

**EXHIBIT F**  
**Form of Intergovernmental Agreement**

**INTERGOVERNMENTAL AGREEMENT**  
**BY AND BETWEEN**  
**THE CITY OF FORT LUPTON, COLORADO**  
**AND**  
**LUPTON VILLAGE RESIDENTIAL METROPOLITAN DISTRICT**

THIS INTERGOVERNMENTAL AGREEMENT is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2020 (this “**Agreement**”) by and between the CITY OF FORT LUPTON, a municipal corporation of the State of Colorado (“**City**”), and LUPTON VILLAGE RESIDENTIAL METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”). The City and the District are collectively referred to as the Parties.

**RECITALS**

WHEREAS, the District was organized to provide those services and to exercise powers as are more specifically set forth in the District’s Service Plan approved by the City on \_\_\_\_\_, 2020 (“**Service Plan**”); and

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

WHEREAS, any capitalized term used, but not defined, in this Agreement shall have the meaning ascribed to such term in the Service Plan; and

WHEREAS, the City and the District have determined it to be in the best interests of their respective taxpayers and property owners to enter into this Agreement.

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

**COVENANTS AND AGREEMENTS**

A. Operations and Maintenance. The District shall be authorized to operate and maintain Public Improvements not conveyed to the City or other governmental entity having proper jurisdiction. In addition, the District may perform homeowners’ association functions for the property within its boundaries including, but not limited to, ownership, operation and maintenance of parks, trails, open space and common areas, Covenant Enforcement and Design Review Services, and social functions through designation of the District as the enforcement entity in the Covenants recorded against the Lupton Village PUD.

B. Construction Standards Limitation. The District will ensure that the Public Improvements are designed and constructed in accordance with the applicable standards and specifications of the City, including without limitation any Subdivision Improvement Agreement(s) with the City applicable to such Public Improvements, and of other governmental entities having proper jurisdiction. All facilities conveyed or otherwise dedicated to the City or other entity designated by the City shall be free and clear of any lien, claim, encumbrance or demand and shall be subject to the City's normal warranty procedures.

C. Privately Placed Debt Limitation. Prior to the issuance of any privately placed Debt, the District shall obtain the certification of an External Financial Advisor substantially as follows:

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

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

D. Inclusion Limitation. The District shall not include within its boundaries any property outside the Inclusion Area Boundaries without the prior written consent of the City.

E. Overlap Limitation. The District shall not consent to the organization of another district under the Special District Act which will overlap the boundaries of the District unless the aggregate mill levy for payment of Debt of such proposed district, combined with the mill levy for payment of Debt by the District, will not at any time exceed the Maximum Debt Mill Levy of the District.

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

G. Total Debt Issuance Limitation. The District shall not issue Debt in excess of the Total Debt Issuance Limit.

H. Monies from Other Governmental Sources. The District shall not apply for or accept Colorado Trust Funds, Conservation Trust Funds, Great Outdoors Colorado Funds, or other funds available from or through governmental or non-profit entities that the City is eligible to apply for, except pursuant to an intergovernmental agreement with the City. This Section shall not apply to specific ownership taxes which shall be distributed to and be a revenue source for the District without any limitation.

I. Eminent Domain Limitation. The District shall not exercise the power of eminent domain to obtain any real property owned by the City without the prior written approval of the City Council, as evidenced by resolution after a public hearing thereon.

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

K. Bankruptcy Limitation. All of the limitations contained in the Service Plan have been established under the authority of the City to approve a Service Plan with conditions pursuant to Section 32-1-204.5, C.R.S. It is expressly intended that such limitations:

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

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

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

L. Maximum Debt Mill Levy.

1. The “Maximum Debt Mill Levy” of the District, which shall be subject to the Mill Levy Adjustment, shall be the maximum mill levy the District is permitted to impose upon the Taxable Property within the District for payment of Debt and shall be 55.277 mills for so long as the total amount of aggregate Debt of the District exceeds fifty percent (50%) of the District’s assessed valuation. At such time as the total amount of aggregate Debt of the District is equal to or less than fifty percent (50%) of the District’s assessed valuation, either on the date of issuance of any Debt or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy if End Users cast the majority of affirmative votes taken by the District’s Board at the meeting authorizing such action, and, as a result, the mill levy may be such amount as is necessary to pay the debt service on such Debt, and the Board may further provide that such Debt shall remain secured by such increased mill levy, notwithstanding any subsequent change in the District’s Debt to assessed value ratio.

