

**SUBORDINATE CAPITAL PLEDGE AGREEMENT**

This **SUBORDINATE CAPITAL PLEDGE AGREEMENT** (the “**Agreement**” or “**Pledge Agreement**”), is made and entered into and dated as of \_\_\_\_\_ 1, 2018, by and among **DUBLIN NORTH METROPOLITAN DISTRICT NO. 2** (the “**Issuing District**”), **DUBLIN NORTH METROPOLITAN DISTRICT NO. 3** (“**District No. 3**”), **DUBLIN NORTH METROPOLITAN DISTRICT NO. 1** (“**District No. 1**”), and **UMB BANK, N.A.**, in its capacity as trustee under that certain Indenture of Trust (Subordinate) dated as of \_\_\_\_\_ 1, 2018, entered into with the Issuing District (the “**Trustee**”). The Issuing District and District No. 3 are referred to herein as the “**Districts**.” Said Districts are quasi-municipal corporations and political subdivisions of the State of Colorado (the “**State**”).

**RECITALS**

**WHEREAS**, the formation of the Issuing District, District No. 3, and Dublin North Metropolitan District No. 1 (“**District No. 1**”) was approved by the City Council for the City of Colorado Springs, Colorado (the “**City**”) on \_\_\_\_\_, in conjunction with the approval of Dublin North Metropolitan Districts No. 1, No. 2 and No. 3 Consolidated Service Plan (the “**Service Plan**”); and

**WHEREAS**, under the Service Plan, the Districts and District No. 1 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 the Districts; and

**WHEREAS**, the Districts and District No. 1 were organized with the approval of the City, and with the approval of their respective electors, such approvals fully contemplating cooperation between the Districts and District No. 1 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 and District No. 1 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 and District No. 1 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 and District No. 1 were formed include the provision of, among other things, street, traffic and safety, water, sanitation, parks and recreation, public transportation, television relay and translation, mosquito control and security improvements and facilities, all in accordance with the Service Plan; and

**WHEREAS**, the Districts have determined that the public improvements set forth on Exhibit B hereto (the “**Facilities**”) were generally contemplated by the Service Plan, are needed and, due to the nature of the Facilities and proximity and interrelatedness of the development anticipated to occur within the boundaries of the Districts, such Facilities do or will benefit the Districts, residents, property owners and taxpayers in the Districts as a whole; and

**WHEREAS**, for the purpose of funding certain costs of the Facilities, the Districts have previously entered into an Infrastructure Acquisition and Reimbursement Agreement dated June 19, 2012, which was subsequently amended in a Resolution of the Board of Directors of Dublin North Metropolitan District Nos. 1 & 2 Regarding Certification of District Eligible Costs and Amendment to the Infrastructure Acquisition and Reimbursement Agreement dated November 12, 2014 (as the same may be amended from time to time, the “**Reimbursement Agreement**”) with Apaloosa Investments, LLC, and Dublin Ten Development, LLC (collectively the “**Developers**”), pursuant to which the Issuing District has agreed to acquire from the Developers any Facilities constructed for the benefit of the District and to reimburse the Developers for the costs of Facilities constructed by or on behalf of the Developers (if any) in accordance with the provisions thereof, but solely from the sources of revenue identified therein, and subject to the limitations more particularly provided therein; and

**WHEREAS**, for the purpose of financing or reimbursing the costs of the Project (including paying amounts due or to become due under the Reimbursement Agreement), the Issuing District previously incurred indebtedness in the form of a Loan Agreement with NBH Capital Finance, a division of NBH Bank, N.A., as lender (the “**2014 Lender**”) dated November 19, 2014 (the “**2014 Loan Agreement**”), pursuant to which the 2014 Lender committed to make one or more term loans to the Issuing District in the principal amount of up to \$2,000,000, subject to the satisfaction of certain conditions set forth therein; and

**WHEREAS**, in accordance with the 2014 Loan Agreement, the 2014 Lender has made loans to the Issuing District in the total principal amount of [\$1,930,215] [CONFIRM – NEED DOCUMENTATION OF ADDITIONAL ADVANCES] (collectively, the “**2014 Loans**”), of which an aggregate principal amount of \$[1,839,214.40] presently remains outstanding; and

**WHEREAS**, the Issuing District’s repayment obligations under the 2014 Loan Agreement with respect to the 2014 Loans are further evidenced by multiple promissory notes executed by the Issuing District in favor of the Lender (the “**2014 Notes**”); and

**WHEREAS**, the 2014 Loans and the 2014 Notes mature on November 19, 2024, and bear interest at interest rates per annum calculated as set forth in the 2014 Loan Agreement, subject to increase in the event of default and certain other events, including a default rate applicable upon a failure to pay the 2014 Loans in full at the final maturity, calculated at a variable rate but in no event to exceed a net effective interest rate of 18%, as more particularly described in the 2014 Loan Agreement; and

**WHEREAS**, the Issuing District, at its option, may prepay the 2014 Loans on any date upon payment to the 2014 Lender of the current loan balance plus accrued and unpaid interest to the date of prepayment [CONFIRM NO PRIOR NOTICE REQUIREMENT]; and

