

# SILVER PEAKS EAST METROPOLITAN DISTRICT

141 Union Boulevard, Suite 150  
Lakewood, Colorado 80228-1898  
Tel: 303-987-0835 • 800-741-3254  
Fax: 303-987-2032

## NOTICE OF A SPECIAL MEETING AND AGENDA

<u>Board of Directors:</u>	<u>Office:</u>	<u>Term/Expiration:</u>
David B. Jack	President	2027/May 2027
Lars Monson	Treasurer	2025/May 2025
Jordan Honea	Assistant Secretary	2027/May 2025*
Vacant		2025/May 2025
Vacant		2027/May 2025*

*\*This seat will be a two-year term at the May 2025 Election.*

DATE: Wednesday, April 17, 2024

TIME: 11:00 A.M.

PLACE: Zoom

Join Zoom Meeting

<https://us02web.zoom.us/j/86267550643?pwd=V3RnRGRtWkRyUIZZc1VMWTJFZjFHdz09>

**Meeting ID:** 862 6755 0643

**Passcode:** 987572

**Dial In:** 1-719-359-4580

### I. ADMINISTRATIVE MATTERS

A. Present Conflict Disclosures.

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B. Approve Agenda, and confirm quorum; confirm location of the meeting and posting of meeting notices.

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C. Review and consider approval of Minutes from the January 23, 2024 Special Meeting (enclosure).

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D. Acknowledge resignation of Jordan Honea from the Board effective April 4, 2024.

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E. Consider appointments to fill Board vacancies.

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F. Consider election of officers.

President \_\_\_\_\_  
Treasurer \_\_\_\_\_  
Secretary \_\_\_\_\_  
Asst. Secretary \_\_\_\_\_  
Asst. Secretary \_\_\_\_\_  
Asst. Secretary \_\_\_\_\_

II. PUBLIC COMMENT

- A. Matters not specifically included on the Agenda may be addressed. As a courtesy to others, comments shall be limited to three minutes per person.

\_\_\_\_\_

III. FINANCIAL MATTERS

- A. \_\_\_\_\_

IV. LEGAL MATTERS

- A. Review and ratify approval of an Amend and Restated Temporary Easement Agreement between the District and Melody Homes, Inc. (enclosure).

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- B. Review and ratify approval of an Infrastructure Acquisition and Funding Agreement between the District and Melody Homes, Inc. (enclosure).

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- C. Review and ratify approval of an Operating Reimbursement Agreement between the District and Melody Homes, Inc. (enclosure).

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V. OTHER MATTERS

- A. \_\_\_\_\_

VI. ADJOURNMENT **THERE ARE NO MORE REGULAR MEETINGS SCHEDULED FOR 2024.**

# RECORD OF PROCEEDINGS

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## MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE SILVER PEAKS EAST METROPOLITAN DISTRICT HELD JANUARY 23, 2024

A special meeting of the Board of Directors (the "Board") of the Silver Peaks East Metropolitan District (the "District") was convened on Tuesday, the 23<sup>rd</sup> day of January, 2024, at 11:00 a.m. this Board meeting was held by video/telephone conference with all participants attending via video/telephone conference. The meeting was open to the public.

### ATTENDANCE

#### Directors In Attendance Were:

David B. Jack  
Jordan Honea  
Lars Monson

#### Also In Attendance Were:

Peggy Ripko; Special District Management Services, Inc.

Matt Ruhland; Cockrel Ela Glesne Greher & Ruhland, P.C.

Alex Fink; Clifton Larson Allen, LLP

### DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

The Board discussed the requirements pursuant to the Colorado Revised Statutes to disclose any potential conflicts of interest or potential breaches of fiduciary duty to the Board and to the Secretary of State. Ms. Ripko noted that a quorum was present and requested members of the Board to disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting, and incorporated for the record those applicable disclosures made by the Board members prior to this meeting in accordance with the statute. Attorney Ruhland noted that all Directors' Disclosure Statements had been filed.

### ADMINISTRATIVE MATTERS

**Agenda:** Ms. Ripko distributed for the Board's review and approval a proposed Agenda for the District's regular meeting.

Following discussion, upon motion duly made by Director Honea, seconded by Director Jack and, upon vote, unanimously carried, the Agenda was approved, as presented.

**Approval of Meeting Location:** The Board entered into a discussion regarding the requirements of Section 32-1-903(1), C.R.S., concerning the location of the

## RECORD OF PROCEEDINGS

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District’s Board meeting. Following discussion, upon motion duly made by Director Honea, seconded by Director Jack and, upon vote, unanimously carried, the Board determined that because there was not a suitable or convenient location within its boundaries, or within the County in which the District is located, or within twenty (20) miles from the District boundaries to conduct this meeting, it was determined to conduct the meeting at the above-stated location. The Board further noted that notice of the time, date and location was duly posted and that they have not received any objections to the location or any requests that the meeting place be changed by taxpaying electors within its boundaries.

**Minutes:** The Board reviewed the Minutes of the December 1, 2023 Special Meeting.

Following discussion, upon motion duly made by Director Honea, seconded by Director Jack and, upon vote, unanimously carried, the Minutes of the December 1, 2023 Special Meeting were approved.

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**PUBLIC COMMENT** There were no public comments.

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**FINANCIAL MATTERS** **2024 Budget:** The Board discussed the 2024 Budget. No action was taken.

