

COUNCIL BILL NO. 22-____
ORDINANCE NO. _____

AN ORDINANCE REPEALING AND REENACTING
CHAPTER 91, SPECIAL DISTRICTS, OF THE ARVADA CITY CODE

WHEREAS, pursuant to Article 1, Title 32, Colorado Revised Statutes, as amended, the City has the authority to approve service plans for title 32 districts that are organized wholly within the City's boundaries; and

WHEREAS, the City Council has determined and hereby determines that it is necessary and in the best interest of the City and its inhabitants to set forth uniform procedures and limitations for the orderly creation and regulation of title 32 districts; and

WHEREAS, the City Council has determined that, in order to achieve the City Council's objective of authorizing title 32 districts to provide for the planning, design, acquisition, construction, installation, relocation and redevelopment of public improvements, it is necessary to repeal Chapter 91, Special Districts, of the Arvada City Code, and reenact Chapter 91, Special Districts, of the Arvada City Code as follows.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. Chapter 91, Special Districts, of the Arvada City Code, is hereby repealed and reenacted to read as follows:

“ Chapter 91 SPECIAL DISTRICTS

ARTICLE I. IN GENERAL

Sec. 91-1. Short title.

This chapter shall be known and may be cited as the “Special District Ordinance.”

Sec. 91-2. Legislative declaration and intent.

(a) The city council recognizes that the general assembly has adopted legislation for the organization of title 32 districts to facilitate the elimination of the overlapping of services provided by local governments and the double taxation that may occur because of annexation or otherwise when all of the taxable property of a title 32 district lies within the boundaries of the city.

(b) The city council declares that the primary purpose of title 32 districts within the city shall be to fund the local and regional public improvements and facilities necessary for the

development of private property. Title 32 districts may provide for the continued operation and maintenance of such improvements and facilities only as provided in their respective approved service plans and intergovernmental agreements with the city.

(c) The city council, in furtherance of the best interests of the city and the preservation and protection of the health, safety, prosperity, security, and general welfare of city residents declares its intent to:

- (1) Prevent the activities of title 32 districts from impacting the city's ability to provide core services;
- (2) Ensure that the cost burden of infrastructure in newly developed areas is placed upon those benefiting from such infrastructure improvements;
- (3) Prevent the shifting of development risk to non-developers;
- (4) Minimize the likelihood of excessive tax and fee burdens upon city residents located within title 32 districts;
- (5) Require facilities and services to be provided efficiently;
- (6) Prevent the shifting of costs of title 32 districts to residents of the city who do not live within the geographic boundaries of a title 32 district; and
- (7) Permit the use of title 32 districts to serve only those residential, commercial, or industrial developments that will enhance the quality of the entire community.

(d) The city council further declares that it recognizes that the formation of title 32 districts requires the city council to adopt procedures for the orderly processing of proposals for the organization of these districts in order to protect the health, safety, prosperity, security, and general welfare of city residents.

Sec. 91-3. Application of state statute.

In addition to the power, authority, and protections set forth in this article, the city council shall have all the power, authority and protections granted to municipalities by C.R.S. Title 32, Article I (C.R.S. § 32-1-101 et seq.), in effect as of the effective date of the ordinance from which this article derives and as amended from time to time; provided, however, where any conflicts exist between such state statute and this article, such inconsistencies are specifically intended and the provisions of this article shall control, it being the intention that all requirements for the processing of proposed service plans for title 32 districts within the city's boundaries are contained or referenced in this chapter.

Sec. 91-4. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Approved development plan means a site plan or final development plan or other process established by the city for identifying, among other things, public improvements necessary for facilitating development for property within a title 32 district service area as approved by the city pursuant to the code and as amended pursuant to the code from time to time.

Approved service plan or *service plan* means any title 32 district service plan or amended service plan that has been approved by resolution of the city council in accordance with the provisions of this chapter.

Arvada regional improvement (ARI) or regional improvements means a public improvement which is identified in the City of Arvada's approved capital improvement plan (CIP).

ARI mill levy means as defined in section 91-5(a).

Capital improvement plan (CIP) means the ten-year plan that encompasses a strategic approach for the City's capital investments.

Debt means bonds or other obligations (i) for the payment of which one or more title 32 districts with a service plan approved by the city have promised to impose an ad valorem property tax mill levy; (ii) for the payment of which one or more title 32 districts with a service plan approved by the city have promised to impose and collect fees; or (iii) to which one or more title 32 districts with a service plan approved by the city have pledged any of its revenues.

Department means the Community and Economic Development Department, or any successor department.

Model service plan means the city's model title 32 district service plan as approved by the city council in accordance with the provisions of section 91-20(a).

Petitioner means any person proposing the organization of a title 32 district.

Proposed service plan means any title 32 district service plan or amended service plan filed with the department that (i) has not yet been approved or disapproved by resolution of the city council, or (ii) has been conditionally approved by resolution of the city council subject to the inclusion of such amendments or additional information as stated therein.

Public improvements means 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 in the service plan of a title 32 district to serve the future taxpayers and inhabitants of the service area as determined by the board of directors of the title 32 district.

Special District Act means Section 32-1-101, et seq., of the Colorado Revised Statutes, as amended from time to time.

Title 32 district means a quasi-municipal corporation and political subdivision proposed, organized, or acting pursuant to the provisions of this chapter and the Colorado Special District Act, C.R.S. § 32-1-101 et seq., or any successor act.

Sec. 91-5. Arvada Regional Improvement (ARI) Mill Levy.

(a) *ARI mill levy* means the following:

(1) For title 32 districts with property within their boundaries that is developed with any residential uses, the mill levy imposed for payment of the costs of the planning, design, permitting, construction, acquisition, and financing of the improvements described in the CIP, which:

a. Shall be one mill for collection beginning for each title 32 district in the first year of collection of a debt service mill levy by such district and continuing in each year thereafter through the 20th year; and

b. Shall be five mills from the 21st year through the 40th year or the date of repayment of the debt incurred for public improvements, other than regional improvements, whichever first occurs; and

c. For an additional ten years, shall be an amount equal to the average debt service mill levy imposed by such district in the ten years prior to the date of repayment of the debt incurred for public improvements other than Arvada regional improvements.

(2) For title 32 districts with property within their boundaries that is developed solely for commercial uses, the mill levy imposed for payment of the costs of the planning, design, permitting, construction, acquisition, and financing of the improvements described in the CIP, which:

a. Shall be one mill for collection beginning for each title 32 district in the first year of collection of a debt service mill levy by such district and continuing in each year thereafter through the 20th year;

b. Shall be 1.5 mills from the 21st year through the date of repayment of debt incurred for public improvements, other than Arvada regional improvements; and

c. For five years thereafter, shall be the lesser of 20 mills or an amount equal to the average debt service mill levy imposed by such district in the

ten years prior to the date of repayment of debt issued for public improvements other than Arvada regional improvements.

(3) Any title 32 district may, pursuant to an intergovernmental agreement with the city, extend the term for application of the ARI mill levy beyond the years set forth in subsections (1) and (2) above. The maximum mill levy imposition term shall include the terms set forth in subsections (1) and (2) above and any extension of the term as approved in an intergovernmental agreement as described herein.

(4) All mills described in this definition shall be subject to adjustment as follows: on or after January 1 following the date of approval of the service plan for the applicable title 32 district, unless otherwise determined by the city council, if there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement; any such mill levy may be increased or decreased to reflect such changes, such increases or decreases to be determined by the title 32 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 for changes occurring after January 1 following the date of approval of the service plan, unless otherwise determined by the city council, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

(b) Other than the ARI mill levy, the title 32 district shall not impose a levy for repayment of any and all debt, or use the proceeds of any mill levy for repayment of debt, on any single property developed for residential uses that exceeds 40 years after the year of the initial imposition of such mill levy unless a majority of the board of directors of the title 32 district are residents of such district and have voted in favor of a refunding of a part or all of the debt. Any amount of principal or accrued interest that remains unpaid upon the expiration of the maximum term for imposition of the applicable mill levy on a particular property developed for residential uses shall be deemed to be forever discharged (the "termination date") regardless of the amount of principal and interest paid prior to the termination date.

(c) The city may, at its sole discretion, require a cash lump sum payment for Arvada regional improvements in addition to, or as an alternative to, imposing an ARI mill levy.

Sec. 91-6. Growth limitations.

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 a district or realization of district revenue.

Secs. 91-7 -- -19. Reserved.

ARTICLE II. SERVICE PLAN

Sec. 91-20. Filing of proposed service plan.

(a) Model service plan. The model service plan adopted by the city council shall be available on the city's website. The model service plan may be amended from time to time by the city council.

(b) Filing of proposed service plan. Petitioner shall file a proposed service plan and any relevant materials with the department. Copies of the proposed service plan and relevant materials must be submitted in a quantity and format acceptable to the department.

(c) Compliance with model service plan. The proposed service plan shall substantially comply with the form and content of the model service plan. Petitioner shall identify any deviation(s) from the model service plan contained within the proposed service plan and submit a filing contemporaneous with the proposed service plan to the department. Such filing shall provide a detailed explanation regarding the rationale and justification related to the requested deviation.

(d) Council determination. Any material deviations must be approved by the city council prior to the approval of the service plan. The city council shall have the sole discretion to determine whether the proposed service plan, given the circumstances, substantially complies with the form and content of the model service plan and whether the proposed plan meets the requirements for approval.

(e) Application fee. Petitioners shall pay to the city a nonrefundable application fee at the time the proposed service plan is filed. Such fee shall be in accordance with section 74-31, Land-use fees, of this Code.

