

**CUNDALL FARMS METROPOLITAN DISTRICT**

**SPECIAL MEETING**

4500 E. Kentucky Ave., Glendale, CO 80246

Wednesday, May 25, 2016

9:00 a.m.

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Corey Elliott, President	Term to May 2018
Christopher Elliott, Secretary/Treasurer	Term to May 2020
Matt Janke, Asst. Secretary/ Asst. Treasurer	Term to May 2020
Mauricio Barbera, Director	Term to May 2020
Douglas Shelton, Director	Term to May 2018

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**NOTICE OF SPECIAL MEETING AND AGENDA**

1. Call to Order
2. Declaration of Quorum/Director Qualifications/Reaffirmation of Disclosures
3. Approval of Agenda
4. Approval of Minutes from the September 23, 2015 Meeting
5. Public Comment - Members of the public may express their views to the Board on matters that affect the District that are not otherwise on the agenda. Comments will be limited to three (3) minutes per person. Please sign in.
6. Legal Matters
  - a. Consider Approval of First Amended and Restated Resolution Concerning the Imposition of an Operations Fee
  - b. Consider Approval and Ratification of Operations Shortfall Funding Agreement with KB Home Colorado Inc.
  - c. Approve Resolution Regarding Acceptance of District Eligible Costs
  - d. Consider and Authorize Approval of Issuance of General Obligation Indebtedness
    - i. Consider Adoption of Resolution Authorizing the Issuance of Limited Tax Subordinate General Obligation Bonds, Series 2016, in a principal amount not to exceed \$2,100,000, approving, ratifying and confirming the execution of certain documents; making final determinations and findings as to other matters related to such financing transaction; authorizing incidental action; and repealing prior inconsistent actions.
  - e. Acceptance of Consent of Consent Parties - \$6,835,000 General Obligation (Limited Tax Convertible to Unlimited Tax) Bonds, Series 2014
  - f. Approval of Execution of Requisition No. 1, and Authorize Disbursement from the 2016 Subordinate Bonds Project Fund for Project Costs
  - g. Discuss Landmark Case and SB-211
  - h. Other Legal Matters
7. Operations
  - a. Other Operations
8. Financial Matters
  - a. Review and Consider Acceptance of Financial Statements
  - b. Other Financial Matters
9. Other Business
10. Adjourn

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS

OF

CUNDALL FARMS METROPOLITAN DISTRICT

Held: Wednesday, September 23, 2015, at 9:00 a.m. at 2154 E. Commons Ave., Suite 2000, Centennial, Colorado 80122

Attendance

The meeting referenced above was called and held in accordance with the applicable statutes of the State of Colorado. The following directors, having confirmed their qualification to serve, were in attendance:

Christopher Elliott  
Corey Elliott  
Mauricio Barbera

Director Douglas Shelton was absent. All director absences are deemed excused unless a contrary notation is recorded in these minutes.

Also present were Clint C. Waldron, Esq., White Bear Ankele Tanaka & Waldron, District General Counsel; Sarah Hunsche, CliftonLarsonAllen, District Accountant; Scott Bristol, Stillwater Community Management; and Matt Janke, E5X Management.

Call to Order

Director Corey Elliott called the meeting to order.

Declaration of Quorum/  
Director Qualifications/  
Reaffirmation of  
Disclosures

Director Corey Elliott noted that a quorum of the Board was present and that the directors had confirmed their continuing qualification to serve.

Mr. Waldron advised the Board that, pursuant to Colorado law, individual directors are required to disclose conflicts of interest with the Secretary of State at least 72 hours in advance of meetings of the Board. The Board reviewed the agenda for the meeting, following which directors confirmed that nothing appeared on the agenda for which disclosure certificates had not been filed. The disclosure certificates were reviewed by the directors and were ordered to be made part of the official minutes of the meeting.

The Board determined that participation by the Directors with potential conflicts of interest was necessary to obtain a quorum or otherwise enable lawful action to occur.

Consider Appointment of The Board noted that a vacancy existed on the Board and that Matt Matt Janke/Administer Oath Janke had expressed interest in the position. Following discussion, of Office/Election of Officers a motion was made to appoint Matt Janke to the Board of Directors. The motion was seconded and approved unanimously. Director Matt Janke was administered the Oath of Office by Director Corey Elliott and elected to the positions of Assistant Secretary/Assistant Treasurer.

Approval of Agenda Mr. Waldron presented the proposed agenda to the Board for consideration. Following discussion, upon motion duly made and seconded, the Board unanimously approved the agenda as amended.

