

OPERATING REIMBURSEMENT AGREEMENT

This Operating Reimbursement Agreement (this “**Agreement**”) is made and entered into to be effective as of March 10, 2024, by and between ELLSTON PARK METROPOLITAN DISTRICT, 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, acquiring, constructing, installing, relocating, redeveloping 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 Ellston Park Metropolitan District approved by the City of Colorado Springs.

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 El Paso County District Court on November 5, 2021 and recorded with the El Paso County Clerk & Recorder at Reception Number 221219966 on December 1, 2021. 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:

Ellston Park Metropolitan District
c/o WSDM District Managers
614 North Tejon Street
Colorado Springs, Colorado 80903
Attention: Heather Smith

With a copy to:

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: Bill Carlisle

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 El Paso 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.

ELLSTON PARK METROPOLITAN DISTRICT

By [Signature]
President

Attest:

[Signature]
Secretary

MELODY HOMES, INC., a Delaware corporation

By: [Signature]
Name: William Carlisle
Title: Vice President

STATE OF COLORADO)
)ss.
COUNTY OF Douglas)

The foregoing Operating Reimbursement Agreement was acknowledged before me this 5th day of March, 2024, by William Carlisle Vice President of Melody Homes, Inc., a Delaware corporation, on behalf of said corporation.

WITNESS my hand and official seal.

My commission expires: 9/8/2024

(S E A L)



[Signature]
Notary Public