

**EXHIBIT C**  
**Agreement Establishing the Santa Fe Park Authority**

## AGREEMENT ESTABLISHING THE SANTA FE PARK AUTHORITY

THIS AGREEMENT ESTABLISHING THE SANTA FE PARK AUTHORITY (this “**Agreement**”) is entered into effective as of the Effective Date (as defined in Section 7.01), by and among SANTA FE PARK METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado (“**District No. 1**”), and SANTA FE PARK METROPOLITAN DISTRICT NO. 3, a quasi-municipal corporation and political subdivision of the State of Colorado (“**District No. 3**”). District No. 1 and District No. 3 are referred to herein individually as a “**District**” and collectively as the “**Districts**”.

### WITNESSETH

WHEREAS, the Districts are quasi-municipal corporations and political subdivisions of the State of Colorado, organized for the purpose, among others, of assisting in the financing and construction of public improvements within certain areas located within the City of Littleton, Colorado (“**City**”); and

WHEREAS, in accordance with the Consolidated Service Plan for Santa Fe Park Metropolitan District Nos. 1 – 4 approved by the City Council of the City on August 17, 2021, as it may be amended from time to time (the “**Service Plan**”), and pursuant to Sections 32-1-101, *et seq.*, C.R.S., as amended (the “**Special District Act**”), the Districts, Santa Fe Park Metropolitan District No. 2 and Santa Fe Park Metropolitan District No. 4 are each authorized to provide public improvements and services; and

WHEREAS, as permitted by the Service Plan and the Special District Act, the Districts desire to coordinate with one another for the planning, design, acquisition, construction, relocation, redevelopment and financing of the “Public Improvements”, the “Regional Improvements” and the “Public Benefits” (as such terms are defined in the Service Plan) (together with any other services authorized to be provided under the Service Plan and the Special District Act, the “**Services**”);

WHEREAS, the Districts, being located in the same general area, desire to develop a collaborative working relationship to more efficiently and effectively carry out their individual responsibilities under Title 32, C.R.S., as it relates to the Services; and

WHEREAS, Article XIV, Section 18(2)(a), of the Constitution of the State of Colorado (the “**State**”), provides that the State Constitution shall not be construed to prohibit the State or any of its political subdivisions in cooperating and contracting with one another; and

WHEREAS, Article XIV, Section 18(2)(b), of the State Constitution provides that the State Constitution shall not be construed to prohibit the enactment of a statute authorizing political subdivisions to establish a separate entity to provide any function, service, or facility lawfully authorized to each of the contracting political subdivisions; and

WHEREAS, Section 29-1-201, C.R.S., permits and encourages governments to make the most efficient and effective use of their powers and responsibilities by cooperating and

contracting with other governments and provides that such statute shall be liberally construed; and

WHEREAS, Section 29-1-203, C.R.S., authorizes governments to contract with one another to provide any function, service or facility lawfully authorized to each of the contracting units, including the incurring of debt, through the establishment of a separate entity; and

WHEREAS, the Districts have a compelling mutual interest in jointly providing the Services, in the present and future, to promote the public welfare; and

WHEREAS, the design, construction, scheduling and total costs of the Services may be substantially different if provided without considering the overall development needs and coordinated construction; the financing, completion and availability of the Services in a coordinated manner shall better promote the health, safety, prosperity, security and general welfare of the property owners and residents within the Districts as well as the public in general; and

WHEREAS, the Districts desire to enter into this Agreement to establish an authority as a separate legal entity, political subdivision and public corporation of the State in conformity with and subject to Section 29-1-203.5, C.R.S. (as may be amended from time to time, the “**Authority Establishment Statute**”), to provide the Services and to incur financial obligations on behalf of the Districts and for any related functions, services, or facilities permitted by the State Constitution and laws of Colorado and in accordance with the provisions of this Agreement; and

WHEREAS, the authority established hereby shall be authorized to provide the Services on behalf of the Members (as defined in Section 2.01) as set forth in this Agreement; and

WHEREAS, it is in the best interest of the Districts and for the public health, safety, convenience, and welfare of the landowners and residents of the Districts and of the general public that the Districts enter into this Agreement for the purpose of establishing an authority to provide the Services and incur financial obligations on behalf of the Members as may be agreed upon by the Members from time to time.

