agreement evidences the District's intent to repay Communities for advances made hereunder in accordance with the terms hereof. However, this Agreement shall not constitute a debt or indebtedness by the District within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple-fiscal-year financial obligation. Further, the provision for repayment of advances made hereunder, as set forth in Section 7 hereof, and the agreement to issue a Reimbursement Obligation as set forth in Section 8 hereof, shall be at all times subject to annual appropriation by the District, in its absolute discretion. Communities expressly understands and agrees that the District's obligations under this Agreement shall extend only to monies appropriated for the purposes of this Agreement by the District's Board and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. By acceptance of this Agreement, Communities agrees and consents to all of the limitations in respect of the payment of the principal and interest due under this Agreement and in the District's Service Plan

10. Termination.

a. Communities' obligations to advance funds to the District in accordance with this Agreement shall terminate on December 31, 2022, (subject to the extension terms above), except to the extent advance requests have been made to Communities that are pending by this termination date, in which case said pending request(s) will be honored notwithstanding the passage of the termination date.

b. The District's obligations hereunder shall terminate at the earlier of the repayment in full of the Maximum Loan Amount (or such lesser amount advanced hereunder if it

is determined by the District that no further advances shall be required hereunder) or twenty (20) years from the execution date hereof. After twenty (20) years from the execution of this Agreement, the Parties hereby agree and acknowledge that any obligation created by this Agreement which remains due and outstanding under this Agreement, including accrued interest, is forgiven in its entirety, generally and unconditionally released, waived, acquitted and forever discharged, and shall be deemed a contribution to the District by Communities, and there shall be no further obligation of the District to pay or reimburse Communities with respect to such amounts.

c. Notwithstanding any provision in this Agreement to the contrary, the District's obligations to reimburse Communities for any and all funds advanced or otherwise payable to Communities under and pursuant to this Agreement (whether Communities has already advanced or otherwise paid such funds or intends to make such advances or payments in the future) shall terminate automatically and be of no further force or effect upon the occurrence of (a) Communities' voluntary dissolution, liquidation, winding up, or cessation to carry on business activities as a going concern; (b) administrative dissolution (or other legal process not initiated by Communities dissolving Communities as a legal entity) that is not remedied or cured within sixty (60) days of the effective date of such dissolution or other process; or (c) the initiation of bankruptcy, receivership or similar process or actions with regard to Communities (whether voluntary or involuntary). The termination of the District's reimbursement obligations as set forth in this section shall be absolute and binding upon Communities, its successors and assigns. Communities, by its execution of this Agreement, waives and releases any and all claims and rights, whether existing now or in the future, against the District relating to or arising out of the District's reimbursement obligations under this Agreement in the event that any of the occurrences described in this section occur.

11. Time Is of the Essence. Time is of the essence hereof; provided, however, that if the last day permitted or otherwise determined for the performance of any required act under this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

12. Notices and Place for Payments. All notices, demands and communications (collectively, "**Notices**") under this Agreement shall be delivered or sent by: (a) first class, registered or certified mail, postage prepaid, return receipt requested, (b) nationally recognized overnight carrier, addressed to the address of the intended recipient set forth below or such other address as either party may designate by notice pursuant to this Section 12, or (c) sent by confirmed facsimile transmission, PDF or email. Notices shall be deemed given either one business day after delivery to the overnight carrier, three (3) days after being mailed as provided in clause (a) above, or upon confirmed delivery as provided in clause (c) above.

District: Mayberry, Colorado Springs Metropolitan District No. 1
Public Alliance, LLC
355 S Teller Street, Suite 200
Lakewood, CO 80226
Attention: AJ Beckman, District Manager
(303) 877-6284 (phone)
aj@publicalliancellc.com

With copy to: WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122
Attention: Jennifer Gruber Tanaka, Esq.
(303) 858-1800 (phone)
(303) 858-1801 (fax)
jtanaka@wbapc.com

Communities: Mayberry Communities, LLC
1323 Stratford Court
Del Mar, CA 92014
Attention: Kirk Miller, Esq.
(858) 259-5888 (phone)
(858) 259-5155 (fax)
kirk@kirkmillerlaw.net

13. Amendments. This Agreement may only be amended or modified by a writing executed by both the District and Communities.

14. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

15. Applicable Laws. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located.

16. Assignment. This Agreement may not be assigned by the District or Communities and any attempt to assign this Agreement in violation hereof shall be null and void.

17. Authority. By execution hereof, the District and Communities represent and warrant that their respective representatives signing hereunder have full power and authority to execute this Agreement and to bind the respective party to the terms hereof.

18. Entire Agreement. This Agreement constitutes and represents the entire, integrated agreement between the District and Communities with respect to the matters set forth herein and hereby supersedes any and all prior negotiations, representations, agreements or arrangements of any kind with respect to those matters, whether written or oral. This Agreement shall become effective upon the date of full execution hereof.

19. Legal Existence. The District will maintain its legal identity and existence so long as any of the advanced amounts contemplated herein remain outstanding. The foregoing statement shall apply unless, by operation of law, another legal entity succeeds to the liabilities and rights of the District hereunder without materially adversely affecting Communities' privileges and rights under this Agreement.

20. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

21. Negotiated Provisions. This Agreement shall not be construed more strictly against one party than against another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each party has contributed substantially and materially to the preparation of this Agreement.

22. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and Communities any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the District and Communities shall be for the sole and exclusive benefit of the District and Communities.

23. Counterpart Execution. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date and year first above written. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

DISTRICT:

MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 1, a quasi-
municipal corporation and political subdivision of
the State of Colorado

Officer of the District

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

COMMUNITIES:

MAYBERRY COMMUNITIES, LLC, a Colorado
limited liability company

Printed Name: _____

Title: _____

***[Signature page to Funding and Reimbursement Agreement with Mayberry Communities,
LLC]***

FUNDING AND REIMBURSEMENT AGREEMENT (Operations and Maintenance)

This **FUNDING AND REIMBURSEMENT AGREEMENT** (the “**Agreement**”) is made and entered into as of the 8th day of April, 2021, by and between MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and MAYBERRY COMMUNITIES, LLC, a Colorado limited liability company (“**Communities**”). The District and Communities are collectively referred to herein as the “**Parties**”.

RECITALS

WHEREAS, the District has been duly and validly organized as a quasi-municipal corporation and political subdivision of the State of Colorado, in accordance with the provisions of Article 1, Title 32, Colorado Revised Statutes (the “**Special District Act**”), with the power to provide certain public infrastructure, improvements and services, as described in the Special District Act, within and without its boundaries (collectively, the “**Public Infrastructure**”), as authorized and in accordance with the Second Consolidated Amended and Restated Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 1 & 2 and Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 3-8 (the “**Service Plan**”); and

WHEREAS, Communities has directed or intends to direct certain development activities or cause development activities to occur with respect to property included within and without the boundaries of the District (the “**Project**”), which depend upon the timely delivery of the Public Infrastructure; and

WHEREAS, the District has incurred and will incur costs in furtherance of the District’s permitted purposes, including but not limited to: costs in the nature of general operating, administrative and maintenance costs, such as attorney, engineering, architectural, surveying, district management, accounting, auditing, insurance, and other costs necessary to continued good standing under applicable law (the “**Costs**”); and

WHEREAS, the District does not presently have financial resources to provide funding for payment of Costs that are projected to be incurred prior to the anticipated availability of funds; and

WHEREAS, the District has determined that delay in the provision of the Public Infrastructure and the conduct of other service functions by the District will impair the ability to provide facilities and services necessary to support the Project on a timely basis; and

WHEREAS, Communities is willing to loan funds to the District, from time to time, on the condition that the District agrees to repay such loans, in accordance with the terms set forth in this Agreement; and

WHEREAS, the District is willing to execute one or more reimbursement notes, bonds, or other instruments (“**Reimbursement Obligations**”), in an aggregate principal amount not to exceed the Maximum Loan Amount (as defined below), to be issued to or at the direction of

Communities upon its request, subject to the terms and conditions hereof, to further evidence the District's obligation to repay the funds loaned hereunder; and

WHEREAS, the District anticipates repaying moneys advanced by Communities hereunder, including as evidenced by any requested Reimbursement Obligations, with the proceeds of future bonds, ad valorem taxes, or other legally available revenues of the District determined to be available therefor; and

WHEREAS, the District and Communities desire to enter into this Agreement for the purpose of consolidating all understandings and commitments between them relating to the funding and repayment of the Costs; and

WHEREAS, the Board of Directors of the District (the "**Board**") has determined that the best interests of the District and its property owners will be served by entering into this Agreement for the funding and reimbursement of the Costs; and

WHEREAS, the Board has authorized its officers to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and Communities agree as follows:

COVENANTS AND AGREEMENTS

1. Loan Amount and Term. Communities agrees to loan to the District one or more sums of money up to \$200,000 (as the same may be subsequently increased by agreement of the Parties hereto and execution of a supplement or addendum to this Agreement) (the "**Maximum Loan Amount**"). These funds shall be loaned to the District in one or a series of installments and shall be available to the District through December 31, 2022 (as the same may be amended pursuant to an annual review evidenced by supplement or amendment hereto, the "**Loan Obligation Termination Date**"). Thereafter, Communities may agree to renew its obligations hereunder by providing written notice thereof to the District, in which case the Loan Obligation Termination Date shall be amended to the date provided in such notice, which date shall not be earlier than December 31 of the succeeding year.

2. Prior Costs Incurred. The Parties agree and acknowledge that Communities has incurred Costs on behalf of the District prior to the execution of this Agreement in anticipation that the same would be reimbursed as provided herein (the "**Prior Costs**"). Reimbursement for Prior Costs shall be made in accordance with, and subject to the terms and conditions of this Agreement governing the reimbursement for Costs, except that any Prior Costs reimbursed in accordance with this Agreement shall not be included in the calculation of the Maximum Loan Amount under Section 1 of this Agreement.

3. Use of Funds. The District agrees that it shall apply all funds loaned by Communities under this Agreement solely to Costs of the District as set forth from time to time in the annual adopted budget for the District, and pursuant to any contracts entered into with third parties to perform functions for the District under such adopted budget. It is understood that the

District has budgeted or will budget as revenue from year to year the entire aggregate amount which may be borrowed hereunder to enable the District to appropriate revenues to pay the Costs included within the District's annual budget. Communities shall be entitled to a quarterly accounting of the expenditures made by the District, upon request, and otherwise may request specific information concerning such expenditures at reasonable times and upon reasonable notice to the District.

4. Manner for Requesting Advances.

a. The District shall from time to time determine the amount of revenue required to fund budgeted expenditures by the District, but such determination shall be made not more often than monthly. Each determination shall be made based upon the expenditures contained in the adopted budget for the District and upon the rate of expenditures estimated for the next succeeding month and such other factors as the Board may consider relevant to the projection of future financial needs. Not less than fifteen (15) days before the beginning of each month, the District shall notify Communities of the requested advance for the next month, and Communities shall deposit such advance on or before the beginning of that month. The Parties may vary from this schedule upon mutual agreement.

b. Upon receipt of advances hereunder, the District shall keep a record of such advances made. Failure to record such advances shall not affect inclusion of such amounts as reimbursable amounts hereunder; provided that such advances are substantiated by the District's accountant. Communities may provide any relevant documentation evidencing such unrecorded advance to assist in the District's final determination.

5. Obligations Irrevocable.

a. The obligations of Communities created by this Agreement are absolute, irrevocable, unconditional, and are not subject to setoff or counterclaim.

b. Communities shall not take any action which would delay or impair the District's ability to receive the funds contemplated herein with sufficient time to properly pay approved invoices and/or notices of payment due.

6. Interest Prior to Issuance of Reimbursement Obligations. With respect to each loan advance made under this Agreement prior to the issuance of any Reimbursement Obligation reflecting such advance, the interest rate shall be simple interest at the prime rate of interest, plus two points per annum, from the date any such advance is made, to the earlier of the date the Reimbursement Obligation is issued to evidence such advance, or the date of repayment of such amount. Upon issuance of any such Reimbursement Obligation, unless otherwise consented to by Communities, any interest then accrued on any previously advanced amount shall be added to the amount of the loan advance and reflected as principal of the Reimbursement Obligation, and shall thereafter accrue interest as provided in such Reimbursement Obligation.

7. Terms of Repayment; Source of Revenues.

a. Any funds advanced hereunder shall be repaid in accordance with the terms of this Agreement. The District intends to repay any advances made under this Agreement from

ad valorem taxes, fees, or other legally available revenues of the District, net of any debt service or current operations and maintenance costs of the District. Any mill levy certified by the District for the purpose of repaying advances made hereunder shall not exceed 25 mills and shall be further subject to any restrictions provided in the District's Service Plan, electoral authorization, or any applicable laws.

b. The provision for repayment of advances made hereunder, as set forth in Section 7(a) hereof, shall be at all times subject to annual appropriation by the District.

c. At such time as the District issues Reimbursement Obligations to evidence an obligation to repay advances made under this Agreement, the repayment terms of such Reimbursement Obligations shall control and supersede any otherwise applicable provision of this Agreement, except for the Maximum Reimbursement Obligation Repayment Term (as defined below).

8. Issuance of Reimbursement Obligations.

a. Subject to the conditions of this Section 8 and Section 9 hereof, upon request of Communities, the District hereby agrees to issue to or at the direction of Communities one or more Reimbursement Obligations to evidence any repayment obligation of the District then existing with respect to advances made under this Agreement. Such Reimbursement Obligations shall be payable solely from the sources identified in the Reimbursement Obligations, including, but not limited to, *ad valorem* property tax revenues of the District, and shall be secured by the District's pledge to apply such revenues as required hereunder, unless otherwise consented to by Communities. Such Reimbursement Obligations shall mature on a date or dates, subject to the limitation set forth in the Maximum Reimbursement Obligation Repayment Term defined herein, and bear interest at a market rate, to be determined at the time of issuance of such Reimbursement Obligations. The District shall be permitted to prepay any Reimbursement Obligation, in whole or in part, at any time without redemption premium or other penalty, but with interest accrued to the date of prepayment on the principal amount prepaid. The District and Communities shall negotiate in good faith the final terms and conditions of the Reimbursement Obligations.

b. The term for repayment of any Reimbursement Obligation issued under this Agreement shall not extend beyond twenty (20) years from the date of this Agreement ("**Maximum Reimbursement Obligation Repayment Term**").

c. The issuance of any Reimbursement Obligation shall be subject to the availability of an exemption from the registration requirements of § 11-59-106, C.R.S., and shall be subject to such prior filings with the Colorado State Securities Commissioner as may be necessary to claim such exemption, in accordance with § 11-59-110, C.R.S., and any regulations promulgated thereunder.

d. In connection with the issuance of any such Reimbursement Obligation, the District shall make such filings as it may deem necessary to comply with the provisions of § 32-1-1604, C.R.S., as amended.

e. The terms of this Agreement may be used to construe the intent of the District and Communities in connection with issuance of any Reimbursement Obligations, and

shall be read as nearly as possible to make the provisions of any Reimbursement Obligations and this Agreement fully effective. Should any irreconcilable conflict arise between the terms of this Agreement and the terms of any Reimbursement Obligation, the terms of such Reimbursement Obligation shall prevail.

f. If, for any reason, any Reimbursement Obligation is determined to be invalid or unenforceable, the District shall issue a new Reimbursement Obligation to Communities that is legally enforceable, subject to the provisions of this Section 8.

g. In the event that it is determined that payments of all or any portion of interest on any Reimbursement Obligation may be excluded from gross income of the holder thereof for federal income tax purposes upon compliance with certain procedural requirements and restrictions that are not inconsistent with the intended uses of funds contemplated herein and are not overly burdensome to the District, the District agrees, upon request of Communities, to take all action reasonably necessary to satisfy the applicable provisions of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder.

9. No Debt. It is hereby agreed and acknowledged that this Agreement evidences the District's intent to repay Communities for advances made hereunder in accordance with the terms hereof. However, this Agreement shall not constitute a debt or indebtedness by the District within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple-fiscal-year financial obligation. Further, the provision for repayment of advances made hereunder, as set forth in Section 7 hereof, and the agreement to issue a Reimbursement Obligation as set forth in Section 8 hereof, shall be at all times subject to annual appropriation by the District, in its absolute discretion. Communities expressly understands and agrees that the District's obligations under this Agreement shall extend only to monies appropriated for the purposes of this Agreement by the District's Board and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. By acceptance of this Agreement, Communities agrees and consents to all of the limitations in respect of the payment of the principal and interest due under this Agreement and in the District's Service Plan

10. Termination.

a. Communities' obligations to advance funds to the District in accordance with this Agreement shall terminate on December 31, 2022, (subject to the extension terms above), except to the extent advance requests have been made to Communities that are pending by this termination date, in which case said pending request(s) will be honored notwithstanding the passage of the termination date.

b. The District's obligations hereunder shall terminate at the earlier of the repayment in full of the Maximum Loan Amount (or such lesser amount advanced hereunder if it is determined by the District that no further advances shall be required hereunder) or twenty (20) years from the execution date hereof. After twenty (20) years from the execution of this Agreement, the Parties hereby agree and acknowledge that any obligation created by this Agreement which remains due and outstanding under this Agreement, including accrued interest, is forgiven in its entirety, generally and unconditionally released, waived, acquitted and forever

discharged, and shall be deemed a contribution to the District by Communities, and there shall be no further obligation of the District to pay or reimburse Communities with respect to such amounts.

c. Notwithstanding any provision in this Agreement to the contrary, the District's obligations to reimburse Communities for any and all funds advanced or otherwise payable to Communities under and pursuant to this Agreement (whether Communities has already advanced or otherwise paid such funds or intends to make such advances or payments in the future) shall terminate automatically and be of no further force or effect upon the occurrence of (a) Communities' voluntary dissolution, liquidation, winding up, or cessation to carry on business activities as a going concern; (b) administrative dissolution (or other legal process not initiated by Communities dissolving Communities as a legal entity) that is not remedied or cured within sixty (60) days of the effective date of such dissolution or other process; or (c) the initiation of bankruptcy, receivership or similar process or actions with regard to Communities (whether voluntary or involuntary). The termination of the District's reimbursement obligations as set forth in this section shall be absolute and binding upon Communities, its successors and assigns. Communities, by its execution of this Agreement, waives and releases any and all claims and rights, whether existing now or in the future, against the District relating to or arising out of the District's reimbursement obligations under this Agreement in the event that any of the occurrences described in this section occur.

11. Time Is of the Essence. Time is of the essence hereof; provided, however, that if the last day permitted or otherwise determined for the performance of any required act under this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

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District: Mayberry, Colorado Springs Metropolitan District No. 2
Public Alliance, LLC
355 S Teller Street, Suite 200
Lakewood, CO 80226
Attention: AJ Beckman, District Manager
(303) 877-6284 (phone)
aj@publicalliancellc.com

With copy to: WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law
2154 East Commons Avenue, Suite 2000
Centennial, Colorado 80122
Attention: Jennifer Gruber Tanaka, Esq.

(303) 858-1800 (phone)
(303) 858-1801 (fax)
jtanaka@wbapc.com

Communities: Mayberry Communities, LLC
1323 Stratford Court
Del Mar, CA 92014
Attention: Kirk Miller, Esq.
(858) 259-5888 (phone)
(858) 259-5155 (fax)
kirk@kirkmillerlaw.net

13. Amendments. This Agreement may only be amended or modified by a writing executed by both the District and Communities.

14. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

15. Applicable Laws. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located.

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18. Entire Agreement. This Agreement constitutes and represents the entire, integrated agreement between the District and Communities with respect to the matters set forth herein and hereby supersedes any and all prior negotiations, representations, agreements or arrangements of any kind with respect to those matters, whether written or oral. This Agreement shall become effective upon the date of full execution hereof.

19. Legal Existence. The District will maintain its legal identity and existence so long as any of the advanced amounts contemplated herein remain outstanding. The foregoing statement shall apply unless, by operation of law, another legal entity succeeds to the liabilities and rights of the District hereunder without materially adversely affecting Communities' privileges and rights under this Agreement.

20. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

21. Negotiated Provisions. This Agreement shall not be construed more strictly against one party than against another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each party has contributed substantially and materially to the preparation of this Agreement.

22. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and Communities any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the District and Communities shall be for the sole and exclusive benefit of the District and Communities.

23. Counterpart Execution. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date and year first above written. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

DISTRICT:

MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 2, a quasi-
municipal corporation and political subdivision of
the State of Colorado

Officer of the District

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

COMMUNITIES:

MAYBERRY COMMUNITIES, LLC, a Colorado
limited liability company

Printed Name: _____

Title: _____

***[Signature page to Funding and Reimbursement Agreement with Mayberry Communities,
LLC]***

**FUNDING AND REIMBURSEMENT AGREEMENT
(Operations and Maintenance)**

This **FUNDING AND REIMBURSEMENT AGREEMENT** (the “**Agreement**”) is made and entered into as of the 8th day of April, 2021, by and between MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 3, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and MAYBERRY COMMUNITIES, LLC a Colorado limited liability company (“**Communities**”). The District and Communities are collectively referred to herein as the “**Parties**”.

RECITALS

WHEREAS, the District has been duly and validly organized as a quasi-municipal corporation and political subdivision of the State of Colorado, in accordance with the provisions of Article 1, Title 32, Colorado Revised Statutes (the “**Special District Act**”), with the power to provide certain public infrastructure, improvements and services, as described in the Special District Act, within and without its boundaries (collectively, the “**Public Infrastructure**”), as authorized and in accordance with the Second Consolidated Amended and Restated Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 1 & 2 and Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 3-8 (the “**Service Plan**”); and

WHEREAS, Communities has directed or intends to direct certain development activities or cause development activities to occur with respect to property included within and without the boundaries of the District (the “**Project**”), which depend upon the timely delivery of the Public Infrastructure; and

WHEREAS, the District has incurred and will incur costs in furtherance of the District’s permitted purposes, including but not limited to: costs in the nature of general operating, administrative and maintenance costs, such as attorney, engineering, architectural, surveying, district management, accounting, auditing, insurance, and other costs necessary to continued good standing under applicable law (the “**Costs**”); and

WHEREAS, the District does not presently have financial resources to provide funding for payment of Costs that are projected to be incurred prior to the anticipated availability of funds; and

WHEREAS, the District has determined that delay in the provision of the Public Infrastructure and the conduct of other service functions by the District will impair the ability to provide facilities and services necessary to support the Project on a timely basis; and

WHEREAS, Communities is willing to loan funds to the District, from time to time, on the condition that the District agrees to repay such loans, in accordance with the terms set forth in this Agreement; and

WHEREAS, the District is willing to execute one or more reimbursement notes, bonds, or other instruments (“**Reimbursement Obligations**”), in an aggregate principal amount not to exceed the Maximum Loan Amount (as defined below), to be issued to or at the direction of

Communities upon its request, subject to the terms and conditions hereof, to further evidence the District's obligation to repay the funds loaned hereunder; and

WHEREAS, the District anticipates repaying moneys advanced by Communities hereunder, including as evidenced by any requested Reimbursement Obligations, with the proceeds of future bonds, ad valorem taxes, or other legally available revenues of the District determined to be available therefor; and

WHEREAS, the District and Communities desire to enter into this Agreement for the purpose of consolidating all understandings and commitments between them relating to the funding and repayment of the Costs; and

WHEREAS, the Board of Directors of the District (the "**Board**") has determined that the best interests of the District and its property owners will be served by entering into this Agreement for the funding and reimbursement of the Costs; and

WHEREAS, the Board has authorized its officers to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and Communities agree as follows:

COVENANTS AND AGREEMENTS

1. Loan Amount and Term. Communities agrees to loan to the District one or more sums of money up to \$200,000 (as the same may be subsequently increased by agreement of the Parties hereto and execution of a supplement or addendum to this Agreement) (the "**Maximum Loan Amount**"). These funds shall be loaned to the District in one or a series of installments and shall be available to the District through December 31, 2022 (as the same may be amended pursuant to an annual review evidenced by supplement or amendment hereto, the "**Loan Obligation Termination Date**"). Thereafter, Communities may agree to renew its obligations hereunder by providing written notice thereof to the District, in which case the Loan Obligation Termination Date shall be amended to the date provided in such notice, which date shall not be earlier than December 31 of the succeeding year.

2. Prior Costs Incurred. The Parties agree and acknowledge that Communities has incurred Costs on behalf of the District prior to the execution of this Agreement in anticipation that the same would be reimbursed as provided herein (the "**Prior Costs**"). Reimbursement for Prior Costs shall be made in accordance with, and subject to the terms and conditions of this Agreement governing the reimbursement for Costs, except that any Prior Costs reimbursed in accordance with this Agreement shall not be included in the calculation of the Maximum Loan Amount under Section 1 of this Agreement.

3. Use of Funds. The District agrees that it shall apply all funds loaned by Communities under this Agreement solely to Costs of the District as set forth from time to time in the annual adopted budget for the District, and pursuant to any contracts entered into with third parties to perform functions for the District under such adopted budget. It is understood that the

District has budgeted or will budget as revenue from year to year the entire aggregate amount which may be borrowed hereunder to enable the District to appropriate revenues to pay the Costs included within the District's annual budget. Communities shall be entitled to a quarterly accounting of the expenditures made by the District, upon request, and otherwise may request specific information concerning such expenditures at reasonable times and upon reasonable notice to the District.

4. Manner for Requesting Advances.

a. The District shall from time to time determine the amount of revenue required to fund budgeted expenditures by the District, but such determination shall be made not more often than monthly. Each determination shall be made based upon the expenditures contained in the adopted budget for the District and upon the rate of expenditures estimated for the next succeeding month and such other factors as the Board may consider relevant to the projection of future financial needs. Not less than fifteen (15) days before the beginning of each month, the District shall notify Communities of the requested advance for the next month, and Communities shall deposit such advance on or before the beginning of that month. The Parties may vary from this schedule upon mutual agreement.

b. Upon receipt of advances hereunder, the District shall keep a record of such advances made. Failure to record such advances shall not affect inclusion of such amounts as reimbursable amounts hereunder; provided that such advances are substantiated by the District's accountant. Communities may provide any relevant documentation evidencing such unrecorded advance to assist in the District's final determination.

5. Obligations Irrevocable.

a. The obligations of Communities created by this Agreement are absolute, irrevocable, unconditional, and are not subject to setoff or counterclaim.

b. Communities shall not take any action which would delay or impair the District's ability to receive the funds contemplated herein with sufficient time to properly pay approved invoices and/or notices of payment due.

6. Interest Prior to Issuance of Reimbursement Obligations. With respect to each loan advance made under this Agreement prior to the issuance of any Reimbursement Obligation reflecting such advance, the interest rate shall be simple interest at the prime rate of interest, plus two points per annum, to the earlier of the date the Reimbursement Obligation is issued to evidence such advance, or the date of repayment of such amount. Upon issuance of any such Reimbursement Obligation, unless otherwise consented to by Communities, any interest then accrued on any previously advanced amount shall be added to the amount of the loan advance and reflected as principal of the Reimbursement Obligation, and shall thereafter accrue interest as provided in such Reimbursement Obligation.

7. Terms of Repayment; Source of Revenues.

a. Any funds advanced hereunder shall be repaid in accordance with the terms of this Agreement. The District intends to repay any advances made under this Agreement from

ad valorem taxes, fees, or other legally available revenues of the District, net of any debt service or current operations and maintenance costs of the District. Any mill levy certified by the District for the purpose of repaying advances made hereunder shall not exceed 50 mills, as may be adjusted for constitutional or legislative changes in assessment ratio, and shall be further subject to any restrictions provided in the District's Service Plan, electoral authorization, or any applicable laws.

b. The provision for repayment of advances made hereunder, as set forth in Section 7(a) hereof, shall be at all times subject to annual appropriation by the District.

c. At such time as the District issues Reimbursement Obligations to evidence an obligation to repay advances made under this Agreement, the repayment terms of such Reimbursement Obligations shall control and supersede any otherwise applicable provision of this Agreement, except for the Maximum Reimbursement Obligation Repayment Term (as defined below).

8. Issuance of Reimbursement Obligations.

a. Subject to the conditions of this Section 8 and Section 9 hereof, upon request of Communities, the District hereby agrees to issue to or at the direction of Communities one or more Reimbursement Obligations to evidence any repayment obligation of the District then existing with respect to advances made under this Agreement. Such Reimbursement Obligations shall be payable solely from the sources identified in the Reimbursement Obligations, including, but not limited to, *ad valorem* property tax revenues of the District, and shall be secured by the District's pledge to apply such revenues as required hereunder, unless otherwise consented to by Communities. Such Reimbursement Obligations shall mature on a date or dates, subject to the limitation set forth in the Maximum Reimbursement Obligation Repayment Term defined herein, and bear interest at a market rate, to be determined at the time of issuance of such Reimbursement Obligations. The District shall be permitted to prepay any Reimbursement Obligation, in whole or in part, at any time without redemption premium or other penalty, but with interest accrued to the date of prepayment on the principal amount prepaid. The District and Communities shall negotiate in good faith the final terms and conditions of the Reimbursement Obligations.

b. The term for repayment of any Reimbursement Obligation issued under this Agreement shall not extend beyond twenty (20) years from the date of this Agreement ("**Maximum Reimbursement Obligation Repayment Term**").

c. The issuance of any Reimbursement Obligation shall be subject to the availability of an exemption from the registration requirements of § 11-59-106, C.R.S., and shall be subject to such prior filings with the Colorado State Securities Commissioner as may be necessary to claim such exemption, in accordance with § 11-59-110, C.R.S., and any regulations promulgated thereunder.

d. In connection with the issuance of any such Reimbursement Obligation, the District shall make such filings as it may deem necessary to comply with the provisions of § 32-1-1604, C.R.S., as amended.

e. The terms of this Agreement may be used to construe the intent of the District and Communities in connection with issuance of any Reimbursement Obligations, and

shall be read as nearly as possible to make the provisions of any Reimbursement Obligations and this Agreement fully effective. Should any irreconcilable conflict arise between the terms of this Agreement and the terms of any Reimbursement Obligation, the terms of such Reimbursement Obligation shall prevail.

f. If, for any reason, any Reimbursement Obligation is determined to be invalid or unenforceable, the District shall issue a new Reimbursement Obligation to Communities that is legally enforceable, subject to the provisions of this Section 8.

g. In the event that it is determined that payments of all or any portion of interest on any Reimbursement Obligation may be excluded from gross income of the holder thereof for federal income tax purposes upon compliance with certain procedural requirements and restrictions that are not inconsistent with the intended uses of funds contemplated herein and are not overly burdensome to the District, the District agrees, upon request of Communities, to take all action reasonably necessary to satisfy the applicable provisions of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder.

9. No Debt. It is hereby agreed and acknowledged that this Agreement evidences the District's intent to repay Communities for advances made hereunder in accordance with the terms hereof. However, this Agreement shall not constitute a debt or indebtedness by the District within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple-fiscal-year financial obligation. Further, the provision for repayment of advances made hereunder, as set forth in Section 7 hereof, and the agreement to issue a Reimbursement Obligation as set forth in Section 8 hereof, shall be at all times subject to annual appropriation by the District, in its absolute discretion. Communities expressly understands and agrees that the District's obligations under this Agreement shall extend only to monies appropriated for the purposes of this Agreement by the District's Board and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. By acceptance of this Agreement, Communities agrees and consents to all of the limitations in respect of the payment of the principal and interest due under this Agreement and in the District's Service Plan

10. Termination.

a. Communities' obligations to advance funds to the District in accordance with this Agreement shall terminate on December 31, 2022, (subject to the extension terms above), except to the extent advance requests have been made to Communities that are pending by this termination date, in which case said pending request(s) will be honored notwithstanding the passage of the termination date.

b. The District's obligations hereunder shall terminate at the earlier of the repayment in full of the Maximum Loan Amount (or such lesser amount advanced hereunder if it is determined by the District that no further advances shall be required hereunder) or twenty (20) years from the execution date hereof. After twenty (20) years from the execution of this Agreement, the Parties hereby agree and acknowledge that any obligation created by this Agreement which remains due and outstanding under this Agreement, including accrued interest, is forgiven in its entirety, generally and unconditionally released, waived, acquitted and forever

discharged, and shall be deemed a contribution to the District by Communities, and there shall be no further obligation of the District to pay or reimburse Communities with respect to such amounts.

c. Notwithstanding any provision in this Agreement to the contrary, the District's obligations to reimburse Communities for any and all funds advanced or otherwise payable to Communities under and pursuant to this Agreement (whether Communities has already advanced or otherwise paid such funds or intends to make such advances or payments in the future) shall terminate automatically and be of no further force or effect upon the occurrence of (a) Communities' voluntary dissolution, liquidation, winding up, or cessation to carry on business activities as a going concern; (b) administrative dissolution (or other legal process not initiated by Communities dissolving Communities as a legal entity) that is not remedied or cured within sixty (60) days of the effective date of such dissolution or other process; or (c) the initiation of bankruptcy, receivership or similar process or actions with regard to Communities (whether voluntary or involuntary). The termination of the District's reimbursement obligations as set forth in this section shall be absolute and binding upon Communities, its successors and assigns. Communities, by its execution of this Agreement, waives and releases any and all claims and rights, whether existing now or in the future, against the District relating to or arising out of the District's reimbursement obligations under this Agreement in the event that any of the occurrences described in this section occur.

11. Time Is of the Essence. Time is of the essence hereof; provided, however, that if the last day permitted or otherwise determined for the performance of any required act under this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

12. Notices and Place for Payments. All notices, demands and communications (collectively, "Notices") under this Agreement shall be delivered or sent by: (a) first class, registered or certified mail, postage prepaid, return receipt requested, (b) nationally recognized overnight carrier, addressed to the address of the intended recipient set forth below or such other address as either party may designate by notice pursuant to this Section 12, or (c) sent by confirmed facsimile transmission, PDF or email. Notices shall be deemed given either one business day after delivery to the overnight carrier, three (3) days after being mailed as provided in clause (a) above, or upon confirmed delivery as provided in clause (c) above.

District: Mayberry, Colorado Springs Metropolitan District No. 3
Public Alliance, LLC
355 S Teller Street, Suite 200
Lakewood, CO 80226
Attention: AJ Beckman, District Manager
(303) 877-6284 (phone)
aj@publicalliancellc.com

With copy to: WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122
Attention: Jennifer Gruber Tanaka, Esq.

(303) 858-1800 (phone)
(303) 858-1801 (fax)
jtanaka@wbapc.com

Communities: Mayberry Communities, LLC
1323 Stratford Court
Del Mar, CA 92014
Attention: Kirk Miller, Esq.
(858) 259-5888 (phone)
(858) 259-5155 (fax)
kirk@kirkmillerlaw.net

13. Amendments. This Agreement may only be amended or modified by a writing executed by both the District and Communities.

14. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

15. Applicable Laws. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located.

16. Assignment. This Agreement may not be assigned by the District or Communities and any attempt to assign this Agreement in violation hereof shall be null and void.

17. Authority. By execution hereof, the District and Communities represent and warrant that their respective representatives signing hereunder have full power and authority to execute this Agreement and to bind the respective party to the terms hereof.

18. Entire Agreement. This Agreement constitutes and represents the entire, integrated agreement between the District and Communities with respect to the matters set forth herein and hereby supersedes any and all prior negotiations, representations, agreements or arrangements of any kind with respect to those matters, whether written or oral. This Agreement shall become effective upon the date of full execution hereof.

19. Legal Existence. The District will maintain its legal identity and existence so long as any of the advanced amounts contemplated herein remain outstanding. The foregoing statement shall apply unless, by operation of law, another legal entity succeeds to the liabilities and rights of the District hereunder without materially adversely affecting Communities' privileges and rights under this Agreement.

20. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

21. Negotiated Provisions. This Agreement shall not be construed more strictly against one party than against another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each party has contributed substantially and materially to the preparation of this Agreement.

22. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and Communities any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the District and Communities shall be for the sole and exclusive benefit of the District and Communities.

23. Counterpart Execution. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date and year first above written. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

DISTRICT:

MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 3, a quasi-
municipal corporation and political subdivision of
the State of Colorado

Officer of the District

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

COMMUNITIES:

MAYBERRY COMMUNITIES, LLC, a Colorado
limited liability company

Printed Name: _____

Title: _____

***[Signature page to Funding and Reimbursement Agreement with Mayberry Communities,
LLC]***

FUNDING AND REIMBURSEMENT AGREEMENT
(Operations and Maintenance)

This **FUNDING AND REIMBURSEMENT AGREEMENT** (the “**Agreement**”) is made and entered into as of the 8th day of April, 2021, by and between MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 4, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and MAYBERRY COMMUNITIES, LLC a Colorado limited liability company (“**Communities**”). The District and Communities are collectively referred to herein as the “**Parties**”.

RECITALS

WHEREAS, the District has been duly and validly organized as a quasi-municipal corporation and political subdivision of the State of Colorado, in accordance with the provisions of Article 1, Title 32, Colorado Revised Statutes (the “**Special District Act**”), with the power to provide certain public infrastructure, improvements and services, as described in the Special District Act, within and without its boundaries (collectively, the “**Public Infrastructure**”), as authorized and in accordance with the Second Consolidated Amended and Restated Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 1 & 2 and Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 3-8 (the “**Service Plan**”); and

WHEREAS, Communities has directed or intends to direct certain development activities or cause development activities to occur with respect to property included within and without the boundaries of the District (the “**Project**”), which depend upon the timely delivery of the Public Infrastructure; and

WHEREAS, the District has incurred and will incur costs in furtherance of the District’s permitted purposes, including but not limited to: costs in the nature of general operating, administrative and maintenance costs, such as attorney, engineering, architectural, surveying, district management, accounting, auditing, insurance, and other costs necessary to continued good standing under applicable law (the “**Costs**”); and

WHEREAS, the District does not presently have financial resources to provide funding for payment of Costs that are projected to be incurred prior to the anticipated availability of funds; and

WHEREAS, the District has determined that delay in the provision of the Public Infrastructure and the conduct of other service functions by the District will impair the ability to provide facilities and services necessary to support the Project on a timely basis; and

WHEREAS, Communities is willing to loan funds to the District, from time to time, on the condition that the District agrees to repay such loans, in accordance with the terms set forth in this Agreement; and

WHEREAS, the District is willing to execute one or more reimbursement notes, bonds, or other instruments (“**Reimbursement Obligations**”), in an aggregate principal amount not to exceed the Maximum Loan Amount (as defined below), to be issued to or at the direction of

Communities upon its request, subject to the terms and conditions hereof, to further evidence the District's obligation to repay the funds loaned hereunder; and

WHEREAS, the District anticipates repaying moneys advanced by Communities hereunder, including as evidenced by any requested Reimbursement Obligations, with the proceeds of future bonds, ad valorem taxes, or other legally available revenues of the District determined to be available therefor; and

WHEREAS, the District and Communities desire to enter into this Agreement for the purpose of consolidating all understandings and commitments between them relating to the funding and repayment of the Costs; and

WHEREAS, the Board of Directors of the District (the "**Board**") has determined that the best interests of the District and its property owners will be served by entering into this Agreement for the funding and reimbursement of the Costs; and

WHEREAS, the Board has authorized its officers to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and Communities agree as follows:

COVENANTS AND AGREEMENTS

1. Loan Amount and Term. Communities agrees to loan to the District one or more sums of money up to \$200,000 (as the same may be subsequently increased by agreement of the Parties hereto and execution of a supplement or addendum to this Agreement) (the "**Maximum Loan Amount**"). These funds shall be loaned to the District in one or a series of installments and shall be available to the District through December 31, 2022 (as the same may be amended pursuant to an annual review evidenced by supplement or amendment hereto, the "**Loan Obligation Termination Date**"). Thereafter, Communities may agree to renew its obligations hereunder by providing written notice thereof to the District, in which case the Loan Obligation Termination Date shall be amended to the date provided in such notice, which date shall not be earlier than December 31 of the succeeding year.

2. Prior Costs Incurred. The Parties agree and acknowledge that Communities has incurred Costs on behalf of the District prior to the execution of this Agreement in anticipation that the same would be reimbursed as provided herein (the "**Prior Costs**"). Reimbursement for Prior Costs shall be made in accordance with, and subject to the terms and conditions of this Agreement governing the reimbursement for Costs, except that any Prior Costs reimbursed in accordance with this Agreement shall not be included in the calculation of the Maximum Loan Amount under Section 1 of this Agreement.

3. Use of Funds. The District agrees that it shall apply all funds loaned by Communities under this Agreement solely to Costs of the District as set forth from time to time in the annual adopted budget for the District, and pursuant to any contracts entered into with third parties to perform functions for the District under such adopted budget. It is understood that the

District has budgeted or will budget as revenue from year to year the entire aggregate amount which may be borrowed hereunder to enable the District to appropriate revenues to pay the Costs included within the District's annual budget. Communities shall be entitled to a quarterly accounting of the expenditures made by the District, upon request, and otherwise may request specific information concerning such expenditures at reasonable times and upon reasonable notice to the District.

4. Manner for Requesting Advances.

a. The District shall from time to time determine the amount of revenue required to fund budgeted expenditures by the District, but such determination shall be made not more often than monthly. Each determination shall be made based upon the expenditures contained in the adopted budget for the District and upon the rate of expenditures estimated for the next succeeding month and such other factors as the Board may consider relevant to the projection of future financial needs. Not less than fifteen (15) days before the beginning of each month, the District shall notify Communities of the requested advance for the next month, and Communities shall deposit such advance on or before the beginning of that month. The Parties may vary from this schedule upon mutual agreement.

b. Upon receipt of advances hereunder, the District shall keep a record of such advances made. Failure to record such advances shall not affect inclusion of such amounts as reimbursable amounts hereunder; provided that such advances are substantiated by the District's accountant. Communities may provide any relevant documentation evidencing such unrecorded advance to assist in the District's final determination.

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a. The obligations of Communities created by this Agreement are absolute, irrevocable, unconditional, and are not subject to setoff or counterclaim.

b. Communities shall not take any action which would delay or impair the District's ability to receive the funds contemplated herein with sufficient time to properly pay approved invoices and/or notices of payment due.

6. Interest Prior to Issuance of Reimbursement Obligations. With respect to each loan advance made under this Agreement prior to the issuance of any Reimbursement Obligation reflecting such advance, the interest rate shall be simple interest at the prime rate of interest, plus two points per annum, to the earlier of the date the Reimbursement Obligation is issued to evidence such advance, or the date of repayment of such amount. Upon issuance of any such Reimbursement Obligation, unless otherwise consented to by Communities, any interest then accrued on any previously advanced amount shall be added to the amount of the loan advance and reflected as principal of the Reimbursement Obligation, and shall thereafter accrue interest as provided in such Reimbursement Obligation.

