

**AMENDED AND RESTATED  
INTERGOVERNMENTAL AGREEMENT CONCERNING DISTRICT OPERATIONS**

THIS AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT CONCERNING DISTRICT OPERATIONS (the “Agreement”) is made and entered into this 10th day of February, 2022, by and among VDW METROPOLITAN DISTRICT NO. 1 (“District No. 1” or the “Operating District”), VDW METROPOLITAN DISTRICT NO. 2 (“District No. 2”), and VDW METROPOLITAN DISTRICT NO. 3 (“District No. 3”), quasi-municipal corporations and political subdivisions of the State of Colorado. District No. 1, District No. 2, and District No. 3 are collectively referred to herein as the “Districts” or individually as the “District.” District No. 2 and District No. 3 are collectively referred to herein as the “Taxing Districts.”

**RECITALS**

WHEREAS, the formation of the Districts was approved by the City of Loveland, Colorado (the “City”) as multiple districts whose purposes are to provide essential public improvements and services as contemplated in the Consolidated Service Plan for VDW Metropolitan District Nos. 1, 2 and 3, as the same may be amended from time to time (the “Service Plan”); and

WHEREAS, pursuant to the Service Plan, the Districts are intended to work together and coordinate their activities with respect to the financing, construction, operation and maintenance of the public improvements authorized by the Service Plan (the “Public Improvements”), and for which the Districts have received electoral authorization to issue indebtedness in order to serve development within their common service areas; and

WHEREAS, the Service Plan discloses and establishes the necessity for and desirability of an intergovernmental agreement or intergovernmental agreements among the Districts concerning the manner in which the Districts shall implement the Service Plan, and the role of the Operating District with respect thereto; and

WHEREAS, to that end, the Districts have previously entered into that certain Intergovernmental Agreement Concerning District Operations, dated February 2, 2016 (the “Prior Master IGA”) pursuant to which the Operating District was generally responsible for coordinating the financing, construction, ownership, operation and maintenance of the Public Improvements and the Taxing Districts were to provide funding and the necessary tax base for financing the construction, operation and maintenance of the Public Improvements; and

WHEREAS, in order to pay a portion of the Public Improvements and to pay certain reimbursement obligations to VDW Properties, LLC (“VDW Properties”) for advancing funds to the District to finance Public Improvements (the “Developer Obligations”), District No. 1 previously issued its Limited Property Tax Supported Revenue Bonds, Series 2011 in the aggregate principal amount of \$1,200,000 (the “Series 2011 Bonds”); and

WHEREAS, for the purpose of funding additional costs of the Public Improvements and paying a portion of the outstanding Developer Obligations, the Board of Directors of District No. 2 issued its Limited General Obligation Refunding and Improvement Bonds, Series 2016A in an aggregate principal amount of \$7,040,000 (the “Series 2016A Bonds”); and

WHEREAS, for the purpose of paying amounts outstanding under the Developer Obligations, the Board of District No. 2 issued its Subordinate Limited General Obligation Bonds, Series 2016B” in an aggregate principal amount of \$4,158,700 (the “Series 2016B Bonds” and, together with the Series 2011 Bonds and the Series 2016A Bonds, the “Refunded Obligations”); and

WHEREAS, upon review and evaluation, the Board of Directors of District No. 2 has determined that it is necessary and in the best interest of the District and its residents and taxpayers to pay the costs associated with (i) paying and discharging all of the Refunded Obligations, (ii) funding a debt service reserve fund for the benefit of the Bonds (as defined below), and (iii) paying costs of issuance in connection with the Bonds (as defined below) (collectively, the “Refunding Project”); and

**WHEREAS**, the Board of Directors of District No. 2 has determined that the Refunding Project be financed by the issuance of District No. 2’s (i) Limited Tax General Obligation Refunding Bonds, Taxable Series 2022A-1 (the “Series 2022A-1 Bonds”), and (ii) Limited Tax General Obligation Refunding Bonds, Series 2022A-2 (the “Series 2022A-2 Bonds,” and together with the Series 2022A-1 Bonds, the “Series 2022 Bonds”); and

