



Town Hall 551 Hot Springs Blvd
Pagosa Springs, CO 81147

Town Council and Planning Commission Work Session
Tuesday, April 29, 2025 @ 5:17 PM

AGENDA

1. REMOTE PARTICIPATION

A zoom link is made available, however the Town does not and cannot guarantee internet service or online broadcasting. Remote attendance is at the risk of the attendee as the public meeting will continue in person regardless of the Town's broadcast capability.

Join Zoom Meeting By Computer - <https://zoom.us/j/88653351165>

Dial by Phone - 1-669-900-6833 US - Meeting ID: 886 5335 1165

I. METRO DISTRICT POLICY DISCUSSION

1. Metro District Policy Discussion

[04.29.25 TC-PC work session Agenda](#)

Shari Pierce
Mayor



Town Council / Planning Commission Work Session Agenda April 29, 2025

1. INTRODUCTION - 5 minutes
 - a. Metro Districts are a valuable tool for development, allowing lower cost financing and governmental authority for construction of public improvements and facilities, and services.
 - b. For many communities, limitations on the full breadth of powers and authorities are appropriate so metro districts also meet Town identified goals and priorities.
 - c. Basic nature and process or organization, and how Town imposes requirements and controls
2. DISCUSSION OF DECISION POINTS FOR POLICY AND MODEL SERVICE PLAN - 40 minutes.
 - a. Explain approach of imposing Town requirements and controls
 - i. Metro district policy, adopted by ordinance and plugged into Muni Code
 - ii. Model service plan designed to implement policy and required to be followed by organizers, which is adopted by resolution
 - b. Work through questions/considerations of April 11 memo
 - c. Defer any lengthy discussion to end of this section to cut into next sections
 - d. Specific emphasis and detail of statutory limitations and policy proposals to prevent property owners from being over obligated:
 - i. Mill levies
 - ii. Debt amounts.
 - iii. Financing and administrative fees paid to developer.
3. QUESTIONS OUTSIDE THE DECISION POINTS – 30 minutes
4. ADDITIONAL DISCUSSION – 30 minutes
5. NEXT STEPS? TYPICALLY:
 - a. PC review and recommendation
 - b. Consideration by Town Council

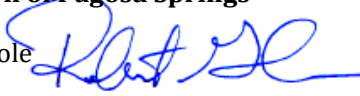


MEMORANDUM

April 11, 2025

VIA EMAIL

TO: Pagosa Springs Town Council
Town of Pagosa Springs

FROM: Robert G. Cole 

RE: **Metropolitan District Policy Consideration**

INTRODUCTION

We have provided you with a large amount of information previously and for next Tuesday's meeting as you consider whether to adopt a policy on use of metropolitan districts ("metro districts") as a development tool within Pagosa Springs. As you consider this material it may help you to focus on the questions and issues attendant to developing an effective policy:

1. Will metropolitan districts be allowed at all as a development tool?
2. What types of land uses justify a metro district? Options include no restrictions, or any single or combinations of uses which the Town wishes to incentivize. Permitting metro districts in certain residential projects may help increase housing options, in retail commercial areas may increase sales tax revenues, or in office commercial or industrial areas may increase jobs.
3. Will furtherance of a strategic goal of the Town achievement of some other objective that is not necessarily tied to the type of land use be required to allow metro district formation?
4. What kind of services will metro districts be allowed to provide. The options are any two or more of the following:
 - a. Water and/or Sewer;
 - b. Fire;
 - c. Park and Recreation;
 - d. Street Lighting;
 - e. Safety Protection;
 - f. Security Services;
 - g. Mosquito Control;
 - h. Street Improvements;
 - i. Television Relay and Translator Facilities;
 - j. Solid Waste;
 - k. Safety Protection; and



1. Covenant Enforcement.

5. Will metro districts operate facilities, or only be allowed to develop facilities to be conveyed to other existing service providers?

Below is a summary of other components and considerations of a typical policy to help you focus your considerations and decision points if you wish to develop a Metropolitan District Policy and Model Service Plan. If you direct us to proceed, we will use your comments on these components to present a Policy and Model Service Plan for formal consideration by the Town Council.

	<u>Descriptions</u>	<u>Requirement/Condition</u>	<u>Consequence/Purpose</u>
1.	Limit Inactive Districts	An IGA addressing the public benefits to be provided must be entered into, and initial debt must be issued within 5 years of service plan approval, or the Town may seek to compel the District to dissolve. No debt may be issued or fees to be used to repay debt may be imposed without first entering into the IGA within 5 years of service plan approval.	If active development of public improvements by the District are not expected in the near term, the District should not be organized. With a stale or stagnant District that has not proceeded with developing public improvements within a reasonable time after organization, justification for it existing may no longer be present.
2.	Public Benefits	District must demonstrate that it will provide extraordinary public benefit, which includes furthering the goal and elements of the Comprehensive Plan or other Town strategic plans. Public benefits are to be listed in an exhibit to the service plan.	Ensure that important public benefit is received in exchange for allowing the developer to use this development tool that also has some attendant risks.
3.	Assessed Valuation Requirement	Districts with a projected Assessed Valuation of less than a specified amount at build-out are not permitted.	Helps ensure that districts will have a sufficient scale to justify organization and sufficient tax basis to support the public improvement costs.
4.	Public Improvement Limits	Public Improvements are to be dedicated to the Town or HOA or other appropriate jurisdiction;	Ensures that the Town's standards and vision for the appropriate provider for public facilities and

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		however, the Town is not required to accept a dedication. Are there certain public improvements or services that Districts may not finance, construct, operate or provide without Town Council's written approval? Must be designed in accordance with the Town Code standards and specifications. The Town's warranty and security requirements of the Subdivision Regulations apply to all public improvements.	services within the Town is maintained.
5.	Debt Restrictions	District-issued debt cannot have a term greater than the useful life of the improvements being financed, not to exceed 30 years; unless a majority of the District Board are residents of the District and vote in favor of a refunding or the refunding results in a savings. A debt mill levy cannot be imposed for more than 40 years.	This provides property owners with an end date for the debt mill levy, while still affording the ability to refinance when beneficial and ensuring that properties are taxed only for a reasonable amount of time in relation to the benefits received.
6.	Disclosure Policy	Disclosure to potential purchasers must be provided. A sample should be attached to the Model Service Plan, including a calculation of projected taxes for residential and commercial properties per \$500,000 of actual value.	Provides potential purchasers with important information and concrete data about the potential tax implications of purchasing property within the district.
7.	Mill Levy Caps	Typical caps are 10 mills for operations and maintenance where ongoing operation of facilities and services is not expected, and a debt service mill levy of 50 mills, with reductions for any O&M mill levy.	Mill levy caps help ensure that property taxes do not overburden residents.
8.	Privately Placed Debt Limitation and	Privately placed debt requires certification of 3 rd party financial advisor that the structure is reasonable.	Ensures competitive financing risks and rates and prevents private parties from gaining excessive financial benefits.

