

**AMENDED AND RESTATED FIRST AMENDMENT TO  
DISTRICT FACILITIES CONSTRUCTION AND SERVICE AGREEMENT**

THIS AMENDED AND RESTATED FIRST AMENDMENT TO DISTRICT FACILITIES CONSTRUCTION AND SERVICE AGREEMENT (the "Amended and Restated First Amendment") is made and entered into as of this 24<sup>th</sup> day of November, 2008, by and between Alpine Metropolitan District (the "Operating District"), and Breckenridge Mountain Metropolitan District (the "Taxing District"), both quasi-municipal corporations and political subdivisions of the State of Colorado (collectively the "Districts"). Capitalized terms used in this Amendment that are not otherwise defined shall have the meanings ascribed thereto in the Master IGA (defined below).

**RECITALS**

WHEREAS, the Districts entered into that certain "District Facilities Construction and Service Agreement," dated as of July 15, 2003 (the "Master IGA"), which provided for the Operating District to coordinate public infrastructure financing, construction and ongoing operations for the mutual benefit of the Districts; and

WHEREAS, the Master IGA requires that the Taxing District impose up to the Maximum Mill Levy to fund Capital Costs and Service Costs thereunder; and

WHEREAS, the Master IGA requires that the Taxing District use its best efforts to issue general obligation debt to fund Capital Costs that are incurred by or on behalf of the Districts by the Operating District, and to transfer the revenues therefrom to the Operating District to pay such costs; and

WHEREAS, the Districts have entered into that certain "Infrastructure Acquisition Agreement," dated as of November 20, 2008 (the "IAA"), with Vail Summit Resorts, Inc. ("VSR") by which the Districts have agreed to pay or reimburse the costs of certain public infrastructure constructed or to be constructed on behalf of the Districts by VSR; and

WHEREAS, in accordance with the Master IGA, the Taxing District is issuing general obligation debt for the purpose of funding the current obligations of the Districts under the IAA; and

WHEREAS, the debt being issued by the Taxing District is to be in the form of two Loans, by and between the Taxing District and Compass Mortgage Corporation ("Compass"); and

WHEREAS, the first loan was issued on November 20, 2008, in the principal amount of \$9,500,000.00 pursuant to that certain "Loan Agreement" dated as of November 20, 2008\_ (the "Loan" and "Loan Agreement," respectively, as applicable); and

WHEREAS, the second loan is being issued as of November 24, 2008, in the principal amount of \$500,000.00 pursuant to that certain "Loan Agreement" dated as of November 24,

2008 (the "Second Loan" and "Second Loan Agreement," respectively, as applicable)(the Loan and the Second Loan shall be referred to herein collectively as the "Loans) (the Loan Agreement and the Second Loan Agreement shall be referred to herein collectively as the "Loan Agreements")

WHEREAS, the Loans are payable from certain Pledged Revenue (as that term is defined in the Loan Agreements), including that derived from the imposition of ad valorem property taxes by the Taxing District; and

WHEREAS, the Loan Agreements contain certain terms, conditions and limitations describing the circumstances under which additional Debt (as that term is defined in the Loan Agreement) may have a parity claim to the Pledged Revenue, or otherwise may be subordinate to the lien on the Pledged Revenue of the Loans; and

WHEREAS, as a condition to the making of the Loans, and during the term thereof, Compass is requiring that the obligations of the Taxing District to levy ad valorem property taxes to fund Capital Costs under the Master IGA be made subject to the Permitted Subordinate Debt provisions of the Loan Agreements contained in Section 5.12(d) thereof; and

WHEREAS, the Master IGA contemplated that the obligations of the Taxing District thereunder be subordinate to general obligation debt issued by the Taxing District thereunder; and

WHEREAS, the Districts desire to establish that the obligations of the Taxing District to levy up to the Maximum Mill Levy to pay Capital Costs under the Master IGA shall be treated as "Permitted Subordinate Debt" under Section 5.12(d) of the Loan Agreements and subject to the limitations set forth therein, for so long as the Loan Agreements are in effect; and

WHEREAS, in connection with the issuance of the Loan, the Districts have previously entered into that certain "First Amendment to District Facilities Construction and Service Agreement," dated as of November 20, 2004 (the "First Amendment"); and

WHEREAS, in order to accommodate the issuance of the Second Loan, and to consolidate the amendments required to the Master IGA by the both Loans, the Districts now desire to enter into this "Amended and Restated First Amendment to District Facilities Construction and Service Agreement" to supersede and replace the terms of the First Amendment.

Now, therefore, in consideration of the covenants and mutual agreements herein contained, and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

## **COVENANTS AND AGREEMENTS**

1. Applicability of Permitted Subordinate Debt Provisions of Loan Agreements. The Districts agree that, during the term of the Loans and for so long as the Loan Agreements are

in effect, the obligations of the Taxing District to impose the Maximum Mill Levy for purposes of funding Capital Costs under the Master IGA, shall be expressly subject to and limited by the provisions of Section 5.12(d) of the Loan Agreement concerning Permitted Subordinate Debt, notwithstanding anything contained in the Master IGA to the contrary. To this end, the following terms and conditions shall apply:

a. The Operating District shall notify the Taxing District and Compass Mortgage Corporation of the dollar amount of Capital Costs that is due and owing from time to time to the Operating District under the Master IGA. The aggregate amount of such Capital Costs shall count against the limitation on Debt contained in Section 5.12(d)(i) of the Loan Agreements, as they may be amended;

b. Any payment of Capital Costs declared under Paragraph 1.a, to the extent payable from the Maximum Mill Levy, shall be subordinate and junior, on an annual basis, to the payment of the Loans, to their respective Interest Rate Exchange Agreements (including the Borrower Termination Payments), the Series 2006 Bonds, and any Parity Debt (as each of those terms are defined in the Loan Agreements);

c. Any interest on Capital Costs declared under Paragraph 1.a., to the extent payable from the Maximum Mill Levy, shall not exceed 8.0% per annum, or such higher amount as may be permitted under the Loan Agreements;

d. The Maximum Mill Levy applicable to the payment of any Capital Costs declared under Paragraph 1.a., shall be 50 mills less the number of mills necessary to pay the Loans, their respective Interest Rate Exchange Agreements (including the Borrower Termination Payments), the Series 2006 Bonds, and the Parity Debt;

e. The obligation to pay Capital Costs declared under Paragraph 1.a shall constitute cash flow obligations of the Taxing District, and shall not be subject to payment default provisions of the Master IGA, other than the right of the Operating District to enforce the collection of amounts that may be produced from within the Maximum Mill Levy set forth in Paragraph 1.d. hereof;

f. Principal and interest payments on the Capital Costs declared under Paragraph 1.a shall be limited to current year revenue only and shall be payable only from and to the extent of revenue derived from imposition of the Maximum Mill Levy specified in Paragraph 1.d hereof;

g. Payments on the Capital Costs declared under Paragraph 1.a. shall be made not more than once annually and only on a date in each year after the date on which all payments due in that year on the Loans, their respective Interest Rate Exchange Agreements (including the Borrower Termination Payments), the Series 2006 Bonds, and any Parity Debt have been made or the amount necessary to make such payments has been accumulated and is on deposit in the applicable payment fund;

h. Payment of the Capital Costs declared under Paragraph 1.a shall not be subject to acceleration;

i. Payment of the Capital Costs declared under Paragraph 1.a shall not be made if an Event of Default under either Loan Agreement or under their respective Interest Rate Exchange Agreements shall have occurred and be continuing; and

The obligations of the Taxing District to impose the Maximum Mill Levy for purposes of funding Operating Costs under the Master IGA shall not be subject to or limited by the provisions of Section 5.12 of the Loan Agreements

2. Relationship to First Amendment. This Amended and Restated First Amendment to District Facilities Construction and Service Agreement shall supersede and replace, in its entirety, the provisions of the First Amendment, which shall have no further force and effect.

3. Termination of Loan Agreement/Termination of Amended and Restated First Amendment. At such time as both Loan Agreements are terminated, this Amended and Restated First Amendment shall automatically terminate, and the limitations set forth in Paragraph 1 hereof shall no longer be applicable with respect to the obligations of the Taxing District to impose the Maximum Mill Levy to pay Capital Costs.

3. Other Master IGA Provisions Unaffected. Except as modified herein, the provisions of the Master IGA shall remain in full force and effect.

[Remainder of this page left blank intentionally]

Executed and effective as of the day and year first above written.

**ALPINE METROPOLITAN DISTRICT**

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

**ATTEST**

By: \_\_\_\_\_  
Secretary

**BRECKENRIDGE MOUNTAIN  
METROPOLITAN DISTRICT**

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

**ATTEST**

By: \_\_\_\_\_  
Secretary