

**SECOND AMENDED AND RESTATATED SERVICE PLAN
FOR**

BIG DRY CREEK METROPOLITAN DISTRICT

CITY OF THORNTON, COLORADO

Prepared

by

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August 27, 2013

TABLE OF CONTENTS

| | | |
|------|---|----|
| I. | INTRODUCTION | 1 |
| A. | Purpose and Intent..... | 1 |
| B. | Need for the District..... | 1 |
| C. | Objective of the City Regarding District’s Service Plan. | 1 |
| II. | DEFINITIONS..... | 2 |
| III. | BOUNDARIES..... | 4 |
| IV. | PROPOSED LAND USE/POPULATION PROJECTIONS/ASSESSED VALUATION.. | 4 |
| V. | DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES..... | 4 |
| A. | Powers of the District and Service Plan Amendment..... | 4 |
| 1. | Operations and Maintenance Limitation..... | 4 |
| 2. | Fire Protection Limitation..... | 5 |
| 3. | Television Relay and Translation Limitation | 5 |
| 4. | Telecommunication Facilities..... | 5 |
| 5. | Construction Standards Limitation | 5 |
| 6. | Zoning and Land Use Requirements..... | 5 |
| 7. | Growth Limitations | 5 |
| 8. | Privately Placed Debt Limitation..... | 5 |
| 9. | Eminent Domain Limitation | 6 |
| 10. | Water Rights/Resources Limitation..... | 6 |
| 11. | Inclusion Limitation..... | 6 |
| 12. | Exclusion Limitation..... | 6 |
| 13. | Overlap Limitation..... | 6 |
| 14. | Initial Debt Limitation | 6 |
| 15. | Total Debt Issuance Limitation..... | 6 |
| 16. | Fee Limitation..... | 6 |
| 17. | Public Improvement Fee Limitation | 7 |
| 18. | Sales and Use Tax..... | 7 |
| 19. | Monies from Other Governmental Sources | 7 |
| 20. | Consolidation Limitation | 7 |
| 21. | Bankruptcy Limitation | 7 |
| 22. | Reimbursement Agreement | 8 |
| 23. | Service Plan Amendment Requirement..... | 8 |
| B. | Preliminary Engineering Survey..... | 8 |
| VI. | FINANCIAL PLAN..... | 8 |
| A. | General..... | 8 |
| B. | Maximum Voted Interest Rate and Maximum Underwriting Discount. | 9 |
| C. | Maximum Debt Mill Levy..... | 9 |
| D. | Maximum Debt Mill Levy Imposition Term..... | 10 |
| E. | Debt Repayment Sources..... | 10 |
| F. | Debt Instrument Disclosure Requirement..... | 10 |

| | | |
|-------|--------------------------------------|----|
| G. | Security for Debt..... | 10 |
| H. | TABOR Compliance..... | 10 |
| I. | District's Operating Costs..... | 11 |
| VII. | ANNUAL REPORT | 11 |
| A. | General..... | 11 |
| B. | Reporting of Significant Events..... | 11 |
| VIII. | DISSOLUTION..... | 12 |
| IX. | DISCLOSURE NOTICES | 12 |
| X. | INTERGOVERNMENTAL AGREEMENT..... | 13 |
| XI. | CONCLUSION..... | 13 |

LIST OF EXHIBITS

| | |
|------------------|---|
| EXHIBIT A | Legal Descriptions |
| EXHIBIT B | Thornton Vicinity Map |
| EXHIBIT C | District Boundary Map |
| EXHIBIT D | Intergovernmental Agreement between the District and Thornton |

I. INTRODUCTION

A. Purpose and Intent.

The City has previously approved the Original Service Plan, and the Amended and Restated Service Plan and this Second Amended and Restated Service Plan shall replace the Original Service Plan and the Amended and Restated Service Plan in their entirety.

The District is an independent unit of local government, separate and distinct from the City, and, except as may otherwise be provided for by State or local law or this Service Plan, its activities are subject to review by the City only insofar as they may deviate in a material matter from the requirements of the Service Plan. It is intended that the District will provide a part or all of the Public Improvements for the use and benefit of all anticipated inhabitants and taxpayers of the District. The primary purpose of the District will be to finance the construction of these Public Improvements.

The District is not being created to provide ongoing operations and maintenance services other than as specifically set forth in this Service Plan.

B. Need for the District.

There are currently no other governmental entities, including the City, located in the immediate vicinity of the District that consider it desirable, feasible or practical to undertake the planning, design, acquisition, construction, installation, relocation, redevelopment, and financing of the Public Improvements needed for the Project. Formation of the District is therefore necessary in order for the Public Improvements required for the Project to be provided in the most economic manner possible.

C. Objective of the City Regarding District's Service Plan.

The City's objective in approving the Service Plan for the District is to authorize the District to provide for the planning, design, acquisition, construction, installation, relocation and redevelopment of the Public Improvements from the proceeds of Debt to be issued by the District. All Debt is expected to be repaid by taxes imposed and collected for no longer than the Maximum Debt Mill Levy Imposition Term and at a tax mill levy no higher than the Maximum Debt Mill Levy, and/or repaid by Fees as limited by Section V.A.17.

This Service Plan is intended to establish a limited purpose for the District and explicit financial constraints that are not to be violated under any circumstances. The primary purpose is to provide for the Public Improvements associated with development and regional needs pursuant to the Approved Conceptual Site Plan for the property. Operation and maintenance services are allowed through an intergovernmental agreement with the City, attached as **Exhibit D**.

It is the intent of the District to dissolve upon payment or defeasance of all Debt incurred or upon a court determination that adequate provision has been made for the payment of

all Debt, and if the District has authorized operating functions under an intergovernmental agreement with the City, to retain only the power necessary to impose and collect taxes or Fees to pay for these costs.

The District shall be authorized to finance the Public Improvements that can be funded from Debt to be repaid from Fees or from tax revenues collected from a mill levy which shall not exceed the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term. It is the intent of this Service Plan to assure to the extent possible that no property bear an economic burden that is greater than that associated with the Maximum Debt Mill Levy in amount and that no property developed for a residential use bear an economic burden that is greater than that associated with the Maximum Debt Mill Levy Imposition Term in duration even under bankruptcy or other unusual situations. Generally, the costs of Public Improvements that cannot be funded within these parameters are not costs to be paid by the District.

