

After recording, return to:
Megan Becher
McGeady Becher P.C.
450 E. 17th Ave., Suite 400
Denver, CO 80202

RESOLUTION NO. 2019-12-01

**SECOND AMENDED AND RESTATED VAUXMONT METROPOLITAN DISTRICT
RESOLUTION FOR THE IMPOSITION OF FEES FOR THE CENTRALIZED
PROVISION OF TRASH REMOVAL AND RECYCLING SERVICES**

WHEREAS, Vauxmont Metropolitan District (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado, duly organized and existing pursuant to Article 1 of Title 32, C.R.S.; and

WHEREAS, the District operates pursuant to its Service Plan approved by the City of Arvada, Colorado (the “**City**”) on March 1, 2004 and modified effective March 29, 2010 (as modified, the “**Service Plan**”); and

WHEREAS, Candelas is a residential community within the boundaries of the District (the “**Property**,”) as described in Exhibit A attached hereto; and

WHEREAS, those certain Protective Covenants and Easements of Candelas, were recorded on March 26, 2012, at Reception No. 2012032029, in the office of the Clerk and Recorder of Jefferson County, Colorado, as amended and supplemented (the “**Protective Covenants**”); and

WHEREAS, pursuant to the Protective Covenants, and as allowable by Section 32-1-1004(8), C.R.S., the District has been empowered to furnish covenant enforcement and to use revenues therefrom that are derived from the Property; and

WHEREAS, pursuant to the Covenants, the District shall provide for trash removal and recycling collection (the “**Services**”) for any Unit, as defined in the Protective Covenants; and

WHEREAS, the Protective Covenants allow for the District, without limiting its authority, to levy and collect fees, charges, and other amounts for the Services; and

WHEREAS, the District has determined that to meet the costs of providing the Services it should impose certain fees on the Property (“**Trash and Recycling Fees**”); and

WHEREAS, Capital Consultants Management Corporation is under contract with the District to provide management services to the District (“**District Manager**”); and

WHEREAS, the District has determined that for efficiency purposes, it is appropriate for the District Manager to collect the Trash and Recycling Fees from each Unit; and

WHEREAS, the District previously adopted that certain Resolution No. 2012-09-02 Vauxmont Metropolitan District Resolution for the Imposition of Fees for the Centralized Provision of Trash Removal and Recycling Services on September 25, 2012, and recorded on November 13, 2012, at Reception No. 2012121709 of the Jefferson County, Colorado, real property records (the “**Original Resolution**”), as amended and restated by that certain Resolution No. 2015-12-01 Amended and Restated Vauxmont Metropolitan District Resolution for the Imposition of Fees for the Centralized Provision of Trash Removal and Recycling Services on December 15, 2015, and recorded on December 23, 2015, at Reception No. 2015135696 of the Jefferson County, Colorado, real property records (together with the Original Resolution, the “**First Amended and Restated Resolution**”); and

WHEREAS, the District desires to amend and restate the First Amended and Restated Resolution in its entirety, and this Resolution hereby amends, supersedes, and replaces the First Amended and Restated Resolution in its entirety; and

WHEREAS, this Resolution shall be recorded on the Property to put the current and future owners of the Property on notice of the imposition and collection of the Trash and Recycling Fees.

NOW, THEREFORE, BE IT RESOLVED BY BOARD OF DIRECTORS OF VAUXMONT METROPOLITAN DISTRICT (the “**Board**”), AS FOLLOWS:

1. The Board hereby determines that it is in the best interests of the District and its taxpayers and inhabitants that the District impose certain Trash and Recycling Fees, as explained herein, on each Unit.

2. **Trash and Recycling Fees.** The Trash and Recycling Fees (previously defined) will be collected by the District Manager in accordance with Section 3 herein, and shall collectively include the following:

(a) **Service Fee.** A quarterly fee of \$42.50 will be charged to each Unit (“**Service Fee**”) through December 31, 2019. Each year thereafter through December 31, 2023, the Service Fee may be increased up to 5% a year. The Service Fee will cover the cost of trash pickup and recycling. The Service Fee may also be amended from time-to-time in the Board’s sole discretion.

