

**FIRST AMENDMENT TO
INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF THORNTON
AND CUNDALL FARMS METROPOLITAN DISTRICT REGARDING
THE SERVICE PLAN FOR THE DISTRICT**

THIS FIRST AMENDMENT TO THE AGREEMENT (the “Amendment”) is made and entered into as of this 4th day of December, 2018, by and between the **City of Thornton**, State of Colorado (the “City”) and the **Cundall Farms Metropolitan District**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”). The City and the District are collectively referred to as the “Parties.”

RECITALS

WHEREAS, the District was originally organized on December 16, 2009 to provide those services and to exercise powers as set forth in the District’s service plan approved by the City on May 12, 2009 (the “Service Plan”); and

WHEREAS, the City and the District are parties to an Intergovernmental Agreement Between The City Of Thornton And Cundall Farms Metropolitan District Regarding The Service Plan For The District dated June 7, 2010 (the “Agreement”); and

WHEREAS, the District seeks to amend the Agreement to clarify that the District is authorized to own, operate, and maintain Public Improvements that are not otherwise required to be dedicated to the City or other public entity, and to authorize the District to impose reasonable fees and charges for rentals and reservations of the park pavilion and sports fields in the Cundall Farms Subdivision.

NOW THEREFORE, in consideration of the covenants and mutual agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

COVENANTS AND AGREEMENTS

A. Paragraph 1 of the Agreement is hereby amended and restated in its entirety as follows:

1. Operations and Maintenance. The District shall dedicate the Public Improvements, as defined in the Service Plan, to the City or other appropriate jurisdiction or owners association in a manner consistent with Cundall Farms Subdivision Filing No. 1, Amendment No. 1, recorded at Reception No. 2014000003078 as amended, the Approved Conceptual Site Plan and other rules and regulations of the City and applicable provisions of the City Code. The District shall be authorized to own, operate and maintain Public Improvements not otherwise required to be dedicated to the City, other appropriate jurisdiction, or owners association, including park and recreation improvements and facilities, trails, open space, landscaping, tract drainage improvements, mailbox kiosks, perimeter fencing, detention ponds and outfalls, underdrains, retaining walls, neighborhood connection trails in through tracts,

irrigation system improvements, or other improvements consented to by the City. The District is required and obligated to operate and maintain park and recreation improvements within the District Boundaries, and all parks and trails shall be open to the general public free of charge. Notwithstanding the foregoing, the District may impose fees and charges for rentals and reservations of the park pavilion and sports fields consistent with the park rental reservation practices of the City including fee amount and timing of events. Free public access for general use of the park shall not be unduly impeded by the District's rental and reservation practices.

B. All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement.

C. All language in the Agreement not expressly amended by this Agreement shall remain in effect as written.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the day and year first set forth above.


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

By: 
Its: President

ATTEST:

By: 
Its: Secretary

CITY OF THORNTON, COLORADO


Name: Kevin S. Woods
Title: City Manager

ATTEST:


Kristen N. Rosenbaum, City Clerk

APPROVED AS TO FORM:


Luis A. Corchado, City Attorney