

COPY

**DISTRICT FACILITIES CONSTRUCTION
AND SERVICE AGREEMENT**

DISTRICT FACILITIES CONSTRUCTION AND SERVICE AGREEMENT entered into and dated as of July 15, 2003, by and between Alpine Metropolitan District and Breckenridge Mountain Metropolitan District.

(Cover Sheet Only)

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DISTRICT FACILITIES CONSTRUCTION AND SERVICE AGREEMENT

This **DISTRICT FACILITIES CONSTRUCTION AND SERVICE AGREEMENT** (the "Agreement") is made and entered into and dated as of July 15, 2003, by and between **ALPINE METROPOLITAN DISTRICT** ("the Operating District") and **BRECKENRIDGE MOUNTAIN METROPOLITAN DISTRICT**, ("the Taxing District"), individually and/or collectively referred to as "the District" or "the Districts," as the context indicates. Said Districts are quasi-municipal corporations and political subdivisions of the State of Colorado.

RECITALS

WHEREAS, the formation of the Districts was approved by the Town of Breckenridge as multiple districts whose purposes are to provide essential public improvements and services as contemplated herein; and

WHEREAS, the purposes for which the Districts were formed are specifically set forth in their *Service Plan* (defined below), which was prepared for the Districts pursuant to Sections 32-1-201, C.R.S. et seq., and with respect to which all required governmental approvals have been obtained therefor; and

WHEREAS, the Service Plan may be amended from time to time as permitted herein and any and all such amendments shall become part of the Service Plan as such term is used herein; and

WHEREAS, under the Service Plan, the Districts are required to work together and coordinate their efforts with respect to all activities contemplated in the Service Plan including but not limited to the management and administration of the Districts, the provision of essential services by the Districts and the financing, construction, operation and maintenance of public improvements; and

WHEREAS, the Service Plan discloses and establishes the necessity for and desirability of an intergovernmental agreement or intergovernmental agreements between the Districts concerning the manner in which the Districts shall implement their Service Plan; and

WHEREAS, pursuant to the Colorado Constitution Article XIV, Section 18(2)(a), and Section 29-1-203, C.R.S., the Districts may cooperate or contract with each other to provide any function, service or facility lawfully authorized to each, and any such contract may provide, inter alia, for the sharing of costs, the imposition of taxes, and the incurring of debt; and

WHEREAS, at an election of the qualified electors of the Taxing District duly called and held in accordance with law and pursuant to due notice, a majority of eligible electors who voted at such election voted in favor of the Taxing District incurring indebtedness in an amount sufficient to lawfully authorize the Taxing District to enter into an agreement containing terms as set forth herein with the Operating District; and

WHEREAS, the Service Plan describes certain "Facilities" to be financed in accordance with a general plan of finance described therein or in accordance with plans of finance permitted therein, from the proceeds of indebtedness to be issued by the Taxing District and/or from other funds held or obtained by the Taxing District and to be made available for the purposes of fulfilling the Taxing District's commitments hereunder; and

WHEREAS, the Districts agree that the Facilities are needed by the Districts and that the Facilities will benefit the residents and property owners in the Districts in terms of cost, quality, level of service, and management and operation of such Facilities; and

WHEREAS, the Districts have agreed, and the Service Plan provides, that the Operating District will own (subject to discretionary transfer to other governmental entities or authorities), operate, maintain, and construct the Facilities benefiting the Districts, and that the Taxing District will pay all costs related to the construction, operation, and maintenance of such Facilities by the Operating District as set forth in and in accordance with the terms of this Agreement; such payments may include, but not be limited to, payments to the Operating District for debt service requirements of revenue bonds issued by the Operating District for such capital costs; and

WHEREAS, the Service Plan describes the amount of money estimated to be necessary to fund the financing, construction and/or acquisition of the Facilities, and describes the anticipated timing of financing and construction of the facilities, which amounts and timing may be amended as contemplated by the Service Plan, as permitted under governing law, and/or pursuant to the terms of this Agreement; and

WHEREAS, the Service Plan describes the amount of money estimated to be necessary to fund the operation, maintenance management and administrative services to be provided to the Taxing District by the Operating District, which amounts and timing may be amended as contemplated by the Service Plan, as permitted under governing law, and/or pursuant to the terms of this Agreement; and

WHEREAS, the Districts desire to provide in this Agreement for the implementation of principles and objectives set forth in the Service Plan regarding the financing, construction, operation and maintenance of the Facilities, and regarding administration of the affairs of the Districts including the collection, management and expenditure of funds of the Districts; and

WHEREAS, the Districts understand that it may be necessary for additional agreements to be executed between them regarding matters addressed herein, but desire at this time to establish by this Agreement the general framework for implementation of the provisions of the Service Plan; and

WHEREAS, all amendments to this Agreement made pursuant hereto and not in specific conflict with specific limits of the ballot questions that authorized the debt represented by this Agreement shall be deemed part of this Agreement and fully authorized by such ballot questions.

COVENANTS

NOW, THEREFORE, for and in consideration of the promises and the mutual covenants and stipulations herein, the Districts agree as follows:

ARTICLE I

GENERAL PROVISIONS

1.1 Interpretation. In this Agreement, unless the context expressly indicates otherwise, the words defined below shall have the meanings set forth below:

a. The term "herein," "hereunder," "hereby," "hereto," "hereof" and any similar term, refer to this Agreement as a whole and not to any particular article, section, or subdivision hereof; the term "heretofore" means before the date of execution of the Agreement; and the term "hereafter" means after the date of execution of this Agreement.

b. All definitions, terms, and words shall include both the singular and the plural, and all capitalized words or terms shall have the definitions set forth in Section 2.1 hereof.

c. Words of the masculine gender include correlative words of the feminine and neuter genders, and words importing the singular number include the plural number and vice versa.

d. The captions or headings of this Agreement are for convenience, only and in no way define, limit, or describe the scope or intent of any provision, article, or section of this Agreement.

e. All schedules, exhibits, and addenda referred to herein are incorporated herein by this reference.

1.2 Effective Date and Term. This Agreement shall be effective upon execution hereof by the Districts and shall represent the valid, binding and legally enforceable obligation of the Districts until such time as each of the terms and conditions hereof has been performed in their entirety, or until this Agreement is terminated by mutual written agreement of the Districts as permitted herein or as otherwise might be provided herein.

1.3 Purpose and Scope of Agreement. This Agreement shall be governed and interpreted, in general, by the following provisions in this Section 1.3. It is agreed by the Districts that the statements of intention set forth in this Section 1.3 are essential to the proper interpretation of this Agreement and are intended to clarify the general intent of specific provisions contained herein. The following statements are illustrative of the Districts' intentions and while they are to be used to construe and govern this Agreement, they are not intended to constitute an all-inclusive statement of the intentions of the Districts. Reference shall also be made to the Service Plan for purposes of construing this Agreement and the intent of the Districts

manifested by the Districts' course of conduct or other extrinsic evidence. The Districts agree that any District shall be entitled to any remedy, order, judgment or action which is or may be necessary in order to make operative the intentions of the Districts as expressed herein:

a. The Service Plan states that the Operating District will be responsible for managing the financing, construction, operation and maintenance of the Facilities for the benefit of the Districts. The Service Plan describes the nature of the relationship between the Districts and contemplates that this Agreement would be executed by the Districts to effectuate that relationship.

b. The Service Plan further states that the Operating District will have little or no assessed valuation within its boundaries from which general obligation bonds could be paid, and consequently contemplates that the Taxing District will issue bonds appropriately secured or credit-enhanced by third parties. Alternatively, the Service Plan allows for or does not prevent the Operating District from issuing secured or credit-enhanced revenue bonds for capital costs, the debt service requirements of which are expressly intended to be paid from payments made by the Taxing District hereunder and which may be refunded or repaid from the proceeds of general obligation indebtedness issued by the Taxing District when adequate assessed valuation exists within the Taxing District. The Service Plan contemplates that virtually all assessed valuation of property to be developed within the Districts' service areas will be located within the boundaries of the Taxing District and that the Taxing District will issue general obligation bonds or revenue bonds at various points in time described in the Service Plan, and will use the proceeds thereof to pay its obligations contained in this Agreement to the Operating District. Proceeds from bonds will be used to construct the Facilities for the Taxing District consistent with the "Operating and Taxing Districts" philosophy described in the Service Plan. The Taxing District will issue general obligation bonds to capture the tax value of increases in the tax base within the Taxing District caused, to a significant degree, by the availability of Services and Facilities from the Operating District. The transfer of bond proceeds from the Taxing District to the Operating District is intended to result in an equitable allocation of the costs of all the Facilities to all properties within the Taxing District which are benefited by those Facilities.

c. The Service Plan contemplates that the essential terms of this Agreement between the Operating District and the Taxing District concerning the costs of acquiring, constructing, or otherwise providing, and the costs of operating and maintaining, certain water, street, traffic safety, television relay and translation, transportation, park and recreation and sanitation facilities and improvements, all as further set forth herein would be voted upon by the electorate of the Taxing District at the organizational election of the Taxing District. The Districts recognize that numerous amendments and adjustments to this Agreement may be necessary over time; subject, however, to the requirement that any increase in the monetary amount of the obligations of the Taxing District to make payments to the Operating District, or any increase in the maximum annual tax increase or the total repayment cost of the debt evidenced by this Agreement beyond the amount set forth in ballot questions presented to the electorate of the Taxing District may require additional voter authorization. The Districts agree that unless the Districts receive the advice of legal counsel to the contrary, no further

authorization of the electorate will be required to authorize other substantive changes to this Agreement.

d. The Taxing District acknowledges that, as might be necessary, the Operating District may negotiate for and obtain certain security or credit enhancement for the Operating or Taxing District's bonds from Persons which as of the date hereof own property within the Taxing District and Operating District, and that if such security or credit enhancement is provided, substantial damage will result to such Persons in the event this Agreement is breached by the Taxing District or the Operating District in any material manner. Consequently, the Districts agree that neither the Operating District nor the Taxing District shall be entitled to terminate this Agreement except pursuant to the express provisions of Article VIII below, and that this Agreement is intended to be strictly enforced to the maximum extent permitted by law. Nothing in this paragraph shall be construed as granting any rights to third parties.

e. The purpose of this Agreement is to set forth the rights and obligations of the Taxing District to fully fund, and of the Operating District to construct, own, or transfer, and to operate and maintain, public facilities and services of benefit to the District. This Agreement shall in all circumstances be interpreted consistent with the Service Plan and the intentions expressed therein regarding the role of each District in implementing the Service Plan. The Districts acknowledge that performance of this Agreement for the full term hereof is key to full implementation of the Service Plan by the Districts and that any material departure herefrom by either District, or any attempt by either District to terminate this Agreement or materially alter its terms except in accordance herewith, by judicial action or otherwise, is acknowledged to be and shall constitute a "material departure" from the Service Plan which, in addition to all other remedies set forth herein, the aggrieved District shall be entitled to seek to enjoin in accordance with Section 32-1-207, C.R.S., as amended from time to time. Notwithstanding the foregoing agreements regarding "material departures" from the Service Plan, the agreements and acknowledgements of the Parties relative thereto are expressed solely for the benefit of the Parties to aid in their efforts to enforce this Agreement and shall not constitute or be admissible as admissions by any Party in efforts which may be taken by any other Person to enjoin activities by any District under state law.

f. It is agreed by the Districts that the Operating District is not, and shall not be considered or deemed in the future, a service company, nor a regulated public utility as defined in Section 40-1-103(1)(a), C.R.S., as amended from time to time, nor as such terms are defined in any constitutional provision, statute, or law of the State of Colorado, nor as defined in any rule or regulation of any entity or Person asserting jurisdiction in matters relating to this Agreement or the subject matter hereof. The Districts further agree that in the event the Operating District is ever determined by a third party to be a public utility as defined in Section 40-1-103(1)(a), C.R.S., then the Operating District is intended to be exempt from any regulation by the Public Utilities Commission or any other special commission, pursuant to the Colorado Constitution, Article XXV, and Article V Section 35, and Sections, 32-1-1001(j)(k) and 32-1-1006, C.R.S., and other applicable statutes.

g. It is not the intention of the Operating District to offer or provide service by this Agreement to members of the general public outside of the Taxing District's service area;

rather, it is the Operating District's intention to offer and provide certain services to the Operating District and the Taxing District in accordance with the Service Plan.

h. It is the intention of the Districts to enter into this Agreement to further their interests and to comply with the Service Plan as quasi-municipal corporations conducting business in the State of Colorado.

