

## LINE EXPANSION PAYMENT AND REIMBURSEMENT AGREEMENT

This LINE EXPANSION PAYMENT AND REIMBURSEMENT AGREEMENT (the “**Agreement**”), dated as of the \_\_\_\_ day of \_\_\_\_\_, 202\_\_ (“**Effective Date**”), is made by and among Mt. Crested Butte Water and Sanitation (“**District**”) and \*\*DEVELOPER (“**Developer**”). District and Developer are collectively referred to herein as “Parties” or individually as “Party”.

1. **RECITALS AND PURPOSE.** Developer is constructing a development (the “Project”) located within the “Line Expansion Service Area” of the District (as defined in Section 2.1 below). In order for the District to provide sanitary sewer service to the Project certain sanitary sewer lines are required to be expanded and off-site improvements are required to be constructed. After expansion of the lines and construction of off-site improvements, the District will have additional capacity to service the Project and other properties within the Line Expansion Service Area in the future. The purpose of this Agreement is to set forth the terms and conditions of the Developer’s participation in the costs and expense of the Line Expansion (as defined in Section 2.2 below), and the District’s participation in the collection and allocation of said Line Expansion Sewer Tap Fees (as defined in Section 7.1 below). Accordingly, the Parties covenant and agree as follows.
2. **TRUNK LINE EXPANSION: DESCRIPTION OF SERVICE AREA.**
  - 2.1. The properties, including the Project, that are capable of being served by the Line Expansion shall be collectively referred to as the "Line Expansion Service Area."
  - 2.2. For the purposes of this Agreement, the term “Line Expansion” shall refer to those certain lines that are required to be expanded and off-site improvements, as shown on Exhibit A, that are required to be constructed to serve the Line Expansion Service Area, together with any related and necessary facilities and improvements appurtenant to this Line Expansion.
3. **TERM.**
  - 3.1 The term of this Agreement shall be for fifteen (15) years from the date of execution by the District.
  - 3.2 This Agreement shall become NULL and VOID in the event that the Developer fails to deposit any amounts required herein into the District’s designated account within 10 business days after receipt of written notice from the District as to the amount of the specific deposit.
4. **COST OF EXPANSION DESIGN AND CONSTRUCTION.**
  - 4.1. The Developer hereby agrees to fund the entire costs and expenses incurred by the District related to the acquisition, financing, planning, design, construction, and installation of the Line Expansion estimated to be a distance of approximately 10,154

feet. The line set for expansion (the “Trunk Line”) currently accommodates a maximum peak flow from existing customers of approximately 590 gallons per minute; and the improvements to the Trunk Line will be designed to accommodate a buildout peak flow of approximately 1,720 gallons per minute. Therefore, the difference between the current capacity of the Trunk Line and the buildout peak design flow of the Trunk Line after the Trunk Line has been expanded is 1,130 gallons per minute.

4.2 Developer shall also reimburse the District for its development, engineering, staff, and administrative time, including the District’s legal and other non-staff consultant’s fees that have already been incurred, or may be incurred in the future, and are directly attributed to this Line Expansion. In addition, the Developer shall be responsible for the payment of any additional costs and expenses related to the Line Expansion project and that may be accrued but not paid by the District prior to the certification of costs set forth herein.

**5. DEPOSIT OF CONTRIBUTED AMOUNTS.**

5.1 Prior to engineering design and easement acquisition for the Line Expansion, the Developer shall remit to the District the sum of \$ \_\_\_\_\_, representing the estimated “Design and Easement Acquisition Deposit”; which amount includes the estimated costs of engineering design, planning, easement acquisition, ditch crossing permitting, environmental surveys, route analysis, utility locates, all other work necessary and incidental to the foregoing, together with a 15% contingency. The District shall separately establish, account for, and maintain such Design and Easement Acquisition Deposit in a “Line Expansion Construction Account”, which shall be established by the District solely for this project.

5.2 After completion of engineering design and easement acquisition for the Line Expansion, the Developer shall remit to the District the sum of \$ \_\_\_\_\_, representing the estimated costs of related to the construction, and installation of the Line Expansion and all other work necessary or incidental thereto (the “Construction Deposit”).

5.3 The Design and Easement Acquisition Deposit and the Construction Deposit shall be placed into the Line Expansion Construction Account by the District, and the funds shall be held, dispensed, and administered by the District in accordance with the terms and conditions of this Agreement. Interest earned on Line Expansion Construction Account shall remain in said account and accrue to the account balance. In the event the District incurs any costs and expenses in conjunction with this Line Expansion that are in excess of the actual amounts in said Account, the Developer shall immediately fund any additional sums that are required upon demand by the District.

