

WHEN RECORDED, RETURN TO:

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FIREFLY PUBLIC INFRASTRUCTURE DISTRICT NO. 1

FIREFLY ASSESSMENT AREA NO. 1

FIRST AMENDMENT TO ASSESSMENT ORDINANCE

DATED AS OF APRIL 9, 2024

AMENDING THE ASSESSMENT ORDINANCE
DATED AS OF DECEMBER 21, 2023

FIRST AMENDMENT TO ASSESSMENT ORDINANCE

WHEREAS, the Board of Trustees (the “Board”) of the Firefly Public Infrastructure District No. 1 (the “District”), adopted Resolution No. 2023-06 on December 21, 2023 (the “Authorizing Resolution”), pursuant to which the Board authorized and approved the form of an Assessment Ordinance (the “Assessment Ordinance”) and the form of the related designation resolution (the “Designation Resolution”); and

WHEREAS, the District, pursuant to the Assessment Area Act, Title 11, Chapter 42, Utah Code Annotated 1953, as amended (the “Act”), and pursuant to the Authorizing Resolution and the Designation Resolution, designated the Firefly Assessment Area No. 1 (the “Assessment Area”); and

WHEREAS, the final Assessment Ordinance dated as of December 21, 2023, was signed by the Board and recorded with the Utah County Recorder; and

WHEREAS, the District now desires to change the timing of assessment payments (the “Assessments”) under the Assessment Ordinance from annually to semi-annually in order to conform to the final terms of the Assessment Bonds; and

WHEREAS, in the event that the governing document for the District (the “Governing Document”) is amended to require that Assessments be prepaid for all residential dwellings at the time such dwellings are transferred to End Users (as defined in the Governing Document), the District elects to amend the Assessment Ordinance as provided in Section 2 herein; and

WHEREAS, pursuant to, and in compliance with, the provisions of Section 15 of the Assessment Ordinance, the Board desires to adopt this First Amendment to Assessment Ordinance to effectuate the amendments described herein:

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE FIREFLY PUBLIC INFRASTRUCTURE DISTRICT NO. 1:

Section 1. Amendment of Section 6(b) of the Assessment Ordinance. Section 6(b) of the Assessment Ordinance is hereby amended and restated to read as follows:

“(b) The District will collect the Assessments by directly billing each property owner rather than inclusion on a property tax notice. The bill for each Assessment payment shall be due March 1 and September 1 of each year (approximately 30 days after sending such bill, which shall be sent on or prior to February 1 and August 1 of each year, commencing February 1, 2026, due to estimated capitalized interest). However, failure to send any such bill by the scheduled date shall not impact the requirement of property owners to timely pay their Assessments on the due date thereof.”

Section 2. Amendment of Section 6(a) of the Assessment Ordinance. Section 6(a) of the Assessment Ordinance is hereby amended and restated to read as follows:

“(a) The Board hereby determines that the Improvements have a weighted average useful life of not less than forty (40) years, and has elected to have the Assessments prepaid for a residential dwelling at the time a building permit is requested for such dwelling unit; provided, however, that in the event the Governing Document for the Issuer approved by the City Council of Eagle Mountain City on July 5, 2023 (the “Governing Document”) is amended to require that Assessments be prepaid for a residential dwelling at the time such dwelling is transferred to an End User (as defined in the Governing Document), prepayments hereunder shall instead be required at the time a dwelling is transferred an to End User. The aggregate annual Assessment payments shall be in substantially equal amounts, subject, however, to adjustment as described herein. Interest on the unpaid balance of the Assessments shall accrue at the same rate or rates as shall be borne by the assessment bonds anticipated to be issued by the District for the Assessment Area (or any bonds which refund the same) (the “Assessment Bonds”), plus any third party direct out of pocket costs of the District related to the administration and collection of the Assessments. The District may outsource all or a portion of the administration services, including legal costs or consulting costs as an additional out of pocket cost, including, but not limited to, all costs related to foreclosure (and other remedies) and amendments to this Ordinance.”

Section 3. Owner Consent. The District hereby finds and determines that the changes made herein do not materially adversely affect the rights of the Owners under the Assessment Ordinance and that all Owners have consented to the execution of this First Amendment to Assessment Ordinance.

Section 4. All Necessary Action Approved. The officials of the District are hereby authorized and directed to take all action necessary and appropriate to effectuate the provisions of this First Amendment to Assessment Ordinance, including the filing of a notice with the Utah County Recorder.

Section 5. Assessment Ordinance. Except as specifically amended by this First Amendment to Assessment Ordinance, the Assessment Ordinance shall remain in full force and effect without change. In the event of a challenge to this First Amendment to Assessment Ordinance, the Board may elect to collect the Assessments pursuant to the Assessment Ordinance.

Section 6. Repeal of Conflicting Provisions; Amendment. All ordinances or parts thereof in conflict with this First Amendment to Assessment Ordinance are hereby repealed. The Chair (or any assigned designee of the Chair) may make any alterations, changes or additions to this First Amendment to Assessment Ordinance which may be necessary to conform the same to the final terms of the Assessment Bonds, to correct errors or omissions herein, to complete the same, to remove ambiguities herefrom, or to conform the same to other provisions of this First Amendment to Assessment Ordinance or any resolution adopted by the Board or the provisions of the laws of the State of Utah or the United States, including technical changes to the description of the boundary of the Assessment Area, so long as those changes do not change the boundaries from those depicted on the maps attached to the Designation Resolution and do not materially adversely affect the rights of the Owners without the consent of such Owners affected.

Section 7. Posting of Ordinance. This First Amendment to Assessment Ordinance shall be signed by the Chair and Clerk/Secretary and shall be recorded in the ordinance book kept for that purpose. A copy of this First Amendment to Assessment Ordinance shall be posted in a public location within or near the District's boundaries that is reasonably likely to be seen by individuals who pass through or near the affected area for at least 21 days and a copy of this First Amendment to Assessment Ordinance shall also be posted on the Utah Public Notice Website (<http://pmn.utah.gov>) for at least 21 days. This First Amendment to Assessment Ordinance shall take effect immediately upon its passage and approval and posting as required by law.

Section 8. Defined Terms. Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to such terms in the Assessment Ordinance.

PASSED AND APPROVED this April 9, 2024.

FIREFLY PUBLIC
INFRASTRUCTURE DISTRICT NO. 1

By: _____
Chair

ATTEST:

By: _____
Clerk/Secretary

(Here follows other business not pertinent to the above.)

Pursuant to motion duly made and seconded, the meeting of the Board of Trustees of the District, adjourned.

FIREFLY PUBLIC INFRASTRUCTURE
DISTRICT NO. 1

By: _____
Chair

ATTEST:

By: _____
Clerk/Secretary