i. It is not the intention of the Districts, and the Districts expressly disavow any claim or attempt, to dedicate any of their property to a public use outside of the Districts, or to make any offer to provide service to the public outside of the service area of the Districts, or to make any representation that any District is capable of providing service to the public at large through this Agreement. The Operating District does not desire to offer, and shall not be construed as offering, to furnish service to the public or any individual resident or property owner outside the service area of the Operating District or the Taxing District through this Agreement. Nothing herein shall prevent the Operating District from providing service to property owners outside the Operating District's service area through a separate contract.

j. This Agreement shall be construed as a private intergovernmental agreement between the Districts. It is expressly agreed by the Districts that no Person other than the Taxing District shall obtain hereby any enforceable rights to service from the Operating District, and to this end it is expressly declared by the Districts that no Person shall be construed as a third party beneficiary of any kind of this Agreement except as expressly stated herein.

k. Users in the Taxing District shall receive Service from and/or use of the Facilities owned by the Operating District only upon payment of Development Fees, User Fees, and other Charges and/or taxes to or for the benefit of the Operating District or its designee, and subject to the terms and conditions contained herein. No portion of the Facilities or capacity therein shall be dedicated for the private use or benefit of any Person or Customer. Furthermore, Users within the Taxing District shall have no legally enforceable right to demand the Facilities or Service from the Operating District. The Taxing District shall have all such rights and remedies as are available under this Agreement. All Service and Facilities contemplated herein shall be provided to the Taxing District only in accordance with the express agreements and limitations contained herein.

l. The Operating District shall be considered and deemed a contract carrier and not a common carrier.

m. The Districts agree that no effort shall be undertaken by any District to request supervision, control, or regulation of this Agreement, of any District, or of the property of any District, by the Public Utilities Commission of the State of Colorado, or any other regulatory authority or any other entity claiming jurisdiction of the subject matter hereof. The Taxing District shall assist the Operating District in defending against any claim of such jurisdiction.

n. In the event that the Operating District defaults in payments of its own Bonds, if any, and if as a result thereof or as a result of any action arising subsequent thereto, the

maximum term for repayment of the Operating District's Bonds is increased in any manner from the maximum term set forth when such Bonds were issued, the obligations of the Taxing District hereunder shall nevertheless continue in full force and effect subject to termination of such obligations as they relate to said Bonds at the date and time at which the Taxing District's obligations hereunder would have terminated had the Operating District not defaulted on its Bonds or taken such other course of action which has the affect to increasing the maximum term of the Taxing District's obligations under this Agreement. The intention of the foregoing is that this provision shall be applied only in the event that Bonds issued by the Operating District are restructured in any manner other than for a normal refunding, or a refunding in the ordinary course of business.

ARTICLE II

DEFINITIONS

2.1 Definitions. As used herein, unless the context expressly indicates otherwise, the words defined below and capitalized throughout the text of this Agreement shall have the respective meanings set forth below:

a. "Accounts" shall mean and refer to Construction Account and Service Account collectively.

b. "Capital Costs" shall mean those costs derived from the financing model as set forth in the Service Plan, as may be amended from time to time, which are to be incurred by the Operating District for the purpose of planning, designing, constructing and acquiring, including the costs and fees of issuance of Bonds, a portion or all of the Facilities including, but not limited to:

1. All costs of materials attributable to the actual construction or acquisition of the Facilities, including all costs incurred to acquire the Facilities from third Persons and all related components and materials used therein, all costs incurred for the acquisition of water rights, all costs of organization of the Districts, and all other costs or fees due or paid under cost recovery or other agreements with third Persons, together with all costs incurred to obtain financing for the Facilities. For those items for which any construction contract provides that payment is to be made on a per unit basis, the construction cost shall be that amount actually paid pursuant to the construction contract so providing, which sum should reflect the cost of the actual quantities used;

2. All labor costs incurred in the actual construction or acquisition of the Facilities;

3. All costs attributable to the construction or acquisition of the Facilities or any part or component thereof incurred as a result of change orders approved in accordance with any construction contract;

4. All costs incurred for design, planning, engineering, construction, management, landscape architecture and engineering, soil testing and inspection, and line and systems testing and inspection attributable to the Facilities;

5. Site and right-of-way acquisition costs, including legal fees;

6. All legal and accounting costs incurred in connection with the financing, construction or acquisition of the Facilities;

7. All costs for construction administration, financial, inspection and other professional fees together with any site, right-of-way, permit, or easement acquisition costs;

8. Any other costs, expenses or expenditures associated with the furtherance of the construction of the Facilities; and

9. Any funds retained or payments accrued and owing by the Operating District for construction completed but not yet paid during that Budget Year.

c. "Agreement" shall mean this Agreement and any amendment hereto made in accordance herewith.

d. "Annual Payment Option" shall mean the option which may be elected by the Taxing District pursuant to Section 3.2 hereof to make payments for Capital Costs as specifically permitted herein, except as such amounts are modified and adjusted pursuant to the terms hereof.

e. "Board" or "Boards" shall mean the lawfully organized Boards of Directors of the Districts.

f. "Bonds" shall be defined in specific sections of this Agreement and may have different meanings depending upon the specific context in which the term is used.

g. "Budget Elements" shall mean the specific elements of the Operating District's budget documents setting forth the anticipated capital costs of provision of the Facilities proposed to be constructed during the Budget Year, and shall also mean the specific elements of Service to be provided by the Operating District during the Budget Year.

h. "Budget Year" shall mean the year (immediately following the Planning Year) during which Capital Costs and Service Costs are to be incurred.

i. "Charges" shall mean all rates, fees, tolls, charges or penalties imposed by the Districts with the exception of Development Fees, ad valorem property taxes, or User Fees.

j. "Commencement Date" shall mean the first business day of that month in which operation of any portion of the Facilities begins.

k. "Construction" shall include, but not be limited to, design engineering, construction, expansion, acquisition, maintenance, repair, and replacement of the Facilities, and all appurtenances thereto necessary or convenient to the completion, use, and operation of the Facilities.

l. "Construction Account" shall mean the account created by the Operating District on its financial records for the purpose of holding funds to be expended for the Construction of the Facilities and for other purposes contemplated in this Agreement.

m. "Construction Schedule" shall mean the schedule showing the anticipated Facilities planned for Construction during the Budget Year.

n. "Development Fees" shall mean the fees imposed and collected by the Operating District or Taxing District, including pre-paid fees, for the right of residents and property owners in the Taxing District to connect to or gain access to the Facilities provided pursuant to this Agreement.

o. "Districts" shall mean the Operating District and the Taxing District collectively, including any duly authorized representative, officer, director, employee, agent, engineer or attorney of any District, if applicable.

p. "Emergency Repair" shall mean any repair or replacement of the Facilities which in the opinion of the Operating District, require immediate action in order to avoid damage to the Facilities, unscheduled interruption of service, or danger to District's residents or property owners.

q. "Estimated Capital Costs" shall mean the estimated costs for constructing or acquiring Facilities for the Budget Year, derived in accordance with Section IV and as set forth in the Service Plan, subject to such modification as is contemplated by the Service Plan.

r. "Estimated Service Costs" shall mean the estimated costs for operation and maintenance of the Facilities, and administration of the Districts for the Budget Year derived in accordance with Section 5.7 hereof.

s. "Event of Default" shall mean one of the events or the existence of one of the conditions set forth in Article VIII hereof.

t. "Facilities" shall mean the facilities and improvements generally described in the Service Plan.

u. "Final Budget" shall generally mean the final budget established by the Operating District pursuant to the provisions of Article IV regarding Construction of the

Facilities and pursuant to the provisions of Article V regarding Service. The term shall derive its specific meaning from the context in which it is used.

v. "Major Repairs or Replacement" shall mean any single repair or replacement of any portion of the Facilities which requires an estimated total expenditure in excess of Twenty-Five Thousand Dollars (\$25,000).

w. "Maximum Annual Payment" shall mean (i) the highest payment that the Operating District may require the Taxing District to pay in any one year for the combination of Capital Costs and Service Costs under this Agreement, (not to exceed the revenue that can be produced from the Maximum Mill Levy), together with other funds of the Taxing District legally available therefor, or (ii) fifty percent of the valuation for assessment of the taxable property in the Taxing District, whichever is greater.

x. "Maximum Mill Levy" shall mean the highest mill levy that the Operating District may require the Taxing District to impose for payment of the combination of Capital Costs and Service Costs under this agreement not to exceed the highest mill levy permitted under the Service Plan, as amended, but in no event in excess of fifty (50) mills, as set forth in § 32-1-1101(6)(b) C.R.S. If another exemption for this Agreement is available under § 32-1-1101(6) C.R.S., or if an adjustment is otherwise allowed by law, the Maximum Mill Levy shall be subject to automatic adjustment.

y. "Operating District" shall mean Alpine Metropolitan District.

z. "Operations and Maintenance," and/or "Operations" or "Maintenance" shall mean, whether such terms are used together or separately, the provision by the Operating District of such services as are necessary to assure the orderly and proper function of all the Facilities in order to provide Service as contemplated herein, and shall also include all general, administrative, accounting, legal, and other similar services required by the Operating District to maintain the proper organization and existence of the Operating District and the Taxing District, as well as the proper functioning of all the Facilities, the issuance of bonds, and all other costs set forth by the Operating District and portions of its budget in any year which are not specifically designated as Capital Costs or Debt Service Costs.

aa. "Parks and Recreation" shall mean the "Park and Recreation" facilities described in the Service Plan.

bb. "Party" or "the Parties" shall mean the Districts.

cc. "Person" shall mean any individual, corporation, joint venture, estate, trust, partnership, association, or other legal entity, including governmental entities, other than the Districts.

dd. "Planning Year" shall mean the year immediately preceding the corresponding Budget Year.

ee. "Plans" shall mean the plans, documents, drawings, and other specifications prepared by or for the Operating District for the Construction, installation, acquisition of, or connection to any Facilities, including any addendum thereto, and any change order, revision, and/or modification thereof.

ff. "Preliminary Budget Documents" shall mean those documents prepared by the Operating District for submission to the Taxing District during the Planning Year which may include a schedule for deposits into the Construction Fund Account and Service Account and may include a proposed Construction Schedule for the Budget Year.

gg. "Sanitation" shall mean the "Sanitation" improvements described in the Service Plan.

hh. "Service" shall mean the provision by the Operating District of operations, maintenance and administrative services to the Taxing District, and the provision by the Operating District of water, sewer and such other services for which the Operating District shall be entitled to a User Fee.

ii. "Service Costs" shall mean costs derived from the financing model as set forth in the Service Plan, as may be amended from time to time, for all operation, maintenance, and administrative costs incurred by the Operating District in the performance of the duties and services required by this Agreement.

jj. "Service Fund" shall be that account owned and established by the Operating District into which the Taxing District shall deposit the full amount of the Estimated Service Costs and Service Costs for the Facilities and Services.

kk. "Service Plan" shall mean the Consolidated Service Plan for Alpine Metropolitan District and Breckenridge Mountain Metropolitan District as approved by the Town of Breckenridge, dated September 3, 2002, as the same may be amended from time to time either by the Districts informally as non-material modifications under state law, or by official action of the Town of Breckenridge. Any reference herein to Service Plan shall include any and all amendments, formal or otherwise to the Service Plan provided that the records of the Districts indicate or imply approval by the Districts of such amendments

ll. "Streets" shall mean the "Street" improvements described in the Service Plan.

mm. "Taxing District" shall mean Breckenridge Mountain Metropolitan District.

nn. "Television Relay and Translator" shall mean the "Television Relay and Translator" facilities described in the Service Plan.

oo. "Traffic and Safety Controls" shall mean the "Traffic and Safety Controls" described in the Service Plan as modified as contemplated in the Service Plan

pp. "Transportation Systems" shall mean the "Transportation" facilities described in the Service Plan.

qq. "Users" shall mean the residents, property owners, or Persons served by or receiving Service from the Operating District.

rr. "User Fees" shall mean the periodic fees, if any, imposed and collected by the Operating District from residents and property owners in the Taxing District for the monthly or other periodic Service provided by the Operating District.

ss. "Water Distribution System" shall mean the "Water" facilities described in the Service Plan.

