

**CONFLUENCE METROPOLITAN DISTRICT  
AVON STATION METROPOLITAN DISTRICT**

**2021 CONSOLIDATED ANNUAL REPORT**

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Pursuant to the Amended and Restated Consolidated Service Plan for Confluence Metropolitan District and Avon Station Metropolitan District (the “Districts”), the Districts are required to provide an annual report to the Town of Avon (the “Town”). For the year ending December 31, 2021, the Districts make the following report:

**A. Boundary changes made or proposed to the Districts’ boundaries as of December 31 of the prior year.**

There were no changes to the boundaries of the Districts during the reporting year.

**B. Intergovernmental Agreements with other governmental bodies entered into or proposed as of December 31 of the prior year.**

The Districts entered into the following Intergovernmental Agreements in the reporting year: the First Amendment to Second Amended and Restated District Facilities Joint Financing, Construction and Service Agreement on May 25, 2021, an Amended and Restated Capital Pledge Agreement on June 1, 2021, a Capital Pledge Agreement (Subordinate) on June 1, 2021, and a Custodial Agreement on June 1, 2021 attached hereto as **Exhibit A-1, Exhibit A-2 Exhibit A-3, and Exhibit A-4.**

**C. A list of all facilities and improvements constructed by the Districts that have been dedicated to and accepted by the Town as of December 31 of the prior year.**

No facilities or improvements were dedicated to the Town in 2021.

**D. The assessed valuation of the Districts for the current year.**

The assessed valuation of each district is as follows:

Confluence Metropolitan District: \$1,509,280

Avon Station Metropolitan District: \$26,954,890

Avon Station Metropolitan District, Debt Service: \$982,040

**E. Current year budget including a description of the Public Improvements to be constructed in such year.**

Copies of the Districts’ 2022 budgets are attached hereto as **Exhibit B-1 and Exhibit B-2.**

**F. Audits of the Districts’ financial statements, for the year ending December 31, of the prior year.**

The 2021 annual audits for Confluence Metropolitan District and Avon Station Metropolitan District are in process and will be provided once available.

**G. Notice of any uncured events of default by the Districts, which continue beyond a ninety (90) day period, under any debt instrument.**

The bonds have been refinanced and the default is no longer continuing.

**EXHIBIT A-1**  
**CUSTODIAL AGREEMENT**

## CUSTODIAL AGREEMENT

This CUSTODIAL AGREEMENT (this “**Agreement**”) is dated as of June 1, 2021 and entered into by and among Confluence Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado (“**District**”), Avon Station Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado (“**Avon Station**” and, together with the District, the “**Districts**”), PNC Mortgage Corporation, an Alabama corporation, formerly known as BBVA Mortgage Corporation, in its capacity as lender pursuant to the Loan Agreement (defined herein) (“**Lender**”) and UMB Bank, n.a., in its capacities as custodian (“**Custodian**”) pursuant to this Agreement and trustee for the 2021B Subordinate Bonds (defined herein) (“**Bond Trustee**”).

### RECITALS:

**WHEREAS**, pursuant to the Loan Agreement dated as of June 1, 2021 (the “**2021A Senior Loan Agreement**”) by and between the District, as borrower, and the Lender, as lender, the Lender made two loans to the District in the aggregate principal amount of \$18,700,000 (collectively, the “**2021A Senior Loans**”) evidenced by two promissory notes of the District each dated June 10, 2021 (collectively, the “**2021A Senior Notes**”) which are secured by, among other things, the pledge of the Senior Pledged Revenue (as defined therein) and the pledge of the Pledged Revenue Fund (as defined herein); and

**WHEREAS**, pursuant to the Indenture of Trust (Subordinate) dated as of June 1, 2021 (the “**2021B Subordinate Indenture**”), by and between the District and the Bond Trustee, as trustee, the District issued its Subordinate Limited Tax Supported Revenue Refunding Bonds, Series 2021B, in the aggregate principal amount of \$4,420,000 (the “**2021B Subordinate Bonds**”), which are secured by, among other things, the Subordinate Pledged Revenue (as defined therein) and the subordinate pledge of the Pledged Revenue Fund; and

**WHEREAS**, the District, Avon Station and the Custodian entered into the Amended and Restated Capital Pledge Agreement (Senior) dated as of June 1, 2021 (the “**Senior Capital Pledge Agreement**”), pursuant to which Avon Station pledged the Senior Pledged Revenue (as defined herein) to the District for the repayment of the 2021A Senior Loans; and

**WHEREAS**, the District, Avon Station and the Bond Trustee entered into the Capital Pledge Agreement (Subordinate) dated as of June 1, 2021 (the “**Subordinate Capital Pledge Agreement**”), pursuant to which Avon Station pledged the Subordinate Pledged Revenue (as defined herein) to the District for the repayment of the 2021B Subordinate Bonds; and

**WHEREAS**, in connection with the incurrence of the 2021A Senior Loans, the issuance of the 2021B Subordinate Bonds and the anticipated issuance or incurrence by the District from time to time of Additional Obligations (as defined herein), the Districts, the Lender and the Custodian wish to enter into this Agreement to provide for the application of the Senior Pledged Revenue and the Subordinate Pledged Revenue and the respective rights of the Lender, the Bond Trustee and the other Secured Parties, if any, in the Senior Pledged Revenue, the Subordinate Pledged Revenue, and the Pledged Revenue Fund; and

**NOW, THEREFORE**, in consideration of the mutual promises contained in this Agreement, the 2021A Senior Loan Agreement, the 2021B Subordinate Indenture, and the Avon Station IGA, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows.

## **AGREEMENT**

**NOW, THEREFORE**, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

### **SECTION 1. Definitions.**

Unless otherwise defined herein or the context otherwise requires, capitalized terms used herein shall have the meaning set forth below. These definitions shall be equally applicable to both the singular and the plural forms of the terms so defined. Certain terms have been defined in the introductory paragraphs and the recitals to this Agreement.

The following terms as used in this Agreement shall have the following meanings, unless the context otherwise requires:

“*Additional Obligations*” means the Senior Obligations, Subordinate Obligations and Junior Subordinate Obligations, collectively.

“*Agreement*” means this Custodial Agreement, as amended or supplemented from time to time.

“*AURA*” means the Avon Urban Renewal Authority.

“*AURA IGA*” means the Intergovernmental Agreement between Avon Urban Renewal Authority, the District and Avon Station Concerning Incremental Taxes dated October 9, 2007, as it may be amended or supplemented from time to time.

“*Bond Trustee*” means UMB Bank, n.a., in Denver, Colorado, in its capacity as trustee under the 2021B Subordinate Indenture, or any successor Bond Trustee, appointed, qualified, and acting as trustee, paying agent, and bond registrar under the provisions of the 2021B Subordinate Indenture.

“*Business Day*” means any day of the week on which the Custodian is conducting its banking operations nationally and on which day the Custodian’s offices are open for business in Denver, Colorado.

“*Costs of Issuance Fund*” means the fund so defined and established pursuant to Section 3 hereof and held by the Custodian.

“*Financing Documents*” means this Agreement, the 2021A Senior Loan Agreement, the 2021A Senior Notes, the Senior Capital Pledge Agreement, the 2021B Subordinate Indenture, the Subordinate Capital Pledge Agreement and the AURA IGA, as the same may be amended from time to time.

“*Fiscal Year*” means the period commencing on the first day of January of any calendar year and ending on the last day of December of the same calendar year.

“*Junior Subordinate Obligation Documents*” means, collectively, any resolution, indenture, loan agreement or other instrument or agreement executed by the District pursuant to which Junior Subordinate Obligations are issued or incurred.

“*Junior Subordinate Obligations*” means bonds, notes, certificates or obligations issued or incurred by the District and designated by the District in the applicable Junior Subordinate Obligation Document as secured by a lien on the Pledged Revenue Fund and a lien on the Pledged Revenue deposited therein on a basis junior and subordinate to the Senior Obligations and Subordinate Obligations.

“*Junior Subordinate Pledged Revenue*” means the revenue pledged by the District pursuant to the Junior Subordinate Obligation Documents to pay the Junior Subordinate Obligations.

“*Junior Subordinate Secured Parties*” means, collectively, any lender or Trustee under any Junior Subordinate Obligations.

“*Lender*” means PNC Mortgage Corporation, an Alabama corporation, formerly known as BBVA Mortgage Corporation.

“*Loan Debt Requirements*” shall have the meaning assigned to the term “Debt Requirements” in the 2021A Senior Loan Agreement.

“*Loan Payment Fund*” means the fund by that name created and established by the provisions of the 2021A Senior Loan Agreement.

“*Party*” means any party that has executed this Agreement and “*Parties*” means all parties that executed this Agreement.

“*Permitted Investments*” means any investment or deposit the District is permitted to make under then applicable law.

“*Person*” means an individual, a corporation, a partnership, an association, a joint venture, a trust, an unincorporated organization or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

“*Pledged Revenue*” means, collectively, the Senior Pledged Revenue, the Subordinate Pledged Revenue and the Junior Subordinate Pledged Revenue.

“*Pledged Revenue Fund*” means the fund so defined and established pursuant to Section 3 hereof and held by the Custodian.

“*Secured Obligation Documents*” means, collectively, any resolution, indenture, loan agreement or other instrument or agreement executed by the District pursuant to which Additional Obligations are issued or incurred and shall include any Senior Obligation Documents, Subordinate Obligations Documents and Junior Subordinate Obligation Documents.

“*Secured Obligations*” means, collectively, each of the following obligations: (a) obligations of the District under the Senior Obligations; (b) the obligations of the District under the Subordinate Obligations; (c) the obligations of the District under the Junior Subordinate Obligations; and/or (d) any and all amendments, extensions and other modifications of any of the foregoing, including without limitation, amendments, extensions and other modifications that are evidenced by new or additional documents or that change the rate of interest on any Secured Obligations.

“*Secured Parties*” means, collectively, the Senior Secured Parties, Subordinate Secured Parties and Junior Subordinate Secured, and “*Secured Party*” means any one of them individually.

“*Senior Capital Pledge Agreement*” means the Amended and Restated Capital Pledge Agreement (Senior) dated as of June 1, 2021, by and among the District, Avon Station and the Custodian, as it may be amended or supplemented from time to time.

“*Senior Obligation Documents*” means, collectively, the 2021A Senior Loan Agreement, and any resolution, indenture, loan agreement or other instrument or agreement executed by the District pursuant to which Senior Obligations are issued or incurred.

“*Senior Obligations*” means, collectively, the 2021A Senior Loans, and any bonds, notes, certificates or obligations issued or incurred by the District and designated by the District in the applicable Senior Obligation Document as secured by a lien on the Pledged Revenue Fund and a lien on the Pledged Revenue deposited therein on a parity lien basis with the 2021A Senior Loans and on a senior lien basis to the Subordinate Obligations and the Junior Subordinate Obligations.

“*Senior Pledged Revenue*” means the revenue pledged by the District pursuant to the Senior Obligation Documents to pay the Senior Obligations.

“*Senior Secured Parties*” means, collectively, the Lender and any other lender or Trustee under other Senior Obligations.

“*Subordinate Bond Fund*” means the fund by that name created and established by the provisions of the 2021B Subordinate Indenture.

“*Subordinate Capital Pledge Agreement*” means the Capital Pledge Agreement (Subordinate) dated as of June 1, 2021, by and among the District, Avon Station and the Bond Trustee, as it may be amended or supplemented from time to time.

“*Subordinate Obligation Documents*” means, collectively, the 2021B Subordinate Indenture, any resolution, indenture, loan agreement or other instrument or agreement executed by the District pursuant to which Subordinate Obligations are issued or incurred.

“*Subordinate Obligations*” means, collectively, the 2021B Subordinate Bonds, and bonds, notes, certificates or obligations issued or incurred by the District and designated by the District in the applicable Subordinate Obligation Document as secured by a lien on the Pledged Revenue Fund and a lien on the Pledged Revenue deposited therein on a basis subordinate to the Senior Obligations.

“*Subordinate Pledged Revenue*” means the revenue pledged by the District pursuant to the Subordinate Obligation Documents to pay the Subordinate Obligations.

“*Subordinate Secured Party*” means, collectively, the Bond Trustee and any other lender or Trustee under Subordinate Obligations.

“*Trustee*” means a trust company or bank designated to act as a trustee under any Senior Obligation Documents, Subordinate Obligation Documents or Junior Subordinate Obligation Documents. There may be more than one Trustee at any time with respect to the Senior Obligations, Subordinate Obligations and Junior Subordinate Obligations.

“*2021A Senior Loan Agreement*” means the 2021A Senior Loan Agreement dated as of June 1, 2021, by and among the District, as borrower, and the Lender, as lender, as it may be amended or supplemented from time to time.

“*2021B Subordinate Indenture*” means the Indenture of Trust (Subordinate) dated as of June 1, 2021, by and between the District and the Bond Trustee, authorizing the issuance of the 2021B Subordinate Bonds, as it may be amended or supplemented from time to time.

**SECTION 2. Interpretations.** The terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof” and any similar terms, refer to this Agreement as a whole and not to any particular article, section, or subdivision hereof; the term “heretofore” means before the date of execution of the Agreement; and the term “hereafter” means after the date of execution of this Agreement.

All definitions, terms, and words shall include both the singular and the plural, and all capitalized words or terms shall have the definitions set forth in Section 1 hereof.

Words of the masculine gender include correlative words of the feminine and neuter genders, and words importing the singular number include the plural number and vice versa.

The captions or headings of this Agreement are for convenience only, and in no way define, limit, or describe the scope or intent of any provision, article, or section of this Agreement.

All schedules, exhibits, and addenda referred to herein are incorporated herein by this reference.

**SECTION 3. Deposits to and Disbursements from the Pledged Revenue Fund and Accounts Therein.**

(a) *Establishment of Pledged Revenue Fund.* There is hereby established and there shall be held and administered with the Custodian, a separate fund for deposit of Pledged Revenue to be known as the Pledged Revenue Fund. The Custodian shall hold and administer the Pledged Revenue Fund so long as the 2021A Senior Loans or any Secured Obligation for which the corresponding Secured Obligation Document does not require a Trustee remain unpaid. Moneys in the Pledged Revenue Fund shall be disbursed only for the purposes and uses set forth in the Secured Obligation Documents and as hereinafter authorized. Following payment of all Secured Obligations, any remaining amounts in the Pledged Revenue Fund shall be maintained or disbursed at the direction of the District.

(b) *Deposit of Pledged Revenue.* The District and Avon Station are to transfer all amounts comprising Pledged Revenue to the Custodian for deposit in the Pledged Revenue Fund as soon as may be practicable after the receipt thereof, and in no event later than the 15th day of the calendar month immediately succeeding the calendar month in which such revenue is received by the District or Avon Station, as applicable. The District shall also transfer or caused to be transferred to the Custodian as soon as practicable all revenues (including specific ownership taxes and District Tax Increment Revenues, as defined in the 2021A Senior Loan Agreement) received as a result of Avon Station's imposition of a debt service mill levy in 2020 (collected in 2021). IN NO EVENT ARE THE DISTRICT OR AVON STATION PERMITTED TO APPLY ANY PORTION OF THE PLEDGED REVENUE TO ANY OTHER PURPOSE, OR TO WITHHOLD ANY PORTION OF THE PLEDGED REVENUE.

(c) *Transfers from the Pledged Revenue Fund.* The Custodian shall apply moneys in the Pledged Revenue Fund on each date on which any amounts are required to be transferred or paid pursuant to subparagraphs FIRST through SIXTH below in the following disbursement priority order, beginning with subparagraph FIRST below for each application of money. For purposes of the following, (a) when credits to more than one fund, account, or purpose are required at any single priority level, such credits shall rank *pari passu* with each other and, in the event that Pledged Revenue is not sufficient to fully fund all amounts required at any single priority level, credits shall be made pro rata, in accordance with the relative amounts required to be deposited to such funds or accounts; and (b) the Custodian may rely upon the written instructions of the District with respect to the appropriate funds or accounts to which such credits are to be made.

FIRST: On each day on which fees or other expenses are due to the Custodian pursuant to the terms of this Agreement, the Custodian shall pay or transfer such amounts to the Custodian.

SECOND: Following the payments provided in subparagraph FIRST above, money on deposit in the Pledged Revenue Fund shall be transferred on the fifteenth day of each calendar month to the Lender and any other Senior Secured Party as follows:

(i) to the Lender, for deposit in the Loan Payment Fund until the amount therein is equal to the Loan Debt Requirements coming due in such calendar year (except for the amounts necessary to fund or replenish the Senior Reserve Fund established under the 2021A Senior Loan Agreement, which shall be funded pursuant to subparagraph THIRD below), including all fees, costs, expenses and any other amounts due and owing to the Lender under the 2021A Senior Loan Agreement during such Fiscal Year (whether or not known at the time of computation of the Loan Debt Requirements for such Fiscal Year) pursuant to an invoice provided by the Lender to the Custodian; and

(ii) to each other Senior Secured Party, for payment of the principal of, premium, if any, and interest due in such calendar year on any other Senior Obligations, in the amounts required by the applicable Senior Obligation Document (net of any capitalized interest), including all fees, costs, expenses and any other

amounts due and owing to each other Senior Secured Party pursuant to the applicable Senior Obligation Document during such Fiscal Year (whether or not known at the time of computation of the principal of, premium, if any, and interest due on the applicable Senior Obligation for such Fiscal Year) pursuant to an invoice provided by each other Senior Secured Party.

THIRD: Following the payments and transfers provided in subparagraphs FIRST and SECOND above, money on deposit in the Pledged Revenue Fund shall be transferred on the fifteenth day of each calendar month to the Lender and any other Senior Secured Party as follows:

(i) to the Lender, for deposit in the Senior Reserve Fund (as defined in the 2021A Senior Loan Agreement) until the amount therein is equal to the Senior Reserve Requirement (as defined in the 2021A Senior Loan Agreement); and

(ii) to each other Senior Secured Party, for deposit in any reserve fund or similar fund established in connection with the other Senior Obligations to secure the payment of the principal of, premium if any, and interest on such other Senior Obligations, in the amounts required by the applicable Senior Obligation Document.

FOURTH: On December 2 of each calendar year, provided that all payments and transfers required to be made pursuant to subparagraphs FIRST through THIRD above have been made, money on deposit in the Pledged Revenue Fund shall be transferred to the Bond Trustee and any other Subordinate Secured Party as follows:

(i) to the Bond Trustee, to be applied pursuant to Section 3.05 of the 2021B Subordinate Indenture, for payment of the Trustee Fees (as defined in the 2021B Subordinate Indenture) and the principal of, premium, if any, and interest due in such calendar year on the 2021B Subordinate Bonds (including any sinking fund, reserve fund, or similar fund or account established therefor), in the amounts required by the 2021B Subordinate Indenture, pursuant to an invoice provided by the Bond Trustee to the Custodian; and

(ii) to each other Subordinate Secured Party, for payment of the principal of, premium, if any, and interest due in such calendar year on any other Subordinate Obligations, in the amounts required by the applicable Subordinate Obligation Document (net of any capitalized interest), including all fees, costs, expenses and any other amounts due and owing to each other Subordinate Secured Party pursuant to the applicable Subordinate Obligation Document during such Fiscal Year (whether or not known at the time of computation of the principal of, premium, if any, and interest due on the applicable Subordinate Obligation for such Fiscal Year) pursuant to an invoice provided by each other Subordinate Secured Party.

FIFTH: On December 2 of each calendar year, provided that all payments and transfers required to be made pursuant to subparagraphs FIRST through FOURTH above have been made, money on deposit in the Pledged Revenue Fund shall be transferred to the Bond Trustee and any other Subordinate Secured Party to be applied the credit of the Surplus

Fund (as defined in the 2021B Subordinate Indenture) and to the credit of any other similar fund or account established to secure payment of the principal of, premium if any, and interest on any Subordinate Obligation, the amount necessary for amounts on deposit in the Surplus Fund to equal the Maximum Surplus Amount (as defined in the 2021B Subordinate Indenture) and for amounts on deposit in any similar account securing Subordinate Obligations to equal the amount required by the resolution or other enactment authorizing issuance of such Subordinate Obligations; and

SIXTH: On December 14 of each calendar year, provided that all payments and transfers required to be made pursuant to subparagraphs FIRST through FIFTH above have been made, money on deposit in the Pledged Revenue Fund shall be transferred to each Junior Subordinate Secured Party, for payment of the principal, premium, if any, and interest due in such calendar year on any Junior Subordinate Obligations (including any sinking fund, reserve fund, or similar fund or account established therefor), in the amounts required by the applicable Junior Subordinate Obligation Document, which shall be evidenced by the written confirmation from each Junior Subordinate Secured Party to the Custodian.

(d) Any money remaining on deposit in the Pledged Revenue Fund on December 14 of each calendar year, following the transfers and payments provided for in subparagraphs FIRST through SIXTH above in paragraph (c) shall be applied to the credit of any other fund or account as may be designated by the District, to be used for any lawful purpose.

(e) On each January 1, the Custodian shall begin making transfers and payments from the Pledged Revenue Fund in accordance with the priorities set forth above in subparagraphs FIRST through SIXTH of paragraph (c) notwithstanding that one or more of the payment priorities have not been funded in full during the prior calendar year due to insufficient funds or otherwise.

(f) *Costs of Issuance Fund.* There is hereby established and there shall be held and administered with the Custodian, a separate fund for deposit of proceeds of the 2021A Senior Loans to be known as the Costs of Issuance Fund. The Costs of Issuance Fund shall be maintained by the Custodian. All moneys on deposit in the Costs of Issuance Fund shall be applied by the Trustee at the direction of the District, which may take the form of a closing memorandum prepared by the placement agent for the 2021A Senior Loans that includes a summary of approved costs of issuance, to the payment of costs in connection with the incurrence of the 2021A Senior Loans, including, without limitation, regulatory fees, the fees and expenses of bond counsel, general counsel, placement agent's counsel, counsel to the Lender and other counsel, the fees and expenses of the District's accountant, manager, special consultants, and other professionals, and the fees and costs of the Custodian, and other costs and expenses of the District relating to the incurrence of the 2021A Senior Loans. The Custodian may rely conclusively on any such direction and shall not be required to make any independent investigation in connection therewith. Any amounts remaining in the Costs of Issuance Fund on the date that is 90 days after the date of incurrence of the 2021A Senior Loans shall be transferred by the Custodian into the Loan Payment Fund. The Custodian acknowledges receipt of \$624,058.82 from the proceeds of the 2021A Senior Loans for deposit in the Costs of Issuance Fund.

#### **SECTION 4. Investment of Funds.**

(a) The Custodian shall invest amounts in the Pledged Revenue Fund only in Permitted Investments and the investment earnings on moneys on deposit in the Pledged Revenue Fund, shall be deposited into the Pledged Revenue Fund. Investments in the Pledged Revenue Fund shall be made at the written direction of the District.

(b) If the Custodian is not provided written directions concerning investment of moneys held pursuant to this Agreement, the Custodian shall invest such moneys in a money market fund, provided such investments are Permitted Investments. Unless otherwise confirmed or directed in writing, an account statement delivered periodically by the Custodian to the District shall confirm that the investment transactions identified therein accurately reflect the investment directions of the District, unless the District notifies the Custodian in writing to the contrary within thirty (30) days of the date of such statement. The Custodian may make any and all such investments through its own investment department or that of its affiliates or subsidiaries, and may charge its ordinary and customary fees for such trades, including cash sweep account fees, and it is specifically provided herein that the Custodian may purchase or invest in shares of any investment company that (i) is registered under the Investment Company Act of 1940, as amended (including both corporations and Massachusetts business trusts, and including companies for which the Custodian may provide advisory, administrative, custodial, or other services for compensation), (ii) invests substantially all of its assets in short-term high-quality money-market instruments, limited to obligations issued or guaranteed by the United States, and (iii) maintains a constant asset value per share. The Custodian is specifically authorized to implement its automated cash investments system to assure that cash on hand is invested and to charge reasonable cash management fees, which may be deducted from income earned on investments.

#### **SECTION 5. Security; Priority of Liens.**

(a) Amounts in the Pledged Revenue Fund are held as security for the Secured Obligations in accordance with the lien priorities established hereunder and under the Secured Obligation Documents.

(b) The District hereby pledges and grants to the Lender, as security for amounts due to the Lender under the 2021A Senior Loan Agreement, and each other Senior Secured Party, as security for the applicable Senior Obligation, a lien on and first priority security interest (and, with respect to the Pledged Revenue Fund, such lien shall be senior to the Subordinate Obligations) in and to all of its rights, title and interest, if any, whether now existing or hereafter arising, in (i) the Pledged Revenue Fund, including all security entitlements, if any, with respect thereto and (ii) all cash and investment securities on deposit therein. The District hereby represents that such security interests are not subject to any other existing liens except as described in paragraphs (c) and (d) of this Section and as otherwise permitted pursuant to the terms of the 2021A Senior Loan Agreement and any other Senior Obligation Documents.