7. Terms of Repayment; Source of Revenues.

a. Any funds advanced hereunder shall be repaid in accordance with the terms of this Agreement. The District intends to repay any advances made under this Agreement from

ad valorem taxes, fees, or other legally available revenues of the District, net of any debt service or current operations and maintenance costs of the District. Any mill levy certified by the District for the purpose of repaying advances made hereunder shall not exceed 50 mills, as may be adjusted for constitutional or legislative changes in assessment ratio, and shall be further subject to any restrictions provided in the District's Service Plan, electoral authorization, or any applicable laws.

b. The provision for repayment of advances made hereunder, as set forth in Section 7(a) hereof, shall be at all times subject to annual appropriation by the District.

c. At such time as the District issues Reimbursement Obligations to evidence an obligation to repay advances made under this Agreement, the repayment terms of such Reimbursement Obligations shall control and supersede any otherwise applicable provision of this Agreement, except for the Maximum Reimbursement Obligation Repayment Term (as defined below).

8. Issuance of Reimbursement Obligations.

a. Subject to the conditions of this Section 8 and Section 9 hereof, upon request of Communities, the District hereby agrees to issue to or at the direction of Communities one or more Reimbursement Obligations to evidence any repayment obligation of the District then existing with respect to advances made under this Agreement. Such Reimbursement Obligations shall be payable solely from the sources identified in the Reimbursement Obligations, including, but not limited to, *ad valorem* property tax revenues of the District, and shall be secured by the District's pledge to apply such revenues as required hereunder, unless otherwise consented to by Communities. Such Reimbursement Obligations shall mature on a date or dates, subject to the limitation set forth in the Maximum Reimbursement Obligation Repayment Term defined herein, and bear interest at a market rate, to be determined at the time of issuance of such Reimbursement Obligations. The District shall be permitted to prepay any Reimbursement Obligation, in whole or in part, at any time without redemption premium or other penalty, but with interest accrued to the date of prepayment on the principal amount prepaid. The District and Communities shall negotiate in good faith the final terms and conditions of the Reimbursement Obligations.

b. The term for repayment of any Reimbursement Obligation issued under this Agreement shall not extend beyond twenty (20) years from the date of this Agreement ("**Maximum Reimbursement Obligation Repayment Term**").

c. The issuance of any Reimbursement Obligation shall be subject to the availability of an exemption from the registration requirements of § 11-59-106, C.R.S., and shall be subject to such prior filings with the Colorado State Securities Commissioner as may be necessary to claim such exemption, in accordance with § 11-59-110, C.R.S., and any regulations promulgated thereunder.

d. In connection with the issuance of any such Reimbursement Obligation, the District shall make such filings as it may deem necessary to comply with the provisions of § 32-1-1604, C.R.S., as amended.

e. The terms of this Agreement may be used to construe the intent of the District and Communities in connection with issuance of any Reimbursement Obligations, and

shall be read as nearly as possible to make the provisions of any Reimbursement Obligations and this Agreement fully effective. Should any irreconcilable conflict arise between the terms of this Agreement and the terms of any Reimbursement Obligation, the terms of such Reimbursement Obligation shall prevail.

f. If, for any reason, any Reimbursement Obligation is determined to be invalid or unenforceable, the District shall issue a new Reimbursement Obligation to Communities that is legally enforceable, subject to the provisions of this Section 8.

g. In the event that it is determined that payments of all or any portion of interest on any Reimbursement Obligation may be excluded from gross income of the holder thereof for federal income tax purposes upon compliance with certain procedural requirements and restrictions that are not inconsistent with the intended uses of funds contemplated herein and are not overly burdensome to the District, the District agrees, upon request of Communities, to take all action reasonably necessary to satisfy the applicable provisions of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder.

9. No Debt. It is hereby agreed and acknowledged that this Agreement evidences the District's intent to repay Communities for advances made hereunder in accordance with the terms hereof. However, this Agreement shall not constitute a debt or indebtedness by the District within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple-fiscal-year financial obligation. Further, the provision for repayment of advances made hereunder, as set forth in Section 7 hereof, and the agreement to issue a Reimbursement Obligation as set forth in Section 8 hereof, shall be at all times subject to annual appropriation by the District, in its absolute discretion. Communities expressly understands and agrees that the District's obligations under this Agreement shall extend only to monies appropriated for the purposes of this Agreement by the District's Board and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. By acceptance of this Agreement, Communities agrees and consents to all of the limitations in respect of the payment of the principal and interest due under this Agreement and in the District's Service Plan

10. Termination.

a. Communities' obligations to advance funds to the District in accordance with this Agreement shall terminate on December 31, 2022, (subject to the extension terms above), except to the extent advance requests have been made to Communities that are pending by this termination date, in which case said pending request(s) will be honored notwithstanding the passage of the termination date.

b. The District's obligations hereunder shall terminate at the earlier of the repayment in full of the Maximum Loan Amount (or such lesser amount advanced hereunder if it is determined by the District that no further advances shall be required hereunder) or twenty (20) years from the execution date hereof. After twenty (20) years from the execution of this Agreement, the Parties hereby agree and acknowledge that any obligation created by this Agreement which remains due and outstanding under this Agreement, including accrued interest, is forgiven in its entirety, generally and unconditionally released, waived, acquitted and forever

discharged, and shall be deemed a contribution to the District by Communities, and there shall be no further obligation of the District to pay or reimburse Communities with respect to such amounts.

c. Notwithstanding any provision in this Agreement to the contrary, the District's obligations to reimburse Communities for any and all funds advanced or otherwise payable to Communities under and pursuant to this Agreement (whether Communities has already advanced or otherwise paid such funds or intends to make such advances or payments in the future) shall terminate automatically and be of no further force or effect upon the occurrence of (a) Communities' voluntary dissolution, liquidation, winding up, or cessation to carry on business activities as a going concern; (b) administrative dissolution (or other legal process not initiated by Communities dissolving Communities as a legal entity) that is not remedied or cured within sixty (60) days of the effective date of such dissolution or other process; or (c) the initiation of bankruptcy, receivership or similar process or actions with regard to Communities (whether voluntary or involuntary). The termination of the District's reimbursement obligations as set forth in this section shall be absolute and binding upon Communities, its successors and assigns. Communities, by its execution of this Agreement, waives and releases any and all claims and rights, whether existing now or in the future, against the District relating to or arising out of the District's reimbursement obligations under this Agreement in the event that any of the occurrences described in this section occur.

11. Time Is of the Essence. Time is of the essence hereof; provided, however, that if the last day permitted or otherwise determined for the performance of any required act under this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

12. Notices and Place for Payments. All notices, demands and communications (collectively, "**Notices**") under this Agreement shall be delivered or sent by: (a) first class, registered or certified mail, postage prepaid, return receipt requested, (b) nationally recognized overnight carrier, addressed to the address of the intended recipient set forth below or such other address as either party may designate by notice pursuant to this Section 12, or (c) sent by confirmed facsimile transmission, PDF or email. Notices shall be deemed given either one business day after delivery to the overnight carrier, three (3) days after being mailed as provided in clause (a) above, or upon confirmed delivery as provided in clause (c) above.

District: Mayberry, Colorado Springs Metropolitan District No. 4
Public Alliance, LLC
355 S Teller Street, Suite 200
Lakewood, CO 80226
Attention: AJ Beckman, District Manager
(303) 877-6284 (phone)
aj@publicalliancellc.com

With copy to: WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122
Attention: Jennifer Gruber Tanaka, Esq.

(303) 858-1800 (phone)
(303) 858-1801 (fax)
jtanaka@wbapc.com

Communities: Mayberry Communities, LLC
1323 Stratford Court
Del Mar, CA 92014
Attention: Kirk Miller, Esq.
(858) 259-5888 (phone)
(858) 259-5155 (fax)
kirk@kirkmillerlaw.net

13. Amendments. This Agreement may only be amended or modified by a writing executed by both the District and Communities.

14. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

15. Applicable Laws. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located.

16. Assignment. This Agreement may not be assigned by the District or Communities and any attempt to assign this Agreement in violation hereof shall be null and void.

17. Authority. By execution hereof, the District and Communities represent and warrant that their respective representatives signing hereunder have full power and authority to execute this Agreement and to bind the respective party to the terms hereof.

18. Entire Agreement. This Agreement constitutes and represents the entire, integrated agreement between the District and Communities with respect to the matters set forth herein and hereby supersedes any and all prior negotiations, representations, agreements or arrangements of any kind with respect to those matters, whether written or oral. This Agreement shall become effective upon the date of full execution hereof.

19. Legal Existence. The District will maintain its legal identity and existence so long as any of the advanced amounts contemplated herein remain outstanding. The foregoing statement shall apply unless, by operation of law, another legal entity succeeds to the liabilities and rights of the District hereunder without materially adversely affecting Communities' privileges and rights under this Agreement.

20. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

21. Negotiated Provisions. This Agreement shall not be construed more strictly against one party than against another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each party has contributed substantially and materially to the preparation of this Agreement.

22. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and Communities any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the District and Communities shall be for the sole and exclusive benefit of the District and Communities.

23. Counterpart Execution. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date and year first above written. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

DISTRICT:

MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 4, a quasi-
municipal corporation and political subdivision of
the State of Colorado

Officer of the District

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

COMMUNITIES:

MAYBERRY COMMUNITIES, LLC, a Colorado
limited liability company

Printed Name: _____

Title: _____

***[Signature page to Funding and Reimbursement Agreement with Mayberry Communities,
LLC]***

**FUNDING AND REIMBURSEMENT AGREEMENT
(Operations and Maintenance)**

This **FUNDING AND REIMBURSEMENT AGREEMENT** (the “**Agreement**”) is made and entered into as of the 8th day of April, 2021, by and between MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 5, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and MAYBERRY COMMUNITIES, LLC a Colorado limited liability company (“**Communities**”). The District and Communities are collectively referred to herein as the “**Parties**”.

RECITALS

WHEREAS, the District has been duly and validly organized as a quasi-municipal corporation and political subdivision of the State of Colorado, in accordance with the provisions of Article 1, Title 32, Colorado Revised Statutes (the “**Special District Act**”), with the power to provide certain public infrastructure, improvements and services, as described in the Special District Act, within and without its boundaries (collectively, the “**Public Infrastructure**”), as authorized and in accordance with the Second Consolidated Amended and Restated Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 1 & 2 and Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 3-8 (the “**Service Plan**”); and

WHEREAS, Communities has directed or intends to direct certain development activities or cause development activities to occur with respect to property included within and without the boundaries of the District (the “**Project**”), which depend upon the timely delivery of the Public Infrastructure; and

WHEREAS, the District has incurred and will incur costs in furtherance of the District’s permitted purposes, including but not limited to: costs in the nature of general operating, administrative and maintenance costs, such as attorney, engineering, architectural, surveying, district management, accounting, auditing, insurance, and other costs necessary to continued good standing under applicable law (the “**Costs**”); and

WHEREAS, the District does not presently have financial resources to provide funding for payment of Costs that are projected to be incurred prior to the anticipated availability of funds; and

WHEREAS, the District has determined that delay in the provision of the Public Infrastructure and the conduct of other service functions by the District will impair the ability to provide facilities and services necessary to support the Project on a timely basis; and

WHEREAS, Communities is willing to loan funds to the District, from time to time, on the condition that the District agrees to repay such loans, in accordance with the terms set forth in this Agreement; and

WHEREAS, the District is willing to execute one or more reimbursement notes, bonds, or other instruments (“**Reimbursement Obligations**”), in an aggregate principal amount not to exceed the Maximum Loan Amount (as defined below), to be issued to or at the direction of

Communities upon its request, subject to the terms and conditions hereof, to further evidence the District's obligation to repay the funds loaned hereunder; and

WHEREAS, the District anticipates repaying moneys advanced by Communities hereunder, including as evidenced by any requested Reimbursement Obligations, with the proceeds of future bonds, ad valorem taxes, or other legally available revenues of the District determined to be available therefor; and

WHEREAS, the District and Communities desire to enter into this Agreement for the purpose of consolidating all understandings and commitments between them relating to the funding and repayment of the Costs; and

WHEREAS, the Board of Directors of the District (the "**Board**") has determined that the best interests of the District and its property owners will be served by entering into this Agreement for the funding and reimbursement of the Costs; and

WHEREAS, the Board has authorized its officers to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and Communities agree as follows:

COVENANTS AND AGREEMENTS

1. Loan Amount and Term. Communities agrees to loan to the District one or more sums of money up to \$200,000 (as the same may be subsequently increased by agreement of the Parties hereto and execution of a supplement or addendum to this Agreement) (the "**Maximum Loan Amount**"). These funds shall be loaned to the District in one or a series of installments and shall be available to the District through December 31, 2022 (as the same may be amended pursuant to an annual review evidenced by supplement or amendment hereto, the "**Loan Obligation Termination Date**"). Thereafter, Communities may agree to renew its obligations hereunder by providing written notice thereof to the District, in which case the Loan Obligation Termination Date shall be amended to the date provided in such notice, which date shall not be earlier than December 31 of the succeeding year.

2. Prior Costs Incurred. The Parties agree and acknowledge that Communities has incurred Costs on behalf of the District prior to the execution of this Agreement in anticipation that the same would be reimbursed as provided herein (the "**Prior Costs**"). Reimbursement for Prior Costs shall be made in accordance with, and subject to the terms and conditions of this Agreement governing the reimbursement for Costs, except that any Prior Costs reimbursed in accordance with this Agreement shall not be included in the calculation of the Maximum Loan Amount under Section 1 of this Agreement.

3. Use of Funds. The District agrees that it shall apply all funds loaned by Communities under this Agreement solely to Costs of the District as set forth from time to time in the annual adopted budget for the District, and pursuant to any contracts entered into with third parties to perform functions for the District under such adopted budget. It is understood that the

District has budgeted or will budget as revenue from year to year the entire aggregate amount which may be borrowed hereunder to enable the District to appropriate revenues to pay the Costs included within the District's annual budget. Communities shall be entitled to a quarterly accounting of the expenditures made by the District, upon request, and otherwise may request specific information concerning such expenditures at reasonable times and upon reasonable notice to the District.

4. Manner for Requesting Advances.

a. The District shall from time to time determine the amount of revenue required to fund budgeted expenditures by the District, but such determination shall be made not more often than monthly. Each determination shall be made based upon the expenditures contained in the adopted budget for the District and upon the rate of expenditures estimated for the next succeeding month and such other factors as the Board may consider relevant to the projection of future financial needs. Not less than fifteen (15) days before the beginning of each month, the District shall notify Communities of the requested advance for the next month, and Communities shall deposit such advance on or before the beginning of that month. The Parties may vary from this schedule upon mutual agreement.

b. Upon receipt of advances hereunder, the District shall keep a record of such advances made. Failure to record such advances shall not affect inclusion of such amounts as reimbursable amounts hereunder; provided that such advances are substantiated by the District's accountant. Communities may provide any relevant documentation evidencing such unrecorded advance to assist in the District's final determination.

5. Obligations Irrevocable.

a. The obligations of Communities created by this Agreement are absolute, irrevocable, unconditional, and are not subject to setoff or counterclaim.

b. Communities shall not take any action which would delay or impair the District's ability to receive the funds contemplated herein with sufficient time to properly pay approved invoices and/or notices of payment due.

6. Interest Prior to Issuance of Reimbursement Obligations. With respect to each loan advance made under this Agreement prior to the issuance of any Reimbursement Obligation reflecting such advance, the interest rate shall be simple interest at the prime rate of interest, plus two points per annum, to the earlier of the date the Reimbursement Obligation is issued to evidence such advance, or the date of repayment of such amount. Upon issuance of any such Reimbursement Obligation, unless otherwise consented to by Communities, any interest then accrued on any previously advanced amount shall be added to the amount of the loan advance and reflected as principal of the Reimbursement Obligation, and shall thereafter accrue interest as provided in such Reimbursement Obligation.

7. Terms of Repayment; Source of Revenues.

a. Any funds advanced hereunder shall be repaid in accordance with the terms of this Agreement. The District intends to repay any advances made under this Agreement from

ad valorem taxes, fees, or other legally available revenues of the District, net of any debt service or current operations and maintenance costs of the District. Any mill levy certified by the District for the purpose of repaying advances made hereunder shall not exceed 50 mills, as may be adjusted for constitutional or legislative changes in assessment ratio, and shall be further subject to any restrictions provided in the District's Service Plan, electoral authorization, or any applicable laws.

b. The provision for repayment of advances made hereunder, as set forth in Section 7(a) hereof, shall be at all times subject to annual appropriation by the District.

c. At such time as the District issues Reimbursement Obligations to evidence an obligation to repay advances made under this Agreement, the repayment terms of such Reimbursement Obligations shall control and supersede any otherwise applicable provision of this Agreement, except for the Maximum Reimbursement Obligation Repayment Term (as defined below).

8. Issuance of Reimbursement Obligations.

a. Subject to the conditions of this Section 8 and Section 9 hereof, upon request of Communities, the District hereby agrees to issue to or at the direction of Communities one or more Reimbursement Obligations to evidence any repayment obligation of the District then existing with respect to advances made under this Agreement. Such Reimbursement Obligations shall be payable solely from the sources identified in the Reimbursement Obligations, including, but not limited to, *ad valorem* property tax revenues of the District, and shall be secured by the District's pledge to apply such revenues as required hereunder, unless otherwise consented to by Communities. Such Reimbursement Obligations shall mature on a date or dates, subject to the limitation set forth in the Maximum Reimbursement Obligation Repayment Term defined herein, and bear interest at a market rate, to be determined at the time of issuance of such Reimbursement Obligations. The District shall be permitted to prepay any Reimbursement Obligation, in whole or in part, at any time without redemption premium or other penalty, but with interest accrued to the date of prepayment on the principal amount prepaid. The District and Communities shall negotiate in good faith the final terms and conditions of the Reimbursement Obligations.

b. The term for repayment of any Reimbursement Obligation issued under this Agreement shall not extend beyond twenty (20) years from the date of this Agreement ("**Maximum Reimbursement Obligation Repayment Term**").

c. The issuance of any Reimbursement Obligation shall be subject to the availability of an exemption from the registration requirements of § 11-59-106, C.R.S., and shall be subject to such prior filings with the Colorado State Securities Commissioner as may be necessary to claim such exemption, in accordance with § 11-59-110, C.R.S., and any regulations promulgated thereunder.

d. In connection with the issuance of any such Reimbursement Obligation, the District shall make such filings as it may deem necessary to comply with the provisions of § 32-1-1604, C.R.S., as amended.

e. The terms of this Agreement may be used to construe the intent of the District and Communities in connection with issuance of any Reimbursement Obligations, and

shall be read as nearly as possible to make the provisions of any Reimbursement Obligations and this Agreement fully effective. Should any irreconcilable conflict arise between the terms of this Agreement and the terms of any Reimbursement Obligation, the terms of such Reimbursement Obligation shall prevail.

f. If, for any reason, any Reimbursement Obligation is determined to be invalid or unenforceable, the District shall issue a new Reimbursement Obligation to Communities that is legally enforceable, subject to the provisions of this Section 8.

g. In the event that it is determined that payments of all or any portion of interest on any Reimbursement Obligation may be excluded from gross income of the holder thereof for federal income tax purposes upon compliance with certain procedural requirements and restrictions that are not inconsistent with the intended uses of funds contemplated herein and are not overly burdensome to the District, the District agrees, upon request of Communities, to take all action reasonably necessary to satisfy the applicable provisions of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder.

9. No Debt. It is hereby agreed and acknowledged that this Agreement evidences the District's intent to repay Communities for advances made hereunder in accordance with the terms hereof. However, this Agreement shall not constitute a debt or indebtedness by the District within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple-fiscal-year financial obligation. Further, the provision for repayment of advances made hereunder, as set forth in Section 7 hereof, and the agreement to issue a Reimbursement Obligation as set forth in Section 8 hereof, shall be at all times subject to annual appropriation by the District, in its absolute discretion. Communities expressly understands and agrees that the District's obligations under this Agreement shall extend only to monies appropriated for the purposes of this Agreement by the District's Board and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. By acceptance of this Agreement, Communities agrees and consents to all of the limitations in respect of the payment of the principal and interest due under this Agreement and in the District's Service Plan

10. Termination.

a. Communities' obligations to advance funds to the District in accordance with this Agreement shall terminate on December 31, 2022, (subject to the extension terms above), except to the extent advance requests have been made to Communities that are pending by this termination date, in which case said pending request(s) will be honored notwithstanding the passage of the termination date.

b. The District's obligations hereunder shall terminate at the earlier of the repayment in full of the Maximum Loan Amount (or such lesser amount advanced hereunder if it is determined by the District that no further advances shall be required hereunder) or twenty (20) years from the execution date hereof. After twenty (20) years from the execution of this Agreement, the Parties hereby agree and acknowledge that any obligation created by this Agreement which remains due and outstanding under this Agreement, including accrued interest, is forgiven in its entirety, generally and unconditionally released, waived, acquitted and forever

discharged, and shall be deemed a contribution to the District by Communities, and there shall be no further obligation of the District to pay or reimburse Communities with respect to such amounts.

c. Notwithstanding any provision in this Agreement to the contrary, the District's obligations to reimburse Communities for any and all funds advanced or otherwise payable to Communities under and pursuant to this Agreement (whether Communities has already advanced or otherwise paid such funds or intends to make such advances or payments in the future) shall terminate automatically and be of no further force or effect upon the occurrence of (a) Communities' voluntary dissolution, liquidation, winding up, or cessation to carry on business activities as a going concern; (b) administrative dissolution (or other legal process not initiated by Communities dissolving Communities as a legal entity) that is not remedied or cured within sixty (60) days of the effective date of such dissolution or other process; or (c) the initiation of bankruptcy, receivership or similar process or actions with regard to Communities (whether voluntary or involuntary). The termination of the District's reimbursement obligations as set forth in this section shall be absolute and binding upon Communities, its successors and assigns. Communities, by its execution of this Agreement, waives and releases any and all claims and rights, whether existing now or in the future, against the District relating to or arising out of the District's reimbursement obligations under this Agreement in the event that any of the occurrences described in this section occur.

11. Time Is of the Essence. Time is of the essence hereof; provided, however, that if the last day permitted or otherwise determined for the performance of any required act under this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

12. Notices and Place for Payments. All notices, demands and communications (collectively, "**Notices**") under this Agreement shall be delivered or sent by: (a) first class, registered or certified mail, postage prepaid, return receipt requested, (b) nationally recognized overnight carrier, addressed to the address of the intended recipient set forth below or such other address as either party may designate by notice pursuant to this Section 12, or (c) sent by confirmed facsimile transmission, PDF or email. Notices shall be deemed given either one business day after delivery to the overnight carrier, three (3) days after being mailed as provided in clause (a) above, or upon confirmed delivery as provided in clause (c) above.

District: Mayberry, Colorado Springs Metropolitan District No. 5
Public Alliance, LLC
355 S Teller Street, Suite 200
Lakewood, CO 80226
Attention: AJ Beckman, District Manager
(303) 877-6284 (phone)
aj@publicalliancellc.com

With copy to: WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122
Attention: Jennifer Gruber Tanaka, Esq.

(303) 858-1800 (phone)
(303) 858-1801 (fax)
jtanaka@wbapc.com

Communities: Mayberry Communities, LLC
1323 Stratford Court
Del Mar, CA 92014
Attention: Kirk Miller, Esq.
(858) 259-5888 (phone)
(858) 259-5155 (fax)
kirk@kirkmillerlaw.net

13. Amendments. This Agreement may only be amended or modified by a writing executed by both the District and Communities.

14. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

15. Applicable Laws. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located.

16. Assignment. This Agreement may not be assigned by the District or Communities and any attempt to assign this Agreement in violation hereof shall be null and void.

17. Authority. By execution hereof, the District and Communities represent and warrant that their respective representatives signing hereunder have full power and authority to execute this Agreement and to bind the respective party to the terms hereof.

18. Entire Agreement. This Agreement constitutes and represents the entire, integrated agreement between the District and Communities with respect to the matters set forth herein and hereby supersedes any and all prior negotiations, representations, agreements or arrangements of any kind with respect to those matters, whether written or oral. This Agreement shall become effective upon the date of full execution hereof.

19. Legal Existence. The District will maintain its legal identity and existence so long as any of the advanced amounts contemplated herein remain outstanding. The foregoing statement shall apply unless, by operation of law, another legal entity succeeds to the liabilities and rights of the District hereunder without materially adversely affecting Communities' privileges and rights under this Agreement.

20. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

21. Negotiated Provisions. This Agreement shall not be construed more strictly against one party than against another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each party has contributed substantially and materially to the preparation of this Agreement.

22. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and Communities any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the District and Communities shall be for the sole and exclusive benefit of the District and Communities.

23. Counterpart Execution. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date and year first above written. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

DISTRICT:

MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 5, a quasi-
municipal corporation and political subdivision of
the State of Colorado

Officer of the District

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

COMMUNITIES:

MAYBERRY COMMUNITIES, LLC, a Colorado
limited liability company

Printed Name: _____

Title: _____

***[Signature page to Funding and Reimbursement Agreement with Mayberry Communities,
LLC]***

FUNDING AND REIMBURSEMENT AGREEMENT (Operations and Maintenance)

This **FUNDING AND REIMBURSEMENT AGREEMENT** (the “**Agreement**”) is made and entered into as of the 8th day of April, 2021, by and between MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 6, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and MAYBERRY COMMUNITIES, LLC a Colorado limited liability company (“**Communities**”). The District and Communities are collectively referred to herein as the “**Parties**”.

RECITALS

WHEREAS, the District has been duly and validly organized as a quasi-municipal corporation and political subdivision of the State of Colorado, in accordance with the provisions of Article 1, Title 32, Colorado Revised Statutes (the “**Special District Act**”), with the power to provide certain public infrastructure, improvements and services, as described in the Special District Act, within and without its boundaries (collectively, the “**Public Infrastructure**”), as authorized and in accordance with the Second Consolidated Amended and Restated Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 1 & 2 and Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 3-8 (the “**Service Plan**”); and

WHEREAS, Communities has directed or intends to direct certain development activities or cause development activities to occur with respect to property included within and without the boundaries of the District (the “**Project**”), which depend upon the timely delivery of the Public Infrastructure; and

WHEREAS, the District has incurred and will incur costs in furtherance of the District’s permitted purposes, including but not limited to: costs in the nature of general operating, administrative and maintenance costs, such as attorney, engineering, architectural, surveying, district management, accounting, auditing, insurance, and other costs necessary to continued good standing under applicable law (the “**Costs**”); and

WHEREAS, the District does not presently have financial resources to provide funding for payment of Costs that are projected to be incurred prior to the anticipated availability of funds; and

WHEREAS, the District has determined that delay in the provision of the Public Infrastructure and the conduct of other service functions by the District will impair the ability to provide facilities and services necessary to support the Project on a timely basis; and

WHEREAS, Communities is willing to loan funds to the District, from time to time, on the condition that the District agrees to repay such loans, in accordance with the terms set forth in this Agreement; and

WHEREAS, the District is willing to execute one or more reimbursement notes, bonds, or other instruments (“**Reimbursement Obligations**”), in an aggregate principal amount not to exceed the Maximum Loan Amount (as defined below), to be issued to or at the direction of

Communities upon its request, subject to the terms and conditions hereof, to further evidence the District's obligation to repay the funds loaned hereunder; and

WHEREAS, the District anticipates repaying moneys advanced by Communities hereunder, including as evidenced by any requested Reimbursement Obligations, with the proceeds of future bonds, ad valorem taxes, or other legally available revenues of the District determined to be available therefor; and

WHEREAS, the District and Communities desire to enter into this Agreement for the purpose of consolidating all understandings and commitments between them relating to the funding and repayment of the Costs; and

WHEREAS, the Board of Directors of the District (the "**Board**") has determined that the best interests of the District and its property owners will be served by entering into this Agreement for the funding and reimbursement of the Costs; and

WHEREAS, the Board has authorized its officers to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and Communities agree as follows:

COVENANTS AND AGREEMENTS

1. Loan Amount and Term. Communities agrees to loan to the District one or more sums of money up to \$200,000 (as the same may be subsequently increased by agreement of the Parties hereto and execution of a supplement or addendum to this Agreement) (the "**Maximum Loan Amount**"). These funds shall be loaned to the District in one or a series of installments and shall be available to the District through December 31, 2022 (as the same may be amended pursuant to an annual review evidenced by supplement or amendment hereto, the "**Loan Obligation Termination Date**"). Thereafter, Communities may agree to renew its obligations hereunder by providing written notice thereof to the District, in which case the Loan Obligation Termination Date shall be amended to the date provided in such notice, which date shall not be earlier than December 31 of the succeeding year.

2. Prior Costs Incurred. The Parties agree and acknowledge that Communities has incurred Costs on behalf of the District prior to the execution of this Agreement in anticipation that the same would be reimbursed as provided herein (the "**Prior Costs**"). Reimbursement for Prior Costs shall be made in accordance with, and subject to the terms and conditions of this Agreement governing the reimbursement for Costs, except that any Prior Costs reimbursed in accordance with this Agreement shall not be included in the calculation of the Maximum Loan Amount under Section 1 of this Agreement.

3. Use of Funds. The District agrees that it shall apply all funds loaned by Communities under this Agreement solely to Costs of the District as set forth from time to time in the annual adopted budget for the District, and pursuant to any contracts entered into with third parties to perform functions for the District under such adopted budget. It is understood that the

District has budgeted or will budget as revenue from year to year the entire aggregate amount which may be borrowed hereunder to enable the District to appropriate revenues to pay the Costs included within the District's annual budget. Communities shall be entitled to a quarterly accounting of the expenditures made by the District, upon request, and otherwise may request specific information concerning such expenditures at reasonable times and upon reasonable notice to the District.

4. Manner for Requesting Advances.

a. The District shall from time to time determine the amount of revenue required to fund budgeted expenditures by the District, but such determination shall be made not more often than monthly. Each determination shall be made based upon the expenditures contained in the adopted budget for the District and upon the rate of expenditures estimated for the next succeeding month and such other factors as the Board may consider relevant to the projection of future financial needs. Not less than fifteen (15) days before the beginning of each month, the District shall notify Communities of the requested advance for the next month, and Communities shall deposit such advance on or before the beginning of that month. The Parties may vary from this schedule upon mutual agreement.

b. Upon receipt of advances hereunder, the District shall keep a record of such advances made. Failure to record such advances shall not affect inclusion of such amounts as reimbursable amounts hereunder; provided that such advances are substantiated by the District's accountant. Communities may provide any relevant documentation evidencing such unrecorded advance to assist in the District's final determination.

5. Obligations Irrevocable.

a. The obligations of Communities created by this Agreement are absolute, irrevocable, unconditional, and are not subject to setoff or counterclaim.

b. Communities shall not take any action which would delay or impair the District's ability to receive the funds contemplated herein with sufficient time to properly pay approved invoices and/or notices of payment due.

6. Interest Prior to Issuance of Reimbursement Obligations. With respect to each loan advance made under this Agreement prior to the issuance of any Reimbursement Obligation reflecting such advance, the interest rate shall be simple interest at the prime rate of interest, plus two points per annum, to the earlier of the date the Reimbursement Obligation is issued to evidence such advance, or the date of repayment of such amount. Upon issuance of any such Reimbursement Obligation, unless otherwise consented to by Communities, any interest then accrued on any previously advanced amount shall be added to the amount of the loan advance and reflected as principal of the Reimbursement Obligation, and shall thereafter accrue interest as provided in such Reimbursement Obligation.

7. Terms of Repayment; Source of Revenues.

a. Any funds advanced hereunder shall be repaid in accordance with the terms of this Agreement. The District intends to repay any advances made under this Agreement from

ad valorem taxes, fees, or other legally available revenues of the District, net of any debt service or current operations and maintenance costs of the District. Any mill levy certified by the District for the purpose of repaying advances made hereunder shall not exceed 50 mills, as may be adjusted for constitutional or legislative changes in assessment ratio, and shall be further subject to any restrictions provided in the District's Service Plan, electoral authorization, or any applicable laws.

b. The provision for repayment of advances made hereunder, as set forth in Section 7(a) hereof, shall be at all times subject to annual appropriation by the District.

c. At such time as the District issues Reimbursement Obligations to evidence an obligation to repay advances made under this Agreement, the repayment terms of such Reimbursement Obligations shall control and supersede any otherwise applicable provision of this Agreement, except for the Maximum Reimbursement Obligation Repayment Term (as defined below).

8. Issuance of Reimbursement Obligations.

a. Subject to the conditions of this Section 8 and Section 9 hereof, upon request of Communities, the District hereby agrees to issue to or at the direction of Communities one or more Reimbursement Obligations to evidence any repayment obligation of the District then existing with respect to advances made under this Agreement. Such Reimbursement Obligations shall be payable solely from the sources identified in the Reimbursement Obligations, including, but not limited to, *ad valorem* property tax revenues of the District, and shall be secured by the District's pledge to apply such revenues as required hereunder, unless otherwise consented to by Communities. Such Reimbursement Obligations shall mature on a date or dates, subject to the limitation set forth in the Maximum Reimbursement Obligation Repayment Term defined herein, and bear interest at a market rate, to be determined at the time of issuance of such Reimbursement Obligations. The District shall be permitted to prepay any Reimbursement Obligation, in whole or in part, at any time without redemption premium or other penalty, but with interest accrued to the date of prepayment on the principal amount prepaid. The District and Communities shall negotiate in good faith the final terms and conditions of the Reimbursement Obligations.

b. The term for repayment of any Reimbursement Obligation issued under this Agreement shall not extend beyond twenty (20) years from the date of this Agreement ("**Maximum Reimbursement Obligation Repayment Term**").

c. The issuance of any Reimbursement Obligation shall be subject to the availability of an exemption from the registration requirements of § 11-59-106, C.R.S., and shall be subject to such prior filings with the Colorado State Securities Commissioner as may be necessary to claim such exemption, in accordance with § 11-59-110, C.R.S., and any regulations promulgated thereunder.

d. In connection with the issuance of any such Reimbursement Obligation, the District shall make such filings as it may deem necessary to comply with the provisions of § 32-1-1604, C.R.S., as amended.

e. The terms of this Agreement may be used to construe the intent of the District and Communities in connection with issuance of any Reimbursement Obligations, and

shall be read as nearly as possible to make the provisions of any Reimbursement Obligations and this Agreement fully effective. Should any irreconcilable conflict arise between the terms of this Agreement and the terms of any Reimbursement Obligation, the terms of such Reimbursement Obligation shall prevail.

f. If, for any reason, any Reimbursement Obligation is determined to be invalid or unenforceable, the District shall issue a new Reimbursement Obligation to Communities that is legally enforceable, subject to the provisions of this Section 8.

g. In the event that it is determined that payments of all or any portion of interest on any Reimbursement Obligation may be excluded from gross income of the holder thereof for federal income tax purposes upon compliance with certain procedural requirements and restrictions that are not inconsistent with the intended uses of funds contemplated herein and are not overly burdensome to the District, the District agrees, upon request of Communities, to take all action reasonably necessary to satisfy the applicable provisions of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder.

9. No Debt. It is hereby agreed and acknowledged that this Agreement evidences the District's intent to repay Communities for advances made hereunder in accordance with the terms hereof. However, this Agreement shall not constitute a debt or indebtedness by the District within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple-fiscal-year financial obligation. Further, the provision for repayment of advances made hereunder, as set forth in Section 7 hereof, and the agreement to issue a Reimbursement Obligation as set forth in Section 8 hereof, shall be at all times subject to annual appropriation by the District, in its absolute discretion. Communities expressly understands and agrees that the District's obligations under this Agreement shall extend only to monies appropriated for the purposes of this Agreement by the District's Board and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. By acceptance of this Agreement, Communities agrees and consents to all of the limitations in respect of the payment of the principal and interest due under this Agreement and in the District's Service Plan

10. Termination.

a. Communities' obligations to advance funds to the District in accordance with this Agreement shall terminate on December 31, 2022, (subject to the extension terms above), except to the extent advance requests have been made to Communities that are pending by this termination date, in which case said pending request(s) will be honored notwithstanding the passage of the termination date.

b. The District's obligations hereunder shall terminate at the earlier of the repayment in full of the Maximum Loan Amount (or such lesser amount advanced hereunder if it is determined by the District that no further advances shall be required hereunder) or twenty (20) years from the execution date hereof. After twenty (20) years from the execution of this Agreement, the Parties hereby agree and acknowledge that any obligation created by this Agreement which remains due and outstanding under this Agreement, including accrued interest, is forgiven in its entirety, generally and unconditionally released, waived, acquitted and forever

discharged, and shall be deemed a contribution to the District by Communities, and there shall be no further obligation of the District to pay or reimburse Communities with respect to such amounts.

c. Notwithstanding any provision in this Agreement to the contrary, the District's obligations to reimburse Communities for any and all funds advanced or otherwise payable to Communities under and pursuant to this Agreement (whether Communities has already advanced or otherwise paid such funds or intends to make such advances or payments in the future) shall terminate automatically and be of no further force or effect upon the occurrence of (a) Communities' voluntary dissolution, liquidation, winding up, or cessation to carry on business activities as a going concern; (b) administrative dissolution (or other legal process not initiated by Communities dissolving Communities as a legal entity) that is not remedied or cured within sixty (60) days of the effective date of such dissolution or other process; or (c) the initiation of bankruptcy, receivership or similar process or actions with regard to Communities (whether voluntary or involuntary). The termination of the District's reimbursement obligations as set forth in this section shall be absolute and binding upon Communities, its successors and assigns. Communities, by its execution of this Agreement, waives and releases any and all claims and rights, whether existing now or in the future, against the District relating to or arising out of the District's reimbursement obligations under this Agreement in the event that any of the occurrences described in this section occur.

11. Time Is of the Essence. Time is of the essence hereof; provided, however, that if the last day permitted or otherwise determined for the performance of any required act under this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

12. Notices and Place for Payments. All notices, demands and communications (collectively, "**Notices**") under this Agreement shall be delivered or sent by: (a) first class, registered or certified mail, postage prepaid, return receipt requested, (b) nationally recognized overnight carrier, addressed to the address of the intended recipient set forth below or such other address as either party may designate by notice pursuant to this Section 12, or (c) sent by confirmed facsimile transmission, PDF or email. Notices shall be deemed given either one business day after delivery to the overnight carrier, three (3) days after being mailed as provided in clause (a) above, or upon confirmed delivery as provided in clause (c) above.

District: Mayberry, Colorado Springs Metropolitan District No. 6
Public Alliance, LLC
355 S Teller Street, Suite 200
Lakewood, CO 80226
Attention: AJ Beckman, District Manager
(303) 877-6284 (phone)
aj@publicalliancellc.com

With copy to: WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122
Attention: Jennifer Gruber Tanaka, Esq.

(303) 858-1800 (phone)
(303) 858-1801 (fax)
jtanaka@wbapc.com

Communities: Mayberry Communities, LLC
1323 Stratford Court
Del Mar, CA 92014
Attention: Kirk Miller, Esq.
(858) 259-5888 (phone)
(858) 259-5155 (fax)
kirk@kirkmillerlaw.net

13. Amendments. This Agreement may only be amended or modified by a writing executed by both the District and Communities.

14. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

15. Applicable Laws. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located.

16. Assignment. This Agreement may not be assigned by the District or Communities and any attempt to assign this Agreement in violation hereof shall be null and void.

17. Authority. By execution hereof, the District and Communities represent and warrant that their respective representatives signing hereunder have full power and authority to execute this Agreement and to bind the respective party to the terms hereof.

18. Entire Agreement. This Agreement constitutes and represents the entire, integrated agreement between the District and Communities with respect to the matters set forth herein and hereby supersedes any and all prior negotiations, representations, agreements or arrangements of any kind with respect to those matters, whether written or oral. This Agreement shall become effective upon the date of full execution hereof.

19. Legal Existence. The District will maintain its legal identity and existence so long as any of the advanced amounts contemplated herein remain outstanding. The foregoing statement shall apply unless, by operation of law, another legal entity succeeds to the liabilities and rights of the District hereunder without materially adversely affecting Communities' privileges and rights under this Agreement.

20. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

21. Negotiated Provisions. This Agreement shall not be construed more strictly against one party than against another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each party has contributed substantially and materially to the preparation of this Agreement.

22. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and Communities any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the District and Communities shall be for the sole and exclusive benefit of the District and Communities.

23. Counterpart Execution. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date and year first above written. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

DISTRICT:

MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 6, a quasi-
municipal corporation and political subdivision of
the State of Colorado

Officer of the District

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

COMMUNITIES:

MAYBERRY COMMUNITIES, LLC, a Colorado
limited liability company

Printed Name: _____

Title: _____

***[Signature page to Funding and Reimbursement Agreement with Mayberry Communities,
LLC]***

FUNDING AND REIMBURSEMENT AGREEMENT (Operations and Maintenance)

This **FUNDING AND REIMBURSEMENT AGREEMENT** (the “**Agreement**”) is made and entered into as of the 8th day of April, 2021, by and between MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 7, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and MAYBERRY COMMUNITIES, LLC a Colorado limited liability company (“**Communities**”). The District and Communities are collectively referred to herein as the “**Parties**”.

RECITALS

WHEREAS, the District has been duly and validly organized as a quasi-municipal corporation and political subdivision of the State of Colorado, in accordance with the provisions of Article 1, Title 32, Colorado Revised Statutes (the “**Special District Act**”), with the power to provide certain public infrastructure, improvements and services, as described in the Special District Act, within and without its boundaries (collectively, the “**Public Infrastructure**”), as authorized and in accordance with the Second Consolidated Amended and Restated Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 1 & 2 and Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 3-8 (the “**Service Plan**”); and

WHEREAS, Communities has directed or intends to direct certain development activities or cause development activities to occur with respect to property included within and without the boundaries of the District (the “**Project**”), which depend upon the timely delivery of the Public Infrastructure; and

WHEREAS, the District has incurred and will incur costs in furtherance of the District’s permitted purposes, including but not limited to: costs in the nature of general operating, administrative and maintenance costs, such as attorney, engineering, architectural, surveying, district management, accounting, auditing, insurance, and other costs necessary to continued good standing under applicable law (the “**Costs**”); and

WHEREAS, the District does not presently have financial resources to provide funding for payment of Costs that are projected to be incurred prior to the anticipated availability of funds; and

WHEREAS, the District has determined that delay in the provision of the Public Infrastructure and the conduct of other service functions by the District will impair the ability to provide facilities and services necessary to support the Project on a timely basis; and

WHEREAS, Communities is willing to loan funds to the District, from time to time, on the condition that the District agrees to repay such loans, in accordance with the terms set forth in this Agreement; and

WHEREAS, the District is willing to execute one or more reimbursement notes, bonds, or other instruments (“**Reimbursement Obligations**”), in an aggregate principal amount not to exceed the Maximum Loan Amount (as defined below), to be issued to or at the direction of

Communities upon its request, subject to the terms and conditions hereof, to further evidence the District's obligation to repay the funds loaned hereunder; and

WHEREAS, the District anticipates repaying moneys advanced by Communities hereunder, including as evidenced by any requested Reimbursement Obligations, with the proceeds of future bonds, ad valorem taxes, or other legally available revenues of the District determined to be available therefor; and

WHEREAS, the District and Communities desire to enter into this Agreement for the purpose of consolidating all understandings and commitments between them relating to the funding and repayment of the Costs; and

WHEREAS, the Board of Directors of the District (the "**Board**") has determined that the best interests of the District and its property owners will be served by entering into this Agreement for the funding and reimbursement of the Costs; and

WHEREAS, the Board has authorized its officers to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and Communities agree as follows:

COVENANTS AND AGREEMENTS

1. Loan Amount and Term. Communities agrees to loan to the District one or more sums of money up to \$200,000 (as the same may be subsequently increased by agreement of the Parties hereto and execution of a supplement or addendum to this Agreement) (the "**Maximum Loan Amount**"). These funds shall be loaned to the District in one or a series of installments and shall be available to the District through December 31, 2022 (as the same may be amended pursuant to an annual review evidenced by supplement or amendment hereto, the "**Loan Obligation Termination Date**"). Thereafter, Communities may agree to renew its obligations hereunder by providing written notice thereof to the District, in which case the Loan Obligation Termination Date shall be amended to the date provided in such notice, which date shall not be earlier than December 31 of the succeeding year.