ARTICLE III

FINANCING OF THE FACILITIES AND OPERATIONS, MAINTENANCE AND ADMINISTRATIVE SERVICES GENERAL TERMS

3.1 No Additional Electoral Approval Required. The authorization for issuance of debt, fiscal year spending, revenue collections and other constitutional matters requiring voter approval for purposes of this Agreement, as well as the construction of the Facilities, and the provision of operation, maintenance and administrative services pursuant to the terms hereof, were approved at elections held for the Districts in accordance with law and pursuant to due notice. The performance of the terms of this Agreement requires no further electoral approval. To the extent that further voter authorization is required to give effect to any provision of this Agreement, the Taxing District agrees to use best efforts to obtain voter approval for such additional authorization and, if necessary, cooperate in obtaining approval of an amendment to the Service Plan at the request of the Operating District. If any claim is filed in a court of competent jurisdiction by a person with standing to do so, seeking to have this Agreement or any of its obligations declared void or unenforceable, or in any manner otherwise affecting this Agreement which could have a material adverse effect on any bonds issued by the Districts, or any District, or on the ability of the Operating District to conduct the activities contemplated herein, the Taxing District shall take all necessary action and use best efforts to immediately provide funds to the Operating District to enable it to perform all executory obligations hereunder. The Districts shall also vigorously oppose such claims and the Taxing District shall cooperate in taking all such other curative action requested by the Operating District.

3.2 Payments for Capital and Service Costs. The Districts acknowledge and agree that the maximum amount of Capital Costs and Service Costs, which could become due under this Agreement are not permitted to materially exceed the projections set forth in the Service Plan as such projections may be amended from time to time whether or not such amended projections are contained in formal amendments to the Service Plan. In the event the Operating District determines that inflation, contingencies or other unforeseen matters require an increase in the maximum amount of Capital Costs or Service Costs necessary for the Districts, and

additional authorization is necessary to implement the terms of this Agreement to meet such requirements, the Taxing District agrees to use best efforts to obtain additional authorization, and if necessary, to obtain approval of an amendment to the Service Plan. If, despite best efforts to do so, the Taxing District is not able to obtain such additional authorization and/or any necessary amendment to the Service Plan, the Operating District may, in its sole discretion, make downward adjustments of Capital Costs and Service Costs as necessary to equal the aggregate amount of authorization at that time. In the event such downward adjustments are made to Capital Costs and Service Costs by the Operating District, the Operating District shall notify the Taxing District of the revised amounts within thirty (30) days thereafter. Capital Costs and Service Costs due under this Agreement shall be paid by the Taxing District upon the execution of this Agreement in payments to the Construction Account and Service Account, respectively, unless the following options are exercised:

a. Annual Payment Option for Capital Costs. At the option of the Taxing District, the Taxing District may pay the portion of Capital Costs due hereunder in payments to the Construction Account made annually in amounts determined in accordance with Article IV hereof, payable without interest except in cases of an Event of Default. The Taxing District will have the option each year in conjunction with the preparation of budgets under Article IV hereof to either pay in full the then remaining balance of the maximum amount of Capital Costs, in an amount not to exceed the Capital Costs due under this Agreement or to elect the Annual Payment Option and pay the Estimated Capital Costs for the next succeeding year as determined hereunder, subject to the provisions of Section 3.2.c. and Section 3.9 hereof. Election by the Taxing District of the Annual Payment Option shall be made by delivery of a notice to the Operating District at the time budget review and approval is conducted pursuant to Article IV hereof and shall be deemed to have occurred in the absence of such notice upon adoption of a budget for the Budget Year in question by the Taxing District. The amount of payment due for the Annual Payment Option shall not be less than the greater of the amounts set forth in the Service Plan for capital construction costs or in the Final Budget of any given year, except as such amounts are adjusted and modified as permitted or required herein or in the Service Plan, but in no event in excess of the Maximum Annual Payment. The Districts recognize that the amounts set forth in the Service Plan are expressed in dollars which, in accordance with the Service Plan, may be adjusted for numerous factors subject to the overall limitation of the amount of debt of the Taxing District as set forth in the Service Plan.

b. Annual Payment Option for Service Costs. At the option of the Taxing District, the Taxing District may pay the portion of the maximum amount of Service Costs hereunder in payments to Service Account made annually in amounts determined in accordance with Article V hereof, payable without interest except in cases of an Event of Default. The Taxing District will have the option each year in conjunction with preparation of budgets in accordance with Section 5.7.c hereof to either pay in full the then remaining balance of the maximum amount of Service Costs, in an amount not to exceed the Service Costs due hereunder or to elect the Annual Payment Option and pay Estimated Service Costs as derived in accordance with Section 5.7.c. hereof for the next succeeding year. Election by the Taxing District of the Annual Payment Option shall be made by delivery of a notice to the Operating District at the time budget review and approval is conducted pursuant to Section 5.7.c hereof and shall be deemed to have occurred in the absence of such notice upon adoption of a budget for the Budget

Year in question by the Taxing District. The amount of payment due under the Annual Payment Option shall be not less than the greater of the amount set forth in the Service Plan for Service Costs or in the Final Budget of any given year, except as such amounts are adjusted and modified as permitted herein or in the Service Plan, but in no event in excess of the Maximum Annual Payment. The Districts recognize that the amounts set forth in the Service Plan are expressed in dollars which, in accordance with the Service Plan, may be adjusted for numerous factors subject to the overall limitation of the amount of debt of the Taxing District as set forth in the Service Plan.

c. Bond Payments. The Districts agree that at the points in time identified in the District's financial model contained in the Service Plan for issuance of general obligation bonds by the Taxing District, as such financial model may be amended from time to time by the Districts with or without a formal Service Plan amendment, the Taxing District shall use its best efforts to issue general obligation bonds as contemplated therein, and if bonds are issued, it shall pay the proceeds thereof to the Operating District in full or partial satisfaction of the Taxing District's obligation to pay Capital Costs. All payments received by the Operating District in the form of bond proceeds transferred from the Taxing District shall be applied to reduce the then remaining balance of the maximum amount of Capital Costs due under this Agreement to the Operating District. If the Taxing District has issued bonds and transferred the proceeds to the Operating District in full or partial fulfillment of its obligation to pay Capital Costs, the Taxing District's obligation to pay Service Costs and Capital Costs due under this Agreement from year to year shall be limited to the net revenue available to the Taxing District after all payments due on an annual basis are made on its bonds so that in no event shall the Taxing District be required to make a payment hereunder in any year which would cause it to be unable to make full and timely payments of principal of and interest on such bonds as the same become due and payable in each such year. The Taxing District shall also receive a credit against future Estimated Capital Costs if the net proceeds transferred to the Operating District exceed the Estimated Capital Costs for the year of issuance.

3.3 Accounts.

a. Upon the execution of this Agreement, the total Capital Costs and Service Costs due under this Agreement, or the Maximum Annual Payment for the year of execution hereof shall be paid by the Taxing District to the Accounts, subject to the provisions of Section 3.2 (c) hereof. The total cumulative deposits into the Accounts by the Taxing District over the life of this Agreement to cover Capital Costs and Service Costs shall not exceed the maximum amount of Capital Costs and Service Costs due hereunder, except as the same may be revised from time to time pursuant to or as permitted herein. The Districts specifically agree that in any given Budget Year, the payments required hereby (whether for that portion of the maximum amount of Capital Costs or Service Costs due hereunder, or the minimum payment required under the Annual Payment Option for the Estimated Capital Costs or Estimated Service Costs for the Budget Year) may be more or less than the amounts required under the Final Budget as a result of adjustments to such amounts as permitted or required under Articles IV and VI hereof or elsewhere in this Agreement.

b. The Operating District may borrow funds or issue revenue bonds secured by the obligation of the Taxing District to faithfully perform its obligations under this Agreement. Accordingly, and pursuant to the authorization approved by the electors of the Taxing District at an election duly called and held in accordance with law and pursuant to Sections 3.6 and 3.7 hereof, the Taxing District hereby pledges its full faith and credit subject to the Maximum Mill Levy, as limited hereby, to the punctual performance of the obligations, financial or otherwise, imposed upon the Taxing District by this Agreement, and accordingly, the Taxing District agrees that this Agreement constitutes a contractual general obligation indebtedness of the Taxing District, subordinate to any bonds issued by the Taxing District and as limited hereby, lawfully approved by its electorate and lawfully and properly entered into by its Board. Notwithstanding anything else to the contrary in this agreement, the Service Costs and Capital Costs required to be paid under this Agreement shall be considered contractual debt of the Taxing District and shall not be considered to be the issuance of general obligation bonds pursuant to § 11-59-103(9) C.R.S. or under the limitations of the Service Plan unless specifically required to be so considered under the terms of the Service Plan.

3.4 Disbursements of Funds. The Operating District shall have the sole authority to withdraw monies from the Accounts and shall account to the Taxing District upon request for the funds withdrawn and payments made from the Accounts. Funds deposited by the Taxing District into the Accounts, together with interest earned thereon, shall be used only to pay Capital Costs and Service Costs incurred by the Operating District pursuant to this Agreement. By its execution hereof, the Districts covenant, promise and agree not to undertake any act or commit any omission with respect to the Accounts, the moneys therein, or the Facilities, which would adversely affect the tax-exempt status of the interest paid on any tax-exempt bonds issued by the Districts for the purpose of funding the Accounts or constructing or acquiring the Facilities.

3.5 Total Capital Costs Carry-Forward. Except as set forth herein or unless specifically agreed otherwise by the Districts, the portion of the Estimated Capital Costs set forth in the Final Budget which exceeds the limits described in Section 4.4.b. hereof in any Budget Year and which cannot be paid by the Taxing District in such Budget Year because of such limits shall automatically "carry forward" to the next Budget Year and shall become due as part of the next year's Estimated Capital Costs under such year's Final Budget. Such carry forwards shall continue to occur, and carry forward amounts shall continue to accrue, from year to year until all previous and current Estimated Capital Costs are paid in full to the Operating District and shall be paid by the Taxing District in accordance with the payment procedures set forth herein.

3.6 Pledge of Security for Payment. The financial obligations of the Taxing District assumed hereunder shall be contractual general obligation debt as limited hereby, of the Taxing District and shall be payable from ad valorem property taxes generated as a result of the certification by the Taxing District of a mill levy not to exceed the Maximum Mill Levy, except as such obligations may actually be paid from any and all other revenues lawfully permitted to be used for such purpose. The full faith and credit of the Taxing District, subject to the Maximum Mill Levy and as limited hereby, is pledged to the punctual payment of all amounts to be paid hereunder. The amounts to be paid hereunder shall, to the extent necessary, be paid out of the general revenues of the Taxing District or out of any funds legally available for that purpose,

including bonds issued by the Taxing District. For the purpose of reimbursing such general revenues, and for the purpose of providing the necessary funds to pay the amounts to be paid hereunder as the same become due, the Board of the Taxing District shall annually determine, fix and certify a rate of levy for ad valorem property taxes to the board of county commissioners of the county in which the Districts are located, which, when levied on all of the taxable property in the Taxing District, shall raise direct ad valorem property tax revenues which, when added to other funds of the Taxing District legally available therefor, will be sufficient to pay promptly and fully the amounts to be paid hereunder, as well as all other general obligation indebtedness of the Taxing District, as the same becomes due, subject to the Maximum Annual Payment. The Taxing District further covenants to maintain a schedule of rates, fees, tolls and charges with respect to the provision of public services by the Operating District which shall be sufficient, together with the proceeds of general ad valorem property taxes, if any, to pay the amounts to be paid hereunder, along with all other general obligation indebtedness of the Taxing District.

3.7 Effectuation of Pledge of Security, Current Appropriation. The sums herein required to pay the amounts due hereunder are hereby appropriated for that purpose, and said amounts for each year shall be included in the annual budget and the appropriation resolution or measures to be adopted or passed by the Board of the Taxing District in each year while any of the obligations herein authorized are outstanding and unpaid. No provisions of any constitution, statute, resolution or other order or measure enacted after the execution of this Agreement shall in any manner be construed as limiting or impairing the obligation of the Taxing District to levy ad valorem property taxes in a manner other than as set forth herein, or as limiting or impairing the obligation of the Taxing District to levy, administer, enforce and collect the ad valorem property taxes as provided herein for the payment of the obligations hereunder.

It shall be the duty of the Taxing District annually at the time and in the manner provided by law for the levying of the Taxing District's taxes, if such action shall be necessary to effectuate the provisions of this Agreement, to ratify and carry out the provisions hereof with reference to the levy and collection of the ad valorem property taxes herein specified, and to require the officers of the Taxing District to cause the appropriate officials of the county in which the Districts are located, to levy, extend and collect said taxes in the manner provided by law for the purpose of providing funds for the payment of the amounts to be paid hereunder promptly as the same, respectively, become due. Said tax, when collected, shall be applied only to the payment of the amounts to be paid hereunder and to other general obligation indebtedness of the Taxing District, as herein specified.