(c) The District hereby pledges and grants to the Bond Trustee, as security for the 2021B Subordinate Indenture, and each other Subordinate Secured Party, as security for the applicable Subordinate Obligation, a lien on and security interest in and to all of its rights, title and interest, if any, whether now existing or hereafter arising, in (i) the Pledged Revenue Fund, including all security entitlements, if any, with respect thereto and (ii) all cash and investment securities on deposit therein, which lien and security interest shall be subordinate in all respects to the lien thereon of the 2021A Senior Loans and any other Senior Obligations. The District hereby represents that such security interests are not subject to any other existing liens except as described in paragraphs (b) and (d) of this Section and as otherwise permitted pursuant to the terms of the 2021B Subordinate Indenture and any other Subordinate Obligation Documents.

(d) The District hereby pledges and grants to the Junior Subordinate Secured Parties, as security for the applicable Junior Subordinate Obligations, a lien on and security interest in and to all of its rights, title and interest, if any, whether now existing or hereafter arising, in (i) the Pledged Revenue Fund, including all security entitlements, if any, with respect thereto and (ii) all cash and investment securities on deposit therein, which lien and security interest shall be subordinate in all respects to the lien thereon of the 2021A Senior Loans, any other Senior Obligations, the 2021B Subordinate Indenture and any other Subordinate Obligations. The District hereby represents that such security interests are not subject to any other existing liens except as described in paragraphs (b) and (d) of this Section and as otherwise permitted pursuant to the terms of the Junior Subordinate Obligation Documents.

(e) The creation, perfection enforcement, and priority of the pledge of the Pledged Revenue Fund for the benefit of the Secured Parties to secure the payment of the Secured Obligations in accordance herewith shall be governed by Section 11-57-208 of the Supplemental Public Securities Act (Title 11, Article 57, Part 2, Colorado Revised Statutes, as amended), this Agreement and the Secured Obligation Documents. Pledged Revenue deposited in the Pledged Revenue Fund and pledged to the payment of Secured Obligations shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge shall have the priority described herein and in the Secured Obligation Documents. The lien of such pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against the District irrespective of whether such persons have notice of such liens.

(f) The Custodian will comply with all instructions and entitlement orders originated by the Lender, the Bond Trustee and any other Secured Parties directing disposition, transfer or redemption of the funds and financial assets on deposit in or credited, required to be credited or accepted for credit to the Pledged Revenue Fund (including, without limitation, withdrawal requests and disbursement directions) without further consent by the District or any other Person as long as such instructions and entitlement orders are consistent with the provisions of this Agreement.

**SECTION 6. Withdrawals and Applications of Funds.** The Custodian is hereby authorized to automatically transfer to the Lender, the Bond Trustee and any other Secured Party such amounts in the Pledged Revenue Fund as required pursuant to Section 3(c) hereof, all of which

shall be applied in such order and manner and for such purposes as set forth herein and in the Secured Obligation Documents.

## **SECTION 7. Custodian.**

(a) The District, Avon Station, the Lender and the Bond Trustee hereby appoint UMB Bank, n.a. as the custodian hereunder and authorize it to exercise such rights, powers and authorities as are specifically delegated to the Custodian by the terms hereof together with all such rights, powers and authorities as are reasonably incidental thereto. Custodian hereby accepts all duties and responsibilities required or permitted to be performed by it pursuant to this Agreement. The Custodian shall have no duties or obligations except those expressly set forth herein. The Custodian shall receive and disburse such funds solely in accordance with the terms and provisions hereof. By its signature hereto, UMB Bank, n.a. hereby accepts such appointment.

(b) The Custodian solely in its capacity as Custodian hereunder hereby waives all rights of setoff or deduction, combination of accounts, counterclaim, security interests, encumbrances, banker's liens and claims it may have solely in its capacity as Custodian hereunder, now or in the future, against the Pledged Revenue Fund or any funds of financial assets deposited into or credited, required to be credited or accepted for credit thereto from time to time other than to (i) pay the Custodian's customary fees and charges pursuant to its agreements with the District or (ii) debit the Pledged Revenue Fund for returned items and chargebacks either for uncollected checks or other items of payment and transfers previously credited to the Pledged Revenue Fund. The preceding waiver does not waive any of the rights of the entity serving as Custodian hereunder in any other capacity, including as Bond Trustee.

(c) Each of the parties hereto agrees that neither the Custodian nor any of its officers, directors, employees, or agents shall be liable to any Secured Party or the District for any action taken or omitted to be taken under this Agreement except to the extent caused by the Custodian's negligence or willful misconduct.

(d) The Custodian may resign at any time for any reason by giving not less than 45 days prior written notice to each other party hereto, provided that neither such resignation or removal pursuant to subsection (i) of this Section shall be effective until (A) a successor for the Custodian is appointed in accordance with this Agreement; (B) the resigning or removed Custodian has transferred to its successor all of its rights, powers, privileges and obligations in its capacity as Custodian under this Agreement (except that the indemnification of the resigning Custodian shall survive and be retained thereby for such period as it served as the Custodian), and (C) the successor Custodian has executed and delivered to each party hereto, in form and substance satisfactory to the Secured Parties, an agreement to accept its appointment as the Custodian and to perform all of the duties required of the Custodian hereunder.

(e) If the Custodian has given notice of its resignation pursuant to subsection (d) or if the Secured Parties give the Custodian notice of removal pursuant to subsection (f), then a successor to the Custodian may be appointed by the Secured Parties during the period of

such notice but, if no such successor is so appointed within thirty (30) days after the above notice, the Custodian may petition a court of competent jurisdiction to appoint a successor Custodian, which (A) is authorized under the laws of the jurisdiction of its incorporation to exercise trust powers, (B) has an office in Denver, Colorado, and (C) has a capital and surplus of at least \$50,000,000.

(f) The Secured Parties may remove the Custodian from its appointment hereunder with or without cause by giving not less than ninety (90) days prior written notice to that effect to the Custodian and the other parties hereto; provided that no such removal shall be effective until a successor for the Custodian is appointed in accordance with subsection (e) of this Section.

**SECTION 8. Events of Default.** The occurrence of any of the following shall constitute an “Event of Default” hereunder (subject to any applicable cure period):

(a) the Custodian’s receipt of notice from the Lender or any other Senior Secured Party of the occurrence of any event of default under the 2021A Senior Loan Agreement and any other Senior Obligation Document;

(b) the Custodian’s receipt of notice from the Bond Trustee or any other Subordinate Secured Party of the occurrence of any event of default under the 2021B Subordinate Indenture and any other Subordinate Obligation Document; and/or

(c) the Custodian’s receipt of notice from any Junior Subordinate Secured Party of the occurrence of any event of default under any Junior Subordinate Obligation Document.

**SECTION 9. Remedies.**

(a) Subject to subsection (b) of this Section, while any Event of Default (as defined in Section 7 hereof) remains uncured, the Secured Parties shall have all of the following rights and remedies, each of which may be exercised by the Secured Parties, but with or without further notice to the District (provided that any exercise of the such rights and remedies by the Lender shall be in compliance with the provisions of the 2021A Senior Loan Agreement, any exercise of such rights and remedies by the Bond Trustee shall be in compliance with the provisions of the 2021B Subordinate Indenture and any exercise of such rights and remedies by any other Secured Party shall be in compliance with the provisions of the applicable Secured Obligation Document):

- (i) to cause the Custodian to transfer all amounts in the Pledged Revenue Fund or interest, dividends, principal and all other sums payable thereon or on account thereof, to the Loan Payment Fund, Subordinate Bond Fund or other debt service fund established under a Secured Obligation Document in accordance with the priorities set forth herein; and
- (ii) to exercise any and all other rights and remedies that a Secured Party may have by law or under any applicable agreement.

(b) It is acknowledged that the Pledged Revenue is comprised of amounts derived from the imposition by Avon Station of its debt service mill levy in accordance with the Senior Capital Pledge Agreement and the Subordinate Capital Pledge Agreement and that the 2021A Senior Loans and other Senior Obligations have a senior lien on such amounts. Accordingly, following an Event of Default hereunder, the Bond Trustee, any other Subordinate Secured Party and any Junior Subordinate Secured Party may not take any action which would unduly prejudice the rights of the Lender and other Senior Secured Parties with respect to the Pledged Revenue or the Pledged Revenue Fund. It is acknowledged that, notwithstanding the occurrence of an Event of Default, no portion of the Pledged Revenue that is pledged on a senior basis to the 2021A Senior Loans or any other Senior Obligation shall be applied to the payment of any amounts relating to the 2021B Subordinate Bonds, any other Subordinate Obligation or any Junior Subordinate Obligation until the full satisfaction of all amounts then due with respect to the 2021A Senior Loans and other Senior Obligations. Furthermore, it is acknowledged that, notwithstanding the occurrence of an Event of Default, no portion of the Pledged Revenue that is pledged on a senior basis to the 2021B Subordinate Bonds or any other Subordinate Obligation shall be applied to the payment of any amounts relating to any Junior Subordinate Obligation until the full satisfaction of all amounts then due with respect to the 2021B Subordinate Indenture and other Subordinate Obligations.

**SECTION 10. Reporting.** On the last Business Day of each month, the Custodian shall give notice and provide financial reports to the District, the Lender, the Bond Trustee and any other Secured Party of the amounts on deposit in the Pledged Revenue Fund, as well as transfers from said fund from the preceding periodic report provided by the Custodian.

**SECTION 11. Conflicts.** In the event of conflicts with respect to a Secured Obligation Document and this Agreement, the terms and provisions of this Agreement shall control over the terms and provisions of the Secured Obligation Document to the extent of such conflict.

**SECTION 12. Cumulative Remedies.** Each Secured Party's rights and remedies hereunder and under the applicable Secured Obligation Document are cumulative and in addition to all rights and remedies provided by law or otherwise from time to time, and each such right or remedy may be exercised concurrently or independently and as often as the Secured Party deems advisable.

**SECTION 13. No Implied Waivers.** No waiver of any default shall be implied from any omission by a Secured Party to take action on account of such default if such default persists or is repeated. No waiver of any default shall affect any default other than the default expressly waived, and any such waiver shall be operative only for the time and to the extent stated. No waiver of any provision of any Financing Document shall be construed as a waiver of any subsequent breach of the same provision. A Secured Party's consent to or approval of, respectively, any act by the District requiring further consent or approval shall not be deemed to waive or render unnecessary a Secured Party's consent to or approval of any subsequent act.

**SECTION 14. Custodian's Costs and Expenses.** The District shall from time to time, subject to any agreement then in effect with the Custodian, pay the Custodian compensation for its services and reimburse the Custodian for all its advances and expenditures hereunder, including

but not limited to advances to and fees and expenses of accountants, agents, appraisers, consultants, legal counsel or other experts employed by it in the observance and performance of its rights and obligations hereunder; provided that the Custodian shall not have any lien for such compensation or reimbursement against any money held by it in any fund established hereunder, although the Custodian may take whatever legal actions are available to it directly against the District to recover such compensation or reimbursement; and further provided that the District shall not be liable for any expenses that resulted from the negligence or willful misconduct of the Custodian.

**SECTION 15. Obligations of the Lender, the Bond Trustee, the Custodian and Other Secured Parties with Respect to Amounts in the Pledged Revenue Fund.** Neither the acceptance by the Lender, the Bond Trustee or the other Secured Parties of the security interests granted hereunder, respectively, nor any exercise by the Lender, the Bond Trustee or such other Secured Parties of their respective rights and remedies hereunder, nor the Custodian's agreement to establish and maintain the funds set forth herein, shall be deemed to be an assumption by the Lender or the Bond Trustee or any other Secured Party or the Custodian of any obligation or liability of the District under the terms of the Secured Obligation Documents. The obligations of the Custodian with respect to the funds in its possession shall be limited to the duty to exercise reasonable care in the custody and preservation of said funds.

**SECTION 16. Role of Custodian.** The Custodian hereby accepts all duties and responsibilities required or permitted to be performed by it pursuant to this Agreement. The Custodian understands and acknowledges that, by reason of the execution hereof, it has assumed a role of custodian. The Custodian shall receive and disburse such funds solely in accordance with the terms and provisions hereof.

**SECTION 17. Successors and Assigns.** Subject to any applicable restrictions on assignment contained herein, in the 2021A Senior Loan Agreement, in 2021B Subordinate Indenture and in the other Secured Obligation Documents, this Agreement shall bind and shall inure to the benefit of, the successors and assigns of the District, Avon Station, the Lender, the Bond Trustee, any other Secured Party, and the Custodian.

**SECTION 18. Notices, Etc.** Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon (a) hand delivery, (b) one (1) Business Day after being deposited with a reliable overnight courier service, with receipt acknowledgement requested, (c) upon receipt if transmitted by confirmed email, during normal business hours on a Business Day and if not so transmitted the next Business Day following the date sent, or (d) three (3) Business Days after deposit if deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

To the District and/or  
Avon Station:

Confluence Metropolitan District and/or Avon Station  
c/o Marchetti & Weaver LLC  
28 Second Street, Suite 213  
Edwards, Colorado 81632  
Telephone: (970) 926-6060  
Email: [ken@mwcpaa.com](mailto:ken@mwcpaa.com)  
Attention: Ken Marchetti

To the Lender: PNC Mortgage Corporation  
999 – 18th Street, Suite 2800  
Denver, Colorado 80202  
Attention: Denver Public Finance Group  
Shane Miner or Sandra Rangel  
Email 1: [shane.miner@bbva.com](mailto:shane.miner@bbva.com)  
Email 2: [sandra.rangel@bbva.com](mailto:sandra.rangel@bbva.com)

with a copy to: BBVA USA  
Attention: LD&FC Public Finance  
8333 Douglas Avenue, 2nd Floor  
Dallas, Texas 75225  
Email: [LDFCPublicFinance.us@bbva.com](mailto:LDFCPublicFinance.us@bbva.com)

To the Custodian and/or  
the Bond Trustee: UMB Bank, n.a.  
1670 Broadway  
Denver, Colorado 80202  
Telephone: (303) 764-3607  
Email: [jonathan.fernandez@umb.com](mailto:jonathan.fernandez@umb.com)  
Attention: Jonathan Fernandez

**SECTION 19. Integration; Modification; Waiver.** This Agreement, together with any other documents referred to herein, constitutes the entire agreement among the District, Avon Station, the Lender, the Bond Trustee, any other Secured Party and the Custodian with respect to the matters set forth herein. No modification of this Agreement (including waivers of rights) shall be effective unless in writing and signed by each party hereto.

**SECTION 20. Electronic Storage.** The parties hereto agree that the transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**SECTION 21. Electronic Signatures.** The parties agree that in the event that any individual or individuals who are authorized to execute or consent to this Agreement on behalf of the District, Avon Station, Lender, Custodian or Bond Trustee are not able to be physically present to manually sign this Agreement, that such individual or individuals are hereby authorized to execute this Agreement electronically via facsimile or email signature. This agreement by the parties to use electronic signatures is made pursuant to Article 71.3 of Title 24, C.R.S., also known as the Uniform Electronic Transactions Act. Any electronic signature so affixed to this Agreement shall carry the full legal force and effect of any original, handwritten signature.

**SECTION 22. Further Assurances.** Each party hereby covenants and agrees to take any and all additional actions and execute, delivery, file and/or record any and all additional agreements, documents and instruments as may be necessary or as any other party may from time to

time reasonably request to effect the deposits of Pledged Revenue, flow of funds and other provisions of this Agreement.

**SECTION 23. Enforceability.** Each party represents and warrants, as of itself, that it has duly authorized, executed and delivered this Agreement and that this Agreement is the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms, except to the extent that such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and is subject to general principles of equity.

**SECTION 24. No Third Party Beneficiaries.** All undertakings, agreements, representations and warranties contained in this Agreement are solely for the benefit of the parties hereto from time to time, the owners of the Secured Obligations, a bond insurer or credit facility provider with respect to any Secured Obligations and there are no other parties who are intended to be benefited in any way by this Agreement.

**SECTION 25. Miscellaneous.** This Agreement may be executed in counterparts with the same force and effect as if the parties had executed one instrument, and each such counterpart shall constitute an original hereof. No provision of this Agreement that is held to be inoperative, unenforceable or invalid shall affect the remaining provisions, and to this end all provisions hereof are hereby declared to be severable. Time is of the essence of this Agreement. This Agreement shall be governed by, and construed in accordance with, the internal laws of the State of Colorado.

**SECTION 26. Waiver of Jury Trial.** Each of the parties hereto irrevocably waives, to the fullest extent permitted by law, any and all rights to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby. The District, Avon Station, the Lender, the Bond Trustee and the Custodian each further agree that, in the event of litigation, it will not personally or through its agents or attorneys seek to repudiate the validity of this Section 26 and it acknowledges that it freely and voluntarily entered into this Agreement to waive trial by jury.

**SECTION 27. Headings.** Section headings used in this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

**SECTION 28. Amendment, Assignment and Termination.**

(a) This Agreement may be amended only upon written agreement by all of the parties hereto. In the event the District issues Additional Obligations, the parties agreed to cooperate in amending this Agreement to provide for the application of the Pledged Revenue to the repayment of such Additional Obligations.

(b) Neither the District nor Avon Station may assign its obligations hereunder without the prior written consent of all other parties hereto, which consent shall not be unreasonably withheld or denied.

(c) This Agreement shall terminate on the date on which the Custodian is no longer required to maintain the Pledged Revenue Fund pursuant to Section 3(a) hereof and there are no amounts remaining therein.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed by their duly authorized agents as of the day and year first above written.

**DISTRICT:**

**CONFLUENCE METROPOLITAN DISTRICT**

By:   
President

**AVON STATION:**

**AVON STATION METROPOLITAN DISTRICT**

By:   
President

**LENDER:**

**PNC MORTGAGE CORPORATION**

By: \_\_\_\_\_  
Authorized Signatory

**CUSTODIAN:**

**UMB BANK, N.A.**, in its capacity as Custodian

By: \_\_\_\_\_  
Authorized Signatory

**BOND TRUSTEE:**

**UMB BANK, N.A.**, in its capacity as Bond Trustee

By: \_\_\_\_\_  
Authorized Signatory

[Signature Page to Custodial Agreement]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their duly authorized agents as of the day and year first above written.

**DISTRICT:**

**CONFLUENCE METROPOLITAN DISTRICT**

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

**AVON STATION:**

**AVON STATION METROPOLITAN DISTRICT**

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

**LENDER:**

**PNC MORTGAGE CORPORATION**

By:  \_\_\_\_\_  
Authorized Signatory

**CUSTODIAN:**

**UMB BANK, N.A., in its capacity as Custodian**

By: \_\_\_\_\_  
Authorized Signatory

**BOND TRUSTEE:**

**UMB BANK, N.A., in its capacity as Bond Trustee**

By: \_\_\_\_\_  
Authorized Signatory

[Signature Page to Custodial Agreement]

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed by their duly authorized agents as of the day and year first above written.

**DISTRICT:**

**CONFLUENCE METROPOLITAN DISTRICT**

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

**AVON STATION:**

**AVON STATION METROPOLITAN DISTRICT**

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

**LENDER:**

**PNC MORTGAGE CORPORATION**

By: \_\_\_\_\_  
Authorized Signatory

**CUSTODIAN:**

**UMB BANK, N.A.**, in its capacity as Custodian

By:  \_\_\_\_\_  
Authorized Signatory

**BOND TRUSTEE:**

**UMB BANK, N.A.**, in its capacity as Bond Trustee

By:  \_\_\_\_\_  
Authorized Signatory

[Signature Page to Custodial Agreement]

**EXHIBIT A-2  
CAPITAL PLEDGE AGREEMENT  
(SUBORDINATE)**

**CAPITAL PLEDGE AGREEMENT  
(SUBORDINATE)**

This **CAPITAL PLEDGE AGREEMENT (SUBORDINATE)** (the “**Agreement**”), is made and entered into and dated as of June 1, 2021, by and among **CONFLUENCE METROPOLITAN DISTRICT** (the “**District**”), **AVON STATION METROPOLITAN DISTRICT** (“**Avon Station**”), and **UMB BANK, N.A.**, in its capacity as trustee under that certain Indenture of Trust (Subordinate) dated as of June 1, 2021, entered into with the District (the “**Trustee**”). The District and Avon Station are quasi-municipal corporations and political subdivisions of the State of Colorado (the “**State**”), and are collectively referred to herein as the “**Districts**”).

**RECITALS**

**WHEREAS**, the Districts are authorized by Title 32, Article 1, Part 1, C.R.S. (the “**Act**”), to provide certain public improvements and services to and for the benefit of the properties within and without the boundaries of the Districts, in accordance with an Amended and Restated Consolidated Service Plan approved by the Town Council of the Town of Avon, Colorado on March 28, 2006 (as amended and restated from time to time, the “**Service Plan**”); and

**WHEREAS**, under the Service Plan, the Districts are intended to work together and coordinate their activities with respect to the financing, construction, operation and maintenance of public improvements necessary to serve development within Avon Station, which generally consists of commercial and residential development; and

**WHEREAS**, in addition to the approval of the Town of Avon, Colorado (the “**Town**”), the Districts were organized with the approval of the Districts’ respective electors, such approvals fully contemplating cooperation between the Districts as provided herein and in the Service Plan; and

**WHEREAS**, pursuant to the Colorado Constitution Article XIV, Section 18(2)(a), and Section 29-1-203, Colorado Revised Statutes, as amended (“**C.R.S.**”), the Districts 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 Service Plan has been prepared for the Districts pursuant to Sections 32-1-201, C.R.S. *et seq.*, and all required governmental approvals have been obtained therefor; and

**WHEREAS**, the purposes for which the Districts were formed include the provision of, among other things, streets, water, sanitation, parks and recreation, traffic and safety control, transportation, fire protection and emergency medical services, television relay and translation and mosquito control improvements, all in accordance with the Service Plan; and

**WHEREAS**, the area included in the Districts' boundaries is located within the boundaries of an urban redevelopment area designated in an urban renewal plan adopted by the Town and known as the "Town Center West Area Urban Renewal Plan" (the "**Urban Renewal Plan**"); and

**WHEREAS**, the Avon Urban Renewal Authority ("**AURA**") and the Districts have entered into the AURA IGA (as defined herein), under which AURA agreed to remit to the District the District Tax Increment Revenues (as defined herein); and

**WHEREAS**, for the purpose of funding the costs of certain Public Improvements (defined herein) and paying certain costs associated therewith, the District has previously issued its Tax Supported Revenue Bonds, Series 2007, in the aggregate principal amount of \$24,665,000 (the "**2007 Bonds**"); and

**WHEREAS**, in furtherance of the Service Plan for the purpose of generating pledged revenue necessary to pay the 2007 Bonds, the Districts and U.S. Bank National Association, in its capacity as trustee for the 2007 Bonds, entered into the Capital Pledge Agreement dated as of May 1, 2007 (the "**Original Pledge Agreement**"), pursuant to which Avon Station agreed to impose a mill levy on all taxable property within its boundaries and cause revenues derived therefrom to be paid to U.S. Bank National Association, as the trustee for the 2007 Bonds; and

**WHEREAS**, as contemplated by the Service Plan, the Districts have entered into the Second Amended and Restated District Facilities Joint Financing, Construction and Service Agreement dated as of April 26, 2007, as amended by the First Amendment dated as of May 25, 2021 (the "**Avon Station IGA**") for the purpose of providing for the ownership, operation and maintenance of certain facilities (including facilities not funded with proceeds of the 2007 Bonds) and the funding of the same by Avon Station from ad valorem property taxes imposed by Avon Station;

**WHEREAS**, the revenue pledged to pay the 2007 Bonds pursuant to the Original Pledge Agreement has been insufficient to pay the debt service due on the 2007 Bonds in full and consequently, the District has not paid principal due as a result of mandatory sinking fund payments, in the aggregate amount of \$2,340,000 as of the date of this Agreement; and

**WHEREAS**, for the purpose of currently refunding \$4,360,318.35 of outstanding aggregate principal amount of the 2007 Bonds, the Board of Directors of the District has previously determined to issue its Subordinate Limited Tax Supported Revenue Refunding Bonds, Series 2021B, in the aggregate principal amount of \$4,420,000 (the "**2021B Subordinate Bonds**"), pursuant to an Indenture of Trust (Subordinate) dated as of June 1, 2021 (the "**2021B Subordinate Indenture**"), between the District and UMB Bank, n.a., as trustee, which 2021B Subordinate Bonds are to be secured by the Subordinate Pledged Revenue hereunder, as more particularly described herein and in the 2021B Subordinate Indenture; and

