

RESOLUTION NO. 2018-18

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE VILLAGE OF TAOS SKI VALLEY TAX INCREMENT DEVELOPMENT DISTRICT AUTHORIZING THE ISSUANCE OF A SENIOR LIEN TAXABLE DRAW-DOWN TAX INCREMENT REVENUE BOND, SERIES 2018 WITH NET PROCEEDS NOT TO EXCEED \$44,000,000, SUBJECT TO INCREASE BASED ON A SPECIFIED CONSTRUCTION COST INDEX, TO FINANCE THE ACQUISITION OF AND REIMBURSEMENT FOR CERTAIN PUBLIC INFRASTRUCTURE IMPROVEMENTS, TO BE SECURED BY GROSS RECEIPTS TAX INCREMENT REVENUES AND PROPERTY TAX INCREMENT REVENUES GENERATED WITHIN THE DISTRICT; APPROVING THE FORMS OF A MASTER INDENTURE OF TRUST, SUPPLEMENTAL INDENTURE NO. 1 AND A BOND PURCHASE AGREEMENT; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION; RATIFYING PRIOR CONSISTENT ACTION; AND REPEALING PRIOR INCONSISTENT ACTION.

WHEREAS, pursuant to Amended and Restated Resolution No. 2015-275 (the "Formation Resolution"), the Village of Taos Ski Valley, New Mexico (the "Village") pursuant to the Tax Increment for Development Act, Sections 5-15-1 through 5-15-28 NMSA 1978 (the "Act"), approved a tax increment development plan (the "TIDD Plan") and the formation of a Tax Increment Development District as described in the TIDD Plan (the "TIDD"), and called for a special election to be held on January 30, 2015 on the question whether the TIDD should be formed and the question whether property tax increment bonds should be issued (the "Election"); and

WHEREAS, pursuant to the Formation Resolution, the Election was held on January 30, 2015 at which a majority of the votes cast approved the formation of the TIDD and authorized the issuance of Property Tax Increment Bonds in a principal amount not to exceed \$40,000,000, as confirmed by a Certificate of Canvass of the Canvassing Board (consisting of the Village Clerk and the Village Council of the Village) dated February 3, 2015; and

WHEREAS, the TIDD is a political subdivision of the State of New Mexico (the "State"), separate and apart from the Village, Taos County, New Mexico (the "County") and the State; and

WHEREAS, the TIDD was formed for the purpose of financing a portion of the costs of Public Infrastructure, which is eligible for financing by the TIDD and which generally includes road and street improvements, river crossings, public pedestrian improvements, parking improvements, water, wastewater and drainage improvements, electricity, gas and telecommunication transmission and distribution infrastructure, acquisition of real property or interests therein necessary or convenient to the installation of all such improvements, and related costs including, without limitation, costs incurred in the formation of the TIDD, planning, design, engineering, surveying, testing, environmental compliance, construction, construction

contingencies, pre-completion stabilization, maintenance and inspections, construction management not to exceed 10% of the contract price, permit and inspection fees and gross receipts taxes relating to the Public Infrastructure; and

WHEREAS, pursuant to the Formation Resolution, the Village dedicated to the TIDD seventy-five percent (75%) of the Village GRT Increment (as defined in the Formation Resolution) revenues generated within the TIDD and seventy-five percent (75%) of the *ad valorem* property tax increment revenue attributable to the operational *ad valorem* tax levied by the Village on taxable parcels within the TIDD for the purpose of paying the principal of and interest on the tax increment revenue bonds issued by the TIDD and for such other TIDD purposes which are authorized by law, which was effective on February 3, 2015; and

WHEREAS, pursuant to Section 5-15B-1 NMSA 1978, the Legislature of the State of New Mexico (the “State”) has authorized the TIDD to issue bonds not to exceed \$44,000,000 in net proceeds, as adjusted for inflation, secured by tax increment revenues authorized by the Act; and