The Districts recognize that at the time of preparation of this Agreement it was anticipated that changes or modifications to this Agreement might be made necessary as a result of requirements or regulations of the State Securities Commission or other regulatory authorities. This Agreement may be modified, and shall be deemed to be modified, as necessary to obtain authorization or consent from such Persons for this Agreement to be executed and continue in legal force and effect. This statement of permitted modification and amendment shall be deemed to supersede any contrary provision contained herein or in the Service Plan, if any, but shall not be deemed to limit the rights or powers of the Districts to modify or amend this Agreement as otherwise permitted herein or in the Service Plan.

3.8 Limited Defenses; Specific Performance. It is understood and agreed by the Taxing District that its obligations hereunder are absolute, irrevocable, and unconditional except as specifically stated herein, and so long as any obligation of the Taxing District hereunder remains unfulfilled, the Taxing District agrees that notwithstanding any fact, circumstance, dispute, or any other matter, it will not assert any rights of setoff, counterclaim, estoppel, or other defenses to its payment obligations, or take or fail to take any action which would delay a payment to the Operating District or impair the Operating District's ability to receive payments due hereunder. The Taxing District acknowledges that the Operating District may issue bonds or notes in order to enable the Operating District to fulfill its obligations hereunder and in so doing, the Operating District will rely upon performance of the Taxing District of its payment obligations hereunder to produce revenue for the Operating District sufficient to enable the Operating District to pay its Bonds.

Furthermore, the Taxing District acknowledges that the Operating District may obtain financial commitments and security for its Bonds from third parties who shall be entitled to rely on the payment obligations of the Taxing District contained hereunder with respect to obligations that the Operating District makes in connection with such security. Accordingly, it is acknowledged by the Districts that the purpose of this Section 3.8 is to ensure that the Operating District receives all payments due herein in a timely manner in order to enable the Operating District to pay debt service on its Bonds for the benefit of bondholders and such third parties. Notwithstanding that the bondholders are not in any manner third party beneficiaries of this Agreement and do not have any rights in or rights to enforce, or consent to amendments of, this Agreement, the Taxing District acknowledges and agrees that unless payments are made to the Operating District during the pendency of any litigation which may arise hereunder in connection with alleged defenses other than those specifically set forth in this Section 3.8, all payments shall be made by the Taxing District for the purpose of enabling the Operating District to make payments on its Bonds until such claims have been adjudicated. Notwithstanding that this Agreement specifically prohibits and limits defenses and claims of the Taxing District, in the event the Taxing District believes that it has valid defenses, setoffs, counterclaims, or other claims other than specifically permitted by this Section 3.8, it shall, nevertheless, make all payments to the Operating District as described herein and then may attempt or seek to recover such payments by actions at law or in equity for damages or specific performance, respectively.

In addition, and without limiting the generality of the foregoing, the obligations of the Taxing District to transfer funds to the Operating District for each payment described herein shall survive any Court determination of the invalidity of this Agreement as a result of a failure, or alleged failure, of any of the directors of the Districts to properly disclose, pursuant to Colorado law, any potential conflicts of interest related hereto in any way, provided that such disclosure is made on the record of Districts' meetings as set forth in their official minutes.

3.9 The Taxing District's General Obligation Bonds. The Taxing District acknowledges that the Service Plan permits the Taxing District to issue general obligation bonds or other instruments of debt solely for purposes of performing the Service Plan requirements. The Taxing District further acknowledges and agrees that the Service Plan contemplates that general obligation bonds or other evidences of debt will be issued by the Taxing District solely for purposes of paying Capital Costs to the Operating District in general compliance with the

Service Plan. Accordingly, unless the Service Plan is amended as permitted therein not in contravention hereof, the Taxing District agrees to and shall pay all proceeds of its bonds, except capitalized interest, costs of issuance and reserve funds, to the Operating District immediately upon receipt thereof by the Taxing District or shall provide the Operating District with the right to requisition such funds as may be required pursuant to any indenture or other document entered in connection with the issuance of general obligation bonds, which amounts, when received by the Operating District, shall be allocated to the payment of Capital Costs and/or Service Costs as directed by the Taxing District. The Taxing District shall not be entitled to retain for its own use any of such proceeds except capitalized interest, reserve funds, and to reimburse its general funds for the reasonable costs of issuance of such Bonds or other indebtedness until all obligations hereunder have been performed. If the Taxing District has issued general obligation bonds and transferred the proceeds to the Operating District in partial fulfillment of its obligation to pay Capital Costs, the Taxing District's obligation to pay Service Costs and Capital Costs due under this Agreement shall be limited to the net revenue available to the Taxing District after all payments due on an annual basis are made on its bonds so that in no event shall the Taxing District be required to make a payment hereunder in any year which would cause it to be unable to make full and timely payments of principal and interest on such bonds as the same become due and payable in each such year. The Taxing District shall also receive a credit against future Estimated Capital costs if the net proceeds transferred to the Operating District exceed the Estimated Capital Costs for the year of issuance.

ARTICLE IV

FINANCING OF THE FACILITIES; ANNUAL CONSTRUCTION BUDGET; CONSTRUCTION OF THE FACILITIES

4.1 Preliminary Budget Process. During each year, the Operating District, in consultation with the Taxing District, shall prepare and submit to the Taxing District, upon request, a set of the Preliminary Budget Documents for the forthcoming Budget Year. If requested, the Operating District shall deliver the Preliminary Budget Documents to the Taxing District on or before September 15 of each Planning Year. The Preliminary Budget Documents shall set forth the Estimated Capital Costs for the Budget Year in accordance with generally accepted accounting principles. Those portions of the Facilities that are included in the Preliminary Budget Documents for planned construction shall be determined by the Operating District in consideration of the place and location of development in the Districts and after consultation with the Taxing District. The Estimated Capital Costs for each Budget Element shall include the Operating District's current best estimates of the cost of constructing those Budget Elements contemplated in the proposed budget, including, all costs incurred in the furtherance of the Construction of the Facilities.

4.2 Budget Review and Approval. On or before October 15 of the Planning Year, the Taxing District shall review the Preliminary Budget Documents and either: (a) approve the Preliminary Budget Documents (in which case the Preliminary Budget Documents shall become the Final Budget for the Budget Year), or (b) propose in writing to the Operating District additions to and/or deletions from the Preliminary Budget Documents. Subject to the obligation

of the Taxing District to pay Capital Costs or the Estimated Capital Costs to the Operating District, the Taxing District may, as set forth in Section 4.3 below, propose additions to and/or deletions of items from those portions of the Preliminary Budget Documents which directly obligate the Taxing District to appropriate and expend funds during the Budget Year.

4.3 Budget Revision. The Districts shall discuss, and attempt to reach an agreement with respect to the Preliminary Budget Documents. In the event that no agreement can be reached between the Operating District and the Taxing District with regard to any proposed additions and/or deletions to the Preliminary Budget Documents, then the Preliminary Budget Documents with any amendments made by the Operating District shall be the Final Budget, and budgeting, appropriation, and payment of the amounts by the Taxing District required for hereunder shall be determined by reference to this Agreement; and except as set forth below in Sections 4.4 and 4.6, the Taxing District's obligation to deposit funds to the Construction Account shall equal the maximum amount of Capital Costs which could become due hereunder or, if the Taxing District elects to pay the Estimated Capital Costs annually, the minimum payment required for the Budget Year in question, subject to the Maximum Annual Payment.

4.4 Automatic Budget Revision.

a. If the Taxing District (a) fails to approve the Preliminary Budget Documents, or (b) fails to provide written proposals for additions and/or deletions to the Preliminary Budget Documents in a timely fashion, or (c) proposes written proposals for additions and/or deletions to the Preliminary Budget Documents in a timely fashion, but no resolution is adopted by the Board of the Taxing District concerning said proposals in a timely fashion, then the Preliminary Budget Documents for the Estimated Capital Costs shall be the Final Budget only insofar as the amounts budgeted therein for Budget Elements do not exceed the amounts allocated for the Budget Year in the Service Plan, as amended from time to time, or the Maximum Annual Payment. By way of example, should the Facilities be proposed for the Budget Year and no proposal is submitted or resolution of the Board of the Taxing District is approved in a timely fashion, then the Facilities in question shall be deemed approved and budgeted if and to the extent that money adequate to complete said Facilities is or has been allocated on the schedule and as set forth within the Service Plan, as amended, for any and all Facilities for the year in question.

b. Notwithstanding anything set forth above to the contrary in this Article IV, in the event that the Taxing District elects to pay the Estimated Capital Costs on an annual basis, the Taxing District shall only be required to fund the Maximum Annual Payment. If the Taxing District has issued bonds and transferred the proceeds to the Operating District in partial fulfillment of its obligation to pay Capital Costs, the Taxing District's obligation to pay Service Costs and Capital Costs due under this Agreement shall be limited to the net revenue available to the Taxing District after all payments due on an annual basis are made on its bonds so that in no event shall the Taxing District be required to make a payment hereunder in any year which would cause it to be unable to make full and timely payments of principle and interest on such bonds as the same become due and payable in each such year. The Taxing District shall also receive a credit against future Estimated Capital costs if the net proceeds transferred to the Operating District exceed the Estimated Capital Costs for the year of issuance. Any debt issued

by the Taxing District for any purpose other than in satisfaction of its obligations under this Agreement shall be subordinate to its obligations under this Agreement.

c. It is anticipated that the funds for Capital Costs will be provided through the issuance of general obligation bonds by the Taxing District in amounts sufficient to enable the Taxing District to pay the Capital Costs or, at the Taxing District's option the Estimated Capital Costs set forth in the Final Budget for each Budget Year, as the same may be adjusted as set forth in Section 3.5 above and Section 4.6 below; provided, however, that the Taxing District shall retain the discretion and authority to provide for and raise said funds in any manner lawfully available to the Taxing District including but not limited to: (i) the issuance of bonds (whether general obligation bonds or revenue bonds), debentures, notes, certificates, anticipation notes, and such other general or special obligations of the Taxing District (including lines of credit) as the Taxing District shall in its sole discretion determine to issue or incur; (ii) the utilization of the Taxing District's power to raise funds in respect of the property and facilities located within its boundaries, as, for example, through the imposition of fees, charges, and general ad valorem property taxes; and/or (iii) the creation and maintenance of debt reserve and contingency funds. The Taxing District shall not be deemed to have surrendered or delegated any powers with respect to the determination of the manner in which the financial obligations imposed by this Agreement are to be satisfied and otherwise discharged.

4.5 Appropriation of and Provision for Capital Fund. Following the preparation of Final Budget for the Budget Year pursuant to Sections 4.1 through 4.4 above, and if the Taxing District issues Bonds as contemplated in Sections 3.2.c and 3.9 hereof, the Taxing District shall budget, appropriate and transfer funds to Construction Account for the Budget Year as required under Final Budget and under Sections 3.2.c. and 3.9 to meet the full amount of Final Budget and its Sections 3.2.c and 3.9 obligations during the forthcoming Budget Year.

4.6 Adjustment of Annual Payment. If the Taxing District has selected to make the Annual Payment Option of the Estimated Capital Costs, the Districts may, as set forth in Sections 4.2, 4.3 and 4.4 above, agree to increase or reduce the deposit by the Taxing District into Construction Account. The Taxing District may also elect to increase the Annual Payment Option in any year. To the extent any Annual Payment Option is reduced or increased pursuant to this Agreement, or in the event Bond proceeds have been transferred to the Operating District pursuant to Sections 3.2.c. and 3.9 hereof, the remaining amount of Capital Costs due under this Agreement shall be adjusted proportionate to such reduction or increase in an annual payment. Unless otherwise agreed by the Districts after due authorization, in no event shall any reduction or increase result in a reduction or increase in the obligation on the part of the Taxing District to pay the maximum amount of Capital Costs to the Operating District which could become due hereunder. In no event shall the Taxing District be required to fund an increase in excess of the Maximum Annual Payment.

