

CONSOLIDATED SERVICE PLAN
FOR
TIMNATH RANCH METROPOLITAN DISTRICT NOS. 1, 2, 3 AND 4
TOWN OF TIMNATH, COLORADO

Prepared

By

Corbetta & O'Leary, P.C.

821 17th Street, Suite 600-B

Denver, Colorado 80202

Dated August 18, 2006

Revised and Resubmitted July 5, 2007

TABLE OF CONTENTS

- I. INTRODUCTION 1
 - A. Purpose and Intent..... 1
 - B. Need for the Districts..... 1
 - C. District Functions Generally..... 2
 - D. Multiple District Structure..... 2
- II. DEFINITIONS..... 3
- III. BOUNDARIES..... 6
 - A. Boundary Descriptions and Maps.....6
 - B. Changes in Boundaries6
- IV. PROPOSED LAND USE/POPULATION PROJECTIONS/ASSESSED VALUATION. 6
- V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES..... 7
 - A. General Powers of the Districts. 7
 - 1. Operations and Maintenance Limitation..... 7
 - a. Public Improvements to be Dedicated to the Town.....7
 - b. Public Improvements to be Dedicated to Others7
 - c. Public Improvements that may be Owned, Operated, and Maintained by the Operating District8
 - 2. Construction Standards Limitation 8
 - 3. District Swimming Pool Operations Limitations..... 9
 - 4. Current Town Residential Property Owners’ Access to Park and Recreation Facilities and Improvements..... 9
 - 5. Town Access and Maintenance Easement to Greenbelts, Open Space, Ponds and Drainage Improvements 9
 - 6. Initial Debt Limitation 10
 - 7. Total Debt Issuance Limitation..... 10
 - 8. Consolidation Limitation 10
 - 9. Bankruptcy Limitation 10
 - 10. Service Plan Amendment Requirement..... 11
 - B. Enterprise 11
 - C. Preliminary Engineering Survey/Capital Plan..... 11
 - D. Facilities and/or Services to be provided by Other Entities..... 12
 - E. Multiple District Structure..... 13
- VI. FINANCIAL PLAN..... 13
 - A. General Plan of Finance..... 13
 - B. Maximum Voted Interest Rate and Maximum Underwriting Discount 14
 - C. Total Combined Mill Levy 14
 - D. Maximum Debt Mill Levy..... 14
 - E. Debt Repayment Sources..... 15
 - F. Security for Debt..... 15
 - G. TABOR Compliance..... 16
 - H. Districts’ Formation and First Year Operating Costs 16

VII. ANNUAL REPORT 17
A. General 17
B. Reporting of Significant Events 17
VIII. CONSOLIDATION/DISSOLUTION 17
IX. DISCLOSURE TO PURCHASERS 18
X. INTERGOVERNMENTAL AGREEMENTS 18
A. Town IGA 18
B. Master IGA 18
C. Timnath Development Authority IGA 18
D. Development Fee Agreement 18
E. Other Agreements/Authority 19
XI. CONCLUSION 19

LIST OF EXHIBITS

- | | |
|------------------|---|
| EXHIBIT A | Legal Descriptions |
| EXHIBIT B | Timnath Vicinity Map |
| EXHIBIT C | Districts Boundaries Map |
| EXHIBIT D | Capital Plan |
| EXHIBIT E | Financial Plan |
| EXHIBIT F | Form of Intergovernmental Agreement between the Districts and Town of Timnath |
| EXHIBIT G | Form of Intergovernmental Agreement between the Districts and Improvement Authority |
| EXHIBIT H | List of Residential Property Owner Addresses as of November 1, 2005 |

I. INTRODUCTION

A. Purpose and Intent.

This Consolidated Service Plan (the "Service Plan"), submitted in accordance with the requirements of the Special District Control Act (the "Act") (Section 32-1-101, *et seq.*, of the Colorado Revised Statutes), sets forth a proposal for the formation of four proposed metropolitan districts Timnath Ranch Metropolitan Districts Nos. 1, 2, 3 and 4 (collectively the "Districts" or individually the "District") which are intended to be independent units of local government, separate and distinct from the Town, and, except as may otherwise be provided for by State or local law or this Service Plan, their activities are subject to review by the Town only insofar as they may deviate in a material matter from the requirements of this Service Plan or the Act. The proposed Districts are located wholly within the Town of Timnath, Colorado ("Town" or "Timnath"), and the Districts are generally located east of Interstate 25 and Larimer County Road 3, North of Larimer County Road 36, South of Harmony Road, and West of Larimer County Road 1.