**6. CONSTRUCTION AND ACCEPTANCE OF LINE EXPANSION.**

6.1 The District shall complete all work related to the acquisition, financing, planning, design, construction, and installation of the Line Expansion as shown on **Exhibit B** (the “Work”) with funds from the Line Expansion Construction Account.

6.2 The District's final acceptance of the Work from the contractor shall constitute "Final Completion." Upon Final Completion, the District's engineer shall certify to the Board of Directors of the District in writing the final actual total costs and expenses that were incurred by the District to complete the Work (the "Final Certified Amount"). A copy of such certification shall be provided to the Developer.

6.3 In the event that there are funds in the Line Expansion Construction Account in excess of the Final Certified Amount, the District shall refund the remaining funds to the Developer within 60 days of the determination of the Final Certified Amount. In the event that the balance of the Line Expansion Construction Account is not sufficient to pay the Final Certified Amount, the Developer shall deposit in the Line Expansion Construction Account the amount of funds necessary to pay the Final Certified Amount within 60 days of the determination of the Final Certified Amount.

## 7. COLLECTION OF LINE EXPANSION SEWER TAP FEE.

7.1. The District acknowledges and confirms that the Line Expansion Service Area includes properties located outside of the Project which will benefit from the Line Expansion (collectively, the "Benefited Properties"). Such special benefit has been determined by the District to equal the proportionate amounts as shown on **Exhibit C**. In order to reimburse the Developer for its payment of the Line Expansion less the Developer's proportionate share of the cost of the Line Expansion as shown in **Exhibit C** (the "Developer Reimbursement Amount"), the District will collect a Line Expansion Sewer Tap Fee in addition to its regular fees and charges, including any other surcharges or additional fees (the "Line Expansion Sewer Tap Fee") from the Benefited Properties. The District will determine and set the Line Expansion Sewer Tap Fee for the Benefited Properties in an amount equal to such property's proportionate share of the cost of the Line Expansion as shown on **Exhibit C**. The Line Expansion Sewer Tap Fee shall be made in the form of a check made out to Developer, but delivered to the District as a condition to the issuance of any single tap for the Proponent's Benefited Properties, and the District shall deliver said check for the Developer Reimbursement Amount to Developer as soon as practicable. It shall be the responsibility of the Developer to keep the District informed of the correct mailing address to which the payments are to be made.

7.2. The Developer acknowledges there may be certain properties within said Line Expansion Service Area that may be best served by other District infrastructure, and nothing herein shall be construed as imposing a requirement on the District to require all such properties to utilize said Line Expansion.

7.3. The Developer expressly acknowledges that the District's obligation to collect and reimburse the Developer's Reimbursement Amount shall expire either upon the collection and payment to the Developer of the Developer's Reimbursement Amount or upon fifteen (15) years from the date of execution of this Agreement by the District—regardless of whether Benefitted Properties have paid the Line Expansion Sewer Tap Fees or any Line Expansion Sewer Tap Fees have been collected within the Line Expansion Service Area,

whichever event occurs first (the “Expiration Date”). Reimbursement to the Developer shall not be subject to interest.

7.4. The Developer understands and agrees that, by entering into this Agreement, the District makes no representations or warranties that any or all of the projected capacity of the Line Expansion will be used by the District prior to the Expiration Date, or that all of the Benefited Properties within the Line Expansion Service Area will be developed within said fifteen (15) year period, and that development within the Line Expansion Service Area is dependent upon the District's then existing treatment capacity, and compliance with policies, rules and regulations, and orders and directives by applicable regulatory agencies which have jurisdiction over the District's sewage treatment and effluent discharge.

8. **ADDITIONAL SURCHARGES.** The Developer acknowledges and agrees that the Line Expansion Sewer Tap Fee may be in addition to other surcharges which the District may impose and collect on the sale of sanitary sewer taps within said Line Expansion's Service Area and which represent reimbursement or contribution to specific capital construction projects. Such surcharges shall not be subject to reimbursement to Developer under this Agreement.

9. **LIMITATION OF APPLICABILITY AND SERVICE; INCLUSION.**

9.1. This Agreement is solely between the named parties and is not intended, nor shall it be construed, as a commitment for the issuance of sanitary sewer taps to any party or property owner in the Line Expansion Service Area. This Agreement is not to be deemed to be for the benefit of any third party or property owner.