II. DEFINITIONS

In this Service Plan, the following terms shall have the meanings indicated below, unless the context hereof clearly requires otherwise:

Amended and Restated Service Plan: means the service plan dated July 16, 2008, approved by the City administratively on July 16, 2008.

Approved Conceptual Site Plan: means a framework development plan as approved by the City pursuant to the City Code for identifying, among other things, Public Improvements necessary for facilitating development for property within the Service Area as approved by the City pursuant to the City Code and as amended pursuant to the City Code from time to time.

Board: means the board of directors of the District.

Bond, Bonds or Debt: means bonds or other obligations for the payment of which the District has promised to impose an ad valorem property tax mill levy, and/or collect Fee revenue. Bond, Bonds or Debt shall not include annually appropriated obligations.

City: means the City of Thornton, Colorado.

City Code: means the City Code of the City of Thornton, Colorado.

City Council: means the City Council of the City of Thornton, Colorado.

District: means the Big Dry Creek Metropolitan District.

District Boundaries: means the boundaries of the original District area described in the District Boundary Map.

District Boundary Map: means the map attached hereto as **Exhibit C**, describing the District's original boundaries.

End User: means any owner, or tenant of any owner, of any taxable improvement within the District, who is intended to become burdened by the imposition of ad valorem property taxes subject to the Maximum Debt Mill Levy. By way of illustration, a resident homeowner, renter, commercial property owner, or commercial tenant is an End User. The business entity that constructs homes or commercial structures is not an End User.

External Financial Advisor: means a consultant that: (i) advises Colorado governmental entities on matters relating to the issuance of securities by Colorado governmental entities, including matters such as the pricing, sales and marketing of such securities and the procuring of bond ratings, credit enhancement and insurance in respect of such securities; (ii) shall be an underwriter, investment banker, or individual listed as a public finance advisor in the Bond Buyer's Municipal Market Place; and (iii) is not an officer or employee of the District and has not been otherwise engaged to provide services in connection with the transaction related to the applicable Debt.

Fees: means any fee imposed by the District for services, programs or facilities provided by the District, as described in Section V.A.17 below.

Financial Plan: means the Financial Plan described in Section VI which describes (i) how the Public Improvements are to be financed; (ii) how the Debt is expected to be incurred; and (iii) the estimated operating revenue derived from property taxes for the first budget year.

Maximum Debt Mill Levy: means the maximum mill levy the District is permitted to impose for payment of Debt as set forth in Section VI.C below.

Maximum Debt Mill Levy Imposition Term: means the maximum term for imposition of a mill levy on a particular property as set forth in Section VI.D below.

Original Service Plan: means the service plan dated August 28, 2007, approved by the City on August 28, 2007 for the Big Dry Creek Metropolitan District, by Resolution C.D. No. 2007-149.

Project: means the development or property commonly referred to as the Morrison Subdivision.

Public Improvements: means a part or all of the improvements authorized to be planned, designed, acquired, constructed, installed, relocated, redeveloped and financed as generally described in the Special District Act, except as specifically limited in Section V below that benefit the Service Area and serve the future taxpayers and inhabitants of the Service Area as determined by the Board of the District.

Service Area: means the property within the District Boundary Map.

Service Plan: means this second amended and restated service plan for the District approved by City Council, which shall replace the Original Service Plan and the Amended and Restated Service Plan in their entirety.

Service Plan Amendment: means an amendment to the Service Plan approved by City Council in accordance with the City's ordinance and the applicable state law.

Special District Act: means Section 32-1-101, et seq., of the Colorado Revised Statutes, as amended from time to time.

State: means the State of Colorado.

Taxable Property: means real or personal property within the Service Area subject to ad valorem taxes imposed by the District.

III. BOUNDARIES

The area of the District Boundaries includes approximately One Hundred Fifty Seven (157) acres. A legal description of the District Boundaries is attached hereto as **Exhibit A**. A vicinity map is attached hereto as **Exhibit B**. A map of the District Boundaries is attached hereto as **Exhibit C**.

IV. PROPOSED LAND USE/POPULATION PROJECTIONS/ASSESSED VALUATION

The Service Area consists of approximately One Hundred Fifty Seven (157) acres of residential land. The current assessed valuation of the Service Area is \$-0- for purposes of this Service Plan and, at build out, is expected to be sufficient to reasonably discharge the Debt under the Financial Plan. The population of the District at build-out is estimated to be approximately One Thousand One Hundred And Fifty Three (1,153) people.

Approval of this Service Plan by the City does not imply approval of the development of a specific area within the District, nor does it imply approval of the number of residential units or the total site/floor area of commercial or industrial buildings identified in this Service Plan or any of the exhibits attached thereto, unless the same is contained within an Approved Conceptual Site Plan.

V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES

A. Powers of the District and Service Plan Amendment.

The District shall have the power and authority to provide the Public Improvements and related operation and maintenance services within and without the boundaries of the District as such power and authority is described in the Special District Act, including covenant control and security services, and other applicable statutes, common law and the Constitution, subject to the limitations set forth herein.

1. Operations and Maintenance Limitation. The purpose of the District is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. The District shall dedicate the Public Improvements to the City or other appropriate jurisdiction or owners association in a manner consistent with the Approved Conceptual Site Plan and other rules and regulations of the City and applicable provisions of the

City Code. The District shall not be authorized to operate and maintain any part or all of the Public Improvements unless the provision of such operation and maintenance is pursuant to an intergovernmental agreement with the City. The District is required and obligated to operate and maintain park and recreation improvements. Unless otherwise specified in the intergovernmental agreement, in the form attached as **Exhibit D**, all parks and trails shall be open to the general public free of charge.

2. Fire Protection Limitation. The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain fire protection facilities or services, unless such facilities and services are provided pursuant to an intergovernmental agreement with the City. The authority to plan for, design, acquire, construct, install, relocate, redevelop or finance fire hydrants and related improvements installed as part of the water system shall not be limited by this provision.

3. Television Relay and Translation Limitation. The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain television relay and translation facilities and services, other than for the installation of conduit as a part of a street construction project, unless such facilities and services are provided pursuant to an intergovernmental agreement with the City.

4. Telecommunication Facilities. The District agrees that no telecommunication facilities owned, operated or otherwise allowed by the District shall affect the ability of the City to expand its public safety telecommunication facilities or impair existing telecommunication facilities.

