AGENDA
REGULAR MEETING OF THE CITY COUNCIL
CITY OF LAKEWOOD, COLORADO
480 S. ALLISON PARKWAY, 80226
HYBRID MEETING
JULY 24, 2023
7:00 P.M.

To watch the Council meeting live, please use either one of the following links:

   City of Lakewood Website: Lakewood.org/CouncilVideos
or
   Lakewood Speaks: Lakewoodspeaks.org

How to Connect to Provide Public Comment:
   By Computer: https://lakewood.zoom.us/j/87017960123
   By iPad, iPhone, or Android device on the Zoom App, enter webinar ID: 870 1796 0123
   By Telephone: 720-707-2699
   Webinar ID: 870 1796 0123, #
   Participant ID: #
   Press *9 to Request to Speak, you will be prompted when to speak.
   Press *6 to Unmute

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ITEM 1 – CALL TO ORDER

ITEM 2 – ROLL CALL

ITEM 3 – PLEDGE OF ALLEGIANCE

ITEM 4 – STATEMENT OF CONFLICT OF INTEREST

ITEM 5 – PROCLAMATION – NATIONAL DISABILITY INDEPENDENCE DAY

ITEM 6 – PUBLIC COMMENT
Anyone who would like to address the Council on any matter other than an agenda item will be given the opportunity. Speakers should limit their comments to three minutes.
CONSENT AGENDA
AND
ORDINANCES ON FIRST READING

(Ordinances are on first reading for notice and publication only; public hearings are held on second reading)

ITEM 7 – RESOLUTION 2023-41 – APPROVING THE SERVICE PLAN FOR INDIKO AT RED ROCKS METROPOLITAN DISTRICT

ITEM 8 – APPROVING MINUTES OF CITY COUNCIL MEETINGS

City Council Regular Meeting July 10, 2023

*ITEM 9 – ORDINANCE O-2023-30 – AN EMERGENCY ORDINANCE TEMPORARILY ENACTING AND ENFORCING A NONRENEWABLE ANTI-GROWTH LAW FOR THE PURPOSE OF DEVELOPING OR AMENDING LAND USE PLANS OR LAND USE LAWS COVERING RESIDENTIAL DEVELOPMENT OR THE RESIDENTIAL COMPONENT OF A MIXED-USE DEVELOPMENT

END OF CONSENT AGENDA

ORDINANCES ON SECOND READING
AND PUBLIC HEARINGS

ITEM 10 – ORDINANCE O-2023-28 – AMENDING TITLE 15, CHAPTER THREE, OF THE MUNICIPAL CODE OF THE CITY OF LAKEWOOD, COLORADO, IN CONNECTION WITH THE REGISTRATION OF VACANT PROPERTIES WITHIN THE CITY

ITEM 11 – ORDINANCE O-2023-29 – DECLARING THE INTENT OF THE CITY OF LAKEWOOD TO ACQUIRE INTEREST IN PROPERTY FOR PUBLIC PURPOSES FOR PEDESTRIAN AND STORMWATER IMPROVEMENTS ALONG WEST 20TH AVENUE WEST OF NELSON STREET TO THE QUAIL STREET PARK AND AUTHORIZING NEGOTIATIONS WITH PROPERTY OWNERS, ACCEPTANCE OF CONVEYANCE INSTRUMENTS AND CONDEMNATION OF REAL PROPERTY INTERESTS (SUBJECT TO FURTHER COUNCIL APPROVAL)
ITEM 12 – GENERAL BUSINESS

ITEM 13 – EXECUTIVE REPORT
   A. CITY MANAGER

ITEM 14 – MAYOR AND CITY COUNCIL REPORTS
   A. COUNCIL MEMBERS BY WARD
   B. MAYOR

ITEM 15 – ADJOURNMENT
PROCLAMATION

TO CELEBRATE NATIONAL DISABILITY INDEPENDENCE DAY

Whereas, National Disability Independence Day on July 26th commemorates the signing of the Americans with Disabilities Act (ADA) in 1990, guaranteeing equal rights, protections, and opportunities for individuals with disabilities; and

Whereas, the City of Lakewood recognizes the resilience, strength, and achievements of individuals with disabilities, contributing to our community’s rich fabric; and

Whereas, the City of Lakewood upholds the principles of the ADA, ensuring equal access to employment, transportation, public services, housing, and recreational opportunities; and

Whereas, we value diversity, promote accessibility, and embrace the talents of individuals with disabilities; and

Whereas, Lakewood proudly offers inclusive programs and partnerships that empower individuals with disabilities to engage in a wide range of activities and experiences. Such programs include:

• Camp Paha, our summer camp that welcomes all community members regardless of ability or disability. A program that provides recreation, education, and therapeutic opportunities in a safe and fun day camp environment for everyone.

• Special Olympics track and field, swimming, football, basketball, and bowling teams that promote physical fitness, social interaction, personal growth, teamwork, skill development, and a sense of achievement.

• Lakewood’s partnership with "Feel the Beat" at the Charles E. Whitlock Center, an organization that offers immersive dance experiences. Through the use of an innovative dance floor with bone-conducting technology, participants who may be deaf or hard of hearing can feel the rhythm and vibrations of the music, allowing them to have an experience that is truly one of kind, and provides a whole new way for them to enjoy the joy and expression of dance; and

Whereas, Lakewood is also proud to announce the launch of the "Access Lakewood," a comprehensive initiative aimed at promoting accessibility and inclusivity within our community. This program will enhance residents’ ability to connect with the City on items related to accessibility and serve as a platform for Lakewood to share accessibility plans and successes. Successes, such as Lakewood's updated Self Evaluation and Transition Plan – a roadmap that will guide City staff as they enhance accessibility in our parks, facilities, and digital platforms to ensure equal opportunities for all residents to engage and enjoy the offerings of our City.

Now, therefore, I, Adam Paul, Mayor of the City of Lakewood, hereby proclaim July 26th as:

National Disability Independence Day in the City of Lakewood, Colorado

And I call upon all residents, community organizations, businesses, and educational institutions to observe this day by promoting disability awareness, supporting accessibility initiatives, and celebrating the achievements and contributions of individuals with disabilities.

GIVEN under my hand and Seal of the City of Lakewood, this 24th day of July 2023.

Adam Paul, Mayor
DATE OF COUNCIL MEETING: JULY 24, 2023 / AGENDA ITEM NO. 7

To: Mayor and City Council

From: Travis Parker, Director of Planning, 303-987-7908

Subject: SERVICE PLAN FOR INDIGO AT RED ROCKS METROPOLITAN DISTRICT

Update: The City received a request on July 24, 2023 from the applicant to withdraw from the hearing to consider the service plan for the Indigo at Red Rocks Metropolitan District.

SUMMARY STATEMENT: The applicant has submitted an application to the City of Lakewood for approval of a service plan for the proposed Indigo at Red Rocks Metropolitan District (the District). For the District to be organized, a service plan must be approved by the governing authority, the Lakewood City Council. The application includes the proposed Service Plan and an application memorandum with an overview of the proposal as well as an explanation of how the proposal meets the service plan review criteria. The Colorado Revised Statutes provide the service plan review criteria, which are listed below.

Metropolitan districts are legal entities separate and distinct from municipal governments, organized and existing in accordance with Section 32-1-101 of the Colorado Revised Statutes (C.R.S.). Each metropolitan district has its own elected board of directors, legal responsibilities and financial obligations. There are more than 2,700 active metropolitan districts statewide. Such districts provide a tool to finance infrastructure, amortize infrastructure costs over time, and finance operational aspects of a development such as common area maintenance. The city is not responsible for the district’s financial or other obligations.

The applicant is requesting approval of the proposed Service Plan so the proposed District, may proceed to an organizational election. State statute limits the opportunities for district organizing elections and prescribes timelines and steps necessary to create a district including public notices, governing authority action, district court action and an election. Given those statutory schedule constraints, the applicant requested City Council approval of the Service Plan on July 24, 2023 or the district election will, by statute, be deferred 12 months.

The District will contain approximately 98.5 acres of land, located south of West Yale Avenue and to the east and west of the future South McIntyre Street right-of-way within the Rooney Valley, in the City of Lakewood. The following Vicinity Map shows the location of the proposed district. Section V.15 of the Service Plan identifies the process for inclusion and exclusion of property within the district.
BACKGROUND INFORMATION: An application for the Indigo at Red Rocks Metropolitan District was first heard by City Council on September 25, 2017 at a regularly scheduled meeting. City Council denied the application requesting that it be heard at a future City Council meeting at the same time as a proposed rezoning request for a portion of the property. This application and the proposed rezoning and vesting cases were heard at the City Council meeting on August 27, 2018. The rezoning application was denied, and the vesting application was withdrawn. The request to form a service plan for the metropolitan district was continued to the date certain of September 10, 2018. The applicant withdrew this request prior to the hearing date.

The topic of metropolitan districts and the desire to establish specific procedures for processing and reviewing proposed metropolitan districts was discussed with the City Council’s Ad Hoc Development Dialogue Committee and City Council from 2020-2021 and these discussions resulted in an Ordinance that was brought to City Council on October 4, 2021 for adoption. The Ordinance adoption failed. Therefore, review of metropolitan districts is subject to the C.R.S., as summarized in the Regulatory Summary below.

Several major site plan and final plat cases are currently in review for the subject property. In March of 2023 the applicant submitted a new application requesting the consideration of a metropolitan district and a draft Service
Plan, case MD23-0001. Planning staff referred the proposed Service Plan to Lakewood Public Works, Finance, and the City Attorney’s office for review. Staff findings and recommendation are described towards the end of this memorandum.

REGULATORY SUMMARY: Section 32-1-201 through 209 of the C.R.S. requires that a district only be formed upon consent of the appropriate governing body, city or county, through the approval of a district’s service plan. The findings of the board of county commissioners shall be based solely upon the service plan and evidence presented at the hearing. The City Council has, by statute, the following options:

1. To approve without condition or modification, the service plan submitted;
2. To disapprove the service plan submitted; or
3. To conditionally approve the service plan subject to the submission of additional information relating to, or the modification of, the proposed service plan or by agreement with the proponents of the proposed service plan.

The statutes require that the service plan shall contain the following:

1. A description of the proposed services;
2. A financial plan showing how the proposed services are to be financed, including the proposed operating revenue derived from property taxes for the first budget year of the district, which shall not be materially exceeded except as authorized pursuant to section 32-1-207 or 29-1-302, C.R.S. All proposed indebtedness for the district shall be displayed together with a schedule indicating the year or years in which the debt is scheduled to be issued. The board of directors of the district shall notify the city council of any alteration or revision of the proposed schedule of debt issuance set forth in the financial plan;
3. A preliminary engineering or architectural survey showing how the proposed services are to be provided;
4. A map of the proposed special district boundaries and an estimate of the population and valuation for assessment of the proposed special district;
5. A general description of the facilities to be constructed and the standards of such construction, including a statement of how the facility and service standards of the proposed special district are compatible with facility and service standards of any county within which all or any portion of the proposed special district is to be located, and of municipalities and special districts which are interested parties pursuant to section 32-1-204 (1);
6. A general description of the estimated cost of acquiring land, engineering services, legal services, administrative services, initial proposed indebtedness and estimated proposed maximum interest rates and discounts, and other major expenses related to the organization and initial operation of the district;
7. A description of any arrangement or proposed agreement with any political subdivision for the performance of any services between the proposed special district and such other political subdivision, and, if the form contract to be used is available, it shall be attached to the service plan; and
8. Information, along with other evidence presented at the hearing, satisfactory to establish that each of the criteria set forth in section 32-1-203, if applicable, is met.

The City Council shall disapprove the service plan, as required by the state statutes, unless evidence satisfactory to the City Council of each of the following is presented:

1. There is sufficient existing and projected need for organized service in the area to be serviced by the proposed special district.
2. The existing service in the area to be served by the proposed special district is inadequate for present and projected needs.
3. The proposed special district is capable of providing economical and sufficient service to the area within its proposed boundaries.

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

The statutes provide that the City Council may disapprove the service plan if evidence satisfactory to the City Council is not presented regarding any of the following:

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

2. The facility and service standards of the proposed special district are compatible with the facility and service standards of each county within which the proposed special district is to be located and each municipality which is an interested party under section 32-1-204 (1).

3. The proposal is in substantial compliance with a master plan adopted pursuant to section 30-28-106, C.R.S.

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

5. The creation of the proposed special district will be in the best interests of the area proposed to be served.

**STAFF ANALYSIS:** The applicant is seeking approval of the Service Plan to provide for the efficient financing of construction and ongoing financing and maintenance of critical public infrastructure. Approval of the Service Plan will enable the proposed residential project to proceed with a multi-phased, residential neighborhood with for-sale homes. Specifically, it is anticipated that the District would finance and construct and, in some instances, maintain and operate certain water, sewer, streets, drainage, and open space infrastructure for the benefit of residents and constituents of the District. Finally, the District will serve as a vehicle for covenant enforcement and design review services for the community in the place of a traditional HOA.

The Service Plan contains the necessary information and may be located as follows:

<table>
<thead>
<tr>
<th>1. Description of the proposed services</th>
<th>Section V. (page 5)</th>
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<tbody>
<tr>
<td>2. Financial plan description on page 10 Financial Plan</td>
<td>Section VI. (page 13) Exhibit E</td>
</tr>
<tr>
<td>3. Conceptual Public Improvements plan showing how the proposed services will be provided.</td>
<td>Exhibit D</td>
</tr>
<tr>
<td>4. Description of the proposed special district boundaries, and an Estimate of the population and valuation</td>
<td>Section III. (page 4) &amp; maps Exhibits A-C Section IV. (page 4)</td>
</tr>
<tr>
<td>5. Description of the facilities to be constructed and the standards of such construction,</td>
<td>Section V. (page 5) Section V.A.13. (page 8)</td>
</tr>
<tr>
<td>6. Description of the estimated cost for land and services</td>
<td>Section VI. (page 13)</td>
</tr>
<tr>
<td>7. Description of any arrangement or proposed agreement with any political subdivision</td>
<td>Section VIII. (page 17)</td>
</tr>
</tbody>
</table>
Other Elements in the Service Plan include:

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<table>
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<tbody>
<tr>
<td>1.</td>
<td>Description of annual reporting</td>
</tr>
<tr>
<td>2.</td>
<td>Section on compliance with the Tax Payer Bill of Rights (TABOR)</td>
</tr>
<tr>
<td>3.</td>
<td>Section on disclosure to purchasers</td>
</tr>
<tr>
<td>4.</td>
<td>Section on the maximum debt mill levy</td>
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</table>

The Service Plan was referred to separate divisions within the City and review was conducted by staff. The review process included a series of questions and comments and subsequently resulted in minor modifications to the Service Plan.

City staff has confirmed that sufficient infrastructure does not currently exist to accommodate the proposed project. For the project to proceed, sewer facilities, water facilities, storm water drainage facilities, streets and other infrastructure are necessary and required. The City will not be constructing the infrastructure necessary to accommodate the project, nor will any other existing governmental entity. The developer is proposing the District as the entity to finance and construct a portion of the necessary project infrastructure. The applicant has indicated that the District is, in part, necessary as a result of the extraordinary infrastructure costs associated with development in the area that has historically been vacant with some residential development to the northeast and to the south. Preliminary estimates for public infrastructure improvements are listed in Exhibit D of the Service Plan.

Summarized division review responses are as follows:

1. Lakewood Public Works confirms, as summarized above, that the public improvements are necessary, the extent of improvements is typical, and the plan is reasonable.
2. Lakewood Finance Department has reviewed the financial plan and determined that the proposed plan is fair and reasonable.
3. City Attorney has reviewed the application and found that the applicant is following the process defined in the C.R.S.
4. Planning staff has reviewed the application and determined that the request is supported by the Lakewood Comprehensive Plan and Plan Rooney Valley.

**STAFF FINDINGS & RECOMMENDATION:** Staff recommends that, based upon the Service Plan and evidence provided by the applicant, that the Lakewood City Council find:

A. That the applicant, Tom George with Spencer Fane LP, has submitted an application for approval of a metropolitan district service plan; and
B. A service plan was submitted with the application that includes all the items required by the Colorado Revised Statutes; and
C. There is sufficient existing and projected need for organized service in the area to be serviced by the proposed District as demonstrated by the existing zoning; and
D. The existing services in the district’s area are inadequate for present and projected needs as demonstrated by the lack of existing services; and
E. The proposed District is capable of providing economical and sufficient service to the area within its proposed boundaries based on information provided by the applicant; and
F. 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 based on information provided by the applicant; and

G. 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; and

H. 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 Section 32-1-204, C.R.S.; and

I. The proposal is in substantial compliance with a comprehensive plan adopted pursuant to the City code; and

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

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

L. The Service Plan, based upon the statements set forth in the Service Plan and upon all evidence presented at the hearing on the Service Plan, meets all conditions and requirements of Sections 32-1-201, et seq., C.R.S.;

AND

That the City Council approve the Service Plan to allow the applicant to pursue a jurisdictional election and a court order and decree for the formation of the Indigo at Red Rocks Metropolitan District.

BUDGETARY IMPACTS: No funding by the City of Lakewood is requested and the city will not be responsible for any of the proposed district’s financial obligations. Future revenue sources are defined in the Service Plan.

STAFF RECOMMENDATIONS: Approve the Service Plan for the Indigo at Red Rocks Metropolitan District.

PUBLIC OUTREACH: This item has been promoted through the regular communication channels to be considered by the Lakewood City Council. Additionally, the public notices required by state statutes were also completed by staff.

ATTACHMENTS: Request for Council Action
Application Memorandum
Service Plan for Indigo at Red Rocks Metropolitan District
Resolution 2023-41

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney
REQUEST FOR COUNCIL ACTION

RESOLUTION: R-2023-41

SUBJECT: Indigo at Red Rocks Metropolitan District

ADDRESS: 2800 S. Rooney Rd.

RECOMMENDATION: Approve the Service Plan for the Indigo at Red Rocks Metropolitan District.

FUNDING SOURCE: No funding by the City of Lakewood is requested and the city will not be responsible for any of the proposed district’s financial obligations. Future revenue sources are defined in the Service Plan.

SUMMARY AND BACKGROUND OF SUBJECT MATTER: The attached letter from the applicant and staff memorandum discuss the proposal, the role of city council pursuant to state statute, and the review criteria available to City Council. The Service Plan, which is the subject of this request for council action, is also attached.

RESOLUTION ADOPTION DATE: July 24, 2023

ORIGINATED BY: Planning Department

STAFF PERSON RESPONSIBLE: Kara Mueller, Senior Planner, 303-987-7982

DOCUMENT(S) ATTACHED:
- Application Memorandum
- Staff Memorandum
- Indigo at Red Rocks Metropolitan District Service Plan
- Resolution 2023-41
SUBMITTED BY:

Travis Parker
Planning Director

REVIEWED BY:

Ben Goldstein
Deputy City Manager

Kathleen E. Hodgson
City Manager
Memorandum

To: City Council, City of Lakewood
From: Spencer Fane LLP
Re: (Proposed) Indigo at Red Rocks Metropolitan District
Date: May 3, 2023

This memorandum addresses various matters related to the application for approval of the Service Plan for the proposed Indigo at Red Rocks Metropolitan District (the “District”) within the City of Lakewood, Colorado (the “City”), and describes the need for the District and how the Service Plan complies with the statutory criteria required for approval by the City. In addition, this memorandum highlights a number of specific provisions and limitations included in the Service Plan to intentionally and directly address specific issues, concerns, proposals, and preferences recently voiced by City Council Members, Members of the Development Dialogue Ad Hoc Committee, and City Staff regarding the use of metropolitan districts to support development in the City.

The main purpose of this memorandum is to supplement and expand upon the information provided in the Service Plan, and this memorandum should be reviewed in conjunction with the Service Plan. Capitalized terms used but not defined in this memorandum are defined in the Service Plan.

I. Introduction

Special districts, including metropolitan districts, are quasi-municipal corporations and political subdivisions of the State of Colorado, independent and apart from the municipalities and counties in which they are formed. Currently, there are more than 2,700 special districts in Colorado, and approximately 245 in Jefferson County alone.