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	Developer Advances	Developer advances only as approved in the service plan	
9.	Material Modification Definition	Identification of actions beyond those identified by statute that would constitute material modifications to the service plan, triggering a requirement of Town Council approval.	Any material modification requires notice to residents, a hearing before the Town Council, and Town Council approval. This is intended to provide transparency to District action and oversight by the Town Council.
10.	Limit District Fees	Fees are to be identified in the service plan. Costs of constructing and financing public improvements are to be paid from taxes, not fees. Operation & Maintenance fees only if District is authorized for ongoing operation of facilities and provision of services.	Prevents the District from imposing fees without restrictions that could overburden property owners.
11.	Service Plan Approval Process	Generally, follow Title 32 and Town land use application requirements	Designed to ensure the public is made aware of the District's formation and any modifications to the service plan.
12.	Annual Reporting	All annual reporting as provided by statute plus additional reporting, including debt and financial projections, and status of public improvements to be constructed and/or installed by the District.	Ensures transparency and that the Town is aware of the conditions of the District.
13.	Town Fees	Fees for initial service plan processing, subsequent service plan or other required approval processing, and annual oversight and report review.	Designed to prevent Town involvement with Districts from being subsidized by Town general revenues.
14.	Restriction on Eminent Domain	Districts may not utilize statutory powers of eminent domain to	Ensures use of this extraordinary governmental power is consistent

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		acquire property without written approval from Town Council	with Town priorities, objectives, and philosophy.
15.	Restrictions on Boundary Revisions	Not allowed unless approved by the Town in the service plan for a specific area, or by later written approval of the Town Council.	Ensures that the Town's vision for the appropriate provider for public facilities and services within the Town is maintained.
16.	Restrictions on Services or Facilities Outside the District	Not allowed unless approved by the Town in the service plan for a specific area, or by later written approval of the Town Council.	Ensures that the Town's vision for the appropriate provider for public facilities and services within the Town is maintained.
17.	Prohibit Competing for Grant	District may not apply for grants that would compete with Town, such as GOCO and Conservation Trust Fund grants.	Ensure Districts do not reduce funding that might otherwise be provided to assist the Town

CONCLUSION

Metropolitan districts can be a helpful tool for financing, operating and maintaining the public infrastructure needed to serve new development. Problematic aspects of metropolitan districts can be addressed through policies and a model service plan, and through the service plan approval process.

TOWN OF PAGOSA SPRINGS, COLORADO

**ORDINANCE NO. 10 __
(SERIES 2025)**

**AN ORDINANCE ADOPTING A NEW TITLE 22 OF THE
PAGOSA SPRINGS MUNICIPAL CODE REGARDING SPECIAL DISTRICTS**

WHEREAS, the Town of Pagosa Springs (“Town”) is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Pagosa Springs Home Rule Charter of 2003 as amended (“Charter”); and

WHEREAS, pursuant to Section 1.4 of the Charter, the Town has all the power of local self-government and home rule and all power possible for a municipality to have under the Constitution and laws of the State of Colorado; and

WHEREAS, pursuant to Sections 11.2 and 11.3 of the Charter, the Town Council of the Town (the “Town Council”) may by adopt land use and development ordinances, and create taxing districts by ordinance; and

WHEREAS, the Town Council has adopted various master plans, including Pagosa Springs Forward, dated April 2018 (the “Comprehensive Plan”), the Town-to-Lakes Trail Master Plan, the Pagosa Springs Streetscape Furnishings and Signage Plan, the Downtown Master Plan, Historic Building and District Guidelines, and the Highway 160 Access Control Plan (collectively, the “Master Plans”); and

WHEREAS, the Comprehensive Plan identifies the Town’s overall vision that *“Pagosa Springs sustains an authentic mountain experience in a culturally rich, economically diverse rocky mountain town set in a spectacular, healthy environment situated at the confluence of the ancient geothermal hot springs and the headwaters of the San Juan River”* (the “Comprehensive Plan Vision”); and

WHEREAS, the Comprehensive Plan identifies the following goals and specific actions (the “Comprehensive Plan Themes”), the natural environment, alternative energy, community identity, heritage and historic preservation, arts, housing, transportation and mobility, land use, supporting economic vibrancy, childhood development and lifelong learning, infrastructure, government, intergovernmental cooperation and coordination; and

WHEREAS the Comprehensive Plan Theme for housing identifies that the Town will “[a]pply housing strategies and practices to ensure high quality housing for all Pagosa Springs area families, households and employees with a mix of dwelling and unit types that meet the needs of residents of different income levels[;]” and

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WHEREAS, the Town Council supports a broad spectrum of practices to enable the efficient and cost-effective development of land when development is consistent with the Comprehensive Plan Vision and Comprehensive Plan Themes, and the goals of the master Plans; and

WHEREAS, Title 32 of the Colorado Revised Statutes permits the organization of a variety of governmental districts, including metropolitan districts (“Metro Districts”) to finance, construct and operate certain public improvements and services to serve the residents and businesses in those districts; and

WHEREAS, pursuant to §32-1-203(1), C.R.S., organization of a metropolitan district wholly within the boundaries of the Town requires approval of the Service Plan by the Town Council, including a finding that the proposal is in “substantial compliance” with the Town’s master plan; and

WHEREAS, the Board hereby finds and determines that a metropolitan district which is associated with a development project that furthers the objectives of the Master Plans is in “substantial compliance” with the Master Plans, and may provide extraordinary public benefits, either directly through the metropolitan district or indirectly by providing public services and facilities that would otherwise be the responsibility of the developer, thus allowing the developer to provide the extraordinary public benefit; and

WHEREAS, the Town wishes to adopt a policy for the consideration and approval of metropolitan district service plans when the development project for which metropolitan district formation is sought is consistent with the Town’s strategic priorities, will result in a demonstrated extraordinary public benefit, and formation of the metropolitan district to provide public services and facilities is needed for the development project to provide the extraordinary public benefit.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, AS FOLLOWS:

Section 1. Incorporation of Recitals. The above Recitals are hereby incorporated into this Ordinance by this reference and adopted as findings and determinations of the Town Council.

Section 2. Amendment of the Town Municipal Code A new Title 22 of the Town of Pagosa Springs Municipal Code (the “Code”) is hereby adopted in its entirety to read as set forth in Exhibit A, attached hereto and incorporated herein.

Section 5. Public Inspection. The full text of this Ordinance, with any amendments, is available for public inspection at the office of the Town Clerk.

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Section 6. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

Section 7. Public Hearing. A public hearing on this Ordinance shall be held on the 15th day of April, 2025, at 7:00 p.m. at the Pagosa Springs Town Hall, 551 Hot Springs Boulevard, Pagosa Springs, Colorado.

Section 8. Effective Date. This Ordinance shall become effective and be in force immediately upon final passage at second reading.

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INTRODUCED, READ, AND ORDERED PUBLISHED PURSUANT TO SECTION 3.9, B) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE 15TH DAY OF APRIL, 2025.

TOWN OF PAGOSA SPRINGS, COLORADO

By: _____
Shari Pierce, Mayor

ATTEST:

By: _____
April Hessman, Town Clerk

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FINALLY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED PURSUANT TO SECTION 3.9, D) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE 6TH DAY OF MAY, 2025.

TOWN OF PAGOSA SPRINGS, COLORADO

By: _____
Shari Pierce, Mayor

ATTEST:

By: _____
April Hessman, Town Clerk

EXHIBIT A

**TOWN OF PAGOSA SPRINGS MUNICIPAL CODE
TITLE 22
SPECIAL DISTRICTS**

SAMPLE

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CERTIFICATE OF PUBLICATION

I, the duly appointed, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 10__ (Series 2025) was approved by the Town Council of the Town of Pagosa Springs on first reading at its regular meeting held on the 15th day of April, 2025, and was published by title only, along with a statement indicating that the full text of the Ordinance is available at the office of the Town Clerk, on the Town's official website, on _____, 2025, which date was at least ten (10) days prior to the date of Town Council consideration on second reading.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this __ day of _____, 2025.

April Hessman, Town Clerk

(S E A L)

I, the duly appointed, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 10__ (Series 2025) was approved by the Town Council of the Town of Pagosa Springs on second reading, at its regular meeting held on the 6th day of May, 2025, and was published by title only, along with a statement indicating the effective date of the Ordinance and that the full text of the Ordinance is available at the office of the Town Clerk, on the Town's official website, on _____, 2025.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this __ day of _____, 2025.

