

**TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 11, SERIES 2019**

**A RESOLUTION APPROVING THE AMENDED AND RESTATED SERVICE PLAN
FOR SOUTH TIMNATH METROPOLITAN DISTRICT NO. 2 AND AUTHORIZING
THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE
TOWN OF TIMNATH AND THE DISTRICT**

WHEREAS, the Town Council of the Town of Timnath (“Town”) pursuant to C.R.S. § 31-15-103, has the power to pass resolutions; and

WHEREAS, pursuant to Section 32-1-204.5, C.R.S., as amended, and the Timnath Special District Policy, an Amended and Restated Service Plan (the "Service Plan") for South Timnath Metropolitan District No. 2 (the "District") has been submitted to the Town Council; and

WHEREAS, pursuant to the provisions of Article 1, Title 32, Colorado Revised Statutes, as amended (the “Special District Act”), and the Timnath Special District Policy, the Town Council held a public hearing on the Service Plan for the District; and

WHEREAS, notice of the hearing before the Town Council was duly published in the *Coloradoan*, a newspaper of general circulation within the Town, on January 17, 2019, as required by law, and forwarded to the petitioners, others entitled to postcard or letter notice, the Division of Local Government, and the governing body of each municipality and title 32 district that has levied an ad valorem tax within the next preceding tax year and that has boundaries within a radius of three miles of the Districts on January 16, 2019; and

WHEREAS, the Town Council has considered the Service Plan and all other testimony and evidence presented at the hearing; and

WHEREAS, the Town Council finds that the Service Plan should be approved unconditionally, as permitted by Sections 32-1-203(2) and 32-1-204.5(1)(a), C.R.S., as amended, and the Timnath Special District Policy; and

WHEREAS, the Town Council further finds that it is in the best interests of the residents of the Town to enter into an Intergovernmental Agreement (the "IGA") with the District for the purpose of assigning the relative rights and responsibilities between the Town and the District with respect to certain functions, operations, and obligations of the District.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, COLORADO AS FOLLOWS:

Section 1.

The Town Council hereby determines that all of the requirements of the Special District Act and the Timnath Special District Policy relating to the filing of the Service Plan for the District have been fulfilled and that notice of the public hearing was given in the time and manner required by

law.

Section 2.

The Town Council further determines that all pertinent facts, matters and issues were submitted at the public hearing; that all interested parties were heard or had the opportunity to be heard and that evidence satisfactory to the Town Council of each of the following was presented:

- a. There is sufficient existing and projected need for organized service in the area to be serviced by the District;
- b. The existing service in the area to be served by the District is inadequate for present and projected needs;
- c. The District are capable of providing economical and sufficient service to the area within their proposed boundaries;
- d. The area to be included in the District has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis;

Section 3.

The Town Council hereby approves the Service Plan for the District as submitted.

Section 4.

The Mayor and the Town Clerk are hereby authorized to execute, on behalf of the Town, the IGA in substantially the form presented in the Service Plan, with such technical additions, deletions, and variations as the Town Attorney may deem necessary or appropriate and not inconsistent with this Resolution.

Section 5.

The District shall not be authorized to incur any additional bonded indebtedness until such time as the District has approved and executed the IGA.

Section 6.

This Resolution shall be filed in the records of the Town and a certified copy thereof submitted to the petitioners for the District.


Section 7.

All prior resolutions or any parts thereof, to the extent that they are inconsistent with this Resolution, are hereby rescinded.

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, ON FEBRUARY 12, 2019.

TOWN OF TIMNATH, COLORADO





Jill Grossman-Belisle, Mayor

ATTEST:

Milissa Peters-Garcia

Milissa Peters-Garcia, CMC
Town Clerk

EXHIBIT A
SERVICE PLAN

AMENDED AND RESTATED SERVICE PLAN

FOR

SOUTH TIMNATH METROPOLITAN DISTRICT NO. 2

TOWN OF TIMNATH, COLORADO

Prepared by:
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Denver, CO 80203

Submitted January 8, 2019
Revised and Resubmitted February 3, 2019

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I. INTRODUCTION

A. Purpose and Intent.

This Amended and Restated Service Plan (the "Service Plan") is submitted pursuant to the Special District Control Act (the "Act") (Section 32-1-101, *et seq.*, of the Colorado Revised Statutes). This Service Plan amends, restates and supersedes the Amended and Restated Consolidated Service Plan for the South Timnath Metropolitan Districts Nos. 1 & 2 dated July 19, 2007, and approved by the Town Council (the "Prior Service Plan") with respect to South Timnath Metropolitan District No. 2 only (the "District" or "District No. 2"). A separate Amended and Restated Service Plan is being submitted relating to District No. 1 only. (The District and South Timnath Metropolitan District No. 1 are collectively referred to herein as the "Districts".)

This Service Plan is submitted in connection with the submittal of an Amended and Restated Service Plan for District No. 1 which will result in approximately 110.770 acres of undeveloped and unoccupied residential property presently within the boundaries of the District also being included into District No. 1 and subject to ad valorem property taxes of both the District and District No. 1 (which, in the case of District No. 1, will be limited to 15.0 mills, subject to adjustment). This Service Plan is submitted to (i) adopt (with respect to District No. 2 only) provisions of the Town of Timnath's Model Service Plan and Town Code regarding metropolitan districts (excluding, specifically, the requirements with respect to a regional improvements mill levy), and to provide for District No. 2 to be subject to a separate Service Plan, (ii) place additional restrictions on the ad valorem property taxes that may be imposed by the District (including to limit the total combined mill levy of the District to 35.0 mills, subject to adjustment), to ensure that the total mill levy imposed on property within both of the Districts does not exceed 50.0 mills (subject to adjustment), consistent with the authority provided by the Model Service Plan and Town Code provisions regarding metropolitan districts, and (iii) allow for the District to pledge its ad valorem property taxes (not in excess of 35.0 mills, subject to adjustment) to the payment of Debt issued by District No. 1 in excess of the Debt limitation of the Prior Service Plan, provided that no further Debt (excluding refundings) may be authorized by the District upon the execution of such pledge, as more particularly described herein. This Service Plan also implements the policy of the Model Service Plan of the Town with respect to a Maximum Debt Service Mill Levy Imposition Term.

The above-described undeveloped and unoccupied residential property presently within the boundaries of the District which is located wholly within the Town of Timnath, Colorado (the "Town" or "Timnath"), is being included into District No. 1 and modifications to the Prior Service Plan are being made for the purposes of facilitating the financing or reimbursement of the remaining infrastructure needed for the undeveloped portion of District No. 2 (expected to consist of approximately 542 additional lots) within the Districts' Service Area generally located east of Interstate 25 and Larimer County Road 3, South of Larimer County Road 36, and West of County Line Road and the Timnath Reservoir Outlet Canal.

The Prior Service Plan was drafted in 2006 and amended in 2007, included a Maximum Debt Mill Levy limitation of 35.0 mills and a combined maximum mill levy (for the payment of Debt and operations and maintenance expenses) of 50.0 mills, and assumed only 758

residential units would be constructed within the Districts. There is presently constructed within the Districts (all presently within the boundaries of the District) approximately 700 residential units, and the current development plans estimate a total of 1,194 residential units. This additional development, which was not anticipated at the time of submittal of the Prior Service Plan, requires infrastructure improvements in excess of that which can be financed within the parameters of the Prior Service Plan's debt limitation of Twenty Million Dollars (\$20,000,000) and the Prior Service Plan's Maximum Debt Mill Levy limitation of 35.0 mills.