The proposed District will support the development to be known as Indigo at Red Rocks (the “Development”), which is being developed by Cardel Rooney Valley Limited Partnership, a related entity to Cardel Homes (the “Developer”). The Developer is proposing the organization of the District in order to provide for the essential Public Improvements (as defined in the Service Plan) necessary for the Development. The estimated costs of all Public Improvements necessary for the Development exceed the projected and requested financial capacity of the District, and it is expected that all necessary Public Improvement expenses not supported by the District will be funded by the Developer.

The Development—coterminous with the boundaries of the District—is comprised of approximately 98.5 acres generally located south of the existing W. Yale Avenue and its future right-of-way, and east of and adjacent to S. Rooney Road in Lakewood. The Development will be residential, with a mix of single-family, attached single-family, and multifamily residential units. The Development’s land use approvals are
currently in the planning process with the City. Unlike other projects in the area that have utilized multiple and layered metropolitan district structures, only a single District is proposed here.

II. Specific Service Plan Restrictions, Limitations and Requirements; Additional Oversight

Over the past several years, the Developer has engaged in ongoing dialogue with the City and has followed closely the City’s discussions regarding the use of metropolitan districts to support development in the City. In particular, the Developer and its consultants have been actively involved in the Development Dialogue Ad Hoc Committee’s ongoing review, discussions and policy recommendations regarding the use of metropolitan districts in the City. The Developer has heard the issues, concerns, proposals, and preferences of City Council Members, Members of the Development Dialogue Ad Hoc Committee, and City Staff. Numerous specific restrictions, limitations and requirements have been intentionally included in the Service Plan to specifically address as many of these the issues, concerns, proposals, and preferences as possible. A summary of these specific provisions follows:

A. Limited Power and Authority to Provide Specific Types of Public Improvements and Services

1. Limited List of Public Improvements and Services. The District shall have the power and authority to provide only the following types of public improvements and services: water, sanitary sewer, storm sewer, streets (including snow removal), traffic safety protection, parks and recreation, mosquito control, covenant enforcement, limited fire protection (limited to fire hydrants and related infrastructure), and limited television relay and translation (limited to installing conduit as part of street improvements only) improvements and services. (See Sec. V.A., p. 5 of the Service Plan)

2. City Standards. All public improvements provided by the District must be designed and constructed in accordance with the standards, specifications and land use approvals of the City. (See Sec. V.A.13, p. 8).

3. Limited Power of Eminent Domain. The District shall not be authorized to utilize the power of eminent domain or dominant eminent domain against City-owned property or City-leased property without the prior written consent of the City. (See Sec. V.A.23, p. 11).

B. Enhanced Disclosure to Purchasers

1. Recorded Disclosure to Purchasers of Residential Property. The Service Plan requires the District to record a written notice to all purchasers of property in the District regarding the District’s mill levies and Maximum Debt Mill Levy, as well as a general description of the District’s authority to impose and collect rates, Fees, tolls and charges, and to provide public improvements within and without the District’s boundaries consistent with this Service Plan. The form of such notice shall be approved by and filed with the City, and shall be recorded against all property within the District’s boundaries prior to the initial issuance of District Debt and the District imposing a debt service mill levy. A proposed form of notice, entitled “Disclosure to Purchasers of Residential Property,” is attached to the Service Plan as Exhibit G. (See Sec. IX, p. 17).

2. Disclosure Provided to Purchasers by Developer. In addition, the Service Plan requires the Developer to provide a written notice regarding the District to all purchasers of residential property in the District who purchase property from the Developer (including any of Developer’s affiliates, subsidiaries, or related entities). A proposed form of such notice, which
includes a signature line for a purchaser to acknowledge receipt of such notice, is attached to the Service Plan as Exhibit H. (See Sec. IX, p. 17)

C. Financial Restrictions

1. **Maximum Debt Mill Levy.** The District shall not impose a property tax mill levy in excess of 50,000 mills for the payment of Debt. This Maximum Debt Mill Levy is subject to adjustment when the debt to assessed value ratio is less than 50% or for changes in law all as set forth in the Service Plan. It is estimated that in 2024 the Maximum Debt Mill Levy will be 55.664 mills based on a residential assessment rate of 7.15% which is expected to be in effect at that time (See Sec. VI.C, p. 13).

2. **Maximum Debt Service Mill Levy Term.** The District shall not impose debt mill levy (or use the proceeds of any mill levy for repayment of Debt) on any single property developed for residential uses that exceeds forty (40) years after the year of the initial imposition of such mill levy unless a majority of the Board of Directors of the District are residents of the District and have voted in favor of a refunding or refinancing of a part or all of the Debt and such refunding or refinancing will result in a net present value savings as set forth in Section 11-56-101, et seq., C.R.S. (See Sec. VI.D, p. 14).

3. **Maximum Debt Limit.**
   
   i. The District shall not issue Debt in excess of $42,500,000. (See Sec. V.A.18, p. 10, and Sec. VI.A, p. 12-13).

   ii. The foregoing total debt issuance limitation may only be increased by amending the Service Plan, with City Council approval, and only if a majority of the Board of Directors of the District are residents of the District and have voted in favor of such increase. (See Sec. V.A.18, p. 10).

   iii. The foregoing total debt issuance limitation is not applicable to refunding bonds issued to refund outstanding Debt. (See Sec. V.A.18, p. 10).

   iv. The foregoing Debt limitation is based on the estimated costs of the public improvements to be financed by the District and the projections shown in the Financial Plan attached to the Service Plan as Exhibit E, with a reasonable amount of additional Debt capacity to account for potential changes in market conditions. (See Sec. V.A.18, p. 10).

4. **No Debt Issued to Developer.** The District shall not issue any Debt to the Developer or any affiliate, subsidiary or other entity related to the Developer. (See Sec. V.A.14, p. 9).

5. **Limitation on Fees.** The District may impose and collect Fees as a source of revenue for District operations and maintenance expenses. The District may impose and collect Fees as a source of revenue for repayment of debt and/or for capital costs only with the prior approval of the City. (See Sec. V.A.19, p. 10).

6. **No Competition with City for Grant Funds.** The District shall not apply for or accept Conservation Trust Funds, Great Outdoors Colorado Funds, or other funds available from or through governmental or non-profit entities that the City is eligible to apply for, except pursuant to an intergovernmental agreement with the City. (See Sec. V.A.20, p. 10).
7. **Certification of Reasonableness Regarding Privately Placed Debt.** Prior to the issuance of any privately placed Debt that is placed with an individual or individuals not otherwise constituting or related to a private financial institution, the District must obtain the certification of an External Financial Advisor that the proposed Debt is reasonable. (See Sec. V.A.14, p. 9).

8. **No Debt until City Approves Development Plans.** 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, until approval by the City of an Approved Development Plan. (See Sec. V.A.17, p. 9).

9. **Restrictions apply in Bankruptcy.** All of the limitations contained in the Service Plan, including, but not limited to, those pertaining to the Maximum Debt Mill Levy, Maximum Debt Mill Levy Imposition Term and the Fees would remain intact even in bankruptcy. (See Sec. V.A.22, p. 10).

10. **Annual Audits Required When Debt Outstanding.** Notwithstanding the provisions of Section 29-1-601, et seq., C.R.S., which allow for audit exemptions under certain circumstances, the District shall cause to be made an annual audit of the financial statements of the District for each fiscal year in which the District has outstanding Debt. (See Sec. VI.J, p. 16).

11. **Restrictions Expressly Stated in Debt Instruments.** In the text of each Bond and any other instrument representing and constituting Debt, the District shall set forth a statement in substantially the following form (See Sec. VI.F, p. 14-15):

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

D. **Material Modifications to Service Plan**

1. **Require City Approval.** The District must obtain prior written approval of the City before making any material modification to the Service Plan. (See Sec. V.A.24, p. 11).

2. **Definition of Material Modifications.** As set forth in the Service Plan, material modifications require a Service Plan Amendment and include modifications of a basic or essential nature, including, but not limited to, the following: any addition to the types of services or improvements provided by the District; a decrease in the financial ability of the District to discharge the existing or proposed indebtedness; an increase or decrease in the existing or projected need for organized service in the area; modifications to the District’s boundaries; exceeding the Debt limitation set forth in this Service Plan; exceeding the Maximum Debt Mill Levy; exceeding the Maximum Debt Mill Levy Imposition Term; and applying for grants or other funds for which the City is eligible without an agreement with the City. (See Sec. V.A.24, p. 11-12).

3. **Process for Determining if Service Plan Amendment is Required.** In the event the District plans to undertake an action which may not be permitted by the Service Plan, it shall be the District’s responsibility to contact City staff to seek an administrative determination as to whether the action in question is permitted by the Service Plan. If City staff determines that the action may constitute a material modification, the District shall submit a proposal for action to the City Council. Thereafter, City Council will determine whether the proposed action constitutes a material
modification. If City Council determines that the proposed action constitutes a material modification, then the action shall be prohibited and constitute a material modification of this Service Plan requiring an amendment pursuant to this Service Plan and C.R.S. § 32-1-207(2). If the District and either City staff or City Council are unable to agree as to whether a specific action is permitted by this Service Plan or is a material modification requiring a Service Plan Amendment, the District and the City shall meet and confer in good faith and attempt to resolve their disagreement before pursuing any remedy at law. (See Sec. V.A.24, p. 11-12).

E. Director Elections; Notice; Resident Participation

1. Mail Ballot Elections Required. All regular District elections shall be conducted by mail ballot pursuant to Section 1-13.5-101, et seq., C.R.S. (See Sec. X.A, p. 18).

2. Written Notice of Elections Mailed to Residents. In addition to any and all notices required by law, the District shall cause written notice of all regular District elections after the District’s organization to be mailed to each mailing address within the District’s boundaries concurrent with the District’s publication of a call for nominations for the election as required by C.R.S. § 1-13.5-501(1). (See Sec. X.A, p. 18).

3. Written Notice of Vacancies Mailed to Residents. In the event there arises a vacancy on the Board of Directors at any time, the District shall cause written notice of such vacancy, or vacancies, to be mailed or sent by electronic mail to all residents within District’s boundaries prior to filling such vacancy(ies). (See Sec. X.A, p. 18).

4. Annual Community Meeting. The District is required to hold an “Annual Community Meeting” each year and to send written notice of the meeting to surrounding municipalities and taxing special districts. (See Sec. X.C, p. 18-19).

F. Various Other Requirements/Restrictions

1. No Inclusions or Exclusions without City Consent. The District shall not include within its boundaries any property outside the Service Area or exclude from its boundaries any property within the Service Area without the prior written consent of the City. (See Sec. V.A.15, p. 9).

2. Single District Structure Only. The Service Plan is for a single metropolitan District and does not allow for the organization or operation of multiple metropolitan districts hereunder. (See Sec. V.A.16, p. 9).

3. No Overlapping Districts. The District shall not consent to the organization of any other district organized under the Special District Act within the Service Area which will overlap the boundaries of the District unless the aggregate mill levy for payment of Debt of such proposed district(s) will not at any time exceed the Maximum Debt Mill Levy of the District. (See Sec. V.A.16, p. 9).

4. No Subdistricts or Special Improvement Districts. The District shall not be permitted to be divided into subdistricts or to establish special improvement districts as set forth in Section 32-1-101, et seq., C.R.S. (See Sec. V.A.16, p. 9).

5. No Consolidation. 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. (See Sec. V.A.21, p. 10).
III. District Structure

The following is a brief summary of the structure of the District:

A. The District will be a separate legal entity, distinct from the City, operating under and in accordance with all applicable statutory requirements and the Service Plan.

B. Only one District is proposed for the Development, unlike other projects in the area that have utilized multiple and layered metropolitan district structures.

C. The District will be governed by an elected five member board of directors with staggered, four-year terms of office, and regular elections of the board will be held in May of each even year. As required by state statute, two of the initial directors will serve an initial term lasting until the next regular special district election in May 2025. The other three directors will each serve an initial term until the second regular special district election in May 2027. Thereafter, Director elections will take place in May of each odd-numbered year.

D. The District must comply with all statutory transparency and open meetings requirements, including but not limited to the following: Open Meetings Laws (C.R.S. § 24-6-402); Open Records Act (C.R.S. §§ 24-72-201 to 24-72-309); Uniform Election Code (C.R.S. §§ 1-1-101 to 1-13.5-1501); Local Government Budget Law (C.R.S. §§ 29-1-101 to 115); Local Government Audit Law (C.R.S. §§ 29-1-601 to 608); and Disclosure and Notification requirements (C.R.S. § 32-35.7-101)

IV. Need for the District

The District will be utilized to assist in the financing, construction, operation and maintenance of the public improvements necessary to serve the Development as further described in the Service Plan (the “Public Improvements”). The Development is not located within any other special district which will provide the necessary public improvements or services, and at this time no other jurisdiction or entity in the area is interested in or willing to undertake the financing, construction, or ongoing operation and maintenance of the Public Improvements that the District will provide. The District is essential to providing the Public Improvements the Development needs. Further, it is worth noting that the Development is not and never has been located within the Mount Carbon Metropolitan District and has no financial obligations, debt or otherwise, associated with it.

V. Service Plan Approval

The first step in the organization of the District is approval of the District’s Service Plan by the City. The Service Plan for the District includes all statutorily required information and specific provisions unique to the Development and as requested by the City. Upon approval by the City, the Service Plan will be the District’s governing document. The City’s approval of the Service Plan does not impair the City’s exclusive jurisdiction over land use, zoning, permitting, the provision of municipal services or other powers and authorities of the City. In the event the District fails to comply with any material provision of its Service Plan, the Special District Act (C.R.S. § 32-1-101, et seq.) provides the City with the power to require a Service Plan amendment and/or commence legal action to compel District compliance. Following the City’s approval of the Service Plan, a petition for organization of the District will be submitted to the Jefferson County District Court and the question of organization will be put to the qualified electors in the District at the November 2023 election.

VI. District Powers and Authority
A. **Infrastructure Financing**

The primary purpose of the District will be to finance the construction of the Public Improvements necessary to serve the Development through the issuance of tax-exempt debt for the benefit of the constituents and residents of the District, as well as the general public, as further described in the Service Plan. In the absence of the District, these necessary public improvement construction costs would be financed by higher cost private equity and lending, the increased costs of which would be passed along to home buyers, impacting the affordability of homes available in the Development.

The District’s domestic water service will be provided by Consolidated Mutual Water Company (“Consolidated”), as demonstrated by the will-serve letter from Consolidated attached to the Service Plan as Exhibit F. All water improvements necessary for the District to be able to connect to Consolidated’s water system will be provided in coordination with Consolidated.

Sanitary sewer service to the property within the District will be provided either by Metro Water Recovery (formally known as the Metro Wastewater Reclamation District) (“Metro”) or Green Mountain Water & Sanitation District (“Green Mountain”), however the final means and parameters of such service have not been finalized. The District will work cooperatively with Big Sky Metropolitan District Nos. 1-7 (“Big Sky”), which are located adjacent to the District’s boundaries, in order to plan, design, finance and construct the regional sanitary sewer facilities necessary to obtain such service for the property within their respective boundaries from either Metro or Green Mountain. The organization of the District prior to finalizing the plans for sanitary sewer service to the property within the District is necessary because the District will be the entity responsible for entering into the sanitary sewer service and facility agreement(s) in order to secure such service. Without the prior organization of the District, there will not be any appropriate entity in existence to enter into any such agreement(s).

B. **Operations and Maintenance**

The District will own, operate and maintain certain of the Public Improvements such as stormwater collection and detention facilities, park and recreation (e.g., trails and pedestrian paths) and landscaping improvements throughout the District. The District will also provide covenant enforcement and design review services for the community in the place of a traditional HOA, negating the need for a second, overlapping entity. However, the District will not provide any large community facilities typical of HOAs such as a clubhouse or community pool.

VII. **District Revenue Sources and Limitations**

The District will have the following sources of revenue available to it:

A. **Ad Valorem Property Tax Mill Levy Revenues**

1. Debt Service Mill Levy (used to pay for the costs associated with financing the installation of Public Improvements).

2. Operations and Maintenance Mill Levy (used to pay for the administrative, operations and maintenance expenses of the District).

B. **Fees**
1. The District may impose and collect Fees as a source of revenue for District operations and maintenance expenses.

2. The District may impose and collect Fees as a source of revenue for repayment of debt and/or for capital costs only with the prior approval of the City.

C. The District does not have the ability to impose or collect sales taxes.

D. Debt Issuance

1. Limited to $42,500,000.

2. The City will never be responsible for the District’s debt.

3. Must be issued in compliance with TABOR authorizations.

VIII. Compliance with Statutory Requirements

The Special District Act sets forth certain criteria that must be met for City approval of the Service Plan (See C.R.S. § 32-1-203). These criteria, and explanations of how the Service Plan meets them, follows:

A. There must be sufficient existing and projected need for organized service in the area to be serviced by the proposed District. Sufficient existing and projected need exists because there is currently no other jurisdiction or entity interested in or willing to undertake the financing, construction, or ongoing operation and maintenance of the Public Improvements that the District will provide and as are necessary for the Development. Without the District, the essential Public Improvements will not be available for the Development.

B. The existing service in the area to be served by the proposed project is inadequate for present and projected needs. There is currently no other jurisdiction or entity, including the City, that considers it feasible or practical to provide the Development with the water, sanitation, street, storm sewer, or other improvements and services described in the Service Plan necessary to serve the anticipated Development. Current services are inadequate and it is necessary for the District to be organized to provide such Public Improvements and services for the benefit of its future inhabitants.

C. The proposed District is capable of providing economical and sufficient service to the area within its proposed boundaries. The Preliminary Infrastructure Plan/Cost Estimates (Exhibit D to the Service Plan) and Financial Plan (Exhibit E to the Service Plan) demonstrate that the District is capable of providing economical and sufficient service to the Development by financing and funding the construction, installation, acquisition, and operation and maintenance of the necessary Public Improvements. Further, the Service Plan establishes a Maximum Debt Mill Levy and limitations on the District’s issuance of debt, thereby ensuring economic and sufficient service will be provided by the District.

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. The estimated costs of the Public Improvements to be constructed, installed and/or acquired by the District are set forth in the Preliminary Infrastructure Plan/Cost Estimates, which is included in the Service Plan as Exhibit D. It is anticipated that the costs associated with the Public Improvements necessary to serve the Development will be a maximum of approximately $77,402,617.50. The Financial Plan, which is included in the Service Plan as Exhibit E, demonstrates the ability of the District to issue and repay debt in the approximate amount of $33,645,000, based upon reasonable assumptions of value and of mill levy and other revenue as of the date of the Service Plan.
Plan. Those Public Improvement expenses not able to be supported by the District are expected to be funded by the Developer. Therefore, as shown in the Financial Plan, the District has the ability to finance the proposed Public Improvements and will be capable of discharging the proposed indebtedness on a reasonable basis.

IX. Conclusion

For the reasons stated in the Service Plan and explained further herein, it is requested that the City Council consider and approve the Service Plan for the proposed Indigo at Red Rocks Metropolitan District.
SERVICE PLAN

FOR

INDIGO AT RED ROCKS METROPOLITAN DISTRICT

CITY OF LAKEWOOD, COLORADO

Prepared by

SPENCER FANE LLP
1700 Lincoln, Suite 2000
Denver, CO 80203

June 29, 2023
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I. INTRODUCTION

A. Purpose and Intent.

The District is an independent unit of local government, separate and distinct from the City, and, except as may otherwise be provided for by State or local law or this Service Plan, its activities are subject to review by the City only insofar as they may deviate in a material manner from the requirements of the Service Plan. It is intended that the District will provide a part or all of the Public Improvements for the use and benefit of all anticipated inhabitants and taxpayers of the District.

The primary purpose of the District will be to finance the construction of the Public Improvements and to provide the Public Improvements and services necessary to serve the development to be known as Indigo at Red Rocks (the “Project”). The Community is being developed by Cardel Rooney Valley Limited Partnership (the “Developer”) and will contain primarily single-family, attached single-family, and multifamily residential units. The project will not be served by a home or property owners association (“HOA” or “POA”), and the District will maintain ownership of many of the Public Improvements and will be responsible for ongoing operation and maintenance as well as the provision of design review and covenant enforcement services normally provided by an HOA or POA. Under all circumstances, the Project will be developed only in conformance with Approved Development Plans approved by the City.