Public Comment None.

**Consent Agenda** The Board reviewed the items on the consent agenda. Mr. Waldron advised the Board that any item may be removed from the consent agenda to the regular agenda upon the request of any Director. One item was requested to be removed from the consent agenda to legal matters. Upon motion duly made and seconded, the following items on the consent agenda were unanimously approved and adopted:

- Approval of Minutes from the February 25, 2015 Meeting
- Approval of Special District Disclosure Pursuant to § 32-1-809 C.R.S.
- Ratification of 2014 Annual Report
- Approve Claims Payable
- Approval CliftonLarsonAllen Engagement Letter for 2016 Accounting Services
- Approve Agency Fee Agreement

**District Operations/Management**

District Manager's Report Mr. Bristol provided a general update regarding the District Manager's Report to the Board.

Property and Liability Schedule and Limits The Board engaged in general discussion regarding the property and liability schedule and limits.

Other District Management The Board discussed the following:  
  
Documents to be added to the website  
Snow removal on areas to be turned over to the District for maintenance  
K.B. Home provided an updated on development, noting Central Park has been completed, and the trails and landscaping are ongoing.

## Legal Matters

Consider Approval of 2016 Annual Administrative Resolution Mr. Waldron presented the 2016 Annual Administrative Resolution to the Board for consideration. Following discussion, upon motion duly made and seconded, the Board unanimously approved the resolution, as revised.

Consider Approval of Revised WBA Engagement Letter for General Counsel Legal Services Mr. Waldron presented the revised engagement letter of White Bear Ankele Tanaka & Waldron for consideration. Mr. Waldron advised the Board that they consider having independent counsel review the engagement letter. Following discussion, upon motion duly made and seconded, the Board unanimously approved the engagement letter with White Bear Ankele Tanaka & Waldron as District general counsel.

Consider Approval of Revised Operations Shortfall Agreement with K.B. Home Colorado, Inc. The Board reviewed the revised Operations Shortfall Funding Agreement with K.B. Home Colorado, Inc. for consideration. Following discussion, upon motion duly made and seconded, the Board unanimously approved the agreement, as revised, subject to final review by K.B. Home Colorado, Inc. Director Barbera abstained from discussion and vote.

Consider Approval of Amended and Restated Resolution Concerning Authorization for Approval of Contracts and Payment of Claims The Board reviewed the Amended and Restated Resolution Concerning Authorization for Approval of Contracts and Payment of Claims for consideration. Following discussion, upon motion duly made and seconded, the Board unanimously approved the resolution.

Discuss Adopting a Resolution a Marijuana Policy The Board engaged in general discussion regarding the Resolution Adopting a Marijuana Policy. The Board determined to incorporate the policy into Rules and Regulation covering the District Parks and open space.

Consider Approval of Election Resolution Mr. Waldron presented the Election Resolution to the Board for consideration. Following discussion, upon motion duly made and seconded, the Board unanimously approved the resolution.

Approval Amended and Restated Resolution Adopting and Approving a Collections Policy The Board reviewed the Amended and Restated Resolution Adopting and Approving a Collections Policy for consideration. Following discussion, upon motion duly made and seconded, the Board unanimously approved the resolution.

Other Legal Matters None.

## Financial Matters

Review and Consider Acceptance of Financial Ms. Hunsche presented the financial statements to the Board for consideration. Following discussion, upon motion duly made and

Statements seconded, the Board unanimously accepted the financials.

2015 Budget Amendment Hearing/Adoption of Budget Resolution Amending 2015 Budget Director Corey Elliott opened the public hearing on the 2015 Budget Amendment. Mr. Waldron noted that notice of the public hearing was posted or published pursuant to Colorado law and that no comment had been received. After no public comment was made, the hearing was closed. Following discussion, upon motion duly made and seconded, the Board unanimously adopted the resolution amending the Capital Project Fund to \$1,695,000.

2016 Budget Hearing/Adoption of Budget Resolution Director Corey Elliott opened the public hearing on the 2016 budget. After no public comment was made, the hearing was closed. Mr. Waldron noted that notice of the public hearing was posted or published pursuant to Colorado law. Ms. Hunsche presented the 2016 budget to the Board for consideration. Following discussion, upon motion duly made by Director Janke and seconded by Director Chris Elliott, the Board unanimously approved the budget and budget resolution, certified a general fund mill levy of 10.000 mills and a debt service mill levy of 50.000 mills, and appropriated funds as set forth in the budget.

