TOWN BOARD WORK SESSION

April 11, 2022 - 5:30 PM
1st Floor Conference Room, 301 Walnut Street, Windsor, CO 80550

***GOAL* of this Work Session is to have the Town Board receive information on topics of Town business from the Town Manager, Town Attorney and Town staff in order to exchange ideas and opinions regarding these topics.**

Members of the Public in attendance are asked to be recognized by the Mayor before participating in any discussions of the Town Board

AGENDA

1. Town Board/Manager/Attorney Monthly Meeting
2. Metro District Policy Review - I. McCargar, Town Attorney
3. Future Meetings Agenda

The Town of Windsor will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call (970) 674-2400 by noon on the Thursday prior to the meeting to make arrangements.

MEMORANDUM

Date: April 11, 2022
To: Mayor and Town Board
Via: Shane Hale, Town Manager
From: Ian McCargar, Town Attorney
Re: Metro District Policy Review
Item #: 2.

Background / Discussion:
The 2022 Annual Budget included an appropriation for Special Counsel services focused on a review of our general metropolitan district policies. This type of policy review occurs ever 5 to 8 years in Windsor's history. Given developments at the State level and the public perceptions of metro districts, we feel 2022 is a good year to study the Town's general metro district policies.

We will introduce the topic on April 11, with an eye toward finalizing the review and adopting any new policies by August (at the latest).

Special Counsel Carolyn Steffl has prepared the attached Memorandum and we have also provided additional food for thought in anticipation of the introductory discussion. Carolyn will be in Town Hall Monday evening to lead the conversation and take note of your interests.

Financial Impact:
None

Relationship to Strategic Plan:
Local economy; infrastructure

Recommendation:
Discuss, direct staff

CC:
Shane Hale, Town Manager
Carolyn Steffl, Special Counsel

ATTACHMENTS:

- Carolyn Steffl Memorandum, April 6, 2022
- SB 21-262 (Transparency Act)
- Draft redlines to Model Service Plan
- Code Redlines (WMC Chapter 19)

DIETZE AND DAVIS, P.C.
ATTORNEYS AT LAW

MEMORANDUM

TO: Town Board, Town of Windsor, CO

Cc: Ian McCargar, Town Attorney
Shane Hale, Town Manager

FROM: Carolyn R. Steffl, Esq., special counsel to the Town regarding special districts

DATE: April 6, 2022

RE: Special District Work Session

BACKGROUND

The Town Board is holding a work session on April 11, 2022 to discuss its policies on metropolitan districts and whether any updates are needed to the Windsor Municipal Code ("Code"), the Town's model service plan ("Model SP"), or the form Intergovernmental Agreement attached to the Model SP ("IGA"). Based on recent service plan approvals by the Town Board and amendments to the Special District Act and Code, Town Attorney McCargar and I identified several recommended updates. Specifically:

1) Amending the Code and updating the form IGA to incorporate the requirements of the Community Act Policy, as adopted by the Town Board in Ordinance 2021-1624;

2) Amending the Code to increase the application fees and deposits for service plan reviews, which have not been raised since 2015, to reflect inflation and to cover applications with intricate multi-district structures;

3) Updating the Model SP and form IGA to add the new provisions required by the Town Board in connection with approval of the service plan for the Prairie Song Metropolitan Districts in September 2021; and

4) Amending the Code and updating the Model SP and form IGA to reflect new legislation known as the Special District Transparency Act, adopted in July 2021 as Senate Bill 21-262.

5) Municipal Code Sec. 19-1-20(p) states that the service plans must require that once there are End Users, Board meetings to approve general obligation debt must be held within the boundaries of the district or the Town. Upon review, I noted that this had not been added to the Model Service Plan, so it will be added now.

At the work session, the Town Board can discuss and provide feedback on these proposed changes, as well as discussing any other policy issues that remain of concern to Board members. Enclosed with the Board packet are: 1) Special District Transparency Act; 2) Sections from Code Chapter 19 with proposed amendments redlined; 3) the Model SP with proposed changes redlined. Below is a summary of the proposed changes.

Cite for Change	Policy Issue	Proposed Change to Municipal Code	Proposed change to Model Service Plan	Proposed Change to Form IGA
Windsor Community Art Policy	Incorporate new requirement to submit Public Art Plan with new service plan or amendment	Add new § 19-1-20(r) stating that the requirement is met if the IGA addresses public art.	None.	Add new Sec. 34 to form IGA, based on language included with the Poudre Heights Metropolitan District service plan.
Fee Increase	Collect sufficient costs for service plan review	Proposed amendment to § 19-1-110 – Fees.	None.	None.
Prairie Song Metro District requirements	Make Board meetings more accessible for residents – when End Users, all Board meetings must be held after 5 pm and within Town or electronically.	None.	Add language to Sec. V.A.20. *Note: the 5 PM requirement is very restrictive, as some residents may also prefer daytime meetings, so we encourage you to consider whether it is needed. If included, I recommend adding this requirement only if there are residents and allowing an End User Board to approve another time/format.*	Add similar language to ¶ 20.
Municipal Code Sec. 19-1-20(p)	Make Board meetings more accessible for residents – if there is an End User, all Board meetings to approve general obligation debt must be held within the district or the Town. We added a public health emergency exception.	None.	Add required language to Sec. V.A. 20.	Add similar language to ¶ 20.
Statutory amendments	Update to reflect that the Open Meetings Act allows posting notice of meetings on websites, as an alternative to physical posting.	None.	Minor revision to Section V.A.21.	Similar change to ¶ 21.
Prairie Song Metro District requirements	Require websites to provide information to the public and residents.	None.	Add new Section V.A.22 to require that Districts establish websites and post specific documents.	Add similar language to ¶ 22.

Cite for Change	Policy Issue	Proposed Change to Municipal Code	Proposed change to Model Service Plan	Proposed Change to Form IGA
Special District Transparency Act	Provide information to the public by including a list of documents that must be posted on the district website for districts organized in 2000 or later.	None.	In new Section V.A.22, the statutory website requirements are added as subsections (a)-(g), to make sure that they apply to all districts that amend service plans, even if originally organized before 2000, and to have all requirements in one place.	Add similar language to ¶ 22.
Prairie Song Metro District requirements	Minimize risk of excessive operations and maintenance mill levy, especially after debt is retired.	Amend Sec. 19-1-20(h) to add new O&M mill levy limit.	Add language to Section VI.6, O&M Mill Levy limit of 20 mills unless End User majority Board and Town Board higher limit, subject to aggregate limit of 39 mills, and all subject to adjustment if change in method of determining assessed valuation.	Similar language added to ¶ 25.
Special District Transparency Act	Provides information to the Town by requiring that certain information be included in annual reports and that annual reports be filed electronically by October 1st each year.	Proposed amendments to Sec. 19-1-80 to match current statutes.	Revise Section VII to match statutory reporting date and filing method. Add items that must be included by statute as (1)-(10) of Sec. VII(B).	None. *Note: Given the new items that will be submitted on an annual basis, per statute, the Town Board may want to add that the district pays for Town review of annual reports, like for quinquennial reviews.*
Prairie Song Metro District requirements	Provide information to public about mill levy rate adjustments.	None.	None.	Add new ¶ 27, requirement for website notice of Mill Levy Rate adjustments, per changes in calculating assessed valuation.

Cite for Change	**Policy Issue**	**Proposed Change to Municipal Code**	**Proposed change to Model Service Plan**	**Proposed Change to Form IGA**
Prairie Song Metro District requirements	Collect sufficient costs for quinquennial financial report review	None.	None.	Add new ¶ 31, districts shall reimburse the Town for consultant costs for quinquennial financial review and any enforcement.
Special District Transparency Act	Note: Act imposes additional requirements for distributing calls for self-nomination. No changes recommended.	None.	None.	None.
Special District Transparency Act	Note: Beginning January 1, 2022, any seller of a newly-constructed residence must disclose certain information to the home buyer including an estimate of property taxes.	None.	None.	None.

An Act

SENATE BILL 21-262

BY SENATOR(S) Zenzinger and Gardner, Ginal, Moreno, Pettersen, Priola, Woodward;
also REPRESENTATIVE(S) Bird and McKean, Michaelson Jenet, Ricks.

CONCERNING TRANSPARENCY FOR SPECIAL DISTRICTS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 1-13.5-501, **amend** (1); and **add** (1.5) and (1.7) as follows:

1-13.5-501. Call for nominations - definitions. (1) Between seventy-five and one hundred days before a regular local government election, the designated election official shall provide PUBLIC notice ~~by publication~~ of a call for nominations for the election. The call must state the director offices to be voted upon at the election, where a self-nomination and acceptance form or letter may be obtained, the deadline for submitting the self-nomination and acceptance form or letter to the designated election official, and information on obtaining an absentee ballot.

(1.5) EXCEPT AS OTHERWISE REQUIRED BY SUBSECTION (1.7) OF THIS SECTION, THE PUBLIC NOTICE REQUIRED BY SUBSECTION (1) OF THIS SECTION

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

MUST BE MADE BY PUBLICATION AS DEFINED BY SUBSECTION (2) OF THIS SECTION AND BY ANY ONE OF THE FOLLOWING MEANS:

(a) MAILING THE NOTICE, AT THE LOWEST COST OPTION, TO EACH ADDRESS AT WHICH ONE OR MORE ACTIVE REGISTERED ELECTORS OF THE LOCAL GOVERNMENT RESIDES AS SPECIFIED IN THE REGISTRATION LIST PROVIDED BY THE COUNTY CLERK AND RECORDER AS OF THE DATE THAT IS ONE HUNDRED FIFTY DAYS PRIOR TO THE DATE OF THE REGULAR LOCAL GOVERNMENT ELECTION;

(b) INCLUDING THE NOTICE AS A PROMINENT PART OF A NEWSLETTER, ANNUAL REPORT, BILLING INSERT, BILLING STATEMENT, LETTER, VOTER INFORMATION CARD OR OTHER NOTICE OF ELECTION, OR OTHER INFORMATIONAL MAILING SENT BY THE LOCAL GOVERNMENT TO THE ELIGIBLE ELECTORS OF THE LOCAL GOVERNMENT;

(c) POSTING THE INFORMATION ON THE OFFICIAL WEBSITE OF THE LOCAL GOVERNMENT; OR

(d) FOR A LOCAL GOVERNMENT WITH FEWER THAN ONE THOUSAND ELIGIBLE ELECTORS THAT IS WHOLLY LOCATED WITHIN A COUNTY THE POPULATION OF WHICH IS LESS THAN THIRTY THOUSAND PEOPLE, POSTING THE NOTICE IN AT LEAST THREE PUBLIC PLACES WITHIN THE TERRITORIAL BOUNDARIES OF THE LOCAL GOVERNMENT AND, IN ADDITION, POSTING A NOTICE IN THE OFFICE OF THE CLERK AND RECORDER OF THE COUNTY IN WHICH THE LOCAL GOVERNMENT IS LOCATED. ANY SUCH NOTICES MUST REMAIN POSTED UNTIL THE DAY AFTER THE CALL FOR NOMINATIONS CLOSES.

(1.7) (a) IN THE CASE OF ANY METROPOLITAN DISTRICT THAT WAS ORGANIZED AFTER JANUARY 1, 2000, IN ACCORDANCE WITH TITLE 32, THE NOTICE REQUIRED BY SUBSECTION (1) OF THIS SECTION MUST BE MADE BY EMAILING THE NOTICE TO EACH ACTIVE REGISTERED ELECTOR OF THE METROPOLITAN DISTRICT AS SPECIFIED IN THE REGISTRATION LIST PROVIDED BY THE COUNTY CLERK AND RECORDER AS OF THE DATE THAT IS ONE HUNDRED FIFTY DAYS PRIOR TO THE DATE OF THE REGULAR LOCAL GOVERNMENT ELECTION. WHERE THE ACTIVE REGISTERED ELECTOR DOES NOT HAVE AN E-MAIL ADDRESS ON FILE FOR SUCH PURPOSE WITH THE COUNTY CLERK AND RECORDER AS OF THE DATE THAT IS NOT LATER THAN ONE HUNDRED FIFTY DAYS PRIOR TO THE DATE OF THE REGULAR LOCAL GOVERNMENT ELECTION, THE PUBLIC NOTICE REQUIRED BY SUBSECTION (1)

OF THIS SECTION MUST BE MADE BY MAILING THE NOTICE, AT THE LOWEST COST OPTION, TO EACH ADDRESS AT WHICH ONE OR MORE ACTIVE REGISTERED ELECTORS OF THE METROPOLITAN DISTRICT RESIDES AS SPECIFIED IN THE REGISTRATION LIST PROVIDED BY THE COUNTY CLERK AND RECORDER AS OF THE DATE THAT IS ONE HUNDRED FIFTY DAYS PRIOR TO THE DATE OF THE REGULAR LOCAL GOVERNMENT ELECTION.

(b) IN ADDITION TO THE PUBLIC NOTICE REQUIRED BY SUBSECTION (1.7)(a) OF THIS SECTION, THE DESIGNATED ELECTION OFFICIAL SHALL ALSO PROVIDE PUBLIC NOTICE BY ANY ONE OF THE FOLLOWING MEANS:

(I) PUBLICATION AS DEFINED IN SUBSECTION (2) OF THIS SECTION;

(II) INCLUDING THE NOTICE AS A PROMINENT PART OF A NEWSLETTER, ANNUAL REPORT, BILLING INSERT, BILLING STATEMENT, LETTER, VOTER INFORMATION CARD OR OTHER NOTICE OF ELECTION, OR OTHER INFORMATIONAL MAILING SENT BY THE METROPOLITAN DISTRICT TO THE ELIGIBLE ELECTORS OF THE METROPOLITAN DISTRICT;

(III) POSTING THE INFORMATION ON THE OFFICIAL WEBSITE OF THE METROPOLITAN DISTRICT; OR

(IV) FOR A METROPOLITAN DISTRICT WITH FEWER THAN ONE THOUSAND ELIGIBLE ELECTORS THAT IS WHOLLY LOCATED WITHIN A COUNTY, THE POPULATION OF WHICH IS LESS THAN THIRTY THOUSAND PEOPLE, POSTING THE NOTICE IN AT LEAST THREE PUBLIC PLACES WITHIN THE TERRITORIAL BOUNDARIES OF THE METROPOLITAN DISTRICT AND, IN ADDITION, POSTING A NOTICE IN THE OFFICE OF THE CLERK AND RECORDER OF THE COUNTY IN WHICH THE SPECIAL DISTRICT IS LOCATED. ANY SUCH NOTICES MUST REMAIN POSTED UNTIL THE DAY AFTER THE CALL FOR NOMINATIONS CLOSES.