The District has previously issued Debt, of which there is presently outstanding the District's Limited Tax General Obligation Refunding and Improvement Bonds, Series 2016, outstanding in the aggregate principal amount of \$15,145,000, payable from a debt service mill levy of the District not to exceed 35.0 mills (subject to Gallagher adjustment), and having a stated maturity date of December 1, 2050. The expansion of District No. 1 to include and overlap the approximately 110.770 acres of undeveloped and unoccupied residential property within the District is intended to facilitate the issuance by District No. 1 of Debt payable from an additional 15.0 mills imposed only on such undeveloped property, together with any revenues available from the District's 35.0 debt service mill levy (imposed on the entirety of property within the Districts).

The expansion of District No. 1 to include and overlap the approximately 110.770 acres of undeveloped and unoccupied residential property within the District, will not increase the fees or mill levy for current residents of the District beyond the current maximum mill levy of 35 mills (adjusted from 2007 for Gallagher Amendments to 38.694 mills). In order to ensure that the future residents of the undeveloped property to be included in District No. 1 will not be subjected to an overlapping metro district mill levy in excess of the aggregate mill levy cap in the Town's Model Service Plan, District No. 1's Maximum Debt Mill Levy and total combined mill levy is being reduced to 15.0 mills (subject to Gallagher adjustment). As a result, the undeveloped property (planned for the approximately 542 additional lots) that is included into both Districts will be subject to an overlapping maximum mill levy of 50 mills (subject to Gallagher adjustment), consistent with the Model Service Plan of the Town.

This Service Plan will allow the District to provide for the construction and financing of the necessary public improvements and infrastructure needed for the undeveloped areas south of the finished lots within District No. 2.

(i) Enabling Authority. It is the intention of the Town that this Service Plan grants authority to the District to construct some or all of the Public Improvements authorized herein. If the District elects not to provide certain of the Public Improvements, which may be provided in accordance with an Approved Development Plan or other agreement with the Town, the District shall notify the Town in writing of such election whereupon the Town shall have 30 days to provide a letter to the District advising the District of the obligation to seek a formal amendment to this Service Plan, or, in the alternative, advising that such election does not constitute a material modification hereof. If the Town determines that such election does not constitute a material modification hereof, the District shall submit a written modification of this Service Plan to the Town for administrative approval as a non-material modification whereupon the authority of the District to provide such Public Improvements shall be deemed stricken from this Service Plan. In all events, the Town and the District acknowledge that the District is an

independent unit 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, its activities are subject to review by the Town only insofar as they may deviate in a material manner from the requirements of the Service Plan.

(ii) General Purpose. It is intended that the District will provide a part or all of the Public Improvements for the use and benefit of all anticipated inhabitants and taxpayers of the District. The primary purpose of the District will be to finance the construction of these Public Improvements and not to provide long term operations and maintenance of Public Improvements except as specifically authorized herein or in an intergovernmental agreement with the Town.

B. Need for the District.

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

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

The Town's objective in approving the Service Plan for the District is to authorize the District to provide for the planning, design, acquisition, construction, installation, relocation and redevelopment of the Public Improvements from the proceeds of Debt to be issued by the District. All Debt is expected to be repaid by taxes imposed and collected for no longer than the Maximum Debt Mill Levy Imposition Term for residential properties, and at a maximum mill levy no higher than the Maximum Debt Mill Levy for residential properties, and/or repaid by Fees, as long as such Fees are not imposed upon or collected from Taxable Property owned or occupied by an End User for the purpose of creating a capital cost payment obligation as further described in Section V.A. 11. Debt which is issued within these parameters will insulate property owners from excessive tax and Fee burdens to support the servicing of the Debt and will result in a timely and reasonable discharge of said Debt.

This Service Plan is intended to establish a limited purpose for the District and explicit financial constraints that are not to be violated under any circumstances. The primary purpose is to provide for the Public Improvements associated with development and regional needs. Operational activities in connection with any trails and related amenities, or other Public Improvements not dedicated to another entity will be allowed subject to entering into an intergovernmental agreement with the Town.

It is the intent of the District to dissolve upon payment or defeasance of all Debt incurred or upon a court determination that adequate provision has been made for the payment of all Debt and for continuation of any operations approved in an intergovernmental agreement. The District may be allowed to continue certain limited operations and to retain those powers

necessary to impose and collect taxes or fees to pay for costs and functions if permitted by intergovernmental agreement with the Town.

The District shall be authorized to finance the Public Improvements that can be funded from Debt to be repaid from Fees or from tax revenues collected from a mill levy which shall not exceed the Maximum Debt Mill Levy and which shall not exceed the Maximum Debt Mill Levy Imposition Term. It is the intent of this Service Plan to assure to the extent possible that no property bear an economic burden associated with financing such improvements that is greater than that associated with the Maximum Debt Mill Levy in amount, and that no property bear an economic burden associated with such improvements that is greater than that associated with the Maximum Debt Mill Levy Imposition Term in duration even under bankruptcy or other unusual situations. Generally, the cost of Public Improvements that cannot be funded within these parameters are not costs to be paid by the District.

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 Subdivision Improvement Agreement or other process established by the Town for identifying, among other things, Public Improvements necessary for facilitating development for property within the Service Area 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 each District.

Bond, Bonds or Debt: means bonds or other obligations for the payment of which a District has promised to impose an *ad valorem* property tax mill levy, and/or collect Fee revenue.

Covenant Enforcement and Design Review Services: means those services authorized under Section 32-1-1004(8), C.R.S.

District: means South Timnath Metropolitan District No. 2.

District No. 1: means South Timnath Metropolitan District No. 1.

Districts: means South Timnath Metropolitan District No. 1 and No. 2, collectively.

District No. 1 2019 Bonds: means the Limited Tax General Obligation Bonds, Series 2019 proposed to be issued by District No. 1 and payable from ad valorem property taxes of District No. 1 and the District, and any debt issued by District No. 1 to refund the same, subject to the following limitations: (i) the principal amount thereof does not exceed Twenty Million Dollars (\$20,000,000) (excluding refinancings and refundings); and (ii) the stated maturity date thereof is not later than December 31, 2048.

End User: means any owner, or tenant of any owner, of any taxable improvement within the District who is intended to become burdened by the imposition of ad valorem property taxes subject to the Maximum Aggregate Mill Levy. By way of illustration, a resident homeowner, renter, commercial property owner, or commercial tenant is an End User. The business entity that constructs homes or commercial structures is not an End User.

External Financial Advisor: means a consultant approved by the Town that: (i) advises Colorado governmental entities on matters relating to the issuance of securities by Colorado governmental entities, including matters such as the pricing, sales and marketing of such securities and the procuring of bond ratings, credit enhancement and insurance in respect of such securities; (ii) shall be an underwriter, investment banker, or individual listed as a public finance advisor in the Bond Buyer's Municipal Market Place; and (iii) is not an officer or employee of the District and has not been otherwise engaged to provide services in connection with the transaction related to the applicable Debt.