WHEREAS, pursuant to a resolution adopted on January 30, 2015, the State Board of Finance dedicated to the TIDD fifty percent (50%) of the State Gross Receipts Tax Increment revenue generated within the TIDD for the purpose of paying the principal of and interest on the tax increment revenue bonds issued by the TIDD and for such other TIDD purposes which are authorized by law; and

WHEREAS, pursuant to Resolution No. 2015-11 adopted on February 17, 2015, the Board of Commissioners of the County dedicated to the TIDD thirty-five percent (35%) of the *ad valorem* property tax increment revenue attributable to the operational *ad valorem* property tax levied by the County on taxable parcels within the TIDD for the purpose of paying the principal of and interest on tax increment revenue bonds issued by the TIDD and for such other TIDD purposes which are authorized by law; and

WHEREAS, the TIDD, the Village and Taos Ski Valley, Inc. (“TSVI”) have entered into an Amended and Restated Master Development Agreement dated as of July 14, 2015 (the “Master Agreement”), which provides, among other things, for the construction of Public Infrastructure as described in the immediately following subparagraphs, the dedication of the Public Infrastructure to the Village, and reimbursement to TSVI for eligible costs incurred in constructing the Public Infrastructure from proceeds of bonds issued by the TIDD as provided in the Act:

(a) TSVI will contract for the construction of the Public Infrastructure, as more fully described in the Improvement Location Map included in the TIDD Plan as *Exhibit 1*, and which includes the following:

(1) improvements to the core Village (“Core Village Improvements”), and Kachina area (“Kachina Improvements” and, together with the Core Village Improvements, the “Village Improvements”), including the following:

(aa) Relocation and improvement of the Visitor Drop-Off Facilities, public plaza improvements (“Plaza Improvements”), upgrades to existing public

parking areas (“Parking Improvements”), upgrades to existing recreational vehicle parking (“RV Improvements”) and river walkway and stream protection and restoration improvements (“River/Pedestrian Improvements” and, together with the Visitor Drop-Off Facilities, Plaza Improvements, Parking Improvements and RV Improvements, the “Public Space Improvements”);

(bb) Water, water storage, sanitary sewer and storm sewer improvements, including a water storage tank to be located in the Kachina area (the “Water/Wastewater Improvements”);

(cc) Improvements to existing roads to comply with Village regulations and to improve safety, traffic circulation, snow removal and snow storage, river crossing and intersection crossing improvements, consisting of bridge construction on Parcel D-G, Sutton Place Crossing, West Burroughs Crossing, Strawberry Hill Crossing, upgrades to Ernie Blake Road and Thunderbird Road, paving improvements to Twining Road and the main road to the Kachina area of the Village, improvements to Strawberry Hill Access Road, improvement of Highway 150 at Village entry, street lights and signage (the “Road Improvements”);

(2) Electric, gas and fiber optic utility improvements, including trenching from the terminal point location in Arroyo Seco to locations within the Village (the “Offsite Utility Improvements”) to upgrade and improve service reliability within the Village;

(b) Upon completion of individual Village Improvements and Offsite Utility Improvements (collectively and individually, “Public Infrastructure”), TSVI shall notify the Village that it has completed the construction of individual components of Public Infrastructure and shall arrange for inspection by the Village;

(c) Following inspection by the Village and its determination that the Public Infrastructure has been constructed in accordance with all applicable standards and requirements of the Village or other governmental entity with jurisdiction over such improvements, are suitable for dedication to the Village or other governmental entity with jurisdiction over such improvements, the Public Infrastructure will be dedicated and conveyed to the Village or other appropriate governmental entity and otherwise be owned and operated by the Village as provided in the Master Agreement; and

(d) The acceptance by the Village of dedicated Public Infrastructure will be evidenced by the delivery of a Certificate of Completion and Acceptance to TSVI, upon which delivery the TIDD shall be obligated to reimburse TSVI or its designee for the Reimbursable Costs of such component, which obligation shall be contingent upon the issuance of bonds by the TIDD or the availability of funds from other sources, sufficient to reimburse TSVI for such actual costs, subject to the conditions and limitations set forth in the Master Agreement.