**WHEREAS**, for the purpose of currently refunding \$17,514,681.65 of the remaining outstanding aggregate principal amount of the 2007 Bonds (constituting, together with the 2007 Bonds being refunded with proceeds of the 2021B Subordinate Bonds, all of the outstanding 2007 Bonds), the Board of Directors of the District has previously determined to incur two loans

in the aggregate principal amount of \$18,700,000 (collectively, the “**2021A Senior Loans**”) pursuant to that certain Loan Agreement dated as of June 1, 2021 (the “**2021A Senior Loan Agreement**”), by and between the District and PNC Mortgage Corporation, formerly known as BBVA Mortgage Corporation, as lender (the “**Lender**”), as evidenced by two promissory notes of the District in the aggregate principal amount of \$18,700,000 (collectively, the “**2021A Senior Notes**”), which 2021A Senior Loans are to be secured on a parity lien basis by the Senior Pledged Revenue under the Senior Pledge Agreement (as defined herein), as more particularly described therein and in the 2021A Senior Loan Agreement; and

**WHEREAS**, in order to provide for the payment of the 2021B Subordinate Bonds and certain other obligations that may be issued by the District in the future (excluding the 2021A Senior Loans) (as more particularly defined herein, the “**Additional Subordinate Obligations**”), Avon Station has, by the terms of this Agreement, pledged certain revenues (referred to herein as the “**Subordinate Pledged Revenue**”) to the District for the payment of the 2021B Subordinate Bonds and the Additional Subordinate Obligations, and covenanted to take certain actions with respect to generating such revenues, for the benefit of the holders of the 2021B Subordinate Bonds and any Additional Subordinate Obligations (the “**Bondholders**”); and

**WHEREAS**, in order to provide for the payment of the 2021A Senior Loans and certain other obligations that may be issued by the District in the future (excluding the 2021B Subordinate Bonds and Additional Subordinate Obligations), the Districts have determined to enter into an Amended and Restated Capital Pledge Agreement, dated as of June 1, 2021 (the “**Senior Pledge Agreement**”), with UMB Bank, n.a., as the Custodian (defined herein) under the Custodial Agreement (defined herein), pursuant to which Avon Station is obligated to impose ad valorem property taxes in an amount equal to the “Senior Required Mill Levy” (as defined therein) and pay the proceeds thereof to the Custodian, or as otherwise directed by the District; and

**WHEREAS**, in connection with the incurrence and delivery of the 2021A Senior Loans and the issuance of the 2021B Subordinate Bonds, the District will enter into a Custodial Agreement dated as of June 1, 2021 (the “**Custodial Agreement**”), with Avon Station, the Lender and UMB Bank, n.a in its capacities as custodian (the “**Custodian**”) and Trustee, which will govern application of the Senior Pledged Revenue and the Subordinate Pledged Revenue to repay the 2021A Senior Loans, the Additional Senior Obligations, the 2021B Subordinate Bonds and Additional Subordinate Obligations; and

**WHEREAS**, prior to the issuance of the 2021 Obligations, certain property, more particularly described in Exhibit A hereto, has been excluded from the boundaries of Avon Station and included into the boundaries of the District (the “**Included Confluence Property**”); and

**WHEREAS**, the Included Confluence Property was subject to the mill levy imposed by Avon Station pursuant to the Original Pledge Agreement for the purpose of generating pledged revenue necessary to pay the 2007 Bonds, including refundings thereof, and pursuant to Section 32-1-503(1), C.R.S., the Included Confluence Property will be subject to the Senior Required Mill Levy (as defined in the Senior Pledge Agreement) and the Subordinate Required Mill Levy (as defined herein) for the purpose of generating pledged revenue necessary to pay the 2021

Obligations, which are refunding the 2007 Bonds, and in order to avoid double taxation of Included Confluence Property for the payment of the same debt, the District will not be imposing an ad valorem debt service mill levy on the Included Confluence Property; and

**WHEREAS**, the 2021B Subordinate Bonds initially shall be issued in denominations of \$500,000 each, and in integral multiples above \$500,000 of not less than \$1,000 each, and will be exempt from registration under the Colorado Municipal Bond Supervision Act; and

**WHEREAS**, pursuant to the provisions of Section 32-1-1101(6)(a)(IV), C.R.S., the 2021B Subordinate Bonds are being issued only to “financial institutions or institutional investors” as such terms are defined in Section 32-1-103(6.5), C.R.S.; and

**WHEREAS**, at an election of the qualified electors of Avon Station, duly called and held on Tuesday, May 2, 2006 (the “**Election**”), in accordance with law and pursuant to due notice, a majority of those qualified to vote and voting at the Election voted in favor of, inter alia, the incurrence of general obligation indebtedness pursuant to an intergovernmental agreement and the imposition of taxes for the payment thereof, for the purpose of funding, among other things, water, street, transportation, park and recreation, and sanitation improvements and facilities in the amount of \$46,800,000; and

**WHEREAS**, the returns of the Election were duly canvassed and the results thereof duly declared; and

**WHEREAS**, the results of the Election were certified by Avon Station by certified mail to the board of county commissioners of each county in which Avon Station is located or to the governing body of a municipality that has adopted a resolution of approval of the special district pursuant to Section 32-1-204.5, C.R.S., and with the division of securities created by Section 11-51-701, C.R.S., more than 30 days in advance of the issuance of the 2021 Obligations; and

**WHEREAS**, the obligations of Avon Station incurred pursuant to the Original Pledge Agreement in the amount equal to the original principal amount of the 2007 Bonds (\$24,665,000) were allocated to the electoral authorization for intergovernmental agreements received at the Election and, therefore, \$22,135,000 remains available in electoral authorization received at the Election for intergovernmental agreements; and

**WHEREAS**, the Board of Directors of Avon Station has previously determined that there shall be allocated to Avon Stations’s electoral authorization for indebtedness for intergovernmental agreements the principal amount of the 2021B Subordinate Bonds; and

**WHEREAS**, the Districts have determined and hereby determine that the execution of this Agreement, the issuance of the 2021B Subordinate Bonds and any Additional Subordinate Obligations, and the refunding of a portion of the 2007 Bonds with proceeds of the 2021B Subordinate Bonds are in the best interests of the Districts and the residents, property owners, and taxpayers thereof; and

**WHEREAS**, all amendments to this Agreement made pursuant hereto and not in specific conflict with specific limits of the ballot questions, which authorized the debt represented by this

Agreement, shall be deemed part of this Agreement and fully authorized by such ballot questions.

## COVENANTS

NOW, THEREFORE, for and in consideration of the promises and the mutual covenants and stipulations herein, the parties hereby agree as follows:

### ARTICLE I

#### DEFINITIONS

**Section 1.01. Interpretation.** In this Agreement, unless the context expressly indicates otherwise, the words defined below shall have the meanings set forth below:

(a) The terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof” and any similar terms, refer to this Agreement as a whole and not to any particular article, section, or subdivision hereof; the term “heretofore” means before the date of execution of the Agreement, the term “now” means the date of execution of this Agreement, and the term “hereafter” means after the date of execution of this Agreement.

(b) All definitions, terms, and words shall include both the singular and the plural, and all capitalized words or terms shall have the definitions set forth in Section 2.1 hereof.

(c) Words of the masculine gender include correlative words of the feminine and neuter genders, and words importing the singular number include the plural number and vice versa.

(d) The captions or headings of this Agreement are for convenience only, and in no way define, limit, or describe the scope or intent of any provision, article, or section of this Agreement.

(e) All schedules, exhibits, and addenda referred to herein are incorporated herein by this reference.

**Section 1.02. Definitions.** As used herein, unless the context expressly indicates otherwise, the words defined below and capitalized throughout the text of this Agreement shall have the respective meanings set forth below:

“*Additional Senior Obligations*” has the meaning assigned to such term in the Senior Pledge Agreement.

“*Additional Subordinate Obligation Documents*” means, collectively, any resolution, indenture, loan agreement or other instrument or agreement executed by the District pursuant to which Additional Subordinate Obligations are issued or incurred, and any undertaking or agreement with respect to the provision of continuing disclosure relating thereto.

“*Additional Subordinate Obligations*” means any bonds, notes, certificates or obligations (including a Subordinate Payment Obligation under a loan agreement or similar agreement) issued or incurred by the District and designated by the District (in the applicable Additional Subordinate Obligation Document) as secured by a lien on all or any portion of the Subordinate Pledged Revenues payable hereunder; provided that such obligations are issued for the purpose of: (i) refinancing the 2021B Subordinate Bonds or other Additional Subordinate Obligations, or obligations issued to refinance the same; or (ii) issued for the purpose of financing or refinancing the Public Improvements. In addition, an obligation shall not constitute an Additional Subordinate Obligation hereunder unless (i) it will be issued, either: (A) in denominations of not less than \$500,000 each, or (B) to “accredited investors” as defined in Section 11-59-110(1)(g) C.R.S., unless an exemption from the registration requirements of the Colorado Municipal Bond Supervision Act, or any successor statute, is otherwise available; AND (ii) it will initially be issued to financial institutions or institutional investors, or in a manner otherwise satisfying one of the conditions of Section 32-1-1101(6)(a), C.R.S., or will constitute a refunding or restructuring contemplated by Section 32-1-1101(6)(b) C.R.S.

“*Agreement*” means this Subordinate Capital Pledge Agreement and any amendment hereto made in accordance herewith.

“*Annual Financing Costs*” means, with respect to any calendar year, an amount equal to the principal of, premium if any, and interest on the 2021B Subordinate Bonds and any Additional Subordinate Obligations as the same become due and payable in the immediately succeeding calendar year, whether at maturity or upon earlier redemption, which may include an estimate of interest to become due if necessary, to be calculated in accordance with any Additional Subordinate Obligation Documents, and any other Financing Costs anticipated to be payable in the immediately succeeding calendar year with respect to the 2021B Subordinate Bonds and any Additional Subordinate Obligations, in accordance with the 2021B Subordinate Indenture or Additional Subordinate Obligation Documents, as applicable, *but less* the amount then held under the 2021B Subordinate Indenture and Additional Subordinate Obligation Document available for the payment of such Financing Costs, and any amount of revenues projected to be available for payment of such Financing Costs, to the extent such amounts are permitted under the 2021B Subordinate Indenture or Additional Subordinate Obligation Documents, as applicable, to be taken into account in the calculation of the Subordinate Required Mill Levy (which, in the case of the 2021B Subordinate Indenture, includes only the amount on deposit in the Subordinate Bond Fund and the Surplus Fund (each held under the 2021B Subordinate Indenture) as of the applicable Mill Levy Certification Date).

“*AURA*” means the Avon Urban Renewal Authority.

“*AURA IGA*” means the Intergovernmental Agreement between Avon Urban Renewal Authority, the District and Avon Station Concerning Incremental Taxes dated October 9, 2007, as it may be amended or supplemented from time to time.

“*Avon Station*” means Avon Station Metropolitan District (Town of Avon), Eagle County, Colorado.

“*Avon Station IGA*” means the Second Amended and Restated District Facilities Joint Financing Construction and Service Agreement dated as of April 26, 2007, as amended by the First Amendment dated as of May 25, 2021, between the Districts, as further amended or supplemented from time to time.

“*Board*” means the lawfully organized Board of Directors of Avon Station.

“*Board of County Commissioners*” means the Board of County Commissioners for Eagle County, Colorado.

“*Colorado Municipal Bond Supervision Act*” means Title 11, Article 59, Part 1, C.R.S.

“*District*” means Confluence Metropolitan District (Town of Avon), Eagle County, Colorado.

“*District Tax Increment Revenues*” means the incremental revenues received by AURA as a result of ad valorem property taxes levied by the Districts within the current boundaries of the Districts, except Lot B within Avon Station, as described in Exhibit A to the AURA IGA, and except for and to the extent of any incremental ad valorem property taxes or specific ownership taxes generated by an increase in the total number of permitted dwelling units or commercial square footage in the zoning entitlements existing as of February 27, 2007 and remitted to the District pursuant to the AURA IGA.

“*Election*” means an election held for Avon Station on May 2, 2006.

“*Financing Costs*” means the principal and redemption price of, and interest and premium on, the 2021B Subordinate Bonds and any Additional Subordinate Obligations, required deposits to or replenishments of funds or accounts securing the 2021B Subordinate Bonds and any Additional Subordinate Obligations, and customary fees and expenses relating to the 2021B Subordinate Bonds and any Additional Subordinate Obligations, all in accordance with the 2021B Subordinate Indenture or Additional Subordinate Obligation Documents, as applicable, including: (a) with respect to the 2021B Subordinate Bonds, the principal and interest components of any mandatory redemption payments as provided in the 2021B Subordinate Indenture; and (b) with respect to any Additional Subordinate Obligations, any scheduled mandatory or cumulative sinking fund payments and any extraordinary redemption amounts to the extent provided in the Additional Subordinate Obligation Documents and replenishment of any reserves and funding of any surplus funds relating to the Additional Subordinate Obligations, customary fees related to the issuance of the Additional Subordinate Obligations (including, but not limited to, fees of a trustee, paying agent, rebate agent, and provider of liquidity or credit facility), and any reimbursement due to a provider of liquidity or credit facility securing any Additional Subordinate Obligations.

“*Fiscal Year*” means the twelve month period ending December 31 of each calendar year.

“*Included Confluence Property*” has the meaning assigned to it in the Recitals.

“*Junior Lien Obligations*” means any bonds, notes, or other obligations payable in whole or in part from, or constituting a lien upon, the general ad valorem taxes of Avon Station on a basis subordinate to its Subordinate Payment Obligation hereunder.

“*Maximum Surplus Amount*” means an amount equal to \$442,000.

“*Mill Levy Certification Date*” means the date each year on which Avon Station is required to impose the Subordinate Required Mill Levy in accordance with the provisions hereof.

“*Mountain Vista IGA*” means an Amended and Restated Intergovernmental Agreement dated as of April 28, 2006, among the Districts and Mountain Vista Metropolitan District, as it may be amended or supplemented from time to time.

“*Public Improvements*” means public facilities, improvements and infrastructure the debt for which was approved at the Election or any future election for the District, including without limitation necessary or appropriate equipment.

“*Senior Obligation Mill Levy*” means the ad valorem property tax levy required to be imposed by Avon Station in accordance with the Senior Pledge Agreement and any other ad valorem property tax levy required to be imposed by Avon Station for the payment of Senior Obligations.

“*Senior Obligations*” means, collectively, the 2021A Senior Loans, any Additional Senior Obligations, and any other obligation of the District so designated by the District as a Senior Obligation (such that any ad valorem property taxes imposed for the payment thereof will constitute a Senior Obligation Mill Levy hereunder).

“*Senior Pledge Agreement*” means the Amended and Restated Capital Pledge Agreement, dated as of June 1, 2021, by and among the Districts and the Custodian.

“*Service Plan*” means the Amended and Restated Consolidated Service Plan for the Districts approved by the Town Council on March 28, 2006, as the same may be amended or restated from time to time.

“*State*” means the State of Colorado.

“*Subordinate Payment Obligation*” means the obligation of Avon Station to pay the Financing Costs with respect to the 2021B Subordinate Bonds and any Additional Subordinate Obligations in accordance with the provisions hereof, but solely from its Subordinate Pledged Revenue, to the extent available, it being recognized that such obligation shall arise hereunder upon the issuance of the 2021B Subordinate Bonds or Additional Subordinate Obligation with respect to which such obligation relates.

“*Subordinate Pledged Revenue*” means the following, net of any costs of collection (to the extent not previously deducted by definition):

- (a) all Subordinate Property Tax Revenues; and
- (b) all Subordinate Specific Ownership Tax Revenues.

“*Subordinate Property Tax Revenues*” means all moneys derived from imposition by Avon Station of the Subordinate Required Mill Levy. Subordinate Property Tax Revenues are net of the costs of collection of the County and any tax refunds or abatements authorized by or on behalf of the County. (For the avoidance of doubt, Subordinate Property Tax Revenues do not include Subordinate Specific Ownership Tax Revenues.)

“*Subordinate Required Mill Levy*”

(a) subject to paragraph (b) below, an ad valorem mill levy (a mill being equal to 1/10 of 1 cent) imposed upon all taxable property of Avon Station and, solely for purposes of paying a portion of the Annual Financing Costs that are attributed to debt issued by the District to refund the 2007 Bonds (including the 2021B Subordinate Bonds and any refunding thereof), the Included Confluence Property, each year in an amount necessary to generate Subordinate Property Tax Revenues sufficient to pay the Annual Financing Costs but not in excess of 40 mills **less the Senior Obligation Mill Levy**; provided, however, that:

(i) for so long as the amount on deposit in the Surplus Fund is less than the Maximum Surplus Amount, the Subordinate Required Mill Levy shall be equal to 40 mills **less the Senior Obligation Mill Levy** (subject to adjustment as provided in clause (ii) hereof), or such lesser amount that will generate Subordinate Property Tax Revenues (A) sufficient to pay the principal of, premium if any, and interest on the 2021B Subordinate Bonds as the same become due and payable and to fully fund the Surplus Fund to the Maximum Surplus Amount, or (B) which, when combined with moneys then on deposit in the Subordinate Bond Fund and the Surplus Fund, will pay the 2021B Subordinate Bonds in full in the year such levy is collected;

(ii) in the event that the method of calculating assessed valuation is changed after January 1, 2010, the maximum and minimum mill levies of 40 mills provided herein will be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted, are neither diminished nor enhanced as a result of such changes (for purposes of the foregoing, a change in the ratio of actual valuation to assessed valuation shall be deemed to be a change in the method of calculating assessed valuation); and

(b) notwithstanding anything herein to the contrary, in no event may the Subordinate Required Mill Levy be established at a mill levy which would cause Avon

Station to derive tax revenue in any year in excess of the maximum tax increases permitted by its electoral authorization, and if the Subordinate Required Mill Levy as calculated pursuant to the foregoing would cause the amount of taxes collected in any year to exceed the maximum tax increase permitted by Avon Station's electoral authorization, the Subordinate Required Mill Levy shall be reduced to the point that such maximum tax increase is not exceeded.

*"Subordinate Specific Ownership Tax Revenues"* means the specific ownership taxes remitted to Avon Station pursuant to Section 42-3-107, C.R.S., or any successor statute, as a result of its imposition of the Subordinate Required Mill Levy in accordance with the provisions hereof.

*"Supplemental Act"* means the "Supplemental Public Securities Act," being Title 11, Article 57, Part 2, C.R.S., as amended.

*"Surplus Fund"* means the "Confluence Metropolitan District Subordinate Limited Tax Supported Revenue Refunding Bonds, Series 2021B Surplus Fund," established by the provisions of the 2021B Subordinate Indenture.

*"Termination Date"* means the date on which all amounts due with respect to the 2021B Subordinate Bonds and any Additional Subordinate Obligations have been defeased or paid in full.

*"Town"* means the Town of Avon, Colorado.

*"Town Council"* means the Town Council of the Town of Avon, Colorado.

## ARTICLE II

### SUBORDINATE PAYMENT OBLIGATION

**Section 2.01. Electoral Approval.** To the extent required, the authorization for issuance of debt represented by the Subordinate Payment Obligation incurred to pay the Financing Costs relating to the 2021B Subordinate Bonds, fiscal year spending, revenue collections and other constitutional matters thereto requiring voter approval for purposes of this Agreement, was approved at the Election, in accordance with law and pursuant to due notice. The performance of the terms of this Agreement with respect to the Subordinate Payment Obligation incurred to pay the Financing Costs relating to the 2021B Subordinate Bonds requires no further electoral approval.

#### **Section 2.02. Funding of Financing Costs Generally.**

(a) In exchange for the purchase by the Bondholders of the 2021B Subordinate Bonds and any Additional Subordinate Obligations, the proceeds of which are to be applied to the refunding of the 2007 Bonds, Avon Station hereby agrees to pay the Financing Costs with the Subordinate Pledged Revenue, in accordance with the provisions hereof.

(b) The Subordinate Payment Obligation shall constitute a limited tax general obligation of Avon Station payable solely from and to the extent of the Subordinate Pledged Revenue. The Subordinate Payment Obligation shall constitute an irrevocable lien upon the Subordinate Pledged Revenue and the Subordinate Pledged Revenue is hereby pledged to the payment thereof. Avon Station hereby elects to apply all of the provisions of the Supplemental Act to this Agreement and the Subordinate Payment Obligation.

(c) In no event shall the total or annual obligations of Avon Station hereunder exceed the maximum amounts permitted under Avon Station's electoral authority and any other applicable law. The entire Subordinate Payment Obligation of Avon Station will be deemed defeased and no longer outstanding upon the payment by Avon Station of such amount.

(d) Because the actual total Subordinate Pledged Revenue payable by Avon Station hereunder cannot be determined with any certainty at this time, Avon Station shall not be permitted to pre-pay any amounts due hereunder.

### **Section 2.03. Imposition of Subordinate Required Mill Levy.**

(a) In order to fund the Subordinate Payment Obligation, Avon Station agrees to levy on all of the taxable property in Avon Station and, solely for purposes of paying a portion of the Annual Financing Costs that are attributed to debt issued by the District to refund the 2007 Bonds (including the 2021B Subordinate Bonds and any refunding thereof), the Included Confluence Property, in addition to all other taxes, direct annual taxes in 2021, and in each year thereafter, so long as the 2021B Subordinate Bonds or Additional Subordinate Obligations remain outstanding, to the extent necessary to provide for payment of the Annual Financing Costs, in the amount of the Subordinate Required Mill Levy. Nothing herein shall be construed to require Avon Station to impose an ad valorem property tax levy for the payment of the Subordinate Payment Obligation in excess of the Subordinate Required Mill Levy or after the Termination Date.

(b) In order to facilitate the determination of the Subordinate Required Mill Levy, Avon Station shall provide to the District: (i) on or before September 30 of each year, commencing September 30, 2021, the preliminary certification of assessed value for Avon Station and, if applicable, the Included Confluence Property provided by the Eagle County Assessor; and (ii) no later than one business day after receipt by Avon Station, the final certified assessed value for Avon Station and, if applicable, the Included Confluence Property, provided by the Eagle County Assessor (expected to be provided by the Eagle County Assessor no later than December 10 of each year). In accordance with the definition of Subordinate Required Mill Levy set forth herein, the District shall preliminarily determine, and provide to Avon Station, the Subordinate Required Mill Levy for Avon Station and, if applicable, the Included Confluence Property no later than October 15 of each year, and shall finally determine, and provide to Avon Station, the Subordinate Required Mill Levy for Avon Station and, if applicable, the Included Confluence Property no later than December 12 of each year.

(c) Avon Station acknowledges that it has actively participated in the development of the calculation for determining the Subordinate Required Mill Levy and that so long as made in accordance with the foregoing, the determination of the District as to the Subordinate Required Mill Levy shall be final and binding upon Avon Station.

(d) This Section 2.03 is hereby declared to be the certificate of Avon Station to the Board of County Commissioners indicating the aggregate amount of taxes to be levied for the purposes of paying the Subordinate Payment Obligation due hereunder.

(e) It shall be the duty of Avon Station annually at the time and in the manner provided by law for the levying of its taxes, if such action shall be necessary to effectuate the provisions of this Agreement, to ratify and carry out the provisions hereof with reference to the levy and collection of the ad valorem property taxes herein specified, and to require the officers of Avon Station to cause the appropriate officials of Eagle County, to levy, extend and collect said ad valorem taxes in the manner provided by law for the purpose of providing funds for the payment of the amounts to be paid hereunder promptly as the same, respectively, become due and such amounts are hereby appropriated for said purposes. Said taxes, when collected, shall be applied only to the payment of the amounts to be paid hereunder.

(f) Said taxes shall be levied, assessed, collected, and enforced at the time and in the form and manner and with like interest and penalties as other general taxes in the State.

(g) In the event any ad valorem taxes are not paid when due, the Districts shall diligently cooperate with the appropriate county treasurer to enforce the lien of such unpaid taxes against the property for which the taxes are owed.

(h) Avon Station hereby agrees to cooperate in the amendment of this Agreement to modify the definition of Subordinate Required Mill Levy if necessary, in the determination of the District, to facilitate the issuance of Additional Subordinate Obligations by the District.

(i) Avon Station shall pursue all reasonable remedies to collect, or cause the collection of, delinquent ad valorem taxes within its boundaries.

(j) The parties hereto acknowledge that Avon Station may be obligated to impose additional property taxes for the payment of operation and maintenance costs, subject to the limitations hereof. This Agreement shall not operate to limit such obligations except as specifically set forth herein.