2. The “Maximum Operation and Maintenance Mill Levy” of the District, which shall be subject to a Mill Levy Adjustment, shall be the maximum mill levy the District is permitted to impose upon the Taxable Property within the District for payment of administrative, operation and maintenance costs, and shall be 55.277 mills until such time that the District issues Debt. After the District issues Debt, the Maximum Operation and Maintenance Mill Levy, when combined with the Debt service mill levy imposed for Debt, shall not exceed 70 mills, which combined mill levy limit shall be subject to a Mill Levy Adjustment. The Maximum Operation

and Maintenance Mill Levy shall apply to the District's ability to increase its mill levy as necessary for provision of administrative, operation and maintenance services to its taxpayers and service users until such time as End Users cast the majority of affirmative votes taken by the District's Board at a meeting authorizing the elimination of such Maximum Operation and Maintenance Mill Levy, at which time the mill levy may be such amount as is necessary to pay the administrative, operation and maintenance costs.

3. For purposes of the foregoing, once Debt has been determined to be within VI.C.1, above, so that the District is entitled to pledge to its payment an unlimited *ad valorem* mill levy, the District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in the District's Debt to assessed ratio. All Debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S., and all other requirements of State law.

All issuances of general obligation Bonds shall be deemed to be in compliance with the Financial Plan so long as the Minimum Criteria, as hereinafter defined, have been met. "Minimum Criteria" shall mean that the general obligation Bonds are: (1) subject to the Maximum Debt Mill Levy; (2) together with other outstanding general obligation Bonds of the District, not in excess of the Total Debt Issuance Limit; (3) together with other outstanding general obligation Bonds of the District, not in excess of the general obligation debt authority provided by the District's electorate; (4) do not allow for the acceleration of Debt as a remedy against the District; and (5) issued in compliance with the applicable requirements of Section 32-1-1101(6), C.R.S. Any issuance of general obligation Bonds that does not satisfy the Minimum Criteria shall constitute a material modification of this Service Plan and a default under the Service Plan IGA.

The costs of constructing the Public Improvements may be paid from available District mill levy revenues, Debt and/or advances from the Developer. The District shall be authorized to reimburse Developer advances, if any, with interest at a market reasonable rate from District mill levy revenues and/or proceeds from Debt privately placed with the Developer, and other legally available revenues of the District. Any such privately placed Debt shall be subject to the Privately Placed Debt Limitation set forth in Section V.A.4 and the Minimum Criteria. Any Developer advances shall either be paid when bonds are issued by the District or shall be subordinate to any District debt, and only the Developer will hold the instruments evidencing such advances or financing.

In the event that the District determines that it is in the best interests of the District and its taxpayers to issue general obligation Bonds to parties other than the Developer to: (i) reimburse the Developer for Developer advances; (ii) refund or restructure Debt previously placed with the Developer; or (iii) finance Public Improvements, the District shall prepare a plan of finance for the purpose of determining whether the proposed issuance satisfies the Minimum Criteria. The plan of finance will include the amount of Bonds to be issued, uses of proceeds therefrom (including, if any, capitalized interest and costs of issuance), sources of revenues securing repayment of the Bonds and the repayment schedule for the Bonds, all as required by Section 19-5(c)(1)c.1 of the Municipal Code. Debt Repayment Sources.

The District may impose mill levies as a primary source of revenue for repayment of debt service and for operations and maintenance. The District may also rely upon various other revenue sources authorized by law. At the Board's discretion, these may include the power to assess Fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(1), C.R.S., as amended from time to time. In no event shall the debt service mill levy certified by the District exceed the Maximum Debt Mill Levy.

M. Dissolution. The District shall take all action necessary to dissolve, pursuant to Sections 32-1-701, *et seq.*, C.R.S., if the City files an application with the District no sooner than ten (10) years after the date of organization of the District for dissolution pursuant to Section 32-1-701 (3), C.R.S., provided that the District has no outstanding debt or outstanding operation and maintenance responsibilities at the time of the request.

N. Meeting Notices/Annual Report. The District shall deliver written notice of every regular or special meeting to the office of the City Clerk, by email, mail or by hand, at least 72 hours prior to such meeting. The District shall be responsible for submitting an annual report to the City no later than July 1<sup>st</sup> of each year following the year in which the Order and Decree creating the District has been recorded.