B. Need for the District.

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

C. Objective of the City Regarding the District Service Plan.

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

This Service Plan is intended to establish a limited purpose for the District and explicit financial constraints. The primary purpose of the District is to provide for the Public Improvements associated with development of the Project. Operations and maintenance activities shall be allowed, subject to the limitations set forth in this Service Plan.

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

II. DEFINITIONS

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

Approved Development Plan: means an approved final plat or other process established by the City for identifying, among other things, Public Improvements necessary for facilitating development of property within the Service Area as approved by the City pursuant to the City Code, as amended from time to time, but specifically excluding Indigo at Red Rocks Subdivision Filing No. 1, which is not considered an Approved Development Plan under this Service Plan.

Board: means the board of directors of the District.

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

City: means the City of Lakewood, Colorado.

City Code: means the Municipal Code of the City of Lakewood, Colorado.

City Council: means the City Council of the City of Lakewood, Colorado.

Developer: Cardel Rooney Valley Limited Partnership, a Colorado limited partnership
District: means the Indigo at Red Rocks Metropolitan District.

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

District Boundary Map: means the map attached hereto as Exhibit C, describing the boundaries of the District.

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

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

Fees: means any rate, fee, toll, penalty or other charge imposed by the District and permitted by applicable law and this Service Plan for operations, maintenance, services, programs, improvements, facilities, debt and/or other uses of the District.

Financial Plan: means the Financial Plan described in Section VI and attached to this Service Plan as Exhibit E, which describes: (i) how the proposed Public Improvements are expected to be financed; (ii) how the Debt is expected to be incurred; and (iii) the estimated operating revenue derived from property taxes. The figures in the Financial Plan relate only to the Property within the District Boundaries.

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

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

Project: means the development of property within the Service Area to be known as Indigo at Red Rocks.

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

**Service Area:** means the property within the District Boundaries as amended by any inclusions and exclusions pursuant to Section III herein.

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

**Service Plan Amendment:** means an amendment to the Service Plan approved by City Council in accordance with this Service Plan, City Code and State law, as applicable.

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

**State:** means the State of Colorado.

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

**III. BOUNDARIES**

The area of the District Boundaries includes approximately 98.5 acres. A legal description of the District Boundaries is attached hereto as Exhibit A. A vicinity map is attached hereto as Exhibit B. A map of the District Boundaries is attached hereto as Exhibit C. It is anticipated that the District’s boundaries may change from time to time as it undergoes inclusions and exclusions pursuant to Section 32-1-401, *et seq.*, C.R.S., and Section 32-1-501, *et seq.*, C.R.S., subject to the limitations set forth in Article V below.

**IV. PROPOSED LAND USE/POPULATION PROJECTIONS/ASSESSED VALUATION**

The Service Area consists of approximately 98.5 acres of land which will be comprised primarily of residential property. The property within the Service Area is currently classified as agricultural and has a current assessed valuation of $1,879 as of the date of this Service Plan. At build-out, the assessed valuation of the Service Area is expected to be sufficient to reasonably discharge the Debt as projected under the Financial Plan. The population of the District at build-out is estimated to be approximately 1,837 people, based on a projected number of 735 single-family, attached single-family, and multifamily units, and a population estimate of 2.5 persons per unit.

Approval of this Service Plan by the City does not imply any other approval, including but not limited to the development of a specific area within the District, the number of residential units identified in this Service Plan or any of the exhibits attached thereto.
V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES

A. Powers of the District and Service Plan Amendment.

The District shall have the powers and authority pursuant to the Special District Act and other applicable statutes, common law, and the Colorado Constitution as described and limited in this section.

1. Operations and Maintenance.

The primary purpose of the District is to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate and maintain the Public Improvements, as defined in this Service Plan. The District shall dedicate certain of the Public Improvements to the City or other appropriate jurisdiction in a manner consistent with this Service Plan, an Approved Development Plan and other rules and regulations of the City and applicable provisions of the City Code. The District shall be authorized to operate and maintain any part or all of the Public Improvements owned by the District, unless the provision of such operation and maintenance is prohibited pursuant to an intergovernmental agreement with the City; provided that any Fee imposed by the District for access to any park and recreation improvements shall not result in non-District City residents paying a user fee that is greater than, or otherwise disproportionate to, similar fees and taxes paid by residents of the District. However, the District shall be entitled to impose an administrative Fee as necessary to cover additional expenses associated with non-District City residents to ensure that such costs are not the responsibility of District residents. All such Fees shall be based upon the District’s determination that such Fees do not exceed reasonable annual market fees for users of such facilities. Notwithstanding the foregoing, all parks and trails shall be open to the general public and non-District City residents free of charge.

2. Water.

The District shall have the power and authority to finance, design, construct, acquire, install, maintain, and provide for potable water and irrigation water facilities and systems, including, but not limited to, water rights, water supply, treatment, storage, transmission, and distribution systems for domestic, irrigation, fire control, and other public purposes, together with all necessary and proper reservoirs, treatment facilities, wells, equipment, and appurtenances incident thereto, which may include, but shall not be limited to, transmission lines, pipes, distribution mains and laterals, storage facilities, and ditches, with all necessary and incidental and appurtenant facilities, land and easements, together with extensions and improvements thereto.

Domestic water supply and service will be provided to the property within the District by Consolidated Mutual Water Company (“Consolidated”) as demonstrated by the will serve letter attached hereto as Exhibit F. All water improvements necessary for the District to be able to connect to Consolidated’s water system will be constructed by or at the direction of the District and dedicated to Consolidated, or will be constructed by Consolidated, pursuant to an
3. **Sanitary Sewer.**

The District shall have the power and authority to finance, design, construct, acquire, install, maintain, and provide for public sanitary sewers and to transport wastewater to an appropriate wastewater treatment facility, with all necessary and incidental and appurtenant facilities, land and easements, together with extensions and improvements thereto.

It is anticipated that sanitary sewer service to the property within the District will be provided either by Metro Water Recovery (formally known as the Metro Wastewater Reclamation District) (“Metro”) or Green Mountain Water & Sanitation District (“Green Mountain”) pursuant to one or more intergovernmental agreements among them, however the final means and parameters of such service have not been finalized as of the date of this Service Plan.

It is also expected that the District will work cooperatively with one or more of Big Sky Metropolitan District Nos. 1-7 (“Big Sky”), which are located adjacent to the District’s boundaries, in order to plan, design, finance, construct, and/or maintain the sanitary sewer facilities necessary to obtain such service for the property within their respective boundaries from either Metro or Green Mountain. The organization of the District prior to finalizing the plans for sanitary sewer service to the property within the District is necessary because the District will be the entity responsible for entering into the sanitary sewer service and facility agreement(s) in order to secure such service. Without the prior organization of the District, there will not be any appropriate entity in existence to enter into any such agreement(s).

Notably, as set forth in Section V.A.17, below, the District may 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, prior to the approval by the City of an Approved Development Plan. The City will not approve any Approved Development Plan unless and until sanitary sewer service to the property within the District is obtained. As a result, the District must secure adequate sanitary sewer service before it may issue any Debt or impose a mill levy or fees for Debt. This strict limitation assures that sanitary sewer service will be obtained before the property in the District, and any future property owner or resident, will incur any significant financial obligation.

It is anticipated that following construction of the sanitary sewer improvements necessary to provide service to the property within the District, the sanitary sewer improvements will thereafter be owned, operated and/or maintained by the District, Big Sky, Metro and/or Green Mountain, depending on the final sanitary sewer service arrangement for the property within the District.
Nothing in this Service Plan in any way obligates any governmental entity, including, without limitation, the District, the City, Metro, Green Mountain or Big Sky, to commit or expend any funds.

4. **Storm Sewer.**

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

5. **Street Improvements.**

The District shall have the power and authority to finance, design, construct, acquire, install, maintain, and provide for streets and roadway improvements including, but not limited to, bridges, curbs, gutters, culverts, storm sewers and drainage facilities, detention and retention ponds, retaining walls and appurtenances, sidewalks, paving, lighting, grading, landscaping, streetscaping, placement of underground utilities, snow removal, tunnels, and other street improvements, and architectural enhancements to any or all of the above, with all necessary and incidental and appurtenant facilities, land and easements, together with extensions and improvements thereto. It is expected that the District will be responsible for the long-term ownership and maintenance of certain streets within the Project, while other streets will be dedicated to the City for long-term ownership and maintenance consistent with Approved Development Plans.

6. **Traffic Safety Protection.**

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

7. **Parks and Recreation.**

The District shall have the power and authority to finance, design, construct, acquire, install, maintain, and provide for park and recreation facilities, services, or programs.
including, but not limited to, grading, soil preparation, sprinkler systems, fencing, pavilions, playgrounds, playing fields, open space, bike trails, pedestrian trails, pedestrian bridges, picnic areas, common area landscaping, streetscaping, storage buildings and facilities, weed control, paving, decorative paving, outdoor functional and decorative lighting, community events, and other services, programs and facilities, with all necessary and incidental and appurtenant facilities, land and easements, together with extensions and improvements thereto.

8. Mosquito Control.

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

9. Covenant Enforcement and Design Review.

The District shall have the power and authority to provide covenant enforcement and design review services subject to the limitations set forth in C.R.S. § 32-1-1004(8), as amended.


The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain fire protection facilities or services. However, the authority to plan for, design, acquire, construct, install, relocate, redevelop or finance fire hydrants and related improvements installed as part of the water system shall not be limited by this provision. The District will enforce no parking within Service and Emergency Vehicle Access Easements (SEVA) on District-owned streets and other areas.

11. Television Relay and Translation.

The District shall not be authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain television relay and translation facilities and services, other than for the installation of conduit as a part of a street construction project.

12. Golf Course Construction Limitation.

Acknowledging that the City has financed public golf courses and desires to coordinate the construction of public golf courses in the City’s boundaries, the District shall not be authorized to plan, design, acquire, construct, install, relocate, redevelop, finance, operate or maintain a golf course.

The District will ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the City, other governmental entities having proper jurisdiction and those special districts that qualify as “interested parties” under Section 32-1-204(1), C.R.S., as applicable. The District will obtain the City’s approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work.


Prior to the issuance of any privately placed Debt that is placed with an individual or individuals not otherwise constituting or related to a private financial institution, 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.

The District shall not issue any Debt to the Developer or any affiliate, subsidiary or other entity related to the Developer.

15. Inclusion and Exclusion Limitations.

The District shall not include within its boundaries any property outside the Service Area or exclude from its boundaries any property within the Service Area without the prior written consent of the City.


The District shall not consent to the organization of any other district organized under the Special District Act within the Service Area which will overlap the boundaries of the District unless the aggregate mill levy for payment of Debt of such proposed district(s) will not at any time exceed the Maximum Debt Mill Levy of the District.

This Service Plan is for a single metropolitan District and shall not allow for the organization or operation of multiple metropolitan districts hereunder. Further, the District shall not be permitted to be divided into subdistricts or to establish special improvement districts as set forth in Section 32-1-101, et seq., C.R.S.
17. 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.

18. Total Debt Issuance Limitation.

The District shall not issue Debt in excess of $42,500,000, provided that such limitation is not applicable to refunding bonds issued to refund outstanding Debt. The foregoing total debt issuance limitation may only be increased by amending this Service Plan, with City Council approval, and only if a majority of the Board of Directors of the District are residents of the District and have voted in favor of such increase. The foregoing Debt limitation is based on the estimated costs of the public improvements to be financed by the District and the projections shown in the Financial Plan attached as Exhibit E, with a reasonable amount of additional Debt capacity to account for potential changes in market conditions.

19. Fee Limitation.

The District may impose and collect Fees as a source of revenue for District operations and maintenance expenses. The District may impose and collect Fees as a source of revenue for repayment of debt and/or for capital costs, only with the prior approval of the City. No Fee related to the funding of costs of a capital nature shall be authorized to be imposed upon or collected from Taxable Property owned or occupied by an End User which has the effect, intentional or otherwise, of creating a capital cost payment obligation in any year on any Taxable Property owned or occupied by an End User. Notwithstanding any of the foregoing, the restrictions in this definition shall not apply to any Fee imposed upon or collected from Taxable Property for the purpose of funding operation and maintenance costs of the District.

20. Funds from Other Governmental Sources.

The District shall not apply for or accept Conservation Trust Funds, Great Outdoors Colorado Funds, or other funds available from or through governmental or non-profit entities that the 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 a revenue source for the District without any 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.
22. **Bankruptcy Limitation.**

All of the limitations contained in this Service Plan, including, but not limited to, those pertaining to the Maximum Debt Mill Levy, Maximum Debt Mill Levy Imposition Term and the Fees 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: (a) shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Service Plan Amendment approved by the City; and (b) are, together with all other requirements of Colorado law, included in the “political or governmental powers” reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the “regulatory or electoral approval necessary under applicable nonbankruptcy law” as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

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

23. **Eminent Domain Limitation.**

The District shall not be authorized to utilize the power of eminent domain or dominant eminent domain against City-owned property or City-leased property without the prior written consent of the City.

24. **Service Plan Amendment Requirement; Material Modifications.**

This Service Plan has been designed with sufficient flexibility to enable the District to provide required services and facilities under evolving circumstances without the need for numerous amendments, but this Service Plan may be amended pursuant to the provisions of the Special District Act.

The District is an independent unit of local government, separate and distinct from the City, and its activities are subject to review by the City if they deviate in a material manner from the requirements of this Service Plan. As such, actions of the District which violate the limitations set forth in this Service Plan shall be deemed to be material modifications to this Service Plan and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the District.

Any City approval requirements contained in this Service Plan (including, without limitation, any provisions requiring that a change, request, occurrence, act or omission be treated as a Service Plan Amendment or be deemed a “material modification” of the Service Plan) shall remain in full force and effect, and, unless otherwise provided by the City, such City approval shall...
continue to be required, notwithstanding any future change in law modifying or repealing any statutory provision concerning service plans, amendments thereof or modifications thereto.

Pursuant to C.R.S. § 32-1-207, as amended, the District shall obtain prior written approval of the City before making any material modification to this Service Plan. Material modifications require a Service Plan Amendment and include modifications of a basic or essential nature, including, but not limited to, the following: any addition to the types of services or improvements provided by the District; a decrease in the financial ability of the District to discharge the existing or proposed indebtedness; an increase or decrease in the existing or projected need for organized service in the area; modifications to the District’s boundaries; exceeding the Debt limitation set forth in this Service Plan; exceeding the Maximum Debt Mill Levy; exceeding the Maximum Debt Mill Levy Imposition Term; and applying for grants or other funds for which the City is eligible without an agreement with the City.

In the event the District plans to undertake an action which may not be permitted by this Service Plan, it shall be the District’s responsibility to contact City staff to seek an administrative determination as to whether the action in question is permitted by the Service Plan. If City staff determines that the action may constitute a material modification, the District shall submit a proposal for action to the City Council. Thereafter, City Council will determine whether the proposed action constitutes a material modification. If City Council determines that the proposed action constitutes a material modification, then the action shall be prohibited and constitute a material modification of this Service Plan requiring an amendment pursuant to this Service Plan and C.R.S. § 32-1-207(2). If the District and either City staff or City Council are unable to agree as to whether a specific action is permitted by this Service Plan or is a material modification requiring a Service Plan Amendment, the District and the City shall meet and confer in good faith and attempt to resolve their disagreement before pursuing any remedy at law.

**B. Preliminary Engineering Survey.**

The District shall have the authority to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, maintenance and financing of the Public Improvements as set forth herein within and without the boundaries of the District as provided by the Special District Act and as may be more specifically defined in an Approved Development Plan. A Preliminary Infrastructure Plan, including (1) a list of the proposed Public Improvements to be developed by the District, and (2) an estimate of the costs of the proposed Public Improvements, is attached hereto as Exhibit D. An estimate of the costs of the proposed Public Improvements which may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, maintained or financed was prepared based upon a preliminary engineering survey and is, with contingency, approximately $77,402,617.50.

All of the Public Improvements will be designed in such a way as to assure that the Public Improvements’ standards will be compatible with those of the City and in accordance with the requirements of any Approved Development Plan. All construction cost estimates are based on the
VI. FINANCIAL PLAN

A. General.

The District shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment of the Public Improvements from its revenues and by and through the proceeds of Debt to be issued by the District. The Financial Plan for the District shall be to issue such Debt as the District can reasonably pay within the Maximum Debt Mill Levy Imposition Term from revenues derived from the Maximum Debt Mill Levy, Fees and other legally available revenues.

The total Debt that the District shall be permitted to issue shall not exceed $42,500,000 and shall be permitted to be issued on a schedule and in such year or years as the District determines shall meet the needs of the District to serve development as it occurs. The total Debt authorization is supported by the Financial Plan attached to this Service Plan as Exhibit E. All bonds and other Debt issued by the District may be payable from any and all legally available revenues of the District, including general ad valorem taxes and Fees to be imposed upon all Taxable Property within the District.

The District may also rely upon various other revenue sources authorized by law. These 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. As required by State law, any such Fees, rates, tolls, penalties, or charges must be reasonable in light of the services actually furnished by the District.

B. Maximum Voted Interest Rate and Maximum Underwriting Discount.

The interest rate on any Debt is expected to be the market rate at the time the Debt is issued. In the event of a default, the proposed maximum interest rate on any Debt is not expected to exceed eighteen percent (18%). The proposed maximum underwriting discount is five percent (5%). Debt, when issued, will comply with all relevant requirements of this Service Plan, State law and Federal law as then applicable to the issuance of public securities.

C. Maximum Debt Mill Levy.

The “Maximum Debt Mill Levy” shall be the maximum mill levy a District is permitted to impose upon the taxable property within such District for payment of Debt, and shall be determined as follows:

1. For the portion of any aggregate Debt which exceeds fifty percent (50%) of
the District’s assessed valuation, the Maximum Debt Mill Levy for such portion of Debt shall be fifty (50.000) mills less the number of mills necessary to pay unlimited mill levy Debt described in Section VI.C.2 below; provided that if on or after January 1, 2017, there are changes in the method of calculating assessed valuation or any constitutionally-mandated tax credit, cut or abatement, the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2017, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

2. For the portion of any aggregate Debt which is equal to or less than fifty percent (50%) of the District’s assessed valuation, either on the date of issuance 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 and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate.

3. For purposes of the foregoing, once Debt has been determined to be within Section VI.C.2 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.

D. Maximum Debt Mill Levy Imposition Term.

The District shall not impose a levy for repayment of any and all Debt (or use the proceeds of any mill levy for repayment of Debt) on any single property developed for residential uses that exceeds forty (40) years after the year of the initial imposition of such mill levy unless a majority of the Board of Directors of the District are residents of the District and have voted in favor of a refunding or refinancing of a part or all of the Debt and such refunding or refinancing will result in a net present value savings as set forth in Section 11-56-101, et seq., C.R.S.

E. Debt Repayment Sources.

The District may impose a mill levy on taxable property within its boundaries as a primary source of revenue for repayment of debt service. The District may also rely upon various other revenue sources authorized by law. Such revenues may include Fees as provided in Section 32-1-1001(1), C.R.S., as amended from time to time, provided such Fees are authorized by this Service Plan. In no event shall the debt service mill levy exceed the Maximum Debt Mill Levy or the Maximum Debt Mill Levy Imposition Term.
F. Debt Instrument Disclosure Requirement.

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

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

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

G. Security for Debt.

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

H. TABOR Compliance.

The District will comply with the provisions of TABOR. In the discretion of the Board, the District may set up other qualifying entities to manage, fund, construct and operate facilities, services and programs. To the extent allowed by law, any entity created by the District will remain under the control of the District’s Board.

I. District’s Operating Costs.

The estimated cost of the District’s organization and initial operations, including the cost of acquiring land and easements, engineering services, legal services and administrative services, is anticipated to be $100,000, which amount will be eligible for reimbursement from Debt proceeds.