5. Construction Standards Limitation. The District will ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having proper jurisdiction. The District will obtain the City's approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work.

6. Zoning and Land Use Requirements. The District shall be subject to all of the City's zoning, subdivision, building code and other land use requirements.

7. Growth Limitations. The District acknowledges that the City shall not be limited in implementing Council or voter approved growth limitations, even though such actions may reduce or delay development within the District and the realization of District revenue.

8. Conveyance. The District agrees to convey to the City, at no cost to the City, any real property owned by the District that is necessary, in the City's sole discretion, for any City capital improvement projects for transportation, utilities or drainage, upon written notification.

9. Privately Placed Debt Limitation. Prior to the issuance of any privately placed Debt, the District shall obtain the certification of an External Financial Advisor substantially as follows:

We are [I am] an External Financial Advisor within the meaning of the District's Service Plan.

We [I] certify that (1) the net effective interest rate (calculated as defined in Section 32-1-103(12), C.R.S.) to be borne by [insert the designation of the Debt] does not exceed a reasonable current [tax-exempt] [taxable] interest rate, using criteria deemed appropriate by us [me] and based upon our [my] analysis of comparable high yield securities; and (2) the structure of [insert designation of the Debt], including maturities and early redemption provisions, is reasonable considering the financial circumstances of the District.

10. Eminent Domain Limitation. The District shall not be authorized to utilize the power of eminent domain except as otherwise provided pursuant to an intergovernmental agreement with the City.

11. Water Rights/Resources Limitation. The District shall not acquire, own, manage, adjudicate or develop water rights or resources except as otherwise provided pursuant to an intergovernmental agreement with the City.

12. Inclusion Limitation. The District shall not include within any of its boundaries any property outside the Service Area without the prior written consent of the City Council. If an Inclusion Area is proposed, the District shall not include within any of its boundaries any property inside the Inclusion Area Boundaries without the prior written consent of the City Council except upon petition of the fee owner or owners of one hundred percent (100%) of such property as provided in Section 32-1-401(1)(a), C.R.S.

13. Exclusion Limitation. The District shall not exclude from its boundaries any property within the Service Area without the prior written consent of the City Council. The District also shall follow the procedure for exclusion of property as provided in Section 32-1-502, C.R.S.

14. Overlap Limitation. The District shall not consent to the organization of any other district organized under the Special District Act within the Service Area which will overlap the boundaries of the District unless the aggregate mill levy for payment of Debt of such proposed districts will not at any time exceed the Maximum Debt Mill Levy of the District.

15. Initial Debt Limitation. On or before the effective date of approval by the City of an Approved Conceptual Site Plan, the District shall not: (a) issue any Debt; nor (b) impose a mill levy for the payment of Debt by direct imposition or by transfer of funds from the operating fund to the Debt service funds; nor (c) impose and collect any Fees used for the purpose of repayment of Debt.

16. Total Debt Issuance Limitation. The District shall not issue Debt in excess of Eighteen Million Dollars (\$18,000,000).

17. Fee Limitation. The District may impose and collect Fees as a source of revenue for repayment of debt, capital costs, and/or for operations and maintenance. No Fee

related to repayment of debt shall be authorized to be imposed upon or collected from Taxable Property owned or occupied by an End User subsequent to the issuance of a Certificate of Occupancy for said Taxable Property. Notwithstanding any of the foregoing, the restrictions in this definition shall not apply to any Fee imposed upon or collected from Taxable Property for the purpose of funding operation and maintenance costs of the District.

18. Public Improvement Fee Limitation. The District shall not impose, collect, receive, spend or pledge to any Debt any fee, assessment, tax or charge which is collected by a retailer in the District on the sale of goods or services by such retailer and which is measured by the sales price of such goods or services, except as provided pursuant to an intergovernmental agreement with the City.

19. Sales and Use Tax. The District shall not exercise its City sales and use tax exemption.

20. Monies from Other Governmental Sources. The District shall not apply for or accept Conservation Trust Funds, Great Outdoors Colorado Funds, or other funds available from or through governmental or non-profit entities that the City is eligible to apply for, except pursuant to an intergovernmental agreement with the City. This Section shall not apply to specific ownership taxes which shall be distributed to and be a revenue source for the District without any limitation.

21. Consolidation Limitation. The District shall not file a request with any Court to consolidate with another Title 32 district without the prior written consent of the City.

22. Bankruptcy Limitation. All of the limitations contained in this Service Plan, including, but not limited to, those pertaining to the Maximum Debt Mill Levy, Maximum Debt Mill Levy Imposition Term and the Fees have been established under the authority of the City to approve a Service Plan with conditions pursuant to Section 32-1-204.5, C.R.S. It is expressly intended that such limitations:

(a) Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Service Plan Amendment; and

(b) Are, together with all other requirements of Colorado law, included in the “political or governmental powers” reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the “regulatory or electoral approval necessary under applicable nonbankruptcy law” as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term, shall be deemed a material modification of this Service Plan pursuant to Section 32-1-207, C.R.S. and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the City as part of a Service Plan Amendment. The City shall be entitled to all remedies available at law to enjoin such actions of the District.

23. Reimbursement Agreement. If the District utilizes reimbursement agreements to obtain reimbursements from third-party developers or adjacent landowners for costs of improvements that benefit third-party landowners, such agreements shall be done in accordance with City Code. If a reimbursement agreement exists or is entered into for an improvement financed by the District, any and all resulting reimbursements received for such improvement shall be deposited in the District's debt service fund and used for the purpose of retiring the District's debt.

24. Service Plan Amendment Requirement. This Service Plan has been designed with sufficient flexibility to enable the District to provide required services and facilities under evolving circumstances without the need for numerous amendments. Actions of the District which violate the limitations set forth in V.A.1-23 or in VI.B-G shall be deemed to be material modifications to this Service Plan and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the District.

B. Preliminary Engineering Survey.

The District shall have authority to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, maintenance, and financing of the Public Improvements within and without the boundaries of the District, to be more specifically defined in an Approved Conceptual Site Plan. An estimate of the costs of the Public Improvements which may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, maintained or financed was prepared based upon a preliminary engineering survey and estimates derived from the zoning on the property in the Service Area and is approximately Seventeen Million Dollars (\$17,000,000).

All of the Public Improvements will be designed in such a way as to assure that the Public Improvements standards will be compatible with those of the City and shall be in accordance with the requirements of the Approved Conceptual Site Plan. All construction cost estimates are based on the assumption that construction conforms to applicable local, State or Federal requirements.