9.2. The Developer, or its affiliates, must separately execute a Development Improvement Agreement with the District as a condition of service to the Project. If not presently included within the District's boundaries, the District's Board of Directors will require inclusion of the Project into the District as a condition of service to the Project.

10. **ASSIGNMENT.** The Developer shall not assign this Agreement to any third party except with the prior written consent of the District.

11. **PARAGRAPH CAPTIONS.** The captions of the paragraphs are set forth only for convenience and reference, and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

12. **ADDITIONAL DOCUMENTS OR ACTION.** The Parties agree to execute any additional documents and to take any additional action necessary to carry out this Agreement.

13. **INTEGRATION AND AMENDMENT.** This Agreement represents the entire agreement between the Parties and there are no oral or collateral agreements or understandings with respect to the funding of the Line Expansion. Only an instrument in writing signed by all Parties may amend this Agreement. If any provision of this Agreement is held to be invalid or unenforceable, no other

provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

14. **ALTERNATIVE DISPUTE RESOLUTION.** In the event of any dispute or claim arising under or related to this Agreement, the Parties shall use their best efforts to settle such dispute or claim through good faith negotiations with each other. If such dispute or claim is not settled through negotiations within thirty (30) days after the earliest date on which one Party notifies the other Party in writing of its desire to attempt to resolve such dispute or claim through negotiations, then the Parties agree to attempt in good faith to settle such dispute or claim by mediation conducted under the auspices of the Judicial Arbitrator Group (JAG) of Denver, Colorado or, if JAG is no longer in existence, or if the Parties agree otherwise, then under the auspices of a recognized established mediation service within the State of Colorado. Such mediation shall be conducted within sixty (60) days following either Party's written request therefor. If such dispute or claim is not settled through mediation, then either Party may initiate a civil action in the District Court for Gunnison County.

15. **GOVERNING LAW.** The laws of the state of Colorado shall govern this Agreement.

16. **BINDING EFFECT.** This Agreement shall accrue to the benefit of, and be binding upon, the parties, and their respective legal representatives, successors, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this Agreement except as otherwise specifically authorized in this Agreement.

*Remainder of Page Intentionally Left Blank; Signature Pages Follow*

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.



**\*\* DEVELOPER,**

BY:

\_\_\_\_\_  
President: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Board Secretary: \_\_\_\_\_

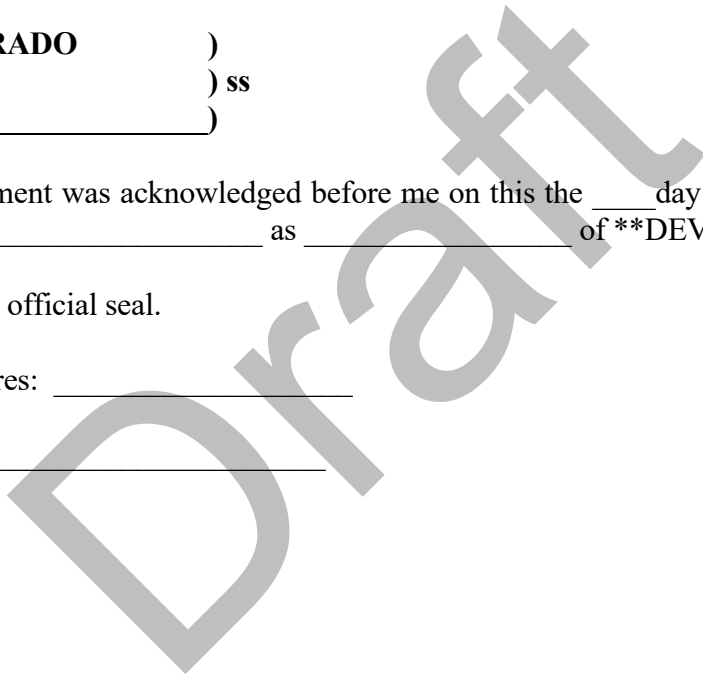
STATE OF COLORADO            )  
  ) ss  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_ 2024  
by \_\_\_\_\_ as \_\_\_\_\_ of \*\*DEVELOPER.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public



**EXHIBIT A**  
(Line Expansion)

Draft



**Exhibit B**  
(The Work)

Draft

**Exhibit C**  
(The Benefited Properties)

Draft