2. Prior Costs Incurred. The Parties agree and acknowledge that Communities has incurred Costs on behalf of the District prior to the execution of this Agreement in anticipation that the same would be reimbursed as provided herein (the "**Prior Costs**"). Reimbursement for Prior Costs shall be made in accordance with, and subject to the terms and conditions of this Agreement governing the reimbursement for Costs, except that any Prior Costs reimbursed in accordance with this Agreement shall not be included in the calculation of the Maximum Loan Amount under Section 1 of this Agreement.

3. Use of Funds. The District agrees that it shall apply all funds loaned by Communities under this Agreement solely to Costs of the District as set forth from time to time in the annual adopted budget for the District, and pursuant to any contracts entered into with third parties to perform functions for the District under such adopted budget. It is understood that the

District has budgeted or will budget as revenue from year to year the entire aggregate amount which may be borrowed hereunder to enable the District to appropriate revenues to pay the Costs included within the District's annual budget. Communities shall be entitled to a quarterly accounting of the expenditures made by the District, upon request, and otherwise may request specific information concerning such expenditures at reasonable times and upon reasonable notice to the District.

4. Manner for Requesting Advances.

a. The District shall from time to time determine the amount of revenue required to fund budgeted expenditures by the District, but such determination shall be made not more often than monthly. Each determination shall be made based upon the expenditures contained in the adopted budget for the District and upon the rate of expenditures estimated for the next succeeding month and such other factors as the Board may consider relevant to the projection of future financial needs. Not less than fifteen (15) days before the beginning of each month, the District shall notify Communities of the requested advance for the next month, and Communities shall deposit such advance on or before the beginning of that month. The Parties may vary from this schedule upon mutual agreement.

b. Upon receipt of advances hereunder, the District shall keep a record of such advances made. Failure to record such advances shall not affect inclusion of such amounts as reimbursable amounts hereunder; provided that such advances are substantiated by the District's accountant. Communities may provide any relevant documentation evidencing such unrecorded advance to assist in the District's final determination.

5. Obligations Irrevocable.

a. The obligations of Communities created by this Agreement are absolute, irrevocable, unconditional, and are not subject to setoff or counterclaim.

b. Communities shall not take any action which would delay or impair the District's ability to receive the funds contemplated herein with sufficient time to properly pay approved invoices and/or notices of payment due.

6. Interest Prior to Issuance of Reimbursement Obligations. With respect to each loan advance made under this Agreement prior to the issuance of any Reimbursement Obligation reflecting such advance, the interest rate shall be simple interest at the prime rate of interest, plus two points per annum, to the earlier of the date the Reimbursement Obligation is issued to evidence such advance, or the date of repayment of such amount. Upon issuance of any such Reimbursement Obligation, unless otherwise consented to by Communities, any interest then accrued on any previously advanced amount shall be added to the amount of the loan advance and reflected as principal of the Reimbursement Obligation, and shall thereafter accrue interest as provided in such Reimbursement Obligation.

7. Terms of Repayment; Source of Revenues.

a. Any funds advanced hereunder shall be repaid in accordance with the terms of this Agreement. The District intends to repay any advances made under this Agreement from

ad valorem taxes, fees, or other legally available revenues of the District, net of any debt service or current operations and maintenance costs of the District. Any mill levy certified by the District for the purpose of repaying advances made hereunder shall not exceed 50 mills, as may be adjusted for constitutional or legislative changes in assessment ratio, and shall be further subject to any restrictions provided in the District's Service Plan, electoral authorization, or any applicable laws.

b. The provision for repayment of advances made hereunder, as set forth in Section 7(a) hereof, shall be at all times subject to annual appropriation by the District.

c. At such time as the District issues Reimbursement Obligations to evidence an obligation to repay advances made under this Agreement, the repayment terms of such Reimbursement Obligations shall control and supersede any otherwise applicable provision of this Agreement, except for the Maximum Reimbursement Obligation Repayment Term (as defined below).

8. Issuance of Reimbursement Obligations.

a. Subject to the conditions of this Section 8 and Section 9 hereof, upon request of Communities, the District hereby agrees to issue to or at the direction of Communities one or more Reimbursement Obligations to evidence any repayment obligation of the District then existing with respect to advances made under this Agreement. Such Reimbursement Obligations shall be payable solely from the sources identified in the Reimbursement Obligations, including, but not limited to, *ad valorem* property tax revenues of the District, and shall be secured by the District's pledge to apply such revenues as required hereunder, unless otherwise consented to by Communities. Such Reimbursement Obligations shall mature on a date or dates, subject to the limitation set forth in the Maximum Reimbursement Obligation Repayment Term defined herein, and bear interest at a market rate, to be determined at the time of issuance of such Reimbursement Obligations. The District shall be permitted to prepay any Reimbursement Obligation, in whole or in part, at any time without redemption premium or other penalty, but with interest accrued to the date of prepayment on the principal amount prepaid. The District and Communities shall negotiate in good faith the final terms and conditions of the Reimbursement Obligations.

b. The term for repayment of any Reimbursement Obligation issued under this Agreement shall not extend beyond twenty (20) years from the date of this Agreement ("**Maximum Reimbursement Obligation Repayment Term**").

c. The issuance of any Reimbursement Obligation shall be subject to the availability of an exemption from the registration requirements of § 11-59-106, C.R.S., and shall be subject to such prior filings with the Colorado State Securities Commissioner as may be necessary to claim such exemption, in accordance with § 11-59-110, C.R.S., and any regulations promulgated thereunder.

d. In connection with the issuance of any such Reimbursement Obligation, the District shall make such filings as it may deem necessary to comply with the provisions of § 32-1-1604, C.R.S., as amended.

e. The terms of this Agreement may be used to construe the intent of the District and Communities in connection with issuance of any Reimbursement Obligations, and

shall be read as nearly as possible to make the provisions of any Reimbursement Obligations and this Agreement fully effective. Should any irreconcilable conflict arise between the terms of this Agreement and the terms of any Reimbursement Obligation, the terms of such Reimbursement Obligation shall prevail.

f. If, for any reason, any Reimbursement Obligation is determined to be invalid or unenforceable, the District shall issue a new Reimbursement Obligation to Communities that is legally enforceable, subject to the provisions of this Section 8.

g. In the event that it is determined that payments of all or any portion of interest on any Reimbursement Obligation may be excluded from gross income of the holder thereof for federal income tax purposes upon compliance with certain procedural requirements and restrictions that are not inconsistent with the intended uses of funds contemplated herein and are not overly burdensome to the District, the District agrees, upon request of Communities, to take all action reasonably necessary to satisfy the applicable provisions of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder.

9. No Debt. It is hereby agreed and acknowledged that this Agreement evidences the District's intent to repay Communities for advances made hereunder in accordance with the terms hereof. However, this Agreement shall not constitute a debt or indebtedness by the District within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple-fiscal-year financial obligation. Further, the provision for repayment of advances made hereunder, as set forth in Section 7 hereof, and the agreement to issue a Reimbursement Obligation as set forth in Section 8 hereof, shall be at all times subject to annual appropriation by the District, in its absolute discretion. Communities expressly understands and agrees that the District's obligations under this Agreement shall extend only to monies appropriated for the purposes of this Agreement by the District's Board and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. By acceptance of this Agreement, Communities agrees and consents to all of the limitations in respect of the payment of the principal and interest due under this Agreement and in the District's Service Plan

10. Termination.

a. Communities' obligations to advance funds to the District in accordance with this Agreement shall terminate on December 31, 2022, (subject to the extension terms above), except to the extent advance requests have been made to Communities that are pending by this termination date, in which case said pending request(s) will be honored notwithstanding the passage of the termination date.

b. The District's obligations hereunder shall terminate at the earlier of the repayment in full of the Maximum Loan Amount (or such lesser amount advanced hereunder if it is determined by the District that no further advances shall be required hereunder) or twenty (20) years from the execution date hereof. After twenty (20) years from the execution of this Agreement, the Parties hereby agree and acknowledge that any obligation created by this Agreement which remains due and outstanding under this Agreement, including accrued interest, is forgiven in its entirety, generally and unconditionally released, waived, acquitted and forever

discharged, and shall be deemed a contribution to the District by Communities, and there shall be no further obligation of the District to pay or reimburse Communities with respect to such amounts.

c. Notwithstanding any provision in this Agreement to the contrary, the District's obligations to reimburse Communities for any and all funds advanced or otherwise payable to Communities under and pursuant to this Agreement (whether Communities has already advanced or otherwise paid such funds or intends to make such advances or payments in the future) shall terminate automatically and be of no further force or effect upon the occurrence of (a) Communities' voluntary dissolution, liquidation, winding up, or cessation to carry on business activities as a going concern; (b) administrative dissolution (or other legal process not initiated by Communities dissolving Communities as a legal entity) that is not remedied or cured within sixty (60) days of the effective date of such dissolution or other process; or (c) the initiation of bankruptcy, receivership or similar process or actions with regard to Communities (whether voluntary or involuntary). The termination of the District's reimbursement obligations as set forth in this section shall be absolute and binding upon Communities, its successors and assigns. Communities, by its execution of this Agreement, waives and releases any and all claims and rights, whether existing now or in the future, against the District relating to or arising out of the District's reimbursement obligations under this Agreement in the event that any of the occurrences described in this section occur.

11. Time Is of the Essence. Time is of the essence hereof; provided, however, that if the last day permitted or otherwise determined for the performance of any required act under this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

12. Notices and Place for Payments. All notices, demands and communications (collectively, "**Notices**") under this Agreement shall be delivered or sent by: (a) first class, registered or certified mail, postage prepaid, return receipt requested, (b) nationally recognized overnight carrier, addressed to the address of the intended recipient set forth below or such other address as either party may designate by notice pursuant to this Section 12, or (c) sent by confirmed facsimile transmission, PDF or email. Notices shall be deemed given either one business day after delivery to the overnight carrier, three (3) days after being mailed as provided in clause (a) above, or upon confirmed delivery as provided in clause (c) above.

District: Mayberry, Colorado Springs Metropolitan District No. 7
Public Alliance, LLC
355 S Teller Street, Suite 200
Lakewood, CO 80226
Attention: AJ Beckman, District Manager
(303) 877-6284 (phone)
aj@publicalliancellc.com

With copy to: WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122
Attention: Jennifer Gruber Tanaka, Esq.

(303) 858-1800 (phone)
(303) 858-1801 (fax)
jtanaka@wbapc.com

Communities: Mayberry Communities, LLC
1323 Stratford Court
Del Mar, CA 92014
Attention: Kirk Miller, Esq.
(858) 259-5888 (phone)
(858) 259-5155 (fax)
kirk@kirkmillerlaw.net

13. Amendments. This Agreement may only be amended or modified by a writing executed by both the District and Communities.

14. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

15. Applicable Laws. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located.

16. Assignment. This Agreement may not be assigned by the District or Communities and any attempt to assign this Agreement in violation hereof shall be null and void.

17. Authority. By execution hereof, the District and Communities represent and warrant that their respective representatives signing hereunder have full power and authority to execute this Agreement and to bind the respective party to the terms hereof.

18. Entire Agreement. This Agreement constitutes and represents the entire, integrated agreement between the District and Communities with respect to the matters set forth herein and hereby supersedes any and all prior negotiations, representations, agreements or arrangements of any kind with respect to those matters, whether written or oral. This Agreement shall become effective upon the date of full execution hereof.

19. Legal Existence. The District will maintain its legal identity and existence so long as any of the advanced amounts contemplated herein remain outstanding. The foregoing statement shall apply unless, by operation of law, another legal entity succeeds to the liabilities and rights of the District hereunder without materially adversely affecting Communities' privileges and rights under this Agreement.

20. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

21. Negotiated Provisions. This Agreement shall not be construed more strictly against one party than against another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each party has contributed substantially and materially to the preparation of this Agreement.

22. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and Communities any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the District and Communities shall be for the sole and exclusive benefit of the District and Communities.

23. Counterpart Execution. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date and year first above written. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

DISTRICT:

MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 7, a quasi-
municipal corporation and political subdivision of
the State of Colorado

Officer of the District

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

COMMUNITIES:

MAYBERRY COMMUNITIES, LLC, a Colorado
limited liability company

Printed Name: _____

Title: _____

***[Signature page to Funding and Reimbursement Agreement with Mayberry Communities,
LLC]***

FUNDING AND REIMBURSEMENT AGREEMENT
(Operations and Maintenance)

This **FUNDING AND REIMBURSEMENT AGREEMENT** (the “**Agreement**”) is made and entered into as of the 8th day of April, 2021, by and between MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 8, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and MAYBERRY COMMUNITIES, LLC a Colorado limited liability company (“**Communities**”). The District and Communities are collectively referred to herein as the “**Parties**”.

RECITALS

WHEREAS, the District has been duly and validly organized as a quasi-municipal corporation and political subdivision of the State of Colorado, in accordance with the provisions of Article 1, Title 32, Colorado Revised Statutes (the “**Special District Act**”), with the power to provide certain public infrastructure, improvements and services, as described in the Special District Act, within and without its boundaries (collectively, the “**Public Infrastructure**”), as authorized and in accordance with the Second Consolidated Amended and Restated Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 1 & 2 and Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 3-8 (the “**Service Plan**”); and

WHEREAS, Communities has directed or intends to direct certain development activities or cause development activities to occur with respect to property included within and without the boundaries of the District (the “**Project**”), which depend upon the timely delivery of the Public Infrastructure; and

WHEREAS, the District has incurred and will incur costs in furtherance of the District’s permitted purposes, including but not limited to: costs in the nature of general operating, administrative and maintenance costs, such as attorney, engineering, architectural, surveying, district management, accounting, auditing, insurance, and other costs necessary to continued good standing under applicable law (the “**Costs**”); and

WHEREAS, the District does not presently have financial resources to provide funding for payment of Costs that are projected to be incurred prior to the anticipated availability of funds; and

WHEREAS, the District has determined that delay in the provision of the Public Infrastructure and the conduct of other service functions by the District will impair the ability to provide facilities and services necessary to support the Project on a timely basis; and

WHEREAS, Communities is willing to loan funds to the District, from time to time, on the condition that the District agrees to repay such loans, in accordance with the terms set forth in this Agreement; and

WHEREAS, the District is willing to execute one or more reimbursement notes, bonds, or other instruments (“**Reimbursement Obligations**”), in an aggregate principal amount not to exceed the Maximum Loan Amount (as defined below), to be issued to or at the direction of

Communities upon its request, subject to the terms and conditions hereof, to further evidence the District's obligation to repay the funds loaned hereunder; and

WHEREAS, the District anticipates repaying moneys advanced by Communities hereunder, including as evidenced by any requested Reimbursement Obligations, with the proceeds of future bonds, ad valorem taxes, or other legally available revenues of the District determined to be available therefor; and

WHEREAS, the District and Communities desire to enter into this Agreement for the purpose of consolidating all understandings and commitments between them relating to the funding and repayment of the Costs; and

WHEREAS, the Board of Directors of the District (the "**Board**") has determined that the best interests of the District and its property owners will be served by entering into this Agreement for the funding and reimbursement of the Costs; and

WHEREAS, the Board has authorized its officers to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and Communities agree as follows:

COVENANTS AND AGREEMENTS

1. Loan Amount and Term. Communities agrees to loan to the District one or more sums of money up to \$200,000 (as the same may be subsequently increased by agreement of the Parties hereto and execution of a supplement or addendum to this Agreement) (the "**Maximum Loan Amount**"). These funds shall be loaned to the District in one or a series of installments and shall be available to the District through December 31, 2022 (as the same may be amended pursuant to an annual review evidenced by supplement or amendment hereto, the "**Loan Obligation Termination Date**"). Thereafter, Communities may agree to renew its obligations hereunder by providing written notice thereof to the District, in which case the Loan Obligation Termination Date shall be amended to the date provided in such notice, which date shall not be earlier than December 31 of the succeeding year.

2. Prior Costs Incurred. The Parties agree and acknowledge that Communities has incurred Costs on behalf of the District prior to the execution of this Agreement in anticipation that the same would be reimbursed as provided herein (the "**Prior Costs**"). Reimbursement for Prior Costs shall be made in accordance with, and subject to the terms and conditions of this Agreement governing the reimbursement for Costs, except that any Prior Costs reimbursed in accordance with this Agreement shall not be included in the calculation of the Maximum Loan Amount under Section 1 of this Agreement.

3. Use of Funds. The District agrees that it shall apply all funds loaned by Communities under this Agreement solely to Costs of the District as set forth from time to time in the annual adopted budget for the District, and pursuant to any contracts entered into with third parties to perform functions for the District under such adopted budget. It is understood that the

District has budgeted or will budget as revenue from year to year the entire aggregate amount which may be borrowed hereunder to enable the District to appropriate revenues to pay the Costs included within the District's annual budget. Communities shall be entitled to a quarterly accounting of the expenditures made by the District, upon request, and otherwise may request specific information concerning such expenditures at reasonable times and upon reasonable notice to the District.

4. Manner for Requesting Advances.

a. The District shall from time to time determine the amount of revenue required to fund budgeted expenditures by the District, but such determination shall be made not more often than monthly. Each determination shall be made based upon the expenditures contained in the adopted budget for the District and upon the rate of expenditures estimated for the next succeeding month and such other factors as the Board may consider relevant to the projection of future financial needs. Not less than fifteen (15) days before the beginning of each month, the District shall notify Communities of the requested advance for the next month, and Communities shall deposit such advance on or before the beginning of that month. The Parties may vary from this schedule upon mutual agreement.

b. Upon receipt of advances hereunder, the District shall keep a record of such advances made. Failure to record such advances shall not affect inclusion of such amounts as reimbursable amounts hereunder; provided that such advances are substantiated by the District's accountant. Communities may provide any relevant documentation evidencing such unrecorded advance to assist in the District's final determination.

5. Obligations Irrevocable.

a. The obligations of Communities created by this Agreement are absolute, irrevocable, unconditional, and are not subject to setoff or counterclaim.

b. Communities shall not take any action which would delay or impair the District's ability to receive the funds contemplated herein with sufficient time to properly pay approved invoices and/or notices of payment due.

6. Interest Prior to Issuance of Reimbursement Obligations. With respect to each loan advance made under this Agreement prior to the issuance of any Reimbursement Obligation reflecting such advance, the interest rate shall be simple interest at the prime rate of interest, plus two points per annum, to the earlier of the date the Reimbursement Obligation is issued to evidence such advance, or the date of repayment of such amount. Upon issuance of any such Reimbursement Obligation, unless otherwise consented to by Communities, any interest then accrued on any previously advanced amount shall be added to the amount of the loan advance and reflected as principal of the Reimbursement Obligation, and shall thereafter accrue interest as provided in such Reimbursement Obligation.

7. Terms of Repayment; Source of Revenues.

a. Any funds advanced hereunder shall be repaid in accordance with the terms of this Agreement. The District intends to repay any advances made under this Agreement from

ad valorem taxes, fees, or other legally available revenues of the District, net of any debt service or current operations and maintenance costs of the District. Any mill levy certified by the District for the purpose of repaying advances made hereunder shall not exceed 25 mills and shall be further subject to any restrictions provided in the District's Service Plan, electoral authorization, or any applicable laws.

b. The provision for repayment of advances made hereunder, as set forth in Section 7(a) hereof, shall be at all times subject to annual appropriation by the District.

c. At such time as the District issues Reimbursement Obligations to evidence an obligation to repay advances made under this Agreement, the repayment terms of such Reimbursement Obligations shall control and supersede any otherwise applicable provision of this Agreement, except for the Maximum Reimbursement Obligation Repayment Term (as defined below).

8. Issuance of Reimbursement Obligations.

a. Subject to the conditions of this Section 8 and Section 9 hereof, upon request of Communities, the District hereby agrees to issue to or at the direction of Communities one or more Reimbursement Obligations to evidence any repayment obligation of the District then existing with respect to advances made under this Agreement. Such Reimbursement Obligations shall be payable solely from the sources identified in the Reimbursement Obligations, including, but not limited to, *ad valorem* property tax revenues of the District, and shall be secured by the District's pledge to apply such revenues as required hereunder, unless otherwise consented to by Communities. Such Reimbursement Obligations shall mature on a date or dates, subject to the limitation set forth in the Maximum Reimbursement Obligation Repayment Term defined herein, and bear interest at a market rate, to be determined at the time of issuance of such Reimbursement Obligations. The District shall be permitted to prepay any Reimbursement Obligation, in whole or in part, at any time without redemption premium or other penalty, but with interest accrued to the date of prepayment on the principal amount prepaid. The District and Communities shall negotiate in good faith the final terms and conditions of the Reimbursement Obligations.

b. The term for repayment of any Reimbursement Obligation issued under this Agreement shall not extend beyond twenty (20) years from the date of this Agreement ("**Maximum Reimbursement Obligation Repayment Term**").

c. The issuance of any Reimbursement Obligation shall be subject to the availability of an exemption from the registration requirements of § 11-59-106, C.R.S., and shall be subject to such prior filings with the Colorado State Securities Commissioner as may be necessary to claim such exemption, in accordance with § 11-59-110, C.R.S., and any regulations promulgated thereunder.

d. In connection with the issuance of any such Reimbursement Obligation, the District shall make such filings as it may deem necessary to comply with the provisions of § 32-1-1604, C.R.S., as amended.

e. The terms of this Agreement may be used to construe the intent of the District and Communities in connection with issuance of any Reimbursement Obligations, and

shall be read as nearly as possible to make the provisions of any Reimbursement Obligations and this Agreement fully effective. Should any irreconcilable conflict arise between the terms of this Agreement and the terms of any Reimbursement Obligation, the terms of such Reimbursement Obligation shall prevail.

f. If, for any reason, any Reimbursement Obligation is determined to be invalid or unenforceable, the District shall issue a new Reimbursement Obligation to Communities that is legally enforceable, subject to the provisions of this Section 8.

g. In the event that it is determined that payments of all or any portion of interest on any Reimbursement Obligation may be excluded from gross income of the holder thereof for federal income tax purposes upon compliance with certain procedural requirements and restrictions that are not inconsistent with the intended uses of funds contemplated herein and are not overly burdensome to the District, the District agrees, upon request of Communities, to take all action reasonably necessary to satisfy the applicable provisions of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder.

9. No Debt. It is hereby agreed and acknowledged that this Agreement evidences the District's intent to repay Communities for advances made hereunder in accordance with the terms hereof. However, this Agreement shall not constitute a debt or indebtedness by the District within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple-fiscal-year financial obligation. Further, the provision for repayment of advances made hereunder, as set forth in Section 7 hereof, and the agreement to issue a Reimbursement Obligation as set forth in Section 8 hereof, shall be at all times subject to annual appropriation by the District, in its absolute discretion. Communities expressly understands and agrees that the District's obligations under this Agreement shall extend only to monies appropriated for the purposes of this Agreement by the District's Board and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. By acceptance of this Agreement, Communities agrees and consents to all of the limitations in respect of the payment of the principal and interest due under this Agreement and in the District's Service Plan

10. Termination.

a. Communities' obligations to advance funds to the District in accordance with this Agreement shall terminate on December 31, 2022, (subject to the extension terms above), except to the extent advance requests have been made to Communities that are pending by this termination date, in which case said pending request(s) will be honored notwithstanding the passage of the termination date.

b. The District's obligations hereunder shall terminate at the earlier of the repayment in full of the Maximum Loan Amount (or such lesser amount advanced hereunder if it is determined by the District that no further advances shall be required hereunder) or twenty (20) years from the execution date hereof. After twenty (20) years from the execution of this Agreement, the Parties hereby agree and acknowledge that any obligation created by this Agreement which remains due and outstanding under this Agreement, including accrued interest, is forgiven in its entirety, generally and unconditionally released, waived, acquitted and forever

discharged, and shall be deemed a contribution to the District by Communities, and there shall be no further obligation of the District to pay or reimburse Communities with respect to such amounts.

c. Notwithstanding any provision in this Agreement to the contrary, the District's obligations to reimburse Communities for any and all funds advanced or otherwise payable to Communities under and pursuant to this Agreement (whether Communities has already advanced or otherwise paid such funds or intends to make such advances or payments in the future) shall terminate automatically and be of no further force or effect upon the occurrence of (a) Communities' voluntary dissolution, liquidation, winding up, or cessation to carry on business activities as a going concern; (b) administrative dissolution (or other legal process not initiated by Communities dissolving Communities as a legal entity) that is not remedied or cured within sixty (60) days of the effective date of such dissolution or other process; or (c) the initiation of bankruptcy, receivership or similar process or actions with regard to Communities (whether voluntary or involuntary). The termination of the District's reimbursement obligations as set forth in this section shall be absolute and binding upon Communities, its successors and assigns. Communities, by its execution of this Agreement, waives and releases any and all claims and rights, whether existing now or in the future, against the District relating to or arising out of the District's reimbursement obligations under this Agreement in the event that any of the occurrences described in this section occur.

11. Time Is of the Essence. Time is of the essence hereof; provided, however, that if the last day permitted or otherwise determined for the performance of any required act under this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

12. Notices and Place for Payments. All notices, demands and communications (collectively, "**Notices**") under this Agreement shall be delivered or sent by: (a) first class, registered or certified mail, postage prepaid, return receipt requested, (b) nationally recognized overnight carrier, addressed to the address of the intended recipient set forth below or such other address as either party may designate by notice pursuant to this Section 12, or (c) sent by confirmed facsimile transmission, PDF or email. Notices shall be deemed given either one business day after delivery to the overnight carrier, three (3) days after being mailed as provided in clause (a) above, or upon confirmed delivery as provided in clause (c) above.

District: Mayberry, Colorado Springs Metropolitan District No. 8
Public Alliance, LLC
355 S Teller Street, Suite 200
Lakewood, CO 80226
Attention: AJ Beckman, District Manager
(303) 877-6284 (phone)
aj@publicalliancellc.com

With copy to: WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122
Attention: Jennifer Gruber Tanaka, Esq.

(303) 858-1800 (phone)
(303) 858-1801 (fax)
jtanaka@wbapc.com

Communities: Mayberry Communities, LLC
1323 Stratford Court
Del Mar, CA 92014
Attention: Kirk Miller, Esq.
(858) 259-5888 (phone)
(858) 259-5155 (fax)
kirk@kirkmillerlaw.net

13. Amendments. This Agreement may only be amended or modified by a writing executed by both the District and Communities.

14. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

15. Applicable Laws. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located.

16. Assignment. This Agreement may not be assigned by the District or Communities and any attempt to assign this Agreement in violation hereof shall be null and void.

17. Authority. By execution hereof, the District and Communities represent and warrant that their respective representatives signing hereunder have full power and authority to execute this Agreement and to bind the respective party to the terms hereof.

18. Entire Agreement. This Agreement constitutes and represents the entire, integrated agreement between the District and Communities with respect to the matters set forth herein and hereby supersedes any and all prior negotiations, representations, agreements or arrangements of any kind with respect to those matters, whether written or oral. This Agreement shall become effective upon the date of full execution hereof.

19. Legal Existence. The District will maintain its legal identity and existence so long as any of the advanced amounts contemplated herein remain outstanding. The foregoing statement shall apply unless, by operation of law, another legal entity succeeds to the liabilities and rights of the District hereunder without materially adversely affecting Communities' privileges and rights under this Agreement.

20. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

21. Negotiated Provisions. This Agreement shall not be construed more strictly against one party than against another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each party has contributed substantially and materially to the preparation of this Agreement.

22. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and Communities any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the District and Communities shall be for the sole and exclusive benefit of the District and Communities.

23. Counterpart Execution. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date and year first above written. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

DISTRICT:

MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 8, a quasi-
municipal corporation and political subdivision of
the State of Colorado

Officer of the District

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

COMMUNITIES:

MAYBERRY COMMUNITIES, LLC, a Colorado
limited liability company

Printed Name: _____

Title: _____

***[Signature page to Funding and Reimbursement Agreement with Mayberry Communities,
LLC]***

INTERGOVERNMENTAL AGREEMENT REGARDING PAYMENT OF
REIMBURSEMENTS FOR CAPITAL EXPENSES

This INTERGOVERNMENTAL AGREEMENT REGARDING PAYMENT OF REIMBURSEMENTS FOR CAPITAL EXPENSES (the “**Agreement**”) is entered into this 8th day of April, 2021, by and between the MAYBERRY, COLORADO SPRINGS COMMUNITY AUTHORITY, a public corporation and political subdivision of the State of Colorado (the “**Authority**”), and the MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”). The Authority and the District are collectively referred to herein as the “**Parties**”.

RECITALS

WHEREAS, the Authority was duly created and exists as a separate legal entity under the constitution and laws of the State and was created, in part, for the purpose of constructing and financing public improvements located within and benefitting the Mayberry, Colorado Springs development in El Paso County, Colorado; and

WHEREAS, the District was duly organized and exists pursuant to and in accordance with the provisions of §§ 32-1-101, *et seq.*, C.R.S.; and

WHEREAS, on December 5, 2019, the District entered into a *District Coordinating Services Agreement* (the “**Coordinating Services Agreement**”) with the Mayberry, Colorado Springs Metropolitan District No. 2 (“**District No. 2**”) wherein, *inter alia*, the District agreed to provide certain administrative, operational and maintenance services on behalf of the District and District No. 2; and

WHEREAS, on January 20, 2021, the Coordinating Services Agreement was amended in the *First Amendment to District Coordinating Services Agreement* (the “**First Amendment**,” together with the Coordinating Services Agreement, the “**Services Agreement**”) wherein the Mayberry, Colorado Springs Metropolitan District No. 3 (“**District No. 3**”) and the Mayberry, Colorado Springs Metropolitan District Nos. 4-8, inclusive (“**District Nos. 4-8**”), were added as parties to the Services Agreement; and

WHEREAS, on November 11, 2020, the District and Colorado Springs Mayberry, LLC (“**CSM**”) entered into a *Public Improvements Acquisition and Reimbursement Agreement* (the “**CSM Reimbursement Agreement**”) wherein, *inter alia*, CSM agreed to advance certain costs to the District and, in turn, the District agreed to reimburse CSM for the advances made subject to the conditions set forth in the CSM Reimbursement Agreement; and

WHEREAS, on April 8, 2021, the District and Ellicott Utilities Company (“**EUC**”) entered into a *Public Improvements Acquisition and Reimbursement Agreement* (the “**EUC Reimbursement Agreement**”) wherein, *inter alia*, EUC agreed to advance certain costs to the District and, in turn, the District agreed to reimburse EUC for the advances made subject to the conditions set forth in the EUC Reimbursement Agreement; and

WHEREAS, on April 8, 2021, the District and Bob and Carol Mick Trust (“**Mick Trust**”) entered into a *Public Improvements Acquisition and Reimbursement Agreement* (the “**Mick Trust Reimbursement Agreement**,” together with the CSM Reimbursement Agreement and the EUC Reimbursement Agreement, the “**Reimbursement Agreements**”) wherein, *inter alia*, __ agreed to advance certain costs to the District and, in turn, the District agreed to reimburse Mick Trust for the advances made subject to the conditions set forth in the Mick Trust Reimbursement Agreement; and

WHEREAS, the Authority anticipates issuing its Special Revenue Bonds, Series 2021A and Subordinate Special Revenue Bonds, Series 2021B (collectively, the “**Bonds**”) for the purpose of financing the acquisition and construction of public improvements located within and/or benefitting the property located with District No. 2 and District No. 3; and

WHEREAS, the advances made under the Reimbursement Agreements are related to capital costs associated with the public improvements located within and/or benefitting the property located with District No. 2 and District No. 3; and

WHEREAS, the Parties agree that it is in the best interests of the Parties for the advances made to the District under the Reimbursement Agreements to be reimbursed by the Authority through the use of proceeds of the Bonds; and

WHEREAS, pursuant to §§ 29-1-203, C.R.S., and pursuant to the Colorado Constitution Article XIV, Section 18(2)(a), as amended, the Parties may cooperate or contract with each other to provide any function, service or facility lawfully authorized to each, and any such contract may provide for the sharing of costs, the imposition and collection of taxes, and the incurring of debt; and

WHEREAS, the Parties agree to set forth in this Agreement their understandings and agreements with regard to the payment of the reimbursements to be made under the Reimbursement Agreements.

NOW, THEREFORE, in consideration of the mutual covenants and stipulations set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

TERMS AND CONDITIONS

1. PAYMENT OF REIMBURSEMENTS UNDER REIMBURSEMENT AGREEMENTS. The Parties hereby agree that, because the advances made under the Reimbursement Agreements, are related to capital costs associated with the public improvements located within and/or benefitting the property located with District No. 2 and District No. 3 for which the Bonds are being issued by the Authority, that it is proper and appropriate that the reimbursement of the advances made under the Reimbursement Agreements be paid by the Authority from the proceeds of the Bonds. Any reimbursements made by the Authority under the Reimbursement Agreements shall be made only after the terms and conditions set forth in the Reimbursement Agreements have been met and the appropriate Acceptance Resolutions (as defined in the Reimbursement Agreements) have been adopted by the District.

2. ASSIGNMENT. The Parties shall not assign this Agreement, or parts thereof, without the express written consent of the other Party. Any attempted assignment of this Agreement in whole or in part with respect to which the Parties have not consented, in writing, shall be null and void and of no effect whatsoever.

3. TERM OF AGREEMENT. This Agreement shall be effective as of the date hereof and shall terminate upon payment of all reimbursements due under the Reimbursement Agreements or upon written termination signed by the Parties.

4. NOTICES. Any notice or communication required under this Agreement must be in writing, and may be given personally, sent via nationally recognized overnight carrier service, or by registered or certified mail, return receipt requested. If given by registered or certified mail, the same will be deemed to have been given and received on the first to occur of: (i) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent; or (ii) three days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered or sent via nationally recognized overnight carrier service, a notice will be deemed to have been given and received on the first to occur of: (i) one business day after being deposited with a nationally recognized overnight air courier service; or (ii) delivery to the Party to whom it is addressed. Any Party may at any time, by giving written notice to the other Party as provided in this Section 20 of this Agreement, designate additional persons to whom notices or communications will be given, and designate any other address in substitution of the address to which such notice or communication will be given. Such notices or communications will be given to the Parties at their addresses set forth below:

Authority: Mayberry, Colorado Springs Community Authority
c/o Public Alliance, LLC
355 South Teller Street, Suite 200
Lakewood, CO 80226
Attention: AJ Beckman, Manager
Phone: (303) 231-1056
E-mail: aj@publicalliance.com

With a Copy to: WHITE BEAR ANKELE TANAKA & WALDRON
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122
Attention: Jennifer Gruber Tanaka, Esq.
Phone: (303) 858-1800
E-mail: jtanaka@wbapc.com

District: Mayberry, Colorado Springs Metropolitan District No. 1
c/o Public Alliance, LLC
355 South Teller Street, Suite 200

Lakewood, CO 80226
Attention: AJ Beckman, Manager
Phone: (303) 231-1056
E-mail: aj@publicalliancecellc.com

With a Copy to:

WHITE BEAR ANKELE TANAKA & WALDRON
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122
Attention: Jennifer Gruber Tanaka, Esq.
Phone: (303) 858-1800
E-mail: jtanaka@wbapc.com

With an Additional Copy to:

Collins, Cockrel & Cole
390 Union Boulevard, Suite 400
Lakewood, Colorado 80228
Attention: Matthew P. Ruhland, Esq.
Phone: (303) 986-1551
E-mail: mruhland@cccfirm.com

5. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the Parties relating to the Reimbursement Agreements, and sets forth the rights, duties, and obligations of each to the other as of this date, and hereby supersedes any and all prior negotiations, representations, agreements or arrangements of any kind with respect to the Reimbursement Agreements, whether written or oral. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may not be modified except by a writing executed by both Parties.

6. GOVERNING LAW.

a. Venue. Venue for all actions arising from this Agreement shall be in El Paso County District Court. The Parties expressly and irrevocably waive any objections or rights which may affect venue of any such action, including, but not limited to, *forum non-conveniens* or otherwise.

b. Choice of Law. Colorado law shall apply to any dispute, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado.

9. GOOD FAITH OF PARTIES. In the performance of this Agreement, or in considering any requested approval, acceptance, consent, or extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, consent, or extension of time required or requested pursuant to this Agreement.

10. SUBJECT TO ANNUAL APPROPRIATION AND BUDGET. The Parties do not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation

whatsoever. The Parties expressly understand and agree that the Authority's obligations under this Agreement shall extend only to monies appropriated for the purposes of this Agreement by the Board of Directors of the Authority and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. No provision of this Agreement shall be construed or interpreted as a delegation of governmental powers by either of the Parties, or as creating a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of the Authority or statutory debt limitation, including, without limitation, Article X, Section 20 or Article XI, Section 6 of the Constitution of the State of Colorado. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of Authority funds. The Authority's obligations under this Agreement exist subject to annual budgeting and appropriations, and shall remain subject to the same for the entire term of this Agreement.

11. GOVERNMENTAL IMMUNITY. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District or the Authority, their respective officials, employees, contractors, or agents, or any other person acting on behalf of the District or the Authority and, in particular, governmental immunity afforded or available to the District and the Authority pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

12. NEGOTIATED PROVISIONS. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each Party has contributed to the preparation of this Agreement.

13. COUNTERPART EXECUTION. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto, and shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

[Signature pages follow].

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

AUTHORITY:
MAYBERRY, COLORADO SPRINGS
COMMUNITY AUTHORITY, a public
corporation and political subdivision of the
State of Colorado

Officer of the Authority

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel for the Authority

*{00817731.DOCX/2} Authority's Signature Page to Intergovernmental Agreement Regarding
Payment of Reimbursements for Capital Expenses, dated April 8, 2021*

DISTRICT:
MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 1, a quasi-
municipal corporation and political subdivision
of the State of Colorado

Officer of the District

ATTEST:

APPROVED AS TO FORM:

COLLINS, COCKREL & COLE
Attorneys at Law

Special Counsel for the District

*{00817731.DOCX/2} District's Signature Page to Intergovernmental Agreement Regarding Payment
of Reimbursements for Capital Expenses, dated April 8, 2021*

ACKNOWLEDGEMENT OF DISTRICT NO. 2

I, John Mick, as President of the Mayberry, Colorado Springs Metropolitan District No. 2 (“District No. 2”), on behalf of District No. 2, hereby acknowledge and agree to the terms set forth in this Agreement and express no objections to the terms set forth herein.

MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 2

John Mick, President

ACKNOWLEDGEMENT OF DISTRICT NO. 3

I, John Mick, as President of the Mayberry, Colorado Springs Metropolitan District No. 3 (“District No. 3”), on behalf of District No. 3, hereby acknowledge and agree to the terms set forth in this Agreement and express no objections to the terms set forth herein.

MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 3

John Mick, President

FIRST AMENDMENT TO
2010-2015 OPERATION FUNDING AGREEMENT

This FIRST AMENDMENT TO 2010-2015 OPERATION FUNDING AGREEMENT (the “**Amendment**”) is entered into this 8th day of April, 2021, by, between, and among the MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 1 (formerly known as the Ellicott Town Center Metropolitan District), a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), AGLAND INVESTMENT COMPANY, LLC, a Delaware limited liability company (“**Agland**”), and COLORADO SPRINGS MAYBERRY INC., a Delaware corporation (“**CSM**”). The District, Agland, and CSM are individually referred to herein as a “**Party**” and collectively referred to herein as the “**Parties**”.

RECITALS

WHEREAS, on October 27, 2014, the District and Agland entered into the 2010-2015 Operation Funding Agreement (the “**Agreement**”) wherein the parties thereto acknowledged shortfall advances made by Agland to the District for certain operations and maintenance expenses incurred by the District for fiscal years 2010-2015, inclusive; and

WHEREAS, the Agreement provides, *inter alia*, that the District will reimburse Agland for the Shortfall Amount (as defined in the Agreement) pursuant to the terms and conditions set forth therein; and

WHEREAS, since execution of the Agreement, Agland has formally dissolved and desires to transfer its rights to reimbursement to CSM; and

WHEREAS, because of the passage of time, most provisions contained in the Agreement are no longer applicable or appropriate and are in need of updating or replacement;

WHEREAS, the Parties desire to set forth their understandings and agreements with regard to the District’s repayment of the Shortfall Amount to CSM in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and stipulations set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

TERMS AND CONDITIONS

1. ACKNOWLEDGEMENT OF SHORTFALL AMOUNT. The Parties hereto agree that as of the date of this Amendment the Shortfall Amount, including interest, is \$ [REDACTED] (the “**Shortfall Amount**”).

2. DELETION OF SECTION 2 OF AGREEMENT. The Parties hereto agree that Agland shall no longer be required to fund shortfalls of the District. As such, Section 2 of the Agreement is deleted in its entirety.

3. DELETION OF SECTION 3 OF AGREEMENT. The Parties hereto agree that Agland shall no longer be required to advance funds above the Shortfall Amount to the District. As such, Section 3 of the Agreement is deleted in its entirety.

