

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into this _____ day of _____, 20__ by and between the CITY OF CHERRY HILLS VILLAGE, COLORADO, a Colorado home rule municipal corporation (the “City”) and the CHERRY HILLS NORTH METROPOLITAN DISTRICT, a special district organized and existing pursuant to the provisions of Title 32, Article 1 of the Colorado Revised Statutes (“District”).

RECITALS

WHEREAS, C.R.S. Section 29-1-203(1) authorizes governments, which includes political subdivisions such as cities and special districts, to cooperate or contract with one another to provide any function, service, or facilities lawfully authorized to each of the contracting units; and

WHEREAS, C.R.S. Section 29-1-203(2) provides that such contract shall fully set forth the purpose, powers, rights, obligations and the responsibilities, financial and otherwise, of the contracting parties; and

WHEREAS, the District is entirely within the boundaries of the City, and the City has jurisdiction over the statement of purposes of the District pursuant to C.R.S. Section 32-1-208; and

WHEREAS, after reasonable diligence, the District has been unable to fully determine its powers under its statement of purposes and the City and the District have determined that those powers will be narrowed, described, and agreed upon by the terms of this Agreement.

COVENANTS

NOW, THEREFORE, in consideration of the foregoing recitals and the promises set forth herein, the receipt and sufficiency of which are hereby acknowledged, the City and the District hereby agree as follows:

ARTICLE I

POWERS

1.1. Metropolitan District. Until such time as the District may be dissolved as provided by law, the District shall operate as a metropolitan district as defined in Section 32-1-103(10) and other relevant law, however its powers shall be limited to the following:

- (a) The powers of a sanitation district as described in C.R.S. Section 32-1-103(18) and other relevant law, but not including the provision of storm sewers, surface drainage, treatment and disposal works and facilities, or solid waste disposal facilities or

waste services. In other words, the District may provide for sanitary sewers and contract for treatment services with the exceptions noted herein.

(b) Street improvement as provided in C.R.S. Section 32-1-103(10)(g) and safety protection as provided in C.R.S. Section 32-1-103(10)(d) and other relevant law; provided, however, that such service may be limited by the Board of Directors of the District to the ownership, operation, maintenance, repair and replacement of certain wayfinding and identification signs by acceptance of the assignment from the Cherry Hills North Homeowners Association, Inc. (the “HOA”) of “An agreement by and between the City of Cherry Hills Village, Colorado and Cherry Hills North Homeowners Association, Inc. for the grant of a revocable encroachment license to install, construct, and maintain neighborhood identification signs on City-owned right-of-way” (“Assignment”). The District may accept such Assignment from the HOA on terms acceptable to the District, and may accept transfer of the operation and maintenance of the signs and all other interests specifically described in the above referenced agreement, including but not limited to an ownership interest in the signs.

(c) All necessary or convenient administrative, financial, contractual and operational functions for the District as determined by the Board of Directors.

1.2. No modification without City approval. The District agrees that it shall not seek to amend or modify its statement of purposes or this Agreement unless such amendment or modification is approved by the City.

ARTICLE II

FINANCIAL POWERS

2.1. Use of Revenues for District Operation and Administration. The District may use the proceeds of its mill levy and such other rates, fees, tolls, penalties, charges and revenues as may be authorized by law (specifically including Colorado Constitution Article X, Section 20) to implement the powers set forth herein and for the operation and administration of the District.

2.2. No Provision of Other Services. Unless otherwise approved by an amendment to this Agreement, the District agrees not to exercise any and all formerly authorized powers of the District to furnish any services except sanitary sewer services and street and safety protection services as provided herein. Unless otherwise approved by an amendment to this Agreement, the powers of the District shall be limited to those powers specifically set forth in Sections 1.1(a) through (c) above.

2.3. Limitation on Future General Obligation Debt Authorization. The District shall have no authority to issue or incur any future general obligation indebtedness whatsoever unless the proposed general obligation debt is approved by the City which approval shall be set forth in an amendment to this Agreement, is authorized by the electors of the District pursuant to an election conforming to Colorado Constitution Article X, Section 20 and other relevant law, and is approved by the District Board of Directors. Notwithstanding the limitation set forth in this Section 2.3, the District shall be authorized to enter into short term loans subject to annual

appropriation and may issue revenue bonds as may be authorized by law, in order to provide the limited services and operations authorized by this Agreement.

ARTICLE III

EVENTS OF DEFAULT AND REMEDIES

3.1. Events of Default of District.

(a) Any of the following shall constitute an event of default of the District on its occurrence, but may be cured as provided herein:

(i) The provision by the District of any services other than those specified herein;

(ii) The issuance of any general obligation debt without authorization as provided herein.

(b) The District may cure an event of default within thirty (30) days from written notice from the City of the occurrence thereof or if the default cannot be cured within thirty (30) days, then commencement of a cure within thirty (30) days and diligently working to complete the same.

3.2. Remedies. The City shall have standing to enforce the terms of this Agreement. Such enforcement may be through action for specific performance or injunctive relief or for any other remedy available at law or in equity.

3.3. Jurisdiction. Any legal action relating to this Agreement, including actions relating to events of default under this Article 3 shall be brought in the District Court for Arapahoe County, Colorado.

ARTICLE IV

MISCELLANEOUS

4.1. Nonassignability. No party to this Agreement may assign any interest therein to any person without the consent of the other party.

4.2. Amendments. This Agreement may be amended from time to time by written amendment, duly authorized and signed by representatives of the parties hereto.

4.3. Waiver. No waiver by any party of any term or condition of this Agreement shall be deemed or construed as a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or a different provision of this Agreement.

4.4. Notices. Any notice, request, consent, approval, demand or other communication required or permitted hereby shall be in writing and shall be deemed to have been given when

personally delivered or when deposited in the United States Postal Service, certified, return receipt requested, postage prepaid, properly addressed to the persons to whom such notice is intended to be given at their respective addresses as follows:

If to the City: City of Cherry Hills Village
2450 East Quincy Avenue
Cherry Hills Village, CO 80113

If to the District: Cherry Hills North Metropolitan District
c/o Harold Roberts, President
4051 S. Holly Street
Englewood, CO 80111

With a copy to: Cherry Hills North Metropolitan District
c/o District Accountant
Darcy Beard
P.O. Box 3110
Parker, CO 80134

4.5. Governing Law. This Agreement shall be governed by the laws of the State of Colorado.

4.6. No Third Party Beneficiaries. Nothing contained in this Agreement is intended or shall create a contractual relationship with or cause an action in favor of, or claim for relief for, any third party.

4.7. Severability. Should any provision of this Agreement be held by a court of competent jurisdiction to be invalid, illegal or unenforceable, it shall not effect or impair the validity, legality or enforceability of any other provision of this Agreement. Furthermore, if a material provision of this Agreement is held invalid, illegal or unenforceable, the parties hereto agree to renegotiate that provision to be a valid, legal and enforceable provision which reflects as closely as possible the original intent of the parties hereto as expressed herein with respect to the subject matter of that provision.

IN WITNESS WHEREOF, this Agreement is executed by the parties hereto as of the date first above written.

CITY OF CHERRY HILLS VILLAGE, COLORADO

By _____
Its: Mayor

ATTEST:

By _____
Its: City Clerk

Draft – Not yet approved

CHERRY HILLS NORTH METROPOLITAN DISTRICT

By _____
Its: President

ATTEST:

By _____
Its: Secretary or Assistant Secretary