NOW, THEREFORE, in consideration of the mutual covenants, agreements and obligations set forth in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the Districts hereby agree as follows:

## **AGREEMENT**

### **ARTICLE I ESTABLISHMENT OF THE AUTHORITY**

**Section 1.01 Creation.** Pursuant to the Authority Establishment Statute, and in conformity with Section 29-1-203, C.R.S., and the Service Plan, the Districts hereby establish a separate legal entity and political and corporate subdivision of the State to be known as the “Santa Fe Park Authority” (the “**Authority**”). The Authority shall be separate and distinct from the Districts, Santa Fe Park Metropolitan District No. 2, Santa Fe Park Metropolitan District No. 4 and Members. The Authority shall have the duties, privileges, immunities, rights, liabilities and

disabilities of a public body politic and corporate. The provisions of Article 10.5 and 47 of Title 11, C.R.S., as amended, shall apply to monies of the Authority.

**Section 1.02 Purposes.** The Authority is organized for the purposes of incurring financial obligations on behalf of the Members and providing any Services permitted by the Service Plan, the State Constitution and laws of the State, and in accordance with the provisions of this Agreement and the Authority Establishment Statute.

**Section 1.03 Governmental Immunity.** The Authority shall be a political subdivision of the State and therefore a “public entity” as defined by the Colorado Governmental Immunity Act, Part 1 of Article 10, Title 24, C.R.S., as amended (the “CGIA”). No provision of this Agreement shall be construed as a waiver of the rights and privileges of any Member or the Authority pursuant to the CGIA.

## **ARTICLE II MEMBERS; GOVERNING BODY**

**Section 2.01 Members.** A “Member” shall include each of the Districts and shall include any Title 32, C.R.S, special district that is (a) lawfully authorized to provide the Services; and (b) approved as a Member of the Authority pursuant to Section 3.01.

**Section 2.02 Board of Directors.** The Authority shall be governed by a board of directors (the “Board”), in which all of the legislative and other power of the Authority is vested and which shall exercise and perform all the powers, rights and duties vested in and imposed on the Authority by this Agreement and applicable law, including without limitation, the Authority Establishment Statute.

**Section 2.03 Appointment.** Each Member shall be entitled to appoint one director to serve on the Board (a “Director”). Each Director shall be an elected or appointed director of such appointing Member. The Members shall appoint their respective Directors by written motion or resolution, a copy of which shall be provided to the Authority.

**Section 2.04 Term; Removal; Vacancies.** Each Director shall serve a term coincident with such Director’s term as a director on the board of directors of the appointing Member. A Director shall no longer be qualified to serve as a Director at such time as the Director ceases to be an elected or appointed director of the appointing Member. Each Director shall serve at the pleasure of the Member that appoints such Director, and a Director may be removed from office with or without cause by the appointing Member, upon written notice to such Director and the Board. A vacancy occurring on the Board, whether such vacancy be the result of resignation, death, removal, disability or disqualification as set forth in this Section 2.04, shall be filled in the same manner of appointment as provided in Section 2.03. If a vacancy is not filled as described in the preceding sentence, then the vote allocated to such vacant seat shall be deemed waived on any matter coming before the Board and the corresponding voting and quorum requirement shall be reduced by the number of vacant seats until such time as each vacancy is filled.

**Section 2.05 Quorum; Voting.** Decisions of the Board may be made only at regular or special meetings, called upon notice as required herein, at which a quorum is present either in

person, telephonically or electronically; a majority of the Directors shall constitute a quorum. Voting by proxy is prohibited. The act of a majority of the Directors present at a meeting at which a quorum is present shall be an act of the Board. Each Director shall have one vote on behalf of the Member for which he or she is appointed to represent.

**Section 2.06 Meetings.** The Board may hold regular and special meetings at any location that each of the Members are legally authorized to hold regular and special meetings in conformance with Section 32-1-903, C.R.S., as amended, and the Service Plan. Notices of all meetings shall be the same as meetings for special districts under the Special District Act.

**Section 2.07 Officers.**

(a) Offices. The officers of the Authority shall be a Chair, Secretary, Treasurer, and such other officers and assistant officers as may be authorized by the Board from time to time, to perform such duties as may be approved by the Board.

(b) Regular Elections and Term of Office. At the first meeting of the Board following the Effective Date, the Directors shall elect officers who shall serve as officers of the Authority until the earlier of (i) their successors are elected and qualified; or (ii) a Director ceases to be a Director on the Board. Thereafter, officers shall be elected annually at the first Board meeting of each calendar year. Each officer shall hold office until (i) the next succeeding election of the Board, or until his successor is elected and qualified; provided however, if a Director ceases to be a Director on the Board, such Director shall contemporaneously cease to be an officer. Vacancies or new offices may be filled at any meeting of the Board.