It is intended that the Districts will provide public improvements ("Public Improvements") necessary and appropriate for the development of a project within the Town of Timnath (the "Town") to be known as Timnath Ranch (the "Project"). The Public Improvements will be constructed for the use and benefit of all anticipated inhabitants and taxpayers of the Districts. The primary purpose of the Districts will be to finance the construction of these Public Improvements.

District No. 1 is proposed to be the Operating District, and is expected to coordinate the financing, construction, operations and maintenance of all Public Improvements. The Operating District will be permitted to provide public services and facilities throughout the Districts pursuant to the Service Plan. The Operating District will be responsible for managing the construction and operation of facilities and Public Improvements for the Project as well as coordinating the financing and management of the public facilities and services as approved by the Town throughout the Project.

District Nos. 2, 3 and 4 are proposed to be the Financing Districts which are expected to include all of the future residential and/or non-residential development comprising the Project. The Financing Districts will be responsible for producing property tax and other revenue sufficient to pay the costs of operations and debt service expenses incurred for the Public Improvements, until such obligations are discharged, creating mutual benefits for Timnath Ranch and the Town. It is currently planned that District No. 2 will contain residential development, District No. 3 will contain commercial development, and District No. 4 will contain commercial - industrial development.

B. Need for the Districts.

There are currently no other governmental entities, including the Town, located in the immediate vicinity of the Districts that consider it desirable, feasible or practical to undertake the planning, design, acquisition, construction, installation, ownership, operation, maintenance, relocation, redevelopment and/or financing of the Public Improvements needed for the Project.

Formation of the Districts is therefore necessary in order for the Public Improvements required for the Project to be provided in the most economic manner possible.

C. District Functions Generally.

The Districts shall be authorized to provide for the planning, design, acquisition, construction, installation, financing, ownership, operation, maintenance, relocation and redevelopment of the Public Improvements from the proceeds of Debt to be issued by the Districts, and from other legally available revenues. All Debt that is payable from a pledge of property taxes is expected to be repaid by a tax mill levy no higher than the Maximum Debt Mill Levy. Debt which is issued within these parameters will insulate property owners from excessive tax burdens to support the servicing of the Debt and will result in a timely and reasonable discharge of the Debt.

The Districts expect to own, operate and maintain certain Public Improvements not dedicated to the Town or other governmental entities. A general description of the Public Improvements expected to be retained, operated and maintained by the Districts is further described in Section V.A.1. It is expected that certain Public Improvements will be dedicated to either the Town or to other governmental entities according to the applicable procedures for the specific entity (including but not limited to standards relating to construction). The Districts are authorized to own, operate and maintain Public Improvements that are not dedicated to the Town or other governmental entities.

The Town shall have and will exercise sole and exclusive jurisdiction over land use and building, e.g., zoning, subdivision, building permit, and decisions affecting development of property within the boundaries of the Districts. Construction of all Public Improvements shall be subject to applicable ordinances, codes and regulations of the Town.

It is the intent of the Districts to consolidate and/or dissolve upon payment or defeasance of all Debt incurred or upon a court determination that adequate provision has been made for the payment of all Debt, and if any District has authorized operating functions under an intergovernmental agreement with the Town, to retain only the power necessary to impose and collect taxes or fees to pay for these costs and to perform these functions.

D. Multiple District Structure.

It is anticipated that the Districts, may separately or cooperatively undertake the financing, construction, integration, coordination and management of the infrastructure, services and facilities, both within and outside of their boundaries. Using funds provided by and through the Districts, certain public services and facilities necessary to serve the Project will be constructed, owned and operated by the Districts or will be dedicated to other entities and/or service providers, as appropriate. The nature of the functions and services to be provided by each District shall be clarified in a Master IGA (defined below) between the Districts. The Master IGA will establish a mechanism whereby the Districts may cooperatively fund, construct, install, operate and maintain the Public Improvements. The Master IGA will be designed to help assure the orderly development of the Public Improvements and essential services in accordance with the requirements of the Service Plan for the Districts. The execution of such a Master IGA by the

Districts is essential to the orderly implementation of the Service Plan. Said Master IGA may be amended by mutual agreement of the Districts without the need to amend this Service Plan.

