

GLOBAL SETTLEMENT AGREEMENT AND RELEASE

This Global Settlement Agreement and Release (this “**Agreement**”) is entered into as of February 28, 2022 (the “**Effective Date**”), by and among the City of Missoula (the “**City**”), on the one hand, and The Carlyle Group Inc., The Carlyle Group L.P. (“**L.P.**”), Carlyle Infrastructure Partners, L.P. (“**CIP**”), The Carlyle Group Employee Co., L.L.C. (“**Employee Co.**”), Robert Dove (“**Dove**”), and Bryan Lin (“**Lin**”) (collectively, “**Carlyle**”), on the other hand. Capitalized terms used herein that are not defined where first used carry the meanings ascribed to them, respectively, in Section 1 hereof.

RECITALS

WHEREAS, on September 22, 2011, the City and CIP entered into that certain Letter Agreement, setting forth their rights and obligations as they related to the water system in Missoula (the “**Letter Agreement**”);

WHEREAS, on April 2, 2014, after CIP had rejected the City’s final written offer of \$50 million for the assets of Mountain Water Company (“**Mountain Water**”), the City filed claims against CIP and Mountain Water in Montana’s Fourth Judicial District Court (Missoula County) (*City of Missoula v. Mountain Water Co., et al.*, No. DV-14-352), seeking an Order of Condemnation under Montana’s law of eminent domain (the “**Condemnation Action**”);

WHEREAS, after a three-week bench trial that commenced on March 18, 2015, the City prevailed in proving public necessity in the Condemnation Action, resulting in the District Court issuing a 68-page Findings of Fact, Conclusions of Law, and Preliminary Order of Condemnation on June 15, 2015, thereby completing the public necessity phase of the Condemnation Action;

WHEREAS, on July 15, 2015, CIP and Mountain Water filed and served a Claim of Just Compensation in the amount of \$199,000,000.00 which the City did not accept, triggering the valuation phase of the Condemnation Action;

WHEREAS, a three-person condemnation commission was appointed by the District Court to determine the value of the assets being condemned and the amount of just compensation to be paid for those assets, and at trial in November 2015 the amount of just compensation to be paid by the City was determined to be \$88.6 million;

WHEREAS, the parties did not appeal the valuation determination;

WHEREAS, on June 23, 2015, CIP appealed the District Court’s Preliminary Order of Condemnation to the Montana Supreme Court (*City of Missoula v. Mountain Water Co., et al.*, No. DA 15-375), and in 2017 and 2020, the parties subsequently filed a series of other appeals and cross-appeals to the Montana Supreme Court arising from the Condemnation Action (Nos. DA 17-272, DA 17-478, DA 17-480, DA 17-674, DA 17-733, DA 20-115, and DA 20-151 (the “**Condemnation Appeals**”));

WHEREAS, the Montana Supreme Court affirmed the District Court's Preliminary Order of Condemnation on August 2, 2016, and the City thereafter took ownership of the Missoula water system pursuant to the District Court's April 12, 2017 Final Order of Condemnation;

WHEREAS, on April 12, 2017, the District Court found that CIP and Mountain Water were prevailing parties under Mont. Code Ann. § 70-30-305(2), and awarded attorney's fees and expenses totaling \$1,111,659.94 to CIP and \$2,800,745.57 to Mountain Water using hourly rates applicable in Missoula;

WHEREAS, following CIP and Mountain Water's appeal of the District Court's attorney's fee award in which they sought fees calculated at market rates, the Montana Supreme Court remanded the case to the District Court for additional discovery concerning additional attorney's fees to which CIP and Mountain Water may be entitled;

WHEREAS, on May 31, 2019, CIP and Mountain Water moved for an additional \$1,333,777.29 in attorney's fees and expenses from the City, and that motion is presently pending before the District Court;

WHEREAS, on October 1, 2015, the City filed claims against L.P., CIP, Employee Co., Dove, and Lin in Montana's Fourth Judicial District Court (Missoula County) (*City of Missoula v. CIP, et al.*, No. DV-15-1020), alleging a series of contract, tort, equitable, and other claims, including in a Complaint, First Amended Complaint, and proposed Second Amended Complaint (the "**District Court Action**");

WHEREAS, the City represented in the District Court Action that the employees of Mountain Water have assigned to the City any and all claims relating to any "post-retirement benefits other than pensions" (the "**Assigned Claims**");

WHEREAS, on November 23, 2018, the Court in the District Court Action ordered the City to arbitrate its claims pursuant to the Letter Agreement, finding that the parties had delegated questions of arbitrability to the Panel, and holding that even if the parties had not delegated questions of arbitrability to the Panel that the claims were arbitrable;