**Section 2.04. Payment and Application of Subordinate Pledged Revenue.**

(a) Avon Station hereby agrees to remit to the Custodian, for as long as the Custodial Agreement is in effect, or if the Custodial Agreement is not in effect, as directed by the District (subject to the limitations and requirements of the 2021B Subordinate Indenture, the Custodial Agreement and any Additional Subordinate Obligation Documents), as soon as practicable upon receipt, and in no event later than the

15th day of the calendar month immediately succeeding the calendar month in which such revenue is received by Avon Station, all revenues comprising Subordinate Pledged Revenue (if and to the extent received or controlled by Avon Station, but regardless of whether received by Avon Station from the County Treasurer or AURA), which Subordinate Pledged Revenue shall be applied by the Custodian or other recipient thereof to Annual Financing Costs, in accordance with the 2021B Subordinate Indenture and Custodial Agreement or Additional Subordinate Obligation Documents, as applicable. IN NO EVENT IS AVON STATION PERMITTED TO APPLY ANY PORTION OF THE SUBORDINATE PLEDGED REVENUE TO ANY OTHER PURPOSE, OR TO WITHHOLD ANY PORTION OF THE SUBORDINATE PLEDGED REVENUE. Avon Station shall also transfer to the Custodian as soon as practicable all revenues (including specific ownership taxes and District Tax Increment Revenues) received as a result of Avon Station's imposition of a debt service mill levy in 2020 (collected in 2021).

(b) Avon Station hereby covenants that all property tax revenue collected by Avon Station from a debt service mill levy, or so much thereof as is needed, shall first, be designated as Senior Pledged Revenue in any Bond Year (as defined in the 2021A Senior Loan Agreement or other applicable resolutions, indentures or other enactments authorizing Senior Obligations) to pay annual debt service on the 2021A Senior Loans and any Senior Obligations and to fund such funds and accounts as are required in accordance with the terms of the 2021A Senior Loan Agreement and any other resolution, indenture or other enactment authorizing such Senior Obligations, and after the funding of such payments and accumulations required in such Bond Year, all property tax revenue collected by Avon Station from a debt service mill levy for the remainder of such Bond Year shall, second, be designated as Subordinate Pledged Revenue unless and until Avon Station has funded the full amount required with respect to the 2021B Subordinate Bonds and, to the extent required by any Additional Subordinate Obligation Documents, any Additional Subordinate Obligations. The debt service mill levy imposed for the payment of any Junior Lien Obligations and obligations under the Avon Station IGA shall be deemed reduced to the number of mills available for payment of such Junior Lien Obligations and obligations under the Avon Station IGA in any Bond Year after first providing for the funding of payments and accumulations required with respect to all Senior Obligations in such Bond Year (including the amounts required to accomplish the full repayment or defeasance of any such Senior Obligations, to the extent required by the applicable resolutions, indentures, or other enactments authorizing Senior Obligations), and the full amount outstanding with respect to the 2021B Subordinate Bonds and any Additional Subordinate Obligations (to the extent required by the applicable resolutions, indentures, or other enactments authorizing such Additional Subordinate Obligations).

(c) The Districts acknowledge that pursuant to the AURA IGA, AURA agreed to remit to the District the District Tax Increment Revenues and that a portion of such revenues is generated from the Subordinate Required Mill Levy. If AURA remits all or any portion of the District Tax Increment Revenues to Avon Station, Avon Station agrees to promptly determine what portion of such revenues is attributable to the Subordinate Required Mill Levy and remit the same to the District or to the Custodian, as directed by the District, in accordance with subsection (a) of this Section 2.04.

(d) To the extent any portion of such Subordinate Pledged Revenue is released from the lien of the 2021B Subordinate Indenture and Additional Subordinate Obligation Documents (if any), the District will continue to ensure that such revenues are applied to Financing Costs and any other costs of the Public Improvements, it being acknowledged that in no event would such excess revenue exceed the dollar amount equal to the revenues that would be generated from an annual imposition of an ad valorem property tax levy of 50 mills (without adjustment) on the assessed valuation of Avon Station. Subordinate Pledged Revenue shall be paid in lawful money of the United States of America by check mailed or delivered, or by wire transfer, or such other method as may be mutually agreed to by the Districts and the Custodian.

**Section 2.05. 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 Board of Avon Station 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 Avon Station to levy ad valorem property taxes, or as limiting or impairing the obligation of Avon Station to levy, administer, enforce and collect the ad valorem property taxes as provided herein for the payment of the obligations hereunder.

In addition, and without limiting the generality of the foregoing, the obligation of Avon Station to transfer funds as described herein for each payment described herein shall survive any Court determination of the invalidity of this Agreement as a result of a failure, or alleged failure, of any of the directors of Avon Station to properly disclose, pursuant to State law, any potential conflicts of interest related hereto in any way, provided that such disclosure is made on the record of Avon Station' meetings as set forth in their official minutes.

**Section 2.06. Limited Defenses; Specific Performance.** It is understood and agreed by Avon Station that its obligations hereunder are absolute, irrevocable, and unconditional except as specifically stated herein, and so long as any obligation of Avon Station hereunder remains unfulfilled, Avon Station agrees that notwithstanding any fact, circumstance, dispute, or any other matter, it will not assert any rights of setoff, counterclaim, estoppel, or other defenses to its Subordinate Payment Obligation, or take or fail to take any action which would delay a payment to, or on behalf of, the District, the Trustee, the Custodian or any Bondholders or impair the ability of the District, the Trustee, the Custodian or any Bondholders to receive payments due hereunder. Notwithstanding that this Agreement specifically prohibits and limits defenses and claims of Avon Station, in the event that Avon Station believes that it has valid defenses, setoffs, counterclaims, or other claims other than specifically permitted by this Section 2.06, it shall, nevertheless, make all payments as described herein and then may attempt or seek to recover such payments by actions at law or in equity for damages or specific performance, respectively.

**Section 2.07. Impact of Exclusion of Property.** Any property excluded from Avon Station after the date hereof is to remain liable for the imposition of the Subordinate Required Mill Levy and payment of the proceeds thereof in accordance with the provisions hereof, to the same extent as such property otherwise remains liable for the debt of Avon Station, as provided

in Section 32-1-503, C.R.S. In the event that any order providing for the exclusion of property from Avon Station does not so provide and specifically indicate the liability of such excluded property for the obligations set forth herein, Avon Station hereby agrees to take all actions necessary to cause the property owners of such proposed excluded property to covenant to assume all responsibilities under this Agreement, which covenants shall run with the land and shall be in a form satisfactory to the District.

**Section 2.08. Additional Covenants.**

(a) Avon Station covenants that it will not issue or incur bonds, notes, or other obligations payable in whole or in part from, or constituting a lien upon, the general ad valorem taxes of Avon Station or other Subordinate Pledged Revenue (including, but not limited to Junior Lien Obligations) without the prior consent of the District; provided, however, that the following obligations shall be permitted without the consent of the District:

(i) the Senior Payment Obligation, incurred with respect to the 2021A Senior Loans, as provided in the Senior Pledge Agreement;

(ii) any obligations payable from ad valorem property taxes of Avon Station imposed pursuant to the Avon Station IGA, subject to limitations contained herein;

(iii) any obligations payable from ad valorem property taxes imposed by Avon Station to pay operational and maintenance expenses pursuant to the Mountain Vista IGA;

(iv) obligations which do not obligate Avon Station to impose any tax, fee, or other governmental charge and either: (A) are subject to termination by Avon Station at least annually; or (B) the repayment of which is contingent upon Avon Station's annual determination to appropriate moneys therefor (other than obligations of Avon Station as lessee under leases, except such obligations outstanding from time to time with respect to which the aggregate maximum repayment costs for all terms thereof do not exceed \$500,000 );

(v) obligations issued solely for the purpose of paying operations and maintenance costs of Avon Station (including in accordance with the Avon Station IGA) and either: (A) are subject to termination by Avon Station at least annually; or (B) the repayment of which is contingent upon Avon Station's annual determination to appropriate moneys therefor;

(vi) obligations which are payable solely from the proceeds of obligations permitted to be issued in accordance with the provisions hereof (or issued by the District), when and if issued;

(vii) obligations payable solely from periodic, recurring service charges imposed by Avon Station for the use of any Avon Station facility or

service, which obligations do not constitute a debt or indebtedness of Avon Station or an obligation required to be approved at an election under State law;

(viii) obligations to reimburse any person in respect of surety bonds, financial guaranties, letters of credit, or similar credit enhancements so long as (A) such surety bonds, financial guaranties, letters of credit, or similar credit enhancements guarantee payment of principal or interest on any obligation permitted to be issued in accordance with the provisions hereof, and (B) the reimbursement obligation does not arise unless payment of an equivalent amount (or more) of principal on the secured obligation, and (C) such reimbursement obligations are payable from the same or fewer revenue sources, with the same or a subordinate lien priority as the obligations supported by the surety bonds, financial guaranties, letters of credit, or similar credit enhancements; and

(ix) any leases for a term of twelve months or fewer, payroll obligations, accounts payable, or taxes incurred or payable in the ordinary course of business of Avon Station.

(b) Avon Station shall not impose, in any given year, an operations and maintenance mill levy in excess of the maximum operations and maintenance mill levy then permitted by the Service Plan and the Avon Station IGA taking into account imposition of the Senior Obligation Mill Levy, the Subordinate Required Mill Levy and any other debt service mill levy then imposed by Avon Station, including without limitation, the debt service mill levy imposed pursuant to the Avon Station IGA. However, for purposes of clarification, it is acknowledged that the proceeds of any general property tax levy imposed to pay current operations and maintenance shall not be payable to the District pursuant to this Agreement, shall not be payable to the Custodian (or other entity designated by the District) and shall not be subject to the lien of this Agreement.

(c) At least once a year, Avon Station will cause an audit to be performed of the records relating to its revenues and expenditures and Avon Station shall use its best efforts to have such audit report completed no later than October 1 of each calendar year. The foregoing covenant will apply notwithstanding any different time requirements for the completion of such audit under State law. In addition, at least once a year in the time and manner provided by law, Avon Station will cause a budget to be prepared and adopted. Copies of the budget and the audit or audit exemption will be filed and recorded in the places, time, and manner provided by law. With respect to the obligations of the District under this paragraph, in the event of any conflicts between the provisions hereof or the provisions of the 2021B Subordinate Indenture or any Additional Subordinate Obligations Documents, the provisions of the 2021B Subordinate Indenture and any Additional Subordinate Obligations Documents shall control.

(d) Avon Station agrees to comply with its obligations under the Continuing Disclosure Agreement entered into by the District and Avon Station in connection with the issuance of the 2012B Subordinate Bonds and to provide the District with information

promptly upon request by the District necessary for the District to comply on an ongoing basis with the requirements of any similar agreement entered into by the District in connection with the issuance of Additional Subordinate Obligations.

(e) Avon Station agrees to enforce the provisions of the AURA IGA and diligently cooperate with the District in enforcing the same, and will diligently pursue all reasonable remedies available to it with regard to such enforcement, whether at law or in equity. Avon Station will not, without the prior written consent of the District and the Lender, amend or modify the AURA IGA if such amendment or modification would have a materially adverse effect on the repayment of the 2021B Subordinate Bonds or the Additional Subordinate Obligations.

(f) Avon Station agrees that without the prior written consent of the District and the Lender, it will not amend or consent to an amendment of the Avon Station IGA that would (x) increase the amount of the Subordinate Required Capital Mill Levy (as defined in the Avon Station IGA) above the maximum mill levy of 50 mills (which shall not be subject to an adjustment), (y) increase the amount of the Subordinate Required Service Mill Levy (as defined in the Avon Station IGA) above the maximum mill levy of 49 mills or (z) change the method of calculating of either the Subordinate Required Capital Mill Levy or the Subordinate Required Service Mill Levy, it being the intent that (i) the Subordinate Required Capital Mill Levy may not exceed the amount of 50 mills (which shall not be subject to an adjustment) less the Senior Obligations Mill Levy and the Subordinate Required Mill Levy, and (ii) the Subordinate Required Service Mill Levy may not exceed the amount of 49 mills less the Senior Obligations Mill Levy, the Subordinate Required Mill Levy, any mill levy required to be imposed hereunder to pay any Additional Subordinate Obligations, and the Subordinate Required Capital Mill Levy.

### ARTICLE III

#### REPRESENTATIONS AND WARRANTIES

**Section 3.01. Representations and Warranties of Avon Station.** Avon Station hereby makes the following representations and warranties with respect to itself:

(a) Avon Station is a quasi-municipal corporation and political subdivision duly organized and validly existing under the laws of the State.

(b) Avon Station has all requisite corporate power and authority to execute, deliver, and to perform its obligations under this Agreement. Avon Station's execution, delivery, and performance of this Agreement has been duly authorized by all necessary action.

(c) Avon Station is not in violation of any of the applicable provisions of law or any order of any court having jurisdiction in the matter, which violation could reasonably be expected to materially adversely affect the ability of Avon Station to perform its obligations hereunder. The execution, delivery and performance by Avon

Station of this Agreement (i) will not violate any provision of any applicable law or regulation or of any order, writ, judgment, or decree of any court, arbitrator, or governmental authority, (ii) will not violate any provision of any document or agreement constituting, regulating, or otherwise affecting the operations or activities of Avon Station in a manner that could reasonably be expected to result in a material adverse effect, and (iii) will not violate any provision of, constitute a default under, or result in the creation or imposition of any lien, mortgage, pledge, charge, security interest, or encumbrance of any kind on any of the revenues or other assets of Avon Station pursuant to the provisions of any mortgage, indenture, contract, agreement, or other undertaking to which Avon Station is a party or which purports to be binding upon Avon Station or upon any of its revenues or other assets which could reasonably be expected to result in a material adverse effect.

(d) Avon Station has obtained all consents and approvals of, and has made all registrations and declarations with any governmental authority or regulatory body required for the execution, delivery, and performance by Avon Station of this Agreement.

(e) There is no action, suit, inquiry, investigation, or proceeding to which Avon Station is a party, at law or in equity, before or by any court, arbitrator, governmental or other board, body, or official which is pending or, to the best knowledge of Avon Station threatened, in connection with any of the transactions contemplated by this Agreement nor, to the best knowledge of Avon Station is there any basis therefor, wherein an unfavorable decision, ruling, or finding could reasonably be expected to have a material adverse effect on the validity or enforceability of, or the authority or ability of Avon Station to perform its obligations under, this Agreement.

(f) This Agreement constitutes the legal, valid, and binding obligation of Avon Station, enforceable against Avon Station in accordance with its terms (except as such enforceability may be limited by bankruptcy, moratorium, or other similar laws affecting creditors' rights generally and provided that the application of equitable remedies is subject to the application of equitable principles).

## ARTICLE IV

### NON-COMPLIANCE AND REMEDIES

**Section 4.01. Events of Non-Compliance.** The occurrence or existence of any one or more of the following events shall be an "Event of Non-Compliance" hereunder, and there shall be no default or Event of Non-Compliance hereunder except as provided in this Section:

(a) Avon Station fails or refuses to impose the Subordinate Required Mill Levy or to remit the Subordinate Pledged Revenue as required by the terms of this Agreement;

(b) any representation or warranty made by any party in this Agreement proves to have been untrue or incomplete in any material respect when made and which untruth or incompleteness would have a material adverse effect upon any other party;

(c) any party fails in the performance of any other of its covenants in this Agreement, and such failure continues for 30 days after written notice specifying such default and requiring the same to be remedied is given to any of the parties hereto; or

(d) (i) any party shall commence any case, proceeding, or other action (A) under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization, or relief of debtors, seeking to have an order for relief entered with respect to it or seeking to adjudicate it insolvent or a bankrupt or seeking reorganization, arrangement, adjustment, winding up, liquidation, dissolution, composition, or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, or other similar official for itself or for any substantial part of its property, or any party shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against any party any case, proceeding, or other action of a nature referred to in clause (i) and the same shall remain not dismissed within 90 days following the date of filing; or (iii) there shall be commenced against any party any case, proceeding, or other action seeking issuance of a warrant of attachment, execution, distraint, or similar process against all or any substantial part of its property which results in the entry of an order for any such relief which shall not have been vacated, discharged, stayed, or bonded pending appeal within 90 days from the entry thereof; or (iv) any party shall take action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii) or (iii) above; or (v) any party shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due.

WITHOUT LIMITING THE FOREGOING, AND NOTWITHSTANDING ANY OTHER PROVISION CONTAINED HEREIN, AVON STATION ACKNOWLEDGES AND AGREES THAT THE APPLICATION OF ANY PORTION OF THE SUBORDINATE PLEDGED REVENUE TO ANY PURPOSE OTHER THAN DEPOSIT WITH THE CUSTODIAN OR AT THE DIRECTION OF THE DISTRICT IN ACCORDANCE WITH THE PROVISIONS HEREOF CONSTITUTES A VIOLATION OF THE TERMS OF THIS PLEDGE AGREEMENT AND A BREACH OF THE COVENANTS MADE HEREUNDER FOR THE BENEFIT OF THE BONDHOLDERS OF THE 2021B SUBORDINATE BONDS AND ANY ADDITIONAL SUBORDINATE OBLIGATIONS, WHICH SHALL ENTITLE THE DISTRICT, THE CUSTODIAN AND THE TRUSTEE TO PURSUE, ON BEHALF OF BONDHOLDERS OF THE 2021B SUBORDINATE BONDS AND ANY ADDITIONAL SUBORDINATE OBLIGATIONS, ALL AVAILABLE ACTIONS AGAINST AVON STATION IN LAW OR IN EQUITY, AS MORE PARTICULARLY PROVIDED IN SECTION 4.02 HEREOF. AVON STATION FURTHER ACKNOWLEDGES AND AGREES THAT THE APPLICATION OF SUBORDINATE PLEDGED REVENUE IN VIOLATION OF THE COVENANTS HEREOF WILL RESULT IN IRREPARABLE HARM TO THE BONDHOLDERS OF THE 2021B SUBORDINATE BONDS AND ANY ADDITIONAL SUBORDINATE OBLIGATIONS. IN NO EVENT SHALL ANY PROVISION HEREOF BE

INTERPRETED TO PERMIT AVON STATION TO RETAIN ANY PORTION OF THE SUBORDINATE PLEDGED REVENUE.

**Section 4.02. Remedies For Events of Non-Compliance.** Upon the occurrence and continuance of an Event of Non-Compliance, any party may proceed to protect and enforce its rights against the party or parties causing the Event of Non-Compliance by mandamus or such other suit, action, or special proceedings in equity or at law, in any court of competent jurisdiction, including an action for specific performance. In the event of any litigation or other proceeding to enforce any of the terms, covenants or conditions hereof, the prevailing party in such litigation or other proceeding shall obtain, as part of its judgment or award, its reasonable attorneys' fees and costs.

## ARTICLE V

### MISCELLANEOUS

**Section 5.01. Pledge of Revenue.** The creation, perfection, enforcement, and priority of the pledge of Subordinate Pledged Revenue by Avon Station to secure or pay the Subordinate Payment Obligation shall be governed by Section 11-57-208 of the Supplemental Act and this Agreement. The Subordinate Pledged Revenue shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against Avon Station irrespective of whether such persons have notice of such liens.

**Section 5.02. No Recourse Against Officers and Agents.** Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Board of Directors of Avon Station, or any officer or agent of Avon Station acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the Subordinate Payment Obligation. Such recourse shall not be available either directly or indirectly through the Board of Avon Station, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of this Agreement and as a part of the consideration hereof, Avon Station and the Trustee specifically waives any such recourse.

**Section 5.03. Conclusive Recital.** Pursuant to Section 11-57-210 of the Supplemental Act, this Agreement contains a recital that it is issued pursuant to certain provisions of the Supplemental Act, and such recital is conclusive evidence of the validity and the regularity of this Agreement after its delivery for value.

**Section 5.04. Limitation of Actions.** Pursuant to Section 11-57-212 of the Supplemental Act, no legal or equitable action brought with respect to any legislative acts or proceedings in connection with the authorization, execution, or delivery of this Agreement shall be commenced more than 30 days after the authorization of this Agreement.

**Section 5.05. Notices.** Except as otherwise provided herein, all notices, certificates or other communications required to be given to any of the persons set forth below pursuant to any provision of this Agreement shall be in writing, shall be given either in person, by electronic mail, or any certified or registered mail, and if mailed, shall be deemed received three days after

having been deposited in a receptacle for United States mail, postage prepaid, addressed as follows:

If to the District  
or Avon Station:

Confluence Metropolitan District or Avon Station  
Metropolitan District  
c/o Marchetti & Weaver LLC  
28 Second Street, Suite 213  
Edwards, Colorado 81632  
Telephone: (970) 926-6060  
Email: ken@mwcpaa.com  
Attention: Ken Marchetti

If to the Trustee:

UMB Bank, n.a.  
1670 Broadway  
Denver, Colorado 80202  
Telephone: (303) 764-3607  
Email: jonathan.fernandez@umb.com  
Attention: Jonathan Fernandez

The persons designated above may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, or other communications shall be sent. Where this Agreement provides for notice in any manner, such notice may be waived in writing by the person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice.

**Section 5.06. Rights of Trustee.** Notwithstanding any other provision herein, at such time as no amounts remain due and owing under the 2021B Subordinate Indenture, all rights of the Trustee hereunder (including, but not limited to, the right to consent to any amendment hereto as a party hereof), shall terminate and be of no force or effect without further action by the parties hereto.

**Section 5.07. Miscellaneous.**

(a) This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the parties pertaining to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings or agreements of the parties. This Agreement may not be contradicted by evidence of any prior or contemporaneous statements or agreements. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation, understanding, agreement, commitment, or warranty outside those expressly set forth in this Agreement.

(b) If any term or provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable, or invalid provisions or part thereof shall be stricken from this Agreement, and such provision shall not affect the legality, enforceability, or validity of the remainder of this Agreement. If any provision or part thereof of this Agreement is stricken in accordance

with the provisions hereof, then such stricken provision shall be replaced, to the extent possible, with a legal, enforceable, and valid provision that is as similar in tenor to the stricken provision as is legally possible.

(c) The Bondholders are third party beneficiaries to this Pledge Agreement and it is intended that there be no other third party beneficiaries of this Pledge Agreement. Nothing contained herein, expressed or implied, is intended to give to any person other than Avon Station any claim, remedy, or right under or pursuant hereto, and any agreement, condition, covenant, or term contained herein required to be observed or performed by or on behalf of any party hereto shall be for the sole and exclusive benefit of the other party.

(d) This Agreement may not be assigned or transferred by any party without the prior written consent of each of the other parties.

(e) This Agreement shall be governed by and construed under the applicable laws of the State.

(f) This Agreement may be amended or supplemented by the parties, but any such amendment or supplement must be in writing and must be executed by all parties and is subject to the limitations and requirements of the 2021B Subordinate Indenture.

(g) If the date for making any payment or the last day for performance of any act or the exercising of any right, as provided in this Agreement, shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the city in which the principal office of the Trustee is located are authorized or required by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized or required by law to remain closed, with the same force and effect as if done on the nominal date provided in this Agreement.

(h) Each party has participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

(i) This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

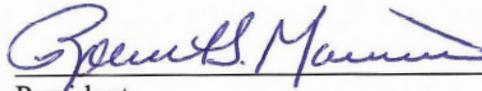
(j) Avon Station hereby consents to the terms of the 2021B Subordinate Bonds set forth in the 2021B Subordinate Indenture.

**Section 5.08. Effective Date and Termination Date.** This Agreement shall become effective as of the date first written above and shall remain in effect until the Termination Date.

[Remainder of Page Intentionally Left Blank.]

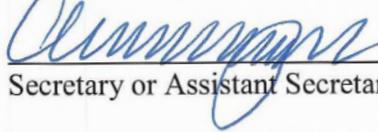
IN WITNESS WHEREOF, the District, Avon Station and the Trustee have executed this Agreement as of the day and year first above written.

**CONFLUENCE METROPOLITAN DISTRICT**



\_\_\_\_\_  
President

ATTESTED:



\_\_\_\_\_  
Secretary or Assistant Secretary

**AVON STATION METROPOLITAN DISTRICT**



\_\_\_\_\_  
President

ATTESTED:



\_\_\_\_\_  
Secretary or Assistant Secretary

**UMB BANK, N.A., as Trustee**

\_\_\_\_\_  
Authorized Signatory

[Signature page to Subordinate Capital Pledge Agreement]

IN WITNESS WHEREOF, the District, Avon Station and the Trustee have executed this Agreement as of the day and year first above written.

**CONFLUENCE METROPOLITAN DISTRICT**

\_\_\_\_\_  
President

ATTESTED:

\_\_\_\_\_  
Secretary or Assistant Secretary

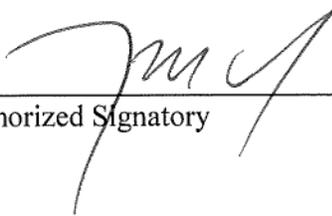
**AVON STATION METROPOLITAN DISTRICT**

\_\_\_\_\_  
President

ATTESTED:

\_\_\_\_\_  
Secretary or Assistant Secretary

**UMB BANK, N.A., as Trustee**

  
\_\_\_\_\_  
Authorized Signatory

[Signature page to Subordinate Capital Pledge Agreement]

**EXHIBIT A**  
**TO**  
**CAPITAL PLEDGE AGREEMENT**

**LEGAL DESCRIPTION OF INCLUDED CONFLUENCE PROPERTY**

Unit C-100  
Unit C-101  
Unit C-102  
Unit C-103  
Unit C-104  
Unit C-105  
Unit C-106  
Unit C-107  
Unit C-109  
Unit C-110  
Unit C-111

All as shown on the Final Plat and Condominium Map of Riverfront Resort & Spa, Lot 2, Riverfront Subdivision, Town of Avon, Eagle County, Colorado  
Recorded in the real property records of the Clerk and Recorder of Eagle County, Colorado on August 14, 2008, at Reception Number 200817218.