4. REPLACEMENT OF SECTION 5 OF THE AGREEMENT. Section 5 of the Agreement shall be replaced in its entirety with the following:

“5. Terms of Repayment; Source of Revenues. The District intends to repay the Shortfall Amount from *ad valorem* taxes, fees, or other legally available revenues of the District, net of any debt service or current operations and maintenance costs of the District. Any mill levy certified by the District for the purpose of repaying advances made hereunder shall not exceed 10 mills, as may be adjusted for constitutional or legislative changes in assessment ratio, and shall be further subject to any restrictions provided in the District’s Service Plan, electoral authorization, or any applicable laws. It is the express intent of the Parties that CSM be reimbursed the Shortfall Amounts, and that Agland shall not receive reimbursement for any Shortfall Amounts, regardless of whether Agland originally incurred these costs. Payments made by the District hereunder shall first be applied to the accrued and unpaid interest and then to the outstanding principal amount. The obligations of the District in this Agreement are subject to annual appropriation and shall not be deemed to be multiple fiscal year obligations for the purposes of Article X, Section 20 of the Colorado Constitution, and may not exceed amounts permitted by the District’s electoral authorization and Service Plan.”

5. DELETION OF SECTION 6 OF THE AGREEMENT. Section 6 of the Agreement shall be deleted in its entirety.

6. DELETION OF SECTION 7 OF THE AGREEMENT. Section 7 of the Agreement shall be deleted in its entirety.

7. REPLACEMENT OF SECTION 8 OF THE AGREEMENT. Section 8 of the Agreement shall be replaced in its entirety with the following:

“8. Termination of Reimbursement Obligation.

a. Notwithstanding any provision herein to the contrary, the District’s obligation to reimburse CSM for the Shortfall Amount shall terminate automatically and be of no further force or effect upon the occurrence of: (a) CSM’s voluntary dissolution, liquidation and winding up; (b) administrative dissolution (or other legal process not initiated by CSM, dissolving CSM as a legal entity) that is not remedied or cured within 60 days or the effective date of such dissolution or other process; or (c) the initiation of bankruptcy, receivership or similar process or actions with regard to CSM (whether voluntary or involuntary). The termination of the District’s reimbursement obligations set forth in this Section shall be absolute and binding upon CSM and its successors and assigns. CSM, by its execution of this Agreement, waives and releases any and all claims and rights, whether existing now or in the future, against the District relating to or arising out of the District’s

reimbursement obligations under this Agreement, in the event that any of the occurrences described in this Section occur.

Furthermore, the District's obligations under this Agreement shall terminate at the earlier of the repayment in full of the Shortfall Amount or 20 years from the execution date hereof. After 20 years from the execution of this Agreement, the Parties hereby agree and acknowledge that any obligation of the District to reimburse CSM due and outstanding under this Agreement, including accrued interest, is forgiven in its entirety, generally and unconditionally released, waived, acquitted and forever discharged, and shall be deemed a contribution to the District by CSM and there shall be no further obligation of the District to pay or reimburse CSM with respect to such amounts."

8. REPLACEMENT OF SECTION 9 OF THE AGREEMENT. Section 9 of the Agreement shall be replaced in its entirety with the following:

"9. Notices and Place for Payments. All notices, demands and communications (collectively, "**Notices**") under this Agreement shall be delivered or sent, addressed to the address of the intended recipient set forth below or such other address as a Party may designate by notice pursuant to this Section, by: (a) first class, registered or certified mail, postage prepaid, return receipt requested, (b) nationally recognized overnight carrier, or (c) sent by confirmed email. Notices shall be deemed given either one business day after delivery to the overnight carrier, three days after being mailed as provided in clause (a) or (b) above, or upon confirmed delivery as provided in clause (c) above.

To the District: Mayberry, Colorado Springs Metropolitan
District No. 1
c/o Public Alliance, LLC
355 South Teller Street, Suite 200
Lakewood, CO 80226
Attention: AJ Beckman, Manager
Phone: (303) 231-1056
E-mail: aj@publicalliancellc.com

With a Copy to: WHITE BEAR ANKELE TANAKA & WALDRON
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122
Attention: Jennifer Gruber Tanaka, Esq.
Phone: (303) 858-1800
E-mail: jtanaka@wbapc.com

Agland: Agland Investment Company, LLC
Post Office Box 231961
Encinitas, CA 92023

Attention: Jason Hope, CPA, CFA, CFO
Phone: (619) 876-6990
E-mail: jason@foleydevelopment.net

CSM: Colorado Springs Mayberry Inc.
1323 Stratford Court
Del Mar, California 92014
Attention: Kirk Miller, Esq.
Phone: (858) 259-5888
Email: kirk@kirkmillerlaw.net

9. PRIOR PROVISIONS EFFECTIVE. Except as specifically amended hereby, all the terms and provisions of the Agreement shall remain in full force and effect.

10. COUNTERPART EXECUTION. This Amendment may be executed in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

[Remainder of Page Intentionally Left Blank].

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment on the date and year first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Amendment.

DISTRICT:
MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado

By: _____
Officer of the District

Attest:

By: _____

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON

General Counsel to the District

AGLAND INVESTMENT COMPANY, LLC.,
a Delaware limited liability company

COLORADO SPRINGS MAYBERRY INC., a
Delaware corporation

By: _____

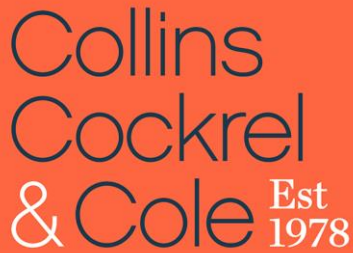
By: _____

Printed Name

Printed Name

Title

Title



SHAREHOLDERS
Paul R. Cockrel
Robert G. Cole
Timothy J. Flynn
Evan D. Ela
Linda M. Glesne
David A. Greher
Kathryn G. Winn
Allison C. Ulmer
Matthew P. Ruhland

OF COUNSEL
James P. Collins

ASSOCIATES
Joseph W. Norris
Bart W. Miller
Ayshan E. Ibrahim

303.218.7212
mruhland@cccfirm.com

April 1, 2021

CONFIDENTIAL

VIA E-MAIL

Mayberry, Colorado Springs Metropolitan District No. 1
c/o White, Bear, Ankele, Tanaka & Waldron
2154 East Commons Avenue, Suite 200
Centennial, CO 80122

Re: Letter of Engagement – Mayberry, Colorado Springs Metropolitan District No. 1

Dear Board Members:

We understand that the Mayberry, Colorado Springs Metropolitan District No. 1 (the "**Client**") desire to engage Collins Cockrel & Cole, a professional corporation (the "**Attorney**"), as the Client's special counsel pursuant to Section 32-1-1001(1)(i), C.R.S., for certain matters as further described below. This letter is intended to outline the terms governing our representation of the Client.

1. Scope of Services.

The Attorney will provide: legal services related to the review and negotiation of an Intergovernmental Agreement regarding Payment of Reimbursements for Capital Expenses with the Mayberry, Colorado Springs Community Authority (the "**Authority**"); and additional legal services as may be further requested by the Client and agreed to by the Attorney. We do not represent (i) any person or entity (except the Client); (ii) individual members of the Client's board of directors; (iii) employees or agents of the Client; or (iv) any landowner, developer or other person within the Client (collectively, the "**Other Persons**"), and all services are provided only for the benefit of the Client and not for the Other Persons. The Attorney owes professional responsibilities only to the Client itself. In all matters involving the Client, such Other Persons should retain their own legal counsel. The Client agrees to this limited representation and acknowledge that they do not rely upon the Attorney for other legal representation or counsel. The Client shall appoint a representative and spokesperson for purposes of contact and direction of the Attorney's representation of the Client.

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2. Potential Conflicts of Interest.

The Attorney is simultaneously representing both Mayberry, Colorado Springs Metropolitan District No. 2 (“**District No. 2**”) and Mayberry, Colorado Springs Metropolitan District No. 3 (“**District No. 3**”) in negotiating a separate Capital Pledge Agreements with the Authority. Although we do not believe a conflict of interest currently exists between the Client, District No. 2 and/or District No. 3, the Client’s approval of this Letter of Engagement represents the Client’s consent to such potential conflicts of interest. If a dispute were to arise in the future among the Client, District No. 2 and/or District No. 3, the Attorney would likely be unable to represent any of these parties in such matter.

In addition, the Attorney previously represented Mayberry, Colorado Springs Metropolitan District Nos. 3-7 (“**District Nos. 3-7**”) in preparing negotiating the Authority’s establishment agreement. Although we do not believe a conflict of interest currently exists between the Client and District Nos. 3-7, the Client’s approval of this Letter of Engagement represents the Client’s consent to such potential conflicts of interest. If a dispute were to arise in the future among the Client and any of District Nos. 3-7, the Attorney would likely be unable to represent any of these parties in such matter.

3. Designation of Attorney and Assistants.

I, Matt Ruhland, a Partner with the Attorney, am designated as the attorney primarily responsible for the legal services rendered to the Clients. Other qualified attorneys and paralegals may perform services for the Clients under my supervision in order to most effectively provide a particular service or to minimize costs.

4. Compensation.

The Attorney shall provide to the Clients a monthly billing statement detailing the services rendered and the amount of time spent in performance thereof. The Clients shall pay for the total time of all attorneys, paralegals and clerks at the current rates in effect for the services rendered.

Clerical services are not routinely billed to the Clients, but out-of-the-ordinary use of a clerical person’s time may be billed in the Attorney’s reasonable discretion. Paralegals and law clerks are utilized when their skills are commensurate with a particular project, so as to minimize the costs billed to the Clients. The Attorney supervises the work product of associates, paralegals and law clerks.

The Clients shall pay for services within 30 days of the date of the invoice. The Attorney shall not be obligated to perform any services if payment of fees is 60 days overdue. If payment for any services or expenses remain unpaid for more than 60 days, unpaid amounts will be charged interest at the rate of 1.5% per month, compounded monthly (19.6% APR). The Clients shall be responsible for any costs of collection incurred by the Attorney, including reasonable attorneys’ fees

The Attorney's current billing rates are subject to adjustment, but not by more than ten percent collectively at any time without written notice. The Attorney's 2021 Fee Schedule is attached.

5. Expenses.

Expenses for which the Attorney will or will not receive reimbursement are as follows, along with the rates for such reimbursement:

(a) Mileage.

No charge, unless lengthy travel distance.

(b) Out-of-Town Travel.

Expenses at cost without mark-up. Travel time by attorneys and staff will be billed at current billing rates. Trips will be coordinated with other clients, to the extent possible, to minimize travel costs.

(c) Long-Distance Telephone Service.

No charge, unless unusual circumstances exist – such as lengthy time, multiple parties and/or teleconferencing.

(d) Computer Expenses.

No charge, except for computer research, Lexis/Nexis or other special costs; billed at actual cost without mark-up.

(e) Photocopies.

No charge for in-house copying, unless large volume of copying. Outside copying and printing billed at actual cost without mark-up.

(f) Postage.

No charge for usual first class mailings, such as mailings to the Clients, courts, counsel of record and other consultants. Mass mailings, such as election notices, and overnight and special delivery mailings billed at actual cost without mark-up.

(g) Facsimile.

No charge.

(h) Couriers.

Courier service will be used on an as-needed basis with the cost thereof being billed to the Clients without mark-up.

(i) Other Reimbursables.

Other reimbursables include our payment of filing fees, costs for service of process and related services, expert witness fees (only as pre-authorized by the Clients), court reporter fees for transcript of testimony, court reporter appearance fees, county clerk and recorder's fees for recording of documents, title company's fees for reports of title, publication fees, election materials and other related expenses. All such reimbursables will be billed to the Clients at cost without mark-up.

(j) Other Expenses.

Certain services and expenses not otherwise documented herein (e.g. private investigator, special counsel, etc.) may become necessary under certain circumstances. To the extent that such services are required, the Attorney will first obtain authorization from the Clients before incurring such costs. As such expenses are incurred, they will be billed to the Clients.

It is understood that the Clients are not responsible for any general secretarial support or general office expenses of Attorney.

6. Communications between Attorney and Clients.

Written and oral communication between the Attorney and the Clients on the Clients' matters shall be made using all current forms of technology including mail, express courier, courier, fax, email, land-based telephone, cellular telephone and other electronic means of communication as such technology becomes available. The security of such means of communication, particularly electronic means such as fax, email and cellular telephone cannot be guaranteed, and therefore a risk exists that privileges such as the attorney-client privilege may be waived if a communication is inadvertently received by persons other than the Clients. If the Clients desire to avoid the risk of inadvertent disclosure by any particular means of communication, the Clients must contact the Attorney and instruct the Attorney as to any unacceptable means of communication for Client matters.

7. Disclaimer of Warranties.

There can be no warranties as to the success of any matter undertaken by the Attorney in the representation of the Clients. All expressions made by the Attorney relative thereto are solely matters of the Attorney's opinion.

8. Document Retention/Destruction.

The Clients are advised that the files created and compiled by the Attorney for work on Client matters, including notes, correspondence, pleadings, research and any other documents prepared by the Attorney, will not be retained indefinitely. Upon Clients' request, we will return Clients' files to the Clients or their respective designees once a matter is concluded, so long as the Clients have paid all fees and costs. We may retain copies of all or any portion of the Clients' file duplicated at our expense. If the Clients do not request their files, we will keep the files and information therein for a minimum of thirty days after the conclusion or termination of



representation, after which we may retain, destroy or otherwise dispose of them as we deem appropriate, except that we will not destroy (i) original documents entrusted to us for continued representation as part of our services and (ii) any documents that the Clients are obligated by law to retain.

9. Illegal Alien Certification.

Pursuant to the requirements of H.B. 06-1343, the Attorney certifies that the Attorney will comply with the provisions of Section 8-17.5-101 *et seq.*, C.R.S., and the Attorney will not knowingly employ or contract with an illegal alien to perform work for the Clients. The Attorney has verified that the Attorney (i) has confirmed or attempted to confirm the employment eligibility of all employees who are newly hired for employment in the United States through participation in the E-Verify Program administered by the Department of Labor and Employment; and (ii) otherwise will comply with the requirements of Section 8-17.5-102(1), C.R.S., regarding such verification. The Attorney agrees to comply with all reasonable requests made in the course of an investigation by the Colorado Department of Labor and Employment. If we do not comply with any requirement of Section 8-17.5-101 *et seq.*, C.R.S., regarding illegal alien verification, the Clients may immediately terminate the Attorney's services, subject to payment for work performed prior to the termination date as described herein.

10. Entire Agreement.

The terms herein represent the entire agreement of the parties concerning the representation of the Clients by the Attorney. The agreement represented by this letter may not be amended or modified except in writing and signed by both parties hereto.

11. Term.

The agreement represented by this letter shall remain in effect until terminated by written notice of either party.

**Collins Cockrel & Cole,
a Professional Corporation**

**Mayberry, Colorado Springs
Metropolitan District No. 1**

By: Matthew P. Ruhland, Partner

Name: _____
Its: _____

Billing Rates
effective 01/2021

<u>NAME</u>	<u>2021 RATES</u>
Paralegal Assistant	\$135
Crystal Schott, Paralegal	\$205
Sarah Luetjen, Paralegal	\$205
Peggy Rupp, Paralegal	\$230
Micki Mills, Paralegal	\$250
Ayshah E. Ibrahim, Associate	\$235
Bart W. Miller, Associate	\$295
Joseph W. Norris, Associate	\$285
James P. Collins, Of Counsel	\$450
Matthew P. Ruhland, Partner	\$395
Allison C. Ulmer, Partner	\$380
Kathryn G. Winn, Partner	\$380
David A. Greher, Partner	\$425
Linda M. Glesne, Partner	\$400
Evan D. Ela, Partner	\$400
Timothy J. Flynn, Partner	\$405
Robert G. Cole, Partner	\$390
Paul R. Cockrel, Partner	\$475

**PUBLIC IMPROVEMENTS ACQUISITION
AND REIMBURSEMENT AGREEMENT**

This **PUBLIC IMPROVEMENTS ACQUISITION AND REIMBURSEMENT AGREEMENT** (the “**Agreement**”) is made and entered into as of April 8, 2021, by and between **MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 1**, a quasi-municipal corporation and political subdivision of the State of Colorado (f/k/a Ellicott Town Center Metropolitan District) (the “**District**”), and **ELLICOTT UTILITIES COMPANY, LLC**, a California limited liability company (“**Ellicott**”). The District and Ellicott are collectively referred to herein as the “**Parties**.”

RECITALS

WHEREAS, the District has been duly and validly organized as a quasi-municipal corporation and political subdivision of the State of Colorado, in accordance with the provisions of Article 1, Title 32, Colorado Revised Statutes (the “**Special District Act**”), with the power to provide certain public infrastructure, improvements, facilities and services (collectively, the “**Public Improvements**”), as described in the Special District Act, and as authorized in the Second Consolidated Amended and Restated Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 1 & 2 and Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 3-8 (the “**Service Plan**”); and

WHEREAS, in accordance with the Special District Act and the Service Plan, the District has the power to acquire real and personal property, manage, control, and supervise the affairs of the District, including the acquisition, financing, construction, and installation of the Public Improvements, and to perform all other necessary and appropriate functions in furtherance of the Special District Act and Service Plan; and

WHEREAS, the District was organized to coordinate the acquisition, financing, construction, and installation of the Public Improvements in connection with development within the boundaries of the District (the “**Project**”); and

WHEREAS, the District is presently without sufficient funds to provide the Public Improvements in a timely manner to support the Project; and

WHEREAS, the District has determined that a delay in the provision of the Public Improvements will impair the successful development of the Project; and

WHEREAS, the District is presently without sufficient funds to provide the Public Improvements in a timely manner to support the Project; and

WHEREAS, the District has determined that a delay in the provision of the Public Improvements will impair the successful development of the Project; and

WHEREAS, Ellicott has incurred or intends to incur costs related to the financing, construction, and installation of Public Improvements that may be lawfully funded by the District

under the Special District Act and the Service Plan, including without limitation: (a) the costs of labor and materials, furnishings and equipment; (b) the costs of insurance premiums, indemnity and fidelity bonds or other municipal or governmental charges lawfully levied or assessed; (c) the costs of surveys, appraisals, plans, designs, specifications, and estimates; (d) the costs, fees, and expenses of engineers, architects, construction management, financial consultants, accountants, legal advisors, or other agents or employees; (e) the costs of demolition, removal, and relocation; (f) the costs of organizing the District; and (g) all other lawful costs as determined by the Board (the “**District Eligible Costs**”); and

WHEREAS, District Eligible Costs shall become “**Certified District Eligible Costs**” after the District has adopted an Acceptance Resolution in accordance with the terms of this Agreement; and

WHEREAS, the Parties desire to establish the terms and conditions for the acquisition of certain Public Improvements constructed or caused to be constructed by Ellicott to be owned by the District or other governmental entity, and the reimbursement of Certified District Eligible Costs; and

WHEREAS, the Public Improvements will benefit the public, is in the public interest, and will contribute to the health, safety and welfare of the public; and

WHEREAS, the District does not intend to direct the design or construction of any Public Improvements by way of this Agreement; and

WHEREAS, as of the date of this Agreement the exact scope of the Public Improvements which may be acquired by the District in accordance with § 32-1-1001(f), C.R.S., and subject to the terms and conditions set forth in this Agreement, is unknown; and

WHEREAS, the Parties do not intend hereby to enter into a public works contract as defined in § 24-91-103.5(1)(b), C.R.S.; and

WHEREAS, the Parties do not intend hereby to enter into a contract for work or materials in accordance with § 32-1-1001(1)(d)(I), C.R.S.; and

WHEREAS, pursuant to § 32-1-1001(1)(d)(I), C.R.S., the District is permitted to enter into contracts and agreements affecting the affairs of the District; and

WHEREAS, accordingly, the Board of Directors of the District (the “**Board**”) has determined that the best interests of the District, its property owners, and the public, would be served by entering into this Agreement; and

WHEREAS, the Board has authorized its officers to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises expressed herein, the Parties hereby agree as follows:

COVENANTS AND AGREEMENTS

1. Purpose of Agreement. The Parties acknowledge that the District does not presently have the funds necessary for the acquisition, financing, construction, and installation of the Public Improvements, but in furtherance of the purposes of the District, this Agreement shall establish the terms and conditions for the acquisition of certain Public Improvements financed and constructed or caused to be constructed by Ellicott that is to be owned by the District, and the reimbursement of Certified District Eligible Costs incurred by Ellicott.

2. Items Required for Acquisition of Public Improvements by the District. The District shall acquire all or a portion of the Public Improvements which are intended to be conveyed to the District for ownership, operation and maintenance after receipt, review and approval by the District of the following:

a. A complete set of digital record drawings of the Public Infrastructure which are certified by a professional engineer registered in the State of Colorado or a licensed land surveyor, showing accurate dimensions and location of all Public Improvements. Such drawings shall be in form and content reasonably acceptable to the District;

b. Evidence that any underground facilities are electronically locatable (if applicable);

c. Test results for improvements conforming to industry standards (compaction test results, concrete tickets, hardscape test results, cut-sheets, etc.) (if applicable);

d. Pressure test results for any irrigation system (if applicable);

e. Assignment of any warranties or guaranties (if applicable);

f. Any operation and maintenance manuals;

g. An Indemnification Agreement, in the form attached hereto as **Exhibit A**, whereby Ellicott agrees to indemnify the District for any mechanic or materialman's liens from suppliers and subcontractors, or lien waivers from each subcontractor verifying that all amounts due for such Public Improvements has been paid in full;

h. An executed Bill of Sale conveying the Public Improvements to the District;

i. If the District is to assume ownership of any real property, a Special Warranty Deed, in a form acceptable to the District, conveying the real property to the District; and

j. A warranty agreement (the "**Warranty Agreement**") addressing Ellicott commitment to repair, replace or fund the repair or replacement of any defective portion of such Public Improvements during a period of two years from the date of District Public Improvements Acquisition (defined below). The District shall be responsible for operating and maintaining the Public Improvements in good condition and repair during the Warranty Period.

3. District Public Improvements Acquisition. Upon substantial completion of Public Improvements or a component thereof which is intended to be conveyed to the District for ownership, operation and maintenance, Ellicott shall obtain District Public Improvements Acquisition by the District in accordance with the following procedures:

a. Ellicott shall give written notice to the District requesting an inspection of the completed Public Improvements (the “**Inspection Notice**”) and concurrently therewith provide construction plans and any applicable construction standards;

b. The District’s engineer (who must be a civil engineer licensed in Colorado having experience in the design and construction of public improvements) and Ellicott shall jointly inspect the Public Improvements within 21 days of the Inspection Notice (the “**Inspection**”), unless the Parties mutually agree to extend the deadline;

c. If the District’s engineer finds after Inspection that: (1) the Public Improvements (or its individual components and/or subsystems, if applicable) has been constructed in substantial accordance with the construction plans and any applicable construction standards (subject to any reasonable punch list items to correct any defective work); and (2) the Public Improvements is fit for its intended purpose, then within 14 days after the Inspection, unless the Parties mutually agree to extend the deadline, the District’s engineer shall notify the District in writing of its findings and provide certification of the same (the “**Engineer Certification**”);

d. If any defective work is identified during the Inspection, the District engineer will prepare a punch list of items requiring remedial action to correct any defective work. Such corrective work will be performed by Ellicott within 60 days of the issuance of an Engineer Ellicott and in accordance with the Warranty Agreement.

e. Not later than 30 days following receipt of the Engineer Certification, unless the Parties mutually agree to extend the deadline, the District shall by adoption of a resolution acquire the Public Improvements and deliver to Ellicott written notice of acquisition (the “**District Public Improvements Acquisition**”). The District Public Improvements Acquisition shall not be arbitrarily, capriciously, or unreasonably withheld, conditioned, or delayed.

4. Reimbursement for District Eligible Costs. Pursuant to the terms of this Agreement, Ellicott may be reimbursed for the following categories of District Eligible Costs.

a. Public Improvements which are intended to be conveyed to the District for ownership, operation and maintenance, only after the requirements of Section 2 and Section 3 have been met and the District issues a District Public Improvements Acquisition for such Public Improvements.

b. Public Improvements which are intended to be conveyed to another governmental entity with final, preliminary or conditional acceptance by the applicable governmental entity.

c. Public Improvements which are intended to be conveyed to another governmental entity without final, preliminary or conditional acceptance by such governmental entity upon submission of a copy of the developer’s agreement (or equivalent agreement) with the

applicable governmental entity requiring the completion and final acceptance of such Public Improvements and the means by which such completion and final acceptance (including any corrective work or punch list items) are secured.

d. Funds that Ellicott has advanced to or on behalf of the District for District Eligible Costs (the “**Payment Advance**”) by providing copies of all invoices or statements and evidence of payment thereof equal to the proposed Payment Advance, and copies of the applicable contract, agreement, or document evidencing the Payment Advance. Simple interest shall accrue at a rate not to exceed the prime interest rate plus two points on each Payment Advance from the date of deposit into the District’s account or from the date of direct payment by Ellicott.

5. Item Required for Reimbursement of District Eligible Costs. The District shall review the follow items prior to the adoption of an Acceptance Resolution (defined below):

a. Ellicott shall initiate a request for reimbursement of District Eligible Costs by submitting a completed “**Application for Acceptance of District Eligible Costs**” on the District’s standard form, attached hereto and incorporated herein as **Exhibit B**;

b. The District’s engineer shall review the invoices and other material presented to substantiate the District Eligible Costs and shall issue a cost certification in form and substance reasonably acceptable to the District declaring the total amount of District Eligible Costs associated with the Public Improvements proposed for acquisition and/or reimbursement, and that such costs are reasonable and appropriate for the type of Public Improvements being constructed (the “**Engineer’s Cost Certification**”);

c. The District’s accountant shall review the Engineer’s Cost Certification and invoices and other material presented to substantiate the District Eligible Costs and shall issue a cost certification in form and substance reasonably acceptable to the District declaring the total amount of District Eligible Costs associated with the Public Improvements proposed for acquisition and/or reimbursement (the “**Accountant’s Cost Certification**”).

6. Acceptance Resolution.

a. No later than 45 days, unless the Parties mutually agree to extend the deadline, following receipt of a satisfactory Application for Acceptance of District Eligible Costs, Engineer’s Cost Certification, and Accountant Cost Certification, the District shall accept the District Eligible Costs by adopting a resolution declaring satisfaction of the conditions to acceptance as set forth in this Agreement, subject to any variances or waivers which the District may allow in its sole and absolute discretion, and with any reasonable conditions the District may specify (the “**Acceptance Resolution**”).

b. The District may, in its sole discretion, retain up to 10% of District Eligible Costs for Public Improvements which are intended to be conveyed to another governmental entity without final, preliminary or conditional acceptance by such governmental entity. If the District elects to retain any District Eligible Costs, interest shall not accrue on such District Eligible Costs and the retain amount shall be released upon final, preliminary or conditional acceptance as set forth in the related Acceptance Resolution.

7. Payment of Certified District Eligible Costs.

a. The Parties agree that no payment or reimbursement shall be required under this Agreement unless and until the District has adopted an Acceptance Resolution. Acceptance by the District of Certified District Eligible Costs as set forth in the Acceptance Resolution does NOT guarantee that the District does or shall in the future have the financial ability to pay the Certified District Eligible Costs in part or in full. It is the intent of the Parties that Ellicott be reimbursed Certified District Eligible Costs from Proceeds (as defined below).

b. The District anticipates issuing bonds, loans or other obligations (the “**Bonds**”) in the near term, and shall use the proceeds of the Bonds (the “**Proceeds**”) to reimburse Ellicott for the Certified District Eligible Costs concurrently with or as soon as possible following closing of the Bonds. In the event that the District has not issued Bonds in an amount sufficient to reimburse Ellicott under this Agreement by December 31, 2026, then as soon as possible thereafter, the District, at the request of Ellicott, shall exercise commercially reasonable efforts to issue a promissory note or other privately placed debt instrument to Ellicott for the Certified District Eligible Costs which have not been previously reimbursed with the Proceeds (a “**Reimbursement Obligation**”).

c. Notwithstanding the foregoing, to the extent Bonds have not been issued, the District may, in its sole discretion, make payments to Ellicott from available funds after the payment of the District’s annual debt service, operations, maintenance and administrative expenses, subject to any Service Plan limits, electoral authorization, or debt instrument restriction or condition.

d. The obligations of the District in this Agreement are subject to annual appropriation and shall not be deemed to be multiple fiscal year obligations for the purposes of Article X, Section 20 of the Colorado Constitution. The determination to issue Bonds is a legislative function of the Board and is subject to constitutional, statutory, and regulatory procedures.

8. Interest on Certified District Eligible Costs. With respect to any Certified District Eligible Costs accepted in accordance with this Agreement, excluding Payment Advances, such Certified District Eligible Costs shall bear simple interest not to exceed the prime interest rate plus two points from the effective date of the related Acceptance Resolution.

9. Default/Remedies. In the event of a breach or default of this Agreement by any Party, the non-defaulting Party/Parties, after having given notice to the other Party and a 30-day period to cure said breach or default, shall be entitled to exercise all remedies available at law or in equity. In the event of any litigation, arbitration or other proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party/Parties in such proceeding shall obtain as part of its/their judgment or award its/their reasonable attorneys’ and expert witness fees and court costs.

10. Termination of Reimbursement Obligation.

a. Notwithstanding any provision herein to the contrary, the District’s obligation to reimburse Ellicott for any and all District Eligible Costs or Certified District Eligible

Costs shall terminate automatically and be of no further force or effect upon the occurrence of: (a) Ellicott voluntary dissolution, liquidation and winding up; (b) administrative dissolution (or other legal process not initiated by Ellicott, dissolving Ellicott as a legal entity) that is not remedied or cured within 60 days or the effective date of such dissolution or other process; or (c) the initiation of bankruptcy, receivership or similar process or actions with regard to Ellicott (whether voluntary or involuntary). The termination of the District's reimbursement obligations set forth in this Section shall be absolute and binding upon Ellicott and its successors and assigns. Ellicott, by its execution of this Agreement, waives and releases any and all claims and rights, whether existing now or in the future, against the District relating to or arising out of the District's reimbursement obligations under this Agreement, in the event that any of the occurrences described in this Section occur.

b. Furthermore, the District's obligations under this Agreement shall terminate at the earlier of the repayment in full of the Certified District Eligible Costs or 20 years from the execution date hereof. After 20 years from the execution of this Agreement, the Parties hereby agree and acknowledge that any obligation of the District to reimburse Ellicott due and outstanding under this Agreement, including accrued interest, is forgiven in its entirety, generally and unconditionally released, waived, acquitted and forever discharged, and shall be deemed a contribution to the District by Ellicott and there shall be no further obligation of the District to pay or reimburse the District with respect to such amounts.

11. Notices and Place for Payments. All notices, demands and communications (collectively, "**Notices**") under this Agreement shall be delivered or sent, addressed to the address of the intended recipient set forth below or such other address as a Party may designate by notice pursuant to this Section, by: (a) first class, registered or certified mail, postage prepaid, return receipt requested, (b) nationally recognized overnight carrier, or (c) sent by confirmed facsimile transmission or email. Notices shall be deemed given either one business day after delivery to the overnight carrier, three days after being mailed as provided in clause (a) or (b) above, or upon confirmed delivery as provided in clause (c) above.

To the District: Mayberry, Colorado Springs Metropolitan District No.
1
Public Alliance, LLC
Attn: AJ Beckman, District Manager
355 S Teller Street, Suite 200
Lakewood, CO 80026
(303) 877-6284 (phone)
aj@publicalliancellc.com

With Copy To: Mayberry, Colorado Springs Metropolitan District No.
1
WHITE BEAR ANKELE TANAKA & WALDRON
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122
Attn: Jennifer Gruber Tanaka, Esq.
(303) 858-1800 (phone)
(303) 858-1801 (fax)

jtanaka@wbapc.com

To Ellicott: Ellicott Utilities Company, LLC
1323 Stratford Court
Del Mar, California 92014
Attn: Kirk Miller, Esq.
(858) 259-5888
krik@kirkmillerlaw.net

12. Amendments. This Agreement may only be amended or modified by a writing executed by the Parties.

13. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be illegal, void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such illegal, void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

14. Governing Law/Venue. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located.

15. Assignment. This Agreement may not be assigned by either Party and any attempt to do so shall be null and void.

16. Authority. By execution hereof, the District and Ellicott represent and warrant that their representative signing hereunder has full power and lawful authority to execute this Agreement and to bind the respective Party to the terms hereof.

17. Entire Agreement. This Agreement constitutes and represents the entire, integrated agreement between the Parties with respect to the matters set forth herein, and hereby supersedes any and all prior negotiations, representations, agreements or arrangements of any kind with respect to those matters, whether written or oral. This Agreement shall become effective upon the date set forth above.

18. Inurement. The terms of this Agreement shall be binding upon, and inure to the benefit of the Parties as well as their respective successors and permitted assigns.

19. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

20. Negotiated Provisions. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement.

21. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the Parties any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the Parties shall be for the sole and exclusive benefit of the Parties.

22. Counterpart Execution. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date and year first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

DISTRICT:
MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado

By: _____
Officer of the District

Attest:

By: _____

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON

General Counsel to the District

ELLCOTT:
ELLCOTT UTILITIES COMPANY, LLC,
a California limited liability company

By: _____

Printed Name

Title

Signature page to Mayberry, Colorado Springs Metropolitan District No. 1 Public Improvements Acquisition and Reimbursement Agreement, dated April 8, 2021

EXHIBIT A

FORM OF INDEMNIFICATION AGREEMENT

This INDEMNIFICATION AGREEMENT (the “**Agreement**”) is entered into _____, _____ by and between MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and ELLICOTT UTILITIES COMPANY, LLC, a California limited liability company, (“**Ellicott**”). The District and Ellicott are collectively referred to as the “**Parties**”.

RECITALS

WHEREAS, the District and Ellicott entered into an Public Improvements Acquisition and Reimbursement Agreement dated April 8, 2021(the “**Improvements Agreement**”); and

WHEREAS, Ellicott has requested the District accept and acquire the improvements constructed by [_____] on Tracts [_____] of [_____] Subdivision recorded [_____] at Reception Number [_____] , County of El Paso, State of Colorado as more particularly described on the attached **Exhibit A** (the “**Public Improvements**”); and

WHEREAS, pursuant to the Improvements Agreement, one condition precedent of the District’s acceptance of the Public Improvements is an Indemnification Agreement, whereby Ellicott agrees to indemnify the District for any mechanic or materialman’s liens from suppliers and subcontractors for labor performed or materials used or furnished in the construction of the Public Improvements;

WHEREAS, the District and Ellicott desire to enter into this Agreement whereby Ellicott agrees to indemnify, defend, and hold harmless the District against any mechanics’ liens filed by contractors, subcontractors, material providers or suppliers that performed work on or provided materials for the Public Improvements.

NOW, THEREFORE, in consideration of the foregoing and the respective agreements of the Parties contained herein, the Parties agree as follows:

COVENANTS AND AGREEMENTS

1. Ellicott Representations. Ellicott, to induce the District to acquire the Public Improvements, does hereby make the following representations to the District, with full knowledge and intent that the District will rely thereon:

a. There are no judgments, claims, or lawsuits against Ellicott in relation to the Public Improvements as of the date first set forth above;

b. All contractors, subcontractors, material providers and suppliers who furnished services, labor or materials in connection with the construction of the Public Improvements up to and through the date first set forth above have been paid; and

2. Indemnification. Ellicott shall at all times indemnify, defend and hold the District and its directors, officers, managers, agents and employees harmless against any liability for claims and/or liens for labor performed or materials used or furnished in the construction of the Public Improvements, including any costs and expenses incurred by the District in the defense of such claims and liens, reasonable attorneys' fees and any damages to the District resulting from such claims or liens. After written demand by the District, Ellicott will immediately cause the effect of any suit or lien to be removed from the Public Improvements. In the event Ellicott fails to do so, the District is authorized to use whatever means in its discretion it may deem appropriate to cause said lien or suit to be removed or dismissed, and the costs thereof, together with reasonable attorneys' fees, will be immediately due and payable by Ellicott. In the event a suit on such claim or lien is brought, Ellicott will, at the option of the District, defend the District in said suit at its own cost and expense, with counsel satisfactory to the District, and will pay and satisfy any such claim, lien, or judgment as may be established by the decision of the Court in such suit. Ellicott may litigate any such lien or suit, provided Ellicott causes the effect thereof to be removed promptly in advance from the Public Improvements. This indemnity coverage shall also cover the District's defense costs in the event that the District, in its sole discretion, elects to provide its own defense.

3. Governing Law/Disputes. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located. The Parties expressly and irrevocably waive any objections or rights which may affect venue of any such action, including, but not limited to, forum non-conveniens or otherwise. At the District's request, Ellicott shall carry on its duties and obligations under this Agreement during any legal proceedings until and unless this Agreement is otherwise terminated. In the event that it becomes necessary for either party to enforce the provisions of this Agreement or to obtain redress for the breach or violation of any of its provisions, whether by litigation, arbitration or other proceedings, the prevailing party shall recover from the other party all costs and expenses associated with such proceedings, including reasonable attorney's fees.

4. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

5. Severability. If any covenant, term, condition or provision of this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition or provision shall not affect any other provision contained herein, the intention being that such provisions are severable. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

6. Counterpart Execution. This Agreement may be executed in counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto, and shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

EXHIBIT B

APPLICATION FOR ACCEPTANCE OF DISTRICT ELIGIBLE COSTS

Applicant Name: _____

Applicant Address: _____

Email: _____

Phone: _____

A narrative description and location of the corresponding Public Improvements: _____

Public Improvements Category and Costs:

Category	Entity that will own, operate, and/or maintain Public Improvements	Final, preliminary or conditional acceptance by the applicable governmental entity (Yes/No)	Hard Construction Costs (including Staking and Testing)	Soft Costs (Engineering, Legal, Planning, Landscape & Irrigation Design)
Street				
Parks and Recreation				
Water				
Sanitation/Storm Sewer				
Transportation				
Mosquito				
Safety Protection				
Fire Protection				
Television Relay and Translation				
Security				

Total Amount of District Eligible Costs: \$ _____

By its signature below, the Applicant certified that this Application and all documents submitted in support of this Application are true and correct, that the Applicant is authorize to sign this Application, and the costs submitted for reimbursement herein qualify as District Eligible Costs pursuant to the Public Improvement Acquisition and Reimbursement Agreement.

Signature: _____

Date: _____

FUNDING AND REIMBURSEMENT AGREEMENT
(Operations and Maintenance)

This **FUNDING AND REIMBURSEMENT AGREEMENT** (the “**Agreement**”) is made and entered into as of the 8th day of April, 2021, by and between MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado (f/k/a Ellicott Town Center Metropolitan District) (the “**District**”), and Ellicott Utilities Company, LLC, a California limited liability company (“**Ellicott**”). The District and Ellicott are collectively referred to herein as the “**Parties**”.

RECITALS

WHEREAS, the District has been duly and validly organized as a quasi-municipal corporation and political subdivision of the State of Colorado, in accordance with the provisions of Article 1, Title 32, Colorado Revised Statutes (the “**Special District Act**”), with the power to provide certain public infrastructure, improvements and services, as described in the Special District Act, within and without its boundaries (collectively, the “**Public Infrastructure**”), as authorized and in accordance with the Second Consolidated Amended and Restated Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 1 & 2 and Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 3-8 (the “**Service Plan**”); and

WHEREAS, Ellicott has directed or intends to direct certain development activities or cause development activities to occur with respect to property included within and without the boundaries of the District (the “**Project**”), which depend upon the timely delivery of the Public Infrastructure; and

WHEREAS, the District has incurred and will incur costs in furtherance of the District’s permitted purposes, including but not limited to: costs in the nature of general operating, administrative and maintenance costs, such as attorney, engineering, architectural, surveying, district management, accounting, auditing, insurance, and other costs necessary to continued good standing under applicable law (the “**Costs**”); and

WHEREAS, the District does not presently have financial resources to provide funding for payment of Costs that are projected to be incurred prior to the anticipated availability of funds; and

WHEREAS, the District has determined that delay in the provision of the Public Infrastructure and the conduct of other service functions by the District will impair the ability to provide facilities and services necessary to support the Project on a timely basis; and

WHEREAS, Ellicott is willing to loan funds to the District, from time to time, on the condition that the District agrees to repay such loans, in accordance with the terms set forth in this Agreement; and

WHEREAS, the District is willing to execute one or more reimbursement notes, bonds, or other instruments (“**Reimbursement Obligations**”), in an aggregate principal amount not to exceed the Maximum Loan Amount (as defined below), to be issued to or at the direction of Ellicott

upon its request, subject to the terms and conditions hereof, to further evidence the District's obligation to repay the funds loaned hereunder; and

WHEREAS, the District anticipates repaying moneys advanced by Ellicott hereunder, including as evidenced by any requested Reimbursement Obligations, with the proceeds of future bonds, ad valorem taxes, or other legally available revenues of the District determined to be available therefor; and

WHEREAS, the District and Ellicott desire to enter into this Agreement for the purpose of consolidating all understandings and commitments between them relating to the funding and repayment of the Costs; and

WHEREAS, the Board of Directors of the District (the "**Board**") has determined that the best interests of the District and its property owners will be served by entering into this Agreement for the funding and reimbursement of the Costs; and

WHEREAS, the Board has authorized its officers to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and Ellicott agree as follows:

COVENANTS AND AGREEMENTS

1. Loan Amount and Term. Ellicott agrees to loan to the District one or more sums of money up to \$200,000 (as the same may be subsequently increased by agreement of the Parties hereto and execution of a supplement or addendum to this Agreement) (the "**Maximum Loan Amount**"). These funds shall be loaned to the District in one or a series of installments and shall be available to the District through December 31, 2022 (as the same may be amended pursuant to an annual review evidenced by supplement or amendment hereto, the "**Loan Obligation Termination Date**"). Thereafter, Ellicott may agree to renew its obligations hereunder by providing written notice thereof to the District, in which case the Loan Obligation Termination Date shall be amended to the date provided in such notice, which date shall not be earlier than December 31 of the succeeding year.

2. Prior Costs Incurred. The Parties agree and acknowledge that Ellicott has incurred Costs on behalf of the District prior to the execution of this Agreement in anticipation that the same would be reimbursed as provided herein (the "**Prior Costs**"). Reimbursement for Prior Costs shall be made in accordance with, and subject to the terms and conditions of this Agreement governing the reimbursement for Costs, except that any Prior Costs reimbursed in accordance with this Agreement shall not be included in the calculation of the Maximum Loan Amount under Section 1 of this Agreement.

3. Use of Funds. The District agrees that it shall apply all funds loaned by Ellicott under this Agreement solely to Costs of the District as set forth from time to time in the annual adopted budget for the District, and pursuant to any contracts entered into with third parties to perform functions for the District under such adopted budget. It is understood that the District has

budgeted or will budget as revenue from year to year the entire aggregate amount which may be borrowed hereunder to enable the District to appropriate revenues to pay the Costs included within the District's annual budget. Ellicott shall be entitled to a quarterly accounting of the expenditures made by the District, upon request, and otherwise may request specific information concerning such expenditures at reasonable times and upon reasonable notice to the District.