**WHEREAS**, the parties now desire to facilitate the issuance of indebtedness by the Issuing District secured by ad valorem property taxes of the Issuing District and District No. 3 for the purpose of refunding the 2014 Loans and financing or refinancing the costs of Facilities, including the Project; and

**WHEREAS**, for the purpose of financing a portion of the Project (including paying amounts due under the Reimbursement Agreement) and refunding the 2014 Loans, the Board of Directors of the Issuing District has previously determined to issue its Limited Tax General Obligation Refunding and Improvement Bonds, Series 2018A, in the aggregate principal amount of \$\_\_\_\_\_ (the “**2018A Senior Bonds**”) pursuant to an Indenture of Trust (Senior) dated as of \_\_\_\_\_ 1, 2018 (the “**2018A Senior Indenture**”) between the Issuing District and UMB Bank, n.a., as trustee; and

**WHEREAS**, in order to provide for the payment of the 2018A Senior Bonds and certain other obligations that may be issued by the Issuing District in the future, the Issuing District has entered into an Senior Capital Pledge Agreement, dated as of \_\_\_\_\_ 1, 2018, with District No. 3 and the Trustee (the “**Senior Pledge Agreement**”), pursuant to which District No. 3 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 trustee for payment of the obligations specified therein, or as otherwise directed by the Issuing District; and

**WHEREAS**, for the purpose of financing or reimbursing an additional portion of the Project (including paying amounts due under the Reimbursement Agreement), on or about the date of issuance of the 2018A Senior Bonds, the Issuing District intends to issue its Subordinate Limited Tax General Obligation Bonds, Series 2018B, in the aggregate principal amount of \$\_\_\_\_\_ (the “**2018B Subordinate Bonds**”), pursuant to an Indenture of Trust (Subordinate) dated as of February 1, 2018 (the “**2018B Subordinate Indenture**”), by and between the Issuing District and UMB Bank, n.a., as trustee (the “Trustee”); and

**WHEREAS**, in order to provide for the payment of the 2018B Subordinate Bonds and certain other obligations that may be issued by the Issuing District in the future (excluding Senior Obligations, defined herein) (as more particularly defined herein, the “**Additional Subordinate Obligations**”), and the Developer Reimbursement Obligation (defined herein), District No. 3 has, by the terms of this Pledge Agreement, pledged certain revenues (referred to herein as the District No. 3 Subordinate Pledged Revenue) to the Issuing District for the payment of the 2018B Subordinate Bonds and the Additional Subordinate Obligations, and each of District No. 3 and the Issuing District has covenanted to take certain actions with respect to generating certain ad valorem property revenues, for the benefit of the holders of the 2018B Subordinate Bonds and any Additional Subordinate Obligations (the “**Bondholders**”), as well as for the beneficiaries of the Developer Reimbursement Obligation; and

**WHEREAS**, in order to further provide for the payment of Developer Reimbursement Obligation (comprising reimbursement obligation of the Issuing District remaining under the after application of proceeds of the 2018A Senior Bonds and the 2018B Subordinate Bonds) the Issuing District has agreed herein to remit to the [Developers][Payee of Developer Note], revenues resulting from the imposition of the Subordinate Required Mill Levy, after the payment in full or defeasance of the 2018B Subordinate Bonds and, if required, Additional Subordinate Obligations, and any requisite fund accumulations relating thereto; and

**WHEREAS**, the 2018B Subordinate Bonds are to be issued in minimum denominations of \$500,000 and integral multiples of \$5,000 in excess thereof, or otherwise will qualify for an exemption 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 2018B Subordinate Bonds are to be issued only to “financial institutions or institutional investors” as such terms are defined in Section 32-1-103(6.5), C.R.S., unless otherwise permitted pursuant to the provisions of Section 32-1-1101(6), C.R.S.; and

**WHEREAS**, pursuant to the provisions of the Service Plan, the 2018B Subordinate Bonds are being initially issued in minimum denominations of not less than \$100,000 to “accredited investors” as defined in rule 501(a) promulgated under the Securities Act of 1933; and

**WHEREAS**, at an election of the qualified electors of District No. 3 duly called for and held on May 6, 2008 (the “**Election**”), in accordance with law and pursuant to due notice, a majority of eligible electors who voted at such elections voted in favor of the issuance of general obligation indebtedness and the imposition of taxes for the payment thereof, for the purpose of funding certain improvements and facilities as follows (the ballot questions relating thereto being attached as Exhibit A hereto): [CONFIRM]

<u>Purpose</u>	<u>Principal Amount</u>
Street	\$10,000,000
Parks and Recreation	\$10,000,000
Water	\$10,000,000
Sanitation	\$10,000,000
Transportation	\$10,000,000
Mosquito Control	\$10,000,000
Traffic Safety Controls	\$10,000,000
Security	\$10,000,000
Refundings	\$10,000,000

**WHEREAS**, it has been determined by the Districts and it is hereby determined that the Issuing District and District No. 3 shall be liable for the repayment of the 2018B Subordinate Bonds and Additional Subordinate Obligations (if any) generally in accordance with their relative assessed valuations based upon the imposition of the same mill levy by

each of the Issuing District and District No. 3, subject to the adjustments and limitations set forth herein, and that such allocation is fair and is reasonably related to the relative benefit the residents, property owners, and taxpayers of the Issuing District and District No. 3 receive from the Project; and