(f) Outside review and additional costs. In addition to the application fee, petitioner shall pay all costs that the city may reasonably incur in retaining outside counsel or consultants for the purpose of reviewing any proposed service plan and any relevant materials, as well as any additional reasonable costs incurred by the city, which are directly related to review of the petitioner's proposed service plan or associated materials.

Sec. 91-21. Contents of proposed service plan.

The proposed service plan shall contain the following information:

(a) Legal description. A legal description of the proposed district boundaries, a map of the proposed district's boundaries, and an Arvada city vicinity map.

(b) Powers, improvements, and services. A description of proposed powers, improvements, and services as well as an itemization of any costs which petitioner anticipates will be incurred by the district for the construction of public improvements.

(c) Board of directors. Identification by name, address, e-mail, and phone number of those persons whom the petitioner intends to be the nominees for the initial board of directors of the district.

(d) Proof of ownership. Proof of ownership and a listing of encumbrances on all properties within the district in a form acceptable to the city attorney's office.

(e) Financial requirements and limitations.

(1) Mill levy. The maximum mill levy, exclusive of the ARI mill levy, and maximum debt mill levy imposition term that the title 32 district shall be permitted to impose upon the taxable property within such district for the payment of debt.

(2) ARI mill levy. The amount of the ARI mill levy that the title 32 district will impose as set forth in section 91-5 of this chapter.

(3) Debt limitation. Affirmation that any debt of the title 32 district, issued with a pledge or which results in a pledge, that exceeds the maximum debt mill levy or the maximum debt mill levy imposition term shall be deemed a material modification of such district's approved service plan and shall not be an authorized issuance of debt unless and until such material modification has been approved by the city as part of an amendment to the approved service plan.

(4) Privately placed debt limitation.

a. Prior to the issuance of any privately placed debt, the title 32 district shall obtain the certification of an independent external certified financial advisor substantially certifying as follows:

1. The net effective interest rate (calculated as defined in C.R.S. § 32-1-103(12)) to be borne by the debt does not exceed a reasonable current tax-exempt or taxable interest rate, as appropriate, using criteria deemed appropriate by such advisor and based upon such advisor's analysis of comparable high yield securities; and

2. The structure of the debt, including maturities and early redemption provisions, is reasonable considering the financial circumstances of such district.

b. For purposes of this subsection (e)(4), "privately placed debt" includes any debt or annually appropriated obligation that is sold to a private entity, including financial institutions, developers, or other private entities, and for which no offering document related to such sale is required.

(5) Initial debt limitation. On or before the effective date of approval of an approved development plan, the title 32 district shall not:

- a. Issue any debt;
- b. Impose a mill levy for the payment of debt by direct imposition or by transfer of funds from the district's operating fund to its debt service funds; or
- c. Impose and collect any fees used for the purpose of repayment of debt.

(6) Total debt issuance limitation. The title 32 district shall not issue any debt in an amount that exceeds the amount authorized in its approved service plan. The title 32 district shall only issue debt with repayment terms within the life expectancy of the purchased item.

(7) Fee limitation. The title 32 district shall not impose upon or collect from property owned or occupied by an end user any fee related to the funding of costs of a capital nature that has the effect, intentional or otherwise, of creating a capital cost payment obligation in any year on any taxable property owned or occupied by an end user. For purposes of this subsection, "end user" means any owner, or tenant of any owner, of any improvement within the title 32 district 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. The business entity that constructs homes or commercial structures is not an end user. Notwithstanding any of the foregoing, the restrictions in this definition shall not apply to any fee imposed upon or collected from property for the purpose of funding operation and maintenance costs of the title 32 district.

(8) Public improvement fees. With the prior written consent of the city, a title 32 district may impose and collect or receive revenue from a public improvement fee on taxable retail sales transactions within the applicable district boundaries.

(9) Special assessments. With the prior written consent of the city, a title 32 district may establish one or more special improvement districts within its boundaries and may levy a special assessment within the special improvement district in order to finance all or part of the costs of any public improvements to be constructed or installed that the district is authorized to finance.

(10) Moneys from other governmental or non-profit sources. The title 32 district shall not apply for or accept moneys from the state conservation trust fund, the Great Outdoors Colorado Fund, or any other fund available from or through governmental or non-profit entities that the city is eligible to apply for, except pursuant to an intergovernmental agreement with the city. Notwithstanding the above, this prohibition shall not apply to specific ownership taxes, which taxes shall be distributed to and become a revenue source for the title 32 district without any limitation.

(11) Revenue bond limitation. A title 32 district shall not issue revenue bonds without providing certified notices and submissions to the city attorney, finance director, city clerk, and department as follows:

a. At least 63 days prior to issuing any revenue bonds, the issuing title 32 district must provide notice of its intent to issue revenue bonds;

b. At least 35 days prior to issuing any revenue bonds, the issuing title 32 district must submit all relevant details of such issuance; and

c. On or before the date of issuance of any revenue bonds, the issuing title 32 district must provide a letter dated the day of issuance of such revenue bonds prepared by the issuing title 32 district's counsel to the effect that the issuance of the revenue bonds complies with the provisions of the title 32 district's service plan, the City Code, and applicable state law.

(f) Boundaries and consolidation limitations.

(1) Inclusion limitation. The title 32 district shall not include within its boundaries any property outside such district's service area as defined by the approved service plan without the prior written consent of the city. The title 32 district shall provide the city with notice of any inclusion of property within the boundaries of such district's service area as defined by the approved service plan.

(2) Overlap limitation. The boundaries of the title 32 district shall not overlap with the boundaries of another title 32 district, unless approved by the city council as evidenced by a resolution. Additionally, the title 32 district shall not consent to the organization of any other title 32 district within such district's service area that will overlap the boundaries of the title 32 district.

(3) Consolidation limitation. The title 32 district shall not file a request with any court to consolidate with any other title 32 district without the prior written consent of the city, unless the consolidation is specifically authorized by the applicable district's service plan.

(g) Public improvements.

(1) Dedication of public improvements. The title 32 district shall dedicate all public improvements planned for, designed, acquired, constructed, installed, relocated, redeveloped, and financed by such district to the city or other appropriate jurisdiction or owners association in a manner consistent with the approved development plan and other rules and regulations of the city and applicable provisions of the code. The title 32 district shall not be authorized to operate and maintain any part or all of such public improvements not dedicated to the city, unless the provision of such operation and maintenance is pursuant to an intergovernmental agreement with the city.

(2) Construction standards limitation. The title 32 district shall ensure that all public improvements are designed and constructed in accordance with the standards and specifications of the city and other governmental entities having proper jurisdiction. The title 32 district shall obtain the city's approval of civil engineering plans and applicable permits for construction and installation of such improvements prior to performing such work.

(3) Fire protection limitation. The title 32 district shall not be 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 an intergovernmental agreement with the appropriate fire protection district.

Exception: The title 32 district may plan for, design, acquire, construct, install, relocate, redevelop, or finance fire hydrants and related improvements installed as part of the water system.

(4) Television relay and translation limitation. The title 32 district shall not 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 an intergovernmental agreement with the city.

(5) Golf course or other park and recreational facilities limitation. The title 32 district shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain a golf course or other park and recreational facilities unless such activity is pursuant to an intergovernmental agreement with the city.

(h) Park and recreation access. Any fee imposed by a title 32 district for access to park and recreation improvements operated by such district shall not result in residents of the city who do not reside in the title 32 district paying a user fee that is grossly disproportionate to similar fees paid by residents of such district based on pro rata use of such park and recreation improvements. The title 32 district shall be entitled to impose an administrative fee as necessary to cover additional expenses associated with residents of the city who do not reside in the title 32 district to ensure that such costs are not the responsibility of such district's residents. All such fees shall be based upon the district's determination that such fees do not exceed reasonable annual market fees for users of such facilities. Notwithstanding the foregoing, all parks and trails owned by the title 32 district shall be open to the general public and residents of the city who do not reside in such title 32 district free of charge, subject to rules and regulations of the title 32 district.

(i) Transparency requirements.

(1) Notice to purchasers. The title 32 district shall use reasonable efforts to assure that all developers of the property located within such district provide written notice to all purchasers of property in the district regarding the maximum debt mill levy,

as well as a general description of the district's authority to impose and collect rates, fees, tolls and charges. The form of notice shall be filed with the city prior to the initial issuance of the debt of the district imposing the mill levy that is the subject of the maximum debt mill levy. The form of notice shall substantially comply with the model notice. The city council shall have the sole discretion to determine whether the form of notice substantially complies with the form and content of the model notice. Any public disclosures, to purchasers or otherwise, shall comply with state law as currently in effect or as hereafter amended.

(2) Transparency website. The title 32 district shall keep publicly maintained and electronically accessible information for purposes of furthering transparency and in compliance with state law as currently in effect or as hereafter amended.

(3) Annual report. The title 32 district shall file an annual report with the city by transmitting such report to the city attorney, city clerk, finance director, and the department no later than August 1 of each year following the year in which the order and decree creating the district is issued.

(j) Bankruptcy limitation. All of the limitations contained in the approved service plan, including, but not limited to, those pertaining to the maximum debt mill levy and the maximum debt mill levy imposition term shall have been established under the authority of the city to approve a service plan with conditions pursuant to C.R.S. § 32-1-204.5. 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 an amendment to the approved service plan; and

(2) Are, together with all other requirements of Colorado law, included in the "Political or Governmental Powers" reserved to the state under the United States 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 11 U.S.C. section 943(B)(6).

(k) Dissolution. Upon a determination of the city council that the purposes for which the title 32 district was created have been accomplished, the title 32 district shall file a petition in the appropriate district court for dissolution, pursuant to the applicable provisions of state law. In no event shall a dissolution occur until such district has provided for the payment or discharge of all of its outstanding indebtedness and other financial obligations as required pursuant to state law.