(b) **Late Fee.** A fee of fifteen dollars (\$15.00) per quarter will be added to all past due amounts (“**Late Fee**”).

3. **Billing Procedure.** Each Unit will be billed quarterly by the District Manager, which may be pro-rated, in advance, for Services provided through the following quarter subject to the following procedure:

(a) **Invoicing.** Invoices for the Trash and Recycling Fees will be sent to each Unit in the month prior to the Due Date, as defined herein. Payment is due on the first day of each quarter (the “**Due Date**”). Unit invoices will provide all amounts currently due, all amounts past due, and all Late Fees owing on the account.

(b) **Automatic Payments.** Each Unit has the option to enroll in automatic payments (“ACH”) through the District Manager. If the Unit elects to enroll in ACH payments, it is the responsibility of each Unit to contact the District Manager to acquire the appropriate paperwork and enroll. ACH payments will be withdrawn quarterly.

(c) **Past Due Payments.** Payment will become past due thirty (30) days after the Due Date (the “**Past Due Date**”). If payment is not received prior to the Past Due Date, a reminder letter will be mailed to those Units which have not previously become past due. The reminder letter will be sent as a one-time courtesy reminder. Units that have received a reminder letter will not be issued a reminder for future delinquencies. The letter will state that payment must be received not later than ten days of the mailing date of the reminder letter. Payments made will be applied to Late Fees first.

4. **Default.** In the event that any such fee established hereunder remains unpaid six (6) months after its Due Date (“**Default**”), the District Manager and/or General Counsel shall be authorized to institute such remedies and collection proceedings for any and all outstanding amounts as may be authorized under Colorado law. All collections efforts shall be made pursuant to, and in accordance with, applicable state and federal laws. The defaulting property owner shall pay all collections costs, including attorneys' fees, incurred by the District in connection with the foregoing. The District Manager shall attempt to collect all past due fees and collections costs from the defaulting property owner.

5. **Termination of Services by the District.** Service to any Unit for which any Trash and Recycling Fee established hereunder remains unpaid six (6) months after its due date may be discontinued by the District. The District will provide written notification to each Unit at least ten (10) days before the Services are terminated (“Notice of Termination”).

6. **Invalidation.** Judicial invalidation of any of the provisions of this Resolution or of any paragraph, sentence, clause, phrase or word herein, or the application thereof in any given circumstances, shall not affect the validity of the remainder of this Resolution, unless such invalidation would act to destroy the intent or essence of this Resolution.

7. **Effective Date.** This Resolution shall be effective as of January 1, 2019.

8. **Information.** Inquiries pertaining to the Trash and Recycling Fees may be directed to Vauxmont Metropolitan District, care of the District Manager, Capital Consultants Management Corporation, at (303) 390-1222.

[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE TO SECOND AMENDED AND RESTATED VAUXMONT METROPOLITAN DISTRICT RESOLUTION FOR THE IMPOSITION OF FEES FOR THE CENTRALIZED PROVISION OF TRASH REMOVAL AND RECYCLING SERVICES]

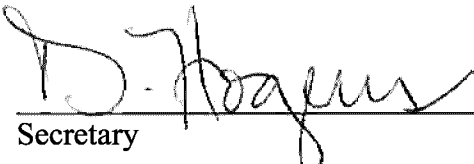
APPROVED AND ADOPTED this 12th day of December, 2018.