SECTION 2. In Colorado Revised Statutes, 32-1-104, **amend** (5) as follows:

32-1-104. Establishment of a special districts file. (5) Notwithstanding any other provision of law, inactive special districts ~~shall be~~ ARE exempt from compliance with ~~the provisions of~~ subsection (2) of this section; sections ***32-1-104.5 (3), 32-1-207 (3)(c),*** 32-1-306, 32-1-809, and 32-1-903; parts 1, 2, and 6 of article 1 of title 29; ~~C.R.S.;~~ and part 1 of article 1 and part 1 of article 5 of title 39. ~~C.R.S.~~

SECTION 3. In Colorado Revised Statutes, 32-1-104.5, **add** (3) as follows:

32-1-104.5. Audit and budget requirements - election results - description on websites. (3) (a) EXCEPT AS PROVIDED IN SUBSECTION (3)(d) OF THIS SECTION, WITHIN ONE YEAR OF THE DATE AN ORDER AND DECREE HAS BEEN ISSUED BY A DISTRICT COURT FOR A NEWLY ORGANIZED METROPOLITAN DISTRICT, OR BY JANUARY 1, 2023, FOR ANY METROPOLITAN DISTRICT THAT HAS RECEIVED AN ORDER AND DECREE FROM THE DISTRICT COURT IN CONNECTION WITH ITS ORGANIZATION AFTER JANUARY 1, 2000, BUT BEFORE JANUARY 1, 2022, THE METROPOLITAN DISTRICT SHALL ESTABLISH, MAINTAIN, AND, UNLESS OTHERWISE SPECIFIED, ANNUALLY UPDATE AN OFFICIAL WEBSITE IN A FORM THAT IS READILY ACCESSIBLE TO THE PUBLIC THAT CONTAINS THE FOLLOWING INFORMATION:

(I) THE NAMES, TERMS, AND CONTACT INFORMATION FOR THE CURRENT DIRECTORS OF THE BOARD OF THE METROPOLITAN DISTRICT AND OF THE MANAGER OF THE METROPOLITAN DISTRICT, IF APPLICABLE;

(II) THE CURRENT FISCAL YEAR BUDGET OF THE METROPOLITAN DISTRICT AND, WITHIN THIRTY DAYS OF ADOPTION BY THE BOARD OF THE METROPOLITAN DISTRICT, ANY AMENDMENTS TO THE BUDGET;

(III) THE PRIOR YEAR'S AUDITED FINANCIAL STATEMENTS OF THE METROPOLITAN DISTRICT, IF APPLICABLE, OR AN APPLICATION FOR EXEMPTION FROM AN AUDIT PREPARED IN ACCORDANCE WITH THE "COLORADO LOCAL GOVERNMENT AUDIT LAW", PART 6 OF ARTICLE 1 OF TITLE 29, WITHIN THIRTY DAYS OF THE FILING OF THE APPLICATION WITH THE STATE AUDITOR;

(IV) THE ANNUAL REPORT OF THE METROPOLITAN DISTRICT IN ACCORDANCE WITH SECTION 32-1-207 (3)(c);

(V) BY JANUARY 30 OF EACH YEAR, THE DATE, TIME, AND LOCATION OF SCHEDULED REGULAR MEETINGS OF THE DISTRICT'S BOARD FOR THE CURRENT FISCAL YEAR;

(VI) IF REQUIRED BY SECTION 1-13.5-501 (1.5), BY NO LATER THAN

SEVENTY-FIVE DAYS PRIOR TO A REGULAR ELECTION FOR AN ELECTION AT WHICH MEMBERS OF A BOARD OF DIRECTORS FOR A METROPOLITAN DISTRICT WILL BE CONSIDERED, THE CALL FOR NOMINATIONS PURSUANT TO SECTION 1-13.5-501 (1);

(VII) NOT MORE THAN THIRTY DAYS AFTER AN ELECTION, CERTIFIED ELECTION RESULTS FOR AN ELECTION CONDUCTED WITHIN THE CURRENT FISCAL YEAR;

(VIII) A CURRENT MAP DEPICTING THE BOUNDARIES OF THE METROPOLITAN DISTRICT AS OF JANUARY 1 OF THE CURRENT FISCAL YEAR; AND

(IX) ANY OTHER INFORMATION DEEMED APPROPRIATE BY THE BOARD OF DIRECTORS OF THE METROPOLITAN DISTRICT.

(b) METROPOLITAN DISTRICTS SERVING THE SAME COMMUNITY MAY ESTABLISH AND MAINTAIN A CONSOLIDATED WEBSITE PROVIDED THE WEBSITE CLEARLY IDENTIFIES EACH METROPOLITAN DISTRICT AND PROVIDES THE REQUIRED INFORMATION SPECIFIED IN SUBSECTION (3)(a) OF THIS SECTION FOR EACH METROPOLITAN DISTRICT.

(c) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A NOTICE OF MEETING CONTAINING THE INFORMATION SET FORTH IN SECTION 24-6-402 (2)(c)(III) AND POSTED ON THE METROPOLITAN DISTRICT'S WEBSITE NO LESS THAN TWENTY-FOUR HOURS PRIOR TO SUCH MEETING SATISFIES THE REQUIREMENTS OF SECTION 24-6-402 (2)(c)(III).

(d) (I) ANY METROPOLITAN DISTRICT IN INACTIVE STATUS PURSUANT TO SECTION 32-1-104 (3) IS NOT REQUIRED TO ESTABLISH, MAINTAIN, OR UPDATE AN OFFICIAL WEBSITE DURING INACTIVE STATUS. A METROPOLITAN DISTRICT RETURNING TO ACTIVE STATUS SHALL COMPLY WITH THIS SUBSECTION (3) WITHIN NINETY DAYS OF ADOPTION OF A RESOLUTION RETURNING TO ACTIVE STATUS.

(II) ANY METROPOLITAN DISTRICT THAT DOES NOT HAVE THE POWER TO IMPOSE AN AD VALOREM PROPERTY TAX IS NOT REQUIRED TO ESTABLISH, MAINTAIN, OR UPDATE AN OFFICIAL WEBSITE PURSUANT TO THIS SUBSECTION (3).

SECTION 4. In Colorado Revised Statutes, 32-1-207, **amend** (3)(c), (3)(d), and (4) as follows:

32-1-207. Compliance - modification - enforcement. (3) (c) (I) ~~A board of county commissioners may request any special district located wholly or partially within the county's unincorporated area, and the governing body of any municipality may request any special district located wholly or partially within the municipality's boundaries, to file,~~ ANY SPECIAL DISTRICT CREATED AFTER JULY 1, 2000, SHALL FILE not more than once a year a special district annual report FOR THE PRECEDING CALENDAR YEAR. UNLESS THE REQUIREMENT IS WAIVED OR OTHERWISE REQUESTED BY AN EARLIER DATE BY THE BOARD OF COUNTY COMMISSIONERS OR BY THE GOVERNING BODY OF THE MUNICIPALITY IN WHICH A SPECIAL DISTRICT IS WHOLLY OR PARTIALLY LOCATED, COMMENCING IN 2023 FOR THE 2022 CALENDAR YEAR, THE ANNUAL REPORT MUST BE PROVIDED IN ACCORDANCE WITH THIS SUBSECTION (3)(c) BY OCTOBER 1 OF EACH YEAR. The annual report ~~shall~~ MUST be ELECTRONICALLY filed with the ~~board of county commissioners, any municipality in which the special district is wholly or partially located,~~ GOVERNING BODY THAT APPROVED THE SERVICE PLAN OR, IF THE JURISDICTION HAS CHANGED DUE TO ANNEXATION INTO A MUNICIPALITY, THE CURRENT GOVERNING BODY WITH JURISDICTION OVER THE SPECIAL DISTRICT, the division, and the state auditor, and such report ~~shall~~ MUST be ~~deposited~~ ELECTRONICALLY FILED with the county clerk and recorder for public inspection, and a copy of the report ~~shall~~ MUST be made available by the special district ~~to any interested party pursuant to section 32-1-204 (1). If a special district files an annual report pursuant to this paragraph (c),~~ ON THE SPECIAL DISTRICT'S WEBSITE PURSUANT TO SECTION 32-1-104.5 (3).

(II) ~~Such~~ THE report ~~shall~~ REQUIRED BY THIS SUBSECTION (3)(c) MUST include, AS APPLICABLE FOR THE REPORTING YEAR, but shall not be limited to: ~~information on the progress of the special district in the implementation of the service plan~~

(A) BOUNDARY CHANGES MADE;

(B) INTERGOVERNMENTAL AGREEMENTS ENTERED INTO OR TERMINATED WITH OTHER GOVERNMENTAL ENTITIES;

(C) ACCESS INFORMATION TO OBTAIN A COPY OF RULES AND

REGULATIONS ADOPTED BY THE BOARD;

(D) A SUMMARY OF LITIGATION INVOLVING PUBLIC IMPROVEMENTS OWNED BY THE SPECIAL DISTRICT;

(E) THE STATUS OF THE CONSTRUCTION OF PUBLIC IMPROVEMENTS BY THE SPECIAL DISTRICT;

(F) A LIST OF FACILITIES OR IMPROVEMENTS CONSTRUCTED BY THE SPECIAL DISTRICT THAT WERE CONVEYED OR DEDICATED TO THE COUNTY OR MUNICIPALITY;

(G) THE FINAL ASSESSED VALUATION OF THE SPECIAL DISTRICT AS OF DECEMBER 31 OF THE REPORTING YEAR;

(H) A COPY OF THE CURRENT YEAR'S BUDGET;

(I) A COPY OF THE AUDITED FINANCIAL STATEMENTS, IF REQUIRED BY THE "COLORADO LOCAL GOVERNMENT AUDIT LAW", PART 6 OF ARTICLE 1 OF TITLE 29, OR THE APPLICATION FOR EXEMPTION FROM AUDIT, AS APPLICABLE;

(J) NOTICE OF ANY UNCURED DEFAULTS EXISTING FOR MORE THAN NINETY DAYS UNDER ANY DEBT INSTRUMENT OF THE SPECIAL DISTRICT; AND

(K) ANY INABILITY OF THE SPECIAL DISTRICT TO PAY ITS OBLIGATIONS AS THEY COME DUE UNDER ANY OBLIGATION WHICH CONTINUES BEYOND A NINETY-DAY PERIOD.

(III) SPECIAL DISTRICTS OPERATING UNDER A CONSOLIDATED SERVICE PLAN OR SERVING THE SAME COMMUNITY MAY FILE A CONSOLIDATED ANNUAL REPORT SETTING FORTH THE INFORMATION CONTAINED IN THIS SUBSECTION (3)(c) FOR EACH OF THE SPECIAL DISTRICTS. The board of county commissioners or the governing body of the municipality may review the annual reports in a regularly scheduled public meeting, and such review ~~shall~~ MUST be included as an agenda item in the public notice for such meeting. A SPECIAL DISTRICT IS NOT REQUIRED TO FILE AN ANNUAL REPORT FOR ANY YEAR IN WHICH THE SPECIAL DISTRICT WAS IN INACTIVE STATUS FOR THE ENTIRE YEAR PURSUANT TO SECTION 32-1-104 (3).

(d) ~~Any special district created on or after July 1, 1991, shall annually file the report specified in paragraph (c) of this subsection (3) with the board of county commissioners or the governing body of the municipality that has adopted a resolution of approval of the special district pursuant to section 32-1-204.5 or 32-1-204.7 for five years after its organization and for succeeding annual periods, if so requested by the board of county commissioners or the governing body of the municipality. The annual report shall also be filed with the division and with the state auditor.~~ The state auditor shall review the annual report and report any apparent decrease in the financial ability of the district to discharge its existing or proposed indebtedness in accordance with the service plan to the division. In such event, the division shall confer with the board of the special district and the board of county commissioners or the governing body of the municipality regarding such condition. The division may establish a standard form for the annual report that the board of a special district may elect to use.

(4) In the case of a health service district, a change in service by the district ~~shall not be~~ IS NOT deemed material unless the change affects the license or certificate of compliance issued by the department of public health and environment. A health service district ~~shall be~~ IS exempt from ~~paragraphs (b) and (c) of subsection (3)~~ SUBSECTION (3)(b) AND (3)(c) of this section.

SECTION 5. In Colorado Revised Statutes, 32-1-1004, **amend** (4) as follows:

32-1-1004. Metropolitan districts - additional powers and duties. (4) A metropolitan district may have and exercise the power of eminent domain and dominant eminent domain and, in the manner provided by article 1 of title 38, ~~C.R.S.,~~ may take any property necessary to the exercise of the powers granted, both within and without the special district, only for the purposes of fire protection, sanitation, street improvements, television relay and translator facilities, water, or water and sanitation, except for the acquisition of water rights, and, within the boundaries of the district, if the district is providing park and recreation services, only for the purpose of easements and rights-of-way for access to park and recreational facilities operated by the special district and only where no other access to such facilities exists or can be acquired by other means. A METROPOLITAN DISTRICT SHALL NOT EXERCISE ITS POWER OF DOMINANT EMINENT DOMAIN

WITHIN A MUNICIPALITY OR THE UNINCORPORATED AREA OF A COUNTY, OTHER THAN WITHIN THE BOUNDARIES OF THE JURISDICTION THAT APPROVED ITS SERVICE PLAN, WITHOUT A WRITTEN RESOLUTION APPROVING THE EXERCISE OF DOMINANT EMINENT DOMAIN BY THE GOVERNING BODY OF THE MUNICIPALITY IN CONNECTION WITH PROPERTY THAT IS LOCATED WITHIN AN INCORPORATED AREA OR BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN CONNECTION WITH PROPERTY THAT IS LOCATED WITHIN AN UNINCORPORATED AREA.

SECTION 6. In Colorado Revised Statutes, **add** 38-35.7-110 as follows:

38-35.7-110. Disclosure - estimated future property taxes for newly constructed residences within the boundaries of a metropolitan district - rules - definition. (1) AS USED IN THIS SECTION, "NEWLY CONSTRUCTED RESIDENCE" MEANS A RESIDENTIAL IMPROVEMENT AS DEFINED IN SECTION 39-1-102 (14.3) THAT:

(a) HAS NOT BEEN PREVIOUSLY SOLD TO ITS INTENDED OCCUPANT AS A PLACE OF RESIDENCE; AND

(b) IS LOCATED WITHIN THE TERRITORIAL BOUNDARIES OF A METROPOLITAN DISTRICT.

(2) ON AND AFTER JANUARY 1, 2022, EACH OWNER OF REAL PROPERTY THAT SELLS REAL PROPERTY THAT INCLUDES A NEWLY CONSTRUCTED RESIDENCE, CONCURRENTLY WITH OR PRIOR TO THE EXECUTION OF A CONTRACT TO SELL THE PROPERTY, SHALL PROVIDE TO THE PURCHASER OF THE PROPERTY:

(a) A PAPER COPY, ELECTRONIC COPY, OR A WEBSITE PAGE LINK TO THE NOTICE TO ELECTORS REQUIRED BY SECTION 32-1-809 (1) AS MOST RECENTLY PREPARED AND FILED BY THE METROPOLITAN DISTRICT;

(b) A PAPER COPY, ELECTRONIC COPY, OR A WEBSITE PAGE LINK TO THE SERVICE PLAN OR STATEMENT OF PURPOSE OF THE METROPOLITAN DISTRICT, INCLUDING ANY AMENDMENTS TO THE SERVICE PLAN, AS FILED WITH THE DIVISION OF LOCAL GOVERNMENT IN THE DEPARTMENT OF LOCAL AFFAIRS;

(c) A STATEMENT IN WRITING DISCLOSING THAT:

(I) PURSUANT TO ITS SERVICE PLAN, THE METROPOLITAN DISTRICT HAS AUTHORITY TO ISSUE UP TO ____ DOLLARS OF DEBT AND, IF APPLICABLE, THAT THE DEBT OF THE DISTRICT MAY BE REPAID THROUGH AD VALOREM PROPERTY TAXES, FROM A DEBT SERVICE MILL LEVY ON ALL TAXABLE PROPERTY OF THE DISTRICT, OR ANY OTHER LEGALLY AVAILABLE REVENUES OF THE DISTRICT;

(II) THE MAXIMUM DEBT SERVICE MILL LEVY THE METROPOLITAN DISTRICT IS PERMITTED TO IMPOSE UNDER THE SERVICE PLAN IS ____ MILLS OR, IF NO MAXIMUM DEBT SERVICE MILL LEVY IS SPECIFIED IN THE SERVICE PLAN, A STATEMENT THAT THERE IS NO MAXIMUM DEBT SERVICE MILL LEVY. IF APPLICABLE, THE STATEMENT MUST ALSO DISCLOSE WHETHER THE DEBT SERVICE MILL LEVY CAP MAY BE ADJUSTED DUE TO CHANGES IN THE CONSTITUTIONAL OR STATUTORY METHOD OF ASSESSING PROPERTY TAX OR IN THE ASSESSMENT RATIO, OR BY AMENDMENTS TO THE SERVICE PLAN OR VOTER AUTHORIZATIONS.

(III) IN ADDITION TO IMPOSING A DEBT SERVICE MILL LEVY, THE METROPOLITAN DISTRICT IS ALSO AUTHORIZED TO IMPOSE A SEPARATE MILL LEVY TO GENERATE REVENUES FOR GENERAL OPERATING EXPENSES. IF APPLICABLE, THE STATEMENT MUST ALSO DISCLOSE WHETHER THE AMOUNT OF THE GENERAL OPERATING EXPENSES MILL LEVY MAY BE INCREASED AS NECESSARY, SEPARATE AND APART FROM THE DEBT SERVICE MILL LEVY CAP. IN THE ALTERNATIVE, IF THE SERVICE PLAN PROVIDES FOR THE AGGREGATE MILL LEVY CAP FOR DEBT SERVICE AND GENERAL OPERATING EXPENSES COMBINED, THE STATEMENT MUST ADDRESS THE APPLICABLE AGGREGATE MILL LEVY CAP.