In addition to the capital costs of the Public Improvements, the District will require operating funds for administration and to plan and cause the Public Improvements to be constructed and maintained. The District’s first year’s operating budget is estimated to be $100,000, which amount is anticipated to be derived from property taxes and other revenues. The following table provides an estimate of the District’s annual operating expenses by category of
expense for the first year of operation and beyond:

<table>
<thead>
<tr>
<th>Activity</th>
<th>Est. Annual Expense</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management</td>
<td>$20,000</td>
</tr>
<tr>
<td>Legal</td>
<td>$10,000</td>
</tr>
<tr>
<td>Accounting</td>
<td>$10,000</td>
</tr>
<tr>
<td>Insurance</td>
<td>$5,000</td>
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<tr>
<td>Audit</td>
<td>$5,000</td>
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<tr>
<td>General Admin.</td>
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<td>Snow Removal</td>
<td>$25,000</td>
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<tr>
<td>Landscape and Other Maintenance</td>
<td>$20,000</td>
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<tr>
<td>Contingency</td>
<td>$2,000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$100,000</strong></td>
</tr>
</tbody>
</table>

The District may impose a mill levy on taxable property within its boundaries as a primary source of revenue for operations and maintenance. The Maximum Debt Mill Levy for the repayment of Debt shall not apply to the District’s ability to increase its mill levy as necessary for provision of operation and maintenance services to their taxpayers and service users.

J. Annual Audits

Notwithstanding the provisions of Section 29-1-601, *et seq.*, C.R.S., which allow for audit exemptions under certain circumstances, the District shall cause to be made an annual audit of the financial statements of the District for each fiscal year in which the District has outstanding Debt.

VII. ANNUAL REPORT

A. General.

The District shall be responsible for submitting an annual report to the City Manager’s Office no later than February 15 of each year following the year in which the Order and Decree creating the District has been issued.

B. Reporting of Significant Events.

The annual report shall include information as to any of the following:
1. Boundary changes made or proposed to the District’s boundary as of December 31 of the prior year.

2. Intergovernmental Agreements with other governmental entities, either entered into or proposed as of December 31 of the prior year.

3. Copies of the District’s rules and regulations, and resolutions imposing fees, if any, as of December 31 of the prior year.

4. A summary of any litigation which involves the District’s Public Improvements as of December 31 of the prior year.

5. Status of the District’s construction of the Public Improvements as of December 31 of the prior year.

6. A list of all facilities and improvements constructed by the District that have been dedicated to and accepted by the City as of December 31 of the prior year.

7. The assessed valuation of the District for the current year.

8. Current year budget including a description of the Public Improvements to be constructed in such year and the District’s current Debt.

9. Audit of the District’s financial statements for the year ending December 31 of the previous year prepared in accordance with generally accepted accounting principles or audit exemption, if applicable. In the event the District’s audited financial statements or audit exemption are not available by February 15 in any given year, they shall be submitted to the City as soon as possible thereafter as a supplement to the District’s annual report.

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

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

VIII. DISSOLUTION

It is expected that the District will exist in perpetuity to operate and maintain all District-owned Public Improvements and to provide the services described in this Service Plan. However, in the event the District is able to make adequate provision for the payment of all Debt and arrange for any authorized services, operations and maintenance functions to be undertaken by a separate entity or discharged, the District may be dissolved pursuant to the applicable State statutes. In no
event shall dissolution occur until the District has provided for the payment or discharge of all of its outstanding indebtedness and other financial obligations as required pursuant to State statutes.

IX. DISCLOSURE TO PURCHASERS

The District will use reasonable efforts to assure that all developers of the property located within the District provide written notice to all purchasers of property in the District regarding the District’s mill levies and Maximum Debt Mill Levy, as well as a general description of the District’s authority to impose and collect Fees, and to provide public improvements within and without the District’s boundaries consistent with this Service Plan. The form of notice shall be approved by and filed with the City, and shall be recorded against all property within the District Boundaries prior to the initial issuance of the Debt and the District imposing the mill levy which is the subject of the Maximum Debt Mill Levy. In the event any additional property is included in the District following the District’s organization, the same notice will be recorded against such included property contemporaneously with the inclusion. A proposed form of notice, entitled “Disclosure to Purchasers of Residential Property,” is attached as Exhibit G.

In addition, the District will assure that the Developer provides written notice to all purchasers of residential property in the District who purchase property from the Developer (including any of Developer’s affiliates, subsidiaries, or related entities). A proposed form of such notice, which includes a signature line for a purchaser to acknowledge receipt of such notice, is attached as Exhibit H.

X. MISCELLANEOUS ADDITIONAL REQUIREMENTS AND CONSIDERATIONS

A. Elections; Election Notices; Notice of Vacancies.

All regular District elections shall be conducted by mail ballot pursuant to Section 1-13.5-101, et seq., C.R.S.

In addition to any and all notices required by law, the District shall cause written notice of all regular District elections after the District’s organization to be mailed to each mailing address within the District’s boundaries concurrent with the District’s publication of a call for nominations for the election as required by C.R.S. § 1-13.5-501(1).

In the event there arises a vacancy on the Board of Directors at any time, the District shall cause written notice of such vacancy, or vacancies, to be mailed or sent by electronic mail to all residents within the District’s boundaries prior to filling such vacancy(ies).

The District may reasonably rely upon information supplied by the Jefferson County Assessor’s Office in complying with the foregoing requirements.
B. Annual Community Meeting.

The District shall hold at least one community meeting in the fourth quarter of each calendar year, the purpose and intent of such meeting being to provide an opportunity for the District’s Board of Directors, the District’s residents, and members of the surrounding community to meet and discuss issues affecting the District and the larger community (“Annual Community Meeting”).

Each Annual Community Meeting shall be held and conducted consistent with the requirements of Section 32-1-903(6)(a), C.R.S., as amended by SB23-110, as the same may be amended from time to time. In addition to providing notice of the regular or special meeting as required by the Special District Act, at least 14 days prior to each Annual Community Meeting the District shall send written notice of the date, time and location of the Annual Community Meeting by U.S. Mail or electronic mail to the governing body of each existing municipality or special 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’s boundaries.

XI. CONCLUSION

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

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

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

3. The District is capable of providing economical and sufficient service to the area within its proposed boundaries; and

4. The area to be included in the District does have, and will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.
EXHIBIT A
Legal Description

LOT 1, BLOCK 1; LOT 1, BLOCK 2; LOT 1, BLOCK 3; AND TRACT A, INDIGO AT RED ROCKS SUBDIVISION FILING NO. 1, CITY OF LAKEWOOD, COUNTY OF JEFFERSON, STATE OF COLORADO, ACCORDING TO THE PLAT RECORDED MARCH 31, 2022 AT RECEPTION NUMBER 2022031186 OF THE RECORDS OF THE JEFFERSON COUNTY, COLORADO CLERK AND RECORDER.
EXHIBIT B
Lakewood Vicinity Map
EXHIBIT D

Preliminary Infrastructure Plan/Cost Estimates
## Preliminary Bid Documents

<table>
<thead>
<tr>
<th>Filing</th>
<th>Category</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>#2</td>
<td>Road Improvement</td>
<td>$9,079,322.59</td>
</tr>
<tr>
<td>#3</td>
<td>Stormwater &amp; Drainage Improvements</td>
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<tr>
<td>#4</td>
<td>Other</td>
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<tr>
<td>#5</td>
<td>Total</td>
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<td>#6</td>
<td></td>
<td>$1,364,046.46</td>
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### Road Improvement

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<tr>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>6&quot; Barrier Curb</td>
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<tr>
<td>2</td>
<td>6&quot; Catch Curb and Gutter (W/ 2FT PAN)</td>
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<tr>
<td>3</td>
<td>Barrier Curb (Roundabout)</td>
<td>$5,924.88</td>
</tr>
<tr>
<td>4</td>
<td>3&quot; Mountable Curb (Roundabout)</td>
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<tr>
<td>5</td>
<td>Median Splash Block</td>
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</tr>
<tr>
<td>6</td>
<td>Concrete Crosspan</td>
<td>$30,192.33</td>
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<tr>
<td>7</td>
<td>Full Depth Asphalt Paving - See Geotech Report</td>
<td>$1,079,406.22</td>
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<tr>
<td>8</td>
<td>Asphalt Roads - 12&quot; Subgrade Preparation</td>
<td>$330,649.20</td>
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<tr>
<td>9</td>
<td>Street Lights</td>
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</tr>
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<td>10</td>
<td>Perpendicular Curb Ramp (On Median Island)</td>
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<td>11</td>
<td>Curb Ramp</td>
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<td>12</td>
<td>Concrete Sidewalk</td>
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<td>13</td>
<td>Concrete Sidewalk (Trail Connect by Detention Pond 1)</td>
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<tr>
<td>14</td>
<td>Median Covering</td>
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<td>15</td>
<td>Concrete Truck Apron (Roundabout)</td>
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<td>16</td>
<td>Detention Pond Gravel Maintenance Access Roads</td>
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<td>17</td>
<td>5FT Wide Gravel Trail (Around Detention Pond 1)</td>
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<td>18</td>
<td>Signs</td>
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<td>19</td>
<td>Sign Posts (1-3/4&quot; Galvanized Telespar Post)</td>
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<tr>
<td>20</td>
<td>Delineator (Flexible Impact Resistance)</td>
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<td>21</td>
<td>Midwest Guardrail System (MGS)</td>
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<tr>
<td>22</td>
<td>Striping</td>
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<tr>
<td>23</td>
<td>8' Road Barricade</td>
<td>$11,412.60</td>
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<td>24</td>
<td>Traffic Signal (SW &amp; SE Corner of Yale/McIntyre)</td>
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<td>25</td>
<td>Concrete Alley Paving - See Geotech Report</td>
<td>$256,770.00</td>
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<td>26</td>
<td>Concrete Alley - 12&quot; Subgrade Preparation</td>
<td>$30,812.40</td>
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<td>27</td>
<td>Concrete Driveways</td>
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<td>28</td>
<td>Vertical Curb and Gutter</td>
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<td>29</td>
<td>Mountable Curb and Gutter</td>
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**Notes:**

1. All quantities are preliminary and subject to change. Contractor to verify quantities prior to work.
2. Filing 1 quantities are based on the Indigo at Red Rocks Filing 1 Construction Documents, dated February 17, 2021.
5. Filing 4 quantities are based on the Indigo at Red Rocks Filing 4 Construction Documents, dated April 17, 2023.
7. Filing 6 Apartment quantities are based on the Indigo at Red Rocks Apartment Construction Documents, dated 03/17/202.
8. Quantities do not include materials for the proposed lift station or force main. Lift Station, Forcemain and offsite sewer connection is conceptual and for preliminary estimate only.
9. Landscaping quantities are preliminary estimate.
10. Refer to the Geotech report provided by CTL Thompson, for road material thicknesses.
11. Street lights to be verified by Photometric plan, by others.
EXHIBIT E

Financial Plan
Indigo at Red Rocks Metropolitan District  
Limited Tax General Obligation Bonds  

Cover Page

Assumptions:
- Analysis Date: 3/9/2023
- Dated Date: December 1, 2024
- Rating: Non-rated
- Interest Rate: 5.25%
- Term: 30-years
- Structure: Fixed-Rate/Stated Amortization
- Revenue: 50.00 mills (adjusted after December 1, 2017)
- Biennial Inflation: 4%

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1. Cover Page  
2. Series 2024 Bonding Capacity  
3. Revenue Summary  
4. Residential Assessed Value  
5. Residential Development
## Indigo at Red Rocks Metropolitan District
### Limited Tax General Obligation Bonds
#### Series 2024 Bonding Capacity

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### Notes:
1. Estimated S.O. Tax 6.0% Par Amount
2. Biennial Inflation 4.0% Net Proceeds
3. Estimated Collection Fee 1.5% Surplus Fund
4. Preliminary and subject to change.
5. Interest rate assumptions are based on current market conditions and similar credits.
6. Issuer’s actual results may differ, and Stifel makes no commitment to underwrite at these levels.
7. Costs of issuance and underwriter’s discount are estimates for discussion purposes.
## Indigo at Red Rocks Metropolitan District

**Limited Tax General Obligation Bonds**

### Revenue Summary

<table>
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<tr>
<th>Collection Year</th>
<th>Total Assessed Valuation</th>
<th>Mill Levy</th>
<th>Gross Revenue</th>
<th>SO Tax 6.00%</th>
<th>Collection Fee 1.50%</th>
<th>Net Revenue</th>
<th>Total</th>
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<td>166,272</td>
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**Property Tax Revenue**

- 2025: -
- 2026: 125,510
- 2027: 471,842
- 2028: 851,238
- 2029: 1,165,145
- 2030: 1,497,671
- 2031: 1,793,660
- 2032: 2,119,418
- 2033: 2,238,350
- 2034: 2,327,884
- 2035: 2,327,884
- 2036: 2,421,000
- 2037: 2,421,000
- 2038: 2,517,840
- 2039: 2,517,840
- 2040: 2,618,553
- 2041: 2,618,553
- 2042: 2,723,295
- 2043: 2,723,295
- 2044: 2,832,227
- 2045: 2,832,227
- 2046: 2,945,516
- 2047: 2,945,516
- 2048: 3,063,337
- 2049: 3,063,337
- 2050: 3,185,870
- 2051: 3,185,870
- 2052: 3,313,305
- 2053: 3,313,305
- 2054: 3,445,837
### Indigo at Red Rocks Metropolitan District

#### Limited Tax General Obligation Bonds

#### Residential Assessed Value

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<th>Homes Annual Actual Value</th>
<th>Biennial Inflation 4.00%</th>
<th>Cumulative Assessed Value 7.15%</th>
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Indigo at Red Rocks Metropolitan District
Limited Tax General Obligation Bonds
Residential Development
## TABLE OF CONTENTS

**Indigo at Red Rocks Metropolitan District**  
**Limited Tax General Obligation Bonds, Series 2024**

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<th>Report</th>
<th>Page</th>
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<tr>
<td>Sources and Uses of Funds</td>
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<tr>
<td>Bond Pricing</td>
<td>2</td>
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<tr>
<td>Bond Debt Service</td>
<td>3</td>
</tr>
<tr>
<td>Bond Summary Statistics</td>
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<td>General Information Exclusion Disclosure</td>
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SOURCES AND USES OF FUNDS

Indigo at Red Rocks Metropolitan District
Limited Tax General Obligation Bonds, Series 2024

Dated Date 12/01/2024
Delivery Date 12/01/2024

Sources:

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Uses:

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Cost of Issuance:

| Other Cost of Issuance | 250,000.00 |

Delivery Date Expenses:

| Underwriter's Discount | 504,675.00 |

|               | 33,645,000.00 |

Notes:

1. Preliminary and subject to change.
2. Interest rate assumptions are based on current market conditions and similar credits.
3. Issuer's actual results may differ, and Stifel makes no commitment to underwrite at these levels.
4. Costs of issuance and underwriter's discount are estimates for discussion purposes.
# BOND PRICING

Indigo at Red Rocks Metropolitan District  
Limited Tax General Obligation Bonds, Series 2024

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<th>Bond Component</th>
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<td>5.250%</td>
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|                |               | 33,645,000 |        |        |       |

Dated Date 12/01/2024  
Delivery Date 12/01/2024  
First Coupon 06/01/2025

Par Amount 33,645,000.00

Original Issue Discount

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<td>Accrued Interest</td>
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Net Proceeds 33,140,325.00

**Notes:**

1. Preliminary and subject to change.
2. Interest rate assumptions are based on current market conditions and similar credits.
3. Issuer's actual results may differ, and Stifel makes no commitment to underwrite at these levels.
4. Costs of issuance and underwriter's discount are estimates for discussion purposes.
# BOND DEBT SERVICE

Indigo at Red Rocks Metropolitan District  
Limited Tax General Obligation Bonds, Series 2024

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33,645,000    40,797,225.00  74,442,225.00

Notes:
1. Preliminary and subject to change.
2. Interest rate assumptions are based on current market conditions and similar credits.
3. Issuer’s actual results may differ, and Stifel makes no commitment to underwrite at these levels.
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## BOND SUMMARY STATISTICS

**Indigo at Red Rocks Metropolitan District**  
**Limited Tax General Obligation Bonds, Series 2024**

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<th>Description</th>
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<td>33,645,000.00</td>
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<td>12/01/2024</td>
<td>12/01/2024</td>
<td>12/01/2024</td>
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<tr>
<td>Yield</td>
<td>5.366615%</td>
<td>5.425347%</td>
<td>5.250000%</td>
<td></td>
</tr>
</tbody>
</table>
BOND SUMMARY STATISTICS

Indigo at Red Rocks Metropolitan District
Limited Tax General Obligation Bonds, Series 2024

Notes:
1. Preliminary and subject to change.
2. Interest rate assumptions are based on current market conditions and similar credits.
3. Issuer’s actual results may differ, and Stifel makes no commitment to underwrite at these levels.
4. Costs of issuance and underwriter’s discount are estimates for discussion purposes.
GENERAL INFORMATION EXCLUSION DISCLOSURE

Indigo at Red Rocks Metropolitan District
Limited Tax General Obligation Bonds, Series 2024

Stifel, Nicolaus & Company, Incorporated (‘Stifel’) has prepared the attached materials. Such material consists of factual or general information (as defined in the SEC’s Municipal Advisor Rule). Stifel is not hereby providing a municipal entity or obligated person with any advice or making any recommendation as to action concerning the structure, timing or terms of any issuance of municipal securities or municipal financial products. To the extent that Stifel provides any alternatives, options, calculations or examples in the attached information, such information is not intended to express any view that the municipal entity or obligated person could achieve particular results in any municipal securities transaction, and those alternatives, options, calculations or examples do not constitute a recommendation that any municipal issuer or obligated person should effect any municipal securities transaction. Stifel is acting in its own interests, is not acting as your municipal advisor and does not owe a fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934, as amended, to the municipal entity or obligated party with respect to the information and materials contained in this communication.

Stifel is providing information and is declaring to the proposed municipal issuer and any obligated person that it has done so within the regulatory framework of MSRB Rule G-23 as an underwriter (by definition also including the role of placement agent) and not as a financial advisor, as defined therein, with respect to the referenced proposed issuance of municipal securities. The primary role of Stifel, as an underwriter, is to purchase securities for resale to investors in an arm’s- length commercial transaction. Serving in the role of underwriter, Stifel has financial and other interests that differ from those of the issuer. The issuer should consult with its own financial and/or municipal, legal, accounting, tax and other advisors, as applicable, to the extent it deems appropriate.

These materials have been prepared by Stifel for the client or potential client to whom such materials are directly addressed and delivered for discussion purposes only. All terms and conditions are subject to further discussion and negotiation. Stifel does not express any view as to whether financing options presented in these materials are achievable or will be available at the time of any contemplated transaction. These materials do not constitute an offer or solicitation to sell or purchase any securities and are not a commitment by Stifel to provide or arrange any financing for any transaction or to purchase any security in connection therewith and may not relied upon as an indication that such an offer will be provided in the future. Where indicated, this presentation may contain information derived from sources other than Stifel. While we believe such information to be accurate and complete, Stifel does not guarantee the accuracy of this information. This material is based on information currently available to Stifel or its sources and is subject to change without notice. Stifel does not provide accounting, tax or legal advice; however, you should be aware that any proposed indicative transaction could have accounting, tax, legal or other implications that should be discussed with your advisors and /or counsel as you deem appropriate.

Notes:
1. Preliminary and subject to change.
2. Interest rate assumptions are based on current market conditions and similar credits.
3. Issuer's actual results may differ, and Stifel makes no commitment to underwrite at these levels.
4. Costs of issuance and underwriter’s discount are estimates for discussion purposes.
EXHIBIT F

Will Serve Letter – Consolidated Mutual Water Company

March 2, 2023

Bryan Conway
Director of Land Development
Cardel Homes

Re: Indigo at Red Rocks

Dear Mr. Conway:

The Consolidated Mutual Water Company (Company) has previously provided Water Availability Letters for the property referred to as “The Lightner Property” and/or “Indigo at Red Rocks” (See attached graphic illustrating the subject property). As the Owner of the subject property, you have requested an update and restatement of the previous letter(s) issued by the Company. To that end:

The subject property, when combined with Solterra and the CDN Parcels, are collectively referred to as the Rooney Valley. These properties are in an area served by the Consolidated Mutual Water Company. As such, domestic water service may be provided to this property subject to compliance with the Company’s Bylaws, rules, regulations, and requirements for such service.

Furthermore, through previous agreements, the Company has allocated a specific volume of water to the properties within the Rooney Valley. The remaining volume of water is available on a first-come, first-serve basis. Once the earmarked resources are consumed, a Capital Impact Fee (CIF) will be assessed in addition to the Stock and Water Development fees for each tap.

If you would like more detailed information regarding the CIF or if you have questions or require more detailed information, please contact this office.

Sincerely,

[Signature]

Andy Rogers
Executive Vice President

cc: Casey Burns, CMWC Engineering Dept. Manager
EXHIBIT G

DISCLOSURE TO PURCHASERS OF RESIDENTIAL PROPERTY
INDIGO AT RED ROCKS METROPOLITAN DISTRICT
[to be updated prior to recording]

This Disclosure to Purchasers of Residential Property is provided pursuant to Section IX of the Service Plan for the Indigo at Red Rocks Metropolitan District (the “District”), approved by the City of Lakewood, Colorado, on [_______________] (the “Service Plan”). A copy of the Service Plan may be requested from the District or may be accessed online through the Colorado Division of Local Government at https://dola.colorado.gov/lgis/. Unless otherwise defined herein, all capitalized terms used herein shall have the same meaning as set forth in the Service Plan.

1. What does the District do?

On [_______________], by Resolution No. [_______________], the City Council of the City of Lakewood (the “City”) approved the Service Plan for the District. The District was organized pursuant to an Order and Decree issued by the District Court of Jefferson County on [_______________], and recorded on [_______________] at Reception No. [_______________] of the County of Jefferson, Colorado, real property records.

The District was organized for the general purposes of planning, designing, acquiring, constructing, installing, relocating, redeveloping, financing, operating and maintaining certain public improvements within and without the boundaries of the District. The District is a governmental entity, governed by an elected board of directors made up of property owners and property taxpayers within the District’s boundaries.

The District’s current boundaries are set forth in Exhibit 1 attached hereto. It is conceivable that additional boundary adjustments may be made to the District’s boundaries. Any such boundary adjustment is subject to prior approval by the owners of the property to be included or excluded and must be considered at a public hearing of the District’s board of directors. Further, the District shall not include within any of its boundaries any property outside its Service Area without the prior approval of the City.

Pursuant to the Service Plan, the District is authorized to plan, design, acquire, construct, install, relocate, redevelop and finance certain public improvements, including but not limited to: water, sanitation, storm drainage, streets, parks and recreation, and traffic and safety control improvements, all subject to the limitations contained in the Service Plan for the District. The District may dedicate certain public improvements to the City or other governmental or quasi-governmental entities. The operation and maintenance of public improvements dedicated to the City or others shall rest with the City or such others to whom such public improvements are dedicated.

The District is authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment of public improvements through the proceeds of Debt to be issued by the District. The District may impose a mill levy on taxable property within its boundaries as a primary source of revenue for repayment of debt service and as a primary source of revenue for the District’s operations and maintenance. The District may also impose and collect Fees as a source of revenue for operations and maintenance expenses. The District may impose and collect Fees as a source of revenue for the repayment of debt and/or for capital costs only with the prior approval of the City.

DN 7748832.1
2. How much property tax will the District collect to construct improvements?

The District has the authority to impose property taxes for the planning, design, acquisition, construction, installation, relocation, redevelopment, financing, operation and maintenance of the improvements identified in the Service Plan consistent with the following:

*Maximum Debt Mill Levy:* The District may issue bonds or other financial obligations to provide for the costs of capital improvements. In order to meet the debt service requirements for its bonds or other financial obligations, the District may impose a mill levy under the Service Plan. For the portion of any aggregate District Debt which exceeds 50% of the District’s assessed valuation, the Maximum Debt Mill Levy for such portion of Debt shall be 50.000 mills, subject to adjustment as set forth below in the Service Plan. For the portion of any aggregate District Debt which is equal to or less than 50% of the District’s assessed valuation, either on the date of issuance 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 and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate. As of the date of this Disclosure, the District’s Maximum Debt Mill Levy is 55.664 mills.

*Maximum Debt Mill Levy Imposition Term:* The District shall not impose a levy for repayment of any and all Debt (or use the proceeds of any mill levy for repayment of Debt) on any single property developed for residential uses that exceeds forty (40) years after the year of the initial imposition of such mill levy unless a majority of the Board of Directors of the District are residents of the District and have voted in favor of a refunding or refinancing of a part or all of the Debt and such refunding or refinancing will result in a net present value savings as set forth in Section 11-56-101, *et seq.*, C.R.S.

*Total Debt Issuance Limitation:* The District may not issue Debt in excess of $42,500,000, provided that such limitation is not applicable to refunding bonds issued to refund outstanding Debt.

*Operation and Maintenance Mill Levy:* The District may impose a mill levy without limitation on taxable property within its boundaries as a primary source of revenue for the District’s operations, such as ongoing administrative, accounting and legal services, and maintenance of District improvements.

*Mill Levy Adjustment:* If, on or after January 1, 2017, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement, the Maximum Debt Mill Levy described above may be increased or decreased to reflect such changes, such increases and decreases to be determined by the Board of Directors of the District in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the applicable mill levy, as adjusted for changes occurring after January 1, 2017, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation. As a result of the foregoing and the modification of the applicable residential assessment rate from 7.96% in 2017 to 7.15% currently, as of the date of this Disclosure the District’s Maximum Debt Mill Levy is 55.664 mills.

In addition to the foregoing, various voter limitations exist which affect the taxing powers of the District. The TABOR Amendment, Article X, Section 20 of the Colorado Constitution, also provides for various legal limitations which may restrict the taxing and spending authority of the District.

3. What are the advantages of metropolitan districts providing public improvements in lieu of cities or counties?

Many areas in Colorado utilize special districts to finance public improvements. As cities and
counties often do not provide water and wastewater systems, roads, or recreation facilities in new communities, special districts have been organized to build these facilities. Special districts, and the financial powers they utilize, may also permit earlier construction of recreation facilities and other amenities for the benefit of the community when compared with developments not within special districts. Where special districts are utilized, the costs of improvements within the community are generally spread over 30 years or more and are paid from mill levies. Special districts are governed by property owners within the community who are better able to address issues of concern to the community than could a larger city or county.

4. How can I be assured that the District will not issue too many bonds and create unreasonably high mill levies?

All bonds issued by the District will be governed by the controls adopted by the Colorado legislature governing the process by which bonds are issued by special districts. In addition, the organization and operation of the District are governed by the terms of the Service Plan, which provides that the District may not issue Debt in excess of $42,500,000 and limits the mill levy that may be assessed by the District for the payment of debt obligations and related expenses as set forth above, subject to adjustments to account for changes in state law with respect to the assessment of property for taxation purposes, the ratio for determining assessed valuation, or other similar matters. The adjustment allows for tax revenues to be realized by the District in an equivalent amount as would have been realized by the District based on the initial Maximum Debt Mill Levy of 50,000 mills absent any change in the manner of the assessment of property for taxation purposes, the ratio for determining assessed valuation, or other similar matters.

The debt and mill levy limits will remain in place unless and until the Service Plan is amended to permit a change in these limits for the District. These limits, as well as others existing under Colorado law and various voter approvals, are believed to be adequate to control the tax levies within the District. As noted above, however, many of the limits of the Service Plan and existing voter limits may be amended from time to time.

Market constraints on property sales by the developer also require that the mill levy within the District be comparable to mill levies in competing development areas in order to further the community as an attractive place for individuals to purchase residential property. Therefore, in the initial stages of the development, it is in the District’s and the project developer’s best interest to maintain mill levies in the District comparable to the total property taxes in other similar communities so that the property taxes paid for the amenities and services in the District are a good value.

5. Who bears the risk that the community may not fully develop?

Bondholders have or will be providing funding to the District for the District’s construction of public improvements authorized by the Service Plan. These initial bonds for the District may be supported, in part, by the developer of the project. Property taxes paid by property owners on residential property will help pay the costs of all bonds issued by the District. This results in the risk of development being shared in part by bondholders, the developer, and property owners.

6. What will my tax bill look like?

In determining the tax liability due for residential property, the Jefferson County Assessor’s Office first determines the actual value of the residential property based upon market approach to appraisal. Up to five years of market activity are analyzed. The actual value of the residential property is then multiplied by
the assessment rate, which is set periodically by the state legislature, to determine the assessed valuation of the residential property. For tax year 2024, the assessment rate residential property is expected to be 7.15%. The mill levy is then multiplied by the assessed valuation of the residential property, resulting in the assessment for the residential property. For example, a single family residential property with an actual value of $700,000 would have an assessed value of $50,050 ($700,000 x 7.15%). One mill (0.001) applied to that valuation for assessment produces $50.05 of taxes ($50.050 x 0.001).

It is anticipated that the tax bill for your property will show mill levies for the City of Lakewood, Jefferson County Government, Regional Transportation District, Jefferson County Schools, Mile High Flood Control District (formerly Urban Drainage and Flood Control District), West Metro Fire Protection District, the District, and possibly others. According to information available from the Jefferson County Assessor, the total overlapping mill levy imposed upon the property within the boundaries of the District, but prior to formation of the District, was 92.253 mills for tax year 2022 for collection in the year 2023. Therefore, the annual tax bill levied on a single family residential property for tax year 2022 for collection in the year 2023 with an actual value of $700,000 would have been approximately $4,617.

The anticipated mill levy to be imposed by the District following formation of the District is 10.000 mills for operations and maintenance and 55.664 mills for debt service, for a combined mill levy of 65.664 mills, subject to the Mill Levy Adjustment. Exhibit 2 attached hereto sets forth an estimated annual tax bill for a home with an actual value of $700,000 based on the approximate mill levies currently levied against the property within the District and the District’s anticipated mill levy. Colorado taxing entities certify their mill levies on an annual basis, so the most accurate manner of ascertaining the specific taxing entities and current mill levies imposed on any property is by contacting the Jefferson County Assessor’s office directly.

7. Where can I get additional information regarding the District?

This document is not intended to address all issues associated with special districts generally or with the District specifically. The Service Plan for the District contains a full description of the District’s purposes and functions. Prospective purchasers of property within the District are encouraged to read the Service Plan to be fully informed. A copy of the District’s Service Plan is on file with the Colorado Division of Local Government. Additional information about the District may be obtained online at https://dola.colorado.gov/Lgis/. The District’s meetings are open to the public, at which time you can raise questions regarding any matter related to the activities of the District.
EXHIBIT 2  
TO DISCLOSURE TO PURCHASERS OF RESIDENTIAL PROPERTY  
INDIGO AT RED ROCKS METROPOLITAN DISTRICT  

ESTIMATED PROPERTY TAXES  
Estimated annual tax levied on residential property with $700,000 actual value*  

<table>
<thead>
<tr>
<th>Authority</th>
<th>Mill Levy</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>COUNTY</td>
<td>26.978</td>
<td>$1,350.24</td>
</tr>
<tr>
<td>LAKEWOOD</td>
<td>4.7110</td>
<td>$235.78</td>
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<tr>
<td>REGIONAL TRANSPORTATION DIST</td>
<td>0.0000</td>
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<tr>
<td>SCHOOL</td>
<td>46.1330</td>
<td>$2,308.95</td>
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<tr>
<td>URBAN DRAINAGE&amp;FLOOD C SO PLAT</td>
<td>0.1000</td>
<td>$5.00</td>
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<tr>
<td>URBAN DRAINAGE&amp;FLOOD CONT DIST</td>
<td>0.9000</td>
<td>$45.04</td>
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<tr>
<td>WEST METRO FIRE PROTECTION - G</td>
<td>12.753</td>
<td>$638.28</td>
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<tr>
<td>WEST METRO FIRE PROTECTION SUB</td>
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<td>$33.93</td>
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<td>INDIGO AT RED ROCKS METRO DISTRICT</td>
<td>65.664</td>
<td>$3,286.48</td>
</tr>
<tr>
<td>TOTAL</td>
<td><strong>156.218</strong></td>
<td><strong>$7,818.71</strong></td>
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</table>

*This estimate of overlapping mill levies is based upon mill levies certified to the Jefferson County Assessor’s office in December 2022 for collection in 2023 assumes a 7.15% assessment rate, and is intended only to provide approximations of the total overlapping mill levies within the District. The stated mill levies are subject to change and you should contact the Jefferson County Assessor’s office to obtain the most accurate and up to date information.
EXHIBIT H
DEVELOPER'S DISCLOSURE TO PURCHASERS OF RESIDENTIAL PROPERTY
INDIGO AT RED ROCKS METROPOLITAN DISTRICT

I/we, ____________________________________________________________, the "Purchaser," intend to purchase the residential property located at ____________________________________, the "Property." Purchaser understands and/or acknowledges the following:

1. The Property is located within the boundaries of Indigo at Red Rocks Metropolitan District (the “District”).
2. The District is a metropolitan district organized pursuant to Colorado law, in particular the Special District Act, Section 32-1-101, et seq., C.R.S., and is governed by an elected board of directors made up of property owners and property taxpayers within the District’s boundaries.
3. The District’s powers, authorities, and limitations are set forth in Colorado law and in the District’s Service Plan. Purchaser has been provided a copy of the Service Plan and has had the opportunity to read it.
4. The District was organized for the general purposes of providing, operating and financing certain public improvements within and without the boundaries of the District, as further set forth in the Service Plan.
5. The District may issue up to $42,500,000 in debt for the planning, design, acquisition, construction, installation, relocation and/or redevelopment of public improvements; provided, such limitation is not applicable to refunding bonds issued to refund outstanding debt.
6. The District may impose a mill levy on taxable property within its boundaries of up to 55.664 mills as a primary source of revenue for repayment of debt service (subject to adjustment as described in the Service Plan).
7. The District may impose a mill levy on taxable property within its boundaries without limitation as a primary source of revenue for the District’s operations and maintenance.
8. The District may impose and collect Fees as a source of revenue for operations and maintenance expenses. The District may impose and collect Fees as a source of revenue for the repayment of debt and/or for capital costs only with the prior approval of the City.
9. It is anticipated that the District will impose property tax levies of 10.000 mills for operations and maintenance and 55.664 mills for debt service, for a combined mill levy of 65.664 mills (subject to adjustment as described in the Service Plan). The District’s property tax mill levy will apply to the Property.
10. The foregoing debt and property tax mill levies may be in place for 30 years or more.
11. BASED ON THE DISTRICT’S ESTIMATED LEVY OF 65.664 MILLS, THE CURRENT RESIDENTIAL ASSESSMENT RATE, AND CURRENT COLORADO LAW, THE ESTIMATED ANNUAL TAXES THAT PURCHASER WOULD OWE TO THE DISTRICT, IN ADDITION TO ALL OTHER TAXING ENTITIES, FOR A HOME WITH AN ACTUAL VALUE OF $700,000 IS $3,286.48.
12. Purchaser has had the opportunity to ask questions about the District and has obtained sufficient information to answer all questions that Purchaser currently has.
13. Additional information about the District may be found online at https://dola.colorado.gov/lgis/.

ACKNOWLEDGED this _______ day of ___________________________ 202____.

Signed: ________________________________  Signed: ________________________________

Name: ________________________________  Name: ________________________________
A RESOLUTION

APPROVING THE SERVICE PLAN FOR INDIGO AT RED ROCKS METROPOLITAN DISTRICT

WHEREAS, a Service Plan ("Service Plan") for the proposed Indigo at Red Rocks Metropolitan District ("District") has been submitted to the City Council of the City of Lakewood ("City") as required by C.R.S. § 32-1-204.5;

WHEREAS, the City Council held a public hearing on the Service Plan for the District on July 24, 2023, consistent with C.R.S. § 32-1-204;

WHEREAS, notice of the hearing before the City Council was duly published in a newspaper of general circulation at least twenty (20) days in advance of the hearing consistent with C.R.S. § 32-1-204;

WHEREAS, notice of the hearing before the City Council was provided to the petitioners, and the governing body of each municipality or special district that has levied an ad valorem tax within the preceding tax year and that has boundaries within a radius of three miles of the proposed special district boundaries in advance of the hearing consistent with C.R.S. § 32-1-204;

WHEREAS, notice of the Public Hearing was published on the official City website at least ten (10) days prior to the public hearing;

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

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

Section 1. The City Council hereby determines that all the requirements of Title 32, Article 1, Part 2, C.R.S., as amended, relating 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.

Section 2. The City 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 City Council of each of the following was presented:
(a) There is sufficient existing and projected need for organized service in the area to be serviced by the 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 area 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 C.R.S. § 32-1-204;

(g) The proposal is in substantial compliance with the City’s Comprehensive Plan;

(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 hearing on the Service Plan, meets all conditions and requirements of Sections 32-1-201, et seq., C.R.S.

Section 3. The City Council hereby approves the Service Plan for the District as submitted.

Section 4. Effective Date. This Resolution shall become effective immediately upon its adoption.
INTRODUCED, READ, AND ADOPTED, by a vote of ___ for and ___ against, at a hybrid regular meeting of the Lakewood City Council held on July 24, 2023, at 7 o’clock p.m. at Lakewood City Hall, 480 South Allison Parkway, Lakewood, Colorado.

ATTEST:

__________________________
Adam Paul, Mayor

__________________________
Jay Robb, City Clerk

APPROVED AS TO FORM:

__________________________
Alison McKenney Brown, City Attorney
Minutes are not a verbatim transcription, but rather an attempt to capture the intent of the speaker by the City Clerk.

ITEM 1 – CALL TO ORDER
View video recording here

Mayor Paul called the HYBRID meeting to order at 7:03 p.m.

ITEM 2 – ROLL CALL
View video recording here

Those present were: Mayor Adam Paul, Presiding
Charley Able (Virtual)
Barb Franks (Virtual)
Mary Janssen (Virtual)
Richard Olver (Virtual)
Jeslin Shahrezaei
Anita Springsteen (Virtual)
Rebekah Stewart
Wendi Strom
Sharon Vincent

Absent: Sophia Mayott-Guerrero

Others in attendance: Kathy Hodgson, City Manager
Alex Dorotik, Deputy City Attorney
Jay Robb, City Clerk

Full and timely notice of this City Council meeting had been given and a quorum was present.

ITEM 3 – PLEDGE OF ALLEGIANCE
View video recording here

ITEM 4 – STATEMENT OF CONFLICT OF INTEREST
View video recording here
ITEM 5 – PUBLIC COMMENT
View video recording here

Public Comment received via telephone/in-person:

James Mace, Ward 1, spoke to City Council about problems with prostitution in the city and other frustrations.

Sean Weyrich, Ward 3, spoke to City Council to voice his concerns and the concerns of his neighborhood with Lux Cocktail Lounge, located at 7576 W Jewell Ave, Lakewood, CO 80232.

Joan Poston, Jefferson County resident, spoke to the City Council about concerns about the Federal Center property in Lakewood and showed images and provided a handout (attached). Ms. Poston also spoke about a recent records request regarding homelessness in Lakewood. Ms. Poston closed by providing an update about recent board meetings of the Green Mountain Water & Sanitation District.

Eric Milburn, Ward 2, spoke to City Council about turning Molholm Elementary School into a farming co-op for the community.

Josh Comden, Ward 1, spoke to City Council about his conversations with unhoused individuals in Lakewood and problems related to an encampment in the City and issues related to disturbing encampments.

Samantha Selvage, from Phoenix AZ, spoke about her mother who was killed in a hit and run accident in Lakewood on May 28, 2023. Ms. Selvage spoke about her mother and discussed frustrations about dealing with the Lakewood Police Department.

Mayor Paul provided closing comments addressing several of the issues raised during public comment.

Public Comment received via Lakewood Speaks: 1

Eric Milburn, Jul 3, 2023, 5:45pm
My wife and I live a stones throw from Molholm Elementary School. While we are sad to see it go, we think it opens up an opportunity for something new. We’d like to help make it a community farming co-op. The school building can serve as classes teaching gardening, canning, sustainability, homestead methods, and over-all self-reliance. The surrounding grounds can serve as the growing plots. Neighbors can pay a monthly or yearly fee for their own plot to grow. More seasoned gardeners can teach those who want to learn and all the surplus harvests can be shared. Ultimately we’d love to see this neighborhood relive its agricultural roots.
CONSENT AGENDA
ORDINANCES ON FIRST READING

View video recording here

City Clerk Jay Robb read the Consent Agenda into the record.