4.7 Deposit and Funding of Capital Costs. If the Taxing District has elected to pay the Estimated Capital Costs for the Budget Year, upon determination of Final Budget and no later than March 1 of the applicable Budget Year, the Taxing District shall make a deposit into Construction Account to be used exclusively by the Operating District for funding the construction of the Facilities in an amount equal to the Estimated Capital Costs for the said

Budget Year, subject to limitations as set forth herein. The Operating District shall account for the funds withdrawn from Construction Account. If, and in the event, cost estimates as budgeted shall not be sufficient to cover Capital Costs incurred for the portions of the Facilities included in Final Budget, and in the event construction contract change orders and similar such causes shall increase the costs incurred for the Facilities Construction, the Operating District shall call for such supplemental deposits to be placed into Construction Account by the Taxing District as may be necessary to cover such increased costs, subject to the limitations of the Maximum Annual Payment. The Taxing District shall make supplemental deposits into Construction Account within thirty (30) days of such a call by the Operating District; provided that in no event shall any such call result in a reduction or increase in the obligation on the part of the Taxing District to pay to the Operating District the maximum amount of Capital Costs which could become due hereunder as defined in Section 2.1 hereof.

Any interest earned on funds in Construction Account shall be first applied toward payment of Construction costs. Any excess of the Estimated Capital Costs deposited by the Taxing District (and earned interest not expended for Construction as provided herein) shall be returned to the Taxing District within 180 days following final payment of all costs relating to the completion of all of the Facilities set forth in the Service Plan.

4.8 Construction Account Ownership and Fiscal Year Spending. All funds deposited by the Taxing District into Construction Account shall at all times remain the funds of the Taxing District until disbursed from Construction Account but upon deposit shall be deemed to be part of the fiscal year spending of the Taxing District pursuant to Colorado Constitution Article X, Section 20. Funds expended from Construction Account shall not be part of the fiscal year spending of the Operating District, which is acting as owner and manager, and which is receiving no funds from the Taxing District other than to provide Services, Facilities, and programs for the Taxing District.

All funds deposited by the Operating District into Construction Account under this Agreement shall at all times remain the funds of the Operating District until disbursed from Construction Account and shall be deemed to be part of the fiscal year spending of the Operating District pursuant to Article X, Section 20 of the Colorado Constitution, but the Operating District's funds expended from Construction Account shall not be part of the fiscal year spending of the Taxing District, which is receiving no funds from the Operating District.

4.9 Limitation of Authorization. The Districts recognize that certain obligations imposed upon the Districts by this Article IV constitute "debt" (as defined in the Constitution of the State of Colorado). At a duly called and noticed election the electorate of the Taxing District authorized the incurring of indebtedness by the Taxing District in an amount sufficient to fund the various obligations imposed by this Agreement, and also approved entry into this Agreement by each District. In no event shall any commitment, covenant, promise, or other obligation under this Agreement require the issuance or incurring of indebtedness by the Districts in excess of their respective voted indebtedness authorization.

4.10 Operating District to Construct and Acquire Improvements. The Operating District will, on behalf of the Taxing District, contract for and supervise the construction and

acquisition of the Facilities described in the Service Plan and the applicable Final Budget for each Budget Year in such manner as the Operating District shall reasonably determine to be in the best interests of the Districts. Pursuant to this Agreement, the Operating District shall schedule, phase, and configure the Facilities to accurately and adequately provide for the needs of District's residents and property owners as reflected in development plans for the community, as the same may be revised officially from time to time and as development demands require. All construction shall be subject to good faith efforts of the Operating District to obtain all necessary governmental approvals. The Operating District shall exercise its best efforts to comply with Colorado and other applicable rules, laws, regulations and orders in its contractual undertakings concerning construction and acquisition of the Facilities.

4.11 Final Plans and Specifications.

a. Prior to the construction and/or acquisition of any specific portion of the Facilities, the Operating District shall prepare and submit Plans to the Taxing District for specific Facilities. If no objection to the Plans is received within fifteen (15) days from the date of submittal, the Taxing District shall be deemed to have approved such Plans. If, within fifteen (15) days from the date of submittal of such Plans, the Taxing District provides written notice to the Operating District of objections to such Plans, the Operating District and the Taxing District shall meet to resolve and arrive at any agreement with regard to those objections. Objections to and revision to such Plans, as submitted by the Operating District, may only be made by the Taxing District if the objection alleges one or more of the following violations of standards:

1. Such Plans are not in substantial compliance with generally accepted architectural and/or engineering standards.

2. Such Plans are not in substantial compliance with any approved final plat as approved by entities with legal jurisdiction over such final plats or other regulatory agency having approval authority over a final plat of property within the Taxing District or the Operating District.

3. Such Plans are not in substantial compliance with design standards applicable to the Districts or any other regulatory agency having jurisdiction over the matters concerned in such Plans.

If any agreement is not reached between the Operating District and the Taxing District within fifteen (15) days from the date of notice of objection as provided herein, the matter shall be submitted to an appropriate professional as may be agreed upon by the Districts, who shall, at the expense of the Taxing District, review such Plans for compliance with regard to the standards set forth in subparagraphs 1, 2, and 3 immediately above, and whose decision regarding compliance, or regarding adjustments to accomplish compliance, shall be final. In the event such engineer finds that the objections are invalid then the Operating District may commence Construction. In the event adjustments are needed to overcome valid objections, the Operating District may make such adjustments and thereafter commence Construction. In the event that the Operating District disagrees with the suggested adjustments, then the Operating District may either (a) elect not to build that portion of the Facilities at that time, or (b) the Operating District

may prepare alternate Plans and resubmit them to the Taxing District for approval as provided in this Section 4.11 hereof, or (c) review such Plans with the engineer to work out alternatives acceptable to the Operating District and the engineer utilizing, sound engineering practice, and then revise such Plans to satisfy all valid objections. In the event that the engineer approves alternatives, the Operating District may make the changes to such Final Plans and proceed to construct the Facilities pursuant to this Agreement.

4.12 Construction Contracts. The Operating District shall cause Construction of the Facilities to be commenced on a timely basis subject to receipt of all necessary governmental approvals and the terms of this Agreement. The Operating District shall make available to the Taxing District copies of any and all construction contracts and related documents concerning the Facilities. The Operating District shall diligently and continuously prosecute to completion the Construction of the Facilities. Approval of any change orders for which funds are or may be made available pursuant hereto shall be in the sole discretion of the Operating District after informational consultation with the Taxing District. The Taxing District shall have the right upon written request to review in advance all proposed change orders that will result in an increase in the total amount, taken in the aggregate, of the amount budgeted, appropriated and paid by the Taxing District into the Accounts for the Budget Year in question. Nothing in this or any other paragraph, Article or Section of this Agreement shall be construed to mean that any change order, or change orders, shall effect an expansion of any District's total financing obligation under this Agreement except as specifically permitted herein or in the Service Plan. The Taxing District shall not direct any Construction activities.

4.13 Completion of Construction. Prior to the final acceptance of any portion of the Facilities by the Operating District and prior to the issuance of a final certificate of payment under the terms of any construction contract, the Operating District shall take into account opinions expressed by the Taxing District, if any, and shall approve final payment and issue a final certificate of payment if the Operating District believes in good faith and pursuant to generally accepted standards of engineering and construction review, that construction has been accomplished in compliance with the conditions and terms of the construction contract involved.

4.14 Construction Claims. The Operating District agrees that it shall, to the extent it is practical and cost-effective as reasonably determined by the Operating District, assert against any contractor involved in constructing any Facilities which are contemplated by this Agreement any claim that the Operating District may have against the contractor according to the terms of any construction contract and/or construction guarantee and/or warranty.

4.15 Waiver of Requirements. The Districts agree that for so long as the Districts are holding joint Board meetings, the requirements of this Article IV with respect to the submission, review and approval of various documents shall be waived; provided, however that the minutes of the Districts' Board meetings reasonably reflect a cooperative effort of the Districts to prepare and adopt budgets, review and approve construction plans, and conduct other activities required by this Article IV.

ARTICLE V

OWNERSHIP AND OPERATION OF THE FACILITIES PAYMENT FOR SERVICES

5.1 The Facilities. Except as otherwise provided herein, the Operating District shall own all the Facilities and shall be responsible for the operation and maintenance of all the Facilities.

5.2 Sale of the Facilities. Notwithstanding any provision hereof to the contrary, in the event that the Operating District finds it is in the best interests of the Operating District and the Taxing District to sell, transfer, lease, dedicate, or otherwise convey any interest in any Facilities, or a part thereof, to another governmental, quasi-governmental, private, or utility service supplier, the Operating District may do so upon such reasonable terms as are determined by the Operating District consistent with the Service Plan and provided that tax-exempt bonds of the Districts are not negatively affected. The Districts agree and acknowledge that the Service Plan contemplates that water, wastewater, roads, and other facilities may be transferred or leased to other governmental entities for operation and maintenance purposes, and that such entities shall have the right to impose and collect service charges for services they provide. Nothing contained herein shall constrain the ability of the Operating District to enter into and perform such agreements or enter into and perform singular agreements for coordinated provision of services among various governments.

5.3 Management Services. The Operating District shall perform the following services for the Taxing District:

a. Serve as the "official custodian" and repository for the Taxing District's records, and emergency communication services for the Operating District's Facilities, file space, incidental office supplies and photocopying, meeting facilities and reception services.

b. Coordination of all Board meetings to include:

1. Preparation and distribution of agenda and information packets.
2. Preparation and distribution of meeting minutes.
3. Attendance at Board meetings.
4. Preparation, filing and posting of legal notices required in conjunction with the meeting.
5. Other details incidental to meeting preparation and follow-up.

c. Ongoing maintenance of an accessible, secure, organized and complete filing system for the Taxing District's official records.

d. Monthly preparation of checks and coordination of postings with an accounting firm.

e. Periodic coordination with an accounting firm for financial report preparation and review of financial reports.

f. Insurance administration, including evaluating risks, comparing coverage, processing claims, completing applications, monitoring expiration dates, processing routine written and telephone correspondence, etc. Ensure that all contractors and subcontracts maintain required coverage for the Taxing District's benefit.

g. Election administration, including preparation of election materials, publications, legal notices, pleadings, conducting training sessions for election judges, and generally assisting in conducting the election.

h. Budget preparation, including preparation of proposed budget in coordination with an accounting firm, preparation of required and necessary publications, legal notices, resolutions, certifications, notifications and correspondence associated with the adoption of the annual budget and certification of the tax levy.

i. Response to inquiries, questions and requests for information from the Taxing District's property owners and residents and others.

j. Drafting proposals, bidding contract and construction administration, and supervision of contractors.

k. Analysis of financial condition and alternative financial approaches, and coordination of bond issue preparation.

l. Oversee investment of District funds based on investment policies established by the Board but in any case in accordance with state law.

m. Provide liaison and coordination with other governments.

n. Coordinate activities and provide information as requested to an external auditor engaged by the Board.

o. Establish and maintain system for selling and recording water and sewer taps including an inventory management system.

p. Supervise and ensure contract compliance of all Taxing District's service contractors, including the establishment and maintenance of preventive maintenance programs.

q. Coordinate legal, accounting, engineering and other professional services to the Taxing District.

r. Perform other services with respect to the operation and management of the Taxing District as requested by their Boards.

In addition to these services, when other services are necessary in the opinion of the Operating District, the Operating District shall recommend the same to the Taxing District, or perform such services and report to the Taxing District the nature of such services, the reason they were required, and the result achieved. The Operating District may, with the approval of the Taxing District, provide professional services and operation and maintenance services to the Taxing District in lieu of retaining consultants or contractors to provide those services.

5.4 Record Keeping and Financial Planning.

a. In connection with the Construction, acquisition, operation, maintenance, and administration of the Facilities, the Operating District shall maintain accounts for the Taxing District in accordance with generally accepted accounting principles, and present regular financial reports, including summaries of receipts and disbursements. These materials shall be available for examination by the Taxing District during regular business hours upon written request. If the Taxing District causes an audit of the books of account and financial reports maintained pursuant to this Section and said audit shall lead to a legal determination of negligence, fraud, or knowing misconduct in the performance of the duties required of the Operating District by this Agreement, the Operating District shall promptly reimburse the Taxing District for the cost of the audit as well as for any additional sums deemed payable as a result of the audit. Otherwise, the costs of such audit shall be borne by the Taxing District.

b. The Operating District shall also:

1. Assist any auditors hired by the Taxing District in the preparation of its yearly audit as required by the laws of the State of Colorado; and

2. Assist the Taxing District in analyzing the Taxing District's long and short-term capital improvements needs and assist in the development of long and short-term capital improvement plans to meet those needs; and

3. Advise and assist the Taxing District by analyzing the Taxing District's long and short-term financial needs and presenting the Taxing District with long and short-term financial proposals to meet those needs; and

4. Keep and maintain accurate files of all contracts concerning the Facilities, and all other records necessary to the orderly administration and operation of the Facilities which are required to be kept by statute or by regulation of the State of Colorado or the United States; and

5. Advise and assist the Taxing District in making applications for and in administering various state and federal grant programs, and operate and maintain the Facilities in accordance with the requirements of such programs and in accordance with all federal, state, and local laws and regulations; and

6. Perform such other services as may from time to time be reasonably necessary to assure that the Taxing District is in compliance with all applicable federal and state statutes and regulations and with county and local laws applicable to the operation of the Facilities; provided, however, that all such expenditures shall be made and reimbursed in accordance with this Agreement.

