FIRST AMENDMENT TO THE

SERVICE PLAN

FOR

RENDEZVOUS METROPOLITAN DISTRICT NOS. 1-5

TOWN OF TIMNATH, COLORADO

Prepared by:

SPENCER FANE LLP
1700 Lincoln Street, Suite 2000
Denver, CO 80203-4554

As approved August 14, 2018

1. INTRODUCTION

The Service Plan for Rendezvous Metropolitan District Nos. 1-5 (the "**Service Plan**") was approved by the Town Council of the Town of Timnath (the "**Town**") on March 27, 2018 pursuant to Resolution No. R2010-3829, Series 2018.

This First Amendment to the Service Plan (the "**First Amendment**") for Rendezvous Metropolitan District Nos. 1-5 (the "**Districts**") is intended to be read in conjunction with the Service Plan. Unless specifically defined herein, all terms shall have the same meaning as set forth in the Service Plan.

2. THE PROPOSED CHANGE AND THE PURPOSE FOR THE CHANGE

3. AMENDMENT

Section VII.C. of the Service Plan is hereby amended and restated in its entirety as follows:

C. Maximum Mill Levies.

1. The Maximum Debt Mill Levy shall be the maximum mill levy a District is permitted to impose upon the taxable property within such District for payment of Debt, and shall be fifty (50) mills, subject to Gallagher Adjustment. Notwithstanding the foregoing, the Maximum Debt Mill Levy that District No. 5 is permitted to impose on any commercial property purchased by the Town within District No. 5 and subsequently owned by the Town or the Town's successors in interest shall be fifteen (15) mills, subject to Gallagher Adjustment.

2. The Maximum Operations and Maintenance Mill Levy shall be the maximum mill levy the Districts are permitted to impose upon the taxable property within the Districts for payment of administration, operations, maintenance, and capital costs, and shall be fifty (50) mills, subject to Gallagher Adjustment. Notwithstanding the foregoing, the Maximum Operations and Maintenance Mill Levy that District No. 5 is permitted to impose on any commercial property purchased by the Town within District No. 5 and subsequently owned by the Town or the Town's successor in interest shall be three (3) mills, subject to Gallagher Adjustment.

3. The Maximum Aggregate Mill Levy shall be the maximum combined mill levy a District is permitted to impose upon the taxable property within the District for payment of all expense categories, including but not limited to: Debt, capital costs, and administration, operations and maintenance costs, and shall be fifty (50) mills, which maximum shall be inclusive of the Maximum Debt Service Mill Levy and the Maximum Operations and Maintenance Mill Levy. The Maximum Aggregate Mill Levy shall be subject to Gallagher Adjustment. Except as provided in this paragraph, the provisions below, or pursuant to separate intergovernmental agreement entered into with the Town under extraordinary circumstances, the Maximum Aggregate Mill Levy shall not be exceeded under any circumstances. Imposition by a District of a mill levy in excess of this limitation shall constitute a material departure from this Service Plan. Notwithstanding the foregoing, the Maximum Aggregate Mill Levy applicable to

any commercial property purchased by the Town within District No. 5 and subsequently owned by the Town or the Town's successor in interest shall be eighteen (18) mills, subject to Gallagher Adjustment.

4. If the total amount of aggregate Debt of a District is equal to or less than fifty percent (50%) of that District's assessed valuation, either on the date of issuance or at any time thereafter, the Maximum Debt Mill Levy, the Maximum Operations and Maintenance Mill Levy, and the Maximum Aggregate Mill Levy will each be increased to sixty (60) mills.

5. For purposes of the foregoing, once Debt has been determined to be within Section VI.C.4. above, so that the Districts are entitled to pledge to their debt service payments the increased Maximum Debt Mill Levy as described above, the Districts may provide that such Debt shall remain secured by the increased Maximum Debt Mill Levy as described above, notwithstanding any subsequent change in the Districts' Debt to assessed ratio. All Debt issued by the Districts must be issued in compliance with the requirements of Section 32-1-1101, C.R.S., and all other requirements of State law.

