

# Metro Districts

## Objective:

*This policy establishes the criteria, guidelines and processes to be followed by City Council and City staff in considering and by applicants in submitting to the City service plans for the organization of metropolitan districts or amendments to those plans (“Policy”), as provided in Colorado’s Special District Act in Article 1 of Title 32 of the Colorado Revised Statutes (the “Act”). The Act provides that metropolitan districts are quasi-municipal corporations and political subdivisions (“District”) that can be organized within the boundaries of a municipality provided the municipality’s governing body approves by resolution the proposed service plan for the District. Under the Act, the service plan constitutes the document that delineates the specific powers and functions the District can exercise, including the facilities and services it can provide, the taxes it can impose and its permitted financial arrangements (the “Service Plan”). The Act requires Districts to conform to their Service Plans.*

## Applicability:

*Applies to all Metro Districts formed by the City of Fort Collins*

## Authorized by:

*City Council Resolutions 2019-016, 2018-079 and 2008-069*

<b>10.1</b>	Objectives and Statements	Page 1
<b>10.2</b>	Evaluation Criteria	Page 4
<b>10.3</b>	Application Process	Page 4
<b>10.4</b>	Service Plan	Page 7
<b>10.5</b>	Regional Improvements	Page 10
<b>10.6</b>	Fees	Page 11
<b>Exhibit A</b>	Public Benefit Examples	
<b>Exhibit B</b>	Single District Service Plan Template	
<b>Exhibit C</b>	Service Plan Template for Multiple Districts	

## 10.1 Objectives and Statements

- A. This Policy generally supports the formation of a District where it will deliver extraordinary public benefits that align with the goals and objectives of the City whether such extraordinary public benefits are provided by the District or by the entity organizing the District because the District exists to provide public improvements.

- B. A District, when properly structured, can enhance the quality of development in the City. The City is receptive to District formation that provides extraordinary public benefits which could not be practically provided by the City or an existing public entity, within a reasonable time and on a comparable basis. It is not the intent of the City to create multiple entities which would be construed as competing or duplicative.
- C. **The approval of a District Service Plan is at the sole discretion of City Council**, which may reject, approve, or conditionally approve Service Plans on a case-by-case basis. Nothing in this Policy is intended, nor shall it be construed, to limit this discretion of City Council, which retains full authority regarding the approval, terms, conditions and limitations of all Service Plans.
- D. **Policy Objectives**. The City will evaluate a proposed District and its Service Plan based on the District's ability to deliver public benefits through extraordinary development outcomes, specific examples are provided in **Exhibit A** and generally occur in the following four focus areas:
1. **Environmental Sustainability Outcomes**: Development of public improvements that deliver or facilitate the delivery of specific and measurable environmental outcomes, including but not limited to: (i) reduction of Green House Gases ("GHG"), (ii) conservation of water or energy, (iii) encourage multimodal transportation, (iv) enhance community resiliency - against future environmental events (e.g., flooding, drought, etc.); (v) increase renewable energy capacity; and/or (vi) deliver other environmental outcomes.
  2. **Critical Public Infrastructure**: Development of public improvements that address or facilitate addressing significant infrastructure challenges previously identified by the City, either within or proximate to the District, whether such improvements address a locally-significant challenge or a City-wide challenge.
  3. **Smart Growth Management**: Development of public improvements that deliver or facilitate the delivery of specific design components that: (i) increase the density of development within the District; (ii) establish, enhance or address the walkability and pedestrian friendliness of the District; (iii) increase the availability of transit and/or multimodal oriented facilities; (iv) create compelling public spaces; and/or (v) encourage mixed-use development patterns.
  4. **Strategic Priorities**: Development of public improvements that deliver or facilitate the delivery of strategic priorities specified in the City's existing long-term strategic planning documents, such as City Plan, Affordable Housing Plan, Economic Health Strategic Plan, and applicable Sub-Area Plans. These priorities include, but are not limited to:
    - a. **Affordable Housing**: Deliver or facilitate the delivery of additional affordable

housing units at the City's defined level of Area Median Income ("AMI") or below. The City defines Affordable Housing as units affordable to a household earning 80 percent of AMI.

- b. Workforce Housing: Deliver or facilitate the delivery of workforce housing units in the City's defined range of AMI. For purposes of this policy, Workforce Housing units shall be defined as units affordable to a household earning between 81 percent and 120 percent of AMI.
- c. Infill/Redevelopment: Enable the infill or redevelopment of property within the City, especially when such development is consistent with City Plan.
- d. Economic Health Outcomes: Enable delivery of specific and measurable economic outcomes, such as: (i) job growth; (ii) retention of an existing business; and/or (iii) construction of a missing economic resource.

In determining whether a proposed District delivers extraordinary public benefits, the City may consider: (i) ways in which the proposed improvements exceed the City's minimum requirements and standards; (ii) ways in which the existence of the District facilitates the extraordinary public benefits and whether the extraordinary benefits are feasible without the District; (iii) ways in which the proposed extraordinary benefits work together as a system to deliver greater benefit to the community than individually; and (iv) any other factors the City deems relevant under the circumstances.

#### **E. Policy Statements:**

- 1. Limited Use: The City wishes to exact a high standard of use for Districts thereby limiting their use. An applicant project is expected to deliver extraordinary benefits across multiple City objectives two or more of the objectives described in Section 1.D. of this Policy.
- 2. Broad and Demonstrable Public Benefit: Districts are expected to provide broad public benefit and the applicant will be asked to demonstrate and provide assurances of those benefits. The City will utilize the Service Plans, development agreements, and other contractual agreements to document and enforce District commitments.
- 3. District Governance: It is the intent of the City that owner/resident control of Districts occur as early as feasible. Service Plans should include governance structures that encourage and accommodate this. The use of control Districts (also known as "service" or "managing" Districts) that allow developers to control the other Districts that provide the tax revenues beyond the time needed to repay the issued debt, is to be discouraged.
- 4. Basic Infrastructure Improvements: A District proposing to fund basic infrastructure improvements will not be favorably received except when used to

offset higher costs associated with delivering public benefit through extraordinary development outcomes (see **Exhibit A** for examples).

5. Minimum District Size: A District proposed to issue less than \$7 million of authorized debt will not be considered.

## 10.2 Evaluation Criteria

- A. To provide City Council with information and an assessment consistent with this Policy, staff will review and report on District proposals in the following areas:
  1. Public Benefit Assessment and Triple Bottom Line Scan: To comprehensively and consistently evaluate District proposals, an interdisciplinary staff team, inclusive of representatives from Planning, Economic Health, Sustainability, and other Departments as appropriate, will be formed. This team will rely on the City's Triple Bottom Line evaluation approach, and other means, to assess a District proposal consistent with this Policy and City goals and objectives more broadly.
  2. Financial Assessment: All District proposals are required to submit a Financial Plan to the City for review. Utilizing the District's Financial Plan, and other supporting information which may be necessary, the City will evaluate a District's debt capacity and servicing ability. Additionally, should a District desire to utilize District funding for basic infrastructure improvements, as determined by the City in its sole discretion, staff will assess the value of this benefit against the public benefits received in exchange.
  3. Policy Evaluation: All proposals will be evaluated by City staff against this Policy and the City's "Model Service Plan" attached as **Exhibit "B"** for single-district Service Plans and as **Exhibit "C"** for multi-district Service Plans, with any areas of difference being identified, evaluated and reported to City Council.

## 10.3 Application Process

- A. Process Overview: The application process is designed to provide early feedback to an applicant, adequate time for a comprehensive staff review, and the appropriate steps and meeting opportunities with decision makers.
- B. Letter of Interest: Applicant will provide City with a Letter of Interest and pre-application fee (refer to fees below). The Letter of Interest shall contain the following:
  1. Summary narrative of the proposed development and District proposal.

2. Sketch plan showing: property location and boundaries; surrounding land uses; proposed use(s); proposed improvements (buildings, landscaping, parking/drive areas, water treatment/detention, drainage); existing natural features (water bodies, wetlands, large trees, wildlife, canals, irrigation ditches); utility line locations (if known); and photographs (helpful but not required).
  3. Clear justification for why a District is needed.
  4. Explanation of public benefits, making specific reference to this Policy and other relevant City documents.
  5. District proposal and Service Plan specifics, including: District powers and purpose; District infrastructure and costs; mill levy rate (both debt and, operations and maintenance); term of District; forecasted period of build-out; proposed timeline for formation; and current development status of project.
- C. Staff Response to Letter of Interest: Staff will provide a written response to a Letter of Interest within thirty (30) days of receipt and payment of the pre-application hearing.
- D. Preliminary Staff Meeting with Applicant (Optional): Based on an initial review of the Letter of Interest, staff may meet with the applicant to discuss the District proposal, potential public benefits, initial staff feedback, the evaluation process, fees, and other application elements.
- E. Formal Application and Service Plan Submittal: Upon taking account of staff input, applicant may submit a formal application for consideration following the requirements specified in the City's District Application, including the Service Plan in which the applicant shall highlight the substantive provisions that deviate from this Policy and the applicable Model Service Plan attached as **Exhibit "B"** or **Exhibit "C"**. The formal application and application fees must be received by the City no later than the third Tuesday of December in the preceding year for a spring election (May) or the third Tuesday of May for a fall election (November). The City cannot commit to timely processing of applications submitted after these dates for their respective elections.
- F. Formal Staff Review: An interdisciplinary staff team will review the applicant submittal along with any follow-up documentation that is requested in order to assess the application according to this Policy and other appropriate City policy. Applicants should expect several rounds of feedback and review from City staff.
- G. Council Finance Committee Meeting: The Council Finance Committee will review all District proposals and provide feedback and recommendations.
- H. Council Work Session Meeting (optional): Based on the magnitude and complexity of the development project and District proposal, staff and/or the Council Finance Committee may recommend a Council Work Session.

- I. Public Hearing Notice: The Service Plan Applicant must cause a written notice of the public hearing to be mailed by first-class mail to all fee title owners of real property within the boundaries of the proposed District(s) and of any future inclusion area proposed in the Service Plan and such notice shall be mailed no later than thirty (30) days before the scheduled hearing date. A notice shall also be published once in a newspaper of general circulation in the City no later than thirty (30) days before the scheduled hearing date. The mailed and published notices shall include the following information:
1. A description of the general nature of the public improvements and services to be provided by the District;
  2. A description of the real property to be included in the District and in any proposed future inclusion area, with such property being described by street address, lot and block, metes and bounds if not subdivided, or such other method that reasonably appraises owners that their property will or could be included in the District's boundaries;
  3. A statement of the maximum amount of property tax mill levy that can be imposed on property in the District under the proposed Service Plan;
  4. A statement that property owners desiring to have the City Council consider excluding their properties from the District must file a petition for exclusion with the Fort Collins City Clerk's Office no later than ten (10) days before the scheduled hearing date in accordance with Section 32-1-203(3.5) of the Colorado Revised Statutes;
  5. A statement that a copy of the proposed Service Plan can be reviewed in the Fort Collins City Clerk's Office; and
  6. The date, time and location of the City Council's public hearing on the Service Plan.
- J. Council Public Hearing: The City Council will conduct a noticed public hearing at a regular or special Council meeting to consider resolution approval of Service Plan. This hearing will occur no later than thirty (30) days prior to the final submittal date to the District Court to order an election. By way of example, for a fall election City Council, which meets on the first and third Tuesday's of the month, must conduct the public hearing no later than the third Tuesday in August.
- K. Proceedings at Public Hearing: The hearing shall be conducted under and in accordance with the applicable procedures of the City Council's adopted "Rules of Procedure Governing the Conduct of City Council Meetings and Work Sessions," except that the order of the proceedings of the public hearing on the service plan shall be as follows:
1. Announcement of item;
  2. Consideration of any procedural issues;

3. Explanation of the application by City staff;
4. Presentation by the applicant;
5. Public testimony regarding the application;
6. Rebuttal testimony by the applicant;
7. Councilmember questions of City staff and the applicant; and
8. Motion, discussion and vote by City Council.

## 10.4 Service Plan

- A. Purpose: In addition to the requirements of the Act, a Service Plan should memorialize the understandings and agreements between the District and the City, as well as the considerations that compelled the City to authorize the formation of the District. The Service Plan must also include all applicable information required by the Act.
- B. Compliance with Applicable Law: Any Service Plan submitted to the City for approval must comply with all state, federal and local laws and ordinances, including the Act.
- C. Model Service Plan: To clearly communicate City requirements and streamline legal review, the City will require the use of the applicable Model Service Plan attached as **Exhibit “B”** or **Exhibit “C”**. With justification, the City may consider deviations in the proposed Service Plan, but generally all Service Plans should include the following:
  1. Eminent Domain NOT Authorized: The Service Plan shall contain language that prohibits the District from exercising the power of eminent domain. However, the City may choose to exercise its power of eminent domain to construct public improvements within the District in which case the District and the City will enter into an intergovernmental agreement concerning the public improvements and funding for that use of eminent domain.
  2. Maximum Mill Levy: The Service Plan shall restrict the District’s total mill levy authorization for both debt service and operations and maintenance to fifty (50) mills, subject to adjustment as provided below. A portion of the Maximum Mill Levy may be utilized by the District to fund operations and maintenance functions, including customary administrative expenses incurred in operating the District such as accounting and legal expenses and otherwise complying with applicable reporting requirements. No more than ten (10) mills may be used for operations and maintenance (the “Operations and Maintenance Mill Levy”).
    - a. Increased mill levies may be considered for Districts that are predominately

commercial in use, at the sole discretion of the City Council.

- b. The Maximum Mill Levy may be adjustable from the base year of the District as provided for in the Model Service Plan, so that to the extent possible, the actual tax revenues generated by the District's mill levy, as adjusted, for changes occurring after the base year, are neither diminished nor enhanced as a result of the changes.
3. Debt Term Limit: A District shall be allowed no more than forty (40) years for the levy and collection of taxes used to service debt unless a majority of the Board of Directors of the District imposing the mill levy are residents of such District and have voted in favor of a refunding of a part or all of the Debt and such refunding is for one or more of the purposes authorized in C.R.S. Section 11-56-104.
4. District Dissolution: Perpetual Districts shall not be allowed except in cases where ongoing operations and maintenance are required. Except where ongoing operations and maintenance has been authorized, a District must be dissolved as soon as practical upon:
  - a. The payment of all debt and obligations; and
  - b. The completion of District development activity.

In addition, Districts shall have no more than three years from approval of the Service Plan to secure City Council approval by resolution of an intergovernmental agreement and/or a development agreement documenting the public benefits described in the Service Plan. Staff will inform City Council, in writing, of any Districts that have not obtained this approval ninety (90) days in advance of the expiration of the three-year period. This written notice will provide a status update on the Districts progress towards obtaining Council approval and the other activities of the Districts.

5. District Fees: Impact fees, development fees, service fees, and any other fees must be identified with particularity in the District Service Plan. Impact and development fees must not be levied or collected against the end user – i.e., residents and/or non-developer owners.
6. Notice Requirements: The Service Plan shall require that the District use reasonable efforts to assure that all developers of the property located within the District provide written notice to all purchasers of property in the District regarding the District's existing mill levies, its maximum debt mill levy, as well as a general description of the District's authority to impose and collect rates, fees, tolls and charges. The form of notice shall be filed with the City prior to the initial issuance of the debt of the District imposing the mill levy.
7. Annual Report: The Service Plan must obligate the District to file an annual report not later than September 1 of each year with the City Clerk for the year ending the preceding December 31, the requirements of which may be waived in whole or in part

by the City Manager. Details of the Annual Report are included in the Model Service Plan.