(IV) THE METROPOLITAN DISTRICT MAY ALSO RELY UPON VARIOUS OTHER REVENUE SOURCES AUTHORIZED BY LAW TO OFFSET ITS EXPENSES OF CAPITAL CONSTRUCTION AND GENERAL OPERATING EXPENSES. PURSUANT TO COLORADO LAW, THE DISTRICT MAY IMPOSE FEES, RATES, TOLLS, PENALTIES, OR OTHER CHARGES AS PROVIDED IN TITLE 32. THE STATEMENT MUST INCLUDE THAT A CURRENT FEE SCHEDULE, IF APPLICABLE, IS AVAILABLE FROM THE METROPOLITAN DISTRICT.

(d) (I) AN ESTIMATE OF THE PROPERTY TAXES LEVIED BY THE METROPOLITAN DISTRICT THAT ARE APPLICABLE TO THE PROPERTY FOR

COLLECTION DURING THE YEAR IN WHICH THE SALE OCCURS, WHICH ESTIMATE MUST INCLUDE ANY DEBT SERVICE MILL LEVIES THAT ARE SPECIFIED IN SUBSECTION (2)(c)(II) OF THIS SECTION AND ANY MILL LEVIES FOR GENERAL OPERATING EXPENSES THAT ARE SPECIFIED IN SUBSECTION (2)(c)(III) OF THIS SECTION, SHOWN BOTH AS THE TOTAL MILL LEVY AS WELL AS THE TOTAL DOLLAR AMOUNT THAT COULD BE COLLECTED BASED UPON THE PURCHASE PRICE OF THE PROPERTY, THE RESIDENTIAL ASSESSMENT RATE, AND MILL LEVIES THAT ARE IN EFFECT IN THE DISTRICT AT THE TIME OF THE SALE.

(II) A SELLER HAS COMPLIED WITH SUBSECTION (2)(d)(I) OF THIS SECTION IF THE SELLER PROVIDES TO THE PURCHASER THE MILL LEVY, THE RESIDENTIAL ASSESSMENT RATIO, AND A FORMULA BY WHICH THE PURCHASER MAY CALCULATE THE ESTIMATED PROPERTY TAXES ON THE PROPERTY FOR THE CURRENT YEAR.

(e) A COPY OF THE MOST CURRENT COUNTY ASSESSOR'S PROPERTY TAX CERTIFICATE APPLICABLE TO THE PROPERTY AS AN ESTIMATE OF THE SUM OF ADDITIONAL PROPERTY TAXES LEVIED BY OTHER TAXING ENTITIES THAT OVERLAP THE PROPERTY IN WHICH THE NEWLY CONSTRUCTED RESIDENCE IS LOCATED.

(3) IN DISCLOSING AN ESTIMATE OF PROPERTY TAXES FOR PURPOSES OF SATISFYING SUBSECTIONS (2)(d)(I) OF THIS SECTION, THE SELLER SHALL CALCULATE THE ESTIMATE BASED UPON APPLICATION OF THE FOLLOWING ASSUMPTIONS:

(a) THE PURCHASE PRICE IS CONSIDERED TO BE THE VALUE OF THE REAL PROPERTY INCLUDING THE NEWLY CONSTRUCTED RESIDENCE AS REFLECTED IN THE CONTRACT TO PURCHASE THE PROPERTY;

(b) THE RATIO OF VALUATION FOR ASSESSMENT IS THE SAME AS THE RESIDENTIAL REAL PROPERTY ASSESSMENT RATIO SET FORTH IN SECTION 39-1-104.2 FOR THE PROPERTY TAX YEAR IN WHICH THE SALE OCCURS; AND

(c) THE MILL LEVIES ARE THE SAME AS THOSE LEVIED BY ALL TAXING ENTITIES THAT ARE APPLICABLE TO THE PROPERTY FOR THE PROPERTY TAX YEAR IN WHICH THE SALE OCCURS; EXCEPT THAT, IF THE SELLER HAS ACTUAL KNOWLEDGE THAT THE TOTAL MILL LEVIES WILL CHANGE IN THE NEXT PROPERTY TAX YEAR, THE SELLER SHALL USE THE UPDATED INFORMATION

IN MAKING THE CALCULATION.

(4) ALONG WITH THE ESTIMATE REQUIRED BY SUBSECTION (2) OF THIS SECTION, THE SELLER SHALL INCLUDE, IN BOLD-FACED TYPE THAT IS CLEARLY LEGIBLE, THE FOLLOWING STATEMENT:

THIS ESTIMATE ONLY PROVIDES AN ILLUSTRATION OF THE AMOUNT OF THE NEW PROPERTY TAXES THAT MAY BE DUE AND OWING AFTER THE PROPERTY HAS BEEN REASSESSED AND, IN SOME INSTANCES, RECLASSIFIED AS RESIDENTIAL PROPERTY. THIS ESTIMATE IS NOT A STATEMENT OF THE ACTUAL AND FUTURE TAXES THAT MAY BE DUE. FIRST YEAR PROPERTY TAXES MAY BE BASED ON A PREVIOUS YEAR'S TAX CLASSIFICATION, WHICH MAY NOT INCLUDE THE FULL VALUE OF THE PROPERTY AND, CONSEQUENTLY, TAXES MAY BE HIGHER IN SUBSEQUENT YEARS. A SELLER HAS COMPLIED WITH THIS DISCLOSURE STATEMENT AS LONG AS THE DISCLOSURE IS BASED UPON A GOOD-FAITH EFFORT TO PROVIDE ACCURATE ESTIMATES AND INFORMATION.

(5) A SELLER IS DEEMED TO HAVE COMPLIED WITH THIS SECTION AS LONG AS THE DISCLOSURES REQUIRED BY THIS SECTION ARE BASED UPON A GOOD-FAITH EFFORT TO PROVIDE ACCURATE ESTIMATES AND INFORMATION.

SECTION 7. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in

November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED June 28, 2021 at 1:55pm
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

SERVICE PLAN
FOR

_____________________ METROPOLITAN DISTRICT NOS. 1-___

TOWN OF WINDSOR, COLORADO

Prepared by:

____
____
____

[Date]

Note: this Model Service Plan is made available by the Town of Windsor Planning Department. In accordance with Town Code Section 19-1-60, all service plans submitted to Town of Windsor should follow the basic outline, form, sequence, structure and language of this Model Service Plan. For districts whose primary revenue source is ad valorem property taxes, and in the absence of special circumstances, district formation will not be favorably received where the future assessed value of all property within the proposed district is projected to be less than five million dollars ($5,000,000), adjusted for inflation, at full build-out.

TABLE OF CONTENTS

LIST OF EXHIBITS

I. INTRODUCTION

A. Purpose and Intent.

The Districts are intended to be independent units of local government, separate and distinct from the Town, and, except as may otherwise be provided for by State or local law or this Service Plan, their activities are subject to review by the Town only insofar as they may deviate in a material manner from the requirements of this Service Plan. It is intended that the Districts will provide a part or all of the Public Improvements for the use and benefit of all anticipated residents and taxpayers of the Districts. The primary purpose of the Districts will be to finance the construction of these Public Improvements.

[A multiple district structure is proposed in this Service Plan due to the expected length of buildout for the project and mixed uses, which is projected to occur over a ______ year period. In order to assure delivery of the Public Improvements according to an Approved Development Plan, initial decision making is to be vested in the Project Developer through use of multiple districts. District No. 1 is proposed to be the Coordinating District, and is expected to coordinate the financing, construction and maintenance of all Public Improvements. District Nos. 2 and 3 are proposed to be the Financing Districts, which are expected to include all or substantially all of the future development comprising the Project (whether residential or commercial) and provide the revenue to support the Districts' Improvements and other services. The Coordinating District will be permitted to provide public service and facilities throughout the Districts pursuant to this Service Plan. Further, and notwithstanding the foregoing, the Districts may provide the Public Improvements and related services through any combination of Districts for the benefit of the property within the Service Area, subject to the limitations of this Service Plan. The Districts will consider from time-to-time whether they are eligible for inactive status under Section 32-1-104, C.R.S., and whether opting into such status will provide a cost savings to the Districts.]

The Districts are not being created to provide ongoing operations and maintenance services other than as specifically set forth in this Service Plan. This Service Plan has been prepared in accordance with Article 1 of Chapter 19 of the Town Code.

B. Need for the Districts.

There are currently no other governmental entities, including the Town, 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 economical manner possible.

C. Objective of the Town Regarding Districts' Service Plan.

The Town's objective in approving the Service Plan for the Districts 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 a Debt Mill Levy to be imposed by the Districts. All Debt is expected to be repaid by taxes imposed and collected by the

Districts at a property tax mill levy rate no higher than the limit set forth herein for the Debt Mill Levy and for a duration not to exceed the Maximum Debt Mill Levy Imposition Term, and from other legally available revenues, including, but not limited to, Capital Improvement Fees. Debt that is incurred within these parameters (as further described in the Financial Plan) will insulate property owners and property from excessive tax burdens to support the servicing of the Debt and will result in a timely and reasonable discharge of the Debt. Under no circumstances is the Town agreeing or undertaking to be financially responsible for the Debt or the construction of Public Improvements.

This Service Plan is intended to establish a limited purpose for the Districts and explicit financial constraints that are not to be violated under any circumstances. The primary purpose is to provide for the Public Improvements associated with the Project and those regional improvements necessitated by the Project. Ongoing operational and maintenance activities are allowed, but only as specifically addressed in this Service Plan. In no case shall the mill levies imposed by the Districts on any property exceed the Maximum Aggregate Mill Levy.

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. However, if the Districts have authorized operating functions under this Service Plan, or if by agreement with the Town it is desired that the Districts continue to exist, then the Districts shall not dissolve, but shall retain only the power necessary to impose and collect taxes or Fees to pay for costs associated with said operations and maintenance functions and/or to perform agreements with the Town.

The Districts shall be authorized to finance the Public Improvements that can be funded from Debt to be repaid from tax revenues collected from a mill levy (which shall not exceed the maximum Debt Mill Levy rate, and which shall not exceed the Maximum Debt Mill Levy Imposition Term) and from Capital Improvement Fees and other legally available revenues. It is the intent of this Service Plan to ensure to the extent possible that, as a result of the formation and operation of the Districts, no taxable property bears a tax burden greater than the Maximum Aggregate Mill Levy in amount, even under bankruptcy or other unusual situations. Generally, the costs of Public Improvements that cannot be funded within these parameters are not costs to be paid by the Districts.

II. DEFINITIONS

In this Service Plan, the following terms, which appear in a capitalized format herein, shall have the meanings indicated below, unless the context hereof clearly requires otherwise:

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

Approved Development Plan: means a plan, development agreement, or other process established by the Town (including, but not limited to, approval of a final plat or PUD by the Town Board, subdivision improvement agreement, or issuance of a building permit) for identifying and authorizing, among other things, Public Improvements necessary for facilitating development of property within the Service Area as approved by the Town pursuant to the Town Code and as amended pursuant to the Town Code from time to time.

Board: means the Board of Directors of a District.

Capital Improvement Fee: has the meaning set forth in Section V(A)(10) below.

Coordinating District: means District No. 1.

[County Inclusion Area Boundaries: means the boundaries of the area described in the County Inclusion Area Boundary Map.]

[County Inclusion Area Boundary Map: means the map attached hereto as **Exhibit C-3** describing property located in unincorporated __________ County, which may be included within the Districts in the future, subject to prior annexation into the corporate boundaries of the Town.]

Covenant Enforcement and Design Review Services: means those services authorized under Section 32-1-1004(8), C.R.S.

Debt: means bonds, notes, contracts, or other financial obligations for the payment of which the Districts have pledged their general credit, promised to impose an ad valorem property tax mill levy, and/or have pledged District revenues. The terms do not include contracts through which the Districts procure or provide services or tangible personal property without the use of a multiple fiscal year financial obligation.

Debt Mill Levy: means a mill levy imposed for payment of the costs of Public Improvements and incidental capitalized costs, whether such payment is made on a current funding basis or to defray Debt incurred to pay the costs of the Public Improvements. The Debt Mill Levy is further described in Section VI.C. below.

District No. 1: means the ______________________ Metropolitan District No. 1.

District No. 2: means the ______________________ Metropolitan District No. 2.

District No. 3: means the ______________________ Metropolitan District No. 3.

Districts: means District No. 1, District No. 2, and District No. 3 collectively.

End User: means any owner, or tenant of any owner, of any taxable property within the Districts held as a dwelling or in connection with a business other than real estate development or construction within the Districts. By way of example, a homeowner, residential renter, commercial property owner, or commercial tenant is an End User. None of the following is an End User: a Project Developer; a business entity that constructs homes or commercial structures within the Project; and a person who has filed (or should, in reasonable prudence, have filed) a conflict of interest disclosure with the Colorado Secretary of State pursuant to Section 24-18-110, C.R.S., on account of his or her business relationship with a Project Developer or other property owner within the District.

External Financial Advisor: means a consultant that: (1) advises 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; and (3) is not an officer or employee of the Districts or the Project Developer.

Fees: means fees, rates, tolls, penalties and charges as authorized by the Special District Act. The imposition and use of Fees is limited by this Service Plan, including as set forth in Section V.(A).(10).

Financial Plan: means the Financial Plan described in Section VI that is prepared by an External Financial Advisor (or a person or firm skilled in the preparation of financial projections for Colorado special districts) in accordance with the requirements of the Town Code. In the event the Financial Plan is not prepared by an External Financial Advisor, the Financial Plan is accompanied by a letter of support from an External Financial Advisor.

Financing District: means, in the singular, either District Nos. 2 or 3 individually, as the context requires, or in the plural, District Nos. 2 and 3 collectively.

Inclusion Area Boundaries: means the boundaries of the area described in the Town Inclusion Area Boundary Map and the County Inclusion Area Boundary Map.

Inclusion Area Boundary Maps: means the maps attached hereto as **Exhibits C-2 and C-3** describing property proposed for inclusion within the Districts in the future and/or for service through one or more additional districts, as further described in Section III below.

Initial District Boundaries: means the boundaries of the area depicted in the Initial District Boundary Map.

Initial District Boundary Map: means the map attached hereto as **Exhibit C-1** describing the Districts' boundaries.

Map Depicting Public Improvements: means the map or maps attached hereto as **Exhibit E**, showing the approximate expected location(s) of the Public Improvements listed in the Preliminary Infrastructure Plan.

Maximum Aggregate Mill Levy: means the maximum total combined mill levy the Districts are permitted to impose on property for all purposes. The amount is set forth in Section VI.C. below.

Maximum Debt Authorization: means the total Debt the Districts are permitted to incur as set forth in Section V.A.6.

Maximum Debt Mill Levy Imposition Term: means the maximum term for imposition of the Debt Mill Levy on a particular property for purposes of paying the costs of the Public Improvements (as set forth in Section VI.D below).

Operations and Maintenance Mill Levy: means a mill levy the Districts are permitted to impose on property for payment of general operating expenses, including administration, operations, and maintenance costs. The Operations and Maintenance Mill Levy shall not be levied to pay for Public Improvements or Debt. It is further described in Section VI.C. below.

Preliminary Infrastructure Plan: means the Preliminary Infrastructure Plan described in Section V.B. which includes: (a) a preliminary list of the Public Improvements to be developed by the Districts; and (b) an estimate of the cost of the Public Improvements.

Project: means the development or property referred to for land use planning purposes as ______________________.

Project Developer: means a person undertaking the development of the Project and any individual or affiliated entity, such as a parent or subsidiary entity or entity under common control or ownership. The term also includes a master or limited developer and any successor developer. The current Project Developer and proponent of the Districts is _____________________.

Public Improvements: means a part or all of the improvements authorized to be planned, designed, acquired, constructed, installed, relocated, redeveloped and financed by the Districts as generally described in the Special District Act, except as specifically limited in Section V below, to serve the future property owners and residents of the Service Area.

Service Area: means the property within the Initial District Boundary Map and the Inclusion Area Boundary Maps after such property has been included.

Service Plan: means this service plan for the Districts approved by the Town Board.

Service Plan Amendment: means an amendment to the Service Plan approved by the Town Board in accordance with applicable state law.

Service Plan Intergovernmental Agreement: means the intergovernmental agreement entered into by the town and the Districts in substantially the form as attached hereto as **Exhibit G**.

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

State: means the State of Colorado.

TABOR: means article X, section 20 of the Colorado Constitution.

Town: means the Town of Windsor, Colorado.

Town Board: means the Town Board of the Town of Windsor, Colorado.

Town Code: means the Town of Windsor Code and any regulations, rules, or policies promulgated thereunder, as the same may be amended from time to time.