Fee(s): means any fee imposed by the District for services, programs or facilities provided by the District, as described in Section V.A.11. below.

Financial Plan: means the Financial Plan described in Section VI, which describes (i) how the Public Improvements are to be financed; (ii) how the Debt is expected to be incurred; and (iii) the estimated operating revenue derived from property taxes. In addition to the information in Section VI the Town may require additional financial forecasts and feasibility reports to support the Financial Plan.

Gallagher Adjustment: means if, on or after January 1, 2006, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement, the Maximum Aggregate Mill Levy may be increased or decreased to reflect such changes, such increases and decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the applicable mill levy, as adjusted for changes occurring after January 1, 2006, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

Inclusion Area Boundaries: means the boundaries of the area described in the Inclusion Area Boundary Map which depicts only property contained within the Project as outlined in the Approved Development Plan.

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

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

Master IGA: means the Master Intergovernmental Agreement by and among the Districts.

Maximum Aggregate Mill Levy: means the maximum mill levy the District is permitted to impose for payment of Debt, capital improvements administration, operations, and maintenance expenses as set forth in Section VI.C. below.

Maximum Debt Mill Levy: means the maximum mill levy the District is permitted to impose for payment of Debt.

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

Minimum Criteria: means that (1) the Debt is subject to the Maximum Debt Mill Levy, as adjusted; (2) together with other outstanding Debt, the Debt is not excess of the maximum Debt authorization, as may be amended from time to time; (3) together with other outstanding Debt, the Debt is not in excess of the Debt authority approved by the District's electorate; (4) the maximum voted interest rate and maximum underwriting discount have not been exceeded; and the Maximum Aggregate Mill Levy and Maximum Debt Mill Levy Imposition Term set forth in the Service Plan have not been exceeded.

Project: means the development or property commonly referred to as South Timnath and the property within South Timnath Metropolitan District No. 2.

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

Service Area: means the property within the Initial District Boundary Map and the property within South Timnath Metropolitan District No. 2.

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

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

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

State: means the State of Colorado.

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

Total Debt Issuance Limitation: means the aggregate principal amount of Debt the District may issue, which amount shall be Twenty Million Dollars (\$20,000,000), unless otherwise approved by the Town, exclusive of obligations so specified in the Service Plan as amended.

Town: means the Town of Timnath, Colorado.

Town Code: means the Town Code of the Town of Timnath, Colorado.

Town Council: means the Town Council of the Town of Timnath, Colorado.

2019 Pledge Agreement: means any agreement entered among the District, District No. 1 and any trustee for Debt issued by District No. 1 (if applicable) requiring the District to impose ad valorem property taxes for the payment of District No. 1 2019 Bonds; provided that in no event shall the District be obligated to impose ad valorem property taxes thereunder after tax levy year 2057 (for collection in 2058). The term “2019 Pledge Agreement” shall not include any obligation of the District requiring the imposition of property taxes for any obligation of the District or District No. 1 other than the District No. 1 2019 Bonds, as defined herein.

III. BOUNDARIES

The area of the Initial District Boundaries includes approximately Three Hundred Sixty Two (362) acres within the District. A legal description of the Initial District Boundaries and the Inclusion Area Boundaries is attached hereto as **Exhibit A**. A vicinity map is attached hereto as **Exhibit B**. A map of the Initial District Boundaries is attached hereto as **Exhibit C-1**. It is anticipated that the District’s boundaries may change from time to time as it undergoes inclusions and exclusions pursuant to Section 32-1-401, et seq., C.R.S., and Section 32-1-501, et seq., C.R.S., subject to the limitations set forth in Section V below.

IV. PROPOSED LAND USE/POPULATION PROJECTIONS/ASSESSED VALUATION

The Service Area consists of approximately Three Hundred Sixty-Two (362) acres of primarily residential land (inclusive of rights of way and easements). The current assessed valuation of the Service Area is \$21,524,333 based upon assessed valuation reports of Larimer County, for purposes of this Service Plan and, at build out, is expected to be sufficient to reasonably discharge the Debt under the Financial Plan. The population of the District at build-out is estimated to be approximately Two Thousand Three Hundred Eighty-Eight (2,388) people.

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

V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES

A. Powers of the District and Service Plan Amendment.

The District shall have the power and authority to provide the Public Improvements and limited operation and maintenance services within and, if pursuant to an Approved Development Plan, without the boundaries of the District as such power and authority

is described in the Special District Act, and other applicable statutes, common law and the Constitution, subject to the limitations set forth herein, and subject to compliance with § 32-1-107(3)(b)(IV), C.R.S.

If after the Service Plan is approved, the State Legislature includes additional powers or grants new or broader powers for Title 32 districts by amendment of the Special District Act, to the extent permitted by law any or all such powers shall be deemed to be a part hereof and available to be exercised by the District upon execution of a written agreement with the Town Council concerning the exercise of such powers, in the sole discretion of the Town Council. Execution and performance of such agreement by the District shall not constitute a material modification of the Service Plan by the District.

1. Operations and Maintenance Limitation.

The purpose of the District is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. The District shall dedicate the Public Improvements to the Town or other appropriate jurisdiction in a manner consistent with the Approved Development Plan and other rules and regulations of the Town and applicable provisions of the Town Code. District No. 1 owns and operates the District Pool, clubhouse and recreation improvements shared between the South Timnath and Southwest Timnath communities. District No. 1 in conjunction with the District shall also operate and maintain all trails and related amenities within the Districts and the Inclusion Area Boundary pursuant to an intergovernmental agreement with the Town and pursuant to an Intergovernmental Agreement between the Districts, which shall be executed at the first meeting of the District after approval of this Service Plan. Operational activities for other Public Improvements not dedicated to another entity are allowed subject to entering into an intergovernmental agreement with the Town allowing the Town to set minimum standards for maintenance. All parks and trails shall be open to the general public, including Town residents who do not reside in the District, free of charge. Any Fee imposed by the District for access to recreation improvements owned by the District, other than parks and trails, shall not result in Town residents who reside outside the District paying a user fee that is greater than, or otherwise disproportionate to, similar fees and taxes paid by residents of the District. Additionally, the District shall be entitled to impose an administrative Fee as necessary to cover additional expenses associated with use of District recreational improvements, other than parks and trails, by Town residents who do not reside in the District to ensure that such costs are not the responsibility of District residents. All such Fees shall be based upon the District's determination that such Fees do not exceed a reasonable annual market fee for users of such facilities. All operations and maintenance Fee increases shall be subject to the review and approval by the Town.

2. Fire Protection Limitation.

The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain fire protection facilities or services, unless such facilities and services are provided pursuant to an intergovernmental agreement with the Town. The authority to plan for, design, acquire, construct, install, relocate, redevelop or finance fire hydrants and related improvements installed as part of the water system shall not be limited by this provision.

3. Television Relay and Translation Limitation.

The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain television relay and translation facilities and services, other than for the installation of conduit as a part of a street construction project, unless such facilities and services are provided pursuant to an intergovernmental agreement with the Town.

4. Construction Standards Limitation.

The District 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. The District 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.