D. Service Plan Requirements: In addition to all other information required in a Service Plan by the Act, a Service Plan must include the following:

1. Financial Plan: The Service Plan must include debt and operating financial projections prepared by an investment banking firm or financial advisor qualified to make such projections. The financial firm must be listed in the Bond Buyers Marketplace or, in the City's sole discretion, other recognized publication as a provider of financial projections. The Financial Plan must include debt issuance and service schedules and calculations establishing the District's projected maximum debt capacity (the "Total Debt Limitation") based on assumptions of: (i) Projected Interest Rate on the debt to be issued; (ii) Projected Assessed Valuation of the property within the District; and (iii) Projected Rate of Absorption of the assessed valuation within the District. These assumptions must use market-based, market comparable valuation and absorption data and may use an annual inflation rate of three percent (3%) or the Consumer Price Index for the preceding 12-month period for the Denver-Boulder-Greeley statistical region as prepared by the U.S. Department of Labor Statistics, whichever is lesser.
  - a. Total Debt Limitation: The total debt authorized in the Service Plan must not exceed 100% of the projected maximum debt capacity as shown in the Financial Plan.
  - b. Administrative, Operational and Maintenance Costs: The Financial Plan must also include foreseeable administrative, operational and maintenance costs.
2. Public Improvements and Estimated Costs: Every Service Plan must include, in addition to all materials, plans and reports required by the Act, a summary of public improvements to be constructed and/or installed by the district (the "Public Improvements"). The description of these Public Improvements must include, at a minimum:
  1. A map or maps, and construction drawings of such a scale, detail and size as required by the Planning Department, providing an illustration of public improvements proposed to be built, acquired or financed by the District;
  2. A written narrative and description of the public improvements; and
  3. A general description of the District's proposed role with regard to the same.

Due to the preliminary nature, the Service Plan must indicate that the City's approval of the Public Improvements shall not bind the City, its boards and commissions, and City Council in any way relating to the review and consideration of land use applications within the District.

3. Intergovernmental Agreement: Any intergovernmental agreement which is required or

known at the time of formation of the District to likely be required, to fulfill the purposes of the District, must be described in the Service Plan, along with supporting rationale. The Service Plan must provide that execution of intergovernmental agreements which are likely to cause substantial increase in the District's budget and are not described in the Service Plan will require the prior approval of City Council.

4. Extraterritorial Service Agreement: The Service Plan must describe any planned extraterritorial service agreement. The Service Plan must provide that any extraterritorial service agreement by the District that are not described in the Service Plan will require prior approval of City Council.

## 10.5 Regional Improvements

- A. Purpose: A Service Plan may include a section addressing the planning, design, acquisition, funding, construction, installation, relocation and/or redevelopment of Regional Improvements. Such section is intended to ensure that the privately-owned properties to be developed in a District that benefit from the Regional Improvements pay a reasonable share of the associated costs.
- B. Eligible Improvements: The City, to facilitate transparency, will include a list or exhibit in any Service Plan including a Regional Improvements section that clearly identifies the improvements to be funded, in part or whole, by a Regional Mill to be levied by the District. In selecting improvements to be included in a Service Plan the City will apply the following standards:
  1. Benefit to End User – Regional Improvements should have a clear benefit to the privately-owned properties funding the Regional Mill Levy. The City may establish this connection either through previous identification of the infrastructure need and/or through a technical analysis, such as a traffic impact analysis.
  2. Specificity – When possible, the City should include as much specificity about the Regional Improvements to be included in a Service Plan as possible, while noting that any details are preliminary and may be subject to change as planning, design, acquisition, funding, construction, installation, relocation and/or redevelopment of the Regional Improvements occurs.
  3. No Other Funding Exists – The City will exclude improvements, either in part or whole, for which funding mechanisms exists to support the planning, design, acquisition, funding, construction, installation, relocation and/or redevelopment. By way of example, the City collects Capital Expansion Fees to support street oversizing, however, several bridge structures necessary to facilitate grade separated crossings of railroad infrastructure were not included in the calculation of these Fees; therefore, the bridges would be and eligible Regional Improvement, where the road surface itself would not.

## 10.6 Fees

- A. No request to create a Metro District shall proceed until the fees set forth herein are paid when required. All checks are to be made payable to the City of Fort Collins and sent to the Economic Health Office.
1. Letter of Intent Submittal Fee: A Letter of Intent is to be submitted to the City's Economic Health Office and a non-refundable \$2,500 fee shall be paid at the time of submittal of the Letter.
  2. Application Fee: An application along with a draft Service Plan (based on the Model Service Plan) is to be submitted to the City's Economic Health Office and a \$7,500 non-refundable fee along with a \$7,500 deposit towards the City's other expenses shall be paid at the time of submittal of the Application and draft Service Plan.
  3. Annual Fee: Each District shall pay an annual fee for the City's on-going monitoring of each Metro District. This annual fee shall be \$500 or if multiple Districts exist serving a single project, then the annual fee shall be \$500 plus \$250 for each additional District beyond the first (e.g., the annual fee for Consolidated ABC Metro Districts 1 to 7 shall be \$500 plus \$250 times six or \$2,000).
  4. Non-Model Service Plan Fee: A District proposal requesting a substantial deviation from this Policy or the applicable Model Service Plan, shall pay an additional non-refundable fee of \$5,000 at the time of submitting its application; the City shall in its sole and reasonable discretion determine if a draft Service Plan proposes a substantial deviation from this Policy or the applicable Model Service Plan.
  5. Other Expenses: If the deposits paid in subsections 2 and 6 are not sufficient to cover all the City's other expenses, the applicant for a District shall pay all reasonable consultant, legal, and other fees and expenses incurred by the City in the process of reviewing the draft Service Plan or amended Service Plan prior to adoption, documents related to a bond issue and such other expenses as may be necessary for the City to incur to interface with the District. All such fees and expenses shall be paid within 30 days of receipt of an invoice for these additional fees and expenses.
  6. Service Plan Amendment Fee: If a proposed amendment to a Service Plan is submitted to the City's Economic Health Office, it should be submitted with a non-refundable \$2,500 fee along with a \$2,500 deposit towards the City's other expenses and shall be paid at the time of submittal of the application and draft amended Service Plan.

## EXHIBIT A - PUBLIC BENEFIT EXAMPLES

The following list of examples is meant to be illustrative of the types of projects that deliver the defined public benefits in this policy. Projects that deliver similar or better outcomes will also be considered on their merits.

Category / Sub-Category	Example Projects
<b>Environmental Sustainability Outcomes</b>	
1. Green House Gas Reductions	- See subsequent sub-categories
2. Water and/or Energy Conservation	<ul style="list-style-type: none"> <li>- District-wide non-potable water system(s)</li> <li>- District-wide renewable energy systems(s)</li> <li>- Delivery of 20% or more rooftop solar</li> <li>- Greywater reuse system(s) - if allowed by law</li> </ul>
3. Multimodal Transportation	<ul style="list-style-type: none"> <li>- Buffered bike lanes</li> <li>- Wider than required sidewalks</li> <li>- Enhanced pedestrian crossings</li> <li>- Underpass(es)</li> </ul>
4. Enhance Community Resiliency	<ul style="list-style-type: none"> <li>- Significant stormwater improvements (previously identified)</li> <li>- Improvements to existing bridges</li> </ul>
5. Increase Renewable Energy Capacity	<ul style="list-style-type: none"> <li>- District-wide renewable energy systems(s)</li> <li>- Set aside land for community solar garden(s)</li> <li>- Utility scale renewable project(s)</li> </ul>
<b>Critical Public Infrastructure</b>	
1. Within District Area	<ul style="list-style-type: none"> <li>- Community Park Land (beyond code requirements)</li> <li>- Regional Stormwater Facilities</li> <li>- Major arterial development</li> <li>- Parking Structures (Publicly Accessible)</li> </ul>
2. Adjacent to Proposed District	<ul style="list-style-type: none"> <li>- Contribution to major interchange/intersection</li> <li>- Contribution to grade separated railroad crossings</li> </ul>

(Continued on next page)

(Exhibit A continued)

Category / Sub-Category	Example Projects
<b>High Quality and Smart Growth Management</b>	
1. Increase density	<ul style="list-style-type: none"> <li>- Alley load construction</li> <li>- Smaller Lot Size</li> <li>- Increased multifamily development</li> </ul>
2. Walkability & Pedestrian Friendliness	<ul style="list-style-type: none"> <li>- Wider than required sidewalks</li> <li>- Enhanced pedestrian crossings</li> <li>- Underpass(es)</li> <li>- Trail system enhancements</li> </ul>
3. Increase availability of Transit	<ul style="list-style-type: none"> <li>- Improved bus stops</li> <li>- Restricted access guideways for bus operations</li> <li>- Transfer facilities</li> </ul>
4. Public Spaces	<ul style="list-style-type: none"> <li>- Pocket Parks</li> <li>- Neighborhood Parks (beyond code requirements)</li> </ul>
<b>Strategic Priorities</b>	
1. Affordable Housing	<ul style="list-style-type: none"> <li>- Units permanently affordable to 80% Area Median Income</li> <li>- Land dedicated to City's land bank program</li> </ul>
2. Attainable Housing	<ul style="list-style-type: none"> <li>- Units permanently affordable to 81 to 120% Area Median Income</li> </ul>
2. Infill/Redevelopment	<ul style="list-style-type: none"> <li>- Address environmental contamination / concern</li> <li>- Consolidate wetlands or natural area (positive benefits)</li> </ul>
3. Economic Health Outcomes	<ul style="list-style-type: none"> <li>- Facilitate job growth (at or above County median income)</li> <li>- Retain an existing business</li> </ul>

**EXHIBIT B – SINGLE DISTRICT SERVICE PLAN TEMPLATE**



# City of Fort Collins

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Title 32 Metropolitan District Model Single-District Service Plan

Revised 2-5-19

**This model service plan template should be referenced in conjunction with the City of Fort Collins Policy for Reviewing Service Plans for Title 32 Metropolitan Districts.**

# Table of Contents

<b>INTRODUCTION</b> .....	6
Purpose and Intent.....	6
Need for District .....	6
Objective of the City regarding District’s Service Plan.....	7
Relevant Intergovernmental Agreements.....	7
City Approvals .....	7
<b>DEFINITIONS</b> .....	7
<b>BOUNDARIES AND LOCATION</b> .....	10
<b>DESCRIPTION OF PROJECT, PLANNED DEVELOPMENT, PUBLIC BENEFIT &amp; ASSESSED VALUATION</b> 10	
Project and Planned Development.....	10
Public Benefits .....	11
Assessed Valuation.....	12
<b>INCLUSION OF LAND IN THE SERVICE AREA</b> .....	12
<b>DISTRICT GOVERNANCE</b> .....	12
<b>AUTHORIZED AND PROHIBITED POWERS</b> .....	12
General Grant of Powers .....	12
Prohibited Improvements and Services and other Restrictions and Limitations.....	12
Eminent Domain Restriction .....	12
Fee Limitation .....	13
Operations and Maintenance .....	13
Fire Protection Restriction .....	13
Public Safety Services Restriction.....	13
Grants from Governmental Agencies Restriction.....	13
Golf Course Construction Restriction.....	13
Television Relay and Translation Restriction.....	14
Potable Water and Wastewater Treatment Facilities .....	14
Sales and Use Tax Exemption Limitation.....	14

Sub-district Restriction .....	14
Privately Placed Debt Limitation .....	14
Special Assessments .....	14
<b>PUBLIC IMPROVEMENTS AND ESTIMATED COSTS .....</b>	<b>15</b>
Development Standards.....	15
Contracting.....	16
Land Acquisition and Conveyance.....	16
Equal Employment and Discrimination .....	16
<b>FINANCIAL PLAN/PROPOSED DEBT .....</b>	<b>16</b>
Financial Plan .....	16
Mill Levies .....	17
Aggregate Mill Levy Maximum .....	17
Regional Mill Levy Not Included in Other Mill Levies .....	17
Operating Mill Levy .....	17
Gallagher Adjustments .....	17
Excessive Mill Levy Pledges.....	17
Refunding Debt .....	18
Maximum Debt Authorization.....	18
Maximum Voted Interest Rate and Underwriting Discount .....	18
Interest Rate and Underwriting Discount Certification.....	18
Disclosure to Purchasers .....	18
External Financial Advisor.....	19
Disclosure to Debt Purchasers .....	19
Security for Debt .....	19
TABOR Compliance .....	19
District's Operating Costs.....	20
<b>Regional Improvements.....</b>	<b>20</b>
Regional Mill Levy Authority .....	20
Regional Mill Levy Imposition.....	20
City Notice Regarding Regional Improvements.....	20

Regional Improvements Authorized Under Service Plan.....	20
Expenditure of Regional Mill Levy Revenues.....	21
Intergovernmental Agreement .....	21
No Intergovernmental Agreement .....	21
Regional Mill Levy Term .....	21
Completion of Regional Improvements.....	21
City Authority to Require Imposition.....	21
Regional Mill Levy Not Included in Other Mill Levies.....	21
Gallagher Adjustment .....	21
<b>City Fees .....</b>	<b>21</b>
<b>Bankruptcy Limitations .....</b>	<b>22</b>
<b>Annual Reports and Board Meetings .....</b>	<b>22</b>
General .....	22
Board Meetings .....	22
Report Requirements.....	22
Narrative .....	22
Financial Statements .....	22
Capital Expenditures .....	22
Financial Obligations.....	23
Board Contact Information .....	23
Other Information .....	23
Reporting of Significant Events.....	23
Failure to Submit.....	23
<b>Service Plan Amendments .....</b>	<b>24</b>
<b>Material Modifications.....</b>	<b>24</b>
<b>Dissolution.....</b>	<b>24</b>
<b>Sanctions.....</b>	<b>25</b>
<b>Intergovernmental Agreement with City .....</b>	<b>25</b>
<b>Conclusion.....</b>	<b>26</b>
<b>Resolution of Approval.....</b>	<b>26</b>

## **I. INTRODUCTION**

### **A. Purpose and Intent.**

The District, which is intended to be an independent unit of local government separate and distinct from the City, is governed by this Service Plan, the Special District Act and other applicable State law. Except as may otherwise be provided by State law, City Code or this Service Plan, the District's activities are subject to review and approval by the City Council only insofar as they are a material modification of this Service Plan under C.R.S. Section 32-1-207 of the Special District Act.

It is intended that the District will provide all or part of the Public Improvements for the Project for the use and benefit of all anticipated inhabitants and taxpayers of the District. The primary purpose of the District will be to finance the construction of these Public Improvements by the issuance of Debt.

It is also intended under this Service Plan that the District shall not be authorized to issue any Debt, impose a Debt Mill Levy, Operating Mill Levy or impose any Fees for payment of the Debt unless and until the delivery of applicable Public Benefits described in Section IV.B. of this Service Plan has been secured in accordance with Section IV.B. of this Service Plan.

It is further intended that this Service Plan also requires the District to pay a portion of the cost of the Regional Improvements, as provided in Section X of this Service Plan, as part of ensuring that those privately-owned properties to be developed in the District that benefit from the Regional Improvements pay a reasonable share of the associated costs.

The District is not intended to provide ongoing operations and maintenance services except as expressly authorized in this Service Plan.

It is the intent of the District to dissolve upon payment or defeasance of all Debt incurred or upon a court determination that adequate provision has been made for the payment of all Debt, except that if the District is authorized in this Service Plan to perform continuing operating or maintenance functions, the District shall continue in existence for the sole purpose of providing such functions and shall retain only the powers necessary to impose and collect the taxes or Fees authorized in this Service Plan to pay for the costs of those functions.

It is intended that the District shall comply with the provisions of this Service Plan and that the City may enforce any non-compliance with these provisions as provided in Section XVII of this Service Plan.