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**LEGAL MATTERS** **Conveyance Public Infrastructure Constructed by Forestar Real Estate Group, Inc.:** The Board discussed the conveyance of public infrastructure, including sidewalk, privacy fence, monuments, outlet structures, trickle channel, non-irrigated native seed and irrigated plant material, (the “Public Infrastructure”) constructed by Forestar Real Estate Group, Inc. located on Tract AA, Silver Peaks Filing No. 1, Amendment No. 2 and Tract GG, Silver Peaks Filing No. 1, Amendment No. 3

Following discussion, upon motion duly made by Director Honea, seconded by Director Jack and, upon vote, unanimously carried, the Board approved the conveyance of the Public Infrastructure constructed by Forestar Real Estate Group, Inc.

**Resolution No.2024-01-01; Resolution Designating Posting Location:** The Board reviewed Resolution No.2024-01-01; Resolution Designating Posting Location.

Following discussion, upon motion duly made by Director Honea, seconded by Director Jack and, upon vote, unanimously carried, the Board approved Resolution No.2024-01-01; Resolution Designating Posting Location.

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## RECORD OF PROCEEDINGS

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**OTHER MATTERS**

There were no other matters to discuss at this time.

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**ADJOURNMENT**

There being no further business to come before the Board at this time, upon motion duly made by Director Jack and seconded by Director Honea and, upon vote, unanimously carried, the meeting was adjourned.

Respectfully submitted,

By: \_\_\_\_\_  
Secretary for the Meeting

**AMENDED AND RESTATED  
TEMPORARY EASEMENT AGREEMENT**

THIS AMENDED AND RESTATED TEMPORARY EASEMENT AGREEMENT (this “**Agreement**”) is entered into this 20<sup>th</sup> day of March, 2024, by and between SILVER PEAKS EAST METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the state of Colorado (“**Grantor**”), whose address is c/o Special District Management Services, Inc., 141 Union Boulevard, Suite 150, Lakewood, Colorado 80228-1898 and MELODY HOMES, INC., a Delaware corporation (“**Grantee**”), whose address is 9555 South Kingston Court, Englewood Colorado 80112. Grantor and Grantee may each be referred to herein individually as “**Party**” and collectively as “**Parties**”.

**RECITALS**

A. Grantor owns Tracts AA, and MM, Silver Peaks Filing No. 1, Amendment No. 2, recorded at Reception No.4461778, and Tracts HH and LL, Silver Peaks Filing No 1, Amendment No. 3 recorded at Reception No. 4659631 (the “**Subdivision**”), Town of Lochbuie (the “**Town**”), Weld County (the “**County**”), Colorado (the “**Easement Area**”).

B. In connection with Grantee’s construction of certain improvements pursuant to the construction plans approved by the Town of Lochbuie (the “**Construction Plans**”), Grantee desires to obtain and Grantor is willing to grant a temporary, non-exclusive easement over, across, and through the Easement Area for the purposes described below, subject to the terms and conditions set forth herein.

C. The Parties entered into a Temporary Easement Agreement, dated March 7, 2024, and recorded with the Weld County Clerk and Recorder at Reception Number 4948328 (the “**Original Agreement**”).

D. The Parties wish to amend and restate the Original Agreement in its entirety to, among other things, to correct the Easement Area defined therein.

Agreement

In consideration of the promises and agreements made by the Parties herein, the sufficiency of which is hereby acknowledged by both of the Parties, Grantor and Grantee hereby promise and agree as follows:

1. Recitals. The Recitals are hereby incorporated herein.
2. Grant of Easement. FOR AND IN CONSIDERATION of the sum of One Hundred Dollars (\$100.00) and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged by Grantor, Grantor hereby grants, bargains, sells, and conveys to Grantee and its successors and assigns, its respective officers, employees, agents, contractors, or subcontractors, (collectively, the “**Authorized Parties**”) a temporary non-exclusive easement (the “**Easement**”) in and to, over, across, under and through the Easement Area for the purposes of initially constructing and installing certain improvements located thereon, including, without

limitation, grading, drainage, utility, landscaping, irrigation and such other improvements as identified in the Construction Plans (the “**Improvements**”). Grantee shall have the right of ingress and egress in, to, through, over, under, and across the Easement Area for the purposes herein stated and at any and all times necessary or convenient for the full enjoyment of the rights granted to it in this Agreement. Following completion of construction of the Improvements, Grantee, or its contractors or assigns, shall restore any part of the surface of the Easement Area that is damaged or disturbed as a result of Grantee’s exercise of its rights hereunder to substantially the same condition existing at the commencement of such construction activities. If Grantee fails to restore the surface of the Easement Area within fourteen (14) days after notice thereof from Grantor, Grantor may do so at Grantee’s expense. The Easement shall automatically terminate on the earlier of the following: (i) the date that is forty-five (45) days after the completion of the construction of the Improvements and the Easement Area is restored in accordance with the previous sentence, or (ii) December 31, 2024; provided, however, that Grantee may extend the term by an additional six (6) months by written notice to Grantor.

3. Limitations on Use. With respect to all construction activities on the Easement Area by the Authorized Parties pursuant to the Construction Plans, such Authorized Parties shall:

- (i) Comply with all applicable laws, ordinances, statutes, regulations, building codes, and permits that regulate any activities performed by the Authorized Parties under this Agreement, including, without limitation, all federal, state and local laws, environmental laws, ordinances and regulations and permits regarding storm water pollution prevention and dust control.
- (ii) Comply with all federal, state, and local permits relating to water quality, erosion, drainage, sediment control, grading and stormwater discharge relating to the Easement Area.
- (iii) Promptly repair any damage to the Easement Area to the extent that the damage is caused by any of the Authorized Parties.