**WHEREAS**, due to the nature of the obligation incurred by the Issuing District under the 2018B Subordinate Indenture and hereunder and by District No. 3 hereunder, it is not possible to predict with certainty the amount of principal and interest on the 2018B Subordinate Bonds and Additional Subordinate Obligations (if any) each District will pay hereunder, and as a result, the Issuing District and District No. 3 each will allocate to their respective Election all of the indebtedness represented by this Pledge Agreement (and, in the case of the Issuing District, the 2018B Subordinate Indenture), based upon the principal amounts of 2018B Subordinate Bonds payable pursuant to the terms hereof and the manner in which the Issuing District has allocated the same based upon the Facilities financed or refinanced by such 2018B Subordinate Bonds, which allocation by District No. 3 is as follows:

<b><u>Allocation of District No. 3 Electoral Authorization</u></b>	
<b><u>Purpose</u></b>	<b><u>Principal Amount</u></b>
Street	
Parks and Recreation	
Water	
Sanitation	
Transportation	
Mosquito Control	
Traffic Safety Controls	
Security	
Refundings	

**WHEREAS**, District No. 3 will, upon the issuance of Additional Subordinate Obligations as permitted by this Pledge Agreement, allocate additional electoral authority as applicable; and

**WHEREAS**, the Districts have determined and hereby determine that the execution of this Pledge Agreement, the issuance of the 2018B Subordinate Bonds and any Additional Subordinate Obligations, the refunding of the 2014 Loans and the provision of the Project are in the best interests of the Districts and the residents, property owners, and taxpayers thereof; and

**WHEREAS**, all amendments to this Pledge Agreement made pursuant hereto and not in specific conflict with specific limits of the ballot questions, which authorized the debt represented by this Pledge Agreement, shall be deemed part of this Pledge 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 Pledge 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 Pledge 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 Pledge Agreement, and the term “hereafter” means after the date of execution of this Pledge 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 Pledge 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 Pledge 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 Pledge Agreement shall have the respective meanings set forth below:

“*Additional Subordinate Obligations*” means any bonds, notes, certificates or obligations (including a repayment obligation under a loan agreement or similar agreement) issued or incurred by the Issuing District and designated by the Issuing District (in the applicable Additional Subordinate Obligation Document) as secured by a lien on all or any portion of the District No. 3 Subordinate Pledged Revenues payable hereunder; provided that such obligations are issued for the purpose of: (i) refinancing the 2018B Subordinate Bonds, other Additional Subordinate Obligations, or any other obligations of the Issuing District for which District No. 3 is obligated to impose ad valorem property taxes (including in accordance with the Senior Pledge Agreement), or District No. 1 Reimbursement

Obligations, or obligations issued to refinance the same; or (ii) issued for the purpose of financing or refinancing the Financed Facilities. 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; (ii) in satisfaction of the Service Plan, if not rated as investment grade, it will be initially issued in minimum denominations of not less than \$100,000 to “accredited investors” as defined in rule 501(a) promulgated under the Securities Act of 1933, or to the developer(s) of property in the District; AND (iii) unless designated a Limited Obligation hereunder, 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.; provided however, that the foregoing clause (ii) shall not apply at such time as the Issuing District executes in writing its written direction to limit the Subordinate Required Mill Levy hereunder to not in excess of 50 mills (without adjustment), which written direction shall not be effective prior to the date that the 2018B Subordinate Bonds (and any other Additional Subordinate Obligation if specified in the applicable Additional Subordinate Obligation Documents) are paid in full or defeased.

“*Additional Subordinate Obligation Documents*” means, collectively, any resolution, indenture, loan agreement or other instrument agreement executed by the Issuing 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.

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

“*Board*” or “*Boards*” means the lawfully organized Boards of Directors of the Districts.

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

“*Capital Fees*” means all fees, rates, tolls, penalties, and charges of a capital nature (excluding periodic, recurring service charges) now or hereafter imposed by a Taxing District or any Taxing District -owned “enterprise” under Article X, Section 20 of the State Constitution, for services, programs, or facilities furnished by a Taxing District; and including the revenue derived from any action to enforce the collection of Capital Fees, and the revenue derived from the sale or other disposition of property acquired by a Taxing District from any action to enforce the collection of Capital Fees. Notwithstanding any of the foregoing, Capital Fees does not include any fee imposed solely for the purpose of funding operation and maintenance expenses. **[ANY EXCLUDED FEES?]**

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

“*Developer*” means Apaloosa Investments, LLC.

“*Developer Reimbursement Obligations*” means the Taxable Subordinate Limited Tax General Obligation Promissory Note dated \_\_\_\_\_, 2018, issued by the Issuing District to the Developer. [CONSIDER WHETHER TO ALLOW FOR ADDITIONAL NOTES TO BE ISSUED FOR ANY REMAINIGN INFRASTRUCTURE COSTS NOT YET CERTIFIED].

“*Districts*” means the Issuing District and District No. 3 collectively, including any duly authorized representative, officer, director, employee, agent, engineer or attorney of any District, if applicable.

“*District No. 3*” means Dublin North Metropolitan District No. 3, Weld County, Colorado, and its successors and assigns.

“*Facilities*” means the public improvements set forth on Exhibit B hereto, as the same may be amended by written agreement of the parties hereto.