### **B. Need for the District.**

There are currently no other governmental entities, including the City, located in the immediate vicinity of the District that consider it desirable, feasible or practical to undertake the planning, design, acquisition, construction, installation, relocation, redevelopment and financing of

the Public Improvements needed for the Project. Formation of the District is therefore necessary in order for the Public Improvements required for the Project to be provided in the most economic manner possible.

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

The City's objective in approving this Service Plan is to authorize the District to provide for the planning, design, acquisition, construction, installation, relocation and redevelopment of the Public Improvements from the proceeds of Debt to be issued by the District, but in doing so, to also establish in this Service Plan the means by which both the Regional Improvements and the Public Benefits will be provided. Except as specifically provided in this Service Plan, all Debt is expected to be repaid by taxes and Fees imposed and collected for no longer than the Maximum Debt Mill Levy Imposition Term for residential properties, and at a tax mill levy no higher than the Maximum Debt Mill Levy. Fees imposed for the payment of Debt shall be due no later than upon the issuance of a building permit unless a majority of the Board which imposes such a Fee is composed of End Users as provided in Section VII.B.2 of this Service Plan. Debt which is issued within these parameters and, as further described in the Financial Plan, will insulate property owners from excessive tax and Fee burdens to support the servicing of the Debt and will result in a timely and reasonable discharge of the Debt.

### **D. Relevant Intergovernmental Agreements.**

***[Add description of any relevant intergovernmental agreements.]***

### **E. City Approvals.**

Any provision in this Service Plan requiring "City" or "City Council" approval or consent shall require the City Council's prior written approval or consent exercised in its sole discretion. Any provision in this Service Plan requiring "City Manager" approval or consent shall require the City Manager's prior written approval or consent exercised in the City Manager's sole discretion.

## **II. DEFINITIONS**

In this Service Plan, the following words, terms and phrases which appear in a capitalized format shall have the meaning indicated below, unless the context clearly requires otherwise:

**Aggregate Mill Levy:** means the total mill levy resulting from adding the District's Debt Mill Levy and Operating Mill Levy. The District's Aggregate Mill Levy does not include any Regional Mill Levy that the District may levy.

**Aggregate Mill Levy Maximum:** means the maximum number of combined mills that the District may levy for its Debt Mill Levy and Operating Mill Levy, at a rate not to exceed the limitation set in Section IX.B.1 of this Service Plan.

**Approved Development Plan:** means a City-approved development plan or other land-use application required by the City Code for identifying, among other things, public improvements necessary for facilitating the development of property within the Service Area, which plan shall include, without limitation, any development agreement required by

the City Code.

Board: means the duly constituted Board of Directors of the District.

Bond, Bonds or Debt: means bonds, notes or other multiple fiscal year financial obligations for the payment of which a District has promised to impose an ad valorem property tax mill levy, Fees or other legally available revenue. Such terms do not include contracts through which a District procures or provides services or tangible property.

City: means the City of Fort Collins, Colorado, a home rule municipality.

City Code: means collectively the City's Municipal Charter, Municipal Code, Land Use Code and ordinances as all are now existing and hereafter amended.

City Council: means the City Council of the City.

City Manager: means the City Manager of the City.

C.R.S.: means the Colorado Revised Statutes.

Debt Mill Levy: means a property tax mill levy imposed on Taxable Property by the District for the purpose of paying Debt as authorized in this Service Plan, at a rate not to exceed the limitations set in Section IX.B of this Service Plan.

Developer: means a person or entity that is the owner of property or owner of contractual rights to property in the Service Area that intends to develop the property.

District: means the **[Name of District]** organized under and governed by this Service Plan.

District Boundaries: means the boundaries of the area legally described in **Exhibit "A"** attached hereto and incorporated by reference and as depicted in the District Boundary Map.

District Boundary Map: means the map of the District Boundaries attached hereto as **Exhibit "B"** and incorporated by reference.

End User: means any owner, or tenant of any owner, of any property within the District, who is intended to become burdened by the imposition of ad valorem property taxes and/or Fees. By way of illustration, a resident homeowner, renter, commercial property owner or commercial tenant is an End User. A Developer and any person or entity that constructs homes or commercial structures is not an End User.

External Financial Advisor: means a consultant that: (1) is qualified to advise Colorado governmental entities on matters relating to the issuance of securities by Colorado governmental entities including matters such as the pricing, sales and marketing of such securities and the procuring of bond ratings, credit enhancement and insurance in respect of such securities; (2) shall be an underwriter, investment banker, or individual listed as a public finance advisor in the Bond Buyer's Municipal Market Place or, in the City's sole discretion, other recognized publication as a provider of financial projections; and (3) is not an officer or employee of the District or an underwriter of the District's Debt.

Fees: means the fees, rates, tolls, penalties and charges the District is authorized to impose and collect under this Service Plan.

**Financial Plan**: means the Financial Plan described in Section IX of this Service Plan which was prepared or approved by **[Name]**, an External Financial Advisor, in accordance with the requirements of this Service Plan and describes (a) how the Public Improvements are to be financed; (b) how the Debt is expected to be incurred; and (c) the estimated operating revenue derived from property taxes and any Fees for the first budget year through the year in which all District Debt is expected to be defeased or paid in the ordinary course.

**Inclusion Area Boundaries**: means the boundaries of the property that is anticipated to be added to the District Boundaries after the District's organization, which property is legally described in **Exhibit "C"** attached hereto and incorporated by reference and depicted in the map attached hereto as **Exhibit "D"** and incorporated herein by reference.

**Maximum Debt Authorization**: means the total Debt the District is permitted to issue as set forth in Section IX.B.7 of this Service Plan.

**Maximum Debt Mill Levy Imposition Term**: means the maximum term during which the District's Debt Mill Levy may be imposed on property developed in the Service Area for residential use, which shall include residential properties in mixed-use developments. This maximum term shall not exceed forty (40) years from December 31 of the year this Service Plan is approved by City Council

**Operating Mill Levy**: means a property tax mill levy imposed on Taxable Property for the purpose of funding District administration, operations and maintenance as authorized in this Service Plan, including, without limitation, repair and replacement of Public Improvements, and imposed at a rate not to exceed the limitations set in Section IX.B. of this Service Plan.

**Planned Development**: means the private development or redevelopment of the properties in the Service Area, commonly referred to as the **[Name]** development, under an Approved Development Plan.

**Project**: means the installation and construction of the Public Improvements for the Planned Development.

**Public Improvements**: means the improvements and infrastructure the District is authorized by this Service Plan to fund and construct for the Planned Development to serve the future taxpayers and inhabitants of the District, except as specifically prohibited or limited in this Service Plan. Public Improvements shall include, without limitation, the improvements and infrastructure described in **Exhibit "E"** attached hereto and incorporated by reference. Public Improvements do not include Regional Improvements.

**Regional Improvements**: means any regional public improvement identified by the City, as provided in Section X of this Service Plan, for funding, in whole or part, by a Regional Mill Levy levied by the District, including, without limitation, the public improvements described in **Exhibit "F"** attached hereto and incorporated by reference.

**Regional Mill Levy**: means the property tax mill levy imposed on Taxable Property for the purpose of planning, designing, acquiring, funding, constructing, installing, relocating and/or redeveloping the Regional Improvements and/or to fund the administration and overhead costs related to the Regional Improvements as provided in Section X of this Service Plan.

**Service Area**: means the property within the District Boundaries and the property in the

Inclusion Area Boundaries when it is added, in whole or part, to the District Boundaries.

Special District Act: means Article 1 in Title 32 of the Colorado Revised Statutes, as amended.

Service Plan: means this service plan for the District approved by the City Council.

Service Plan Amendment: means a material modification of the Service Plan approved by the City Council in accordance with the Special District Act, this Service Plan and any other applicable law.

State: means the State of Colorado.

Taxable Property: means the real and personal property within the District Boundaries and within the Inclusion Area Boundaries when added to the District Boundaries that will be subject to the ad valorem property taxes imposed by the District.

TABOR: means Colorado's Taxpayer's Bill of Rights in Article X, Section 20 of the Colorado Constitution.

Vicinity Map: means the map attached hereto as **Exhibit "G"** and incorporated by reference depicting the location of the Service Area within the regional area surrounding it.

### **III. BOUNDARIES AND LOCATION**

The area of the District Boundaries includes approximately [***Insert Number***] acres and the total area proposed to be included in the Inclusion Area Boundaries is approximately [***Insert Number***] acres. A legal description and map of the District Boundaries are attached hereto as **Exhibit A** and **Exhibit B**, respectively. A legal description and map of the Inclusion Area Boundaries are attached hereto as **Exhibit C** and **Exhibit D**, respectively. It is anticipated that the District's Boundaries may expand or contract from time to time as the District undertakes inclusions or exclusions pursuant to the Special District Act, subject to the limitations set forth in this Service Plan. The location of the Service Area is depicted in the vicinity map attached as **Exhibit G**.

### **IV. DESCRIPTION OF PROJECT, PLANNED DEVELOPMENT, PUBLIC BENEFITS & ASSESSED VALUATION**

#### **A. Project and Planned Development.**

***[Describe the nature of the Project and Planned Development, estimated population at build out, timeline for development, estimated assessed value after 5 and 10 years and estimated sales tax revenue. Also, please identify all plans, including but not limited to Citywide Plans, Small Area Plans, and General Development Plans that apply to any portion of the District's Boundaries or Inclusion Area Boundaries and describe how the Project and Planned Development are consistent with the applicable plans. Please state if the proposed District is to be located within an urban renewal area and if the proposed development is anticipating the use of tax increment financing (TIF). If the District intends to pursue TIF, please provide information on how the TIF financing will interact with the District's financing and how the necessary Public Improvements will be shared across the two funding sources.]***

Approval of this Service Plan by the City Council does not imply approval of the development of any particular land-use for any specific area within the District. Any such approval must be contained within an Approved Development Plan.

## **B. Public Benefits.**

In addition to providing a portion of the Public Improvements and Regional Improvements, the organization of the District is intended to enable the Project to deliver a number of extraordinary direct and indirect public benefits, including: **[Describe Public Benefits]** (collectively, the “Public Benefits”). The Public Benefits to be enabled under this Service Plan are specifically described in **Exhibit J** attached hereto and incorporated herein by reference.

Therefore, notwithstanding any provision to the contrary contained in this Service Plan, the District shall not be authorized to issue any Debt or to impose a Debt Mill Levy or any Fees for payment of Debt unless and until the delivery of the Public Benefits specifically related to the phase of the Planned Development of a portion of the Project to be financed with such Debt, Debt Mill Levy or Fees, are secured in a manner approved by the City Council. To satisfy this precondition to the issuance of Debt and to the imposition of the Debt Mill Levy and Fees, delivery of the Public Benefits for each phase of the Project and the Planned Development must be secured by the following methods, as applicable:

1. For any portion of the Public Benefits to be provided by the District, the District must enter into an intergovernmental agreement with the City by either (i) agreeing to provide those Public Benefits as a legally enforceable multiple-fiscal year obligation of the District under TABOR, or (ii) securing performance of that obligation with a surety bond, letter of credit or other security acceptable to the City, and any such intergovernmental agreement must be approved by the City Council by resolution;
2. For any portion of the Public Benefits to be provided by one or more Developers of the Planned Development, each such Developer must either (i) enter into a development agreement with the City under the Developer’s applicable Approved Development Plan, which agreement must legally obligate the Developer to provide those Public Benefits before the City is required to issue building permits and/or certificates of occupancy for structures to be built under the Approved Development Plan for that phase of the Planned Development, or (ii) secure such obligations with a surety bond, letter of credit or other security acceptable to the City, and all such development agreements must be approved by the City Council by resolution; or
3. For any portion of the Public Benefits to be provided in part by the District and in part by one or more of the Developers, an agreement between the City and the affected District and Developers that secures such Public Benefits as legally binding obligations using the methods described in subsections 1 and 2 above, and all such agreements must be approved by the City Council by resolution.

## **C. Assessed Valuation.**

The current assessed valuation of the Service Area is approximately **[Dollar Amount]** and, at build out, is expected to be **[Dollar Amount]**. These amounts are expected to be sufficient to

reasonably discharge the Debt as demonstrated in the Financial Plan.

**V. INCLUSION OF LAND IN THE SERVICE AREA**

Other than the real property in the Inclusion Area Boundaries, the District shall not include any real property into the Service Area without the City Council's prior written approval and in compliance with the Special District Act. Once the District has issued Debt, it shall not exclude real property from the District's boundaries without the prior written consent of the City Council.

**VI. DISTRICT GOVERNANCE**

The District's Board shall be comprised of persons who are a qualified "eligible elector" of the District as provided in the Special District Act. It is anticipated that over time, the End Users who are eligible electors will assume direct electoral control of the District's Board as development of the Service Area progresses. The District shall not enter into any agreement by which the End Users' electoral control of the Board is removed or diminished.

**VII. AUTHORIZED AND PROHIBITED POWERS**

**A. General Grant of Powers.**

The District shall have the power and authority to provide the Public Improvements, the Regional Improvements and related operation and maintenance services, within and without the District Boundaries, as such powers and authorities are described in the Special District Act, other applicable State law, common law and the Colorado Constitution, subject to the prohibitions, restrictions and limitations set forth in this Service Plan.

If, after the Service Plan is approved, any State law is enacted to grant additional powers or authority to metropolitan districts by amendment of the Special District Act or otherwise, such powers and authority shall not be deemed to be a part hereof. These new powers and authority shall only be available to be exercised by the District if the City Council first approves a Service Plan Amendment to specifically allow the exercise of such powers or authority by the District.

**B. Prohibited Improvements and Services and other Restrictions and Limitations.**

The District's powers and authority under this Service Plan to provide Public Improvements and services and to otherwise exercise its other powers and authority under the Special District Act and other applicable State law, are prohibited, restricted and limited as hereafter provided. Failure to comply with these prohibitions, restrictions and limitations shall constitute a material modification under this Service Plan and shall entitle the City to pursue all remedies available at law and in equity as provided in Sections XVII and XVIII of this Service Plan:

1. Eminent Domain Restriction

The District shall not exercise its statutory power of eminent domain without first obtaining resolution approval from the City Council. This restriction on the District's exercise of its eminent domain power is being voluntarily acquiesced to by the District and shall not be interpreted in any way as a limitation on the District's sovereign powers and shall not negatively affect the District's status as a political subdivision of the State as conferred by the Special District Act.

2. Fee Limitation

Any Fees imposed for the repayment of Debt, if authorized by this Service Plan, shall not be imposed by the District upon or collected from an End User. In addition, Fees imposed for the payment of Debt shall not be imposed unless and until the requirements for securing the delivery of the District's portion of the Public Benefits have been satisfied in accordance with Section IV.B of this Service Plan. Notwithstanding the foregoing, this Fee limitation shall not apply to any Fee imposed to fund the operation, maintenance, repair or replacement of Public Improvements or the administration of the District.

3. Operations and Maintenance

The primary purpose of the District is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. The District shall dedicate the Public Improvements to the City or other appropriate jurisdiction or owners' association in a manner consistent with the Approved Development Plan and the City Code, provided that nothing herein requires the City to accept a dedication. The District is specifically authorized to operate and maintain all or any part of the Public Improvements not otherwise conveyed or dedicated to the City or another appropriate governmental entity until such time as the District is dissolved.

4. Fire Protection Restriction

The District is not authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, own, operate or maintain fire protection facilities or services, unless such facilities and services are provided pursuant to an intergovernmental agreement with the Poudre Fire Authority. The authority to plan for, design, acquire, construct, install, relocate, redevelop, finance, own, operate or maintain fire hydrants and related improvements installed as part of the Project's water system shall not be limited by this subsection.