6. To the extent that a 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 each 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.

7. 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 Town as part of a Service Plan Amendment.

Section VI.A. of the Service Plan titled Financial Plan; A. General is hereby amended to include the following additional paragraph as follows:

The Financial Plan is only one example of how the Districts may finance the Public Improvements and is not intended to establish an additional limitation but, rather is one example of a financing that could be pursued. The amount of Debt issued, the mill levy pledged, the date of issuance, the term of the bonds and the other information in the Financial Plan is intended to show one example of the Districts' ability to issue and repay Debt. The actual Debt issued by the Districts will almost certainly differ from what is shown in the Financial Plan. Notwithstanding anything else herein to the contrary, all issuances of Debt shall be deemed to be in compliance with the Financial Plan and the Service Plan so long as the Minimum Criteria, as defined within the Service Plan, as amended, have been met. "Minimum Criteria" shall mean that: (1) the Debt is subject to the Maximum Debt Service Mill Levy, as adjusted, and if required by the Service Plan; (2) together with other outstanding Debt, the Debt is not in excess of the Maximum Debt Authorization, as may be amended from time to time; (3) together with other outstanding Debt, the Debt is not in excess of the Debt authority approved by the Districts' electorate; (4) the Maximum Voted Interest Rate and Maximum Underwriting Discount have not

been exceeded; and (5) the Maximum Mill Levy Limitations and Debt Mill Levy Imposition Term set forth in the Service Plan, as amended, have not been exceeded.

4. RESOLUTION

Except as specifically amended as set forth above, all other provisions of the Service Plan shall remain in full force and effect.

EXHIBIT B

Intergovernmental Agreement

INTERGOVERNMENTAL AGREEMENT BETWEEN

THE TOWN OF TIMNATH, COLORADO
AND
RENDEZVOUS METROPOLITAN DISTRICT NOS. 1-5

THIS INTERGOVERNMENTAL AGREEMENT is made and entered into as of this 14th day of August 2018, by and between the TOWN OF TIMNATH, a home-rule municipal corporation of the State of Colorado ("Town"), and RENDEZVOUS METROPOLITAN DISTRICT NOS. 1-5, quasi-municipal corporations and political subdivisions of the State of Colorado (the "Districts"). The Town and the Districts are collectively referred to as the Parties.

RECITALS

WHEREAS, the Districts were organized to provide those services and to exercise powers as are more specifically set forth in the Districts' Service Plan approved by the Town on March 27, 2018 ("Service Plan"); and

WHEREAS, the Service Plan makes reference to the execution of an intergovernmental agreement between the Town and the Districts, as required by the Timnath Town Code; and

WHEREAS, the Town and the Districts have determined it to be in the best interests of their respective taxpayers, residents and property owners to enter into this Intergovernmental Agreement ("Agreement").

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 purpose of the Districts is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. The Districts shall dedicate the Public Improvements to the Town or other appropriate jurisdiction in a manner consistent with the Approved Development Plan and other rules and regulations of the Town and applicable provisions of the Town Code. The Districts shall operate and maintain all trails and related amenities pursuant to an intergovernmental agreement with the Town, which shall be executed at the first meeting of the Districts after approval of the Service Plan. Operational activities for other Public Improvements not dedicated to another entity are allowed subject to entering into an intergovernmental agreement with the Town allowing the Town to set minimum standards for maintenance. The Districts are allowed to own, operate, and maintain the following Public Improvements: all trails and related amenities within the Service Area of the Districts, landscaping, entry features, fencing, setbacks, irrigated and non-irrigated turf, open spaces, non-potable irrigation water systems and related improvements, streetscaping, ponds, lakes and water features, pools, and recreation facilities. The Districts shall be authorized but not required to provide for covenant enforcement and design review services within the Service Area. Any Fee imposed by the Districts for access to recreation improvements owned by the Districts shall not