April Hessman, Town Clerk

(S E A L)

TITLE 22 - SPECIAL DISTRICTS

Chapter 22.1 - Metropolitan Districts

Sections:

- 22.1.1 – Policy Statement
- 22.1.2 – Objectives and Statements
- 22.1.3 – Evaluation Criteria.
- 22.1.4 – Strategic Priorities
- 22.1.5 – Additional Public Benefit Considerations.
- 22.1.6 – Application Process
- 22.1.7 – Service Plans
- 22.1.8 – District Structure
- 22.1.9 – Dissolution of the District
- 22.1.10 – Default of District
- 22.1.11 – Material Modification of Service Plan
- 22.1.12 – Annual Report
- 22.1.13 – Fees
- 22.1.14 – Town Consent
- 22.1.15 – Intergovernmental Agreement

22.1.1 - Policy Statement

The policy set forth in this Chapter 22.1 (the “Policy”) establishes the criteria, guidelines and procedures to be followed by the Town Council (the “Town Council”) and Town staff in considering, reviewing and approving or disapproving of service plans of Title 32 metropolitan districts, including any amendments thereof; and by applicants in submitting to the Town service plans for the organization of metropolitan districts or amendments to those plans.

22.1.2 - Objectives and Statements

A. A district, when properly structured, can enhance the quality of development in the Town. The Town will consider proposed service plans when formation of the district would provide extraordinary public benefits which could not be practically provided by the Town or an existing public entity within a reasonable time and on a comparable basis. It is not the intent of the Town to allow creation of multiple entities which result in the provision of competing or duplicative services or infrastructure.

B. This policy is intended as a guide only. The approval of a service plan is at the sole discretion of the Town Council, which may reject, approve, or conditionally approve service plans on a case-by-case basis. Nothing in this Title is intended, nor shall it be construed, to limit the discretion of the Town Council which retains full discretion and authority regarding the terms and limitations on all district service plans.

22.1.3 - Evaluation Criteria.

To provide the Town Council with information and an assessment consistent with this Policy, staff will review and report on district proposals in the following areas:

A. Statutory Compliance. All district proposals must comply with Title 32, C.R.S.

B. Financial Assessment. All district proposals are required to submit a financial plan to the Town for review. The Town will evaluate a district's debt capacity and servicing ability utilizing the financial plan and any other relevant information. Additionally, should a district desire to utilize funding for basic infrastructure improvements, staff will assess the value of the benefit against the public benefits received in exchange.

C. Policy Evaluation. All proposals will be evaluated by Town staff against this Policy, the Town's Model Service Plan, and the priorities and public benefits set forth in Sections 22.1.4 and 22.1.5 of this Chapter, with any areas of difference being identified, evaluated and reported to the Town Council.

22.1.4 - Strategic Priorities

Formation of a district shall advance the Town's strategic priorities. The Town's strategic priorities are articulated in the Town's Comprehensive Plan and such other master plans involving public infrastructure and services that are adopted by the Town, including but not limited to the Town-to-Lakes Trail Master Plan, the Pagosa Springs Streetscape Furnishings and Signage Plan, the Downtown Master Plan, Historic Building and District Guidelines, and the Highway 160 Access Control Plan as the same may be amended from time to time (collectively the "Town Plans"). The applicant shall demonstrate that the development project for which district formation is sought is consistent with the Town's strategic priorities and will result in a demonstrated extraordinary public benefit, and formation of the district to provide public services and facilities is needed for the development project to provide the extraordinary public benefit. A district which is associated with a development project that furthers the objectives of the Town Plans can be seen as providing extraordinary public benefit, either directly through the district or indirectly by providing public services and facilities that would otherwise be the responsibility of the developer, thus allowing the developer to provide the extraordinary public benefit. An applicant for a district must address, either

in the Letter of Interest, and/or service plan or cover letter, how the district and/or associated development project will impact the following specific Town Plan objectives and elements:

A. Furthering the vision of the Town's Comprehensive Plan of sustaining an authentic mountain experience in a culturally rich, economically diverse rocky mountain town set in a spectacular, healthy environment situated at the confluence of the ancient geothermal hot springs and the headwaters of the San Juan River; and

B. Furthering, or at a minimum not hindering, the vision, themes, and goals of the Comprehensive Plan (as such may be amended from time to time).

22.1.5 - Additional Public Benefit Considerations.

A. In the absence of special circumstances, district formation is not permitted where the future assessed valuation of all property within the district at full build-out is projected to be less than five million dollars (\$5,000,000), adjusted annually beginning in 2026 based on the Consumer Price Index for the Mountain-Plains statistical region as prepared by the U.S. Bureau of Labor Statistics.

B. The costs of Public Improvements (defined in Section 22.1.7.J) are to be paid from taxes and not from fees.

22.1.6 - Application Process.

A. Process Overview. The application process is designed to provide early feedback to an applicant, adequate time for a comprehensive staff review, and the appropriate steps and meeting opportunities with decision makers. Applicants are encouraged to submit proposals well in advance of election deadlines.

B. Letter of Interest. Applicant will provide Town with a Letter of Interest and pre-application fee (refer to Land Use Code Section 2.3.3.). The Letter of Interest shall contain the following:

1. Summary narrative of the proposed development and district proposal.
2. Sketch plan showing: property location and boundaries; surrounding land uses; proposed use(s); proposed improvements (buildings, landscaping, parking/drive areas, water treatment/detention, drainage); existing natural features (water bodies, wetlands, large trees, wildlife, canals, irrigation ditches); utility line locations (if known); and photographs (helpful but not required).
3. Clear justification for why a district is needed.

4. Explanation of extraordinary public benefits, making specific reference to this Policy, the Town Plans, and other relevant Town documents.

5. District proposal and service plan specifics, including: district powers and purpose; district infrastructure and costs; mill levy rate (both debt and, operations and maintenance); term of district; forecasted period of build-out; proposed timeline for formation; and current development status of project.

C. Staff Response to Letter of Interest. Staff will provide a written response to a Letter of Interest within thirty (30) days of receipt and payment of the pre-application fee.

D. Preliminary Staff Meeting with Applicant (Optional). Based on an initial review of the Letter of Interest, staff may meet with the applicant to discuss the district proposal, potential extraordinary public benefits, relevant provisions of the Town Plans for the application to address, initial staff feedback, the evaluation process, fees, and other application elements.

E. Formal Application and Service Plan Submittal. Upon taking account of staff input, applicant may submit a formal application for consideration, including the service plan and a cover letter in which the applicant shall highlight any substantive provisions that deviate from this Policy and the Model Service Plan. The formal application and application fees must be received by the Town no later than the third Tuesday of December in the preceding year for a May election or the third Tuesday of May for a November election. The Town cannot commit to timely processing of applications submitted after these dates for their respective elections and approval of a service plan in time to meet certain election deadlines is not guaranteed even when submitted by these deadlines.

F. Formal Staff Review. Town staff will review the application materials along with any follow-up documentation that is requested in order to assess the application according to this Policy other appropriate Town policies, and state law. Applicants should plan sufficient time in the application process for several rounds of feedback and review from Town staff.

G. Town Council Work Session Meeting (optional). Based on the magnitude and complexity of the development project and district proposal, staff may recommend a work session with the Town Council.