(c) Removal. Any officer or agent elected or appointed by the Board may be removed by the Board, with or without cause, whenever in its judgment the best interests of the Authority shall be served thereby.

(d) Duties of Officers. In addition to duties designated by the Board, the duties of the officers shall include the following:

1. Chair. The Chair shall be a Director and shall preside at all meetings of the Board and, except as otherwise delegated by the Board, shall execute all legal documents and instruments of the Authority.

2. Secretary. The Secretary need not be a Director, and shall maintain the official records of the Authority, including this Agreement, bylaws, rules and regulations established by the Board, minutes of the meetings of the Board, and a register of the names and addresses of the Directors and officers, and shall issue notice of meetings, and attest and affix the corporate seal to all documents of the Authority as applicable. A separate recording secretary may be appointed by the Board for taking and preparing meeting minutes.

3. Treasurer. The Treasurer shall be a Director and shall serve as financial official of the Authority, and pursuant to any fiscal resolution adopted by the

Board governing the financial transactions of the Authority and any restrictions imposed by law, be responsible for the receipt, custody, investment and disbursement of the Authority's funds and securities, and for duties incident to the office of Treasurer. At the election of the Board, the duties of the Treasurer may be provided by an Authority employee or an independent contractor under the supervision of the Treasurer and shall be reviewed at all regular Board meetings of the Board.

4. Miscellaneous. The duties and functions of the Secretary and the Treasurer may be performed by a single individual who shall be a Director. If the individual performing the duties of Secretary is not a Director, such individual shall receive such compensation as is deemed appropriate by the Board.

**Section 2.08 Indemnification of Directors and Officers.** The Authority shall, to the extent permitted by applicable law and within the limitations of CGIA, indemnify and defend each Director and officer of the Authority, in connection with any claim or actual or threatened suit, action, or proceeding in which he or she may be involved, in either his or her individual or in his or her official capacity, by reason of his or her being or having been such Director or officer, or by reason of any action or omission by him or her in any such capacity (an "**Indemnified Claim**"), and shall protect, save and hold each Director and officer harmless from any loss, cost or expense arising from or growing out of such Indemnified Claim, and shall advance and pay the reasonable fees of any previously authorized independent counsel and other expenses related to the defense of such claim promptly upon receipt of proper billing therefor. The Authority shall have no obligation to indemnify and defend any such Director or officer for any claim, suit, action or proceeding arising out of criminal offenses, a civil rights violation or any other willful and wanton misconduct ("**Excluded Claims**"), but shall be obligated to defend and timely pay the cost of defense against Excluded Claims until final judgment of guilt of such criminal offense or civil liability for such claim.

**Section 2.09 Bylaws and Regulations.** The Authority shall have the power to adopt such bylaws and regulations as are necessary or convenient for the conduct of the Authority so long as such bylaws and regulations are not in conflict with the provisions of this Agreement or applicable law.

**Section 2.10 Conflict Disclosures.** All Directors shall disclose from time to time, in writing, conflicts of interest as required by applicable law.

**Section 2.11 No Restriction on Powers of Members.** Except as expressly provided herein, nothing in this Agreement shall be deemed or construed to restrict, prohibit or otherwise limit the power of any Member, and no action of the Authority shall be attributable to the Members.

**Section 2.12 Advisory Committees.** Pursuant to a resolution, the Board may create and maintain any advisory committee(s) or board(s) it deems advisable. Any such committee or board shall serve solely in an advisory capacity to the Board, and the members thereof shall serve at the pleasure of the Board.

### **ARTICLE III CHANGES IN MEMBERSHIP**

**Section 3.01 Addition of New Members.** No entity may be added to this Agreement as a Member of the Authority without the approval of all Members authorized by a written document duly approved and executed by the governing body of each Member. An entity added as a Member shall be subject to such additional terms and conditions as the Board, in its sole discretion, may determine.