result in Town residents who reside outside the Districts paying a user fee that is greater than, or otherwise disproportionate to, similar fees and taxes paid by residents of the Districts. However, the Districts shall be entitled to impose an administrative Fee as necessary to cover additional expenses associated with use of District park and recreational improvements by Town residents who do not reside in the Districts to ensure that such costs are not the responsibility of a District's residents, provided that such administrative Fee shall not result in Town residents who reside outside the Districts paying a user fee that is greater than, or otherwise disproportionate to, similar fees and taxes paid by residents of the Districts. All such Fees shall be based upon the District's determination that such Fees do not exceed a reasonable annual market fee for users of such facilities. All operations and maintenance Fees and Fee increases shall be subject to review and approval by the Town. Notwithstanding the foregoing, all parks and trails shall be open to the general public, including Town residents who do not reside in the Districts, free of charge.

2. Service Plan. The Districts shall not take any action, including without limitation the issuance of any obligations or the imposition of any tax or fee, which would constitute material modification of the Service Plan as set forth in Section 32-1-207(2), C.R.S. Actions of the Districts which violate any restriction set forth in the Service Plan constitute a material modification of the Service Plan that shall be a default under this Agreement, and shall entitle the Town to protect and enforce its rights under this Agreement by such suit, action, or special proceedings as the Town deems appropriate. It is intended that the contractual remedies herein shall be in addition to any remedies the Town may have or actions the Town may bring under Section 32-1-207, C.R.S., or any other applicable statute. The Town may impose any sanctions allowed by the Timnath Municipal Code or statute. Nothing herein is intended to modify or prevent the use of the provisions of Section 32-1-207(3)(b), C.R.S, however, the time limits of Section 32-1-207(3)(b), C.R.S., as such time limits apply to the Town, are expressly waived by the Districts.

The Service Plan grants authority to the Districts to construct some or all of the Public Improvements identified therein. If the Districts elect not to provide certain of the Public Improvements that are assigned to it as part of an Approved Development Plan, the Districts shall notify the Town in writing of such election whereupon the Town shall have thirty (30) days to provide a letter to the Districts that such election does not constitute a material modification hereof or to otherwise advise the Districts of the obligation to seek a formal amendment to this Service Plan. If the Town determines that such election does not constitute a material modification hereof, the Districts shall submit a written modification of the Service Plan to the Town for administrative approval as a nonmaterial modification whereupon the authority of the Districts to provide such Public Improvements shall be deemed stricken from the Service Plan. In all events, the Town and the Districts acknowledge that the Districts are independent units of local government, separate and distinct from the Town.

3. 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 delivery, via United Parcel Service or other nationally recognized overnight air courier service, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To the Districts: Rendezvous Metropolitan District Nos. 1-5

4801 Goodman Street
Timnath, CO 80547

With copy to:

Spencer Fane LLP
Attn: David O'Leary
1700 Lincoln, Suite 2000
Denver, CO 80203
Phone: 303-839-3800
Fax: 303-839-3838

To the Town:

Town of Timnath
Attn: Town Manager
4800 Goodman Street
Timnath, CO 80547
Phone: 970-224-3211
Fax: 970-224-3217

With copy to:

White Bear Ankele Tanaka & Waldron, Professional Corporation
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122
Phone: 303-858-1800
Fax: 303-858-1801

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.

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

5. 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.

6. Default/Remedies. In the event of a breach or default of this Agreement by any Party, the non-defaulting Party shall be entitled to exercise all remedies available at law or in equity, specifically including but not limited to suits for declaratory judgment, specific performance, injunction, 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.

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

8. 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.

9. 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.

10. 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 Districts and the Town 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 Districts and the Town shall be for the sole and exclusive benefit of the Districts and the Town.

11. 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 provision contained herein, the intention being that such provisions are severable.

12. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document.