VI. FINANCIAL PLAN

A. General.

The District shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment of the Public Improvements from its revenues and by and through the proceeds of Debt to be issued by the District. The Financial Plan for the District shall be to issue such Debt as the District can reasonably pay within the Maximum Debt Mill Levy Imposition Term from revenues derived from the Maximum Debt Mill Levy, Fees and other legally available revenues. The total Debt that the District shall be permitted to issue shall not exceed Eighteen Million Dollars (\$18,000,000) and shall be permitted to be issued on a schedule and in such year or years as the District determines shall meet the needs of the Financial Plan referenced above and phased to serve development as it occurs. All bonds and other Debt issued by the District may be payable from any and all legally available revenues of the District, including general ad valorem taxes and Fees to be imposed

upon all Taxable Property within the District. The District will also rely upon various other revenue sources authorized by law. These will include the power to assess Fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(1), C.R.S., as amended from time to time.

B. Maximum Voted Interest Rate and Maximum Underwriting Discount.

The interest rate on any Debt is expected to be the market rate at the time the Debt is issued. In the event of a default, the proposed maximum interest rate on any Debt is not expected to exceed eighteen percent (18%). The proposed maximum underwriting discount will be five percent (5%). Debt, when issued, will comply with all relevant requirements of this Service Plan, State law and Federal law as then applicable to the issuance of public securities.

C. Maximum Debt Mill Levy.

The "Maximum Debt Mill Levy" shall be the maximum mill levy the District is permitted to impose upon the taxable property within the District for payment of Debt, and shall be determined as follows:

1. If the total amount of aggregate District Debt exceeds fifty percent (50%) of the District's assessed valuation, the Maximum Debt Mill Levy shall be fifty (50) mills; provided that if the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement is changed by law; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2004, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

2. If the total amount of aggregate District Debt is equal to or less than fifty percent (50%) of the District's assessed valuation, either on the date of issuance or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate.

3. For purposes of the foregoing, once Debt has been determined to be within Section VI.C.2 above, so that the District is entitled to pledge to its payment an unlimited ad valorem mill levy, the District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in the District's Debt to assessed ratio. All Debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law.

To the extent that the District is composed of or subsequently organized into one or more subdistricts as permitted under Section 32-1-1101, C.R.S., the term "District" as used herein shall be deemed to refer to the District and to each such subdistrict separately, so that each of the subdistricts shall be treated as a separate, independent district for purposes of the application of this definition.

D. Maximum Debt Mill Levy Imposition Term.

The District shall not impose a levy for repayment of any and all Debt (or use the proceeds of any mill levy for repayment of Debt) on any single property developed which exceeds forty (40) years after the year of the initial imposition of such mill levy unless a majority of the Board are residents of the District and have voted in favor of a refunding of a part or all of the Debt and such refunding will result in a net present value savings as set forth in Section 11-56-101, C.R.S., et seq.

E. Debt Repayment Sources.

The District may impose a mill levy on taxable property within its boundaries as a primary source of revenue for repayment of debt service and for operations and maintenance. The District may also rely upon various other revenue sources authorized by law. At the District's discretion, these may include the power to assess Fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(l), C.R.S., as amended from time to time and as limited by Section V.A. 17-18. In no event shall the debt service mill levy in the District exceed the Maximum Debt Mill Levy or the Maximum Debt Mill Levy Imposition Term, except pursuant to an intergovernmental agreement between the District and the City.

F. Debt Instrument Disclosure Requirement.

In the text of each Bond and any other instrument representing and constituting Debt, the District shall set forth a statement in substantially the following form:

By acceptance of this instrument, the owner of this Bond agrees and consents to all of the limitations in respect of the payment of the principal of and interest on this Bond contained herein, in the resolution of the District authorizing the issuance of this Bond and in the Service Plan for creation of the District.

Similar language describing the limitations in respect of the payment of the principal of and interest on Debt set forth in this Service Plan shall be included in any document used for the offering of the Debt for sale to persons, including, but not limited to, a developer of property within the boundaries of the District.

G. Security for Debt.

The District shall not pledge any revenue or property of the City as security for the indebtedness set forth in this Service Plan. Approval of this Service Plan shall not be construed as a guarantee by the City of payment of any of the District's obligations; nor shall anything in the Service Plan be construed so as to create any responsibility or liability on the part of the City in the event of default by the District in the payment of any such obligation.

H. TABOR Compliance.

The District will comply with the provisions of TABOR. In the discretion of the Board, the District may set up other qualifying entities to manage, fund, construct and operate facilities, services, and programs. To the extent allowed by law, any entity created by the District will remain under the control of the District's Board, and any such entity shall be subject to and bound by all terms, conditions, and limitations of the Service Plan and intergovernmental agreement, attached as **Exhibit D**.

I. District's Operating Costs.

The estimated cost of acquiring land, engineering services, legal services and administrative services, together with the estimated costs of the District's organization and initial operations, are anticipated to be One Hundred Fifty Thousand Dollars (\$150,000), which will be eligible for reimbursement from Debt proceeds.

In addition to the capital costs of the Public Improvements, the District will require operating funds for administration and to plan and cause the Public Improvements to be constructed and maintained. The first year's operating budget is estimated to be One Hundred Thousand Dollars (\$100,000) which is anticipated to be derived from property taxes and other revenues.

The Maximum Debt Mill Levy for the repayment of Debt shall not apply to the District's ability to increase its mill levy as necessary for provision of operation and maintenance services to its taxpayers and service users.

VII. ANNUAL REPORT

A. General.

The District shall be responsible for submitting an annual report to the City Clerk within six months of the close of the fiscal year.

B. Reporting of Significant Events.

The annual report shall include information as to any of the following:

1. Boundary changes made or proposed to the District's boundary as of December 31 of the prior year.
2. Intergovernmental Agreements with other governmental entities either entered into or proposed as of December 31 of the prior year.
3. Copies of the District's rules and regulations, if any, as of December 31 of the prior year.
4. A summary of any litigation which involves the District Public Improvements as of December 31 of the prior year.

5. Status of the District's construction of the Public Improvements as of December 31 of the prior year.

6. A list of all facilities and improvements constructed by the District that have been dedicated to and accepted by the City as of December 31 of the prior year.