**Section 3.02 Member Withdrawal.** Prior to the issuance of debt by the Authority, a Member may be released from this Agreement upon written notice to the other Members. For so long as the Authority has debt outstanding, no Member that has pledged its Pledged Revenues (as defined in Section 5.02) to the Authority may be released from this Agreement. At such time as all debt of the Authority has been repaid, any Member may be released from this Agreement upon written notice to the other Members. Any withdrawal by a Member under this Section 3.02 shall be effective on the date that is 30 days after such notice was given pursuant to Section 9.02. Notwithstanding the forgoing, the withdrawing Member shall remain liable for any and all of its obligations, financial or otherwise, existing on the date of withdrawal, to or on behalf of the Authority. Upon withdrawal, a withdrawing Member shall have no further interest, right or title in or to any assets or equity of the Authority, unless the Board approves a specific agreement to the contrary. Withdrawal by any Member or consolidation of Members shall not cause termination of this Agreement as between the Members not withdrawing or consolidating except as otherwise provided in this Agreement.

**Section 3.03 Member Consolidation.** If all Members, or all but one Member, determine to consolidate with one another pursuant to Sections 32-1-601, *et seq.*, C.R.S., as amended, then the Members shall terminate this Agreement in accordance with the provisions of Article VII.

**Section 3.04 Dissolution of Member.** If a Member is dissolved or otherwise ceases to exist then either: (a) the plan for dissolution for such Member shall contain adequate provisions acceptable to the Authority, in the Authority's reasonable discretion, for the performance of all such Member's obligations to the Authority; or (b) all such obligations shall be fully paid and performed prior to the effective date of dissolution.

### **ARTICLE IV POWERS OF THE AUTHORITY**

**Section 4.01 Delegation of Powers, Duties and Responsibilities.** Each of the Members delegates to the Authority the limited power, duty and responsibility to provide the Services, to employ the necessary personnel and do any and all other things necessary or desirable to provide the Services and to incur financial obligations on behalf of the Members. Notwithstanding the delegations made in the previous sentence, each of the Members reserves and maintains for itself the power to provide the Services and to incur financial obligations related thereto, so long as such provision of Services by a Member does not duplicate or interfere with the Authority's provision of Services and incurrence of financial obligations pursuant to this Agreement. The Members shall not provide any Services under this Agreement that are provided by the Authority without the prior approval of the Board.

**Section 4.02 Plenary Powers.** Except as otherwise limited by this Agreement, the Authority, in its own name and as provided in this Agreement, may exercise all powers lawfully authorized in Section 29-1-203, C.R.S., as amended, and the Authority Establishment Statute, including all incidental, implied, expressed or such other powers as necessary to execute the purposes of this Agreement. In accordance with the Authority Establishment Statute, the Authority is expressly authorized to exercise any general power of a special district specified in Part 10 of Article 1 of Title 32, C.R.S., so long as each of the Members may lawfully exercise the power. The Authority shall act through its Board, its officers, agents, consultants and employees as authorized by the Board pursuant to any action, motion, resolution, bylaws, and regulations of the Authority. The Authority shall not have the power to represent itself as, or act as agent for, or on behalf of, an individual Member without such Member's express written consent.

**Section 4.03 Enumerated Powers.** Without limiting the generality of the foregoing, to the extent permitted by applicable law and subject to the limitations set forth in this Agreement, the Authority's powers shall include, without limitation, the following:

(a) to acquire, hold, operate, manage, own, lease (as lessee or lessor), sell, construct, reconstruct, maintain, or repair, or dispose of real or personal property necessary, facilities, works or improvements to carry out the purposes of this Agreement in the name of the Authority;

(b) to make and enter into contracts, including, without limitation, contracts with local governmental entities, including the Members, and other special districts, business improvement districts, authorities, corporations, cities, counties and state or federal agencies, provided, however, that the power shall be limited as provided in Section 32-1-1001, C.R.S., as amended, and other laws applicable to special districts, so long as each of the Members may lawfully exercise such power;

(c) to accept contributions, grants, gifts, bequests, loans and revenue from any lawful source;

(d) to have and use a corporate seal;

(e) to sue and be sued in the Authority's own name;

(f) to employ agents, employees, consultants and professionals; and to enter into agreements for the purpose of securing any professional, administrative, or support services;

(g) to approve and modify plans to provide for the Services; to dedicate property acquired or held by it for public works, improvements, facilities, utilities, and related purposes; and to agree, in connection with any of its contracts, to any conditions that it deems reasonable and appropriate including, but not limited to, conditions attached to federal financial assistance, and to include in any contract made or let in connection with any project of the Authority provisions to fulfill such of such conditions as it may deem reasonable and appropriate;