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

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

15. Additional Provisions. In addition to the approvals provided for in the Service Plan, the Town hereby provides its consent and approves the following additional authorizations for the Districts, subject to final approval of this intergovernmental agreement with the Town, to be executed at the first meeting of the Districts after approval of this Service Plan. In the event of any conflict between the provisions in the Service Plan and those set forth in this Agreement, the Service Plan shall control. Notwithstanding the foregoing, any actions of the Districts which violate the Service Plan may be deemed to be a material modification of the Service Plan and the Town shall be entitled to all remedies available under State and local law to enjoin such actions of the District, including the remedy to enjoining the issuance of additional authorized but unissued debt, until such material modification is remedied.

a. Certain Offsite Improvements Permitted. The Parties acknowledge that construction of certain offsite improvements will be required by an Approved Development Plan for the property within the Districts, and that such offsite improvements are necessary for development and will benefit property within the Districts and the Districts' constituents. The Parties acknowledge that some of these improvements may be outside of the Districts' boundaries but are necessary to provide standard and necessary public facilities and improvements to the

development. The Districts are hereby authorized to construct and finance such improvements provided such improvements are constructed in accordance with an Approved Development Plan.

b. Homeowners' Association. The Town acknowledges that the developer of property or subsequent builders within the development within the Districts may record covenants against property within the Districts' boundaries establishing a master owners' association and providing for the creation of one or more subassociations which may be authorized to perform covenant enforcement and provide certain operation and maintenance functions, which may be in addition to or in lieu of the provision of such services by the Districts, to satisfy the needs and expectations of residents within the Districts regarding levels of services and amenities that are unique to the development and portions thereof.

c. Amendment to Water Rights/Resources Limitation. The Districts shall be allowed to acquire, own, manage, adjudicate or develop non-potable water rights or resources for the limited purposes of providing landscape maintenance and non-potable irrigation for common areas within the boundaries of the Districts as may be expanded from time to time. Such facilities and improvements necessary to provide for non-potable irrigation shall be constructed in accordance with an Approved Development Plan. The Districts agree to not acquire additional water for resale purposes.

d. Ownership, Operations and Maintenance of Facilities and Services. The Districts shall dedicate the Public Improvements to the Town or other appropriate jurisdiction or owners association in a manner consistent with a final Approved Development Plan and other rules and regulations of the Town and applicable provisions of the Town Code. The Districts shall undertake ownership, operation and maintenance of those public facilities, and shall furnish related services, or shall dedicate and convey to the Town, the Fort Collins – Loveland Water District, or the South Fort Collins Sanitation District those certain facilities permitted pursuant to an Approved Development Plan and dedication and conveyance as set forth in such agreements. To the extent certain Public Improvements are not dedicated and accepted by the Town or other appropriate jurisdiction or owners association in a manner consistent with Approved Development Plans and applicable provisions of the Town Code, the Districts shall be authorized to operate and maintain any part of the Public Improvements, provided that certain minimum standards for maintenance set by the Town are met. The Districts shall be permitted to own, operate and maintain the following: all trails and related amenities within the Service Area of the Districts, landscaping, entry features, fencing, setbacks, irrigated and non-irrigated turf and open spaces, non-potable irrigation water systems and related improvements, streetscaping, ponds, lakes and water features, and pools and recreation facilities. The Districts shall be allowed to provide for covenant enforcement and design review within the Districts.

e. Operations and Maintenance Fees. The Districts shall be allowed to assess an annual operations and maintenance fee of up to $1,000 against each platted lot, residential dwelling unit and/or non-residential lot within the Districts to pay for the costs associated with the operation and maintenance of public facilities to be built within the boundaries of the Districts which are owned, operated and maintained by the Districts. The Districts shall review the District fees on an annual basis at the time of budget review and approval to ensure that those fees are necessary, appropriate and reasonable for the purpose of operating District facilities, services and administration of District public improvement. Those operation and maintenance costs of the Districts shall be