**EXHIBIT A-3**  
**AMENDED AND RESTATED CAPITAL PLEDGE AGREEMENT**

## AMENDED AND RESTATED CAPITAL PLEDGE AGREEMENT

This **AMENDED AND RESTATED CAPITAL PLEDGE AGREEMENT** (the “**Agreement**”), is made and entered into and dated as of June 1, 2021, by and among **CONFLUENCE METROPOLITAN DISTRICT** (the “**District**”), **AVON STATION METROPOLITAN DISTRICT** (“**Avon Station**”), and **UMB BANK, N.A.** (the “**Custodian**”), in its capacity as custodian under the Custodial Agreement (as defined herein). The District and Avon Station are quasi-municipal corporations and political subdivisions of the State of Colorado (the “**State**”), and are collectively referred to herein as the “**Districts**”). This Agreement amends and restates the Capital Pledge Agreement dated as of May 1, 2007 (the “**Original Pledge Agreement**”) among the District, Avon Station and U.S. Bank National Association, as trustee for the hereinafter defined 2007 Bonds.

### RECITALS

**WHEREAS**, the Districts are authorized by Title 32, Article 1, Part 1, C.R.S. (the “**Act**”), to provide certain public improvements and services to and for the benefit of the properties within and without the boundaries of the Districts, in accordance with an Amended and Restated Consolidated Service Plan approved by the Town Council of the Town of Avon, Colorado on March 28, 2006 (as amended and restated from time to time, the “**Service Plan**”); and

**WHEREAS**, under the Service Plan, the Districts are intended to work together and coordinate their activities with respect to the financing, construction, operation and maintenance of public improvements necessary to serve development within Avon Station, which generally consists of commercial and residential development; and

**WHEREAS**, in addition to the approval of the Town of Avon, Colorado (the “**Town**”), the Districts were organized with the approval of the Districts’ respective electors, such approvals fully contemplating cooperation between the Districts as provided herein and in the Service Plan; and

**WHEREAS**, pursuant to the Colorado Constitution Article XIV, Section 18(2)(a), and Section 29-1-203, Colorado Revised Statutes, as amended (“**C.R.S.**”), the Districts 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 Service Plan has been prepared for the Districts pursuant to Sections 32-1-201, C.R.S. *et seq.*, and all required governmental approvals have been obtained therefor; and

**WHEREAS**, the purposes for which the Districts were formed include the provision of, among other things, streets, water, sanitation, parks and recreation, traffic and safety control, transportation, fire protection and emergency medical services, television relay and translation and mosquito control improvements, all in accordance with the Service Plan; and

**WHEREAS**, the area included in the Districts' boundaries is located within the boundaries of an urban redevelopment area designated in an urban renewal plan adopted by the Town and known as the "Town Center West Area Urban Renewal Plan" (the "**Urban Renewal Plan**"); and

**WHEREAS**, the Avon Urban Renewal Authority ("**AURA**") and the Districts have entered into the AURA IGA (as defined herein), under which AURA agreed to remit to the District the District Tax Increment Revenues (as defined herein); and

**WHEREAS**, for the purpose of funding the costs of certain Public Improvements (defined herein) and paying certain costs associated therewith, the District has previously issued its Tax Supported Revenue Bonds, Series 2007, in the aggregate principal amount of \$24,665,000 (the "**2007 Bonds**"); and

**WHEREAS**, in furtherance of the Service Plan for the purpose of generating pledged revenue necessary to pay the 2007 Bonds, the Districts and U.S. Bank National Association, in its capacity as trustee for the 2007 Bonds, entered into the Original Pledge Agreement, pursuant to which Avon Station agreed to impose a mill levy on all taxable property within its boundaries and cause revenues derived therefrom to be paid to U.S. Bank National Association, as the trustee for the 2007 Bonds; and

**WHEREAS**, as contemplated by the Service Plan, the Districts have entered into the Second Amended and Restated District Facilities Joint Financing, Construction and Service Agreement dated as of April 26, 2007, as amended by the First Amendment dated as of May 25, 2021 (the "**Avon Station IGA**") for the purpose of providing for the ownership, operation and maintenance of certain facilities (including facilities not funded with proceeds of the 2007 Bonds) and the funding of the same by Avon Station from ad valorem property taxes imposed by Avon Station;

**WHEREAS**, the revenue pledged to pay the 2007 Bonds pursuant to the Original Pledge Agreement has been insufficient to pay the debt service due on the 2007 Bonds in full and consequently, the District has not paid principal due as a result of mandatory sinking fund payments, in the aggregate amount of \$2,340,000 as of the date of this Agreement; and

**WHEREAS**, for the purpose of currently refunding \$17,514,681.65 of the outstanding aggregate principal amount of the 2007 Bonds, the Board of Directors of the District has previously determined to incur two loans in the aggregate principal amount of \$18,700,000 (collectively, the "**2021A Senior Loans**") pursuant to that certain Loan Agreement dated as of June 1, 2021 (the "**2021A Senior Loan Agreement**"), by and between the District and PNC Mortgage Corporation, an Alabama corporation, formerly known as BBVA Mortgage Corporation, as lender (the "**Lender**"), as evidenced by two promissory notes of the District in the aggregate principal amount of \$18,700,000 (collectively, the "**2021A Senior Notes**"), which 2021A Senior Loans are to be secured on a parity lien basis by the Senior Pledged Revenue hereunder, as more particularly described herein and in the 2021A Senior Loan Agreement; and

**WHEREAS**, for the purpose of currently refunding \$4,360,318.35 of the remaining outstanding aggregate principal amount of the 2007 Bonds (constituting, together with the

aggregate principal amount of the 2007 Bonds refunded with the proceeds of the 2021A Senior Loans, all of the outstanding 2007 Bonds), the Board of Directors of the District has previously determined to issue its Subordinate Limited Tax Supported Revenue Refunding Bonds, Series 2021B, in the aggregate principal amount of \$4,420,000 (the “**2021B Subordinate Bonds**” and collectively with the 2021A Senior Loans, the “**2021 Obligations**”) pursuant to an Indenture of Trust (Subordinate) dated as of June 1, 2021 (the “**2021B Subordinate Indenture**”) between the District and UMB Bank, n.a., as trustee, which 2021B Subordinate Bonds are to be secured by the Subordinate Pledged Revenue under the Subordinate Pledge Agreement (as defined herein), as more particularly described therein and in the 2021B Subordinate Indenture; and

**WHEREAS**, for the purpose of facilitating the incurrence and delivery of the 2021A Senior Loans, the Districts have determined to enter into this Agreement with UMB Bank, n.a., as Custodian under the Custodial Agreement, in order to amend and restate the Original Pledge Agreement, thereby modifying the obligations of the District and Avon Station thereunder, among other matters; and

**WHEREAS**, in order to provide for the payment of the 2021A Senior Loans and certain other obligations that may be issued by the District in the future (excluding the 2021B Subordinate Bonds) (as more particularly defined herein, the “**Additional Senior Obligations**”), Avon Station has, by the terms of this Agreement, pledged certain revenues (referred to herein as the “**Senior Pledged Revenue**”) to the District for the payment of the 2021A Senior Loans and the Additional Senior Obligations, and covenanted to take certain actions with respect to generating such revenues, for the benefit of the Lender and the holders of any Additional Senior Obligations (the “**Bondholders**”); and

**WHEREAS**, in order to provide for the payment of the 2021B Subordinate Bonds and certain other obligations that may be issued by the District in the future (excluding the 2021A Senior Loans and Additional Senior Obligations) (as more particularly defined therein, the “**Additional Subordinate Obligations**”), the Districts have determined to enter into a Capital Pledge Agreement (Subordinate), dated as of June 1, 2021 (the “**Subordinate Pledge Agreement**”), with UMB Bank, n.a., as trustee for the 2021B Subordinate Bonds, pursuant to which Avon Station has agreed to pledge certain revenues (referred to therein as the “**Subordinate Pledged Revenue**”) to the District for the payment of the 2021B Subordinate Bonds and the Additional Subordinate Obligations, and has covenanted to take certain actions with respect to generating such revenues, for the benefit of the trustee for the 2021B Subordinate Bonds and the holders of Additional Subordinate Obligations ; and

**WHEREAS**, in connection with the incurrence and delivery of the 2021A Senior Loans and the issuance of the 2021B Subordinate Bonds, the District will enter into a Custodial Agreement (as defined herein) with Avon Station, the Lender and UMB Bank, n.a in its capacities as Custodian and trustee for the 2021B Subordinate Bonds, which will govern application of the Senior Pledged Revenue and the Subordinate Pledged Revenue to repay the 2021A Senior Loans, the Additional Senior Obligations, the 2021B Subordinate Bonds and Additional Subordinate Obligations; and

**WHEREAS**, prior to the issuance of the 2021 Obligations, certain property, more particularly described in Exhibit A hereto, has been excluded from the boundaries of Avon

Station and included into the boundaries of the District (the “**Included Confluence Property**”); and

**WHEREAS**, the Included Confluence Property was subject to the mill levy imposed by Avon Station pursuant to the Original Pledge Agreement for the purpose of generating pledged revenue necessary to pay the 2007 Bonds, including refundings thereof, and pursuant to Section 32-1-503(1), C.R.S., the Included Confluence Property will be subject to the Senior Required Mill Levy (as defined herein) and the Subordinate Required Mill Levy (as defined in the Subordinate Pledge Agreement) for the purpose of generating pledged revenue necessary to pay the 2021 Obligations, which are refunding the 2007 Bonds, and in order to avoid double taxation of the Included Confluence Property for the payment of the same debt, the District will not be imposing an ad valorem debt service mill levy on the Included Confluence Property; and

**WHEREAS**, the Lender is a financial institution or institutional investor within the meaning of §32-1-103, C.R.S., and the debt represented by the 2021A Senior Loans is permitted pursuant to §32-1-1101 (6)(a)(IV), C.R.S.; and

**WHEREAS**, the incurrence of the 2021A Senior Loans and the issuance of the 2021A Senior Notes will not involve a public offering, and will be made exclusively to the Lender as an “accredited investor”, as that term is defined under sections 3(b) and (4)(2) of the federal “Securities Act of 1933” by regulation adopted thereunder by the securities and exchange commission, and, as a result, will be exempt from registration under the Colorado Municipal Bond Supervision Act; and

**WHEREAS**, at an election of the qualified electors of Avon Station, duly called and held on Tuesday, May 2, 2006 (the “**Election**”), in accordance with law and pursuant to due notice, a majority of those qualified to vote and voting at the Election voted in favor of, inter alia, the incurrence of general obligation indebtedness pursuant to an intergovernmental agreement and the imposition of taxes for the payment thereof, for the purpose of funding, among other things, water, street, transportation, park and recreation, and sanitation improvements and facilities in the amount of \$46,800,000; and

**WHEREAS**, the returns of the Election were duly canvassed and the results thereof duly declared; and

**WHEREAS**, the results of the Election were certified by Avon Station by certified mail to the board of county commissioners of each county in which Avon Station is located or to the governing body of a municipality that has adopted a resolution of approval of the special district pursuant to Section 32-1-204.5, C.R.S., and with the division of securities created by Section 11-51-701, C.R.S., more than 30 days in advance of the issuance of the 2021 Obligations; and

**WHEREAS**, the obligations of Avon Station incurred pursuant to the Original Pledge Agreement in the amount equal to the original principal amount of the 2007 Bonds (\$24,665,000) were allocated to the electoral authorization for intergovernmental agreements received at the Election and, therefore, \$22,135,000 remains available in electoral authorization received at the Election for intergovernmental agreements; and

**WHEREAS**, the 2021A-1 Senior Loan (as defined in the 2021A Senior Loan Agreement) is being incurred for the purpose of, among other things, refinancing District debt (consisting of \$1,388,096.27 aggregate outstanding principal amount of the 2007 Bonds) at a lower interest rate, and, in accordance with the Article X, Section 20 of the Colorado Constitution, the Board of Directors of Avon Station (the “**Board**”) has previously determined that no portion of Avon Station’s electoral authorization for indebtedness shall be required to be allocated to the 2021A-1 Senior Loan; and

**WHEREAS**, the 2021A-2 Senior Loan (as defined in the 2021A Senior Loan Agreement) is being incurred for the purpose of, among other things, refinancing District debt (consisting of \$16,126,585.38 aggregate outstanding principal amount of the 2007 Bonds) at a lower interest rate, to reduce net interest costs, extend the maturity of a portion of the 2007 Bonds and affect other economies and the Board has previously determined that (A) no portion of Avon Station’s electoral authorization for indebtedness shall be required to be allocated to the portion of the 2021A-2 Senior Loan that does not exceed the outstanding principal amount of the 2007 Bonds being refunded with the 2021A-2 Senior Loan (\$16,126,585.38), but such determination shall be contingent upon whether the final net effective interest rate of the 2021A-2 Senior Loan is lower than the net effective interest rate on the 2007 Bonds being refunded therewith; and (B) there shall be allocated to Avon Stations’s electoral authorization for indebtedness for intergovernmental agreements the principal amount of such portion of the 2021A-2 Senior Loan that exceeds the outstanding principal amount of the 2007 Bonds (\$1,073,414.62) being refunded with the 2021A-2 Senior Loan; and

**WHEREAS**, the Districts have determined and hereby determine that the execution of this Agreement, the issuance and delivery of the 2021A Senior Loans and any Additional Senior Obligations, and the refunding of a portion of the 2007 Bonds with proceeds of the 2021A Senior Loans are in the best interests of the Districts and the residents, property owners, and taxpayers thereof; and

**WHEREAS**, all amendments to this Agreement made pursuant hereto and not in specific conflict with specific limits of the ballot questions, which authorized the debt represented by this Agreement, shall be deemed part of this Agreement and fully authorized by such ballot questions.

## **COVENANTS**

NOW, THEREFORE, for and in consideration of the promises and the mutual covenants and stipulations herein, the parties hereby agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

**Section 1.01. Interpretation.** In this Agreement, unless the context expressly indicates otherwise, the words defined below shall have the meanings set forth below:

(a) The terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof” and any similar terms, refer to this Agreement as a whole and not to any particular article, section, or subdivision hereof; the term “heretofore” means before the date of execution of the Agreement, the term “now” means the date of execution of this Agreement, and the term “hereafter” means after the date of execution of this Agreement.

(b) All definitions, terms, and words shall include both the singular and the plural, and all capitalized words or terms shall have the definitions set forth in Section 2.1 hereof.

(c) Words of the masculine gender include correlative words of the feminine and neuter genders, and words importing the singular number include the plural number and vice versa.

(d) The captions or headings of this Agreement are for convenience only, and in no way define, limit, or describe the scope or intent of any provision, article, or section of this Agreement.

(e) All schedules, exhibits, and addenda referred to herein are incorporated herein by this reference.

**Section 1.02. Definitions.** As used herein, unless the context expressly indicates otherwise, the words defined below and capitalized throughout the text of this Agreement shall have the respective meanings set forth below:

“*Additional Senior Obligation Documents*” means, collectively, any resolution, indenture, loan agreement or other instrument or agreement executed by the District pursuant to which Additional Senior Obligations are issued or incurred, and any undertaking or agreement with respect to the provision of continuing disclosure relating thereto.

“*Additional Senior Obligations*” means any obligations constituting “Parity Debt” under the 2021A Senior Loan Agreement, any bonds, notes, certificates or obligations issued or incurred by the District and designated by the District (in the applicable Additional Senior Obligation Document) as secured by a lien on all or any portion of the Senior Pledged Revenue payable hereunder; provided that such obligations are issued for the purpose of: (i) refinancing the 2021A Senior Loans or other Additional Senior Obligations, or obligations issued to refinance the same; or (ii) issued for the purpose of financing or refinancing the Public Improvements. In addition, an obligation shall not constitute an Additional Senior Obligation hereunder unless (i) it will be issued, either: (A) in denominations of not less than \$500,000 each, or (B) to “accredited investors” as defined in Section 11-59-110(1)(g) C.R.S., unless an exemption from the registration requirements of the Colorado Municipal Bond Supervision Act, or any successor statute, is otherwise available; AND (ii) it will initially be issued to financial institutions or institutional investors, or in a manner otherwise satisfying one of the conditions of Section 32-1-1101(6)(a), C.R.S., or will constitute a refunding or restructuring contemplated by Section 32-1-1101(6)(b) C.R.S.

“*Agreement*” means this Senior Capital Pledge Agreement and any amendment hereto made in accordance herewith.

“*Annual Financing Costs*” means, with respect to any calendar year, an amount equal to the Debt Requirements on the 2021A Senior Loans and principal of, redemption price or premium if any, and interest on any other and any Additional Senior Obligations as the same become due and payable in the immediately succeeding calendar year, whether at maturity or upon earlier redemption, which may include an estimate of interest to become due if necessary, to be calculated in accordance with any Additional Senior Obligation Documents, the amount (if any) necessary to replenish any reserve fund held under any Additional Senior Obligation Document to the amount required by the applicable Additional Senior Obligation Document, and any other Financing Costs anticipated to be payable in the immediately succeeding calendar year with respect to the 2021A Senior Loans and any Additional Senior Obligations, in accordance with the 2021A Senior Loan Agreement or Additional Senior Obligation Documents, as applicable, *but less* the amount then held under the 2021A Senior Loan Agreement and Additional Senior Obligation Document available for the payment of such Financing Costs, and any amount of revenues projected to be available for payment of such Financing Costs, to the extent such amounts are permitted under the 2021A Senior Loan Agreement or Additional Senior Obligation Documents, as applicable, to be taken into account in the calculation of the Senior Required Mill Levy.

“*AURA*” means the Avon Urban Renewal Authority.

“*AURA IGA*” means the Intergovernmental Agreement between Avon Urban Renewal Authority, the District and Avon Station Concerning Incremental Taxes dated October 9, 2007, as it may be amended or supplemented from time to time.

“*Avon Station*” means Avon Station Metropolitan District (Town of Avon), Eagle County, Colorado.

“*Avon Station IGA*” means the Second Amended and Restated District Facilities Joint Financing, Construction and Service Agreement dated as of April 26, 2007, as amended by the First Amendment dated as of May 25, 2021, between the Districts, as further amended or supplemented from time to time.

“*Board*” means the lawfully organized Board of Directors of Avon Station.

“*Board of County Commissioners*” means the Board of County Commissioners for Eagle County, Colorado.

“*Closing Date*” shall have the meaning assigned to the term “Closing Date” in the 2021A Senior Loan Agreement.

“*Collateral*” shall have the meaning assigned to the term “Collateral” in the 2021A Senior Loan Agreement.

“*Colorado Municipal Bond Supervision Act*” means Title 11, Article 59, Part 1, C.R.S.

“*Custodial Agreement*” means the Custodial Agreement dated as of June 1, 2021, by and among the District, Avon Station, the Lender and UMB Bank, n.a., in its capacities as Custodian for the 2021A Senior Loans and Custodian and trustee for the 2021B Subordinate Bonds, as the same may be amended or supplemented from time to time.

“*Custodian*” means UMB Bank, n.a. and its successors and assigns, in its capacities as custodian under the Custodial Agreement and not as trustee under any indenture that may be entered into by the District.

“*Debt Requirements*” with respect to the 2021A Senior Loans, shall have the meaning assigned to the term “Debt Requirements” in the 2021A Senior Loan Agreement.

“*District*” means Confluence Metropolitan District (Town of Avon), Eagle County, Colorado.

“*District Tax Incremental Revenues*” means the incremental revenues received by AURA as a result of ad valorem property taxes levied by the Districts within the current boundaries of the Districts, except Lot B within Avon Station, as described in Exhibit A to the AURA IGA, and except for and to the extent of any incremental ad valorem property taxes or specific ownership taxes generated by an increase in the total number of permitted dwelling units or commercial square footage in the zoning entitlements existing as of February 27, 2007 and remitted to the District pursuant to the AURA IGA.

“*Election*” an election held for Avon Station on May 2, 2006.

“*Financing Costs*” means the Debt Requirements with respect to the 2021A Senior Loans and principal and redemption price of, and interest and premium on any Additional Senior Obligations, required deposits to or replenishments of funds or accounts securing any Additional Senior Obligations, and customary fees and expenses relating to any Additional Senior Obligations, all in accordance with the 2021A Senior Loan Agreement or Additional Senior Obligation Documents, as applicable, including, with respect to any Additional Senior Obligations, any scheduled mandatory or cumulative sinking fund payments and any extraordinary redemption amounts to the extent provided in the Additional Senior Obligation Documents and replenishment of any reserves and funding of any surplus funds relating to the Additional Senior Obligations, customary fees related to the issuance of the Additional Senior Obligations (including, but not limited to, fees of a trustee, paying agent, rebate agent, and provider of liquidity or credit facility), and any reimbursement due to a provider of liquidity or credit facility securing any Additional Senior Obligations.

“*Fiscal Year*” means the twelve month period ending December 31 of each calendar year.

“*Included Confluence Property*” has the meaning assigned to it in the Recitals.

“*Mill Levy Certification Date*” means the date each year on which Avon Station is required to impose the Senior Required Mill Levy in accordance with the provisions hereof.

“*Mountain Vista IGA*” means an Amended and Restated Intergovernmental Agreement dated as of April 28, 2006, among the Districts and Mountain Vista Metropolitan District, as it may be amended or supplemented from time to time.

“*Person*” shall have the meaning assigned to the term “Person” in the 2021A Senior Loan Agreement.

“*Public Improvements*” means public facilities, improvements and infrastructure the debt for which was approved at the Election or any future election for the District, including without limitation necessary or appropriate equipment.

“*Senior Payment Obligation*” means the obligation of Avon Station to pay the Financing Costs with respect to the 2021A Senior Loans and any Additional Senior Obligations in accordance with the provisions hereof, but solely from its Senior Pledged Revenue, to the extent available, it being recognized that such obligation shall arise hereunder upon the issuance of the 2021A Senior Loans or Additional Senior Obligation with respect to which such obligation relates.

“*Senior Pledged Revenue*” means the following, net of any costs of collection (to the extent not previously deducted by definition):

- (a) all Senior Property Tax Revenues; and
- (b) all Senior Specific Ownership Tax Revenues.

“*Senior Property Tax Revenues*” means all moneys derived from imposition by Avon Station of the Senior Required Mill Levy. Senior Property Tax Revenues are net of the costs of collection of the County and any tax refunds or abatements authorized by or on behalf of the County. (For the avoidance of doubt, Senior Property Tax Revenues do not include Senior Specific Ownership Tax Revenues.)

“*Senior Required Mill Levy*”

- (a) subject to paragraph (b) below, an ad valorem mill levy (a mill being equal to 1/10 of 1 cent) imposed upon all taxable property of Avon Station and, solely for purposes of paying a portion of the Annual Financing Costs that are attributed to debt issued by the District to refund the 2007 Bonds (including any of the 2021A Senior Loans and any refunding thereof), the Included Confluence Property, each year in an amount necessary to generate Senior Property Tax Revenues sufficient to pay the Annual Financing Costs but not in excess of 40 mills; provided, however, that in the event that the method of calculating assessed valuation is changed after January 1, 2010, the maximum mill levy of 40 mills provided herein will be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted, are neither diminished nor enhanced as a result of such changes (for purposes of the foregoing, a change in the ratio of actual valuation to assessed valuation shall be deemed to be a change in the method of

calculating assessed valuation); and the Board has made a final and binding determination that the mill levy of 40 mills, as adjusted pursuant to the foregoing, is currently 42.780; and

(b) notwithstanding anything herein to the contrary, in no event may the Senior Required Mill Levy be established at a mill levy which would cause Avon Station to derive tax revenue in any year in excess of the maximum tax increases permitted by its electoral authorization, and if the Senior Required Mill Levy as calculated pursuant to the foregoing would cause the amount of taxes collected in any year to exceed the maximum tax increase permitted by Avon Station's electoral authorization, the Senior Required Mill Levy shall be reduced to the point that such maximum tax increase is not exceeded.

“*Senior Reserve Fund*” means the Senior Reserve Fund established by the 2021A Senior Loan Agreement.

“*Senior Reserve Requirement*” means \$499,414.

“*Senior Specific Ownership Tax Revenues*” means the specific ownership taxes remitted to Avon Station pursuant to Section 42-3-107, C.R.S., or any successor statute, as a result of its imposition of the Senior Required Mill Levy in accordance with the provisions hereof.

