

DRAFT: ~~10/4/2021~~8/11/21

**AMENDED AND RESTATED
SERVICE PLAN
FOR
VENTANA METROPOLITAN DISTRICT
CITY OF FOUNTAIN, COLORADO**

[DATE]

[APPROVAL DATE (ON FINAL SERVICE PLAN)]

ORGANIZERS AND CONSULTANTS

This Service Plan has been prepared by the Organizers and the following participating consultants:

<p><u>Organizer</u></p> <p>Rivers Ventana, LLC Attn: Brian Bahr 8605 Explorer Dr. Colorado Springs, CO 80920 Phone: (719) 598-5190 Fax: (719) 598-5194 Email: brian@gorivers.com</p>	<p><u>Current District Counsel</u></p> <p>Susemihl, McDermott and Cowan, PC Attn: Peter Susemihl 660 Southpointe Ct #210 Colorado Springs, CO 80906</p>
<p><u>District Manager</u></p> <p>Walker Schooler District Managers Attn: Kevin Walker 614 North Tejon St. Colorado Springs, CO 80903</p>	<p><u>Engineer</u></p> <p>Drexel Barrell & Co. Attn: Tim McConnell 3 S. 7th Street Colorado Springs, CO 80905 Phone: (719) 260-0887 Fax: (719) 260-8352</p>
<p><u>Financial Advisor</u></p> <p>D.A. Davidson & Co. Attn: Kyle Thomas 1550 Market Street, Suite 300 Denver, CO 80202 Phone: (303) 764-5759 Email: kbthomas@dadco.com</p>	

EXECUTIVE SUMMARY

The service plan for the Ventana Metropolitan District (the “District”) was adopted on February 22, 2006 to serve the needs of the Ventana Subdivision (such service plan being referred to herein as the “Original Service Plan”). Due to certain economic conditions and other factors, the Ventana Subdivision as originally planned in 2006 was never developed. Since 2006, the plans for the Ventana Subdivision, and the resulting needs of District taxpayers, have substantially changed based on approvals by the City of Fountain. This Amended and Restated Service Plan substantially amends the District’s Original Service Plan to reflect the same.

The District is generally located at Old Pueblo Road and Hidden Prairie Parkway in the City of Fountain, Colorado, and contains approximately 150.9409 acres. The District will include approximately 650 residential units and 18,000 square feet of inline retail use.

The District will have a single district structure. This structure will allow the District to control both financing and services.

The District shall be authorized to provide the following services: water, storm sewer, wastewater, street improvements, traffic safety protection, parks and recreation (including, without limitation, a 13.1-acre park, community center, fitness center and a pool and approximately 12,000 linear feet of trails), mosquito control, security, trash services and covenant enforcement/design review services. Except as necessary for initial construction, the District will not own or operate any road, water or wastewater facility, or provide such services without the consent of the City.

The total authorized principal amount of “Debt” (as defined herein) for the District shall be \$15,000,000, excluding the principal amount of Debt issued to refund previously issued Debt to the extent the principal amount of such refunding Debt does not exceed the original principal amount of the Debt refunded. The only Debt issued by the District as of the date hereof are the District’s bond anticipation notes (more particularly described and defined herein as the “2015/2017 BANs”) issued in the aggregate principal amount of \$4,461,000. The maximum mill levy the District is permitted to impose upon taxable property within the District for payment of Debt is 40 mills, subject to adjustment as more particularly provided herein, and the mill levy anticipated to be imposed by the District for the payment of Debt in levy year 2021 is 40 mills.. The maximum mill levy the District is permitted to impose upon taxable property within the District for payment of administration, operations, and maintenance costs is 10 mills, subject to adjustment as more particularly provided herein, and the mill levy anticipated to be imposed by the District for payment of administration, operations, and maintenance costs in levy year 2021 is 10 mills. The aggregate mill levy permitted to be imposed by the District for the payment of Debt, administration, operations, and maintenance costs is 50 mills, subject to adjustment as more particularly provided herein. At buildout, the ratio of Debt to assessed value within the District is anticipated to be less than 110%.

The District will assess an annual community center fee against each residential unit; the fee will initially equal to \$360/residential unit. This fee is necessary to meet the District’s costs of operating and will enable residents to maintain, use and enjoy the park, community center, the fitness center and pool as well as planned additions to the rec center. Non-residents will pay one or more community center fees, from time to time determined and assessed, by the District which will correspond to the extent, frequency and nature of the use of the community center, fitness center and pool. It is anticipated that, subject to reasonable rules and regulations to be imposed

from time to time by the District, the community center, fitness center and pool may be used on a daily, monthly or annual basis. These monies too will help defray the District’s costs of operating, and will help enable residents to use and enjoy, the community center, fitness center and pool

The District will assess a one-time Park Permit Fee (as hereinafter defined) in the initial amount of \$3,015 per residence and may, from time to time or as needed, increase or decrease the per residence fee to meet the needs of the District and to otherwise satisfy and comply with the Park Agreement (as hereinafter defined)

TABLE OF CONTENTS

- I. ASSESSED VALUATION/PROJECTIONS/LAND USE/POPULATION 1
- II. INTRODUCTION 1
 - A. Purpose and Intent..... 2
 - B. Need for the District..... 2
 - C. District Framework..... 2
 - D. Objective of the City Regarding District’s Service Plan. 2
- III. DEFINITIONS..... 3
- IV. BOUNDARY 6
- V. POWERS OF THE DISTRICT 6
 - A. General..... 6
 - B. Limitation on General Powers. [87](#)
- VI. DISTRICT SERVICES AND PUBLIC IMPROVEMENTS 9
 - A. Services and Public Improvements..... 9
 - B. Preliminary Engineering Survey..... [1312](#)
- VII. PROPOSED AND EXISTING INTERGOVERNMENTAL AGREEMENTS AND EXTRATERRITORIAL SERVICE AGREEMENTS [1413](#)
- VIII. FINANCIAL INFORMATION 14
 - A. General..... 14
 - B. Assumptions..... 14
 - C. Identification of District Revenue..... 15
 - D. Debt Service Mill Levy..... 16
 - E. Operation and Maintenance Mill Levy 16
 - F. District Expenditures [1716](#)
 - G. Debt..... [1716](#)
- IX. DEVELOPER ADVANCES AND REIMBURSEMENTS [1918](#)
- X. ANNUAL REPORT [2019](#)
- XI. MODIFICATION OF SERVICE PLAN [2019](#)
- XII. DISCLOSURE STATEMENT [2019](#)

XIII. DISSOLUTION	2119
XIV. STATUTORY FINDINGS AND CONCLUSIONS	2120

EXHIBITS

EXHIBIT A – Legal Description

EXHIBIT B – Vicinity Map

EXHIBIT C – District Boundary Map

EXHIBIT D – Financial Plan

EXHIBIT E – Operations and Maintenance Financial Plan

I. ASSESSED VALUATION/PROJECTIONS/LAND USE/POPULATION

The 2020 assessed valuation of the area within the District’s boundary is \$7,071,740 and, at build out, is expected to be \$17,511,598, which amount is expected to be sufficient to reasonably discharge the Debt as demonstrated in the Financial Plan. The estimated residential population at build out is expected to be 2,010 persons and the estimated square feet of commercial and industrial floor area is expected to be 18,000 square feet.