The use of a consolidated Service Plan for the Districts will help assure proper coordination of the powers and authorities of the independent Districts, and will help avoid confusion regarding the separate, but coordinated, purposes of the Districts which could arise if separate service plans were used. Unless otherwise specifically noted herein, general provisions of this Service Plan apply to all Timnath Ranch Metropolitan Districts. Where possible, however, specific reference is made to an individual District to help distinguish the powers and authorities of each District.

This multiple district structure is proposed because it provides several benefits to the inhabitants of the Project and the Town. Multiple districts will assure that: (1) the necessary services and improvements can be financed in the most favorable and efficient manner; (2) all the services and improvements needed for the Project will be available when needed through managed development; and (3) a reasonable mill levy and reasonable tax burden on all residential property within the Districts will be maintained through managed financing and coordinated completion of infrastructure improvements.

II. DEFINITIONS

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

Approved Development Plan: means a development plan or other process established by the Town (including, but not limited to approval of a site plan, preliminary plat, or minor development plat for any phase of the Project by the Town planning commission or by the Town Council) for identifying, among other things, Public Improvements necessary for facilitating development for property within the Districts as approved by the Town pursuant to the Town Code and as amended pursuant to the Town Code from time to time.

Board: means the board of directors of one District or the boards of directors of all Districts, in the aggregate, as is contextually appropriate.

Debt: means bonds or other obligations not subject to annual appropriation for the payment of which any District has promised to impose an *ad valorem* property tax mill levy, to impose rates, fees, tolls, penalties or charges as permitted by applicable law, or to pay from any other legally available revenues of the District, or any combination thereof.

Developer: means Timnath Ranch, LLC, a Colorado limited liability company, and its affiliates, successors or assigns.

Development Fee: means the one-time development or system development fee imposed by the Districts on a single family equivalent (residential) or per square-foot (non-residential) basis at the time of lot sale to assist with the planning and development of the

Public Improvements, subject to the limitations set forth in Section VI of the Service Plan. The Development Fee may be used to finance, pay Debt service, plan, acquire, and construct, operate and maintain the Public Improvements.

District: means any one of the Timnath Ranch Metropolitan Districts No. 1 through 4.

District No. 1: means the Timnath Ranch Metropolitan District No. 1.

District No. 2: means the Timnath Ranch Metropolitan District No. 2.

District No. 3: means the Timnath Ranch Metropolitan District No. 3.

District No. 4: means the Timnath Ranch Metropolitan District No. 4.

District Pool: means a swimming pool or pools, together with related recreational facilities, constructed, installed, acquired, funded or financed by one or more of the Districts.

Districts: means District No. 1, District No. 2, District No. 3 and District No. 4 collectively.

Districts Boundaries: means the boundaries of the area described in the Districts Boundaries Map.

Districts Boundaries Map: means the map attached hereto as **Exhibit C**, describing the boundaries of the Districts.

Fees: means any fee, toll, rate, penalties, or charges imposed by the Districts for services, programs or facilities, operation and maintenance provided by the Districts, as authorized in Section 32-1-1001(1), C.R.S., as amended from time to time.

Financial Plan: means the Financial Plan described in Section VI and attached as Exhibit E which describes (i) how the Public Improvements are to be financed; (ii) how the Debt is expected to be incurred; (iii) the estimated operating revenue derived from property taxes for the first budget year; and (iv) proposed sources of revenue and projected expenses of the Districts.

Financing District: means Districts Nos. 2, 3 & 4.

Inclusion Area Boundaries: (not applicable)

Inclusion Area Boundary Map: (not applicable)

Master IGA: means one or more agreements between the Districts that establish the mechanisms whereby the Districts will fund, construct, install, acquire, operate and maintain Public Improvements.

Maximum Debt Mill Levy: means the maximum mill levy any of the Districts is permitted to impose for payment of Debt as set forth in Section VI.C below.

Operating District: means District No. 1.

Project: means the development or property commonly referred to as Timnath Ranch.

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

Service Area: means the property within the Districts Boundaries which may be legally served.

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

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

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

State: means the State of Colorado.