3.1 No Liens. Neither Grantee nor any Authorized Party has authority to cause a lien or encumbrance against the Easement Area in connection with the activities permitted under this Agreement. Further, and without limiting the foregoing, Grantee agrees to promptly pay, or cause the applicable Authorized Parties to pay, when due all costs associated with such activities and not to cause, permit or suffer any encumbrance, mechanic’s lien, materialmen’s lien, or other type of lien to be filed or recorded against the Easement Area or to be asserted against the Grantor arising from, related to, or in any way connected with the activities permitted under this Agreement. Grantee, at its cost, either shall cause any such lien to be released or shall obtain a surety bond to discharge any such lien pursuant to C.R.S. 38-22-131 (or any successor statute) within fifteen (15) days after such lien is filed against the Easement Area. Grantee shall indemnify and hold harmless Owner from any and all mechanics liens arising from all Authorized Parties’ use of the Easement Area pursuant to this Agreement.

3.2 Insurance Requirements. At its cost and expense, Grantee shall comply, and shall cause each Authorized Party, to procure before entering the Easement Area, and thereafter maintain continuously during the initial construction of the Improvements, insurance

complying with the following requirements (the “**Insurance Requirements**”): (a) general liability insurance from a reputable insurer licensed in the State of Colorado, in the amount of \$1,000,000.00 combined single limit for personal injury and property damage per occurrence and \$2,000,000 in the aggregate, (b) the insurance shall provide coverage against any claim for personal liability or property damage caused by any Authorized Party, (c) the insurance shall name Grantor as an additional insured party, (d) Grantee shall provide evidence of such insurance to Grantor before entry upon the Easement Area and thereafter provide evidence of such insurance to Grantor within five business days after written request.

3.3 Indemnification. Grantee shall indemnify, defend and hold harmless Grantor from all claims, costs, liabilities, and causes of action arising from or related to the Authorized Parties’ construction activities, including, without limitation, reasonably attorney’s fees and costs, except claims or cause of action arising from the negligence or intentional misconduct of Grantor.

3.4 Mutual Non-Interference. Grantor shall not make any use of the Easement Area that will interfere with Grantee’s use and enjoyment of the Easement. Grantor acknowledges that the construction activities contemplated herein may cause an interruption in access of the Easement Area or utility services to the Easement Area. Grantee shall use commercially reasonable efforts to preserve or restore Grantor’s access to the Easement Area and any disrupted utility services

4. Certain Reserved Rights. Except as otherwise provided in this Agreement, Grantor reserves the rights to use the Easement Area and to grant further easement interests in the Easement Area to other third parties so long as such interests and uses do not materially or unreasonably interfere with Grantor’s use of the Easement Area. Without limiting the foregoing, Grantor shall not modify the surface, drainage characteristics or topography of, or construct or install structures or facilities on or around the Improvements without having first obtained Grantor’s written consent, which consent may be withheld by Grantor in its reasonable discretion.

5. No Waiver. No provision of this Agreement may be waived except by written instrument signed by the party to be charged with such waiver. Failure by any party to this Agreement to enforce any provision of this Agreement shall not constitute a waiver of such provision, and no waiver by any party to this Agreement of any provision of this Agreement on one occasion shall constitute a waiver of any other provision or of the same provision on another occasion.

6. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the Grantor, its respective officials, directors, officers, employees, contractors, or agents, or any other person acting on behalf of the Grantor and, in particular, governmental immunity afforded or available to the Grantor pursuant to the Colorado Governmental Immunity Act, § 24-10-101, *et seq.*, C.R.S., as from time to time amended.

7. Covenants Running With Land; Assignment. This Agreement and each of the provisions of this Agreement touch and concern the Easement Area and shall be covenants running with the land, benefitting and binding on the Easement Area and on Grantee and Grantor and their



respective successors and assigns. This Agreement shall inure to the benefit of and be enforceable by Grantee and Grantor and their respective successors and assigns. Notwithstanding anything in this Agreement to the contrary, Grantee may assign any or all of its rights or obligations under this Agreement to a local municipality or public entity, an owners' association or a metropolitan district, or such other third party assuming the construction and/or maintenance of the Improvements, and upon assumption by such assignee of the assigned obligations, Grantee shall be relieved of any liability with respect to such assigned obligations. Grantee shall record this Agreement, and any assignment thereof, in the office of the Clerk and Recorder of Weld County, Colorado

8. Further Assurances. The parties hereto and their respective successor owners, shall from time to time execute and deliver to the other party and its successors, any instruments reasonably requested by a party or its successor owner, to effect or confirm any provision of this Agreement.

9. Severability. If any clause or provision of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby.

10. Applicable Law; Venue. This Agreement shall be governed and interpreted under the laws of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Exclusive venue for all actions arising from this Agreement shall be in the District Court in and for Weld County.

11. Entire Agreement. This Agreement constitutes the final and complete expression of the parties' agreements with respect to the rights and obligations with respect to the terms hereof. Each party agrees that it has not relied upon or regarded as binding any prior agreements, negotiations, representations or understandings, whether oral or written, except as expressly set forth herein.

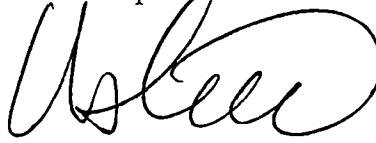
12. Counterparts. This Agreement may be executed in counterparts and, when counterparts of this Agreement have been executed and delivered by both Grantee and Grantor, this Agreement shall be fully binding and effective just as if both Grantee and Grantor had executed and delivered a single counterpart of this Agreement, all of which together shall constitute but one and the same instrument.