O. Material Modification. Actions of the District which violate the limitations set forth in Sections A-L above or Chapter 19 of the Municipal Code shall be deemed to be material modifications to the Service Plan requiring amendment of the Service Plan in accordance with the procedural requirements of Chapter 19 of the Municipal Code, and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the District. The remedies herein shall be in addition to any remedies the City may have or actions the City may bring under Section 32-1-207, C.R.S., or any other applicable statute. The District shall have thirty (30) days to cure such material modification. If the material modification is of a type that is not capable of being cured within the 30-day period and the District shall give written notice to the City within the 30-day period that it is actively and diligently pursuing the cure, the District will have a reasonable period of time given the nature of the material modification following the end of the 30-day period, but not to exceed sixty (60) days, to cure the material modification, provided that the District is at all times actively and diligently pursuing the cure, failing which, the District will be in default under this Agreement. In the event the District fails to complete the cure or take any action to cure the material modification, the City may impose any sanctions allowed by the Municipal Code or statute. Nothing herein is intended to modify or prevent the use of the provisions of Section 32-1-207(3)(b), C.R.S.

P. Notices. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the address or by courier delivery, via United Parcel Service or other nationally recognized overnight air courier service, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To the District: Lupton Village Residential Metropolitan District  
c/o Miller & Associates Law Offices, LLC  
1641 California Street, Suite 300  
Denver, Colorado 80202  
Attn: Michael Davis  
Phone: (303) 285-5320  
email: mdavis@ddmalaw.com

With a Copy to: Miller & Associates Law Offices, LLC  
1641 California Street, Suite 300  
Denver, Colorado 80202  
Attn: Michael Davis  
Phone: (303) 285-5320  
email: mdavis@ddmalaw.com

To the City: City of Fort Lupton  
130 South McKinley  
Fort Lupton, CO 80621  
Attn: Claud Hanes  
Phone: (720) 466-6103  
Fax: (303) 857-0351

All notices, demands, requests or other communications shall be effective upon such personal delivery, one (1) business day after being deposited with a nationally recognized overnight air courier service, or three (3) business days after deposit in the United States First Class Mail. Each Party may change its address by giving notice to the other party in accordance with the provisions hereof.

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

R. Assignment. Neither Party hereto shall assign any of its rights nor delegate any of its duties hereunder to any person or entity without the prior written consent of the other Party, which consent will not be unreasonably withheld. Any purported assignment or delegation in violation of the provisions hereof shall be void.

S. Default/Remedies. In the event of a breach or default of this Agreement by any Party, the non-defaulting Party shall be entitled to exercise all remedies available at law or in equity, specifically including suits for specific performance and/or monetary damages. In the event of any proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party in such proceeding shall be entitled to obtain as part of its judgment or award its reasonable attorneys' fees.

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

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

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

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

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

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

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

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK –  
SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF the Parties have executed this agreement effective as of the date set forth above.

LUPTON VILLAGE RESIDENTIAL  
METROPOLITAN DISTRICT

By: \_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary

CITY OF FORT LUPTON, COLORADO

By: \_\_\_\_\_  
Mayor

Attest:

By: \_\_\_\_\_  
Its: \_\_\_\_\_

APPROVED AS TO FORM: \_\_\_\_\_



**EXHIBIT G**  
**City Council Resolution of Approval of Service Plan**

**RESOLUTION NO. 2020R\_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FORT  
LUPTON, COLORADO APPROVING THE SERVICE PLAN FOR THE  
LUPTON VILLAGE RESIDENTIAL METROPOLITAN DISTRICT**

**WHEREAS**, pursuant to §32-1-204.5, C.R.S., as amended, a Service Plan (“**Service Plan**”) for the proposed Lupton Village Residential Metropolitan District (“**District**”) has been submitted to the City Council (“**Council**”) of the City of Fort Lupton, Colorado (“**City**”); and

**WHEREAS**, §32-1-204.5, C.R.S., as amended, provides that no special district shall be organized within the boundaries of the City except upon adoption of a resolution of the Council approving the Service Plan of the proposed District; and

**WHEREAS**, pursuant to the provisions of Title 32, Article 1, C.R.S., as amended, the Council held a public hearing on the Service Plan for the District on \_\_\_\_\_, 2020; and

**WHEREAS**, notice of the hearing before the Council was duly published in the *Fort Lupton Press*, a newspaper of general circulation within the City, on \_\_\_\_\_, 2020, as required by law, and forwarded to the petitioners, others entitled to postcard or letter notice, the Division of Local Government, and the governing body of each municipality and Title 32 district that has levied an ad valorem tax within the next preceding tax year and that has boundaries within a radius of three miles of the District; and

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

**WHEREAS**, the Council finds that the Service Plan should be approved unconditionally, as permitted by §§32-1-203(2) and 32-1-204.5(1)(a), C.R.S., as amended; and

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

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF FORT LUPTON, COLORADO:**

- I. The City Council has jurisdiction to hear this matter.
- II. The Council hereby determines that all of the requirements of Title 32, Article 1, Part 2, C.R.S., as amended, related to the filing of the Service Plan for the District have been fulfilled and that notice of the hearing was given in the time and manner required by law.