TABOR: means Article 10 Section 20 of the Colorado Constitution, as may be amended from time to time.

Taxable Property: means real or personal property within the Districts' boundaries which is subject to ad valorem taxes imposed by the Districts.

Timnath Development Authority Intergovernmental Agreement: means the intergovernmental agreement between the Districts and the Timnath Development Authority regarding the revenue and tax sharing between the Districts and Timnath Development Authority substantially in the form attached hereto as **Exhibit G**.

Total Debt Issuance Limitation: means the aggregate principal amount of Debt the Districts may issue, which amount shall be Twenty-Five Million Dollars (\$25,000,000), unless otherwise approved by the Town.

Town: means the Town of Timnath, Colorado.

Town Code: means the Town Code of the Town.

Town Board of Trustees: means the Town Board of Trustees of the Town of Timnath, Colorado.

Town Intergovernmental Agreement or Town IGA: means the intergovernmental agreement between the Districts and the Town as required by Town Code substantially in the form attached hereto as **Exhibit F**.

III. BOUNDARIES

A. Boundary Descriptions and Maps.

The area of the Districts Boundaries includes approximately five hundred fifty-eight and five hundred forty one one-thousandths (558.541) acres. A legal description of the District Boundaries for each District is attached hereto as **Exhibit A**. A vicinity map is attached hereto as **Exhibit B**. A map of the Districts Boundaries is attached hereto as **Exhibit C**. It is anticipated that the Districts' internal boundaries may change from time to time as they undergo inclusions and exclusions pursuant to Section 32-1-401, *et seq.*, C.R.S., and Section 32-1-501, *et seq.*, C.R.S., subject to the limitations set forth below.

B. Changes in Boundaries.

Each District shall be entitled to change its boundaries through inclusion and exclusion of property as its Board may determine is in the best interests of such District without the Town's consent and its property owners, subject to the following limitations:

1. No property may subject to the mill levy of more than one District.
2. No property may be included into the boundaries of any District unless the property is within the corporate limits of the Town.
3. All District boundary changes must be made in compliance with the Special District Act.
4. The Inclusion Area Boundaries may not be expanded without prior approval of the Town.

Any inclusion or exclusion, which does not comply with the provisions of this Article III shall be subject to administrative review by the Town Manager, who will determine whether such boundary change constitutes a material modification of the Service Plan.

IV. PROPOSED LAND USE/POPULATION PROJECTIONS/ASSESSED VALUATION

The Districts' Service Area consists of approximately 558.541 acres of residential, commercial and light industrial land. The current assessed valuation of the Service Area is assumed to be approximately zero dollars (\$0.00) for purposes of this Service Plan and, at build out, is expected to be sufficient to reasonably discharge the Debt under the proposed Financial Plan. The Operating District will contain neither residential nor commercial/industrial

development. The Development is currently estimated to contain 1,569 residential units, 285,754 square feet of commercial space, and 364,815 square feet of industrial space. These residential and non-residential projections are initial estimates only and actual build out and development will coincide with the final Approved Development Plans submitted to and approved by the Town. The population of the Districts at build-out is currently estimated to be approximately 4,707 persons, based on an approximation of 3.0 persons per residential unit.

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

V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES

A. General Powers of the Districts.

The Districts shall have the power and authority to provide the Public Improvements and related operation and maintenance services within and without the boundaries of the Districts as such power and authority is described in the Special District Act, other applicable statutes, common law and the Constitution of the State of Colorado, and may include, but not be limited to, streets, traffic and safety controls, drainage, sanitation, water, parks and recreation, transportation, mosquito and pest control, television relay and translation, security services and covenant enforcement, subject to the limitations set forth herein. The Operating District may also use one or more enterprises and/or authorities, as provided by state statute, to support the planning, design, acquisition, construction, installation, financing, operation and maintenance of the Public Improvements.