Consider Auditor Proposals for 2015 Audit The Board reviewed the proposals for 2015 audit. Following discussion, upon motion duly made and seconded, the Board unanimously approved the proposal from Dazzio & Plutt, LLC.

Discuss Subordinate Debt Issuance The Board engaged in general discussion regarding the subordinate debt issuance.

Other Financial Matters The Board noted that no lots have been preliminary accepted by the City, therefore the vacant lot fee has not yet been triggered.

**Other Business** None.

Adjourn There being no further business to come before the Board and following discussion and upon motion duly made, seconded and unanimously carried, the Board determined to adjourn the meeting.

The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

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Secretary for the Meeting

The foregoing minutes were approved on the 25<sup>th</sup> day of May, 2016.

## OPERATIONS SHORTFALL FUNDING AGREEMENT

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This **OPERATIONS SHORTFALL FUNDING AGREEMENT** (this “**Agreement**”) is made and entered into as of the 3<sup>rd</sup> day of March, 2016 by and between **CUNDALL FARMS METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado, (the “**District**”), and **KB HOME COLORADO INC.**, a Colorado corporation (the “**Builder**”) (the District and the Builder are collectively referred to in this Agreement as the “**Parties**”).

### RECITALS

WHEREAS, the District has been duly and validly organized as a quasi-municipal corporation and political subdivision of the State of Colorado, in accordance with the provisions of Article 1, Title 32, Colorado Revised Statutes (the “**Special District Act**”), with the power to provide certain public infrastructure, improvements and services, as described in the Special District Act, within and without its boundaries (collectively, the “**Public Improvements**”), as authorized and in accordance with the Service Plan for the District (the “**Service Plan**”); and

WHEREAS, the Builder is the owner of lots within the District on which residential units will be constructed; and

WHEREAS, in accordance with the Special District Act and the Service Plan, the District has the power to manage, control, and supervise the affairs of the District; and

WHEREAS, the District anticipates providing park maintenance, landscape maintenance, snow removal, covenant enforcement, and general operations fee billing and collection services benefitting property within the District (the “**District Services**”); and

WHEREAS, the District Services will directly benefit the residential units constructed by the Builder; and

WHEREAS, it is necessary for the District to be able to pay all costs associated with providing the District Services (the “**Operations Costs**”) in order that the District Services may be timely provided, and to provide for the health, safety and welfare of the property owners and residents of the District; and

WHEREAS, the District anticipates that it will have insufficient ad valorem property tax revenue (consisting of the general fund mill levy revenue less amounts required to pay the general administrative costs of the District, including, but not limited to, accounting, audit, county treasurer’s fees, elections, insurance, and legal fees, costs and expenses) and operations fee revenue (collectively, “**Operations Revenue**”) available to pay all Operations Costs, until such time as development and the associated assessed valuation within the District increases (the difference between the Operations Revenues available to pay the Operations Costs and the actual

Operations Costs shall be referred to in this Agreement as the “**Operations Costs Shortfall**”); and

WHEREAS, pursuant to Section 32-1-1001(1) (d) (I), C.R.S., the District is permitted to enter into contracts and agreements affecting the affairs of the District; and

WHEREAS, in accordance with prior discussions with the District, in order to enable the District to provide the District Services, the Builder has agreed to fund the Operations Costs Shortfall through December 31, 2019; and

WHEREAS, the Board of Directors of the District (the “**Board**”) has determined that the interests of the District and the public interest would be served by the Builder funding the Operations Costs Shortfall as set forth in this Agreement; and

WHEREAS, the Parties desire to set forth the understanding of the Parties related to the payment of Operations Costs and the Operations Costs Shortfall; and

WHEREAS, the Board has authorized its officers to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and promises expressed herein, the Parties hereby agree as follows:

## **COVENANTS AND AGREEMENTS**

1. Incorporation of Recitals. The Recitals are hereby incorporated into the terms and conditions of this Agreement.

2. Purpose of this Agreement. The Parties are entering into this Agreement in an effort to facilitate the provision of the District Services as necessary to serve the property within the District. The Parties specifically acknowledge and agree that (i) the funding of the Operations Shortfall Costs by the Builder is necessary and appropriate due to lack of funding currently available to the District, and (ii) the Builder’s obligations under this Agreement do not include any responsibility for the actual provision of the District Services.