; and

WHEREAS, the Village has accepted the dedication by TSVI of Public Infrastructure consisting of Plaza Improvements, Road Improvements and Offsite Utility Improvements which

are more particularly described in the instruments of dedication, copies of which have been provided to the Board of Directors of the TIDD (the “TIDD Board”); and

WHEREAS, the total cost of the dedicated Public Infrastructure to date is approximately \$14,700,000; and

WHEREAS, TSVI has not previously been reimbursed from proceeds of tax increment revenue bonds issued by the TIDD; and

WHEREAS, the Master Agreement provides that:

(a) the TIDD may issue either a Draw-down Bond (defined in the Master Agreement as a bond issued by the TIDD in a maximum principal amount not to exceed the amount authorized in Section 5-15B-1 NMSA 1978, pursuant to which advances made by the purchaser of the Draw-down Bond are made at the request of TSVI and are repaid in 30 days or less, with interest, by the TIDD from specified accumulated Tax Increment Revenue), or short-term taxable bonds (“Short-term Bonds”) on an annual or more frequent basis; and that both the TIDD Draw-down Bond and Short-term Bonds will be payable from accumulated, non-recurring Gross Receipts Tax Increment Revenue;

(b) the TIDD may issue longer term tax-exempt Bonds (“Long-term Bonds”) at such times and in such aggregate principal amounts as can be supported by recurring Tax Increment Revenue; provided that the debt service coverage requirements and covenants concerning the issuance of additional bonds in the Master Indenture are satisfied.

; and

WHEREAS, the TIDD Board has determined and hereby determines that, at this time, the most cost effective approach to reimbursing TSVI for the costs of Public Infrastructure is to issue a Draw-down Bond as provided in this Resolution to be designated “Village of Taos Ski Valley Tax Increment Development District Senior Lien Taxable Draw-Down Tax Increment Revenue Bond, Series 2018” (the “Bond”); and

WHEREAS, the Bond will be issued under a Master Indenture of Trust dated as of February 1, 2018 (the “Master Indenture”), as supplemented by Supplemental Indenture No. 1 dated as of February 1, 2018 (the “First Supplement” and, together with the Master Indenture, the “Indenture”), each between the TIDD and BOKF, NA, as trustee; and

WHEREAS, the Bond will be purchased by Belvedere Property Management LLC (the “Purchaser”) pursuant to a Bond Purchase Agreement dated as of February 1, 2018 among the TIDD, the Purchaser and TSVI, which provides for the purchase of the Bond by the Purchaser and for advances by the Purchaser against the maximum principal amount of the Bond to the TIDD for reimbursement of TSVI following acceptance of Public Infrastructure by the Village; and

WHEREAS, the New Mexico Finance Authority by letter dated January 19, 2018 has approved the forms of the Master Indenture and the First Supplement as required by Section 5-15B-1 through -4 NMSA 1978; and

WHEREAS, there have been presented to the members of the Board of Directors (the "Board") of the TIDD the forms of (i) the Master Indenture, (ii) the First Supplement, and (iii) the Bond Purchase Agreement.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE VILLAGE OF TAOS SKI VALLEY TAX INCREMENT DEVELOPMENT DISTRICT:

Section 1. Ratification. All action heretofore taken (not inconsistent with the provisions of this Resolution) by the TIDD Board directed toward the Public Infrastructure and the issuance of the Bond for the Public Infrastructure is ratified, approved and confirmed.

Section 2. Approval of Indenture. The forms, terms and provisions of the Master Indenture and the First Supplement be and they hereby are approved and the TIDD shall enter into the Master Indenture and the First Supplement in the forms of each of such documents presented to the Board at this meeting, with only such changes therein as are not inconsistent herewith; and the Chairman of the Board is hereby authorized to execute and deliver the Master Indenture and the First Supplement and the Clerk of the TIDD is hereby authorized to attest the Master Indenture and the First Supplement.