(l) Intergovernmental agreement required. The title 32 district shall enter into a written agreement with the city, to be executed after such district is formed, that the title 32 district will be bound by each of the terms and conditions set forth in its approved service plan.

(m) A statement acknowledging that the title 32 district will abide by all requirements of C.R.S. § 32-1-202(2), as the same may from time to time be amended.

(n) A statement acknowledging that any action of the title 32 district that violates any of the requirements of this section shall be deemed to constitute a material modification to the approved service plan and the city shall be entitled to all remedies available under state and local law.

Sec. 91-22. Approved service plan - impermissible name.

The name of the proposed district shall not include the word or words "Arvada" or "City."

Sec. 91-23. Administrative review of proposed service plan; requests for additional information; report.

(a) Administrative review. The Department, in cooperation with other affected city departments, shall have 63 days to review the proposed service plan from the date that it is filed with the department. The 63-day review period may be extended as deemed necessary by the department.

(b) Request(s) for additional information. The department may make one or more requests for additional information relating to any portion or portions of the proposed service plan and related materials. The petitioner shall promptly supply the department with all relevant information in response to each such request.

(c) Report. Once the review has been completed, a comprehensive analysis of the proposed service plan shall be made by the department in the form of a written report to the city council. The report shall evaluate the proposed service plan and incorporate comments of the department and other affected city departments. The report shall set forth the recommendations of the department for approval, disapproval, or conditional approval of the proposed service plan and the reasons therefor.

Secs. 91-24 -- 29. Reserved.

ARTICLE III. PUBLIC HEARING; ACTION; WRITTEN DETERMINATION

Sec. 91-30. Notice of public hearing.

(a) Published and mailed notice. The department, upon preparing the report on the proposed service plan described in section 91-23, shall schedule a public hearing at a regular or special city council meeting. Notice of the hearing shall be published by the petitioner in an issue of a newspaper of general circulation in the city at least 21 days prior to the hearing date. Notice of the hearing shall also be mailed, by first class mail, on the date such notice is published to:

(1) The owners of record of all property within the title 32 district as such owners of record are listed in the proposed service plan;

(2) The State of Colorado Division of Local Government; and

(3) The governing body of any municipality or title 32 district which has levied an ad valorem tax within the next preceding tax year, and which has boundaries within a radius of three miles of the proposed district's boundaries.

(b) Contents of notice. The notice of hearing shall set forth the following:

(1) The date, time, location, and purpose of the hearing;

(2) A general description of the land contained within the boundaries of the proposed title 32 district;

(3) Information outlining methods and procedures for the filing of a petition for exclusion pursuant to section 91-32(e);

(4) A reference to the type of title 32 district to be organized;

(5) The maximum property tax levy for debt service to be imposed by the title 32 district and, if organized for the primary purpose of facilitating the development of residential property, the maximum period of time over which such levy shall be collected;

(6) The place at which the proposed service plan may be examined;

(7) A statement that all protests and objections must be submitted in writing to the city council at or prior to the hearing or any continuance or postponement thereof in order to be considered; and

(8) A statement that all protests and objections to the proposed title 32 district shall be deemed to be waived unless presented at the time and in the manner specified in this article.

Sec. 91-31. Public hearing - generally.

(a) Record. The hearing held by the council pursuant to section 91-30 shall be open to the public, and a record of the proceedings shall be made. Any evidence (including any testimony) which, in the discretion of the city council, is relevant to the organization of the proposed title 32 district shall be considered.

(b) Postponement. The city council may postpone or continue the hearing until a later time or date by announcing such postponement or continuance of the hearing or by posting

notice at the originally scheduled time and place of the hearing, and no further publication or mailing of the notice shall be necessary.

(c) Participation by interested parties. All interested parties as defined in C.R.S. § 32-1-204 shall be authorized to address the city council.

Sec. 91-32. Action by city council.

(a) Generally. Upon its review of the report presented by the department, the proposed service plan, and any evidence presented at the public hearing, the city council may:

(1) Approve without condition or modification the proposed service plan;

(2) Disapprove the proposed service plan; or

(3) Conditionally approve the proposed service plan subject to the submission of additional information relating to, or the modification of, the proposed service plan or by agreement with the proponents of the proposed service plan.

(b) Mandatory disapproval. The city council shall disapprove the proposed service plan unless evidence satisfactory to the city council of each of the following is presented:

(1) There is sufficient existing and projected need for organized service in the area to be serviced by the proposed title 32 district;

(2) The existing service in the area to be served by the proposed title 32 district is inadequate for present and projected needs;

(3) The proposed title 32 district is capable of providing economical and sufficient service to the area within its proposed boundaries; and

(4) The area to be included in the proposed title 32 district has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

(c) Discretionary disapproval. The city council may disapprove the proposed service plan if evidence satisfactory to the city council of any one or more of the following, at the discretion of such council, is not presented:

(1) Adequate service is not, or will not be, available to the area through the city, county, or other existing municipal or quasi-municipal corporations, including existing title 32 districts, within a reasonable time and on a comparable basis;

(2) The facility and service standards of the proposed title 32 district are compatible with the facility and service standards of the city;

(3) The proposed service plan is in substantial compliance with the comprehensive plan of the city as adopted pursuant to the code;

(4) The proposed service plan is in compliance with any duly adopted city, regional, or state long-range water quality management plan for the area;

(5) The creation of the proposed title 32 district will be in the best interests of the area proposed to be served; or

(6) The creation of the proposed title 32 district will be in the best interests of the city.

(d) Conditional approval. The city council may conditionally approve the proposed service plan upon satisfactory evidence that it does not comply with one or more criteria enumerated in subsection (b) of this section. Final approval shall be contingent upon modification of the proposed service plan to include such changes or additional information as shall be specifically stated in the findings of the city council.

(e) Exclusion. The city council may exclude territory from a proposed title 32 district prior to approval of the proposed service plan. The petitioner shall have the burden of proving that the exclusion of such property is not in the best interests of the proposed title 32 district. Any person owning property in the proposed title 32 district who requests his or her property be excluded from such district prior to the approval of the proposed service plan shall submit such request to the city council no later than ten days prior to the hearing held under section 91-31. However, the city council shall not be limited in its action with respect to exclusion of territory based upon such request. Any request for exclusion shall be acted upon before final action of the city council.

(f) Basis of decision. The findings of the city council shall be based solely upon the proposed service plan, the report presented by the department, reports of the city's counsel and consultants, and any evidence presented at the hearing by the petitioners, city officials, and interested parties.

91-33. - Written determination by city council.

(a) Time. Within 35 days after completing the public hearing held under this article, the city council shall adopt a resolution regarding the proposed service plan.

(b) Approval. If the proposed service plan is approved, a resolution of approval shall be adopted.

(c) Disapproval. If the proposed service plan is disapproved, a resolution of disapproval shall be adopted. The resolution shall include the reasons for such disapproval.

(d) Conditional approval. If the proposed service plan is conditionally approved, the amendments to be made in or additional information relating to the proposed service plan,

together with the reasons for such amendments or additional information, shall also be set forth in writing, and the public hearing shall be continued until such amendments or additional information are incorporated in the proposed service plan. Upon the incorporation of such amendments or additional information in the proposed service plan, the city council shall adopt a resolution of approval.

(e) Appeal. A resolution passed by the city council shall document the city council's determination. No action or proceeding, at law or in equity, to review any acts or proceedings or question the validity of the city council's determination pursuant to this chapter, whether based upon irregularities or jurisdictional defects, shall be maintained in the district court of the relevant county unless commenced within 28 days after the passage of the city council's resolution or thereafter any legal proceedings shall be barred.

91-34. – Continuing jurisdiction over material modifications.

In the manner and to the extent provided in this chapter, the city council shall maintain continuing jurisdiction over the operations and affairs of the title 32 district and shall exercise its rights in relation thereto.

Secs. 91-35 -- 39. Reserved.

ARTICLE IV. COMPLIANCE

Sec. 91-40. Compliance - generally.

(a) Notice of district court approval. Upon final approval by the district court of the organization of the title 32 district, the petitioner shall file written notice thereof with the department.

(b) Modifications to the approved service plan. After the creation of a title 32 district, material modifications to the approved service plan may be made by the board of directors of the title 32 district only by petition to and approval by the city council. City council approval of modifications to an approved service plan shall be in substantially the same manner as the approval for an original service plan described in this chapter. Such approval of modifications shall be required with regard to changes of a basic or essential nature, including, but not limited to, material modifications as outlined in the approved service plan. A resolution of approval of modification shall not be required for changes of a mechanical or technical nature. The title 32 district shall be responsible for all fees and costs described in sections 91-20(e) and (f) of this chapter which relate to modification to the approved service plan.

(c) Unauthorized departures. Any departures from the approved service plan, except for technical or mechanical changes as referred to in subsection (b) of this section or, if such has

been modified, from the approved service plan as modified, shall be considered to be a violation of this section.

(d) Intergovernmental agreement. The city and the title 32 district shall enter into an intergovernmental agreement that shall contain language intended to enforce the service plan.

(e) Any unauthorized actions including unauthorized modifications by the title 32 district shall be subject to being enjoined and/or enforced by the district court upon application by either the city or the title 32 district.

Sec. 91-41. Review of certain actions of title 32 districts.

(a) Issuance of debt. Any title 32 district with a service plan approved by the city must not issue any debt without providing certified notices and submissions to the city attorney, finance director, city clerk, and department as follows:

(1) At least 63 days prior to issuing any debt, the issuing title 32 district must provide notice of its intent to issue debt;

(2) At least 35 days prior to issuing any debt, the issuing title 32 district must submit all relevant details of such issuance; and

(3) On or before the date of issuance of any debt, the issuing title 32 district must provide a letter dated the day of issuance of such debt prepared by the issuing title 32 district's counsel to the effect that the issuance of the debt complies with the provisions of the title 32 district's service plan, the City Code, and applicable state law.