7. The assessed valuation of the District for the current year.

8. Current year budget including a description of the Public Improvements to be constructed in such year.

9. Audit of the District's financial statements, for the year ending December 31 of the previous year, prepared in accordance with generally accepted accounting principles or audit exemption, if applicable.

10. Notice of any uncured events of default by the District, which continue beyond a ninety (90) day period, under any Debt instrument.

11. Any inability of the District to pay its obligations as they come due, in accordance with the terms of such obligations, which continue beyond a ninety (90) day period.

VIII. DISSOLUTION

Upon an independent determination of the City Council that the purposes for which the District was created have been accomplished, the District agrees to file petitions in the appropriate District Court for dissolution, pursuant to the applicable State statutes. In no event shall dissolution occur until the District has provided for the payment or discharge of all of its outstanding indebtedness and other financial obligations as required pursuant to State statutes.

IX. DISCLOSURE NOTICES

The District will use reasonable efforts and due diligence to cause the developer or home builder to provide a written notice of disclosure to all initial purchasers of property in the District that describes the impact of the District mill levy and fees on each residential property along with the purchase contract. The District shall record the notice of disclosure for each property within the District with Adams County at the time the subdivision plat is recorded, or provide the City with a copy of the recorded notice of disclosure if the subdivision plat has already been filed. The notice of disclosure shall include the maximum mill levy that may be assessed and associated taxes that may be imposed on the residential property for each year the District is in existence.

The District will also use reasonable efforts and due diligence to provide information to potential residential buyers by furnishing information describing the key provisions of the approved District to the developer or home builders for prominent display at all sales offices, and by inspecting the sales offices within the District's boundaries on a quarterly basis to assure the information provided is accurate and prominently displayed. Such information shall include the maximum mill levy and associated taxes and fees that may be imposed on each property for each

year the District is in existence and the improvements that are or have been paid for by the District.

X. INTERGOVERNMENTAL AGREEMENT

The form of the intergovernmental agreement required by the City Code, relating to the limitations imposed on the District's activities, is attached hereto as **Exhibit D**. The District shall approve the intergovernmental agreement in the form attached as **Exhibit D** at its first Board meeting after its organizational election. Failure of the District to execute the intergovernmental agreement as required herein shall constitute a material modification and shall require a Service Plan Amendment. The City Council shall approve the intergovernmental agreement in the form attached as **Exhibit D**.

XI. CONCLUSION

It is submitted that this Service Plan for the District, as required by Section 32-1-203(2), C.R.S., and Section 66-60 of the City Code, establishes that:

1. There is sufficient existing and projected need for organized service in the area to be serviced by the District;
2. The existing service in the area to be served by the District is inadequate for present and projected needs;
3. The District is capable of providing economical and sufficient service to the area within its proposed boundaries; and
4. The area to be included in the District has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.
5. Adequate service is not, and will not be, available to the area through the City or county or other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis.
6. The facility and service standards of the District are compatible with the facility and service standards of the City within which the special district is to be located and each municipality which is an interested party under Section 32-1-204(1), C.R.S.
7. The proposal is in substantial compliance with a comprehensive plan adopted pursuant to the City Code.
8. The proposal is in compliance with any duly adopted City, regional or state long-range water quality management plan for the area.
9. The creation of the District is in the best interests of the area proposed to be served.

EXHIBIT A

Legal Description

LEGAL DESCRIPTION

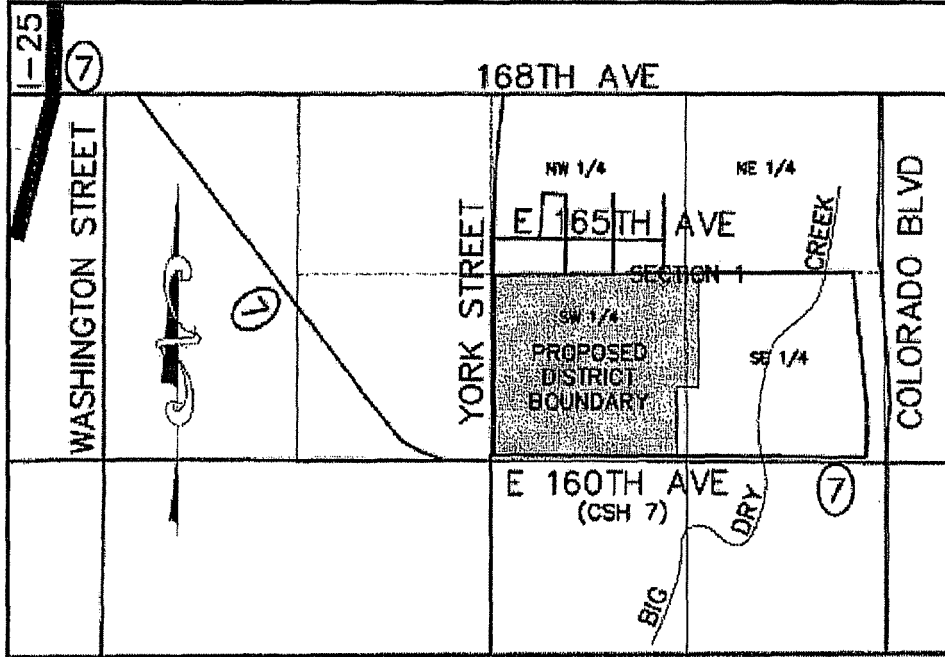
A PARCEL OF LAND LOCATED IN THE SOUTH HALF OF SECTION 1, TOWNSHIP 1 SOUTH, RANGE 68 WEST OF THE 6th PRINCIPAL MERIDIAN, CITY OF THORNTON, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 1 WHENCE THE CENTER QUARTER CORNER OF SAID SECTION BEARS N89°48'11"E, A DISTANCE OF 2,672.16 FEET; THENCE N89°48'11"E A DISTANCE OF 30.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF YORK STREET AS DESCRIBED IN ADAMS COUNTY ROAD PETITION NO 627, SAID POINT BEING THE POINT OF BEGINNING, THENCE N89°48'11"E, ALONG THE NORTH LINE OF THE SOUTH HALF OF SAID SECTION 1, A DISTANCE OF 2,642.16 FEET TO THE CENTER QUARTER CORNER OF SAID SECTION 1; THENCE ALONG THE NORTH LINE OF THE SOUTH HALF OF SAID SECTION 1, N89°47'52"E A DISTANCE OF 220.03 FEET, THENCE S00°16'34"E A DISTANCE OF 1141.96 FEET TO A POINT OF CURVE, THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 90°00'00", A RADIUS OF 20.50 FEET, AN ARC LENGTH OF 32.20 FEET AND WHOSE CHORD BEARS S45°16'34"E A DISTANCE OF 28.99 FEET, THENCE S00°16'34"E A DISTANCE OF 80.00 FEET, THENCE S89°43'26"W A DISTANCE OF 20.50 FEET; THENCE S00°16'34"E A DISTANCE OF 300.78 FEET, THENCE S89°47'55"W A DISTANCE OF 304.93 FEET; THENCE S00°16'34"E A DISTANCE OF 957.27 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF COLORADO STATE HIGHWAY NO. 7 AS DESCRIBED IN BOOK 1145 AT PAGE 384 IN THE OFFICE OF THE ADAMS COUNTY CLERK AND RECORDER, THENCE N89°33'38"W ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 2,569.82 FEET TO A POINT ON SAID EAST RIGHT-OF-WAY LINE OF YORK STREET; THENCE ALONG SAID EAST RIGHT-OF-WAY LINE N00°00'37"E, A DISTANCE OF 2,471.99 FEET TO THE POINT OF BEGINNING