1. **Operations and Maintenance Limitation.** The primary purpose of the Districts is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. All Public Improvements will be constructed in accordance with Town Codes, regulations, and requirements and/or other applicable public entity rules, regulations and requirements. Once the construction of the Public Improvements are completed, it is the intent of the Districts or the Developer and builders on behalf of the Districts to dedicate those Public Improvements to the Town or other appropriate jurisdiction or owners association in a manner consistent with the Approved Development Plans of the Town.

a. **Public Improvements to be Dedicated to the Town.** The Districts shall be permitted to construct, install, acquire, finance and fund all of the Public Improvements need in the Districts. Upon completion of the Public Improvements the Districts shall dedicate to the Town all street, traffic, safety protection, certain drainage improvements, storm water facilities, parks, regional trails and mosquito control improvements.

b. **Public Improvements to be dedicated to Others.** The Districts shall convey all sanitary sewer improvements to South Fort Collins Sanitation District for ownership, operation and maintenance. The Districts shall convey to Fort Collins – Loveland Water District all potable water facilities for ownership, operation and maintenance. The Districts may convey

security and covenant enforcement improvements to a homeowners association or other governmental entity according to the applicable procedures for that specific entity if the Districts are unable or unwilling to provide those services.

c. Public Improvements that may be Owned, Operated, and Maintained by the Operating District. The Operating District may own, operate, and maintain the following:

1. Greenbelts, open spaces, common areas, and certain pocket parks as depicted on the final plat;
2. Landscaped medians, monuments, entry features, fencing, identification markers, landscape buffers, setbacks, irrigated and non irrigated turf and native grasses, subdivision identification markers, trees and other landscape features and streetscape design;
3. District Pools, clubhouse, recreation center, meeting rooms, civic centers and other related recreational facilities,
4. Ponds, lakes, water features, trails, paths and walkways not otherwise dedicated to the Town;
5. Non-potable water facilities, including detention ponds and drainage facilities servicing the Districts' open spaces;
6. Covenant enforcement and security services and any related facilities not otherwise provided by a homeowners association or other governmental entity; and

Any such operations and maintenance of the Districts shall be funded through the imposition of a mill levy or by appropriate user fees imposed by the Districts. The Districts shall be authorized, but not obligated to, operate and maintain park and recreation improvements, including the District Pools, clubhouse and recreation facilities without an intergovernmental agreement with the Town, provided that any Fee imposed by the Districts for access to such park and recreation improvements shall not result in Non-District Timnath residents paying a user fee that is greater than, or otherwise disproportionate to, similar fees and taxes paid by residents of the Districts. However, the Districts shall be entitled to impose an administrative Fee as necessary to cover additional expenses associated with Non-District Timnath residents to ensure that such costs are not the responsibility of Districts residents. All such Fees shall be based upon the Districts' determination that such Fees do not exceed reasonable annual market fees for users of such facilities. Notwithstanding the foregoing, all parks and trails shall be open to the general public and Non-District Timnath residents free of charge.

2. Construction Standards Limitation. The Districts will ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the Town and of other governmental entities having proper jurisdiction and of

those special districts that qualify as “interested parties” under Section 32-1-204(1), C.R.S., as applicable. The Districts 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.

3. District Swimming Pool Operations Limitations. The Districts, individually or collectively, may undertake the financing, construction, acquisition, installation, ownership, operation and maintenance of a District Pool. Any District Pool shall be constructed in accordance with plans submitted to and approved by the Town. The Districts may not cease or abandon the operation of, and may not change the use of the swimming pool as a District Pool, without prior consent of the Town, which consent shall not be unreasonably withheld, delayed or denied. The Districts Pool shall be operated and maintained in a manner similar to similar size and types of swimming pools operated by metropolitan districts in other communities. The Districts Pool shall be subject to Town regulatory authority as permitted by state law. The Town shall provide written notice of any default in the operation and maintenance of the District Pool. If any such default continues for more than thirty (30) days after receipt of a written notice from the Town, the Town shall have the right to enforce by specific performance the maintenance of the District Pool. Should the default continue after notice, opportunity to cure and refusal to cure the default, the Town shall have the right to operate and maintain the Districts Pool and collect and use any District Pool fees unless and until the Districts demonstrate a willingness and ability to operate the District Pool in accordance with applicable standards. Any maintenance and operations costs incurred by the Town to perform these functions, after written notice of default and failure of the Districts to cure the default, shall be reimbursed by the Districts.