Town Inclusion Area Boundaries: means the boundaries of the area described in the Town Inclusion Area Boundary Map.

Town Inclusion Area Boundary Map: means the map attached hereto as **Exhibit C-2** describing property that is already contained within the municipal boundaries of the Town, and that may be included within the Districts in the future.

III. BOUNDARIES

The area of the Initial District Boundaries includes approximately ____ acres and the total area proposed to be included in the Inclusion Area Boundaries is approximately ______ acres, consisting of approximately ______ acres within the Town Inclusion Area Boundaries and _______ acres within the County Inclusion Area Boundaries. A legal description of the Initial District Boundaries is attached hereto as part of **Exhibit A**. A map of the Initial District Boundaries is attached hereto as **Exhibit C-1**. A map of the Inclusion Area Boundaries presently lying within the corporate boundaries of the Town, together with a legal description, is attached hereto as **Exhibit C-2**. A map of the Inclusion Area Boundaries lying within unincorporated ________ County, which may be subject to future inclusion following annexation into the Town, together with a legal description, is attached hereto as **Exhibit C-3**. A vicinity map is attached hereto as **Exhibit B**. The Project Developer owns the property within the Initial District Boundaries.

It is anticipated that the Districts' boundaries may change from time to time as inclusions and exclusions occur pursuant to Sections 32-1-401, *et seq.*, C.R.S., and Sections 32-1-501, *et seq.*, C.R.S., subject to the limitations set forth in this Service Plan. Property within the Inclusion Area Boundaries may be included into the boundaries of the Districts or may be the subject of a proposed Service Plan Amendment for the creation of one or more additional financing districts to serve such areas. Property within the County Inclusion Area Boundaries shall not be included into the Districts prior to annexation of such property into the corporate boundaries of the Town.

IV. PROPOSED LAND USE AND ASSESSED VALUATION

The Initial District Boundaries consist of approximately _______ acres. The Service Area is planned to include [both residential and commercial] area. The current assessed valuation of the Initial District Boundaries is $_____________ for this Service Plan and, at build out, is expected to be approximately $______________, which amount is expected to be sufficient to reasonably discharge the Debt to be incurred by the Districts. The estimated population within the District Boundaries at build out is expected to be approximately ________ persons.

Approval of this Service Plan by the Town does not imply approval of the Project for development, nor does it imply approval of the number of residential units or the total site/floor area of commercial or industrial buildings that may be identified in this Service Plan or any of the exhibits attached hereto or any of the Public Improvements, unless the same is contained within an Approved Development Plan.

V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS, SERVICES, AND LIMITATIONS

A. Powers of the Districts and Service Plan Amendment.

The Districts shall have the power and authority to acquire, construct and install the Public Improvements within and without the boundaries of the Districts as such power and authority is described in the Special District Act, and other applicable statutes, common law and the State Constitution, subject to the limitations set forth herein.

If, after the Service Plan is approved, the General Assembly grants new or broader powers for metropolitan districts, to the extent permitted by law any or all such powers shall be deemed to be a part hereof and available to or exercised by the Districts upon execution of a written agreement with the Town Board concerning the exercise of such powers, which agreement shall be approved subject to the Town Board's sole legislative discretion. Execution and performance of such agreement by the Districts shall not constitute a material modification of this Service Plan.

1. Operations and Maintenance Limitation.

The purpose of the Districts is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. The Districts shall dedicate the Public Improvements to the Town or other appropriate jurisdiction in a manner consistent with the Approved Development Plan and applicable provisions of the Town Code. To the extent the Public Improvements are not accepted by the Town or other appropriate jurisdiction, the Districts shall be authorized to operate and maintain any part or all of the Public Improvements, provided that any increase in an operations mill levy beyond the limits set forth herein shall be subject to approval by the Town Board.

2. Development Standards.

The Districts will ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the Town and of other governmental entities having proper jurisdiction, as applicable. The Districts directly or indirectly through the developer of the Project will obtain the Town'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 Town, the Districts shall be required, in accordance with the Town Code, to post a surety bond, letter of credit, or other approved development security for any Public Improvements to be constructed by the Districts in connection with a particular phase. Such development security shall be released when the Districts (or the applicable District furnishing the security) have obtained funds, through bond issuance or otherwise, adequate to insure the construction of the applicable Public Improvements, or when the improvements have been completed and finally accepted. Any limitation or requirement concerning the time within which the Town must review a District proposal or application for an Approved Development Plan or other land use approval is hereby waived by the Districts.

3. 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 Section 32-1-103(12), C.R.S.) to be borne by the District for the [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.

4. Inclusion and Exclusion Limitation.

The Districts shall not include within their respective boundaries, any property outside of the Initial District Boundaries or the Inclusion Area Boundaries without the prior written consent of the Town Board. The property described in the County Inclusion Area Boundaries shall not be included in the boundaries of the Districts until such property has been annexed into the Town, and such inclusion shall be further subject to the other requirements set forth below for adjustments of boundaries of the Districts. The boundaries of the Districts may be adjusted within the boundaries of the Service Area by inclusion or exclusion pursuant to the Act, provided that the following materials are furnished to the Town Planning Department: a) written notice of any proposed inclusion or exclusion is provided at the time of publication of notice of the public hearing thereon; b) an engineer's or surveyor's certificate is provided establishing that the resulting boundary adjustment will not result in legal boundaries for any District extending outside of the Service Area; and c) to the extent the resulting boundary adjustment causes the boundaries of the Districts to overlap, that any consent to such overlap required by Section 32-1-107, C.R.S. is furnished. Notwithstanding the preceding text, property located in an Inclusion Area may not be included into a District pursuant to Section 32-1-401(2)(a), C.R.S., i.e., all Inclusion Area property to be included within a District must be included pursuant to the consent of the fee owner or owners of one hundred percent of the property to be included. Inclusions or exclusions that are not authorized by the preceding text shall require the prior approval of the Town Board, and such approval shall not constitute a material modification of this Service Plan.

5. Initial Debt Limitation.

Prior to the effective date of approval of an Approved Development Plan relating to development within the Service Area, the Districts shall not incur any Debt.

6. Maximum Debt Authorization.

The Districts shall not incur Debt in excess of $________ dollars. To the extent the Districts seek to modify the Maximum Debt Authorization, they shall obtain the prior approval of the Town Board. Increases that do not exceed 25% of the amount set forth above and are approved by the Town Board in a written agreement shall not constitute a material modification of this Service Plan. Debt established pursuant to an intergovernmental agreement pledging the collection and payment of property taxes and/or Capital Improvement Fees in connection with a Coordinating District and Financing District(s) structure and that secures payment of Debt issued by the Coordinating District shall not count against the Maximum Debt Authorization limitation.

7. Monies from Other Governmental Sources.

The Districts shall not apply for or accept Conservation Trust Funds, Great Outdoors Colorado Funds, or other funds available from or through governmental or non-profit entities for which the Town is eligible to apply, except pursuant to an intergovernmental agreement with the Town. This Section shall not apply to specific ownership taxes that shall be distributed to and a revenue source for the Districts without any limitation.

8. Consolidation Limitation.

The Districts shall not file a request with any Court to consolidate with another Title 32 district without the prior written consent of the Town.

9. Eminent Domain Limitation.

The Districts shall not exercise their statutory power of eminent domain, except as may be necessary to construct, install, access, relocate or redevelop the Public Improvements identified in the Preliminary Infrastructure Plan. Any use of eminent domain shall be undertaken strictly in compliance with State law and shall be subject to prior consent of the Town Board.

10. Limitation on Using Fees for Capital Improvements.

The Districts are prohibited from imposing or collecting Fees for purposes of paying for Public Improvements or Debt; provided, however, that the Districts may impose and collect a one-time capital improvement fee as a source of revenue for repayment of Debt and/or costs of Public Improvements in an amount not to exceed $2,500 per dwelling unit (the "Capital Improvement Fee"). No Capital Improvement Fee related to repayment of Debt shall be authorized to be imposed upon or collected from taxable property owned or occupied by an End User subsequent to the issuance of a Certificate of Occupancy for said taxable property. The Town undertakes no obligation to inform the Districts as to the status of Certificates of Occupancy or to monitor the collection of Capital Improvement Fees. Notwithstanding any of the foregoing, the restrictions in this paragraph shall not apply to any Fee imposed or collected from taxable property for the purpose of funding administration, operation, and maintenance costs of the Districts.

11. Bankruptcy Limitation.

All of the limitations contained in this Service Plan, including, but not limited to, those pertaining to the Maximum Aggregate Mill Levy have been established under the authority of the Town to approve a Service Plan with conditions pursuant to Section 32-1-204.5, C.R.S. It is expressly intended that such limitations:

1. shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Service Plan amendment; and

2. are, together with all other requirements of Colorado 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 nonbankruptcy law" as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

12. Pledge in Excess of Maximum Aggregate Mill Levy – Material Modification.

Any Debt incurred with a pledge or that results in a pledge that exceeds the Maximum Aggregate Mill Levy shall be deemed a material modification of this Service Plan pursuant to Section 32-1-207, C.R.S., and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the Town as part of a Service Plan Amendment.

13. Covenant Enforcement and Design Review Services Limitation.

The Districts are authorized to transfer responsibility for provision of covenant enforcement services and design review services under a declaration of covenants, conditions, and restrictions ("CCRs") to a not-for-profit entity controlled by End Users. The Districts shall not impose assessments that might otherwise be authorized to be imposed and collected pursuant to a CCRs. The preceding sentence does not limit the Districts' ability to impose Fees to defray the costs of covenant enforcement and design review services. The Districts shall be authorized to contract among themselves to assign responsibility for Covenant Enforcement and Design Review Services to one of the Districts, but any such contract shall be terminable by any District upon reasonable notice to the named enforcing District, and any determinations made by the enforcing District under such contract shall be appealable *de novo* to the Board of Directors of the District in which the property that is the subject of the determination is located. The Board of Directors of the District in which the property is located will then have thirty (30) days to hear the appeal or grant an extension; otherwise, the appeal shall be deemed denied.

14. Restrictions on Developer Reimbursements.

a) In the event the District procures or pays for Public Improvements outside of a public bid process, prior to reimbursement to the Project Developer or payment to a third party on behalf of the Project Developer, a qualified independent third party shall certify to the Districts that the costs of the Public Improvements are reasonable.

b) A qualified independent third party shall certify to the Districts that Public Improvements financed by a District are fit for intended purposes. Note that this certification standard might differ from the certification standards required by the end-owner of such facilities, such as the Town or other special district.

c) In the event a District agrees to reimburse the Project Developer for an advancement of money, property, or services and such agreement does not qualify as Debt as defined in this Service Plan, then the District shall not pay a rate of interest on such advancement that exceeds a rate equal to the prime rate as published in the Wall Street Journal ("WSJ") plus two percent (2%) for the applicable period. In the event the WSJ ceases to publish a prime rate, then the Districts shall substitute a rate from a similar market index. The Districts will from time to time monitor the feasibility of issuing Debt, and if the amount owed under the reimbursement agreement can be satisfied with the proceeds of Debt incurred at a cost materially less than the prime rate plus two percent (2%), then the Districts shall take reasonable steps to incur such Debt and satisfy the reimbursement obligation to the Project Developer. The purpose of this paragraph is to set a readily ascertainable ceiling on the rate of interest a District Board of Directors can agree to pay a Project Developer for advancements that do not qualify as Debt; this paragraph neither prevents the District from issuing Debt at a higher rate of interest than the WSJ prime rate plus two percent (2%) nor does it prevent the District from paying a lower rate of interest on a developer reimbursement agreement.

15. Town Trails.

Trails that are interconnected with a Town or regional trail system shall be open to the public free of charge and on the same basis as residents and owners of taxable property within the Districts.

16. Overlap of Existing Special Districts.

The proponents of the Districts have reviewed the boundaries of the Service Area to determine whether a District is expected to provide the same service to the same property as an existing special or metropolitan district. To the extent prohibited by Section 32-1-107, C.R.S., the Districts shall not duplicate the services provided by any existing metropolitan or special district in any area of overlap except as may be consented to by such existing district. The Town shall be held harmless if any existing metropolitan or special district refuses to authorize services and from any claims brought by such district for improvements constructed or installed or services provided prior to receiving any required consent.

17. Overlap of Districts.

No property shall be simultaneously included within the boundaries of more than one of the Districts, except as provided in Section V.A.4. above and in the following sentence. To the extent any District overlaps any other District(s), the total mill levy to be imposed by the Districts to property located in two or more of the Districts shall not exceed the Maximum Aggregate Mill Levy, and the property shall not be subject to a Debt Mill Levy for a period which exceeds the Maximum Debt Mill Levy Imposition Term.

18. Location and Extent Limitation.

To the extent a metropolitan district may have any powers pursuant to Section 31-23-209, C.R.S., with respect to the Town, the District hereby waives and shall not exercise any such powers to override or avoid submitting to the jurisdiction of the Town Board or compliance with the Town Code or other regulations.

19. Disclosure.

Contemporaneously with the inclusion of property into a District, the District shall record a disclosure in the form set forth in **Exhibit** H hereto in the appropriate county's real property records.

20. Meetings.

Beginning when there is any property within a District that is owned by a residential End User, all of the applicable District's Board meetings shall be held after 5:00 p.m. in order to facilitate attendance by property owners and residents with daytime work schedules and either: a) physically located within the boundaries of the applicable District or the boundaries of the Town or b) held via teleconference, electronically, or in another format that does not require physical presence of the Board or participating members of the public, provided that the meeting notice includes the method or procedure, including the conference number or link, by which members of the public can attend the meeting. If a majority of a District's Board are End Users, the District's Board votes in favor of the measure, the Board may hold a meeting at a different time or format.

Notwithstanding the foregoing, the Districts' annual public hearing regarding the subsequent year's budget, as required pursuant to Section 29-1-108, C.R.S., shall be held within the boundaries of the Districts or the boundaries of the Town, every year in which there is any property within the Districts that is owned by an End User, except that it may be held via teleconference or electronically in the event of a public health or other public emergency. Nothing herein prevents an individual Director or member of the public from participating via telephone or electronically in a meeting held physically within the District or the Town, to the extent permitted by law.

In addition, any regular or special meeting at which the District's Board intends to make a final determination to issue general obligation indebtedness shall be held within the District or the boundaries of the Town if any property within the District is owned by an End User except that it may be held via teleconference or electronically in the event of a public health or other public emergency.

21. Elections.

The Districts shall post a copy of each call for nominations, required pursuant to Section 1-13.5-501, C.R.S., in the designated place for posting notices of meetings per Section 24-6-402(2)(c), C.R.S., in addition to complying with any other notice requirements of the Special District Act.

22. Website. The Districts shall establish and maintain a well-organized website readily accessible to the public, including persons with disabilities at all times except when a District is subject to a current resolution of inactive status pursuant to Section 32-1-104, C.R.S. and for 90 days after the return to active status. In addition to the information required to be posted pursuant to Sec. 32-1-104.5(3)(a), C.R.S., the following public information shall be posted on the website for each District:

a) The names, terms, and contact information for the current directors of the board of the metropolitan district and of the manager of the metropolitan district, if applicable, including email address and phone number where the Director / Manager can be reached;

b) The current fiscal year budget of the metropolitan district and, within thirty days of adoption by the board of the metropolitan district, any amendments to the budget;

c) The prior year's audited financial statements of the metropolitan district, if applicable, or an application for exemption from an audit prepared in accordance with the Colorado Local Government Audit Law, part 6 of article 1 of title 29, within thirty days of the filing of the application with the state auditor;

d) The annual report of the metropolitan district in accordance with section 32-1-207 (3)(c);

e) By January 30 of each year, the date, time, and location of scheduled regular meetings of the district's board for the current fiscal year;

f) Not more than thirty days after an election, certified election results for an election conducted within the current fiscal year;

g) A current map depicting the boundaries of the metropolitan district as of January 1 of the current fiscal year;

h) upcoming District election dates and related deadlines; a step-by-step description of District election processes; the name, address, phone number and email address of the District's Designated Election Official; and the call for nominations required per Sec. 1-13.5-501(1), C.R.S.;

i) a notice of vacancy for any vacancy on the Board, along with information on how to apply for the position;

j) the date, time and location of upcoming District Board meetings, including special meetings, posted no less than seventy-two (72) hours prior to each meeting date;

k) a complete meeting agenda for each District Board meeting, including special meetings, posted no less than seventy-two (72) hours prior to each meeting date;

l) agendas and minutes from all Board meetings held in 2021 or later;

m) the Districts' Service Plan and all amendments thereto;

n) all Rules and Regulations of the District and all amendments thereto;

o) all active intergovernmental agreements to which the District is a party;

p) all operations and maintenance contracts to which the District is a party;

q) all recorded declarations of covenants if the District provides covenant enforcement and design review services;

r) all active notices of competitive bidding for services and materials purchased by the District;

s) the numerical level of District mill levy for debt service; the numerical level of District mill levy for operations and maintenance; and the aggregate amount of outstanding District debt;

t) the total amount of privately-placed District debt, and the rate of interest accruing thereon;

u) a copy of any fee schedule adopted by the District Board;

v) copies of all TABOR election results with respect to new tax imposition(s) and debt authorization(s), regardless of the year of adoption;

w) a summary description of mill levy adjustments undertaken by the District in response to changes in the method of calculating assessed valuation or any constitutionally-mandated or statutorily-authorized tax credit, cut or abatement for property within the District.