“*Financing Costs*” means the principal and redemption price of, and interest and premium on, the 2018B Subordinate Bonds, Developer Reimbursement Obligations and any Additional Subordinate Obligations, required deposits to or replenishments of funds or accounts securing the 2018B Subordinate Bonds and any Additional Subordinate Obligations, and customary fees and expenses relating to the 2018B Subordinate Bonds and any Additional Subordinate Obligations, all in accordance with the Subordinate Indenture or Additional Subordinate Obligation Documents, as applicable, including: (a) with respect to the 2018B Subordinate Bonds, the principal and interest components of any mandatory redemption payments as provided in the 2018B 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. Where used in describing the permitted uses by the Issuing District of the District No. 3 Subordinate Pledged Revenue, “Financing Costs” also includes the payment of the principal and redemption price of, and interest on, any other obligation issued by District No. 1, the Issuing District or District No. 3 to fund the Facilities.

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



“*Issuing District*” means Dublin North Metropolitan District No. 2, Weld County, Colorado, and its successors and assigns.

“*Junior Lien District No. 3 Obligations*” means 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 District No. 3 on a basis subordinate to the Subordinate Payment Obligation hereunder.

“*Limited Obligation*” means the Developer Reimbursement Obligations and any Additional Subordinate Obligation designated as such in writing provided to the other Districts. (As used herein, it is intended that Limited Obligations will be comprised of the Developer Reimbursement Obligations and Additional Subordinate Obligations that are not initially issued to financial institutions or institutional investors, do not otherwise satisfying one of the conditions of Section 32-1-1101(6)(a), C.R.S., or will not constitute a refunding or restructuring contemplated by Section 32-1-1101(6)(b) C.R.S., or that the Issuing District otherwise determines shall be payable from ad valorem property taxes not in excess of 50 mills, without adjustment.)

“*Mill Levy Certification Date*” means the date each year on which District No. 3 is required to impose the Subordinate Required Mill Levy in accordance with the provisions hereof.

“*Senior Obligations*” means, collectively, the 2018A Senior Bonds, any obligations constituting “Parity Bonds” under the 2018A Senior Indenture, and any other obligation of the Issuing District so designated by the Issuing District as a Senior Obligation (such that any ad valorem property taxes imposed for the payment thereof will constitute a Senior Required Mill Levy hereunder).

“*Senior Pledge Agreement*” means the Senior Capital Pledge Agreement, dated as of \_\_\_\_\_ 1, 2018, by and among the Issuing District, District No. 3, and the Trustee.

“*Senior Required Mill Levy*” means (i) with respect to District No. 3, the ad valorem property tax levy required to be imposed by District No. 3 in accordance with the Senior Pledge Agreement and any other ad valorem property tax levy required to be imposed by District No. 3 for the payment of Senior Obligations; and (ii) with respect to the Issuing District, the ad valorem property tax levy required to be imposed in accordance with the 2018A Senior Indenture and any other ad valorem property tax levy required to be imposed by the Issuing District for the payment of Senior Obligations.

“*Service Plan*” means the Dublin North Metropolitan Districts No. 1, No. 2 and No. 3 Consolidated Service Plan approved by the City Council for the City of Colorado Springs, Colorado on \_\_\_\_\_, as the same may be amended from time to time.

“*Subordinate Payment Obligation*” means each Taxing District’s obligation to pay its allocated portion of the Financing Costs in accordance with the provisions hereof, but solely from the Subordinate Pledged Revenue available to it.

“*Subordinate Property Tax Revenues*” means (a) all moneys derived from imposition by the Issuing District of the Subordinate Required Mill Levy (as defined herein and in accordance with the 2018B Subordinate Indenture and any Additional Subordinate Obligation Document, as applicable), and (b) all moneys derived from imposition by District No. 3 of the Subordinate Required Mill Levy in accordance with the provisions hereof. Subordinate Property Tax Revenues are net of the costs of collection 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 specific ownership tax revenues.)

“*Subordinate Required Mill Levy*” means an ad valorem mill levy (a mill being equal to 1/10 of 1 cent) imposed upon all taxable property of District No. 3 or the Issuing District, as applicable, each year in an amount equal to (i) **30 less the applicable Senior Required Mill Levy**, or (ii) such lesser amount which, if imposed by the Issuing District and District No. 3 for collection in the succeeding calendar year, would generate Subordinate Property Tax Revenues sufficient to pay the 2018B Subordinate Bonds, any other Additional Subordinate Obligations and the Developer Reimbursement Obligations in full; provided however, that:

(a) in the event that the method of calculating assessed valuation is changed after January 1, 2006, the mill levy of 30 mills (less the Senior Required Mill Levy) 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 (it being acknowledged that such adjustment with respect to the Issuing District and District No. 3 may result in different mill levies being imposed by each of the Issuing District and District No. 3). 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;

(b) in the event that the mill levies calculated pursuant to clause (a) are different for the Issuing District and District No. 3, each of the Issuing District and District No. 3 shall impose their respective adjusted 30 mills (in the case of the Issuing District, in accordance with the 2018B Subordinate Indenture and any applicable Additional Subordinate Obligation Documents), provided that if clause (ii) above applies, the Issuing District and District No. 3 shall impose the same mill levy in the amount required to generate the Subordinate Property Tax Revenues required; and

