

RESOLUTION NO. 25
QUAILWOOD MEADOWS COMMUNITY FACILITIES DISTRICT

A RESOLUTION OF THE DISTRICT BOARD OF THE QUAILWOOD MEADOWS COMMUNITY FACILITIES DISTRICT, A COMMUNITY FACILITIES DISTRICT OF ARIZONA, APPROVING A FINAL BUDGET FOR FISCAL YEAR 2014-2015 PURSUANT TO ARS §48-716; ORDERING THAT AN AD VALOREM TAX BE FIXED, LEVIED AND ASSESSED ON THE ASSESSED VALUE OF ALL THE REAL AND PERSONAL PROPERTY WITHIN THE BOUNDARIES OF THE DISTRICT IN AMOUNTS SPECIFIED IN THE FILED STATEMENTS AND ESTIMATES; PROVIDING FOR CERTIFIED COPIES OF THIS RESOLUTION AND ORDER TO BE DELIVERED TO THE YAVAPAI COUNTY BOARD OF SUPERVISORS AND THE ARIZONA DEPARTMENT OF REVENUE; PROVIDING THAT IF ANY PROVISION IN THIS RESOLUTION IS HELD INVALID BY A COURT OF COMPETENT JURISDICTION, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED, BUT SHALL CONTINUE IN FULL FORCE AND EFFECT; AND PROVIDING THAT THIS RESOLUTION SHALL BE EFFECTIVE AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, on August 12, 2004, the Common Council of the Town of Prescott Valley ("Town") adopted Resolution No. 1294 creating within Sections 27, 34 and 35, R1E, T14N, and Section 3, R1E, T13N, G&SRM of the Town, the Quailwood Meadows Community Facilities District ("QMCFD"), a community facilities district in accordance with ARS §48-701 et seq. (see Exhibit "A" attached hereto and expressly made a part hereof); and

WHEREAS, QMCFD is a special purpose district for purposes of Article IX, Section 19, Constitution of Arizona, a tax-levying public improvement district for the purposes of Article XIII, Section 7, Constitution of Arizona, and a municipal corporation for all purposes of Title 35, Chapter 3, Articles 3, 3.1., 3.2, 4 and 5, Arizona Revised Statutes, as amended, and [except as otherwise provided in §48-708(B), as amended] is considered to be a municipal corporation and political subdivision of the State of Arizona, separate and apart from the Town; and

WHEREAS, a primary purpose for creating QMCFD was to finance construction and maintenance of certain public improvements needed for the Quailwood Meadows development through assessment of ad valorem taxes on all real and personal property within the development; and

WHEREAS, in accordance with ARS §§48-719 and 48-723, a special election was held on October 12, 2004 wherein the qualified electors of QMCFD voted to issue general obligation bonds in the maximum amount of twenty-five million dollars (\$25,000,000) to cover costs of constructing required public improvements, and to levy and collect an annual ad valorem tax at a rate not to exceed thirty cents (30¢) per one hundred dollars (\$100) of assessed valuation for QMCFD operation and maintenance expenses; and

WHEREAS, by Resolution No. 4 (Originally No. 3) (dated October 14, 2004) the QMCFD Board authorized the sale of up to seven million dollars (\$7,000,000) aggregate

principal amount of general obligation bonds, Series 2004 (“2004 Bonds”) to fund initial public improvements for the development; and

WHEREAS, QMCFD also entered into agreements with Quailwood Meadows, L.L.C., a limited liability company of Delaware (“Quailwood”), and Empire Land, L.L.C., a limited liability company of California (“Empire”) with respect to the 2004 Bonds, whereby Quailwood and Empire (as the developers of the development) would (a) make annual payments to QMCFD in order to maintain the tax rate at no more than three dollars (\$3) per \$100 of secondary assessed valuation for debt service, given the tax base of QMCFD in each tax year, (b) deposit ten percent (10%) of the bond principal to supplement tax revenues if amounts available under the annual payments were insufficient, and (c) pay up to thirty thousand dollars (\$30,000) annually in the event an additional ad valorem tax of 30¢ per \$100 to pay costs to operate and maintain the public improvements was insufficient (until July 1, 2020, or July 1 after the 900th building permit was issued, whichever is earlier); and

WHEREAS, based on these agreements, the QMCFD Board issued \$6,940,000 in 2004 Bonds on October 14, 2004; and

WHEREAS, after initial success with the development, Quailwood/Empire eventually had economic difficulties as a consequence of the worldwide economic downturn. On April 25, 2008, Empire filed a petition for Chapter 11 bankruptcy protection in U.S. Bankruptcy Court, Central District of California, Riverside Division (6:08-14592 MJ). On December 8, 2008, said bankruptcy was changed to a Chapter 7 liquidation; and

WHEREAS, on August 13, 2008, Wells Fargo Bank, N.A. obtained an order from the bankruptcy court granting its motion for relief from the bankruptcy stay relative to secured collateral (including undeveloped residential lots owned by Quailwood/Empire in units IV and VII and the Townhomes in the development, some or all of which eventually became part of a Receivership Estate); and

WHEREAS, on January 6, 2009, Central Pacific Bank obtained an order from the bankruptcy court granting its motion for relief from the bankruptcy stay in order to foreclose its interests in undeveloped residential lots in units IV, V, VI and VIII in the development (said foreclosure occurring on March 9, 2009); and

WHEREAS, the bankruptcy trustee ultimately abandoned both sets of lots (totaling five hundred fifty-seven (557)) from the bankruptcy estate effective July 1, 2009; and

WHEREAS, because annual payments under the above-mentioned agreements were not made after the bankruptcy filing, a shortfall in moneys available to make bond payments occurred for the July 15, 2011 bond payment. This resulted in an unscheduled draw on the deposit of \$47,496.64 (which, in turn, resulted in a Reporting of Material Event in early August 2011). Just prior thereto, the QMCFD Board had increased the tax rate to approximately four dollars and twenty-three cents (\$4.23) per \$100 secondary assessed valuation as part of the Fiscal Year 2011-2012 budget (Resolution No. 18, June 22, 2011); and

WHEREAS, after considerable discussion and investigation, single-purpose entities were formed by Everest Holdings or related entities to purchase these lots from CPB and the Receivership Estate; and

WHEREAS, in the process, CPB, the Receiver, and these new entities asked the QMCFD Board and the Town Council to approve assignments and certain amendments to various agreements (including the agreements described above), and for the Town Manager to make certain written determinations with regard to the agreements relating to such things as fee credits, development of wells, and repair of existing public improvements; and

WHEREAS, said assignments, amendments and determinations were initially made or approved or determined by the QMCFD Board, Town Council and Town Manager (respectively) on January 5, 2012 (followed by similar actions on March 8, 2012 and April 12, 2012 due to changes in the single-purpose entities); and

WHEREAS, the assignment documents provided that the new single-purpose entities (“Everest”) would fully assume the benefits and burdens of the various agreements, but then applied certain limitations to the burdens going forward (e.g. that contributions under the Contribution Agreement would be limited to three hundred fifteen dollars (\$315) per year per lot...not to exceed a total of one million dollars (\$1,000,000) over the term of the Financing Agreement...any contributions not previously made by Empire would not be applied retroactively to Everest, the requirement to annually pay up to \$30,000 towards maintaining infrastructure could terminate upon transfer of all remaining lots to homebuyers, Everest would not be required to meet the net worth test that previously applied to Empire, but Everest disclaimed any interest in the remainder of the original deposit; and

WHEREAS, based on these arrangements, Everest made a standby contribution of \$175,140 towards the July 15, 2012 bond payment so that only \$17,460.19 was needed from the deposit (leaving a balance of \$629,043.17 but still resulting in a Reporting of Material Event on July 19, 2012). Just prior thereto, the QMCFD Board had increased the tax rate to approximately five dollars and fifty-five cents (\$5.55) as part of the Fiscal Year 2012-2013 budget (Resolution No. 20, July 12, 2012); and