5. Financial Advisor Certification.

Prior to the issuance of any privately placed Debt, the District shall obtain the certification of an External Financial Advisor approved by the Town, in form substantially as follows:

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

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

The District's shall submit notice to the Town Manager of the proposed External Financial Advisor which shall either be approved or objected to within ten (10) days of the selection of an External Financial Advisor. If the Town Manager does not object to such selection within the ten (10) day period, the Town Manager's approval shall be deemed to have been given.

6. Inclusion Limitation.

The District shall not include within its boundaries any property outside the Inclusion Area Boundaries. The District shall not include within any of its boundaries any property inside the Inclusion Area Boundaries without advance notice to the Town. No property will be included within the District at any time unless such property has been annexed into the Town's corporate limits.

7. Exclusion Limitation.

The District shall not exclude from its boundaries any property within the Service Area Boundaries which would result in the property not being within the boundaries of one of the Districts without the prior written consent of the Town. The District shall follow the procedure for exclusion of property as provided in Section 32-1-502, C.R.S.

8. Overlap Limitation.

The initial boundaries of the District contain approximately 362 acres of land within the Timnath South Subdivision, as amended. 110.77 acres of undeveloped and unoccupied residential property presently within the boundaries of the District will also be included into District No. 1 and, accordingly, the boundaries of the Districts will overlap with respect to such 110.77 acres. The combined mill levies for the overlapping Districts will not at any time exceed fifty (50) mills (subject to adjustment as provided herein). Additionally, the District shall not consent to the organization of any other district organized under the Special District Act within the Service Area which will overlap the boundaries of the Districts unless the combined mill levies for the districts will not at any time exceed fifty (50) mills (subject to adjustment as provided herein).

9. Initial Debt and Operations Limitations.

On or before the effective date of approval by the Town of an Approved Development Plan, the District 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. This requirement may be waived by administrative action of the Town.

10. Total Debt Issuance Limitation.

The District shall not issue Debt in excess of Twenty Million Dollars (\$20,000,000), exclusive of refinancings and refundings, without approval of the Town. Obligations of the District under the Master IGA and the 2019 Pledge Agreement will not count against the Total Debt Issuance Limitation, due to the nature of the obligations and the inability to predict in advance the actual amounts to be payable by the District thereunder; provided, however, that, upon execution and delivery by the District of the 2019 Pledge Agreement, such obligation shall be deemed to consume all remaining Debt authority available hereunder and the issuance of any additional Debt by the District (excluding refinancings and refundings) shall require an amendment hereto. Nothing herein shall limit the amount of Debt that may be issued by District No. 1.

11. Fee Limitation.

The District may impose and collect Fees as a source of revenue for repayment of debt, capital costs, and/or for operations and maintenance. There is already in existence a District Service Fee which includes the District Pool Fee and Out-of-District Pool Fee, which District Service Fee the District will be permitted to continue to impose in an amount not to exceed \$100

per month per residence for operating the District pool, clubhouse and recreation center, and related facilities. The District and District No. 1 shall impose consistent District Fees between the District and District No. 1 for residential property within either of the Districts, so there is not a disparate assessment of fees by either district for the same services, facilities and amenities access, operations and maintenance, which all residents within South Timnath have access. The aggregate operations and maintenance fee cap for residential property in District No. 1 and District No. 2 shall be \$100/month. Any operations and maintenance Fee increases not specifically listed herein shall be subject to review and written approval by the Town, either administratively or by formal action of Town Council, at the discretion of the Town Manager. If the Town does not respond to a request for the imposition of an operations and maintenance Fee or Fee Increase within thirty (30) days of receipt of a written request, the Town shall be deemed to have waived its approval authority with respect to the requested operations and maintenance Fee or Fee Increase. Any increase without approval as set forth herein shall constitute a material departure from the Service Plan. No Fee related to the funding of costs of a capital nature shall be authorized to be imposed upon or collected from owners of Taxable Property owned or occupied by an End User which has the effect, intentional or otherwise, of creating a direct capital cost payment obligation in any year on any Taxable Property owned or occupied by an End User. Notwithstanding any of the foregoing, the restrictions in this section related to capital fees charged to End Users shall not apply to any Fee imposed upon or collected from Taxable Property for the purpose of funding operation and maintenance costs of the District.

12. 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 that the Town is eligible to apply for, except pursuant to an intergovernmental agreement with the Town. This Section shall not apply to specific ownership taxes which shall be distributed to and a revenue source for the District without any limitation.

13. Consolidation Limitation.

The District shall not file a request with any Court to consolidate with another Title 32 district without the prior written consent of the Town.

14. Bankruptcy Limitation.

All of the limitations contained in this Service Plan, including, but not limited to, those pertaining to the Maximum Operations Mill Levy, Maximum Aggregate Mill Levy, Maximum Debt Mill Levy, Maximum Debt Mill Levy Imposition Term, 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).

The filing of any bankruptcy petition by the District shall constitute, simultaneously with such filing, a material departure of the express terms of this Service Plan, and thus an express violation of the conditional approval of this Service Plan.

15. Water Rights/Resources Limitation.

The District shall not acquire, own, manage, adjudicate or develop water rights or resources except as otherwise provided pursuant to an intergovernmental agreement with the Town.

16. Extraterritorial Service/Improvements Limitation.

The District shall not provide any extraterritorial service or public improvements without Town consent, which may be obtained administratively, in writing, from the Town Manager.

17. Eminent Domain Limitation.

The District shall be authorized to utilize the power of eminent domain after entering into a written agreement with the Town.

18. Covenant Enforcement/Design Review.

The District shall provide all community functions authorized by covenants, conditions and restrictions including the Covenant Enforcement and Design Review Services for the Project, unless otherwise provided pursuant to an intergovernmental agreement with the Town. The District shall not impose assessments to fund Covenant Enforcement and Design Review Services, but the District shall be authorized to impose Fees to defray the costs of such Services. The District shall be authorized to contract among themselves to assign responsibility for Covenant Enforcement and Design Review Services.

19. Financial Review.

The Town shall be permitted to conduct periodic reviews of the financial powers of the District in the service plan at its discretion, including more frequently than the so-called “quinquennial” review contemplated by CRS Section 32-1-1101.5. Within sixty days of receipt of notice of the Town’s intent to conduct such a financial review, the District shall submit to the Town an application for a finding of reasonable due diligence setting forth the amount of the District’s authorized but unissued general obligation debt, any current or anticipated plan to issue such debt, a copy of each District’s last audit or audit exemption, and any other information required by the Town relevant to making its determination of due diligence as provided below. The Town’s procedures for conducting a financial review under this Paragraph 19, and the remedies available to the Town as a result of such financial review shall be identical to those provided for in CRS Section 32-1-1101.5(2).

B. Service Plan Amendment Requirement.

This 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. Actions of the District which violate the limitations set forth in V.A or VI.A-I. shall be deemed to be material modifications to this Service Plan and the Town shall be entitled to all remedies available under State and local law to enjoin such actions of the District, including the remedy of enjoining the issuance of additional authorized but unissued debt, until such material modification is remedied.