4. Manner for Requesting Advances.

a. The District shall from time to time determine the amount of revenue required to fund budgeted expenditures by the District, but such determination shall be made not more often than monthly. Each determination shall be made based upon the expenditures contained in the adopted budget for the District and upon the rate of expenditures estimated for the next succeeding month and such other factors as the Board may consider relevant to the projection of future financial needs. Not less than fifteen (15) days before the beginning of each month, the District shall notify Ellicott of the requested advance for the next month, and Ellicott shall deposit such advance on or before the beginning of that month. The Parties may vary from this schedule upon mutual agreement.

b. Upon receipt of advances hereunder, the District shall keep a record of such advances made. Failure to record such advances shall not affect inclusion of such amounts as reimbursable amounts hereunder; provided that such advances are substantiated by the District's accountant. Ellicott may provide any relevant documentation evidencing such unrecorded advance to assist in the District's final determination.

5. Obligations Irrevocable.

a. The obligations of Ellicott created by this Agreement are absolute, irrevocable, unconditional, and are not subject to setoff or counterclaim.

b. Ellicott shall not take any action which would delay or impair the District's ability to receive the funds contemplated herein with sufficient time to properly pay approved invoices and/or notices of payment due.

6. Interest Prior to Issuance of Reimbursement Obligations. With respect to each loan advance made under this Agreement prior to the issuance of any Reimbursement Obligation reflecting such advance, the interest rate shall be simple interest at the prime rate of interest, plus two points per annum, to the earlier of the date the Reimbursement Obligation is issued to evidence such advance, or the date of repayment of such amount. Upon issuance of any such Reimbursement Obligation, unless otherwise consented to by Ellicott, any interest then accrued on any previously advanced amount shall be added to the amount of the loan advance and reflected as principal of the Reimbursement Obligation, and shall thereafter accrue interest as provided in such Reimbursement Obligation.

7. Terms of Repayment; Source of Revenues.

a. Any funds advanced hereunder shall be repaid in accordance with the terms of this Agreement. The District intends to repay any advances made under this Agreement from ad valorem taxes, fees, or other legally available revenues of the District, net of any debt service

or current operations and maintenance costs of the District. Any mill levy certified by the District for the purpose of repaying advances made hereunder shall not exceed 50 mills, as may be adjusted for constitutional or legislative changes in assessment ratio, and shall be further subject to any restrictions provided in the District's Service Plan, electoral authorization, or any applicable laws.

b. The provision for repayment of advances made hereunder, as set forth in Section 7(a) hereof, shall be at all times subject to annual appropriation by the District.

c. At such time as the District issues Reimbursement Obligations to evidence an obligation to repay advances made under this Agreement, the repayment terms of such Reimbursement Obligations shall control and supersede any otherwise applicable provision of this Agreement, except for the Maximum Reimbursement Obligation Repayment Term (as defined below).

8. Issuance of Reimbursement Obligations.

a. Subject to the conditions of this Section 8 and Section 9 hereof, upon request of Ellicott, the District hereby agrees to issue to or at the direction of Ellicott one or more Reimbursement Obligations to evidence any repayment obligation of the District then existing with respect to advances made under this Agreement. Such Reimbursement Obligations shall be payable solely from the sources identified in the Reimbursement Obligations, including, but not limited to, *ad valorem* property tax revenues of the District, and shall be secured by the District's pledge to apply such revenues as required hereunder, unless otherwise consented to by Ellicott. Such Reimbursement Obligations shall mature on a date or dates, subject to the limitation set forth in the Maximum Reimbursement Obligation Repayment Term defined herein, and bear interest at a market rate, to be determined at the time of issuance of such Reimbursement Obligations. The District shall be permitted to prepay any Reimbursement Obligation, in whole or in part, at any time without redemption premium or other penalty, but with interest accrued to the date of prepayment on the principal amount prepaid. The District and Ellicott shall negotiate in good faith the final terms and conditions of the Reimbursement Obligations.

b. The term for repayment of any Reimbursement Obligation issued under this Agreement shall not extend beyond twenty (20) years from the date of this Agreement ("**Maximum Reimbursement Obligation Repayment Term**").

c. The issuance of any Reimbursement Obligation shall be subject to the availability of an exemption from the registration requirements of § 11-59-106, C.R.S., and shall be subject to such prior filings with the Colorado State Securities Commissioner as may be necessary to claim such exemption, in accordance with § 11-59-110, C.R.S., and any regulations promulgated thereunder.

d. In connection with the issuance of any such Reimbursement Obligation, the District shall make such filings as it may deem necessary to comply with the provisions of § 32-1-1604, C.R.S., as amended.

e. The terms of this Agreement may be used to construe the intent of the District and Ellicott in connection with issuance of any Reimbursement Obligations, and shall be read as nearly as possible to make the provisions of any Reimbursement Obligations and this

Agreement fully effective. Should any irreconcilable conflict arise between the terms of this Agreement and the terms of any Reimbursement Obligation, the terms of such Reimbursement Obligation shall prevail.

f. If, for any reason, any Reimbursement Obligation is determined to be invalid or unenforceable, the District shall issue a new Reimbursement Obligation to Ellicott that is legally enforceable, subject to the provisions of this Section 8.

g. In the event that it is determined that payments of all or any portion of interest on any Reimbursement Obligation may be excluded from gross income of the holder thereof for federal income tax purposes upon compliance with certain procedural requirements and restrictions that are not inconsistent with the intended uses of funds contemplated herein and are not overly burdensome to the District, the District agrees, upon request of Ellicott, to take all action reasonably necessary to satisfy the applicable provisions of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder.

9. No Debt. It is hereby agreed and acknowledged that this Agreement evidences the District's intent to repay Ellicott for advances made hereunder in accordance with the terms hereof. However, this Agreement shall not constitute a debt or indebtedness by the District within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple-fiscal-year financial obligation. Further, the provision for repayment of advances made hereunder, as set forth in Section 7 hereof, and the agreement to issue a Reimbursement Obligation as set forth in Section 8 hereof, shall be at all times subject to annual appropriation by the District, in its absolute discretion. Ellicott expressly understands and agrees that the District's obligations under this Agreement shall extend only to monies appropriated for the purposes of this Agreement by the District's Board and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. By acceptance of this Agreement, Ellicott agrees and consents to all of the limitations in respect of the payment of the principal and interest due under this Agreement and in the District's Service Plan

10. Termination.

a. Ellicott's obligations to advance funds to the District in accordance with this Agreement shall terminate on December 31, 2022, (subject to the extension terms above), except to the extent advance requests have been made to Ellicott that are pending by this termination date, in which case said pending request(s) will be honored notwithstanding the passage of the termination date.

b. The District's obligations hereunder shall terminate at the earlier of the repayment in full of the Maximum Loan Amount (or such lesser amount advanced hereunder if it is determined by the District that no further advances shall be required hereunder) or twenty (20) years from the execution date hereof. After twenty (20) years from the execution of this Agreement, the Parties hereby agree and acknowledge that any obligation created by this Agreement which remains due and outstanding under this Agreement, including accrued interest, is forgiven in its entirety, generally and unconditionally released, waived, acquitted and forever discharged, and shall be deemed a contribution to the District by Ellicott, and there shall be no further obligation of the District to pay or reimburse Ellicott with respect to such amounts.

c. Notwithstanding any provision in this Agreement to the contrary, the District's obligations to reimburse Ellicott for any and all funds advanced or otherwise payable to Ellicott under and pursuant to this Agreement (whether Ellicott has already advanced or otherwise paid such funds or intends to make such advances or payments in the future) shall terminate automatically and be of no further force or effect upon the occurrence of (a) Ellicott's voluntary dissolution, liquidation, winding up, or cessation to carry on business activities as a going concern; (b) administrative dissolution (or other legal process not initiated by Ellicott dissolving Ellicott as a legal entity) that is not remedied or cured within sixty (60) days of the effective date of such dissolution or other process; or (c) the initiation of bankruptcy, receivership or similar process or actions with regard to Ellicott (whether voluntary or involuntary). The termination of the District's reimbursement obligations as set forth in this section shall be absolute and binding upon Ellicott, its successors and assigns. Ellicott, by its execution of this Agreement, waives and releases any and all claims and rights, whether existing now or in the future, against the District relating to or arising out of the District's reimbursement obligations under this Agreement in the event that any of the occurrences described in this section occur.

11. Time Is of the Essence. Time is of the essence hereof; provided, however, that if the last day permitted or otherwise determined for the performance of any required act under this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

12. Notices and Place for Payments. All notices, demands and communications (collectively, "**Notices**") under this Agreement shall be delivered or sent by: (a) first class, registered or certified mail, postage prepaid, return receipt requested, (b) nationally recognized overnight carrier, addressed to the address of the intended recipient set forth below or such other address as either party may designate by notice pursuant to this Section 12, or (c) sent by confirmed facsimile transmission, PDF or email. Notices shall be deemed given either one business day after delivery to the overnight carrier, three (3) days after being mailed as provided in clause (a) above, or upon confirmed delivery as provided in clause (c) above.

District: Mayberry, Colorado Springs Metropolitan District No. 1
Public Alliance, LLC
355 S Teller Street, Suite 200
Lakewood, CO 80226
Attention: AJ Beckman, District Manager
(303) 877-6284 (phone)
aj@publicalliancecellc.com

With copy to: WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122
Attention: Jennifer Gruber Tanaka, Esq.
(303) 858-1800 (phone)
(303) 858-1801 (fax)
jtanaka@wbapc.com

Ellicott: Ellicott Utilities Company, LLC
1323 Stratford Court
Del Mar, CA 92014
Attention: Kirk Miller, Esq.
(858) 259-5888 (phone)
(858) 259-5155 (fax)
kirk@kirkmillerlaw.net

13. Amendments. This Agreement may only be amended or modified by a writing executed by both the District and Ellicott.

14. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

15. Applicable Laws. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located.

16. Assignment. This Agreement may not be assigned by the District or Ellicott and any attempt to assign this Agreement in violation hereof shall be null and void.

17. Authority. By execution hereof, the District and Ellicott represent and warrant that their respective representatives signing hereunder have full power and authority to execute this Agreement and to bind the respective party to the terms hereof.

18. Entire Agreement. This Agreement constitutes and represents the entire, integrated agreement between the District and Ellicott with respect to the matters set forth herein and hereby supersedes any and all prior negotiations, representations, agreements or arrangements of any kind with respect to those matters, whether written or oral. This Agreement shall become effective upon the date of full execution hereof.

19. Legal Existence. The District will maintain its legal identity and existence so long as any of the advanced amounts contemplated herein remain outstanding. The foregoing statement shall apply unless, by operation of law, another legal entity succeeds to the liabilities and rights of the District hereunder without materially adversely affecting Ellicott' privileges and rights under this Agreement.

20. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person

acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

21. Negotiated Provisions. This Agreement shall not be construed more strictly against one party than against another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each party has contributed substantially and materially to the preparation of this Agreement.

22. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and Ellicott any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the District and Ellicott shall be for the sole and exclusive benefit of the District and Ellicott.

23. Counterpart Execution. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date and year first above written. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

DISTRICT:

MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 1, a quasi-
municipal corporation and political subdivision of
the State of Colorado

Officer of the District

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

ELLICOTT:

ELLICOTT UTILITIES COMPANY, a California
limited liability company

Printed Name: _____

Title: _____

***Signature page to Funding and Reimbursement Agreement with Ellicott Utilities Company,
LLC***

**PUBLIC IMPROVEMENTS ACQUISITION
AND REIMBURSEMENT AGREEMENT**

This **PUBLIC IMPROVEMENTS ACQUISITION AND REIMBURSEMENT AGREEMENT** (the “**Agreement**”) is made and entered into as of April 8, 2021, by and between **MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 1**, a quasi-municipal corporation and political subdivision of the State of Colorado (f/k/a Ellicott Town Center Metropolitan District) (the “**District**”), and **BOB AND CAROL MICK TRUST** (“**Mick Trust**”). The District and Mick Trust are collectively referred to herein as the “**Parties**.”

RECITALS

WHEREAS, the District has been duly and validly organized as a quasi-municipal corporation and political subdivision of the State of Colorado, in accordance with the provisions of Article 1, Title 32, Colorado Revised Statutes (the “**Special District Act**”), with the power to provide certain public infrastructure, improvements, facilities and services (collectively, the “**Public Improvements**”), as described in the Special District Act, and as authorized in the Second Consolidated Amended and Restated Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 1 & 2 and Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 3-8 (the “**Service Plan**”); and

WHEREAS, in accordance with the Special District Act and the Service Plan, the District has the power to acquire real and personal property, manage, control, and supervise the affairs of the District, including the acquisition, financing, construction, and installation of the Public Improvements, and to perform all other necessary and appropriate functions in furtherance of the Special District Act and Service Plan; and

WHEREAS, the District was organized to coordinate the acquisition, financing, construction, and installation of the Public Improvements in connection with development within the boundaries of the District (the “**Project**”); and

WHEREAS, the District is presently without sufficient funds to provide the Public Improvements in a timely manner to support the Project; and

WHEREAS, the District has determined that a delay in the provision of the Public Improvements will impair the successful development of the Project; and

WHEREAS, the District is presently without sufficient funds to provide the Public Improvements in a timely manner to support the Project; and

WHEREAS, the District has determined that a delay in the provision of the Public Improvements will impair the successful development of the Project; and

WHEREAS, Mick Trust has incurred or intends to incur costs related to the financing, construction, and installation of Public Improvements that may be lawfully funded by the District under the Special District Act and the Service Plan, including without limitation: (a) the costs of

labor and materials, furnishings and equipment; (b) the costs of insurance premiums, indemnity and fidelity bonds or other municipal or governmental charges lawfully levied or assessed; (c) the costs of surveys, appraisals, plans, designs, specifications, and estimates; (d) the costs, fees, and expenses of engineers, architects, construction management, financial consultants, accountants, legal advisors, or other agents or employees; (e) the costs of demolition, removal, and relocation; (f) the costs of organizing the District; and (g) all other lawful costs as determined by the Board (the “**District Eligible Costs**”); and

WHEREAS, District Eligible Costs shall become “**Certified District Eligible Costs**” after the District has adopted an Acceptance Resolution in accordance with the terms of this Agreement; and

WHEREAS, the Parties desire to establish the terms and conditions for the acquisition of certain Public Improvements constructed or caused to be constructed by Mick Trust to be owned by the District or other governmental entity, and the reimbursement of Certified District Eligible Costs; and

WHEREAS, the Public Improvements will benefit the public, is in the public interest, and will contribute to the health, safety and welfare of the public; and

WHEREAS, the District does not intend to direct the design or construction of any Public Improvements by way of this Agreement; and

WHEREAS, as of the date of this Agreement the exact scope of the Public Improvements which may be acquired by the District in accordance with § 32-1-1001(f), C.R.S., and subject to the terms and conditions set forth in this Agreement, is unknown; and

WHEREAS, the Parties do not intend hereby to enter into a public works contract as defined in § 24-91-103.5(1)(b), C.R.S.; and

WHEREAS, the Parties do not intend hereby to enter into a contract for work or materials in accordance with § 32-1-1001(1)(d)(I), C.R.S.; and

WHEREAS, pursuant to § 32-1-1001(1)(d)(I), C.R.S., the District is permitted to enter into contracts and agreements affecting the affairs of the District; and

WHEREAS, accordingly, the Board of Directors of the District (the “**Board**”) has determined that the best interests of the District, its property owners, and the public, would be served by entering into this Agreement; and

WHEREAS, the Board has authorized its officers to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises expressed herein, the Parties hereby agree as follows:

COVENANTS AND AGREEMENTS

1. Purpose of Agreement. The Parties acknowledge that the District does not presently have the funds necessary for the acquisition, financing, construction, and installation of the Public Improvements, but in furtherance of the purposes of the District, this Agreement shall establish the terms and conditions for the acquisition of certain Public Improvements financed and constructed or caused to be constructed by Mick Trust that is to be owned by the District, and the reimbursement of Certified District Eligible Costs incurred by Mick Trust.

2. Items Required for Acquisition of Public Improvements by the District. The District shall acquire all or a portion of the Public Improvements which are intended to be conveyed to the District for ownership, operation and maintenance after receipt, review and approval by the District of the following:

- a. A complete set of digital record drawings of the Public Infrastructure which are certified by a professional engineer registered in the State of Colorado or a licensed land surveyor, showing accurate dimensions and location of all Public Improvements. Such drawings shall be in form and content reasonably acceptable to the District;
- b. Evidence that any underground facilities are electronically locatable (if applicable);
- c. Test results for improvements conforming to industry standards (compaction test results, concrete tickets, hardscape test results, cut-sheets, etc.) (if applicable);
- d. Pressure test results for any irrigation system (if applicable);
- e. Assignment of any warranties or guaranties (if applicable);
- f. Any operation and maintenance manuals;
- g. An Indemnification Agreement, in the form attached hereto as **Exhibit A**, whereby Mick Trust agrees to indemnify the District for any mechanic or materialman's liens from suppliers and subcontractors, or lien waivers from each subcontractor verifying that all amounts due for such Public Improvements has been paid in full;
- h. An executed Bill of Sale conveying the Public Improvements to the District;
- i. If the District is to assume ownership of any real property, a Special Warranty Deed, in a form acceptable to the District, conveying the real property to the District; and
- j. A warranty agreement (the "**Warranty Agreement**") addressing Mick Trust commitment to repair, replace or fund the repair or replacement of any defective portion of such Public Improvements during a period of two years from the date of District Public Improvements Acquisition (defined below). The District shall be responsible for operating and maintaining the Public Improvements in good condition and repair during the Warranty Period.

3. District Public Improvements Acquisition. Upon substantial completion of Public Improvements or a component thereof which is intended to be conveyed to the District for ownership, operation and maintenance, Mick Trust shall obtain District Public Improvements Acquisition by the District in accordance with the following procedures:

a. Mick Trust shall give written notice to the District requesting an inspection of the completed Public Improvements (the “**Inspection Notice**”) and concurrently therewith provide construction plans and any applicable construction standards;

b. The District’s engineer (who must be a civil engineer licensed in Colorado having experience in the design and construction of public improvements) and Mick Trust shall jointly inspect the Public Improvements within 21 days of the Inspection Notice (the “**Inspection**”), unless the Parties mutually agree to extend the deadline;

c. If the District’s engineer finds after Inspection that: (1) the Public Improvements (or its individual components and/or subsystems, if applicable) has been constructed in substantial accordance with the construction plans and any applicable construction standards (subject to any reasonable punch list items to correct any defective work); and (2) the Public Improvements is fit for its intended purpose, then within 14 days after the Inspection, unless the Parties mutually agree to extend the deadline, the District’s engineer shall notify the District in writing of its findings and provide certification of the same (the “**Engineer Certification**”);

d. If any defective work is identified during the Inspection, the District engineer will prepare a punch list of items requiring remedial action to correct any defective work. Such corrective work will be performed by Mick Trust within 60 days of the issuance of an Engineer Mick Trust and in accordance with the Warranty Agreement.

e. Not later than 30 days following receipt of the Engineer Certification, unless the Parties mutually agree to extend the deadline, the District shall by adoption of a resolution acquire the Public Improvements and deliver to Mick Trust written notice of acquisition (the “**District Public Improvements Acquisition**”). The District Public Improvements Acquisition shall not be arbitrarily, capriciously, or unreasonably withheld, conditioned, or delayed.

4. Reimbursement for District Eligible Costs. Pursuant to the terms of this Agreement, Mick Trust may be reimbursed for the following categories of District Eligible Costs.

a. Public Improvements which are intended to be conveyed to the District for ownership, operation and maintenance, only after the requirements of Section 2 and Section 3 have been met and the District issues a District Public Improvements Acquisition for such Public Improvements.

b. Public Improvements which are intended to be conveyed to another governmental entity with final, preliminary or conditional acceptance by the applicable governmental entity.

c. Public Improvements which are intended to be conveyed to another governmental entity without final, preliminary or conditional acceptance by such governmental entity upon submission of a copy of the developer’s agreement (or equivalent agreement) with the

applicable governmental entity requiring the completion and final acceptance of such Public Improvements and the means by which such completion and final acceptance (including any corrective work or punch list items) are secured.

d. Funds that Mick Trust has advanced to or on behalf of the District for District Eligible Costs (the “**Payment Advance**”) by providing copies of all invoices or statements and evidence of payment thereof equal to the proposed Payment Advance, and copies of the applicable contract, agreement, or document evidencing the Payment Advance. Simple interest shall accrue at a rate not to exceed the prime interest rate plus two points on each Payment Advance from the date of deposit into the District’s account or from the date of direct payment by Mick Trust.

5. Item Required for Reimbursement of District Eligible Costs. The District shall review the follow items prior to the adoption of an Acceptance Resolution (defined below):

a. Mick Trust shall initiate a request for reimbursement of District Eligible Costs by submitting a completed “**Application for Acceptance of District Eligible Costs**” on the District’s standard form, attached hereto and incorporated herein as **Exhibit B**;

b. The District’s engineer shall review the invoices and other material presented to substantiate the District Eligible Costs and shall issue a cost certification in form and substance reasonably acceptable to the District declaring the total amount of District Eligible Costs associated with the Public Improvements proposed for acquisition and/or reimbursement, and that such costs are reasonable and appropriate for the type of Public Improvements being constructed (the “**Engineer’s Cost Certification**”);

c. The District’s accountant shall review the Engineer’s Cost Certification and invoices and other material presented to substantiate the District Eligible Costs and shall issue a cost certification in form and substance reasonably acceptable to the District declaring the total amount of District Eligible Costs associated with the Public Improvements proposed for acquisition and/or reimbursement (the “**Accountant’s Cost Certification**”).

6. Acceptance Resolution.

a. No later than 45 days, unless the Parties mutually agree to extend the deadline, following receipt of a satisfactory Application for Acceptance of District Eligible Costs, Engineer’s Cost Certification, and Accountant Cost Certification, the District shall accept the District Eligible Costs by adopting a resolution declaring satisfaction of the conditions to acceptance as set forth in this Agreement, subject to any variances or waivers which the District may allow in its sole and absolute discretion, and with any reasonable conditions the District may specify (the “**Acceptance Resolution**”).

b. The District may, in its sole discretion, retain up to 10% of District Eligible Costs for Public Improvements which are intended to be conveyed to another governmental entity without final, preliminary or conditional acceptance by such governmental entity. If the District elects to retain any District Eligible Costs, interest shall not accrue on such District Eligible Costs and the retain amount shall be released upon final, preliminary or conditional acceptance as set forth in the related Acceptance Resolution.

7. Payment of Certified District Eligible Costs.

a. The Parties agree that no payment or reimbursement shall be required under this Agreement unless and until the District has adopted an Acceptance Resolution. Acceptance by the District of Certified District Eligible Costs as set forth in the Acceptance Resolution does NOT guarantee that the District does or shall in the future have the financial ability to pay the Certified District Eligible Costs in part or in full. It is the intent of the Parties that Mick Trust be reimbursed Certified District Eligible Costs from Proceeds (as defined below).

b. The District anticipates issuing bonds, loans or other obligations (the “**Bonds**”) in the near term, and shall use the proceeds of the Bonds (the “**Proceeds**”) to reimburse Mick Trust for the Certified District Eligible Costs concurrently with or as soon as possible following closing of the Bonds. In the event that the District has not issued Bonds in an amount sufficient to reimburse Mick Trust under this Agreement by December 31, 2026, then as soon as possible thereafter, the District, at the request of Mick Trust, shall exercise commercially reasonable efforts to issue a promissory note or other privately placed debt instrument to Mick Trust for the Certified District Eligible Costs which have not been previously reimbursed with the Proceeds (a “**Reimbursement Obligation**”).

c. Notwithstanding the foregoing, to the extent Bonds have not been issued, the District may, in its sole discretion, make payments to Mick Trust from available funds after the payment of the District’s annual debt service, operations, maintenance and administrative expenses, subject to any Service Plan limits, electoral authorization, or debt instrument restriction or condition.

d. The obligations of the District in this Agreement are subject to annual appropriation and shall not be deemed to be multiple fiscal year obligations for the purposes of Article X, Section 20 of the Colorado Constitution. The determination to issue Bonds is a legislative function of the Board and is subject to constitutional, statutory, and regulatory procedures.

8. Interest on Certified District Eligible Costs. With respect to any Certified District Eligible Costs accepted in accordance with this Agreement, excluding Payment Advances, such Certified District Eligible Costs shall bear simple interest not to exceed the prime interest rate plus two points from the effective date of the related Acceptance Resolution.

9. Default/Remedies. In the event of a breach or default of this Agreement by any Party, the non-defaulting Party/Parties, after having given notice to the other Party and a 30-day period to cure said breach or default, shall be entitled to exercise all remedies available at law or in equity. In the event of any litigation, arbitration or other proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party/Parties in such proceeding shall obtain as part of its/their judgment or award its/their reasonable attorneys’ and expert witness fees and court costs.

10. Termination of Reimbursement Obligation.

a. Notwithstanding any provision herein to the contrary, the District’s obligation to reimburse Mick Trust for any and all District Eligible Costs or Certified District

Eligible Costs shall terminate automatically and be of no further force or effect upon the occurrence of: (a) Mick Trust voluntary dissolution, liquidation and winding up; (b) administrative dissolution (or other legal process not initiated by Mick Trust, dissolving Mick Trust as a legal entity) that is not remedied or cured within 60 days or the effective date of such dissolution or other process; or (c) the initiation of bankruptcy, receivership or similar process or actions with regard to Mick Trust (whether voluntary or involuntary). The termination of the District's reimbursement obligations set forth in this Section shall be absolute and binding upon Mick Trust and its successors and assigns. Mick Trust, by its execution of this Agreement, waives and releases any and all claims and rights, whether existing now or in the future, against the District relating to or arising out of the District's reimbursement obligations under this Agreement, in the event that any of the occurrences described in this Section occur.

b. Furthermore, the District's obligations under this Agreement shall terminate at the earlier of the repayment in full of the Certified District Eligible Costs or 20 years from the execution date hereof. After 20 years from the execution of this Agreement, the Parties hereby agree and acknowledge that any obligation of the District to reimburse Mick Trust due and outstanding under this Agreement, including accrued interest, is forgiven in its entirety, generally and unconditionally released, waived, acquitted and forever discharged, and shall be deemed a contribution to the District by Mick Trust and there shall be no further obligation of the District to pay or reimburse the District with respect to such amounts.

11. Notices and Place for Payments. All notices, demands and communications (collectively, "**Notices**") under this Agreement shall be delivered or sent, addressed to the address of the intended recipient set forth below or such other address as a Party may designate by notice pursuant to this Section, by: (a) first class, registered or certified mail, postage prepaid, return receipt requested, (b) nationally recognized overnight carrier, or (c) sent by confirmed facsimile transmission or email. Notices shall be deemed given either one business day after delivery to the overnight carrier, three days after being mailed as provided in clause (a) or (b) above, or upon confirmed delivery as provided in clause (c) above.

To the District: Mayberry, Colorado Springs Metropolitan District No.
1
Public Alliance, LLC
Attn: AJ Beckman, District Manager
355 S Teller Street, Suite 200
Lakewood, CO 80026
(303) 877-6284 (phone)
aj@publicalliancellc.com

With Copy To: Mayberry, Colorado Springs Metropolitan District No.
1
WHITE BEAR ANKELE TANAKA & WALDRON
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122
Attn: Jennifer Gruber Tanaka, Esq.
(303) 858-1800 (phone)
(303) 858-1801 (fax)

jtanaka@wbapc.com

To Mick Trust: Bob and Carol Mick Trust
4022 El Cerrito Way
Klamath Falls, OR 97503
Attention: John Mick, Trustee
(541) 810-2122 (phone)
jmick@intelifab.net

12. Amendments. This Agreement may only be amended or modified by a writing executed by the Parties.

13. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be illegal, void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such illegal, void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

14. Governing Law/Venue. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located.

15. Assignment. This Agreement may not be assigned by either Party and any attempt to do so shall be null and void.

16. Authority. By execution hereof, the District and Mick Trust represent and warrant that their representative signing hereunder has full power and lawful authority to execute this Agreement and to bind the respective Party to the terms hereof.

17. Entire Agreement. This Agreement constitutes and represents the entire, integrated agreement between the Parties with respect to the matters set forth herein, and hereby supersedes any and all prior negotiations, representations, agreements or arrangements of any kind with respect to those matters, whether written or oral. This Agreement shall become effective upon the date set forth above.

18. Inurement. The terms of this Agreement shall be binding upon, and inure to the benefit of the Parties as well as their respective successors and permitted assigns.

19. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

20. Negotiated Provisions. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement.

21. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the Parties any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the Parties shall be for the sole and exclusive benefit of the Parties.

22. Counterpart Execution. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date and year first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

DISTRICT:
MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado

By: _____
Officer of the District

Attest:

By: _____

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON

General Counsel to the District

MICK TRUST:
BOB AND CAROL MICK TRUST

By: _____

John Mick

Printed Name

Trustee

Title

Signature page to Mayberry, Colorado Springs Metropolitan District No. 1 Public Improvements Acquisition and Reimbursement Agreement, dated April 8, 2021

EXHIBIT A

FORM OF INDEMNIFICATION AGREEMENT

This INDEMNIFICATION AGREEMENT (the “**Agreement**”) is entered into _____, _____ by and between MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and BOB AND CAROL MICK TRUST (“**Mick Trust**”). The District and Mick Trust are collectively referred to as the “**Parties**”.

RECITALS

WHEREAS, the District and Mick Trust entered into an Public Improvements Acquisition and Reimbursement Agreement dated April 8, 2021(the “**Improvements Agreement**”); and

WHEREAS, Mick Trust has requested the District accept and acquire the improvements constructed by [_____] on Tracts [_____] of [_____] Subdivision recorded [_____] at Reception Number [_____] , County of El Paso, State of Colorado as more particularly described on the attached **Exhibit A** (the “**Public Improvements**”); and

WHEREAS, pursuant to the Improvements Agreement, one condition precedent of the District’s acceptance of the Public Improvements is an Indemnification Agreement, whereby Mick Trust agrees to indemnify the District for any mechanic or materialman’s liens from suppliers and subcontractors for labor performed or materials used or furnished in the construction of the Public Improvements;

WHEREAS, the District and Mick Trust desire to enter into this Agreement whereby Mick Trust agrees to indemnify, defend, and hold harmless the District against any mechanics’ liens filed by contractors, subcontractors, material providers or suppliers that performed work on or provided materials for the Public Improvements.

NOW, THEREFORE, in consideration of the foregoing and the respective agreements of the Parties contained herein, the Parties agree as follows:

COVENANTS AND AGREEMENTS

1. Mick Trust Representations. Mick Trust, to induce the District to acquire the Public Improvements, does hereby make the following representations to the District, with full knowledge and intent that the District will rely thereon:

a. There are no judgments, claims, or lawsuits against Mick Trust in relation to the Public Improvements as of the date first set forth above;

b. All contractors, subcontractors, material providers and suppliers who furnished services, labor or materials in connection with the construction of the Public Improvements up to and through the date first set forth above have been paid; and

2. Indemnification. Mick Trust shall at all times indemnify, defend and hold the District and its directors, officers, managers, agents and employees harmless against any liability for claims and/or liens for labor performed or materials used or furnished in the construction of the Public Improvements, including any costs and expenses incurred by the District in the defense of such claims and liens, reasonable attorneys' fees and any damages to the District resulting from such claims or liens. After written demand by the District, Mick Trust will immediately cause the effect of any suit or lien to be removed from the Public Improvements. In the event Mick Trust fails to do so, the District is authorized to use whatever means in its discretion it may deem appropriate to cause said lien or suit to be removed or dismissed, and the costs thereof, together with reasonable attorneys' fees, will be immediately due and payable by Mick Trust. In the event a suit on such claim or lien is brought, Mick Trust will, at the option of the District, defend the District in said suit at its own cost and expense, with counsel satisfactory to the District, and will pay and satisfy any such claim, lien, or judgment as may be established by the decision of the Court in such suit. Mick Trust may litigate any such lien or suit, provided Mick Trust causes the effect thereof to be removed promptly in advance from the Public Improvements. This indemnity coverage shall also cover the District's defense costs in the event that the District, in its sole discretion, elects to provide its own defense.

3. Governing Law/Disputes. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located. The Parties expressly and irrevocably waive any objections or rights which may affect venue of any such action, including, but not limited to, forum non-conveniens or otherwise. At the District's request, Mick Trust shall carry on its duties and obligations under this Agreement during any legal proceedings until and unless this Agreement is otherwise terminated. In the event that it becomes necessary for either party to enforce the provisions of this Agreement or to obtain redress for the breach or violation of any of its provisions, whether by litigation, arbitration or other proceedings, the prevailing party shall recover from the other party all costs and expenses associated with such proceedings, including reasonable attorney's fees.

4. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

5. Severability. If any covenant, term, condition or provision of this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition or provision shall not affect any other provision contained herein, the intention being that such provisions are severable. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

6. Counterpart Execution. This Agreement may be executed in counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto, and shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

EXHIBIT B

APPLICATION FOR ACCEPTANCE OF DISTRICT ELIGIBLE COSTS

Applicant Name: _____

Applicant Address: _____

Email: _____

Phone: _____

A narrative description and location of the corresponding Public Improvements: _____

Public Improvements Category and Costs:

Category	Entity that will own, operate, and/or maintain Public Improvements	Final, preliminary or conditional acceptance by the applicable governmental entity (Yes/No)	Hard Construction Costs (including Staking and Testing)	Soft Costs (Engineering, Legal, Planning, Landscape & Irrigation Design)
Street				
Parks and Recreation				
Water				
Sanitation/Storm Sewer				
Transportation				
Mosquito				
Safety Protection				
Fire Protection				
Television Relay and Translation				
Security				

Total Amount of District Eligible Costs: \$ _____

By its signature below, the Applicant certified that this Application and all documents submitted in support of this Application are true and correct, that the Applicant is authorize to sign this Application, and the costs submitted for reimbursement herein qualify as District Eligible Costs pursuant to the Public Improvement Acquisition and Reimbursement Agreement.

Signature: _____

Date: _____

**FUNDING AND REIMBURSEMENT AGREEMENT
(Operations and Maintenance)**

This **FUNDING AND REIMBURSEMENT AGREEMENT** (the “**Agreement**”) is made and entered into as of the 8th day of April, 2021, by and between MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado (f/k/a Ellicott Town Center Metropolitan District) (the “**District**”), and BOB AND CAROL MICK TRUST (“**Mick Trust**”). The District and Mick Trust are collectively referred to herein as the “**Parties**”.

RECITALS

WHEREAS, the District has been duly and validly organized as a quasi-municipal corporation and political subdivision of the State of Colorado, in accordance with the provisions of Article 1, Title 32, Colorado Revised Statutes (the “**Special District Act**”), with the power to provide certain public infrastructure, improvements and services, as described in the Special District Act, within and without its boundaries (collectively, the “**Public Infrastructure**”), as authorized and in accordance with the Second Consolidated Amended and Restated Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 1 & 2 and Service Plan for Mayberry, Colorado Springs Metropolitan District Nos. 3-8 (the “**Service Plan**”); and

WHEREAS, Mick Trust has directed or intends to direct certain development activities or cause development activities to occur with respect to property included within and without the boundaries of the District (the “**Project**”), which depend upon the timely delivery of the Public Infrastructure; and

WHEREAS, the District has incurred and will incur costs in furtherance of the District’s permitted purposes, including but not limited to: costs in the nature of general operating, administrative and maintenance costs, such as attorney, engineering, architectural, surveying, district management, accounting, auditing, insurance, and other costs necessary to continued good standing under applicable law (the “**Costs**”); and

WHEREAS, the District does not presently have financial resources to provide funding for payment of Costs that are projected to be incurred prior to the anticipated availability of funds; and

WHEREAS, the District has determined that delay in the provision of the Public Infrastructure and the conduct of other service functions by the District will impair the ability to provide facilities and services necessary to support the Project on a timely basis; and

WHEREAS, Mick Trust is willing to loan funds to the District, from time to time, on the condition that the District agrees to repay such loans, in accordance with the terms set forth in this Agreement; and

WHEREAS, the District is willing to execute one or more reimbursement notes, bonds, or other instruments (“**Reimbursement Obligations**”), in an aggregate principal amount not to exceed the Maximum Loan Amount (as defined below), to be issued to or at the direction of Mick

Trust upon its request, subject to the terms and conditions hereof, to further evidence the District's obligation to repay the funds loaned hereunder; and

WHEREAS, the District anticipates repaying moneys advanced by Mick Trust hereunder, including as evidenced by any requested Reimbursement Obligations, with the proceeds of future bonds, ad valorem taxes, or other legally available revenues of the District determined to be available therefor; and

WHEREAS, the District and Mick Trust desire to enter into this Agreement for the purpose of consolidating all understandings and commitments between them relating to the funding and repayment of the Costs; and

WHEREAS, the Board of Directors of the District (the "**Board**") has determined that the best interests of the District and its property owners will be served by entering into this Agreement for the funding and reimbursement of the Costs; and

WHEREAS, the Board has authorized its officers to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and Mick Trust agree as follows:

COVENANTS AND AGREEMENTS

1. Loan Amount and Term. Mick Trust agrees to loan to the District one or more sums of money up to \$200,000 (as the same may be subsequently increased by agreement of the Parties hereto and execution of a supplement or addendum to this Agreement) (the "**Maximum Loan Amount**"). These funds shall be loaned to the District in one or a series of installments and shall be available to the District through December 31, 2022 (as the same may be amended pursuant to an annual review evidenced by supplement or amendment hereto, the "**Loan Obligation Termination Date**"). Thereafter, Mick Trust may agree to renew its obligations hereunder by providing written notice thereof to the District, in which case the Loan Obligation Termination Date shall be amended to the date provided in such notice, which date shall not be earlier than December 31 of the succeeding year.

2. Prior Costs Incurred. The Parties agree and acknowledge that Mick Trust has incurred Costs on behalf of the District prior to the execution of this Agreement in anticipation that the same would be reimbursed as provided herein (the "**Prior Costs**"). Reimbursement for Prior Costs shall be made in accordance with, and subject to the terms and conditions of this Agreement governing the reimbursement for Costs, except that any Prior Costs reimbursed in accordance with this Agreement shall not be included in the calculation of the Maximum Loan Amount under Section 1 of this Agreement.

3. Use of Funds. The District agrees that it shall apply all funds loaned by Mick Trust under this Agreement solely to Costs of the District as set forth from time to time in the annual adopted budget for the District, and pursuant to any contracts entered into with third parties to perform functions for the District under such adopted budget. It is understood that the District has

budgeted or will budget as revenue from year to year the entire aggregate amount which may be borrowed hereunder to enable the District to appropriate revenues to pay the Costs included within the District's annual budget. Mick Trust shall be entitled to a quarterly accounting of the expenditures made by the District, upon request, and otherwise may request specific information concerning such expenditures at reasonable times and upon reasonable notice to the District.

4. Manner for Requesting Advances.

a. The District shall from time to time determine the amount of revenue required to fund budgeted expenditures by the District, but such determination shall be made not more often than monthly. Each determination shall be made based upon the expenditures contained in the adopted budget for the District and upon the rate of expenditures estimated for the next succeeding month and such other factors as the Board may consider relevant to the projection of future financial needs. Not less than fifteen (15) days before the beginning of each month, the District shall notify Mick Trust of the requested advance for the next month, and Mick Trust shall deposit such advance on or before the beginning of that month. The Parties may vary from this schedule upon mutual agreement.

b. Upon receipt of advances hereunder, the District shall keep a record of such advances made. Failure to record such advances shall not affect inclusion of such amounts as reimbursable amounts hereunder; provided that such advances are substantiated by the District's accountant. Mick Trust may provide any relevant documentation evidencing such unrecorded advance to assist in the District's final determination.

5. Obligations Irrevocable.

a. The obligations of Mick Trust created by this Agreement are absolute, irrevocable, unconditional, and are not subject to setoff or counterclaim.

b. Mick Trust shall not take any action which would delay or impair the District's ability to receive the funds contemplated herein with sufficient time to properly pay approved invoices and/or notices of payment due.

6. Interest Prior to Issuance of Reimbursement Obligations. With respect to each loan advance made under this Agreement prior to the issuance of any Reimbursement Obligation reflecting such advance, the interest rate shall be simple interest at the prime rate of interest, plus two points per annum, to the earlier of the date the Reimbursement Obligation is issued to evidence such advance, or the date of repayment of such amount. Upon issuance of any such Reimbursement Obligation, unless otherwise consented to by Mick Trust, any interest then accrued on any previously advanced amount shall be added to the amount of the loan advance and reflected as principal of the Reimbursement Obligation, and shall thereafter accrue interest as provided in such Reimbursement Obligation.

7. Terms of Repayment; Source of Revenues.

a. Any funds advanced hereunder shall be repaid in accordance with the terms of this Agreement. The District intends to repay any advances made under this Agreement from ad valorem taxes, fees, or other legally available revenues of the District, net of any debt service

or current operations and maintenance costs of the District. Any mill levy certified by the District for the purpose of repaying advances made hereunder shall not exceed 50 mills, as may be adjusted for constitutional or legislative changes in assessment ratio, and shall be further subject to any restrictions provided in the District's Service Plan, electoral authorization, or any applicable laws.

b. The provision for repayment of advances made hereunder, as set forth in Section 7(a) hereof, shall be at all times subject to annual appropriation by the District.

c. At such time as the District issues Reimbursement Obligations to evidence an obligation to repay advances made under this Agreement, the repayment terms of such Reimbursement Obligations shall control and supersede any otherwise applicable provision of this Agreement, except for the Maximum Reimbursement Obligation Repayment Term (as defined below).