4. Current Town Residential Property Owners’ Access to Park and Recreation Facilities and Improvements. All open space tracts, trails, and park improvements shall be open and available to the general public and Town citizens free of charge. It is acknowledged that the Town intends to explore the possibility of constructing a Town pool. Until such Town pool is constructed, the Districts shall allow Town residents who currently reside within property owner addresses as of November 1, 2005 as described in **Exhibit H**, and their families who may reside at the address, including any family member added through birth, marriage, adoption or a parents marriage thereafter, access to any District constructed pool at reduced rates as defined in the Intergovernmental Agreement with the Town on the same terms as if they owned homes within the Districts. A list defining the current residential property owner addresses which shall be provided this access is attached hereto as **Exhibit H**. Future residents of the addresses in **Exhibit H**, other than those defined above, who purchase or rent in these addresses after May 31, 2006, will not be entitled to this provision. Once a Town pool is constructed, the access and reduced rate as required by the Town for Town residential property owners as defined in **Exhibit H** shall be rescinded.

5. Town Access and Maintenance Easement to Greenbelts, Open Space, Ponds and Drainage Improvements. The Districts will grant a perpetual, non-exclusive access easement to the Town for non-motorized pedestrian access to the Districts greenbelts and open space improvements as defined on the final plat approved by the Town. The Districts shall maintain greenbelts, open space, ponds and drainage improvements in accordance with the plans

approved by the Town and subject to Town regulatory authority as provided by state law. The Districts shall grant an easement to the Town for purposes of routine inspections of pond and drainage improvements. The Districts shall also grant the Town emergency access for maintenance purposes to the pond and drainage improvements when necessary to preserve the health, safety and welfare of the Districts' property owners and residents, and guests. The Town shall provide written notice of any default in the maintenance of District owned, operated and maintained Public Improvements in accordance with the approved plans, which if continued for more than thirty (30) days after receipt of a written notice of default from the Town to the Districts, the Town shall have access for purposes of maintenance of these improvements by the Town. Any maintenance performed by the Town, after written notice of default and failure of the Districts to cure within thirty (30) days of receipt, shall be reimbursed by the Districts.

6. Initial Debt Limitation. On or before the effective date of approval by the Town of an Approved Development Plan, the Districts shall not: (a) issue any Debt; nor (b) impose a mill levy for the payment of Debt by direct imposition or by transfer of funds from the operating fund to the Debt service funds; nor (c) impose and collect any fees used for the purpose of repayment of Debt.

7. Total Debt Issuance Limitation. The Districts shall not issue Debt in excess of Twenty-Five Million Dollars (\$25,000,000) without approval of the Town. The obligations of the Districts in any intergovernmental agreement (including the Master IGA) concerning the funding and/or operations of the Districts' Public Improvements and services, for which voter approval will be obtained to the extent required by law, will not count against the Total Debt Issuance Limitation, nor shall any revenue obligations payable from rates, fees, tolls and charges issued by the Districts. Increases necessary to accomplish a refunding, reissuance or restructuring of Debt shall also not count against the Total Debt Issuance Limitation.

8. Consolidation Limitation. District No. 1 shall not file a request with any Court to consolidate with another Title 32 district without the prior written consent of the Town, unless such consolidation is with District No. 2, District No. 3 or District No. 4.

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

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

(b) are, together with all other requirements of Colorado law, included in the "political or governmental powers" reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the "regulatory or electoral approval necessary under applicable nonbankruptcy law" as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Debt Mill Levy shall be deemed a material modification of this Service Plan

pursuant to Section 32-1-207, C.R.S. and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the Town as part of a Service Plan Amendment.

10. Service Plan Amendment Requirement. This Service Plan is general in nature and does not include specific detail in some instances because development plans have not been finalized. This Service Plan has been designed with sufficient flexibility to enable the Districts to provide required services and facilities under evolving circumstances without the need for numerous amendments. Modification of the general types of services and facilities making up the Public Improvements, and changes in proposed configurations, locations or dimensions of the Public Improvements shall be permitted to accommodate development needs consistent with the then-current final Approved Development Plan(s) for the Project. The Districts are independent units of local government, separate and distinct from the Town, and their activities are subject to review by the Town only insofar as they may deviate in a material manner from the requirements of this Service Plan. Any material change in the Service Plan will be submitted to the Town, and if the Town determines that such change constitutes a “material modification” of this Service Plan pursuant to Section 32-1-207, C.R.S., it shall be subject to approval by the Town in accordance with the provisions of the Act. Any material change to the final approved plat for any phase of the Project requiring non-administrative approval of the Town Board that also results in changes to the Public Improvements to a level that the Town determines to be a “material modification” to the Service Plan pursuant to Section 32-1-207, C.R.S., shall be subject to approval by the Town or Service Plan amendment in accordance with the Act. For those actions of the Districts, which violate the limitations set forth herein and which the Town deems to be a material modification to this Service Plan, the Town shall be entitled to all remedies available under State and local law to enjoin such action(s).