5.5 The Operating District to Provide Operators. The Operating District shall provide operators, which operators shall perform duties including, but not necessarily limited to the following:

a. Operation and maintenance of the Facilities to be operated and maintained by the Operating District.

b. Cooperation with state, county, and federal authorities in providing such tests, as are necessary to maintain compliance with appropriate governmental standards.

c. Permitting and supervising the connection of lines to private developments.

d. Coordinating construction with various utility companies to ensure minimum interference with the Facilities.

e. Performing normal maintenance and normal repairs necessary to continue the efficient operation of the Facilities.

f. Providing for the services of subcontractors necessary to maintain and continue the efficient operation of the Facilities.

g. Providing for emergency preparedness, consisting of a centralized telephone number maintained to provide adequate response to emergencies, including but not limited to, interruption of service because of line breaks, freeze-ups, or other mechanical problems.

5.6 Major Repairs and Replacements. The Operating District shall maintain and operate the Facilities including the procuring of all inventory, chemicals, parts, tools, equipment, and other supplies necessary to perform the services required under this Article. Major Repairs or Replacement to the Facilities shall be paid by the Taxing District. Such payments shall be made within thirty (30) days from the date on which the Operating District presents an itemized estimate of the cost of the Major Repairs or Replacement. Except for Emergency Repairs, and any Major Repairs or Replacements which are not funded by the Taxing District, all Major Repairs or Replacements must be previously approved by the Taxing District.

5.7 Financial Matters.

a. Payment of Service Costs. Unless the Taxing District pays the maximum amount of Service Costs that could become due hereunder upon execution hereof, the Taxing District shall pay all Service Costs in accordance with this Article V. It is the desire and intent of the Districts that, to the extent possible, the operation, maintenance, and administration costs incurred by the Operating District in the performance of the duties and services required by this Agreement be paid through the operation of this Article by the imposition by the Taxing District of taxes against the taxable property lying within their boundaries, thus and to that extent avoiding the necessity for the Operating District to exercise its power to assess fees, rates, tolls and/or charges for the purpose of paying all or any part of such costs directly on Users. Nevertheless, nothing herein shall be construed as a limitation on the powers granted to the Operating District by Colorado law, and/or as restated in this Agreement, to recoup all or any portion of such operation, maintenance, and administration costs which are not paid through the operation of this Article, and whether or not they exceed the Service Costs, through the use of such alternative measures as the Operating District may be authorized by Colorado law to utilize for that purpose.

b. Preliminary Budget Process. During each year, the Operating District, in consultation with the Taxing District and in the same manner as is provided in Article IV, above, shall prepare and submit to Taxing District a set of Preliminary Budget Documents for the forthcoming Budget Year. The Operating District shall deliver the Preliminary Budget Documents to the Taxing District on or before September 15 of each Planning Year. The Preliminary Budget Documents shall set forth the Estimated Service Costs for the Budget Year in accordance with generally accepted accounting principles. Estimated Service Costs for each Budget Element shall include the Operating District's current best estimates of the operation, maintenance, and administration costs to be incurred by the Operating District in the performance of the Service required by this Agreement.

c. Budget Review and Approval. On or before October 15 of the Planning Year, the Taxing District shall either: (a) approve the Preliminary Budget Documents (in which case the Preliminary Budget Documents shall become Final Budget for the Budget Year), or (b) propose in writing to the Operating District additions to and/or deletions from the Preliminary Budget Documents. Subject to the obligation to pay the maximum amount of Total Services Costs which could become due hereunder or Estimated Service Costs to the Operating District, as set forth herein, the Taxing District may propose such additions to and/or deletions from those portions of the Preliminary Budget Documents which directly obligate the Taxing District to appropriate and expend funds for services during the Budget Year.

d. Budget Revision. The Districts shall discuss and attempt to reach an agreement with respect to the Preliminary Budget Documents. In the event that no agreement can be reached between the Operating District and the Taxing District with regard to any proposed additions and/or deletions to the Preliminary Budget Documents, then the Preliminary Budget Documents with any amendments agreed to by the Operating District shall be Final Budget, and budgeting, appropriation, and payment of the amounts called for hereunder shall be determined by reference to this Agreement and except as set forth below, the Taxing District's obligation to

deposit funds to Service Account shall equal the maximum amount of Service Costs which could become due hereunder, or if elected, Estimated Service Costs required for the Budget Year in question.

e. Automatic Budget Revision.

1. If the Taxing District (a) fails to approve the Preliminary Budget Documents, or (b) fails to provide written proposal for additions and/or deletions to the Preliminary Budget Documents in a timely fashion, or (c) proposes written proposal for additions and/or deletions to the Preliminary Budget Documents in a timely fashion but no resolution by each Board concerning said proposals is adopted in a timely fashion; then the Preliminary Budget Documents with any amendments agreed to by the Operating District and Estimated Service Costs shall be Final Budget, and Estimated Service Costs for the Budget Year shall be paid in accordance with this Article V.

2. Notwithstanding anything set forth above to the contrary in this Article V, in the event that the Taxing District does not pay the maximum amount of Service Costs which could become due hereunder upon execution hereof, the Taxing District shall only be required to fund the Maximum Annual Payment. Should the maximum amount to be funded under the operation of this subparagraph 2 be less than Estimated Service Costs, then the "carry-forward" concepts of Section 3.5 hereof for Capital Costs shall likewise apply for Estimated Service Costs.

3. It is anticipated that the funds for Service Costs will be provided through the levying of ad valorem property taxes by the Taxing District in amounts sufficient to enable the Taxing District to pay the maximum amount of Service Costs which could become due hereunder or, at the Taxing District's option, Estimated Service Costs for each Budget Year; provided, however that the Taxing District shall retain the discretion and authority to provide for and raise said funds in any manner lawfully available to the Taxing District including, but not limited to: (i) the issuance of bonds (whether general obligation bonds or revenue bonds), debentures, notes, certificates, anticipation notes, and such other general or special obligations of the Taxing District (including lines of credit) as the Taxing District shall in its discretion determine to issue or incur; (ii) the utilization of the Taxing District's power to raise funds in respect of the property and facilities located within its boundaries, as, for example, through the imposition of fees and charges; and/or (iii) the creation and maintenance of operations reserves and contingency funds. The Taxing District shall not be deemed to have surrendered or delegated any powers with respect to the determination of the manner in which the financial obligations imposed by this Agreement are to be satisfied and otherwise discharged. It is specifically contemplated and agreed by the Districts that the Taxing District's obligation to pay Service Costs in the maximum amount set forth in Section 2.1 hereof is a general obligation indebtedness of the Taxing District subject to limitations expressed herein, and that mill levies imposed by the Taxing District for such costs shall be treated and constitute debt service mill levies for all legal and constitutional purposes. Revenues received by the Operating District shall be deemed and constitute revenues for Services provided.

5.8 Appropriation of and Provision for Service Fund. Following the preparation of Final Budget for the Budget Year pursuant to Section 5.7 above, the Taxing District shall budget, appropriate and prepare to transfer funds to Service Account for the Budget Year as required under Section 5.10 and as required under Final Budget to meet the full amount of Final Budget during the forthcoming Budget Year, or such portion thereof as may be funded through the Maximum Annual Payment, as described in Section 5.7.e.2, above, whichever is the lesser amount.

5.9 Adjustment of Annual Payment. If the Taxing District does not pay the maximum amount of Service Costs set forth in Section 2.1 hereof upon execution hereof, it shall be deemed to have made a continuing election to pay Estimated Service Costs on an annual basis until such time as the Taxing District affirmatively elects to pay and actually pays the then remaining balance of the maximum amount of Service Costs set forth in Section 2.1 hereof. The Districts may, as set forth in Section 5.7 above, agree to increase or reduce the deposit by the Taxing District into Service Account on an annual basis for Estimated Service Costs. The Taxing District may also unilaterally decide to increase the payment in any year. Unless otherwise agreed by the Districts after due authorization, in no event shall any reduction or increase result in a reduction or increase in the obligation on the part of the Taxing District to pay the maximum amount of Service Costs defined in Section 2.1 hereof to the Operating District, subject to the limitations of the Maximum Annual Payment.

5.10 Service Accounts.

a. Deposit. In accordance with Article III above, unless otherwise agreed by the Operating District and the Taxing District, the Taxing District will have deposited into Service Account the maximum amount of Service Costs which could become due hereunder or, if not paid, will have deposited (or shall be required to make a deposit for the initial Budget Year of this Agreement, Estimated Service Costs in the amount of one-hundred thousand dollars (\$100,000). Commencing in the Budget Year which immediately follows the initial Budget Year and continuing thereafter, the Taxing District shall deposit Estimated Service Costs for such Budget Year into Service Account in such amounts as the Districts may agree to in the preparation of Final Budget, but unless otherwise agreed, such deposit shall be in an amount not less than Estimated Service Costs in the Final Budget for the Budget Year in question. Said deposit shall be made on or before March 1 of the Budget Year. The Operating District shall have the authority to make withdrawals or payments from Service Account, and the funds deposited in Service Account, together with interest earned thereon, shall be used solely for the purpose of paying Service Costs for the Budget Year.

b. Adjustments for Deficiencies. If it appears to the Operating District that Service Costs for the Budget Year will exceed the amount deposited into Service Account by the Taxing District, the Operating District may, by written notice, call for supplemental deposits to cover such increased costs and the Taxing District shall make such supplemental deposits into Service Account within ten (10) days after receipt of such written notice. If and in the event Service Costs exceed the amount deposited in Service Account or exceed the amount of Estimated Service Costs permitted to be paid under Section 5.7.e.2. hereof, and/or a call for supplemental deposits would result in a deposit by the Taxing District that exceeds permitted

payment amounts for the year in question, the Operating District may fund the deficiency through its powers to impose rates, fees, tolls, penalties, and charges under Colorado law directly on all Users with or without the consent of the Taxing District.

c. Accounting. All deposits and/or withdrawals made with respect to Service Account shall be separately accounted for by the Operating District. In all cases, the Operating District shall use its best efforts in the operation, maintenance, and administration of the Facilities to not exceed Estimated Service Costs for Service during the Budget Year.

5.11 Service Account Ownership and Fiscal Year Spending. All funds deposited by the Taxing District into Service Account at all times shall remain the funds of the Taxing District until disbursed from said Account but upon deposit shall be deemed to be part of the fiscal year spending of the Taxing District pursuant to Colorado Constitution Article X, Section 20. Funds expended from Service Account shall not be part of the fiscal year spending of the Operating District, which is acting as owner and manager, and which is receiving no funds from the Taxing District other than to provide services, facilities, and programs for the Taxing District.

All funds deposited by the Operating District into Service Account at all times shall remain the funds of the Operating District until disbursed from said Account and shall be deemed to be part of the fiscal year spending of the Operating District's pursuant to Article X, Section 20 of the Colorado Constitution, but the Operating District's funds expended from Service Account shall not be part of the fiscal year spending of the Taxing District, which are receiving no funds from the Operating District.

5.12 Limitation of Authorization. The Districts recognize that certain obligations imposed upon the Taxing District by this Article constitute "debt" (as defined in the Constitution of the State of Colorado). At duly called and noticed elections, the electorate of the Taxing District authorized the incurring of indebtedness by the Taxing District in an amount sufficient to fund the various obligations imposed by this Agreement, and also approved entry into this Agreement by the Taxing District. In no event shall any commitment, covenant, promise, or other obligation under this Agreement require the issuance or incurring of indebtedness by the Districts in excess of their respective voted indebtedness authorization.

5.13 Waiver of Requirements. The Districts agree that for so long as the Districts are holding joint Board meetings, the requirements of this Article V with respect to the submission, review and approval of various documents shall be waived; provided, however, that the Minutes of the Districts' Board meetings reasonably reflect a cooperative effort of the Districts to prepare and adopt budgets, review and approve maintenance and other plans, and conduct other activities required by this Article V.