5. Public Safety Services Restriction

The District is not authorized to provide policing or other security services. However, the District may, pursuant to C.R.S. § 32-1-1004(7), as amended, furnish security services pursuant to an intergovernmental agreement with the City.

6. Grants from Governmental Agencies Restriction

The District shall not apply for grant funds distributed by any agency of the United States Government or the State without the prior written approval of the City Manager. This does not restrict the collection of Fees for services provided by the District to the United States Government or the State.

7. Golf Course Construction Restriction

Acknowledging that the City has financed public golf courses and desires to coordinate the construction of public golf courses within the City's boundaries, the District shall not be authorized to plan, design, acquire, construct, install, relocate, redevelop, finance,

own, operate or maintain a golf course unless such activity is pursuant to an intergovernmental agreement with the City approved by the City Council.

8. Television Relay and Translation Restriction

The District is not authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, own, operate or maintain television relay and translation facilities and services, other than for the installation of conduit as a part of a street construction project, unless such facilities and services are provided pursuant to prior written approval from the City Council as a Service Plan Amendment.

9. Potable Water and Wastewater Treatment Facilities

Acknowledging that the City and other existing special districts operating within the City currently own and operate treatment facilities for potable water and wastewater that are available to provide services to the Service Area, the District shall not plan, design, acquire, construct, install, relocate, redevelop, finance, own, operate or maintain such facilities without obtaining the City Council's prior written approval either by intergovernmental agreement or as a Service Plan Amendment.

10. Sales and Use Tax Exemption Limitation

The District shall not exercise any sales and use tax exemption otherwise available to the District under the City Code.

11. Sub-district Restriction

The District shall not create any sub-district pursuant to the Special District Act without the prior written approval of the City Council.

12. Privately Placed Debt Limitation

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

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

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

13. Special Assessments

The District shall not impose special assessments without the prior written approval of the City Council.

## **VIII. PUBLIC IMPROVEMENTS AND ESTIMATED COSTS**

**Exhibit E** summarizes the type of Public Improvements that are projected to be constructed and/or installed by the District. The cost, scope, and definition of such Public Improvements may vary over time. The total estimated costs of Public Improvements, as set forth in **Exhibit H**, excluding any improvements paid for by the Regional Mill Levy necessary to serve the Planned Development, are approximately [**Dollar Amount**] in [**Year**] dollars and total approximately [**Dollar Amount**] in the anticipated year of construction dollars. The cost estimates are based upon preliminary engineering, architectural surveys, and reviews of the Public Improvements set forth in **Exhibit E** and include all construction cost estimates together with estimates of costs such as land acquisition, engineering services, legal expenses and other associated expenses. Maps of the anticipated location, operation, and maintenance of Public Improvements are attached hereto as **Exhibit I**. Changes in the Public Improvements or cost, which are approved by the City in an Approved Development Plan and any agreement approved by the City Council pursuant to Section IV.B of this Service Plan, shall not constitute a Service Plan Amendment. In addition, due to the preliminary nature of the Project, the City shall not be bound by this Service Plan in reviewing and approving the Approved Development Plan and the Approved Development Plan shall supersede the Service Plan with regard to the cost, scope, and definition of Public Improvements. Provided, however, any agreement approved and entered into under Section IV.B of this Service Plan for the provision of a Public Improvement that is also a Public Benefit, shall supersede both this Service Plan and the applicable Approved Development Plan.

Except as otherwise provided by an agreement approved under Section IV.B of this Service Plan: (i) the design, phasing of construction, location and completion of Public Improvements will be determined by the District to coincide with the phasing and development of the Planned Development and the availability of funding sources; (ii) the District may, in its discretion, phase the construction, completion, operation, and maintenance of Public Improvements or defer, delay, reschedule, rephase, relocate or determine not to proceed with the construction, completion, operation, and maintenance of Public Improvements, and such actions or determinations shall not constitute a Service Plan Amendment; and (iii) the District shall also be permitted to allocate costs between such categories of the Public Improvements as deemed necessary in its discretion.

The Public Improvements shall be listed using an ownership and maintenance matrix in **Exhibit E**, either individually or categorically, to identify the ownership and maintenance responsibilities of the Public Improvements.

The City Code has development standards, contracting requirements and other legal requirements related to the construction and payment of public improvements and related to certain operation activities. Relating to these, the District shall comply with the following requirements:

### **A. Development Standards.**

The District shall ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the City Code and of other governmental entities having proper jurisdiction, as applicable. The District directly, or indirectly through any Developer, will obtain the City's approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work. Unless waived by the City Council, the District shall be required, in accordance with the City Code, to post a surety bond, letter of credit, or other approved development security for any Public Improvements to be constructed by the District. Such development security may be released in the

City Manager's discretion when the District has obtained funds, through Debt issuance or otherwise, adequate to insure the construction of the Public Improvements, unless such release is prohibited by or in conflict with any City Code provision, State law or any agreement approved and entered into under Section IV.B of this Service Plan. Any limitation or requirement concerning the time within which the City must review the District's proposal or application for an Approved Development Plan or other land use approval is hereby waived by the District.

#### **B. Contracting.**

The District shall comply with all applicable State purchasing, public bidding and construction contracting requirements and limitations.

#### **C. Land Acquisition and Conveyance.**

The purchase price of any land or improvements acquired by the District from the Developer shall be no more than the then-current fair market value as confirmed by an independent MAI appraisal for land and by an independent professional engineer for improvements. Land, easements, improvements and facilities conveyed to the City shall be free and clear of all liens, encumbrances and easements, unless otherwise approved by the City Manager prior to conveyance. All conveyances to the City shall be by special warranty deed, shall be conveyed at no cost to the City, shall include an ALTA title policy issued to the City, shall meet the environmental standards of the City and shall comply with any other conveyance prerequisites required in the City Code.

#### **D. Equal Employment and Discrimination.**

In connection with the performance of all acts or activities hereunder, the District shall not discriminate against any person otherwise qualified with respect to its hiring, discharging, promoting or demoting or in matters of compensation solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability, and further shall insert the foregoing provision in contracts or subcontracts entered into by the District to accomplish the purposes of this Service Plan.

### **IX. FINANCIAL PLAN/PROPOSED DEBT**

This Section IX of the Service Plan describes the nature, basis, method of funding and financing limitations associated with the acquisition, construction, completion, repair, replacement, operation and maintenance of Public Improvements.

#### **A. Financial Plan.**

The District's Financial Plan, attached as **Exhibit J** and incorporated by reference, reflects the District's anticipated schedule for incurring Debt to fund Public Improvements in support of the Project. The Financial Plan also reflects the schedule of all anticipated revenues flowing to the District derived from District mill levies, Fees imposed by the District, specific ownership taxes, and all other anticipated legally available revenues. The Financial Plan is based on economic, political and industry conditions as they presently exist and reasonable projections and estimates of future conditions. These projections and estimates are not to be interpreted as the only method of implementation of the District's goals and objectives but rather a representation of one feasible alternative. Other financial structures may be used so long as they are in compliance with this

Service Plan. The Financial Plan incorporates all of the provisions of this Article IX.

Based upon the assumptions contained therein, the Financial Plan projects the issuance of Bonds to fund Public Improvements and anticipated Debt repayment based on the development assumptions and absorptions of the property in the Service Area by End Users. The Financial Plan anticipates that the District will acquire, construct, and complete all Public Improvements needed to serve the Service Area.

The Financial Plan demonstrates that the District will have the financial ability to discharge all Debt to be issued as part of the Financial Plan on a reasonable basis. Furthermore, the District will secure the certification of an External Financial Advisor who will provide an opinion as to whether such Debt issuances are in the best interest of the District at the time of issuance.

## **B. Mill Levies.**

It is anticipated that the District will impose a Debt Mill Levy and an Operating Mill Levy on all property within the Service Area. In doing so, the following shall apply:

### 1. Aggregate Mill Levy Maximum

The Aggregate Mill Levy shall not exceed in any year the Aggregate Mill Levy Maximum, which is fifty (50) mills.

### 2. Regional Mill Levy Not Included in Other Mill Levies

The Regional Mill Levy shall not be counted against the Aggregate Mill Levy Maximum.

### 3. Operating Mill Levy

The District may impose an Operating Mill Levy of up to fifty (50) mills until the District imposes a Debt Mill Levy. Once the District imposes a Debt Mill Levy of any amount, the District's Operating Mill Levy shall cannot exceed ten (10) mills at any point.

### 4. Gallagher Adjustments

In the event the State's method of calculating assessed valuation for the Taxable Property changes after January 1, **[current year]** or any constitutionally mandated tax credit, cut or abatement, the District's Aggregate Mill Levy, Debt Mill Levy, Operating Mill Levy, and Aggregate Mill Levy Maximum, amounts herein provided may be increased or decreased to reflect such changes; such increases or decreases shall be determined by the District's Board in good faith so that to the extent possible, the actual tax revenues generated by such mill levies, as adjusted, are neither enhanced nor diminished as a result of such change occurring after January 1, **[current year]**. For purposes of the foregoing, a change in the ratio of actual valuation to assessed valuation will be a change in the method of calculating assessed valuation.

### 5. Excessive Mill Levy Pledges

Any Debt issued with a mill levy pledge, or which results in a mill levy pledge, that exceeds the Aggregate Mill Levy Maximum or the Maximum Debt Mill Levy Imposition Term, shall be deemed a material modification of this Service Plan and shall not be an authorized issuance of Debt unless and until such material modification has been

approved by a Service Plan Amendment.

6. Refunding Debt

The Maximum Debt Mill Levy Imposition Term may be exceeded for Debt refunding purposes if: (1) a majority of the District Board is composed of End Users and have voted in favor of a refunding of a part or all of the Debt; or (2) such refunding will result in a net present value savings.

7. Maximum Debt Authorization

The District anticipates approximately [**Dollar Amount**] in project costs in [**Year**] dollars as set forth in **Exhibit E** and anticipate issuing approximately [**Dollar Amount**] in Debt to pay such costs as set forth in **Exhibit J**, which Debt issuance amount shall be the amount of the Maximum Debt Authorization. In addition, the District shall not issue any Debt unless and until delivery of the District's Public Benefits have been secured as required in Section IV.B of this Service Plan. The District shall not issue Debt in excess of the Maximum Debt Authorization. Bonds, loans, notes or other instruments which have been refunded shall not count against the Maximum Debt Authorization. The District must obtain from the City Council a Service Plan Amendment prior to issuing Debt in excess of the Maximum Debt Authorization.

**C. Maximum Voted Interest Rate and Underwriting Discount.**

The interest rate on any Debt is expected to be the market rate at the time the Debt is issued. The maximum interest rate on any Debt, including any defaulting interest rate, is not permitted to exceed Twelve Percent (12%). The maximum underwriting discount shall be three percent (3%). Debt, when issued, will comply with all relevant requirements of this Service Plan, the Special District Act, other applicable State law and federal law as then applicable to the issuance of public securities.

**D. Interest Rate and Underwriting Discount Certification.**

The District shall retain an External Financial Advisor to provide a written opinion on the market reasonableness of the interest rate on any Debt and any underwriter discount payed by the District as part of a Debt financing transaction. The District shall provide this written opinion to the City before issuing any Debt based on it.

**E. Disclosure to Purchasers.**

In order to notify future End Users who are purchasing residential lots or dwellings units in the Service Area that they will be paying, in addition to the property taxes owed to other taxing governmental entities, the property taxes imposed under the Debt Mill Levy, the Operating Mill Levy and possibly the Regional Mill Levy, the District shall not be authorized to issue any Debt under this Service Plan until there is included in the Developer's Approved Development Plan provisions that require the following:

1. That the Developer, and its successors and assigns, shall prepare and submit to the City Manager for his approval a disclosure notice in substantially the form attached hereto as **Exhibit K** (the "Disclosure Notice");
2. That when the Disclosure Notice is approved by the City Manager, the Developer shall record the Disclosure Notice in the Larimer County Clerk and Recorder's

Office; and

3. That the approved Disclosure Notice shall be provided by the Developer, and by its successors and assigns, to each potential End User purchaser of a residential lot or dwelling unit in the Service Area before that purchaser enters into a written agreement for the purchase and sale of that residential lot or dwelling unit.

#### **F. External Financial Advisor.**

An External Financial Advisor shall be retained by the District to provide a written opinion as to whether any Debt issuance is in the best interest of the District once the total amount of Debt issued by the District exceeds Five Million Dollars (\$5,000,000). The External Financial Advisor is to provide advice to the District Board regarding the proposed terms and whether Debt conditions are reasonable based upon the status of development within the District, the projected tax base increase in the District, the security offered and other considerations as may be identified by the Advisor. The District shall include in the transcript of any Bond transaction, or other appropriate financing documentation for related Debt instrument, a signed letter from the External Financial Advisor providing an official opinion on the structure of the Debt, stating the Advisor's opinion that the cost of issuance, sizing, repayment term, redemption feature, couponing, credit spreads, payment, closing date, and other material transaction details of the proposed Debt serve the best interest of the District.

Debt shall not be undertaken by the District if found to be unreasonable by the External Financial Advisor.

#### **G. Disclosure to Debt Purchasers.**

District Debt shall set forth a statement in substantially the following form:

"By acceptance of this instrument, the owner of this Debt agrees and consents to all of the limitations with respect to the payment of the principal and interest on this Debt contained herein, in the resolution of the District authorizing the issuance of this Debt and in the Service Plan of the District. This Debt is not and cannot be a Debt of the City of Fort Collins"

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

#### **H. Security for Debt.**

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

#### **I. TABOR Compliance.**

The District shall comply with the provisions of TABOR. In the discretion of the Board, the District may set up other qualifying entities to manage, fund, construct and operate facilities, services, and programs. To the extent allowed by law, any entity created by a District will remain

under the control of the District's Board.

**J. District's Operating Costs.**

The estimated cost of acquiring land, engineering services, legal services and administrative services, together with the estimated costs of the District's organization and initial operations, are anticipated to be [**Dollar Amount**], which will be eligible for reimbursement from Debt proceeds.

In addition to the capital costs of the Public Improvements, the Districts will require operating funds for administration and to plan and cause the Public Improvements to be operated and maintained. The first year's operating budget is estimated to be [**Dollar Amount**].

Ongoing administration, operations and maintenance costs may be paid from property taxes collected through the imposition of an Operating Mill Levy, as set forth in Section IX.B.3, as well as from other revenues legally available to the District.

**X. REGIONAL IMPROVEMENTS**

The District shall be authorized to provide for the planning, design, acquisition, funding, construction, installation, relocation, redevelopment, administration and overhead costs related to the provision of Regional Improvements. At the discretion of the City, the District shall impose a Regional Improvement Mill Levy on all property within the District Boundaries and any properties thereafter included in the Boundaries under the following terms:

**A. Regional Mill Levy Authority.**

The District shall seek the authority to impose an additional Regional Mill Levy of five (5) mills as part of the District's initial TABOR election. The District shall also seek from the electorate in that election the authority under TABOR to enter into an intergovernmental agreement with the City obligating the District to pay as a multiple-fiscal year obligation the proceeds from the Regional Mill Levy to the City. Obtaining voter-approval of the Regional Mill Levy and this intergovernmental agreement shall be a precondition to the District issuing any Debt and imposing the Debt Mill Levy, the Operating Mill Levy and any Fees for the repayment of Debt under this Service Plan.

**B. Regional Mill Levy Imposition.**

The District shall impose the Regional Mill Levy at a rate not to exceed five (5) mills within one year of receiving written notice from the City Manager to the District requesting the imposition of the Regional Mill Levy and stating the mill rate to be imposed.