“*Service Plan*” means the Amended and Restated Consolidated Service Plan for the Districts approved by the Town Council on March 28, 2006, as the same may be amended or restated from time to time.

“*State*” means the State of Colorado.

“*Subordinate Payment Obligations*” means Avon Station's obligations under the Subordinate Pledge Agreement and any other bonds, notes, or other obligations payable in whole or in part from, or constituting a lien upon, the general ad valorem taxes of Avon Station on a basis subordinate to its Senior Payment Obligation hereunder.

“*Subordinate Pledge Agreement*” means the Capital Pledge Agreement (Subordinate) dated as of June 1, 2021, by and among the Districts and UMB Bank, n.a., as trustee for the 2021B Subordinate Bonds.

“*Supplemental Act*” means the “Supplemental Public Securities Act,” being Title 11, Article 57, Part 2, C.R.S., as amended.

“*Termination Date*” means the date on which all amounts due with respect to the 2021A Senior Loans and any Additional Senior Obligations have been defeased or paid in full.

“*Town*” means the Town of Avon, Colorado.

“*Town Council*” means the Town Council of the Town of Avon, Colorado.

## ARTICLE II

### SENIOR PAYMENT OBLIGATION

**Section 2.01. Electoral Approval.** To the extent required, the authorization for issuance of debt represented by the Senior Payment Obligation incurred to pay the Financing Costs relating to the 2021A Senior Loans, fiscal year spending, revenue collections and other constitutional matters related thereto requiring voter approval for purposes of this Agreement, was approved at the Election, in accordance with law and pursuant to due notice. The performance of the terms of this Agreement with respect to the Senior Payment Obligation incurred to pay the Financing Costs relating to the 2021A Senior Loans requires no further electoral approval.

#### **Section 2.02. Funding of Financing Costs Generally.**

(a) In exchange for the Lender making the 2021A Senior Loans and the purchase by the Bondholders of any Additional Senior Obligations, Avon Station hereby agrees to pay the Financing Costs with the Senior Pledged Revenue, in accordance with the provisions hereof.

(b) The Senior Payment Obligation shall constitute a limited tax general obligation of Avon Station payable solely from and to the extent of the Senior Pledged Revenue. The Senior Payment Obligation shall constitute an irrevocable lien upon the Senior Pledged Revenue and the Senior Pledged Revenue is hereby pledged to the payment thereof. Avon Station hereby elects to apply all of the provisions of the Supplemental Act to this Agreement and the Senior Payment Obligation.

(c) In no event shall the total or annual obligations of Avon Station hereunder exceed the maximum amounts permitted under Avon Station's electoral authority and any other applicable law. The entire Senior Payment Obligation of Avon Station will be deemed defeased and no longer outstanding upon the payment by Avon Station of such amount.

(d) Because the actual total Senior Pledged Revenue payable by Avon Station hereunder cannot be determined with any certainty at this time, Avon Station shall not be permitted to pre-pay any amounts due hereunder.

#### **Section 2.03. Imposition of Senior Required Mill Levy.**

(a) In order to fund the Senior Payment Obligation, Avon Station agrees to levy on all of the taxable property in Avon Station and, solely for purposes of paying a portion of the Annual Financing Costs that are attributed to debt issued by the District to refund the 2007 Bonds (including the 2021A Senior Loans and any refunding thereof), the Included Confluence Property, in addition to all other taxes, direct annual taxes in 2021, and in each year thereafter, so long as the 2021A Senior Loans or Additional Senior Obligations remain outstanding, to the extent necessary to provide for payment of the Annual Financing Costs, in the amount of the Senior Required Mill Levy. Nothing herein shall be construed to require Avon Station to impose an ad valorem property tax

levy for the payment of the Senior Payment Obligation in excess of the Senior Required Mill Levy or after the Termination Date.

(b) In order to facilitate the determination of the Senior Required Mill Levy, Avon Station shall provide to the District: (i) on or before September 30 of each year, commencing September 30, 2021, the preliminary certification of assessed value for Avon Station and, if applicable, the Included Confluence Property provided by the Eagle County Assessor; and (ii) no later than one business day after receipt by Avon Station, the final certified assessed value for Avon Station and, if applicable, the Included Confluence Property, provided by the Eagle County Assessor (expected to be provided by the Eagle County Assessor no later than December 10 of each year). In accordance with the definition of Senior Required Mill Levy set forth herein, the District shall preliminarily determine, and provide to Avon Station, the Senior Required Mill Levy for Avon Station and, if applicable, the Included Confluence Property no later than October 15 of each year, and shall finally determine, and provide to Avon Station, the Senior Required Mill Levy for Avon Station and, if applicable, the Included Confluence Property no later than December 12 of each year.

(c) Avon Station acknowledges that it has actively participated in the development of the calculation for determining the Senior Required Mill Levy and that so long as made in accordance with the foregoing, the determination of the District as to the Senior Required Mill Levy shall be final and binding upon Avon Station.

(d) This Section 2.03 is hereby declared to be the certificate of Avon Station to the Board of County Commissioners indicating the aggregate amount of taxes to be levied for the purposes of paying the Senior Payment Obligation due hereunder.

(e) It shall be the duty of Avon Station annually at the time and in the manner provided by law for the levying of its taxes, if such action shall be necessary to effectuate the provisions of this Agreement, to ratify and carry out the provisions hereof with reference to the levy and collection of the ad valorem property taxes herein specified, and to require the officers of Avon Station to cause the appropriate officials of Eagle County, to levy, extend and collect said ad valorem taxes in the manner provided by law for the purpose of providing funds for the payment of the amounts to be paid hereunder promptly as the same, respectively, become due and such amounts are hereby appropriated for said purposes. Said taxes, when collected, shall be applied only to the payment of the amounts to be paid hereunder.

(f) Said taxes shall be levied, assessed, collected, and enforced at the time and in the form and manner and with like interest and penalties as other general taxes in the State.

(g) In the event any ad valorem taxes are not paid when due, the Districts shall diligently cooperate with the appropriate county treasurer to enforce the lien of such unpaid taxes against the property for which the taxes are owed.

(h) Avon Station hereby agrees to cooperate in the amendment of this Agreement to modify the definition of Senior Required Mill Levy if necessary, in the determination of the District, to facilitate the issuance of Additional Senior Obligations by the District.

(i) Avon Station shall pursue all reasonable remedies to collect, or cause the collection of, delinquent ad valorem taxes within its boundaries.

(j) The parties hereto acknowledge that Avon Station may be obligated to impose additional property taxes for the payment of operation and maintenance costs, subject to the limitations hereof. This Agreement shall not operate to limit such obligations except as specifically set forth herein.

**Section 2.04. Payment and Application of Senior Pledged Revenue.**

(a) Avon Station hereby agrees to remit to the Custodian, for as long as the Custodial Agreement is in effect, or if the Custodial Agreement is not in effect, as directed by the District (subject to the limitations and requirements of the 2021A Senior Loan Agreement, the Custodial Agreement and any Additional Senior Obligation Documents), as soon as practicable upon receipt, and in no event later than the 15th day of the calendar month immediately succeeding the calendar month in which such revenue is received by Avon Station, all revenues comprising Senior Pledged Revenue (if and to the extent received or controlled by Avon Station, but regardless of whether received by Avon Station from the County Treasurer or AURA), which Senior Pledged Revenue shall be applied by the Custodian or other recipient thereof to Annual Financing Costs, in accordance with the 2021A Senior Loan Agreement and Custodial Agreement or Additional Senior Obligation Documents, as applicable. IN NO EVENT IS AVON STATION PERMITTED TO APPLY ANY PORTION OF THE SENIOR PLEDGED REVENUE TO ANY OTHER PURPOSE, OR TO WITHHOLD ANY PORTION OF THE SENIOR PLEDGED REVENUE. Avon Station shall also transfer to the Custodian as soon as practicable all revenues (including specific ownership taxes and District Tax Increment Revenues) received as a result of Avon Station's imposition of a debt service mill levy in 2020 (collected in 2021) and not used to pay debt service due on the 2007 Bonds prior to the Closing Date.

(b) Avon Station hereby covenants that all property tax revenue collected by Avon Station from a debt service mill levy, or so much thereof as is needed, shall first, be designated as Senior Pledged Revenue in any Loan Year (as defined in the 2021A Senior Loan Agreement or other applicable Additional Senior Obligation Documents) to pay Annual Financing Costs on the 2021A Senior Loans and any Additional Senior Obligations and to fund such funds and accounts as are required in accordance with the terms of the 2021A Senior Loan Agreement or other applicable Additional Senior Obligation Documents (including to fill the surplus fund for any Additional Senior Obligations to the required amount under the applicable Additional Senior Obligation Documents and to replenish any reserve fund or account securing Additional Senior Obligations to the requisite level, if needed), and only after the funding of such payments and accumulations required in such Loan Year can property tax revenue from a debt

service mill levy be applied to pay any Subordinate Payment Obligations or obligations under the Avon Station IGA. The debt service property tax levy imposed for the payment of any Subordinate Payment Obligations (including under the Subordinate Pledge Agreement and the Avon Station IGA) shall be deemed reduced to the number of mills (if any) available for payment of such obligation in any Loan Year after first providing for the full payment and accumulation of all amounts due on the 2021A Senior Loans and any Additional Senior Obligations in such Loan Year.

(c) The Districts acknowledge that pursuant to the AURA IGA, AURA agreed to remit to the District the District Tax Increment Revenues and that a portion of such revenues is generated from the Senior Required Mill Levy. If AURA remits all or any portion of the District Tax Increment Revenues to Avon Station, Avon Station agrees to promptly determine what portion of such revenues is attributable to the Senior Required Mill Levy and remit the same to the District or to the Custodian, as directed by the District, in accordance with subsection (a) of this Section 2.04.

(d) To the extent any portion of such Senior Pledged Revenue is released from the lien of the 2021A Senior Loan Agreement and Additional Senior Obligation Documents (if any), the District will continue to ensure that such revenues are applied to Financing Costs and any other costs of the Public Improvements, it being acknowledged that in no event would such excess revenue exceed the dollar amount equal to the revenues that would be generated from an annual imposition of an ad valorem property tax levy of 50 mills (without adjustment) on the assessed valuation of Avon Station Senior Pledged Revenue shall be paid in lawful money of the United States of America by check mailed or delivered, or by wire transfer, or such other method as may be mutually agreed to by the Districts and the Custodian.

**Section 2.05. 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 Board of Avon Station 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 Avon Station to levy ad valorem property taxes, or as limiting or impairing the obligation of Avon Station to levy, administer, enforce and collect the ad valorem property taxes as provided herein for the payment of the obligations hereunder.

In addition, and without limiting the generality of the foregoing, the obligation of Avon Station to transfer funds as described herein for each payment described herein shall survive any Court determination of the invalidity of this Agreement as a result of a failure, or alleged failure, of any of the directors of Avon Station to properly disclose, pursuant to State law, any potential conflicts of interest related hereto in any way, provided that such disclosure is made on the record of Avon Station' meetings as set forth in their official minutes.

**Section 2.06. Limited Defenses; Specific Performance.** It is understood and agreed by Avon Station that its obligations hereunder are absolute, irrevocable, and unconditional except as

specifically stated herein, and so long as any obligation of Avon Station hereunder remains unfulfilled, Avon Station agrees that notwithstanding any fact, circumstance, dispute, or any other matter, it will not assert any rights of setoff, counterclaim, estoppel, or other defenses to its Senior Payment Obligation, or take or fail to take any action which would delay a payment to, or on behalf of, the District, the Custodian, the Lender or any Bondholders or impair the ability of the District, the Custodian, the Lender or any Bondholders to receive payments due hereunder. Notwithstanding that this Agreement specifically prohibits and limits defenses and claims of Avon Station, in the event that Avon Station believes that it has valid defenses, setoffs, counterclaims, or other claims other than specifically permitted by this Section 2.06, it shall, nevertheless, make all payments as described herein and then may attempt or seek to recover such payments by actions at law or in equity for damages or specific performance, respectively.

**Section 2.07. Impact of Exclusion of Property.** Any property excluded from Avon Station after the date hereof is to remain liable for the imposition of the Senior Required Mill Levy and payment of the proceeds thereof in accordance with the provisions hereof, to the same extent as such property otherwise remains liable for the debt of Avon Station, as provided in Section 32-1-503, C.R.S. In the event that any order providing for the exclusion of property from Avon Station does not so provide and specifically indicate the liability of such excluded property for the obligations set forth herein, Avon Station hereby agrees to take all actions necessary to cause the property owners of such proposed excluded property to covenant to assume all responsibilities under this Agreement, which covenants shall run with the land and shall be in a form satisfactory to the District.

**Section 2.08. Additional Covenants.**

(a) Avon Station covenants that it will not issue or incur bonds, notes, or other obligations payable in whole or in part from, or constituting a lien upon, the general ad valorem taxes of Avon Station or other Senior Pledged Revenue (including, but not limited to Subordinate Payment Obligations) without the prior consent of the District and the Lender; provided, however, that the following obligations shall be permitted without the consent of the District or the Lender:

(i) the Subordinate Payment Obligation incurred with respect to the 2021B Subordinate Bonds, as provided in the Subordinate Pledge Agreement;

(ii) any obligations payable from ad valorem property taxes of Avon Station imposed pursuant to the Avon Station IGA, subject to limitations contained herein;

(iii) any obligations payable from ad valorem property taxes imposed by Avon Station to pay operational and maintenance expenses pursuant to the Mountain Vista IGA;

(iv) obligations issued for the provision of operation and maintenance services to Avon Station's taxpayers and service users, or for any purpose, the repayment of which is contingent upon Avon Station's annual determination to appropriate moneys therefor (other than obligations of Avon Station as lessee

under leases, but excluding such obligations outstanding from time to time with respect to which the aggregate maximum repayments costs for all terms thereof do not exceed \$500,000), so long as: (A) such obligations are payable only to the extent Avon Station has moneys on hand; and (B) Avon Station makes no promise to impose any tax, fee, or other governmental charge for the payment of such obligation;

(v) obligations payable solely from periodic, recurring service charges imposed by Avon Station for the use of any Avon Station facility or service, which obligations do not constitute a debt or indebtedness of Avon Station or an obligation required to be approved at an election under State law;

(vi) obligations to reimburse any person in respect of surety bonds, financial guaranties, letters of credit, or similar credit enhancements so long as (A) such surety bonds, financial guaranties, letters of credit, or similar credit enhancements guarantee payment of principal or interest on any obligation permitted to be issued in accordance with the provisions hereof, and (B) the reimbursement obligation does not arise unless payment of an equivalent amount (or more) of principal on the secured obligation, and (C) such reimbursement obligations are payable from the same or fewer revenue sources, with the same or a subordinate lien priority as the obligations supported by the surety bonds, financial guaranties, letters of credit, or similar credit enhancements; and

(vii) any leases for a term of twelve months or fewer, payroll obligations, accounts payable, or taxes incurred or payable in the ordinary course of business of Avon Station.

(b) Avon Station shall not impose, in any given year, an operations and maintenance mill levy in excess of the maximum operations and maintenance mill levy then permitted by the Service Plan and the Avon Station IGA, taking into account imposition of the Senior Required Mill Levy, the mill levy imposed pursuant to the Subordinate Capital Pledge Agreement, and any other debt service mill levy then imposed by Avon Station, including, without limitation, the debt service mill levy imposed pursuant to the Avon Station IGA. However, for purposes of clarification, it is acknowledged that the proceeds of any general property tax levy imposed to pay current operations and maintenance shall not be payable to the District pursuant to this Agreement, shall not be payable to the Custodian (or other entity designated by the District) and shall not be subject to the lien of this Agreement.

(c) At least once a year, Avon Station will cause an audit to be performed of the records relating to its revenues and expenditures and Avon Station shall use its best efforts to have such audit report completed no later than October 1 of each calendar year. The foregoing covenant will apply notwithstanding any different time requirements for the completion of such audit under State law. In addition, at least once a year in the time and manner provided by law, Avon Station will cause a budget to be prepared and adopted. Copies of the budget and the audit or audit exemption will be filed and recorded

in the places, time, and manner provided by law. With respect to the obligations of the District under this paragraph, in the event of any conflicts between the provisions hereof or the provisions of the 2021A Senior Loan Agreement or any Additional Senior Obligations Documents, the provisions of the 2021A Senior Loan Agreement and any Additional Senior Obligations Documents shall control.

(d) Avon Station agrees to provide the District with information promptly upon request by the District necessary for the District to comply on an ongoing basis with the requirements of the 2021A Senior Loan Agreement or any agreement entered into by the District in connection with the issuance of Additional Senior Obligations.

(e) Avon Station agrees to enforce the provisions of the AURA IGA and diligently cooperate with the District in enforcing the same, and will diligently pursue all reasonable remedies available to it with regard to such enforcement, whether at law or in equity. Avon Station will not, without the prior written consent of the District and the Lender, amend or modify the AURA IGA if such amendment or modification would have a materially adverse effect on the repayment of the 2021A Senior Loans or the Additional Senior Obligations.

(f) Avon Station agrees that without the prior written consent of the District and the Lender, it will not amend or consent to an amendment of the Avon Station IGA that would (x) increase the amount of the Subordinate Required Capital Mill Levy (as defined in the Avon Station IGA) above the maximum mill levy of 50 mills (which shall not be subject to an adjustment), (y) increase the amount of the Subordinate Required Service Mill Levy (as defined in the Avon Station IGA) above the maximum mill levy of 49 mills or (z) change the method of calculating of either the Subordinate Required Capital Mill Levy or the Subordinate Required Service Mill Levy, it being the intent that (i) the Subordinate Required Capital Mill Levy may not exceed the amount of 50 mills (which shall not be subject to an adjustment) less the Senior Required Mill Levy and any mill levy necessary to pay annual debt service on any Additional Senior Obligations, and (ii) the Subordinate Required Service Mill Levy may not exceed the amount of 49 mills less the Senior Required Mill Levy, any mill levy necessary to pay annual debt service on any Additional Senior Obligations, and the Subordinate Required Capital Mill Levy.

(g) Avon Station covenants that it will faithfully perform and observe at all times any and all covenants, undertakings, stipulations, and provisions contained in this Agreement and the Custodial Agreement and all its proceedings pertaining thereto as though such covenants, undertakings, stipulations, and provisions were set forth in full herein. Avon Station covenants that it is duly authorized under the constitution and laws of the State of Colorado, including, particularly and without limitation, the Special District Act, to execute, and deliver this Agreement and the Custodial Agreement, and that all action on its part for the execution and delivery of this Agreement and the Custodial Agreement has been duly and effectively taken and will be duly taken as provided herein, and that this Agreement and the Custodial Agreement are and will be valid and enforceable obligations of Avon Station according to the terms hereof and thereof, except as such enforceability may be limited by the terms of this Agreement and the Custodial Agreement and by bankruptcy, moratorium, or other similar laws affecting

creditors' rights generally, and provided that the application of equitable remedies is subject to the application of equitable principles.

(h) Avon Station will comply in all material respects with all applicable laws, rules, regulations, orders, and directions of any governmental authority and all agreements and obligations binding on Avon Station, noncompliance with which would have a material adverse effect on the Collateral or Avon Station, or on its financial condition, assets, or ability to perform its obligations under this Agreement and the Custodial Agreement; provided that Avon Station may in good faith contest such laws, rules, regulations, orders, and directions and the applicability thereof to Avon Station to the extent that such action would not be likely to have a material adverse effect on the Avon Station's ability to perform its obligations under this Agreement and the Custodial Agreement.

(i) Avon Station shall pay and discharge, when due, all of its liabilities, except when the payment thereof is being contested in good faith by appropriate procedures which will avoid financial liability and with adequate reserves provided therefor.

(j) Avon Station shall keep or cause to be kept adequate and proper records and books of account in which complete and correct entries shall be made with respect to Avon Station, the Senior Pledged Revenue, and all of the funds and accounts established or maintained pursuant to any of this Agreement and the Custodial Agreement. Avon Station shall (a) maintain accounting records in accordance with generally recognized and accepted principles of accounting consistently applied throughout the accounting periods involved; and (b) provide the Lender with such information concerning the business affairs and financial condition (including insurance coverage) of Avon Station as the Lender may request.

(k) Unless otherwise prohibited by law, Avon Station will permit any Person designated by the Lender to visit any of its offices to examine Avon Station's books and financial records, and make copies thereof or extracts therefrom, and to discuss its affairs, finances, and accounts with its principal officers, all at such reasonable times and as often as the Lender may reasonably request.

(l) Avon Station shall do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such documents supplemental hereto and such further acts, instruments, and transfers as the Lender may reasonably require for the better assuring, transferring, and pledging unto the Lender the Senior Pledged Revenue and the Collateral; provided however, that Avon Station shall not be obligated to incur in excess of nominal expenses in complying with this covenant.

(m) In the event the Senior Pledged Revenue is insufficient or is anticipated to be insufficient to pay the principal of and interest on the 2021A Senior Loans when due, at the request of the Lender Avon Station shall use its reasonable best efforts to cooperate with the District, including by amending and restating this Agreement or entering into a

similar agreement as is necessary in order to refinance, refund, or otherwise restructure the 2021A Senior Loans so as to avoid or remedy such insufficiency.

(n) Avon Station shall manage its finances and day to day operations in an economical and efficient manner and in accordance with all applicable laws, rules, and regulations.

(o) Avon Station shall not take any action or consent to any action that would materially adversely affect any portion of the Senior Pledged Revenue or any other component of the Collateral.

(p) Avon Station shall not cancel, terminate, amend, supplement, modify, or waive any of the provisions of this Agreement and the Custodial Agreement or consent to any such cancellation, termination, amendment, supplement, modification, or waiver, without the prior written consent of the Lender. Avon Station shall take no action inconsistent with the rights of the Lender under this Agreement including, without limitation, its obligations to make payments to the Lender hereunder.

### ARTICLE III

#### REPRESENTATIONS AND WARRANTIES

**Section 3.01. Representations and Warranties of Avon Station.** Avon Station hereby makes the following representations and warranties with respect to itself:

(a) Avon Station is a quasi-municipal corporation and political subdivision duly organized and validly existing under the laws of the State.

(b) Avon Station has all requisite corporate power and authority to execute, deliver, and to perform its obligations under this Agreement. Avon Station's execution, delivery, and performance of this Agreement has been duly authorized by all necessary action.

(c) Avon Station is not in violation of any of the applicable provisions of law or any order of any court having jurisdiction in the matter, which violation could reasonably be expected to materially adversely affect the ability of Avon Station to perform its obligations hereunder. The execution, delivery and performance by Avon Station of this Agreement (i) will not violate any provision of any applicable law or regulation or of any order, writ, judgment, or decree of any court, arbitrator, or governmental authority, (ii) will not violate any provision of any document or agreement constituting, regulating, or otherwise affecting the operations or activities of Avon Station in a manner that could reasonably be expected to result in a material adverse effect, and (iii) will not violate any provision of, constitute a default under, or result in the creation or imposition of any lien, mortgage, pledge, charge, security interest, or encumbrance of any kind on any of the revenues or other assets of Avon Station pursuant to the provisions of any mortgage, indenture, contract, agreement, or other undertaking to which Avon Station is a party or which purports to be binding upon Avon Station or upon

any of its revenues or other assets which could reasonably be expected to result in a material adverse effect.

(d) Avon Station has obtained all consents and approvals of, and has made all registrations and declarations with any governmental authority or regulatory body required for the execution, delivery, and performance by Avon Station of this Agreement.

(e) There is no action, suit, inquiry, investigation, or proceeding to which Avon Station is a party, at law or in equity, before or by any court, arbitrator, governmental or other board, body, or official which is pending or, to the best knowledge of Avon Station threatened, in connection with any of the transactions contemplated by this Agreement nor, to the best knowledge of Avon Station is there any basis therefor, wherein an unfavorable decision, ruling, or finding could reasonably be expected to have a material adverse effect on the validity or enforceability of, or the authority or ability of Avon Station to perform its obligations under, this Agreement.

(f) This Agreement constitutes the legal, valid, and binding obligation of Avon Station, enforceable against Avon Station in accordance with its terms (except as such enforceability may be limited by bankruptcy, moratorium, or other similar laws affecting creditors' rights generally and provided that the application of equitable remedies is subject to the application of equitable principles).

(g) To the best knowledge of Avon Station, there is no pending change of any law which, if enacted or adopted could have a material adverse effect on the assets, financial condition, business, or operations of Avon Station, on the Collateral, or on Avon Station's power to issue or its ability to pay in full in a timely fashion the obligations of Avon Station under this Agreement and the Custodial Agreement.

(h) The financial statements and other information previously provided to the Lender or provided to the Lender in the future are or will be complete and accurate and prepared in accordance with generally accepted accounting principles. There has been no material adverse change in Avon Station's financial condition since such information was provided to the Lender.

(i) All information, certificates, or statements given to the Lender pursuant to this Agreement and the Custodial Agreement will be true and complete in all material respects when given.

(j) Avon Station's representations and warranties contained in this Agreement and the Custodial Agreement are true and correct in all material respects as of the Closing Date.

(k) Avon Station is not in default in the performance, observance, or fulfillment of any of the obligations, covenants, or conditions contained in this Agreement, the Custodial Agreement or other resolution, agreement, or instrument to which it is a party which would have a material adverse effect on the Collateral or the

ability of Avon Station to perform its obligations under this Agreement and the Custodial Agreement, or which would affect the enforceability thereof.

(l) Except for actions that lie or would lie in tort, Avon Station does not enjoy any rights of immunity on the grounds of sovereign immunity in respect of its obligations under this Agreement and the Custodial Agreement.

(m) No filings, recordings, registrations, or other actions are necessary to create and perfect the pledges provided for in this Agreement.

(n) With the exception of this Agreement and the Avon Station IGA, Avon Station will have no Debt (as defined in the 2021A Senior Loan Agreement) outstanding as of the Closing Date.

## ARTICLE IV

### NON-COMPLIANCE AND REMEDIES

**Section 4.01. Events of Non-Compliance.** The occurrence or existence of any one or more of the following events shall be an “Event of Non-Compliance” hereunder, and there shall be no default or Event of Non-Compliance hereunder except as provided in this Section:

(a) Avon Station fails or refuses to impose the Senior Required Mill Levy or to remit the Senior Pledged Revenue as required by the terms of this Agreement;

(b) any representation or warranty made by any party in this Agreement proves to have been untrue or incomplete in any material respect when made and which untruth or incompleteness would have a material adverse effect upon any other party;

(c) any party fails in the performance of any other of its covenants in this Agreement, and such failure continues for 30 days after written notice specifying such default and requiring the same to be remedied is given to any of the parties hereto; or

(d) (i) any party shall commence any case, proceeding, or other action (A) under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization, or relief of debtors, seeking to have an order for relief entered with respect to it or seeking to adjudicate it insolvent or a bankrupt or seeking reorganization, arrangement, adjustment, winding up, liquidation, dissolution, composition, or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, or other similar official for itself or for any substantial part of its property, or any party shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against any party any case, proceeding, or other action of a nature referred to in clause (i) and the same shall remain not dismissed within 90 days following the date of filing; or (iii) there shall be commenced against any party any case, proceeding, or other action seeking issuance of a warrant of attachment, execution, distraint, or similar process against all or any substantial part of its property which results in the entry of an order for any such relief which shall not have been vacated, discharged, stayed, or bonded pending appeal within 90 days from the entry thereof; or (iv) any party

shall take action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii) or (iii) above; or (v) any party shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due.

WITHOUT LIMITING THE FOREGOING, AND NOTWITHSTANDING ANY OTHER PROVISION CONTAINED HEREIN, AVON STATION ACKNOWLEDGES AND AGREES THAT THE APPLICATION OF ANY PORTION OF THE SENIOR PLEDGED REVENUE TO ANY PURPOSE OTHER THAN DEPOSIT WITH THE CUSTODIAN IN ACCORDANCE WITH THE PROVISIONS HEREOF CONSTITUTES A VIOLATION OF THE TERMS OF THIS PLEDGE AGREEMENT AND A BREACH OF THE COVENANTS MADE HEREUNDER FOR THE BENEFIT OF THE LENDER AND THE BONDHOLDERS OF ANY ADDITIONAL SENIOR OBLIGATIONS, WHICH SHALL ENTITLE THE DISTRICT AND THE CUSTODIAN TO PURSUE, ON BEHALF OF THE LENDER AND THE BONDHOLDERS OF ANY ADDITIONAL SENIOR OBLIGATIONS, ALL AVAILABLE ACTIONS AGAINST AVON STATION IN LAW OR IN EQUITY, AS MORE PARTICULARLY PROVIDED IN SECTION 4.02 HEREOF. AVON STATION FURTHER ACKNOWLEDGES AND AGREES THAT THE APPLICATION OF SENIOR PLEDGED REVENUE IN VIOLATION OF THE COVENANTS HEREOF WILL RESULT IN IRREPARABLE HARM TO THE LENDER AND THE BONDHOLDERS OF ANY ADDITIONAL SENIOR OBLIGATIONS. IN NO EVENT SHALL ANY PROVISION HEREOF BE INTERPRETED TO PERMIT AVON STATION TO RETAIN ANY PORTION OF THE SENIOR PLEDGED REVENUE.

**Section 4.02. Remedies For Events of Non-Compliance.** Upon the occurrence and continuance of an Event of Non-Compliance, any party may proceed to protect and enforce its rights against the party or parties causing the Event of Non-Compliance by mandamus or such other suit, action, or special proceedings in equity or at law, in any court of competent jurisdiction, including an action for specific performance. In the event of any litigation or other proceeding to enforce any of the terms, covenants or conditions hereof, the prevailing party in such litigation or other proceeding shall obtain, as part of its judgment or award, its reasonable attorneys' fees and costs.

## ARTICLE V

### MISCELLANEOUS

**Section 5.01. Pledge of Revenue.** The creation, perfection, enforcement, and priority of the pledge of Senior Pledged Revenue by Avon Station to secure or pay the Senior Payment Obligation shall be governed by Section 11-57-208 of the Supplemental Act and this Agreement. The Senior Pledged Revenue shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against Avon Station irrespective of whether such persons have notice of such liens.

**Section 5.02. No Recourse Against Officers and Agents.** Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Board of Directors of Avon Station, or any

officer or agent of Avon Station acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the Senior Payment Obligation. Such recourse shall not be available either directly or indirectly through the Board of Avon Station, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of this Agreement and as a part of the consideration hereof, Avon Station and the Custodian specifically waives any such recourse.

**Section 5.03. Conclusive Recital.** Pursuant to Section 11-57-210 of the Supplemental Act, this Agreement contains a recital that it is issued pursuant to certain provisions of the Supplemental Act, and such recital is conclusive evidence of the validity and the regularity of this Agreement after its delivery for value.

**Section 5.04. Limitation of Actions.** Pursuant to Section 11-57-212 of the Supplemental Act, no legal or equitable action brought with respect to any legislative acts or proceedings in connection with the authorization, execution, or delivery of this Agreement shall be commenced more than 30 days after the authorization of this Agreement.

**Section 5.05. Notices.** Except as otherwise provided herein, all notices, certificates or other communications required to be given to any of the persons set forth below pursuant to any provision of this Agreement shall be in writing, shall be given either in person, by electronic mail, or any certified or registered mail, and if mailed, shall be deemed received three days after having been deposited in a receptacle for United States mail, postage prepaid, addressed as follows:

If to the District  
or Avon Station:

Confluence Metropolitan District or Avon Station  
Metropolitan District  
c/o Marchetti & Weaver LLC  
28 Second Street, Suite 213  
Edwards, Colorado 81632  
Telephone: (970) 926-6060  
Email: ken@mwcpaa.com  
Attention: Ken Marchetti

If to the Custodian:

UMB Bank, n.a.  
1670 Broadway  
Denver, Colorado 80202  
Telephone: (303) 764-3607  
Email: jonathan.fernandez@umb.com  
Attention: Jonathan Fernandez

The persons designated above may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, or other communications shall be sent. Where this Agreement provides for notice in any manner, such notice may be waived in writing by the person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice.

**Section 5.06. Rights of Custodian.** Notwithstanding any other provision herein, at such time as no amounts remain due and owing under the 2021A Senior Loan Agreement, all rights of the Custodian hereunder (including, but not limited to, the right to consent to any amendment hereto as a party hereof), shall terminate and be of no force or effect without further action by the parties hereto.

**Section 5.07. Miscellaneous.**

(a) This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the parties pertaining to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings or agreements of the parties. This Agreement may not be contradicted by evidence of any prior or contemporaneous statements or agreements. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation, understanding, agreement, commitment, or warranty outside those expressly set forth in this Agreement.

(b) This Agreement amends and restates in its entirety the Original Pledge Agreement, which Original Pledge Agreement shall be of no further force or effect as of the date hereof.

(c) If any term or provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable, or invalid provisions or part thereof shall be stricken from this Agreement, and such provision shall not affect the legality, enforceability, or validity of the remainder of this Agreement. If any provision or part thereof of this Agreement is stricken in accordance with the provisions hereof, then such stricken provision shall be replaced, to the extent possible, with a legal, enforceable, and valid provision that is as similar in tenor to the stricken provision as is legally possible.

(d) The Lender and the Bondholders are third party beneficiaries to this Pledge Agreement and it is intended that there be no other third party beneficiaries of this Pledge Agreement. Nothing contained herein, expressed or implied, is intended to give to any person other than Avon Station any claim, remedy, or right under or pursuant hereto, and any agreement, condition, covenant, or term contained herein required to be observed or performed by or on behalf of any party hereto shall be for the sole and exclusive benefit of the other party.

(e) This Agreement may not be assigned or transferred by any party without the prior written consent of each of the other parties.

(f) This Agreement shall be governed by and construed under the applicable laws of the State.

(g) This Agreement may be amended or supplemented by the parties, but any such amendment or supplement must be in writing and must be executed by all parties and is subject to the limitations and requirements of the 2021A Senior Loan Agreement.

(h) If the date for making any payment or the last day for performance of any act or the exercising of any right, as provided in this Agreement, shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the city in which the principal office of the Custodian is located are authorized or required by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized or required by law to remain closed, with the same force and effect as if done on the nominal date provided in this Agreement.

(i) Each party has participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

(j) This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

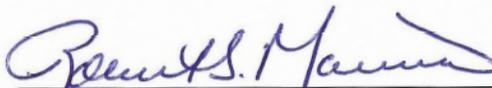
(k) Avon Station hereby consents to the terms of the 2021A Senior Loans set forth in the 2021A Senior Loan Agreement.

**Section 5.08. Effective Date and Termination Date.** This Agreement shall become effective as of the date first written above and shall remain in effect until the Termination Date.

[Remainder of Page Intentionally Left Blank.]

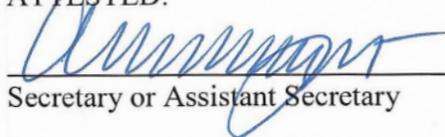
IN WITNESS WHEREOF, the District, Avon Station and the Custodian have executed this Agreement as of the day and year first above written.

**CONFLUENCE METROPOLITAN DISTRICT**



\_\_\_\_\_  
President

ATTESTED:



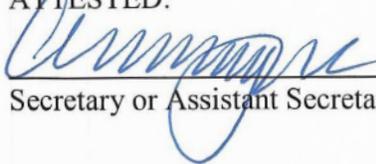
\_\_\_\_\_  
Secretary or Assistant Secretary

**AVON STATION METROPOLITAN DISTRICT**



\_\_\_\_\_  
President

ATTESTED:



\_\_\_\_\_  
Secretary or Assistant Secretary

**UMB BANK, N.A., as Custodian**

\_\_\_\_\_  
Authorized Signatory

[Signature page to Amended and Restated Capital Pledge Agreement]

IN WITNESS WHEREOF, the District, Avon Station and the Custodian have executed this Agreement as of the day and year first above written.

**CONFLUENCE METROPOLITAN DISTRICT**

\_\_\_\_\_  
President

ATTESTED:

\_\_\_\_\_  
Secretary or Assistant Secretary

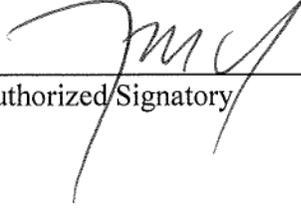
**AVON STATION METROPOLITAN DISTRICT**

\_\_\_\_\_  
President

ATTESTED:

\_\_\_\_\_  
Secretary or Assistant Secretary

**UMB BANK, N.A., as Custodian**

  
\_\_\_\_\_  
Authorized Signatory

[Signature page to Amended and Restated Capital Pledge Agreement]

**EXHIBIT A**  
**TO**  
**CAPITAL PLEDGE AGREEMENT**

**LEGAL DESCRIPTION OF INCLUDED CONFLUENCE PROPERTY**

Unit C-100  
Unit C-101  
Unit C-102  
Unit C-103  
Unit C-104  
Unit C-105  
Unit C-106  
Unit C-107  
Unit C-109  
Unit C-110  
Unit C-111

All as shown on the Final Plat and Condominium Map of Riverfront Resort & Spa, Lot 2, Riverfront Subdivision, Town of Avon, Eagle County, Colorado  
Recorded in the real property records of the Clerk and Recorder of Eagle County, Colorado on August 14, 2008, at Reception Number 200817218.

**EXHIBIT A-4**  
**First Amendment to Second Amended and Restated District  
Facilities Joint Financing, Construction and Service Agreement**

**FIRST AMENDMENT  
TO  
SECOND AMENDED AND RESTATED  
DISTRICT FACILITIES JOINT FINANCING, CONSTRUCTION  
AND SERVICE AGREEMENT**

This **FIRST AMENDMENT TO SECOND AMENDED AND RESTATED DISTRICT FACILITIES JOINT FINANCING, CONSTRUCTION AND SERVICE AGREEMENT** (“**First Amendment**”), is made and entered into as of May 25, 2021, by and between **CONFLUENCE METROPOLITAN DISTRICT** (“**Confluence**”), and **AVON STATION METROPOLITAN DISTRICT** (“**Avon Station**”), both quasi-municipal corporations and political subdivisions of the State of Colorado (collectively, the “**Districts**”). For avoidance of doubt, all references to Confluence in this First Amendment shall refer to the term “Operating District” under the 2007 IGA (hereafter defined) and all references to Avon Station hereunder shall refer to the “Financing District” under the 2007 IGA (hereafter defined).

**RECITALS**

**WHEREAS**, the Districts are authorized by Title 32, Article 1, Part 1, C.R.S. (the “**Act**”), to provide certain public improvements and services to and for the benefit of the properties within and without the boundaries of the Districts, in accordance with an Amended and Restated Consolidated Service Plan approved by the Town Council of the Town of Avon, Colorado on March 28, 2006 (as amended and restated from time to time, the “**Service Plan**”); and

**WHEREAS**, under the Service Plan, the Districts are authorized and intended to work together and coordinate their activities with respect to the financing, construction, operation and maintenance of public improvements necessary to serve development within Avon Station, which generally consists of commercial and residential development; and

**WHEREAS**, in furtherance of such authorization, the Districts previously entered into that certain “Second Amended and Restated District Facilities Joint Financing and Service Agreement,” dated as of April 26, 2007 (the “**2007 IGA**”), which agreement superseded and replaced the terms of that certain “Amended and Restated District Facilities Construction and Service Agreement,” dated November 13, 2003; and

**WHEREAS**, the 2007 IGA was entered into for the purpose of providing for the ownership, operation and maintenance of certain facilities (including facilities not funded with proceeds of the 2007 Bonds) and the funding of the same by Avon Station from ad valorem property taxes imposed by Avon Station, defined as the “Subordinate Required Capital Mill Levy” and the “Subordinate Required Service Levy,” and further governed by the limitation of the “Maximum Mill Levy” therein; and

**WHEREAS**, the authorization to enter into the 2007 IGA was declared to be based in part on electoral authorization obtained at elections of the qualified electors of Avon Station duly called for and held on November 3, 1998 (the “**1998 Election**”) and on May 2, 2006 (the “**2006 Election**”); and

**WHEREAS**, the 2007 IGA was executed contemporaneously with the issuance by Confluence of its Tax Supported Revenue Bonds, Series 2007, in the aggregate principal amount of \$24,665,000 (the “**2007 Bonds**”), to the repayment of which Avon Station pledged its “Capital Levy” (as defined in the Original Pledge Agreement defined below) pursuant to that certain “Capital Pledge Agreement,” dated as of May 1, 2007, by and among the Districts and U.S. Bank National Association (the “**Original Pledge Agreement**”); and

**WHEREAS**, the Original Pledge Agreement provides that obligations on the part of Avon Station to impose the Subordinate Required Capital Levy and the Subordinate Required Service Levy were subordinate to the obligations of Avon Station to impose mill levies under the Original Pledge Agreement; and

**WHEREAS**, for the purpose of currently refunding the 2007 Bonds, Confluence has determined to incur two loans, in the aggregate principal amount of \$18,700,000 (together, the “**2021A Senior Loans**”) and to issue its Subordinate Limited Tax Supported Revenue Refunding Bonds, Series 2021B, in the aggregate principal amount of \$4,420,000 (the “**2021B Subordinate Bonds**”) and collectively with the 2021A Senior Loans, the “**2021 Obligations**”), pursuant to the 2021 Loan Agreement (as defined herein) and 2021 Subordinate Indenture (as defined herein); and

**WHEREAS**, in connection with the issuance of the 2021 Obligations, the Districts (together with UMB Bank, N.A., as custodian under the Custodial Agreement) have agreed to enter into that certain “Amended and Restated Capital Pledge Agreement,” dated as of June 1, 2021 (the “**2021 Amended Capital Pledge Agreement**”), and that certain “Capital Pledge Agreement (Subordinate),” dated as of June 1, 2021 (the “**2021 Subordinate Capital Pledge Agreement**”) (collectively, the “**2021 Capital Pledge Agreements**”), by which Avon Station will be required to impose mill levies to raise ad valorem tax revenues to pay the 2021 Obligations, such levies are defined as the “Senior Required Mill Levy,” and the “Subordinate Required Mill Levy,” within the 2021 Amended Capital Pledge Agreement and the 2021 Subordinate Capital Pledge Agreement, respectively; and

**WHEREAS**, in order to assure that sufficient ad valorem property taxes may be raised by Avon Station under the 2021 Capital Pledge Agreements to pay the 2021 Obligations, it is necessary for the obligations of Avon Station to levy property taxes under the 2007 IGA to be made junior and subordinate to the obligations of Avon Station to levy the Senior Required Mill Levy and the Subordinate Required Mill Levy under the 2021 Capital Pledge Agreements; and

**WHEREAS**, in order to subordinate Avon Station’s obligations to levy property taxes under the 2007 IGA, it is necessary to amend the definition of the Maximum Mill Levy to remove a conversion of the Subordinate Required Capital Mill Levy from a limited mill levy to an unlimited mill levy; and

**WHEREAS**, in connection with the issuance of the 2021 Obligations, Avon Station desires to declare that its obligations incurred pursuant to the 2007 IGA were allocated to the electoral authorization received at the 1998 Election and not at the 2006 Election; and

**WHEREAS**, the Districts also desire to make certain additional administrative changes to the 2007 IGA as stated further herein;

## **COVENANTS**

NOW, THEREFORE, for and in consideration of the promises and the mutual covenants and stipulations herein, the parties hereby agree as follows:

### **1. Definitions.**

(a) Section 2.1 of the 2007 IGA is hereby amended by adding the following defined terms:

“2021 Amended Capital Pledge Agreement” means the Amended and Restated Capital Pledge Agreement, dated as of June 1, 2021, among the Districts and UMB Bank, n.a., as custodian under the Custodial Agreement, as it may be amended or supplemented from time to time.”

“2021 Capital Pledge Agreements” means, collectively, the 2021 Amended Capital Pledge Agreement and 2021 Subordinate Capital Pledge Agreement.”

“2021 Loan Agreement” means the Loan Agreement, dated as of June 1, 2021, between Confluence and BBVA Mortgage Corporation, as lender for the 2021A Senior Loans, as it may be amended or supplemented from time to time.

“2021 Obligation Documents” means, collectively, the 2021 Loan Agreement and the 2021 Subordinate Indenture.

“2021 Obligations” means, collectively, the 2021A Senior Loans and the 2021B Subordinate Bonds.”

“2021 Subordinate Capital Pledge Agreement” means the Capital Pledge Agreement (Subordinate), dated as of June 1, 2021, among the Districts and UMB Bank, n.a., as trustee for the 2021B Subordinate Bonds, as it may be amended or supplemented from time to time.”

“2021 Subordinate Indenture” means the Indenture of Trust (Subordinate), dated as of June 1, 2021, between Confluence and UMB Bank, n.a., as trustee for the 2021B Subordinate Bonds, as may be amended or supplemented from time to time.

“Custodial Agreement” means the Custodial Agreement, by and among Confluence, Avon Station, the Lender and UMB Bank, n.a., in its capacities as Custodian for the 2021A Senior Loans and Custodian and trustee for the 2021B Subordinate Bonds, as the same may be amended or supplemented from time to time.”

“Custodian” means UMB Bank, n.a. and its successors and assigns, in its capacities as custodian under the Custodial Agreement and not as trustee under any indenture that may be entered into by Confluence.

“Lender” means BBVA Mortgage Corporation, an Alabama corporation, in its capacity as lender of the 2021A Senior Loans.”

“Senior Required Mill Levy” shall have the meaning assigned to it in the 2021 Amended Capital Pledge Agreement.”

“Subordinate Required Mill Levy” shall have the meaning assigned to it in the 2021 Subordinate Capital Pledge Agreement.”

(b) Section 2.1 of the 2007 IGA is hereby amended by amending the definition of “Maximum Mill Levy” as follows:

“bb. “Maximum Mill Levy” shall mean the maximum mill levy to be imposed by the Financing District hereunder as follows: (i) with respect to the Subordinate Required Capital Mill Levy, 50 mills less the Senior Required Mill Levy and the Subordinate Required Mill Levy required to be imposed by the 2021 Amended Capital Pledge Agreement and the 2021 Subordinate Capital Pledge Agreement, respectively; and (ii) with respect to the Subordinate Required Service Levy, 49 mills less the sum of (a) the Senior Required Mill Levy and the Subordinate Required Mill Levy required to be imposed by the 2021 Amended Capital Pledge Agreement and the 2021 Subordinate Capital Pledge Agreement, respectively, and (b) the number of mills imposed hereunder as the Subordinate Required Capital Mill Levy.”

(c) Section 2.1 of the 2007 IGA is hereby amended by amending the definition of “Subordinate Bonds” as follows:

“Subordinate Bonds” shall mean any indebtedness issued by the Operating District payable from revenues other than the Senior Pledged Revenue (as that term is defined in the 2021 Amended Capital Pledge Agreement) or the Subordinate Pledged Revenue (as that term is defined in the 2021 Subordinate Capital Pledge Agreement).

**2. Subordination of the Subordinate Required Mill Levy.** The Districts hereby acknowledge obligations of Avon Station to impose the Senior Required Mill Levy and the Subordinate Required Mill Levy pursuant to the 2021 Amended Capital Pledge Agreement and the 2021 Subordinate Capital Pledge Agreement, respectively. The Districts agree that notwithstanding any other provision herein, the obligations of Avon Station to impose the Subordinate Required Capital Mill Levy and the Subordinate Required Service Mill Levy shall be junior and subordinate in all respects to its obligations under the 2021 Capital Pledge Agreements and any obligations entered into by Avon Station to refund the same and shall be subject to all limitations and requirements of such 2021 Capital Pledge Agreements and the 2021 Obligation Documents, and any documents governing the obligations of Avon Station entered into to refund the same.

**3. References to Certain Defined Terms.** All references in the 2007 IGA to the Revenue Bonds shall be replaced with references to the 2021 Obligations and any bonds or

obligations of Confluence issued to refund the same. All references in the 2007 IGA to the Capital Pledge Agreement shall be replaced with references to the 2021 Capital Pledge Agreements. All references to the Trustee shall be deemed to refer to the Custodian under the Custodial Agreement, the trustee under the 2021 Subordinate Indenture and to the trustee for any obligations issued to refund the 2021 Obligations.

**4. Electoral Authorization for 2007 IGA.** Avon Station hereby declares that its obligations incurred pursuant the 2007 IGA shall be allocated to the electoral authorization received at the 1998 Election and not the 2006 Election.

**5. Third Party Beneficiaries.** The owners of the 2021B Subordinate Bonds, the Lender, the trustee for the 2021B Subordinate Bonds, and owners and trustee of any bonds or obligations issued to refund the same are third party beneficiaries to the 2007 IGA and it is intended that there be no other third party beneficiaries of the 2007 IGA. Nothing contained herein, expressed or implied, is intended to give to any person other than Avon Station and the third party beneficiaries named herein any claim, remedy, or right under or pursuant hereto, and any agreement, condition, covenant, or term contained herein required to be observed or performed by or on behalf of any party hereto shall be for the sole and exclusive benefit of the other party.