(b) Required notation. Any instrument representing and constituting debt issued by a title 32 district with a service plan approved by the city, and any offering document used in connection therewith, shall bear a clear and conspicuous notation stating in substance that "by acceptance of this bond, the owner of this bond agrees and consents to all of the limitations in respect of the payment of the principal and interest on this bond contained herein, in the resolution of the district authorizing the issuance of this bond and in the service plan for creation of the district."

Sec. 91-42. Sanctions.

(1) Should any title 32 district undertake any act or omission which violates the City Code or constitutes a material modification to the service plan without proper authorization, the city council may impose one or more of the following sanctions, as it deems appropriate:

(a) Exercise any applicable remedy under the Special District Act;

(b) Withhold the issuance of any permit, authorization, acceptance or other administrative approval or withhold any cooperation necessary for the district's

development or construction or operation of improvements or provision of services;

(c) Exercise any legal remedy under the terms of any intergovernmental agreement under which the district is in default; and

(d) Exercise any other legal remedy, including, but not limited to, seeking injunctive relief against the district, to ensure compliance with the provisions of the service plan or applicable law.

(2) All remedies available to the city under this section shall be cumulative and non-exclusive.

(3) In any proceeding brought to enforce the provisions of the applicable title 32 district's service plan or any provision of the City Code against a title 32 district, the prevailing party shall be entitled to an award of reasonable attorneys' fees, actual court costs, and other expenses incurred."

Section 2. Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. Effective date. This ordinance shall take effect five (5) days after publication following final passage.

INTRODUCED, READ, AND ORDERED PUBLISHED this _____ day of _____, 2022.

PASSED, ADOPTED AND APPROVED this _____ day of _____, 2022.

Marc Williams, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Rachel A. Morris, City Attorney

By: _____

Publication Dates: _____

**CITY OF ARVADA 2022 MODEL
MULTIPLE DISTRICT SERVICE PLAN
MODEL SERVICE PLAN**

FOR

**METROPOLITAN DISTRICT
CITY OF ARVADA, COLORADO**

Prepared

by

[NAME OF PERSON OR ENTITY]

[ADDRESS]

[ADDRESS]

[DATE]

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EXHIBIT C-1	Initial District Boundary Map
EXHIBIT C-2	Inclusion Area Boundary Map
EXHIBIT D	Intergovernmental Agreement between the District and Arvada
EXHIBIT E	Model Notice

ARTICLE I: INTRODUCTION

Purpose and Intent.

The Districts are an independent unit 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, its activities are subject to review by the City only insofar as they may deviate in a material matter from the requirements of the 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 inhabitants and taxpayers of the Districts. The primary purpose of the Districts will be to finance the construction of these Public Improvements.

The Districts are not being created to provide ongoing operations and maintenance services other than as specifically set forth in this Service Plan.

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 of the Service Area, and that each District will additionally have its own particular infrastructure needs.

Need for the Districts.

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

Objective of the City Regarding District's Service Plan.

The City'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 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 for residential properties and at a tax mill levy no higher than the Maximum Debt Mill Levy for all properties, and/or repaid by Public Improvement Fees, Special Assessments and/or Fees, as long as such Fees are not imposed upon or collected from property owned or occupied by an End User for the purpose of creating a capital cost payment obligation as further described in Section V.13. Debt which is issued within these parameters and, as further described in the Financial Plan, will insulate property owners from excessive tax and Fee burdens to support the servicing of the Debt and will result in a timely and reasonable discharge of the Debt.

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.

Operational activities are allowed, but only through an intergovernmental agreement with the City. 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, except that if the District has ongoing operation and maintenance functions authorized under an intergovernmental agreement with the City, the District shall not be required to dissolve but shall retain only the power necessary to impose and collect the Operation and Maintenance Mill Levy, Special Assessments or Fees in amounts necessary to pay for those Operation and Maintenance Costs. Additionally, if the Board of Directors of a District determines that the existence of that District is no longer necessary to accomplish the purposes set forth in this Service Plan, the Board of Directors of that District shall promptly effectuate the dissolution of that District.

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.

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 which shall not exceed the Maximum Debt Mill Levy and which shall not exceed the Maximum Debt Mill Levy Imposition Term on residential properties. It is the intent of this Service Plan to assure to the extent possible that no property bear an economic burden that is greater than that associated with the Maximum Debt Mill Levy in amount and that no property developed for a residential use bear an economic burden that is greater than that associated with the Maximum Debt Mill Levy Imposition Term in duration even under bankruptcy or other unusual situations. Generally, the cost of Public Improvements that cannot be funded within these parameters are not costs to be paid by the Districts. With regard to Regional Improvements, this Service Plan also provides for the Districts to pay a portion of the cost of regional infrastructure as part of ensuring that development and those that benefit from development pay for the associated costs.

ARTICLE II: DEFINITIONS

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

Approved Development Plan: means a Final Development Plan or other process established by the City for identifying, among other things, Public Improvements necessary for facilitating development for property within the Service Area as approved by the City pursuant to the City Code and as amended pursuant to the City Code from time to time.

ARI or Regional Improvements: means Arvada Regional Improvements, as further defined in the City Code.

ARI or Regional Improvements Mill Levy: means the following:

A. For districts with property within their boundaries developed with any residential uses means the mill levy imposed for payment of the costs of the planning, design, permitting, construction, acquisition and financing of the regional improvements (i) shall be one (1) mill for collection beginning for each district in the first year of collection of a

debt service mill levy by such district and continuing in each year thereafter through the twentieth (20th) year; and (ii) shall be five (5) mills from the twenty-first (21st) year through the fortieth (40th) year or the date of repayment of the debt incurred for Public Improvements, other than Regional Improvements, whichever first occurs; and (iii) for an additional ten (10) years, the mill levy shall be equal to the average debt service mill levy imposed by such district in the ten (10) years prior to the date of repayment of the debt incurred for Public Improvements other than Regional Improvements; and

B. For districts with property within their boundaries developed solely for commercial uses means the mill levy imposed for payment of the costs of the planning, design, permitting, construction, acquisition and financing of the improvements which (i) shall be one (1) mill for collection beginning for each district in the first year of collection of a debt service mill levy by such district and continuing in each year thereafter through the twentieth (20th) year; (ii) shall be one and one-half (1.5) mills from the twenty-first (21st) year through the date of repayment of debt incurred for Public Improvements, other than Regional Improvements; and (iii) for five (5) years thereafter, the mill levy shall be the lesser of twenty (20) mills or a mill levy equal to the average debt service mill levy imposed by such district in the ten (10) years prior to the date of repayment of debt issued for Public Improvements, other than Regional Improvements; and

C. Any district may, pursuant to any intergovernmental agreement with the City, extend the term for application of the ARI Mill Levy beyond the years set forth in A and B above. The Maximum Mill Levy Imposition Term shall include the terms set forth in A and B above and any extension of the term as approved in an intergovernmental agreement as described herein.

D. All mills described in this ARI Mill Levy definition shall be subject to adjustment as follows: On or after the January 1 following the date of approval of this Service Plan, if there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement; the one (1) mill levy described above 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 the January 1 following the date of approval of this Service Plan, are neither diminished nor enhanced as a result of such changes, for purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

E. The City may, at its sole discretion, require a cash lump sum payment for Regional Improvements in addition to, or as an alternative to, imposing an ARI mill levy.

Board: means the board of directors of the District.

Bond, Bonds or Debt: means bonds or other obligations (i) for the payment of which one or more of the Districts have promised to impose an ad valorem property tax mill levy;

(ii) for the payment of which one or more the Districts have promised to impose and collect Fees; or (iii) to which the Districts have pledged any of its revenues.

City: means the City of Arvada, Colorado.

City Code: means the City Code of the City of Arvada, Colorado.

City Council: means the City Council of the City of Arvada, Colorado.

District: means [FILL DISTRICT NAME AND/OR NUMBER] District No. .

Districts: means [FILL IN EACH DISTRICT NUMBER COLLECTIVELY] District No. 1 and District Nos. , , (fill in number of each District), collectively.

End User: means any owner, or tenant of any owner, of any taxable improvement within the Districts 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. The business entity that constructs homes or commercial structures within the Districts with the intention of selling to others is not an End User.

External Fee Advisor: means a consultant that: (i) advises Colorado governmental entities on matters relating to the imposition of Fees by Colorado governmental entities, including matters such as the rates and structures of such Fees; and (ii) is not an officer or employee of any of the Districts and has not been otherwise engaged to provide services in connection with a transaction related to the issuance of Debt payable from such Fees.

External Financial Advisor: means 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 in respect of such securities; (ii) shall be 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 any of the Districts and has not been otherwise engaged to provide services in connection with the transaction related to the applicable Debt.

Fee(s): means any fee imposed by the Districts for services, programs or facilities provided by the Districts, as described in Section V.13. below.

Final Development Plan: means a site plan or final development plan or other process established by the City for identifying, among other things, Public Improvements necessary for facilitating development for property within the Districts' Service Area as approved by the City pursuant to the City Code and as amended pursuant to the City Code from time to time.

Financial Plan: means the combined Financial Plan of the Districts as described in Article VII which describes (i) how the Public Improvements are to be financed; (ii) how

the Debt is expected to be incurred; and (iii) the estimated operating revenue derived from property taxes for the first budget year.

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

Inclusion Area Boundary Map: means the map attached hereto as **Exhibit C-2**, describing the property proposed for inclusion within one, but not any more than one, of the boundaries of the Districts.