ARTICLE VI

CONTRACT SERVICES; SPECIAL PROVISIONS

6.1 Contract Service Area. For purposes of this Agreement, and to clarify the continuing obligation of the Operating District to provide Service to the Taxing District and its

inhabitants, the territory currently within the boundaries of the Taxing District (as the same is enlarged or reduced from time to time) is hereinafter referred to as the "Contract Service Area." No enlargement or reduction of Contract Service Area or any other amendment of this Agreement may be made except by mutual agreement entered into with the same formality as that employed in the execution of this Agreement. Nothing herein shall be construed to provide the Operating District with a veto power over inclusions or exclusions of land approved by the Board of the Taxing District's but the Operating District shall hold a veto power over any Taxing District's inclusion from becoming a part of Contract Service Area under this Agreement.

6.2 General Provision Regarding Service: Charges.

a. Contract Service. The Operating District agrees to provide Service contemplated by the Service Plan to the Taxing District provided that the Taxing District observes and performs the covenants and agreements hereof. Service shall be provided pursuant to duly adopted rules and regulations of the Operation District. The Operating District shall be permitted to enter into such agreements with other entities or Persons for the provision of water and sanitation services. Such arrangements shall be permitted, as deemed appropriate by the Operating District, which are reasonably necessary, consistent with the Service Plan, to secure necessary Service for the Taxing District.

b. Maintenance Services. The Operating District shall maintain all the Facilities in such manner as is necessary in its sole discretion to provide Service to the Taxing District of the quality contemplated in the Service Plan. The Taxing District agrees that the Operating District shall be entitled to provide Service to any Facilities by contract with lawfully authorized service providers.

c. Rights of the Operating District. The Taxing District grants to the Operating District the right to construct, own, use, connect, disconnect, modify, renew, extend, enlarge, replace, convey, abandon or otherwise dispose of any and all of the real property, improvements thereto, the Facilities or appurtenances thereto, and any and all other interests in property, real, personal or otherwise within the Taxing District's control to enable the Operating District to perform its obligations to provide Service to the Taxing District. The Taxing District grants to the Operating District the right to occupy any place, public or private, which the Taxing District might occupy for the purpose of fulfilling the obligations of the Operating District as set forth herein. To implement the purposes of this Agreement, the Taxing District agrees to exercise such authority, to do such acts, and to grant such easements as may reasonably be requested by the Operating District, provided that any legal, engineering, technical or other services required, or costs incurred, for the performance of this obligation shall be performed by a Person or Persons in the employment of or under contract with, and paid by, the Operating District.

d. User Fees and Development Fees. The Operating District may establish, revise, impose and collect (or assign collection of) all fees, rates, tolls and charges permitted by Colorado Law for Services or Facilities provided within the Taxing District by the Operating District either directly or by contract through other entities, including surcharges for Service provided under contracts or other arrangements developed by the Operating District. All such

charges shall be referred to as and be "User Fees." In addition, the Operating District may at any time impose, set or change the rate of, and/or waive or discontinue, system development charges, tap fees, participation charges, and such other rates, fees, tolls, charges, penalties, or combinations thereof, which are utilized for any purpose, and may waive any such fees or charges for classes of Users. User Fees and Development Fees are separate charges and one does not include the other or any part thereof. Development Fees shall be uniform among members of each class of Users within the contract Service Area as "class" is defined by the Operating District. User Fees and Development Fees shall remain in full force and effect until the Operating District shall deem it necessary to raise or lower either or both of such charges. The Taxing District agrees that it shall not permit any connection to or use of the Facilities by any Person without the Operating District's written consent unless this Agreement has been voluntarily terminated by the Districts in accordance with the provisions hereof. In no event shall connection to the Facilities be permitted unless an appropriate tap permit has been received by Persons desiring to connect to the Facilities and unless the Operating District consents thereto, which consent shall not be unreasonably withheld.

e. Fee Imposition and Collection; Reserves. User Fees and Development Fees established by the Operating District shall be reasonably related to the overall cost of Service and Facilities for which such rates, fees, tolls, and charges are imposed. Methods of collection and schedules of charges for Service may be applied uniformly among Users similarly situated. Methods of collection and schedules of connection charges for Contract Service Area shall be determined by the Operating District. The Operating District shall have the right to delegate or assign its fee imposition and collection power to a billing or service entity of its choice.

f. Taxing District's Surcharge. The Operating District shall have sole authority to impose all charges for Service; provided, however, that for the purpose only of satisfying its obligations to the Operating District hereunder, or retiring the Taxing District's general obligation or other indebtedness, and the interest thereon outstanding as of the date hereof or as the same may be issued or refunded from time to time, the Taxing District may request that the Operating District impose surcharges on the Operating District's User Fees and Development Fees for the purpose of supplementing other revenues of the Taxing District in the payment by the Taxing District of any such general obligation or other indebtedness. Conditional upon granting its consent to such request, the Operating District hereby agrees to and shall impose and collect such surcharges in the same manner along with its own charges and shall remit the same to the Taxing District as and when collected.

g. Right to Provide Service. The Taxing District agrees that it shall not attempt to provide services or facilities of any kind to its residents and property owners without first offering the Operating District the opportunity to provide such services or facilities, and in no event shall services or facilities be provided by the Taxing District which are intended under the Service Plan to be provided by the Operating District. The Taxing District further agrees that it shall not impose any fee or charge of any kind on any person without consent of the Operating District which may be denied by the Operating District if it believes, in its sole and reasonable discretion, that such fee or charge would materially adversely affect the financial structure of the Operating District or interfere with the Operating District's performance of this Agreement,

including payment of its bonds or other obligations. In no event shall the Taxing District be entitled to impose any fee or charge of any kind with respect to any element of any Service or Facility, or the availability thereof, which is the subject of this Agreement.

h. Changes in Fees. It is mutually agreed that the duration of this Agreement is such that the passage of time will require changes in the charges to be made for Service to be rendered hereunder in the Contract Service Area. The Operating District may modify the schedule of charges for Services provided hereunder, from time to time, in its discretion, provided:

1. Such modification will become effective not earlier than thirty (30) days after any changed schedule of charges shall be adopted by the Operating District.

2. The Operating District will take reasonable steps to notify the Taxing District and each Customer in Contract Service Area of such change within a reasonable time after such change has been adopted.

i. Rules and Regulations. All rules and regulations, and amendments thereto, placed in force by the Operating District from time to time concerning the operation of the Facilities and provision of any Service shall be as fully enforceable in Contract Service Area as inside the Operating District. The Taxing District retains the full right to make and enforce rules not inconsistent with the Operating District's rules to govern Users in Contract Service Area. The Taxing District agrees to exercise any rule making or police power it may have to assist the Operating District in enforcing the Operating District's rules and regulations.

j. Variable Water Supply. The Districts agree and recognize that resources needed for Service for Contract Service Area are dependent upon resources with respect to which the supply is variable in quantity and beyond the control of the Operating District. No liability shall attach to the Operating District on account of any failure to accurately anticipate availability of the water supply, or the possibility that it may be expended, or because of an actual failure of the water supply due to occurrences beyond the reasonable control of the Operating District.

k. Limitation of Services. The Districts agree that in order to comply with any applicable law, rule, directive or order, and to enable it to provide adequate Service to the Operating District and the Taxing District, as well as other Users of the Operating District in time of shortage or other practical or legal limitations on the ability of the Operating District to provide the Service contemplated hereby, the Operating District may limit the delivery of Service.

l. Suspension of Construction of the New Facilities. In order to reduce the likelihood of the limitation of delivery of Service to Users, the Operating District may suspend the construction of the Facilities in Contract Service Area. The Operating District agrees to give six- (6) month's written notice to the Taxing District of such suspension, unless the Operating District reasonably determines that circumstances require a shorter period.

ARTICLE VII

REPRESENTATIONS AND WARRANTIES

7.1 General Representations. In addition to the other representations, warranties and covenants made by the Districts herein, the Districts make the following representations, warranties and covenants to each other, and may be held liable for any loss suffered as a consequence of any misrepresentation or breach under this Article VII:

a. Each District has the full right, power and authority to enter into, perform and observe this Agreement.

b. Neither the execution of this Agreement, the consummation of the transactions contemplated hereunder, nor the fulfillment of or by the compliance with the terms and conditions of this Agreement by each District will conflict with or result in a breach of any terms, conditions, or provisions of, or constitute a default under, or result in the imposition of any prohibited lien, charge, or encumbrance of any nature under any agreement, instrument, indenture, or any judgment order, or decree to which any District is a party of by which any District is bound.

c. This Agreement is the valid, binding and legally enforceable obligation of the Districts and is enforceable in accordance with its terms.

d. The Districts shall keep and perform all of the covenants and agreements contained herein and shall take no action that could have the effect of rendering this Agreement unenforceable in any manner.

ARTICLE VIII

DEFAULT, REMEDIES AND ENFORCEMENT

8.1 Events of Default. The violation of any provision of this Agreement by any District, the occurrence of any one or more of the following events, and/or the existence of any one or more of the following conditions shall constitute an Event of Default under this Agreement.

a. The failure to pay any payment when the same shall become due and payable as provided herein and to cure such failure within three (3) business days of receipt of notice from the Operating District of such failure;

b. The failure to perform or observe any other covenants, agreements, or conditions in this Agreement on the part of any District and to cure such failure within ten (10) days of receipt of notice from the other District of such failure;

c. The filing of a voluntary petition under federal or state bankruptcy or insolvency laws by the Taxing District or the Operating District or the appointment of a receiver

for any of the Taxing District's assets which is not remedied or cured within thirty (30) days of such filing or appointment;

d. Assignments by the Taxing District for the benefit of a creditor and a failure to cure such assignments within ten (10) days of receipt of written notice from the Operating District; or

e. The dissolution, insolvency, or liquidation of the Taxing District or the Operating District and a failure to cure such dissolution, insolvency or liquidation within ten (10) days of receipt of written notice.

8.2 Remedies on Occurrence of Events of Default.

a. Statement of Damages. It is agreed that the damage to the Operating District for failure of the Taxing District to perform this Agreement in all its essential parts will be not less than the reproduction cost of the Facilities installed, replaced or used by the Operating District to supply Service to Contract Service Area less the capital costs previously paid by the Taxing District, which damage the Taxing District agrees to pay immediately upon demand by the Operating District.

b. Rights and Remedies. Upon the occurrence of an Event of Default, the Districts hereto shall have the following rights and remedies that may be pursued hereof:

1. In the event of breach of any provision of this Agreement, including but not limited to the failure of the Taxing District to appropriate funds after a Final Budget is determined, and the failure of the Operating District to commence Construction, if not prohibited by law, regulation or other circumstances beyond the Operating District's control, within a reasonable time after the start of each Budget Year for which funds were appropriated for Construction, in addition to contractual remedies, any District may ask a court of competent jurisdiction to enter a writ of mandamus to compel the Board of the defaulting District to perform its duties under this Agreement, and any District may seek from a court of competent jurisdiction temporary and/or permanent injunctions, or orders of specific performance, to compel the other to perform in accordance with the obligations set forth under this Agreement.

2. The Districts may protect and enforce their rights under this Agreement by such suit, action, or special proceedings as they shall deem appropriate, including without limitation any proceedings for specific performance of any covenant or agreement contained herein, for the enforcement of any other appropriate legal or equitable remedy, or for the recovery of damages caused by breach of this Agreement, including attorney's fees and all other costs and expenses incurred in enforcing this Agreement. If, at any time, there shall cease to be electors in the Operating District, or if no electors of the Operating District are willing to act as directors of the Operating District, the Taxing District may ask a court of competent jurisdiction to designate the proper persons to assume control of the Operating District for purposes of causing the performance of the Operating District's obligations under this Agreement.

3. To foreclose any and all liens in the manner specified by law.

4. To terminate this Agreement as provided herein; and

5. The Operating District shall have the right to accelerate any remaining unpaid amounts up to a maximum of the aggregate of the then-unpaid balance of the maximum amount of Capital Costs which could become due hereunder, as well as the maximum amount of Service Costs which could become due, both through the remainder of the term of this Agreement to make all such amounts immediately due and payable to the Operating District; and

6. To take or cause to be taken such other actions as they reasonably deem necessary.

c. Delay or Omission No Waiver. No delay or omission of any District to exercise any right or power accruing upon any Event of Default shall exhaust or impair any such right or power or shall be construed to be a waiver of any such Event of Default, or acquiescence therein.

d. No Waiver of One Default to Affect Another; All Remedies Cumulative. No waiver of any Event of Default hereunder by any District shall extend to or affect any subsequent or any other then existing Event of Default or shall impair any rights or remedies consequent thereon. All rights and remedies of the Districts provided herein may be exercised with or without notice, shall be cumulative, may be exercised separately, concurrently or repeatedly, and the exercise of any such right or remedy shall not affect or impair the exercise of any other right or remedy.

e. No Affect on Rights. Except as otherwise provided by law, no recovery of any judgment by the Districts shall in any manner or to any extent affect any rights, powers, and remedies of the Districts hereunder, but such rights, powers, and remedies of the Districts shall continue unimpaired as before.

f. Discontinuance of Proceedings on Default; Position of Parties Restored. In case any District shall have proceeded to enforce any right under this Agreement and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to such District, then and in every such case the Districts shall be restored to their former positions and rights hereunder, and all rights, remedies, and powers of the Districts shall continue as if no such proceedings had been taken.

g. Termination. This Agreement may be terminated by the Districts or a court of competent jurisdiction only upon the provision of one (1) year's written notice and upon the date of such termination, the Districts shall thereafter have no further obligations, duties, or rights hereunder; provided, however, that:

1. As a condition precedent to termination by the Taxing District and in recognition of the integrated nature and need for the continued funding of the Facilities, as well as the possibility that the Operating District may borrow against the anticipated

performance by the Taxing District of the payment and financial obligations set forth herein, the Districts agree that prior to the time of termination, all remaining payments and financial obligations set forth in this Agreement shall be paid into the Accounts by the Taxing District; and

2. As a condition precedent to termination by the Operating District and in recognition of the need on the part of the Taxing District for the continued provision of all of the Services contemplated hereby, the Operating District shall either (1) transfer to the Taxing District, free and clear of encumbrances and in its entirety, its interest in the Facilities and in each and every one and all of the water rights, contracts, leases, easements, properties held in fee, and any other personal, real or intangible property then held or owned by the Operating District and necessary for the continued provision of the Services contemplated hereby at the level then provided, or (2) make said transfer to another governmental entity or entities pursuant to such terms and conditions as may be satisfactory to the Board of the Taxing District or, in the event said transfer is to be made pursuant to a plan for dissolution of the Operating District, in accordance with Colorado law, as may be held in accordance with that law by the District Court in and for the county or counties in which the Districts are located or such other ruling body as may at the time have jurisdiction.

ARTICLE IX

INSURANCE AND INDEMNIFICATION

9.1 Indemnification. To the extent permitted by law, the Operating District agrees to hold the Taxing District harmless from the claims of third persons arising out of the Operating District's operation, maintenance, extension and enlargement of the Facilities under color of this Agreement and to defend, at its expense, all actions for damages arising out of such action which may be brought against the Taxing District by third persons. In the event of an occurrence or loss out of which a claim arises or could arise, the Taxing District agrees to transmit in writing and at once, any notice of information received or learned by the Taxing District concerning such claim. Except at its own cost, the Taxing District agrees not to voluntarily make any payment, assume any obligation or incur any expense in connection with the subject matter of this paragraph. No claim shall lie against the Operating District hereunder unless as a condition precedent thereto, the Taxing District has fully complied with the provisions of this Agreement nor until the amount of the Taxing District's obligation to pay shall have been fully determined.

9.2 Insurance. The Districts shall each maintain the following types of insurance coverage with companies and in amounts acceptable to each District's Board but in no event lower than the governmental immunity limits in effect from year to year notwithstanding the amounts set forth below, the cost of which for the Operating District shall be a component of Service Costs budgeted annually in accordance with Article V, above:

a. General liability coverage in the minimum amount of \$150,000 per person/per occurrence and \$600,000 total per occurrence, or in an amount reflecting the current level of governmental immunity exceptions provided by statute, whichever is greater, protecting the Districts and their officers, directors, and employees against any loss, liability, or expense

whatsoever from personal injury, death, property damage, or otherwise, arising from or in any way connected with management, administration, and operations.

b. Directors and officers liability coverage (errors and omissions) in the minimum amount of \$150,000 per person/per occurrence and \$600,000 total per occurrence, or in an amount reflecting the current level of governmental immunity provided by statute, whichever is greater, protecting the Districts and their directors and officers against any loss, liability, or expense whatsoever arising from the actions and/or inaction's of the Districts and their directors and officers in the performance of their duties.

c. Operations coverage designed to insure against injury to the property of third parties or the person of those third parties caused by the operations by the parties in the minimum amount of \$150,000 per person/per occurrence and \$600,000 total per occurrence, or in the amount reflecting the current level of governmental immunity provided by statute, whichever is greater.

9.3 Worker's Compensation. The Operating District shall make provisions for worker's compensation insurance, social security employment insurance and unemployment compensation for its employees performing this Agreement as required by any law of the State of Colorado or the federal government and shall, upon written request, exhibit evidence thereof to the Taxing District.

9.4 Certificates. Within thirty (30) days of a written request, each District shall furnish to the other, certificates or memoranda of insurance showing compliance with the foregoing requirements. Said certificates or memoranda of each District shall state that the policy or policies will not be canceled or altered without at least thirty (30) days prior written notice to each District.

ARTICLE X

MISCELLANEOUS

10.1 Relationship of Parties. This Agreement does not and shall not be construed as creating a joint venture, partnership, or employer-employee relationship between the Districts. The Districts intend that this Agreement be interpreted as creating an independent contractor relationship. Pursuant to that intent, it is agreed that the conduct and control of the work required by this Agreement shall lie solely with the Operating District which shall be free to exercise reasonable discretion in the performance of its duties under this Agreement. Neither District shall, with respect to any activity, be considered an agent or employee of the other District.

10.2 Liability of the Districts. No provision, covenant or agreement contained in this Agreement, nor any obligations herein imposed upon any District nor the breach thereof, nor the issuance and sale of any bonds by any District, shall constitute or create an indebtedness or other financial obligation of the other District within the meaning of any Colorado constitutional

provision or statutory limitation, subject however, to the obligation of the Taxing District to pay bond proceeds to the Operating District pursuant to Section 3.2.c. and Section 3.9 hereof.

10.3 Assignment. Except as set forth herein or as contemplated in the Service Plan, neither this Agreement, nor any of any District's rights, obligations, duties or authority hereunder may be assigned in whole or in part by any District without the prior written consent of the other District which consent shall not be unreasonably withheld. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed to be consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.

10.4 Modification. This Agreement may be modified, amended, changed or terminated, except as otherwise provided herein, in whole or in part, only by an agreement in writing duly authorized and executed by the Districts. No consent of any third party shall be required for the negotiation and execution of any such agreement.

10.5 Integration. This Agreement contains the entire agreement between the Districts and no statement, promise or inducement made by either District or the agent of any District that is not contained in this Agreement shall be valid or binding.

10.6 Severability. Invalidation of any of the provisions of this Agreement or of any paragraph, sentence, clause, phrase, or word herein, or the application thereof in any given circumstance, shall not affect the validity of any other provision of this Agreement.

10.7 District Dissolution. In the event any District seeks to dissolve pursuant to Section 32-1-701 C.R.S., et seq., as amended, it shall provide written notification of the filing or application for dissolution to the other District concurrently with such filing.

10.8 Survival of Obligations. Unfulfilled obligations of the Districts arising under this Agreement shall be deemed to survive the expiration of this Agreement, the completion of the Facilities that are subject of this Agreement, or termination of this Agreement by court order. Said obligations shall be binding upon and inure to the benefit of the Districts and their respective successors and permitted assigns.

10.9 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado.

10.10 Headings for Convenience Only. The headings, captions and titles contained herein are intended for convenience and reference only and are not intended to construe the provisions hereof.

10.11 Debt Must Comply with Law. Nothing herein shall be deemed nor construed to authorize or require the Taxing District or the Operating District to issue bonds, notes, or other evidences of indebtedness on terms, in amounts, or for purposes other than as authorized by Colorado law.

10.12 Colorado Constitutional Matters. If any provision hereof is declared void or unenforceable due to a purported violation of Article X, Section 20 of the Colorado Constitution, the District involved in such violation shall perform such tasks as may be necessary to cure such violation, including but not limited to acquiring such voter approvals, either in advance of, or following, an action as may be allowed by law.

10.13 Time Is of the Essence. Time is of the essence hereof; provided, however, that if the last day permitted or the date otherwise determined for the performance of any act required or permitted under this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

10.14 Persons Interested Herein. Except as expressly provided in Section 1.3 thereof, 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 Districts, any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all of the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the Districts shall be for the sole and exclusive benefit of the Districts.

10.15 Notices. Except as otherwise provided herein, all notices or payments required to be given under this Agreement shall be in writing and shall be hand delivered or sent by certified mail, return receipt requested, or air freight, to the following addresses:

Mailing Address for Alpine Metropolitan District

Alpine Metropolitan District
Vail Resorts, Inc.
P.O. Box 7
Vail, CO 81658
Attn: President

cc: District Counsel

George M. Rowley, Esq.
White and Associates Professional Corporation
1805 Shea Center Drive, Suite 100
Highlands Ranch, CO 80129

Mailing Address for Breckenridge Mountain Metropolitan District

Breckenridge Mountain Metropolitan District
Vail Resorts, Inc.
P.O. Box 7
Vail, CO 81658
Attn: President

cc: District Counsel

George M. Rowley, Esq.
White and Associates Professional Corporation
1805 Shea Center Drive, Suite 100
Highlands Ranch, CO 80129

All notices or documents delivered or required to be delivered under the provisions of this Agreement shall be deemed received one (1) day after hand delivery or three (3) days after mailing. Any District by written notice so provided may change the address to which future notices shall be sent.

10.16 District Records. The Districts shall have the right to access and review each other's records and accounts, at reasonable times during District's regular office hours, for purposes of determining compliance by the Districts with the terms of this Agreement. Such access shall be subject to the provisions of Public Records Act of the State of Colorado contained in Article 72 of Title 24, C.R.S. In the event of disputes or litigation between the Parties hereto, all access and requests for such records shall be made in compliance with the Public Records Act.

10.17 Impairment of Credit. None of the obligations of any District hereunder shall impair the credit of the other Party.

10.18 Recovery of Costs. In the event of any litigation between the Districts hereto concerning the subject matter hereof, the prevailing District in such litigation shall be entitled to receive from the losing District, in addition to the amount of any judgment or other award entered therein, all reasonable costs and expenses incurred by the prevailing District in such litigation, including reasonable attorney fees.

10.19 Compliance with Law. The Districts agree to comply with all federal, state and local laws, rules and regulations which are now, or in the future may become applicable to the Districts, to their business or operations, or to services required to be provided by this Agreement.

10.20 Instruments of Further Assurance. The Districts each covenant that they will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such acts, instruments, and transfers as may reasonably be required for the performance of their obligations hereunder.


10.21 Taxes. Each District assumes responsibility for itself, and any of its employees, for payment of all federal, state and local taxes or contributions imposed or required under unemployment insurance, worker's compensation, social security and income tax laws.

IN WITNESS WHEREOF, the Districts hereto have executed this Agreement as of the day and year first above written.

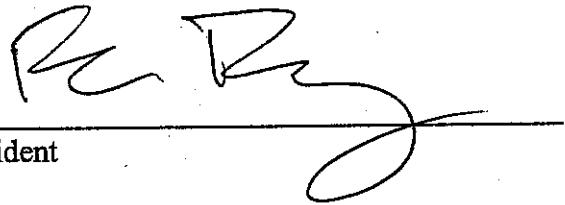
ALPINE METROPOLITAN DISTRICT

By: 
President

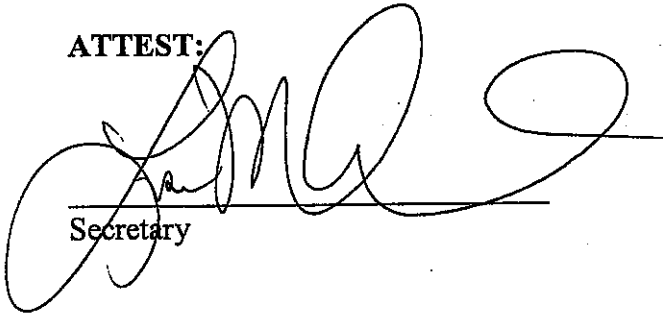
ATTEST:


Secretary

**BRECKENRIDGE MOUNTAIN
METROPOLITAN DISTRICT**

By: 
Vice President

ATTEST:


Secretary