(Signatures on Following Pages)



**GRANTEE:**

**MELODY HOMES, INC**  
a Delaware corporation



By: \_\_\_\_\_  
Name: William Carlisle  
Title: Vice President


STATE OF COLORADO )  
COUNTY OF Douglas ) ss.

The foregoing instrument was acknowledged before me this 20 day of March, 2024, by William Carlisle as Vice President of Melody Homes, Inc., a Delaware corporation.

WITNESS my hand and official seal.

My commission expires 9/8/2026

JORDAN HONEA  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20144034938  
MY COMMISSION EXPIRES SEPTEMBER 8, 2026

  
Notary Public

## INFRASTRUCTURE ACQUISITION AND FUNDING AGREEMENT

This Infrastructure Acquisition and Funding Agreement (this “**Agreement**”) is made and entered into to be effective as of MARCH 15, 2024, by and between SILVER PEAKS METROPOLITAN DISTRICT NO. 6, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and MELODY HOMES, INC., a Delaware corporation (the “**Company**”), individually referred to herein as a “**Party**” and collectively referred to herein as the “**Parties**.”

### RECITALS

A. The District was organized under Article 1, Title 32, C.R.S. for the purpose of financing, planning, design, engineering, acquiring, constructing, installing, completing and maintaining water, streets and roadway, parks and recreation, sanitation and drainage and other public improvements, infrastructure and facilities within and without the boundaries of the District (the “**Public Infrastructure**”), in accordance with, and subject to the limitations set forth in the Service Plan (the “**Service Plan**”) of Silver Peaks Metropolitan District No. 6 approved by the Town of Lochbuie (the “**Town**”).

B. Pursuant to Section 32-1-1001(1)(f) and (h), C.R.S., the District has the power to acquire real and personal property, including rights and interests in property and easements necessary for District functions or operations, and to acquire, construct and install the public improvements, infrastructure and facilities authorized in the Service Plan.

C. At an organizational/TABOR Election held by the District on May 8, 2018, a majority of the eligible electors voting at such election voted in favor of, among other matters, the District incurring indebtedness and other multiple-fiscal year financial obligations to finance the planning, design, engineering, acquisition, construction, installation and completion of the Public Infrastructure.

D. At present the District does not have sufficient funds available to finance the planning, design, engineering, acquisition, construction, installation and completion of the Public Infrastructure.

E. The Company, in its sole and absolute discretion, may either advance funds to the District to plan, design, engineer, acquire, construct, install and complete certain Public Infrastructure or may plan, design, engineer, acquire, construct, install and complete certain Public Infrastructure and then to transfer such Public Infrastructure to the District, the Town or other governmental entity for public use.

F. The Parties agree that such Public Infrastructure will benefit the residents, property owners and taxpayers of the District, and the planning, design, engineering,

acquisition, construction, installation and completion of the Public Infrastructure is in the public interest and will contribute to the health, safety and welfare of its citizens.

G. The District has determined it is in the public interest of the residents, property owners and taxpayers of the District for the District to plan, design, engineer, acquire, construct, install and complete the Public Infrastructure and/or facilitate the planning, design, engineering, acquisition, construction, installation and completion of the Public Infrastructure and, when financially feasible, to pay the Company or its assignee for the costs of the Public Infrastructure (the “Costs”) through and by means of the issuance of the District’s bonds and other legally available funds in accordance with all limitations set forth in the Service Plan.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements contained herein and other good and sufficient consideration, the Parties agree to the terms discussed hereinafter.

## **COVENANTS AND AGREEMENTS**

1. Representations, Warranties and Covenants Relating to Public Infrastructure Constructed by the Company. With respect to any Public Infrastructure planned, designed, engineered, acquired, constructed, installed and completed by the Company hereunder, the Company, represents, warrants and covenants to its actual current knowledge as follows:

a. All such Public Infrastructure has been or will be planned, designed, engineered, acquired, constructed, installed and completed in conformance with all duly approved designs, plans and specifications and the requirements, standards and specifications of the District, the Town or other governmental entity, as applicable, and will be conveyed, transferred or dedicated to the District, the Town or other governmental entity for public use, free of all liens, encumbrances and obligations of every nature, except those of record and those a survey or inspection thereof would disclose.

b. The foregoing representations, warranties and covenants are made as of the date of this Agreement and shall be deemed to be continuing for all purposes for the Warranty Period (hereinafter defined), unless otherwise approved in writing by the District.

2. Transfer of Public Infrastructure Constructed by the Company. The Company shall convey, transfer or dedicate the Public Infrastructure to the District or, if so directed by the District, the Town or other governmental entity upon completion and acceptance of the Public Infrastructure by the District, the Town or other governmental entity, as applicable as follows:

a. The Public Infrastructure shall conform to the requirements, standards and specifications of all public and/or private agencies to which the Public Infrastructure may be or is required to be conveyed, transferred or dedicated by the District, including without limitation, the Town or other governmental entity, in addition to any standards or requirements adopted by the District. At its discretion and request, the District may require the Company to arrange for the work to be inspected by the District's engineers, at the District's sole cost and expense, so that the engineers will be able to advise and certify to the District that all work was performed to their satisfaction and in compliance with the applicable drawings, standards and specifications.