WHEREAS, the July 15, 2013 payment was then made with a contribution of \$170,631.66 from the new entities and an unscheduled draw of \$60,542.54 from the deposit (leaving a balance of \$568,500.63). A Reporting of Material Event followed. With this process in place (and with stabilization of real property values due to economic recovery) the FY 2013-2014 tax rate was able to be slightly reduced to five dollars and twenty-five cents (\$5.25) per \$100 secondary assessed valuation; and

WHEREAS, similar to the StoneRidge and Pronghorn Ranch CFDs, the potential for QMCFD to issue refunding bonds was realized when a private investor (Colorado Business Bank) proposed to purchase such bonds. On October 10, 2013, the QMCFD Board adopted Resolution No. 23 issuing 2013 Refunding Bonds at an interest rate of approximately four and two-tenths percent (4.2%). Although the deposit was used up in the refunding process, the

QMCFD Board made certain in Resolution No. 23 that the conditions of the earlier assignment to Everest remained in place so that limited standby contributions would continue; and

WHEREAS, going forward it is understood that the QMCFD Board will continue to make decisions about QMCFD tax rates based on these limited contributions by Everest and the reduced interest rate now applicable through the refinancing; and

WHEREAS, by Resolution No. 24 (dated June 5, 2014), the QMCFD Board (a) approved a Tentative Budget for Fiscal Year 2014-2015, (b) filed required statements and estimates of QMCFD's operation and maintenance expenses, and the amount of all other expenditures for public infrastructure and enhanced municipal services proposed to be paid from the tax levy and of the amount to be raised to pay QMCFD general obligation bonds (c) set a date of July 10, 2014, for a public hearing on the Tentative Budget and, particularly, on the portions of the statements and estimates not relating to debt service on general obligation bonds, and (d) provided for notice of the filing and of the public hearing date; and

WHEREAS, at the conclusion of the public hearing, the QMCFD Board voted to adopt the Final Budget for Fiscal Year 2014-2015 by this Resolution No. 25, and ordered the fixing levying and assessment of the amounts to be raised by ad valorem taxes;

NOW, THEREFORE, BE IT RESOLVED BY THE DISTRICT BOARD OF THE QUAILWOOD MEADOWS COMMUNITY FACILITIES DISTRICT, AS FOLLOWS:

1. That that certain proposed QMCFD budget prepared by the QMCFD Treasurer for Fiscal Year 2014-2015, attached hereto and expressly made a part hereof as Exhibit "B", is hereby finally adopted.

2. That it is hereby ORDERED that, in Fiscal Year 2014-2015, an ad valorem tax be fixed, levied and assessed on the assessed value of all the real and personal property within the boundaries of CMCFD in the amounts set forth in the statements and estimates attached hereto and expressly made a part hereof as Exhibit "C".

3. That certified copies of this Resolution and Order be delivered by U.S. Mail to the Yavapai County Board of Supervisors and to the Arizona Department of Revenue on or about July 14, 2014 (inasmuch as the tax levy must be filed by the Yavapai County Board of Supervisors on or before the third Monday in August).

4. That if any provision in this Resolution is held invalid by a Court of competent jurisdiction, the remaining provisions shall not be affected, but shall continue in full force and effect.

5. That this Resolution shall be effective after its passage and approval according to law.

RESOLVED by the District Board of the Quailwood Meadows Community Facilities District this 10th day of July 2014.

Harvey C. Skoog, Chairman, District Board
Quailwood Meadows Community Facilities District

ATTEST:

Diane Russell, District Clerk
Quailwood Meadows Community Facilities District

APPROVED AS TO FORM:

Ivan Legler, District Counsel
Quailwood Meadows Community Facilities District

EXHIBIT "A"

QMCFD Map and Legal Description

EXHIBIT "B"

FY 2014-2015 QMCFD Budget

EXHIBIT "C"

QMCFD Statements and Estimates on Auditor General Forms