3. Funding of Operations Costs Shortfalls. In order to allow the District to provide the District Services in a timely manner, the Builder agrees to pay to the District, in the time and manner set forth in this Agreement, amounts sufficient to pay the Operations Costs Shortfall for calendar years 2015 through 2019. On or before October 15 of each year, the Parties shall mutually agree on a budget for the District Services (each an “**Annual Operations Budget**”), and the Annual Operations Budget shall include the estimated amount of the Operations Costs Shortfall to be funded by the Builder for the following calendar year (the “**Estimated Shortfall**”). In no event shall Builder be obligated to pay in any calendar year an amount in excess of 115% of the Estimated Shortfall, as set forth in the Annual Operations budget, unless otherwise agreed to in writing by the Builder, or unless such costs are directly attributable to actions of the Builder, as determined in the reasonable discretion of the District. The Annual

Operations Budget for fiscal year 2016 is attached as **Exhibit A** to this Agreement. To the extent the Parties are unable to agree on an Annual Operations Budget for a succeeding year, the lesser of (i) the Annual Operations Budget last agreed to by the Parties increased by 20% or (ii) the actual Operations Costs for the prior year, increased by 20%, shall be deemed to be the effective Annual Operations Budget for such year.

4. Manner for Requesting Funding. The District will from time to time determine the amount of the Operations Costs Shortfall, but such determinations shall not be made more often than monthly. Such determination shall be made based upon the expenditures contained in the adopted budgets for the District and upon the rate of expenditures estimated for the next succeeding month. Not less than ten (10) days before the beginning of each month, the District shall notify the Builder of the funding necessary to pay for any Operations Costs Shortfalls for the next month, and the Builder shall deposit such funds with the District as soon as reasonably practicable, but no later than fifteen (15) days after such notice. The Parties may vary from this schedule upon mutual agreement.

5. Use of Funds. The District agrees to apply all funds provided by the Builder under this Agreement solely to Operations Costs of the District as set forth from time to time in the adopted budgets for the District, and pursuant to any contracts entered into with third parties to perform functions for the District under such adopted budgets. It is understood that the District has budgeted or will budget as revenue from year to year the amount which may be required to be funded by the Builder under this Agreement to enable the District to appropriate revenues to pay the Operations Costs included within the annual budgets of the District.

6. Obligations Irrevocable. The obligations created by this Agreement are absolute, irrevocable, unconditional, and are not subject to setoff or counterclaim. The Builder shall not take any action which would delay or impair the District's ability to receive the funds contemplated under this Agreement with sufficient time to properly pay approved invoices and/or notices of payment due.

7. Funding Deemed Contribution. The Parties further agree and acknowledge that all amounts funded by the Builder under this Agreement to pay Operations Costs Shortfalls are deemed a contribution to the District by the Builder, and there shall be no obligation, present or future, of the District to pay or reimburse Builder with respect to such amounts or any other amounts under this Agreement. Notwithstanding the foregoing, in the event the District fails to pay invoices for District Services rendered by third-parties pursuant to contracts let by the District, and fails to cure said non-payment in accordance with Section 9, the Builder may pay such third-parties on behalf of the District, and any amounts so expended by the Builder shall be reimbursed by the District within thirty (30) days of a written request by the Builder for reimbursement. Such request for reimbursement shall be accompanied by information sufficient to allow the District to determine the amount paid and the purpose of the payment. In the event the District fails to reimburse the Builder for any payments made to third-parties as set forth above, the Builder may offset the unreimbursed amount against future requests by the District for funding of Operations Costs Shortfalls.



8. No Debt. No provision of this Agreement shall be construed or interpreted as a delegation of governmental powers by the District, or as creating a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of the District or statutory debt limitation, including, without limitation, Article X, Section 20 or Article XI, Section 6 of the Constitution of the State of Colorado.

9. Default.

- a. Event of Default. It shall be an “**Event of Default**” under this Agreement if the District or the Builder defaults in the performance or observance of any of the covenants, agreements, or conditions set forth herein (whatever the reason for such event or condition and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree, rule, regulation, or order of any court or any administrative or governmental body), subject to notice and cure as provided for below.
- b. Cure Periods. Upon the occurrence of anything that would otherwise constitute an Event of Default hereunder, the defaulting party shall have ten (10) days to cure such default after receipt of written notice from the non-defaulting party. If such default is of a nature which is not capable of being cured within ten (10) days, the non-defaulting party must commence the cure within said ten (10) day period and diligently pursue such cure to completion.
- c. Remedies on Default. Whenever any Event of Default occurs and is not cured under Section 9.b of this Agreement, the non-defaulting party may take anyone or more of the following actions:
  - i. Suspend performance under this Agreement until it receives assurances from the defaulting party, deemed adequate by the non-defaulting party, that the defaulting party will cure its default and continue its performance under this Agreement; or
  - ii. Cancel and rescind the Agreement with respect to the duties of such non-defaulting party under this Agreement; or
  - iii. Proceed to protect and enforce its respective rights by such suit, action, or special proceedings as the District or the Builder deems appropriate under the circumstances, including without limitation an action in mandamus or for specific performance.
- d. Delay or Omission No Waiver. No delay or omission of any party to exercise any right or power accruing upon any Event of Default shall exhaust or impair any such right or power or shall be construed to be a waiver of any such Event of Default, or acquiescence therein; and every power and remedy given by this Agreement may be exercised from time to time and as often as may be deemed expedient.