WHEREAS, on January 11, 2019, after being compelled to arbitrate their claims in the District Court Action, the City filed its claims against L.P., CIP, Employee Co., Dove, and Lin with the American Arbitration Association (*City of Missoula v. CIP, et al.*, No. 01-19-0000-1366), alleging a series of contract, tort, equitable, and other claims (the "**Arbitration**");

WHEREAS, in orders on August 14, 2019, and September 19, 2019, the Panel ruled that certain claims brought by the City were arbitrable and should remain in the Arbitration, and other claims brought by the City were not arbitrable and should be decided in the District Court Action;

WHEREAS, on January 28, 2019, L.P., CIP, Employee Co., Dove, and Lin filed an Answering Statement, and CIP filed a Counterclaim against the City, alleging breach of the parties' arbitration agreement, in the Arbitration;

WHEREAS, on February 5, 2020, the Arbitral Panel granted summary judgment in favor of CIP, as to liability, on its Counterclaim, and ordered CIP to brief its entitlement to damages, as part of later briefing on fee petitions, in the Arbitration;

WHEREAS, on June 18, 2020, the City filed a motion under seal (Dkt. No. 840) in the Condemnation Action (the “**Sealed Motion**”) and, in response, CIP filed a motion under seal to strike the affidavits used in the Sealed Motion (Dkt. No. 847) (the “**Strike Motion**”);

WHEREAS, on May 18, 2021, the Montana Supreme Court issued its opinion in *City of Missoula v. Mountain Water Company*, 2021 MT 122, which vacated the orders in the Condemnation Action from July 12, 2018 onward;

WHEREAS, from June 28-July 2, 2021, and from July 26-30, 2021, the Arbitral Panel held an evidentiary hearing as to liability in Missoula, Montana, followed by closing oral arguments in Seattle, Washington on October 1, 2021;

WHEREAS, on December 1, 2021, the Arbitral Panel issued an Interim Award in the Arbitration, finding for L.P., CIP, Employee Co., Dove, and Lin; dismissing the City’s claims with prejudice; and ordering the parties to schedule briefing on Carlyle’s entitlement to attorneys’ fees and expenses as provided in the Letter Agreement (“**Interim Award**”);

WHEREAS, all parties denied the allegations made against them in the Condemnation Action, Condemnation Appeals, District Court Action, Arbitration, and Sealed Motion;

WHEREAS, in order to avoid the costs and uncertainty of further and additional arbitration and litigation, the parties have agreed to settle all the disputes and controversies between or among them related to the Condemnation Action, Condemnation Appeals, District Court Action, Arbitration, and Sealed Motion, on the terms set forth in this Agreement, without admitting any liability or wrongdoing; and

NOW, THEREFORE, in consideration of the above promises, the mutual covenants and undertakings made herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Definitions

Section 1.1 Definitions. The following definitions shall apply to and constitute part of this Agreement and of all schedules, exhibits and annexes hereto:

“**Business Day**” shall mean any day other than a Saturday, Sunday, or other day on which banks in the State of Montana are closed.

“**Claim**” shall mean any and all complaints, claims, counterclaims, demands, liabilities, obligations, promises, agreements, controversies, actions, causes of action, suits, requests or motions for sanctions of any kind, rights, damages, costs, losses, debts, charges, and expenses (including attorneys’ fees and disbursements of counsel and other professionals) of any and every nature whatsoever, whether currently known or unknown, suspected or unsuspected,

ripened or unripened, whether arising in equity or under the law of contract, tort, malpractice, statutory breach or any other legal right or duty and whether they be directly, indirectly, nominally or beneficially, possessed or claimed by any Person that such Person, or any third party claiming through such Person or by right in respect of such Person has had, now has, or hereafter can, shall, or may have against any third party, including any party hereto, from the beginning of the world and that exist as of the Effective Date or that may later accrue in respect of circumstances arising on or prior to the Effective Date.

“**Person**” shall mean an individual, corporation, limited liability company, professional corporation, limited liability partnership, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, municipality described or defined in Title 7 of the Montana Code, government or any political subdivision or agency thereof, and any business or legal entity and any spouses, heirs, predecessors, successors, representatives or assigns of any of the foregoing.

“**Released Claim**” shall mean each and any of the City Released Claims and the Carlyle Released Claims.

“**Releasee**” shall mean, as applicable, each party hereto as well as each and any of the current and former parents, subsidiaries, and affiliates of such party; his, its, and their respective current and former principals, owners, partners, shareholders, directors, officers, associates, employees, members, managers, agents, attorneys, representatives, and insurers; and the heirs, executors, administrators, trustees, beneficiaries, predecessors, successors, and assigns of any of them, whether pursuant to contract, by operation of law, or otherwise; as to the City, referred to herein as the “**City Releasees**,”; as to Carlyle, referred to herein as the “**Carlyle Releasees**.”