b. As a precondition to the conveyance, transfer or dedication of any Public Infrastructure to the District, the Town or other governmental entity for ownership, maintenance and repair, the Company shall provide the District, the Town or other governmental entity, as applicable, with a guarantee, to secure performance of warranty obligations against defects in materials, workmanship, construction and installation of the Public Infrastructure all for a two-year period (the "**Warranty Period**"). This requirement shall not apply to any Public Infrastructure for which the Company satisfies all the requirements of the entity to which the improvement, infrastructure or facility will ultimately be conveyed, transferred or dedicated if that entity agrees to take title and to release the District from any ongoing responsibility.

c. The Company shall provide to the District or, if so directed by the District, to the Town or other governmental entity: (i) a bill of sale, special warranty or quitclaim deed conveying, transferring or dedicating the Company's interests in the Public Infrastructure, free and clear of all liens, encumbrances and obligations of every nature, except those of record and those a survey or inspection thereof would disclose, and (ii) if applicable, a partial release of its interests in the Public Infrastructure from any lender that has loaned funds to complete the Public Infrastructure, together with any easements and rights-of-way necessary for the convenient construction, operation, repair, replacement or maintenance of any Public Infrastructure located on any property owned by the Company and that has not been conveyed, transferred or dedicated to the District, the Town or other governmental entity, in a commercially reasonable form.

d. The Company shall also provide to the District or the Town or other governmental entity, as applicable, "as-built" drawings of all Public Infrastructure or a certification signed by a licensed professional engineer confirming the location and extent of the Public Infrastructure, together with supporting maps and other documentation as may be reasonably required by the District, or the Town or other governmental entity, at the District's sole cost and expense, including without limitation any appraisals, surveys, environmental reports, permits, assignments of construction warranties, lien waivers, releases and other documentation relating to the Public Infrastructure or the transfer thereof.

e. The District shall not accept conveyance, transfer or dedication of any Public Infrastructure, or any portion thereof, or be obligated to pay interest for any such Public Infrastructure until such Public Infrastructure is completed. Upon completion of any Public Infrastructure, or any portion thereof, in conformance with all applicable requirements, standards and specifications of the Service Plan and all public and/or private agencies to which such Public Infrastructure may be or are required to be conveyed, transferred or dedicated to the District, including without limitation, the Town or other governmental entity, in addition to any standards or requirements adopted by the District, such Public Infrastructure may be accepted for ownership by the District.

3. Cost Certification. The Costs of any Public Infrastructure subsequently acquired by or conveyed, transferred or dedicated to the District, the Town or other governmental entity shall be determined based upon actual costs verified by the District, subject to the limitations detailed in Section 5(c) herein.

a. The Costs shall include all construction costs, planning, design, engineering, surveying, construction management, legal and other consulting services, and any other allowable capital expense relating to the Public Infrastructure.

b. Before any payment of any Costs are made hereunder, the Company shall provide a schedule of such Costs and the District shall have such Costs reviewed or audited by an independent public accountant, professional engineer, appraiser or valuation consultant, which may include the District's engineer and/or accountant, selected and by the District and paid for by the Company, substantiating the amount of the Costs.

4. Capital Advances. The Company has advanced or may in the future, in its sole discretion, provide advances to the District (the "**Advances**") as requested from time to time in writing by the District to pay certain costs related to the planning, design, engineering, construction, installation and completion of the Public Infrastructure, including without limitation, soft costs, such as those related to engineering, architectural, surveying or construction planning. Such Advances shall be treated as Costs herein and paid, to the extent certified as Costs, as provided in Section 3 herein. In connection with any Public Infrastructure for which an Advance is provided:

a. The Company may request, and the District shall promptly provide to the Company, a certified statement of all design, testing, engineering, construction, related consultant fees and construction management (based on the bids it receives, and prepared by its engineer) of any Public Infrastructure for which an Advance is provided.

b. The District agrees that it will enter into contracts for construction of the Public Infrastructure with the lowest responsive and responsible bidder (subject to District's discretion) (the "**Contracts**"). References to the Contracts herein shall refer to the Contracts as may be constituted or modified by the parties thereto and shall refer to both singular and plural.

c. The District agrees that it will plan, design, engineer, acquire, construct, install and complete the Public Infrastructure in full conformance with the design standards and specifications as established and in use by the District and other government entities pursuant to the provisions of this Agreement and if applicable approved by a professional engineer licensed in the State of Colorado.

d. Within 45 days of final payment on any Contract awarded pursuant to this Agreement, the District shall conduct an accounting of the funds received pursuant to this Agreement. In the event Advances deposited hereunder exceeds the actual costs and expenses incurred for the Public Infrastructure, the District shall within 30 days of such accounting refund such excess amounts to the Company or shall apply the remaining amounts to the unpaid balance of any other Contract.

5. Payment of Costs.

a. If and to the extent the District (i) receives bond proceeds for the acquisition or completion of the Public Infrastructure or (ii) has other legally available revenue which is not otherwise appropriated, obligated, pledged or reserved for any current or future purpose in any fiscal year, the District will, from such available sources, pay to the Company for all the Costs and other amounts actually advanced hereunder, together with interest thereon at 8.0% per annum (cumulatively, the “**Infrastructure Repayment Amount**”) from the date (i) of transfer to the District or the Town or other governmental entity for Public Infrastructure completed and transferred after the date hereof, or (ii) of an Advance, pursuant to Section 4 herein.

b. The District will undertake commercially reasonable efforts to issue its tax-exempt bonds and to generate sufficient revenue to repay to the Company all of the Infrastructure Repayment Amount, subject to all conditions and limitations set forth herein and other applicable law. If requested, the District will also take all necessary action to recognize that interest paid to the Company on the Costs will, to the extent possible under federal tax regulations, be treated as exempt from federal income taxation. Any decision by the Board of Directors of the District to appropriate the Infrastructure Repayment Amount, however, shall be purely discretionary and non-obligatory.

c. All of the Infrastructure Repayment Amount and any other obligation hereunder shall be: (i) limited to sums authorized in the Service Plan; (ii) limited to sums authorized via and ballot questions or TABOR election’s conducted by the District; and (iii) limited to sums that may be available from the proceeds of any District bond offering and as limited under any related bond indenture or bond resolution and (iv) non-transferable or assignable, except to a person or entity (or its lender) which the District reasonably believes is engaged, either alone or with others, in the business of developing or improving property in the District for use, sale, lease or transfer to others.