SAID PARCEL CONTAINS 0,845,741 SQUARE FEET OR 157.16 ACRES MORE OR LESS.

EXHIBIT B

Thornton Vicinity Map

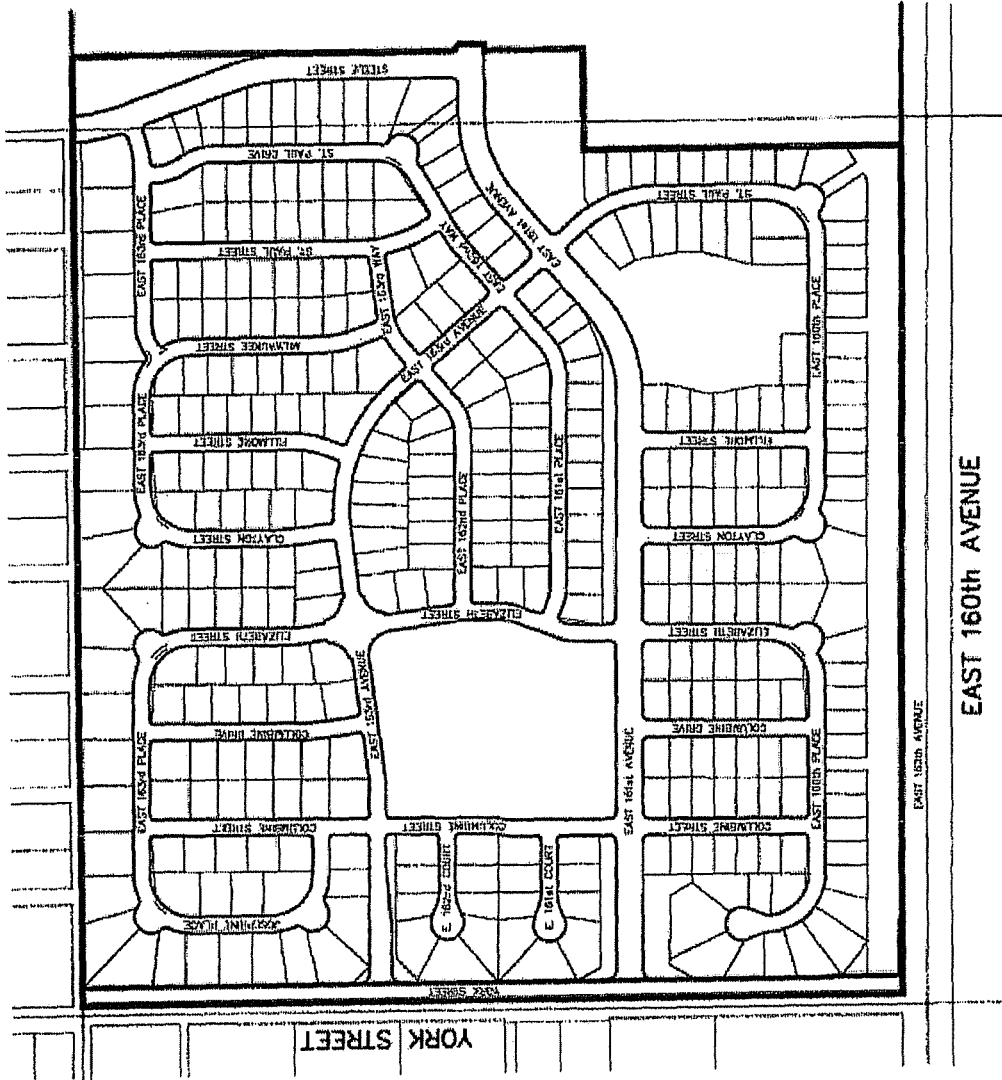


VICINITY MAP

SCALE: 1"=2,000'

EXHIBIT C

District Boundary Map



SITE BOUNDARY MAP
SCALE: 1"=500'

EXHIBIT D

Intergovernmental Agreement between the District and Thornton

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF THORNTON
AND BIG DRY CREEK METROPOLITAN DISTRICT REGARDING
THE SECOND AMENDED AND RESTATED SERVICE PLAN FOR THE DISTRICT**

THIS AGREEMENT is made and entered into as of this _____ day of _____, 2013, by and between the **City of Thornton**, State of Colorado (“City”) and the **Big Dry Creek 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 previously organized on December 28, 2007 to provide those services and to exercise powers as are more specifically set forth in the District’s original service plan approved by the City on August 28, 2007, which original service plan was replaced in its entirety by the District’s Amended and Restated Service Plan which was approved by the City on July 16, 2008 and the Second Amended and Restated Service Plan which was approved by the City on August 27, 2013 (“Service Plan”); and

WHEREAS, the City and the District have previously entered into an Intergovernmental Agreement Between the City of Thornton and Big Dry Creek Metropolitan District Regarding the Amended and Restated Service Plan for the District dated August 12, 2008 (“Original Agreement”); and

WHEREAS, the Service Plan makes reference to the execution of an intergovernmental agreement between the City and the District, as required by the Thornton City Code; and

WHEREAS, the City and the District have determined it to be in the best interests of their respective taxpayers, residents and property owners to enter into this Intergovernmental Agreement (“Agreement”), which will replace the Original Agreement in its entirety.