8. Issuance of Reimbursement Obligations.

a. Subject to the conditions of this Section 8 and Section 9 hereof, upon request of Mick Trust, the District hereby agrees to issue to or at the direction of Mick Trust one or more Reimbursement Obligations to evidence any repayment obligation of the District then existing with respect to advances made under this Agreement. Such Reimbursement Obligations shall be payable solely from the sources identified in the Reimbursement Obligations, including, but not limited to, *ad valorem* property tax revenues of the District, and shall be secured by the District's pledge to apply such revenues as required hereunder, unless otherwise consented to by Mick Trust. Such Reimbursement Obligations shall mature on a date or dates, subject to the limitation set forth in the Maximum Reimbursement Obligation Repayment Term defined herein, and bear interest at a market rate, to be determined at the time of issuance of such Reimbursement Obligations. The District shall be permitted to prepay any Reimbursement Obligation, in whole or in part, at any time without redemption premium or other penalty, but with interest accrued to the date of prepayment on the principal amount prepaid. The District and Mick Trust shall negotiate in good faith the final terms and conditions of the Reimbursement Obligations.

b. The term for repayment of any Reimbursement Obligation issued under this Agreement shall not extend beyond twenty (20) years from the date of this Agreement ("**Maximum Reimbursement Obligation Repayment Term**").

c. The issuance of any Reimbursement Obligation shall be subject to the availability of an exemption from the registration requirements of § 11-59-106, C.R.S., and shall be subject to such prior filings with the Colorado State Securities Commissioner as may be necessary to claim such exemption, in accordance with § 11-59-110, C.R.S., and any regulations promulgated thereunder.

d. In connection with the issuance of any such Reimbursement Obligation, the District shall make such filings as it may deem necessary to comply with the provisions of § 32-1-1604, C.R.S., as amended.

e. The terms of this Agreement may be used to construe the intent of the District and Mick Trust in connection with issuance of any Reimbursement Obligations, and shall be read as nearly as possible to make the provisions of any Reimbursement Obligations and this

Agreement fully effective. Should any irreconcilable conflict arise between the terms of this Agreement and the terms of any Reimbursement Obligation, the terms of such Reimbursement Obligation shall prevail.

f. If, for any reason, any Reimbursement Obligation is determined to be invalid or unenforceable, the District shall issue a new Reimbursement Obligation to Mick Trust that is legally enforceable, subject to the provisions of this Section 8.

g. In the event that it is determined that payments of all or any portion of interest on any Reimbursement Obligation may be excluded from gross income of the holder thereof for federal income tax purposes upon compliance with certain procedural requirements and restrictions that are not inconsistent with the intended uses of funds contemplated herein and are not overly burdensome to the District, the District agrees, upon request of Mick Trust, to take all action reasonably necessary to satisfy the applicable provisions of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder.

9. No Debt. It is hereby agreed and acknowledged that this Agreement evidences the District's intent to repay Mick Trust for advances made hereunder in accordance with the terms hereof. However, this Agreement shall not constitute a debt or indebtedness by the District within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple-fiscal-year financial obligation. Further, the provision for repayment of advances made hereunder, as set forth in Section 7 hereof, and the agreement to issue a Reimbursement Obligation as set forth in Section 8 hereof, shall be at all times subject to annual appropriation by the District, in its absolute discretion. Mick Trust expressly understands and agrees that the District's obligations under this Agreement shall extend only to monies appropriated for the purposes of this Agreement by the District's Board and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. By acceptance of this Agreement, Mick Trust agrees and consents to all of the limitations in respect of the payment of the principal and interest due under this Agreement and in the District's Service Plan

10. Termination.

a. Mick Trust's obligations to advance funds to the District in accordance with this Agreement shall terminate on December 31, 2022, (subject to the extension terms above), except to the extent advance requests have been made to Mick Trust that are pending by this termination date, in which case said pending request(s) will be honored notwithstanding the passage of the termination date.

b. The District's obligations hereunder shall terminate at the earlier of the repayment in full of the Maximum Loan Amount (or such lesser amount advanced hereunder if it is determined by the District that no further advances shall be required hereunder) or twenty (20) years from the execution date hereof. After twenty (20) years from the execution of this Agreement, the Parties hereby agree and acknowledge that any obligation created by this Agreement which remains due and outstanding under this Agreement, including accrued interest, is forgiven in its entirety, generally and unconditionally released, waived, acquitted and forever discharged, and shall be deemed a contribution to the District by Mick Trust, and there shall be no further obligation of the District to pay or reimburse Mick Trust with respect to such amounts.

c. Notwithstanding any provision in this Agreement to the contrary, the District's obligations to reimburse Mick Trust for any and all funds advanced or otherwise payable to Mick Trust under and pursuant to this Agreement (whether Mick Trust has already advanced or otherwise paid such funds or intends to make such advances or payments in the future) shall terminate automatically and be of no further force or effect upon the occurrence of (a) Mick Trust' voluntary dissolution, liquidation, winding up, or cessation to carry on business activities as a going concern; (b) administrative dissolution (or other legal process not initiated by Mick Trust dissolving Mick Trust as a legal entity) that is not remedied or cured within sixty (60) days of the effective date of such dissolution or other process; or (c) the initiation of bankruptcy, receivership or similar process or actions with regard to Mick Trust (whether voluntary or involuntary). The termination of the District's reimbursement obligations as set forth in this section shall be absolute and binding upon Mick Trust, its successors and assigns. Mick Trust, by its execution of this Agreement, waives and releases any and all claims and rights, whether existing now or in the future, against the District relating to or arising out of the District's reimbursement obligations under this Agreement in the event that any of the occurrences described in this section occur.

11. Time Is of the Essence. Time is of the essence hereof; provided, however, that if the last day permitted or otherwise determined for the performance of any required act under this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

12. Notices and Place for Payments. All notices, demands and communications (collectively, “**Notices**”) under this Agreement shall be delivered or sent by: (a) first class, registered or certified mail, postage prepaid, return receipt requested, (b) nationally recognized overnight carrier, addressed to the address of the intended recipient set forth below or such other address as either party may designate by notice pursuant to this Section 12, or (c) sent by confirmed facsimile transmission, PDF or email. Notices shall be deemed given either one business day after delivery to the overnight carrier, three (3) days after being mailed as provided in clause (a) above, or upon confirmed delivery as provided in clause (c) above.

District: Mayberry, Colorado Springs Metropolitan District No. 1
Public Alliance, LLC
355 S Teller Street, Suite 200
Lakewood, CO 80226
Attention: AJ Beckman, District Manager
(303) 877-6284 (phone)
aj@publicalliancellc.com

With copy to: WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122
Attention: Jennifer Gruber Tanaka, Esq.
(303) 858-1800 (phone)
(303) 858-1801 (fax)
jtanaka@wbapc.com

Mick Trust: Bob and Carol Mick Trust
 4022 El Cerrito Way
 Klamath Falls, OR 97503
 Attention: John Mick, Trustee
 (541) 810-2122 (phone)
 jmick@intelifab.net

13. Amendments. This Agreement may only be amended or modified by a writing executed by both the District and Mick Trust.

14. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

15. Applicable Laws. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located.

16. Assignment. This Agreement may not be assigned by the District or Mick Trust and any attempt to assign this Agreement in violation hereof shall be null and void.

17. Authority. By execution hereof, the District and Mick Trust represent and warrant that their respective representatives signing hereunder have full power and authority to execute this Agreement and to bind the respective party to the terms hereof.

18. Entire Agreement. This Agreement constitutes and represents the entire, integrated agreement between the District and Mick Trust with respect to the matters set forth herein and hereby supersedes any and all prior negotiations, representations, agreements or arrangements of any kind with respect to those matters, whether written or oral. This Agreement shall become effective upon the date of full execution hereof.

19. Legal Existence. The District will maintain its legal identity and existence so long as any of the advanced amounts contemplated herein remain outstanding. The foregoing statement shall apply unless, by operation of law, another legal entity succeeds to the liabilities and rights of the District hereunder without materially adversely affecting Mick Trust' privileges and rights under this Agreement.

20. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person

acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

21. Negotiated Provisions. This Agreement shall not be construed more strictly against one party than against another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each party has contributed substantially and materially to the preparation of this Agreement.

22. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and Mick Trust any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the District and Mick Trust shall be for the sole and exclusive benefit of the District and Mick Trust.

23. Counterpart Execution. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date and year first above written. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

DISTRICT:

MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 1, a quasi-
municipal corporation and political subdivision of
the State of Colorado

Officer of the District

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

MICK TRUST:

BOB AND CAROL MICK TRUST

Printed Name: John Mick
Title: Trustee

Signature page to Funding and Reimbursement Agreement with Bob and Carol Mick Trust

WILLIAM P. ANKELE, JR.
JENNIFER GRUBER TANAKA
CLINT C. WALDRON
KRISTIN BOWERS TOMPKINS
ROBERT G. ROGERS
BLAIR M. DICKHONER

OF COUNSEL:
KRISTEN D. BEAR
K. SEAN ALLEN
GEORGE M. ROWLEY



ZACHARY P. WHITE
TRISHA K. HARRIS
HEATHER L. HARTUNG
MEGAN J. MURPHY
EVE M. G. VELASCO
ALLISON C. FOGG
LAURA S. HEINRICH
AUDREY G. JOHNSON
LISA CANCANON

April 8, 2021

Via Email

Board of Directors
Mayberry, Colorado Springs
Community Authority
c/o AJ Beckman, Authority Manager
Public Alliance, LLC
355 S. Teller Street
Lakewood, Colorado 80226
aj@publicalliancecellc.com

Boards of Directors
Mayberry, Colorado Springs Metropolitan
District Nos. 2 & 3
c/o AJ Beckman, District Manager
Public Alliance, LLC
355 S. Teller Street
Lakewood, Colorado 80226
aj@publicalliancecellc.com

RE: Transaction-Based Informed Consent to Representation

Dear Directors:

White Bear Ankele Tanaka & Waldron (“**WBA**”) currently serves as general counsel to Mayberry, Colorado Springs Community Authority (the “**Authority**”) and as general counsel to the Mayberry, Colorado Springs Metropolitan District Nos. 2 & 3 (collectively, the “**Districts**,” and, together with the Authority, the “**Entities**”). The Entities desire to enter into capital pledge agreements and other associated agreements related to the issuance by the Authority of its Series 2021A Bonds and Series 2021B₃ Bonds (collectively, the “**Transaction**”). Because they are on opposite sides of the Transaction, the Entities may be in adverse positions to each other. Even though the Entities are currently cooperative and may desire WBA to serve as counsel to all parties to the Transaction, WBA is limited by the Rules of Professional Conflict from serving in this capacity.

Generally, it is a conflict of interest for a lawyer to represent both sides to a transaction. It is also a conflict of interest for a lawyer to represent one client in a transaction in which the other parties to the transaction are also clients of the same lawyer or that lawyer’s firm in other matters. In this instance, it is permissible for the firm to represent one but not all three clients in the Transaction if all three clients provide informed consent, confirmed in writing by the lawyer.

As we have discussed previously, WBA believes that this is an instance in which it can provide competent and diligent representation to the Authority even though the Districts are the other parties to the Transaction. If each Entity consents to this arrangement, WBA would represent the Authority but not the Districts in the Transaction. We recommend that the Entities consult with separate legal

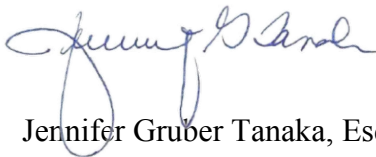
Boards of Directors
Mayberry, Colorado Springs Community Authority
Mayberry, Colorado Springs Metropolitan District Nos. 2 & 3
RE: Transaction-Based Informed Consent to Representation
April 8, 2021
Page 2 of 3

counsel regarding this request for consent. Collins Cockrel & Cole has been retained as special counsel to represent the Districts in the Transaction.

WBA will continue to serve as general counsel to the Entities in matters unrelated to the Transaction. Should you have any questions or wish to discuss this matter further, please do not hesitate to contact me.

Sincerely,

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law



Jennifer Gruber Tanaka, Esq.

Mayberry, Colorado Springs Community Authority understands the conflict of interest described in this letter and provides its informed consent to WBA's continued representation of Mayberry, Colorado Springs Community Authority in the Transaction.

Mayberry, Colorado Springs Community Authority

By: _____
Signature

Printed Name: _____
Position: _____
Date: _____

Mayberry, Colorado Springs Metropolitan District No. 2 understands the conflict of interest described in this letter and provides its informed consent to WBA's continued representation of Mayberry, Colorado Springs Community Authority in the Transaction.

Mayberry, Colorado Springs Metropolitan District No. 2

By: _____
Signature

Printed Name: _____
Position: _____
Date: _____

Boards of Directors
Mayberry, Colorado Springs Community Authority
Mayberry, Colorado Springs Metropolitan District Nos. 2 & 3
RE: Transaction-Based Informed Consent to Representation
April 8, 2021
Page 3 of 3

Mayberry, Colorado Springs Metropolitan District No. 3 understands the conflict of interest described in this letter and provides its informed consent to WBA's continued representation of Mayberry, Colorado Springs Community Authority in the Transaction.

Mayberry, Colorado Springs Metropolitan District No. 3

By: _____
Signature

Printed Name: _____

Position: _____

Date: _____

WILLIAM P. ANKELE, JR.
JENNIFER GRUBER TANAKA
CLINT C. WALDRON
KRISTIN BOWERS TOMPKINS
ROBERT G. ROGERS
BLAIR M. DICKHONER

OF COUNSEL:
KRISTEN D. BEAR
K. SEAN ALLEN
GEORGE M. ROWLEY



ZACHARY P. WHITE
TRISHA K. HARRIS
HEATHER L. HARTUNG
MEGAN J. MURPHY
EVE M. G. VELASCO
ALLISON C. FOGG
LAURA S. HEINRICH
AUDREY G. JOHNSON
LISA CANCANON

April 8, 2021

Via Email

Board of Directors
Mayberry, Colorado Springs
Community Authority
c/o AJ Beckman, Authority Manager
Public Alliance, LLC
355 S. Teller Street
Lakewood, Colorado 80226
aj@publicalliancecellc.com

Board of Directors
Mayberry, Colorado Springs Metropolitan
District No. 1
c/o AJ Beckman, District Manager
Public Alliance, LLC
355 S. Teller Street
Lakewood, Colorado 80226
aj@publicalliancecellc.com

RE: Transaction-Based Informed Consent to Representation

Dear Directors:

White Bear Ankele Tanaka & Waldron (“**WBA**”) currently serves as general counsel to Mayberry, Colorado Springs Community Authority (the “**Authority**”) and as general counsel to the Mayberry, Colorado Springs Metropolitan District No. 1 (the “**District**,” and, together with the Authority, the “**Entities**”). The Entities desire to enter into an intergovernmental agreement for reimbursement of capital expenses (collectively, the “**Transaction**”). Because they are on opposite sides of the Transaction, the Entities may be in adverse positions to each other. Even though the Entities are currently cooperative and may desire WBA to serve as counsel to both parties to the Transaction, WBA is limited by the Rules of Professional Conflict from serving in this capacity.

Generally, it is a conflict of interest for a lawyer to represent both sides to a transaction. It is also a conflict of interest for a lawyer to represent one client in a transaction in which the other party to the transaction is also a client of the same lawyer or that lawyer’s firm in other matters. In this instance, it is permissible for the firm to represent one but not both clients in the Transaction if both clients provide informed consent, confirmed in writing by the lawyer.

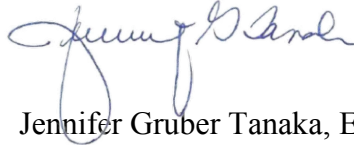
As we have discussed previously, WBA believes that this is an instance in which it can provide competent and diligent representation to the Authority even though the District is the other party to the Transaction. If each Entity consents to this arrangement, WBA would represent the Authority but not the District in the Transaction. We recommend that the Entities consult with separate legal counsel regarding this request for consent. Collins Cockrel & Cole has been retained as special counsel to represent the District in the Transaction.

Boards of Directors
Mayberry, Colorado Springs Community Authority
Mayberry, Colorado Springs Metropolitan District No. 1
RE: Transaction-Based Informed Consent to Representation
April 8, 2021
Page 2 of 2

WBA will continue to serve as general counsel to the Entities in matters unrelated to the Transaction. Should you have any questions or wish to discuss this matter further, please do not hesitate to contact me.

Sincerely,

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law



Jennifer Gruber Tanaka, Esq.

Mayberry, Colorado Springs Community Authority understands the conflict of interest described in this letter and provides its informed consent to WBA's continued representation of Mayberry, Colorado Springs Community Authority in the Transaction.

Mayberry, Colorado Springs Community Authority

By: _____
Signature

Printed Name: _____
Position: _____
Date: _____

Mayberry, Colorado Springs Metropolitan District No. 1 understands the conflict of interest described in this letter and provides its informed consent to WBA's continued representation of Mayberry, Colorado Springs Community Authority in the Transaction.

Mayberry, Colorado Springs Metropolitan District No. 1

By: _____
Signature

Printed Name: _____
Position: _____
Date: _____

WILLIAM P. ANKELE, JR.
JENNIFER GRUBER TANAKA
CLINT C. WALDRON
KRISTIN BOWERS TOMPKINS
ROBERT G. ROGERS
BLAIR M. DICKHONER

OF COUNSEL:
KRISTEN D. BEAR
K. SEAN ALLEN
GEORGE M. ROWLEY



ZACHARY P. WHITE
TRISHA K. HARRIS
HEATHER L. HARTUNG
MEGAN J. MURPHY
EVE M. G. VELASCO
ALLISON C. FOGG
LAURA S. HEINRICH
AUDREY G. JOHNSON
LISA CANCANON

March 17, 2021

Via Email

Boards of Directors
Mayberry, Colorado Springs
Metropolitan District Nos. 2 & 8
c/o AJ Beckman, District Manager
Public Alliance, LLC
355 S. Teller Street
Lakewood, Colorado 80226
aj@publicalliancecellc.com

Boards of Directors
Mayberry, Colorado Springs Metropolitan
District Nos. 3-7
c/o AJ Beckman, District Manager
Public Alliance, LLC
355 S. Teller Street
Lakewood, Colorado 80226
aj@publicalliancecellc.com

RE: Transaction-Based Informed Consent to Representation

Dear Directors:

White Bear Ankele Tanaka & Waldron (“WBA”) currently serves as general counsel to Mayberry, Colorado Springs Metropolitan District Nos. 2 & 8 (the “**District Nos. 2 & 8**”) and as general counsel to the Mayberry, Colorado Springs Metropolitan District Nos. 3-7 (collectively, the “**District Nos. 3-7**,” and, together with District Nos. 2 & 8, the “**Entities**”). The Entities desire to enter into an establishment agreement in order to create an authority in order to provide services and incur financial obligation on behalf of the Members (as that term is defined in the Establishment Agreement) (collectively, the “**Transaction**”). Because they are on opposite sides of the Transaction, the Entities may be in adverse positions to each other. Even though the Entities are currently cooperative and may desire WBA to serve as counsel to all parties to the Transaction, WBA is limited by the Rules of Professional Conflict from serving in this capacity.

Generally, it is a conflict of interest for a lawyer to represent both sides to a transaction. It is also a conflict of interest for a lawyer to represent one client in a transaction in which the other parties to the transaction are also clients of the same lawyer or that lawyer’s firm in other matters. In this instance, it is permissible for the firm to represent one but not all clients in the Transaction if all clients provide informed consent, confirmed in writing by the lawyer.

As we have discussed previously, WBA believes that this is an instance in which it can provide competent and diligent representation to District Nos. 2 & 8, even though the District Nos. 3-7 are the other parties to the Transaction. If each Entity consents to this arrangement, WBA would represent District Nos. 2 & 8 but not District Nos. 3-7 in the Transaction. We recommend that the Entities

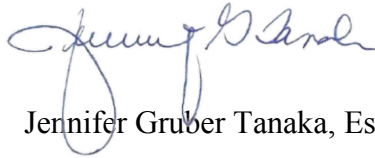
Boards of Directors
Mayberry, Colorado Springs Metropolitan District Nos. 2 & 8
Mayberry, Colorado Springs Metropolitan District Nos. 3-7
RE: Transaction-Based Informed Consent to Representation
March 17, 2021
Page 2 of 2

consult with separate legal counsel regarding this request for consent. Collins Cockrel & Cole has been retained as special counsel to represent District Nos. 3-7 in the Transaction.

WBA will continue to serve as general counsel to the Entities in matters unrelated to the Transaction. Should you have any questions or wish to discuss this matter further, please do not hesitate to contact me.

Sincerely,

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law



Jennifer Gruber Tanaka, Esq.

Mayberry, Colorado Springs Metropolitan District Nos. 2 & 8 understand the conflict of interest described in this letter and provides its informed consent to WBA's continued representation of Mayberry, Colorado Springs Metropolitan District Nos. 2 & 8 in the Transaction.

Mayberry, Colorado Springs Metropolitan District Nos. 2 & 8

By: _____
Signature

Printed Name: _____
Position: _____
Date: _____

Mayberry, Colorado Springs Metropolitan District Nos. 3-7 understand the conflict of interest described in this letter and provides its informed consent to WBA's continued representation of Mayberry, Colorado Springs Metropolitan District Nos. 2 & 8 in the Transaction.

Mayberry, Colorado Springs Metropolitan District Nos. 3-7

By: _____
Signature

Printed Name: _____
Position: _____
Date: _____

Resolution No. 2021-04-01

**RESOLUTION AND ORDER FOR INCLUSION OF PROPERTY
BY THE
BOARD OF DIRECTORS
OF THE
MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 1**

(Colorado Springs Mayberry Inc., Property, Approximately 476.91 Acres)

WHEREAS, COLORADO SPRINGS MAYBERRY INC., a Delaware corporation, whose address is P.O. Box 675725, Rancho Santa Fe, CA 92067 (the "Petitioner"), filed with the MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT No. 1 (the "District") a Petition for Inclusion of Real Property (the "Petition"), a copy of which is attached hereto as **Exhibit A**, and incorporated herein by this reference; and

WHEREAS, the Petitioner represents that it is the one hundred percent (100%) fee owner of the real property described in the Petition (the "Property"); and

WHEREAS, the Petition requests that the Board of Directors of the District (the "Board") include the Property into the District, in accordance with § 32-1-401(1)(a), C.R.S.; and

WHEREAS, pursuant to the provisions of § 32-1-401(1)(b), C.R.S., publication of notice of the filing of the Petition and the place, time and date of the public meeting at which the Petition would be considered, the name and address of the Petitioner and notice that all persons interested shall appear at such time and place and show cause in writing why the Petition should not be granted, was made in the *El Paso County Advertiser and News* on April 7, 2021. The Affidavit of Publication is attached hereto as **Exhibit B** and incorporated herein by this reference (the "Affidavit of Publication"); and

WHEREAS, no written objection to the inclusion was filed by any person; and

WHEREAS, the Petition was heard at a public meeting of the Board the District held on April 8, 2021, at the hour of 10:00 a.m.; and

WHEREAS, the Board has reviewed the Petition and all relevant information related thereto; and

WHEREAS, the Board of the District desires to grant the Petition and approve the inclusion of the Property into the District.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:

1. Grant of Inclusion. The Board hereby grants the Petition and orders the inclusion of the Property into the District.

2. Effective Date of Resolution. This Resolution shall become effective as of the date hereof.

3. Motion and Order for Inclusion. The Board hereby directs its legal counsel to file a motion with the District Court in and for El Paso County seeking an Order for Inclusion.

Remainder of page intentionally left blank. Signature page follows.

ADOPTED this 8th day of April, 2021.

MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 1

Officer of the District

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

CERTIFICATION OF RESOLUTION

I hereby certify that the foregoing constitutes a true and correct copy of the Resolution and Order for Inclusion of Real Property adopted by the Board at a meeting held via teleconference on April 8, 2021.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 8th day of April, 2021.

Signature

Printed Name

EXHIBIT A
TO RESOLUTION AND ORDER FOR INCLUSION OF PROPERTY
(Petition for Inclusion)

PETITION FOR INCLUSION OF PROPERTY

(Colorado Springs Mayberry Inc., Property, Approximately 476.91 Acres)

TO: THE BOARD OF DIRECTORS OF THE
MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 1,
EL PASO COUNTY, COLORADO

Pursuant to the provisions of §§ 32-1-401, *et seq.*, C.R.S., **COLORADO SPRINGS MAYBERRY INC.**, a Delaware corporation (the “Petitioner”), hereby respectfully requests that the **MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 1** (the “District”), by and through its Board of Directors, include the real property described in **Exhibit A**, attached hereto and incorporated herein by this reference (the “Property”), into the boundaries of the District.

The Petitioner hereby represents and warrants to the District that it is the one hundred percent (100%) fee owner of the Property and that no other person, persons, entity or entities own an interest therein except as beneficial holders of encumbrances, if any. The Petitioner hereby assents to the inclusion of the Property into the boundaries of the District and to the entry of an Order by the District Court in and for El Paso County, including the Property into the boundaries of the District.

The Petitioner hereby acknowledges that, without the consent of the Board of Directors of the District, it cannot withdraw its Petition once the notice of the public hearing on the Petition has been published.

The name and address of the Petitioner is as follows:
Colorado Springs Mayberry Inc.
P.O. Box 675725
Rancho Santa Fe, CA 92067

Remainder of page intentionally left blank. Signature page follows.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

PETITIONER:

COLORADO SPRINGS MAYBERRY INC., a Delaware corporation.

R. Randy Goodson

Printed Name: R. Randy Goodson

Title: President

STATE OF California)
COUNTY OF San Diego) ss.

The above and foregoing instrument was acknowledged before me this 31st day of March, 2021, by R. Randy Goodson, as President of Colorado Springs Mayberry Inc.

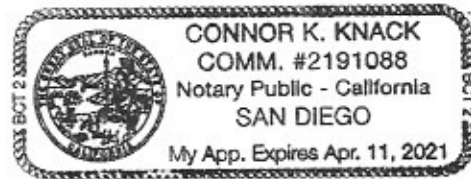
WITNESS my hand and official seal.

(SEAL)

[Signature]

Notary Public

My commission expires: 04/11/2021



*Signature Page to Petition for Inclusion of Real Property
(Colorado Springs Mayberry Inc., Property, Approximately 476.91 Acres)*

EXHIBIT A
(The Property)

LEGAL DESCRIPTION – MAYBERRY METROPOLITAN DISTRICT NO. 1 (INCLUSION PARCELS):

ALL BEARINGS USED HEREIN ARE ASSUMED TO BEAR S89°44'49"E, A DISTANCE OF 2606.55 FEET BETWEEN THE NORTHWEST CORNER OF SECTION 14, SAID POINT ALSO BEING THE NORTHEAST CORNER OF SECTION 15, ALL IN TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6th P.M., EL PASO COUNTY, COLORADO, AS MONUMENTED BY A REBAR AND 3-1/2" ALUMINUM CAP STAMPED "U.P.&E. PLS 116_4 1999", AND THE NORTH ONE-QUARTER CORNER OF SAID SECTION 14, AS MONUMENTED BY A REBAR AND 2" ALUMINUM CAP IN A RANGE BOX STAMPED "U.P.&E. PLS 11624 1999";

INCLUSION – 1

A TRACT OF LAND LOCATED IN THE WEST ONE-HALF OF THE NORTHEAST ONE-QUARTER (W1/2 NE1/4) AND IN THE WEST ONE-HALF (W1/2) OF SECTION 14, AND IN THE EAST ONE-HALF OF THE EAST ONE-HALF (E1/2 E1/2) OF SECTION 15, ALL IN TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6th P.M., EL PASO COUNTY, COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF TRACT N, AS SHOWN ON THE PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1, AS RECORDED UNDER RECEPTION NO. 220714655 OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER;

THENCE S89°07'06"E ALONG THE NORTHERLY LINE OF SAID TRACT N, A DISTANCE OF 1257.42 FEET TO THE NORTHEAST CORNER THEREOF, SAID POINT ALSO BEING THE NORTHWEST CORNER OF NEW LOG ROAD, AS SHOWN ON SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1;

THENCE ALONG THAT LINE COMMON TO SAID TRACT N, THE WESTERLY RIGHT-OF-WAY LINE OF SAID NEW LOG ROAD AND THE SOUTHERLY RIGHT-OF-WAY LINE OF VILLAGE MAIN STREET, AS SHOWN ON SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1, THE FOLLOWING THIRTEEN (13) COURSES;

- 1.) THENCE S00°01'09"W, A DISTANCE OF 235.75 FEET TO A POINT OF CURVATURE;
- 2.) THENCE ALONG THE ARC OF A 365.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 19°57'13", AN ARC LENGTH OF 127.11 FEET (THE LONG CHORD OF WHICH BEARS S09°59'45"W, A LONG CHORD DISTANCE OF 126.47 FEET) TO A POINT OF TANGENCY;
- 3.) THENCE S19°58'22"W, A DISTANCE OF 166.93 FEET TO A POINT OF CURVATURE;
- 4.) THENCE ALONG THE ARC OF A 435.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 19°58'22", AN ARC LENGTH OF 151.64 FEET (THE LONG CHORD OF WHICH BEARS S09°59'11"W, A LONG CHORD DISTANCE OF 150.87 FEET) TO A POINT OF TANGENCY;
- 5.) THENCE S00°00'00"W, A DISTANCE OF 31.13 FEET;
- 6.) THENCE S45°15'31"W, A DISTANCE OF 30.97 FEET;
- 7.) THENCE S00°00'00"W, A DISTANCE OF 70.00 FEET;
- 8.) THENCE S44°44'29"E, A DISTANCE OF 31.25 FEET;
- 9.) THENCE S89°28'59"E, A DISTANCE OF 62.00 FEET;
- 10.) THENCE N45°15'31"E, A DISTANCE OF 30.97 FEET;
- 11.) THENCE S89°28'59"E, A DISTANCE OF 142.00 FEET;

12.) THENCE S44°44'29"E, A DISTANCE OF 31.25 FEET;

13.) THENCE S89°28'59"E, A DISTANCE OF 62.00 FEET TO AN ANGLE POINT ON SAID SOUTHERLY RIGHT-OF-WAY LINE, SAID POINT ALSO BEING THE NORTHWEST CORNER OF TRACT O, AS SHOWN ON SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1;

THENCE ALONG THAT LINE COMMON TO SAID SOUTHERLY RIGHT-OF-WAY LINE AND SAID TRACT O, THE FOLLOWING THREE (3) COURSES;

1.) THENCE N45°15'31"E, A DISTANCE OF 30.97 FEET;

2.) THENCE S89°28'59"E, A DISTANCE OF 448.42 FEET;

3.) THENCE S44°44'29"E, A DISTANCE OF 3.11 FEET;

THENCE S00°31'01"W, A DISTANCE OF 342.81 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF MAYBERRY DRIVE, AS SHOWN ON SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1;

THENCE S89°28'59"E ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND THE EASTERLY EXTENSION THEREOF, A DISTANCE OF 2271.94 FEET;

THENCE ALONG THE ARC OF A 65.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 79°25'49", AN ARC LENGTH OF 90.11 FEET (THE LONG CHORD OF WHICH BEARS S89°28'59"E, A LONG CHORD DISTANCE OF 83.07 FEET);

THENCE S89°28'59"E, A DISTANCE OF 845.71 FEET;

THENCE N00°00'00"W, A DISTANCE OF 100.00 FEET;

THENCE N44°44'31"W, A DISTANCE OF 32.67 FEET;

THENCE N00°00'00"W, A DISTANCE OF 525.76 FEET;

THENCE N89°28'59"W, A DISTANCE OF 611.87 FEET TO AN ANGLE POINT ON THE SOUTHERLY LINE OF TRACT A, AS SHOWN ON THE PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 2, AS RECORDED UNDER RECEPTION NO. 221714698 OF SAID COUNTY RECORDS;

THENCE ALONG THE SOUTHERLY LINE OF SAID TRACT A, THE FOLLOWING TWO (2) COURSES;

1.) THENCE S00°00'00"E, A DISTANCE OF 10.73 FEET;

2.) THENCE N89°28'59"W, A DISTANCE OF 219.39 FEET TO THE SOUTHWEST CORNER THEREOF, SAID POINT ALSO BEING A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SPRINGS ROAD, AS SHOWN ON SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 2;

THENCE N00°00'00"E ALONG THAT LINE COMMON TO SAID TRACT A AND SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 435.02 FEET TO THE NORTHWEST CORNER OF SAID TRACT A, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF THAT CDOT RIGHT-OF-WAY DESCRIBED AS TRACT NO. 3, AS RECORDED UNDER RECEPTION NO. 220211233 OF SAID COUNTY RECORDS;

THENCE S89°28'59"E ALONG THAT LINE COMMON TO SAID TRACT A AND SAID CDOT RIGHT-OF-WAY TRACT NO. 3, A DISTANCE OF 521.28 FEET TO THE EASTERLY COMMON CORNER THEREOF, SAID POINT ALSO BEING A POINT ON THE WESTERLY LINE OF TRACT D OF SAID MAYBERRY, COLORADO SPRINGS FILING NO. 2;

THENCE N00°00'00"E ALONG THAT LINE COMMON TO SAID CDOT RIGHT-OF-WAY TRACT NO. 3 AND SAID WESTERLY LINE, A DISTANCE OF 40.00 FEET TO THE NORTHERLY COMMON CORNER THEREOF;

THENCE S89°28'59"E ALONG THE NORTHERLY LINE OF SAID TRACT D, A DISTANCE OF 418.15 FEET TO THE NORTHEAST CORNER THEREOF;

THENCE S00°21'12"E ALONG THE EASTERLY LINE OF SAID TRACT D, A DISTANCE OF 2594.09 FEET TO THE SOUTHEAST CORNER THEREOF;

THENCE N89°36'00"W ALONG THE SOUTHERLY LINE OF SAID TRACT D AND ALONG THE SOUTHERLY LINE OF TRACT C OF SAID MAYBERRY, COLORADO SPRINGS FILING NO. 2, A DISTANCE OF 1308.58 FEET TO THE SOUTHWEST CORNER OF SAID TRACT C, SAID POINT ALSO BEING THE CENTER ONE-QUARTER CORNER OF SAID SECTION 14;

THENCE S00°14'15"E ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 14, A DISTANCE OF 2631.90 FEET TO THE SOUTH ONE-QUARTER CORNER THEREOF;

THENCE N89°24'37"W ALONG THE SOUTHERLY LINE OF THE SOUTHWEST ONE-QUARTER (SW1/4) OF SAID SECTION 14, A DISTANCE OF 2630.66 FEET TO THE SOUTHWEST CORNER THEREOF, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF SAID E1/2 E1/2 SECTION 15;

THENCE N89°25'53"W ALONG THE SOUTHERLY LINE OF SAID E1/2 E1/2, A DISTANCE OF 1313.35 FEET TO THE SOUTHWEST CORNER THEREOF;

THENCE N00°05'20"E ALONG THE WESTERLY LINE OF SAID E1/2 E1/2, A DISTANCE OF 5253.60 FEET TO THE POINT OF BEGINNING;

SAID TRACT CONTAINS 464.24 ACRES OF LAND, MORE OR LESS.

INCLUSION – 2

A TRACT OF LAND BEING LOTS 1, 2 AND 3, TOGETHER WITH THE RIGHTS-OF-WAY KNOWN AS CATTLEMEN RUN AND BOTTLEBRUSH STREET, ALL AS SHOWN ON THE PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 2, AS RECORDED UNDER RECEPTION NO. 221714698 OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER AND LOCATED IN THE WEST ONE-HALF OF THE WEST ONE-HALF OF THE NORTHEAST ONE-QUARTER (W1/2 W1/2 NE1/4) AND THE NORTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER (NE1/4 NW1/4) OF SECTION 14, TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6th P.M., EL PASO COUNTY, COLORADO.

SAID TRACT CONTAINS 3.52 ACRES OF LAND, MORE OR LESS.

INCLUSION – 3

A TRACT OF LAND BEING A PORTION OF TRACT K, AS SHOWN ON THE PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1, AS RECORDED UNDER RECEPTION NO. 220714655 OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER, LOCATED IN THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER (NW1/4 NW1/4) OF SECTION 14, TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6th P.M., EL PASO COUNTY, COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT K;

THENCE S89°28'59"E ALONG THE NORTH LINE OF SAID TRACT K, A DISTANCE OF 584.00 FEET;

THENCE S00°31'01"W, A DISTANCE OF 655.13 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID TRACT K, SAID POINT ALSO BEING A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF VILLAGE MAIN STREET, AS SHOWN ON SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1;

THENCE ALONG THAT LINE COMMON TO SAID TRACT K, SAID NORTHERLY RIGHT-OF-WAY LINE AND THE EASTERLY RIGHT-OF-WAY LINE OF NEW LOG ROAD, AS SHOWN ON SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1, THE FOLLOWING EIGHT (8) COURSES;

- 1.) THENCE S45°15'31"W, A DISTANCE OF 4.04 FEET;
- 2.) THENCE N89°28'59"W, A DISTANCE OF 448.41 FEET;
- 3.) THENCE N44°44'29"W, A DISTANCE OF 31.25 FEET;
- 4.) THENCE N00°00'00"E, A DISTANCE OF 38.06 FEET TO A POINT OF CURVATURE;
- 5.) THENCE ALONG THE ARC OF A 435.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 21°29'20", AN ARC LENGTH OF 163.15 FEET (THE LONG CHORD OF WHICH BEARS N10°44'40"W, A LONG CHORD DISTANCE OF 162.19 FEET) TO A POINT OF TANGENCY;
- 6.) THENCE N21°29'20"W, A DISTANCE OF 134.47 FEET TO A POINT OF CURVATURE;
- 7.) THENCE ALONG THE ARC OF A 365.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 21°30'29", AN ARC LENGTH OF 137.02 FEET (THE LONG CHORD OF WHICH BEARS N10°44'06"W, A LONG CHORD DISTANCE OF 136.21 FEET) TO A POINT OF TANGENCY;
- 8.) THENCE N00°01'09"E, A DISTANCE OF 180.61 TO THE POINT OF BEGINNING;

SAID TRACT CONTAINS 8.11 ACRES OF LAND, MORE OR LESS.

INCLUSION – 4

A TRACT OF LAND BEING TRACT A, AS SHOWN ON THE PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1, AS RECORDED UNDER RECEPTION NO. 220714655 OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER, LOCATED IN THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER (NW1/4 NW1/4) OF SECTION 14 AND IN THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER (NE1/4 NE1/4) OF SECTION 15, ALL IN TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6th P.M., EL PASO COUNTY, COLORADO.

SAID TRACT CONTAINS 1.04 ACRES OF LAND, MORE OR LESS.

DISTRICT NO. 1 INCLUSION PARCELS CONTAIN A TOTAL OF 476.91 ACRES OF LAND, MORE OR LESS.