**6. Administrative Revisions to 2007 IGA.** The following revisions are hereby made to the terms of the 2007 IGA:

- a. The first two sentences of Section 1.3(b) of the 2007 IGA are hereby deleted.
- b. The last sentence of Section 10.4 is hereby deleted.
- c. Section 10.16 is hereby superseded and replaced in its entirety by the following:

“10.16 Notices. Except as otherwise provided herein, all notices, certificates or other communications required to be given to any of the persons set forth below pursuant to any provision of this Agreement shall be in writing, shall be given either in person, by electronic mail, or any certified or registered mail, and if mailed, shall be deemed received three days after having been deposited in a receptacle for United States mail, postage prepaid, addressed as follows:

If to the District  
or Avon Station:

Confluence Metropolitan District or Avon Station  
Metropolitan District  
c/o Marchetti & Weaver LLC  
28 Second Street, Suite 213  
Edwards, Colorado 81632  
Telephone: (970) 926-6060  
Email: ken@mwcpaa.com  
Attention: Ken Marchetti

With a copy to:

White, Bear Ankele, Tanaka & Waldron  
2154 E. Commons Ave, Suite 2000  
Centennial, CO 80122  
Telephone: (303) 858-1800  
Email: [wpankele@wbapc.com](mailto:wpankele@wbapc.com)  
Attention: William P. Ankele, Jr.

The persons designated above may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, or other communications shall be sent. Where this Agreement provides for notice in any manner, such notice may be waived in writing by the person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice.

**7. Prior Provisions Effective.** Except as specifically modified herein, the terms of the 2007 IGA shall remain in full force and effect.

**8. Governing Law.** This Agreement shall be governed by the laws of the State of Colorado.

**9. Counterpart Execution.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, Confluence and Avon Station have executed this Agreement as of the day and year first above written.

*Signature Page Follows*

**CONFLUENCE METROPOLITAN DISTRICT**

  
\_\_\_\_\_  
President

ATTESTED:

  
\_\_\_\_\_  
Secretary or Assistant Secretary

**AVON STATION METROPOLITAN DISTRICT**

  
\_\_\_\_\_  
President

ATTESTED:

  
\_\_\_\_\_  
Secretary or Assistant Secretary

**EXHIBIT B-1**  
**CONFLUENCE METROPOLITAN DISTRICT**  
**2022 BUDGET**

AVON STATION METROPOLITAN DISTRICT  
 STATEMENT OF NET POSITION  
 October 31, 2020

Printed: 29-Dec-20

	<u>GENERAL FUND</u>	<u>DEBT SERVICE</u>	<u>LONG TERM DEBT</u>	<u>TOTAL</u>
<b><u>ASSETS</u></b>				
First Bank	6,172			6,172
Colotrust	67,845	56,920		124,765
Property Tax Receivable		2,997		2,997
Accounts Receivable	0	0		0
Prepaid Insurance	2,464			2,464
<b>TOTAL ASSETS</b>	<b>76,481</b>	<b>59,917</b>	<b>0</b>	<b>136,398</b>
<b><u>LIABILITIES</u></b>				
Accounts Payable	236	0		236
Deferred Property Tax		2,997		2,997
Capital & Service Oblig Payable to CFMD			28,520,311	28,520,311
				0
<b>TOTAL LIABILITIES</b>	<b>236</b>	<b>2,997</b>	<b>28,520,311</b>	<b>28,523,543</b>
<b><u>NET POSITION</u></b>				
Net of Capital and Service Obligation			(28,520,311)	(28,520,311)
Fund Balance	76,246	56,920		133,166
<b>TOTAL NET POSITION</b>	<b>76,246</b>	<b>56,920</b>	<b>(28,520,311)</b>	<b>(28,387,145)</b>
<b>TOTAL LIABILITIES AND NET POSITION</b>	<b>76,481</b>	<b>59,917</b>	<b>0</b>	<b>136,398</b>
	=	=	=	=

No assurance provided on these financial statements; substantially all disclosures required by GAAP omitted.

AVON STATION METROPOLITAN DISTRICT  
 STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE  
 BUDGET, ACTUAL AND FORECAST FOR THE PERIODS INDICATED

Printed: 29-Dec-20

Modified Accrual Basis

GENERAL FUND	Cal Yr 2019 Audited	Cal Yr 2020 Adopted Budget	Cal Yr 2020 Forecast Budget	10 Months Ended 10/31/20 Actual	10 Months Ended 10/31/20 Budget	Variance Favorable (Unfav)	2021 Adopted Budget	BUDGET ASSUMPTIONS
<b>REVENUES</b>								
Confluence Expense Reimbursement							0	
Transfer S.O. Tax from Debt Serv	52,525	20,840	26,342	0	0	0	19,700	SO tax & int
<b>TOTAL REVENUES</b>	<b>52,525</b>	<b>20,840</b>	<b>26,342</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>19,700</b>	
<b>EXPENDITURES</b>								
Insurance	2,600	3,000	3,000	2,653	3,000	347	3,000	Based on Prior Yrs
Directors Fees & Payroll Taxes	969	2,250	2,250	1,507	1,650	143	2,250	(4 mtgs 5 dir)
Elections	0	1,000	1,000	45	1,000	955	0	
Audit	5,000	5,100	5,100	5,100	5,100	0	5,200	
Developer Repayment		0	0		0	0	0	
Office Overhead	52	500	500	67	50	(17)	500	
<b>TOTAL EXPENDITURES</b>	<b>8,620</b>	<b>11,850</b>	<b>11,850</b>	<b>9,371</b>	<b>10,800</b>	<b>1,429</b>	<b>10,950</b>	
<b>REVENUE OVER (UNDER) EXPEND.</b>	<b>43,905</b>	<b>8,990</b>	<b>14,492</b>	<b>(9,371)</b>	<b>(10,800)</b>	<b>1,429</b>	<b>8,750</b>	
FUND BALANCE - BEGINNING	41,712	80,676	85,617	85,617	80,676	(4,941)	100,108	
<b>FUND BALANCE - ENDING</b>	<b>85,617</b>	<b>89,666</b>	<b>100,108</b>	<b>76,246</b>	<b>69,876</b>	<b>6,369</b>	<b>108,858</b>	

No assurance provided on these financial statements; substantially all disclosures required by GAAP omitted.

AVON STATION METROPOLITAN DISTRICT  
 STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE  
 BUDGET, ACTUAL AND FORECAST FOR THE PERIODS INDICATED

Printed: 29-Dec-20

Modified Accrual Basis

**DEBT SERVICE FUND**

	Cal Yr 2019 Audited	Cal Yr 2020 Adopted Budget	Cal Yr 2020 Forecast Budget	10 Months Ended 10/31/20 Actual	10 Months Ended 10/31/20 Budget	Variance Favorable (Unfav)	2021 Adopted Budget	BUDGET ASSUMPTIONS
<b>Assessed Valuation</b>								
Residential Assessment Rate			7.15%				3%	
Avon Station - NET AV	12,695,090	15,947,630	15,947,630				7.15%	16,471,320 Nov 2020 Final AV
Avon Station - TIF	5,785,000	7,095,300	7,095,300					7,766,930 Nov 2020 Final AV
<b>Gross AV</b>	<b>18,480,090</b>	<b>23,042,930</b>	<b>23,042,930</b>				<b>24,238,250</b>	
<b>Percent change</b>	<b>-0.5%</b>	<b>24.7%</b>	<b>24.7%</b>				<b>5.2%</b>	<b>Percent change</b>
<b>Services/Operations Mill Levy Rate</b>	23.000	23.000	23.000				23.000	<b>Serv/Ops Mill levy</b>
<b>Debt Service Mill Levy Rate (gallagherized)</b>	42.596	42.572	42.572				42.780	<b>Debt Serv Mill levy</b>
	<b>65.596</b>	<b>65.572</b>	<b>65.572</b>				<b>65.780</b>	
<b>REVENUES</b>								
Property Taxes - 23 Mills Serv IGA	290,277	366,795	366,795	365,744	366,795	(1,051)	378,840	
Property Taxes - Pledged DS	537,594	678,928	678,928	676,977	678,928	(1,951)	704,643	
Allowance for potential Abatement		(109,812)	0		0	0	0	
Specific Ownership Taxes	65,449	52,286	67,972	55,943	39,215	16,728	54,174	5% of Prop tax
Interest Income	4,451	2,500	2,500	2,295	2,083	211	758	1% of prop tax
<b>TOTAL REVENUES</b>	<b>897,772</b>	<b>990,698</b>	<b>1,116,196</b>	<b>1,100,959</b>	<b>1,087,022</b>	<b>13,937</b>	<b>1,138,415</b>	
<b>EXPENDITURES</b>								
Treasurer's Fees	24,855	31,372	31,372	31,298	31,372	74	32,505	3% of Prop Tax
Transfer Prop Tax - IGA Serv	281,563	355,792	355,792	354,766	355,792	1,025	367,475	23 Mills to CF Ops
Transfer Prop Tax- IGA D/S	521,454	658,560	658,560	656,654	658,560	1,906	683,504	Net DS Mills to CF
Transfer SO Tax - IGA D/S	42,501	33,946	44,130	36,320	26,143	(10,177)	35,232	
Allowance for potential Abatement		(106,518)	0		0	0	0	based on above less treas fe
<b>TOTAL EXPENDITURES</b>	<b>870,372</b>	<b>973,152</b>	<b>1,089,854</b>	<b>1,079,039</b>	<b>1,071,867</b>	<b>(7,172)</b>	<b>1,118,716</b>	
<b>REVENUE OVER (UNDER) EXPEND.</b>	<b>27,400</b>	<b>17,545</b>	<b>26,342</b>	<b>21,920</b>	<b>15,155</b>	<b>6,765</b>	<b>19,700</b>	
<b>OTHER FINANCING SOURCES/(USES)</b>								
Xfer Net S.O. tax & Int to General Fund	(52,525)	(20,840)	(26,342)	0	0	0	(19,700)	SO tax, int - treas fee
<b>TOTAL OTHER FINANCING SOURCES</b>	<b>(52,525)</b>	<b>(20,840)</b>	<b>(26,342)</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>(19,700)</b>	
<b>FUND BALANCE - BEGINNING</b>	<b>60,125</b>	<b>35,000</b>	<b>35,000</b>	<b>35,000</b>	<b>35,000</b>	<b>(0)</b>	<b>35,000</b>	
<b>FUND BALANCE - ENDING</b>	<b>35,000</b>	<b>31,706</b>	<b>35,000</b>	<b>56,920</b>	<b>50,155</b>	<b>6,765</b>	<b>35,000</b>	

No assurance provided on these financial statements; substantially all disclosures required by GAAP omitted.

**EXHIBIT B-2**  
**AVON STATION METROPOLITAN DISTRICT**  
**2022 BUDGET**

CONFLUENCE METROPOLITAN DISTRICT  
STATEMENT OF NET POSITION  
October 31, 2020

Printed: 30-Dec-20

	GENERAL FUND	DEBT SERVICE FUND	GONDOLA RESERVE FUND	FIXED ASSETS & LT DEBT	Total
<b>ASSETS</b>					
Cash in Checking & Savings	390,867	(19,713)	666,024		1,037,179
Bond - Pledged Revenue Account		402,488			402,488
Bond- Interest Account		0			0
Bond-Reserve Account		57,400			57,400
Bond - Sinking Fund Account		0			0
Bond - Surplus Account		1			1
Bond - Guaranty Account		0			0
Accounts Receivable	10,513	0			10,513
Capital Assets				12,277,956	12,277,956
Accumulated Depreciation				(4,310,433)	(4,310,433)
Prepaid Insurance	0				0
Capital/Serv Obligation from ASMD				608,105	608,105
<b>TOTAL ASSETS</b>	<b>401,380</b>	<b>440,176</b>	<b>666,024</b>	<b>8,575,628</b>	<b>10,083,208</b>
<b>LIABILITIES</b>					
Accounts Payable	46,034	0		0	46,034
Accrued Interest Payable				1,542,873	1,542,873
Developer Advance Payable				991,101	991,101
Developer Guaranty Payable				5,000,000	5,000,000
Bonds Payable				21,875,000	21,875,000
<b>TOTAL LIABILITIES</b>	<b>46,034</b>	<b>0</b>	<b>0</b>	<b>29,408,974</b>	<b>29,455,007</b>
<b>NET POSITION</b>					
Net Investment in Capital Assets				(21,441,451)	(21,441,451)
Net of Capital & Service Obligation				608,105	608,105
Restricted Net Assets		440,176			440,176
Assigned Net Assets			666,024		666,024
Unrestricted Net Assets	355,347				355,347
<b>TOTAL NET POSITION</b>	<b>355,347</b>	<b>440,176</b>	<b>666,024</b>	<b>(20,833,346)</b>	<b>(19,371,799)</b>
<b>TOTAL LIABILITIES AND NET POSITION</b>	<b>401,381</b>	<b>440,176</b>	<b>666,024</b>	<b>8,575,628</b>	<b>10,083,209</b>
	=	=	=	=	

No assurance provided on these financial statements;  
substantially all disclosures required by GAAP  
omitted.

CONFLUENCE METROPOLITAN DISTRICT  
 STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE  
 BUDGET, ACTUAL AND FORECAST FOR THE PERIODS INDICATED

Printed: 30-Dec-20

Modified Accrual Basis

GENERAL FUND	Cal Yr 2019 Audited	Cal Yr 2020 Adopted Budget	Cal Yr 2020 Forecast	10 Months Ended 10/31/20 Actual	10 Months Ended 10/31/20 Budget	Variance Favorable (Unfav)	2021 Adopted Budget	BUDGET ASSUMPTIONS
<b>REVENUES</b>								
TOA Gondola Ops IGA Contrib	251,898	252,332	212,315	81,833	173,050	(91,217)	235,700	50% of gond ops
TOA Public Plaza Ops IGA Contrib	34,645	42,100	42,100	31,538	30,000	1,538	43,363	50% of a portion of plaza ops
Trnsfr Prop Taxes - ASMD - 23 mills	281,563	355,792	355,792	354,766	355,792	(1,025)	367,475	23 Mills
Trnsfr Prop Taxes - ASMD IGA potential abatement		(37,362)	0				0	potential abatement
Trnsfr Prop Taxes - AS TOA URA 23 mills	127,929	158,296	158,296	82,122	158,296	(76,175)	173,280	23 Mills
Trnsfr Prop Taxes - Mtn Vista 5 Mills	14,254	18,569	18,569	18,563	18,569	(6)	18,198	5 Mills
Misc Income	207		2,985	2,982	0	2,982		Holy X equity refund
Interest	9,588	3,000	3,000	2,988	2,500	488	1,000	
<b>TOTAL REVENUES</b>	<b>720,084</b>	<b>792,727</b>	<b>793,057</b>	<b>574,793</b>	<b>738,207</b>	<b>(163,414)</b>	<b>839,016</b>	
<b>EXPENDITURES</b>								
<b>General &amp; Admin</b>								
Insurance	40,430	42,500	42,625	42,622	42,500	(122)	46,100	Pool & Travelers BMProp Sept
Directors Fees & Payroll Taxes	969	2,250	2,250	1,507	1,625	118	2,250	4 mtgs 5 directors
Accounting & Administration	25,583	25,750	30,000	20,475	21,458	984	26,000	Based on Prior Yrs
Audit	7,150	7,400	7,300	7,300	7,400	100	7,650	
Elections	65	1,500	10,000	5,919	1,500	(4,419)	0	
Office Overhead	43	250	250	103	95	(8)	250	
Legal	11,170	21,000	30,000	20,893	17,500	(3,393)	25,000	Based on Prior Yrs
Special Proj - bond refi planning	0	0	60,000	35,661	0	(35,661)	0	
<b>Operations:</b>								
Gondola Ops & Maint	339,086	330,865	225,000	184,157	254,535	70,378	300,000	based on VR budget
Gondola Utilities	23,676	31,000	25,000	18,697	24,683	5,986	27,500	
Gondola Stop Gap Insurance	40,067	41,500	40,380	40,376	41,500	1,124	42,500	TCW Admiral Sept
Gondola Mgmt - VR	75,000	75,000	75,000	56,250	62,500	6,250	75,000	based on VR budget
Gondola Reserve- Xfer	22,000	22,000	55,000	0	0	0	22,000	
CDOT Lease - thru 2037	4,164	4,300	4,250	0	0	0	4,400	per agreement
Public Plaza & Restrooms O&M -TOA cost sha	70,765	70,000	70,000	59,601	58,333	(1,268)	70,000	based on EW budget
Plaza Reserve Xfer	14,500	14,500	14,500	0	0	0	14,500	
RR Fence Staining	0	15,000	0	0	0	0	15,000	every other year
District Landscape, Entry Monument, O&M	38,199	60,000	60,000	47,163	40,850	(6,313)	60,000	
Contingency	0	10,000	23,260	0	0	0	15,000	
<b>TOTAL EXPENDITURES</b>	<b>712,866</b>	<b>774,815</b>	<b>774,815</b>	<b>540,725</b>	<b>574,480</b>	<b>33,755</b>	<b>753,150</b>	
<b>REVENUE OVER (UNDER) EXPEND.</b>	<b>7,219</b>	<b>17,913</b>	<b>18,242</b>	<b>34,068</b>	<b>163,727</b>	<b>(129,658)</b>	<b>85,866</b>	
FUND BALANCE - BEGINNING	314,060	306,220	321,279	321,279	306,220	15,058	339,521	
<b>FUND BALANCE - ENDING</b>	<b>321,279</b>	<b>324,133</b>	<b>339,521</b>	<b>355,347</b>	<b>469,947</b>	<b>(114,600)</b>	<b>425,387</b>	

No assurance provided on these financial statements;  
 substantially all disclosures required by GAAP  
 omitted.

CONFLUENCE METROPOLITAN DISTRICT  
 STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE  
 BUDGET, ACTUAL AND FORECAST FOR THE PERIODS INDICATED

Printed: 30-Dec-20

Modified Accrual Basis

**GONDOLA/CAPITAL RESERVE FUND**

	Cal Yr 2019 Audited	Cal Yr 2020 Adopted Budget	Cal Yr 2020 Forecast	10 Months Ended 10/31/20 Actual	10 Months Ended 10/31/20 Budget	Variance Favorable (Unfav)	2021 Adopted Budget	BUDGET ASSUMPTIONS
<b>REVENUES</b>								
Xfer from General Fund - Gondola	22,000	22,000	55,000	0	0	0	22,000	
Xfer from General Fund - Plaza	14,500	14,500	14,500	0	0	0	14,500	
Interest Income	14,699	12,000	5,000	4,761	10,000	(5,239)	1,000	
<b>TOTAL REVENUES</b>	<b>51,199</b>	<b>48,500</b>	<b>74,500</b>	<b>4,761</b>	<b>10,000</b>	<b>(5,239)</b>	<b>37,500</b>	
<b>EXPENDITURES</b>								
<b>Gondola</b>								
Agamatic 108 Grip rep (2020-23)		144,000	0		0	0		
Cabin Wheels	0							
Gearbox Rebuild (2024-27)							40,000	
Bullwheel Bearings (2021-22)								
Rope Replacement Materials (4,200 Ft)								
Rope Replacement Contractor (2025-30)								
Drive Replacement - Drive (2021-23)							60,000	
Drive Replacement - Commissioning (2021-23)							30,000	
Terminal Painting								
<b>Plaza</b>								
Upper Terminal Plaza		10,000	0		0	0		Staining Cedar siding
Public Plaza							0	
<b>Other</b>								
Entry Monuments								
Fence								
Gondola Maintenance Facility								
<b>TOTAL EXPENDITURES</b>	<b>0</b>	<b>154,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>130,000</b>	
<b>REVENUE OVER (UNDER) EXPEND.</b>	<b>51,199</b>	<b>(105,500)</b>	<b>74,500</b>	<b>4,761</b>	<b>10,000</b>	<b>(5,239)</b>	<b>(92,500)</b>	
FUND BALANCE - BEGINNING	610,064	661,314	661,263	661,263	661,314	(51)	735,763	
<b>FUND BALANCE - ENDING</b>	<b>661,263</b>	<b>555,814</b>	<b>735,763</b>	<b>666,024</b>	<b>671,314</b>	<b>(5,290)</b>	<b>643,263</b>	
No assurance provided on these financial statements; substantially all disclosures required by GAAP omitted.	=	=	=	=	=	=	=	
<b>Components of Fund Balance</b>								
Gondola Reserve	534,538	412,538	589,538					
Plaza Reserve	87,000	91,500	101,500					
Unrestricted	39,725	51,776	44,725					
	<b>661,263</b>	<b>555,814</b>	<b>735,763</b>					

CONFLUENCE METROPOLITAN DISTRICT  
 STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE  
 BUDGET, ACTUAL AND FORECAST FOR THE PERIODS INDICATED

Printed: 30-Dec-20

Modified Accrual Basis

**DEBT SERVICE FUND**

	Cal Yr 2019 Audited	Cal Yr 2020 Adopted Budget	Cal Yr 2020 Forecast	10 Months Ended 10/31/20 Actual	10 Months Ended 10/31/20 Budget	Variance Favorable (Unfav)	2021 Adopted Budget	BUDGET ASSUMPTIONS
<b>Assessed Valuation</b>								
Mountain Vista - information purposes only	2,991,070	3,713,890	3,713,890				3,639,530	Nov 2020 Final AV
Confluence	30	40	40				40	Nov 2020 Final AV
Confluence - TIF	10	20	20				20	Nov 2020 Final AV
Avon Station	12,695,090	15,947,630	15,947,630				16,471,320	Nov 2020 Final AV
Avon Station - TIF	5,785,000	7,095,300	7,095,300				7,766,930	Nov 2020 Final AV
<b>REVENUES</b>								
Trnsfr Prop Taxes - ASMD IGA	521,454	658,560	658,560	656,654	658,560	(1,906)	683,504	42.780 mills of 65.780mills
Trnsfr Prop Taxes - ASMD IGA potential abatement		(69,156)	0				0	potential abatement
Trnsfr Prop Taxes - AS TOA URA	236,863	277,899	293,002	152,003	277,899	(125,896)	322,301	
Trnsfr Prop Taxes - ASMD IGA - SO Tax	42,501	33,946	44,130	36,320	26,143	10,177	35,232	
Trnsfr Prop Taxes - Mtn Vista IGA	60,303	79,306	79,306	79,279	79,306	(27)	0	DS Obligation expired 02-23-20
Interest Income	11,572	1,000	13,339	517	833	(317)	0	
<b>TOTAL REVENUES</b>	<b>872,692</b>	<b>981,556</b>	<b>1,088,337</b>	<b>924,773</b>	<b>1,042,742</b>	<b>(117,968)</b>	<b>1,041,037</b>	
<b>EXPENDITURES</b>								
Bond Interest - 2007 Bonds	1,187,483	1,066,672	1,187,482	593,741	593,741	(0)	184,720	
Bond Principal - 2007 Bonds	0	0	0	0	0	0	0	
Bond Interest - 2020A GO Refund Bonds			0	0	0	0	475,755	
Bond Principal - 2020A GO Refund Bonds			0	0	0	0	0	
Bond Interest - 2020B Sub GO Ref Bonds							418,580	
Bond Principal - 2020 Sub GO Ref Bonds								
Bond Paying Agent Fees	17,153	10,000	10,000	0	0	0	10,000	
Contingency				0	0	0	140,000	
<b>TOTAL EXPENDITURES</b>	<b>1,204,635</b>	<b>1,076,672</b>	<b>1,197,482</b>	<b>593,741</b>	<b>593,741</b>	<b>(0)</b>	<b>1,229,055</b>	
<b>REVENUE OVER (UNDER) EXPEND.</b>	<b>(331,943)</b>	<b>(95,116)</b>	<b>(109,145)</b>	<b>331,032</b>	<b>449,001</b>	<b>(117,969)</b>	<b>(188,017)</b>	
<b>OTHER FINANCING SOURCES and (USES)</b>								
Proceeds from Refi G.O. Bonds/Dev. Loan	0	0		0	0	0	16,500,000	
Proceeds from Refi G.O. Subordinate Bonds							6,355,000	
Reserve, insurance and Cost of Issuance	0	0		0	0	0	(791,700)	
Payoff of 2007 bonds							(21,875,000)	
<b>TOTAL OTHER FINANCING SOURCES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>188,300</b>	
<b>FUND BALANCE - BEGINNING</b>	<b>441,087</b>	<b>95,116</b>	<b>109,144</b>	<b>109,144</b>	<b>95,116</b>	<b>14,028</b>	<b>(0)</b>	
Reverse contingency			0	0	0	0		
<b>FUND BALANCE - ENDING</b>	<b>109,144</b>	<b>(0)</b>	<b>(0)</b>	<b>440,176</b>	<b>544,117</b>	<b>(103,941)</b>	<b>282</b>	

No assurance provided on these financial statements;  
 substantially all disclosures required by GAAP  
 omitted.

2007 Bond Principal Balance 21,875,000 21,875,000

**Components of Fund Balance:**

Debt Service Reserve Fund	57,106	0	(0)	57,400
Guaranty Fund Reserve	0	0	0	0
Surplus Fund	0	0	0	1
Restricted for future debt service	52,038	(0)	0	382,775
<b>Total</b>	<b>109,144</b>	<b>0</b>	<b>0</b>	<b>440,176</b>