VAUXMONT METROPOLITAN DISTRICT

By: 

President

Attest:



Secretary

EXHIBIT A
PROPERTY

VAUXMONT METROPOLITAN DISTRICT

PARCELS OF LAND LOCATED IN THE NORTH HALF OF SECTION 21, SECTION 22, AND NORTH HALF OF SECTIONS 23 AND 24, ALL IN TOWNSHIP 2 SOUTH, RANGE 70 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE FOLLOWING LOTS, BLOCKS, AND TRACTS OF CANDELAS FILING NO. 1 PLAT AS RECORDED AT RECEPTION NUMBER 2011039877:

- TRACT A1, BLOCK 1; TRACT A2, BLOCK 1; TRACT B, BLOCK 1; TRACT W, BLOCK 1; TRACT FFF, BLOCK 1;
- BLOCK 8;
- BLOCK 9;
- BLOCK 10;
- BLOCK 11;
- LOTS 1-13, BLOCK 12; TRACT DD, BLOCK 12;
- LOTS 1-9, BLOCK 13; TRACT GG, BLOCK 13;
- LOTS 1-12, BLOCK 14; TRACT CC, BLOCK 14;
- LOTS 1-12, BLOCK 15; TRACT FF, BLOCK 15;
- LOTS 1-12, BLOCK 16; TRACT HH, BLOCK 16;
- LOTS 1-16, BLOCK 17; TRACT II, BLOCK 17;
- LOTS 1-35, BLOCK 18; TRACT A3, BLOCK 18; TRACT A4, BLOCK 18;
- LOTS 1-16 BLOCK 19 TRACT JJ, BLOCK 19;
- LOTS 1-13 BLOCK 20 TRACT MM, BLOCK 20;
- BLOCK 21;
- BLOCK 22;
- LOTS 1-8, BLOCK 23; TRACT NN, BLOCK 23;
- LOTS 1-22, BLOCK 24; TRACT A5, BLOCK 24;
- LOTS 1-46, BLOCK 25; TRACT OO1, BLOCK 25;
- LOTS 1-11, BLOCK 26; TRACT PP, BLOCK 26;
- LOTS 1-50, BLOCK 27; TRACT QQ, BLOCK 27; TRACT RR, BLOCK 27; TRACT AAA, BLOCK 27;
- LOTS 1-11, BLOCK 28; TRACT A6, BLOCK 28; TRACT BBB, BLOCK 28;
- LOTS 1-6, BLOCK 29; TRACT A7, BLOCK 29;
- LOTS 1-19, BLOCK 30; TRACT OO2, BLOCK 30;
- TRACT UU, BLOCK 31; TRACT V V, BLOCK 31;
- LOTS 1-15, BLOCK 32; TRACT A8, BLOCK 32; TRACT SS, BLOCK 32; TRACT CCC, BLOCK 32;
- LOTS 1-21, BLOCK 33; TRACT TT, BLOCK 33;
- LOTS 1-3, BLOCK 36; TRACT A9, BLOCK 36;
- TRACT KK, BLOCK 37; TRACT LL, BLOCK 37; TRACT ZZ, BLOCK 37;
- BLOCK 38;
- TRACT EE, BLOCK 39; TRACT YY, BLOCK 39;

SAID BLOCKS, LOTS, AND TRACTS CONTAIN 176.818 ACRES (7,702,191 SQ. FT.), MORE OR LESS.

TOGETHER WITH:

THE FOLLOWING LOTS, BLOCKS, AND TRACTS OF CANDELAS FILING NO. 1 AMENDMENT NO. 1 PLAT AS RECORDED AT RECEPTION NUMBER 2012013131:

- LOTS 1-22, BLOCK 1-B; TRACT HHH, BLOCK 1-B; TRACT III, BLOCK 1-B;
- LOTS 1-11, BLOCK 2-B; TRACT GGG, BLOCK 2-B;
- LOTS 1-17, BLOCK 3-B; TRACT KKK, BLOCK 3-B;
- LOTS 1-14, BLOCK 4-B; TRACT JJJ, BLOCK 4-B;
- LOTS 1-22, BLOCK 5-B; TRACT LLL, BLOCK 5-B; TRACT OOO, BLOCK 5-B;
- LOTS 1-22, BLOCK 6-B; TRACT MMM, BLOCK 6-B; TRACT PPP, BLOCK 6-B;
- LOTS 1-19, BLOCK 7-B; TRACT NNN, BLOCK 7-B; TRACT QQQ, BLOCK 7-B; TRACT RRR, BLOCK 7-B; TRACT SSS, BLOCK 7-B;

SAID BLOCKS, LOTS, AND TRACTS CONTAIN 24.734 ACRES (1,077,430 SQ. FT.), MORE OR LESS.