PREPARED BY:
ERIC SIMONSON, COLORADO P.L.S. NO. 38560
FOR AND ON BEHALF OF RAMPART SURVEYS, LLC
P.O. BOX 5101
WOODLAND PARK, COLORADO 80866

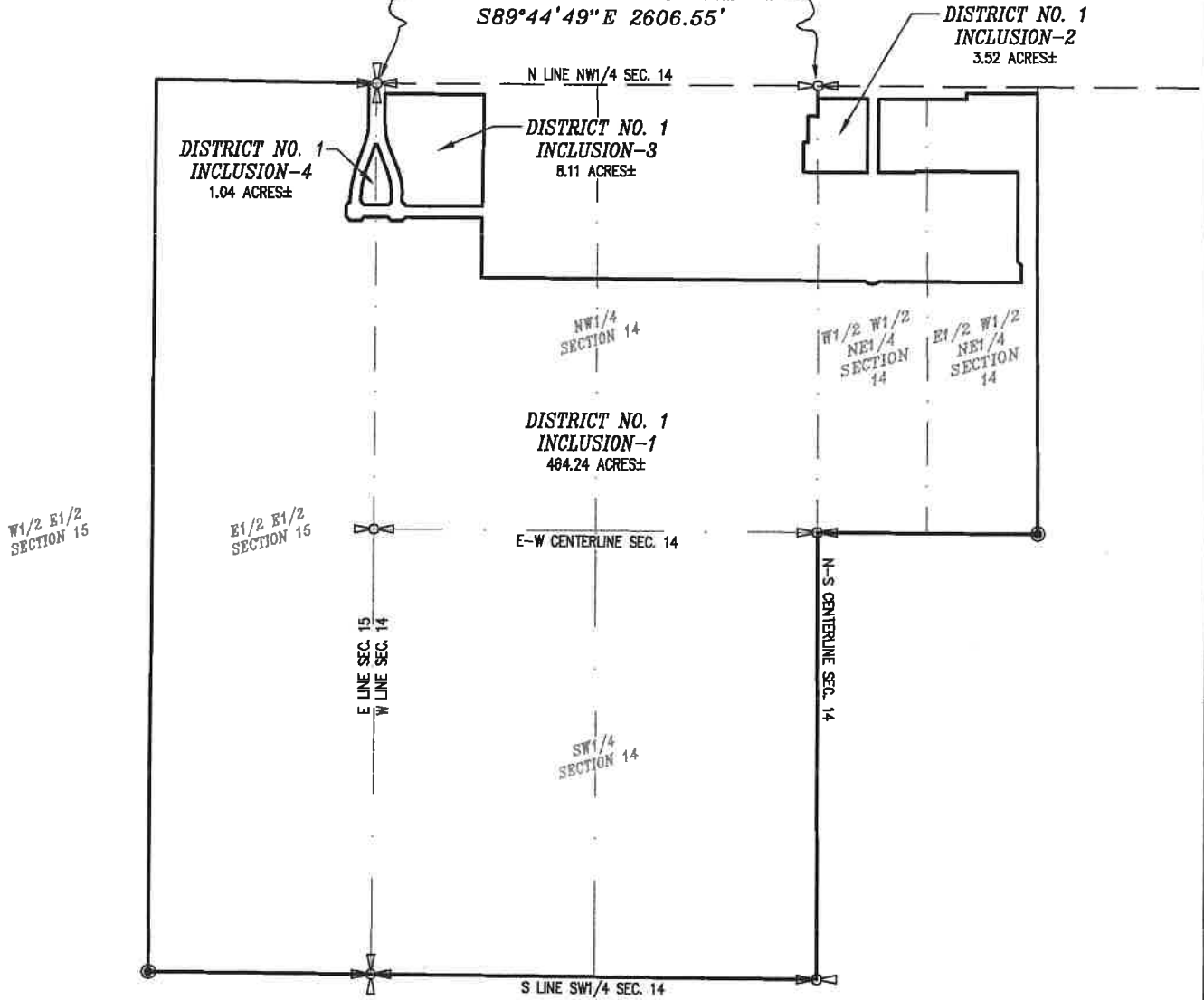
(719) 687-0920



EXHIBIT DISTRICT NO. 1 - INCLUSION MAP

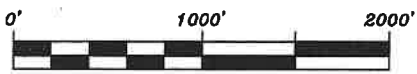
STATE HIGHWAY 94
(R.O.W. VARIES)

ASSUMED BASIS OF BEARINGS
S89°44'49"E 2606.55'



LEGEND:

- FOUND 3/4" REBAR AND YELLOW CAP STAMPED "UP&E PLS 11624" OR ILLEGIBLE
- ⊕ FOUND 1/4 CORNER
- ⊕ FOUND SECTION CORNER



SCALE: 1" = 1000'

JOB NO.: 21108

MARCH 25, 2021

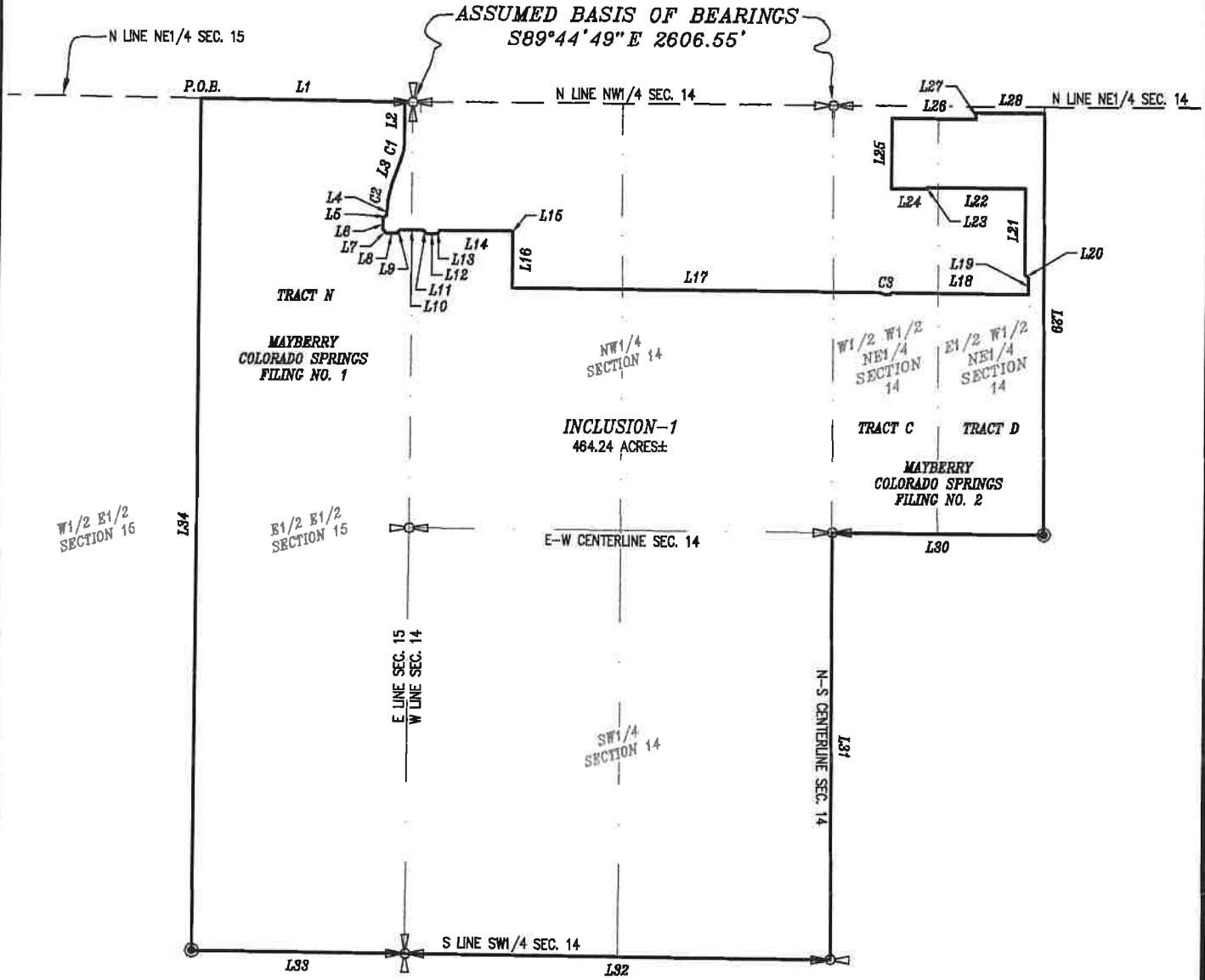
**RAMPART
SURVEYS**

P.O. Box 5101
Woodland Park, CO. 80866
(719) 687-0920

EXHIBIT DISTRICT NO. 1 INCLUSION-1

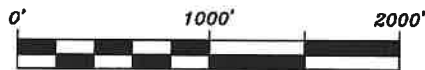
STATE HIGHWAY 94
(R.O.W. VARIES)

ASSUMED BASIS OF BEARINGS
S89°44'49" E 2606.55'



LEGEND:

- FOUND 3/4" REBAR AND YELLOW CAP STAMPED "UP&E PLS 11624" OR ILLEGIBLE
- ⊕ FOUND 1/4 CORNER
- ⊕ FOUND SECTION CORNER



SCALE: 1" = 1000'

JOB NO.: 21108

MARCH 25, 2021

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EXHIBIT DISTRICT NO. 1 INCLUSION-1

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	S89°07'06" E	1257.42'
L2	S00°01'09" W	235.75'
L3	S19°58'22" W	166.93'
L4	S00°00'00" W	31.13'
L5	S45°15'31" W	30.97'
L6	S00°00'00" W	70.00'
L7	S44°44'29" E	31.25'
L8	S89°28'59" E	62.00'
L9	N45°15'31" E	30.97'
L10	S89°28'59" E	142.00'
L11	S44°44'29" E	31.25'
L12	S89°28'59" E	62.00'
L13	N45°15'31" E	30.97'
L14	S89°28'59" E	448.42'
L15	S44°44'29" E	3.11'
L16	S00°31'01" W	342.81'
L17	S89°28'59" E	2271.94'

LINE TABLE		
LINE #	BEARING	DISTANCE
L18	S89°28'59" E	845.71'
L19	N00°00'00" W	100.00'
L20	N44°44'31" W	32.67'
L21	N00°00'00" W	525.76'
L22	N89°28'59" W	611.87'
L23	S00°00'00" E	10.73'
L24	N89°28'59" W	219.39'
L25	N00°00'00" E	435.02'
L26	S89°28'59" E	521.28'
L27	N00°00'00" E	40.00'
L28	S89°28'59" E	418.15'
L29	S00°21'12" E	2594.09'
L30	N89°36'00" W	1308.58'
L31	S00°14'15" E	2631.90'
L32	N89°24'37" W	2630.66'
L33	N89°25'53" W	1313.35'
L34	N00°05'20" E	5253.60'

CURVE TABLE					
CURVE #	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	127.11'	365.00'	19°57'13"	N09°59'45" E	126.47'
C2	151.64'	435.00'	19°58'22"	S09°59'11" W	150.87'
C3	90.11'	65.00'	79°25'49"	S89°28'59" E	83.07'

**RAMPART
SURVEYS**

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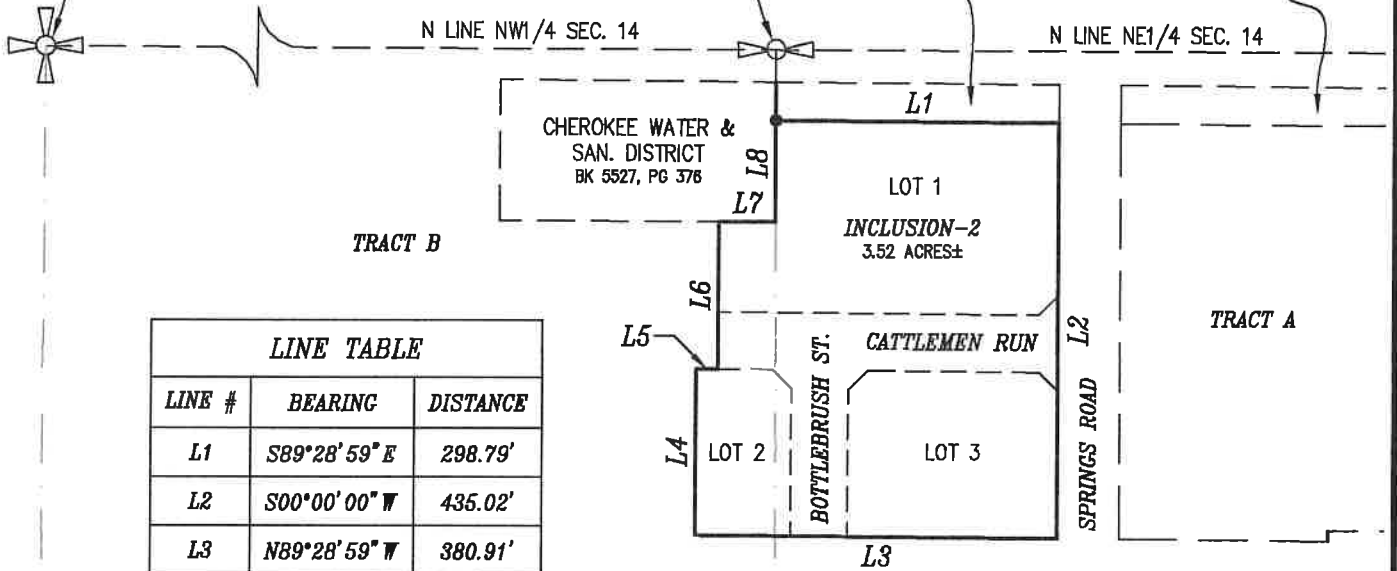
EXHIBIT DISTRICT NO. 1 INCLUSION-2

STATE HIGHWAY 94
(R.O.W. VARIES)

CDOT R.O.W.
TRACT NO. 2
(REC. NO. 220211233)

CDOT R.O.W.
TRACT NO. 3
(REC. NO. 220211233)

ASSUMED BASIS OF BEARINGS
N89°44'49" W 2606.55'



TRACT B

TRACT A

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	S89°28'59" E	298.79'
L2	S00°00'00" W	435.02'
L3	N89°28'59" W	380.91'
L4	N00°00'00" E	173.74'
L5	S89°28'59" E	23.35'
L6	N00°00'00" W	154.51'
L7	S89°44'49" E	59.20'
L8	N00°14'20" W	106.50'

MAYBERRY, COLORADO SPRINGS
FILING NO. 2
(REC. NO. 221714698)

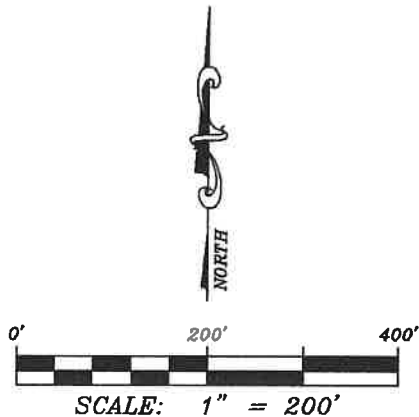
NW1/4
SECTION 14

W1/2 W1/2
NE1/4
SECTION 14

N-S CENTERLINE OF SEC. 14

LEGEND:

- ⊕
FOUND 1/4 CORNER
- ⊗
FOUND SECTION CORNER



SCALE: 1" = 200'
JOB NO.: 21108
MARCH 25, 2021

RAMPART
SURVEYS

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Woodland Park, CO. 80866
(719) 687-0920

EXHIBIT DISTRICT NO. 1 INCLUSION-3

STATE HIGHWAY 94
(R.O.W. VARIES)

ASSUMED BASIS OF BEARINGS
N89°44'49"W 2606.55'

N LINE NW1/4 SEC. 14

L1

CDOT R.O.W.
TRACT NO. 1
(REC. NO. 220211233)

INCLUSION-3
8.11 ACRES±

PORTION TRACT K
MAYBERRY, COLORADO SPRINGS
FILING NO. 1
(REC. NO. 220714655)

NW1/4
SECTION 14

TRACT N

E1/2 E1/2
SECTION 15

TRACT A

TRACT O

-NEW LOG ROAD

L8

C2

L7

C1

L6

L5

VILLAGE MAIN STREET

L4

L2

L3



SCALE: 1" = 200'

JOB NO.: 21108

MARCH 25, 2021

**RAMPART
SURVEYS**

P.O. Box 5101
Woodland Park, CO. 80866
(719) 687-0920

EXHIBIT
DISTRICT NO. 1 INCLUSION-3

<i>LINE TABLE</i>		
<i>LINE #</i>	<i>BEARING</i>	<i>DISTANCE</i>
<i>L1</i>	<i>S89°28'59" E</i>	<i>584.00'</i>
<i>L2</i>	<i>S00°31'01" W</i>	<i>655.13'</i>
<i>L3</i>	<i>S45°15'31" W</i>	<i>4.04'</i>
<i>L4</i>	<i>N89°28'59" W</i>	<i>448.41'</i>
<i>L5</i>	<i>N44°44'29" W</i>	<i>31.25'</i>
<i>L6</i>	<i>N00°00'00" E</i>	<i>38.06'</i>
<i>L7</i>	<i>N21°29'20" W</i>	<i>134.47'</i>
<i>L8</i>	<i>N00°01'09" E</i>	<i>180.61'</i>

<i>CURVE TABLE</i>					
<i>CURVE #</i>	<i>ARC LENGTH</i>	<i>RADIUS</i>	<i>DELTA ANGLE</i>	<i>CHORD BEARING</i>	<i>CHORD LENGTH</i>
<i>C1</i>	<i>163.15'</i>	<i>435.00'</i>	<i>21°29'20"</i>	<i>N10°44'40" W</i>	<i>162.19'</i>
<i>C2</i>	<i>137.02'</i>	<i>365.00'</i>	<i>21°30'29"</i>	<i>N10°44'06" W</i>	<i>136.21'</i>

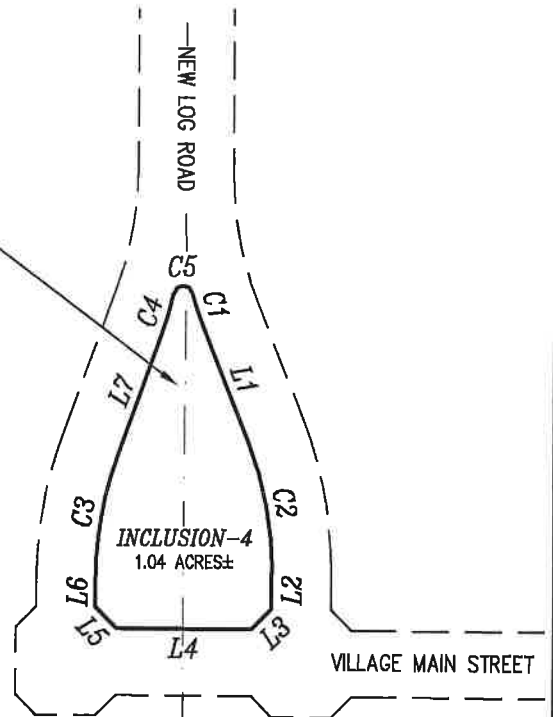
RAMPART
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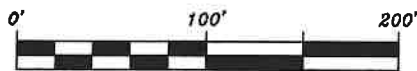
EXHIBIT DISTRICT NO. 1 INCLUSION-4

TRACT A
MAYBERRY, COLORADO SPRINGS
FILING NO. 1
(REC. NO. 220714655)

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	S21°29'20" E	129.02'
L2	S00°00'00" W	37.50'
L3	S45°15'31" W	30.97'
L4	N89°28'59" W	142.01'
L5	N44°44'29" W	31.25'
L6	N00°00'00" E	31.69'
L7	N19°58'22" E	128.83'



CURVE TABLE					
CURVE #	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	38.88'	427.00'	5°13'03"	S18°52'49" E	38.87'
C2	139.90'	373.00'	21°29'20"	S10°44'40" E	139.08'
C3	130.02'	373.00'	19°58'22"	N09°59'11" E	129.37'
C4	50.72'	427.00'	6°48'22"	N16°34'11" E	50.69'
C5	26.28'	10.00'	150°33'42"	N88°26'51" E	19.34'



SCALE: 1" = 100'

JOB NO.: 21108

MARCH 25, 2021

**RAMPART
SURVEYS**

P.O. Box 5101
Woodland Park, CO. 80866
(719) 687-0920

EXHIBIT B
TO RESOLUTION AND ORDER FOR INCLUSION OF PROPERTY
(Affidavit of Publication)

Resolution No. 2021-04-02

**RESOLUTION AND ORDER FOR INCLUSION OF PROPERTY
BY THE
BOARD OF DIRECTORS
OF THE
MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 2**

(Colorado Springs Mayberry Inc., Property, Approximately .80 Acres)

WHEREAS, COLORADO SPRINGS MAYBERRY INC., a Delaware corporation, whose address is P.O. Box 675725, Rancho Santa Fe, CA 92067 (the “Petitioner”), filed with the MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 2 (the “District”) a Petition for Inclusion of Real Property (the “Petition”), a copy of which is attached hereto as **Exhibit A**, and incorporated herein by this reference; and

WHEREAS, the Petitioner represents that it is the one hundred percent (100%) fee owner of the real property described in the Petition (the “Property”); and

WHEREAS, the Petition requests that the Board of Directors of the District (the “Board”) include the Property into the District, in accordance with § 32-1-401(1)(a), C.R.S.; and

WHEREAS, pursuant to the provisions of § 32-1-401(1)(b), C.R.S., publication of notice of the filing of the Petition and the place, time and date of the public meeting at which the Petition would be considered, the name and address of the Petitioner and notice that all persons interested shall appear at such time and place and show cause in writing why the Petition should not be granted, was made in the *El Paso County Advertiser and News* on April 7, 2021. The Affidavit of Publication is attached hereto as **Exhibit B** and incorporated herein by this reference (the “Affidavit of Publication”); and

WHEREAS, no written objection to the inclusion was filed by any person; and

WHEREAS, the Petition was heard at a public meeting of the Board the District held on April 8, 2021, at the hour of 10:00 a.m.; and

WHEREAS, the Board has reviewed the Petition and all relevant information related thereto; and

WHEREAS, the Board of the District desires to grant the Petition and approve the inclusion of the Property into the District.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:

1. Grant of Inclusion. The Board hereby grants the Petition and orders the inclusion of the Property into the District.

2. Effective Date of Resolution. This Resolution shall become effective as of the date hereof.

3. Motion and Order for Inclusion. The Board hereby directs its legal counsel to file a motion with the District Court in and for El Paso County seeking an Order for Inclusion.

Remainder of page intentionally left blank. Signature page follows.

ADOPTED this 8th day of April, 2021.

MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 2

Officer of the District

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

CERTIFICATION OF RESOLUTION

I hereby certify that the foregoing constitutes a true and correct copy of the Resolution and Order for Inclusion of Real Property adopted by the Board at a meeting held via teleconference on April 8, 2021.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 8th day of April, 2021.

Signature

Printed Name

EXHIBIT A
TO RESOLUTION AND ORDER FOR INCLUSION OF PROPERTY
(Petition for Inclusion)

PETITION FOR INCLUSION OF PROPERTY

(Colorado Springs Mayberry Inc., Property, Approximately .80 Acres)

TO: THE BOARD OF DIRECTORS OF THE
MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 2,
EL PASO COUNTY, COLORADO

Pursuant to the provisions of §§ 32-1-401, *et seq.*, C.R.S., **COLORADO SPRINGS MAYBERRY INC.**, a Delaware corporation (the “Petitioner”), hereby respectfully requests that the **MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 2** (the “District”), by and through its Board of Directors, include the real property described in **Exhibit A**, attached hereto and incorporated herein by this reference (the “Property”), into the boundaries of the District.

The Petitioner hereby represents and warrants to the District that it is the one hundred percent (100%) fee owner of the Property and that no other person, persons, entity or entities own an interest therein except as beneficial holders of encumbrances, if any. The Petitioner hereby assents to the inclusion of the Property into the boundaries of the District and to the entry of an Order by the District Court in and for El Paso County, including the Property into the boundaries of the District.

The Petitioner hereby acknowledges that, without the consent of the Board of Directors of the District, it cannot withdraw its Petition once the notice of the public hearing on the Petition has been published.

The name and address of the Petitioner is as follows:
Colorado Springs Mayberry Inc.
P.O. Box 675725
Rancho Santa Fe, CA 92067

Remainder of page intentionally left blank. Signature page follows.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

PETITIONER:

COLORADO SPRINGS MAYBERRY INC., a Delaware corporation.

R. Randy Goodson
Printed Name: R. Randy Goodson
Title: President

STATE OF California)
COUNTY OF San Diego) ss.

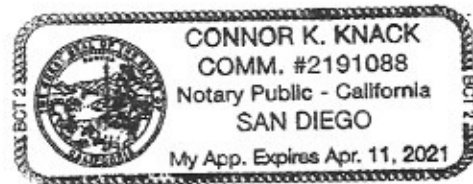
The above and foregoing instrument was acknowledged before me this 31st day of March, 2021, by R. Randy Goodson, as President of Colorado Springs Mayberry Inc.

WITNESS my hand and official seal.

(SEAL)

[Signature]
Notary Public

My commission expires: 04/11/2021



*Signature Page to Petition for Inclusion of Real Property
(Colorado Springs Mayberry Inc., Property, Approximately .80 Acres)*

EXHIBIT A
(The Property)

LEGAL DESCRIPTION – MAYBERRY METROPOLITAN DISTRICT NO. 2 (INCLUSION PARCEL):

A TRACT OF LAND BEING A PORTION OF TRACT B OF THAT PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 2, AS RECORDED UNDER RECEPTION NO. 221714698 OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER AND LOCATED IN THE NORTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER (NE1/4 NW1/4) OF SECTION 14, TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6th P.M., EL PASO COUNTY, COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH ONE-QUARTER CORNER OF SAID SECTION 14, AS MONUMENTED BY A REBAR AND 2" ALUMINUM CAP IN A RANGE BOX STAMPED "U.P.&E. PLS 11624 1999", FROM WHICH THE NORTHWEST CORNER OF SAID SECTION 14, SAID POINT ALSO BEING THE NORTHEAST CORNER OF SECTION 15, OF SAID TOWNSHIP 14 SOUTH, RANGE 63 WEST, AS MONUMENTED BY A REBAR AND 3-1/2" ALUMINUM CAP STAMPED "U.P.&E. PLS 116_4 1999", BEARS N89°44'49"W, A DISTANCE OF 2606.55 FEET AND IS THE BASIS OF BEARINGS USED HEREIN;

THENCE S00°17'33"E, A DISTANCE OF 33.51 FEET TO THE NORTHEAST CORNER OF THAT TRACT OF LAND AS DESCRIBED IN BOOK 5527 AT PAGE 376 OF SAID COUNTY RECORDS, SAID POINT ALSO BEING THE NORTHWEST CORNER OF THAT CDOT RIGHT-OF-WAY DESCRIBED AS TRACT NO. 2, AS RECORDED UNDER RECEPTION NO. 220211233 OF SAID COUNTY RECORDS;

THENCE S00°14'20"E ALONG THAT LINE COMMON TO THAT TRACT AS DESCRIBED IN SAID BOOK 5527 AT PAGE 376 AND SAID CDOT RIGHT-OF-WAY TRACT NO. 2, A DISTANCE OF 40.00 FEET TO THE SOUTHWEST CORNER OF SAID CDOT RIGHT-OF-WAY TRACT NO. 2, SAID POINT ALSO BEING THE NORTHWEST CORNER OF LOT 1, OF SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 2;

THENCE ALONG THAT LINE COMMON TO SAID LOT 1 AND THAT TRACT AS DESCRIBED IN SAID BOOK 5527 AT PAGE 376 THE FOLLOWING TWO (2) COURSES;

- 1.) THENCE S00°14'20"E, A DISTANCE OF 106.50 FEET;
- 2.) THENCE N89°44'49"W, A DISTANCE OF 59.20 FEET TO AN ANGLE POINT ON THE WESTERLY LINE OF SAID LOT 1, SAID POINT ALSO BEING THE NORTHEAST CORNER OF SAID TRACT B AND THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

THENCE ALONG THAT LINE COMMON TO SAID TRACT B, AND SAID LOT 1, AND CATTLEMEN RUN AND LOT 2 OF SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 2, THE FOLLOWING THREE (3) COURSES;

- 1.) THENCE S00°00'00"E, A DISTANCE OF 154.51 FEET;
- 2.) THENCE N89°28'59"W, A DISTANCE OF 23.35 FEET;
- 3.) THENCE S00°00'00"E, A DISTANCE OF 173.74 FEET TO THE SOUTHWEST CORNER OF SAID LOT 2, SAID POINT ALSO BEING AN ANGLE POINT ON THE EASTERLY LINE OF SAID TRACT B;

THENCE N89°28'59"W, A DISTANCE OF 99.50 FEET;

THENCE N00°00'00"E, A DISTANCE OF 139.07 FEET;

THENCE ALONG THE ARC OF A 70.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 45°39'07", AN ARC LENGTH OF 55.77 FEET (THE LONG CHORD OF WHICH BEARS N07°22'22"E, A LONG CHORD DISTANCE OF 54.31 FEET);

THENCE N00°20'22"E, A DISTANCE OF 134.72 FEET TO AN ANGLE POINT ON THE EASTERLY LINE OF SAID TRACT B, SAID POINT ALSO BEING A POINT ON THE SOUTHERLY LINE OF THAT TRACT AS DESCRIBED IN SAID BOOK 5527 AT PAGE 376;

THENCE S89°44'49"E ALONG THAT LINE COMMON TO SAID TRACT B AND SAID TRACT, A DISTANCE OF 115.09 FEET TO THE POINT OF BEGINNING;

SAID TRACT CONTAINS 34,854 SQUARE FEET (0.80 ACRES) OF LAND, MORE OR LESS.

PREPARED BY:
ERIC SIMONSON, COLORADO P.L.S. NO. 38560
FOR AND ON BEHALF OF RAMPART SURVEYS, LLC
P.O. BOX 5101
WOODLAND PARK, COLORADO 80866
(719) 687-0920

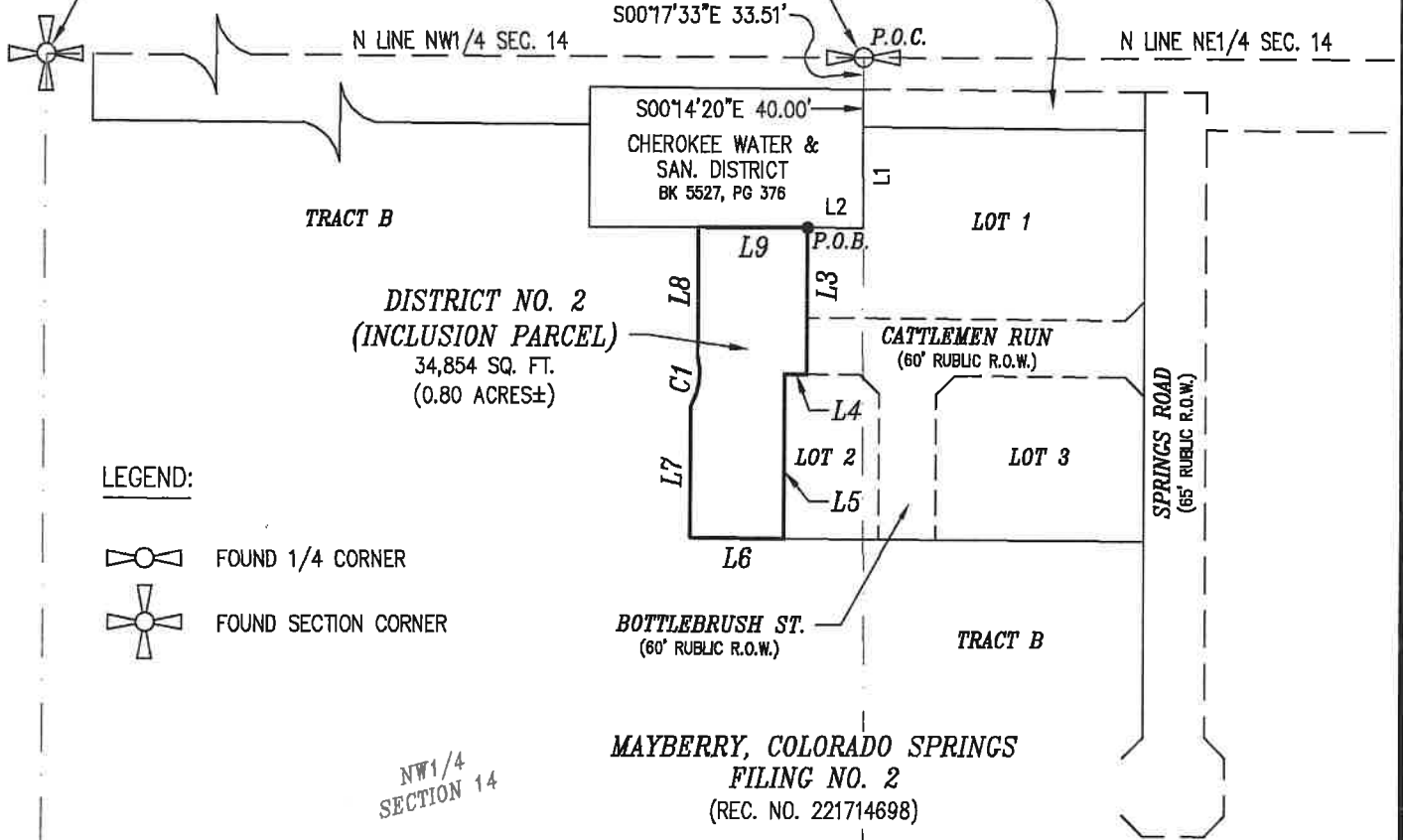


EXHIBIT MAYBERRY METROPOLITAN DISTRICT NO. 2 (INCLUSION PARCEL)



STATE HIGHWAY 94
(100' R.O.W.)

CDOT R.O.W.
TRACT NO. 2
(REC. NO. 220211233)

ASSUMED BASIS OF BEARINGS
N89°44'49" W 2606.55'



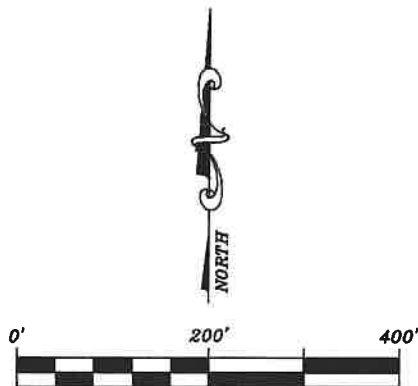
LEGEND:

-  FOUND 1/4 CORNER
-  FOUND SECTION CORNER

NW1/4
SECTION 14

MAYBERRY, COLORADO SPRINGS
FILING NO. 2
(REC. NO. 221714698)

W1/2 W1/2
NE1/4
SECTION 14



SCALE: 1" = 200'
JOB NO.: 21108
MARCH 19, 2021

**RAMPART
SURVEYS**

P.O. Box 5101
Woodland Park, CO. 80866
(719) 687-0920

EXHIBIT
MAYBERRY METROPOLITAN DISTRICT NO. 2
(INCLUSION PARCEL)

<i>LINE TABLE</i>		
<i>LINE #</i>	<i>BEARING</i>	<i>DISTANCE</i>
L1	S00°14'20"E	106.50'
L2	N89°44'49"W	59.20'
L3	S00°00'00"E	154.51'
L4	N89°28'59"W	23.35'
L5	S00°00'00"E	173.74'
L6	N89°28'59"W	99.50'
L7	N00°00'00"E	139.07'
L8	N00°20'22"E	134.72'
L9	S89°44'49"E	115.09'

<i>CURVE TABLE</i>					
<i>CURVE #</i>	<i>ARC LENGTH</i>	<i>RADIUS</i>	<i>DELTA ANGLE</i>	<i>CHORD BEARING</i>	<i>CHORD LENGTH</i>
C1	55.77'	70.00'	45°39'07"	N07°22'22"E	54.31'

RAMPART
SURVEYS

P.O. Box 5101
Woodland Park, CO. 80866
(719) 687-0920

EXHIBIT B
TO RESOLUTION AND ORDER FOR INCLUSION OF PROPERTY
(Affidavit of Publication)

Resolution No. 2021-04-03

**RESOLUTION AND ORDER FOR EXCLUSION OF PROPERTY
BY THE
BOARD OF DIRECTORS
OF THE
MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 2**

(Colorado Springs Mayberry Inc., Property, Approximately 5.34 Acres)

WHEREAS, COLORADO SPRINGS MAYBERRY INC., a Delaware corporation whose address is P.O. Box 675725, Rancho Santa Fe, CA 92067 (the “Petitioner”), filed with the MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 2 (the “District”) a Petition for Exclusion of Real Property (the “Petition”), a copy of which is attached hereto as **Exhibit A** and incorporated herein by this reference; and

WHEREAS, the Petitioner represents that it is the one hundred percent (100%) fee owner of the real property described in the Petition (the “Property”); and

WHEREAS, the Petition requests that the Board of Directors of the District (the “Board”) exclude the Property from the District, in accordance with § 32-1-501(1), C.R.S.; and

WHEREAS, pursuant to the provisions of § 32-1-501(2), C.R.S., publication of notice of the filing of the Petition and the place, time and date of the meeting at which the Petition would be considered, the name and address of the Petitioner, a general description of the area proposed for exclusion, and notice that all persons interested shall appear at the time and place and show cause in writing why the Petition should not be granted, was made in the *El Paso County Advertiser and News* on April 7, 2021. The Affidavit of Publication is attached hereto as **Exhibit B** and incorporated herein by this reference (the “Affidavit of Publication”); and

WHEREAS, no written objection to the exclusion was filed by any person; and

WHEREAS, the Petition was heard at a public meeting of the Board the District held on April 8, 2021, at the hour of 10:00 a.m.; and

WHEREAS, the Board has reviewed the Petition and all relevant information related thereto; and

WHEREAS, subject to the conditions set forth herein, the Board desires to approve the exclusion of the Property from the District.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:

1. Findings. Pursuant to and in accordance with § 32-1-501(3), C.R.S., the Board

hereby makes the following findings:

a. Exclusion of the Property is in the best interests of the Property, the District and the County in that it implements the District's Consolidated Service Plan approved by the Board of County Commissioners of El Paso County on September 8, 2020 (the "Service Plan"), allows for the Property to be developed as planned by the Petitioner, ensures that the Property will not be unduly burdened by unnecessary or overlapping tax burdens, and ensures that public improvements will be provided to the Property at the time when they are needed and not sooner, based upon planned development phasing.

b. The extraordinary benefits to the Property explained above outweigh the negligible cost of the exclusion.

c. The District's ability to provide economical and sufficient service to the Property and all of the properties within the District's boundaries will not be diminished following exclusion of the Property.

d. After exclusion, economical and sufficient services will still be available to the Property from Mayberry, Colorado Springs Metropolitan District No. 1 or one or more other other Mayberry, Colorado Springs Metropolitan District Nos. 3-8.

e. The denial of the Petition will result in the inability of the Petitioner to proceed with its development plans, which will result in the inability to create construction jobs and will have a negative economic impact on the region, the District, the surrounding area, and the State as a whole.

f. There is economically feasible alternative service available to the Property from the Mayberry, Colorado Springs Metropolitan District No. 8.

g. There will be no additional costs levied on other property within the District if the exclusion is granted.

2. Grant of Exclusion. The Board hereby grants the Petition and orders the exclusion of the Property from the District.

3. Debt. Pursuant to § 32-1-503(1), C.R.S., once excluded, the Property shall remain liable for its proportionate share of the principal and interest on any outstanding bonded indebtedness of the District existing immediately prior to the effective date of the exclusion order.

4. Certified Resolution. This Resolution shall be certified and filed with the Clerk of the District Court of El Paso County, Colorado in accordance with § 32-1-501(4)(b), C.R.S.

5. Motion and Order for Exclusion. The Board hereby directs its legal counsel to file a motion with the District Court seeking an Order for Exclusion.

ADOPTED this 8th day of April, 2021.

MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 2

Officer of the District

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

CERTIFICATION OF RESOLUTION

I hereby certify that the foregoing constitutes a true and correct copy of the Resolution and Order for Exclusion of Real Property adopted by the Board at a meeting held via teleconference on April 8, 2021, at.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 8th day of April, 2021.

Signature

Printed Name

EXHIBIT A
TO RESOLUTION AND ORDER FOR EXCLUSION OF PROPERTY
(Petition for Exclusion)

PETITION FOR EXCLUSION OF PROPERTY

(Colorado Springs Mayberry Inc., Property, Approximately 5.34 Acres)

TO: THE BOARD OF DIRECTORS OF THE
MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 2,
EL PASO COUNTY, COLORADO

Pursuant to the provisions of §§ 32-1-501, *et seq.*, C.R.S., **COLORADO SPRINGS MAYBERRY INC.**, a Delaware corporation (the “Petitioner”) hereby respectfully requests that the **MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 2** (the “District”), by and through its Board of Directors, exclude the real property described in **Exhibit A**, attached hereto and incorporated herein by this reference (the “Property”), from the boundaries of the District.

The Petitioner hereby represents and warrants to the District that it is the one hundred percent (100%) fee owner of the Property and that no other person, persons, entity or entities own an interest therein except as beneficial holders of encumbrances, if any. The Petitioner hereby assents to the exclusion of the Property from the boundaries of the District and to the entry of an Order by the District Court in and for El Paso County, excluding the Property from the boundaries of the District.

The Petitioner hereby acknowledges that, without the consent of the Board of Directors of the District, it cannot withdraw its Petition once the notice of a public hearing on the Petition has been published.

Pursuant to § 32-1-501(1), C.R.S., the Petitioner agrees to pay all costs associated with the exclusion proceedings.

The name and address of the Petitioner is as follows:

Colorado Springs Mayberry Inc.
P.O. Box 675725
Rancho Santa Fe, CA 92067

Remainder of page intentionally left blank. Signature page follows.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truth, accuracy, or validity of that statement.

PETITIONER:

COLORADO SPRINGS MAYBERRY INC., a Delaware corporation.

Randy Goodson
Printed Name: R. Randy Goodson
Title: President

STATE OF California)
COLORADO) ss.
COUNTY OF San Diego)

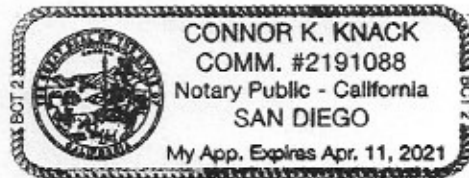
The above and foregoing instrument was acknowledged before me this 31st day of March, 2021 by R. Randy Goodson, as President of Colorado Springs Mayberry, Inc.

WITNESS my hand and official seal.

CA

Notary Public

My commission expires: 04/11/2021



*Signature Page to Petition for Exclusion of Real Property
(Mayberry Colorado Springs Inc., Property, Approximately 5.34 Acres)*

EXHIBIT A
(The Property)

LEGAL DESCRIPTION – MAYBERRY METROPOLITAN DISTRICT NO. 2 (EXCLUSION PARCEL):

A TRACT OF LAND BEING A PORTION OF TRACT A OF THAT PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 2, AS RECORDED UNDER RECEPTION NO. 221714698 OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER AND LOCATED IN THE NORTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER (NW1/4 NE1/4) OF SECTION 14, TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6th P.M., EL PASO COUNTY, COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH ONE-QUARTER CORNER OF SAID SECTION 14, AS MONUMENTED BY A REBAR AND 2" ALUMINUM CAP IN A RANGE BOX STAMPED "U.P.&E. PLS 11624 1999", FROM WHICH THE NORTHWEST CORNER OF SAID SECTION 14, SAID POINT ALSO BEING THE NORTHEAST CORNER OF SECTION 15, OF SAID TOWNSHIP 14 SOUTH, RANGE 63 WEST, AS MONUMENTED BY A REBAR AND 3-1/2" ALUMINUM CAP STAMPED "U.P.&E. PLS 116_4 1999", BEARS N89°44'49"W, A DISTANCE OF 2606.55 FEET AND IS THE BASIS OF BEARINGS USED HEREIN;

THENCE S78°05'30"E, A DISTANCE OF 372.13 FEET TO THE SOUTHWEST CORNER OF THAT CDOT RIGHT-OF-WAY DESCRIBED AS TRACT NO. 3, AS RECORDED UNDER RECEPTION NO. 220211233 OF SAID COUNTY RECORDS, SAID POINT ALSO BEING THE NORTHWEST CORNER OF SAID TRACT A, AND A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SPRINGS ROAD AS SHOWN ON SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 2 AND THE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED;

THENCE S89°28'59"E ALONG THAT LINE COMMON TO SAID CDOT RIGHT-OF-WAY TRACT NO. 3 AND SAID TRACT A, A DISTANCE OF 521.28 FEET TO THE EASTERLY COMMON CORNER THEREOF, SAID POINT ALSO BEING A POINT ON THE WESTERLY LINE OF TRACT D OF SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 2;

THENCE ALONG THAT LINE COMMON TO SAID TRACT A, SAID TRACT D AND TRACT C OF SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 2 THE FOLLOWING SIX (6) COURSES;

- 1.) THENCE S00°00'00"E, A DISTANCE OF 201.27 FEET;
- 2.) THENCE S89°28'59"E, A DISTANCE OF 40.00 FEET;
- 3.) THENCE S00°00'00"E, A DISTANCE OF 223.01 FEET;
- 4.) THENCE N89°28'59"W, A DISTANCE OF 341.89 FEET;
- 5.) THENCE S00°00'00"E, A DISTANCE OF 10.73 FEET;
- 6.) THENCE N89°28'59"W, A DISTANCE OF 219.39 FEET TO THE SOUTHWEST CORNER OF SAID TRACT A, SAID POINT ALSO BEING AN ANGLE POINT IN THE NORTH LINE OF SAID TRACT C AND A POINT ON SAID EASTERLY RIGHT-OF-WAY LINE;

THENCE N00°00'00"E ALONG THAT LINE COMMON TO SAID TRACT A AND SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 435.02 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 5.34 ACRES OF LAND, MORE OR LESS.