Section 3. Approval of Bond Purchase Agreement. The form, terms and provisions of the Bond Purchase Agreement be and they hereby are approved and the TIDD shall enter into the Bond Purchase Agreement in the form of such document presented to the Board at this meeting, with only such changes therein as are not inconsistent herewith; and the Chairman of the Board is hereby authorized to execute and deliver the Bond Purchase Agreement and the Clerk of the TIDD is hereby authorized to attest the Bond Purchase Agreement.

Section 4. Authorization, Form and Details of Bond. To defray the cost of financing a portion of the costs of the Public Infrastructure and pursuant to the Act, the TIDD will issue its fully registered revenue bond to be designated "Village of Taos Ski Valley Tax Increment Development District Senior Lien Taxable Draw-Down Tax Increment Revenue Bond, Series 2018" in a principal amount not to exceed net proceeds of \$44,000,000, as adjusted for inflation in accordance with the Construction Cost Index applicable to the Albuquerque region published in ENR.com by the McGraw-Hill Companies (or, in the event such index is no longer published at the applicable time, such other index of construction costs as the TIDD and the Village Administrator or successor in function mutually determine is acceptable for purposes of this Agreement and the documents pursuant to which the TIDD was formed). The Bond shall be in substantially the form provided in the First Supplement.

As provided in the Bond Purchase Agreement, upon request of TSVI and the TIDD, the Purchaser shall make advances of portions of principal of the Bond, which shall be repaid to the Purchaser, together with interest on an advance repayment date to be specified in the request for the advance and which will be within 30 days after the date of the advance by the Purchaser. The principal of the Bond so advanced shall bear interest at the rate of 5.00% per

annum from date of each advance, calculated on the basis of a 365-day year. Interest on the Bond shall be includable in gross income for federal tax purposes under the Internal Revenue Code of 1986, as amended. The Bond shall mature on the date which is 30 years after its date of issuance.

The form, terms and provisions of the Bond, in the form contained in the First Supplement, be and they hereby are approved, with only such changes therein as are not inconsistent herewith; and the Chairman of the TIDD and the Clerk of the TIDD are each hereby authorized to execute the Bond by manual signature and each is authorized to deliver the Bond and the seal of the TIDD is hereby authorized to be affixed to the Bond.

Section 5. Special Obligations. The Bond and the payment of principal and interest thereon shall be special obligations of the TIDD and shall be payable and collectible solely from the Village Gross Receipts Tax Increment Revenue, Village Property Tax Increment Revenue, County Property Tax Increment Revenue and State Gross Receipts Tax Increment Revenue, which revenue will be pledged (collectively, the “Pledged Revenues”). The Bond is not a general obligation, debt or liability of the State, the Village or the County, none of the State, the Village or the County shall be liable on the Bond and none of the State, the Village or the County have pledged their full faith and credit to the Bond. The principal of, interest on and any payment requirement related to the Bond shall not constitute or give rise to a pecuniary liability on the part of the members, directors or officers of the TIDD. No breach of any pledge, obligation or agreement of the TIDD shall impose a pecuniary liability or charge upon the general credit or taxing power of the State, the Village or the County, or any political subdivision of the State other than the TIDD. The owner of the Bond shall have no recourse to the taxing power of the Village or to any Village property, funds or resources, other than the Village Gross Receipts Tax Increment Revenue and the Village Property Tax Increment Revenue dedicated to the TIDD. No recourse shall be had for the payment of the principal or interest of the Bond or for any claim based thereon, or otherwise, against any individual officer or other agent of the State, past, present or future, either directly or indirectly or otherwise, whether by virtue of any constitution, statute, or rule of law, or by the enforcement of any penalty, or otherwise, all such liability, if any, being by acceptance by the owner of the Bond and as a part of the consideration of its issuance specially waived and released.