C. Preliminary Engineering Survey.

The District shall have authority to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, and financing of the Public Improvements within and without the boundaries of the District as set forth on **Exhibit E** to the Amended and Restated Service Plan for District No. 1, to be more specifically defined in an Approved Development Plan. An estimate of the costs of the Public Improvements which may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, or financed was prepared based upon a preliminary engineering survey and estimates derived from the zoning on the property in the Service Area and was approximately Twenty-Nine Million, Five Hundred Nineteen Thousand, One Hundred Forty-Five Dollars (\$29,519,145) for the initial 758 lots and clubhouse site (based upon 2005 estimates). An additional Thirty-Two Million, Nine Hundred Thirty-Three Thousand, Eight Hundred Fifty Dollars (\$32,933,850) is projected to be needed to complete the public improvements for the undeveloped portion of the South Timnath development and the estimated 542 additional undeveloped lots within the proposed expansion area of District No. 1 to be financed, primarily by District No. 1 through its Amended and Restated Service Plan and expanded development area.

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 appropriate entity providing a service the Town does not provide, and shall be in accordance with the requirements of the Approved Development Plan. All construction cost estimates are based on the assumption that construction conforms to applicable local, State or Federal requirements.

D. Multiple District Structure.

It is anticipated that the District, collectively with District No. 1, may undertake the financing and construction of the improvements contemplated herein. Specifically, the District shall enter into an intergovernmental agreement which shall govern the relationships between and among the Districts with respect to the financing, construction and operation of the improvements needed and constructed for the South Timnath development as contemplated herein. The District will establish a mechanism whereby any one or more of the Districts may separately or cooperatively fund, construct, install and operate the improvements.

VI. FINANCIAL PLAN

A. General.

The District shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment of the Public Improvements from its revenues and by and through the proceeds of Debt to be issued by the District. The Financial Plan for the District shall be to issue such Debt as the District can reasonably pay within the Maximum Debt Mill Levy Imposition Term from revenues derived from the Maximum Debt Mill Levy and other legally available revenues. The total Debt that the District shall be permitted to issue shall not exceed \$20,000,000 dollars (exclusive of refinancings or refundings, the Master IGA and the 2019 Pledge Agreement, subject to Section V.A.10), and shall be permitted to be issued on a schedule and in such year or years as the District determines shall meet the needs of the Financial Plan referenced above and phased to serve development as it occurs. All Bonds and other Debt issued by the District may be payable from any and all legally available revenues of the District, including general ad valorem taxes and Fees to be imposed upon all Taxable Property within the District. The District will also rely upon various other revenue sources authorized by law. These will include the power to assess Fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(1), C.R.S., as amended from time to time, subject to the limits in this Service Plan. In addition to the information in this Section VI, the Town may require additional financial forecasts and feasibility reports.

The Financial Plan is only one example of how the District may finance the Public Improvements and is not intended to establish an additional limitation but, rather is one example of a financing that could be pursued. The amount of Debt issued, the mill levy pledged, the date of issuance, the term of the bonds and the other information in the Financial Plan is intended to show one example of the District's ability to issue and repay Debt. The actual Debt issued by the District will most certainly differ from what is shown in the Financial Plan. Notwithstanding anything else herein to the contrary, all issuances of Debt shall be deemed to be in compliance with the Financial Plan and the Service Plan so long as the Minimum Criteria have been met.

B. Maximum Voted Interest Rate and Maximum Underwriting Discount.

The interest rate on any Debt is expected to be the market rate at the time the Debt is issued. All debt-related election ballot questions shall provide that in the event of a default, the proposed maximum interest rate on any Debt shall not exceed eighteen percent (18%). All debt-related election ballot questions shall provide that the proposed maximum underwriting discount for Debt will be five percent (5%). Debt, when issued, will comply with all relevant requirements of this Service Plan, State law and Federal law as then applicable to the issuance of public securities. All debt-related election ballot questions shall be drafted so as to limit each District's debt service mill levy to the Maximum Debt Mill Levy. Prior to any election to authorize the issuance of debt, each district shall cause a letter prepared by an attorney licensed in the State of Colorado to be provided to the Town opining that the requirements of this paragraph have been satisfied. Failure to observe the requirements established in this paragraph shall constitute a material modification under the Service Plan and shall entitle the Town to all remedies available at law and in equity, including the remedies provided for in Section V (19), herein. It is noted, however, that the Prior Service Plan and original election for the Districts in

2006 did not require a letter of this nature for prior Debt issuances and, accordingly the foregoing requirement shall not apply to the District's 2006 election. From the effective date of this amendment, for any new election to authorize the issuance of debt, such a letter shall be provided to the Town in compliance with the Model Service Plan.

C. Maximum Mill Levies.

1. The Maximum Debt Mill Levy shall be the maximum mill levy the District is permitted to impose upon the taxable property within such District for payment of Debt, and shall be subject to and included within the Maximum Aggregate Mill Levy.

2. The Maximum Operations and Maintenance Mill Levy shall be the maximum mill levy the District is permitted to impose upon the taxable property within the District for payment of administration, operations, maintenance, and capital costs, and shall be subject to and included within the Maximum Aggregate Mill Levy.

3. The Maximum Aggregate Mill Levy shall be the maximum combined mill levy a District is permitted to impose upon the taxable property within the District for payment of all expense categories, including but not limited to: Debt, capital costs, and administration, operations, and maintenance costs, and shall be thirty-five (35) mills, which maximum shall be subject to Gallagher Adjustment.

4. To the extent that a District is composed of or subsequently organized into one or more subdistricts as permitted under Section 32-1-1101, C.R.S., the term "District" as used herein shall be deemed to refer to each District and to each such subdistrict separately, so that each of the subdistricts shall be treated as a separate, independent district for purposes of the application of this definition.

5. Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term (, shall be deemed a material modification of this Service Plan pursuant to Section 32-1-207, C.R.S. and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the Town as part of a Service Plan Amendment.

D. Maximum Debt Mill Levy Imposition Term.

The District shall not have authority to impose or collect any mill levy, fee, charge, rate, toll or any other financial burden on property or persons for repayment of any and all Debt (or use the proceeds hereof for repayment of Debt) on any single property developed for residential uses within the District after December 31, 2058. After December 31, 2058 any and all Debt that has not been paid shall be forgiven. Notwithstanding any other provision hereof, the foregoing provisions of this Section VI(D) shall not apply to the District's Limited Tax General Obligation Refunding and Improvement Bonds, Series 2016 or any debt service mill levy imposed for the payment of such bonds.

E. Debt Repayment Sources.

The District may impose a mill levy on taxable property within its boundaries as a primary source of revenue for repayment of debt service 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 in Section 32-1-1001(l), C.R.S., as amended from time to time, and ad valorem property taxes and other revenues received from District No. 2. In no event shall the debt service mill levy in the District exceed the Maximum Debt Mill Levy or, the Maximum Debt Mill Levy Imposition Term.

F. Debt Instrument Disclosure Requirement.

In the text of each Bond and any other instrument representing and constituting Debt, the District shall set forth a statement in substantially the following form:

By acceptance of this instrument, the owner of this Bond agrees and consents to all of the limitations in respect of the payment of the principal of and interest on this Bond contained herein, in the resolution of the District authorizing the issuance of this Bond and in the Service Plan for creation of the District.