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

A. There is sufficient existing and projected need for organized service in the area to be serviced by the proposed District.

B. The existing service in the area to be served by the proposed District is inadequate for present and projected needs.

C. The proposed District is capable of providing economical and sufficient service to the areas within its proposed boundaries.

D. The area to be included in the proposed District has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

E. Adequate service is not, or will not be, available to the area through the City or other existing quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis.

F. The facility and service standards of the proposed District are compatible with the facility and service standards of the City and each municipality which is an interested party under §32-1-204, C.R.S.

G. The proposal is in substantial compliance with a comprehensive plan adopted pursuant to the City Code.

H. The proposal is in compliance with any duly adopted City, regional, or state long-range water quality management plan for the area;

I. The creation of the proposed District will be in the best interests of the area proposed to be served; and

J. The Service Plan, based upon the statements set forth in the Service Plan and upon all evidence presented at the Public Hearing on the Service Plan, meets all conditions and requirements of §§32-1-201, *et seq.*, C.R.S.

IV. The Council hereby approves the Service Plan for the District as submitted. Nothing herein limits the City's powers with respect to the District, the property within the District, or the improvements to be constructed by the District. The City's findings are based solely upon the evidence in the Service Plan and such other evidence presented at the public hearing, and the City has not conducted any independent investigation of the evidence. The City makes no guarantee as to the financial viability of the Districts or the achievability of the results.

V. The Mayor and the City Clerk are hereby authorized to execute, on behalf of the City, the IGA in substantially the form presented at this meeting, with such technical additions, deletions,

and variations as the City Attorney may deem necessary or appropriate and not inconsistent with this Resolution.

VI. This Resolution shall be filed in the records of the City and a copy thereof submitted to the petitioners for the District for the purpose of filing in the District Court of Weld County, Colorado.

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

**INTRODUCED, READ AND PASSED** this \_\_\_\_ day of \_\_\_\_\_, 2020.

**CITY OF FORT LUPTON,**

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor

ATTEST:

By: \_\_\_\_\_  
\_\_\_\_\_, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
\_\_\_\_\_, City Attorney

**INTERGOVERNMENTAL AGREEMENT  
BY AND BETWEEN  
THE CITY OF FORT LUPTON, COLORADO  
AND  
LUPTON VILLAGE RESIDENTIAL METROPOLITAN DISTRICT**

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**RECITALS**

WHEREAS, the District was organized to provide those services and to exercise powers as are more specifically set forth in the District’s Service Plan approved by the City on February 4, 2020 (“**Service Plan**”); and

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

WHEREAS, any capitalized term used, but not defined, in this Agreement shall have the meaning ascribed to such term in the Service Plan; and

WHEREAS, the City and the District have determined it to be in the best interests of their respective taxpayers and property owners to enter into this Agreement.

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other entity designated by the City shall be free and clear of any lien, claim, encumbrance or demand and shall be subject to the City's normal warranty procedures.

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

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

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

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

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2. The “Maximum Operation and Maintenance Mill Levy” of the District, which shall be subject to a Mill Levy Adjustment, shall be the maximum mill levy the District is permitted to impose upon the Taxable Property within the District for payment of administrative, operation and maintenance costs, and shall be 55.277 mills until such time that the District issues Debt. After the District issues Debt, the Maximum Operation and Maintenance Mill Levy, when combined with the Debt service mill levy imposed for Debt, shall not exceed 70 mills, which combined mill levy limit shall be subject to a Mill Levy Adjustment. The Maximum Operation and Maintenance Mill Levy shall apply to the District’s ability to increase its mill levy as necessary for provision of administrative, operation and maintenance services to its taxpayers and service users until such time as End Users cast the majority of affirmative votes taken by the

District's Board at a meeting authorizing the elimination of such Maximum Operation and Maintenance Mill Levy, at which time the mill levy may be such amount as is necessary to pay the administrative, operation and maintenance costs.

3. For purposes of the foregoing, once Debt has been determined to be within VI.C.1, above, so that the District is entitled to pledge to its payment an unlimited *ad valorem* mill levy, the District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in the District's Debt to assessed ratio. All Debt issued by the District must be issued in compliance with the requirements of Section 32-1-1101, C.R.S., and all other requirements of State law.

All issuances of general obligation Bonds shall be deemed to be in compliance with the Financial Plan so long as the Minimum Criteria, as hereinafter defined, have been met. "Minimum Criteria" shall mean that the general obligation Bonds are: (1) subject to the Maximum Debt Mill Levy; (2) together with other outstanding general obligation Bonds of the District, not in excess of the Total Debt Issuance Limit; (3) together with other outstanding general obligation Bonds of the District, not in excess of the general obligation debt authority provided by the District's electorate; (4) do not allow for the acceleration of Debt as a remedy against the District; and (5) issued in compliance with the applicable requirements of Section 32-1-1101(6), C.R.S. Any issuance of general obligation Bonds that does not satisfy the Minimum Criteria shall constitute a material modification of this Service Plan and a default under the Service Plan IGA.

The costs of constructing the Public Improvements may be paid from available District mill levy revenues, Debt and/or advances from the Developer. The District shall be authorized to reimburse Developer advances, if any, with interest at a market reasonable rate from District mill levy revenues and/or proceeds from Debt privately placed with the Developer, and other legally available revenues of the District. Any such privately placed Debt shall be subject to the Privately Placed Debt Limitation set forth in Section V.A.4 and the Minimum Criteria. Any Developer advances shall either be paid when bonds are issued by the District or shall be subordinate to any District debt, and only the Developer will hold the instruments evidencing such advances or financing.

In the event that the District determines that it is in the best interests of the District and its taxpayers to issue general obligation Bonds to parties other than the Developer to: (i) reimburse the Developer for Developer advances; (ii) refund or restructure Debt previously placed with the Developer; or (iii) finance Public Improvements, the District shall prepare a plan of finance for the purpose of determining whether the proposed issuance satisfies the Minimum Criteria. The plan of finance will include the amount of Bonds to be issued, uses of proceeds therefrom (including, if any, capitalized interest and costs of issuance), sources of revenues securing repayment of the Bonds and the repayment schedule for the Bonds, all as required by Section 19-5(c)(1)c.1 of the Municipal Code. Debt Repayment Sources.

The District may impose mill levies as a primary source of revenue for repayment of debt service and for operations and maintenance. The District may also rely upon various other revenue sources authorized by law. At the Board's discretion, these may include the power to assess Fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(1), C.R.S., as

amended from time to time. In no event shall the debt service mill levy certified by the District exceed the Maximum Debt Mill Levy.

M. Dissolution. The District shall take all action necessary to dissolve, pursuant to Sections 32-1-701, *et seq.*, C.R.S., if the City files an application with the District no sooner than ten (10) years after the date of organization of the District for dissolution pursuant to Section 32-1-701 (3), C.R.S., provided that the District has no outstanding debt or outstanding operation and maintenance responsibilities at the time of the request.

N. Meeting Notices/Annual Report. The District shall deliver written notice of every regular or special meeting to the office of the City Clerk, by email, mail or by hand, at least 72 hours prior to such meeting. The District shall be responsible for submitting an annual report to the City no later than July 1<sup>st</sup> of each year following the year in which the Order and Decree creating the District has been recorded.

O. Material Modification. Actions of the District which violate the limitations set forth in Sections A-L above or Chapter 19 of the Municipal Code shall be deemed to be material modifications to the Service Plan requiring amendment of the Service Plan in accordance with the procedural requirements of Chapter 19 of the Municipal Code, and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the District. The remedies herein shall be in addition to any remedies the City may have or actions the City may bring under Section 32-1-207, C.R.S., or any other applicable statute. The District shall have thirty (30) days to cure such material modification. If the material modification is of a type that is not capable of being cured within the 30-day period and the District shall give written notice to the City within the 30-day period that it is actively and diligently pursuing the cure, the District will have a reasonable period of time given the nature of the material modification following the end of the 30-day period, but not to exceed sixty (60) days, to cure the material modification, provided that the District is at all times actively and diligently pursuing the cure, failing which, the District will be in default under this Agreement. In the event the District fails to complete the cure or take any action to cure the material modification, the City may impose any sanctions allowed by the Municipal Code or statute. Nothing herein is intended to modify or prevent the use of the provisions of Section 32-1-207(3)(b), C.R.S.