6. Waiver of Covenants. The District, in its discretion, may waive any of the covenants of the Parties set forth herein by written notice to the Company; provided,



however, that such waiver shall not constitute a general waiver of all covenants, nor shall any such waiver prevent the District from enforcing other terms of this Agreement.

7. Integrated Agreement and Amendments. This Agreement constitutes the entire agreement of the Parties with respect to the District's payment obligation for the Costs of any Public Infrastructure and the other matters set forth herein and replaces in their entirety any prior agreements, understandings, warranties or representations made by or between the Parties with respect to the subject matter hereof. This Agreement may be amended only by the mutual written agreement of the Parties, which agreement shall be executed with the same formalities as this Agreement shall have been executed.

8. Notice. Any notices, demands, or other communications required or permitted to be given in writing hereunder shall be delivered personally or sent by registered mail, postage prepaid, return receipt requested, addressed to the Parties at the addresses set forth below, or at such other address as either Party may hereafter or from time to time designate by written notice to the other Party given in accordance herewith. Notice shall be considered given when personally delivered or mailed and shall be considered received by the Party to whom it is addressed on the third day after such notice is given.

To the District:

Silver Peaks Metropolitan District No. 6  
c/o Cockrel Ela Glesne Greher & Ruhland, P.C.  
44 Cook Street, Suite 620  
Denver, Colorado 80211  
Attention: Matt Ruhland  
To the Company:

Melody Homes, Inc.  
9555 South Kingston Court #200  
Englewood, Colorado 80112  
Attention: Ron Mullenbach

9. Assignment. This Agreement, and each and every of its rights and obligations, may not be assigned by either Party except with the written consent of the non-assigning Party. This Agreement shall inure to the mutual benefit of the Parties and their respective successors and authorized assigns. Notwithstanding the foregoing, no Party may make an assignment of this Agreement that would result in a failure to comply with Interpretive Order No. 06-IN-001 (the "**Interpretive Order**"), and any such assignment shall be deemed void *ab initio*.

10. Severability. If any clause or provision of this Agreement shall be adjudged to be invalid and unenforceable by a court of competent jurisdiction or by

operation of law, such clause or provision shall not affect the validity of this Agreement as a whole or of its other clauses and provisions.

11. Enforcement. This Agreement shall inure to the mutual benefit of the Parties, their respective heirs, successors and permitted assigns, subject to Section 9 hereof, and shall be enforceable according to its terms and conditions under the laws of the State of Colorado. In this regard, the Parties hereto agree that this Agreement may be enforced in law or in equity, by decree of specific performance or damages, or pursuant to such other legal and/or equitable relief as may be available under the laws of the State of Colorado.

12. Default / Remedies. In the event of any breach or default of this Agreement, each Party shall be entitled to exercise any remedy available in equity or at law. In this regard, this Agreement may be enforced by specific performance or injunction, or pursuant to such other legal and/or equitable relief as may be available under the laws of the State. The prevailing Party shall be entitled to reasonable attorney fees and costs. Absent bad faith or fraud by the District, no penalty shall be imposed upon the District because of its inability to pay any portion of the Infrastructure Repayment Amount to the Company. There shall be no acceleration in the payment of any outstanding balances of the Infrastructure Repayment Amount in the event of any default. Nothing contained herein shall allow recovery for consequential or punitive damages. Venue for any judicial action shall be in the State District Court for Weld County.

13. Counterpart Execution. This Agreement may be executed in multiple counterparts, and the signature of a Party affixed to a counterpart signature of the other Party shall be deemed to constitute execution of the Agreement.

14. Term. The term of this Agreement shall end on the date that the Infrastructure Repayment Amount has been paid in full to the Company or its assignee in accordance with the terms hereof or 40 years from the date hereof, whichever date occurs first in time. Any Infrastructure Repayment Amount remaining unpaid under this Agreement as of the date of termination shall be considered discharged and satisfied in full.

15. Agreement Not an Indebtedness or Multiple Fiscal Year Financial Obligation. The payment obligations under this Agreement shall be subject to annual appropriation by the Board of Directors of the District in its sole and absolute discretion. The terms and conditions of this Agreement shall not be construed as a multiple-fiscal year direct or indirect district debt or other financial obligation within the meaning of Article X, Section 20 of the Colorado Constitution.

16. Governmental Immunity. Nothing herein shall be construed as a waiver of the rights and privileges of the District pursuant to the Colorado Governmental Immunity Act.

17. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Colorado.

18. Authority. By its execution hereof, each Party represents and warrants that its representative signing hereunder has full power and lawful authority to execute this document and bind the respective Party to the terms hereof.

19. Subordinate to District Bonded Indebtedness. The obligations of the District hereunder to pay the Infrastructure Repayment Amount are subordinate in all respects to any bonded indebtedness of the District and the provisions of any indenture, loan agreement, pledge agreement or other similar financial agreement executed in connection with the issuance of such bonded indebtedness.