(h) to prepare and approve an annual budget and any necessary amended or supplemental budgets, as set forth in Article V;

(i) to adopt, by resolution, bylaws for the conduct of the Authority so long as such bylaws are not in conflict with the provisions of this Agreement or applicable law;

(j) to adopt, by resolution, regulations respecting the exercise of its powers and the carrying out of its purpose so long as such regulations are not in conflict with the provisions of this Agreement or applicable law;

(k) to keep and maintain financial books and records to account for all expenditures of funds, and to obtain an annual independent audit (or annual application for audit exemption) by certified public accountants selected by the Board of such records;

(l) to adopt financial and investment policies and invest monies remaining in any fund which are available for investment in accordance with the laws of the State, including without limitation, Articles 10.5 and 47, Title 11, C.R.S., as amended, for the investment of public funds or by public entities;

(m) to do and perform any acts and things authorized by the Authority Establishment Statute under, through, or by means of an agent or by contracts with any person, firm, or corporation;

(n) to incur debts, liabilities or obligations to the extent and in the manner permitted by law, including without limitation, to issue on behalf of the Members bonds, notes or other financial obligations payable solely from revenue derived from one or more of the functions, services, systems, or facilities of the Authority, from money received under contracts entered into by the Authority, or from other available money of the Authority subject to the provisions of the Authority Establishment Statute, and to finance the Services in accordance with Article V; and

(o) to exercise any other powers which are necessary or desirable for the provision of functions, services, or facilities by the Authority and which are specified in this Agreement and to take all actions necessary or appropriate, in accordance with applicable law and this Agreement, to carry out and implement the provisions of this Agreement.

**Section 4.04 Limitation on Express and Implied Powers.** Notwithstanding any provision of this Agreement to the contrary, the Authority shall not have the powers of (i) taxation, (ii) imposition of special assessments, (iii) imposition and collection of use rates, fees, tolls, charges and/or penalties, or (iv) eminent domain.

**Section 4.05 Spending Authority.** The Authority is limited in its spending powers to the annual total budget duly approved by the Board, as such budget may be amended from time to time.

**Section 4.06 No Private Inurement.** No part of the assets or net earnings of the Authority shall inure to the benefit of or be distributable to its directors, officers, or other private

persons, except that, in accordance with applicable law, the Authority shall be authorized and empowered to pay reasonable compensation for services actually rendered and to make reimbursement in reasonable amounts for expenses actually incurred in exercising the powers or carrying out the purposes of the Authority.

## **ARTICLE V BUDGET; DEBT**

**Section 5.01 Annual Budget.** Not later than September 15 of each year, the Board shall cause a proposed budget for the next fiscal year to be prepared and shall submit a copy of such proposed budget to all Members. Members shall have the right to provide comments to the Board on the proposed budget within 30 days of delivery of the same to the Members; provided however, the Members shall not have approval or veto rights with respect to the proposed budget. Annual budgets adopted by the Board shall conform to the requirements of Sections 29-1-101, *et seq.*, C.R.S., as amended. The Board may amend its annual budget in accordance with Sections 29-1-101, *et seq.*, C.R.S., as amended. The Authority shall make available to each Member a detailed statement of the final costs and expenses for the prior fiscal year allocated by budget line item in the same manner as estimated expenses were allocated, as soon as reasonably practical after the close of each fiscal year.

**Section 5.02 Funding of Services.** The Authority may fund the Services from any lawful source authorized by this Agreement and applicable law. The Authority shall be authorized to provide for the Services from the proceeds of revenue bonds, notes or other financial obligations in accordance with and subject to the terms of the Authority Establishment Statute, to be issued by the Authority (the “**Authority Bonds**”), or may assign and delegate such rights and obligations to one or more Members with each such Member’s written consent and assumption. It is anticipated that the Authority Bonds shall be secured by pledged revenues from each of the Members, which shall be evidenced through one or more pledge agreements entered into between the Authority and the Members and shall include a pledge of each Member to impose a debt mill levy and/or to impose such other fees and charges as the Members deem appropriate, as provided for under the Service Plan or other applicable governance instruments, and a pledge from each Member to deliver and convey revenues generated from such debt mill levy and/or such other fees and charges to the Authority (the “**Pledged Revenues**”) to secure repayment of the Authority Bonds. Members may make loans or grants to the Authority provided such loans or grants do not result in the loss of enterprise status of the Authority, if any, that may exist under Article X, Section 20, of the State Constitution (“**TABOR**”) unless approved by the Authority and all of the Members and loss of enterprise status, if any, does not adversely affect any outstanding debt of the Authority as determined by the Authority’s bond counsel. A Member shall remit its Pledged Revenue to the Authority within 30 days of such Member’s receipt of the Pledged Revenue; provided however, at any time that any Authority Bonds are outstanding, all Pledged Revenue shall be remitted as set forth in the applicable indenture, loan agreement, pledge agreement or similar financial instrument executed by the Members in connection with the issuance of the Authority Bonds.