H. Public Meeting Notice. Notice of the public meeting at which the Town Council will consider the service plan may be provided in accordance with Land Use Code Section 2.5.6 and, if provided, the applicant should submit an affidavit of mailing, including the lists of all property owners notified, along with the publisher's affidavit of

publication, to Town staff prior to the meeting date. The mailed and published notices should include the following information:

1. A description of the general nature of the Public Improvements and services to be provided by the district;
2. A description of the real property to be included in the district and in any proposed future inclusion area, with such property being described by street address, lot and block, metes and bounds if not subdivided, or such other method that reasonably appraises owners that their property will or could be included in the district's boundaries;
3. A statement of the maximum amount of property tax mill levy that can be imposed on property in the district under the proposed service plan;
4. A statement that property owners desiring to have the Town Council consider excluding their properties from the district must file a written petition for exclusion with the Town Clerk no later than ten (10) days before the scheduled meeting date in accordance with Section 32-1-203(3.5) of the Colorado Revised Statutes;
5. A statement that a copy of the proposed service plan can be reviewed in the Town Clerk's Office; and
6. The date, time and location of the public meeting at which the Town Council will consider the service plan.

I. Public Comment. At a regular or special meeting, the Town Council will consider a resolution approving the proposed service plan. The public will have an opportunity at the meeting to submit public comments on the proposed service plan in accordance with any applicable procedures of the Town Council and applicable state law.

J. Legislative Action. The consideration of a service plan to allow the organization of a district is policy determination to be made by the Town Council based on its consideration of the best interests of the Town as a whole, the current and future residents of the proposed district, and the ability of the district to provide extraordinary public benefits and to further the goals of the Town's Plans.

22.1.7 - Service Plans.

A. Model Service Plan.

1. The Town Council may, by resolution, adopt and from time to time amend, a Model Service Plan consistent with this Policy.
2. All service plans submitted to the Town should follow the basic outline, form, sequence and structure of the Model Service Plan. Service plans should

duplicate the language contained in the Model Service Plan and explanation and justification provided for any material departures. Notwithstanding the preceding, any service plan approved by the Town shall be deemed to be in compliance with all Town requirements.

B. Compliance with Applicable Law. Any service plan submitted to the Town for approval must comply with all state, federal and local laws and ordinances, including the Special District Act.

C. Eminent Domain NOT Authorized. The service plan shall contain language that prohibits the District from exercising the power of eminent domain without approval of the Town Council.

D. Limitations on Operations and Maintenance.

1. A district is permitted to collect a mill levy in an amount as specified in subsection 22.1.7.E., to fund customary administrative expenses incurred in operating the district, such as accounting and legal expenses and other costs of complying with applicable reporting requirements (the “Operations and Maintenance Mill Levy”). District service plans shall generally call for dissolution of the district upon payment of the debt associated with the Public Improvements for which it is formed, and will not be approved for ongoing district operations and maintenance of Public Improvements or services. Where it can be demonstrated that it is in the best interest of the Town and the existing or future residents and taxpayers of the district, the district, on an ongoing basis, may operate and maintain Public Improvements and services and impose an Operations and Maintenance Mill levy as set forth in the service plan approval.

2. To avoid duplication of entities and economic inefficiency, overlapping owners associations and districts are discouraged. When the boundaries of a district overlap with the boundaries of an owner’s association, during any year or portion of a year, when the declarant of the association is a developer, homebuilder, or other entity and not the residents, consent of the Town is required prior to the levy and collection of an Operations and Maintenance Mill Levy by the district for operating or maintaining any Public Improvements or services, other than routine administration of the governance of the district.

E. Maximum Mill Levy.

1. The service plan shall set forth a maximum debt mill levy that may be imposed by the district (“Debt Mill Levy”), taking into consideration the costs of the Public Improvements to be paid for with property tax revenues used to service debt and the anticipated assessed valuation; however, in no event shall the Debt Mill Levy exceed 50 mills, subject to adjustment as provided in subsection 22.1.7.E.5 and any required offset for an Operations and Maintenance Mill Levy. The Debt Mill Levy shall be

imposed for a term not greater than 40 years from the date of its first imposition in any amount, and notwithstanding any provision set forth in Section 22.1.7.F.

2. For districts that are authorized to impose an Operations and Maintenance Mill Levy, such shall be limited to no more than ten (10) mills, subject to adjustment as provided in subsection 22.1.7.E.5.

3. The aggregate of any Debt Mill Levy and any Operations and Maintenance Mill Levy shall not exceed fifty (50) mills (the “Maximum Mill Levy”), subject to adjustment as provided in 22.1.7.E.5.

4. Increased Debt, Operations and Maintenance, and Maximum Mill Levies may be considered for districts that are predominately commercial in use, at the sole discretion of the Town Council.

5. The Maximum Mill Levy may be adjusted from the base year of the district as provided for in the Model Service Plan, so that to the extent possible, the actual tax revenues generated by the district’s mill levy, as adjusted, for changes occurring after the base year, are neither diminished nor enhanced as a result of the changes. Unless otherwise provided in the approved service plan, the base year shall be the first year in which a district imposes the Maximum Mill Levy.

F. Debt Term Limit. Generally, district debt is to be issued and taxes are to be imposed within five (5) years of a Court Order organizing the district. District debt, payable from property taxes, shall be for a term no more than the useful life of the Public Improvements that are funded by such debt, and in no event more than 30 years, such term to be calculated from the date of completion of installation of the Public Improvements and their acceptance by the Town or other governmental entity for ownership or maintenance. Such debt term limit may be extended if a majority of the district’s board of directors are residents of the district and have voted in favor of refunding a part or all of the debt, and such refunding is for one or more of the purposes authorized in Section 11-56-104, C.R.S. and is authorized by law. Notwithstanding any provision of this subsection F, payment of district debt from the Debt Mill Levy shall be subject to the limitations set forth in Subsection 22.1.7.E.1. Funding of Public Improvements for purposes of this subsection F shall include direct payment of the costs of the Public Improvements or reimbursement by the district of the costs to the Developer or other entity who initially paid the costs.

G. Developer Advances. The service plan shall address any costs anticipated to be incurred by a developer and to be repaid by the district for the Public Improvements and/or operational costs, either in the form of direct payments by the Developer for such costs, or by means of advances by the Developer to the district (all of which are considered “Developer Advances”). Developer Advances shall count against the Total Debt Limit (as defined in subsection 22.1.7.I) and may be reimbursed by the district from

debt, contractual reimbursement agreement(s) and/or any revenue source available by law and permitted by the service plan. Developer Advances shall not be subject to compound interest. Developer Advances will be considered subordinate to any general obligation bonds of the district. The interest rate on Developer Advances shall not exceed the current Bond Buyer 20-Bond GO Index plus 4%, or a maximum of 12%, whichever is the lesser.

H. District Fees. Fees and charges imposed and collected by a district are generally prohibited. The service plan shall identify with specificity any proposed fee categories (i.e. impact fees, development fees, service fees, capital improvement fees, etc.) and proposed uses of revenues from such fees or other charges. Unless approved in the service plan, fees and charges will require written consent of the Town Council prior to implementation.

I. Financial Plan. The service plan must include debt and operating financial projections prepared by an investment banking firm or financial advisor qualified to make such projections. The financial firm must be listed in the Bond Buyers Marketplace or, in the Town's sole discretion, other recognized publication as a provider of financial projections. The Financial Plan must include debt issuance and service schedules and calculations establishing the District's projected maximum debt capacity (the "Total Debt Limitation") based on assumptions of: (i) Projected Interest Rate on the debt to be issued; (ii) Projected Assessed Valuation of the property within the District; and (iii) Projected Rate of Absorption of the assessed valuation within the District. These assumptions must use market-based, market comparable valuation and absorption data and may use an annual inflation rate of two percent (2%) or the Consumer Price Index for the preceding 12-month period for the Mountain-Plains statistical region as prepared by the U.S. Bureau of Labor Statistics, whichever is lesser. The Financial Plan must also include foreseeable administrative, operational and maintenance costs.

J. Public Improvements and Estimated Costs.

1. Every service plan must include, in addition to all materials, plans and reports required by Title 32, C.R.S., a summary of public improvements to be constructed and/or installed by the district (the "Public Improvements"). Due to its preliminary nature, the service plan must indicate that the Town's approval of the Public Improvements shall not bind the Town, its boards and commissions, or the Town Council in any way relating to the review and consideration of land use applications within the district. The service plan must contain a description of these Public Improvements which includes, at a minimum:

(i) A map or maps, and construction drawings of such a scale, detail and size as required by the Town Manager, providing an illustration of Public Improvements proposed to be built, acquired or financed by the district;

(ii) A written narrative and description of the Public Improvements; and

(iii) A general description of the District's proposed role with regard to the same.

2. The warranty and security requirements set forth in Section 7.5.1.F of the Land Use Code shall apply to all Public Improvements.

K. Extraterritorial Service Agreement. The service plan must describe any planned extraterritorial service. Any extraterritorial service by the district that is not described in the service plan will require prior approval of Town Council.

L. Service Plan Amendments. In the event a district seeks a material modification or other amendment to its service plan, the letter of intent, application, public meeting and notice procedures set forth in Section 22.1.6 shall be followed.

22.1.8 - District Structure.

It is the intent of the Town that citizen/resident control of districts be encouraged to occur as early as possible. For that reason, multiple-district structures are not permitted.

22.1.9 - Dissolution of the District.

A. Perpetual districts shall not be allowed except in cases where ongoing operation and maintenance of Public Improvements is required and permitted by the service plan. Except where ongoing operations and maintenance has been authorized, the district's board of directors will take all action as required to dissolve the district as soon as practical upon the payment of all debt and obligations and the completion of district development activity.

B. If, within five (5) years from the date of approval of a service plan, the Town and district have not entered into an intergovernmental agreement as required by Section 22.1.15 of the Code, the Town may opt to pursue the remedies available to it under C.R.S. Section 32-1-701(3) in order to compel the district to dissolve in a prompt and orderly manner. In such event: (i) the limited purposes and powers of the district, as authorized herein, shall automatically terminate and be expressly limited to taking only those actions that are reasonably necessary to dissolve; (ii) the board of directors of the district will be deemed to have agreed with the Town regarding its dissolution without an election pursuant to C.R.S. §32-1-704(3)(b); (iii) the district shall take no action to contest or impede the dissolution of the district and shall affirmatively and diligently cooperate in securing the final dissolution of the district, and (iv) subject to the statutory requirements of the Special District Act, the district shall thereupon dissolve.

22.1.10 - Default of District.

A. An “Event of Default” by the District shall include:

1. Failing or defaulting in the performance of any obligation that has been agreed to between the district and the Town, which obligation has been identified by the Town as a material obligation, and such default continues after delivery of notice from the Town.

2. A court of competent jurisdiction has made a final determination that a district has defaulted on any of its financial obligations, and such determination is not subject to further appellate review.

3. Failure to timely file a responsive Annual Report required by Section 22.1.12.

B. In the Event of Default, the district shall be precluded from issuing additional debt, except to refund or refinance a financial obligation for the purpose of avoiding or curing a default without receiving written permission from the Town Council following a public meeting on the matter.

22.1.11 - Material Modification of Service Plan.

A. In the event of a material modification of the service plan, the Town and the electors of the district shall be entitled to exercise their respective rights pursuant to §32-1-207, C.R.S. Actions expressly authorized in the service plan, changes in quantities of facilities or equipment, timing or phasing of Public Improvements, collection of fees or charges following written consent of the Town Council, and immaterial cost differences are not material modifications of the service plan. Departures from the service plan that constitute a material modification include, without limitation:

1. Actions or failures to act that create greater financial risk or burden;

2. Performance of a service or function or acquisition of a major facility that is not closely related to a service, function or facility authorized in the service plan;

3. Failure to perform a service or function or to acquire a facility required by the service plan;

4. Collection of any fees or charges without the written consent of the Town Council; and

5. The taking of any action that requires consent of the Town without the Town’s consent given in the manner required pursuant to Section 22.1.14.

B. In the event the required Annual Report required by Section 22.1.12 is not timely filed with the Town or is not fully responsive, in addition to being an Event of Default, the Town may provide notice to the district's board of directors at its last-known address. The failure of the district to file a responsive annual report within 45 days of the mailing of such notice by the Town Clerk may constitute a material modification of the service plan, at the discretion of the Town.

22.1.12 - Annual Report.

All districts must file an Annual Report no later than September 1 of each year with the Town Clerk for the year ending the preceding December 31, the requirements of which may be waived in whole or in part by the Town Manager. Unless waived by the Town Manager, the Annual Report shall include the following:

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

B. The audited financial statement of the district for the report year, including a statement of financial condition as of December 31 of the report year and the statement of operations, except when exemption from audit has been reported has been granted.

C. A summary of the capital expenditures incurred by the district in development of improvements in the report year.

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

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

22.1.13 - Fees.

No request to approve a district service plan shall proceed until the fees set forth herein are paid.

A. Letter of Intent Submittal Fee: At the time of submittal of the Letter of Intent, the applicant shall pay a non-refundable fee in the amount established by the Town Council by Resolution.

B. Application Fee: An applicant shall submit, along with an application and a draft service plan (based on the Model Service Plan), a nonrefundable fee in the amount established by the Town Council by Resolution, along with a deposit in the same amount towards the reasonable consultant, legal, and other external fees and expenses incurred by the Town to review the draft service plan.

C. Annual Fee: Each district shall pay an annual fee for the Town's on-going monitoring of the district. This annual fee shall be in the amount established by the Town Council by Resolution and due and payable by January 1 of each year.

D. Service Plan Amendment Fee: A non-refundable service plan amendment fee in the amount established by the Town Council by Resolution, along with a deposit in the same amount towards the Town's outside review expenses shall be paid at the time of submittal of the application and draft amended service plan.

E. External Review Expenses: An applicant shall pay all of the Town's outside expenses associated with review of a proposed service plan, service plan amendment, or any matter required under this Policy or an approved service plan, including enforcement of conditions or requirements associated with an existing service plan. If deposits paid are insufficient to cover all the Town's expenses associated with external review, the applicant shall pay all such reasonable expenses prior to the Town's approval becoming effective. All such fees and expenses shall be paid within 30 days of receipt of an invoice for these additional fees and expenses.

22.1.14 - Town Consent.

Any consent of the Town required under to this Policy shall be given, if at all, by a Resolution of the Town Council. Failure of the Town to respond to a notice provided pursuant to Section 32-1-207(3)(b), C.R.S., within 45 days shall be deemed to be disapproval by the Town.

22.1.15 - Intergovernmental Agreement

A district shall enter into an intergovernmental agreement with the Town that addresses such details, terms and conditions as the Town and district deem necessary in connection with the construction and funding of any Public Improvements, including the posting of security and warranty periods necessary to meet the requirements of Section 22.1.7.J, herein. Execution of the intergovernmental agreement is a precondition to a district issuing any debt or imposing any fees or levying of taxes. In addition, failure of a district to enter into the intergovernmental agreement as required herein shall constitute a material modification of the service plan and may result in dissolution per Section 22.1.9.B.

TOWN OF PAGOSA SPRINGS, COLORADO

RESOLUTION NO. 2025-_____

RESOLUTION APPROVING A MODEL SERVICE PLAN FOR METROPOLITAN DISTRICTS

WHEREAS, the Town of Pagosa Springs (“Town”) is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Pagosa Springs Home Rule Charter of 2003, as amended (the “Charter”); and

WHEREAS, pursuant to Section 1.4.A of the Charter the Town has all the power of local self-government and home rule; and

WHEREAS, pursuant to Section 22.7.A of the Town of Pagosa Municipal Code (the “Code”), the Town has the power to approve special district service plans and to adopt policies regarding the establishing of any special district; and

WHEREAS, pursuant to §32-1-203(1), C.R.S., organization of a metropolitan district wholly within the boundaries of the Town requires approval of a Service Plan by the Town Council of the Town of Pagosa Springs (the “Town Council”); and

WHEREAS, the Board finds that adoption of a Model Service Plan is in the best interest of the Town, its residents, and the general public.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, as follows:

1. Model Service Plan. The Model Service Plan, in substantially the form attached hereto as **EXHIBIT A**, is approved. The Town Manager, in consultation of the Town Attorney and other applicable staff or consultants, may make technical or otherwise non-substantive modifications to the Model Service Plan. The Town Council may make substantive changes to the Model Service Plan by Resolution.
2. Public Inspection. The full text of this Resolution, with any amendments, is available for public inspection at the office of the Town Clerk.
3. Severability. If any part, section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining provisions.
4. Effective Date. This Resolution shall take effect and be enforced immediately upon adoption.

The foregoing Resolution was approved and adopted this ____ day of _____, 2025.

TOWN OF PAGOSA SPRINGS, COLORADO

By: _____
Shari Pierce, Mayor

Attest:

April Hessman, Town Clerk

EXHIBIT A

Model Service Plan

[Attached]

TOWN OF PAGOSA SPRINGS

**Metropolitan District Model Service Plan
(Single District)**

**This model service plan template should be referenced in conjunction with
Chapter 22.1 of the Town of Pagosa Springs Municipal Code.**

SERVICE PLAN

FOR

**_____ METROPOLITAN DISTRICT
TOWN OF PAGOSA SPRINGS, COLORADO**

Prepared by

[Name of Person or Entity]

[Address]

[Approval Date]

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Exhibit B - Boundary Map

Exhibit C - Inclusion Area Legal Description

Exhibit D - Inclusion Area Boundary Map

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Exhibit F -Vicinity Map

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Exhibit H - Public Improvement Location Maps

Exhibit I - Financial Plan

Exhibit J – Public Benefits

Exhibit K - Disclosure Notice

Exhibit L -Intergovernmental Agreement

I. INTRODUCTION

A. Purpose and Intent.

The Town of Pagosa Springs' ("Town"), objective in approving the Service Plan for the _____ Metropolitan District (the "District") is to authorize the District to provide for the planning, design, acquisition, construction, installation, relocation and redevelopment of the Public Improvements identified in this Service Plan. The District is intended to be an independent unit of local government separate and distinct from the Town and is governed by this Service Plan, the Special District Act (Title 32, C.R.S.) and other applicable State law. Except as may otherwise be provided by State law, the Town of Pagosa Springs Municipal Code ("Code"), or this Service Plan, the District's activities are subject to review and approval by the Town Council ("Town Council") only insofar as they are a material modification of this Service Plan as identified in this Service Plan or pursuant to C.R.S. Section 32-1-207 of the Special District Act.

It is intended that the District will provide all or part of the Public Improvements for the Project for the use and benefit of all anticipated inhabitants and taxpayers of the District. The primary purpose of the District will be to finance the construction of these Public Improvements by the issuance of Debt. The District shall not be authorized to issue any Debt or impose a Debt Mill Levy, *[add if appropriate: Operations and Maintenance Mill Levy]* *[add if appropriate: or impose any Fees]* unless and until the delivery of Public Improvements has been secured in accordance with Section 22.1.7.J of the Town Code and the District has entered into an intergovernmental agreement with the Town as required by Section XVII herein.

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

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

It is 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 revenues from the Debt Service Mill Levy, Fees, Special Assessments, and/or other source of revenue, even under bankruptcy or other unusual situations. Generally, the costs of Public Improvements that cannot be funded within these parameters are not costs to be paid by the District.

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

B. Need for the District.

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

C. Objective of the Town Regarding District's Service Plan.

The Town's objective in approving this Service Plan is to authorize the District to provide for the planning, design, acquisition, construction, installation, relocation and redevelopment of the Public Improvements from the proceeds of Debt to be issued by the District, but in doing so, to also establish in this Service Plan the means by which the Public Benefits will be provided. Except as specifically provided in this Service Plan, all Debt is expected to be repaid by taxes imposed and collected for no longer than the Maximum Debt Term Limit, and at a tax mill levy no higher than the Maximum Debt Mill Levy. Debt which is issued within these parameters and, as further described in the Financial Plan, will insulate property owners from excessive tax and Fee burdens to support the servicing of the Debt and will result in a timely and reasonable discharge of the Debt.

D. Relevant Intergovernmental Agreements.

[Add description of any relevant intergovernmental agreements.]

E. Town Approvals.

Any provision in this Service Plan requiring "Town" or "Town Council" approval or consent shall require the Town Council's prior written approval or consent exercised in its sole discretion, evidenced by resolution. Failure of the Town to respond to a notice provided pursuant to Section 32-1-207(3)(b), C.R.S., within 45 days shall be deemed to be disapproval by the Town. Any provision in this Service Plan requiring "Town Manager" approval or consent shall require the Town Manager's prior written approval or consent exercised in the Town Manager's sole discretion. The Town Manager may determine in his or her sole discretion to refer any issue requiring the Town Manager's consent to the Town Council.

II. DEFINITIONS

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

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

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

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

Town: means the Town of Pagosa Springs, Colorado, a home rule municipality.

Town Manager: means the Town Manager of the Town.

Town Council: means the Town Council of the Town of Pagosa Springs.

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

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

Debt Mill Levy: means a property tax mill levy imposed on Taxable Property by the District for the purpose of paying Debt as authorized in this Service Plan, at a rate not to exceed the limitations set in Section IX.B of this Service Plan. The Debt Mill levy shall have a term not to exceed forty (40) years from the date of its first imposition. Any unpaid Developer Advances and/or Debt payments shall be discharged at that time.

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

Developer Advances: means any advances to the District by the Developer for the costs of the Public Improvements and/or operational costs, either in the form of direct payment for such costs or by means of advances to the District. Such

advances, which the Board is obligated to appropriate on an annual basis, shall count against the maximum allowable debt limit under this Service Plan and may be repaid by the District from bond proceeds, or legally available sources of revenue. Developer Advances will be considered subordinate to the District general obligation bonds. The interest rate on Developer Advances shall not exceed the current Bond Buyer 20-Bond GO Index plus 4% or a maximum of 12%, whichever the lesser.

Disclosure Notice: Written notice, in substantially the form attached hereto as **Exhibit K**, and approved by the Town Manager, provided to potential purchasers of property within the District, which includes the maximum amount of debt authorized, the amount of debt already issued, the debt term remaining, the expected date of repayment, the Maximum Mill Levy and anticipated property tax bill based on the anticipated sale price.

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

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

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

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

External Municipal Advisor: means a Municipal Advisor that: (1) is qualified to advise Colorado governmental entities on matters relating to the issuance of securities by Colorado governmental entities including matters such as the pricing, sales and marketing of such securities and the procuring of bond ratings, credit enhancement and insurance in respect of such securities; and (2) is not an officer or employee of the District; and (4) is approved by the Town Manager.

External Municipal Advisor Certificate: Opinion of a registered Municipal Advisor as to the reasonableness of the terms of any debt instrument issued by the District in substantially the form cited below:

We are [I am] a Municipal 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.