“**Releasor**” shall mean each and any of the City Releasors and the Carlyle Releasors.

Section 1.2 Other Terms. Other terms may be defined elsewhere in this Agreement and, unless otherwise indicated, shall have such meaning throughout this Agreement.

2. City Payment to Carlyle

Section 2.1 Settlement Payment. Within ten (10) Days of the Effective Date, in consideration for the promises, covenants, and agreements of the parties as set forth herein, the City will pay to Carlyle Infrastructure Partners Western Water, L.P. the sum of four million one hundred thirty thousand dollars and zero cents (**\$4,130,000.00**) via wire transfer in accordance with the instructions set forth in Exhibit 2.1 attached hereto (the “**Settlement Amount**”). Payment of the Settlement Amount by the City in accordance with the terms of this Section 2.1 shall constitute a full and valid discharge of its payment obligations pursuant to this Agreement.

3. Dismissals

Section 3.1 Dismissals. Within three (3) Business Days after the City has paid the Settlement Amount, the parties will dismiss with prejudice all Claims against the other parties in the Condemnation Action, Condemnation Appeals, District Court Action, Arbitration, and

Sealed Motion, pursuant to the joint stipulations of dismissal with prejudice as set forth in Exhibit 3.1.

4. Releases

Section 4.1 Release Granted by City. In consideration for the promises, covenants, and agreements of the parties as set forth herein, and each such party's execution and delivery of this Agreement, the City, for itself as well as its current and former agencies, components and political subdivisions (including Missoula Water); all of its and their respective current and former elected officials, partners, shareholders, directors, officers, employees, members, managers, agents, attorneys, representatives, and insurers; the heirs, executors, administrators, trustees, beneficiaries, predecessors, successors and assigns of any of the foregoing; and any other Person that claims, might claim by, through, under, on behalf of or for the benefit of any of the foregoing (collectively, the "**City Releasers**"), hereby fully, finally, and unconditionally release the Carlyle Releasees from any and all complaints, claims, counterclaims, demands, liabilities, obligations, promises, agreements, controversies, actions, causes of action, suits, rights, damages, costs, losses, debts, charges, and expenses (including attorneys' fees and disbursements of counsel and other professionals) of any and every nature whatsoever, whether in law or in equity, whether currently known or unknown, suspected or unsuspected, whether arising under the law of contract, tort, malpractice, statutory breach or any other legal right or duty and whether they be directly, indirectly, nominally or beneficially, possessed or claimed by any of them that any of them has had, now has, or that any of them hereafter can, shall, or may have against any of the Carlyle Releasees from the beginning of the world through the Effective Date arising out of or relating in any way to Carlyle's purchase, ownership, or sale of the Missoula water system, including without limitation, the claims, allegations, or circumstances alleged in the Condemnation Action, Condemnation Appeals, District Court Action, Arbitration, or the Sealed Motion (collectively, the "**City Released Claims**").

Section 4.2 Release Granted by Carlyle. On the date CIP receives the Settlement Amount, in consideration for the promises, covenants, and agreements of the parties as set forth herein, and each such party's execution and delivery of this Agreement, Carlyle, for itself as well as its current and former parents, subsidiaries and affiliates; all of its and their respective current and former partners, shareholders, directors, officers, employees, members, managers, agents, attorneys, representatives and insurers; the heirs, executors, administrators, trustees, beneficiaries, predecessors, successors and assigns of any of the foregoing; and any other Person that claims, might claim by, through, under, on behalf of or for the benefit of any of the foregoing (collectively, the "**Carlyle Releasers**"), hereby fully, finally, and unconditionally release the City Releasees from any and all complaints, claims, counterclaims, demands, liabilities, obligations, promises, agreements, controversies, actions, causes of action, suits, rights, damages, costs, losses, debts, charges, and expenses (including attorneys' fees and disbursements of counsel and other professionals) of any and every nature whatsoever, whether in law or in equity, whether currently known or unknown, suspected or unsuspected, whether arising under the law of contract, tort, malpractice, statutory breach or any other legal right or duty and whether they be directly, indirectly, nominally or beneficially, possessed or claimed by any of them that any of them has had, now has, or that any of them hereafter can, shall, or may have against any of the City Releasees from the beginning of the world through the Effective Date arising out of or relating in any way to Carlyle's purchase, ownership, or sale of the

Missoula water system, including without limitation, the claims, allegations, or circumstances alleged in the Condemnation Action, Condemnation Appeals, District Court Action, Arbitration, or the Sealed Motion (collectively, the “**Carlyle Released Claims**”).

Section 4.3 Scope of Releases. For the avoidance of doubt, nothing contained in any of Sections 4.1 or 4.2 shall operate to discharge the obligations of the parties set forth in this Agreement.