23. <u>Service Plan Amendment Requirement</u>.

This Service Plan is general in nature and does not include specific detail in some instances because development plans have not been finalized. This Service Plan has been designed with sufficient flexibility to enable the Districts to provide required services and facilities under evolving circumstances without the need for numerous amendments. Modification of the general types of services 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 consistent with the then-current Approved Development Plan(s) for the Project.

The Districts shall be independent units of local government, separate and distinct from the Town, and their activities are subject to review by the Town only insofar as they may deviate in a material manner from the requirements of the Service Plan. Any action of the Districts that (1) violates the limitations set forth in this Section V.A. or (2) violates the limitations set forth in

Section VI below, shall be deemed to be a material modification to this Service Plan unless otherwise agreed by the Town as provided for in Section X of this Service Plan or unless otherwise expressly provided herein. Unless otherwise expressly provided herein, any other departure from the provisions of this Service Plan shall be considered on a case-by-case basis as to whether such departure is a material modification. Any determination by the Town that a departure is not a material modification shall be conclusive and final and shall bind all residents, property owners and others affected by such departure to the extent permitted by law. Any such determination shall not have a precedential effect on the Town's oversight of other metropolitan districts. Any determinations made by the Town shall be made in the Town's sole legislative discretion.

To the extent permitted by law, the Districts may seek formal approval from the Town Board of modifications to this Service Plan that are not material, but for which the Districts may desire a written amendment and approval by the Town Board. Such approval may be evidenced by any instrument executed by the Town Manager, Town Attorney, or other specially designated representative of the Town Board as to the matters set forth therein and shall be conclusive and final.

B. Preliminary Infrastructure Plan.

The Districts shall have authority to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, maintenance, and financing of the Public Improvements within and without the boundaries of the Districts, to be more specifically defined in an Approved Development Plan. The Preliminary Infrastructure Plan, including: (1) a list of the Public Improvements to be developed by the Districts; and (2) an estimate of the cost of the Public Improvements is attached hereto as **Exhibit D** and is hereby deemed to constitute the preliminary engineering or architectural survey required by Section 32-1-202(2)(c), C.R.S. The Map Depicting Public Improvements is attached hereto as **Exhibit E** and is also available in size and scale approved by the Town Planning Department.

As shown in the Preliminary Infrastructure Plan, the estimated cost of the Public Improvements that may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, maintained or financed by the Districts is approximately $___________. The Districts shall be permitted to allocate costs between such categories of the Public Improvements as deemed necessary in their discretion.

All of the Public Improvements described herein will be designed in such a way as to assure that the Public Improvements standards will be consistent with, or exceed the standards of, the Town and shall be in accordance with the requirements of the Approved Development Plan. All descriptions of the Public Improvements to be constructed, and their related costs, are estimates only and are subject to modification as engineering, development plans, economics, the Town's requirements, and construction scheduling may require. Upon approval of this Service Plan, the Districts will continue to develop and refine the Preliminary Infrastructure Plan and the Map Depicting Public Improvements, as necessary, and prepare for issuance of Debt or other funding of the Public Improvements. All cost estimates will be inflated to then-current dollars at the time of the issuance of Debt and construction. All construction cost estimates contained in **Exhibit D** assume construction to applicable local, State and Federal requirements. Changes in the Public Improvements, Preliminary Infrastructure Plan, Map Depicting Public Improvements, or costs, shall not constitute material modifications of this Service Plan. Additionally, due to the preliminary nature of the PIP, the Town shall not be bound by the PIP in reviewing and approving the Approved Development Plan and the Approved Development Plan shall supersede the PIP.

C. Operational Services.

The Districts shall be authorized to provide the following ongoing operations and maintenance services:

1. Landscape maintenance and upkeep for common areas and other District owned property within the Districts' boundaries, including, but not limited to, entrance and external streetscapes and the non-potable water system that may be used to irrigate those areas.

2. Maintenance and upkeep for common area fencing and entrance features.

3. District administrative, legal and accounting services.

4. Neighborhood parks and trails.

5. Covenant code enforcement and design review.

6. Solid Waste Management; provided, however, that in approving this Service Plan, the Town is not authorizing the provision of any services in excess of what is already provided by Section 32-1-1006(6), C.R.S.

D. Demonstrated Public Benefit.

[Discuss how the existence of the Districts will lead to a demonstrated public benefit, including identification of the public benefit]

VI. FINANCIAL PLAN

A. General.

Embedded in the structure of the Financial Plan are the Town's policies that (i) the costs of Public Improvements are to be paid from taxes and not from Fees (with the exception of the Capital Improvements Fee) and (ii) property shall not be taxed for more than a period of thirty (30) years to pay the costs of the Public Improvements necessary for or part of the master planned development of the Project of which such property is a part. Accordingly, the costs of Public Improvements, and Debt incurred to fund the same, are to be paid from revenues of the Debt Mill Levy and Capital Improvements Fees; and, the Districts' administrative, operating and maintenance costs are to be paid from the Operations and Maintenance Mill Levy and Fees. Any ambiguity in this Service Plan is to be resolved consistent with these policies.

The Districts shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment of the Public Improvements from certain revenues and by and through the proceeds of Debt to be incurred by the Districts. The Financial Plan for the Districts shall be to (i) incur no more Debt than the Districts can reasonably pay from revenues derived from the Debt Mill Levy and other legally available revenues and

(ii) satisfy all other financial obligations arising out of the Districts' administrative and operations, and maintenance activities.

The total Debt that the Districts shall be permitted to incur shall not exceed the Maximum Debt Authorization; provided, however, that Debt incurred to refund outstanding Debt of the Districts shall not count against the Maximum Debt Authorization so long as such refunding Debt does not result in a net present value expense. District Debt shall be permitted to be incurred on a schedule and in such year or years as the issuing District determines shall meet the needs of the Financial Plan referenced above and phased to serve the Project as it occurs. All bonds and other Debt incurred by the Districts may be payable from any and all legally available revenues of the Districts, including but not limited to revenues from the Debt Mill Levy to be imposed upon all taxable property within the Districts and Capital Improvement Fees.

All Debt incurred by the Districts must be incurred in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law. The Maximum Debt Authorization is supported by the Financial Plan prepared by ____________________, attached hereto as **Exhibit F**. The Project Developer has provided valuation and absorption data it believes to be market based and market comparable. The Financial Plan attached to this Service Plan satisfies the requirements of Section 19-1-20(i). of the Town Code.

B. Maximum Voted Interest Rate and Maximum Underwriting Discount.

The interest rate on any Debt is expected to be the market rate at the time the Debt is incurred. In the event of a default, the proposed maximum interest rate on any Debt is not permitted to exceed twelve percent (12%). The proposed maximum underwriting discount will be three percent (3%). Debt, when incurred, will comply with all relevant requirements of this Service Plan, State law and Federal law as then applicable to the issuance of public securities.

C. Maximum Mill Levies.

A District may impose a "Debt Mill Levy" upon taxable property within such District for payment of Public Improvements, including Debt incurred and other obligations incurred to pay the costs of Public Improvements. The Districts are authorized to promise to impose the Debt Mill Levy for a period not to exceed the Maximum Debt Mill Levy Imposition Term, and revenues derived from the Debt Mill Levy may be pledged to defray Debt. The Debt Mill Levy may not exceed thirty-four (34) mills. However, if there are changes in the method of calculating assessed valuation or any constitutionally mandated or statutorily authorized tax credit, cut or abatement, then the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2015, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation to assessed valuation shall be deemed to be a change in the method of calculating assessed valuation.

An "Operations and Maintenance Mill Levy" may be imposed upon the taxable property within the Districts for payment of administration, operations, and maintenance costs.

The Operations and Maintenance Mill Levy shall not exceed the maximum mill levy necessary to pay administration, operations, and maintenance costs, which shall include, but not be limited to, the funding of operating reserves and sufficient ending fund balances to assure sufficient cash flow to fund expenses as they come due. The Districts are prohibited from imposing an Operations and Maintenance Mill Levy for purposes of generating revenue to fund Public Improvements or for defraying Debt. The Districts are prohibited from promising to impose an Operations and Maintenance Mill Levy, except that the Districts may, to the extent of authorization under TABOR, promise to impose an Operations and Maintenance Mill Levy in connection with a Debt covenant to fund basic District administrative, operations, and maintenance costs. Revenues derived from the Operations and Maintenance Mill Levy may not be pledged. The Operations and Maintenance Mill Levy imposed by any District or any combination of the Districts on a single property shall not exceed twenty (20) mills. Additionally, the Operations and Maintenance Mill Levy is subject to, and, when combined with the Debt Mill Levy, cannot exceed the Maximum Aggregate Mill Levy. However, if there are changes in the method of calculating assessed valuation or any constitutionally mandated or statutorily authorized tax credit, cut or abatement, then the mill levy limitation may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2015, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation to assessed valuation shall be deemed to be a change in the method of calculating assessed valuation. If a majority of a District's Board are End Users, the District's Board votes in favor of the measure, and the same is approved by the Town Board by Resolution, the District's Operations and Maintenance Mill Levy may be increased above twenty (20) mills, up to the lesser of the amount approved by the District Board or the Town Board, subject to the Maximum Aggregate Mill Levy.

The Maximum Aggregate Mill Levy shall be the maximum mill levy the District or any combination of Districts is permitted to impose upon taxable property for any purpose, including payment of Debt, capital improvements costs, administration, operations, and maintenance costs. The Maximum Aggregate Mill Levy is thirty-nine (39) mills. However, if, on or after January 1, 2015, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement, then the preceding mill levy limitations may be increased or decreased to reflect such changes, with such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2015, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation to assessed valuation shall be deemed to be a change in the method of calculating assessed valuation. By way of example, if a District has imposed a Debt Mill Levy of 30 mills, the maximum Operations and Maintenance Mill Levy that it can simultaneously impose is 9 mills.

D. Maximum Debt Mill Levy Imposition Term.

No District or combination of Districts shall have any authority to impose or collect a Debt Mill Levy on any single property for a period greater than thirty 30 years after the year of the initial imposition of a Debt Mill Levy; this restriction is referred to as the Maximum Mill Levy Imposition Term. The Maximum Mill Levy Imposition Term begins to run on the earlier of (i) the first year the Debt Mill Levy is collected and (ii) five years after the year in which the first building permit for a residential, commercial or industrial building is issued for property within the District. As an example of (ii), if the first building permit in District No. 2 is issued in [2016], then District No. 2 should impose its Debt Mill Levy no later than tax year [2021] (which mill levy would be first collected in [2022]). In the event a District fails to impose a Debt Mill Levy within this five-year time period, the Maximum Debt Mill Levy Imposition Period shall be reduced a year for each year that the imposition of the mill levy is delayed. Put another way, a District has a five year window from the initial building permit within which to impose a full thirty-year Debt Mill Levy. In structuring Debt, Districts shall be mindful that this primary revenue source for repayment shall expire at the end of this thirty-year term. The Maximum Public Improvement Mill Levy Imposition Term may be altered only upon approval by the Town pursuant to a separate written intergovernmental agreement, and only upon a finding by the Town of extraordinary burdens to the Districts or extraordinary benefits to be conferred upon the Town by the Districts.

E. Sources of Funds.

As discussed in more detail above, the Districts may impose mill levies on taxable property within its boundaries as a primary source of revenue for repayment of debt service, capital improvements, administrative expenses and operations, and maintenance, to the extent operations and maintenance functions are specifically addressed in this Service Plan. The Districts may also rely upon various other revenue sources authorized by law, including loans from the Project Developer. At the Districts' discretion, they may assess Fees that are reasonably related to the costs of operating and maintaining District services and facilities. Fees, other than Capital Improvement Fees, shall not be imposed for the purpose of paying for Public Improvements or defraying Debt unless specifically permitted by the Town Board, and any such permission shall not constitute a material modification of this Service Plan. The Districts are permitted to pledge revenues from the Capital Improvements Fee to the payment of Debt.

F. Security for Debt.

The Districts do not have the authority to, and shall not, pledge any revenue or property of the Town 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 Town 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 Town in the event of default by the Districts in the payment of any such obligation or performance of any other obligation.

G. Debt Instrument Disclosure Requirement.

In the text of each bond and any other instrument representing and constituting Debt, the District shall set forth a statement in substantially the following form:

> By acceptance of this instrument, the owner of this Bond agrees and consents to all of the limitations in respect of the payment of the principal of and interest on this Bond contained herein, in the resolution of the District authorizing the issuance of this Bond and in the Service Plan of the District.

Similar language describing the limitations in respect of the payment of the principal of 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, the Project Developer.

H. TABOR Compliance.

The Districts will comply with the provisions of TABOR. In the discretion of the Board, 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 the Districts will remain under the control of the applicable Districts' Board.

I. Districts' Operating Costs.

The estimated cost of acquiring land, engineering services, legal services and administrative services, together with the estimated cost of the Districts' organization and initial operations, are anticipated to be $__________, which will be eligible for reimbursement from Debt proceeds or other legally available revenues.

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 $________. Ongoing administration, operations, and maintenance costs may be paid from property taxes and other revenues.

J. Elections.

The Districts will call an election on the questions of organizing the Districts, electing the initial Boards, and setting in place financial authorizations as required by TABOR. The election will be conducted as required by law.

K. Subdistricts.

The Districts may organize subdistricts or areas as authorized by Section 32-1-1101(1)(f), C.R.S., provided, however, that without the specific approval of the Town, any such subdistrict(s) or area(s) shall be subject to all limitations on Debt, taxes, Fees, and other provisions of this Service Plan. Neither the Debt Mill Levy, the Operations and Maintenance Mill Levy, nor any Debt limit shall be increased as a result of creation of a subdistrict. In accordance with Section 32-1-1101(1)(f)(I), C.R.S., the Districts shall notify the Town prior to establishing any such subdistrict(s) or area(s), and shall provide the Town with details regarding the purpose, location, and relationship of the subdistrict(s) or area(s). The Town Board may elect to treat the organization of any such subdistrict(s) or area(s) as a material modification of this Service Plan.

L. Special Improvement Districts.

The Districts are not authorized to establish a special improvement district without the prior approval of the Town Board.

M. Restrictions on Districts Controlled by End User Boards.

This Service Plan's limitations on the Debt Mill Levy, the Operations and Maintenance Mill Levy, the limitation on the use of Fees for Public Improvements, and certain other financial limitations are intended to strike a balance between (i) providing adequate project control and revenue to the Project Developer to facilitate desirable development which will result in demonstrated public benefit and (ii) providing adequate safeguards for protection of residents and taxpayers. When a District Board is composed entirely of End Users, the balance may shift in favor of removing some of the limitations on financial powers. The Town Board may be more inclined to remove financial limitations in scenarios where the District Board wants to add Public Improvements which were not contemplated as part of the Project Developer's master plan for the Project (e.g., 20 years after development a neighborhood wants to renovate and expand the uses of its community center), a District-owned Public Improvement requires significant repairs, maintenance or upgrades and the cost properly rests with the District, or the restructuring of Debt would result in a net present value savings as set forth in Section 11-56-101, *et seq.*, C.R.S. In the event such circumstances are present, the District Board should consider approaching the Town for authorization.

VII. ANNUAL REPORT

A. General. The Districts shall be responsible for electronically submitting an annual report with the Town Clerk not later than October 1st of each year following the year in which the Order and Decree creating the Districts has been issued by the District Court in and for the County of __________________, Colorado. The Town may waive this requirement in its sole discretion.