directly related to the costs associated with maintaining the amenities and public improvements permitted to be owned and operated by the Districts by this Agreement and by Colorado law. All operations and maintenance Fees and Fee increases shall be subject to review and approval by the Town. Notwithstanding the foregoing, the operations and maintenance fee may be increased annually by the change in the Consumer Price Index for the immediate twelve-month period. The **Consumer Price Index Formula** shall be defined as follows: At the end of each year the operations and maintenance fee for the next succeeding year may be increased by the annual increase in the Consumer Price Index ("**CPI**") where "CPI" is the Consumer Price Index for the month of December just preceding such anniversary year, and the "Base CPI" is the Consumer Price Index for December of the previous year. As used herein, Consumer Price Index shall mean and refer to that table in the Consumer Price Index for Denver-Boulder, all items, all urban consumers published by the United States Department of Labor, Bureau of Labor Statistics, now known as the "**Consumer Price Index**" for all Urban Consumers (Index 1982-1984 = 100). If such Index referred to above shall be discontinued, then any successor Consumer Price Index of the United States Bureau of Labor Statistics, or successor agency thereto.

f. Capital Fees. The District may also collect a Capital Fee, provided that such Fee does not exceed the following limits:

(i) For each single-family detached residential unit, the Capital Fee shall not exceed Two Thousand Dollars ($2,000);

(ii) For each single-family attached or multi-family residential unit, the Capital Fee shall not exceed One Thousand Five Hundred Dollars ($1,500); and

(iii) For a structure other than a single-family or multi-family residential structure, the Capital Fee shall not exceed Twenty-Five Cents ($0.25) per square foot of the structure.

The Capital Fee set forth in this Agreement may be increased annually by the change in the Consumer Price Index for the immediate twelve-month period. The Consumer Price Index Formula shall be defined as follows: At the end of each year the Capital Fee for the next succeeding year may be increased by the annual increase in the Consumer Price Index ("**CPI**") where "CPI" is the Consumer Price Index for the month of December just preceding such anniversary year, and the "Base CPI" is the Consumer Price Index for December of the previous year. As used herein, Consumer Price Index shall mean and refer to that table in the Consumer Price Index for Denver-Boulder, all items, all urban consumers published by the United States Department of Labor, Bureau of Labor Statistics, now known as the "Consumer Price Index" for all Urban Consumers (Index 1982-1984 = 100). If such Index referred to above shall be discontinued, then any successor Consumer Price Index of the United States Bureau of Labor Statistics, or successor agency thereto. . The Capital Fee shall be collected at the time of lot sale prior to issuance of a building permit. All Fee increases shall be subject to review and approval by the Town.

g. Conditions Regarding Property Owned by the Town.

(i) The Maximum Debt Mill Levy that District No. 5 is permitted to impose on any commercial property purchased by the Town within District No. 5 and subsequently owned by the Town or the Town's successors in interest shall be fifteen (15) mills, subject to Gallagher Adjustment.

(ii) The Maximum Operations and Maintenance Mill Levy that District No. 5 is permitted to impose on any commercial property purchased by the Town within District No. 5 and subsequently owned by the Town or the Town's successor in interest shall be three (3) mills, subject to Gallagher Adjustment.

(iii) The Maximum Aggregate Mill Levy applicable to any commercial property purchased by the Town within District No. 5 and subsequently owned by the Town or the Town's successor in interest shall be (18) mills, subject to Gallagher Adjustment.

(iv) Commercial property purchased by the Town within District No. 5 and subsequently owned by the Town or the Town's successor in interest shall not be subject to any operations and maintenance fee, capital fee, development fee, transfer fee, owner's association fee, recreational or other Fee imposed by the Districts unless expressly approved in writing by the Town.

(v) The Districts shall provide snow plowing, landscape maintenance, including the water bill for irrigation water (not associated with tap fees and/or raw water requirements), and trash removal at no additional charge to commercial property purchased by the Town within District No. 5 and subsequently owned by the Town or the Town's successor in interest.

RENDEZVOUS METROPOLITAN DISTRICT NOS. 1-5

By: _____
President

Attest:

_____
Secretary

TOWN OF TIMNATH, COLORADO

By: _____
Mayor PRO TEM

Attest:

By: Milissa Peters-Garcia
Its: Town Clerk

APPROVED AS TO FORM: _____