B. Enterprise

District No. 1 may establish one or more enterprises to manage, fund, and operate such facilities, services, and programs as may qualify for enterprise status using the procedures and criteria provided by Article X, Section 20, Colorado State Constitution, and other applicable statutory provisions. To the extent permitted by law, any enterprise created by the District will remain under the control of the Board.

C. Preliminary Engineering Survey/Capital Plan.

The Districts shall have authority to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, operation, maintenance and financing of the Public Improvements and facilities needed to serve the Project either directly or by contract or acquisition from the Developer or other public or private entities, within and without the boundaries of the Districts, to be more specifically defined in an Approved Development Plan. It is anticipated that the Districts will acquire the completed improvements from the Developer, and/or complete the construction of such improvements, and may then transfer certain improvements to the Town, as long as such improvements are constructed and accepted in accordance with Town regulations, the Fort Collins – Loveland Water District, for ownership, operation and maintenance of water systems in accordance with Town regulations and the Fort Collins – Loveland Water District regulations, the South Fort Collins Sanitation District, for

ownership, operation and maintenance of sanitary sewer systems in accordance with South Fort Collins Sanitation District regulations, as applicable, while retaining, operating and maintaining all other public improvements not otherwise dedicated to other public agencies. If appropriate, the Districts may contract with other public and/or private entities to complete the Public Improvements and to affect such functions and activities, including without limitation funding, acquisition and reimbursement agreements with the Developer or other developers and builders.

A Capital Plan, including initial estimated costs of the Public Improvements which may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, operated, maintained or financed was prepared based upon a preliminary engineering survey and estimates derived from what is anticipated to be the approved development on the property in the Service Area and is attached hereto as **Exhibit D**. It is important to note that the engineering information used to determine costs, pricing, and phasing of improvements referenced in the Service Plan is preliminary in nature and that modifications to the type, configuration, quantity, dimension, location and costs of Public Improvements may be necessary as development proceeds. Notwithstanding the cost estimate allocations set forth in **Exhibit D**, the Districts shall be permitted to reallocate costs between categories of improvements as they deem necessary in their discretion, acting in the best interests of their respective residents, property owners and taxpayers. The combined total estimated cost of Public Improvements which the Districts currently estimate will be constructed is anticipated to be approximately Thirty Six Million, Three Hundred Thirty-Eight Thousand, Three Hundred Forty-Five Dollars (\$36,338,345), inclusive of contingencies. The Districts may finance all or a portion of such improvements.

All of the Public Improvements will be designed in such a way as to assure that the Public Improvements standards will be compatible with those of the Town or any other entity that is intended to have ownership and/or operation and maintenance responsibility for the Public Improvements and shall be in accordance with the requirements of the final Approved Development Plan. All Public Improvements to be constructed, and their related costs, are estimates only and are subject to modification as engineering, development plans, economics, the Town's requirements, and construction scheduling may require. All cost estimates will be inflated to then-current dollars at the time of issuance of Debt and construction. All construction cost estimates are based on the assumption that construction conforms to applicable local, State or Federal requirements.

D. Facilities and/or Services to be provided by Other Entities.

The Districts propose to construct or acquire the Public Improvements necessary to serve the Districts' residents and taxpayers, but do not intend to provide ongoing water or sanitary sewer services, unless approved or directed by the Town. It is intended that Fort Collins – Loveland Water District shall provide the water service in conjunction with the Town. The South Fort Collins Sanitation District shall provide sanitary sewer service, and Timnath shall provide law enforcement services and other municipal services, as appropriate. Appropriate agreements regarding provision of service by these entities have been or will be obtained prior to obtaining service including any necessary inclusion in the respective districts of the property within the Districts, with the exception of any portion of the Districts that is already included in another district providing the same type of service. Nothing herein shall limit or discharge the Districts' responsibilities for operation, maintenance, and repair of Public Improvements prior to