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

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

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

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

Maximum Debt Term Limit: means the maximum term during which the Debt Mill Levy may be imposed on property developed in the Service Area. This maximum term, including refunding bonds, unless approved by the District's Board as defined herein, shall not exceed _____ *[enter a term that will not extend past the useful life of the Public Improvements funded by such debt measured from the date of completion of the improvements; but not to exceed 30 years]* years from the calendar year in which the District issues Bonds.

Maximum Mill Levy: means the maximum mills that the District may levy for its combined Debt Mill Levy and Operations and Maintenance Mill Levy (if any), at a rate not to exceed the limitation set in Section IX.B.1 of this Service Plan.

Municipal Advisor: means as any person (who is not a municipal entity or an employee of a municipal entity) that provides advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, or that undertakes a solicitation of a municipal entity or obligated person. Said person shall be registered under Section 15B of the Securities Exchange Act of 1934, as amended from time to time.

Operations and Maintenance Mill Levy: means a property tax mill levy imposed on Taxable Property for the purpose of funding District administration, operations and maintenance as authorized in this Service Plan, including, without limitation, repair and replacement of Public Improvements, and imposed at a rate not to exceed the limitations set in Section IX.B.3. of this Service Plan.

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

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

Public Improvements: means the improvements and infrastructure the District is authorized by this Service Plan to finance, plan, design, acquire, construct and install *[add “operate and maintain” only if the Town has approved such function]* for the Planned Development to serve the future taxpayers and inhabitants of the District, except as specifically prohibited or limited in this Service Plan. Public Improvements shall include, without limitation, the improvements and infrastructure described in **Exhibit E** attached hereto and incorporated by reference.

Service Area: means the property within the District Boundaries and the property in the Inclusion Area Boundaries when it is added, in whole or part, to the District Boundaries.

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

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

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

State: means the State of Colorado.

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

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

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

III. BOUNDARIES AND LOCATION

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

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

A. Project and Planned Development.

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

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

B. Public Benefits.

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

C. Assessed Valuation.

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

V. INCLUSION OF LAND IN THE SERVICE AREA

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

VI. DISTRICT GOVERNANCE

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

VII. AUTHORIZED AND PROHIBITED POWERS

A. General Grant of Powers.

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

If, after the Service Plan is approved, any State law is enacted to grant additional powers or authority to metropolitan districts by amendment of the Special District Act or otherwise, such powers and authority shall not be deemed to be a part hereof. These new

powers and authority shall only be available to be exercised by the District if the Town Council first approves a Service Plan Amendment to specifically allow the exercise of such powers or authority by the District.

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

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

1. Eminent Domain Restriction

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

2. Fee Limitation

The District is not authorized to impose and collect any fees ***[if the Town approved specific fees, add: "except that District may seek written approval in the form of a resolution from the Town Council to collect and impose the following fees: _____"]***.

3. Operations and Maintenance

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

If the boundaries of the District overlap with the boundaries of an owners' association, then during any year (including any portion of a year) when the Developer is the declarant of the association, written consent of the Town is required prior to the levy and collection of an Operations and Maintenance Mill Levy (defined below) by the metropolitan district.

4. Fire Protection Restriction

The District is not authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, own, operate or maintain fire protection facilities or services. The authority to plan for, design, acquire, construct, install, relocate, redevelop, finance, own, operate or maintain fire hydrants and related improvements installed as part of the Project's water system shall not be limited by this subsection.

5. Public Safety Services Restriction

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

6. Grants from Governmental Agencies Restriction

The District shall not apply for grant funds distributed by any agency of the United States Government or the State, including but not limited to the Department of Local Affairs, Conservation Trust Fund, and Great Outdoors Colorado, without the prior written approval of the Town Manager. This restriction does not apply to specific ownership taxes which shall be distributed to and be a revenue source for the District without any limitation.

7. Television Relay and Translation Restriction

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

8. Potable Water and Wastewater Treatment Facilities

Acknowledging that the Town currently owns and operates treatment facilities for potable water and wastewater that are available to provide services to the Service Area, the District shall not plan, design, acquire,

construct, install, relocate, redevelop, finance, own, operate or maintain such facilities without obtaining the Town Council's prior written approval either by intergovernmental agreement or as a Service Plan Amendment.

9. Sales and Use Tax Exemption Limitation

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

10. Sub-district Restriction

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

11. External Municipal Advisor Statement

Prior to the issuance of any Debt, the District shall obtain the certification of a Municipal Advisor acceptable to the Town substantially as follows:

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

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

12. Special Assessments

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

13. Limitation on Extraterritorial Service

The District shall not be authorized to provide services or facilities outside the District boundaries or to establish Fees, rates, tolls, charges, penalties or charges for any such service or facilities.

14. Overlap Limitation

Without the prior consent of the Town Council, which consent shall be evidenced by resolution, the boundaries of the District shall not overlap with any other metropolitan district formed under the Special District Act.

15. Consolidation Limitation

The District shall not file a request with any Court to consolidate with another Title 32 district without the prior consent of the Town, which shall be evidenced by resolution.

VIII. PUBLIC IMPROVEMENTS AND ESTIMATED COSTS

Exhibit E summarizes the type of Public Improvements that are projected to be constructed and/or installed by the District. The cost, scope, and definition of such Public Improvements may vary over time. The total estimated costs of Public Improvements, as set forth in **Exhibit G**, are approximately [**Dollar Amount**] in [**Year**] dollars and total approximately [**Dollar Amount**] in the anticipated year of construction dollars. The cost estimates are based upon preliminary engineering, architectural surveys, and reviews of the Public Improvements set forth in **Exhibit E** and include all construction cost estimates together with estimates of costs such as land acquisition, engineering services, legal expenses and other associated expenses. Maps of the anticipated location, operation, and maintenance of Public Improvements are attached hereto as **Exhibit H**. Changes in the Public Improvements or cost, which are approved by the Town in an Approved Development Plan and any agreement approved by the Town Council pursuant to Section IV.B of this Service Plan, shall not constitute a Service Plan Amendment.

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

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

A. Development Standards.

The District shall ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the Town Code and of other governmental entities having proper jurisdiction, as applicable. The District directly, or indirectly through any Developer, will obtain the Town's approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work. Unless waived by the Town Council, the

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

B. Contracting.

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

C. Land Acquisition and Conveyance.

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

D. Equal Employment and Discrimination.

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

IX. FINANCIAL PLAN/PROPOSED DEBT

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

A. Financial Plan.

The District's Financial Plan, attached as **Exhibit I** and incorporated by reference, reflects the District's anticipated schedule for incurring Debt to fund Public Improvements in support of the Project. The Financial Plan also reflects the schedule of all anticipated revenues flowing to the District derived from District mill levies, [***Fees imposed by the District***], specific ownership taxes, and all other anticipated legally available revenues. The Financial Plan is based on economic, political and industry conditions as they presently exist and reasonable projections and estimates of future conditions. These projections and estimates are not to be interpreted as the only method of implementation of the District's goals and objectives but rather a representation of one feasible alternative. Other financial structures may be used so long as they are in compliance with this Service Plan. The Financial Plan incorporates all of the provisions of this Article IX. [***Add if Developer Advances are to be used: The Developer will incur costs for Public Improvements, either in the form of direct payments for such costs, or by means of advances to the District. These Developer Advances will be reimbursable by the District from Debt, contractual reimbursement agreements and/or any other revenue sources available by law and permitted by this Service Plan, and are subject to the Maximum Debt Authorization, Maximum Mill Levy, and Maximum Debt Term Limit.***]

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

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

B. Mill Levies.

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

1. Maximum Mill Levy

The Maximum Mill Levy shall not exceed _____ [***50 mills , or the amount of the Debt Mill Levy + Operations and Maintenance Mill Levy from below, whichever is less***] mills in the aggregate of the Debt Mill Levy and any Operations and Maintenance Mill Levy (if authorized), subject to Gallagher adjustments.

2. Debt Mill Levy

The District may impose a Debt Mill levy of up to _____ mills [*Note: debt mill levy must take into account the costs of the Public Improvements to paid for through debt mill levy and anticipated AV, but must not exceed 50 mills when combined with O&M mill levy*], subject to Gallagher adjustments; however, the Maximum Mill Levy may not be exceeded. The Debt Mill Levy shall be imposed for a term not greater than 40 years from the date of its first imposition

3. Operations and Maintenance Mill Levy

The District is not authorized to impose an Operations and Maintenance Mill Levy.

or

The District may impose an Operations and Maintenance Mill Levy of up to ten (10) mills, subject to Gallagher adjustments; however, the Maximum Mill Levy must not be exceeded.

4. Gallagher Adjustments

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

5. Excessive Mill Levy Pledges

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

6. Refunding Debt

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

7. Maximum Debt Authorization

The District anticipates approximately [*Dollar Amount*] in project costs in [*Year*] dollars as set forth in **Exhibit E** and anticipate issuing approximately [*Dollar Amount*] in Debt to pay such costs as set forth in **Exhibit G**, which Debt issuance amount shall be the amount of the Maximum Debt Authorization. The District shall not issue Debt in excess of the Maximum Debt Authorization. Bonds, loans, notes or other instruments which have been refunded shall not count against the Maximum Debt Authorization. The District must obtain from the Town Council a Service Plan Amendment prior to issuing Debt in excess of the Maximum Debt Authorization.

C. Maximum Voted Interest Rate and Underwriting Discount.

The interest rate on any Debt is expected to be the market rate at the time the Debt is issued. The maximum interest rate on any Debt, including any defaulting interest rate, is not permitted to exceed Twelve Percent (12%). The maximum underwriting discount shall be two and a half percent (2.5%). Debt, when issued, will comply with all relevant requirements of this Service Plan, the Special District Act, other applicable State law and federal law as then applicable to the issuance of public securities.

D. Disclosure to Purchasers.

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

1. That the Developer, and its successors and assigns, shall prepare and submit to the Town Manager for his approval the Disclosure Notice in substantially the form attached hereto as **Exhibit K**, which includes the maximum amount of debt authorized, the amount of debt already issued, the debt term remaining, the expected date of repayment, the Maximum Mill Levy and anticipated property tax bill based on the anticipated sale price;

2. That when the Disclosure Notice is approved by the Town Manager, the Developer shall record the Disclosure Notice in the Archuleta County Clerk and Recorder's Office; and
3. That the approved Disclosure Notice shall be provided by the Developer, and by its successors and assigns, to each potential End User purchaser of a residential lot or dwelling unit in the Service Area as early as possible in the purchasing process, but at least before that purchaser enters into a written agreement for the purchase and sale of that residential lot or dwelling unit.

E. Municipal Advisor.

A Municipal Advisor acceptable to the Town shall be retained by the District to provide a written opinion regarding the proposed terms and whether Debt terms and conditions are reasonable based upon the status of development within the District, the projected tax base increase in the District, the security offered and other considerations as may be identified by the Advisor. The District shall include in the transcript of any Bond transaction or other appropriate financing documentation for related Debt instrument, a signed letter from the Municipal Advisor providing an official opinion on the structure of the Debt, the cost of issuance, sizing, repayment term, redemption feature, couponing, credit spreads, payment, closing date, and other material transaction details of the proposed Debt. Debt shall not be undertaken by the District if the Debt terms and conditions are found to be unreasonable by the Municipal Advisor.

F. Disclosure to Debt Purchasers.

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

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

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

G. Security for Debt.

The District shall not pledge any revenue or property of the Town as security for the indebtedness set forth in this Service Plan. Approval of this Service Plan shall not be

construed as a guarantee by the Town of payment of any of the District's obligations; nor shall anything in the Service Plan be construed so as to create any responsibility or liability on the part of the Town in the event of default by the District in the payment of any such obligation.

H. TABOR Compliance.

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

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 [***Dollar Amount***], which will be eligible for reimbursement from Debt proceeds.

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

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

J. Monies from Other Governmental Sources. The District shall not apply for or accept monies from the Conservation Trust Fund, Great Outdoors Colorado, or other funds available from or through governmental or non-profit entities that the Town is eligible to apply for, except with prior approval of the Town. This limitation shall not apply to specific ownership taxes which shall be distributed to and available as a revenue source for the District without limitation.

X. **TOWN FEES**

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

XI. **BANKRUPTCY LIMITATIONS**

All of the limitations contained in this Service Plan, including, but not limited to, those pertaining to the Maximum Mill Levy, Maximum Debt Term Limit and Fees, have been established under the authority of the Town in the Special District Act to approve this

Service Plan. It is expressly intended that by such approval such limitations: (i) shall not be set aside for any reason, including by judicial action, absent a Service Plan Amendment; and (ii) are, together with all other requirements of State law, included in the “political or governmental powers” reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the “regulatory or electoral approval necessary under applicable non-bankruptcy law” as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

XII. ANNUAL REPORTS AND BOARD MEETINGS

A. General.

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

B. Board Meetings.

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

C. Report Requirements.

Unless waived in writing by the Town Manager, the District Annual Report must include the following in the Annual Report:

1. Narrative

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

2. Financial Statements

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

3. Capital Expenditures

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

4. Financial Obligations

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

5. Board Contact Information

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

6. Other Information

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

7. Reporting of Significant Events

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

- (1) Boundary changes made or proposed to the District Boundaries as of December 31 of the report year.
- (2) Intergovernmental Agreements with other governmental entities, either entered into or proposed as of December 31 of the report year.
- (3) Copies of the District's rules and regulations, if any, or substantial changes to the District's rules and regulations as of December 31 of the report year.

- (4) A summary of any litigation which involves the District's Public Improvements as of December 31 of the report year.
- (5) A list of all facilities and improvements constructed by the District that have been dedicated to and accepted by the Town as of December 31 of the report year.
- (6) Notice of any uncured events of default by the District, which continue beyond a ninety (90) day period, under any Debt instrument.
- (7) Any inability of the District to pay its obligations as they come due, in accordance with the terms of such obligations, which continue beyond a ninety (90) day period.

D. Failure to Submit.

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

XIII. SERVICE PLAN AMENDMENTS

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

XIV. MATERIAL MODIFICATIONS

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

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

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

XV. DISSOLUTION

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

In addition, if within five (5) years from the date of the Town Council's approval of this Service Plan the intergovernmental agreement contemplated by Section XVII of this Service Plan has not been entered into by the Town with the District and/or any Developer, despite the parties conducting good faith negotiations attempting to do so, the Town may opt to pursue the remedies available to it under C.R.S. Section 32-1-701(3) in order to compel the District to dissolve in a prompt and orderly manner. In such event: (i) the limited purposes and powers of the District, as authorized herein, shall automatically terminate and be expressly limited to taking only those actions that are reasonably necessary to dissolve; (ii) the Board of the District will be deemed to have agreed with the Town regarding its dissolution without an election pursuant to C.R.S. §32-1-704(3)(b); (iii) the District shall take no action to contest or impede the dissolution of the District and shall affirmatively and diligently cooperate in securing the final dissolution of the District, and (iv) subject to the statutory requirements of the Special District Act, the District shall thereupon dissolve.

XVI. SANCTIONS

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

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

XVII. INTERGOVERNMENTAL AGREEMENT WITH TOWN

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

XVIII. CONCLUSION

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

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

XIX. RESOLUTION OF APPROVAL

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