Section 6. Reimbursement of Costs of Public Infrastructure. Pursuant to the provisions of the Master Agreement and the First Supplement, each reimbursement to TSVI for costs of the Public Infrastructure shall be made pursuant to the submission of a Requisition and Certificate, substantially in the form attached to the First Supplement as Exhibit 5. Such Requisition and Certificates shall be signed by an authorized representative of TSVI and by the “Authorized District Representatives” (which is defined in the First Supplement as the Co-Treasurers of the District or another person designated in writing by both Co-Treasurers to serve as the sole Authorized District Representative) of the District and submitted to the Trustee for payment of the items of Public Infrastructure designated therein, without prior presentation to or approval of the Board. Copies of such Requisition and Certificates, together with appropriate information relating to such payments, shall be presented to the Board at the next meeting of the Board subsequent to such payment by the Trustee.

Section 7. Authority to Execute and Deliver Closing Certificates. The Chair of the TIDD, the Clerk of the TIDD and the Co-Treasurers of the TIDD are hereby authorized to execute and deliver such other certificates, instruments and agreements as may be necessary to complete the transactions contemplated in this Resolution, as recommended by the TIDD's municipal advisor or bond counsel.

Section 8. Prior Inconsistent Action Repealed. All bylaws, orders and resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, or resolution, or part thereof, heretofore repealed.

Section 9. Severability. If any section, paragraph, clause or provision hereof shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 10. Effective Date. This Resolution shall be effective immediately as provided by law.

Section 11. General Summary for Publication. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Resolution shall be published in substantially the following form:

(Form of Summary of Resolution for Publication)

Village of Taos Ski Valley
Tax Increment Development District
Notice of Adoption of Resolution

Notice is hereby given of the title and of a general summary of the subject matter contained in a resolution, duly adopted and approved by the Board of Directors of the Village of Taos Ski Valley Tax Increment Development District on February 6, 2018, relating to the issuance of the District's Senior Lien Taxable Draw-Down Tax Increment Revenue Bond, Series 2018. Complete copies of the Resolution are available for public inspection during the normal and regular business hours of the District Clerk, c/o Village Administrator, 7 Firehouse Road, Taos Ski Valley, New Mexico 87525, Telephone: (575) 776-8220.

The title of the Resolution is:

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE VILLAGE OF TAOS SKI VALLEY TAX INCREMENT DEVELOPMENT DISTRICT AUTHORIZING THE ISSUANCE OF A SENIOR LIEN TAXABLE DRAW-DOWN TAX INCREMENT REVENUE BOND, SERIES 2018 WITH NET PROCEEDS NOT TO EXCEED \$44,000,000, SUBJECT TO INCREASE BASED ON A SPECIFIED CONSTRUCTION COST INDEX, TO FINANCE THE ACQUISITION OF AND REIMBURSEMENT FOR CERTAIN PUBLIC INFRASTRUCTURE IMPROVEMENTS, TO BE SECURED BY GROSS RECEIPTS TAX INCREMENT REVENUES AND PROPERTY TAX INCREMENT REVENUES GENERATED WITHIN THE DISTRICT; APPROVING THE FORMS OF A MASTER INDENTURE OF TRUST, SUPPLEMENTAL INDENTURE NO. 1 AND A BOND PURCHASE AGREEMENT; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION; RATIFYING PRIOR CONSISTENT ACTION; AND REPEALING PRIOR INCONSISTENT ACTION.

A general summary of the subject matter contained in the Resolution is set forth in its title. This notice constitutes compliance with § 6-14-6 N.M.S.A. 1978.

(End of Form of Summary of Resolution for Publication)

APPROVED AND ADOPTED this 6th day of February, 2018.

BOARD OF DIRECTORS OF THE VILLAGE
OF TAOS SKI VALLEY TAX INCREMENT
DEVELOPMENT DISTRICT

By: _____
Neal King, Chairman

ATTEST:

By: _____
Ann Wooldridge, District Clerk