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

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

Intergovernmental Agreement: means the intergovernmental agreement between the District and the City, a form of which is attached hereto as **Exhibit D**. The Intergovernmental Agreement may be amended from time to time by the District and the City.

Maximum Debt Mill Levy: means the maximum mill levy the District is permitted to impose for payment of Debt, exclusive of the Regional Improvements Mill Levy and the Operation and Maintenance Mill Levy, as set forth in Section VII.C below.

Maximum Debt Mill Levy Imposition Term: means the maximum term for imposition of a mill levy on a particular property developed for residential uses as set forth in Section VII.D below.

Operation and Maintenance Costs: means (1) the costs of ongoing administrative, accounting, and legal services to the District; and (2) the costs of any programming or services provided by the Districts; and (3) any ongoing operation and maintenance costs or the costs of repair, replacement, and depreciation of the Public Improvements if so provided in an intergovernmental agreement between the Districts. Operation and Maintenance Costs shall not include any ongoing operation and maintenance costs or the costs of repair, replacement, and depreciation of Public Improvements dedicated to the City unless provided for in an intergovernmental agreement with the City.

Operation and Maintenance Mill Levy: means the mill levy the Districts are permitted to impose for the payment of the District's Operation and Maintenance Costs, as set forth in Section V.2 below.

Project: means the development or property commonly referred to as [**COMMON NAME**].

Property: means real or personal property within the Service Area subject to ad valorem taxes imposed by the Districts.

Public Improvements: means 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 in Section V below to serve the future taxpayers and inhabitants of the Service Area as determined by the Board of the District.

Public Improvement Fee: means revenue received by the District from a public improvement fee on taxable retail sales transactions occurring within the District, or similar fee imposed by the owner of property in the District on similar transactions.

Regional Improvements: means Public Improvements and facilities that benefit the Service Area and which are to be financed pursuant to Section VI below.

Service Area: means the property within the Initial District Boundary Map and the Inclusion Area Boundary Map.

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

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

Special Assessment: means the levy of an assessment within the boundaries of a special improvement district pursuant to Section V.15.

Special District Act: means Section 32-1-101, et seq., of the Colorado Revised Statutes, as amended from time to time.

State: means the State of Colorado.

ARTICLE III: BOUNDARIES

The area of the Initial District Boundaries includes approximately [REDACTED] acres and the total area proposed to be included in the Inclusion Area Boundaries is approximately [REDACTED] acres. A legal description of the Initial District Boundaries and the Inclusion Area Boundaries is attached hereto as **Exhibit A**. A vicinity map is attached hereto as **Exhibit B**. A map of the Initial District Boundaries is attached hereto as **Exhibit C-1**, and a map of the Inclusion Area Boundaries is attached hereto as **Exhibit C-2**. It is anticipated that the District's boundaries may change from time to time as it undergoes inclusions and exclusions pursuant to Section 32-1-401, et seq., C.R.S., and Section 32-1-501, et seq., C.R.S., subject to the limitations set forth in Article V below.

ARTICLE IV: PROPOSED LAND USE/POPULATION PROJECTIONS/ASSESSED VALUATION

The Service Area consists of approximately [REDACTED] acres of land. The current assessed valuation of the Service Area is \$0.00 for purposes of this Service Plan and, at build out, is expected to be sufficient to reasonably discharge the Debt under the Financial Plan. The population of the District at build-out is estimated to be approximately [REDACTED] people.

Approval of this Service Plan by the City does not imply approval of the development of a specific area within the District, 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 an Approved Development Plan.

Approval of this Service Plan by the City in no way releases or relieves the developer of the Project, or the landowner or any sub-divider of the Project property, or any of their respective successors or assigns, of obligations to construct public improvements for the Project or of obligations to provide to the City such financial guarantees as may be required by the City to ensure the completion of the Public Improvements, or of any other obligations to the City under the City Municipal Code or any applicable annexation agreement, subdivision agreement, or other agreements affecting the Project property or development thereof.

ARTICLE V: DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES

1. Powers of the District and Service Plan Amendment. The Districts shall have the power and 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 herein.

2. 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 City or other appropriate jurisdiction or owners association in a manner consistent with the Approved Final Development Plan and other rules and regulations of the City and applicable provisions of the City Code. If set forth in an intergovernmental agreement with the City, the Districts shall be authorized to own, operate and maintain Public Improvements not otherwise required to be dedicated to the City or other public entity, including, but not limited to street improvements (including roads, curbs, gutters, culverts, sidewalks, bridges, parking facilities, paving, lighting, grading, landscaping, and other street improvements), traffic and safety controls, retaining walls, park and recreation improvements and facilities, trails, open space, landscaping, drainage improvements (including detention and retention ponds, trickle channels, and other drainage facilities), irrigation system improvements (including wells, pumps, storage facilities, and distribution facilities), and all necessary equipment and appurtenances incident thereto. Any Fee imposed by the District for access to such park and recreation improvements shall not result in residents of the City who do not reside in any of the Districts paying a user fee that is grossly disproportionate to similar Fees paid by residents of the Districts based on pro rata use of such park and recreation improvements. However, the Districts shall be entitled to impose an administrative Fee as necessary to cover additional expenses associated with residents of the City who do not reside in the Districts to ensure that such costs are not the responsibility of District residents. All such Fees shall be based upon the District's determination that such Fees do not exceed reasonable annual market fees for users of such facilities. Notwithstanding the foregoing, all parks and trails owned by the Districts shall be open to the general public and residents of the City who do

not reside in any of the Districts free of charge, subject to the rules and regulations of the Districts as adopted from time to time. Trails which are interconnected with a city or regional trail system shall be open to the public free of charge and on the same basis as residents and owners of Property within the Districts.

In the event that the Districts imposes a mill levy for operation and maintenance purposes, such mill levy shall not exceed [] mills (the “Operation and Maintenance Mill Levy”); provided, however, that if, on or after date of adoption of this Service Plan, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut, or abatement, the Operation and Maintenance Mill Levy may be increased or decreased to reflect such changes, such increases and 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 Operation and Maintenance Mill Levy, as so adjusted, are neither diminished nor enhanced as a result of such changes. For the purposes of the foregoing, a change in the ratio of actual valuations shall be deemed a change in the method of calculating assessed valuation.

3. Fire Protection Limitation. The Districts shall not be 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 an intergovernmental agreement with the appropriate fire district. 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.

4. Television Relay and Translation Limitation. The Districts shall not 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 an intergovernmental agreement with the City.

5. Telecommunication Facilities. The Districts agree that no telecommunication facilities shall be constructed except pursuant to an intergovernmental agreement with the City and that no such facilities owned, operated or otherwise allowed by the Districts shall affect the ability of the City to expand its telecommunication facilities or impair existing telecommunication facilities.

6. Golf Course Construction Limitation. Acknowledging that the City has financed public golf courses and desires to coordinate the construction of public golf courses in the City’s boundaries, the Districts shall not be authorized to plan, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain a golf course unless such activity is pursuant to an intergovernmental agreement with the City.

7. 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.

8. Growth Limitations. 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.

9. Construction Standards Limitation. 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 will obtain the City's approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work.

10. Eminent Domain Limitation. The Districts shall be authorized to utilize the power of eminent domain only with the consent of the City and in accordance with the Intergovernmental Agreement. In the event the limit on the Districts' ability to exercise the power of eminent domain inhibits the Districts' ability to issue debt, or will cause the interest on any Debt issued by the Districts to be included in gross income for federal income tax purposes, and the Districts shall have obtained the written opinion of bond counsel with respect to the foregoing, the limit set forth herein or in the Intergovernmental Agreement on the Districts' ability to exercise the power of eminent domain shall be of no further force or effect and shall be retroactive to the date of the organization of the Districts if the avoidance of the interest on Debt being included in gross income for federal income tax purposes as described in this paragraph so necessitates.

11. Privately Placed Debt Limitation. Prior to the issuance of any privately placed debt, the Districts shall obtain and provide the City with the certification of an External Financial Advisor substantially as follows:

We are [I am] 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.

For purposes of this Section, "privately placed debt" includes any debt or annually appropriated obligation that is sold to a private entity, including financial institutions, developers, or other private entities, and which no offering document related to such sale is required. "Privately placed debt" does not include the sale of Debt to an underwriter who purchases Debt from the Districts with a view to the distribution to investors of Debt.

In no event shall Debt that is privately placed with a developer or owner of the property to be benefitted with Public Improvements or annually appropriated obligation privately placed with a developer or owner of the property to be benefitted with Public Improvements bear interest at a rate that accrues at a compounding rate. Each instrument evidencing Debt or an annually

appropriated obligation that is privately placed with a developer or owner of the property to be benefitted with Public Improvements shall provide that the Districts' obligations thereunder shall be discharged 40 years after the date that such obligation is issued regardless of whether such obligation is paid in full.

12. Inclusion and Exclusion Limitation. The Districts shall not include within any of their boundaries any property outside the Service Area without the prior written consent of the City, which consent shall be evidenced by resolution. The District shall provide the City with notice of any inclusion of property within the boundaries of the Service Area. The District shall not exclude any property from its boundaries without the prior consent of the City Council, which consent shall be evidenced by resolution. No District shall exclude from its boundaries property upon which a Debt mill levy has been imposed for the purpose of the inclusion of such property into another district that has been or will be formed under the Special District Act, without the prior written consent of the City, which consent shall be evidenced by resolution.

13. Overlap Limitation. The boundaries of the Districts shall not overlap. The boundaries of the Districts shall not overlap with the boundaries of another district organized under the Special District Act without the prior consent of the City as evidenced by a resolution of the City Council. Additionally, the Districts shall not consent to the organization of any other district organized under the Special District Act within the Service Area which will overlap the boundaries of the Districts.