**C. City Notice Regarding Regional Improvements.**

Such notice from the City shall provide a description of the Regional Improvements to be constructed and an analysis explaining how the Regional Improvements will be beneficial to property owners within the Service Area. The City shall make a good faith effort to require planned developments that (i) are adjacent to the Service Area and (ii) will benefit from the Regional Improvement also impose a Regional Mill Levy, to the extent possible.

**D. Regional Improvements Authorized Under Service Plan.**

If so notified by the City Manager, the Regional Improvements shall be considered public improvements that the District would otherwise be authorized to design, construct, install re-design, re-construct, repair or replace pursuant to this Service Plan and applicable law.

### **E. Expenditure of Regional Mil Levy Revenues.**

Revenue collected through the imposition of the Regional Mill Levy shall be expended as follows:

1. Intergovernmental Agreement

If the City and the District have executed an intergovernmental agreement concerning the Regional Improvements, then the revenue from the Regional Mill Levy shall be used in accordance with such agreement;

2. No Intergovernmental Agreement

If no intergovernmental agreement exists between the District and the City, then the revenue from the Regional Mill Levy shall be paid to the City, for use by the City in the planning, designing, constructing, installing, acquiring, relocating, redeveloping or financing of Regional Improvements which benefit the End Users of the District as prioritized and determined by the City.

### **F. Regional Mill Levy Term.**

The imposition of the Regional Mill Levy shall not exceed a term of twenty-five (25) years from December 31 of the tax collection year after which the Regional Mill Levy is first imposed.

### **G. Completion of Regional Improvements.**

All Regional Improvements shall be completed prior to the end of the twenty-five (25) year Regional Mill Levy term.

### **H. City Authority to Require Imposition.**

The City's authority to require the initiation of the imposition of a Regional Mill Levy shall expire fifteen (15) years after December 31st of the year in which the District first imposes a Debt Mill Levy.

### **I. Regional Mill Levy Not Included in Other Mill Levies.**

The Regional Mill Levy imposed shall not be applied toward the calculation of the Aggregate Mill Levy Maximum.

### **J. Gallagher Adjustment.**

In the event the method of calculating assessed valuation is changed after January 1, **[current year]**, or any constitutionally mandated tax credit, cut or abatement, the Regional Mill Levy may be increased or shall be decreased to reflect such changes; such increases or decreases shall be determined by the District's Board in good faith so that to the extent possible, the actual tax revenues generated by the Regional Mill Levy, as adjusted, are neither enhanced nor diminished as a result of such change occurring after January 1, **[current year]**. For purposes of the foregoing, a change in the ratio of actual valuation to assessed valuation will be a change in the method of calculating assessed valuation.

## **XI. CITY FEES**

The District shall pay all applicable City fees as required by the City Code.

## **XII. BANKRUPTCY LIMITATIONS**

All of the limitations contained in this Service Plan, including, but not limited to, those pertaining to the Aggregate Mill Levy Maximum, Maximum Debt Mill Levy Imposition Term and Fees, have been established under the authority of the City in the Special District Act to approve this Service Plan. It is expressly intended that by such approval such limitations: (i) shall not be set aside for any reason, including by judicial action, absent a Service Plan Amendment; and (ii) are, together with all other requirements of State law, included in the “political or governmental powers” reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the “regulatory or electoral approval necessary under applicable non-bankruptcy law” as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

## **XIII. ANNUAL REPORTS AND BOARD MEETINGS**

### **A. General.**

The District shall be responsible for submitting an annual report to the City Clerk no later than September 1st of each year following the year in which the Order and Decree creating the District has been issued. The annual report may be made available to the public on the City's website.

### **B. Board Meetings.**

The District's board of directors shall hold at least one public board meeting in three of the four quarters of each calendar year, beginning in the first full calendar year after the District's creation. Notice for each of these meetings shall be given in accordance with the requirements of the Special District Act and other applicable State law. This meeting requirement shall not apply until there is at least one End User of property within the District. Also, this requirement shall no longer apply when a majority of the directors on the District's Board are End Users.

### **C. Report Requirements.**

Unless waived in writing by the City Manager, the District annual report must include the following in the Annual Report:

1. Narrative

A narrative summary of the progress of the District in implementing its Service Plan for the report year.

2. Financial Statements

Except when exemption from audit has been granted for the report year under the Local Government Audit Law, the audited financial statements of the District for the report year including a statement of financial condition (i.e., balance sheet) as of December 31 of the report year and the statement of operation (i.e., revenue and expenditures) for the report year.

3. Capital Expenditures

Unless disclosed within a separate schedule to the financial statements, a summary of the capital expenditures incurred by the District in development of improvements

in the report year.

4. Financial Obligations

Unless disclosed within a separate schedule to the financial statements, a summary of financial obligations of the District at the end of the report year, including the amount of outstanding Debt, the amount and terms of any new District Debt issued in the report year, the total assessed valuation of all Taxable Property within the Service Area as of January 1 of the report year and the current total District mill levy pledged to Debt retirement in the report year.

5. Board Contact Information

The names and contact information of the current directors on the District's Board, any District manager and the attorney for the District shall be listed in the report. The District's current office address, phone number, email address and any website address shall also be listed in the report.

6. Other Information

Any other information deemed relevant by the City Council or deemed reasonably necessary by the City Manager.

**D. Reporting of Significant Events.**

The annual report shall also include information as to any of the following that occurred during the report year:

1. Boundary changes made or proposed to the District Boundaries as of December 31 of the report year.
2. Intergovernmental Agreements with other governmental entities, either entered into or proposed as of December 31 of the report year.
3. Copies of the District's rules and regulations, if any, or substantial changes to the District's rules and regulations as of December 31 of the report year.
4. A summary of any litigation which involves the District's Public Improvements as of December 31 of the report year.
5. A list of all facilities and improvements constructed by the District that have been dedicated to and accepted by the City as of December 31 of the report year.
6. Notice of any uncured events of default by the District, which continue beyond a ninety (90) day period, under any Debt instrument.
7. Any inability of the District to pay its obligations as they come due, in accordance with the terms of such obligations, which continue beyond a ninety (90) day period.

**E. Failure to Submit.**

In the event the annual report is not timely received by the City Clerk or is not fully responsive, notice of such default shall be given to the District Board at its last known address. The failure of the District to file the annual report within forty-five (45) days of the mailing of such default notice by the City Clerk may constitute a material modification of the Service Plan, at the

discretion of the City Manager.

#### **XIV. SERVICE PLAN AMENDMENTS**

This Service Plan is general in nature and does not include specific detail in some instances. The Service Plan has been designed with sufficient flexibility to enable the District to provide required improvements, services and facilities under evolving circumstances without the need for numerous amendments. Modification of the general types of improvements and facilities making up the Public Improvements, and changes in proposed configurations, locations or dimensions of the Public Improvements, shall be permitted to accommodate development needs provided such Public Improvements are consistent with the then-current Approved Development Plans for the Project and any agreement approved by the City Council pursuant to Section IV.B of this Service Plan. Any action of the District, which is a material modification of this Service Plan requiring a Service Plan Amendment as provided in Section XV of this Service Plan or that does not comply with provisions of this Service Plan, shall be deemed to be a material modification to this Service Plan unless otherwise expressly provided in this Service Plan. All other departures from the provisions of this Service Plan shall be considered on a case-by-case basis as to whether such departures are a material modification under this Service Plan or the Special District Act.

#### **XV. MATERIAL MODIFICATIONS**

Material modifications to this Service Plan may be made only in accordance with C.R.S. Section 32-1-207 as a Service Plan Amendment. No modification shall be required for an action of the District that does not materially depart from the provisions of this Service Plan, unless otherwise provided in this Service Plan.

Departures from the Service Plan that constitute a material modification requiring a Service Plan Amendment include, without limitation:

1. Actions or failures to act that create materially greater financial risk or burden to the taxpayers of the District;
2. Performance of a service or function, construction of an improvement, or acquisition of a major facility that is not closely related to an improvement, service, function or facility authorized in the Service Plan;
3. Failure to perform a service or function, construct an improvement or acquire a facility required by the Service Plan; and
4. Failure to comply with any of the preconditions, prohibitions, limitations and restrictions of this Service Plan.

#### **XVI. DISSOLUTION**

Upon independent determination by the City Council that the purposes for which the District was created have been accomplished, the District shall file a petition in district court for dissolution as provided in the Special District Act. In no event shall dissolution occur until the District has provided for the payment or discharge of all of its outstanding indebtedness and other financial obligations as required pursuant to State law.

In addition, if within three (3) years from the date of the City Council's approval of this Service Plan no agreement contemplated under Section IV.B of this Service Plan has been entered into by the City with the District and/or any Developer, despite the parties conducting good faith

negotiations attempting to do so, the City may opt to pursue the remedies available to it under C.R.S. Section 32-1-701(3) in order to compel the District to dissolve in a prompt and orderly manner. In such event: (i) the limited purposes and powers of the District, as authorized herein, shall automatically terminate and be expressly limited to taking only those actions that are reasonably necessary to dissolve; (ii) the Board of the District will be deemed to have agreed with the City regarding its dissolution without an election pursuant to C.R.S. §32-1-704(3)(b); (iii) the District shall take no action to contest or impede the dissolution of the District and shall affirmatively and diligently cooperate in securing the final dissolution of the District, and (iv) subject to the statutory requirements of the Special District Act, the District shall thereupon dissolve.

## **XVII. SANCTIONS**

Should the District undertake any act without obtaining prior City Council approval or consent or City Manager approval or consent under this Service Plan, that constitutes a material modification to this Service Plan requiring a Service Plan Amendment as provided herein or under the Special Districts Act, or that does not otherwise comply with the provisions of this Service Plan, the City Council may impose one (1) or more of the following sanctions, as it deems appropriate:

1. Exercise any applicable remedy under the Special District Act;
2. Withhold the issuance of any permit, authorization, acceptance or other administrative approval, or withhold any cooperation, necessary for the District's development or construction or operation of improvements or provision of services;
3. Exercise any legal remedy under the terms of any intergovernmental agreement under which the District is in default; or
4. Exercise any other legal and equitable remedy available under the law, including seeking prohibitory and mandatory injunctive relief against the District, to ensure compliance with the provisions of the Service Plan or applicable law.

## **XVIII. INTERGOVERNMENTAL AGREEMENT WITH CITY**

The District and the City shall enter into an intergovernmental agreement, the form of which shall be in substantially the form attached hereto as **Exhibit "L"** and incorporated by reference (the "IGA"). However, the City and the District may include such additional details, terms and conditions as they deem necessary in connection with the Project and the construction and funding of the Public Improvements and the Public Benefits. The District's Board shall approve the IGA at its first board meeting, unless agreed otherwise by the City Manager. Entering into this IGA is a precondition to the District issuing any Debt or imposing any Debt Mill Levy, Operating Mill Levy or Fee for the payment of Debt under this Service Plan. In addition, failure of the District to enter into the IGA as required herein shall constitute a material modification of this Service Plan and subject to the sanctions in Article XVII of this Service Plan. The City and the District may amend the IGA from time-to-time provided such amendment is not in conflict with any provision of this Service Plan.

**XIX. CONCLUSION**

It is submitted that this Service Plan, as required by C.R.S. Section 32-1-203(2), establishes that:

1. There is sufficient existing and projected need for organized service in the Service Area to be served by the District;
2. The existing service in the Service Area to be served by the District is inadequate for present and projected needs;
3. The District is capable of providing economical and sufficient service to the Service Area; and
4. The Service Area does have, and will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

**XX. RESOLUTION OF APPROVAL**

The District agrees to incorporate the City Council's resolution approving this Service Plan, including any conditions on any such approval, into the copy of the Service Plan presented to the District Court for and in Larimer County, Colorado.

**EXHIBIT C – SERVICE PLAN TEMPLATE FOR MULTIPLE DISTRICTS**



# City of Fort Collins

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Title 32 Metropolitan District Model Service Plan for Multiple Districts

REVISED 2-5-19

**This model service plan template should be referenced in conjunction with the City of Fort Collins Policy for Reviewing Service Plans for Metropolitan Districts.**

# Table of Contents

<b>INTRODUCTION</b> .....	6
Purpose and Intent.....	6
Need for District .....	7
Objective of the City regarding District’s Service Plan.....	7
Relevant Intergovernmental Agreements.....	7
City Approvals .....	7
<b>DEFINITIONS</b> .....	7
<b>BOUNDARIES AND LOCATION</b> .....	10
<b>DESCRIPTION OF PROJECT, PLANNED DEVELOPMENT, PUBLIC BENEFIT &amp; ASSESSED VALUATION</b> .....	11
Project and Planned Development.....	11
Public Benefits .....	11
Assessed Valuation.....	12
<b>INCLUSION OF LAND IN THE SERVICE AREA</b> .....	12
<b>DISTRICT GOVERNANCE</b> .....	12
<b>AUTHORIZED AND PROHIBITED POWERS</b> .....	12
General Grant of Powers .....	12
Prohibited Improvements and Services and other Restrictions and Limitations.....	13
Eminent Domain Restriction .....	13
Fee Limitation .....	13
Operations and Maintenance.....	13
Fire Protection Restriction .....	13
Public Safety Services Restriction.....	14
Grants from Governmental Agencies Restriction.....	14
Golf Course Construction Restriction.....	14
Television Relay and Translation Restriction.....	14
Potable Water and Wastewater Treatment Facilities .....	14
Sales and Use Tax Exemption Limitation.....	14

Sub-district Restriction .....	15
Privately Placed Debt Limitation .....	15
Special Assessments .....	15
<b>PUBLIC IMPROVEMENTS AND ESTIMATED COSTS .....</b>	<b>15</b>
Development Standards.....	16
Contracting.....	16
Land Acquisition and Conveyance.....	16
Equal Employment and Discrimination .....	17
<b>FINANCIAL PLAN/PROPOSED DEBT .....</b>	<b>17</b>
Financial Plan .....	17
Mill Levies .....	17
Aggregate Mill Levy Maximum.....	17
Regional Mill Levy Not Included in Other Mill Levies.....	18
Operating Mill Levy.....	18
Gallagher Adjustments .....	18
Excessive Mill Levy Pledges.....	18
Refunding Debt.....	18
Maximum Debt Authorization.....	18
Maximum Voted Interest Rate and Underwriting Discount .....	19
Interest Rate and Underwriting Discount Certification.....	19
Disclosure to Purchasers .....	19
External Financial Advisor .....	19
Disclosure to Debt Purchasers .....	20
Security for Debt .....	20
TABOR Compliance .....	20
District's Operating Costs.....	20
<b>Regional Improvements.....</b>	<b>20</b>
Regional Mill Levy Authority .....	21
Regional Mill Levy Imposition.....	21
City Notice Regarding Regional Improvements.....	21

Regional Improvements Authorized Under Service Plan.....	21
Expenditure of Regional Mill Levy Revenues.....	21
Intergovernmental Agreement.....	21
No Intergovernmental Agreement .....	21
Regional Mill Levy Term.....	21
Completion of Regional Improvements.....	22
City Authority to Require Imposition.....	22
Regional Mill Levy Not Included in Other Mill Levies.....	22
Gallagher Adjustment .....	22
<b>City Fees .....</b>	<b>22</b>
<b>Bankruptcy Limitations .....</b>	<b>22</b>
<b>Annual Reports and Board Meetings .....</b>	<b>22</b>
General .....	22
Board Meetings .....	23
Report Requirements.....	23
Narrative .....	23
Financial Statements .....	23
Capital Expenditures .....	23
Financial Obligations.....	23
Board Contact Information.....	23
Other Information .....	23
Reporting of Significant Events.....	24
Failure to Submit.....	24
<b>Service Plan Amendments .....</b>	<b>24</b>
<b>Material Modifications.....</b>	<b>24</b>
<b>Dissolution.....</b>	<b>25</b>
<b>Sanctions.....</b>	<b>25</b>
<b>Intergovernmental Agreement with City .....</b>	<b>26</b>
<b>Conclusion.....</b>	<b>26</b>
<b>Resolution of Approval.....</b>	<b>26</b>

## **I. INTRODUCTION**

### **A. Purpose and Intent.**

The Districts, which are intended to be independent units of local government separate and distinct from the City, are governed by this Service Plan, the Special District Act and other applicable State law. Except as may otherwise be provided by State law, City Code or this Service Plan, the Districts' activities are subject to review and approval by the City Council only insofar as they are a material modification of this Service Plan under C.R.S. Section 32-1-207 of the Special District Act.