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

G. Security for Debt.

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

H. TABOR Compliance.

The District will comply with the provisions of TABOR. In the discretion of the Board, of any one or all of 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 Boards.

I. District Operating Costs.

The estimated cost of acquiring land, engineering services, legal services and administrative services, together with the estimated costs of the District's organization and initial operations, are anticipated to be in compliance with annual budget resolutions and filings with

the state and Town in accordance with this Service Plan and state budget requirements, which already have been incurred, and those costs which have not been reimbursed by the District will be eligible for reimbursement from Debt proceeds.

In addition to the capital costs of the Public Improvements, the District will require operating funds for administration and to plan and cause the Public Improvements to be constructed and maintained. The operating budget for the District has been and will continue to be filed with the State as required by law, which operation expenses is anticipated to be derived from property taxes and other revenues.

VII. ANNUAL REPORT

A. General.

The District shall be responsible for submitting an annual report to the Town Manager's Office no later than August 1st of each year following the year in which the Order and Decree creating the District has been issued.

B. Reporting of Significant Events.

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

1. Boundary changes made or proposed to the District's boundary as of December 31 of the prior year.
2. Intergovernmental Agreements with other governmental entities, either entered into or proposed as of December 31 of the prior year.
3. Copies of the District's rules and regulations, if any as of December 31 of the prior year.
4. A summary of any litigation which involves the Public Improvements as of December 31 of the prior year.
5. Status of the District's construction of the Public Improvements as of December 31 of the prior year.
6. A list of all facilities and improvements constructed by the District that have been dedicated to and accepted by the Town as of December 31 of the prior year.
7. The assessed valuation of the District for the current year.
8. Current year budget including a description of the Public Improvements to be constructed in such year.
9. Audit of the District's, and any entity formed by one or more of the District, financial statements, for the year ending December 31 of the previous year, prepared in accordance with generally accepted accounting principles or audit exemption, if applicable.

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

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

In addition to the annual report, the District will be required to submit to a periodic review, unlimited in scope, as provided for in Section V.A(19) herein.

VIII. DISSOLUTION

Upon an independent determination by the Town Council that the purposes for which a District was created have been accomplished, all powers contained in the service plan will be suspended except as necessary to develop and propose a plan for dissolution and to conduct all proceedings required for the dissolution, including an election, if necessary. The District agrees to file petitions and a plan for dissolution with the Town for review and approval before filing said documents in the appropriate district court in accordance with §32-1-701 et seq. C.R.S.

No dissolution of the District shall occur until the District has provided for payment or discharge of all of its outstanding indebtedness and other financial obligations as required pursuant to State statutes, the assignment or assumption of all operating and maintenance responsibilities for the District improvements to other entities or owners' associations.

IX. DISCLOSURE TO PURCHASERS

The District will use reasonable efforts to assure that all developers of the property located within the District provide written notice to all purchasers of property in the District regarding the Maximum Aggregate Mill Levy, as well as a general description of the District's authority to impose and collect rates, Fees, tolls and charges. The form of notice shall be filed with the Town prior to the initial issuance of Debt by the District occurring after the effective date of this Amended Service Plan.

X. INTERGOVERNMENTAL AGREEMENTS

The form of the intergovernmental agreement, relating to the limitations imposed on the District's activities, is attached hereto as **Exhibit D**. The District shall approve the intergovernmental agreement in the attached form at its first Board meeting after its organizational election. Failure of the District to execute the intergovernmental agreement as required herein shall constitute a material modification and shall require a Service Plan Amendment. The Town Council shall approve the intergovernmental agreement in the attached form at the public hearing approving the Service Plan. Any determination by a court of competent jurisdiction that such intergovernmental agreement is invalid, nonbinding, or unenforceable in any material degree shall be deemed a material departure from the express terms of this Service Plan.

All intergovernmental agreements must be submitted to the Town for review and approval by the Town before execution by the District. Third-party intergovernmental agreements shall either be approved or objected to within ten (10) business days of submittal. If

the Town Manager does not object to the intergovernmental agreement within the ten (10) business day period, the Town Manager's approval shall be deemed to have been given. The District and the Town shall work cooperatively to resolve any issues or concerns in a reasonable and expeditious manner. At the time of submittal of the intergovernmental agreements for consideration of the Town, the District shall include notice of the required review timeline for consideration to the Town Manager.

XI. CONCLUSION

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

1. There is sufficient existing and projected need for organized service in the area to be serviced by the District;
2. The existing service in the area to be served by the District is inadequate for present and projected needs;
3. The District is capable of providing economical and sufficient service to the area within its proposed boundaries; and
4. The area to be included in the District has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.
5. Adequate service is not, and will not be, available to the area through the Town or county or other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis.
6. The facility and service standards of the District is compatible with the facility and service standards of Larimer County and the Town of Timnath, which are interested parties hereunder. § Section 32-1-204(1), C.R.S.
7. The proposal is in substantial compliance with a comprehensive plan adopted pursuant to the Town Code.
8. The proposal is in compliance with any duly adopted Town, regional or state long-range water quality management plan for the area.
9. The creation of the District is in the best interests of the area proposed to be served.

EXHIBIT A

Legal Descriptions



**NORTHERN
ENGINEERING**

ADDRESS: 200 S. College Ave. Suite 100 Fort Collins, CO 80524	PHONE: 970.221.4158	WEBSITE: www.northernengineering.com
	FAX: 970.221.4159	

DESCRIPTION: SOUTH TIMNATH METRO DISTRICT NO. 2

A tract of land located in Section 12, Township 6 North, Range 68 West of the 6th Principal Meridian, Town of Timnath, County of Larimer, State of Colorado being more particularly described as follows:

All of TIMNATH SOUTH SUBDIVISION FIRST FILING, together with TIMNATH SOUTH SUBDIVISION SECOND FILING.

EXCEPT:

Tract R, TIMNATH SOUTH SUBDIVISION FIRST FILING.
Contains 14,533 square feet or 0.334 acres, more or less.

Also,

Tract Q, TIMNATH SOUTH SUBDIVISION FIRST FILING.
Contains 11,769 square feet or 0.270 acres, more or less.

Also,

Tract D, TIMNATH SOUTH SUBDIVISION SECOND FILING.
Contains 479,774 square feet or 11.014 acres, more or less.

The above described tract of land contains 15,753,507 square feet or 361.651 acres, more or less and is subject to all easements and rights-of-way now on record or existing.