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

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 the Approved Conceptual Site Plan and other rules and regulations of the City and applicable provisions of the City Code. The District shall not be authorized to operate and maintain any part or all of the Public Improvements without the consent of the City except park and recreation improvements. 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.

2. Fire Protection. The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain fire protection facilities or services without a modification of this Agreement by the Parties. The authority to plan for, design, acquire, construct, install, relocate, redevelop or finance fire hydrants and related improvements installed as part of the water system shall not be limited by this provision.

3. Television Relay and Translation. The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain television relay and translation facilities and services without a modification of this Agreement by the Parties, except for the installation of conduit as a part of a street construction project.

4. Telecommunication Facilities. The District agrees that no telecommunication facilities owned, operated or otherwise allowed by the District shall affect the ability of the City to expand its public safety telecommunication facilities or impair existing telecommunication facilities.

5. Construction Standards Limitation. The District will ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having proper jurisdiction. The District will obtain the City's approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work.

6. Zoning and Land Use Requirements. The District agrees that it shall be subject to all of the City's zoning, subdivision, building code and other land use requirements.

7. Growth Limitations. The District acknowledges that the City shall not be limited in implementing Council or voter approved growth limitations, even though such actions may reduce or delay development within the District and the realization of District revenue.

8. Conveyance. The District agrees to convey to the City, at no cost to the City, any real property owned by the District that is necessary, in the City's sole discretion, for any City capital improvement projects for transportation, utilities or drainage, upon written notification.

9. Issuance of Privately Placed Debt. Prior to the issuance of any privately placed Debt, the District shall obtain the certification of an External Financial Advisor substantially as follows:

We are [I am] an External Financial Advisor within the meaning of the District's Service Plan.

We [I] certify that (1) the net effective interest rate (calculated as defined in Section 32-1-103(12), C.R.S.) to be borne by [insert the designation of the Debt] does not exceed a reasonable current [tax-exempt] [taxable] interest rate, using criteria deemed appropriate by us [me] and based upon our [my] analysis of comparable high yield securities; and (2) the structure of [insert designation of the Debt], including maturities and early

redemption provisions, is reasonable considering the financial circumstances of the District.

10. Eminent Domain. The District agrees not to use eminent domain powers for any real property without a modification of this Agreement by the Parties.

11. Water Rights/Resources. The District agrees not to acquire, own, manage, adjudicate or develop water rights or resources without a modification of this Agreement by the Parties.

12. Inclusion Limitation. The District agrees not to include within any of its boundaries any property outside the Service Area without the prior written consent of the City Council. If an Inclusion Area is proposed, the District agrees not to include within any of its boundaries any property inside the Inclusion Area Boundaries without the prior written consent of the City Council except upon petition of the fee owner or owners of one hundred percent (100%) of such property as provided in Section 32-1-401(1)(a), C.R.S.

13. Exclusion Limitation. The District agrees not to exclude from its boundaries any property within the Service Area without the prior written consent of the City Council. The District also agrees to follow the procedure for exclusion of property as provided in Section 32-1-502, C.R.S.

14. Overlap Limitation. The District shall not consent to the organization of any other district organized under the Special District Act within the Service Area which will overlap the boundaries of the District unless the aggregate mill levy for payment of Debt of such proposed districts will not at any time exceed the Maximum Debt Mill Levy of the District.

15. Initial Debt. On or before the effective date of approval by the City of an Approved Conceptual Site Plan and approval and execution of this Agreement, the District shall not: (a) issue any Debt; nor (b) impose a mill levy for the payment of Debt by direct imposition or by transfer of funds from the operating fund to the Debt service funds; nor (c) impose and collect any Fees used for the purpose of repayment of Debt.

16. Total Debt Issuance. The District shall not issue Debt in excess of Eighteen Million Dollars (\$18,000,000).

17. Fee Limitation. The District may impose and collect Fees as a source of revenue for repayment of debt, capital costs, and/or for operations and maintenance. No Fee related to repayment of debt shall be authorized to be imposed upon or collected from Taxable Property owned or occupied by an End User subsequent to the issuance of a Certificate of Occupancy for said Taxable Property. Notwithstanding any of the foregoing, the restrictions in this definition shall not apply to any Fee imposed upon or collected from Taxable Property for the purpose of funding operation and maintenance costs of the District.

18. Public Improvement Fee Limitation. The District shall not impose, collect, receive, spend or pledge to any Debt any fee, assessment, tax or charge which is collected by a retailer in

the District on the sale of goods or services by such retailer and which is measured by the sales price of such goods or services, without a modification of this Agreement by the Parties.

19. Sales and Use Taxes. The District shall not exercise its City sales and use tax exemption.

20. Monies from Other Governmental Sources. The District agrees not to apply for or accept Conservation Trust Funds, Great Outdoors Colorado Trust Funds, or other funds available from or through governmental or non-profit entities that the City is eligible to apply for without a modification of this Agreement by the Parties. This Section shall not apply to specific ownership taxes which shall be distributed to and a revenue source for the district without any limitation.

21. Consolidation. The District shall not file a request with any Court to consolidate with another Title 32 district without prior approval of the City Council as evidenced by a resolution after a public hearing thereon.

22. Bankruptcy. All of the limitations contained in this Service Plan, including, but not limited to, those pertaining to the Maximum Debt Mill Levy, Maximum Debt Mill Levy Imposition Term and the Fees have been established under the authority of the City to approve a Service Plan with conditions pursuant to Section 32-1-204.5, C.R.S. It is expressly intended that such limitations:

- (a) Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Service Plan Amendment; and
- (b) Are, together with all other requirements of Colorado law, included in the “political or governmental powers” reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the “regulatory or electoral approval necessary under applicable nonbankruptcy law” as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term, shall be deemed a material modification of this Service Plan pursuant to Section 32-1-207, C.R.S. and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the City as part of a Service Plan Amendment. The City shall be entitled to all remedies available at law to enjoin such actions of the District.

23. Reimbursement Agreements. If the District utilizes reimbursement agreements to obtain reimbursements from third-party developers or adjacent landowners, for costs of improvements that benefit third-party landowners, such agreements shall be done in accordance with City Code. All reimbursements shall be deposited in the District’s debt service fund and used for the purposes of retiring the District’s debt.