It is intended that the Districts will provide all or part of the Public Improvements for the Project for the use and benefit of all anticipated inhabitants and taxpayers of the District. The primary purpose of the Districts will be to finance the construction of these Public Improvements by the issuance of Debt.

It is also intended under this Service Plan that no District shall be authorized to issue any Debt, impose a Debt Mill Levy, Operating Mill Levy or impose any Fees for payment of the Debt unless and until the delivery of applicable Public Benefits described in Section IV.B. of this Service Plan has been secured in accordance with Section IV.B. of this Service Plan.

It is further intended that this Service Plan also requires the Districts to pay a portion of the cost of the Regional Improvements, as provided in X of this Service Plan, as part of ensuring that those privately-owned properties to be developed in the District that benefit from the Regional Improvements pay a reasonable share of the associated costs.

The Districts are not intended to provide ongoing operations and maintenance services except as expressly authorized in this Service Plan.

It is the intent of the Districts to dissolve upon payment or defeasance of all Debt incurred or upon a court determination that adequate provision has been made for the payment of all Debt, except that if the Districts are authorized in this Service Plan to perform continuing operating or maintenance functions, the Districts shall continue in existence for the sole purpose of providing such functions and shall retain only the powers necessary to impose and collect the taxes or Fees authorized in this Service Plan to pay for the costs of those functions.

It is intended that the Districts shall comply with the provisions of this Service Plan and that the City may enforce any non-compliance with these provisions as provided in Section XVII of this Service Plan.

## **B. Need for the Districts.**

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

## **C. Objective of the City Regarding Districts' Service Plan.**

The City's objective in approving this Service Plan is to authorize the Districts to provide for the planning, design, acquisition, construction, installation, relocation and redevelopment of the Public Improvements from the proceeds of Debt to be issued by the Districts but in doing so, to also establish in this Service Plan the means by which both the Regional Improvements and the Public Benefits will be provided. Except as specifically provided in this Service Plan, all Debt is expected to be repaid by taxes and Fees imposed and collected for no longer than the Maximum Debt Mill Levy Imposition Term for residential properties, and at a tax mill levy no higher than the Maximum Debt Mill Levy. Fees imposed for the payment of Debt shall be due no later than upon the issuance of a building permit unless a majority of the Board which imposes such a Fee is composed of End Users as provided in Section VII.B.2 of this Service Plan. Debt which is issued within these parameters and, as further described in the Financial Plan, will insulate property owners from excessive tax and Fee burdens to support the servicing of the Debt and will result in a timely and reasonable discharge of the Debt.

## **D. Relevant Intergovernmental Agreements.**

***[Add description of any relevant intergovernmental agreements.]***

## **E. City Approvals.**

Any provision in this Service Plan requiring "City" or "City Council" approval or consent shall require the City Council's prior written approval or consent exercised in its sole discretion. Any provision in this Service Plan requiring "City Manager" approval or consent shall require the City Manager's prior written approval or consent exercised in the City Manager's sole discretion.

## **II. DEFINITIONS**

In this Service Plan, the following words, terms and phrases which appear in a capitalized format shall have the meaning indicated below, unless the context clearly requires otherwise:

Aggregate Mill Levy: means the total mill levy resulting from adding the Districts' Debt Mill Levy and Operating Mill Levy. The Districts' Aggregate Mill Levy does not include any Regional Mill Levy that the District may levy.

Aggregate Mill Levy Maximum: means the maximum number of combined mills that the

Districts may each levy for their Debt Mill Levy and Operating Mill Levy, at a rate not to exceed the limitation set in Section IX.B.1 of this Service Plan.

Approved Development Plan: means a City-approved development plan or other land-use application required by the City Code for identifying, among other things, public improvements necessary for facilitating the development of property within the Service Area, which plan shall include, without limitation, any development agreement required by the City Code.

Board or Boards: means the duly constituted Board or Boards of Directors of the Districts, or the boards of directors of all of the Districts in the aggregate.

Bond, Bonds or Debt: means bonds, notes or other multiple fiscal year financial obligations for the payment of which a District has promised to impose an ad valorem property tax mill levy, Fees or other legally available revenue. Such terms do not include contracts through which a District procures or provides services or tangible property.

City: means the City of Fort Collins, Colorado, a home rule municipality.

City Code: means collectively the City's Municipal Charter, Municipal Code, Land Use Code and ordinances as all are now existing and hereafter amended.

City Council: means the City Council of the City.

City Manager: means the City Manager of the City.

C.R.S.: means the Colorado Revised Statutes.

Debt Mill Levy: means a property tax mill levy imposed on Taxable Property by the Districts for the purpose of paying Debt as authorized in this Service Plan, at a rate not to exceed the limitations set in Section IX.B of this Service Plan.

Developer: means a person or entity that is the owner of property or owner of contractual rights to property in the Service Area that intends to develop the property.

District: means any one of the [**Names of Districts**], individually, organized under and governed by this Service Plan.

Districts: means the [**Names of Districts**], collectively, organized and governed under this Service Plan.

District No. 1 Boundaries: means the boundaries of the area legally described in **Exhibit "A-1"** attached hereto and incorporated by reference and as depicted in the District No. 1 Boundary Map.

District No. 2 Boundaries: means the boundaries of the area legally described in **Exhibit "A-2"** attached hereto and incorporated by reference and as depicted in the District No. 2 Boundary Map.

District No. 3 Boundaries: means the boundaries of the area legally described in **Exhibit "A-3"** attached hereto and incorporated by reference and as depicted in the District No. 3 Boundary Map.

District No. 1 Boundary Map: means the map of the District No. 1 Boundaries attached hereto as **Exhibit "B-1"** and incorporated by reference.

District No. 2 Boundary Map: means the map of the District No. 2 Boundaries attached hereto as **Exhibit “B-2”** and incorporated by reference.

District No. 3 Boundary Map: means the map of the District No. 3 Boundaries attached hereto as **Exhibit “B-3”** and incorporated by reference.

End User: means any owner, or tenant of any owner, of any property within the Districts, who is intended to become burdened by the imposition of ad valorem property taxes and/or Fees. By way of illustration, a resident homeowner, renter, commercial property owner or commercial tenant is an End User. A Developer and any person or entity that constructs homes or commercial structures is not an End User.

External Financial Advisor: means a consultant that: (1) is qualified to advise Colorado governmental entities on matters relating to the issuance of securities by Colorado governmental entities including matters such as the pricing, sales and marketing of such securities and the procuring of bond ratings, credit enhancement and insurance in respect of such securities; (2) shall be an underwriter, investment banker, or individual listed as a public finance advisor in the Bond Buyer’s Municipal Market Place or, in the City’s sole discretion, other recognized publication as a provider of financial projections; and (3) is not an officer or employee of the Districts or an underwriter of the Districts’ Debt.

Fees: means the fees, rates, tolls, penalties and charges the Districts are authorized to impose and collect under this Service Plan.

Financial Plan: means the Financial Plan described in Section IX of this Service Plan which was prepared or approved by [Name], an External Financial Advisor, in accordance with the requirements of this Service Plan and describes (a) how the Public Improvements are to be financed; (b) how the Debt is expected to be incurred; and (c) the estimated operating revenue derived from property taxes and any Fees for the first budget year through the year in which all District Debt is expected to be defeased or paid in the ordinary course.

Inclusion Area Boundaries: means the boundaries of the property that is anticipated to be added to the Districts’ Boundaries after the Districts’ organization, which property is legally described in **Exhibit “C”** attached hereto and incorporated by reference and depicted in the map attached hereto as **Exhibit “D”** and incorporated herein by reference.

Maximum Debt Authorization: means the total Debt the Districts are permitted to issue as set forth in Section IX.B.7 of this Service Plan.

Maximum Debt Mill Levy Imposition Term: means the maximum term during which the Districts’ Debt Mill Levy may be imposed on property developed in the Service Area for residential use, which shall include residential properties in mixed-use developments. This maximum term shall not exceed forty (40) years from December 31 of the year this Service Plan is approved by City Council

Operating Mill Levy: means a property tax mill levy imposed on Taxable Property for the purpose of funding the Districts’ administration, operations and maintenance as authorized in this Service Plan, including, without limitation, repair and replacement of Public Improvements, and imposed at a rate not to exceed the limitations set in Section IX.B of this Service Plan.

Planned Development: means the private development or redevelopment of the properties

in the Service Area, commonly referred to as the **[Name]** development, under an Approved Development Plan.

**Project:** means the installation and construction of the Public Improvements for the Planned Development.

**Public Improvements:** means the improvements and infrastructure the Districts are authorized by this Service Plan to fund and construct for the Planned Development to serve the future taxpayers and inhabitants of the Districts, except as specifically prohibited or limited in this Service Plan. Public Improvements shall include, without limitation, the improvements and infrastructure described in **Exhibit “E”** attached hereto and incorporated by reference. Public Improvements do not include Regional Improvements.

**Regional Improvements:** means any regional public improvement identified by the City, as provided in Section X of this Service Plan, for funding, in whole or part, by a Regional Mill Levy levied by the Districts, including, without limitation, the public improvements described in **Exhibit “F”** attached hereto and incorporated by reference.

**Regional Mill Levy:** means the property tax mill levy imposed on Taxable Property for the purpose of planning, designing, acquiring, funding, constructing, installing, relocating and/or redeveloping the Regional Improvements and/or to fund the administration and overhead costs related to the Regional Improvements as provided in Section X of this Service Plan.

**Service Area:** means the property collectively within the District No 1 Boundaries, the District No. 2 Boundaries, the District No. 3 Boundaries and the property in the Inclusion Area Boundaries when it is added, in whole or part.

**Special District Act:** means Article 1 in Title 32 of the Colorado Revised Statutes, as amended.

**Service Plan:** means this service plan for the Districts approved by the City Council.

**Service Plan Amendment:** means a material modification of the Service Plan approved by the City Council in accordance with the Special District Act, this Service Plan and any other applicable law.

**State:** means the State of Colorado.

**Taxable Property:** means the real and personal property within the Service Area that will be subject to the ad valorem property taxes imposed by the Districts.

**TABOR:** means Colorado’s Taxpayer’s Bill of Rights in Article X, Section 20 of the Colorado Constitution.

**Vicinity Map:** means the map attached hereto as **Exhibit “G”** and incorporated by reference depicting the location of the Service Area within the regional area surrounding it.

### **III. BOUNDARIES AND LOCATION**

The Service Area, without the Inclusion Area Boundaries, includes approximately **[Insert Number]** acres and the total area proposed to be included in the Inclusion Area Boundaries is approximately **[Insert Number]** acres. A legal description and map of each of the Districts’ boundaries are attached hereto as **Exhibits A-1, A-2 and A-3** and **Exhibit B-1, B-2 and B-3**, respectively. A legal description and map of the Inclusion Area Boundaries are attached hereto as **Exhibit C** and **Exhibit D**, respectively. It is anticipated that the boundaries of the Districts may

expand or contract from time to time as the Districts undertake inclusions or exclusions pursuant to the Special District Act, subject to the limitations set forth in this Service Plan. The location of the Service Area is depicted in the vicinity map attached as **Exhibit G**.

#### **IV. DESCRIPTION OF PROJECT, PLANNED DEVELOPMENT, PUBLIC BENEFITS & ASSESSED VALUATION**

##### **A. Project and Planned Development.**

*[Describe the nature of the Project and Planned Development, estimated population at build out, timeline for development, estimated assessed value after 5 and 10 years and estimated sales tax revenue. Also, please identify all plans, including but not limited to Citywide Plans, Small Area Plans, and General Development Plans that apply to any portion of the Districts' Boundaries or Inclusion Area Boundaries and describe how the Project and Planned Development are consistent with the applicable plans. Please state if the proposed Districts are to be located within an urban renewal area and if the proposed development is anticipating the use of tax increment financing (TIF). If the Districts intend to pursue TIF, please provide information on how the TIF financing will interact with the Districts' financing and how the necessary Public Improvements will be shared across the two funding sources.]*

Approval of this Service Plan by the City Council does not imply approval of the development of any particular land-use for any specific area within the Districts. Any such approval must be contained within an Approved Development Plan.

##### **B. Public Benefits.**

In addition to providing a portion of the Public Improvements and Regional Improvements, the organization of the Districts is intended to enable the Project to deliver a number of extraordinary direct and indirect public benefits, including: **[Describe Public Benefits]** (collectively, the "Public Benefits"). The Public Benefits to be enabled under this Service Plan are specifically described in **Exhibit J** attached hereto and incorporated herein by reference.

Therefore, notwithstanding any provision to the contrary contained in this Service Plan, no District shall be authorized to issue any Debt or to impose a Debt Mill Levy or any Fees for payment of Debt unless and until the delivery of the Public Benefits specifically related to the phase of the Planned Development of a portion of the Project to be financed with such Debt, Debt Mill Levy or Fees, are secured in a manner approved by the City Council. To satisfy this precondition to the issuance of Debt and to the imposition of the Debt Mill Levy and Fees, delivery of the Public Benefits for each phase of the Project and the Planned Development must be secured by the following methods, as applicable:

4. For any portion of the Public Benefits to be provided by one or more of the Districts, each such District must enter into an intergovernmental agreement with the City by either (i) agreeing to provide those Public Benefits as a legally enforceable multiple-fiscal year obligation of the District under TABOR, or (ii) securing performance of that

obligation with a surety bond, letter of credit or other security acceptable to the City, and any such intergovernmental agreement must be approved by the City Council by resolution;

5. For any portion of the Public Benefits to be provided by one or more Developers of the Planned Development, each such Developer must either (i) enter into a development agreement with the City under the Developer's applicable Approved Development Plan, which agreement must legally obligate the Developer to provide those Public Benefits before the City is required to issue building permits and/or certificates of occupancy for structures to be built under the Approved Development Plan for that phase of the Planned Development, or (ii) secure such obligations with a surety bond, letter of credit or other security acceptable to the City, and all such development agreements must be approved by the City Council by resolution; or
6. For any portion of the Public Benefits to be provided in part by one or more of the Districts and in part by one or more of the Developers, an agreement between the City and the affected District(s) and Developers that secures such Public Benefits as legally binding obligations using the methods described in subsections 1 and 2 above, and all such agreements must be approved by the City Council by resolution.

### **C. Assessed Valuation.**

The current assessed valuation of the Service Area is approximately [**Dollar Amount**] and, at build out, is expected to be [**Dollar Amount**]. These amounts are expected to be sufficient to reasonably discharge the Debt as demonstrated in the Financial Plan.

## **V. INCLUSION OF LAND IN THE SERVICE AREA**

Other than the real property in the Inclusion Area Boundaries, the District shall not include any real property into the Service Area without the City Council's prior written approval and in compliance with the Special District Act. Once the District has issued Debt, it shall not exclude real property from the Districts' boundaries without the prior written consent of the City Council.

## **VI. DISTRICT GOVERNANCE**

The Districts' Boards shall be comprised of persons who are a qualified "eligible electors" of the Districts as provided in the Special District Act. It is anticipated that over time, the End Users who are eligible electors will assume direct electoral control of the Districts' Boards as development of the Service Area progresses. The Districts shall not enter into any agreement by which the End Users' electoral control of any of the Boards is removed or diminished.

## **VII. AUTHORIZED AND PROHIBITED POWERS**

### **A. General Grant of Powers.**

The Districts shall have the power and authority to provide the Public Improvements, the Regional Improvements and related operation and maintenance services, within and without the Service Area, as such powers and authorities are described in the Special District Act, other applicable State law, common law and the Colorado Constitution, subject to the prohibitions, restrictions and limitations set forth in this Service Plan.

If, after the Service Plan is approved, any State law is enacted to grant additional powers or authority to metropolitan districts by amendment of the Special District Act or otherwise, such powers and authority shall not be deemed to be a part hereof. These new powers and authority shall only be available to be exercised by the Districts if the City Council first approves a Service Plan Amendment to specifically allow the exercise of such powers or authority by the Districts.

## **B. Prohibited Improvements and Services and other Restrictions and Limitations.**

The Districts' powers and authority under this Service Plan to provide Public Improvements and services and to otherwise exercise its other powers and authority under the Special District Act and other applicable State law, are prohibited, restricted and limited as hereafter provided. Failure to comply with these prohibitions, restrictions and limitations shall constitute a material modification under this Service Plan and shall entitle the City to pursue all remedies available at law and in equity as provided in Sections XVII and XVIII of this Service Plan:

### 1. Eminent Domain Restriction

The Districts shall not exercise their statutory power of eminent domain without first obtaining resolution approval from the City Council. This restriction on the Districts' exercise of the eminent domain power is being voluntarily acquiesced to by the Districts and shall not be interpreted in any way as a limitation on the Districts' sovereign powers and shall not negatively affect the Districts' status as a political subdivision of the State as conferred by the Special District Act.

### 2. Fee Limitation

Any Fees imposed for the repayment of Debt, if authorized by this Service Plan, shall not be imposed by the Districts upon or collected from an End User. In addition, Fees imposed for the payment of Debt shall not be imposed unless and until the requirements for securing the delivery of the District's portion of the Public Benefits have been satisfied in accordance with Section IV.B of this Service Plan. Notwithstanding the foregoing, this Fee limitation shall not apply to any Fee imposed to fund the operation, maintenance, repair or replacement of Public Improvements or the administration of the Districts.

### 3. Operations and Maintenance

The primary 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 City or other appropriate jurisdiction or owners' association in a manner consistent with the Approved Development Plan and the City Code, provided that nothing herein requires the City to accept a dedication. The Districts are specifically authorized to operate and maintain all or any part of the Public Improvements not otherwise conveyed or dedicated to the City or another appropriate governmental entity until the such time as the District is dissolved.

### 4. Fire Protection Restriction

The Districts are not authorized to plan for, design, acquire, construct, install, relocate,

redevelop, finance, own, operate or maintain fire protection facilities or services, unless such facilities and services are provided pursuant to an intergovernmental agreement with the Poudre Fire Authority. The authority to plan for, design, acquire, construct, install, relocate, redevelop, finance, own, operate or maintain fire hydrants and related improvements installed as part of the Project's water system shall not be limited by this subsection.

5. Public Safety Services Restriction

The Districts are not authorized to provide policing or other security services. However, the District may, pursuant to C.R.S. § 32-1-1004(7), as amended, furnish security services pursuant to an intergovernmental agreement with the City.

6. Grants from Governmental Agencies Restriction

The Districts shall not apply for grant funds distributed by any agency of the United States Government or the State without the prior written approval of the City Manager. This does not restrict the collection of Fees for services provided by the Districts to the United States Government or the State.

7. Golf Course Construction Restriction

Acknowledging that the City has financed public golf courses and desires to coordinate the construction of public golf courses within the City's boundaries, the Districts shall not be authorized to plan, design, acquire, construct, install, relocate, redevelop, finance, own, operate or maintain a golf course unless such activity is pursuant to an intergovernmental agreement with the City approved by the City Council.

8. Television Relay and Translation Restriction

The Districts are not authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, own, operate or maintain television relay and translation facilities and services, other than for the installation of conduit as a part of a street construction project, unless such facilities and services are provided pursuant to prior written approval from the City Council as a Service Plan Amendment.

9. Potable Water and Wastewater Treatment Facilities

Acknowledging that the City and other existing special districts operating within the City currently own and operate treatment facilities for potable water and wastewater that are available to provide services to the Service Area, the Districts shall not plan, design, acquire, construct, install, relocate, redevelop, finance, own, operate or maintain such facilities without obtaining the City Council's prior written approval either by intergovernmental agreement or as a Service Plan Amendment.

10. Sales and Use Tax Exemption Limitation

The Districts shall not exercise any sales and use tax exemption otherwise available to the Districts under the City Code.

11. Sub-district Restriction

The Districts shall not create any sub-district pursuant to the Special District Act without the prior written approval of the City Council.

12. Privately Placed Debt Limitation

Prior to the issuance of any privately placed Debt, the Districts shall obtain the certification of an External Financial Advisor substantially as follows:

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

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

13. Special Assessments

The Districts shall not impose special assessments without the prior written approval of the City Council.

**VIII. PUBLIC IMPROVEMENTS AND ESTIMATED COSTS**

**Exhibit E** summarizes the type of Public Improvements that are projected to be constructed and/or installed by the Districts. The cost, scope, and definition of such Public Improvements may vary over time. The total estimated costs of Public Improvements, as set forth in **Exhibit H**, excluding any improvements paid for by the Regional Mill Levy necessary to serve the Planned Development, are approximately **[Dollar Amount]** in **[Year]** dollars and total approximately **[Dollar Amount]** in the anticipated year of construction dollars. The cost estimates are based upon preliminary engineering, architectural surveys, and reviews of the Public Improvements set forth in **Exhibit E** and include all construction cost estimates together with estimates of costs such as land acquisition, engineering services, legal expenses and other associated expenses. Maps of the anticipated location, operation, and maintenance of Public Improvements are attached hereto as **Exhibit I**. Changes in the Public Improvements or cost, which are approved by the City in an Approved Development Plan and any agreement approved by the City Council pursuant to Section IV.B of this Service Plan, shall not constitute a Service Plan Amendment. In addition, due to the preliminary nature of the Project, the City shall not be bound by this Service Plan in reviewing and approving the Approved Development Plan and the Approved Development Plan shall supersede the Service Plan with regard to the cost, scope, and definition of Public Improvements. Provided, however, any agreement approved and entered into under Section IV.B of this Service Plan for the provision of a Public Improvement that is also a Public Benefit, shall supersede both this Service Plan and the applicable Approved Development Plan.

Except as otherwise provided by an agreement approved under Section IV.B of this Service

Plan: (i) the design, phasing of construction, location and completion of Public Improvements will be determined by the Districts to coincide with the phasing and development of the Planned Development and the availability of funding sources; (ii) the Districts may, in their discretion, phase the construction, completion, operation, and maintenance of Public Improvements or defer, delay, reschedule, rephase, relocate or determine not to proceed with the construction, completion, operation, and maintenance of Public Improvements, and such actions or determinations shall not constitute a Service Plan Amendment; and (iii) the District shall also be permitted to allocate costs between such categories of the Public Improvements as deemed necessary in its discretion.

The Public Improvements shall be listed using an ownership and maintenance matrix in **Exhibit E**, either individually or categorically, to identify the ownership and maintenance responsibilities of the Public Improvements.

The City Code has development standards, contracting requirements and other legal requirements related to the construction and payment of public improvements and related to certain operation activities. Relating to these, the Districts shall comply with the following requirements:

#### **A. Development Standards.**

The Districts shall ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the City Code and of other governmental entities having proper jurisdiction, as applicable. The Districts directly, or indirectly through any Developer, will obtain the City's approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work. Unless waived by the City Council, the Districts shall be required, in accordance with the City Code, to post a surety bond, letter of credit, or other approved development security for any Public Improvements to be constructed by the Districts. Such development security may be released in the City Managers discretion when the constructing District has obtained funds, through Debt issuance or otherwise, adequate to insure the construction of the Public Improvements, unless such release is prohibited by or in conflict with any City Code provision, State law or any agreement approved and entered into under Section IV.B of this Service Plan. Any limitation or requirement concerning the time within which the City must review the Districts' proposals or applications for an Approved Development Plan or other land use approval is hereby waived by the Districts.

#### **B. Contracting.**

The Districts shall comply with all applicable State purchasing, public bidding and construction contracting requirements and limitations.

#### **C. Land Acquisition and Conveyance.**

The purchase price of any land or improvements acquired by the Districts from the Developer shall be no more than the then-current fair market value as confirmed by an independent MAI appraisal for land and by an independent professional engineer for improvements. Land, easements, improvements and facilities conveyed to the City shall be free and clear of all liens, encumbrances and easements, unless otherwise approved by the City Manager prior to conveyance. All conveyances to the City shall be by special warranty deed, shall be conveyed at no cost to the City, shall include an ALTA title policy issued to the City, shall meet the environmental standards of the City and shall comply with any other conveyance prerequisites required in the City Code.

## **D. Equal Employment and Discrimination.**

In connection with the performance of all acts or activities hereunder, the Districts shall not discriminate against any person otherwise qualified with respect to its hiring, discharging, promoting or demoting or in matters of compensation solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability, and further shall insert the foregoing provision in contracts or subcontracts entered into by the Districts to accomplish the purposes of this Service Plan.

## **IX. FINANCIAL PLAN/PROPOSED DEBT**

This Section IX of the Service Plan describes the nature, basis, method of funding and financing limitations associated with the acquisition, construction, completion, repair, replacement, operation and maintenance of Public Improvements.

### **A. Financial Plan.**

The Districts' Financial Plan, attached as **Exhibit J** and incorporated by reference, reflects the Districts' anticipated schedule for incurring Debt to fund Public Improvements in support of the Project. The Financial Plan also reflects the schedule of all anticipated revenues flowing to the Districts derived from the Districts' mill levies, Fees imposed by the Districts, specific ownership taxes, and all other anticipated legally available revenues. The Financial Plan is based on economic, political and industry conditions as they presently exist and reasonable projections and estimates of future conditions. These projections and estimates are not to be interpreted as the only method of implementation of the District's goals and objectives but rather a representation of one feasible alternative. Other financial structures may be used so long as they are in compliance with this Service Plan. The Financial Plan incorporates all of the provisions of this Article IX.

Based upon the assumptions contained therein, the Financial Plan projects the issuance of Bonds to fund Public Improvements and anticipated Debt repayment based on the development assumptions and absorptions of the property in the Service Area by End Users. The Financial Plan anticipates that the Districts will acquire, construct, and complete all Public Improvements needed to serve the Service Area.

The Financial Plan demonstrates that the Districts will have the financial ability to discharge all Debt to be issued as part of the Financial Plan on a reasonable basis. Furthermore, the Districts will secure the certification of an External Financial Advisor who will provide an opinion as to whether such Debt issuances are in the best interest of the Districts at the time of issuance.

### **B. Mill Levies.**

It is anticipated that the Districts will impose a Debt Mill Levy and an Operating Mill Levy on all property within the Service Area. In doing so, the following shall apply:

#### **1. Aggregate Mill Levy Maximum**

The Aggregate Mill Levy shall not exceed in any year the Aggregate Mill Levy Maximum, which is fifty (50) mills.

2. Regional Mill Levy Not Included in Other Mill Levies

The Regional Mill Levy shall not be counted against the Aggregate Mill Levy Maximum.

3. Operating Mill Levy

The Districts may each impose an Operating Mill Levy of up to fifty (50) mills until the Districts imposes a Debt Mill Levy. Once a District imposes a Debt Mill Levy of any amount, that District's Operating Mill Levy shall not exceed ten (10) mills at any point.

4. Gallagher Adjustments

In the event the State's method of calculating assessed valuation for the Taxable Property changes after January 1, **[current year]** or any constitutionally mandated tax credit, cut or abatement, the Districts' Aggregate Mill Levy, Debt Mill Levy, Operating Mill Levy, and Aggregate Mill Levy Maximum, amounts herein provided may be increased or decreased to reflect such changes; such increases or decreases shall be determined by the Districts' Boards in good faith so that to the extent possible, the actual tax revenues generated by such mill levies, as adjusted, are neither enhanced nor diminished as a result of such change occurring after January 1, **[current year]**. For purposes of the foregoing, a change in the ratio of actual valuation to assessed valuation will be a change in the method of calculating assessed valuation.

5. Excessive Mill Levy Pledges

Any Debt issued with a mill levy pledge, or which results in a mill levy pledge, that exceeds the Aggregate Mill Levy Maximum or the Maximum Debt Mill Levy Imposition Term, shall be deemed a material modification of this Service Plan and shall not be an authorized issuance of Debt unless and until such material modification has been approved by a Service Plan Amendment.

6. Refunding Debt

The Maximum Debt Mill Levy Imposition Term may be exceeded for Debt refunding purposes if: (1) a majority of the issuing District's Board is composed of End Users and have voted in favor of a refunding of a part or all of the Debt; or (2) such refunding will result in a net present value savings.

7. Maximum Debt Authorization

The Districts anticipate approximately **[Dollar Amount]** in project costs in **[Year]** dollars as set forth in **Exhibit E** and anticipate issuing approximately **[Dollar Amount]** in Debt to pay such costs as set forth in **Exhibit J**, which Debt issuance amount shall be the amount of the Maximum Debt Authorization. In addition, the District shall not issue any Debt unless and until delivery of the District's Public Benefits have been secured as required in Section IV.B of this Service Plan. The Districts collectively shall not issue Debt in excess of the Maximum Debt Authorization. Bonds, loans, notes or other instruments which have been refunded shall not count against the Maximum Debt Authorization. The Districts must obtain from the City Council a Service Plan

Amendment prior to issuing Debt in excess of the Maximum Debt Authorization.

**C. Maximum Voted Interest Rate and Underwriting Discount.**

The interest rate on any Debt is expected to be the market rate at the time the Debt is issued. The maximum interest rate on any Debt, including any defaulting interest rate, is not permitted to exceed Twelve Percent (12%). The maximum underwriting discount shall be three percent (3%). Debt, when issued, will comply with all relevant requirements of this Service Plan, the Special District Act, other applicable State law and federal law as then applicable to the issuance of public securities.

**D. Interest Rate and Underwriting Discount Certification.**

The Districts shall retain an External Financial Advisor to provide a written opinion on the market reasonableness of the interest rate on any Debt and any underwriter discount payed by the Districts as part of a Debt financing transaction. The Districts shall provide this written opinion to the City before issuing any Debt based on it.

**E. Disclosure to Purchasers.**

In order to notify future End Users who are purchasing residential lots or dwellings units in the Service Area that they will be paying, in addition to the property taxes owed to other taxing governmental entities, the property taxes imposed under the Debt Mill Levy, the Operating Mill Levy and possibly the Regional Mill Levy, the Districts shall not be authorized to issue any Debt under this Service Plan until there is included in the Developer's Approved Development Plan provisions that require the following:

1. That the Developer, and its successors and assigns, shall prepare and submit to the City Manager for his approval a disclosure notice in substantially the form attached hereto as **Exhibit K** (the "Disclosure Notice");
2. That when the Disclosure Notice is approved by the City Manager, the Developer shall record the Disclosure Notice in the Larimer County Clerk and Records Office; and
3. That the approved Disclosure Notice shall be provided by the Developer, and by its successors and assigns, to each potential End User purchaser of a residential lot or dwelling unit in the Service Area before that purchaser enters into a written agreement for the purchase and sale of that residential lot or dwelling unit.