WHEREAS, in in order to facilitate the issuance of the Series 20022 Bonds, the District and District No. 3, and UMB Bank, n.a., as Trustee, entered into a Capital Pledge Agreement (the “Pledge Agreement”), dated as of February 1, 2022, for the purpose of pledging certain revenues and covenanting to take certain actions with respect to generating such revenues, for the benefit of the owners of the Bonds; and

WHEREAS, in connection with the issuance of the Series 2022 Bonds, the Districts desire to amend and restate the Prior Master IGA for the purpose of amending the respective roles and responsibilities of the Districts related to the repayment of the Series 2022 Bonds, and the rights and responsibilities with respect to the Districts’ operations and the funding of costs related thereto, including the capital costs of Public Improvements and the provision of administrative services.

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

**1. Funding of Capital Costs.** Notwithstanding any other provisions contained herein, the Districts acknowledge that, as contemplated by the Service Plan, the Operating District has and will continue to manage the construction of the Public Improvements needed for development within the Districts, while the Taxing Districts will provide the necessary financing to support the District’s construction of Public Improvements. As of the date of this Agreement,

the Districts acknowledge that all Public Improvements necessary to support the development of property in the Taxing Districts have been completed. The Districts acknowledge that proceeds from the Series 2022 Bonds were used to refund the Refunding Obligations and that District No. 2 and District No. 3 have pledged certain revenues for the repayment of the Series 2022 Bonds, subject to the terms of the Pledge Agreement. VDW Properties may construct additional Public Improvements and seek reimbursement from the Operating District in the future or advance funds to the Operating District for the Operating District to construct Public Improvements subject to reimbursement of such funds to VDW Properties. Alternatively, the Taxing Districts may, each in their own sole discretion, determine to issue additional indebtedness in the future for the financing and construction of any future Public Improvements in such manner as may be deemed most efficient and effective to implement the objectives of the Service Plan; provided, however, that the issuance of any future indebtedness by the Taxing Districts shall be subject to (i) the terms and conditions of the Service Plan and (ii) the electoral authorization of the Districts; and shall be subject to the terms and conditions of, and such repayment obligations shall be subordinate to, the Taxing Districts' repayment obligations of the Series 2022 Bonds and any further refundings thereof, and the provisions of any bond resolution, indenture or any other document related thereto.

**2. Ownership and Operation of Public Improvements.** It is acknowledged by the Districts that all Public Improvements funded by the Districts will be either dedicated to the City or other governmental entity, or will be owned and operated by the Operating District. As of the date of this Agreement, all street, water, and sewer improvements have been dedicated to the City. The Operating District owns landscaping, irrigation facilities, storm drainage facilities, and a monument sign, and may own additional Public Improvements in the future (the "District-Owned Improvements"). With respect to the District-Owned Improvements, the Taxing Districts hereby engage the Operating District, and the Operating District hereby accepts such engagement, as the "operator" of the District-Owned Improvements located within each respective District, which engagement the Districts hereby agree and acknowledge is further defined and limited by the following:

a) Subject to subparagraph 2.c) hereof, the Operating District shall hold fee simple title to the District-Owned Improvements and shall operate and maintain the same solely on behalf of, and for the benefit of, the Taxing Districts and the property owners and residents thereof. The Operating District shall not impose any fees for the use of the District-Owned Improvements by property owners and residents of the Taxing Districts, except as expressly agreed by the applicable Taxing District(s). The Operating District shall engage all contractors required to carry out all functions necessary for the operation and maintenance of the District-Owned Improvements, provided that any such engagement shall be subject to termination by District or the Taxing Districts upon notice, as provided in Paragraph 7 and Paragraph 8 hereof, respectively.

b) The Operating District shall operate the District-Owned Improvements in accordance with such written guidance (including operating policies and procedures, and minimum maintenance standards) as may be provided by the Taxing Districts and agreed upon by the Operating District. Operation of the District-Owned Improvements shall include obtaining necessary insurance for the District-Owned Improvements, in the

manner determined appropriate by the Operating District (subject to any direction by the Taxing Districts) and in compliance with applicable law, and providing such other specific services as may be set forth in a writing executed by the applicable parties hereto. Until such time as any such guidance is provided by the Taxing Districts, the District-Owned Improvements shall be operated and maintained in such manner as is reasonably determined from time to time by the Operating District, subject to the funding of costs of such operation and maintenance (including insurance premiums and related costs) by the Taxing Districts, as applicable (as more particularly provided in subparagraph 2.e) hereof). Any written document providing for a level or standard of operation or maintenance of the District-Owned Improvements executed by the Operating District and the Taxing Districts, as applicable, shall constitute a supplement to this Agreement, shall be binding upon the applicable parties hereto, and may not be amended except by written agreement executed by the applicable parties.

c) The Operating District shall not sell, transfer, convey or otherwise encumber any portion of the District-Owned Improvements without the prior written consent of the Taxing Districts. The Operating District shall cause the proceeds of any sale of any portion of the District-Owned Improvements to be paid to or at the direction of the Taxing Districts.

d) If, at the request of the City, or if the District No. 1 Board deems it to be in the best interests of District No. 1, that District No. 1 pursue dissolution in accordance with Section 32-1-701, et seq., C.R.S., District No. 1 shall cause all District-Owned Improvements, to be conveyed to, or at the direction of, the Taxing Districts prior to dissolution.

e) The obligation of the Operating District to operate and maintain the District-Owned Improvements is subject to the Taxing Districts providing moneys sufficient to fund the same. Each Taxing District hereby agrees, that so long as it has not terminated the engagement of the Operating District as operator of the District-Owned Improvements as provided Paragraph 8 hereof, to impose an ad valorem mill levy (subject to each Financing District's electoral authorization, the limits set forth in the Service Plan, and the provisions set forth in any bond resolution, indenture, pledge agreement, loan document and/or any other document related to the issuance of bonds by any of the Financing District) and, if necessary, fees or other charges, sufficient to fund the operation and maintenance costs (together with the administrative services costs set forth in subparagraph 3.d) below) of the District-Owned Improvements at the levels or standards set forth in a written agreement among the Operating District and the Taxing Districts or, in the event no written agreement with respect to a level or standard has been executed, as may be determined by the Operating District from time to time.

f) The Operating District shall submit to the Taxing Districts, no later than September 30, or such other date as may be agreed upon by the Districts, an estimate of the costs anticipated for the operation and maintenance of the District-Owned Improvements benefiting the Taxing Districts. The allocation of such costs among the Taxing Districts shall be determined by the Operating District based on the current and

anticipated benefit of the District-Owned Improvements to each Taxing District. Each Taxing District shall, in its sole discretion, accept or modify such estimate, which acceptance or modification shall be reflected in the annual adopted budgets of the Taxing Districts. The Operating District shall be obligated to provide the operation and maintenance of the District-Owned Improvement only to the extent that funding is made available by the Taxing Districts as provided in subparagraph 2.d) hereof. Under no circumstances shall the Operating District be obligated to provide or fund operation and maintenance costs of the District-Owned Improvements that are not funded by the Taxing Districts.

**3. Administrative Services.** The Districts hereby acknowledge that the Service Plan contemplated that the Districts would enter into an intergovernmental agreement to provide for the procedures for coordinated financing, budgeting, and administrative oversight and management of the Districts. In accordance with the Service Plan, the Taxing Districts hereby engage the Operating District, and the Operating District hereby accepts such engagement, as the “district administrator,” which engagement the Districts hereby agree and acknowledge is further defined and limited by the following:

a) Subject to subparagraph 3.d) hereof, the Operating District shall perform, or cause to be performed, the following administrative services for the Taxing Districts: accounting, legal, management, insurance administration, election administration, budget and audit preparation, preparation of notices, meeting materials, district information, record keeping, financial planning, and any other services required from time to time to ensure statutory compliance of the Districts. The Operating District shall engage all contractors required to carry out all functions necessary for the provisions of such administrative services, provided that any such engagement shall be subject to termination by District or the Taxing Districts upon notice, as provided in Paragraph 7 and Paragraph 8 hereof, respectively.

b) The Operating District shall provide the administrative services in accordance with such written guidance (including policies and procedures) as may be provided by the Taxing Districts and agreed upon by the Operating District. Until such time as any such guidance is provided by the Taxing Districts, the Operating District shall provide such administrative services in such manner as is reasonably determined by the Operating District, subject to the funding of costs thereof by the Taxing Districts (as more particularly provided subparagraph 3.d) hereof).