TOGETHER WITH:

THE FOLLOWING LOTS, BLOCKS, AND TRACTS OF CANDELAS FILING NO. 2 PLAT AS RECORDED AT RECEPTION NUMBER 2013043564:

- LOTS 1-14, BLOCK 1; TRACT A, BLOCK 1; TRACT E, BLOCK 1; TRACT F, BLOCK 1; TRACT G, BLOCK 1;
- LOTS 1-8, BLOCK 2;
- LOTS 1-27, BLOCK 3;
- LOTS 1-37, BLOCK 4;
- LOTS 1-29, BLOCK 5;
- LOTS 1-34, BLOCK 6; TRACT B, BLOCK 6;
- LOTS 1-43, BLOCK 7; TRACT C, BLOCK 7; TRACT D, BLOCK 7; TRACT H, BLOCK 7;
- LOTS 1-7, BLOCK 8;
- BLOCK 11;
- BLOCK 12;
- BLOCK 13;
- BLOCK 14;

SAID BLOCKS, LOTS, AND TRACTS CONTAIN 115.142 ACRES (5,015,604 SQ. FT.), MORE OR LESS.

TOGETHER WITH:

THE FOLLOWING LOTS, BLOCKS, AND TRACTS OF CANDELAS FILING NO. 3 PLAT AS RECORDED AT RECEPTION NUMBER 2013117890:

- LOT 1, BLOCK 1;
- LOT 1, BLOCK 2;
- LOTS 1-21, BLOCK 3; TRACT C, BLOCK 3; TRACT L, BLOCK 3;
- LOTS 1-25, BLOCK 4;
- LOTS 1-9, BLOCK 5;
- LOTS 1-14, BLOCK 6; TRACT D, BLOCK 6; TRACT E, BLOCK 6; TRACT F, BLOCK 6;
- LOTS 1-6, BLOCK 7; TRACT B, BLOCK 7;

- LOTS 1-7, BLOCK 8; TRACT A, BLOCK 8;
- LOT 1, BLOCK 9;
- LOT 1, BLOCK 10;
- LOTS 1-27, BLOCK 11; TRACT J, BLOCK 11; TRACT K, BLOCK 11;
- LOTS 1-23, BLOCK 12; TRACT I, BLOCK 12; TRACT N, BLOCK 12;
- LOTS 1-19, BLOCK 13;
- LOTS 1-12, BLOCK 14;
- LOTS 1-19, BLOCK 15; TRACT G, BLOCK 15; TRACT M, BLOCK 15;
- LOTS 1-30, BLOCK 16;
- LOTS 1-19, BLOCK 17;
- LOTS 1-31, BLOCK 18; TRACT H, BLOCK 18;

SAID BLOCKS, LOTS, AND TRACTS CONTAIN 332.885 ACRES (14,500,453 SQ. FT.), MORE OR LESS.

BASIS OF BEARING

BASIS OF BEARING ARE BASED ON THE PLATTED BEARING OF N89°40'01"E ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 24, AS SHOWN ON CANDELAS FILING NO. 1 AS RECORDED AT RECEPTION NO. 2011039877, AND AS DETERMINED BY MONUMENTS BEING A FOUND 3-1/4" ALUMINUM CAP STAMPED LS 16837 AT THE NORTHEAST CORNER AND BEING A FOUND STONE AT THE NORTH QUARTER CORNER OF SECTION 24.

PREPARED BY DAVID A KUNTZ, PE
 FOR AND ON BEHALF OF
 MARTIN/MARTIN INC.
 12499 W. COLFAX AVE.
 LAKEWOOD, CO. 80215
 (303) 431-6100
 (303) 431-4028 FAX
 NOVEMBER 14, 2013