ITEM 6 – RESOLUTION 2023-40 – APPOINTING A MEMBER TO THE BOARD OF APPEALS

ITEM 7 – ORDINANCE 2023-28 – AMENDING TITLE 15, CHAPTER THREE, OF THE MUNICIPAL CODE OF THE CITY OF LAKEWOOD, COLORADO, IN CONNECTION WITH THE REGISTRATION OF VACANT PROPERTIES WITHIN THE CITY

ITEM 8 – ORDINANCE 2023-29 – DECLARING THE INTENT OF THE CITY OF LAKEWOOD TO ACQUIRE INTEREST IN PROPERTY FOR PUBLIC PURPOSES FOR PEDESTRIAN AND STORMWATER IMPROVEMENTS ALONG WEST 20TH AVENUE WEST OF NELSON STREET TO THE QUAIL STREET PARK AND AUTHORIZING NEGOTIATIONS WITH PROPERTY OWNERS, ACCEPTANCE OF CONVEYANCE INSTRUMENTS AND CONDEMNATION OF REAL PROPERTY INTERESTS (SUBJECT TO FURTHER COUNCIL APPROVAL)

ITEM 9 – APPROVING MINUTES OF THE CITY COUNCIL MEETINGS

City Council Special Meeting February 27, 2023
City Council Regular Meeting March 13, 2023
City Council Regular Meeting April 10, 2023
City Council Regular Meeting April 24, 2023
City Council Regular Meeting May 8, 2023
City Council Regular Meeting May 22, 2023
City Council Regular Meeting June 12, 2023

END OF CONSENT AGENDA

Public Comment received via telephone/in-person: None.

Public Comment received via Lakewood Speaks: None.

Mayor Pro Tem Strom made a motion to approve Council Minutes, order all Ordinances introduced on first reading to be published in the Denver Post with public hearing set for the date included in the Ordinance; and for the adoption of Resolutions, all of which are included in the consent agenda items introduced into the record by the City Clerk. The motion was seconded.
Council members asked questions and stated their comments and/or concerns.

**Vote on Consent Agenda:**
NAY: Springsteen.
ABSENT: Mayott-Guerrero.

**Result:**
Approved 9 - 1, the motion passed.

**ORDINANCES ON SECOND READING AND PUBLIC HEARINGS**

**ITEM 10 – ORDINANCE O-2023-27** – AUTHORIZING EXECUTION OF A PERMANENT UTILITY EASEMENT ACROSS CITY PARK PROPERTY AT 1195 BENTON STREET, LAKEWOOD, COLORADO, TO PUBLIC SERVICE COMPANY OF COLORADO FOR A GAS PIPELINE AND RELATED FACILITIES

[View video recording here]

Public Comment received via telephone/in-person: None.

Public Comment received via Lakewood Speaks: None.

A motion was made by Mayor Pro Tem Strom to approve Ordinance O-2023-27. It was seconded.

Council members asked questions and stated their comments and concerns.

**Vote on Ordinance O-2023-27:**
NAY: None.
ABSENT: Mayott-Guerrero.

**Result:**
Approved 10-0, the motion passed.

**ITEM 11 – GENERAL BUSINESS**
[View video recording here]

PROJECT PROPOSAL FROM LAKEWOOD ADVISORY COMMISSION (LAC)

Councilor Janssen asked about the electric network referenced in the LAC’s proposal.
Neil Preister, from the LAC Sustainability Subcommittee, spoke to City Council about the proposal for green remodeling in the community. Mr. Preister explained that a large goal of the proposal would be to lower the electric load by homes in Lakewood through green remodeling building codes standards. Councilor Janssen and Mr. Preister discussed whether the LAC would recommend code changes that would remove natural gas from homes in Lakewood.

Mayor Pro Tem Strom moved, Councilor Vincent seconded, to approve the request by the Lakewood Advisory Commission to research green remodeling.

Council members asked questions and stated their comments and concerns.

**Vote on LAC Project Proposal:**
AYE: Paul, Stewart, Franks, Strom, Shahrezaei, Vincent, Able.
NAY: Olver, Janssen, Springsteen.
ABSENT: Mayott-Guerrero.

**Result:**
Approved 7-3, the motion passed.

**ITEM 12 – EXECUTIVE REPORT**
[View video recording here]

Kathy Hodgson, City Manager, provided her report.

**ITEM 13 – MAYOR AND CITY COUNCIL REPORTS**
[View video recording here]

Mayor Paul and City Council Members reported their attendance at previous meetings and events and announced upcoming neighborhood meetings and events.

**ITEM 14 – ADJOURNMENT**
[View video recording here]

There being no further business to come before City Council, Mayor Paul adjourned the meeting at 8:01 p.m.

Respectfully submitted,

Jay Robb, City Clerk
DATE OF COUNCIL MEETING: JULY 24, 2023 / AGENDA ITEM NO. 9

To: Mayor and City Council
From: Alison McKenney Brown, City Attorney
Subject: CITY COUNCIL’S RESPONSE TO HB 23-1255 (AKA C.R.S. § 29-20-104.2)

SUMMARY STATEMENT: This Ordinance would readopt Lakewood Municipal Code 14.27 as a temporary, nonrenewable anti-growth law for the purpose of developing or amending land use plans or land use laws covering residential development or the residential component of a mixed-use development for a term not to exceed twenty-four months from the effective date of this Ordinance, with the intent that such new land use plans may be incrementally enacted, but will be fully enacted within twenty-four months from the effective date of this Ordinance, such temporary, nonrenewable anti-growth law attached hereto and incorporated herein, all in conformance with C.R.S. § 29-20-104.2, without waiving any Constitutional objections to C.R.S. § 29-20-104.2.

HISTORY: On July 17, 2023, the City Council met in special session in order to recess into executive session to meet with their attorney to discuss legal issues arising out of the State’s adoption of HB 23-1255. The City Council failed to approve the motion to recess into executive session by the mandatory two-thirds (2/3rds) vote of all members present. Because the agenda did not provide for any other business the meeting was adjourned. As City staff have not received any direction from the City Council regarding next steps to address this matter they have attempted to keep all possible options open and available for the City Council. One option is adoption of a draft Ordinance. At second reading of this Ordinance on August 7, 2023, the City Council may discuss their preferred response to HB 23-1255 which may or may not include adoption of this Ordinance.

BACKGROUND: On July 2, 2019, the voters of the City of Lakewood approved a Citizen Initiative adopting Residential Growth Limitations which established a building permit management system that limits residential growth in the City to no greater than one percent (1%) per annum. At the time this initiative was adopted, the State had taken no steps to preempt this area of the law so at that time the initiative was not in conflict with any State law.

On June 7, 2023, Colorado Governor Jared Polis signed House Bill 23-1255 (later codified at C.R.S. § 29-20-104.2), a “Bill for an Act Concerning Preemption of Local Regulations Limiting the Number of Building Permits Issued for Development”, such legislation finding that local anti-growth laws may serve to impact housing development in the cities that adopted such laws as well as impacting surrounding communities. C.R.S. § 29-20-104.2 will become effective on August 8, 2023. At that time, the State anticipates that it will preempt this area of the law and supersede any pre-existing local ordinances making such ordinances null and void.

C.R.S. § 29-20-104.2(4)(a)(II) anticipates that those cities with existing anti-growth laws will need time to develop alternative land use plans that are in compliance with this new law. In recognition of this, the law provides that “A governmental entity may enact and enforce a temporary, nonrenewable anti-growth law for
the purpose of developing or amending land use plans or land use laws covering residential development or the residential component of a mixed-use development.” C.R.S. § 29-20-104.2(4)(b) further states “a temporary, nonrenewable anti-growth law affecting property allowed by subsection (4)(a) of this section may be effective for no more than twenty-four months in any five-year period.”

The Residential Growth Limitation Ordinance, codified as L.M.C. 14.27, has served as the primary land development tool for the City of Lakewood and was recently amended to encourage the development of affordable housing within the City. Moving away from L.M.C. 14.27 to a new land use law that meets the needs of the City of Lakewood and complies with the new State law will take time and planning.

Pursuant to C.R.S. § 29-20-104.2, the City may reenact L.M.C. 14.27 as a temporary Residential Growth Limitation Ordinance for a period of time not to exceed twenty-four (24) months. This is a reasonable means to allow the City the necessary time to research, prepare, and, if appropriate, adopt and implement new land use plans or land use laws covering residential development or the residential component of a mixed-use development. Taking this action would be in the immediate fiduciary interests of the citizens of the City of Lakewood as it would provide structure to the City’s building permit regulations and protects against lawsuits and civil damages filed by any parties empowered to file suit against the City for failure to comply with C.R.S. § 29-20-104.2(4). This Ordinance does not waive any rights of the City established within Article XX, Section 6 of the Colorado Constitution creating Home Rule authority.

**BUDGETARY IMPACTS:** Reenacting this section of the Lakewood Municipal Code is intended to protect the City’s fiduciary interests in conformance with C.R.S. § 29-20-104.2.

**STAFF RECOMMENDATION:** Consideration of Ordinance O-2023-30.

**ALTERNATIVES:** If this Ordinance is not approved, the City Council may either direct staff to proceed on this issue in an alternative manner as that body deems appropriate or may defer to the City Manager’s authority to supervise the enforcement of laws and ordinances of the City.

**PUBLIC OUTREACH:** This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

**NEXT STEPS:**

**ATTACHMENTS:** Ordinance O-2023-30 with Attachment A – Chapter 14.27, LWMC

**REVIEWED BY:** Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Alison McKenney Brown, City Attorney
AN EMERGENCY ORDINANCE

TEMPORARILY ENACTING AND ENFORCING A NONRENEWABLE ANTI-GROWTH LAW FOR THE PURPOSE OF DEVELOPING OR AMENDING LAND USE PLANS OR LAND USE LAWS COVERING RESIDENTIAL DEVELOPMENT OR THE RESIDENTIAL COMPONENT OF A MIXED-USE DEVELOPMENT

WHEREAS, On July 2, 2019, the voters of the City of Lakewood approved a Citizen Initiative adopting Residential Growth Limitations which established a building permit management system that limits residential growth in the City to no greater than one percent (1%) per annum;

WHEREAS, On June 7, 2023, Colorado Governor Jared Polis signed House Bill 23-1255 (later codified at C.R.S. § 29-20-104.2), a “Bill for an Act Concerning Preemption of Local Regulations Limiting the Number of Building Permits Issued for Development”, such legislation finding that local anti-growth laws may serve to impact housing development in the cities that adopted such laws as well as impacting surrounding communities, such law becoming effective on August 8, 2023;

WHEREAS, C.R.S. § 29-20-104.2(4)(a)(II) provides that “A governmental entity may enact and enforce a temporary, nonrenewable anti-growth law for the purpose of developing or amending land use plans or land use laws covering residential development or the residential component of a mixed-use development”;

WHEREAS, C.R.S. § 29-20-104.2(4)(b) provides that “a temporary, nonrenewable anti-growth law affecting property allowed by subsection (4)(a) of this section may be effective for no more than twenty-four months in any five-year period”;

WHEREAS, The Residential Growth Limitation Ordinance has served as the primary tool of the City of Lakewood for controlling development most recently by encouraging the development of affordable housing within the City, and moving away from such a law to a new land use law that meets the needs of the City of Lakewood and complies with this new State law will take time and planning;

WHEREAS, Temporarily enacting and enforcing the Residential Growth Limitations Ordinance for a period of time not to exceed twenty-four (24) months is a reasonable approach to allow the City to research, prepare, and, if appropriate, adopt and implement new land use plans or land use laws covering residential development or the residential component of a mixed-use development is in the immediate legal and fiduciary interests of the citizens of the City of Lakewood but does not waive any rights as set forth within Article XX, Section 6 of the Colorado Constitution establishing Home Rule authority;

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the City Council desires to comply with the Lakewood Municipal Code by setting a
public hearing to provide City staff and the public an opportunity to present evidence and testimony regarding the proposal; and

WHEREAS, approval of this Ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The City of Lakewood hereby enacts a temporary, nonrenewable anti-growth law for the purpose of developing or amending land use plans or land use laws covering residential development or the residential component of a mixed-use development for a term not to exceed twenty-four months from the effective date of this Ordinance, with the intent that such new land use plan may be incrementally enacted, but will be fully enacted within twenty-four months from the effective date of this Ordinance, such temporary, nonrenewable anti-growth law attached hereto and incorporated herein. And, no such action shall be understood to be a waiver of any right guaranteed to the City of Lakewood in accordance with Article XX, Section 6 of the Colorado Constitution establishing Home Rule.

SECTION 2. The City Manager, or designee, is hereby authorized to enact such administrative orders as are necessary and appropriate to carry out Section 1 of this Ordinance.

SECTION 3. Emergency Declaration. In accordance with Lakewood Municipal Charter 7.4(b) the City Council of the City of Lakewood hereby finds, determines and declares that this ordinance is necessary for the immediate preservation of public property, health, welfare, peace or safety for the reasons enumerated in the recitals and body of this ordinance, all of which are incorporated into this Section 3 by reference. The City Council further determines that the adoption of this ordinance as an emergency ordinance is in the best interest of the citizens of the City of Lakewood, but if this ordinance is not adopted by an affirmative vote of two-thirds of all members of the City Council (eight members) it may still be passed as a regular ordinance in conformance with the provisions of Lakewood City Charter § 7.4.

SECTION 4. The provisions of this Ordinance shall be retroactive to August 8, 2023.

SECTION 5. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.
I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a hybrid regular meeting of the Lakewood City Council on the 24th day of July, 2023; published by title in the Denver Post and in full on the City of Lakewood's website at www.lakewood.org, on the 27th day of July, 2023; set for public hearing to be held on the _____ day of ________, 2023; read, finally passed and adopted by the City Council on the _____ day of ________, 2023; and signed by the Mayor on the _____ day of ________, 2023.

________________________________________
Adam Paul, Mayor

ATTEST:

________________________________________
Jay Robb, City Clerk

APPROVED AS TO FORM:

________________________________________
Alison McKenney Brown, City Attorney
Chapter 14.27 Residential Growth Limitations

14.27.010 Purpose/intent.
A. Establish a building permit management system that limits residential growth in the City of Lakewood to no greater than one percent per annum, which will assure the preservation of its unique environment and exceptional quality of life;
B. Encourage redevelopment of blighted and distressed areas;
C. Encourage preservation of larger open space parcels;
D. Assure that such growth proceeds in an orderly and timely manner and does not exceed the availability of public facilities and urban services;
E. Avoid degradation in air and water quality;
F. Avoid increases in crime and urban decay associated with unmanaged growth;
G. To allow mitigation of the effects of past and future growth on infrastructure and schools.
(Citizen Initiative—Special Election 7-2-2019)

14.27.020 Implementation/exceptions.
The provisions of this chapter shall apply to the issuance of building permits for all new dwelling units within the City of Lakewood except:
A. Structures located, or to be located, upon land that is designated "blighted."
B. Structures located, or to be located, upon land located on a campus owned by a college or university, including, but not limited to, Colorado Christian University and Rocky Mountain College of Art and Design, and which are used to house only college or university students, staff, or faculty.
C. A dwelling unit may be replaced with another dwelling unit without obtaining an allocation, provided that the replacement unit is located on the same parcel, tract, or lot.
D. Mobile homes in operating mobile home parks may be removed and replaced with another mobile home without obtaining an allocation.
E. Industrial or commercial construction, unless such industrial or commercial construction includes structures which, in whole or in part, are to be occupied as a dwelling.
F. Residential structures containing 100 percent of units for rental at or below 80 percent of area median income, or ownership units at or below 100 percent of area median income.

14.27.030 Administration of this chapter.
A. Planning commission may recommend and City Council may adopt rules as necessary to administer this chapter.
B. Calculations performed in the administration of this chapter shall be rounded downward for all partial numbers.

(Citizen Initiative—Special Election 7-2-2019)

**14.27.040 General provisions.**

A system of managing the issuance of residential building permits in the city is established with the following general provisions:

A. *Allocation Required for a Building Permit.* Except as otherwise provided in this chapter, an allocation is required as a condition precedent to the issuance of a building permit which will result in the creation of a new dwelling unit. For structures containing more than one dwelling unit, one allocation for each dwelling unit in the structure is required as a condition precedent to issuance of a building permit for such structure.

B. *Maximum Allocations.* The city shall not grant more than 40 allocations to a development in a calendar year except upon a finding after hearings held upon reasonable notice to the public - pursuant to the provisions of Lakewood Municipal Code Section 17.2.2.3 applicable to initial zoning and rezoning - that such accumulation of allocations will not prejudice the allocation process; and:

1. That there is an unmet community need for such development; or
2. That insufficient applications have been submitted to exhaust the allocations available and such allocations are available for distribution in the current calendar year.

C. Residential development projects may be specifically exempted from this chapter according to either of the following procedures:

1. Residential developments may be exempted by the adoption by the electors of the City of Lakewood at a regular or special election of an initiated or referred ordinance enacting such an exemption. Such election shall be held according to the applicable provisions of the Lakewood City Charter, with any expenses covered by the applicant requesting the exemption.

2. City council may upon a finding of compliance with the below-listed criteria grant an exemption from the specific provisions of this chapter for a residential development within the city. City council's action shall be by ordinance, shall include two public hearings, and shall occur following public hearing and recommendation by Planning Commission. Planning commission’s hearing and recommendation, and City Council's hearing and decision on the requested exemption shall follow the hearing and notice procedures in Section 17.2.2.3 of Lakewood Municipal Code. City council may grant an exemption from the provisions of this chapter upon a finding that all of the following criteria, as may be applicable, are met:

   a. That the residential project requesting an exemption is a multifamily "senior housing project" which is and will remain housing for individuals over the age of 55; and
   b. That the project requesting an exemption demonstrates compliance with Lakewood Comprehensive Plan and any applicable neighborhood plan(s); and
   c. A senior housing project developed based upon an exemption granted shall not be converted to another residential use without first having secured an allocation for each dwelling to be so converted, according to the provisions of this chapter.

D. *Period of Validity.* Allocations are only valid and can be used only from the date of issue through the last day of the allocation period for which they are issued, at which time they expire, unless a part of an approved banking plan.
E. **Use of Allocations.** An allocation is used by applying for and being issued a building permit or setting up a mobile home, as applicable. Unused allocations are those for which a building permit has not been issued, or a mobile home not set up, during the period for which the allocation is valid.

F. **Surrender of Allocations.** Allocations which a recipient does not expect to use during the period for which they are valid may be voluntarily surrendered without penalty at any time up until 30 days prior to the end of that allocation period. Allocations which are surrendered at least 30 days prior to the expiration of the allocation period shall be added to the number of available allocations for the next allocation period in the same calendar year for the same allocation pool, or to the year-end pool, as appropriate. Allocations in the year end pool may not be surrendered.

G. **Transferability.** Allocations are site specific and not transferable to other developments. Allocations are issued to a specific building lot, and may only be transferred within a development to other lots which are under the same ownership as the holder of the allocation. Allocations may be transferred with the conveyance of a lot.

H. **Buildings with Affordable Units—Exemption.**

1. Notwithstanding anything to the contrary in this chapter 14.27, any application to develop residential structures containing at least 20 percent of units for rental units at or below 80 percent of area median income, or ownership units at or below 120 percent of area median income (hereafter, an "Affordable Project"), shall be processed in accordance with this subsection H and shall be exempt from the remaining provisions of this chapter 14.27 to the extent such provisions are inconsistent with this subsection H.

2. Provided that all prerequisites required under any applicable provision of the Lakewood Municipal Code for application for a building permit, with the exception of obtaining allocations, have been satisfied, the City shall issue all building permits needed for an Affordable Project, whether the Affordable Project has sufficient allocations to construct the entire Affordable Project or not, subject to the following:
   a. In the year building permits are issued, allocations equivalent to the total number of residential units in the Affordable Project will be assigned from the surplus pool to the extent available. If this number of allocations is insufficient, the same process will be followed in the following year.
   b. If any residential units of the Affordable Project do not have allocations after the first two years, then allocations will be distributed from both the open pool and the surplus pool as needed to ensure all such residential units have allocations within five years after building permit issuance.