Approval of this Service Plan by the City does not imply approval of the development of any area within the District, nor does it imply approval of the number of residential units or the total site/floor area of commercial or industrial buildings which may be identified in this Service Plan or any of the exhibits attached thereto or any of the Public Improvements. Such approval may only be obtained via an approved Site Development Plan or other City of Fountain mechanism.

II. INTRODUCTION

This Amended and Restated Service Plan (the “Service Plan”) for the Ventana Metro (the “District”) is for a Title 32 Metropolitan district organized to serve the public improvement needs of the proposed Ventana Subdivision (“Development”). The District consists of approximately 150.9409 acres as legally described in **Exhibit A** and is generally located Old Pueblo Road and Hidden Prairie Parkway in the City of Fountain, Colorado as depicted on the Vicinity Map attached hereto as **Exhibit B**.

Pursuant to the requirements of the Special District Control Act, C.R.S. § 32-1-201, *et seq.*, as amended and the Special District Service Plan Approval Policies and Procedures of the City of Fountain (“City”), the following items are included in the Service Plan:

1. A description of the powers granted to and services to be provided by the District;
2. A general description of the facilities to be constructed and the standards of such construction, including a statement of how the facility and service standards of the District are compatible with the facility and service standards of the City and any other governmental entity that are interested parties;
3. A general written description of the estimated cost of acquiring land, engineering services, legal services, administrative services, initial indebtedness and estimated maximum interest rates and discounts, and other major expenses related to the organization and initial operation of the District;
4. A legal description and map of the District’s boundaries and an estimate of population and valuation for assessment of the District;
5. A summary of the estimated costs of the improvements to be financed and acquired or constructed by the District;
6. A preliminary engineering and architectural survey showing how the improvements and services are to be provided;

7. A financial plan showing how District improvements and services are to be financed, including the operating revenue derived from property taxes for the first budget year of the District;
8. Information demonstrating substantial compliance with the City's Comprehensive Development Plan, and any amendments thereto, and any duly adopted county, regional, or state long range water quality management plan for the area;
9. A description of any operation, capital improvement, or other funding or reimbursement agreement(s), which it is contemplated the District will enter into, together with a copy of the proposed form of agreement(s) that will be used;
10. A description of any arrangement or intergovernmental agreement, which it is contemplated the District will enter into with any other governmental entity with regard to the financing and/or provision of public services or improvements, together with a copy of the proposed form of agreement(s) to be used.

A. Purpose and Intent.

The District is intended to be an independent unit of local government, separate and distinct from the City. Except as may be otherwise provided for by State or local law or this Service Plan, the District's activities are subject to review by the City only as specifically required herein or insofar as such activities materially deviate from the requirements of this Service Plan. The purpose of the District is to provide certain public services and Public Improvements for the Development. The District initially will finance and oversee the construction of all or a part of such Public Improvements. The District thereafter will operate, maintain, repair and replace the Public Improvements except for such Public Improvements that, upon satisfactory completion, are transferred to the City or other governmental entity.

B. Need for the District.

There is no governmental entity, including the City, located in the immediate vicinity of the District that considers it desirable, feasible or practical to undertake the planning, design, financing, construction, installation, operation, and maintenance of the Public Improvements that will serve the Development. Formation of the District is therefore necessary in order for the Public Improvements to be provided in an economic manner.

C. District Framework.

The District will have a single district structure. This structure will allow the District to control both financing and services.

D. Objective of the City Regarding District's Service Plan.

The City's objective in approving the Service Plan is to authorize the District to provide for the planning, design, acquisition, construction, installation, operation, maintenance, repair and replacement of the Public Improvements. With respect to the planning, design, acquisition and initial construction and installation of the Public Improvements, the City's objective in approving the Service Plan is to permit the same to be financed through the issuance

of Debt by the District. All Debt is expected to be repaid by taxes imposed and collected by the District at a property tax mill levy rate no higher than the Maximum Debt Mill Levy. Debt which is secured by ad valorem property taxes not in excess of the Maximum Debt Mill Levy and within the other parameters applicable thereto (as further described in the Section VIII hereof) will insulate property owners from excessive tax burdens to support servicing of the Debt and will result in a timely and reasonable discharge of the Debt. Under no circumstances is the City financially responsible for the Debt or any other District activities.

With respect to the operation, maintenance, repair and replacement of the Public Improvements the City's objective in approving the Service Plan is to permit the same to be financed in whole or in part through property tax revenues to be imposed through an operation and maintenance mill levy and fees, as more particularly described in Section VIII of the Service Plan.

This Service Plan is intended to establish a limited purpose for the District with explicit financial constraints that are not to be violated under any circumstances. The primary purpose is to provide for the Public Improvements associated with the Development and those regional improvements necessitated by the Development. The District is expected to fund ongoing operation and maintenance activities with respect to those Public Improvements that will remain the property of the District. In no case shall the mill levy imposed by the District for Debt service and operation and maintenance functions, however, exceed the Maximum Aggregate Mill Levy.

This Service Plan is also intended to facilitate the dissolution of the District, if the City determines that the District is unnecessarily duplicating facilities or services within the City. If the City, for whatever reason, should request that the District dissolve, the District's Board of Directors shall to the fullest extent practical comply with such request. Further, the District shall dissolve at the request of the City if the City or some other public entity will continue the District's services and facilities and the other requirements for dissolution as set forth in the Act are satisfied.

No Debt shall be issued by the District having a final stated maturity date that is more than thirty (30) years from the date of issuance of such Debt (the "Maximum Maturity"). Further, except as provided in Section VIII(G), all Debt issued by the District pursuant to this Service Plan shall be fully paid or discharged no later than December 7, 2055. The City intends, to the fullest extent possible that, as a result of the formation and operation of the District, no taxable property bears a tax burden imposed by the District that is greater than the Maximum Aggregate Mill Levy, even under bankruptcy or other unusual situations. The costs of Public Improvements that cannot be funded within these parameters are not costs to be paid by the District and will be funded by the owner/developer.

III. DEFINITIONS

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

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

Board: means the board of directors of the District.

Bond, Bonds or Debt: means any bond, note, debenture, contract or other multi-year financial obligation of a District payable in whole or in part from ad valorem taxes, bond proceeds or any other revenues of the District. For the avoidance of doubt, “Debt” does not include any obligation the payment of which is subject to annual appropriation by the District (such as the 2006/2007 Reimbursement Agreements (as defined herein)) or the Park Agreement, but “Debt” does include the 2015/2017 BANs (as defined herein).

City: means the City of Fountain, Colorado.

City Council: means the City Council of the City.

Control Act: means part 2 of Title 32 (the “Act”) which outlines review procedures for Service Plans for a special district.

Developer: means the owner of the property that is being developed and which will receive public services and facilities from the District.

Development: means the development or property commonly referred to as Ventana Subdivision.

District: means the Ventana Metropolitan District.

District Boundaries: means the boundaries of the area described in the legal description attached hereto as **Exhibit A**.

District Boundary Map: means the map attached hereto as **Exhibit C** showing the District’s boundaries.

Financial Advisor: means a consultant that: (1) advises Colorado governmental entities on matters relating to the issuance of securities by Colorado governmental entities, including matters such as the pricing, sales and marketing of such securities and the procuring of bond ratings, credit enhancement and insurance in respect of such securities; (2) shall be an underwriter, investment banker, or individual listed as a public finance advisor in the Bond Buyer’s Municipal Market Place or a financial consultant who has prepared financial plans for more than 20 special district bond issues; and (3) is not an officer or employee of the District or the Developer of the Project and has not otherwise been engaged to provide services in connection with the transaction related to the applicable Debt. The City may, in its discretion, waive some or all of the requirements that must otherwise be satisfied to comply with the definition of Financial Advisor as set forth herein.

Financial Plan: means the Financial Plan described in Section VIII and attached as **Exhibit D**, which describes: (a) how the Public Improvements are to be financed with District debt service; (b) how the Debt is expected to be incurred and repaid; and (c) the estimated operating revenue derived from property taxes for the first and subsequent budget years as shown in **Exhibit E**.

Fountain Municipal Code: means the City of Fountain Municipal Code and any regulations, rules, standards, specifications, or policies promulgated thereunder, as the same may be amended from time to time.

General Obligation Bond: means bonds or other obligations the payment of which is backed by the District's obligation to impose an ad valorem property tax mill levy.

Maximum Aggregate Mill Levy: means the sum of the Maximum Debt Levy and the Maximum Operations and Maintenance Mill Levy as set forth in Section VIII below.

Maximum Debt Authorization: means the maximum principal amount of Debt that the District is permitted to issue pursuant to this Service Plan (excluding refundings as more particularly provided herein), notwithstanding that the District may have obtained electoral authorization for a greater amount of Debt.

Maximum Debt Mill Levy: means the maximum mill levy the District is permitted to impose upon taxable property within the District for payment of Debt as set forth in Section VIII below.

Maximum Operations and Maintenance Mill Levy: means the maximum mill levy the District is permitted to impose upon taxable property within the District for payment of administration, operations, and maintenance costs as set forth in Section VIII below.

Original Service Plan: means that certain Service Plan for Ventana Metropolitan District dated February 22, 2006 pursuant to which the District has been operating prior to the City's approval of this Service Plan, as hereinafter defined.

Overlapping District: shall have the meaning in Section V.B.1 below.

Park Agreement: means that certain Park and Open Space Dedication Credit Agreement with an effective date of August 14, 2014 by and among the City, Rivers Ventana, LLC, Firstier Bank Nebraska, and the District.

Park Permit Fee: shall have the meaning ascribed thereto as in Section VI.A.6. below.

Preliminary Engineering Survey: means the Preliminary Engineering Survey described in Section VI (B).

Public Improvements: means the improvements, facilities, streets, squares, parks, public ways, ground, open space, buildings, structures or utilities authorized to be planned, designed, acquired, constructed, installed, relocated, redeveloped and financed by the District subject to and in accordance with this Service Plan and the Act.

Service Plan: means this Amended and Restated Service Plan for the District as approved by the City Council.

Service Plan Amendment: means any amendment of this Service Plan approved by the City Council in accordance with the Control Act.

Site Development Plan: means a Site Development Plan as defined in Section 17.140 of the Fountain Municipal Code and shall include, where applicable, a final plat, or as may be amended from time to time.

State: means the State of Colorado.

TABOR: means Article X, Section 20 of the State Constitution, as may be amended from time to time.

2006/2007 Reimbursement Agreements: means, collectively, (i) a Financing and Reimbursement Agreement dated effective May 16, 2006, between the District and Old Pueblo Road Investment Company LLC, a Colorado limited liability company (“Old Pueblo Road”), as amended by a First Amendment thereto dated effective May 17, 2006, and (ii) a Reimbursement Agreement dated effective December 18, 2007, between the District and Old Pueblo Road.

2015/2017 BANs: means the Bond Anticipation Notes issued by the District in the aggregate principal amount of \$4,464,000, pursuant to a resolution adopted by the Board of Directors of the District on December 3, 2015.

IV. BOUNDARY

The area within the District Boundaries includes approximately 150.9409 acres. At this time, the District does not anticipate including any additional property within its boundaries. A legal description of the District Boundaries is attached hereto as **Exhibit A**.

All of the property within the District Boundaries is owned by Rivers Ventana, LLC or its successors. It is anticipated that the District’s Boundaries may change from time to time as the boundaries undergo inclusions and exclusions of territory pursuant to Section 32-1-401, et seq., C.R.S., and Section 32-1-501, et seq., C.R.S., subject to the limitations set forth in Section V below.

V. POWERS OF THE DISTRICT

A. General.

Subject to the limitations contained in this Service Plan, the District shall have the power and authority to acquire, construct and install the Public Improvements within the District’s boundary, as such power and authority exists under the Act, as the same now exists, as well as under other applicable statutes, common law and the Colorado Constitution.

If, after the Service Plan is approved, the State General Assembly grants new or broader powers for Title 32 special districts, no such powers shall be deemed to be a part hereof and available to or able to be exercised by the District except to the extent approved by the City. Such approval shall not constitute a material modification of this Service Plan.

1. Operations and Maintenance Limitation. The purpose of the District is to plan for, design, acquire, construct, install, operate, maintain, and finance the Public Improvements. Developer intends to design and construct the Public Improvements in several phases. Once each phase of Public Improvements has been constructed, and subject to certain terms and conditions contained in this Service Plan, the District intends to purchase the completed Public Improvements from Developer. The District shall operate, maintain, repair and replace all Public Improvements not conveyed by the District to the City or other appropriate governmental

entity. By way of explanation and not limitation, all Public Improvements conveyed to the City shall be conveyed at no cost or expense to the City and must, first be accepted by the City after inspection and completion to the City's satisfaction of all defects or punch list items. All Public Improvements conveyed to the City shall be subject to a two-year warranty against defects in construction and materials. Notwithstanding that some Public Improvements may be designated for operation and maintenance by the District, nothing herein contained shall prevent the City, at its discretion and at its sole option, from acquiring or taking title to such Public Improvement.

2. Development Standards. The District will ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having jurisdiction thereover. The District directly or indirectly through the Developer will obtain the City's approval of construction plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work. In the discretion of the City, the District shall post a surety bond, letter of credit, or other approved development security for any Public Improvements to be constructed by the District, as provided in the Fountain Municipal Code. Any limitation or requirement concerning the time within which the City must review a District proposal or application for an approved Site Development Plan or other land use approval is hereby waived by the District.

3. Minor Deviations from Service Plan. This Service Plan is general in nature and does not include specific detail in some instances because development plans have not been finalized. The Service Plan has been designed with sufficient flexibility to enable the District to provide required services and facilities under evolving circumstances without the need for numerous amendments. Minor changes to the services and facilities of the District as described in this Service Plan including changes in proposed configurations, locations or dimensions of the Public Improvements shall be permitted to accommodate development needs, but only if consistent with an approved Site Development Plan wherein such services and/or Public Improvements are described.

The District shall be an independent unit of local government, separate and distinct from the City, and its activities are subject to review by the City only insofar as they may deviate in a material manner from the requirements of the Service Plan. If the District at any time contemplates any activity, facility or service that is not expressly identified in this Service Plan, the District may seek a determination from the City that such activity, service or facility does not constitute a material modification of this Service Plan. The procedure for seeking such determination shall be the same as that set forth in Section V(A)(4) below for obtaining City approval, generally.

4. City Approval – How Obtained. Whenever this Service Plan allows, provides for, or requires approval by the City of any matter, such approval may be obtained from the City Manager. The District may, in writing, seek approval from the City Manager. The City Manager shall make a written determination within sixty (60) days of receipt of the approval request. In the event the City Manager fails to act within such period of time, the request shall be deemed denied; however, nothing herein contained shall prevent the District from appealing the Manager's determination directly to the City Council, which appeal must be taken within thirty (30) days of the date the request is denied or deemed denied. Nothing herein contained shall

prevent the City Manager from referring any approval request received from the District directly to the City Council for determination.

B. Limitation on General Powers.

Notwithstanding any other provision contained in this Service Plan to the contrary the District's general powers shall be limited by and shall be exercised subject to the following limitations:

1. Location of Services and Public Improvements. The District shall have the power and authority to provide the services and Public Improvements described in this Service Plan only within its boundary. Only to the limited extent provided in this Service Plan may the District provide services and Public Improvements outside of its boundary. All services and Public Improvements shall be provided in accordance with all City and District standards and specifications and all applicable standards and specifications of any existing special district that the District will overlap such as, but not limited to, the Fountain Sanitation District (collectively the "**Overlapping Districts**" and singularly an "**Overlapping District**"); provided, however, that in the event of a conflict or inconsistency, the City's standards and specifications shall control unless the conflict or inconsistency is solely between the District and one or more Overlapping District in which case the standards and specifications of the Overlapping District(s) shall control.

2. Property Acquisition. The District shall not purchase from or reimburse the Developer or its successors and assigns for any land, easements, licenses, water rights or property that the Developer, in the absence of the District's formation, would be required to dedicate and convey to the City at no cost. Notwithstanding the foregoing, the District desires to purchase the completed Public Improvements from Developer. (The Public Improvements – by definition – do not include any land, easements, licenses, water rights or property that the Developer, in the absence of the District's formation, would be required to dedicate and convey to the City at no cost.) Any such purchase or reimbursement by the District not contemplated herein shall constitute a material modification of this Service Plan.

3. Eminent Domain. The District shall not exercise its statutory power of eminent domain, except as may be necessary to construction, install, access, relocate or redevelop any District financed Public Improvements identified in a Site Development Plan for an approved development that will be served by the District. Any exercise of the power of eminent domain by the District shall be in strict compliance with state law. Any exercise of the power of eminent domain not expressly authorized in this Service Plan must be approved in advance in writing by the City.

4. Inclusion/Exclusion of Territory. Except as expressly authorized in this Service Plan, the District shall not enlarge, reduce or in any way change its territorial boundary by the inclusion or exclusion of property pursuant to Sections 32-1-401 and 32-1-501, C.R.S., the Act without obtaining prior written approval of the City.

5. Additional Facilities and Services. Construction of any facilities and/or the provision of any service not generally contemplated or described in this Service Plan, without the prior written approval of the City, shall constitute a material modification hereof.

6. Location and Extent Limitation. The District shall not utilize or attempt to utilize Section 31-23-309, C.R.S., or any other law, for the purposes of overriding or attempting to avoid compliance with the Fountain Municipal Code or any other City regulations.

7. Consolidation. The District shall not take any action to consolidate, pursuant to the Act, or otherwise, or to enter into any agreement, form an authority, or in any way delegate to any other entity, the management, operation, and administration of the District without the prior approval of the City. Any such actions shall at the City's sole discretion be deemed a material modification of this Service Plan.

8. Monies from Other Governmental Sources. The District shall not apply for or accept Conservation Trust Funds, Great Outdoors Colorado Funds, or other funds available from or through governmental or non-profit entities for which the City is eligible to apply, except as approved by the City. This Section shall not apply to specific ownership taxes which may be received by the District in accordance with state law.

VI. DISTRICT SERVICES AND PUBLIC IMPROVEMENTS

A. Services and Public Improvements.

The District shall have the authority to provide the public services and Public Improvements described in this section:

1. Water

The District shall have the power and authority to finance, design, construct, install, maintain, and provide for a potable water distribution system for the Development consisting of, but not limited to, transmission lines, distribution mains, laterals, storage facilities, pumping facilities, and easements and appurtenant facilities. Potable water will be supplied by the City. All potable public water improvements upon completion and acceptance by the District shall be conveyed to the City or applicable Overlapping District, subject to normal and customary acceptance requirements and warranties of the City or the Overlapping District, as the case may be. Private service lines shall not be financed by the District and shall be owned, operated and maintained by the owner of the property served. Except for financing and/or constructing potable water transmission lines, distribution mains, pumping and storage facilities and related appurtenances, the District shall have no authority to operate a potable water system or otherwise provide any of the potable water services provided by the City or applicable Overlapping District, without first obtaining the written consent of the City or the Overlapping District.

The District shall also have the power and authority to finance, design, construct, acquire, install, maintain and provide a non-potable water irrigation system for the Development, including, but not limited to, water supply, treatment, storage, and transmission and distribution systems for irrigation purposes. However, notwithstanding any other provision contained in this Service Plan to the contrary, the District shall not appropriate, purchase, lease or otherwise acquire any water or water rights or water supplies for any purpose including non-potable water use purposes for use within or without the District's boundaries, without first obtaining the prior written approval of the City, which may be withheld for any reason.

2. Storm Sewer

The District shall have the power and authority to finance, design, construct, acquire, install, maintain, and provide for flood and surface drainage improvements, including, but not limited to, culverts, dams, retaining walls, access way inlets, detention and retention ponds, paving, roadside swales, curbs and gutters, disposal works and facilities, water quality facilities, and all necessary and proper equipment, with all necessary and incidental and appurtenant facilities, land and easements, together with extensions and improvements thereto. Unless accepted by the City, all storm drainage improvements shall be owned, operated, maintained, repaired and replaced by the District.

3. Wastewater

The District shall have the power and authority to finance, design, construct, acquire, install, and maintain a complete wastewater collection and transmission system, consisting of, but not limited to, collection mains, laterals, transmission lines, and pumping facilities and all necessary, incidental and appurtenant facilities, land and easements. Private service lines shall not be financed by the District and shall be owned, operated and maintained by the owner of the property served. Wastewater treatment services will be provided by the applicable Overlapping District and the wastewater improvements constructed and/or financed by the District will be conveyed to the applicable Overlapping District for ownership and maintenance, subject to and in accordance with the applicable Overlapping District's procedures and requirements for acceptance of such facilities and improvements. Except for financing and/or constructing the wastewater collection system needed to serve the Development, the District shall not have the authority to operate a wastewater collection system or offer services otherwise provided by the applicable Overlapping District without first obtaining the consent of the City and the applicable Overlapping District.

4. Street Improvements

The District shall have the power and authority to finance, design, construct, acquire, install, maintain, and provide for arterial and collector streets and roadway improvements including, but not limited to, bridges, curbs, gutters, culverts, storm sewers and drainage facilities, detention and retention ponds, retaining walls and appurtenances, sidewalks, paving, lighting, grading, landscaping, streetscaping, placement of underground utilities, and other street related improvements, and architectural enhancements to any or all of the above, with all necessary and incidental and appurtenant facilities, land and easements, together with extensions and improvements thereto.

Arterial and collector streets shall be conveyed, upon satisfactory completion and final acceptance by the District, and subject to satisfaction of all applicable City acceptance requirements and procedures including warranties, to the City for future operation and maintenance. Any street related medians and landscaping, together with entrance features, will be owned and maintained by the District unless the same are specifically accepted by the City and conveyed to the City for operation and maintenance purposes. The City will only maintain those improvements located within public rights-of-way that are specifically accepted by the City.

5. Traffic Safety Protection

The District shall have the power and authority to finance, design, construct, acquire, install, maintain, and provide for traffic safety protection through traffic safety control devices and safety controls on streets, as well as such other facilities and improvements as are necessary or prudent, including, but not limited to, signalization at intersections, traffic signs, area identification signs, directional assistance and driver information signs, with all necessary and incidental and appurtenant facilities, and land and easements, together with extensions and improvements thereto. All traffic and safety control devices shall be constructed in accordance and in compliance with all City rules, standards and specifications.

Traffic safety control devices and safety controls on streets shall be conveyed, upon satisfactory completion and acceptance by the District, and subject to satisfaction of all applicable City acceptance requirements and procedures including warranties, to the City for future operation and maintenance. Any signage that is specifically related to the Development or entry features at the Development will be owned and maintained by the District unless the same are specifically conveyed to and accepted by the City for operation and maintenance purposes. The City will only own and maintain those signage improvements that are within public rights-of-way and that have been specifically accepted by the City.

The City, District and Developer have agreed to a Memorandum of Understanding dated December 20, 2019 outlining changes to the 2005 Railway Contribution Agreement between the City and the then developer contributions to the Indiana Avenue crossing of the existing railroad. The Agreement was assigned to the District and subsequently, a developer contributed \$357,600 to the crossing receiving agreement for reimbursement from the District. The MOU requires no additional contribution from the District to the crossing project.

6. Parks and Recreation

The District shall have the power and authority to finance, design, construct, acquire, install, maintain, operate, and provide for public park and public recreation centers and other recreation facilities (e.g., community center, fitness center and pool), services, or programs including, but not limited to, grading, soil preparation, sprinkler systems, fencing, pavilions, playgrounds, playing fields, open space, bike trails, pedestrian trail, pedestrian bridges, picnic areas, common area landscaping, streetscaping, storage buildings and facilities, weed control, paving, decorative paving, outdoor functional and decorative lighting, community events, and other services, programs and facilities, with all necessary and incidental and appurtenant facilities, land and easements, together with extensions and improvements thereto. The District's public parks, trails, athletic fields and open space areas, at the option of the City, will be transferred by the District to the City free and clear of any liens and encumbrances for future ownership, operation and maintenance purposes. Any and all park and recreation facilities constructed or operated by the District will be available to all City residents on the same basis as is available to District residents except as otherwise provided herein.

With respect to the community center, fitness center and pool, the District is authorized to assess, from time to time, an annual community center fee against each residential unit; the fee will initially equal \$360/residential unit per year adjusted annually by the Board to reflect costs of

services rendered. The District is further authorized to assess, from time to time, one or more community center fees for non-resident users of the community center, fitness center and pool which will reflect costs of services rendered and adjusted annually, initially established at \$600/year. The District will inform the City annually of this fee and the basis for the fee amount. It is anticipated that the non-resident user fee(s) will be higher on a per use basis than the annual residential fee discussed hereinabove based on the fact that the residents are paying ad valorem taxes to retire the debt and for operations and maintenance and outside the District residents will not pay such taxes. In order to make the users contribute equitably for the Center, the fee will be higher. It is anticipated that the non-residential user fees from time to time determined and assessed by the District will substantially correspond to the extent, frequency and nature of the use of the community center, fitness center and pool. When the community center, fitness center and pool near completion, the District anticipates that it will be in a position to determine the initial non-resident user fee amounts. All of the fees will help defray the District's costs of operating and will help enable residents and non-residents to use and enjoy, the community center, the fitness center and pool.

The District shall have the power and authority to enter into and perform under and enforce the Park Agreement and to determine and assess, from time to time or as needed typically at the issuance of building permit or at the sale of a completed home, a permit fee ("Park Permit Fee") equal to or exceeding that typically charged by the City for park fees (which are typically paid by builders) and to allocate and appropriate the proceeds therefrom toward the reimbursement of costs associated with the park improvements as further outlined in the Park Agreement (including, without limitation, the installation, construction, development, maintenance, repair, and replacement thereof). It is anticipated that the District shall assess a Park Permit Fee in the initial amount of \$3,015 per residence to meet the needs of the District and to otherwise satisfy and comply with the Park Agreement. The Park Permit Fee is a one-time capital fee collected by the District at the initial closing of homes from a builder. The fee will be used to reimburse the developer for Capital Construction Costs incurred in connection with the construction of the Recreation Center and other recreational amenities. Nothing contained in this Service Plan amendment shall amend, modify or change, in any way, the Park Agreement.

7. Mosquito Control

The District shall have the power and authority to finance, design, construct, acquire, install, operate, maintain, and provide for systems and methods for elimination and control of mosquitoes.

8. Security

The District shall have the power and authority to provide security services within the boundaries of the District, subject to the limitations set forth in C.R.S. § 32-1-1004(7). Such power and authority, however, shall not limit or in any way abridge the responsibility and authority of local law enforcement (i.e., the City of Fountain and/or El Paso County Sheriff's Department) to operate within the boundaries of the District.

9. Trash Service

~~The District shall have the power to provide solid waste disposal services contemplated in C.R.S. 32-1-103(10)(f), within its territorial boundaries, subject to the requirements and limitations set forth in the Act and shall be further subject to the City's solid waste single hauler program, if any, such that if the City implements a City-wide single hauler program, the District's participation in such program shall be required, unless express written consent of the City is given exempting the District therefrom. The District shall have the power and authority to provide and coordinate trash collection services within the boundaries of the District, subject to the limitations set forth in C.R.S. 32-1-104(2)(k) and 32-1-1006(6).~~

10. Covenant Enforcement and Design Review Services

The District shall also have the power to provide covenant enforcement and design review services within its territorial boundaries subject to the requirements and limitations set forth in the Act. The declaration, rules and regulations name the District as the enforcement and design review entity; however, said covenant enforcement shall be limited to the District paying for the cost of architectural review and covenant enforcement including the collection of enforcement fees and charges and for services authorized in the Covenants.

B. Preliminary Engineering Survey.

An estimate of the cost of the Public Improvements which may be, designed, acquired, constructed, installed, relocated, redeveloped, maintained or financed was set forth in in the 2006 Service Plan. All construction costs estimates assume construction to applicable local, state or federal requirements.

Conceptual drawings showing the preliminary location of the Public Improvements that the District is authorized to acquire or construct were approved in the 2006 Service Plan adoption and are incorporated herein by reference. Phasing of construction shall be determined by the District to meet the needs of taxpayers within its boundaries.

Subject to an approved Site Development Plan, the following Public Improvements are generally expected to be conveyed as described above to the City or applicable Overlapping District for ownership and maintenance purposes:

1. Street Improvements. Street Improvements consisting of arterial and local collector streets and related improvements except for any subdivision identification signs, median and landscaping within medians.
2. Water Improvements. Water Improvements consisting of the local distribution system constructed and/or financed by the District.
3. Safety Protection. All safety protection and traffic control devices located on or within public rights of way.

The following Public Improvements are generally expected to be retained by the District:

1. Storm Sewer. All storm sewer improvements constructed or financed by the District, including but not limited to, culverts, dams, retaining walls, access way inlets, detention and retention ponds, paving, roadside swales, etc.

2. Park and Recreation. All local public park and recreation facilities constructed by the District, including but not limited to pavilions, playgrounds, playing fields, open space, bike trails, pedestrian trails, etc. To the extent applicable, it is anticipated that the District shall accept and maintain the applicable park improvements in accordance with the Park Agreement.

The following Public Improvements are generally expected to be conveyed to the Fountain Sanitation District for ownership and maintenance purposes:

- All wastewater improvements, except private service lines which are not to be financed or constructed by the District.

VII. PROPOSED AND EXISTING INTERGOVERNMENTAL AGREEMENTS AND EXTRATERRITORIAL SERVICE AGREEMENTS

All intergovernmental agreements entered into by the District must be for purposes, facilities, or services that the District is authorized by law and by this Service Plan to provide. It is contemplated that the District will enter into intergovernmental agreements with the following parties and for the following purposes: None.

If there are any material changes to any proposed form of intergovernmental agreement or if the proposed form of intergovernmental agreement is not available for approval with this Service Plan, the form of such intergovernmental agreements must be submitted to the City for approval prior to the District in commencing operations or incurring any Debt.

The following agreements are likely to be necessary, and the rationale therefore is set forth as follows: N/A.

No other agreements are required or known at the time of formation of the District to likely be required to fulfill the purposes of the District. Execution of intergovernmental agreements or agreements for services to be provided by the District beyond the District boundaries shall require approval of the City.

VIII. FINANCIAL INFORMATION

A. General.

This section describes the nature, basis, and method of funding for the District including the Debt, rates and fees, and mill levy limitations the District shall be subject to. A detailed Financial Plan and statement of assumptions utilized in the preparation of the Financial Plan is attached hereto as Exhibit F. Exhibit F reflects the current rezoning application and land uses that may be changed in the future.

With respect to the community center, fitness center and pool, the District is authorized to assess, from time to time, an annual community center fee against each residential unit; the fee will initially equal \$360/residential unit per year and can be adjusted annually by the District Board (so long as the Board has at least three (3) members that are homeowners in the District) to a maximum of \$540/unit per year adjusted for inflation. As further discussed hereinabove, the District is further authorized to determine and assess, from time to time and on terms and conditions satisfactory to the District, one or more community center fees for non-residential users of the community center, fitness center and pool. It is anticipated that the non-residential user fees will correspond to the extent, frequency and nature of the use of the community center, fitness center and pool. The initial annual fee is established at \$600 (\$50/month). Fees will be used solely to defray the District's costs of operating the community center, fitness center and pool, and will help enable residents and non-residents to use and enjoy the community center, the fitness center and pool. Exhibit E provides a financial plan for the operations and maintenance of the District's assets.

B. Assumptions.

The maximum amount of Debt the District is authorized to issue is Fifteen Million Dollars (\$15,000,000), excluding the principal amount of Debt issued to refund previously issued Debt to the extent the principal amount of such refunding Debt does not exceed the original principal amount of the Debt refunded. This Maximum Debt Authorization is based upon the assumption that each of the 650 residential units in the District will have an average value of \$387,000 in 2021 dollars, new development average value of \$387,000 and commercial space will have an average value of \$120 per square foot in 2021 dollars.

The District expects to issue approximately \$11,694,000 in Debt in 2021 and expects to issue additional Debt in the future up to the maximum permitted amount of \$15,000,000, excluding the principal amount of Debt issued to refund previously issued Debt. This is reflected in Exhibit D. The exact dates and terms of Debt issuance will be subject to future market conditions and service plan restrictions.

The ratio of Debt to assessed value within the District at build-out is demonstrated to be less than 110%. The Financial Plan demonstrates that the District has the ability to finance the Public Improvements identified herein, will be capable of discharging the indebtedness on a reasonable basis, and will operate on a sound fiscal basis.

C. Identification of District Revenue.

The District will impose a mill levy on taxable property within its boundaries as a primary source of revenue for repayment of Debt and for operations and maintenance. The District may also rely upon various other revenue sources authorized by law. At the District's discretion, these may include the power to assess fees, rates, tolls, penalties or charges as provided for in the Act that are reasonably related to the cost of operating and maintaining District services and facilities. In addition to the community center, fitness center and pool fees assessed on residential and non-residential users, as further discussed hereinabove, and the one-time Park Permit Fee, as defined hereinabove, assessed, from time to time, by the District in accordance with the Park

Agreement and as authorized under this Service Plan, the District anticipates annual revenue from the following sources in the following amounts at buildout:

<u>Revenue Source</u>	<u>Anticipated Revenue</u>
Ad Valorem Taxes	\$977,104
Specific Ownership Taxes	\$58,626
Tap Fees	\$0
Development Fees	\$0
 TOTAL	 \$1,035,730 ¹

The District is permitted to impose ad valorem property taxes for payment of Debt and ad valorem property taxes for payment of administration, operations, and maintenance costs subject to the limitations provided in Section VIII(D) and Section VIII(E) below, respectively. The Maximum Aggregate Mill Levy authorized to be imposed by the District to support Debt service and operations and maintenance of the District is the sum of the Maximum Debt Mill Levy and the Maximum Operation and Maintenance Mill Levy (i.e., 50 mills, subject to adjustment as provided in Section VIII(D) and Section VIII(E) below).

Any ad valorem property tax levy imposed by the District, including as adjusted as provided in Section VIII(D) and Section VIII(E) below, is subject to the availability of appropriate electoral authorization therefor, in accordance with TABOR and all other applicable State laws.

D. Debt Service Mill Levy

The maximum aggregate mill levy that the District is permitted to impose for the payment of Debt (the Maximum Debt Mill Levy) shall be 40 mills; provided that if, on or after January 1, 2006, there were or are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut, or abatement, the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith so that to the extent possible, the actual tax revenue generated by the mill levy are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the percentage of actual valuation used to calculate the assessed valuation of any class of property shall be deemed to be a change in the method of calculating assessed valuation.,

A debt service mill levy of 40 mills (subject to adjustment as described above) is anticipated to produce sufficient revenue to support Debt service costs through the bond repayment (see **Exhibit D**, Financial Plan).

E. Operation and Maintenance Mill Levy

¹ By way of clarification, this anticipated buildout revenue figure occurs in 2024 and does not include residential and non-residential user fees imposed, from time to time, by the District for the use and maintenance of the community center, fitness center and pool and does not include the Park Permit Fee to be imposed, from time to time, by the District per the Park Agreement and this Service Plan.

The maximum aggregate mill levy that the District is permitted to impose for payment of administration, operations, and maintenance costs (the Maximum Operation and Maintenance Mill Levy) shall be 10 mills; provided that if, on or after January 1, 2006, there were or are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut, or abatement, the mill levy limitation applicable for payment of administration, operations, and maintenance costs, if there is voter authorization to do so, may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith so that to the extent possible, the actual tax revenue generated by the mill levy are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the percentage of actual valuation used to calculate the assessed valuation of any class of property shall be deemed to be a change in the method of calculating assessed valuation.

An operations and maintenance mill levy of 10 mills (subject to adjustment as described above) is anticipated to produce revenue to support the operation and maintenance of District services and Public Improvements (see Exhibit D, Financial Plan).

F. District Expenditures

The estimated cost of Public Improvements for the District is greater than \$26,000,000 (\$40,000 eligible public improvement costs per lot). The District will acquire operating funds to plan and cause the Public Improvements contemplated herein to be constructed, operated and maintained as permitted herein. Such costs are expected to include reimbursement of organizational costs, legal, engineering, accounting, bond issuance costs, and compliance with State reporting, and other administrative costs. Public Improvement costs over the amount available for reimbursement from District Debt issuance (\$15,000,000) will be funded by developer sources of debt and equity.

G. Debt

1. Maximum Debt Authorization

The maximum amount of Debt that may be issued by the District (referred to herein as the “Maximum Debt Authorization”) is \$15,000,000, inclusive of costs of issuance, organizational costs, inflation, and other similar costs, but excluding the principal amount of Debt issued to refund previously issued Debt. The Maximum Debt Authorization shall not be increased unless approved by the City and as permitted by statute. Unless approved by the City, any change in the District’s Maximum Debt Authorization shall be considered a material modification of this Service Plan. Also, unless approved by the City in accordance with the provision provided for in this Service Plan any substantial or material deviations from the bond amortization schedules contained in this Financial Plan shall be considered a material modification of this Service Plan.

No Debt shall be issued by the District having a final stated maturity date that is more than thirty (30) years from the date of issuance of such Debt (the “Maximum Maturity”).

Unless approved by the District’s Board of Directors, which at the time such approval is given is composed of at least three homeowners within the District, all Debt issued by the District as authorized in this Service Plan shall be paid in full or discharged no later than December 7, 2055.

2. Debt Issuance

The District anticipates it will issue Debt in the total amount of \$15,000,000 (excluding the principal amount of Debt issued to refund previously issued Debt to the extent not in excess of the original principal amount of the Debt refunded), of which, as of the date hereof, the District has issued \$4,464,000 (comprised of the 2015/2017 BANs). The first issuance of Debt by the District after the date hereof (i.e., excluding the 2015/2017 BANs) shall occur no later than five (5) years from the date this Service Plan is approved unless otherwise approved in writing by the City. Except for refunding bonds, no Debt authorized in this Service Plan shall be issued later than fifteen (15) years after the date this Service Plan is approved, without the prior written approval of the City. In the regular election held May 2, 2006, the District received initial voter approval for Debt issuance in the amount of \$15,000,000 for each of five identified infrastructure categories, in addition to voter approval for Debt for operation and maintenance costs and refundings. However, notwithstanding any electoral authorization of the District obtained prior to or after the date hereof, the Maximum Debt Authorization of the District pursuant to this Service Plan is \$15,000,000 (excluding refundings as provided herein) . If the District were to seek authority to issue a greater amount of Debt beyond the Maximum Debt Authorization, such request shall be deemed a material modification of this Service Plan. Each series of bonds issued by the District shall have a maximum maturity of thirty (30) years.

3. Maximum Voted Interest Rate and Maximum Underwriting Discount

The interest rate on any Debt shall be limited to the market rate at the time Debt is issued. In the event of a default, the maximum interest rate on any Debt shall not exceed twelve percent (12%) per annum. The maximum underwriting discount for any Debt issued by the District shall not exceed five percent (5%). Debt, when issued, shall comply with all relevant requirements of this Service Plan, State law, and Federal law as is then applicable to the issuance of public securities.

4. Security for Debt.

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

5. TABOR Compliance.

The District will comply with the provisions of TABOR. In the discretion of the District's Board of Directors, and subject to the other limitations contained in this Service Plan, 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 the District will remain under the control of the District's Board.

6. Privately Placed Debt Limitation.

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

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

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

IX. DEVELOPER ADVANCES AND REIMBURSEMENTS

The District has previously received, and may in the future receive, initial funding for both capital and ongoing administrative expenses from Developer advances. No agreement, loan or other writing evidencing the District's contingent obligation to repay Developer advances after the date of this Amendment shall have a term greater than fifteen (15) years, and any Developer advances that are not repaid on or before the fifteen (15) year period provided for herein shall be treated as Developer contributions to District capital; provided, however, that the foregoing requirement shall not apply to the 2006/2007 Reimbursement Agreements. Such advances shall be made to the District subject to the District's obligation to reimburse the same, which obligation may be evidenced by a short-term reimbursement agreement or other acceptable agreement; provided, however, that under all circumstances the District's obligation to reimburse advances to the Developer: (i) shall be subject to annual appropriation and require payment only if, as and when the District determines that monies are available and, accordingly, shall not constitute Debt hereunder; and (ii) shall be subordinate to the District's General Obligation Bonds (if any). The District's obligation to reimburse Developer advances may bear interest at a reasonable rate of interest, as evidenced by a certificate of a Financial Advisor, but in no event greater than 8% per annum, and shall be payable at any time by the District. With the exception of the 2015/2017 BANs, no Debt shall be issued by the District to a Developer to evidence the District's obligation to reimburse advances or costs incurred by a Developer in the provision of Public Improvements. Any and all advances that are made by the Developer shall be repaid by the District from General Obligation Bonds or other legally available sources of revenue determined, in the sole discretion of the District, to be available for such purpose (subject to the provisions of the immediately succeeding paragraph) . Repayment or refinancing of Developer advances shall not require City approval; provided, however, that: (i) no such refinancing shall convert any Developer advance into Debt hereunder; and (ii) any succeeding obligation to a Developer resulting from a refinancing shall continue to be subject to the requirements of this paragraph. The Developer assumes the risk that the District will not have sufficient funds to repay advances for operating costs and capital costs including without limitation the delay, inability or failure of the District to sell or issue limited tax general obligation bonds.

The District shall not be permitted to issue Debt after the date hereof unless, on or before the date of issuance of such Debt, the full amount of principal and interest on the 2015/2017 BANs, and the full amount due and owing under the 2006/2007 Reimbursement Agreements are paid in full (from the proceeds of such Debt and/or any legally available monies of the District).

Notwithstanding any other provisions herein, it is acknowledged that the District issued the 2015/2017 BANs in favor of the Developer in a principal amount of \$4,461,000 as a firm obligation of the District, allocated to the requisite and applicable portion of the District's existing voted TABOR authorization and issued in accordance with the Original Service Plan. Notwithstanding the City's approval of this Amended and Restated Service Plan, the authorizations of the Original Service Plan shall remain in force and effect to the extent necessary or ancillary to permit the District's issuance of, compliance with and performance under the 2015/2017 BANs. Moreover, the District's issuance of, compliance with and performance under the 2015/2017 BANs shall not constitute a material modification of this Service Plan or pursuant to the Act, generally, or Section 32-1-207, Colorado Revised Statutes, as may be amended, from time to time, specifically.

X. ANNUAL REPORT

The District shall be responsible for submitting an annual report to the City no later than April 1st of each year. The annual report shall conform to the format agreed to by the City at the time this Service Plan is approved.

XI. MODIFICATION OF SERVICE PLAN

In the event the District plans to undertake an action that is not expressly authorized by this Service Plan, it shall be the District's responsibility to contact the City Manager to seek, in accordance with the provisions set forth in Section V(A)(4), an administrative determination as to whether the action in question is permitted by the Service Plan. If the Manager determines that the action may constitute a material modification, the District may appeal to the City Council. If the City Council determines that the action constitutes a material modification, then the District may submit a Service Plan Amendment to the City for approval. The City may approve, conditionally approve or deny in accordance with the provisions of Section 32-1-207, C.R.S., as amended. Nothing herein contained shall prevent the City Manager from waiving any or all the requirements set forth in Section V(A)(4).

In the event the development's density is increased the issuance of debt in excess of the amount modeled in the Service Plan can occur and will not constitute a material modification of the Service Plan, provided the issuance of the additional amount of debt is approved in advance by either the City Manager or the City Council.

XII. DISCLOSURE STATEMENT

The District has provided written notice to all purchasers of property in the District regarding the District's authority to levy and collect ad valorem taxes and to impose and collect rates, fees, tolls, and charges, by recording a disclosure statement against the property within the District with the office of the El Paso County Clerk and Recorder on October 23, 2013 at Reception No. 213131578 and amended on _____ and recorded at the El Paso County Clerk and Recorder on _____ at Reception No. _____ reflecting this Service Plan Amendment.

XIII. DISSOLUTION

The District's Board of Directors will comply, to the fullest extent possible, with any request from the City that the District dissolve. Upon receipt of any such request the board will diligently pursue dissolution of the District if the City or some other public entity will continue the District's essential services and accept ownership of and maintenance responsibility for the District's facilities and all other requirements for dissolution as set forth in Section 32-1-701, *et seq.*, C.R.S., are satisfied.

In addition to the foregoing, the District may file a petition in the District Court for dissolution when the District has no financial obligations or outstanding bonds, or any such financial obligations or outstanding bonds are adequately secured by escrow funds or securities meeting the investment requirements of Section 24-75-601, *et seq.*, C.R.S., as amended.

XIV. STATUTORY FINDINGS AND CONCLUSIONS

It is submitted that this Service Plan for the District, as required by C.R.S. § 32-1-203, as amended, establishes that:

1. There is sufficient existing and projected need for organized service in the area to be served by the District;
2. The existing service in the area to be served by the District is inadequate for present and projected needs;
3. The District can provide economical and sufficient service to the area within its proposed boundaries;
4. The area to be included in the District does have, and will have, the financial ability to discharge the proposed indebtedness on a reasonable basis;
5. Adequate services are not, and will not be, available to the area through the City or other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis;
6. The facility and service standards of the District are compatible with the facility and service standards of the City;
7. The Service Plan is in substantial compliance with the City master plan;
8. The proposal is in compliance with any duly adopted county, regional, or state long-range water quality management plan for the area; and
9. The creation of the District will be in the best interests of the area proposed to be served.

DRAFT: ~~10/4/2021~~8/11/21

EXHIBIT A

Legal Description

DRAFT: ~~10/4/2021~~8/11/21

EXHIBIT B

Vicinity Map

DRAFT: ~~10/4/2021~~8/11/21

EXHIBIT C

District Boundary Map

DRAFT: ~~10/4/2021~~8/11/21

EXHIBIT D

Financial Plan

EXHIBIT E

Operations and Maintenance Financial Plan