B. Reporting of Significant Events.

The annual report shall include the following, as applicable for the reporting year:

1. Boundary changes made;

2. Intergovernmental Agreements entered into or terminated with other governmental entities;

3. Access information to obtain a copy of Rules and Regulations adopted by the Board;

4. A summary of litigation involving public improvements owned by the District;

5. The status of the construction of public improvements by the District;

6. A list of facilities or improvements constructed by the District that were conveyed or dedicated to the county or municipality;

7. The final assessed valuation of the special district as of December 31 of the reporting year;

8. A copy of the current year's budget;

9. Notice of any uncured defaults existing for more than ninety days under any debt instrument of the District;

10. Any inability of the District to pay its obligations as they come due under any obligation which continues beyond a ninety-day period;

11. A narrative summary of the progress of the Districts in implementing the Service Plan for the report year;

12. The audited financial statements of the Districts 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 operations (*i.e.*, revenues and expenditures) for the report year, or the District's application for exemption from Audit;

13. Unless disclosed within a separate schedule to the financial statements, a summary of the capital expenditures incurred by the Districts in development of Public Improvements in the report year and the source of funds for the same;

14. Unless disclosed within a separate schedule to the financial statements, a summary of the financial obligations of the Districts at the end of the report year, including the amount of outstanding indebtedness, the amount and terms of any new District indebtedness or long-term obligations incurred in the report year, the amount of payment or retirement of existing indebtedness of the Districts in the report year, the total assessed valuation of all taxable properties within the Districts as of January 1st of the report year and the current mill levy of the Districts pledged to debt retirement in the report year; and

15. Copies of developer Reimbursement Agreements or amendments thereto made in the applicable year.

16. Copies of documentation establishing compliance with Section V.A.14 (Restrictions on Developer Reimbursements).

17. Any other information deemed relevant by the Town Manager.

Districts which are subject to a current resolution of inactive status pursuant to Section 32-1-104, C.R.S., may disregard these annual reporting requirements if the Districts were in inactive status for the entire reporting year.

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

VIII. DISSOLUTION

Upon a determination of the Town Board that the purposes for which the Districts were created have been accomplished, the Districts agree to file a petition in the District Court in and for the County of _________________, Colorado, for dissolution, in accordance with the provisions of the Special District Act. In no event shall dissolution occur until the Districts have provided for the payment or discharge of all of their outstanding Debt and other financial obligations as required pursuant to State statutes. If the Districts are responsible for ongoing operations and maintenance functions under this Service Plan ("Long Term District Obligations"), the Districts shall not be obligated to dissolve upon any such Town Board determination, subject to the Districts' requirement to obtain the Town's continuing approvals under Section V.A. However, should the Long Term District Obligations be undertaken by the Town or other governmental entity, or should the Districts no longer be obligated to perform the Long Term District Obligations, the Districts agree to commence dissolution proceedings as set forth above.

IX. INTERGOVERNMENTAL AND EXTRATERRITORIAL AGREEMENTS

All intergovernmental agreements must be for purposes, facilities, services or agreements lawfully authorized to be provided by the Districts, pursuant to the State Constitution, Article XIV, Section 18(2)(a) and Sections 29-1-201, *et seq.*, C.R.S. To the extent practicable, the Districts may enter into additional intergovernmental and private agreements to better ensure long-term provision of the Public Improvements identified herein or for other lawful purposes of the Districts. Agreements may also be executed with property owner associations and other service providers. It is expected that the Districts will enter into an Operations Agreement that will describe the obligation of the Coordinating District to furnish operations, coordination of financing, coordination of construction and/or acceptance of improvements, covenant enforcement and design review services, and administrative and statutory compliance functions on behalf of the Districts generally. The Operations Agreement is expected to require funding from the Districts through the imposition of a property tax mill levy not to exceed the Maximum Aggregate Mill Levy. It is also expected that the Districts will enter into agreements among themselves providing for the pledge of revenues to the payment of Debt that is authorized to be incurred by the Districts hereunder.

[If it is intended that a District will contract with other special districts, specify the district and nature of the agreement here.]

No later than two weeks after their organizational meetings, the Districts and the Town shall enter into a Service Plan Intergovernmental Agreement in substantially the form attached hereto as **Exhibit F**.

No other agreements are required, or known at the time of formation of the Districts to likely be required, to fulfill the purposes of the Districts. Execution of intergovernmental agreements or agreements for extraterritorial services (e.g. outside of the Service Area) by the Districts that are not described in this Service Plan shall require the prior approval of the Town Manager, which approval shall not constitute a material modification hereof.

X. MATERIAL MODIFICATIONS

Material modifications to this Service Plan may be made only in accordance with Section 32-1-207, C.R.S. No modification shall be required for an action of the Districts that does not materially depart from the provisions of this Service Plan. The Districts may request from the Town Manager (or his or her designee) a determination as to whether the Town believes any particular action constitutes a material departure from the Service Plan, and the Districts may rely on the Town Manager's written determination with respect thereto; provided that the Districts acknowledge that the Town Manager's determination as aforesaid will be binding only upon the Town, and will not be binding upon any other party entitled to enforce the provisions of the Service Plan as provided in Section 32-1-207, C.R.S., except as otherwise expressly provided herein. Such other parties shall be deemed to have constructive notice of the provisions of this Service Plan concerning changes, departures or modifications which may be approved by the Town in procedures described herein and not provided in Section 32-1-207, C.R.S., and, to the extent permitted by law, are deemed to be bound by the terms hereof.

XI. CONCLUSION

It is submitted that this Service Plan for the Districts, as required by Section 32-1-203(2), establishes that:

A. There is sufficient existing and projected need for organized service in the area to be serviced by the Districts;

B. The existing service in the area to be served by the Districts is inadequate for present and projected needs;

C. The Districts are capable of providing economical and sufficient service to the area within its proposed boundaries;

D. The area to be included in the Districts does have, and will have, the financial ability to discharge the proposed indebtedness on a reasonable basis;

XII. ORDINANCE OF APPROVAL

The Districts agree to incorporate the Town Board's ordinance of approval, including any conditions on any such approval, into the Service Plan presented to the District Court in and for the County of _________________, Colorado.

<u>EXHIBIT A</u>

Legal Descriptions

EXHIBIT B

Vicinity Map

EXHIBIT C-1

Initial District Boundary Map

EXHIBIT C-2

Town of Windsor Inclusion Area Boundary Map and Legal Description

EXHIBIT C-3

__________County Inclusion Area Boundary Map and Legal Description

EXHIBIT D

Preliminary Infrastructure Plan

EXHIBIT E

Map Depicting Public Improvements

EXHIBIT F

Financial Plan

EXHIBIT G

Service Plan Intergovernmental Agreement

INTERGOVERNMENTAL AGREEMENT BETWEEN

THE TOWN OF WINDSOR, COLORADO

AND THE

_____________ METROPOLITAN DISTRICT NOS. ____

THIS AGREEMENT is made and entered into as of this ___ day of _____________, 20___, by and between the TOWN OF WINDSOR, a home rule municipal corporation of the State of Colorado (the "Town"), and the _________________ METROPOLITAN DISTRICT NOS. 1 - _____, each a quasi-municipal corporation and political subdivision of the State of Colorado (the "Districts"). The Town and the Districts are individually referred to as a "Party" and collectively referred to as the "Parties."

WITNESSETH:

WHEREAS, C.R.S. Section 29-1-203 authorizes the Parties to cooperate and contract with one another regarding functions, services and facilities each is authorized to provide; and

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

WHEREAS, the Service Plan makes reference to the execution of an intergovernmental agreement between the Town and the Districts; and

WHEREAS, the Parties have determined that any capitalized term not specifically defined in this Agreement shall have that meaning as set forth in the Service Plan; and

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

NOW, THEREFORE, in consideration of the covenants and mutual agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Operations and Maintenance Limitation. The purpose of the Districts is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. The Districts shall dedicate the Public Improvements to the Town or other appropriate jurisdiction in a manner consistent with the Approved Development Plan and applicable provisions of the Town Code. To the extent the Public Improvements are not accepted by the Town or other appropriate jurisdiction, the Districts shall be authorized to operate and maintain any part or all of the Public Improvements, provided that any increase in an operations mill levy beyond the limits set forth herein and the Service Plan shall be subject to approval by the Town Board.

2. Development Standards. The Districts will ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the Town and of other governmental entities having proper jurisdiction, as applicable. The Districts directly or indirectly through the Project Developer will obtain the Town'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 Town, the Districts shall be required, in accordance with the Town Code, to post a surety bond, letter of credit, or other approved development security for any Public Improvements to be constructed by the Districts in connection with a particular phase. Such development security shall be released when the Districts (or the applicable District furnishing the security) have obtained funds, through bond issuance or otherwise, adequate to insure the construction of the applicable Public Improvements, or when the improvements have been completed and finally accepted. Any limitation or requirement concerning the time within which the Town must review a District proposal or application for an Approved Development Plan or other land use approval is hereby waived by the Districts.

3. 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 Section 32-1-103(12), C.R.S.) to be borne by the District for the [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.

4. Inclusion and Exclusion Limitation. The Districts shall not include within their respective boundaries, any property outside of the Initial District Boundaries or the Inclusion Area Boundaries without the prior written consent of the Town Board. The property described in the County Inclusion Area Boundaries shall not be included in the boundaries of the Districts until such property has been annexed into the Town, and such inclusion shall be further subject to the other requirements set forth below for adjustments of boundaries of the Districts. The boundaries of the Districts may be adjusted within the boundaries of the Service Area by inclusion or exclusion pursuant to the Act, provided that the following materials are furnished to the Town Planning Department: a) written notice of any proposed inclusion or exclusion is provided at the time of

publication of notice of the public hearing thereon; b) an engineer's or surveyor's certificate is provided establishing that the resulting boundary adjustment will not result in legal boundaries for any District extending outside of the Service Area; and c) to the extent the resulting boundary adjustment causes the boundaries of the Districts to overlap, that any consent to such overlap required by Section 32-1-107, C.R.S. is furnished. Notwithstanding the preceding text, property located in an Inclusion Area may not be included into a District pursuant to Section 32-1-401(2)(a), C.R.S., i.e., all Inclusion Area property to be included within a District must be included pursuant to the consent of the fee owner or owners of one hundred percent of the property to be included. Inclusions or exclusions that are not authorized by the preceding text shall require the prior approval of the Town Board, and such approval shall not constitute a material modification of the Service Plan.

5. Initial Debt Limitation. Prior to the effective date of approval of an Approved Development Plan relating to development within the Service Area, the Districts shall not incur any Debt.

6. Maximum Debt Authorization. The Districts shall not incur Debt in excess of $________ dollars. To the extent the Districts seek to modify the Maximum Debt Authorization, they shall obtain the prior approval of the Town Board. Increases that do not exceed 25% of the amount set forth above, and that are approved by the Town Board in a written agreement, shall not constitute a material modification of the Service Plan. Debt established pursuant to an intergovernmental agreement pledging the collection and payment of property taxes and/or Capital Improvement Fees in connection with a Coordinating District and Financing District(s) structure and that secures payment of Debt issued by the Coordinating District shall not count against the Maximum Debt Authorization limitation.

7. Monies from Other Governmental Sources. The Districts shall not apply for or accept Conservation Trust Funds, Great Outdoors Colorado Funds, or other funds available from or through governmental or non-profit entities for which the Town is eligible to apply, except pursuant to an intergovernmental agreement with the Town. This Section shall not apply to specific ownership taxes, which shall be distributed to and a revenue source for the Districts without any limitation.

8. Consolidation Limitation. The Districts shall not file a request with any Court to consolidate with another Title 32 district without the prior written consent of the Town.

9. Eminent Domain Limitation. The Districts shall not exercise their statutory power of eminent domain, except as may be necessary to construct, install, access, relocate or redevelop the Public Improvements identified in the Preliminary Infrastructure Plan. Any use of eminent domain shall be undertaken strictly in compliance with State law and shall be subject to prior consent of the Town Board.

10. Limitation on Using Fees for Capital Improvements. The Districts are prohibited from imposing or collecting Fees for purposes of paying for Public Improvements or Debt; provided, however, that the Districts may impose and collect a one-time capital improvement fee as a source of revenue for repayment of Debt and/or costs of Public Improvements in an amount not to exceed $2,500 per dwelling unit (the "Capital Improvement Fee"). No Capital Improvement

Fee related to repayment of Debt shall be authorized to be imposed upon or collected from taxable property owned or occupied by an End User subsequent to the issuance of a Certificate of Occupancy for said taxable property. The Town undertakes no obligation to inform the Districts as to the status of Certificates of Occupancy or to monitor the collection of Capital Improvement Fees. Notwithstanding any of the foregoing, the restrictions in this paragraph shall not apply to any Fee imposed or collected from taxable property for the purpose of funding administration, operation, and maintenance costs of the Districts.

11. <u>Bankruptcy Limitation</u>. All of the limitations contained in the Service Plan and this Agreement, including, but not limited to, those pertaining to the Maximum Aggregate Mill Levy have been established under the authority of the Town to approve a Service Plan with conditions pursuant to Section 32-1-204.5, C.R.S. It is expressly intended that such limitations:

a) shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Service Plan amendment; and

b) are, together with all other requirements of Colorado 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 nonbankruptcy law" as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

12. <u>Pledge in Excess of Maximum Aggregate Mill Levy – Material Modification</u>. Any Debt incurred with a pledge or that results in a pledge that exceeds the Maximum Aggregate Mill Levy shall be deemed a material modification of the Service Plan pursuant to Section 32-1-207, C.R.S., and a breach of this Agreement and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the Town as part of a Service Plan Amendment.

13. <u>Covenant Enforcement and Design Review Services Limitation</u>. The Districts are authorized to transfer responsibility for provision of covenant enforcement services and design review services under a declaration of covenants, conditions, and restrictions ("CCRs") to a not for profit entity controlled by End Users. The Districts shall not impose assessments that might otherwise be authorized to be imposed and collected pursuant to a CCRs. The preceding sentence does not limit the Districts' ability to impose Fees to defray the costs of covenant enforcement and design review services. The Districts shall be authorized to contract among themselves to assign responsibility for Covenant Enforcement and Design Review Services to one of the Districts, but any such contract shall be terminable by any District upon reasonable notice to the named enforcing District, and any determinations made by the enforcing District under such contract shall be appealable *de novo* to the Board of Directors of the District in which the property that is the subject of the determination is located. The Board of Directors of the District in which the property is located will then have thirty (30) days to hear the appeal or grant an extension; otherwise, the appeal shall be deemed denied.

14. Restrictions on Developer Reimbursements.

a) In the event the District procures or pays for Public Improvements outside of a public bid process, prior to reimbursement to the Project Developer or payment to a third party on behalf of the Project Developer a qualified independent third party shall certify to the Districts that costs of the Public Improvements are reasonable.

b) A qualified independent third party shall certify to the Districts that Public Improvements financed by a District are fit for intended purposes. Note that this certification standard might differ from the certification standards required by the end-owner of such facilities, such as the Town or other special district.

c) In the event a District agrees to reimburse the Project Developer for an advancement of money, property, or services and such agreement does not qualify as Debt as defined in the Service Plan, then the District shall not pay a rate of interest on such advancement that exceeds a rate equal to the prime rate as published in the Wall Street Journal ("WSJ") plus two percent (2%) for the applicable period. In the event the WSJ ceases to publish a prime rate, then the Districts shall substitute a rate from a similar market index. The Districts will from time to time monitor the feasibility of issuing Debt, and if the amount owed under the reimbursement agreement can be satisfied with the proceeds of Debt incurred at a cost materially less than the prime rate plus two percent (2%), then the Districts shall take reasonable steps to incur such Debt and satisfy the reimbursement obligation to the Project Developer. The purpose of this paragraph is to set a readily ascertainable ceiling on the rate of interest a District board of directors can agree to pay a Project Developer for advancements that do not qualify as Debt; this paragraph neither prevents the District from issuing Debt at a higher rate of interest than the WSJ prime rate plus two percent (2%) nor does it prevent the District from paying a lower rate of interest on a developer reimbursement agreement.

15. Town Trails. Trails that are interconnected with a Town or regional trail system shall be open to the public free of charge and on the same basis as residents and owners of taxable property within the Districts.

16. Overlap of Existing Special Districts. To the extent prohibited by Section 32-1-107, C.R.S., the Districts shall not duplicate the services provided by any existing metropolitan or special district in any area of overlap except as may be consented to by such existing district. The Town shall be held harmless if any existing metropolitan or special district refuses to authorize services and from any claims brought by such district for improvements constructed or installed or services provided prior to receiving any required consent.

17. Overlap of Districts. No property shall be simultaneously included within the boundaries of more than one of the Districts, except as provided in Section V.A.4. above and in the following sentence. To the extent any District overlaps any other District(s), the total mill levy to be imposed by the Districts to property located in two or more of the Districts shall not exceed the Maximum Aggregate Mill Levy, and the property shall not be subject to a Debt Mill Levy for a period which exceeds the Maximum Debt Mill Levy Imposition Term.

18. Location and Extent Limitation. To the extent a metropolitan district may have any powers pursuant to Section 31-23-209, C.R.S., with respect to the Town, the District hereby waives and shall not exercise any such powers to override or avoid submitting to the jurisdiction of the Town Board or compliance with the Town Code or other regulations.

19. Disclosure. Contemporaneously with the inclusion of property into a District, the District shall record a disclosure in the form set forth in **Exhibit H** to the Service Plan in the appropriate county's real property records.

20. Meetings. Beginning when there is any property within a District that is owned by an End User, all of the applicable District's Board meetings: 1) shall be held after 5:00 p.m. if there any residents living within the District in order to facilitate attendance by property owners and residents with daytime work schedules and 2) either: a) physically located within the boundaries of the applicable District or the boundaries of the Town or b) held via teleconference, electronically, or in another format that does not require physical presence of the Board or participating members of the public, provided that the meeting notice includes the method or procedure, including the conference number or link, by which members of the public can attend the meeting. If a majority of a District's Board are End Users, the District's Board votes in favor of the measure, the Board may hold a meeting at a different time or format.

Notwithstanding the foregoing, the Districts' annual public hearing regarding the subsequent year's budget, as required pursuant to Section 29-1-108, C.R.S., shall be held within the boundaries of the Districts or the boundaries of the Town, every year in which there is any property within the Districts that is owned by an End User, except that it may be held via teleconference or electronically in the event of a public health or other public emergency. Nothing herein prevents an individual Director or member of the public from participating via telephone or electronically in a meeting held physically within the District or the Town, to the extent permitted by law.

In addition, any regular or special meeting at which the District's Board intends to make a final determination to issue general obligation indebtedness shall be held within the District or the boundaries of the Town if any property within the District is owned by an End User except that it may be held via teleconference or electronically in the event of a public health or other public emergency.

21. Elections. The Districts shall post a copy of each call for nominations, required pursuant to Section 1-13.5-501, C.R.S., in the designated place for posting notices of meetings per Section 24-6-402(2)(c), C.R.S., in addition to complying with any other notice requirements of the Special District Act.

22. Website. The Districts shall establish and maintain a well-organized website readily accessible to the public, including persons with disabilities. In addition to the information required to be posted pursuant to Sec. 32-1-104.5(3)(a), C.R.S., the following public information shall be posted on the website for each District:

a) name and email address email address for each District Board Member; and phone number where each District Board Member can be reached;

b) upcoming District election dates and related deadlines; a step-by-step description of District election processes; the name, address, phone number and email address of the District's Designated Election Official; and the call for nominations required per Sec. 1-13.5-501(1), C.R.S.;

c) a notice of vacancy for any vacancy on the Board, along with information on how to apply for the position;

d) the date, time and location of upcoming District Board meetings, including special meetings, posted no less than seventy-two (72) hours prior to each meeting date;

e) a complete meeting agenda for each District Board meeting, including special meetings, posted no less than seventy-two (72) hours prior to each meeting date;

f) agendas and minutes from all Board meetings held in 2021 or later;

g) the Districts' Service Plan and all amendments thereto;

h) all Rules and Regulations of the District and all amendments thereto;

i) all active intergovernmental agreements to which the District is a party;

j) all operations and maintenance contracts to which the District is a party;

k) all recorded declarations of covenants if the District provides covenant enforcement and design review services;

l) all active notices of competitive bidding for services and materials purchased by the District;

m) the numerical level of District mill levy for debt service; the numerical level of District mill levy for operations and maintenance; and the aggregate amount of outstanding District debt;

n) the total amount of privately-placed District debt, and the rate of interest accruing thereon;

o) a copy of any fee schedule adopted by the District Board;

p) copies of all TABOR election results with respect to new tax imposition(s) and debt authorization(s), regardless of the year of adoption;

q) a summary description of mill levy adjustments undertaken by the District in response to changes in the method of calculating assessed valuation or any constitutionally-mandated or statutorily-authorized tax credit, cut or abatement for property within the District.

23. Financial Plan. The total Debt that the Districts shall be permitted to incur shall not exceed the Maximum Debt Authorization; provided, however, that Debt incurred to refund outstanding Debt of the Districts shall not count against the Maximum Debt Authorization so long as such refunding Debt does not result in a net present value expense. District Debt shall be permitted to be incurred on a schedule and in such year or years as the issuing District determines shall meet the needs of the Financial Plan referenced above and phased to serve the Project as it occurs. All bonds and other Debt incurred by the Districts may be payable from any and all legally available revenues of the Districts, including, but not limited to, revenues from the Debt Mill Levy to be imposed upon all taxable property within the Districts and Capital Improvement Fees.

All Debt incurred by the Districts must be incurred in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law. The Maximum Debt Authorization is supported by the Financial Plan prepared by ____________________, attached to the Service Plan as **Exhibit F**. The Project Developer has provided valuation and absorption data it believes to be market based and market comparable. The Financial Plan attached to the Service Plan satisfies the requirements of Section 19-1-20(i). of the Town Code.

24. Maximum Voted Interest Rate and Maximum Underwriting Discount. The interest rate on any Debt is expected to be the market rate at the time the Debt is incurred. In the event of a default, the proposed maximum interest rate on any Debt is not permitted to exceed twelve percent (12%). The proposed maximum underwriting discount will be three percent (3%). Debt, when incurred, will comply with all relevant requirements of this Service Plan, State law and Federal law as then applicable to the issuance of public securities.

25. Maximum Mill Levies. A District may impose a “Debt Mill Levy” upon taxable property within such District for payment of Public Improvements, including Debt incurred and other obligations incurred to pay the costs of Public Improvements. The Districts are authorized to promise to impose the Debt Mill Levy for a period not to exceed the Maximum Debt Mill Levy Imposition Term, and revenues derived from the Debt Mill Levy may be pledged to defray Debt. The Debt Mill Levy may not exceed thirty-four (34) mills. However, if there are changes in the method of calculating assessed valuation or any constitutionally mandated or statutorily authorized tax credit, cut or abatement, then the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2015, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation to assessed valuation shall be deemed to be a change in the method of calculating assessed valuation.

An “Operations and Maintenance Mill Levy” may be imposed upon the taxable property within the Districts for payment of administration, operations, and maintenance costs. The Operations and Maintenance Mill Levy shall not exceed the maximum mill levy necessary to pay administration, operations, and maintenance costs, which shall include, but not be limited to, the funding of operating reserves and sufficient ending fund balances to assure sufficient cash flow to fund expenses as they come due. The Districts are prohibited from imposing an Operations and Maintenance Mill Levy for purposes of generating revenue to fund Public Improvements or for defraying Debt. The Districts are prohibited from promising to impose an Operations and Maintenance Mill Levy, except that the Districts may, to the extent of authorization under TABOR, promise to impose an Operations and Maintenance Mill Levy in connection with a Debt covenant to fund basic District administrative, operations, and maintenance costs. Revenues derived from the Operations and Maintenance Mill Levy may not be pledged. The Operations and Maintenance Mill Levy imposed by any District or any combination of the Districts on a single property shall not exceed twenty (20) mills. Additionally, the Operations and Maintenance Mill Levy is subject to, and, when combined with the Debt Mill Levy, cannot exceed the Maximum Aggregate Mill Levy. However, if there are changes in the method of calculating assessed valuation or any constitutionally mandated or statutorily authorized tax credit, cut or abatement, then the mill levy limitation may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2015, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation to assessed valuation shall be deemed to be a change in the method of calculating assessed valuation. If a majority of a District's Board are End Users, the District's Board votes in favor of the measure, and the same is approved by the Town Board by Resolution, the District's Operations and Maintenance Mill Levy may be increased above twenty (20) mills, up to the lesser of the amount approved by the District Board or the Town Board, subject to the Maximum Aggregate Mill Levy.

The Maximum Aggregate Mill Levy shall be the maximum mill levy the District or any combination of Districts is permitted to impose upon taxable property for any purpose, including payment of Debt, capital improvements costs, administration, operations, and maintenance costs. The Maximum Aggregate Mill Levy is thirty-nine (39) mills. However, if, on or after January 1, 2015, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement, then the preceding mill levy limitations may be increased or decreased to reflect such changes, with such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2015, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation to assessed valuation shall be deemed to be a change in the method of calculating assessed valuation. By way of example, if a District has imposed a Debt Mill Levy of 30 mills, the maximum Operations and Maintenance Mill Levy that it can simultaneously impose is 9 mills.

26. Maximum Debt Mill Levy Imposition Term. No District or combination of Districts shall have any authority to impose or collect a Debt Mill Levy on any single property for a period greater than thirty (30) years after the year of the initial imposition of a Debt Mill Levy; this restriction is referred to as the Maximum Mill Levy Imposition Term. The Maximum Mill Levy Imposition Term begins to run on the earlier of (i) the first year the Debt Mill Levy is collected and (ii) five years after the year in which the first building permit for a residential, commercial or industrial building is issued for property within the District. As an example of (ii), if the first building permit in District No. 2 is issued in **[2016],** then District No. 2 should impose its Debt Mill Levy no later than tax year **[2021]** (which mill levy would be first collected in **[2022]**). In the event a District fails to impose a Debt Mill Levy within this five-year time period, the Maximum Debt Mill Levy Imposition Period shall be reduced a year for each year that the

imposition of the mill levy is delayed. Put another way, a District has a five year window from the initial building permit within which to impose a full thirty (30)-year Debt Mill Levy. In structuring Debt, Districts shall be mindful that this primary revenue source for repayment shall expire at the end of this thirty (30)-year term. The Maximum Public Improvement Mill Levy Imposition Term may be altered only upon approval by the Town pursuant to a separate written intergovernmental agreement, and only upon a finding by the Town of extraordinary burdens to the Districts or extraordinary benefits to be conferred upon the Town by the Districts.

27. <u>Notice of Mill Levy Adjustments</u>. Promptly after approval, the District Board shall cause notice to be provided to each property taxpayer within the District of the numerical amount of mill levy adjustment and the revenue change anticipated from the mill levy adjustment as approved by the District Board in response to changes in the method of calculating assessed valuation or any constitutionally-mandated or statutorily-authorized tax credit, cut or abatement for property within the District. Notification of said increase on the district's website shall satisfy this requirement.

28. <u>Sources of Funds</u>. As discussed in more detail above, the Districts may impose mill levies on taxable property within its boundaries as a primary source of revenue for repayment of debt service, capital improvements, administrative expenses and operations, and maintenance, to the extent operations and maintenance functions are specifically addressed in the Service Plan. The Districts may also rely upon various other revenue sources authorized by law, including loans from the Project Developer. At the Districts' discretion, they may assess Fees that are reasonably related to the costs of operating and maintaining District services and facilities. Fees, other than Capital Improvement Fees, shall not be imposed for the purpose of paying for Public Improvements or defraying Debt unless specifically permitted by the Town Board, and any such permission shall not constitute a material modification of this Service Plan. The Districts are permitted to pledge revenues from the Capital Improvements Fee to the payment of Debt.

29. <u>Security for Debt</u>. The Districts do not have the authority and shall not pledge any revenue or property of the Town as security for the indebtedness set forth in the Service Plan. Approval of the Service Plan shall not be construed as a guarantee by the Town 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 Town in the event of default by the Districts in the payment of any such obligation or performance of any other obligation.

30. <u>Debt Instrument Disclosure Requirement</u>. In the text of each bond and any other instrument representing and constituting Debt, the District shall set forth a statement in substantially the following form:

> By acceptance of this instrument, the owner of this Bond agrees and consents to all of the limitations in respect of the payment of the principal of and interest on this Bond contained herein, in the resolution of the District authorizing the issuance of this Bond and in the Service Plan of the District.

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

31. Quinquennial Findings of Reasonable Diligence. In the event the Town exercises its quinquennial authority to require a District(s) to file an application for quinquennial finding of reasonable diligence and to determine whether the District's service plan and financial plan will or will not result in the timely and reasonable discharge of the District's general obligation debt, the District shall reimburse the Town for all reasonable actual Town consultant costs associated with such review and determination through and including the exercise of all available legal remedies to enforce its determination in accordance with § 32-1-1101.5 (2)-(5), C.R.S., including without limitation attorneys' fees and costs.

32. Subdistricts. The Districts may organize subdistricts or areas as authorized by Section 32-1-1101(1)(f), C.R.S., provided, however, that without the specific approval of the Town, any such subdistrict(s) or area(s) shall be subject to all limitations on Debt, taxes, Fees, and other provisions of this Service Plan. Neither the Debt Mill Levy, the Operations and Maintenance Mill Levy, nor any Debt limit shall be increased as a result of creation of a subdistrict. In accordance with Section 32-1-1101(1)(f)(I), C.R.S., the Districts shall notify the Town prior to establishing any such subdistrict(s) or area(s), and shall provide the Town with details regarding the purpose, location, and relationship of the subdistrict(s) or area(s). The Town Board may elect to treat the organization of any such subdistrict(s) or area(s) as a material modification of this Service Plan.

33. Special Improvement Districts. The Districts are not authorized to establish a special improvement district without the prior approval of the Town Board.

34. Public Art Plan.

The District Board of Directors will adopt a public art plan containing the following elements:

a) Goals, Objectives, Mission. A brief statement of the District's vision for the creation of an attractive environment for residents and visitors in District-owned spaces within the District through the provision of public art.

b) Budget. The District will endeavor to consider funding sources and consider dedication of available funding for the acquisition and preservation of art in District-owned spaces within the District.

c) Governing Authority. Unless otherwise designated, the District's Board of Directors will serve as the governing body for the District's public art program.

d) Coordination with Town. The District will coordinate with and seek input from Town staff with respect to selection criteria and collection management.

e) Adherence to Community Art Policy. The District will adhere to the Town's adopted Community Art Policy to the extent feasible.

35. Notices. All notices, demands, requests or other communications to be sent by one Party to the other hereunder or required by law, including the Annual Report, shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the address or by courier delivery, via Federal Express or other nationally recognized overnight air courier service, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To the Districts	__________ Metropolitan District Nos. 1 - _____ _________________ _________________ Attn: ____________ Phone: ___________ Email: ________________
	with a copy to: ______________________ Attn: __________________ ________________________ ________________________ Phone: _________________ Email: __________________
To the Town:	Town of Windsor 301 Walnut Street Windsor, Colorado 80550 Attn: Town Manager cc: Town Attorney Phone: (970) 674-2400

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with Federal Express or other nationally recognized overnight air courier service or three (3) business days after deposit in the United States mail. By giving the other Party hereto at least ten (10) days written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

36. Miscellaneous.

a) Effective Date. This Agreement shall be in full force and effect and be legally binding upon final approval of the governing bodies of the Parties. No Debt shall be issued by the Districts until after the effective date of this Agreement.

b) Nonassignability. No Party to this Agreement may assign any interest therein to any person without the consent of the other Party hereto at that time, and the terms of this Agreement shall inure to the benefit of and be binding upon the respective representatives and successors of each Party hereto.

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

d) Severability. If any section, subsection, paragraph, clause, phrase, or other provision of this Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause, phase, or other provision shall not affect any of the remaining provisions of this Agreement.

e) Execution of Documents. This Agreement shall be executed in two (2) counterparts, either of which shall be regarded for all purposes as one original. Each party agrees that it will execute any and all deeds, instruments, documents, and resolutions or ordinances necessary to give effect to the terms of this Agreement.

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

g) Default/Remedies. In the event of a breach or default of this Agreement by any party, the non-defaulting party shall be entitled to exercise all remedies available at law or in equity, specifically including suits for specific performance and/or monetary damages.

h) Governing Law and Venue. This Agreement shall be governed and construed under the laws of the State of Colorado. Venue for all actions brought hereunder shall be in District Court in and for Weld County.

i) Inurement. Each of the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

j) Paragraph Headings. Paragraph headings are inserted for convenience of reference only.

k) No Third Party Beneficiaries. No person or entity who or which is not a party to this Agreement will have any right of action under this Agreement.

l) Entirety. This Agreement merges and supersedes all prior negotiations, representations, and agreements between the parties hereto relating to the subject matter hereof and constitutes the entire Agreement between the Parties concerning the subject matter hereof; provided, however, that this Agreement does not modify, affect, or limit the Town's or any other person's right of action to enforce the provisions of the Service Plan separately from this Agreement.

IN WITNESS WHEREOF, this Agreement is executed by the Town and the Districts as of the date first above written.

TOWN OF WINDSOR, COLORADO

By: ______________________________________
Mayor

ATTEST:

____
Town Clerk

APPROVED AS TO FORM:

____
Town Attorney

__________________ METROPOLITAN DISTRICT NOS. 1 - _____, each a quasi-municipal corporation and political subdivision of the State of Colorado

By: ______________________________________
President

ATTEST:

____
Secretary

EXHIBIT H

District Disclosure Form

___________ Metropolitan District Nos. 1- ___

In accordance with Section 32-1-104.8, Colorado Revised Statutes, _____________ Metropolitan District Nos. 1- ___ (the "Districts") are required to submit a public disclosure to the Weld County Clerk and Recorder for recording along with a map depicting the boundaries of the District, attached hereto as **Exhibit A**.

1. Name of District: _____________ Metropolitan District Nos. 1-___.

2. Powers of the District as authorized by Section 32-1-1004, Colorado Revised Statutes, and the Districts' Service Plan as of the time of this filing: The Districts have the authority to provide the Public Improvements and related operation and maintenance services within and without the boundaries of the Districts as such power and authority is described in the Special District Act, and other applicable statutes, common law and the Constitution, subject to the limitations set forth in the Service Plan.

3. The Districts' Service Plan, approved on __________, by the Town of Windsor, State of Colorado, which can be amended from time to time, includes a description of the Districts' powers and authority. A copy of the Districts' Service Plan is available from the Division of Local Government.

4. ________________ District Nos. 1- ___ are authorized by Title 32 of the Colorado Revised Statutes to use a number of methods to raise revenues for capital needs and general operations costs. These methods, subject to the limitations imposed by section 20 of article X of the Colorado Constitution, include issuing debt, levying taxes, and imposing fees and charges. The maximum debt service mill levy authorized under the Districts' Service Plan is 34 mills, and the maximum operations and maintenance mill levy authorized under the Districts' service plan is 39 mills, subject to permitted adjustments based on changes in the method of calculating assessed valuation or any constitutionally mandated or statutorily authorized tax credit, cut or abatement. Voter approval for the imposition of these taxes under section 20 of article X of the Colorado Constitution has been obtained. Information concerning directors, management, meetings, elections and current taxes are provided annually in the Notice to Electors described in Section 32-1-809(1), Colorado Revised Statutes, which can be found at the District office, on the Districts' website, on file at the division of local government in the state department of local affairs, or on file at the office of the clerk and recorder of each county in which the special district is located.

CHAPTER 19 - Special Districts

ARTICLE I. - Service Plans for Title 32 Special Districts (Including Metropolitan Districts)[1]

Footnotes:

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Editor's note— *Ord. No. 2015-1504 , § 1, adopted Aug. 24, 2015, repealed the former Art. I., §§ 19-1-10—19-1-110, and enacted a new Art. I., §§ 19-1-10—19-1-110 as set out herein. The former Art. I pertained to similar subject matter and derived from Ord. 2007-1306 §2*

Sec. 19-1-20. - Service plans.

(a) Any service plan or service plan amendment submitted to the Town for approval must comply with all state, federal and local laws and ordinances, including Title 32, Article 1, C.R.S. (the Special District Act).

(b) The service plan shall include all information required by the Act.

(c) The service plan shall enumerate and describe all powers requested on behalf of the district. Demonstration of the need or benefit of each power is required. Powers which are not clearly needed will not be approved in the service plan.

(d) The service plan shall describe 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, along with supporting rationale. Execution of intergovernmental agreements or agreements for extraterritorial services (e.g., outside of the Service Area) that are not described in the service plan shall require the prior approval of the Town Board.

(e) The service plan shall include the description of any planned inclusion into, or exclusion of property from, the district's boundaries. The service plan shall provide that inclusions or exclusions by the district that are not described in the service plan shall require the prior approval of the Town Board.

(f) The service plan shall describe any planned extraterritorial service agreement. The service plan shall provide that any extraterritorial service agreements by the district that are not described in the service plan shall require the prior approval of the Town Board.

(g) The service plan shall outline any anticipated plans or needs for the exercise, by the district, of its power of eminent domain. The service plan shall contain language limiting the use of the district's power of eminent domain to carry out the district's essential functions and services, as well as to implement the intent of the preliminary infrastructure plan as defined in the Model Service Plan described in Section 19-1-60 below. Additionally, the use of eminent domain will be undertaken strictly in compliance with state laws and subject to prior consent by the Town Board.

(h) The service plan shall restrict the district's debt service mill levy authorization to thirty-four (34) mills (the "maximum debt mill levy") and operations and maintenance mill levy authorization to twenty (20) mills (the "maximum operations and maintenance mill levy"). The service plan shall restrict the district's total aggregate mill levy (debt service mill levy plus operations and maintenance mill levy) to thirty-nine (39) mills (the "maximum aggregate mill levy"). This means that the district shall not simultaneously levy a debt service mill levy equal to the maximum debt mill levy and an operation and maintenance mill levy equal to the maximum operations and maintenance mill levy. If a majority of a district's board are end users, the district's board votes in favor of the measure, and the same is approved by the Town Board by resolution, the district's operations and maintenance mill levy may be increased above twenty (20) mills, up to the lesser of the amount approved by the district board or the Town Board, subject to the maximum aggregate mill levy. The service plan shall also limit the maximum number of years a property can be subject to a mill levy for purposes of paying the costs of public improvements to thirty (30) years. The maximum debt mill levy, the maximum operations and maintenance mill levy and the maximum aggregate mill levy shall be adjustable from the base year of 2015; provided, however, that, in the event the method of calculating assessed valuation is changed after the base year of 2015, the mill levy limitation applicable to such debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the District Board in good faith (such determination to be binding and final), so that, to the extent possible, the actual tax revenues generated by the mill levy, as adjusted, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation to assessed valuation shall be deemed to be a change in the method of calculating assessed valuation. (Ord. 2022-______)_

(i) The service plan shall include debt and operating financial projections prepared by an investment banking firm or financial advisor qualified to make such projections. Said firm shall be listed in the Bond Buyers Marketplace as a provider of financial projections. The debt financial projections shall include debt issuance and service schedules and calculations establishing the district's projected maximum debt capacity based on assumptions of:

(1) The projected interest rate on the debt to be issued by the district;

(2) The projected assessed valuation of the property within the district; and

(3) The projected rate of absorption of the assessed valuation within the district. These assumptions must use market-based, market-comparable valuation and absorption data and shall not use an annual inflation rate which exceeds the greater of three percent (3%) and the Consumer Price Index for the preceding twelve-month period for the Denver-Boulder statistical region as prepared by the U.S. Department of Labor Statistics. The maximum debt authorization in the service plan shall not exceed one hundred percent (100%) of the projected maximum debt capacity. The operating financial projections shall include foreseeable administrative and operation and maintenance costs.

(j) If, after the service plan is approved, the state legislature includes additional powers or grants new or broader powers for special districts by amendment of Title 32, Article 1, Part 10, C.R.S., no such powers shall be available to or exercised by an existing district without the prior approval of the Town Board.

(k) Every service plan shall include, in addition to all materials, plans and reports required by the Act, a preliminary infrastructure plan ("PIP") as defined in the Model Service Plan. This PIP shall include, at a minimum, a map or maps of such 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, along with a written narrative and description of those items and a general description of the district's proposed role with regard to the same. Due to the preliminary nature of the PIP, the service plan shall indicate that the Town's approval of the PIP shall not bind the Town in reviewing and making land use approvals.

(l) Development fees shall not be imposed by the district, except that the service plan may authorize the imposition and collection of a one-time capital improvement fee as a source of revenue for repayment of debt and/or costs of public improvements in an amount not to exceed two thousand five hundred dollars ($2,500.00) per dwelling unit (the "Capital Improvement Fee"). No Capital Improvement Fee related to repayment of debt shall be imposed upon or collected from taxable property owned or occupied by any owner, or tenant of any owner, of any taxable property within the Districts, held as a dwelling or in connection with a business other than real estate development or construction within the district subsequent to the issuance of a Certificate of Occupancy for said taxable property.

(m) All of the limitations mandated by the Town and contained in service plans, including, but not limited to, those pertaining to the maximum aggregate mill levy and mill levy imposition term have been established under the authority of the Town to approve a service plan with conditions pursuant to Section 32-1-204.5, C.R.S. It is expressly intended that such limitations: (a) shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a service plan amendment; and (b) are, together with all other requirements of Colorado 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).

(n) The service plan's limitations on the debt mill levy, the operations and maintenance mill levy, the limitation on the use of fees for public improvements, and certain other financial limitations are intended to strike a balance between (i) providing adequate project control and revenue to the project developer to facilitate desirable development which will result in demonstrated public benefit and (ii) providing adequate safeguards for protection of residents and taxpayers. When a district board is composed entirely of end users, the balance may shift in favor of removing some of the limitations on financial powers. The Town Board may be more inclined to remove financial limitations in scenarios where the district board wants to add public improvements which were not contemplated as part of the project developer's master plan for the project (e.g., twenty (20) years after development a neighborhood wants to renovate and expand the uses of its community center), a district-owned public improvement requires significant repairs, maintenance or upgrades and the cost properly rests with the district, or the restructuring of debt would result in a net present value savings as set forth in Section 11-56-101 et seq., C.R.S. In the event such circumstances are present, the district board should consider approaching the Town for authorization.

(o) The service plan shall require that the district's annual public hearing regarding the subsequent year's budget, as required pursuant to Section 29-1-108, C.R.S., shall be held within the boundaries of the district or Town corporate limits, if there is property within the district which is owned by an end user. At least once every two (2) years, such public hearing shall be held after 5:00 p.m., in order to facilitate attendance by property owners and residents with daytime work schedules.

(p) The service plan shall require that any regular or special meeting at which the district's board intends to make a final determination to issue general obligation indebtedness shall be held within the district or Town corporate limits if any property within the district is owned by an end user.

(q) The service plan shall require that the districts post a copy of each call for nominations, required pursuant to Section 1-13.5-501, C.R.S., in the designated locations for posting notices of meetings per Section 24-6-402(2)(c), C.R.S.

(Ord. 2018-1555 §1)

(r) The intergovernmental agreements required pursuant to sub-section (d) above will be deemed to satisfy the requirements for submission of a public art plan as set forth in the Town of Windsor Community Art Policy incorporated into *Windsor Municipal Code* Article X, Chapter 12, if the intergovernmental agreement addresses the provision of public art within the district in a manner mutually-approved by the district and the Town.

(Ord. 2022-______)_

Editor's note— Ord. No. 2018-1555 , § 1, adopted Feb. 26, 2018, repealed the former § 19-1-20 and enacted a new section as set out herein. The former § 19-1-20 pertained to similar subject matter and derived from Ord. 2015-1504, § 1.

Sec. 19-1-80. - Annual report.

(a) The service plan shall obligate the district to electronically file an annual report not later than October 1 of each year with the Town Clerk for the year ending the preceding December 31; the requirements of which may be waived in whole or in part by the Town Board. The service plan shall require the annual report to include the following, unless waived by the Town from year to year or completely or unless the district has been in inactive status for the entirety of the reporting year:

(1) A narrative summary of the progress of the district in implementing its service plan for the report year.

(2) 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 operations (i.e., revenues and expenditures) for the report year.

(3) 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) Unless disclosed within a separate schedule to the financial statements, a summary of the financial obligations of the district at the end of the report year, including the amount of outstanding indebtedness, the amount and terms of any new district indebtedness or long-term obligations issued in the report year, the amount of payment or retirement of existing indebtedness of the district in the report year, the total assessed valuation of all taxable properties within the district as of January 1 of the report year and the current mill levy of the district pledged to debt retirement in the report year.

(5) All information required pursuant to Section 32-1-207(3)(c)(II), C.R.S. (Ord. 2022-_____)

(6) Any other information deemed relevant by the Town Board or deemed reasonably necessary by the Town Manager.

(b) In the event the annual report is not timely received by the Town Clerk or is not fully responsive, notice of such default shall be given to the board of such district 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 Town Clerk may constitute a material modification of the service plan, at the discretion of the Town.

(Ord. 2015-1504 , §1)

Sec. 19-1-110. - Fees.

(a) With the submittal of a proposed service plan, the proponent of the district shall also pay the Town Clerk a nonrefundable application fee not to exceed one-thousand-two-hundred-fifty dollars ($1,250.00), together with a seven-thousand-five-hundred-dollar ($7,500) deposit to reimburse the Town for staff, legal and consultant time. (Ord. 2022-_______)

(b) A request for an amendment or modification to a service plan shall be accompanied by a nonrefundable application fee not to exceed five-hundred-dollars ($500.00) and a two-thousand-five-hundred-dollar ($2,500.00) deposit to reimburse the Town for staff, legal and consultant time. (Ord. 2022-_______)

(c) Any other metropolitan district inquiry referred by the Town Manager for legal or consultant review shall, in the Town Manager's sole discretion, be accompanied by a deposit deemed reasonably necessary to reimburse the Town for staff, legal and consultant time with respect to such inquiry.

(d) Town draws against such deposit shall be based upon then-current hourly rates (including benefits) of employees working on the service plan and the applicable rates for legal and other consultants. If the amount reimbursable exceeds the deposit, the balance shall be due the Town on a monthly basis and prior to consideration of the service plan or amendment by the Town Board. Any deposit amounts remaining shall be returned.

(e) The purpose of staff, legal and consultants' review is to provide the Town Board with expert advice in considering the adequacy of the service plan and in forming a basis for adopting an ordinance approving, disapproving or conditionally approving the service plan for the district.

(Ord. 2015-1504 , §1)

TOWN OF WINDSOR COLORADO

MEMORANDUM

Date: April 11, 2022
To: Mayor and Town Board
Via: Shane Hale, Town Manager
From: Karen Frawley, Town Clerk
Re: Future Meeting Agenda
Item #: 3.

ATTACHMENTS:

- Future Meetings Agenda

FUTURE TOWN BOARD MEETINGS

April 18, 2022 5:30 p.m.	Town Board Work Session Shurview Property Update
April 25, 2022 5:00 p.m.	Town Board Work Session Arbor Day Poster recognition (5:00 – 5:30 p.m.) Main Park Shelter Meet the Board Water Supply Update Traffic and Code Surcharge Fees
April 25, 2022 7:00 p.m.	Town Board Regular Meeting
May 2, 2022 5:30 p.m.	Town Board Work Session Town Board Orientation with Sam Light Town Board Technology Orientation
May 9, 2022 5:30 p.m.	Town Board Work Session Water Lawyer Update Regional Transportation Discussion
May 9, 2022 7:00 p.m.	Town Board Regular Meeting
May 16, 2022 5:30 p.m.	Town Board Work Session Follow-up to Metro District Policy Review
May 23, 2022 5:30 p.m.	Town Board Work Session
May 23, 2022 7:00 p.m.	Town Board Regular Meeting
May 30, 2022	Canceled – Memorial Day Holiday
June 6, 2022 5:30 p.m.	Town Board Work Session
June 13, 2022 5:30 p.m.	Town Board Work Session
June 13, 2022 7:00 p.m.	Town Board Regular Meeting
June 20, 2022 5:30 p.m.	Town Board Work Session

June 27, 2022 5:30 p.m.	Town Board Work Session
June 27, 2022 7:00 p.m.	Town Board Regular Meeting

<u>Future Work Session Topics</u>

- DDA Entertainment District
- Telecom Code (Pending FCC Rules)
- Regional Water Treatment Plant Site
- Proportional services and amenities for planned population
- Colorado Opioids Settlement Use Ideas
- FAMLI Opt-Out (June)
- Economic development/retail needs based on population levels (following retail assessment)
- Land Use Code Update
- Discuss Wells Used For Geologic Sequestration of Carbon Dioxide draft ordinance