14.27.050 Available allocations.

A. In January of each year City Council shall determine by resolution the number of allocations which will be available for issuance and use during that year. The annual resolution shall assign a sufficient number of allocations directly for satisfaction of a previously exempted project(s) whose banking plan(s) included a Planning Commission recommendation for commitment of future allocations, if City Council approves such commitment. The resolution shall then assign those remaining available allocations to the "open pool," "hardship pool," "affordable/low income pool," and "surplus pool," and determine the number of allocations within each such pool as will be available for the respective allocation periods.
B. The total number of allocations available for issuance and use during each calendar year shall be equal to one percent of the number of dwelling units which are estimated to exist in the city on December 31 of the prior calendar year. The number of allocations available for issuance for 2018 will be based on figures from the City of Lakewood and the U.S. Census statistics (152,590 residents divided by 2.27 = 67,220) and thus 672 allocations for new dwelling units will be available in 2018.

C. The number of dwelling units which exist in the city on December 31 of the prior year shall be estimated as follows:

1. Begin with the number of dwelling units in the city which existed at the beginning of the previous calendar year.
2. Add the number of new dwelling units for which building permits were issued during the previous calendar year which required an allocation for issuance.
3. Add the number of allocations secured by, or assigned to, previously exempted projects or dwellings during the previous calendar year.
4. Add the number of dwelling units added to the city by reason of annexations during the previous calendar year.
5. Subtract the number of dwelling units which were destroyed (and not replaced within 12 months), abandoned or otherwise ceased to be used as such during the prior calendar year.
6. Subtract the number of dwelling units for which building permits had previously been issued, but which expired in the previous year without issuance of a certificate of occupancy.

(Citizen Initiative—Special Election 7-2-2019)

14.27.060 Establishment of allocation pools.

For the purpose of administration of this chapter City Council hereby creates the following described allocation pools:

A. Open Pool. The open pool is created for all developments within the city that do not otherwise qualify to request allocations.

B. Hardship Pool. The hardship pool is created for distribution of allocations by City Council upon a finding that a hardship or unusual circumstance exists which merits relief. All developments otherwise eligible to apply for allocation in general may participate in the hardship pool. Allocations are awarded as requests are granted by City Council, and not as of a specified allocation date.

C. Affordable/Low Income Housing Pool. The affordable/low income housing pool is created for distribution of allocations for residential projects creating dwelling units for households earning up to 120 percent of area median income.

D. Surplus Pool. The year-end pool is created for the purpose of distributing unused and excess allocations which are available as of November 1 of each calendar year. All developments otherwise eligible to apply for allocation in general may participate in the surplus pool.

(Citizen Initiative—Special Election 7-2-2019)

14.27.070 Schedule of allocation periods.

A. For all calendar years, the open pool will have an allocation period from January 1 to October 31.
B. For all calendar years, the hardship pool will have an allocation period from January 1 to October 31.

C. For all calendar years, the affordable/low-income housing pool will have an allocation period from January 1 to October 31.

D. The surplus pool allocation period will occur from November 1 through December 31.


14.27.080 Applications.

A. Applications for allocations shall be on a form provided by the city. A separate application submitted by the property owner is required for each allocation period. Except as provided otherwise, complete applications must be submitted to the city at least seven calendar days prior to the beginning of the allocation period for which the application is made. Applications may not be submitted more than 210 days before the beginning of the applicable allocation period. Applications for excess allocations may be made at any time that excess allocations are available, but prior to the last 30 calendar days of any allocation period.

B. Eligibility. To apply for allocations, a development must have completed all steps otherwise necessary to apply for and receive a building permit including the requisite zoning and subdivision approval, but not including the preparation of building construction plans. Site development review, if necessary, need not be complete prior to applying for allocations, although a pre-submittal conference and review of the site plan by staff must be completed, with an indication that approval of the concept may be achieved.

C. Allocation requests within a development under common ownership shall be combined and treated as a single application. Lots in such developments which are held in separate ownership shall be treated as separate applications.

D. No applicant shall request allocations in excess of the lesser of: The available number of allocations in the appropriate pool in that allocation period, or the available number of lots or units in the subject development.

(Citizen Initiative—Special Election 7-2-2019)

14.27.090 Issuance of allocations.

A. Open Pool. For each respective allocation period in the open pool, one allocation will automatically be issued to each applicant if sufficient allocations are available. The remainder of requests is then tallied, and available allocations are distributed on a pro-rata basis to applicants based upon their requested number.

B. Hardship Pool. Hardship pool allocations are distributed by the City Council at their discretion upon request from an applicant, and subject to a finding that all of the following conditions exist:

1. That the issuance of an allocation is necessary to prevent undue hardship on the applicant; and

2. That the issuance of an allocation(s) will not adversely affect the public interest or the purposes of this chapter; and

3. Allocations are available in the hardship pool; and

4. That the requested allocation and the resulting building permit would be proper and in accordance with all of the ordinances and regulations of the City of Lakewood, excepting the provisions of this chapter.

C. Affordable/Low Income Housing Pool. Allocations assigned to the "affordable/low income" housing pool shall only be available for use by qualifying projects during the affordable/low-income housing pool allocation
period each year. Any excess allocations in the affordable/low-income housing pool at the end of the allocation period will be transferred to the surplus pool for distribution pursuant to subsection D below.

D. **Surplus Pool.** All unused open pool, affordable/low-income pool, and hardship pool allocations which remain on November 1 of each year will be available in the surplus allocation pool. One allocation will automatically be issued to each applicant if sufficient allocations are available. The remainder of requests is then tallied, and available allocations are distributed on a pro-rata basis to applicants based upon their requested number. Allocations which are unclaimed during the surplus pool or which are due to expire will be assigned by the City Council. Acquisition of the final remaining allocation by a banking plan for a specific project during the surplus pool shall trigger the expiration of the banking plan at the end of the first allocation period in the following year.

E. **Insufficient Allocations.** Except as noted above, if there are insufficient allocations available to issue at least one allocation to each applicant for a particular allocation period due to demand, a lottery shall be held to determine the recipients of the allocations. Those applicants who are unable to obtain an allocation during that particular allocation period will be given first preference to receive an allocation in the following allocation period in the same pool if a timely application is filed.

F. Following the issuance of allocations, staff shall present a report to Planning Commission and City Council summarizing the results of the allocation period.


**14.27.100 Banking of allocations.**

Notwithstanding any other provisions of this chapter, the period of validity of an allocation may be extended through, and the allocation may be used in subsequent allocation periods upon approval by the city as provided in this section. The process of extending the period of validity of allocations in this section is as follows:

A. Banking of allocations will be permitted in the following circumstances only:

1. The Director of Planning shall approve an application for banking of allocations for residential projects of 40 units or fewer if the number of units to be banked corresponds to that found in an entire building or buildings in the project, and if the allocations are proposed to be used within the same calendar year as the initial award of allocation.

2. The Planning Commission may approve a banking plan for multifamily projects of 40 units or fewer for the purpose of banking beyond the end of a calendar year, upon a finding that building configuration, site constraints, or infrastructure phasing reasonably require that a larger increment of the development be built at one time.

3. The Planning Commission may approve a banking plan for residential projects of 40 units or fewer upon a finding that building configuration, site constraints, or infrastructure phasing reasonably require that a larger increment of the development be built at one time.

B. Application for banking of allocations for projects over 40 units shall be made at the time of the allocation application. The application shall set forth a banking plan which includes the total number of dwelling units in the project, the number of allocations sought to be banked, the time period during which the validity of allocations is proposed for extension, and the reason therefore.

C. For applications submitted under subsection (A)(2) or (A)(3) of this section, the Planning Commission shall determine at a hearing upon reasonable notice to the public has been posted, whether the requested banking is appropriate as provided in this section.
D. A nonrefundable fee shall be assessed in conjunction with each approved multiyear banking plan to cover the city's cost of the administrating banking plans. The fee shall be set by City Council by resolution and shall be based upon the number of dwelling units in the approved banking plan. The fee shall be payable on a pro-rata (per unit) basis at the time of distribution of allocations to the banking plan. Failure to pay any installment of the fee within 30 days of distribution of allocations to the banking plan shall cause a forfeiture of such allocations.

E. A decision of the Planning Commission or the Director of Planning with respect to an application to bank allocations may be appealed to the City Council.

F. Requests for banking of allocations beyond the end of the calendar year of the application shall be subject to the following conditions:

1. The maximum number of years in which allocations may be acquired pursuant to any banking plan of allocations shall be five. All allocations acquired within the banking period must be used during this time period.

2. The maximum number of allocations that may be in the bank at any one time during the banking program shall not exceed the total number of allocations available in the city in the first year of approval of said banking.

3. Banking plans will be approved only for a number of units which correspond to that found in an entire building or buildings in the project.

4. Subject to City Council's annual distribution of allocations, Planning Commission may recommend a commitment of future allocations to an approved banking plan project. Such commitment shall not bind City Council's action, but shall serve to be an indication of support for a specific project.

G. Surrendered or forfeited allocations distributed to an approved banking plan from calendar years prior to the year during which they are surrendered or forfeited shall be deemed to have expired and shall not be available for distribution. Surrendered or forfeited allocations distributed to an approved banking plan in the same calendar year in which they are surrendered or forfeited shall be made available for redistribution in accordance with the applicable provisions of this chapter.

H. The Planning Commission, may, upon a show of good cause, approve an extension of up to one year to an existing banking plan, to allow use of the banked allocations. The holder of the allocations may not acquire further allocations during the period of such extension.

I. For the purpose of defining the total number of available allocations, the total number of dwelling units in the city shall not include banked allocations which have not received building permits.

J. An applicant banking allocations within the same calendar year, shall notify the Director of Planning in writing within ten days after the allocations are granted of the number of allocations being banked and the reasons therefore.

K. The annual reports to Planning Commission and City Council pertaining to the administration of this chapter shall include information regarding the number of banked allocations approved in the current year, used in the current year, and the total number of banked allocations by individual project.

L. Approval of a "banking plan" shall not constitute a "vested right" to develop the project.

(Citizen Initiative—Special Election 7-2-2019)

14.27.110 Excess and unused allocations.

A. Excess allocations in the open pools will be used to supplement other approved banking plans.
B. Excess allocations which have not been issued at the end of the allocation period and unused allocations will be added to the available number of allocations for the next allocation period in the same calendar year for the same pool, or to the surplus pool, as appropriate.

(Citizen Initiative—Special Election 7-2-2019).

14.27.120 Failure to use allocations; penalties.

A. Failure to use an allocation which is not part of an approved banking plan during the period for which it is issued, without surrendering it at least 30 days prior to the expiration of the allocation period for which it has been issued, shall cause the holder of such allocation to be ineligible to receive allocations for a period of one year from the last day that the unused allocation is valid. This penalty may be waived by the Planning Commission for good cause.

B. Failure to use an allocation which is part of an approved banking plan during the period of the banking plan, without surrendering it at least 60 days prior to the expiration of the period of the banking plan, shall cause the holder of such allocation to be ineligible to receive allocations for a period of two years from the last day that the unused allocation is valid. This penalty may be waived by the Planning Commission for good cause.

C. Use of an dwelling unit constructed by reason of an allocation from the affordable/low income housing pool in a manner inconsistent with the affordability criteria listed in this chapter, or contrary to the assurances provided pursuant to such section, including, without limitation the initial sale of a dwelling unit at a price that exceeds the maximum price contemplated in such section, shall cause the holder of such allocation to be ineligible to receive further allocations for a period of three years from the date of the violation. This penalty may be waived by the Planning Commission for good cause.

(Citizen Initiative—Special Election 7-2-2019).

14.27.130 Building permit approvals.

All building permit applications will be reviewed within 15 working days after submission of a complete application. At the end of the building permit review period, either a building permit will be made available for issuance or reasons will be given to the grantee why the permit cannot be issued, in which case the grantee has 20 work days in which to submit all required corrections. If the corrections are not completed in the time and manner required, the building permit application and related allocation are void unless reinstated by the City Manager upon a finding that a longer increment of time would be reasonable.

(Citizen Initiative—Special Election 7-2-2019).

14.27.140 Mandatory review.

City council shall review this chapter once every five years or as needed. City council may temporarily reduce the one percent limit at will. Should City Council determine an increase in allocations is needed, council must send such requested increase to the voters of Lakewood.

(Citizen Initiative—Special Election 7-2-2019).

14.27.150 Severability clause.

If any part, section, sentence or clause of this chapter shall for any reason be questioned in any court and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining
provisions of this chapter. Any such part, section, sentence or clause shall not be taken to affect or prejudice in any way the remaining part or parts of this chapter.

(Citizen Initiative—Special Election 7-2-2019).

14.27.160 Authority to Continue.

Any building permit that has gone through the processes necessary to secure a building permit, including, but not limited to, rezoning and subdivision, and was legally and formally applied for prior to adoption of this chapter, may be continued without obtaining an allocation.

(Citizen Initiative—Special Election 7-2-2019).

14.27.170 Definitions.

The following terms are defined for purposes of this chapter:

A. Allocation. "Allocation" means a right, granted by the city pursuant to this chapter, to make application for a building permit to build one dwelling unit. An allocation is not a guarantee of receiving approval for a building permit. Approval of the building permit itself will occur through the established building permit review process.

B. Allocation Pools. "Allocation pools" mean separate categories of developments as described in this chapter which are created for the purpose of distributing available allocations.

C. Area Median Income. "Area median income" (AMI) means the median annual household income for Jefferson County, as adjusted by household size, and published annually by the United States Department of Housing and Urban Development.

D. Building Permit. "Building permit" means a permit issued pursuant to the provisions of the Lakewood Municipal Code.

Building permits shall be allocated in accordance with the provisions of this chapter such that those issued shall result in no more than a one-percent annual increase in the number of dwelling units.

E. Development. "Development" means the entire plan to construct or place one or more dwelling units on a particular parcel or contiguous parcels of land within the city including, but not limited to, a subdivision approval, a planned unit development, and a mobile home park.

F. Dwelling Unit. One or more habitable rooms constituting a unit for permanent occupancy, with facilities for eating, sleeping, bathing, that occupies a structure or a portion of a structure.

G. Excess Allocations. "Excess allocations" means allocations which are available for issuance from a particular allocation pool and period, but which have not been issued by reason of lack of demand.

H. Good Cause. "Good cause," when used as a basis for relief from timely compliance with specifically referenced provisions of this chapter, means the existence of unanticipated circumstances which are beyond the control of the property owner and which prevented timely compliance with the referenced provisions of this chapter. "Good cause" shall not include delays which are reasonably expected in the development process, including, but not limited to, preparation of plans or a securing of financing. The existence of "good cause", and availability of relief by reason thereof, shall be determined after a public hearing conducted by the Planning Commission. A party aggrieved by the decision of the Planning Commission on such issue may, within 15 days of the date of the decision thereon by the Planning Commission, apply to the City Council for a review of said decision by filing a request for review with the City Clerk. The City Council shall, within 30 days of receipt of the review request, and
based upon the record alone as certified to council by the Planning Commission, decide to uphold, deny, or modify the decision of the Planning Commission.

I. **Lottery.** "Lottery" shall mean a drawing held by the city to select applicants which will receive an allocation through a process based upon random chance. Each applicant in a lottery shall be treated equally regardless of the number of allocation requests.

J. **Pro-rata.** "Pro-rata" means the issuing of allocations to applicants in the same proportion that the total number of available allocations bears to the total number of requested allocations, as modified and elaborated in this chapter. For example, if applications for twice the number of allocations were received than the number available, each applicant would be granted approximately one-half the number requested.

K. **Set-up.** "Set-up", when used in connection with mobile homes, means the process of setting up a mobile home for the purpose of occupancy as a residence including by way of example, connection to utilities and installation tie-downs.

L. **Unused Allocation.** "Unused allocation" means an allocation which has been issued but for which a building permit has not been issued or a mobile home set-up, as applicable, during the period for which the allocation is valid.

(Citizen Initiative—Special Election 7-2-2019).
To: Mayor and City Council

From: Travis Parker, Director of Planning, 303-987-7908

Subject: VACANT PROPERTY REGISTRATION CODE

This ordinance was approved on 1st Reading by a vote of 9 ayes 1 nay.

SUMMARY STATEMENT: The Vacant Property Registration Code applies to any vacant property within the City of Lakewood and requires the owner(s) of such vacant properties to register them with the City and to comply with a number of other provisions discussed in detail below.

BACKGROUND INFORMATION: Vacant properties create myriad issues for the City of Lakewood. While some vacant properties are well maintained, many others sit in states of neglect, creating unsafe and unsightly environments for neighboring properties. Many of these properties remain in derelict states for years leaving the City with little recourse, which is especially true when it is difficult to determine who the owner is.

The proposed code first requires property owners to register a vacant property with the City, which is defined as a property lacking human presence for thirty (30) consecutive days, unless exempted, with such registration to include: 1) the name and contact information for all persons with a legal interest in the property; 2) the name and contact information of a person who lives within twenty-five (25) miles of the City who will accept service of all legal documents regarding the property; 3) an emergency contact name and number; 4) the name and contact information for a person available twenty-four (24) hours a day to remedy issues at the property; and 5) a list of any other safety issues present at the property.

The proposed code also mandates a twice-yearly registration fee with a scaled increase depending on the number of service responses at the property. Service responses are essentially any response to a vacant property that results in the City taking action against the property, including criminal or administrative citations.

Further, after six months of vacancy the proposed code requires the owners to create a “vacant property plan,” which must include: 1) the expected period of vacancy; 2) the maintenance plan for the vacancy period; 3) a plan and timeline for the lawful occupancy of the property and/or remediation or demolition of buildings on the property; 4) the measures that will be taken to ensure the property will be maintained in a secure and safe manner; and 5) a list of people permitted to be on the property during the term of vacancy.

Additionally, the proposed code delineates the basic maintenance requirements for the property during the term of vacancy, which includes reference to the City’s already existing nuisance, zoning, and property maintenance codes. The proposed code requires the person or entity responsible for maintenance to perform inspections of the vacant property twice a month to ensure it remains in compliance with all City laws and regulations.

Of significant import, the proposed code also allows the Director of the Planning Department to mandate additional maintenance and/or security requirements for the vacant property when such property presents a higher
level of danger to the health and safety of the community. However, the code provides due process for owners by allowing them to contest any maintenance or security requirements at an administrative hearing. Typically, these additional requirements will be along the lines of requiring additional fencing, lighting, security, and increased on-site inspections.

Finally, those who violate the proposed code can be subject to either criminal or administrative enforcement actions.

**BUDGETARY IMPACTS:** The City will receive revenue in the form of fees from this program, however, such fees must be used to offset the costs of the vacant property registration program and shall not be made a part of the general fund.

**STAFF RECOMMENDATIONS:** Staff recommends adopting the proposed code.

**ALTERNATIVES:** Continue attempted regulation of vacant properties with the current ordinances of the City.

**PUBLIC OUTREACH:** This item has been promoted through the regular communication channels to be considered by the Lakewood City Council.

**NEXT STEPS:** During the second reading / public hearing, the City Council will have the opportunity to amend the proposed code, adopt it as presented or reject it on second reading.