20. Conflicting Provisions. To the extent that any conflict exists between the terms of this Agreement and the terms of the Service Plan, the provisions of the Service Plan shall control.

*[Remainder of page intentionally left blank]*

IN WITNESS WHEREOF, the Parties have executed this Infrastructure Acquisition and Funding Agreement as of the day and year first set forth above.

SILVER PEAKS METROPOLITAN DISTRICT NO. 6

By [Signature]  
President/Chair

Attest:

[Signature]  
Secretary

MELODY HOMES, INC., a Delaware corporation

By: [Signature]  
Name: Ron Mullenbach  
Title: Assistant VP

STATE OF COLORADO )  
 )ss.  
COUNTY OF Weld )

The foregoing Infrastructure Acquisition and Funding Agreement was acknowledged before me this 15<sup>th</sup> day of March, 2024, by Ron Mullenbach as Assistant VP of Melody Homes, Inc., a Delaware corporation, on behalf of said corporation.

WITNESS my hand and official seal.

My commission expires: 06/15/2027

(S E A L)

JENNIFER SIMMONS BERTRON  
Notary Public  
State of Colorado  
Notary ID # 20234022745  
My Commission Expires 06-15-2027

[Signature]  
Notary Public

## OPERATING REIMBURSEMENT AGREEMENT

This Operating Reimbursement Agreement (this “**Agreement**”) is made and entered into to be effective as of MARCH 15, 2024, by and between SILVER PEAKS METROPOLITAN DISTRICT NO. 6, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and MELODY HOMES, INC., a Delaware corporation (the “**Company**”), individually referred to herein as a “**Party**” and collectively referred to herein as the “**Parties**.”

### RECITALS

A. The District was organized under Article 1, Title 32, C.R.S. for the purpose of financing, planning, designing, engineering, acquiring, constructing, installing, completing and maintaining water, streets and roadway, parks and recreation, sanitation and drainage and other public improvements, infrastructure and facilities within and without the boundaries of the, in accordance with, and subject to the limitations set forth in the Service Plan (the “**Service Plan**”) of Silver Peaks Metropolitan District No. 6 approved by the Town of Lochbuie.

B. At present the District does not have sufficient funds available to pay its operating, maintenance, and administrative expenses.

C. The Company, in its sole and absolute discretion, may advance funds as requested from time to time by the District to pay such expenses with the expectation of eventually being reimbursed by the District pursuant to this Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements contained herein and other good and sufficient consideration, the Parties agree to the terms discussed hereinafter.

### COVENANTS AND AGREEMENTS

1. Advances.

a. The District was organized by an Order and Decree granted by the Weld County District Court on June 12, 2018 and recorded with the Weld County Clerk & Recorder at Reception Number 4408853 on June 20, 2018. The Company, in its sole and absolute discretion, may, but shall not be obligated to in any manner, advance additional funds (the “**Advances**”) as requested from time to time by the District to pay any future operating, maintenance, and/or administrative expenses in accordance with the terms of this Agreement.

b. If the District determines that it will not have sufficient funds available to pay the District’s anticipated operating, maintenance, and/or administrative expenses for the next fiscal year, the District shall calculate the anticipated amount of

such funding shortfall (the “**Funding Shortfall**”), which shall be classified by nature of use.

c. The District may submit written requests on a quarterly basis to the Company to deposit with the District’s bank the amount of the Funding Shortfall anticipated to be needed for the next fiscal quarter. The Company, after reasonable verification of such Funding Shortfall, may, in its sole and absolute discretion, make an Advance and fund the Funding Shortfall for the next fiscal quarter after such request from the District. To the extent any Advance is not spent by the District in the fiscal quarter for which it was requested, the unspent amount of the Advance shall be applied to reduce any Funding Shortfall anticipated for the subsequent fiscal quarter.

d. Within 45 days after the end of each fiscal year during the term of this Agreement, the District shall complete an accounting of any funds advanced pursuant to this Agreement, which shall be classified by nature of use. In the event that the funds advanced hereunder exceed the actual costs and expenses incurred by the District for operation, maintenance, and/or administration, the District shall refund such excess amounts to the Company within 30 days of such accounting and a written request from the Company.

## 2. Reimbursement.

a. If and to the extent the District has legally available revenue which is not otherwise appropriated, obligated, pledged or reserved for any current or future purpose in any fiscal year, the District will, from such available sources, reimburse the Company for all Advances, together with interest thereon at 8.0% per annum (cumulatively, the “**Operating Reimbursement Amount**”) commencing as of the date of each Advance, but in no event prior to the date the District was organized.

b. Any decision by the Board of Directors of the District to appropriate the Operating Reimbursement Amount, however, shall be purely discretionary and non-obligatory.

c. The Parties acknowledge that no proceeds of tax-exempt obligations of the District shall be used to reimburse the Company for the Operating Reimbursement Amount.

d. Payments by the District for the Operating Reimbursement Amount shall be applied first to interest on, then to principal of the Advances in chronological order to their effective date.

e. The District’s obligation to reimburse the Company shall be automatically suspended for any period in which the District is on inactive status under Section 32-1-104(3)(a), C.R.S., and shall automatically revive upon the District returning

to active status under Section 32-1-104(3)(b), C.R.S. While on inactive status, interest on any Operating Reimbursement Amount shall continue to accrue as provided in Section 2(a).

3. Waiver of Covenants. The District, in its discretion, may waive any of the covenants of the Parties set forth herein by written notice to the Company; provided, however, that such waiver shall not constitute a general waiver of all covenants, nor shall any such waiver prevent the District from enforcing other terms of this Agreement.