14. Initial Debt Limitation. On or before the effective date of approval by the City of an Approved Development Plan, the Districts shall not: (a) issue any Debt; or (b) 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 funds; or (c) impose and collect any Fees used for the purpose of repayment of Debt.

15. Total Debt Issuance Limitation. The Districts shall not issue Debt in the total aggregate principal amount in excess of \$[] (combined aggregate limit for all Districts over the lifespan of the Districts), including the aggregate principal amount of Debt issued for Regional Improvements. The Districts shall only issue Debt with repayment terms within the life expectancy of the financed assets. Such limitation shall not be applicable to Debt issued to refund existing Debt unless the aggregate principal amount of the Debt issued for refunding purposes exceeds the aggregate principal amount of Debt to be refunded, in which case the difference shall be counted against this limitation.

16. Fee Limitation. Each of the Districts may impose and collect Fees as a source of revenue for repayment of Debt, capital costs, and/or for operations and maintenance. Prior to the imposition of any Fee or any amendment to increase the rate or amount of any Fee, the Districts shall provide the City with the certification of an External Fee Advisor substantially as follows:

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

We [I] certify that the [insert the designation of the Fee] to be imposed by the District at [insert rate or amount of Fee] does not exceed a reasonable current rate, using criteria deemed appropriate by us [me] and based upon our [my] analysis of Fees imposed for

similar purposes; and (2) the structure of [insert the designation of the Fee], including the relative burden shared by the property and persons upon which the Fee is imposed in relation to the benefit received by such property and persons, is reasonable considering the financial circumstances of the District and similar Fees imposed for similar purposes.

No Fee related to the funding of costs of a capital nature shall be authorized to be imposed upon or collected from property owned or occupied by an End User which has the effect, intentional or otherwise, of creating a capital cost payment obligation in any year on any property owned or occupied by an End User. Notwithstanding any of the foregoing, the restrictions in this definition shall not apply to any Fee imposed upon or collected from property for the purpose of funding operation and maintenance costs of the District.

17. Public Improvement Fees. With the prior written consent of the City, each of the Districts may impose and collect and receive revenue from a Public Improvement Fee on taxable retail sales transactions within the applicable District's boundaries.

18. Special Assessments. With the prior written consent of the City, each of the Districts may establish one or more special improvement districts within the applicable District's boundaries and may levy a Special Assessment within the special improvement district in order to finance all or part of the costs of any Public Improvements to be constructed or installed that the District is authorized to finance.

19. Moneys from Other Governmental or Non-Profit 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 that the City is eligible to apply for, except pursuant to an intergovernmental agreement with the City. This Section shall not apply to specific ownership taxes which shall be distributed to and a revenue source for the Districts without any limitation.

20. 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 City unless such consolidation is with District [____].

21. Bankruptcy Limitation. All of the 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).

Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Debt Mill Levy or the Maximum Debt Mill Levy Imposition Term, 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 City as part of a Service Plan Amendment.

22. Revenue Bond Limitation. The Districts shall not issue revenue bonds, except as set forth in this Section. At least 63 days prior to issuing any revenue bonds, the issuing District must provide notice of its intent to issue revenue bonds to the City Attorney. At least 35 days prior to issuing any revenue bonds, the issuing District must submit all relevant details of such issuance to the City Attorney, including the proposed documents pursuant to which such revenue bonds will be issued. On or before the date of issuance of any revenue bonds, the issuing District must provide the City Attorney with a letter dated the day of issuance prepared by the District's counsel to the effect that the issuance of the revenue bonds complies with the provisions of this Service Plan, the City Code and applicable State law.

23. Service Plan Amendment Requirement. This Service Plan is general in nature and does not include specific detail in some instances because development plans have not been finalized. The Service Plan has been designed with sufficient flexibility to enable the Districts to provide required Public Improvements 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, subject to the limitations of this Service Plan and the Intergovernmental Agreement.

The Districts are independent units of local government, separate and distinct from the City, and its 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, the City Code, or the Intergovernmental Agreement. As such, any action of the Districts which: (1) violates the limitations set forth in this Article V; (2) constitutes a material modification under City Municipal Code; or (3) constitutes a failure to comply with the Intergovernmental Agreement or other agreement with the City, which non-compliance has not been waived in writing by the City, shall be deemed to be a material modification to this Service Plan and the City shall be entitled to all remedies available under State and local law to enjoin such action(s) of the Districts.

Any City approval requirements contained in this Service Plan (including, without limitation, any provisions requiring that a change, request, occurrence, act or omission be treated as a Service Plan Amendment or be deemed a "material modification" of the Service Plan) shall remain in full force and effect, and, unless otherwise provided by resolution of the City Council, such City approval shall continue to be required, notwithstanding any future change in law modifying or repealing any statutory provision concerning service plans, amendments thereof or modifications thereto.

24. Preliminary Engineering Survey. 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. An estimate of the costs of the Public Improvements which may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, maintained or financed was prepared based upon a preliminary engineering survey and estimates derived from the zoning on the property in the Service Area and is approximately \$[]

All of the Public Improvements will be designed and constructed in such a way as to assure that the Public Improvements' standards will be compatible with those of the City and shall be in accordance with the requirements of the Approved Development Plan. Failure to observe the requirements established in this Section shall constitute a material modification pursuant to Section 32-1-207, C.R.S. and shall entitle the City to all remedies available at law and in equity.

All construction cost estimates are based on the assumption that construction conforms to applicable local, State or Federal requirements.

25. Multiple District Structure. It is anticipated that the Districts, collectively, will undertake the financing and construction of the improvements contemplated herein. Specifically, the Districts shall enter into an Intergovernmental Cost Sharing and Recovery Agreement which shall govern the relationships between and among the Districts with respect to the financing, construction and operation of the improvements contemplated herein. The District will establish a mechanism whereby any one or more of the Districts may separately or cooperatively fund, construct, install and operate the improvements.

ARTICLE VI: REGIONAL IMPROVEMENTS

The Districts shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment and a contribution to the funding of the Regional Improvements and fund the administration and overhead costs related to the provisions of the Regional Improvements incurred as a result of participation in the alternatives set forth in Section VI.A, or B below.

The Districts shall impose the ARI Mill Levy and shall convey it as follows:

A. If the City and the District have executed an intergovernmental agreement then the revenue from the ARI Mill Levy shall be conveyed to the City for use in planning, designing, constructing, installing, acquiring, relocating, redeveloping or financing of the Regional Improvements which benefit the service users and taxpayers of the Districts in accordance with such agreement; or

B. In the event the City and the District have not executed an intergovernmental agreement addressing the Regional Improvements Mill Levy, then the revenue shall be conveyed by the Districts to the City and (i) the City shall place in a special account all revenues received from the ARI Mill Levy imposed in the Service Area under this Section VI and shall not expend such revenue until an intergovernmental agreement is executed between the Districts and the City establishing the terms and conditions for the provision of the Regional Improvements; and

(ii) if the intergovernmental agreement between the City and the District relating to the Regional Improvements Mill Levy is not executed within two (2) years from the date of the approval of the Service Plan by the City, then the revenue from the ARI Mill Levy shall be conveyed to the City for use by the City in the planning, designing, constructing, installing, acquiring, relocating, redeveloping or financing of the Regional Improvements which benefit the service users or taxpayers of the Districts as prioritized and determined by the City.

As set forth in the definition of the ARI Mill Levy, the Districts may, pursuant to any intergovernmental agreement with the City, extend the terms for application of the ARI Mill Levy beyond the years set forth the definition of the ARI Mill Levy. The Maximum Mill Levy Imposition Term shall include the terms and any extension of such terms, as set forth in Sections A, B and C of the definition of the ARI Mill Levy.

The Regional Improvements shall be limited to the provision of the planning, design, acquisition, construction, installation, relocation and/or redevelopment of street and transportation related improvements as defined in the Special District Act and the administration and overhead costs incurred as a result of participation in the alternative set forth in Section VI.A, or B above, unless the City has agreed otherwise in writing; provided, however in no event shall the Regional Improvements include water or sanitary sewer improvements unless such improvements are necessary as a part of completing street and transportation related improvements. The District shall cease to be obligated to impose, collect and convey to the City the revenue from the ARI Mill Levy described in this Section VI at such time as the area within the District's boundaries is included within a different district organized under the Special District Act, or a General Improvement District organized under Section 31-25-601, et seq., C.R.S., or Business Improvement District organized under Section 31-25-1201, et seq., C.R.S., which other district has been organized to fund a part or all of the Regional Improvements.

The Districts shall have the authority to issue Debt for the Regional Improvements, pursuant to the intergovernmental agreement as described in VI.A above. Failure of the Districts to impose or remit to the City the ARI Mill Levy shall be deemed a material modification of this Service Plan and the City make take any action at law and equity to enforce the same.

ARTICLE VII: FINANCIAL PLAN

A. General.

The Districts shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment of the Public Improvements from its revenues and by and through the proceeds of Debt to be issued by any of the Districts. The Financial Plan for the Districts shall be to issue 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 and other legally available revenues. The total Debt that the Districts shall be permitted to issue shall not exceed \$[_____] (combined limit for all Districts, including the aggregate principal amount of Debt issued for Regional Improvements) and shall be permitted to be issued on a schedule and in such year or years as the Districts determine shall meet the needs of the Financial Plan referenced above and phased to serve development as it occurs. All bonds and other Debt issued by the District 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 Property within the Districts. The District will also rely upon various other revenue sources authorized by law. These will include the power to assess Fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(1), C.R.S., as amended from time to time. At least 63 days prior to issuing any Debt, the issuing District must provide notice of its intent to issue Debt to the City Attorney. At least 35 days prior to issuing any Debt, the issuing District must submit all relevant details of such issuance to the City Attorney, including the proposed documents pursuant to which such Debt will be issued. On or before the date of issuance of any Debt, the issuing District must provide the City Attorney with a letter dated the day of issuance of such Debt prepared by the District's counsel to the effect that the issuance of the Debt complies with the provisions of this Service Plan, the City Code and applicable State law.