P. Notices. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the address or by courier delivery, via United Parcel Service or other nationally recognized overnight air courier service, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To the District:                   Lupton Village Residential Metropolitan District  
  c/o Miller & Associates Law Offices, LLC  
  1641 California Street, Suite 300  
  Denver, Colorado 80202  
  Attn: Michael Davis  
  Phone: (303) 285-5320  
  email: [mdavis@ddmalaw.com](mailto:mdavis@ddmalaw.com)



With a Copy to: Miller & Associates Law Offices, LLC  
1641 California Street, Suite 300  
Denver, Colorado 80202  
Attn: Michael Davis  
Phone: (303) 285-5320  
email: [mdavis@ddmalaw.com](mailto:mdavis@ddmalaw.com)

To the City: City of Fort Lupton  
130 South McKinley  
Fort Lupton, CO 80621  
Attn: Chris Cross  
Phone: (720) 466-6103  
Fax: (303) 857-0351  
Email: [CCross@Fortluptonco.gov](mailto:CCross@Fortluptonco.gov)

All notices, demands, requests or other communications shall be effective upon such personal delivery, one (1) business day after being deposited with a nationally recognized overnight air courier service, or three (3) business days after deposit in the United States First Class Mail. Each Party may change its address by giving notice to the other party in accordance with the provisions hereof.

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

R. Assignment. Neither Party hereto shall assign any of its rights nor delegate any of its duties hereunder to any person or entity without the prior written consent of the other Party, which consent will not be unreasonably withheld. Any purported assignment or delegation in violation of the provisions hereof shall be void.

S. Default/Remedies. In the event of a breach or default of this Agreement by any Party, the non-defaulting Party shall be entitled to exercise all remedies available at law or in equity, specifically including suits for specific performance and/or monetary damages. In the event of any proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party in such proceeding shall be entitled to obtain as part of its judgment or award its reasonable attorneys' fees.

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

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

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

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

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

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

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

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK –  
SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF the Parties have executed this agreement effective as of the date set forth above.

LUPTON VILLAGE RESIDENTIAL  
METROPOLITAN DISTRICT

By: \_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary

CITY OF FORT LUPTON, COLORADO

By: \_\_\_\_\_  
Mayor

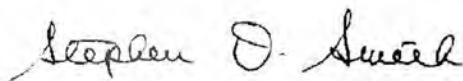
Attest:

By: \_\_\_\_\_  
Its: \_\_\_\_\_

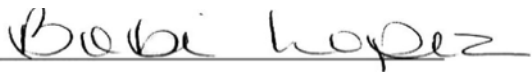
APPROVED AS TO FORM: \_\_\_\_\_

**PROOF OF PUBLICATION  
FORT LUPTON PRESS  
WELD COUNTY  
STATE OF COLORADO**

I, Steve Smith do solemnly swear that I am the Publisher of the **Fort Lupton Press** the same is a weekly newspaper printed and published in the County of Weld, State of Colorado, and has a general circulation therein; that said newspaper has been published continuously and uninterruptedly in said county of Weld for a period of more than fifty-two consecutive weeks prior to the first publication of the annexed legal notice or advertisement; that said newspaper has been admitted to the United States mails as second-class matter under the provisions of the act of March 3, 1879, or any amendments thereof, and that said newspaper is a weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado. That the annexed legal notice or advertisement was published in the regular and entire issue of every number of said weekly newspaper for the period of **ONE consecutive insertion(s)** and that the first publication of said notice was in the issue of newspaper, dated **8th day of January, 2020** the last on the **8th day of January, 2020**.



Publisher, Subscribed and sworn before me,  
this **8th day of January, 2020**



Notary Public.

**Bobi Lopez  
Notary Public  
State of Colorado  
Notary ID 20024002511  
My Commission Expires  
March 26, 2023**

**NOTICE OF PUBLIC HEARING**

**IN RE LUPTON VILLAGE RESIDENTIAL AND COMMERCIAL METROPOLITAN DISTRICTS, CITY OF FORT LUPTON, COUNTY OF WELD, STATE OF COLORADO**

**PUBLIC NOTICE IS HEREBY GIVEN** that there has been filed with the City of Fort Lupton, Colorado (the "City"), a request from the Board of Directors of Lupton Village Residential Metropolitan District and Lupton Village Commercial Metropolitan District (the "Districts") (formerly known as Cottonwood Greens Metropolitan District Nos. 3-4, respectively) for the City's approval of amended and restated service plans for each of the Districts.

**NOTICE IS HEREBY FURTHER GIVEN** that the Fort Lupton City Council (the "City Council") will hold a public hearing at 7:00 p.m. or soon thereafter, on Tuesday, February 4, 2020 at the City Hall located at 130 South McKinley Avenue to review the proposed amended and restated service plans, and to form a basis for a resolution approving, disapproving or conditionally approving such service plans. The City Council may, in its own discretion, continue the hearing to a subsequent meeting.

The Districts are located entirely within the City limits of Fort Lupton, and include property generally described as four parcels of land located north of WCR 12 (Kahil Street) on the east and west side of South Rollie Avenue, two parcels of land located south of the intersection of WCR12 and South Rollie Avenue, and one parcel of land located north of WCR12 and east of South Denver Avenue. The boundaries of the Residential District may include approximately 53 acres, and the boundaries of the Commercial District may include approximately 76 acres.

The Districts are organized as metropolitan districts to finance the construction of certain public improvements for the proposed Lupton Village development and have the authority to impose mill levies for repayment of debt and for limited administrative, operation and maintenance purposes. For debt service, the maximum mill levy that may be imposed by the Districts upon taxable property within each of the District's boundaries shall not exceed 55.277 mills; however, this maximum shall not apply when the total amount of debt is equal to or less than fifty percent (50%) of a District's assessed valuation. The maximum operation and maintenance mill levy, when combined with the debt service mill levy, shall not exceed 70.000 mills. If the method of calculating assessed valuation is changed by law, the maximum mill levies may be increased or decreased to reflect such changes.

**NOTICE IS HEREBY FURTHER GIVEN** that any protests or objec-

tions to the proposed amended and restated service plans must be submitted in writing to the City Council at or prior to the hearing, or any continuance or postponement thereof, in order to be considered. All protests and objections to such amended and restated service plans shall be deemed waived unless presented in writing at the time and manner specified above.

BY ORDER OF THE  
CITY COUNCIL OF THE  
CITY OF FORT LUPTON.

Publish on:  
Wednesday, January 8, 2020  
Publish in: Fort Lupton Press  
000XR0D

**CERTIFICATE OF MAILING**

I hereby certify that a true and correct copy of the following NOTICE OF PUBLIC HEARING for the Lupton Village Commercial Metropolitan District and Lupton Village Residential Metropolitan District was mailed on Tuesday, January 14, 2020, by placing same in envelopes with U.S. Mail, first-class postage prepaid and addressed as set forth below:

SEE EXHIBIT A

Dated January 14, 2020.



By: Marisa Davis

STATE OF COLORADO            )  
CITY AND                            ) ss.  
COUNTY OF DENVER            )

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of January, 2020, by Marisa Davis as an individual.

WITNESS my hand and official seal.

My commission expires: 8/19/2023

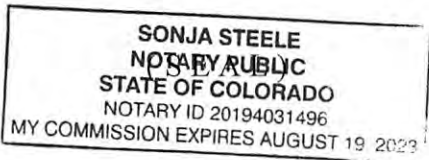
  
Notary Public

Exhibit A

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**NOTICE OF PUBLIC HEARING**

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IN RE LUPTON VILLAGE RESIDENTIAL AND COMMERCIAL METROPOLITAN DISTRICTS, CITY OF FORT LUPTON, COUNTY OF WELD, STATE OF COLORADO

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**NOTICE IS HEREBY FURTHER GIVEN** that any protests or objections to the proposed amended and restated service plans must be submitted in writing to the City Council at or prior to the hearing, or any continuance or postponement thereof, in order to be considered. All protests and objections to such amended and restated service plans shall be deemed waived unless presented in writing at the time and manner specified above.

BY ORDER OF THE CITY COUNCIL OF THE CITY OF FORT LUPTON.

City of Brighton  
500 South 4th Avenue  
Brighton, CO 80504

Central Colorado Water  
3209 West 28th Street  
Greeley, CO 80634

Central Weld County Water District  
2235 Second Avenue  
Greeley, CO 80631

Cottonwood Greens  
Metropolitan District No. 1  
390 Union Boulevard, Suite 400  
Denver, CO 80228

Cottonwood Green  
Metropolitan District Nos. 2-4  
Miller & Associates Law Offices, LLC  
1641 California Street, Suite 300  
Denver, CO 80202

Cottonwood Greens Metropolitan  
District No. 5  
CRS of Colorado  
7995 E Prentice Ave, Suite 103E  
Greenwood Village, CO 80111

City of Fort Lupton  
130 South McKinley Avenue  
Fort Lupton, CO 80621

Fort Lupton Fire Protection District  
1121 Denver Avenue  
Fort Lupton, CO 80621

Greater Brighton Fire Protection  
District  
500 S 4th Avenue, 3rd Fl  
Brighton, CO 80601-3165

Hudson Fire Protection District  
PO Box 7  
Hudson, CO 80642

Mountain Sky Metropolitan District  
c/o Norton & Smith, P.C.  
1331 17th Street, Suite 500  
Denver, CO 80202-1555

Northern Colorado Water District  
220 Water Avenue  
Berthoud, CO 80513

North Land Industrial  
Metropolitan District Nos. 1-2  
c/o White Bear Ankele Tanaka & Waldron  
2154 E. Commons Avenue, Suite 2000  
Centennial, CO 80122