5. Covenants

Section 5.1 Covenant Not to Sue. On behalf of itself and all other Releasors on whose behalf it acts, each party hereto covenants and agrees that: (i) neither such party nor any such Releasor will sue or bring any action or cause of action, including by way of third-party claim, cross-claim, or counterclaim, against any of such Releasor’s respective Releasees in respect of any Released Claim; (ii) neither such party nor any such Releasor will initiate or participate in bringing or pursuing any class action or similar action against any such Releasee in respect of any Released Claim; (iii) if involuntarily included in any such class action or similar action, each such party or each such Releasor, as applicable, will use its best efforts to withdraw therefrom; and (iv) no party nor any of its owners, directors, officers, trustees, officials, or employees will assist any third party in initiating or pursuing a class action suit in respect of any Released Claim.

Section 5.2 Complete Defense; Indemnification. Each Releasee may plead this Agreement as a complete defense and bar to any Released Claim brought in contravention hereof and, in the event a Releasor brings a Released Claim, the party who released said claim on behalf of the plaintiff/claimant Releasor pursuant to Section 4.1, 4.2, or 4.3 hereof, as applicable, shall indemnify, defend, and hold harmless any Releasee against which or whom such Released Claim is brought from and against any and all costs, fees, liabilities, expenses, damages, judgments, interest, debts, or losses incurred in connection therewith, including the reasonable fees and disbursements of counsel and other professionals and court costs incurred in connection with enforcing the terms of this Section 5.2. Without in any way limiting the foregoing, in the event any party brings an action against any other party to enforce a provision of this Agreement, the prevailing party shall be entitled to reasonable expenses, including the reasonable fees and disbursements of counsel and other professionals and court costs incurred in connection therewith and in connection with enforcing the terms of this Section 5.2.

Section 5.3 Indemnification of Third-Party Claims. The City (the “**Indemnifying Party**”) shall defend Carlyle and its subsidiaries, affiliates, directors, officers, shareholders, agents, employees, and attorneys (the “**Indemnified Party**”), against and pay the amount of any adverse final judgment, or settlement to which the Indemnifying Party consents, resulting from any third-party Claim arising out of or relating to the Assigned Claims.

6. Representations and Warranties

Section 6.1 Signatory Authority. Each party warrants and represents that the individual who executed and delivered this Agreement on such party’s behalf has due authority to execute and deliver this Agreement on behalf of such party and that this Agreement constitutes, or will constitute when executed and delivered, a valid and binding agreement of

such party, enforceable in accordance with its terms. By his or her signature below, each such individual warrants and represents that he or she has actual and express authority to execute and deliver this Agreement on behalf of the party for whom such he or she has executed and delivered this Agreement.

Section 6.2 Ownership; No Assignment. Each party warrants and represents that such party is the sole and lawful owner of all rights, title, and interest in and to the matters released and settled by such party herein, or otherwise has, to the fullest extent permitted by applicable law, the requisite power and authority to release and settle such matters on behalf of itself and its respective Releasors, and that neither such party nor any of its respective Releasors has assigned, transferred, pledged, hypothecated, or subrogated any Released Claim or any part or portion of any Released Claim.

Section 6.3 Assigned Claims. The City warrants and represents that the employees of Mountain Water have assigned to the City any and all claims relating to any “post-retirement benefits other than pensions,” which the City then asserted in the District Court Action, and that the City has full authority to settle the Assigned Claims.

7. Miscellaneous

Section 7.1 Recitals. The recitals set forth above are incorporated by reference and are explicitly made a part of this Agreement.

Section 7.2 Amendments. This Agreement may not be modified, amended, or supplemented except by a written agreement executed by each party to be affected by such modification, amendment or supplement.

Section 7.3 Waiver of Appeal; No Admission of Liability; Use. As part of this settlement, the City waives its right to appeal, seek to vacate, or otherwise contest or challenge the Interim Award before any court or arbitral body. The Parties otherwise continue to deny the claims asserted against them in the Condemnation Action, Condemnation Appeals, District Court Action, and Sealed Motion. The execution of this Agreement is not intended to be, nor shall it be construed as, an admission or evidence in any pending or subsequent suit, action, proceeding, or dispute of any liability, wrongdoing, or obligation whatsoever (including as to the merits of any claim or defense) by any party to any other party or any other Person with respect to any of the matters addressed in this Agreement. None of this Agreement, the settlement, or any act performed or document executed pursuant to or in furtherance of this Agreement or the settlement shall be admissible in any proceeding for any purposes, except to enforce the terms of the Agreement.

Section 7.4 Good-Faith Negotiations. The parties further recognize and acknowledge that each of the Parties hereto is represented by counsel and that such party received independent legal advice with respect to the advisability of entering into this Agreement. Each of the parties acknowledges that the negotiations leading up to this Agreement were conducted regularly and at arm’s length; this Agreement is made and executed by and of each party’s own free will; each knows all of the relevant facts and its rights in connection therewith; and it has not been improperly influenced or induced to make this settlement as a result of any act or action on the

part of any party or employee, agent, attorney, or representative of any party. The parties further acknowledge that they entered into this Agreement because of their desire to avoid the further expense and inconvenience of arbitration, litigation, and other disputes and to compromise permanently and settle the claims between or among them by the execution of this Agreement.

Section 7.5 Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon, or to give to, any person other than the parties hereto, the Releasees, and their respective successors and assigns, any right, remedy or claim under or by reason of this Agreement or any covenant, condition or stipulation thereof; and the covenants, stipulations and agreements contained in this Agreement are and shall be for the sole and exclusive benefit of the parties hereto and their respective successors and assigns.

Section 7.6 Governing Law and Resolution of Disputes. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the State of Montana (or United States federal law, to the extent applicable), including any applicable statutes of limitation, without regard to any otherwise applicable principles of conflicts of law or choice of law rules (whether of the State of Montana or any other jurisdiction) that would result in the application of the substantive or procedural rules or law of any other jurisdiction.

Any and all disputes and controversies arising out of or relating to this Agreement or the breach thereof (including, without limitation, any dispute as to the arbitrability of any dispute or controversy, but not including any matter or issue that already has been resolved prior to this Agreement by agreement of the parties or adjudicated prior to this Agreement by the District Court, by the Montana Supreme Court, or by the Arbitral Panel.) shall be resolved by binding, confidential arbitration. That arbitration shall be before a single arbitrator and administered by the American Arbitration Association (“AAA”) pursuant to its Commercial Arbitration Rules in effect as of the Effective Date (“Commercial Rules”). Within 15 days after the commencement of arbitration, each party shall nominate three candidates to serve as arbitrator and shall meet and confer for the purpose of determining if any of the nominees is acceptable to all parties. If none of the nominees are acceptable to both parties, the arbitrator shall then be selected pursuant to Rule R-12 of the Commercial Rules. The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1, et seq., and judgment upon the award rendered by the arbitrators may be entered by any court having jurisdiction thereof. The arbitrator shall decide the dispute in accordance with the substantive law of Montana without regard to its conflicts-of-laws principles. The arbitrator’s award shall be set forth in a written decision stating the reasons upon which the award is based. The arbitration agreement and any arbitration shall be governed by the Federal Arbitration Act, Chapters 1 and 2, to the exclusion of state law inconsistent therewith.

Section 7.7 Remedies; Specific Performance. The parties acknowledge and agree that their respective rights and remedies under this Agreement shall be cumulative, and that no particular right or remedy shall function to waive or limit any other rights or remedies otherwise available to either party, including the right to seek monetary damages, equitable relief or any other remedy, in law or in equity, against the other party. Without limiting the foregoing, it is understood and agreed by the parties that money damages would not be a sufficient remedy for

any breach of this Agreement by any party and each non-breaching party shall be entitled to specific performance and injunctive or other equitable relief as a remedy of any such breach.

Section 7.8 Notices. All demands, notices, requests, consents, and other communications hereunder shall be in writing and shall be deemed to have been duly given (i) when personally delivered by courier service or messenger, (ii) upon actual receipt (as established by confirmation of receipt or otherwise) during normal business hours, otherwise on the first business day thereafter if transmitted by facsimile or electronic mail with confirmation of receipt, (iii) three (3) Business Days after being duly deposited in the mail, by certified or registered mail, postage prepaid-return receipt requested, to the following addresses, or such other addresses as may be furnished hereafter by notice in writing, to the following parties:

If to the City, to:

Mayor of the City of Missoula
435 Ryman St.
Missoula, MT 598902

Attn: Mayor John Engen (engenj@ci.missoula.mt.us) or his successor

with a copy to:

Chief Administrative Officer of the City of Missoula
435 Ryman St.
Missoula, MT 598902

Attn: Chief Administrative Officer Dale Bickell
(dbickell@ci.missoula.mt.us) or his successor

Perkins Coie, LLP
1201 Third Avenue Suite 4900
Seattle, WA 98101-3099

Attn: Harry H. Schneider, Jr. (HSchneider@perkinscoie.com)

with a copy to:

Boone Karlberg, PC
201 West Main St., Suite 300
P.O. Box 9199
Missoula, MT 59807

Attn: Scott M. Stearns (sstearns@boonekarlberg.com) and Natasha P. Jones (npjones@boonekarlberg.com)

If to Carlyle, to:

The Carlyle Group Inc.
1001 Pennsylvania Ave., N.W.
Washington, D.C. 20005

Attn: Jeffrey W. Ferguson (jeffrey.ferguson@carlyle.com)

with a copy to:

Williams & Connolly LLP
725 Twelfth Street, N.W.
Washington, D.C. 20005

Attn: Robert A. Van Kirk, Esq. (rvankirk@wc.com)

Section 7.9 Construction. No provision of this Agreement shall be interpreted or construed against any party because that party or its legal representative drafted that provision. The captions and headings of the Sections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement. Unless the context of this Agreement clearly requires otherwise: (a) references to the plural include the singular, the singular the plural, and the part the whole, (b) references to one gender include all genders, (c) “or” has the inclusive meaning frequently identified with the phrase “and/or,” (d) “including” has the inclusive meaning frequently identified with the phrase “including but not limited to” or “including without limitation,” (e) references to “hereunder,” “herein” or “hereof” relate to this Agreement as a whole, and (f) the terms “dollars” and “\$” refer to United States dollars. Section, subsection, exhibit and schedule references are to this Agreement as originally executed unless otherwise specified. Any reference herein to any statute, rule, regulation or agreement, including this Agreement, shall be deemed to include such statute, rule, regulation or agreement as it may be modified, varied, amended or supplemented from time to time. Any reference herein to any Person shall be deemed to include the heirs, personal representatives, successors and permitted assigns of such Person.

Section 7.10 Binding Agreement on Successors and Assigns. This Agreement is intended to bind and inure to the benefit of the parties and their respective successors, assigns, administrators, constituents and representatives. No party may assign, pledge, delegate, or otherwise transfer any of their respective rights, obligations, or duties under this Agreement absent the express written consent of each other party. Any attempted assignment in violation of the foregoing shall be null and void and of no force or effect.

Section 7.11 Severability. Each term and provision of this Agreement shall be considered severable, and if for any reason any term or provision of this Agreement, or the application of such term or provision to any Person or circumstance, shall be finally declared, held, or found to be invalid, illegal, or unenforceable in whole or in part by any arbiter or court of competent jurisdiction and cannot be modified by such arbiter or court to be enforceable, then: (i) such term or provision, or part thereof, shall be ineffective solely in such jurisdiction to the extent of such invalidity, illegality, or unenforceability without invalidating the application of the

affected provision to persons or circumstances in such jurisdiction other than those to which it was held invalid or unenforceable, and without invalidating the remaining terms or provisions hereof in any jurisdiction, (ii) if capable of performance in such jurisdiction, the remainder of this Agreement shall remain in full force and effect, and (iii) solely as to such jurisdiction, the parties hereto shall negotiate in good faith to modify or replace the invalid, illegal or unenforceable term or provision with a valid, legal and enforceable term or provision which most accurately represents the parties' intention with respect to the invalid, illegal or unenforceable term or provision. Any modification of a term or provision of this Agreement by an arbiter or court of competent jurisdiction in accordance with the terms of this Section 7.11 shall apply only within said jurisdiction.

Section 7.12 Fees and Costs. Except as otherwise expressly set forth herein, each party shall bear its own costs and expenses, including any and all legal and expert fees, incurred in connection with the negotiation, documentation, execution, delivery, or enforcement of this Agreement. This also includes any fees or expenses that are owed, or will be owed, to the American Arbitration Association or to the Arbitral Panel members, for which each party shall remain individually and separately responsible.

Section 7.13 Entire Agreement. This Agreement, together with any exhibits attached hereto, constitutes the full and entire agreement among the parties with regard to the subject hereof and supersedes all prior negotiations, representations, promises, or warranties (oral or otherwise) made by any party with respect to the subject matter hereof. No party has entered into this Agreement in reliance on any other Party's prior representation, promise, or warranty (oral or otherwise) except for those that may be expressly set forth in this Agreement. For the avoidance of doubt, the Stipulated Protective Order, entered by Judge Townsend on September 2, 2014, and the Stipulated Protective Order, entered by Chairman Cogan, for the Panel, on August 20, 2019, remain in full force and effect, and pursuant to their terms, documents designated highly confidential or confidential in those matters should be destroyed within 60 days of the final disposition of the action, with a certification of said destruction to follow.

Section 7.14 Counterparts. This Agreement may be executed in one or more counterparts (including via facsimile and the electronic exchange of portable document format (.pdf) copies), each of which shall be deemed an original copy of this Agreement and all of which, when taken together, shall constitute one and the same Agreement. Copies of executed counterparts transmitted by telecopy or other electronic transmission service shall be considered original executed counterparts, provided receipt of copies of such counterparts is confirmed.

[signatures begin on next page]

IN WITNESS WHEREOF, the parties hereto have caused this Settlement Agreement and Release to be executed as of the Effective Date.

The City of Missoula

By: _____
Name: John Engen
Title: Mayor

ATTEST:

Martha L. Rehbein, CMC, City Clerk

(SEAL)

The Carlyle Group Inc.

By: _____
Name:
Title:

The Carlyle Group L.P.

By: _____
Name:
Title:

Carlyle Infrastructure Partners, L.P.

By: _____
Name:
Title:

The Carlyle Group Employee Co., L.L.C.

By: _____
Name:
Title:

Robert Dove

By: _____
Name:
Title:

Bryan Lin

By: _____
Name:
Title:

Exhibit 2.1

Carlyle Wire Instructions

Account Name: Carlyle Infrastructure Partners Western Water, L.P.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Exhibit 3.1

Dismissals

- a. Joint Stipulation of Dismissal of Arbitration
- b. Joint Stipulation of Dismissal of District Court Action
- c. Joint Stipulation of Dismissal of Condemnation Action

AMERICAN ARBITRATION ASSOCIATION

THE CITY OF MISSOULA,
Claimant,

vs.

CARLYLE INFRASTRUCTURE PARTNERS, LP;
ROBERT DOVE; THE CARLYLE GROUP LP;
THE CARLYLE GROUP EMPLOYEE CO., LLC;
AND BRYAN LIN,

Respondents.

Case No. 01-19-0000-1366

PARTIES' JOINT STIPULATION OF DISMISSAL

Claimant City of Missoula and Respondents Carlyle Infrastructure Partners, L.P.; Robert Dove; The Carlyle Group L.P.; The Carlyle Group Employee Co., L.L.C.; and Bryan Lin (each, a "Party"; collectively, the "Parties") in the above-captioned matter hereby agree and stipulate that (i) the Interim Award, dated December 1, 2021, is final and the Parties waive any right to appeal, seek to vacate, or otherwise contest or challenge it, and that (ii) any remaining claims for damages and/or fees and costs asserted in this action be dismissed with prejudice, pursuant to the terms of the Parties' Global Settlement Agreement and Release dated February 28, 2022.

It is so **STIPULATED**.

Dated February 28, 2022.

Respectfully submitted,

Robert A. Van Kirk
R. Kennon Poteat III
Melissa B. Collins
Anne C. Malinee
Matthew W. Lachman
William B. Snyderwine
WILLIAMS & CONNOLLY LLP
725 Twelfth Street, N.W.
Washington, DC 20005
Tel: 202-434-5000
Fax: 202-434-5029

*Attorneys for
Respondents/Counterclaimants
Carlyle Infrastructure Partners,
L.P.; Robert Dove; Bryan Lin; The
Carlyle Group Employee Co.,
L.L.C.; and The Carlyle Group L.P.*

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*Attorneys for
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City of Missoula*

ORDER

It is ORDERED that the stipulation is approved. The Interim Award, dated December 1, 2021, is final and not subject to appeal or vacatur, and the remaining claims for damages and/or fees and costs are hereby dismissed with prejudice.

Dated: _____

Stew Cogan, Chair, for the Panel

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**MONTANA FOURTH JUDICIAL DISTRICT COURT
MISSOULA COUNTY**

THE CITY OF MISSOULA,
Plaintiff,

v.

CARLYLE INFRASTRUCTURE PARTNERS,
LP; ROBERT DOVE;
THE CARLYLE GROUP, LP;
THE CARLYLE GROUP EMPLOYEE CO.,
LLC; BRYAN LIN; JOHN DOES 1-10; and
XYZ CORPORATIONS 1-10,
Defendants.

) Dept. No. 4
) Cause No. DV- 15-1020
)
) Hon. Dan Wilson
)
)

**JOINT STIPULATION OF DISMISSAL
WITH PREJUDICE**

Plaintiff City of Missoula (the “City”) and Defendants Carlyle Infrastructure Partners, L.P. (“CIP”); Robert Dove; The Carlyle Group L.P.; The Carlyle Group Employee Co., L.L.C.; and Bryan Lin (“Defendants”) (each, a “Party”; collectively, the “Parties”) in the above-

captioned matter hereby agree and stipulate that this action and all claims and defenses asserted therein be dismissed with prejudice, pursuant to the terms of the Parties' Global Settlement Agreement and Release dated February 28, 2022.

It is so STIPULATED

DATED this 28th day of February, 2022.

BOONE KARLBERG P.C.

Scott M. Stearns
Natasha Prinzing Jones
BOONE KARLBERG P.C.