- e. No Waiver of One Default to Affect Another: All Remedies Cumulative. No waiver of any Event of Default hereunder by any party shall extend to or affect any subsequent or any other then existing Event of Default or shall impair any rights or remedies consequent thereon. All rights and remedies of the Parties provided here shall be cumulative and the exercise of any such right or remedy shall not affect or impair the exercise of any other right or remedy.
- f. Discontinuance of Proceedings; Position of Parties Restored. In case any party shall have proceeded to enforce any right hereunder and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to such party, then and in every such case the Parties shall be restored to their former positions and rights hereunder, and all rights, remedies, and powers of the Parties shall continue as if no such proceedings had been taken.

10. Termination. The Builder's obligations to pay funds to the District in accordance with this Agreement shall terminate on December 31, 2019, except to the extent funding requests have been made to the Builder that are pending by this termination date, in which case said pending request(s) will be honored notwithstanding the passage of the termination date.

11. Time Is of the Essence. Time is of the essence hereof; provided, however, that if the last day permitted or otherwise determined for the performance of any required act under this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

12. Notices. Any notice or communication required under this Agreement must be in writing, and may be given personally, sent via nationally recognized overnight carrier service, or by registered or certified mail, return receipt requested. If given by registered or certified mail, the same will be deemed to have been given and received on the first to occur of: (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent; or (ii) three days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered or sent via nationally recognized overnight carrier service, a notice will be deemed to have been given and received on the first to occur of: (i) one business day after being deposited with a nationally recognized overnight air courier service; or (ii) delivery to the party to whom it is addressed. Any party hereto may at any time, by giving written notice to the other party hereto as provided herein designate additional persons to whom notices or communications will be given, and designate any other address in substitution of the address to which such notice or communication will be given. Such notices or communications will be given to the Parties at their addresses set forth below:

**If to the District:** Cundall Farms Metropolitan District  
c/o White Bear Ankele Tanaka & Waldron  
Attn: Clint C. Waldron., Esq.  
2154 E. Commons Avenue, Suite 2000  
Centennial, Colorado 80122  
Phone: 303.858.1800

**If to the Builder:** KB Home Colorado Inc.  
Attn: Morris Barbera  
7807 E. Peakview Avenue, Suite 300  
Centennial, Colorado 80111  
Phone: 303.323.1130

**With a copy to:** Fox Rothschild LLP  
Attn: Scott Ross, Esq.  
1225 17<sup>th</sup> Street, Suite 2200  
Denver, Colorado 80202  
Phone: 303.383.7627

13. Amendments. This Agreement may only be amended or modified by a writing executed by each party.

14. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

15. Applicable Laws. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located.

16. Assignment. This Agreement may not be assigned without the express, prior written consent of the other party, and any attempt to assign this Agreement in violation hereof shall be null and void.

17. Authority. By execution hereof, the District and the Builder represent and warrant that their representative signing hereunder has full power and lawful authority to execute this Agreement and to bind the respective party to the terms hereof. The District further represents that its Board of Directors has determined that the best interests of the District and its property owners would be served by entering into this Agreement and has authorized its officers to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement.

18. Entire Agreement. This Agreement constitutes and represents the entire, integrated agreement between the District and the Builder with respect to the matters set forth herein, and hereby supersedes any and all prior negotiations, representations, agreements or arrangements of any kind with respect to those matters, whether written or oral. This Agreement shall become effective upon the date set forth above.

19. Inurement. The terms of this Agreement shall be binding upon, and inure to the benefit of the Parties as well as their respective successors and permitted assigns.

20. 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, §§ 24-10-101, *et seq.*, C.R.S., as amended from time to time.

21. Negotiated Provisions. This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each party has contributed substantially and materially to the preparation of this Agreement.

22. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and Builder any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the District and Builder shall be for the sole and exclusive benefit of the District and Builder.

23. Counterpart Execution. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto.

*Signature page follows.*

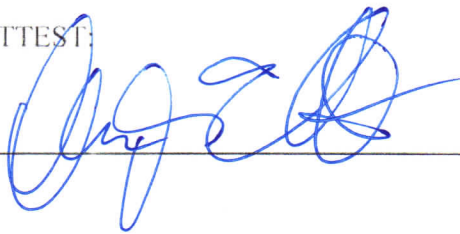
IN WITNESS WHEREOF, the Parties have executed this Agreement on the date and year first above written.

**DISTRICT:**

**CUNDALL FARMS METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado

By: \_\_\_\_\_  
Officer of the District

ATTEST:

\_\_\_\_\_  


APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

\_\_\_\_\_  


General Counsel to the District

**DEVELOPER:**

**KB HOME COLORADO INC.**, a Colorado corporation

By: \_\_\_\_\_  
Name: M. Barbero  
Title: VP Land Development

*Signature page to Operations Shortfall Funding Agreement.*

**Exhibit A**

2016 Operations Budget

**CUNDALL FARMS METROPOLITAN DISTRICT  
OPERATIONS FEE  
FORECASTED 2016 BUDGET AS ADOPTED  
WITH 2014 ACTUAL AND 2015 ESTIMATED  
For the Years Ended and Ending December 31,**

12/5/2015

	ACTUAL 2014	ESTIMATED 2015	ADOPTED 2016
BEGINNING FUND BALANCES	\$ -	\$ -	\$ -
REVENUES			
1 Operations Fee	-	-	69,480
2 Homebuilder contribution - landscaping	-	-	55,000
Total revenues	<u>-</u>	<u>-</u>	<u>124,480</u>
TRANSFERS IN			
GENERAL FUND	-	-	3,090
Total transfers in	<u>-</u>	<u>-</u>	<u>3,090</u>
Total funds available	<u>-</u>	<u>-</u>	<u>127,570</u>
EXPENDITURES			
Operations and maintenance			
3 Back Flow testing	-	-	1,200
4 Electricy	-	-	400
5 Facilities Management	-	-	16,800
6 Grounds maintenance	-	-	54,627
7 Postage and Delivery	-	-	1,250
8 Snow removal	-	-	8,160
9 Sprinkler repair	-	-	5,463
10 Water and Sewer - Irrigation	-	-	36,464
Total expenditures	<u>-</u>	<u>-</u>	<u>124,363</u>
Total expenditures and transfers out requiring appropriation	<u>-</u>	<u>-</u>	<u>124,363</u>
ENDING FUND BALANCES	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 3,207</u>

This financial information should be read only in connection with the accompanying accountant's compilation report and summary of significant assumptions.

**EXHIBIT A**

**CONSENT OF CONSENT PARTIES**

**\$6,835,000**

**Cundall Farms Metropolitan District**

**General Obligation (Limited Tax Convertible to Unlimited Tax) Bonds  
Series 2014**

The undersigned do hereby certify that they are each a Consent Party with respect to the above-referenced bonds (the "2014 Bonds") and pursuant to the Indenture of Trust dated as of August 1, 2014 (the "2014 Indenture") issued with respect to the Bonds, does hereby irrevocably consent to the following:

The undersigned, as an authorized representative of State Street Bank and Trust, does hereby certify that it is a Participant with respect to the 2014 Bonds and does hereby irrevocably consent to the following amendment to the Indenture (as defined below):

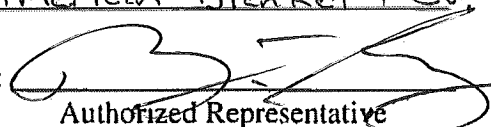
1. Section 4.05(b)(ii) of the Indenture is hereby amended and restated in its entirety as follows:

(ii) no Permitted Subordinate Bonds may be issued if at the time of issuance any payment of principal of or interest on the Bonds is then due but unpaid, the balance in the Reserve Fund is below the Required Reserve or an Event of Default shall have occurred and be continuing; and

All undefined capitalized terms used in this Consent shall have the definitions ascribed to them in the Indenture of Trust, dated as of August 1, 2014 relating to the Bonds.

Dated: November 12, 2015

By: American Blenket + Co.

Name:   
Authorized Representative

Amount of Bonds owned: \$3,420,000

CUSIP Nos. of Bonds Owned: 231090AA9