RTD  
1600 Blake Street  
Denver, CO 80202

Fort Lupton Commercial  
c/o John Vandemoer  
8791 Circle Drive  
Westminster, CO 80031

Fort Lupton 110 LLP  
c/o John Vandemoer  
8791 Circle Drive  
Westminster, CO 80031

Weld County  
Board of County Commissioners  
1150 O Street  
Greeley, CO 80631

Fort Lupton Greens  
c/o Josef Guetlein  
5305 W 86<sup>th</sup> Ave  
Arvada, CO 80003

Ju Shin, LLC  
17119 E. Easter Avenue  
Centennial, CO 80016

Lupton Village One LLC  
1295 Main St., Unit 5  
Windsor, CO 80550

**RESOLUTION NO. 2020R\_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FORT  
LUPTON, COLORADO APPROVING THE AMENDED AND  
RESTATED SERVICE PLAN FOR THE LUPTON VILLAGE  
RESIDENTIAL METROPOLITAN DISTRICT AND APPROVING THE  
INTERGOVERNMENTAL AGREEMENT**

**WHEREAS**, pursuant to §32-1-204.5, C.R.S., as amended, an Amended and Restated Service Plan (“**Service Plan**”) for the Lupton Village Residential Metropolitan District (“**District**”) has been submitted to the City Council (“**Council**”) of the City of Fort Lupton, Colorado (“**City**”); and

**WHEREAS**, §32-1-204.5, C.R.S., as amended, provides that no special district shall be organized within the boundaries of the City except upon adoption of a resolution of the Council approving the Service Plan of the District; and

**WHEREAS**, pursuant to the provisions of Title 32, Article 1, C.R.S., as amended, the Council held a public hearing on the Service Plan for the District on February 4, 2020; and

**WHEREAS**, notice of the hearing before the Council was duly published in the *Fort Lupton Press*, a newspaper of general circulation within the City, on January 8, 2020, as required by law, and forwarded to the petitioners, others entitled to postcard or letter notice, the Division of Local Government, and the governing body of each municipality and Title 32 district that has levied an ad valorem tax within the next preceding tax year and that has boundaries within a radius of three miles of the District; and

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

**WHEREAS**, the Council finds that the Service Plan should be approved unconditionally, as permitted by §§32-1-203(2) and 32-1-204.5(1)(a), C.R.S., as amended; and

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

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF FORT LUPTON, COLORADO:**

- I. The City Council has jurisdiction to hear this matter.
- II. The Council hereby determines that all of the requirements of Title 32, Article 1, Part 2, C.R.S., as amended, related to the filing of the Service Plan for the District have been fulfilled and that notice of the hearing was given in the time and manner required by law.



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

A. There is sufficient existing and projected need for organized service in the area to be serviced by the proposed District.

B. The existing service in the area to be served by the proposed District is inadequate for present and projected needs.

C. The proposed District is capable of providing economical and sufficient service to the areas within its proposed boundaries.

D. The area to be included in the proposed District has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

E. Adequate service is not, or will not be, available to the area through the City or other existing quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis.

F. The facility and service standards of the proposed District are compatible with the facility and service standards of the City and each municipality which is an interested party under §32-1-204, C.R.S.

G. The proposal is in substantial compliance with a comprehensive plan adopted pursuant to the City Code.

H. The proposal is in compliance with any duly adopted City, regional, or state long-range water quality management plan for the area;

I. The creation of the proposed District will be in the best interests of the area proposed to be served; and

J. The Service Plan, based upon the statements set forth in the Service Plan and upon all evidence presented at the Public Hearing on the Service Plan, meets all conditions and requirements of §§32-1-201, *et seq.*, C.R.S.

IV. The Council hereby approves the Service Plan for the District as submitted. Nothing herein limits the City's powers with respect to the District, the property within the District, or the improvements to be constructed by the District. The City's findings are based solely upon the evidence in the Service Plan and such other evidence presented at the public hearing, and the City has not conducted any independent investigation of the evidence. The City makes no guarantee as to the financial viability of the District or the achievability of the results.

V. The Mayor and the City Clerk are hereby authorized to execute, on behalf of the City, the IGA in substantially the form presented at this meeting, with such technical additions, deletions,

and variations as the City Attorney may deem necessary or appropriate and not inconsistent with this Resolution.

VI. This Resolution shall be filed in the records of the City and a copy thereof submitted to the District.

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

**INTRODUCED, READ AND PASSED** this 4<sup>th</sup> day of February, 2020.

**CITY OF FORT LUPTON,**

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor

ATTEST:

By: \_\_\_\_\_  
\_\_\_\_\_, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
\_\_\_\_\_, City Attorney