(c) notwithstanding anything herein to the contrary, in no event may the Subordinate Required Mill Levy imposed for the payment of Financing Costs of a Limited Obligation exceed 50 mills (without adjustment), less the number of mills required to be imposed hereunder for the payment of Financing Costs of obligations that do not constitute Limited Obligations; and

(d) notwithstanding anything herein to the contrary, in no event may the Subordinate Required Mill Levy be established at a mill levy which would cause District No. 3 (or the Issuing District, as applicable) to derive tax revenue in any year in excess of the maximum tax increases permitted by District No. 3's 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 the electoral authorization of District No. 3 (or the Issuing District, as applicable), the Subordinate Required Mill Levy shall be reduced to the point that such maximum tax increase is not exceeded.

“*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;

(b) all Subordinate Specific Ownership Tax Revenues; and

(c) any revenue from Capital Fees remaining after deduction of any amount thereof used, paid, pledged, or otherwise applied to the payment of any Senior Obligations.

“*Subordinate Specific Ownership Tax Revenues*” means the specific ownership taxes remitted to a Taxing District 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.

“*State*” means the State of Colorado.

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

“*Taxing Districts*” means, collectively, the Issuing District and District No. 3.

“*Termination Date*” means the earlier of: (a) the date on which all amounts due with respect to the 2018B Subordinate Bonds, Developer Reimbursement Obligations and any Additional Subordinate Obligations have been defeased or paid in full; or (b) December 15, 2053.

## ARTICLE II

### PAYMENT OBLIGATION

**Section 2.01. No Additional Electoral Approval Required.** The authorization for issuance of debt, fiscal year spending, revenue collections and other constitutional matters requiring voter approval for purposes of this Pledge Agreement, was approved at elections held for the Taxing Districts on May 6, 2008, in accordance with law and pursuant to due

notice. The performance of the terms of this Pledge Agreement requires no further electoral approval.

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

(a) In exchange for the purchase by the Bondholders of the 2018B Subordinate Bonds and any Additional Subordinate Obligations, the proceeds of which are to be applied to the provision of the Facilities (including the refunding of obligations previously issued to finance the costs of the Facilities), each Taxing District hereby agrees to pay such portion of the Financing Costs as may be funded with the Subordinate Pledged Revenue available to it, in accordance with the provisions hereof.

(b) The obligation of each Taxing District to pay its portion of the Financing Costs as provided herein shall constitute a limited tax general obligation of such Taxing District payable solely from and to the extent of the Subordinate Pledged Revenue available to it. District No. 3 hereby pledges to the Issuing District all of District No. 3's right, title and interest in the Subordinate Pledged Revenues, for the benefit of the Bondholders and the beneficiaries of any Developer Reimbursement Obligation, for the payment of Financing Costs in accordance with the provisions hereof. The obligation of each Taxing District to pay the Financing Costs as provided herein (the "**Subordinate Payment Obligation**") shall constitute an irrevocable lien upon the Subordinate Pledged Revenue. The Subordinate Payment Obligation of the Issuing District hereunder (and the lien thereof on the Issuing District's Subordinate Pledged Revenue) is the same, and not in addition to, its obligation under the 2018B Subordinate Indenture and any Additional Subordinate Obligation Document to which the Issuing District is a party, to the extent pertaining to the payment of Financing Costs of such obligations, and the liens established thereby. The Districts hereby elect to apply all of the provisions of the Supplemental Act to this Pledge Agreement and the Subordinate Payment Obligation.

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

(d) Because the actual total Subordinate Pledged Revenue payable by each Taxing District hereunder cannot be determined with any certainty at this time, a Taxing District 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, each Taxing District agrees to levy on all of the taxable property of such Taxing District, in addition to all other taxes, direct annual taxes in 2018, and in each year thereafter, so

long as the 2018B Subordinate Bonds or Additional Subordinate Obligations remain outstanding (subject to paragraph (b) below), to the extent necessary to provide for payment of the Financing Costs, in the amount of the Subordinate Required Mill Levy. Nothing herein shall be construed to require a Taxing District 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) NOTWITHSTANDING ANY OTHER PROVISIONS HEREIN, NO TAXING DISTRICT SHALL BE REQUIRED TO IMPOSE THE SUBORDINATE REQUIRED MILL LEVY FOR PAYMENT OF THE 2018B SUBORDINATE BONDS, THE DISTRICT NO. 1 REIMBURSEMENT OBLIGATIONS OR ADDITIONAL SUBORDINATE OBLIGATIONS AFTER DECEMBER 2052 (FOR COLLECTION IN CALENDAR YEAR 2053).

(c) In order to facilitate the determination of the Subordinate Required Mill Levy, District No. 3 shall provide to the Issuing District: (i) on or before September 30 of each year, commencing September 30, 2018, the preliminary certification of assessed value for District No. 3 provided by the Weld County Assessor; and (ii) no later than one business day after receipt by District No. 3, the final certified assessed value for District No. 3 provided by the Weld County Assessor (expected to be provided to District No. 3 no later than December 10 of each year). In accordance with the definition of Subordinate Required Mill Levy set forth herein, the Issuing District shall preliminarily determine, and provide to District No. 3, the Subordinate Required Mill Levy no later than October 15 of each year, and shall finally determine, and provide to District No. 3, the Subordinate Required Mill Levy no later than December 12 of each year.