Harry H. Schneider, Jr.
PERKINS COIE LLP

Attorneys for Plaintiff

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Admitted Pro Hac Vice

Attorneys for Defendants Carlyle
Infrastructure Partners, L.P.; Robert
Dove; Bryan Lin; The Carlyle Group
Employee Co., L.L.C.; and The Carlyle
Group L.P.

Dan Wilson
District Court Judge
Flathead County Justice Center
920 South Main Street, Suite 310
Kalispell, MT 59901
Phone: (406) 758-5906

**MONTANA FOURTH JUDICIAL DISTRICT COURT
MISSOULA COUNTY**

THE CITY OF MISSOULA,

Plaintiff,

v.

CARLYLE INFRASTRUCTURE PARTNERS,
LP; ROBERT DOVE;
THE CARLYLE GROUP, LP;
THE CARLYLE GROUP EMPLOYEE CO.,
LLC; BRYAN LIN; JOHN DOES 1-10; and
XYZ CORPORATIONS 1-10,

Defendants.

) Dept. No. 4

) Cause No. DV- 15-1020

) Hon. Dan Wilson

) **[PROPOSED] ORDER APPROVING**
) **JOINT STIPULATION OF DISMISSAL**
) **WITH PREJUDICE**

ORDER

It is ORDERED that the stipulation is approved. All claims and defenses asserted in the above-captioned matter are hereby dismissed with prejudice.

DATED this _____ day of _____ 2022.

Dan Wilson
District Judge

cc: Scott Stearns
Natasha Prinzing Jones
(Boone Karlberg)

Harry H. Schneider, Jr.
(Perkins Coie)

Robert A. Van Kirk
R. Kennon Poteat III
Melissa B. Collins
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ATTORNEYS FOR DEFENDANT
CARLYLE INFRASTRUCTURE PARTNERS, LP

**MONTANA FOURTH JUDICIAL DISTRICT COURT
MISSOULA COUNTY**

THE CITY OF MISSOULA, a Montana
municipal corporation,

Plaintiff,

v.

MOUNTAIN WATER COMPANY, a
Montana corporation; and CARLYLE
INFRASTRUCTURE PARTNERS, LP, a
Delaware limited partnership,

Defendants.

and

THE EMPLOYEES OF MOUNTAIN
WATER COMPANY, et al.

Intervenors.

Cause No. DV-14-352

Dept. No. 4

**JOINT STIPULATION OF DISMISSAL
WITH PREJUDICE**

Plaintiff City of Missoula and Defendants Carlyle Infrastructure Partners, L.P. and Mountain Water Company (each, a “Party”; collectively, the “Parties”) in the above-captioned matter hereby agree and stipulate that any claims not already adjudicated to a Final Judgment

that either Party has asserted in this matter be dismissed with prejudice, and that no further action be taken with respect to Dkt. No. 840 and Dkt. No. 788, pursuant to the terms of the Parties' Global Settlement Agreement and Release dated February 28, 2022.

It is so STIPULATED.

DATED this 28th day of February 2022.

BOONE KARLBERG P.C.

Scott M. Stearns
Natasha Prinzing Jones
BOONE KARLBERG P.C.

Harry H. Schneider, Jr.
PERKINS COIE LLP

Attorneys for Plaintiff

HOLLAND & HART LLP

William W. Mercer
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Infrastructure Partners, LP*

BAKER, DONELSON, BEARMAN,
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Admitted Pro Hac Vice

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Company

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Missoula County Courthouse
200 West Broadway
Missoula, MT 59802
(406) 258-4774

**MONTANA FOURTH JUDICIAL DISTRICT COURT
MISSOULA COUNTY**

THE CITY OF MISSOULA, a Montana
municipal corporation,

Plaintiff,

v.

MOUNTAIN WATER COMPANY, a
Montana corporation; and CARLYLE
INFRASTRUCTURE PARTNERS, LP, a
Delaware limited partnership,

Defendants.

and

THE EMPLOYEES OF MOUNTAIN
WATER COMPANY, et al.

Intervenors.

Cause No. DV-14-352

Dept. No. 4

**[PROPOSED] ORDER APPROVING
JOINT STIPULATION OF DISMISSAL
WITH PREJUDICE**

ORDER

It is ORDERED that the stipulation is approved. All claims not already adjudicated to a Final Judgment by the Court that either Party has asserted in this matter are hereby dismissed with prejudice.

DATED this _____ day of _____ 2022.

District Judge

cc: Scott Stearns
Natasha Prinzing Jones
(Boone Karlberg)

William K. VanCanagan
Phil L. McCreedy
(Datsopoulos, MacDonald & Lind)

Harry H. Schneider, Jr.
(Perkins Coie)

Joe Conner
Adam Sanders
D. Eric Setterlund
(Baker, Donelson, Bearman, Caldwell & Berkowitz)

William Mercer
Brianna McClafferty
(Holland & Hart)