24. Dissolution. Upon an independent determination of the City Council that the purposes for which the District was created have been accomplished, the District agrees to file petitions in the appropriate District Court for dissolution, pursuant to the applicable State

statutes. In no event shall dissolution occur until the District has provided for the payment or discharge of all of their outstanding indebtedness and other financial obligations as required pursuant to State statutes.

25. Disclosure to Purchasers. The District will use reasonable efforts and due diligence to cause the developer or home builders to provide a written notice of disclosure to all initial purchasers of property in the District that describes the impact of the District mill levy and fees on each residential property along with the purchase contract. The District shall record the notice of disclosure for each property within the District with Adams County at the time the plat is recorded, or provide the City with a copy of the recorded notice of disclosure if the plat has already been filed. The notice of disclosure shall include the maximum mill levy that may be assessed and associated taxes that may be imposed on the residential property for each year the District is in existence.

26. Disclosure to Potential Residential Buyers. The District will also provide information to potential residential buyers by furnishing information describing the key provisions of the approved District to the developer or home builders for prominent display at all sales offices and by inspecting the sales offices within the District's boundaries on a quarterly basis to assure the information provided is accurate and prominently displayed. Such information shall include the maximum mill levy and associated taxes and fees that may be imposed on each property for each year the District is in existence and the improvements that are or have been paid for by the District.

27. Service Plan Amendment Requirement. Actions of the District which violate the limitations set forth in V.A.1-23, V.B., or VI.B-G of the Service Plan shall be deemed to be material modifications to the Service Plan and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the District.

28. Maximum Debt Mill Levy. The "Maximum Debt Mill Levy" shall be the maximum mill levy the District is permitted to impose upon the taxable property within the District for payment of Debt, and shall be determined as follows:

(a) If the total amount of aggregate District Debt exceeds fifty percent (50%) of the District's assessed valuation, the Maximum Debt Mill Levy shall be fifty (50) mills; provided that if the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement is changed by law; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2004, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

(b) If the total amount of aggregate District Debt is equal to or less than fifty percent (50%) of the District's assessed valuation, either on the date of issuance or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum

Debt Mill Levy and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate.

(c) For purposes of the foregoing, once Debt has been determined to be within Section VI.C.2 of the Service Plan, so that the District is entitled to pledge to its payment an unlimited ad valorem mill levy, the District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in the District's Debt to assessed ratio. All Debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law.

To the extent that the District is composed of or subsequently organized into one or more subdistricts as permitted under Section 32-1-1101, C.R.S., the term "District" as used herein shall be deemed to refer to the District and to each such subdistrict separately, so that each of the subdistricts shall be treated as a separate, independent district for purposes of the application of this definition.

29. Maximum Debt Mill Levy Imposition Term. The District shall not impose a levy for repayment of any and all Debt (or use the proceeds of any mill levy for repayment of Debt) on any single property developed which exceeds forty (40) years after the year of the initial imposition of such mill levy unless a majority of the Board are residents of the District and have voted in favor of a refunding of a part or all of the Debt and such refunding will result in a net present value savings as set forth in Section 11-56-101, C.R.S.; et seq.

30. Notices. All notices, demands, requests or other communications to be sent by one Party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the address or by courier service, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To the District: Big Dry Creek Metropolitan District
 White, Bear & Ankele Professional Corporation
 2154 E. Commons Ave., Suite 2000
 Centennial, CO 80122
 Attn: Clint Waldron, Esq.
 Phone: 303-858-1800
 Fax: 303-858-1801

To the City: City of Thornton
 9500 Civic Center Drive
 Thornton, CO 80229
 Attn: City Development Department
 Phone: 303-538-7295
 Fax: 303-538-7373

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with United Parcel Service or other nationally recognized overnight air courier service or three (3) business days after deposit in the

United States mail. By giving the other party hereto at least ten (10) days written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

31. Amendment. This Agreement may be amended, modified, changed or terminated in whole or in part by a written agreement duly authorized and executed by the Parties hereto and without amendment to the Service Plan.

32. Assignment. Neither Party hereto shall assign any of its rights nor delegate any of its duties hereunder to any person or entity without having first obtained the prior written consent of the other Party, which consent will not be unreasonably withheld. Any purported assignment or delegation in violation of the provisions hereof shall be void and ineffectual.

33. Default/Remedies. Upon the occurrence of any event of breach or default by either party, the non-defaulting party shall provide written notice to the other party. The defaulting party shall immediately proceed to cure or remedy such breach or default, and in any event, such breach or default shall be cured within 15 days after receipt of the notice. Following the cure period in the event of a breach or default of this Agreement by either Party, the non-defaulting Party shall be entitled to exercise all remedies available by law or in equity, specifically including suits for specific performance and/or monetary damages. In the event of any proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party in such proceeding shall be entitled to obtain as part of its judgment or award its reasonable attorneys' fees.

34. Governing Law and Venue. This agreement shall be governed and construed under the laws of the State of Colorado.

35. Inurement. Each of the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

36. Integration. This Agreement constitutes the entire agreement between the Parties with respect to the matters addressed herein. All prior discussions and negotiations regarding the subject matter hereof are merged herein.

37. 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 the City 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 the City shall be for the sole and exclusive benefit of the District and the City.

38. Severability. If any covenant, term, condition, or provision under this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provisions contained herein, the intention being that such provisions are severable.

39. Annual and Continued Five Year Review. The District shall submit an annual report to the City in every year following the year in which the Order and Decree creating the District has been issued until the year following the dissolution of the District. Such annual report shall be submitted no later than six (6) months after the close of the District's fiscal year and shall include information as provided by City Code. The District shall submit an application every five years for a finding of reasonable diligence in accordance with section 32-1-1101.5 of the Special District Act to the City.

40. No Liability of City. The City has no obligation whatsoever to construct any improvements that the District is required to construct, or pay any debt or liability of the District including any bonds.

41. Paragraph Headings. Paragraph headings are inserted for convenience of reference only.

42. Defined Terms. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to the Service Plan.

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

BIG DRY CREEK METROPOLITAN DISTRICT,
a quasi-municipal corporation and political
subdivision of the State of Colorado

By: _____
Its: _____

ATTEST:

By: _____
Its: _____

CITY OF THORNTON

Name: Jack Ethredge
Title: City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney