

RESOLUTION NO. 2021-12-09

RESOLUTION OF THE BOARD OF DIRECTORS OF EAST BEND METROPOLITAN DISTRICT DECLARING ITS INTENT TO REIMBURSE DEVELOPER FOR ADVANCES FOR OPERATIONS, MAINTENANCE AND CAPITAL EXPENSES

- A. East Bend Metropolitan District (the “**District**”) is a duly organized and validly existing special district, quasi-municipal corporation and political subdivision of the State of Colorado pursuant to Title 32, Colorado Revised Statutes.
- B. Richmond American Homes of Colorado, Inc. (the “**Developer**”) is the developer of property located within the District (“**Property**”).
- C. The District intends to construct certain public improvements and provide certain services to the Property (“**District Services**”).
- D. In order for the Property to be developed, it is necessary for the District to be able to pay its ongoing operations and maintenance expenses which enable it to provide the District Services.
- E. The District anticipates that it will not have sufficient revenues to make payment of its operations and maintenance or capital expenses for budget year 2021 and subsequent years.
- F. In order to enable the District to provide District Services, the Developer is willing to advance funds to the District for operations, maintenance and capital expenses.
- G. The District desires to evidence its intent to repay the Developer for the advances made hereunder.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of East Bend Metropolitan District, Arapahoe County, Colorado:

1. The Developer will advance funds on behalf of the District as are necessary to pay ongoing operations and maintenance expenses, which expenses shall include, but not be limited to, legal, management and insurance costs.
 - (a) The Developer will advance funds on behalf of the District as are necessary to pay capital expenses related to providing the District Services.
 - (b) The District has determined, and does hereby determine, that it is in the best interests of the District and its service users to reimburse the Developer for funds advanced for operations, maintenance and capital expenses.
 - (c) Following the adoption of this Resolution, the District shall proceed diligently and in good faith to negotiate an agreement with the Developer to further evidence its intent to make reimbursements as set forth herein.

(d) This Resolution evidences an intent of the District Board of Directors to reimburse the Developer for the advanced funds, but shall not constitute a debt or indebtedness of the District within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple-fiscal year financial obligation, and the making of any reimbursement hereunder shall be at all times subject to annual appropriation by the District in its absolute discretion.

(e) Judicial invalidation of any of the provisions of this Resolution or any paragraph, sentence, clause, phrase or word herein, or the application thereof in any given circumstances, shall not affect the validity of the remainder of this Resolution, unless such invalidation would act to destroy the intent or essence of this Resolution.

[SIGNATURE PAGE FOLLOWS]

**[SIGNATURE PAGE TO RESOLUTION OF THE BOARD OF DIRECTORS OF THE
EAST BEND METROPOLITAN DISTRICT DECLARING ITS INTENT TO
REIMBURSE DEVELOPER FOR ADVANCES FOR OPERATIONS, MAINTENANCE
AND CAPITAL EXPENSES]**

RESOLUTION APPROVED AND ADOPTED ON December 10, 2021.

EAST BEND METROPOLITAN DISTRICT

By: *Matt Hengel*
President

Attest:

 Dan J.W. Pod
Secretary