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 issued. The maximum interest rate on any Debt shall not exceed eighteen percent (18%). The maximum underwriting discount shall not exceed five percent (5%). 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.

C. Maximum Debt Mill Levy.

The "Maximum Debt Mill Levy" shall be the maximum mill levy the Districts are permitted to impose upon the taxable property within the Districts for payment of Debt, exclusive of the Regional Improvements Mill Levy and the Operation and Maintenance Mill Levy, and shall be determined as follows:

1. For the portion of any aggregate Debt which exceeds fifty percent (50%) of the issuing District's assessed valuation, the Maximum Debt Mill Levy for such portion of Debt shall be fifty (50) mills less the number of mills necessary to pay unlimited mill levy Debt described in Section VII.C.2 below; provided that if, on or after the date of adoption of this Service Plan, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement; 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 the date of adoption of this Service Plan, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

2. For the portion of any aggregate Debt of the issuing District which is equal to or less than fifty percent (50%) of the District's assessed valuation, either on the date of issuance 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 and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate.

3. For purposes of the foregoing, once Debt has been determined to be within Section VII.C.2 above, so that the District is entitled to pledge to its payment an unlimited ad valorem mill levy, the District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in the District's Debt to assessed ratio. All Debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law.

To the extent that the 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" or "Districts" as used herein shall be deemed to refer to the applicable District and to each such subdistrict separately, so that each of the subdistricts shall be treated as a separate, independent district for purposes of the application of this definition. No subdistrict may be organized without the prior consent of the City.

D. Maximum Debt Mill Levy Imposition Term.

Each District shall have the authority to impose the ARI Mill Levy for the applicable term set forth in Sections II and VI. Other than the ARI Mill Levy, 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 single property developed for residential uses which exceeds forty (40) years after the year of the initial imposition of such mill levy unless (I) a majority of the Board of Directors of the District are End Users and (II) have voted in favor of a refunding of a part or all of the Debt. Any amount of principal and/or accrued interest that remains unpaid upon the expiration of the Maximum Debt Mill Levy Imposition Term shall be deemed to be forever discharged (the "Termination Date") regardless of the amount of principal and interest paid prior to the Termination Date.

E. Debt Repayment Sources.

The Districts may impose a mill levy on Property within its boundaries as a primary source of revenue for repayment of debt service. The Districts may also rely upon various other revenue sources authorized by law. At the Districts' discretion, these may include the power to assess fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(l), C.R.S., as amended from time to time. In no event shall the debt service mill levy in the District exceed the Maximum Debt Mill Levy or, for residential property within the Districts, the Maximum Debt Mill Levy Imposition Term, except pursuant to an intergovernmental agreement between the Districts and the City for Regional Improvements.

F. Debt Instrument Disclosure Requirement.

In the text of each Bond and any other 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 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 for creation 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, a developer of property within the boundaries of the District.

G. Security for Debt.

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

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 District's Board.

I. District's Operating Costs.

The estimated cost of acquiring land, engineering services, legal services and administrative services, together with the estimated costs of the District's organization and initial operations, are anticipated to be [_____] Dollars (\$[____]), which will be eligible for reimbursement from Debt proceeds.

In addition to the capital costs of the Public Improvements, the Districts will require operating funds for administration and to plan and cause the Public Improvements to be constructed and maintained. The first year's operating budget is estimated to be \$[_____] which is anticipated to be derived from property taxes and other revenues. The total mill levy imposed for Operation and Maintenance Costs shall not exceed [10] mills (the "**Operation and Maintenance Mill Levy**") provided, however, that if, on or after date of adoption of this Service Plan, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut, or abatement, the Operation and Maintenance Mill Levy may be increased or decreased to reflect such changes, such increases and 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 Operation and Maintenance Mill Levy, as so adjusted, are neither diminished nor enhanced as a result of such changes. For the purposes of the foregoing, a change in the ratio of actual valuations shall be deemed a change in the method of calculating assessed valuation.

The Maximum Debt Mill Levy for the repayment of Debt shall not apply to the District's ability to increase its mill levy as necessary for provision of operation and maintenance services to its taxpayers and service users. It is anticipated that the Developer will advance funds to the Districts to pay its operating costs until such time as the Districts have sufficient revenue from its Operation and Maintenance Mill Levy. The Districts shall be authorized to reimburse the

Developer for such advances with interest, provided, however that such interest shall be calculated as simple interest and shall not allow for the accrual of compound interest.

Failure to observe the requirements established in this Article VII. shall constitute a material modification pursuant to Section 32-1-207, C.R.S. and shall entitle the City to all remedies available at law and in equity.

J. Subdistricts.

The Districts may organize subdistricts or areas as allowed by Section 32-1-1101(1)(f), C.R.S., but only with prior approval of the City Council, and any such subdistrict(s) or area(s) shall be subject to all limitations on debt and other provisions of the Service Plan to the same extent as the Districts. In accordance with Section 32-1-1101(1)(f)(I), C.R.S., the any District contemplating the organization of a subdistrict shall notify the City prior to establishing any such subdistrict(s) or area(s), and shall provide the City with details regarding the purpose, location, and relationship of the subdistrict(s) or area(s). The City Council may elect to treat the organization of any such subdistrict(s) or area(s) as a material modification of the Service Plan.

ARTICLE VIII: ANNUAL REPORT

A. General.

The Districts shall be responsible for submitting an annual report to the City's Finance Director, City Clerk, City Attorney and Department Manager of the Office of Development Assistance of the City Manager's Office no later than August 1st of each year following the year in which the Order and Decree creating the District has been issued.

B. Standard Reporting Requirements of Significant Events.

The annual report shall include information as to any of the following:

1. A narrative summary of the progress of the District's implementation of the Service Plan.
2. Boundary changes made or proposed to the District's boundary as of December 31 of the prior year.
3. Intergovernmental Agreements with other governmental entities, either entered into or proposed as of December 31 of the prior year.
4. Copies of the District's rules and regulations, if any as of December 31 of the prior year.
5. A summary of any litigation which involves the District Public Improvements as of December 31 of the prior year.
6. Status of the District's construction of the Public Improvements as of December 31 of the prior year.

7. A list of all facilities and improvements constructed by the District that have been dedicated to and accepted by the City as of December 31 of the prior year.
8. The assessed valuation of the District for the current year.
9. Current year budget including a description of the Public Improvements to be constructed in such year.
10. Audit of the District's financial statements, for the year ending December 31 of the previous year, prepared in accordance with generally accepted accounting principles or audit exemption, if applicable.
11. Notice of any uncured events of default by the District, which continue beyond a ninety (90) day period, under any Debt instrument.
12. 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.
13. Any additional information the District believes important to report.

C. Additional Reporting Requirements.

The annual report shall also include the following:

1. summary of the amount and terms of any new district indebtedness or long-term obligations issued in the report year;
2. summary of the amount of payment or retirement of existing indebtedness of the district in the report year;
3. the current mill levy of the district pledged to debt retirement in the report year;
4. a summary and detailed disclosure of the capital expenditures incurred by the district in development of improvements in the report year;
5. [LIST OF ADDITIONAL REQUIREMENTS]

ARTICLE IX: TRANSPARENCY

The Districts shall be responsible for maintaining a publicly accessible website with each District's information for purposes of further public transparency.

Standard Reporting Requirements. The website shall include the following:

1. District's name.
2. official contact information for District mailings or other communication.

3. listing of current board members.
4. notice of the date and procedures relating to any upcoming election for board member position(s) for the District.
5. description of the District's maximum mill levy.
6. description of the District's authority to impose and collect rates, fees, tolls and charges.
7. description of current debt obligations.
8. listing, description, and estimated life expectancy of all items financed through debt.
9. complete copy of current District map, which clearly identifies the District's boundaries.
10. complete copy of each Annual Report.
11. complete copy of applicable Service Plan(s) and any amendments.
12. any additional information the District believes would further transparency.

The District shall keep the information updated in a timely manner. The District shall update the information in a timely manner or within 14-days of the information becomes known to the District, whichever is less. The District shall provide the Director with the website Uniform Reference Locator (URL) prior to the execution of the Service Plan and within 2-days of any change to the URL.

ARTICLE X: DISSOLUTION

Upon an independent determination of the City Council that the purposes for which the District was created have been accomplished, the District agrees to file petitions in the appropriate District Court for dissolution, pursuant to the applicable State statutes. In no event shall a dissolution occur until the District has provided for the payment or discharge of all of their outstanding indebtedness and other financial obligations as required pursuant to State statutes.

ARTICLE XI: REQUIRED DISCLOSURES

Each District will use reasonable efforts to assure that all developers of the property located within the District provide written notice to all purchasers of property in the District regarding the Maximum Debt Mill Levy, as well as a general description of the District's authority to impose and collect rates, Fees, tolls and charges. The form of notice shall be filed with the City prior to the initial issuance of the Debt of the District imposing the mill levy that is the subject of the Maximum Debt Mill Levy. The form of notice shall substantially comply with the Model Notice (**Exhibit E**). The city council shall have the sole discretion to determine whether the form of notice substantially complies with the form and content of the model notice.

Any public disclosures, to purchasers or otherwise, shall comply with state law as currently in effect or as hereafter amended.