c) The Districts acknowledge that one or more developers of the Service Area may record one or more covenants (“Covenants”) against the real property in one or more of the Taxing Districts, and may designate the Operating District to enforce the Covenants and/or provide design review services as provided in the Covenants (“Covenant Services”). The Districts acknowledge and agree that, if Covenants are recorded against the real property in one or more of the Taxing Districts and the Operating District is designated therein as the entity to provide the Covenant Services, the Operating District will perform, or cause to be performed, such Covenant Services as provided in the Covenants, subject to the applicable Taxing Districts providing moneys

sufficient to fund the same. The applicable Taxing Districts hereby agree to fund the Operating District's provision of Covenant Services until such time that a supplement or other instrument is recorded against the real property in the Service Area designating another entity as the provider of Covenant Services. The Taxing Districts acknowledge that their ability to terminate the provision of Covenant Services by the Operating District shall be subject to the terms of the Covenants and applicable law.

d) The obligation of the Operating District to provide the administrative services described herein is subject to the Taxing Districts providing moneys sufficient to fund the same. The Taxing Districts hereby agree, that so long as it has not terminated the engagement of the Operating District as district administrator as provided in Paragraph 8 hereof, to impose an ad valorem mill levy on property within its boundaries (subject to each Taxing District's electoral authorization, the limits set forth in the Service Plan and the provisions set forth in any bond resolution, indenture, pledge agreement, loan document and/or any other document related to the issuance of bonds by any of the Districts) and, if necessary, fees or other charges, sufficient to fund the costs of administrative services (together with the costs of operation and maintenance services provide by the Operating District as provided in subparagraph 2.e) above), as such costs are estimated and set forth in the annual budgets of the Taxing Districts.

e) The Operating District shall submit to the Taxing Districts, no later than September 30, or such other date as may be agreed upon by the Districts, an estimate of the costs anticipated for such administrative services. The Taxing Districts shall, in their sole discretion, accept or modify such estimate, which acceptance or modification shall be reflected in the annual adopted budgets of the Taxing Districts. The Operating District shall be obligated to provide the administrative services described in this Paragraph 3 only to the extent of funding made available by the Taxing Districts as provided in subparagraph 3.d) hereof. Under no circumstances shall the Operating District be obligated to fund administrative costs, or to provide administrative services that are not funded by the Taxing Districts.

**4. Effectuation of Pledge of Security, Current Appropriation.** The sums herein required to pay the amounts due hereunder are hereby appropriated for that purpose, and said amounts for each year shall be included in the annual budget and the appropriation resolution or measures to be adopted or passed by the Boards of Directors of the Taxing Districts in each year while any of the obligations herein authorized are outstanding and unpaid. No provisions of any constitution, statute, resolution or other order or measure enacted after the execution of this Agreement shall in any manner be construed as limiting or impairing the obligation of the Taxing Districts to levy ad valorem property taxes, or as limiting or impairing the obligation of the Taxing Districts to levy, administer, enforce and collect the ad valorem property taxes as provided herein for the payment of the obligations hereunder.

**5. Subordination.** This Agreement shall be subordinate to the Taxing Districts' obligations under the Pledge Agreement. Notwithstanding the provisions of the prior paragraph, no payment shall be made by a Taxing District to the Operating District in any given year or

amounts due under this Agreement until there has been deposited with the Trustee the amounts required by the Pledge for such year.

**6. Operating District Compensation.** The compensation for the provision of services described hereunder by the Operating District shall be agreed upon by the Districts each year, on or before the adoption of an annual budget by the Taxing Districts.