**F. External Financial Advisor.**

An External Financial Advisor shall be retained by the Districts to provide a written opinion as to whether any Debt issuance is in the best interest of the Districts once the total amount of Debt issued by the Districts exceeds Five Million Dollars (\$5,000,000). The External Financial Advisor is to provide advice to the Districts' Boards regarding the proposed terms and whether Debt conditions are reasonable based upon the status of development within the Districts, the projected tax base increase in the Districts, the security offered and other considerations as may be identified by the Advisor. The Districts shall include in the transcript of any Bond transaction, or other appropriate financing documentation for related Debt instrument, a signed letter from the External Financial Advisor providing an official opinion on the structure of the Debt, stating the Advisor's opinion that the cost of issuance, sizing, repayment term, redemption feature, couponing, credit spreads, payment, closing date, and other material transaction details of the proposed Debt serve

the best interest of the Districts.

Debt shall not be undertaken by the Districts if found to be unreasonable by the External Financial Advisor.

#### **G. Disclosure to Debt Purchasers.**

Any Debt of the Districts shall set forth a statement in substantially the following form:

“By acceptance of this instrument, the owner of this Debt agrees and consents to all of the limitations with respect to the payment of the principal and interest on this Debt contained herein, in the resolution of the District authorizing the issuance of this Debt and in the Service Plan of the District. This Debt is not and cannot be a Debt of the City of Fort Collins”

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

#### **H. Security for Debt.**

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

#### **I. TABOR Compliance.**

The Districts shall comply with the provisions of TABOR. In the discretion of the Districts’ Boards, the Districts may set up other qualifying entities to manage, fund, construct and operate facilities, services, and programs. To the extent allowed by law, any entity created by a District will remain under the control of the District’s Board.

#### **J. Districts’ Operating Costs.**

The estimated cost of acquiring land, engineering services, legal services and administrative services, together with the estimated costs of the Districts’ organization and initial operations, are anticipated to be [**Dollar Amount**], which will be eligible for reimbursement from Debt proceeds.

In addition to the capital costs of the Public Improvements, the Districts will require operating funds for administration and to plan and cause the Public Improvements to be operated and maintained. The first year’s operating budget is estimated to be [**Dollar Amount**].

Ongoing administration, operations and maintenance costs may be paid from property taxes collected through the imposition of an Operating Mill Levy, subject to the limitations set forth in Section IX.B.3, as well as from other revenues legally available to the Districts.

#### **X. REGIONAL IMPROVEMENTS**

The Districts shall be authorized to provide for the planning, design, acquisition, funding, construction, installation, relocation, redevelopment, administration and overhead costs related to the provision of Regional Improvements. At the discretion of the City, the Districts shall impose a Regional Improvement Mill Levy on all property within the Districts’ Boundaries and any

properties thereafter included in the Boundaries under the following terms:

**A. Regional Mill Levy Authority.**

The Districts shall seek the authority to impose an additional Regional Mill Levy of five (5) mills as part of the Districts' initial TABOR election. The Districts shall also seek from the electorate in that election the authority under TABOR to enter into an intergovernmental agreement with the City obligating the Districts to pay as a multiple-fiscal year obligation the proceeds from the Regional Mill Levy to the City. Obtaining voter-approval of the Regional Mill Levy and this intergovernmental agreement shall be a precondition to the Districts issuing any Debt and imposing the Debt Mill Levy, the Operating Mill Levy and any Fees for the repayment of Debt under this Service Plan.

**B. Regional Mill Levy Imposition.**

The Districts shall impose the Regional Mill Levy at a rate not to exceed five (5) mills within one year of receiving written notice from the City Manager to the Districts requesting the imposition of the Regional Mill Levy and stating the mill levy rate to be imposed.

**C. City Notice Regarding Regional Improvements.**

Such notice from the City shall provide a description of the Regional Improvements to be constructed and an analysis explaining how the Regional Improvements will be beneficial to property owners within the Service Area. The City shall make a good faith effort to require planned developments that (i) are adjacent to the Service Area and (ii) will benefit from the Regional Improvement also impose a Regional Mill Levy, to the extent possible.

**D. Regional Improvements Authorized Under Service Plan.**

If so notified by the City Manager, the Regional Improvements shall be considered public improvements that the Districts would otherwise be authorized to design, construct, install re-design, re-construct, repair or replace pursuant to this Service Plan and applicable law.

**E. Expenditure of Regional Mill Levy Revenues.**

Revenue collected through the imposition of the Regional Mill Levy shall be expended as follows:

1. Intergovernmental Agreement

If the City and the Districts have executed an intergovernmental agreement concerning the Regional Improvements, then the revenue from the Regional Mill Levy shall be used in accordance with such agreement;

2. No Intergovernmental Agreement

If no intergovernmental agreement exists between the Districts and the City, then the revenue from the Regional Mill Levy shall be paid to the City, for use by the City in the planning, designing, constructing, installing, acquiring, relocating, redeveloping or financing of Regional Improvements which benefit the End Users of the Districts as prioritized and determined by the City.

**F. Regional Mill Levy Term.**

The imposition of the Regional Mill Levy shall not exceed a term of twenty-five (25) years from December 31 of the tax collection year after which the Regional Mill Levy is first imposed.

### **G. Completion of Regional Improvements.**

All Regional Improvements shall be completed prior to the end of the twenty-five (25) year Regional Mill Levy term.

### **H. City Authority to Require Imposition.**

The City's authority to require the initiation of the imposition of a Regional Mill Levy shall expire fifteen (15) years after December 31st of the year in which the Districts first imposes a Debt Mill Levy.

### **I. Regional Mill Levy Not Included in Other Mill Levies.**

The Regional Mill Levy imposed shall not be applied toward the calculation of the Aggregate Mill Levy Maximum.

### **J. Gallagher Adjustment.**

In the event the method of calculating assessed valuation is changed January 1, [*current year*], or any constitutionally mandated tax credit, cut or abatement, the Regional Mill Levy may be increased or shall be decreased to reflect such changes; such increases or decreases shall be determined by each of the Districts' Boards in good faith so that to the extent possible, the actual tax revenues generated by the Regional Mill Levy, as adjusted, are neither enhanced nor diminished as a result of such change occurring after January 1, [*current year*]. For purposes of the foregoing, a change in the ratio of actual valuation to assessed valuation will be a change in the method of calculating assessed valuation.

## **XI. CITY FEES**

The Districts shall pay all applicable City fees as required by the City Code.

## **XII. BANKRUPTCY LIMITATIONS**

All of the limitations contained in this Service Plan, including, but not limited to, those pertaining to the Aggregate Mill Levy Maximum, Maximum Debt Mill Levy Imposition Term and Fees, have been established under the authority of the City in the Special District Act to approve this Service Plan. It is expressly intended that by such approval such limitations: (i) shall not be set aside for any reason, including by judicial action, absent a Service Plan Amendment; and (ii) are, together with all other requirements of State law, included in the "political or governmental powers" reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the "regulatory or electoral approval necessary under applicable non-bankruptcy law" as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

## **XIII. ANNUAL REPORTS AND BOARD MEETINGS**

### **A. General.**

Each of the Districts shall be responsible for submitting an annual report to the City Clerk no later than September 1st of each year following the year in which the Order and Decree creating the Districts has been issued. The Districts may file a consolidated annual report. The annual report(s) may be made available to the public on the City's website.

## **B. Board Meetings.**

Each of the Districts' Boards shall hold at least one public board meeting in three of the four quarters of each calendar year, beginning in the first full calendar year after the Districts' creation. Notice for each of these meetings shall be given in accordance with the requirements of the Special District Act and other applicable State law. This meeting requirement shall not apply until there is at least one End User of property within the District. Also, this requirement shall no longer apply when a majority of the directors on the District's Board are End Users.

## **C. Report Requirements.**

Unless waived in writing by the City Manager, each of the Districts' annual reports must include the following:

1. Narrative

A narrative summary of the progress of the District in implementing the Service Plan for the report year.

2. Financial Statements

Except when exemption from audit has been granted for the report year under the Local Government Audit Law, the audited financial statements of the District for the report year including a statement of financial condition (i.e., balance sheet) as of December 31 of the report year and the statement of operation (i.e., revenue and expenditures) for the report year.

3. Capital Expenditures

Unless disclosed within a separate schedule to the financial statements, a summary of the capital expenditures incurred by the District in development of improvements in the report year.

4. Financial Obligations

Unless disclosed within a separate schedule to the financial statements, a summary of financial obligations of the District at the end of the report year, including the amount of outstanding Debt, the amount and terms of any new District Debt issued in the report year, the total assessed valuation of all Taxable Property within the Service Area as of January 1 of the report year and the current total District mill levy pledged to Debt retirement in the report year.

5. Board Contact Information

The names and contact information of the current directors on the District's Board, any District manager and the attorney for the District shall be listed in the report. The District's current office address, phone number, email address and any website address shall also be listed in the report.

6. Other Information

Any other information deemed relevant by the City Council or deemed reasonably necessary by the City Manager.

#### **D. Reporting of Significant Events.**

The annual report shall also include information as to any of the following that occurred during the report year:

1. Boundary changes made or proposed to the District's boundaries as of December 31 of the report year.
2. Intergovernmental Agreements with other governmental entities, either entered into or proposed as of December 31 of the report year.
3. Copies of the District's rules and regulations, if any, or substantial changes to the District's rules and regulations as of December 31 of the report year.
4. A summary of any litigation which involves the District's Public Improvements as of December 31 of the report year.
5. A list of all facilities and improvements constructed by the District that have been dedicated to and accepted by the City as of December 31 of the report year.
6. Notice of any uncured events of default by the District, which continue beyond a ninety (90) day period, under any Debt instrument.
7. Any inability of the District to pay its obligations as they come due, in accordance with the terms of such obligations, which continue beyond a ninety (90) day period.

#### **E. Failure to Submit.**

In the event the annual report is not timely received by the City Clerk or is not fully responsive, notice of such default shall be given to the District's Board at its last known address. The failure of the District to file the annual report within forty-five (45) days of the mailing of such default notice by the City Clerk may constitute a material modification of this Service Plan, in the discretion of the City Manager.

#### **XIV. SERVICE PLAN AMENDMENTS**

This Service Plan is general in nature and does not include specific detail in some instances. The Service Plan has been designed with sufficient flexibility to enable the Districts to provide required improvements, services and facilities under evolving circumstances without the need for numerous amendments. Modification of the general types of improvements and facilities making up the Public Improvements, and changes in proposed configurations, locations or dimensions of the Public Improvements, shall be permitted to accommodate development needs provided such Public Improvements are consistent with the then-current Approved Development Plans for the Project and any agreement approved by the City Council pursuant to Section IV.B of this Service Plan. Any action of one or more of the Districts, which is a material modification of this Service Plan requiring a Service Plan Amendment as provided in Section XV of this Service Plan or that does not comply with provisions of this Service Plan, shall be deemed to be a material modification to this Service Plan unless otherwise expressly provided in this Service Plan. All other departures from the provisions of this Service Plan shall be considered on a case-by-case basis as to whether such departures are a material modification under this Service Plan or the Special District Act.

#### **XV. MATERIAL MODIFICATIONS**

Material modifications to this Service Plan may be made only in accordance with C.R.S. Section 32-1-207 as a Service Plan Amendment. No modification shall be required for an action of

the Districts that does not materially depart from the provisions of this Service Plan, unless otherwise provided in this Service Plan.

Departures from the Service Plan that constitute a material modification requiring a Service Plan Amendment include, without limitation:

1. Actions or failures to act that create materially greater financial risk or burden to the taxpayers of any of the Districts;
2. Performance of a service or function, construction of an improvement, or acquisition of a major facility that is not closely related to an improvement, service, function or facility authorized in the Service Plan;
3. Failure to perform a service or function, construct an improvement or acquire a facility required by the Service Plan; and
4. Failure to comply with any of the prohibitions, limitations and restrictions of this Service Plan.

## **XVI. DISSOLUTION**

Upon independent determination by the City Council that the purposes for which the Districts were created have been accomplished, the Districts shall file a petition in district court for dissolution as provided in the Special District Act. In no event shall dissolution occur until the Districts have provided for the payment or discharge of all of its outstanding indebtedness and other financial obligations as required pursuant to State law.

In addition, if within three (3) years from the date of the City Council's approval of this Service Plan no agreement contemplated under Section IV.B of this Service Plan has been entered into by the City with any of the Districts and/or any Developer, despite the parties conducting good faith negotiations attempting to do so, the City may opt to pursue the remedies available to it under C.R.S. Section 32-1-701(3) in order to compel the Districts to dissolve in a prompt and orderly manner. In such event: (i) the limited purposes and powers of the Districts, as authorized herein, shall automatically terminate and be expressly limited to taking only those actions that are reasonably necessary to dissolve; (ii) the Board of each of the Districts will be deemed to have agreed with the City regarding its dissolution without an election pursuant to C.R.S. §32-1-704(3)(b); (iii) the Districts shall take no action to contest or impede the dissolution of the Districts and shall affirmatively and diligently cooperate in securing the final dissolution of the Districts, and (iv) subject to the statutory requirements of the Special District Act, the Districts shall thereupon dissolve.

## **XVII. SANCTIONS**

Should any of the Districts undertake any act without obtaining prior City Council approval or consent or City Manager approval or consent under this Service Plan, that constitutes a material modification to this Service Plan requiring a Service Plan Amendment as provided herein or under the Special Districts Act, or that does not otherwise comply with the provisions of this Service Plan, the City Council may impose one (1) or more of the following sanctions, as it deems appropriate:

1. Exercise any applicable remedy under the Special District Act;
2. Withhold the issuance of any permit, authorization, acceptance or other administrative approval, or withhold any cooperation, necessary for the District's development or construction or operation of improvements or provision of services;
3. Exercise any legal remedy under the terms of any intergovernmental agreement under which the District is in default; or
4. Exercise any other legal and equitable remedy available under the law, including seeking prohibitory and mandatory injunctive relief against the District, to ensure compliance with the provisions of the Service Plan or applicable law.

**XVIII. INTERGOVERNMENTAL AGREEMENT WITH CITY**

Each of the Districts and the City shall enter into an intergovernmental agreement, the form of which shall be in substantially the form attached hereto as **Exhibit "L"** and incorporated by reference (the "IGA"). However, the City and the Districts may include such additional details, terms and conditions as they deem necessary in connection with the Project and the construction and funding of the Public Improvements and the Public Benefits. Each of the Districts' Boards shall approve the IGA at their first board meeting, unless agreed otherwise by the City Manager. Entering into this IGA is a precondition to each the Districts issuing any Debt or imposing any Debt Mill Levy, Operating Mill Levy or Fee for the payment of Debt under this Service Plan. In addition, failure of any of the Districts to enter into the IGA as required herein shall constitute a material modification of this Service Plan and subject to the sanctions in Article XVII of this Service Plan. The City and the Districts may amend the IGA from time-to-time provided such amendment is not in conflict with any provision of this Service Plan.

**XIX. CONCLUSION**

It is submitted that this Service Plan, as required by C.R.S. Section 32-1-203(2), establishes that:

1. There is sufficient existing and projected need for organized service in the Service Area to be served by the Districts;
2. The existing service in the Service Area to be served by the Districts is inadequate for present and projected needs;
3. The Districts are capable of providing economical and sufficient service to the Service Area; and
4. The Service Area does have, and will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

**XX. RESOLUTION OF APPROVAL**

The Districts agree to incorporate the City Council's resolution approving this Service Plan, including any conditions on any such approval, into the copy of the Service Plan presented to the District Court for and in Larimer County, Colorado.