**Section 5.03 Funding of Administrative Costs.** The Members acknowledge that the Authority does not have financial resources to pay for its ongoing administrative costs necessary for good standing under applicable law, including without limitation, legal, engineering, architectural, surveying, management, accounting, auditing and insurance (collectively, the

“**Administrative Costs**”). It is anticipated that the Administrative Costs may be satisfied by pledged revenues from each of the Members, evidenced through one or more pledge agreements entered into between the Authority and the Members and including a pledge of each Member to impose an operations and maintenance mill levy and/or to impose such other fees and charges as the Members deem appropriate, as provided for under the Service Plan or other applicable governance instruments, and a pledge from each Member to deliver and convey revenues generated from such operations and maintenance mill levy and/or such other fees and charges to the Authority.

**Section 5.04 Authority Bonds.** The Authority may, from time to time, issue the Authority Bonds on behalf of the Members; provided however, such Authority Bonds may only be issued pursuant to a written resolution of the Board and written resolutions of all Members who have pledged revenues to secure the applicable Authority Bonds, and shall be payable out of all or a specified portion of the Pledged Revenues and other available revenues of the Authority as approved by the Board.

## **ARTICLE VI INSURANCE**

**Section 6.01 General.** The Authority shall maintain, at a minimum, the insurance coverages set forth in this Article VI. The Authority may obtain any further or additional insurance coverage approved by the Board.

**Section 6.02 General liability.** The Authority shall maintain general liability coverage protecting the Authority and its officers, directors, and employees against loss, liability, or expense whatsoever from personal injury, death, property damage, or otherwise, arising from or in any way connected with management, administration, or operations in amounts not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate, or the maximum amount that may be recovered under the CGIA, whichever is higher.

**Section 6.03 Directors and officers liability.** The Board shall maintain Directors and officers liability coverage (errors and omissions) protecting the Authority and its directors and officers against any loss, liability, or expense whatsoever arising from the actions and/or inactions of the Authority and its directors and officers in the performance of their duties.

## **ARTICLE VII TERM; TERMINATION**

**Section 7.01 Term; Termination.** This Agreement shall become effective on the date of the last of the Districts to duly execute this Agreement (the “**Effective Date**”), as indicated by each District’s signature below. This Agreement may be terminated at any time by written agreement of all Members or as provided in Section 3.03; provided however, that this Agreement may not in any event be terminated or rescinded so long as the Authority has bonds, notes, or other financial or other obligations outstanding, unless provision for full payment and/or discharge of such obligations, by escrow or otherwise, has been made pursuant to the terms of such obligation.

**Section 7.02 Wind-Up and Liquidation.** In the event of termination of this Agreement, the Board, or a person or persons appointed by the Board, shall wind-up and liquidate any assets of the Authority. Upon dissolution of the Authority, and in consultation with the Authority’s bond counsel, all of such assets and obligations with respect to provision of the Services shall be transferred to: (a) one or more of the Members; (b) an entity that exists as a result of a consolidation of the Members; or (c) other governmental entity(ies) approved by the Members immediately prior to dissolution. If the Members cannot agree on the disposition of certain assets or property of the Authority, such assets or property (excepting cash) shall be subject to an independent appraisal and shall be sold at public auction with the proceeds allocated, to the greatest equitable extent possible, to the Members in the same proportion as the respective contribution of funds by the Members for acquisition of the assets or property. Upon termination of this Agreement, the Members shall work in good faith to determine how best to allocate Authority assets and liabilities between the Members, such that a fair and equitable arrangement can be achieved while continuing to maintain the best possible services for each Member.