**7. Operating District Termination Rights.** The Operating District shall have the option to terminate the provisions hereof pertaining to its engagement as operator of the Public Improvements (as provided in Paragraph 2 hereof) and/or district administrator (as provided in Paragraph 3 hereof) to one or more of the Taxing Districts at the end of any fiscal year; provided that written notice of such termination is provided to the Taxing District(s) no later than September 30 of the final fiscal year in which operations and maintenance services and/or administrator services are sought to be provided. In addition, in the event that one or more of the Taxing Districts cannot agree upon a budget for the provision of such operations and maintenance services and/or administrator services, including the Operating District's compensation for the same, the Operating District shall have the option to terminate this agreement (with respect to the services described in Paragraph 2, Paragraph 3, or both) at the end of the then-current fiscal year with the applicable Taxing District(s). Upon the termination by the Operating District of the services provided pursuant to Paragraph 2 hereof, the Operating District shall cause legal title in the applicable District-Owned Improvements to be conveyed to, or at the direction of, the applicable Taxing District(s), and shall cause all contracts relating to the operation and maintenance of such District-Owned Improvements and administrative services to be assigned to or at the direction of the applicable Taxing District(s) as provided herein.

**8. Termination Rights of the Taxing Districts.** Any Taxing District may determine to terminate its engagement of the Operating District as operator of the District-Owned Improvements that solely benefit such Taxing District, and/or terminate the engagement of the Operating District as district administrator at the end of any fiscal year; provided that written notice of such termination is provided to the Operating District no later than September 30 of the final fiscal year in which operations and maintenance services and/or administrative services are to be provided by the Operating District. No later than December 31 of the fiscal year in which the Operating District is in receipt of written termination of its operations and maintenance services by a Taxing District, the Operating District shall cause legal title in the applicable District-Owned Improvements to be conveyed to or at the direction of the applicable Taxing District(s) seeking termination as provided herein, and shall cause all contracts relating to the operation and maintenance of the District-Owned Improvements to be assigned to or at the direction of, the applicable Taxing District(s) seeking termination of their engagement of the Operating District.

**9. No Unintended Third-Party Beneficiaries.** 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 hereto, any rights, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all of 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. The covenants, terms, conditions, and provisions contained herein shall inure to and be binding upon the representatives, successors, and permitted assigns of the parties hereto. This Agreement is not intended to create any third-party beneficiaries, implied trusts, or similar implied agreements, nor may the provisions hereof be enforced by any person or entity not a party hereto, including without limitation, the owners of bonds issued by the Districts.

**10. Amendment.** This Agreement may be amended from time to time by agreement among the Districts; provided, however, that no amendment, modification, or alteration of the terms or provisions hereof shall be binding upon the Districts unless the same is in writing and duly executed by all of the Districts.

**11. Assignment.** Except as contemplated herein and in the Service Plan, neither this Agreement, nor any Districts' rights, obligations, duties or authority hereunder may be assigned in whole or in part by any District without the prior written consent of all the other Districts. Any such attempt of assignment without the requisite consent shall be deemed void and of no force and effect at the election of any District with consent rights. Consent to one assignment shall not be deemed to be consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.

**12. Instruments of Further Assurance.** The Districts each covenant that they will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such acts, instruments, and transfers as may reasonably be required for the performance of their obligations hereunder.

**13. Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Colorado.

**14. Severability.** If any covenant, term, condition, or provision under 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.

**15. Recovery of Costs.** In the event of any litigation between or among the Districts hereto concerning the subject matter hereof, the prevailing District(s) in such litigation shall be entitled to receive from the losing District(s), in addition to the amount of any judgment or other award entered therein, all reasonable costs and expenses incurred by the prevailing District(s) in such litigation, including reasonable attorneys' fees.

**16. Governmental Immunity.** Nothing herein shall be construed as a waiver of the rights and privileges of the Districts pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S., as amended from time to time.

**17. Integration.** This Agreement contains the entire agreement between and among the Districts regarding the subject matter hereof, and no statement, promise or


inducement made by any District or the agent of any District that is not contained in this Agreement or separate written instrument shall be valid or binding.

**18. Termination of Prior Master IGA.** The Prior Master IGA is hereby terminated and shall be of no force or effect as of the date hereof.


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IN WITNESS WHEREOF, the Districts have executed this Agreement on the date first above written.


VDW METROPOLITAN DISTRICT NO. 1

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By: Kim L. Perry, President

VDW METROPOLITAN DISTRICT NO. 2

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By: Kim L. Perry, President

VDW METROPOLITAN DISTRICT NO. 3

DocuSigned by:  
  
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By: Kim L. Perry, President