(d) Each Taxing District acknowledges that it has actively participated in the development of the calculation for determining the Subordinate Required Mill Levy, that such calculation is designed to reasonably allocate between District No. 3 and the Issuing District the Financing Costs based on the mutual benefit to the Districts of the Facilities (including the Project) and the relative ability of such Districts, dependent upon the relative stages of development therein, to fund such Financing Costs in any given year and that, so long as made in accordance with the foregoing, the determinations of the Issuing District as to the Subordinate Required Mill Levy shall be final and binding upon District No. 3.

(e) This Section 2.03 is hereby declared to be the certificate of each Taxing District 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.

(f) It shall be the duty of each Taxing District annually at the time and in the manner provided by law for the levying of such Taxing District's taxes, if such action shall be necessary to effectuate the provisions of this Pledge 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 such

Taxing District to cause the appropriate officials of Weld 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. Said taxes, when collected, shall be applied only to the payment of the amounts to be paid hereunder.

(g) 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.

(h) Each Taxing District shall pursue all reasonable remedies to collect, or cause the collection of, delinquent ad valorem taxes within its boundaries.

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

(a) Each Taxing District hereby agrees to remit to the Trustee, or as otherwise directed by the Issuing District (subject to the limitations and requirements of the 2018B Subordinate Indenture and any Additional Subordinate Obligation Documents) as soon as practicable upon receipt, all revenues available to it comprising Subordinate Pledged Revenue, which Subordinate Pledged Revenue shall be applied by the Trustee or other recipient thereof to Financing Costs, in accordance with the 2018B Subordinate Indenture or Additional Subordinate Obligation Documents, as applicable. To the extent any portion of such Subordinate Pledged Revenue is released from the lien of the 2018B Subordinate Indenture and Additional Subordinate Obligation Documents (if any), and in all events, the Issuing District will continue to ensure that such revenues are applied to Financing Costs and any other costs of the Facilities, subject to the provisions of Section 2.05 hereof. Such 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.

(b) District No. 3 hereby covenants that all property tax revenue collected by District No. 3 from a debt service mill levy, or so much thereof as is needed, shall first, be designated as property taxes resulting from imposition of the Senior Required Mill Levy in any Bond Year (as defined in the 2018A Senior Indenture) to pay annual debt service on Senior Obligations and to fund such funds and accounts as are required in accordance with the terms of the 2018A Senior Indenture 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 District No. 3 from a debt service mill levy for the remainder of such Bond Year shall, second, be designated as property taxes resulting from imposition of the Subordinate Required Mill Levy unless and until District No. 3 and the Issuing District have funded the full amount outstanding with respect to the 2018B Subordinate Bonds and any Additional Subordinate Obligations. The debt service property tax levy imposed for the payment of any Junior Lien Obligations shall be deemed reduced to the number of mills available for payment of such Junior Lien Obligations 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 2018B Subordinate Bonds and any Additional Subordinate Obligations (to the extent required by the applicable resolutions, indentures, or other enactments authorizing such Additional Subordinate Obligations).

**Section 2.05. Obligations and Limitations Relating to Developer Reimbursement Obligations.**

(a) It is acknowledged that, after application of proceeds of the 2018A Senior Bonds and the 2018B Subordinate Bonds, Developer Reimbursement Obligations will remain outstanding. [Furthermore, additional Developer Reimbursement Obligations may be incurred in connection with the costs of additional Facilities, the amounts with respect to which Developer Reimbursement Obligations shall constitute Financing Costs hereunder payable from the proceeds of the Subordinate Required Mill Levy, subject to the limitations herein.] The Districts hereby agree that, subject to the prior payment in full or defeasance of the 2018B Subordinate Bonds and, to the extent required by the applicable Additional Subordinate Obligation Documents, the payment and/or fund accumulations required with respect to such Additional Subordinate Obligations, any remaining available Subordinate Pledged Revenue (the “Excess Subordinate Pledged Revenue”) shall be applied by the Issuing District to the payment of the Developer Reimbursement Obligations, subject to the limitations hereof. The Issuing District agrees to remit such Excess Subordinate Pledged Revenue as received accordingly, or to direct the payment of Excess Subordinate Pledged Revenue to the [Developer], as permitted by Section 2.04 hereof. The Issuing District has pledged and assigned to [the Developer] all right, title and interest of the Issuing District in the Excess Subordinate Pledged Revenue (on a basis subordinate to the lien of the 2018B Subordinate Bonds and any Additional Subordinate Obligations), for the purpose of paying the Developer Reimbursement Obligations. [SUGGEST INCLUDING THIS ASSIGNMENT LANGUAGE IN REIMBURSEMENT AGREEMENT NOTE] Notwithstanding the foregoing, this Pledge Agreement shall not be interpreted to afford the [Developer] any consent rights with respect to the issuance by the Issuing District of any Additional Subordinate Obligations.

(b) It is acknowledged that the Developer Reimbursement Obligations constitute Limited Obligations hereunder and, as such, the Taxing Districts will not be obligated to impose a Subordinate Required Mill Levy for the payment thereof in excess of 50 mills (without adjustment) less the amount of the Subordinate Required Mill Levy imposed for obligations that do not constitute Limited Obligations.

