

**SERVICE PLAN**

**FOR**

**[\_\_\_\_\_] METROPOLITAN DISTRICT NOS. [\_\_]**

**CITY OF COMMERCE CITY, COLORADO**

Approved: [\_\_\_\_\_]

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## **I. DEFINITIONS**

In this Service Plan, the following terms shall have the following meanings, unless the context clearly requires otherwise:

Board: the board of directors of each District.

City: the City of Commerce City, Colorado.

City Approvals: means, collectively, (a) the final plat for the area within the District, (b) the final development plans and/or landscape plans for the areas within the Districts, (c) the construction plans for the public improvements within the Districts, (d) the development agreement a/k/a subdivision improvement agreement or public improvement agreement applicable to the area within the Districts, (e) any other agreements between the City and the Districts relating to the area within the Districts, and (f) any amendments made to any of the foregoing documents.

City Code: the City of Commerce City Revised Municipal Code, as amended from time to time.

City Council: the City Council of the City of Commerce City, Colorado.

Commercial District: any District with property within its boundaries developed or proposed to be developed with commercial development and with less than ten percent (10%) of the property within its boundaries developed or proposed to be developed with any residential development.

Debt: bonds or other obligations for the payment of which one or more of the Districts have promised to impose an *ad valorem* property tax mill levy and/or collect Fee revenue. The definition of Debt shall include an intergovernmental agreement that contains a pledge of an *ad valorem* property tax mill levy and/or Fee revenue between one or more of the Districts or between any of the Districts and any other governmental or quasi-governmental entity.

District: any one of the Districts.

Districts: means District No. 1 and District Nos. (fill in number of each District), collectively.

District Activities IGA: an intergovernmental agreement between the Districts and the City regarding certain limitations of the Districts' activities, substantially in the form attached hereto as **Exhibit C**.

District Boundaries: the boundaries of each District described in the District Boundaries Map and any property subsequently included into the District Boundaries from the Inclusion Area.

District Boundaries Map: the map attached hereto as part of **Exhibit A-1**, describing the Districts' boundaries.

End User: any owner, or tenant of any owner, of any taxable improvement within the District Boundaries who is intended to become burdened by the imposition of *ad valorem* property taxes subject to the Maximum Debt Mill Levy. By way of illustration, a resident homeowner, renter,

commercial property owner or commercial tenant is an End User. A business entity that entitles or develops property, or constructs residential or commercial structures is not an End User.

External Financial Advisor: a consultant that: (i) 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 with respect to such securities; (ii) is an underwriter, investment banker or individual listed as a public finance advisor in the Bond Buyer's Municipal Market Place; and (iii) is not an officer or employee of the Districts and has not been otherwise engaged to provide services in connection with the transaction related to the applicable Debt.

Fees: any fee, rate, toll, penalty or charge imposed by a District for services, programs or facilities provided by the Districts, as described in Section V.F.7.

Financial Plan: the combined Financial Plan of the Districts described in Section VI and **Exhibit E** prepared by an External Financial Advisor in accordance with the requirements and limitations of this Service Plan that describes: (i) the manner in which the Public Improvements are to be financed; (ii) the manner in which the Debt is expected to be incurred; and (iii) the estimated operating revenue to be derived from property taxes and any Fees for the first budget year through the year in which all Debt is expected to be defeased or paid in the ordinary course. Without limitation, the Financial Plan must include the anticipated schedule for incurring Debt, a schedule of all anticipated revenues of the Districts from property taxes, including property taxes and specific ownership taxes, Fees, and other anticipated legally available revenues

Inclusion Area Boundaries: the boundaries of the area described in the Inclusion Area Boundary Map intended to be included into the District Boundaries. **[Delete this definition if there is no anticipated inclusion area.]**

Industrial District: any District with property within its boundaries developed or proposed to be developed solely with industrial development.

Land Use Approval: an entitlement plan as approved by the City pursuant to the City Code for identifying, among other things, Public Improvements necessary for facilitating development for property within the District Boundaries.

Managing District: means District No. [\_\_] **[Delete this definition if there is no control or managing District.]**

Maximum Combined Mill Levy: means the maximum combined Maximum Debt Mill Levy and Operations and Maintenance Mill Levy that may be imposed by the Districts, as identified in Section VI.D.

Maximum Debt Mill Levy: the maximum mill levy the Districts are permitted to impose for payment of Debt as set forth in Section VI.D.

Maximum Debt Mill Levy Imposition Term: a maximum of thirty-five (35) years after the year of the initial imposition of such mill levy unless a majority of the Board are End Users and have voted in favor of a refunding of a part or all of the Debt that will result in a net present value

savings as set forth in 11-56-101 *et seq.*, C.R.S. and that has been determined by an External Financial Advisor to be in the best interests of the District;

Maximum Operation and Maintenance Mill Levy: means the maximum mill levy the Districts are permitted to impose for the payment of Operation and Maintenance Costs, as set forth in Section VI.D.

Operate and Maintain or Operation and Maintenance: means, for each District, (a) the ongoing operation, maintenance, planning, design, acquisition, construction, repair and replacement of all or a portion of the Public Improvements or the provision of services related thereto; and (b) the reasonable and necessary costs of ongoing administrative, accounting and legal services to a District; all in accordance with the provisions and requirements of, as applicable, the Special District Act, this Service Plan, the District Activities IGA, the City Code and the City Approvals.

Project: a portion of the development or property commonly referred to as [\_\_\_\_\_].

Public Improvements: a part or all of the improvements authorized to be planned, designed, acquired, constructed, installed, relocated, redeveloped and financed as generally described in the Special District Act, except as specifically limited herein, that benefit the Districts and serve the future residents and taxpayers of the Districts, as determined by the Board.

Regional Improvements: means any regional public improvement identified by the City, as provided in Section VII of this Service Plan, for funding, in whole or part, by a Regional Improvement Mill Levy levied by one or more of the Districts, including, without limitation, the public improvements described in **Exhibit F**.

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

Reimbursement Agreement: means any agreement of a District to repay, from any bond proceeds or other revenue of the District whether or not subject to annual appropriation, any person for any amounts expended on behalf of the District, including without limitation any costs of organization, operation of the District or the provision of services or Public Improvements, but does not include any Debt.

Residential District: any District with ten percent (10%) of the property within its boundaries developed or proposed to be developed with residential development.

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

Service Plan Amendment: an amendment to the Service Plan approved by City Council in accordance with the City Code and applicable state law.

South Adams: the South Adams County Water & Sanitation District.

Special District Act: Sections 32-1-101, *et seq.*, of the Colorado Revised Statutes, as amended from time to time, including additional requirements imposed by future amendments to the Special District Act.

State: the State of Colorado.

TABOR: Section 20 of Article X of the Colorado Constitution also known as the Colorado Taxpayer's Bill of Rights.

Taxable Property: real or personal property within the District Boundaries subject to ad valorem taxes imposed by the Districts.

## **II. PURPOSE AND OBJECTIVES OF THE DISTRICTS**

A. Purpose and Intent. The Districts are independent units of local government, separate and distinct from the City, 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 City only insofar as they may deviate in a material manner from the requirements of the Service Plan or as provided in the Special District Act or City Code. 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 is to finance the construction of the Public Improvements. The Districts are not being created to provide ongoing Operation and Maintenance activities other than as specifically set forth in this Service Plan or the District Activities IGA.

This multiple-district Service Plan is intended to accommodate the phasing of the Project and the infrastructure needs of each phase. It is contemplated that the Districts will cooperate with each other on certain infrastructure that benefits the taxpayers and inhabitants within the District Boundaries, and that each District will additionally have its own particular infrastructure needs.

B. Need for the Districts. There are currently no other governmental entities, including the City, located in the immediate vicinity of the Districts that consider it desirable, feasible or practical to undertake the planning, design, acquisition, construction, installation, relocation, redevelopment and financing of the Public Improvements needed for the Project as related to the District Boundaries. The applicant for the Districts has demonstrated through proforma analysis or other appropriate documentation that there are no other entities, including the applicant, that consider it desirable, feasible or practical to undertake, or that it is more economically advantageous to the future End Users residing within the District Boundaries for the Districts to undertake the planning, design, acquisition, construction, installation, relocation, redevelopment and financing of the Public Improvements needed for the Project as related to the District Boundaries. 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. Relationship of Organizer and Developer/Owner. **[Describe the relationship between the organizer of the districts and the developer and owner of any property to be included in the districts' boundaries].**

D. Public Benefit. **[Describe public benefit of the Project and the Public Improvements].**

E. Objective of City Regarding Service Plan

1. The City's objective in approving the Service Plan is to authorize the Districts to provide for the planning, design, acquisition, construction, installation, relocation and redevelopment of the Public Improvements from the proceeds of Debt to be issued by the Districts. All Debt is expected to be repaid by taxes imposed and collected for no longer than the Maximum Debt Mill Levy Imposition Term (as it relates to residential property), subject to the Maximum Debt Mill Levy, and/or repaid by Fees as limited by Section V.F.7.

2. 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 development and regional needs pursuant to the City Approvals. Operation and Maintenance activities are allowed only as specified in this Service Plan or the District Activities IGA.

3. Each District shall 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, and, if the Districts have been authorized to Operate or Maintain any part of the Public Improvements under the District Activities IGA, to retain only the power necessary to impose and collect taxes or Fees to pay for costs associated therewith.

4. The Districts shall be authorized to finance the Public Improvements that can be funded from Debt to be repaid from Fees or from tax revenues collected from a mill levy, subject to the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term.

5. Except as specifically provided in this Service Plan, all Debt is expected to be repaid by taxes and Fees, as limited by this Service Plan, imposed and collected for no longer than the Maximum Debt Mill Levy Imposition Term for residential properties, and at a tax mill levy no higher than the Maximum Debt Mill Levy. Fees imposed for the payment of Debt shall be due no later than upon the issuance of a building permit. Generally, the costs of Public Improvements that cannot be funded within these parameters are not costs to be paid by the Districts. Debt which is issued within these parameters, as further described in the Financial Plan, will insulate property owners from excessive tax and Fee burdens to support the servicing of the Debt, will be of limited duration even under bankruptcy or other unusual situations, and will result in a timely and reasonable discharge of the Debt.

**III. DISTRICT BOUNDARIES**

The area within the initial District Boundaries includes [\_\_\_\_\_] ([\_\_]) acres and the total area proposed to be included into the Districts (the Inclusion Area Boundaries) is approximately [\_\_\_\_\_] [\_\_] acres]. A legal description and map of the initial District Boundaries and the Inclusion Area Boundaries are attached hereto as **Exhibits A-1 and A-2** respectively. A vicinity map is attached hereto as **Exhibit B**. **[modify this language if there is no Inclusion Area anticipated]**

**IV. PROPOSED LAND USE/POPULATION PROJECTIONS/ASSESSED VALUATION**

A. The District Boundaries [and the Inclusion Area Boundaries **[delete if not applicable]**] consist of approximately [\_\_\_\_\_] ([\_\_\_]) acres of [insert type of use] land. The current assessed valuation of the property within the District Boundaries [and the Inclusion Area Boundaries; delete if not applicable] is \$0 for purposes of this Service Plan and, at build out, is expected to be \$[\_\_\_\_\_]. These amounts are expected to be sufficient to reasonably discharge all Debt as set forth in the Financial Plan.

B. The population of the Districts at build-out is estimated to be approximately [\_\_\_\_\_] ([\_\_\_]) people.

C. **[Describe the nature of the Project, timeline for development, estimated assessed value after 5 and 10 years and estimated sales tax revenue. Also, please identify all plans, including without limitation applicable City and South Adams plans, that apply to any portion of the District Boundaries and describe how the Project is consistent with these plans. Please state if any part of the Districts is to be located within an urban renewal area and if the Project anticipates using tax increment financing. If the Districts intend to pursue TIF, provide information on how TIF financing will interact with the Districts' financing.]**

D. Approval of this Service Plan by the City does not imply approval of the development of a specific area within the Districts, nor does it imply approval of the number of residential units or the total site/floor area of commercial or industrial buildings identified in this Service Plan or any of the exhibits attached thereto, unless the same is contained within the City Approvals.

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

A. Powers of the Districts and Service Plan Amendment. The Districts shall have the power and authority to provide the Public Improvements and related Operation and Maintenance activities within and without the District Boundaries 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 of this Service Plan. Notwithstanding the foregoing, if, after the Service Plan is approved, any State law is enacted or interpreted to grant additional powers or authority to metropolitan districts, such powers and authority shall not be deemed to apply to the Districts unless this Service Plan is amended. The restrictions in this Service Plan are being voluntarily acquiesced to by the Districts and shall not be interpreted in any way as a limitation on the Districts' sovereign power and shall not negatively affect the Districts' status as a political subdivision of the State.

B. Services. The Districts are authorized to and will provide the following services: **[identify all with specificity]**.

C. Public Improvements.

1. The Districts are authorized to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, and financing [identify if ongoing ownership or maintenance of any is included] of the following Public Improvements, as more specifically

identified in **Exhibit D** and as may be more specifically defined in the City Approvals, from its revenues and by and through the proceeds of Debt to be issued by the Districts in accordance with the requirements of State law and this Service Plan: **[identify all with specificity]**.

2. The costs of such Public Improvements, based on a preliminary engineering survey as shown in Exhibit D, is estimated to be approximately \$[\_\_\_\_\_], including construction costs together with estimates of costs such as land acquisition, engineering services, legal expenses and other associated expenses. The cost, scope, and definition of such Public Improvements may vary over time.

3. Changes in the Public Improvements or cost, which are approved by the City in a City Approval, shall require a Service Plan Amendment or amendment to such City Approval to be approved by the City Council by prior resolution.

4. The Districts will ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having proper jurisdiction. The Districts shall obtain the City's approval of civil engineering plans and shall obtain applicable permits for construction and installation of the Public Improvements prior to performing work thereon.

5. The Districts shall implement the following independent controls to ensure the proper allocation of District expenditures to the Public Improvements if the Public Improvements are planned, designed, acquired, constructed, installed, relocated, redeveloped, or financed, or maintained as part of an overall project including private improvements or improvements benefiting other property: **[identify all with specificity]**.

6. No District costs, including costs of Public Improvements or Operations and Maintenance, shall be shifted to undeveloped property in the District Boundaries in such a manner so as to inequitably burden such property to the benefit of developed property in the District Boundaries.

7. Public Improvements shall be certified as to inventory and cost by an independent professional engineer for acquisition or financing by the Districts. Public Improvements conveyed to the City shall be free and clear of all liens and encumbrances and shall comply with any other conveyance prerequisites required in the City Code, unless otherwise approved by the City Manager prior to conveyance.

8. The City shall not be bound by this Service Plan in reviewing or determining any development or construction application.

**D. Intergovernmental Agreements, Reimbursement Agreements, & Privately Placed Debt.**

1. In addition to the District Activities IGA, the Districts are authorized to enter the following intergovernmental agreements to fulfill the purposes of the Districts: **[identify all with specificity with indication of material terms (including parties, costs, revenue pledges, duration, repayment terms, and penalties) and justification for each]**.

2. The Districts anticipate entering the following Reimbursement Agreements related to the organization or operation of the Districts or the provision of services or Public Improvements: **[identify all with specificity with indication of material terms (including parties, costs, revenue pledges, duration, repayment terms, and penalties) and justification for each]**.

3. Unless specifically described in this Service Plan or without receiving approval of the City Council by prior resolution, the Districts shall not enter into any intergovernmental agreement or Reimbursement Agreement that would either be likely to cause a substantial increase in the Districts' budget or involve the pledge of any mill levy or other revenues of a District.

4. The Districts shall implement the following independent controls to ensure the reasonableness of expenditures to be reimbursed to any owner of property or developer of land within the District Boundaries, or any person or entity affiliated with any such owner or developer: **[identify all with specificity]**.

5. Prior to the issuance of any privately placed Debt, or the execution of any owner or developer Reimbursement Agreement, the applicable District shall obtain the certification of an External Financial Advisor substantially as follows:

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

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

6. No Reimbursement Agreement by which one or more Districts would reimburse any owner of property or developer of land within the District Boundaries, or any person or entity affiliated with any such owner or developer, shall: (a) allow for the accrual of compound interest; (b) permit the reimbursement of more than 80% of the actual costs of the Public Improvements; (c) permit the reimbursement of more than \$25,000 of the costs of organizing the Districts; or (d) permit the reimbursement of any development security expenses.

7. If a District is to receive reimbursement from any source for the cost of any Public Improvement funded, any and all resulting reimbursements received by the District for that improvement shall be deposited into the District's debt service fund and used for the purpose of retiring the Debt of the District.

E. Extraterritorial Service Agreements.

1. The Districts anticipate entering into the following agreements for the provision of services to properties or persons outside of the District Boundaries: **[identify all with specificity]**

**with indication of material terms (including parties, costs, revenue pledges, duration, repayment terms, and penalties) and justification for each].**

2. Unless specifically described in this Service Plan or without receiving approval of the City Council by prior resolution, the Districts shall not enter into any agreement to provide services to properties or persons outside of the District Boundaries.

F. Limitations & Restrictions on District Authority. In addition to any limitations and restrictions established by applicable law or elsewhere in this Service Plan, any powers and authority of the Districts shall be limited and restricted as provided in this section.

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 and for the financing of the Regional Improvements. The Districts shall dedicate the Public Improvements to the City or other appropriate jurisdiction or owners association in a manner consistent with the City Approvals. The Districts are not authorized to Operate or Maintain any part of the Public Improvements unless provision therefor has been made pursuant to the District Activities IGA, except that the Districts may be required and obligated to Operate and Maintain certain park and recreation improvements within the District Boundaries and shall Operator and Maintain any other part of the Public Improvements not otherwise conveyed or dedicated to the City or another appropriate governmental entity. Unless otherwise specified in the District Activities IGA, all parks and trails shall be open to the general public free of charge.

2. Fire Protection Limitation. The Districts are not authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain fire protection facilities or services, unless such facilities and services are provided pursuant to the District Activities IGA. The authority to plan for, design, acquire, construct, install, relocate, redevelop or finance fire hydrants and related improvements installed as part of the water system shall not be limited by this provision.

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

4. Water Rights/Resources Limitation. The Districts shall not acquire, own, manage, adjudicate or develop water rights or resources except as otherwise provided pursuant to the District Activities IGA. Water and sanitary sewer facilities shall be conveyed to South Adams. The Districts' powers with regard to water and sanitary sewer service are limited to financing, designing, constructing and installing facilities and then conveying ownership of the same to South Adams pursuant to the then-applicable rules, regulations and policies of South Adams. The Districts are not authorized to operate or maintain water facilities or sanitary sewer facilities, except as may be authorized by South Adams and the City. The Districts shall consent to the overlap of the District Boundaries by South Adams (in the event such property is not already included within the service area of South Adams) and shall execute a resolution of consent to the same as may be requested by South Adams.

5. Initial Debt and Mill Levy Limitation. No District shall issue any Debt, impose a mill levy for the payment of Debt by direct imposition or by transfer of funds from the operating fund to the Debt service fund, impose or collect any Fees used for the purpose of repayment of Debt, until each of the following conditions have occurred: (a) the Land Use Approval, including a developer agreement to provide related Public Improvements, has been made effective; (b) the Districts and the City have executed the District Activities IGA; (c) the Districts have received voter authorization for the Regional Improvement Mill Levy and for the Districts' entry into an intergovernmental agreement with the City obligating the Districts to pay the proceeds from the Regional Improvement Mill Levy to the City or a City controlled entity; and (d) a covenant or agreement, running with the land and enforceable by the City, has been recorded against all property within the District Boundaries obligating any owner of property within the District Boundaries, other than an End User, to provide a disclosure notice identifying at a minimum the maximum mill levy and associated taxes and fees that may be imposed on each property for each year the Districts are in existence as well as the Public Improvements that are or have been paid for by the Districts, in a form approved by the City, to each potential End User of a residential lot or dwelling unit before the End User enters into a written agreement for the purchase and sale of that residential lot or dwelling unit.

6. Total Debt Issuance Limitation. The Districts shall not issue Debt in excess of \$[\_\_\_\_\_] total principal amount, which is [is less than] the lesser of: (a) 100% of the estimated costs of the Public Improvements; or (b) the anticipated maximum bonding capacity of the Districts, which was derived from the Financial Plan using the following assumptions: (i) the interest rate is not less than 150 basis points more than the 30 Year AAA MMD Index (as of the date of the submission of the Service Plan); (ii) inflation on completed structures does not exceed a 4% biennial growth rate; (iii) the bonds amortize over a period of 35 years; and (iv) debt service coverage is no less than 100%; and (v) the levying by the Districts of [\_\_\_\_ (\_\_\_\_)] mills. The Total Debt Issuance Limitation shall apply to bonds, loans, notes, or other instruments issued for the purpose of refunding, refinancing, reissuing or restructuring outstanding Debt.

7. Fee Limitation.

a. General. No 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 such Taxable Property and no such Fee shall be imposed upon or collected from an End User. Notwithstanding any of the foregoing, the restrictions of this paragraph shall not apply to any Fee imposed upon or collected from Taxable Property for the purpose of funding the Operation and Maintenance costs of the Districts.

b. Anticipated Fees. The Districts anticipate imposing the following Fees: **[identify all]**. Any Fee not identified in this Service Plan shall require a Service Plan Amendment prior to imposition.

c. Public Improvements Fee Limitation. The District shall not receive, spend or pledge to any Debt any fee, assessment, tax or charge that is collected by a retailer on the sale of goods or services by such retailer and that is measured by the sales price of such goods or services, except as provided pursuant to the District Activities IGA.

d. Nontaxable Property. No District may cooperate with or support the conversion of any Taxable Property to a tax-exempt status if such Taxable Property was included in the Financial Plan except as provided in this Service Plan. Prior to any sale of real property within the District Boundaries for a nontaxable use, the seller shall demonstrate to the satisfaction of the City Council that the tax-exempt use of the property will not materially impact the applicable District's ability to meet its annual debt service obligations. If the seller cannot satisfy this burden, the District shall impose a fee on the purchaser in an amount comparable to the revenue that would have been generated by an equivalent property tax from the property until such time as the District's outstanding Debt has been paid off. Such fee revenue shall be used for the repayment of outstanding Debt. The City Council may, by resolution, waive this provision.

8. Grants Limitation. No District shall apply for grant funds distributed by any agency of the United States Government or the State without the prior written approval of the City Manager. This does not restrict the collection of Fees for services provided by the Districts to the United States Government or the State.

9. Sales and Use Tax. No District shall invoke or exercise any actual or perceived City sales and use tax exemption.

10. Television Relay and Translation Limitation. No District shall be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain television relay and translation facilities and services, other than for the installation of conduit as a part of a street construction project, unless such facilities and services are provided pursuant to the District Activities IGA.

11. Telecommunication Facilities. The Districts agree that no telecommunication facilities owned, operated or otherwise allowed by the Districts shall affect the ability of the City to expand its public safety telecommunication facilities or impair existing telecommunication facilities.

12. Zoning and Land Use Requirements. The Districts shall be subject to all of the City's zoning, subdivision, building code and other land use requirements.

13. Growth Limitations. The Districts acknowledges that the City shall not be limited in implementing City Council or voter-approved growth limitations, even though such actions may reduce or delay development within the Districts and the realization of District revenue.

14. Eminent Domain Limitation. No District shall exercise the power of eminent domain without a prior resolution of the City Council consenting to the exercise of such power.

15. Inclusion Limitation. [Except for the inclusion of property within the Inclusion Area Boundaries,] No District may not include property into the District Boundaries without a prior resolution of the City Council approving such inclusion.

16. Exclusion Limitation. No District may exclude property from the District Boundaries without a prior resolution of the City Council approving such exclusion. Notwithstanding the foregoing, the Districts shall promptly hear and determine any request for exclusion by any property owner in accordance with § 32-1-501, C.R.S.

17. Overlap Limitation. No District shall consent to the organization of any additional metropolitan district organized under the Special District Act that will overlap the District Boundaries [or the Inclusion Area intended for inclusion into the District Boundaries] unless the aggregate mill levy for payment of Debt will not at any time exceed the Maximum Debt Mill Levy of the District.

19. Consolidation and Subdistrict Limitation. No District shall file a request with any Court to consolidate with another Title 32 district without a prior resolution of the City Council approving such consolidation. No District shall form a subdistrict without a prior resolution of the City Council approving the formation of such subdistrict.

20. Bankruptcy Limitation. All limitations contained in this Service Plan, including, but not limited to, those pertaining to the Maximum Debt Mill Levy, Maximum Debt Mill Levy Imposition Term and the Fees have been established under the authority of the City 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).

21. Authorities. No District shall enter into any agreement establishing an authority or other separate entity under Section 29-1-201 *et seq.*, C.R.S., without a prior resolution of the City Council approving the District’s participating in the establishment of such authority or separate entity.

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

## **VI. FINANCIAL PLAN**

### **A. General.**

1. The Districts’ Financial Plan, attached as **Exhibit E**, reflects the Districts’ anticipated schedule for issuing such Debt as the Districts can reasonably pay within the Maximum Debt Mill Levy Imposition Term from revenues derived from the Maximum Debt Mill Levy, Fees and other legally available revenues, subject to the limitations of this Service Plan. The Financial Plan is

based on economic, political and industry conditions as they presently exist and reasonable projections and estimates of future conditions. These projections and estimates are not to be interpreted as the only method of implementation of the Districts' goals and objectives but rather a representation of one feasible alternative. Other financial structures may be used so long as they are in compliance with this Service Plan. Based upon the assumptions contained in the Financial Plan, the Financial Plan projects the issuance of Debt to fund the Public Improvements and anticipated Debt repayment based on the development assumptions and absorptions of the property within the District Boundaries by End Users. The Financial Plan anticipates that the Districts will acquire, construct, and complete all Public Improvements.

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

B. Debt Issuance.

1. The total Debt the Districts shall be permitted to issue shall not exceed \$[\_\_\_\_\_] (combined limit for all Districts) (the "Maximum Debt Authorization"), as detailed in Section V.F.6. Debt in the form of an intergovernmental agreement between two or more of the Districts shall not count against the Maximum Debt Authorization. The Districts shall be permitted to issue Debt on a schedule and in such year or years as the Districts determine shall meet their needs and the financing shall be phased to serve development as it occurs. The Managing District is not authorized to issue Debt or to enter into any owner or developer Reimbursement Agreement.

2. All Debt issued by the Districts may be payable from any and all legally available revenues of the Districts, including general ad valorem taxes and Fees to be imposed upon all Taxable Property within the Districts, as limited by this Service Plan. The Districts will also rely upon various other revenue sources authorized by law to the extent consistent with this Service Plan. No District shall issue Debt with a lien that is subordinate or junior to any outstanding District Debt.

3. All Debt issued by any District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law.

4. No District shall issue or undertake any Debt or enter into any Reimbursement Agreement if, in the opinion of the External Financial Advisor, the terms of such Debt or Reimbursement Agreement are not reasonable and in the best interest of the District and its future End Users based upon the status of development in the District, the projected tax base increase in the District, the security offered, and other considerations as may be identified by the External Financial Advisor.

5. Prior to the applicable District issuing any Debt or refinancing any outstanding Debt, bond counsel engaged by the District shall submit the proposed financing documents to the City Manager no less than 30 days prior to issuance. The City may, in its sole discretion, comment on such proposed issuance or refinancing but its comment shall not be relied on by the District or any

third party. Neither this provision nor City's comment, or failure to do so, shall be construed as approval or consent to such issuance or refinancing. The City agrees to provide comments, if any, within thirty (30) days of receipt of the proposed financing documents. The submission shall include the proposed dollar amount of the issue, the interest rate and other financing costs, all sources of revenue to be pledged to repayment, including the proposed debt service mill levy, and a description of the credit enhancements, together with any preliminary official statement, if available, or other prospectus for the Debt issue. No less than three (3) days prior to the Debt issuance closing date, bond counsel for the District shall submit to the City Manager: (a) a final offering document; (b) an opinion of the District's counsel that the proposed issuance or refinance of District Debt is authorized by and in compliance with the Service Plan; and (c) a written opinion of an External Financial Advisor as to whether the proposed Debt issuance and its terms (including Debt amount, interest, underwriting discount, cost of issuance, repayment term, redemption feature, couponing, credit spreads, payment, closing date) are reasonable and in the best interest of the District based upon the status of development within the District, the projected tax base increase in the District, the security offered, and other considerations as may be identified by the External Financial Advisor.

6. At least thirty (30) days before their execution, the applicable District shall submit to the City Manager the terms of any agreement that includes a pledge of revenue to an entity or a promise to reimburse funds to another metropolitan district or an entity associated with or controlled by a developer of property within the District Boundaries. The City Manager may, in its sole discretion, comment on such proposed agreement or use any remedy available to the City. Neither this provision nor City Manager's comment or the City's action, or failure to do so, shall be construed as approval or consent to the proposed agreement. The City Manager agrees to provide comments, if any, within thirty (30) days of receipt of the proposed terms. The submission shall include the proposed amount of revenue pledged, the term of the pledge, any applicable interest rate and other financing costs, sources of revenue to be pledged for repayment, and the amount of any proposed mill levy to be pledged. A Debt issuance subject to Section VI.B.5, shall not be subject to this section.

C. 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 issued. The maximum interest rate on any Debt and Reimbursement Agreement shall not exceed twelve percent (12%), including any rate applicable upon the occurrence of an event of default. The maximum underwriting discount will be three percent (3%). Debt, when issued, will comply with all relevant requirements of this Service Plan, State law and Federal law as then applicable to the issuance of public securities.

D. Maximum Debt Mill Levy, Operation and Maintenance Mill Levy and Maximum Combined Mill Levy.

1. The Maximum Combined Mill Levy, which includes both the Maximum Debt Mill Levy and the Maximum Operation and Maintenance Mill Levy, shall not exceed fifty (50) mills. The Regional Improvement Mill Levy shall not be counted against the Maximum Combined Mill Levy.

2. The Districts may each impose an ad valorem tax (a mill being equal to 1/10th of 1 cent) upon the Taxable Property within their respective boundaries for the purpose of paying the debt service requirements on District Debt, subject to the Maximum Combined Mill Levy. The Maximum Debt Mill Levy shall not exceed [\_\_\_\_\_( )] mills, provided that at such time as the total amount of aggregate Debt of the District is equal to or less than fifty percent (50%) of the District's assessed valuation, either on the date of issuance of any Debt or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy if End Users cast the majority of affirmative votes taken by the District's Board at the meeting authorizing such action, and, as a result, the mill levy may be such amount as is necessary to pay the debt service on such Debt, and the Board may further provide that such Debt shall remain secured by such increased mill levy, notwithstanding any subsequent change in the District's Debt to assessed value ratio;

3. The Districts may each impose an ad valorem tax (a mill being equal to 1/10th of 1 cent) upon the Taxable Property within their respective boundaries for the purpose of paying Operation and Maintenance costs, subject to the Maximum Combined Mill Levy. The Maximum Operation and Maintenance Mill Levy shall not exceed ten (10) mills even if the Maximum Debt Mill Levy does not apply or if the applicable District has no mill levy for the payment of debt service requirements.

4. No mill levy imposed by any of the Districts shall be adjusted to account for changes in the method of calculating assessed valuation (including any change in the ratio of actual valuation) or any constitutionally mandated tax credit, cut or abatement, without a Service Plan Amendment.

5. To the extent that any District is composed of or subsequently organized into one or more subdistricts as permitted under Section 32-1-1101, C.R.S. the term "District" shall be deemed to refer to the Districts and to each such subdistrict collectively, so that the limitations contained in this Service Plan will apply to the Districts and to each subdistrict on a collective basis, including but not limited to the limitation on total Debt, Maximum Combined Mill Levy, Maximum Debt Mill Levy and Maximum Operation and Maintenance Mill Levy. For example, if a subdistrict levies twenty mills on property within its boundaries for Debt service, then the District within which such subdistrict resides is only permitted to levy up to the Maximum Debt Mill Levy less twenty mills on the same property for Debt service so that the Maximum Debt Mill Levy is not exceeded with respect to the property within the subdistrict's boundaries.

E. Maximum Debt Mill Levy Imposition Term. No District shall impose a levy for repayment of any and all Debt (or use the proceeds of any mill levy for repayment of Debt) on any property developed for residential use which exceeds the Maximum Debt Mill Levy Imposition Term. Each instrument evidencing Debt and each Reimbursement Agreement that is privately placed with a developer or owner of the property to be benefitted with Public Improvements shall provide that the District's obligations thereunder shall be discharged at the end of the Maximum Debt Mill Levy Imposition Term regardless of whether such obligation is paid in full.

F. Debt Instrument Disclosure Requirement. In the text of each instrument representing and constituting Debt, the issuing District shall set forth a statement in substantially the following form:

By acceptance of this instrument, the owner of this Debt agrees and consents to all of the limitations in respect of the payment of the principal of and interest on this [bond or other obligations for payment] contained herein, in the resolution of the District authorizing the issuance of this [bond or other obligations for payment] and in the Service Plan for the District.

Similar language describing the limitations with respect to 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, a developer of property within the District Boundaries.

G. Security for Debt. No District shall pledge any revenue or property of the City as security for the indebtedness set forth in this Service Plan. Approval of this Service Plan shall not be construed as a guarantee by the City of payment of the Districts' obligations; nor shall anything in the Service Plan be construed so as to create any responsibility or liability on the part of the City in the event of default by the District in the payment of any such obligation.

H. TABOR Compliance. The Districts shall comply with TABOR. With prior approval of the City Council, the Districts may set up other qualifying entities to manage, fund, construct and operate facilities, services and programs. To the extent allowed by law, any entity created by a District will remain under the control of the District's Board, and any such entity shall be subject to and bound by all terms, conditions, and limitations of the Service Plan and the District Activities IGA.

I. District Operating Costs.

1. The estimated cost of acquiring land, engineering services, legal services and administrative services, together with the estimated costs of the Districts' organization and initial operations, are anticipated to be approximately Fifty Thousand Dollars (\$50,000), which will be eligible for reimbursement from Debt proceeds.

2. 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 constructed and maintained. The [\_\_\_\_] operating budget for the Districts is estimated to be approximately Twenty-Five Thousand Dollars (\$25,000) which is anticipated to be derived from ad valorem property taxes and other revenues.

**VII. REGIONAL IMPROVEMENT MILL LEVY**

A. General. The Districts shall be authorized to provide for the planning, design, acquisition, funding, construction, installation, relocation, redevelopment, administration and overhead costs related to the provision of Regional Improvements, and the Operation and Maintenance thereof.

B. Regional Improvement Mill Levy Authority. Each Residential District shall seek the authority to impose an additional Regional Improvement Mill Levy of five (5) mills as part of the District's initial TABOR election. Each Commercial District shall seek the authority to impose an additional Regional Improvement Mill Levy of one and one half (1.5) mills as part of the District's

initial TABOR election. Each Industrial District shall seek the authority to impose an additional Regional Improvement Mill Levy of ten (10) mills as part of the District's initial TABOR election. Each District shall also seek from the electorate in that election the authority under TABOR to enter into an intergovernmental agreement with the City or to a City controlled entity obligating the District to pay as a multiple-fiscal year obligation the proceeds from the Regional Improvement Mill Levy to the City or a City controlled entity.

C. Regional Improvement Mill Levy Imposition.

- 1) Each Residential District shall impose the Regional Improvement Mill Levy at a rate of five (5) mills for collection beginning in the first year of collection of the applicable District's Debt service mill levy and continuing in each year thereafter through the fortieth (40th) tax collection year after which the Regional Improvement Mill Levy is first imposed.
- 2) Each Commercial District shall impose the Regional Improvement Mill Levy at a rate of (i) one (1) mill for collection beginning in the first year of collection of the applicable District's Debt service mill levy and continuing in each year thereafter through the twentieth (20th) year; and (ii) one and one-half (1.5) mills from the twenty-first (21st) year through the fortieth (40th) tax collection year after which the Regional Improvement Mill Levy is first imposed.
- 3) Each Industrial District shall impose the Regional Improvement Mill Levy at a rate of (i) five (5) mills for collection beginning in the first year of collection of the District's Debt service mill levy and continuing in each year thereafter through the twentieth (20th) year; and (ii) ten (10) mills from the twenty-first (21st) year through the fortieth (40th) tax collection year after which the Regional Improvement Mill Levy is first imposed.

D. Lump Sum. The City may, in its sole discretion, require a cash lump sum payment for Regional Improvements in addition to, or as an alternative to, imposing the Regional Improvement Mill Levy.

E. Regional Improvements that Benefit Adjacent Planned Developments. The City shall make a good faith effort to require planned developments that (1) are adjacent to the District's Boundaries and (2) will benefit from the Regional Improvement to also impose a Regional Improvement Mill Levy, to the extent possible.

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

G. Expenditure of Regional Improvement Mill Levy Revenues. Revenue collected through the imposition of the Regional Improvement Mill Levy shall be paid to the City or a City controlled entity, for use by the City in the planning, designing, constructing, installing, acquiring, relocating, redeveloping or financing of Regional Improvements, and the Operation and Maintenance thereof, which benefit the End Users of the applicable District as prioritized and determined by the City,

unless the City and the applicable District agree to another manner of expenditure through an intergovernmental agreement approved by the City Council.

H. Regional Improvement Mill Levy Term. The imposition of the Regional Improvement Mill Levy shall not exceed a term of forty (40) years from December 31 of the tax collection year after which the Regional Improvement Mill Levy is first imposed.

## **VIII. ANNUAL REPORT**

A. General. Each District shall be responsible for submitting an annual report to the City Manager no later than October 1 of each year following the year in which the Order and Decree creating the applicable District has been issued. The annual report may be made available to the public by the City, including through the City's website.

B. Annual Report Contents. In addition to the requirements of the Special District Act, the annual report shall include information as to the following:

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

2. Budget. The current year budget of the District, including a description of the Public Improvements to be constructed in such year.

3. Financial Statements. Except when exemption from audit has been granted for the report year under the Local Government Audit Law, the audited financial statements of the District for the report year prepared in accordance with generally accepted accounting principles, including a statement of financial condition (i.e., balance sheet) as of December 31 of the report year and the statement of operation (i.e., revenue and expenditures) for the report year.

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

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

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

C. Reporting of Significant Events. The annual report also shall include information as to any of the following:

1. Boundary changes made or proposed to the District Boundaries as of December 31 of the prior year.

2. Intergovernmental agreements with other governmental entities either entered into or proposed as of December 31 of the prior year.

3. Copies of the District's rules and regulations, if any, as of December 31 of the prior year (or information on how to access such information on the District's website).

4. A summary of any litigation to which the District is a party or has knowledge that involves the Public Improvements as of December 31 of the prior year.

5. Notice of any uncured events of default by the District, which continue beyond a ninety (90) day period, under any Debt instrument.

6. Any inability of the District to pay its obligations as they come due, in accordance with the terms of such obligations, which continue beyond a ninety (90) day period.

## **IX. DISSOLUTION**

Upon an independent determination by the City Council that the purposes for which a District was created have been accomplished, the applicable District agrees to file petitions in the appropriate District Court for dissolution pursuant to applicable State law. In no event shall dissolution occur until the District has provided for the payment or discharge of all of its outstanding indebtedness and other financial obligations as required pursuant to State law or while continuing Operation and Maintenance obligations exist. The Districts shall 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, and, if the Districts have been authorized to Operate or Maintain any part of the Public Improvements under the District Activities IGA, the Districts shall retain only the power necessary to impose and collect taxes or Fees to pay for costs associated therewith.

## **X. DISTRICT TRANSPARENCY**

A. Disclosure to Purchasers. Each District shall use reasonable efforts and due diligence to cause any home builder or developer of residential property within the District Boundaries to provide to all initial purchasers of property within the District Boundaries written notice of disclosure that describes the impact of the District's mill levy and fees on each residential property along with the purchase contract. Each District shall record such notice of disclosure with the Adams County Clerk and Recorder at the time the subdivision plat is recorded or, if the subdivision plat has already filed, provide the City with a copy of the recorded notice of disclosure. The notice of disclosure shall include the maximum mill levy that may be assessed and the associated taxes that may be imposed on the residential property for each year the District is in existence.

B. Disclosure to Potential Residential Buyers. Each District shall also use reasonable efforts and due diligence to provide information to potential residential buyers by: (i) furnishing to any developer of property or home builders within the District Boundaries information describing the key provisions of the Service Plan for the approved District for prominent display at all sales offices; and (ii) inspecting the sales offices within the District Boundaries on a quarterly basis to

assure the information provided is accurate and prominently displayed. Such information shall include the maximum mill levy and associated taxes and fees that may be imposed on each property for each year the District is in existence as well as the Public Improvements that are or have been paid for by the District.

C. Annual Notices. In addition to the requirements of the Special District Act, each District shall send the annual notice required by Section 32-1-809, C.R.S. by mail to all property owners within the District Boundaries no later than January 31 of each year.

D. Website. Each District shall maintain a website as required by the Special District Act. The website shall be used primarily for the purpose of District operations and transparency. The website shall not contain marketing materials or ads of any kind promoting the development, developers or homebuilders within the District Boundaries.

## **XI. DISTRICT GOVERNANCE**

A. Board Meetings. All special and regular District meetings shall be open to the public and shall be held at a location within the City limits that is within twenty miles of the District Boundaries. Upon the first sale to an End User: (1) the Board shall meet no less than on a quarterly basis; (2) all meetings shall include remote access participation and public comment options; and (3) the Board shall meet on a weekday evening no less than once a year, including any meeting including its annual budget hearing, consideration of any agreement pledging District revenue or requiring the District to reimburse the expenses of any person or entity, consideration of any request for a modification to the Service Plan, consideration of Debt issuance or refinancing, and consideration of any action implicating this Section V.F.7.d of this Service Plan.

B. Board Membership. The Board shall be comprised of persons who are qualified “eligible electors” of the District as provided by State law. The District shall not enter into any agreement or approve any rule or regulation by which the ability of End Users to be elected to or appointed to the Board is removed or diminished.

C. City Fees. The District will pay an annual oversight fee to the City and other fees established for the processing, review, and consideration of District requests, as required by the City Code.

D. Elections. All District elections must be located within five miles of the District’s boundaries.

## **XII. MATERIAL MODIFICATIONS**

A. Material modifications to this Service Plan may be made only in accordance with Section 32-1-207, C.R.S., as a Service Plan Amendment. No modification shall be required for an action of the Districts that does not materially depart from the provisions of this Service Plan, unless otherwise provided in this Service Plan. This Service Plan has been designed with sufficient flexibility to enable the Districts to provide required services and Public Improvements under evolving circumstances without the need for numerous amendments, provided that the modifications of the types of improvements and facilities and changes in proposed configurations, locations, or dimensions shall be permitted to accommodate development needs if consistent with

the then-current City Approvals, this Service Plan, and the District Activities IGA. Actions of the Districts that violate the limitations of this Service Plan shall be deemed to be material modifications to this Service Plan and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the Districts.

B. Any notice given by a District pursuant to Section 32-1-207(3)(b), C.R.S. shall, in addition to the requirements set forth in such section, be mailed by first class mail, postage pre-paid, to the office of the City Attorney for the City and the action described in such notice shall not be undertaken by the District until the City Council approves such action by resolution. If the City fails to respond to such notice, the District shall petition the City for an amendment to this Service Plan.

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

1. Actions or failures to act that create materially greater financial risk or burden to the taxpayers of the Districts;

2. An alteration or revision of the proposed schedule of debt issuance set forth in the Financial Plan;

3. Performance of a service or function, construction of an improvement, or acquisition of a major facility that is not closely related to an improvement, service, function, or facility authorized in the Service Plan, except as authorized by an amendment to the District Activities IGA approved by the City Council, provided that non-material modifications of the types of improvements and facilities and changes in proposed configurations, locations, or dimensions shall not be considered material modifications;

4. Failure to perform a service or function, construct an improvement, or acquire a facility required by the Service Plan, except as authorized by an amendment to the District Activities IGA approved by the City Council;

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

6. The conversion of any Taxable real property within a District to a tax-exempt status if such property was included in the Districts' financial plan unless the District demonstrates to the City Council that the tax-exempt use of the property does not materially impact the District's ability to meet its annual debt service obligations;

7. The exclusion of any real property within a District without a prior resolution of the City Council approving such exclusion;

8. Failure to provide an essential Public Improvement or service described this Service Plan when necessary to preserve the public health, safety, or welfare or necessary to serve approved development within the Districts;

9. Failure to receive authorization for the Regional Improvement Mill Levy, or failure to impose, collect, or remit the Regional Improvement Mill Levy at the direction of the City, or the issuance of any Debt prior to the authorization of the Regional Improvement Mill Levy; and

10. Failure to comply with any of the preconditions, prohibitions, limitations and restrictions of this Service Plan.

### **XIII. DISTRICT ACTIVITIES IGA**

The form of the District Activities IGA, relating to the limitations imposed on the Districts' activities, is attached hereto as **Exhibit C**. Each District shall approve the District Activities IGA in substantially the form attached as **Exhibit C**, with any additional details, terms and conditions deemed necessary by the City and the Districts if consistent with this Service Plan, at each District's first Board meeting after its organizational election. Failure of the Districts to execute the District Activities IGA shall constitute a material modification and shall require a Service Plan Amendment. The City Council will approve the District Activities IGA in the form attached as **Exhibit C** simultaneously with approval of the Service Plan or at the time of the Districts' approval, at its sole discretion.

### **XIV. SANCTIONS**

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

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

### **XV. RESOLUTION OF APPROVAL**

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

### **XVI. CONCLUSION**

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

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 the District Boundaries.

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

E. Adequate service is not, and will not be, available to the area through the City or county or other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis.

F. The facility and service standards of the Districts are compatible with the facility and service standards of the City within which the Districts are to be located and each municipality which is an interested party under Section 32-1-204(1), C.R.S.

G. The Service Plan is in substantial compliance with a comprehensive plan adopted pursuant to Section 30-28-106, C.R.S. and the City Code.

H. The Service Plan is in compliance with any duly adopted City, county, regional or State long-range water quality management plan for the area.

I. The creation of the Districts is in the best interests of the area proposed to be served.

**EXHIBIT A-1**

Legal Description and Map of [Initial] District Boundaries

**EXHIBIT A-2**

Legal Description and Map of Inclusion Area

**EXHIBIT B**

Commerce City Vicinity Map

**EXHIBIT C**

Form District Activities IGA

## **EXHIBIT D**

### Description of Public Improvements

Must include:

- A written narrative and description of the Public Improvements
- A map/maps
- Preliminary construction drawings
- Preliminary engineering survey
- Estimated costs

**EXHIBIT E**

Financial Plan

## **EXHIBIT F**

### Description of Regional Improvements