July 16, 2007

R.Ott

202-001; 156-003.06

S:\Survey Jobs\202-001\DESCRIPTIONS\New_Dist 1 and Dist 2\TIM-SOUTH_METRO DISTRICT 2_7-16-07.doc

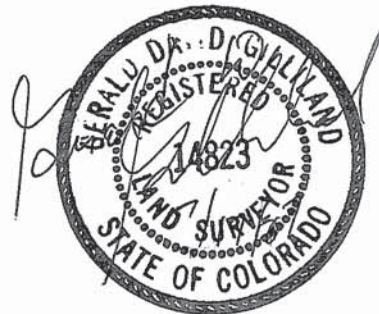


EXHIBIT B

Timnath Vicinity Map

TIMNATH SOUTH SUBDIVISION VICINITY MAP:



EXHIBIT C-1

Initial District Boundary Map

EXHIBIT D

Intergovernmental Agreement between the District and Timnath

AMENDED AND RESTATED
INTERGOVERNMENTAL AGREEMENT BETWEEN
THE TOWN OF TIMNATH, COLORADO
AND
SOUTH TIMNATH METROPOLITAN DISTRICT NO. 2

THIS INTERGOVERNMENTAL AGREEMENT (the “**Agreement**”) is made and entered into as of this ___ day of _____, 2019 by and between the TOWN OF TIMNATH, a home-rule municipal corporation of the State of Colorado (“**Town**”), and SOUTH TIMNATH METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”). The Town and the District are collectively referred to as the “**Parties.**”

RECITALS

WHEREAS, the District and South Timnath Metropolitan District No. 1 were organized to provide those services and to exercise powers as are more specifically set forth in the Amended and Restated Consolidated Service Plan the South Timnath Metropolitan Districts Nos. 1 & 2 dated July 19, 2007, and approved by the Town Council (“**Prior Service Plan**”); and

WHEREAS, the District has since amended the Prior Service Plan and is now governed by the Amended and Restated Service Plan (the “**Amended Service Plan**”); and

WHEREAS, the Amended Service Plan makes reference to the execution of an intergovernmental agreement between the Town and the District, as required by the Timnath Town Code; and

WHEREAS, the Town and the District have determined it to be in the best interests of their respective taxpayers, residents and property owners to enter into this Intergovernmental Agreement (“**Agreement**”).

NOW, THEREFORE, in consideration of the covenants and mutual agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

COVENANTS AND AGREEMENTS

1. Operations and Maintenance. The purpose of the District is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. The District shall dedicate the Public Improvements to the Town or other appropriate jurisdiction in a manner consistent with the Approved Development Plan and other rules and regulations of the Town and applicable provisions of the Town Code. The District shall operate and maintain all trails and related amenities pursuant to an intergovernmental agreement with the Town, which shall be executed at the first meeting of the District after approval of this Amended Service Plan. Operational activities for other Public Improvements not dedicated to another entity are allowed subject to entering into an intergovernmental agreement with the Town allowing the Town to set

minimum standards for maintenance. Any Fee imposed by the District for access to recreation improvements owned by the District shall not result in Town residents who reside outside the District paying a user fee that is greater than, or otherwise disproportionate to, similar fees and taxes paid by residents of the District. However, the District shall be entitled to impose an administrative Fee as necessary to cover additional expenses associated with use of District park and recreational improvements by Town residents who do not reside in the District to ensure that such costs are not the responsibility of a District's residents, provided that such administrative Fee shall not result in Town residents who reside outside the District paying a user fee that is greater than, or otherwise disproportionate to, similar fees and taxes paid by residents of the District. All such Fees shall be based upon the District's determination that such Fees do not exceed a reasonable annual market fee for users of such facilities. All operations and maintenance Fees and Fee increases shall be subject to review and approval by the Town. Notwithstanding the foregoing, all parks and trails shall be open to the general public, including Town residents who do not reside in the District, free of charge.

2. Amended Service Plan. The District shall not take any action, including without limitation the issuance of any obligations or the imposition of any tax or fee, which would constitute material modification of the Amended Service Plan as set forth in Section 32-1-207(2), C.R.S. Actions of the District which violate any restriction set forth in the Amended Service Plan constitute a material modification of the Amended Service Plan that shall be a default under this Agreement, and shall entitle the Town to protect and enforce its rights under this Agreement by such suit, action, or special proceedings as the Town deems appropriate. It is intended that the contractual remedies herein shall be in addition to any remedies the Town may have or actions the Town may bring under Section 32-1-207, C.R.S., or any other applicable statute. The Town may impose any sanctions allowed by the Timnath Municipal Code or statute. Nothing herein is intended to modify or prevent the use of the provisions of Section 32-1-207(3)(b), C.R.S, however, the time limits of Section 32-1-207(3)(b), C.R.S., are expressly waived by the District.

The Amended Service Plan grants authority to the District to construct some or all of the Public Improvements identified herein. If the District elect not to provide certain of the Public Improvements that are assigned to it as part of an Approved Development Plan, the District shall notify the Town in writing of such election whereupon the Town shall have 30 days to provide a letter to the District that such election does not constitute a material modification hereof, or to otherwise advise the District of the obligation to seek a formal amendment to this Amended Service Plan. If the Town determines that such election does not constitute a material modification hereof, the District shall submit a written modification of this Amended Service Plan to the Town for administrative approval as a non-material modification, whereupon the authority of the District to provide such Public Improvements shall be deemed stricken from the Amended Service Plan.

3. Notices. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the address or by

courier delivery, via United Parcel Service or other nationally recognized overnight air courier service, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To the District: South Timnath Metropolitan District No. 2
6000 Summerfields Parkway
Timnath, CO 80547
Attn: District Manager
Phone: 970-225-1515
Fax: 970-225-0054

With Copy to: Spencer Fane LLP
1700 Lincoln, Suite 2000
Denver, CO 80203
Attn: David Sean O'Leary
Phone: 303-839-3800
Fax: 303-839-3838

To the Town: Attn: Town Manager
Town of Timnath
4800 Goodman Street
Timnath, CO 80547
Phone: (970) 224-3211

With copy to: White, Bear & Ankele, P.C.
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122
Phone: 303-858-1800
Fax: 303-858-1801

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with United Parcel Service or other nationally recognized overnight air courier service or three (3) business days after deposit in the United States mail. By giving the other party hereto at least ten (10) days written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

4. Amendment. This Agreement may be amended, modified, changed, or terminated in whole or in part only by a written agreement duly authorized and executed by the Parties hereto and without amendment to the Amended Service Plan.

5. Assignment. Neither Party hereto shall assign any of its rights nor delegate any of its duties hereunder to any person or entity without having first obtained the prior written consent of the other Party, which consent will not be unreasonably withheld. Any

purported assignment or delegation in violation of the provisions hereof shall be void and ineffectual.

6. Default/Remedies. In the event of a breach or default of this Agreement by any Party, the non-defaulting Party shall be entitled to exercise all remedies available at law or in equity, specifically including but not limited to suits for declaratory judgment, specific performance, injunction, and/or monetary damages. In the event of any proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party in such proceeding shall be entitled to obtain as part of its judgment or award its reasonable attorneys' fees.

7. Governing Law and Venue. This Agreement shall be governed and construed under the laws of the State of Colorado.

8. Inurement. Each of the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

9. Integration. This Agreement constitutes the entire agreement between the Parties with respect to the matters addressed herein. All prior discussions and negotiations regarding the subject matter hereof are merged herein.

10. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and the Town any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the District and the Town shall be for the sole and exclusive benefit of the District and the Town.

11. Severability. If any covenant, term, condition, or provision under this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that such provisions are severable.

12. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document.