4. Integrated Agreement and Amendments. This Agreement constitutes the entire agreement of the Parties with respect to the District's payment obligation for operating expenses and the other matters set forth herein and replaces in their entirety any prior agreements, understandings, warranties or representations made by or between the Parties with respect to the subject matter hereof. This Agreement may be amended only by the mutual written agreement of the Parties, which agreement shall be executed with the same formalities as this Agreement shall have been executed.

5. Notice. Any notices, demands, or other communications required or permitted to be given in writing hereunder shall be delivered personally or sent by registered mail, postage prepaid, return receipt requested, addressed to the Parties at the addresses set forth below, or at such other address as either Party may hereafter or from time to time designate by written notice to the other Party given in accordance herewith. Notice shall be considered given when personally delivered or mailed and shall be considered received by the Party to whom it is addressed on the third day after such notice is given.

To the District:

Silver Peaks Metropolitan District No. 6  
c/o Cockrel Ela Glesne Greher & Ruhland, P.C.  
44 Cook Street, Suite 620  
Denver, Colorado 80211  
Attention: Matt Ruhland

To the Company:

Melody Homes, Inc.  
9555 South Kingston Court #200  
Englewood, Colorado 80112  
Attention: Ron Mullenbach

6. Assignment. This Agreement, and each and every of its rights and obligations, may not be assigned by either Party except with the written consent of the non-assigning Party. This Agreement shall inure to the mutual benefit of the Parties and

their respective successors and authorized assigns. Notwithstanding the foregoing, no Party may make an assignment of this Agreement that would result in a failure to comply with Interpretive Order No. 06-IN-001, and any such assignment shall be deemed void *ab initio*.

7. Severability. If any clause or provision of this Agreement shall be adjudged to be invalid and unenforceable by a court of competent jurisdiction or by operation of law, such clause or provision shall not affect the validity of this Agreement as a whole or of its other clauses and provisions.

8. Enforcement. This Agreement shall inure to the mutual benefit of the Parties, their respective heirs, successors and permitted assigns, subject to Section 6 hereof, and shall be enforceable according to its terms and conditions under the laws of the State of Colorado. In this regard, the Parties hereto agree that this Agreement may be enforced in law or in equity, by decree of specific performance or damages, or pursuant to such other legal and/or equitable relief as may be available under the laws of the State of Colorado.

9. Default / Remedies. In the event of any breach or default of this Agreement, each Party shall be entitled to exercise any remedy available in equity or at law. In this regard, this Agreement may be enforced by specific performance or injunction, or pursuant to such other legal and/or equitable relief as may be available under the laws of the State. The prevailing Party shall be entitled to reasonable attorney fees and costs. Absent bad faith or fraud by the District, no penalty shall be imposed upon the District because of its inability to pay any portion of the Operating Reimbursement Amount to the Company. There shall be no acceleration in the repayment of outstanding Operating Reimbursement Amount in the event of any default. Nothing contained herein shall allow recovery for consequential or punitive damages. Venue for any judicial action shall be in the State District Court for Weld County.

10. Counterpart Execution. This Agreement may be executed in multiple counterparts, and the signature of a Party affixed to a counterpart signature of the other Party shall be deemed to constitute execution of the Agreement.

11. Term. The term of this Agreement shall end on the date that the Operating Reimbursement Amount has been paid in full to the Company or its assignee in accordance with the terms hereof or 40 years after the date hereof, whichever date occurs first in time. Any Operating Reimbursement Amount remaining unpaid under this Agreement as of the date of termination shall be considered discharged and satisfied in full.

12. Agreement Not an Indebtedness or Multiple Fiscal Year Financial Obligation. The payment obligations under this Agreement shall be subject to annual appropriation by the Board of Directors of the District in its sole and absolute discretion.



The terms and conditions of this Agreement shall not be construed as a multiple-fiscal year direct or indirect district debt or other financial obligation within the meaning of Article X, Section 20 of the Colorado Constitution.

13. Governmental Immunity. Nothing herein shall be construed as a waiver of the rights and privileges of the District pursuant to the Colorado Governmental Immunity Act.

14. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Colorado.

15. Authority. By its execution hereof, each Party represents and warrants that its representative signing hereunder has full power and lawful authority to execute this document and bind the respective Party to the terms hereof.

16. Conflicting Provisions. To the extent that any conflict exists between the terms of this Agreement and the terms of the Service Plan, the provisions of the Service Plan shall control.

*[Remainder of page intentionally left blank]*

IN WITNESS WHEREOF, the Parties have executed this Operating Reimbursement Agreement as of the day and year first set forth above.

SILVER PEAKS METROPOLITAN DISTRICT NO. 6

By [Signature]  
President/Chair

Attest:

[Signature]  
Secretary

MELODY HOMES, INC., a Delaware corporation

By: [Signature]  
Name: Ron Mullenbach  
Title: Assistant VP

STATE OF COLORADO )  
 )ss.  
COUNTY OF Weld )

The foregoing Operating Reimbursement Agreement was acknowledged before me this 15<sup>th</sup> day of March, 2024, by Ron Mullenbach as Assistant VP of Melody Homes, Inc., a Delaware corporation, on behalf of said corporation.

WITNESS my hand and official seal.

My commission expires: 06/15/2027

(SEAL)

JENNIFER SIMMONS BERTRON  
Notary Public  
State of Colorado  
Notary ID # 20234022745  
My Commission Expires 06-15-2027

[Signature]  
Notary Public