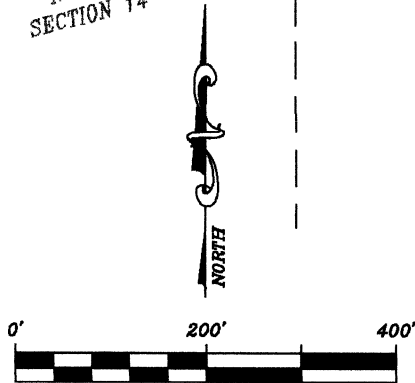
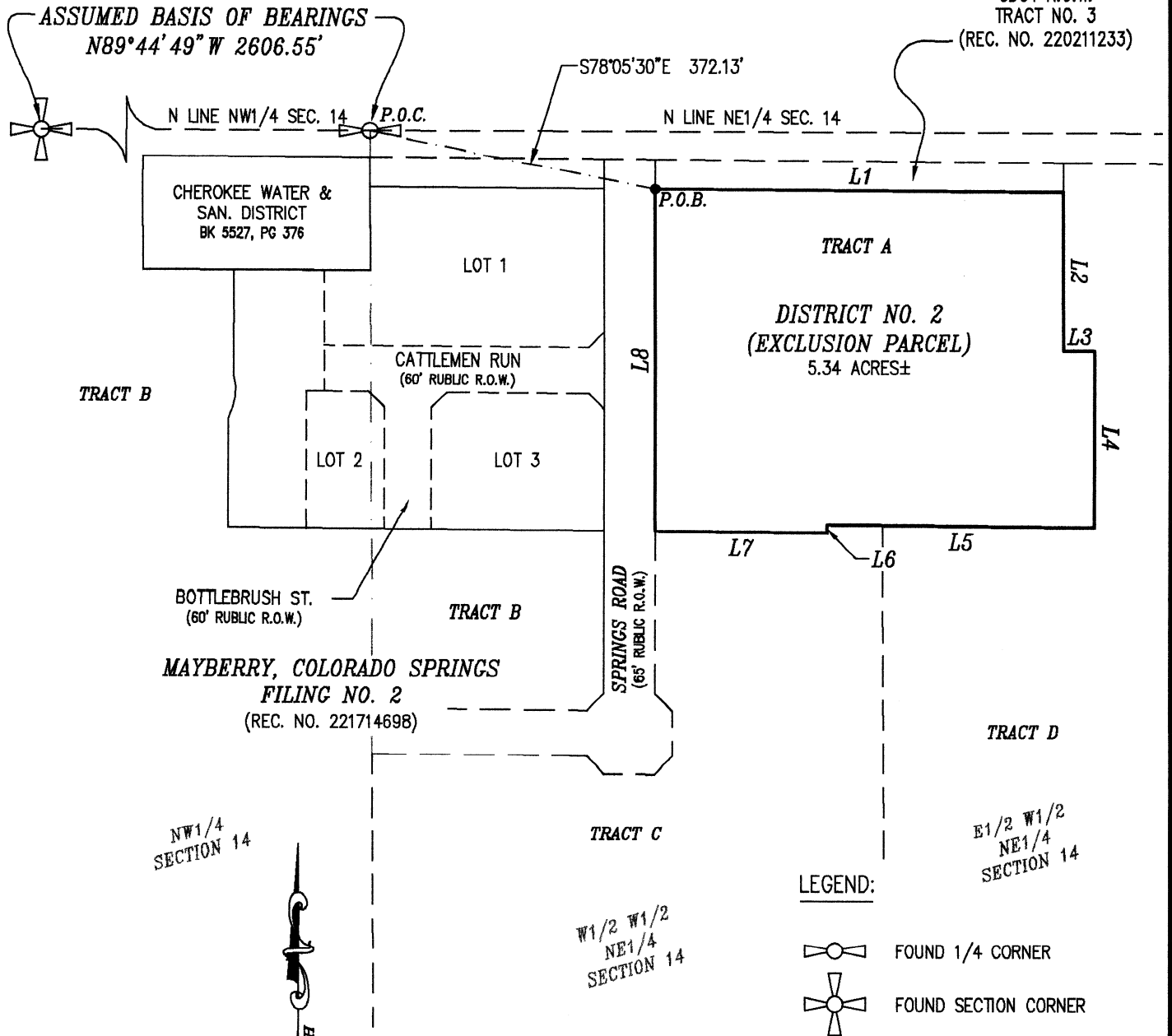
PREPARED BY:
ERIC SIMONSON, COLORADO P.L.S. NO. 38560
FOR AND ON BEHALF OF RAMPART SURVEYS, LLC
P.O. BOX 5101
WOODLAND PARK, COLORADO 80866
(719) 687-0920



EXHIBIT MAYBERRY METROPOLITAN DISTRICT NO. 2 (EXCLUSION PARCEL)

STATE HIGHWAY 94
(R.O.W. VARIES)

CDOT R.O.W.
TRACT NO. 3
(REC. NO. 220211233)



SCALE: 1" = 200'
JOB NO.: 21108
MARCH 30, 2021

RAMPART SURVEYS

P.O. Box 5101
Woodland Park, CO. 80866
(719) 687-0920

EXHIBIT
MAYBERRY METROPOLITAN DISTRICT NO. 2
(EXCLUSION PARCEL)

<i>LINE TABLE</i>		
<i>LINE #</i>	<i>BEARING</i>	<i>DISTANCE</i>
<i>L1</i>	<i>S89°28'59" E</i>	<i>521.28'</i>
<i>L2</i>	<i>S00°00'00" E</i>	<i>201.27'</i>
<i>L3</i>	<i>S89°28'59" E</i>	<i>40.00'</i>
<i>L4</i>	<i>S00°00'00" E</i>	<i>223.01'</i>
<i>L5</i>	<i>N89°28'59" W</i>	<i>341.89'</i>
<i>L6</i>	<i>S00°00'00" E</i>	<i>10.73'</i>
<i>L7</i>	<i>N89°28'59" W</i>	<i>219.39'</i>
<i>L8</i>	<i>N00°00'00" E</i>	<i>435.02'</i>

RAMPART
SURVEYS

P.O. Box 5101
Woodland Park, CO. 80866
(719) 687-0920

**EXHIBIT B
TO RESOLUTION AND ORDER FOR EXCLUSION OF PROPERTY**

(Affidavit of Publication)

Resolution No. 2021-04-04

**RESOLUTION AND ORDER FOR INCLUSION OF PROPERTY
BY THE
BOARD OF DIRECTORS
OF THE
MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 3**

(Colorado Springs Mayberry Inc., Property, Approximately 147.02 Acres)

WHEREAS, COLORADO SPRINGS MAYBERRY INC., a Delaware corporation, whose address is P.O. Box 675725, Rancho Santa Fe, CA 92067 (the “Petitioner”), filed with the MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT No. 3 (the “District”) a Petition for Inclusion of Real Property (the “Petition”), a copy of which is attached hereto as **Exhibit A**, and incorporated herein by this reference; and

WHEREAS, the Petitioner represents that it is the one hundred percent (100%) fee owner of the real property described in the Petition (the “Property”); and

WHEREAS, the Petition requests that the Board of Directors of the District (the “Board”) include the Property into the District, in accordance with § 32-1-401(1)(a), C.R.S.; and

WHEREAS, pursuant to the provisions of § 32-1-401(1)(b), C.R.S., publication of notice of the filing of the Petition and the place, time and date of the public meeting at which the Petition would be considered, the name and address of the Petitioner and notice that all persons interested shall appear at such time and place and show cause in writing why the Petition should not be granted, was made in the *El Paso County Advertiser and News* on April 7, 2021. The Affidavit of Publication is attached hereto as **Exhibit B** and incorporated herein by this reference (the “Affidavit of Publication”); and

WHEREAS, no written objection to the inclusion was filed by any person; and

WHEREAS, the Petition was heard at a public meeting of the Board the District held on April 8, 2021, at the hour of 10:00 a.m.; and

WHEREAS, the Board has reviewed the Petition and all relevant information related thereto; and

WHEREAS, the Board of the District desires to grant the Petition and approve the inclusion of the Property into the District.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:

1. Grant of Inclusion. The Board hereby grants the Petition and orders the inclusion of the Property into the District.

2. Effective Date of Resolution. This Resolution shall become effective as of the date hereof.

3. Motion and Order for Inclusion. The Board hereby directs its legal counsel to file a motion with the District Court in and for El Paso County seeking an Order for Inclusion.

Remainder of page intentionally left blank. Signature page follows.

ADOPTED this 8th day of April, 2021.

MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 3

Officer of the District

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

CERTIFICATION OF RESOLUTION

I hereby certify that the foregoing constitutes a true and correct copy of the Resolution and Order for Inclusion of Real Property adopted by the Board at a meeting held via teleconference on April 8, 2021.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 8th day of April, 2021.

Signature

Printed Name

EXHIBIT A
TO RESOLUTION AND ORDER FOR INCLUSION OF PROPERTY
(Petition for Inclusion)

PETITION FOR INCLUSION OF PROPERTY

(Colorado Springs Mayberry Inc., Property, Approximately 147.02 Acres)

TO: THE BOARD OF DIRECTORS OF THE
MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 3,
EL PASO COUNTY, COLORADO

Pursuant to the provisions of §§ 32-1-401, *et seq.*, C.R.S., **COLORADO SPRINGS MAYBERRY INC.**, a Delaware corporation (the “Petitioner”), hereby respectfully requests that the **MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 3** (the “District”), by and through its Board of Directors, include the real property described in **Exhibit A**, attached hereto and incorporated herein by this reference (the “Property”), into the boundaries of the District.

The Petitioner hereby represents and warrants to the District that it is the one hundred percent (100%) fee owner of the Property and that no other person, persons, entity or entities own an interest therein except as beneficial holders of encumbrances, if any. The Petitioner hereby assents to the inclusion of the Property into the boundaries of the District and to the entry of an Order by the District Court in and for El Paso County, including the Property into the boundaries of the District.

The Petitioner hereby acknowledges that, without the consent of the Board of Directors of the District, it cannot withdraw its Petition once the notice of the public hearing on the Petition has been published.

The name and address of the Petitioner is as follows:
Colorado Springs Mayberry Inc.
P.O. Box 675725
Rancho Santa Fe, CA 92067

Remainder of page intentionally left blank. Signature page follows.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

PETITIONER:

COLORADO SPRINGS MAYBERRY INC., a Delaware corporation.

R. Randy Goodson
Printed Name: R. Randy Goodson
Title: President

STATE OF California)
COUNTY OF San Diego) ss.

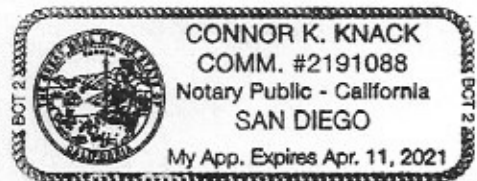
The above and foregoing instrument was acknowledged before me this 31st day of March 2021, by R. Randy Goodson, as President of Colorado Springs Mayberry Inc.

WITNESS my hand and official seal.

(SEAL)

[Signature]
Notary Public

My commission expires: 04/11/2021



*Signature Page to Petition for Inclusion of Real Property
(Colorado Springs Mayberry Inc., Property, Approximately 147.02 Acres)*

EXHIBIT A
(The Property)

LEGAL DESCRIPTION – MAYBERRY METROPOLITAN DISTRICT NO. 3 (INCLUSION MAP):

A TRACT OF LAND LOCATED IN THE WEST ONE-HALF OF THE NORTHEAST ONE-QUARTER (W1/2 NE1/4) AND IN THE NORTHWEST ONE-QUARTER (NW1/4) OF SECTION 14, TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6th P.M., EL PASO COUNTY, COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL BEARINGS USED HEREIN ARE ASSUMED TO BEAR S89°44'49"E, A DISTANCE OF 2606.55 FEET BETWEEN THE NORTHWEST CORNER OF SAID SECTION 14, SAID POINT ALSO BEING THE NORTHEAST CORNER OF SECTION 15, TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6th P.M., AS MONUMENTED BY A REBAR AND 3-1/2" ALUMINUM CAP STAMPED "U.P.&E. PLS 116_4 1999", AND THE NORTH ONE-QUARTER CORNER OF SAID SECTION 14, AS MONUMENTED BY A REBAR AND 2" ALUMINUM CAP IN A RANGE BOX STAMPED "U.P.&E. PLS 11624 1999";

BEGINNING AT THE NORTHEAST CORNER OF TRACT K, AS SHOWN ON THE PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1, AS RECORDED UNDER RECEPTION NO. 220714655 OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER, SAID POINT ALSO BEING THE NORTHWEST CORNER OF TRACT B, OF SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1 AND A POINT ON THE SOUTHERLY LINE OF THAT CDOT RIGHT-OF-WAY DESCRIBED AS TRACT NO. 1, AS RECORDED UNDER RECEPTION NO. 220211233 OF SAID COUNTY RECORDS;

THENCE S89°28'59"E ALONG THAT LINE COMMON TO SAID TRACT B AND SAID CDOT RIGHT-OF-WAY TRACT NO. 1, A DISTANCE OF 1669.13 FEET TO THE SOUTHEAST CORNER OF SAID CDOT RIGHT-OF-WAY TRACT NO. 1, SAID POINT ALSO BEING A POINT ON THE WESTERLY LINE OF THAT TRACT OF LAND AS DESCRIBED IN DEED RECORDED IN BOOK 5527 AT PAGE 376 OF SAID COUNTY RECORDS;

THENCE ALONG THAT LINE COMMON TO SAID TRACT AND SAID MAYBERRY, COLORADO SPRINGS FILING NO. 1 THE FOLLOWING TWO (2) COURSES;

- 1.) THENCE S00°14'20"E, A DISTANCE OF 107.84 FEET;
- 2.) THENCE S89°44'49"E, A DISTANCE OF 115.71 FEET;

THENCE S00°20'22"W, A DISTANCE OF 134.72 FEET;

THENCE ALONG THE ARC OF A 70.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 45°39'07", AN ARC LENGTH OF 55.77 FEET (THE LONG CHORD OF WHICH BEARS S07°22'22"W, A LONG CHORD DISTANCE OF 54.31 FEET);

THENCE S00°00'00"E, A DISTANCE OF 139.07 FEET;

THENCE S89°28'59"E, A DISTANCE OF 764.80 FEET TO AN ANGLE POINT ON THE SOUTHERLY LINE OF TRACT A, MAYBERRY, COLORADO SPRINGS FILING NO. 2, AS RECORDED UNDER RECEPTION NO. 221714698 OF SAID COUNTY RECORDS;

THENCE N00°00'00"E ALONG THE SOUTHERLY LINE OF SAID TRACT A, A DISTANCE OF 10.73 FEET TO AN ANGLE POINT ON SAID SOUTHERLY LINE;

THENCE S89°28'59"E CONTINUING ALONG SAID SOUTHERLY LINE AND THE EASTERLY EXTENSION THEREOF, A DISTANCE OF 722.91 FEET TO A POINT ON THE EASTERLY LINE OF TRACT D, OF SAID MAYBERRY, COLORADO SPRINGS FILING NO. 2;

THENCE S00°21'12"E ALONG SAID EASTERLY LINE, A DISTANCE OF 648.81 FEET;

THENCE N89°29'00"W, A DISTANCE OF 115.01 FEET;

THENCE S00°00'00"E, A DISTANCE OF 605.18 FEET;

THENCE N89°29'00"W, A DISTANCE OF 280.01 FEET;

THENCE S00°00'00"E, A DISTANCE OF 609.87 FEET;

THENCE N89°29'00"W, A DISTANCE OF 592.74 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A 380.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 47°20'33", AN ARC LENGTH OF 313.99 FEET (THE LONG CHORD OF WHICH BEARS N65°48'43"W, A LONG CHORD DISTANCE OF 305.13 FEET) TO A POINT OF TANGENCY;

THENCE N42°08'27"W, A DISTANCE OF 295.49 FEET;

THENCE S47°51'33"W, A DISTANCE OF 194.61 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A 520.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 46°47'25", AN ARC LENGTH OF 424.65 FEET (THE LONG CHORD OF WHICH BEARS S24°27'51"W, A LONG CHORD DISTANCE OF 412.95 FEET) TO A POINT 100.00 FEET NORTH OF AND PERPENDICULAR TO THE EAST-WEST CENTERLINE OF SAID SECTION 14;

THENCE N89°35'53"W ALONG A LINE 100.00 FEET NORTH OF AND PARALLEL TO SAID EAST-WEST CENTERLINE, A DISTANCE OF 2030.99 FEET;

THENCE ALONG THE ARC OF A 125.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 34°40'50", AN ARC LENGTH OF 75.66 FEET (THE LONG CHORD OF WHICH BEARS N50°06'01"W, A LONG CHORD DISTANCE OF 74.51 FEET) TO A POINT 50.00 FEET WEST OF AND PERPENDICULAR TO THAT LINE COMMON TO SAID SECTION 14 AND SAID SECTION 15;

THENCE N00°01'08"E ALONG A LINE 50.00 FEET EAST OF AND PARALLEL TO SAID COMMON LINE, A DISTANCE OF 881.65 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A 365.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 20°47'35", AN ARC LENGTH OF 132.46 FEET (THE LONG CHORD OF WHICH BEARS N10°24'56"E, A LONG CHORD DISTANCE OF 131.74 FEET) TO A POINT OF TANGENCY;

THENCE N20°48'44"E, A DISTANCE OF 149.50 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A 435.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 20°48'46", AN ARC LENGTH OF 158.01 FEET (THE LONG CHORD OF WHICH BEARS N10°24'21"E, A LONG CHORD DISTANCE OF 157.15 FEET) TO A POINT OF TANGENCY;

THENCE N00°00'00"E, A DISTANCE OF 12.84 FEET;

THENCE N45°15'30"E, A DISTANCE OF 30.97 FEET;

THENCE N00°00'21"E, A DISTANCE OF 100.00 FEET TO AN ANGLE POINT ON THE SOUTHWESTERLY LINE OF TRACT O, AS SHOWN ON SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1;

THENCE ALONG THE WESTERLY LINES OF SAID TRACT O THE FOLLOWING THREE (3) COURSES;

1.) THENCE N44°44'30"W, A DISTANCE OF 31.25 FEET;

2.) THENCE N00°00'11"W, A DISTANCE OF 201.01 FEET;

3.) THENCE N45°15'31"E, A DISTANCE OF 30.97 FEET TO A POINT ON THE NORTHERLY LINE OF SAID TRACT O, SAID POINT ALSO BEING A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF VILLAGE MAIN STREET, AS SHOWN ON SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1;

THENCE S89°28'59"E ALONG THAT LINE COMMON TO SAID TRACT O, SAID VILLAGE MAIN STREET AND THE EASTERLY EXTENSION THEREOF, A DISTANCE OF 470.42 FEET TO A POINT ON THE SOUTHERLY EXTENSION OF THE WESTERLY RIGHT-OF-WAY LINE OF MARKETPLACE DRIVE, AS SHOWN ON SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1;

THENCE ALONG SAID SOUTHERLY EXTENSION, SAID WESTERLY RIGHT-OF-WAY LINE AND THE EASTERLY LINE OF SAID TRACT K THE FOLLOWING TWO (2) COURSES;

1.) THENCE N00°00'00"E, A DISTANCE OF 444.75 FEET;

2.) THENCE N44°44'29"W, A DISTANCE OF 31.25 FEET TO AN ANGLE POINT ON THE EASTERLY LINE OF SAID TRACT K, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF CATTLEMEN RUN AS SHOWN ON SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1;

THENCE ALONG THAT LINE COMMON TO SAID EASTERLY LINE AND SAID CATTLEMEN RUN THE FOLLOWING TWO (2) COURSES;

1.) THENCE N00°00'00"E, A DISTANCE OF 60.00 FEET;

2.) THENCE S89°28'59"E, A DISTANCE OF 20.79 FEET TO AN ANGLE POINT ON THE EASTERLY LINE OF SAID TRACT K, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF LOT 1, ON SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1;

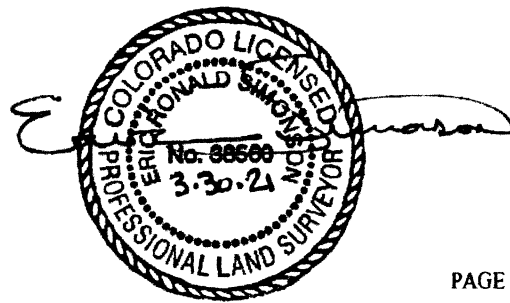
THENCE N00°31'01"E ALONG THAT LINE COMMON TO SAID TRACT K, SAID LOT 1 AND SAID TRACT B, A DISTANCE OF 201.27 FEET TO THE POINT OF BEGINNING (175.21 ACRES, MORE OR LESS).

EXCEPTING THEREFROM ALL OF TRACT M (EXCLUDING THE NORTHERLY STEM LYING TO THE WEST OF AND ADJACENT TO TRACT P), AS SHOWN ON SAID PLAT OF MAYBERRY, COLORADO SPRINGS FILING NO. 1 (16.98 ACRES, MORE OR LESS);

AND FURTHER EXCEPTING THEREFROM ALL OF THE DEDICATED STREET RIGHT-OF-WAYS LYING WITHIN THE AFOREMENTIONED BOUNDARIES OF SAID DISTRICT 3 (11.21 ACRES, MORE OR LESS);

SAID DISTRICT NO. 3 CONTAINS 147.02 ACRES OF LAND, MORE OR LESS.

PREPARED BY:
ERIC SIMONSON, COLORADO P.L.S. NO. 38560
FOR AND ON BEHALF OF RAMPART SURVEYS, LLC
P.O. BOX 5101
WOODLAND PARK, COLORADO 80866
(719) 687-0920

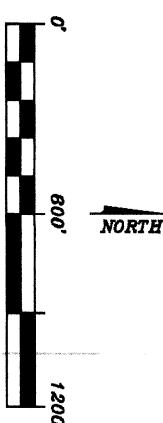
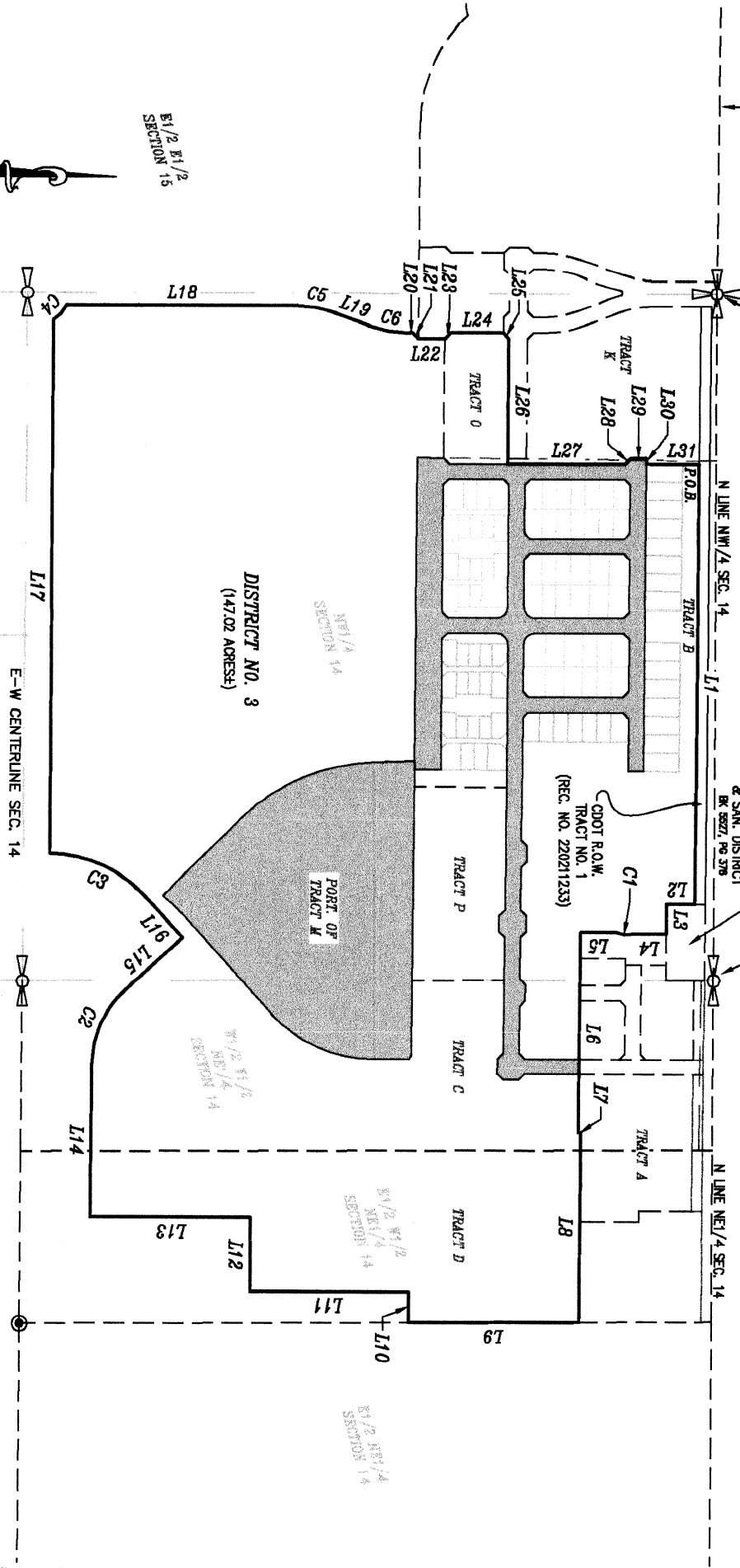


PAGE 3 OF 3

EXHIBIT

ASSUMED BASIS OF BEARINGS
 S89°44'49"E 2606.55'

STATE HIGHWAY 94
 (R.O.W. VARIES)



SCALE: 1" = 600'
 JOB NO.: 21108
 MARCH 29, 2021

- LEGEND:**
- FOUND 3/4" REBAR AND YELLOW CAP STAMPED "UP&E 11624" OR ILLEGIBLE
 - FOUND 1/4" CORNER
 - FOUND SECTION CORNER
 - ▭ AREAS NOT WITHIN DISTRICT NO. 3

E-W CENTERLINE SEC. 14
 N-S CENTERLINE SEC. 14

RAMPART SURVEYS
 P.O. Box 5101
 Woodland Park, CO. 80866
 (719) 687-0920

EXHIBIT

<i>LINE TABLE</i>		
<i>LINE #</i>	<i>BEARING</i>	<i>DISTANCE</i>
<i>L1</i>	<i>S89°28'59" E</i>	<i>1669.13'</i>
<i>L2</i>	<i>S00°14'20" E</i>	<i>107.84'</i>
<i>L3</i>	<i>S89°44'49" E</i>	<i>115.71'</i>
<i>L4</i>	<i>S00°20'22" W</i>	<i>134.72'</i>
<i>L5</i>	<i>S00°00'00" E</i>	<i>139.07'</i>
<i>L6</i>	<i>S89°28'59" E</i>	<i>764.80'</i>
<i>L7</i>	<i>N00°00'00" E</i>	<i>10.73'</i>
<i>L8</i>	<i>S89°28'59" E</i>	<i>722.91'</i>
<i>L9</i>	<i>S00°21'12" E</i>	<i>648.81'</i>
<i>L10</i>	<i>N89°29'00" W</i>	<i>115.01'</i>
<i>L11</i>	<i>S00°00'00" E</i>	<i>605.18'</i>
<i>L12</i>	<i>N89°29'00" W</i>	<i>280.01'</i>
<i>L13</i>	<i>S00°00'00" E</i>	<i>609.87'</i>
<i>L14</i>	<i>N89°29'00" W</i>	<i>592.74'</i>
<i>L15</i>	<i>N42°08'27" W</i>	<i>295.49'</i>
<i>L16</i>	<i>S47°51'33" W</i>	<i>194.61'</i>

<i>LINE TABLE</i>		
<i>LINE #</i>	<i>BEARING</i>	<i>DISTANCE</i>
<i>L17</i>	<i>N89°35'53" W</i>	<i>2030.99'</i>
<i>L18</i>	<i>N00°01'08" E</i>	<i>881.65'</i>
<i>L19</i>	<i>N20°48'44" E</i>	<i>149.50'</i>
<i>L20</i>	<i>N00°00'00" E</i>	<i>12.84'</i>
<i>L21</i>	<i>N45°15'30" E</i>	<i>30.97'</i>
<i>L22</i>	<i>N00°00'21" E</i>	<i>100.00'</i>
<i>L23</i>	<i>N44°44'30" W</i>	<i>31.25'</i>
<i>L24</i>	<i>N00°00'11" W</i>	<i>201.01'</i>
<i>L25</i>	<i>N45°15'31" E</i>	<i>30.97'</i>
<i>L26</i>	<i>S89°28'59" E</i>	<i>470.42'</i>
<i>L27</i>	<i>N00°00'00" E</i>	<i>444.75'</i>
<i>L28</i>	<i>N44°44'29" W</i>	<i>31.25'</i>
<i>L29</i>	<i>N00°00'00" E</i>	<i>60.00'</i>
<i>L30</i>	<i>S89°28'59" E</i>	<i>20.79'</i>
<i>L31</i>	<i>N00°31'01" E</i>	<i>201.27'</i>

<i>CURVE TABLE</i>					
<i>CURVE #</i>	<i>ARC LENGTH</i>	<i>RADIUS</i>	<i>DELTA ANGLE</i>	<i>CHORD BEARING</i>	<i>CHORD LENGTH</i>
<i>C1</i>	<i>55.77'</i>	<i>70.00'</i>	<i>45°39'07"</i>	<i>S07°22'22" W</i>	<i>54.31'</i>
<i>C2</i>	<i>313.99'</i>	<i>380.00'</i>	<i>47°20'33"</i>	<i>N65°48'43" W</i>	<i>305.13'</i>
<i>C3</i>	<i>424.65'</i>	<i>520.00'</i>	<i>46°47'25"</i>	<i>S24°27'51" W</i>	<i>412.95'</i>
<i>C4</i>	<i>75.66'</i>	<i>125.00'</i>	<i>34°40'50"</i>	<i>N50°06'01" W</i>	<i>74.51'</i>
<i>C5</i>	<i>132.46'</i>	<i>365.00'</i>	<i>20°47'35"</i>	<i>N10°24'56" E</i>	<i>131.74'</i>
<i>C6</i>	<i>158.01'</i>	<i>435.00'</i>	<i>20°48'46"</i>	<i>N10°24'21" E</i>	<i>157.15'</i>

**RAMPART
SURVEYS**

P.O. Box 5101
Woodland Park, CO. 80866
(719) 687-0920

EXHIBIT B
TO RESOLUTION AND ORDER FOR INCLUSION OF PROPERTY
(Affidavit of Publication)

Resolution No. 2021-04-06

**MAYBERRY, COLORADO SPRING METROPOLITAN DISTRICT NO. 1
RESOLUTION TO AMEND 2020 BUDGET**

WHEREAS, the Board of Directors of Mayberry, Colorado Springs Metropolitan District No. 1 (the “**District**”) certifies that at a special meeting of the Board of Directors of the District held April 8, 2021, a public hearing was held regarding the 2020 amended budget, and, subsequent thereto, the following Resolution was adopted by affirmative vote of a majority of the Board of Directors:

WHEREAS, the Board of Directors of the District adopted a budget and appropriated funds for fiscal year 2020 as follows:

Capital Project Fund	\$0
and;	

WHEREAS, the necessity has arisen for additional expenditures by the District due to additional costs which could not have been reasonably anticipated at the time of adoption of the budget, requiring the expenditure of funds in excess of those appropriated for fiscal year 2020; and

WHEREAS, funds are available for such expenditure.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the District does hereby amend the adopted budget for fiscal year 2020 as follows:

Capital Project Fund	\$135,000
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BE IT FURTHER RESOLVED, that such sums are hereby appropriated from the revenues of the District to the funds named above for the purpose stated, and that any ending fund balances shall be reserved for purposes of complying with Article X, Section 20 of the Colorado Constitution.

[Remainder of page intentionally left blank.]

ADOPTED this 8th day of April, 2021.

**MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 1**

Officer of the District

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

STATE OF COLORADO
COUNTY OF EL PASO
MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 1

I hereby certify that the foregoing resolution constitutes a true and correct copy of the record of proceedings of the Board adopted at a meeting held via teleconference on April 8, 2021, as recorded in the official record of the proceedings of the District.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 8th day of April, 2021.

Resolution No. 2021-04-07

**MAYBERRY, COLORADO SPRING METROPOLITAN DISTRICT NO. 2
RESOLUTION TO AMEND 2021 BUDGET**

WHEREAS, the Board of Directors of Mayberry, Colorado Springs Metropolitan District No. 2 (the “**District**”) certifies that at a special meeting of the Board of Directors of the District held April 8, 2021, a public hearing was held regarding the 2021 amended budget, and, subsequent thereto, the following Resolution was adopted by affirmative vote of a majority of the Board of Directors:

WHEREAS, the Board of Directors of the District adopted a budget and appropriated funds for fiscal year 2021 as follows:

Debt Service Fund	\$0
and;	

WHEREAS, the necessity has arisen for additional expenditures by the District due to additional costs which could not have been reasonably anticipated at the time of adoption of the budget, requiring the expenditure of funds in excess of those appropriated for fiscal year 2021; and

WHEREAS, funds are available for such expenditure.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the District does hereby amend the adopted budget for fiscal year 2021 as follows:

Debt Service Fund	\$462
-------------------	-------

BE IT FURTHER RESOLVED, that such sums are hereby appropriated from the revenues of the District to the funds named above for the purpose stated, and that any ending fund balances shall be reserved for purposes of complying with Article X, Section 20 of the Colorado Constitution.

[Remainder of page intentionally left blank.]

ADOPTED this 8th day of April, 2021.

**MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICT NO. 2**

Officer of the District

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

STATE OF COLORADO
COUNTY OF EL PASO
MAYBERRY, COLORADO SPRINGS METROPOLITAN DISTRICT NO. 2

I hereby certify that the foregoing resolution constitutes a true and correct copy of the record of proceedings of the Board adopted at a meeting held via teleconference on April 8, 2021, as recorded in the official record of the proceedings of the District.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 8th day of April, 2021.

Resolution No. 202 -04-09

**MAYBERRY, COLORADO SPRINGS COMMUNITY AUTHORITY
RESOLUTION TO AMEND 2021 BUDGET**

WHEREAS, the Board of Directors of Mayberry, Colorado Springs Community Authority (the “**Authority**”) certifies that at a special meeting of the Board of Directors of the Authority held April 8, 2021, a public hearing was held regarding the 2021 amended budget, and, subsequent thereto, the following Resolution was adopted by affirmative vote of a majority of the Board of Directors:

WHEREAS, the Board of Directors of the Authority adopted a budget and appropriated funds for fiscal year 2021 as follows:

Capital Project Fund	\$0
Debt Service Fund	\$0
and;	

WHEREAS, the necessity has arisen for additional expenditures by the Authority due to additional costs which could not have been reasonably anticipated at the time of adoption of the budget, requiring the expenditure of funds in excess of those appropriated for fiscal year 2021; and

WHEREAS, funds are available for such expenditure.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Authority does hereby amend the adopted budget for fiscal year 2021 as follows:

Capital Project Fund	\$31,900,000
Debt Service Fund	\$400,357

BE IT FURTHER RESOLVED, that such sums are hereby appropriated from the revenues of the Authority to the funds named above for the purpose stated, and that any ending fund balances shall be reserved for purposes of complying with Article X, Section 20 of the Colorado Constitution.

[Remainder of page intentionally left blank.]

ADOPTED this 8th day of April, 2021.

**MAYBERRY, COLORADO SPRINGS
COMMUNITY AUTHORITY**

Officer of the Authority

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the Authority

STATE OF COLORADO
COUNTY OF EL PASO
MAYBERRY, COLORADO SPRINGS COMMUNITY AUTHORITY

I hereby certify that the foregoing resolution constitutes a true and correct copy of the record of proceedings of the Board adopted at a meeting held via teleconference on April 8, 2021, as recorded in the official record of the proceedings of the Authority.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 8th day of April, 2021.

COST SHARING AGREEMENT
(Phase 1 Grading Project)

This COST SHARING AGREEMENT (Phase 1 Grading Project) (the “**Agreement**”) is made and entered into as of the 8th day of April, 2021, by and between MAYBERRY, COLORADO SPRINGS COMMUNITY AUTHORITY, a political subdivision and public corporation of the State of Colorado (the “**Authority**”), and MAYBERRY COMMUNITIES, LLC, a Colorado limited liability company (“**CSM**”). The Authority and CSM are collectively referred to herein as the “**Parties**.”

RECITALS

WHEREAS, the Authority was formed pursuant to the Mayberry, Colorado Springs Community Authority Establishment Agreement dated March 17, 2021 (the “**Establishment Agreement**”), in conformity with and subject to § 29-1-203.5, C.R.S., as amended, in its entirety, to provide certain functions, services or facilities (collectively, the “**Public Improvements**”) permitted by the Constitution and laws of the State of Colorado and in accordance with the provisions of the Establishment Agreement; and

WHEREAS, pursuant to § 29-1-203.5(2)(a), C.R.S., the Authority may, to the extent provided by the Establishment Agreement, exercise any general power of a special district specified in Part 10 of Article 1 of Title 32, C.R.S.; and

WHEREAS, pursuant to the Establishment Agreement and § 32-1-1001(1)(d)(I), C.R.S., the Authority is permitted to enter into contracts and agreements affecting the affairs of the Authority; and

WHEREAS, in accordance with the Establishment Agreement, the Authority has the power to acquire real and personal property, manage, control and supervise the affairs of the Authority, including the acquisition, financing, construction and installation of the Public Improvements, and to perform all other necessary and appropriate functions in furtherance of the Establishment Agreement; and

WHEREAS, the Authority was established to coordinate the acquisition, financing, construction, and installation of public improvements in connection with development within the boundaries of the Authority, including, but not limited to, the Phase 1 Grading Project (the “**Project**”); and

WHEREAS, the Project consists of earthwork grading associated with the public improvements authorized to be provided by the Authority as well as private lots and improvements which will be provided by CSM; and

WHEREAS, the Authority’s project manager, Development Services, Inc., has determined that the public portion of the Project is equal to ___% of the Project (the “**Authority Portion**”) and the private portion of the Project is equal to ___% of the Project (“**CSM Portion**”); and

WHEREAS, because the grading for the Project is so integrated between the Authority Portion and the CSM Portion, the most economical and efficient means to conduct the Project for each of the Parties is through the use of the same contractor under one contract; and

WHEREAS, the Authority has publicly bid the Project pursuant to Colorado law; and

WHEREAS, the Authority has awarded the Project to _____, the lowest responsive, responsible bidder for the Project; and

WHEREAS, the Board of Directors of the Authority (the “**Board**”) has determined that the best interests of the Authority, its Members (as that term is defined in the Establishment Agreement), and the public, would be served by entering into this Agreement; and

WHEREAS, the Board has authorized its officers to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises expressed herein, the Parties hereby agree as follows:

COVENANTS AND AGREEMENTS

1. THE PROJECT. The Parties acknowledge and agree that the Project will be constructed by the Authority pursuant to Colorado law. As such, the Parties agree that the Authority shall be responsible for all project management and oversight of the Project, including, but not limited to, approval of any and all design, construction, change orders, and other matters associated therewith.

2. PROJECT FEES AND COSTS. All fees and costs associated with the Project, including, but not limited to, engineering, legal, accounting, management, permitting, and construction costs (the “**Fees and Costs**”) shall be paid on a proportionate basis with the Authority paying the Authority Portion of the Fees and Costs and CSM paying the CSM Portion of the Fees and Costs. At no time shall the Authority pay any or a portion of the CSM Portion of the Fees and Costs with Authority revenues. For purposes hereof, the Parties acknowledge and agree that the Authority is bound by Colorado law with regard to the public bidding and award of construction contracts and that, as such, the Authority is required to appropriate funds for any public project it awards. The Parties further acknowledge and agree that in order for the Authority to award the construction contract for the Project, the Authority requires assurances from CSM that the revenues associated with the CSM Portion are immediately available for the Project and the Authority is expressly relying upon such representation. As such, CSM represents and warrants to the Authority that it has, in immediately available funds which have been appropriately and duly earmarked for the Project, the CSM Portion of the Fees and Costs, which CSM Portion is hereby committed to the Authority for the Project. The Authority shall provide to CSM periodic requests for payment which include all necessary back up demonstrating the need for the payment (“**Request for Payment**”). CSM shall submit all funds requested to the Authority in the Request for Payment by no later than ten (10) business days of the date of the Request for Payment. CSM understands and acknowledges that any delays in payment by CSM may result in monetary or other damages and such damages shall be borne by CSM.

3. DEFAULT/REMEDIES. In the event of a breach or default of this Agreement by any Party, the non-defaulting Party, after having given notice to the other Party and a 10-day period to cure said breach or default, shall be entitled to exercise all remedies available at law or in equity. In the event of any litigation, arbitration or other proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party in such proceeding shall obtain as part of its judgment or award its reasonable attorneys' and expert witness fees and court costs.

4. NOTICES AND PLACE FOR PAYMENTS. All notices, demands and communications (collectively, "Notices") under this Agreement shall be delivered or sent, addressed to the address of the intended recipient set forth below or such other address as a Party may designate by notice pursuant to this Section, by: (a) first class, registered or certified mail, postage prepaid, return receipt requested, (b) nationally recognized overnight carrier, or (c) sent by confirmed facsimile transmission or email. Notices shall be deemed given either one business day after delivery to the overnight carrier, three days after being mailed as provided in clause (a) or (b) above, or upon confirmed delivery as provided in clause (c) above.

To the Authority: Mayberry, Colorado Springs Community Authority
Public Alliance, LLC
Attn: AJ Beckman, Authority Manager
355 S Teller Street, Suite 200
Lakewood, CO 80026
(303) 877-6284 (phone)
aj@publicalliancellc.com

With Copy To: Mayberry, Colorado Springs Community Authority
WHITE BEAR ANKELE TANAKA & WALDRON
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122
Attn: Jennifer Gruber Tanaka, Esq.
(303) 858-1800 (phone)
(303) 858-1801 (fax)
jtanaka@wbapc.com

To CSM: Mayberry CSM, LLC
1323 Stratford Court
Del Mar, California 92014
Attn: Kirk Miller, Esq.
(858) 259-5888
kirk@kirkmillerlaw.net

5. AMENDMENTS. This Agreement may only be amended or modified by a writing executed by the Parties.

6. SEVERABILITY. If any portion of this Agreement is declared by any court of competent jurisdiction to be illegal, void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such illegal, void or unenforceable provision, there shall automatically be

added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

7. GOVERNING LAW/VENUE. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the Authority is located.

8. ASSIGNMENT. This Agreement may not be assigned by either Party and any attempt to do so shall be null and void.

9. AUTHORITY. By execution hereof, the Authority and CSM represent and warrant that their representative signing hereunder has full power and lawful authority to execute this Agreement and to bind the respective Party to the terms hereof.

10. ENTIRE AGREEMENT. This Agreement constitutes and represents the entire, integrated agreement between the Parties with respect to the matters set forth herein, and hereby supersedes any and all prior negotiations, representations, agreements or arrangements of any kind with respect to those matters, whether written or oral. This Agreement shall become effective upon the date set forth above.

11. INUREMENT. The terms of this Agreement shall be binding upon, and inure to the benefit of the Parties as well as their respective successors and permitted assigns.

12. GOVERNMENTAL IMMUNITY. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the Authority, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the Authority and, in particular, governmental immunity afforded or available to the Authority pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

13. NEGOTIATED PROVISIONS. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement.

14. PARTIES INTERESTED HEREIN. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the Parties any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the Parties shall be for the sole and exclusive benefit of the Parties.

15. COUNTERPART EXECUTION. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a

PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date and year first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

AUTHORITY :
MAYBERRY, COLORADO SPRINGS
COMMUNITY AUTHORITY, a political
subdivision and public corporation of the State of
Colorado

By: _____
Officer of the Authority

Attest:

By: _____

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON

General Counsel to the Authority

CSM:
MAYBERRY COMMUNITIES, LLC, a
Colorado limited liability company

By: _____

Printed Name

Title

Signature Page to Cost Sharing Agreement (Phase 1 Grading Project), dated April 8, 2021