13. Paragraph Headings. Paragraph headings are inserted for convenience of reference only.

14. Defined Terms. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Amended Service Plan.

15. Additional Provisions. Notwithstanding any provision in the Amended Service Plan to the contrary, the Town hereby provides its consent and approves the following

additional authorizations for the District, subject to final approval of this intergovernmental agreement with the Town, to be executed at the first meeting of the District after approval of this Amended Service Plan. In the event of any conflict between the provisions in the Amended Service Plan and those set forth in this Agreement, the Amended Service Plan shall control. Notwithstanding the foregoing, any actions of the District which violate the Amended Service Plan may be deemed to be a material modification of the Amended Service Plan and the Town shall be entitled to all remedies available under State and local law to enjoin such actions of the District, including the remedy of enjoining the issuance of additional authorized but unissued Debt, until such material modification is remedied.

a. Certain Offsite Improvements Permitted. The Parties acknowledge that construction of certain offsite improvements will be required by Approved Development Plan for the property within the District that such offsite improvements are necessary for development and will benefit property within the District and the District's constituents. The Parties acknowledge that some of these improvements may be outside of the District's boundaries but are necessary to provide standard and necessary public facilities and improvements to the Development. The District is hereby authorized to construct and finance such improvements provided such improvements are constructed in accordance with an Approved Development Plan.

b. Amendment to Water Rights/Resources Limitation. The District shall be allowed to acquire, own, manage, adjudicate or develop non-potable water rights or resources for the limited purposes of providing landscape maintenance and non-potable irrigation for common areas within the boundaries of the District as may be expanded from time to time, which may include non-potable water service to the Lots within the District upon Town consent; such facilities and improvements necessary to provide for non-potable irrigation shall be constructed in accordance with an Approved Development Plan.

c. Ownership, Operations and Maintenance of Facilities and Services. The District shall dedicate the Public Improvements to the Town or other appropriate jurisdiction or owners association in a manner consistent with an Approved Development Plan and other rules and regulations of the Town and applicable provisions of the Town Code. The District shall undertake ownership, operation and maintenance of those public facilities, and shall furnish related services, or shall dedicate and convey to the Town, the Fort Collins – Loveland Water District, or the South Fort Collins Sanitation District those certain facilities permitted pursuant to subdivision improvement agreements with the Town and dedication and conveyance as set forth in such agreements. To the extent certain Public Improvements are not dedicated and accepted by the Town or other appropriate jurisdiction or owners association in a manner consistent with Approved Development Plans and applicable provisions of the Town Code, the District shall be authorized to operate and maintain any part of the Public Improvements, provided that certain minimum standards for maintenance set by the Town are met. The District shall be permitted to own, operate and maintain the following: all trails and related amenities within the Service Area of the District, landscaping, entry features, fencing, setbacks,

irrigated and non-irrigated turf and open spaces, non-potable irrigation water systems and related improvements, streetscaping, ponds, lakes and water features, pools and recreation facilities, and the District shall be allowed to provide for covenant enforcement and design review within the District.

d. Operations and Maintenance Fees. The District shall be allowed to assess an annual Operations and Maintenance Fee of up to \$100 per month against each platted lot, residential dwelling units and/or non-residential lots within the District to pay for the costs associated with the operation and maintenance of public facilities to be built within the boundaries of the District which are owned, operated and maintained by the District. Those operation and maintenance costs of the District shall be directly related to the costs associated with maintaining the amenities and public improvements permitted to be owned and operated by the District by this Agreement and by Colorado law. Additionally, the Fees assessed within District No. 2 shall be substantially similar for similar amenities, access to District facilities and recreational improvements, capital and operation and maintenance purposes and for all residential property owners within the South Timnath development, increases to Fees will require consent of the District No. 1 Board, District No. 2 Board and the Town, for any increases.

e. The District shall not include within its boundaries any property inside the Inclusion Area Boundaries without compliance with the statutory requirements for inclusion, including the petition in writing from the fee owner(s) of 100% of the property requesting that such property be included within the District as required by law. The District shall not include within any of their boundaries any property inside the Inclusion Area Boundaries without advanced written notice to the Town and unless such property has been annexed into the Town's corporate limits.

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SOUTH TIMNATH METROPOLITAN
DISTRICT NO. 2

By: _____
President

Attest:

Secretary

TOWN OF TIMNATH, COLORADO

By: _____
Mayor

Attest:

By: _____
Its: _____

APPROVED AS TO FORM: _____

EXHIBIT E

Public Improvements

Estimate of Capital Costs

Project Name: TIMNATH SOUTH

Date: October 2005

758 Residential Lots & Clubhouse Site

SITE DEVELOPMENT COSTS

LEGAL & ACCOUNTING	\$	130,000.00
SITE OPERATIONS	\$	499,467.00
PROFFESIONAL FEES	\$	75,350.00
PERMITS / FEES	\$	13,368.00
SOILS & SURVEY	\$	544,812.00
EARTHWORK	\$	1,127,525.00
SANITARY SEWER	\$	3,519,285.00
WATER UTILITY	\$	2,030,357.00
STORM DRAINAGE	\$	2,301,071.00
CONCRETE	\$	2,566,938.00
ASPHALT PAVING	\$	4,410,201.00
STREET STABILIZATION	\$	809,436.00
EROSION CONTROL	\$	105,244.00
PUBLIC UTILITIES (<i>Elect, Gas, Tele, Conduits, Etc.</i>)	\$	2,977,857.00
FENCING	\$	1,384,680.00
RECREATIONAL TRAIL	\$	517,880.00
NON-POTABLE IRRIGATION SYSTEM & STORAGE	\$	600,000.00
POOL / CLUBHOUSE & PARKING FACILITIES	\$	2,000,000.00
OPEN SPACE LANDSCAPING	\$	2,000,000.00
PROJECT SIGNAGE, MONUMENTS, ENTRY FEATURES	\$	500,000.00
CONTINGENCIES	5% \$	1,405,674.00
Total		\$ 29,519,145.00

Supplemental Estimate of Capital Costs - South Timnath Development Project
Preliminary Estimate of Capital Costs - Dated: February 4, 2019

South Timnath Metropolitan District 1 - Expansion Area - Timnath South - 542 Lots

Site Development Costs		Cost Estimate
Item No.	Item/Description	
I	Staking	\$180,000
II	Soils Engineer	\$235,000
III	Construction Engineering	\$165,000
IV	Site Work	\$35,000
V	Overlot Grading	\$1,100,000
VI	Erosion Control	\$320,000
VIII	Wet Utilities	
	Sanitary Sewer	\$3,300,000
	Storm Sewer	\$1,700,000
	Potable Waterline System	\$3,200,000
IX	Sleeves	\$335,000
X	Regional Trail	\$572,000
XI	Curb Gutter / Sidewalks	\$3,400,000
XII	Street Stabilization	\$1,600,000
XIII	Paving	\$4,700,000
XIV	Dry Utilities (Gas and Electric Service)	\$1,500,000
XV	Street Lights	\$600,000
XVI	Fencing	\$2,300,000
XVII	Landscaping	\$2,400,000
XVIII	Signage and Monumentation	\$350,000
XIX	Neighborhood Park	\$725,000
XX	Signage/Striping	\$134,000
XXI	Legal, Accounting, Permits, Town Fees, Inspections	\$200,000
XXII	Mailboxes	\$94,000
Subtotal		\$29,145,000
	Miscellaneous Including Project Management 3%	\$874,350
	Contingency and Non-Itemized Improvements 10%	\$2,914,500
Total:		\$32,933,850
Estimated Costs Per Lot:		\$60,764