## **ARTICLE VIII DEFAULT; REMEDIES**

**Section 8.01 Events of Default.** The occurrence of any one or more of the following events and/or the existence of any one or more of the following conditions shall constitute an “**Event of Default**” under this Agreement: The failure to perform or observe any material covenant, agreement, or condition in this Agreement on the part of any Member and to cure such failure within 30 days of receipt of notice from one of the other Members or the Authority of such failure unless such default cannot be cured within such 30-day period, in which event the defaulting Member shall have an extended period of time to complete the cure, provided that action to cure such default is commenced within such 30-day period and the defaulting Member is diligently pursuing the cure to completion.

**Section 8.02 Remedies on Occurrence of Events of Default.** Upon the occurrence of an Event of Default, each of the Members and the Authority (individually or collectively) shall have the following rights and remedies to the extent permitted by applicable law:

(a) Any non-defaulting Member(s) and/or the Authority may ask a court of competent jurisdiction to enter a writ of mandamus or order any similar or equivalent relief, to compel the board of directors of the defaulting Member to perform its duties under this Agreement, and/or to issue temporary and/or permanent restraining orders, or orders of specific performance, to compel the defaulting Member to perform in accordance with this Agreement.

(b) Any non-defaulting Member(s) and/or the Authority may protect and enforce their rights under this Agreement by such suits, actions, or special proceedings as they shall deem appropriate, including, without limitation, any proceedings for the specific performance of any covenant or agreement contained in this Agreement, for the enforcement of any other appropriate legal or equitable remedy, or for the recovery of damages, including without limitation, attorneys’ fees and all other costs and expenses incurred in enforcing this Agreement.

(c) The non-defaulting Member(s) and/or the Authority shall have the right to budget and expend funds as necessary to enforce the terms of this Agreement.

## **ARTICLE IX MISCELLANEOUS**

**Section 9.01 Books and Records.** The Authority shall provide for the keeping of accurate and correct books of account on an accrual basis in accordance with the Local Government Uniform Accounting Law, Part 5 of Article 1, Title 29, C.R.S., as amended. Such books and records shall be open to inspection at all times during normal business hours by any representative of any of the Members or by the accountant or other person authorized by any of the Members to inspect the same. The Board shall provide for the auditing of all books and accounts and other financial records of the Authority annually, and in accordance with the Colorado Local Government Audit Law, Part 6 of Article 1, Title 29, C.R.S., as amended. Audits shall be completed and filed annually in a timely manner in accordance with Section 29-1-606, C.R.S., as amended. All funds received by the Authority shall be invested in accordance with applicable law.

**Section 9.02 Notices.** Any notices and demands required or permitted by this Agreement shall be given in writing addressed to the Parties as set forth below, and delivered by (a) reputable overnight carrier (such as FedEx, DHL or UPS) for next business day receipt by the addressee; (b) United States certified mail, postage prepaid, return receipt requested; or (c) e-mail. Notice shall be deemed given on the next business day if sent in accordance with clause (a) above, or two business days following the date deposited in the United States mail if sent in accordance with clause (b) above, or as of the machine-stamped date and time on the sent message if sent in accordance with clause (c) above. If a notice is sent in accordance with clause (c) above, the notice shall also be promptly sent by at least one of the other methods provided above, and in such case the date upon which the notice is deemed to be given shall be the date as determined under clause (c).

to District No. 1: Santa Fe Park Metropolitan District No. 1  
c/o Otten, Johnson, Robinson, Neff & Ragonetti, P.C.  
950 17<sup>th</sup> Street, Suite 1600  
Denver, Colorado 80202  
Attn: Kimberly Martin  
[kmartin@ottenjohnson.com](mailto:kmartin@ottenjohnson.com)

with a copy to: Santa Fe Park Metropolitan District No. 1  
c/o White Bear Ankele Tanaka & Waldron  
2154 E. Commons Avenue, Suite 2000  
Centennial, Colorado 80122  
Attn: Clint Waldron  
[cwaldron@wbapc.com](mailto:cwaldron@wbapc.com)

to District No. 3: Santa Fe Park Metropolitan District No. 3  
c/o Otten, Johnson, Robinson, Neff & Ragonetti, P.C.  
950 17<sup>th</sup> Street, Suite 1600  
Denver, Colorado 80202  
Attn: Kimberly Martin  
[kmartin@ottenjohnson.com](mailto:kmartin@ottenjohnson.com)

with a copy to: Santa Fe Park Metropolitan District No. 3  
c/o White Bear Ankele Tanaka & Waldron  
2154 E. Commons Avenue, Suite 2000  
Centennial, Colorado 80122  
Attn: Clint Waldron  
[cwaldron@wbapc.com](mailto:cwaldron@wbapc.com)

A Member may change its notice information by the delivery of such modified notice information to the other Members in accordance with this Section 9.02.