ARTICLE XII: INTERGOVERNMENTAL AGREEMENT

The form of the intergovernmental agreement required by the City Code, relating to the limitations imposed on the District's activities, is attached hereto as **Exhibit D**. The Districts shall approve the intergovernmental agreement in the form attached as **Exhibit D** at its first Board meeting after its organizational election. The intergovernmental agreement shall be executed by the President of the Board at the first Board meeting after its organizational election and submitted to the City Attorney for review and execution by the City. Failure of the Districts to execute the intergovernmental agreement as required herein shall constitute a material modification and shall require a Service Plan Amendment. The City Council shall approve the intergovernmental agreement in the form attached as **Exhibit D** at the public hearing approving the Service Plan.

ARTICLE XIII: AMENDMENT REQUIREMENT

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. Actions of the Districts which violate the limitations set forth in V.A.1-14 above or in VII.B-G. or requirements set forth in the Intergovernmental Agreement 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 District.

Should any district undertake any act which constitutes a material modification to the service plan, the City Council may impose one or more of the following sanctions, as it deems appropriate:

- (a) Exercise any applicable remedy under the Act.
- (b) Withhold the issuance of any permit, authorization, acceptance or other administrative approval or withhold any cooperation necessary for the district's development or construction or operation of improvements or provision of services.
- (c) Exercise any legal remedy under the terms of any intergovernmental agreement under which the district is in default.
- (d) Exercise any other legal remedy, including seeking injunctive relief against the district, to ensure compliance with the provisions of the service plan or applicable law.

All remedies available to the city under this section shall be cumulative and non-exclusive.

In any proceeding brought to enforce the provisions of this Service Plan, the prevailing party shall be entitled to an award of reasonable attorneys' fees, actual court costs and other expenses incurred.

ARTICLE XIV: CONCLUSION

It is submitted that this Service Plan for the District, as required by Section 32-1-203(2), C.R.S., and Section 122-35 of the City Code, establishes that:

1. There is sufficient existing and projected need for organized service in the area to be serviced by the District;
2. The existing service in the area to be served by the District is inadequate for present and projected needs;
3. The District is capable of providing economical and sufficient service to the area within its proposed boundaries; and
4. The area to be included in the District does have, and will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.
5. 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.
6. The facility and service standards of the District are compatible with the facility and service standards of the City within which the special district is to be located and each municipality which is an interested party under Section 32-1-204(1), C.R.S.
7. The proposal is in substantial compliance with a comprehensive plan adopted pursuant to the City Code.
8. The proposal is in compliance with any duly adopted City, regional or state long-range water quality management plan for the area.
9. The creation of the District is in the best interests of the area proposed to be served.

EXHIBIT A
Legal Descriptions

EXHIBIT B
Arvada Vicinity Map

EXHIBIT C-1

Initial District Boundary Map

EXHIBIT C-2

Inclusion Area Boundary Map

EXHIBIT D

Intergovernmental Agreement between the District and Arvada

EXHIBIT E
Model Notice

EXHIBIT D

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT is made and entered into by and between the City of Arvada, Colorado, a municipal corporation of the State of Colorado (the “City”), and _____ Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”).

RECITALS

WHEREAS, the District was organized to provide those services and to exercise those powers as are more specifically set forth in the District’s Service Plan dated _____, 20__, as amended from time to time by City approval (the “Service Plan”); and

WHEREAS, the Service Plan and Chapter 91 of the City Code of the City (the “City Code”) require the execution of an intergovernmental agreement between the City and the District; and

WHEREAS, the City and the District are authorized by Article XIV of the Colorado Constitution and Title 29, Article 1, Part 2, C.R.S., to cooperate and contract with one another to provide any function, service or facility lawfully authorized to each governmental entity; and

WHEREAS, the City and the District have determined it to be in their best interests to enter into this Intergovernmental Agreement (“Agreement”); and

NOW, THEREFORE, for and 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:

COVENANTS AND AGREEMENTS

1. Incorporation by Reference. The Service Plan and the City Code are hereby incorporated in this agreement by this reference. The District agrees to comply with all provisions of the Service Plan, as it may be amended from time to time in accordance with the provisions thereof, and the City Code, as amended from time to time, and Title 32, Article 1, C.R.S., as amended from time to time (the “Special District Act”). The District agrees to comply with and is subject to all of the City’s zoning, subdivision, building code and other land use requirements.

2. Maintenance of Public Improvements. The District agrees that it shall maintain the following Public Improvements, as shown in Exhibit A attached hereto and made a part hereof.

3. Notice to Property Owners. The District agrees that it shall record a Notice of Inclusion in Metropolitan District substantially in the form attached hereto as Exhibit B on all property located within the District’s boundaries.

4. Enforcement. The parties agree that this Agreement may be enforced in law, or in equity for specific performance, injunctive, or other appropriate relief. The parties also agree that this Agreement may be enforced pursuant to the City Code, Section 32-1-207, C.R.S. and other provisions of the Special District Act granting rights to municipalities or counties approving a service plan of a special district.

5. Outside Review and Additional Costs. Subject to appropriation by the District, the District agrees to pay all costs that the City may reasonably incur in retaining outside counsel or consultants for the purpose of reviewing the Service Plan and any relevant materials, as well as any additional reasonable costs incurred by the City, which are directly related to a request by the District for the City's interpretation of the Service Plan, any amendment to the Service Plan or a material modification of the Service Plan. The District shall notify the City whether it has appropriated funds for such costs prior to review by the City of any request by the District for the City's interpretation of the Service Plan, any amendment to the Service Plan or a material modification of the Service Plan.

6. Entire Agreement of the Parties. This Agreement constitutes the entire agreement between the parties and supersedes all prior written or oral agreements, negotiations, or representations and understandings of the parties with respect to the subject matter contained herein.

7. Amendment. This Agreement may be amended, modified, changed, or terminated in whole or in part only by a written agreement duly authorized and executed by the parties hereto.

8. Governing Law; Venue. The internal laws of the State of Colorado shall govern the interpretation and enforcement of this Agreement, without giving effect to choice of law or conflict of law principles. The parties hereby submit to the jurisdiction of and venue in the district court in either Adams County or Jefferson County, Colorado. In any proceeding brought to enforce the provisions of this Agreement, the prevailing party therein shall be entitled to an award of reasonable attorneys' fees, actual court costs and other expenses incurred.

9. Beneficiaries. Except as otherwise stated herein, this Agreement is intended to describe the rights and responsibilities of and between the named parties and is not intended to, and shall not be deemed to confer any rights upon any persons or entities not named as parties.

10. Effect of Invalidity. If any portion of this Agreement is held invalid or unenforceable for any reason by a court of competent jurisdiction as to either party or as to both parties, such portion shall be deemed severable and its invalidity or its unenforceability shall not cause the entire agreement to be terminated.

11. Assignability. Neither the City nor the District shall assign their rights or delegate their duties hereunder without the prior written consent of the other party.

12. Successors and Assigns. This Agreement and the rights and obligations created hereby shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

METROPOLITAN DISTRICT

By: _____
President

ATTEST:

By: _____
Secretary

CITY OF ARVADA, COLORADO

By: _____
Mayor

ATTEST:

By: _____
City Clerk

Exhibit A to Intergovernmental Agreement

Public Improvements to be Maintained by the District

Exhibit B to Intergovernmental Agreement

**NOTICE OF INCLUSION IN METROPOLITAN DISTRICT
AND POSSIBLE PROPERTY TAX CONSEQUENCES**

Legal description of the property;

See Exhibit A attached hereto and incorporated by reference

This property is located in the following metropolitan district:

[NAME OF DISTRICT] (the “District”)

In addition to standard property tax identified on the next page, this property is subject to a metropolitan district mill levy (another property tax) of up to:

[] mills, subject to adjustment, as described in the District’s Service Plan

Based on the property’s inclusion in the metropolitan district, a commercial parcel with a sale price of \$[] could result in ADDITIONAL annual property taxes up to;

\$[]

Based on the property’s inclusion in the metropolitan district, a residential parcel with a sale price of \$[] could result in ADDITIONAL annual property taxes up to;

\$[]

The next page provides examples of estimated total annual property taxes that could be due on this property, first if located outside the District and next if located within the District. **Note: property that is not within the District would not pay the ADDITIONAL amount.**

The District’s Board of Directors can be reached as follows;

You may wish to consult with: (1) the Adams County Assessor’s Office or the Jefferson County Assessor’s Office, as applicable, to determine the specific amount of District property taxes currently due on this property; and (2) the District’s Board of Directors to determine if the District’s Service Plan has been amended.

ESTIMATE OF PROPERTY TAXES

Annual Tax Levied on Commercial Property with \$[____] Actual Value Without the District Mill Levy:

Taxing Entity	Mill Levies (20__**)	Annual Tax Levied
		\$
TOTAL		\$

Annual Tax Levied on Commercial Property with \$[____] Actual Value With the District Mill Levy (Assuming Maximum District Mill Levy):

Taxing Entity	Mill Levies (20__**)	Annual Tax Levied
		\$
TOTAL		\$

Annual Tax Levied on Residential Property with \$[____] Actual Value Without the District Mill Levy:

Taxing Entity	Mill Levies (20__**)	Annual Tax Levied
		\$
TOTAL		\$

Annual Tax Levied on Commercial Property with \$[____] Actual Value With the District Mill Levy (Assuming Maximum District Mill Levy):

Taxing Entity	Mill Levies (20__**)	Annual Tax Levied
		\$
TOTAL		\$

**This estimate of mill levies is based upon mill levies certified by the Adams County Assessor's Office or the Jefferson County Assessor's Office in December 20__ for collection in 20__, and is intended only to provide approximations of the total overlapping mill levies within the District. The stated mill levies are subject to change and you should contact the Adams County Assessor's Office to obtain accurate and current information.