(c) [Notwithstanding any other provision contained herein, the obligations of the Districts herein with respect to the imposition of ad valorem property taxes and remittance of the same for the payment of the Developer

Reimbursement Obligations (if any) shall be subject to annual appropriation by the Board of each District until such time as such Board adopts a resolution which (i) allocates electoral authorization to the indebtedness of this Pledge Agreement relating thereto or recognizes that electoral authorization is not required for the Taxing District's obligation with respect thereto to constitute a multiple fiscal year obligation, and (ii) acknowledges that such Taxing District's obligations hereunder with respect thereto constitute multiple fiscal year obligations.][this provision needed only if not allocated at time of issuance of 2018 bonds]

**Section 2.06. 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 District No. 3 in 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 Pledge Agreement shall in any manner be construed as limiting or impairing the obligation of District No. 3 to levy ad valorem property taxes, or as limiting or impairing the obligation of District No. 3 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 obligations of District No. 3 to transfer funds as described herein for each payment described herein shall survive any Court determination of the invalidity of this Pledge Agreement as a result of a failure, or alleged failure, of any of the directors of the Districts 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 Districts' meetings as set forth in their official minutes.

**Section 2.07. Limited Defenses; Specific Performance.** It is understood and agreed by District No. 3 that its obligations hereunder are absolute, irrevocable, and unconditional except as specifically stated herein, and so long as any obligation of District No. 3 hereunder remains unfulfilled, District No. 3 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 Issuing District, the Trustee, or any Bondholders or impair the ability of the Issuing District, the Trustee, or any Bondholders to receive payments due hereunder. Notwithstanding that this Pledge Agreement specifically prohibits and limits defenses and claims of District No. 3, in the event that District No. 3 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 2.08. Future Exclusion of Property.** Any property excluded from District No. 3 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 District No. 3, as



provided in Section 32-1-503, C.R.S. In the event that any order providing for the exclusion of property from District No. 3 does not so provide and specifically indicate the liability of such excluded property for the obligations set forth herein, District No. 3 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 Pledge Agreement, which covenants shall run with the land and shall be in a form satisfactory to the Issuing District.

**Section 2.09. Additional Covenants.**

(a) Without the prior consent of the Issuing District, District No. 3 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 District No. 3 or other District No. 3 Subordinate Pledged Revenue (including, but not limited to, District No. 3 Junior Lien Obligations); provided, however, that the following obligations shall be permitted without the consent of the Issuing District:

(i) the Senior Payment Obligation, as provided in the Senior Pledge Agreement;

(ii) obligations issued solely for the purpose of paying operations and maintenance costs of District No. 3, the repayment of which is contingent upon District No. 3's annual determination to appropriate moneys therefor (other than obligations of District No. 3 as lessee under capital leases, as determined in accordance with GAAP (as defined in the 2018B Subordinate Indenture)), so long as (A) no amounts due or to become due on such obligations are payable from District No. 3's debt service mill levy, and (B) no amounts due or to become due on such obligations are payable from District No. 3's operations and maintenance mill levy in excess of that permitted by District No. 3's Service Plan (after taking into account the Senior Required Mill Levy and the Subordinate Required Mill Levy required hereunder, in the event that the Service Plan then establishes a combined limit for debt service and operation and maintenance mill levies);

(iii) obligations issued for any purpose, the repayment of which is contingent upon District No. 3's annual determination to appropriate moneys therefor (other than obligations of District No. 3 as lessee under capital leases, as determined by GAAP), so long as (A) such obligations are payable only to the extent District No. 3 has excess moneys on hand, (B) such obligations are payable in any Fiscal Year only after the last scheduled payment of principal or interest on the 2018B Subordinate Bonds in such Fiscal Year, and (C) District No. 3 makes no promise to impose any tax, fee, or other governmental charge for the payment of such obligations;

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

(v) obligations payable solely from periodic, recurring service charges imposed by District No. 3 for the use of any District No. 3 facility or service, which obligations do not constitute a debt or indebtedness of District No. 3 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 operating leases, payroll obligations, accounts payable, or taxes incurred or payable in the ordinary course of business of District No. 3.

(b) At least once a year, District No. 3 will either cause an audit to be performed of the records relating to its revenues and expenditures or, if applicable under State statute, will apply for an audit exemption, and District No. 3 shall use its best efforts to have such audit report or application for audit exemption completed no later than September 30 of each calendar year. The foregoing covenant will apply notwithstanding any different time requirements for the completion of such audit or application for audit exemption under State law. In addition, at least once a year in the time and manner provided by law, District No. 3 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.

(c) District No. 3 will enforce the collection of all District No. 3 Capital Fees in such time and manner as District No. 3 reasonably determines will be most efficacious in collecting the same, including without limitation the bringing of an action to foreclose any statutory or contractual lien which may exist in connection therewith.

(d) District No. 3 agrees to provide the Issuing District [and the Developer] with information, promptly upon request by the Issuing District [and the Developer], respectively, necessary for the Issuing District [and the Developer] to comply on an ongoing basis with the requirements of the Continuing Disclosure

Agreement entered into by the Issuing District [and the Developer] in connection with the issuance of the 2018B Subordinate Bonds, and any similar agreement entered into by the Issuing District in connection with the issuance of Additional Subordinate Obligations.