**Section 9.03 Execution of Contracts.** Except as otherwise provided by law, the Board may authorize any officer or officers, agent or agents, to enter into any contract, or execute and deliver any instrument in the name and on behalf of the Authority.

**Section 9.04 Negotiable Instruments.** All checks, drafts or other orders for payment of money and all notes, bonds, or other evidences of indebtedness issued in the name of the Authority shall be signed by such officer or officers, agent or agents, employee or employees of the Authority, and in such manner as, from time to time, shall be determined by resolution of the Board.

**Section 9.05 Fiscal Year.** The fiscal year of the Authority shall be the calendar year, unless otherwise determined by a resolution of the Board.

**Section 9.06 Principal Place of Business.** The principal place of business of the Authority shall be established by the Board. Annually, on or before the first day of February of each year, and within 30 days following any change, the Authority shall file with the Division of Local Government in the Department of Local Affairs the name of agent for service of process on the Authority, and the address of the principal place of business of the Authority.

**Section 9.07 Deposits.** All funds of the Authority shall be deposited, from time to time, to the credit of the Authority, pursuant to law, in such bank or banks as the Board may select.

**Section 9.08 Annual Appropriation; Debt Not That of Members.** Each Member acknowledges and agrees that its own and each other Member's obligations under this Agreement shall extend only to monies appropriated for the purposes of this Agreement by each Member and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. No provision of this Agreement shall be construed or interpreted as a delegation of governmental powers by any Member, or as creating a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of any Member or statutory debt limitation, including, without limitation, Article X, Section 20, or Article XI, Sections 1, 2 or 6, of the State

Constitution. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of funds of any Member, nor shall any provision of this Agreement restrict the future issuance of bonds or obligations payable from any class or source of funds of a Member.

**Section 9.09 Consent.** Whenever any provision of this Agreement requires consent or approval of the Members, the same shall not be unreasonably withheld.

**Section 9.10 Amendments.** This Agreement may be amended only by written instrument approved by formal action and authority of the governing bodies of all of the Members; provided, however, that such amendment shall not affect other obligations outstanding of the Authority unless provision for full payment of such obligations, by escrow or otherwise, has been made pursuant to such obligations.

**Section 9.11 Severability.** If any clause or provision in this Agreement shall be adjudged to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such invalid or unenforceable clause or provision shall not affect the validity of the Agreement as a whole and all other clauses or provisions shall be given full force and effect.

**Section 9.12 Binding Effect.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Members and to their respective successors and permitted assigns.

**Section 9.13 Assignment.** No Member shall assign any of the rights nor delegate any of its duties of this Agreement without written consent of all of the Members. Any attempted assignment or delegation not in conformance with this provision shall be void.

**Section 9.14 Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State. Venue for any action arising under this Agreement shall be a court of competent jurisdiction in Arapahoe County, Colorado.

**Section 9.15 Paragraph Headings.** The paragraph headings are inserted in this Agreement only as a matter of convenience and reference and in no way are intended to be a part of this Agreement or to define, limit or describe the scope or intent of this Agreement or the particular paragraphs hereof to which they refer.

**Section 9.16 No Third-Party Beneficiaries.** It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Members and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party. It is the express intention of the Members that any person, other than the Members, receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

**Section 9.17 Counterparts; Electronic Signatures.** This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Electronic signatures (i.e., pdf, DocuSign) to this Agreement shall be binding as original signatures for all purposes hereunder.

*[signature pages follow this page]*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed effective as of the Effective Date.

**DISTRICT NO. 1:**

SANTA FE PARK METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado


By:   
Chris Osler (Aug 22, 2023 17:11 MDT)

Name: Chris Osler

Title: President

Date: Aug 22, 2023

ATTEST:

  
Denise Hogobles (Aug 22, 2023 09:55 MDT)  
Secretary

**DISTRICT NO. 3:**

SANTA FE PARK METROPOLITAN DISTRICT NO. 3, a quasi-municipal corporation and political subdivision of the State of Colorado


By:   
Chris Osler (Aug 22, 2023 17:11 MDT)

Name: Chris Osler

Title: President

Date: Aug 22, 2023

ATTEST:

  
Denise Hogobles (Aug 22, 2023 09:55 MDT)  
Secretary