### **ARTICLE III**

#### **REPRESENTATIONS AND WARRANTIES**

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

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

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

(c) The District 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 the District to perform its obligations hereunder. The execution, delivery and performance by the District of this Pledge 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 the District 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 the District pursuant to the provisions of any mortgage, indenture, contract, agreement, or other undertaking to which the District is a party or which purports to be binding upon the District or upon any of its revenues or other assets which could reasonably be expected to result in a material adverse effect.

(d) The District 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 the District of this Pledge Agreement.

(e) There is no action, suit, inquiry, investigation, or proceeding to which the District 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 the District threatened, in connection with any of the transactions contemplated by this Pledge Agreement nor, to the best knowledge of the District 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 the District to perform its obligations under, this Pledge Agreement.

(f) This Pledge Agreement constitutes the legal, valid, and binding obligation of the District, enforceable against the District 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) a Taxing District fails or refuses to impose the Subordinate Required Mill Levy or to remit the Subordinate Pledged Revenue as required by the terms of this Pledge Agreement;

(b) any representation or warranty made by any party in this Pledge 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 Pledge 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.

**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 District No. 3 Subordinate Pledged Revenue to secure or pay the Subordinate Payment Obligation of District No. 3 shall be governed by Section 11-57-208 of the Supplemental Act and this Pledge Agreement. The District No. 3 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 any of the Districts 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 Boards of Directors of District No. 3, or any officer or agent of District No. 3 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 or District No. 3, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of this Pledge Agreement and as a part of the consideration hereof, each of the Districts and the Trustee specifically waives any such recourse.

**Section 5.03. Conclusive Recital.** Pursuant to Section 11-57-210 of the Supplemental Act, this Pledge 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 Pledge 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 Pledge Agreement shall be commenced more than 30 days after the authorization of this Pledge Agreement.

**Section 5.05. Notices.** Except as otherwise provided herein, all notices or payments required to be given under this Pledge Agreement shall be in writing and shall be hand delivered or sent by certified mail, return receipt requested, or air freight, to the following addresses:

To the Issuing District:

with a copy to:

To District No. 3:

with a copy to:

If to the Trustee:

UMB Bank, n.a.  
Corporate Trust and Escrow Services  
1670 Broadway  
Denver, Colorado 80202

All notices or documents delivered or required to be delivered under the provisions of this Pledge Agreement shall be deemed received one day after hand delivery or three days after mailing. Any District by written notice so provided may change the address to which future notices shall be sent.

**Section 5.06. Rights of Trustee.** Notwithstanding any other provision herein, at such time as no amounts remain due and owing under the 2018B 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 Pledge Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the parties pertaining to the subject matter of this Pledge Agreement and supersedes all prior and contemporaneous

understandings or agreements of the parties. This Pledge Agreement may not be contradicted by evidence of any prior or contemporaneous statements or agreements. No party has been induced to enter into this Pledge Agreement by, nor is any party relying on, any representation, understanding, agreement, commitment, or warranty outside those expressly set forth in this Pledge Agreement.

(b) If any term or provision of this Pledge 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 Pledge Agreement, and such provision shall not affect the legality, enforceability, or validity of the remainder of this Pledge Agreement. If any provision or part thereof of this Pledge 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. It is intended that there be no third party beneficiaries of this Pledge Agreement other than the Bondholders. Nothing contained herein, expressed or implied, is intended to give to any person other than the Districts 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. [ADD DEVELOPER OR OTHER BENEFICIARY OF DEVELOPER REIMBURSEMENT OBLIGATION AS THIRD PARTY BENEFICIARY]

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

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

(f) This Pledge 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 2018B Subordinate Indenture; provided, however, that this Pledge Agreement may be amended to limit the Subordinate Required Mill Levy to 50 mills (without adjustment) upon written direction of the Issuing District, and without further consent of the other Districts, but subject to the limitations of the 2018B Subordinate Indenture and any Additional Subordinate Obligation Documents.

(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 Pledge 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 Pledge Agreement.

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

(i) This Pledge 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) District No. 3 hereby consents to the terms of the 2018B Subordinate Bonds set forth in the 2018B Subordinate Indenture.

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



IN WITNESS WHEREOF, the Issuing District, District No. 3, and the Trustee have executed this Pledge Agreement as of the day and year first above written.

**DUBLIN NORTH METROPOLITAN  
DISTRICT NO. 2**

\_\_\_\_\_  
President

ATTESTED:

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

**DUBLIN NORTH METROPOLITAN  
DISTRICT NO. 3**

\_\_\_\_\_  
President

ATTESTED:

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

**DUBLIN NORTH METROPOLITAN  
DISTRICT NO. 1**

\_\_\_\_\_  
President

ATTESTED:

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

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

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Authorized Signatory

[Signature Page to Subordinate Capital Pledge Agreement]

**EXHIBIT A**  
**TO**  
**CAPITAL PLEDGE AGREEMENT**  
**BALLOT QUESTIONS OF DISTRICT NO. 3**

**EXHIBIT B**  
**TO**  
**CAPITAL PLEDGE AGREEMENT**  
**FACILITIES**