**ATTACHMENTS:** Ordinance O-2023-28

**REVIEWED BY:** Kathleen E. Hodgson, City Manager  
Benjamin B. Goldstein, Deputy City Manager  
Alison McKenney Brown, City Attorney
O-2023-28

AN ORDINANCE

AMENDING TITLE 15, CHAPTER THREE, OF THE MUNICIPAL CODE OF THE CITY OF LAKEWOOD, COLORADO, IN CONNECTION WITH THE REGISTRATION OF VACANT PROPERTIES WITHIN THE CITY

WHEREAS, the City of Lakewood (“Lakewood” or “City”) is a home rule municipality organized under Article XX of the Colorado Constitution and the authority of the Home Rule Charter for the City of Lakewood (Charter);

WHEREAS, Sections 1.2 and 2.1 of the Charter vests all municipal legislative powers in the City Council, and authorizes the City Council to establish those laws necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of such municipality and the inhabitants thereof;

WHEREAS, the City has determined that vacant properties create health, safety and welfare concerns, arising out of structural and property maintenance problems, nuisance conditions, and other public health and safety issues;

WHEREAS, the City desires to establish registration procedures and fees applicable to vacant structures existing within the City to encourage property owners to secure and maintain their properties while vacant and discourage the health, safety and welfare issues that arise from unsafe and unsecured properties;

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the City Council desires to comply with the Lakewood Municipal Code by setting a public hearing to provide City staff and the public an opportunity to present evidence and testimony regarding the proposal; and

WHEREAS, approval of this Ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. Amendment of Title 15, Chapter 3. Title 15, Chapter 3 of the Lakewood Municipal Code shall be amended as follows:

Chapter 15.03 VACANT PROPERTY REGISTRATION CODE

15.03.010 Definitions
As used in this Chapter, the following terms are defined as follows:
A. *Abatement* means to remedy, cure or remove a violation, and includes providing all required additional maintenance or security requirements as mandated by the Director.

B. *Director* means the director of the Lakewood Planning Department or designee.

C. *Evidence of Vacancy* means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the occupancy status of the Property is Vacant. Such conditions include, but are not limited to: 1) significant overgrown and/or dead vegetation, 2) accumulation of newspapers, circulars, flyers, and/or mail, 3) past due utility notices and/or disconnected utilities, 4) accumulation of trash, junk and/or debris, 5) the absence of window coverings such as curtains, blinds and/or shutters, 6) visible deterioration to a degree that would make the Property uninhabitable, 7) a structure that is lacking the habitual presence of human beings who have a legal right to be on the premises for thirty (30) consecutive days as attested to by neighbors, passersby, delivery agents, or government employees that visit the Property, 8) a structure which has substantially ceased all lawful business or construction activity or residential occupancy, or 9) a structure which is substantially devoid of contents associated with active occupancy.


E. *Owner* means the owner of record of any property that has recorded title to the Property as provided by records from the Jefferson County Clerk and Recorder’s Office, but also includes any person, partnership, association, corporation, limited liability company, or fiduciary having a legal or equitable title or any ownership interest in such real property, including the holder of a certificate of purchase or certificate of redemption.

F. *Property or Properties* means any improved real property, or portion thereof, as identified by one or more AIN/Parcel ID numbers, or property address(es), which is located within the City of Lakewood, including the portions of such property that have no structures (yards, parking lots, etc.) as well as the improvements (buildings or structures) located on the property regardless of condition. For example, a larger Property (such as a strip mall) that is subdivided into eight detached or attached structures is considered eight separate Properties for purposes of this Chapter.

G. *Property Maintenance Code* means Chapter 14.19 of the LMC.

H. *Registrant* means any person, firm, or business entity that has registered a Property under this Chapter.

I. *Rules and Regulations* or *Regulations* means those rules and regulations promulgated by the Director to carry out the intent of this Chapter.

J. *Service Response* means:

1. Any police-initiated call for emergency service to a Vacant Property that results in a criminal justice record being generated.
2. A City of Lakewood enforcement action against a Vacant Property or an Owner in response to either a call for emergency or code enforcement services to a Vacant Property, or in response to a citizen complaint about a Vacant Property that is a verified violation of this Chapter.

3. A City of Lakewood enforcement action against a Vacant Property or an Owner in response to either a call for service or a complaint regarding an activity occurring within a Vacant Property's surrounding neighborhood that results in a criminal justice record being generated when such activity is associated with the Vacant Property or that results in the City taking enforcement action against the Vacant Property or the Owner of the Vacant Property.

K. **Vacant or Vacancy** means the period of time during which a property is a Vacant Property.

L. **Vacant Property and Vacant Structure(s)** means a Property that is not lawfully inhabited by human beings for a period in excess of thirty (30) days. There shall be a rebuttable presumption that a Property is a Vacant Property if any of the Evidence of Vacancy conditions are present.

Vacant Properties do not include Properties which are under active, ongoing rehabilitation or reconstruction and are under permit with the Lakewood Building Department, or properties that may be exempted as further identified within the Regulations.

M. **Zoning Code** means Title 17 of the LMC.

15.03.020 Registration Required

A. **Registration of Vacant Properties.** Effective January 1, 2024, all Vacant Properties shall be registered with the City of Lakewood. It shall be unlawful to fail to maintain valid and active registration of any Vacant Properties within the City.

B. **Administration.** The City Clerk’s Office shall review and approve all Vacant Property Registration applications and supporting documentation. The City Clerk or designee has the authority to require Registrant(s) to provide additional documentation prior to approval.

C. **Registration Requirements.** The information necessary for registration of a Vacant Property shall include at a minimum the following:

1. **Ownership/legal interests.** The name, street address, and telephone number of all persons or entities with any legal interest in the Property, including any owner, lessee, property management company and/or mortgagor.

2. **Authorized agent.** The name, street address, and telephone number of an authorized agent. The authorized agent may be the Owner or any other designated natural person residing within twenty-five (25) miles of the City who shall receive any and all notices of code violations and accept service of process for any court proceeding or administrative enforcement action in connection with the enforcement of this Chapter, or any violation of the LMC.

3. **Emergency Contact/Property Maintenance.** The name, phone number and email address of a natural person who shall serve as an emergency contact
and who shall be able to respond to any calls to provide assistance to emergency services or code enforcement services regarding emergency situations, as well as security and maintenance issues. This individual may be an Owner, authorized agent, an identified person working for a property management company, or another specifically identified individual. The emergency contact shall be available twenty-four (24) hours a day.

4. **Pending Litigation.** The case name, number, court, and all parties to any litigation concerning or affecting the Vacant Property, including bankruptcy, foreclosure, quiet title actions or probate cases.

5. **Hazard Identification.** The type and location of any toxic, flammable, or hazardous materials stored, used at, or located upon or within the Vacant Property, including asbestos used in building the Vacant Structure(s).

6. **Additional necessary information.** Any other relevant information about the Vacant Property required by emergency services or utility providers including but not limited to police, paramedics, and fire department, or as set forth within the Regulations.

D. **Properties Subject to Foreclosure Sale.** Applicability of this Section shall include Properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a deed or of a trust, or to the holder of a certificate of purchase or certificate of redemption involved in the foreclosure and any Properties transferred under a deed in lieu of foreclosure or sale.

E. **Initial Registration, When; Registration Due Twice a Year; Registration Fee.** Registrants shall register Properties subject to this Chapter as Vacant Properties twice a year throughout the time that such property remains Vacant by filing a Vacant Property registration form and paying a registration fee. Registration shall be in accordance with this Chapter and any Regulations. Initial registration shall be submitted to the City within thirty (30) days following any property meeting the definition of Vacant Property as set forth within this Chapter. Subsequent registrations shall occur twice per year either on or before January 1st and July 1st of every year.

F. **Registration Information Updates.** Any change of status for any registered Vacant Property shall be reported to the Director by the Registrant within ten (10) days of the change.

15.03.030 Registration Fees

A. **Fees Established by Resolution.** The City Council shall establish by Resolution a registration fee to be due twice a year and a service response fee. This fee shall be reviewed by City Council every five (5) years beginning no later than December 31, 2028. Initial registration fees shall a prorated amount of the registration fees.

B. **Initial Registration Fee.** The initial registration fee is due at the time of submitting the initial registration form. Both the registration fee and registration form must be submitted to the City within thirty (30) days following any property meeting the definition of Vacant Property as set forth within this Chapter. The initial fee will be a prorated amount of a standard six-month registration fee as established within the fee resolution approved by the City Council. The initial fee and registration are
valid until the next earliest registration date of either January 1st or July 1st. Initial registration fees shall not be refundable.

C. Additional Registration Fees. Registration fees, other than the initial fee, shall be due on or before January 1st and July 1st of each year subsequent to the initial registration until the property no longer meets the definition of Vacant Property. Registration fees shall be accompanied by an updated Vacant Property registration form. Registration fees under this Section shall not be refundable nor prorated.

D. Service Response Fee. The City shall assess a service response fee for any Vacant Property that has been the subject of one or more Service Responses in the preceding six months. The City Council shall establish such service response fee within the fee resolution. Service response fees are due at the same time as the registration fees.

15.03.040 Vacant Property Plan Required

A. Registration of a Vacant Property which has been registered as a Vacant Property for six (6) months or longer shall include a “Vacant Property Plan.” After any Vacant Property becomes subject to this provision, no registration will be accepted without such Plan.

B. A Vacant Property Plan shall provide the City with information required by the Director to ensure that all Vacant Property is effectively managed to ensure the health, safety, and welfare of the community. The information provided shall be as set forth within the Regulations. Information shall include but is not limited to:

1. The total expected period of time during which any structures upon the Property are anticipated to remain Vacant.

2. The plan for regular maintenance during the period of Vacancy to assure the Vacant Property remains in compliance with the Nuisance, Zoning and Property Maintenance Codes of the City.

3. A plan and timeline for the conclusion of the Vacant status. Resolution of Vacancy status may be established through lawful occupancy of the Vacant Structure(s), or through rehabilitation, removal, or demolition of the Vacant Structure(s) located upon the Property establishing the Vacancy status. The Registrant shall report any termination of Vacancy status to the Director.

4. Measures to be taken to ensure that any Vacant Structure(s) on the Property shall be secured against wind, rain and snow and made inaccessible to trespassers.

5. Certification that any Vacant Structure is safe for entry by police officers and firefighters in times of exigent circumstances or emergency, including providing a list of all known environmental hazards located within the Vacant Structure(s), and that the Vacant Property has been clearly posted regarding any environmental hazards located upon the Vacant Property.

6. A list of all persons authorized to be present upon the Vacant Property and a declaration of whether the Owner desires the Lakewood Police Department to issue citations for trespass to individuals found upon the private property who
are not on the list of authorized individuals. Said declaration shall include the name and contact information of at least one authorized witness who would be subject to subpoena, if necessary, to enforce any citations for trespassing.

15.03.050 Inspection Required; Warrant to Inspect

A. After filing the initial registration and paying the initial registration fee, but prior to approval of such initial registration, the City shall request that the Owner allow the City to access the Vacant Property, at a mutually agreeable time, to conduct an exterior and interior inspection of the Vacant Property. The purpose of this inspection is to ensure the structural integrity of any existing structures and to verify the structure(s) do not present an immediate danger to the public or any emergency personnel who may be required to access such Vacant Structure(s).

B. If a Property is recognized as meeting one or more of the Evidence of Vacancy criteria but has not been registered with the City, in addition to all other enforcement measures as set forth within this Chapter, the Director may request a warrant from the Municipal Court to perform an inspection upon the Property to verify the status of the Property, to ensure compliance with this Chapter and to ensure any structures located thereon are structurally sound and do not present a danger to emergency personnel or to the general public.

15.03.060 Maintenance Requirements

A. Front and side yards of Vacant Properties shall be landscaped and maintained in accordance with the standards of this Chapter and the current Nuisance, Zoning and Property Maintenance Codes.

B. Vacant Properties shall be kept free of weeds, dry brush, dry vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the Property is Vacant. The Vacant Property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

C. Vacant Properties shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes but is not limited to the closure and locking of windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow any person, including a child, to access the interior of the Property. In the case of broken windows, securing means the reglazing or boarding of the window.

D. The person or entity responsible for maintenance shall inspect the Property at least monthly to determine if the property is in compliance with the requirements of this Section.

E. All Vacant Properties subject to this Chapter shall be posted with the name and twenty-four (24) hour contact phone number of the person or entity responsible for maintenance. The posting shall be no less than 8.5 inches by 11 inches and shall contain, along with the name and twenty-four (24) hour contact number, the words:
“THIS PROPERTY IS MANAGED BY” and “TO REPORT PROBLEMS OR CONCERNS CALL”. The posting shall be placed on the interior of a window or glass door facing the street to the front of the Property or secured to the exterior of the structure facing the street to the front of the Property. Exterior postings will be subject to the elements and human destruction, and therefore must be constructed of and printed with weather-resistant materials and regularly verified to remain in place and unobstructed from view.

F. Adherence to this Section does not relieve the Owner of any obligations otherwise applicable to the Vacant Property irrespective of whether those obligations are enforceable by the City or by any other entity.

15.03.070 Additional Authority

A. The Director shall have the authority, subject to the process established within this Chapter, to require any Owner affected by this Chapter to implement additional maintenance and/or security measures, if such additional maintenance and/or security measures are deemed necessary to protect the health and safety of the community. Additional security measures may include, but are not limited to, heightened securing of any and all doors, windows or other openings; expanded fencing requirements; security lighting; bonded armed security; increased on-site inspection frequency; or any other measures reasonably required to address any unlawful, unsafe or nuisance condition of the Property to make it safe and secure for emergency personnel and the general public.

B. The Director is hereby authorized to establish Rules and Regulations to carry out the intent of this Chapter.

15.03.080 Notice of Violation

A. Registered Vacant Properties. The City shall give any Registrant maintaining a Vacant Property in violation of this Chapter written notice of such fact by notice sent via registered mail to the authorized agent of the Vacant Property and by posting a dated notice on the Property in a conspicuous place. In the notice, the City shall direct the abatement of the identified violation(s) of registration and may also direct the implementation of additional maintenance or security measures when necessary to protect the health and/or safety of the community.

B. Unregistered Vacant Properties. For any Vacant Property not registered in compliance with this Chapter, a copy of the dated notice posted upon the Property shall be mailed to one or more of the Owner(s) of such Property as shown upon the tax rolls of Jefferson County, Colorado, at the address of such Owner(s) as therein shown, by both regular and registered mail. Unregistered vacant properties may be cited for violation of the registration requirements of this Chapter.

C. Contents of Notice of Violation. The notice of violation shall advise the recipient that within seven (7) days of the date of the notice was posted upon the Vacant Property:

1. All violations indicated within the notice shall be abated, and
2. All required additional maintenance or security requirements shall be installed and/or functioning.

3. In lieu of complying with subsections 1 and 2 of this paragraph, a notice of appeal may be filed with the Director in accordance with 15.03.090 of this Chapter. Such notice shall be in writing on a form established for that purpose and filed within seven (7) days of the date the original notice was posted upon the Vacant Property.

In the notice of violation required by this Section, the City shall indicate that if such violations are not abated by the Owner within the time frame identified within the notice, the Director may order such abatement and assess the cost of such abatement, together with an additional administrative fee that shall cover all inspection, notice and incidental costs associated with such abatement, as a lien against the property pursuant to the terms of Chapter 9.80 of the LMC and any applicable State statute.

D. Extension of Time to Abate. At the Director’s discretion, Registrant may be granted a reasonable extension of time to affect such abatement.

15.03.085 Abatement by City

A. Order of abatement; Costs assessed as a Lien. After seven (7) days have elapsed from the date the notice was posted upon the Vacant Property, the Director may cause any remaining violations described within such notice to be abated unless either: 1) a notice of appeal has been filed with the Director in conformance with this Chapter and any applicable Regulations promulgated by the Director to carry out the intent of this Chapter or 2) the Director has granted an extension of time, in writing, to complete the abatement. Abatement by the City shall include the removal of violations of this Chapter, the Nuisance Code, or the Property Maintenance Code, or implementation of additional maintenance or security measures mandated by the Director. The costs of abatement by the City of such violations shall be assessed against the Vacant Property as set forth within LMC Section 9.80.090.

B. Method of abatement. In order to abate or remove any violation as provided for within this Chapter the City may elect to:

1. Cause abatement or removal by means of a notice and demand pursuant to subsection (A) of this section, as supplemented by LMC Section 9.80.050;

2. Cause abatement or removal by means of an Order to Show Cause pursuant to LMC Section 9.80.060. The Director shall give written notice to the Owner, as determined through the records of the County Assessor's Office, to appear at an administrative hearing before the Municipal Court on a specified date to show cause why specifically identified conditions of the violation should not be abated. If more than one Owner, each Owner may be issued a separate Order to Show Cause as each is jointly and severally liable for the condition of the Property; or
3. Initiate action in Lakewood Municipal Court or Jefferson County District Court and request abatement as an order of the court. If the City elects to initiate action in Lakewood Municipal Court or Jefferson County District Court, no prior notice regarding the abatement need be given to the defendant.

C. Immediate threat to health or safety. Upon authorization by the Director, if any violation of this Chapter, including the Nuisance Code and Property Maintenance Code, is a cause of imminent danger to the public health, safety or welfare, any such violation may be summarily abated by action of the Director and costs of abatement shall be charged against the Vacant Property as set forth within paragraphs A or B of this section. Action for summary abatement shall be taken only where the Director determines that there is imminent danger to the public health, safety or welfare which cannot await abatement by any other means available under this Chapter.

15.03.090 Appeals

A. Process. The process for filing an appeal of any action set forth within this Chapter shall be in accordance with this Section and supplemented by the Regulations.

B. Appeal of Notice of Violation. An Owner may file an appeal of a notice of violation with the Director within seven (7) days of such notice being posted upon the Vacant Property in accordance with the process set forth within this Chapter and the Regulations. The appeal shall be heard within thirty (30) days of filing such appeal by an administrative hearing officer appointed by the Director. The administrative hearing shall not be required to strictly follow all rules of evidence or civil procedure to allow for non-attorney Owners to confidently present evidence in their own defense. After hearing all evidence presented, the administrative hearing officer shall make findings of fact and conclusions of law as to whether the violations set forth within the notice occurred based upon a preponderance of the evidence, that the individual identified as an Owner is in fact an Owner of the Property, and that the Property exists within the City. If the administrative hearing officer finds each of the aforementioned elements to be true, then the hearing officer will determine whether any additional maintenance or security measures mandated by the Director are sufficient and justified to address the identified harms. The hearing officer shall order that any violations found be abated within a reasonable period of time, recognizing the impact of delay upon the health, safety and welfare of the community. The hearing officer shall also order the Director to initiate abatement of all violations set forth within the notice that are continuing to exist following such established time.

An appeal by one Owner of a Property having multiple Owners shall be reviewed as if all Owners had filed such appeal. All Owners shall be jointly and severally responsible for all violations occurring upon such Property.

The administrative hearing officer’s decision shall be a final decision and may be appealed to the Jefferson County District Court pursuant to Colorado Rules of Civil Procedure 106(a)(4). Failure of an Owner to timely appeal said Order constitutes a waiver of any right they may otherwise have to contest the City's
right to eliminate or remove the violations from their Property, to implement the additional maintenance or security measures and to charge the resulting costs against the Owner, the Property or both the Owner and the Property.

C. Appeal of an Order to Show Cause. An Owner may file an appeal of an Order to Show Cause with the Director within seven (7) days of such notice being posted upon the Vacant Property. The Municipal Court shall hear the appeal within thirty (30) days after receipt of Owner’s notice of appeal. At the hearing, the Municipal Court shall hear such statements and consider such evidence as the Director, or other enforcement officers, or the Owner shall offer which the court finds to be relevant to the existence of and removal or elimination of the violations listed in the Order to Show Cause and any need for implementation of the additional maintenance or security measures required by the Order. After hearing all evidence presented, the Municipal Court shall make findings of fact and conclusions of law as to whether the violations set forth within the Order are true by a preponderance of the evidence, that the individual identified as an Owner is in fact an Owner of the Property, and that the Property exists within the City. The Municipal Court shall then make findings of fact from the statements and evidence offered as to whether the additional maintenance or security measures mandated by the Director are sufficient and justified to address the identified harms. If the court determines, by a preponderance of the evidence, that the violations do exist and must be removed or eliminated and any additional maintenance or security measures are sufficient and justified, an Order shall be issued based on the findings of fact within seven (7) days of the hearing directing the Owner(s) to remove or eliminate said violations and to implement any additional maintenance or security requirements. If an Order issued by the Municipal Court has not been complied with within fourteen (14) days after its issuance, the City, at the discretion of the Director, may cause the elimination or removal of the violations and the implementation of any additional maintenance or security measures pursuant to this Chapter.

The Order of the Municipal Court shall be a final decision and may be appealed to the Jefferson County District Court pursuant to Colorado Rules of Civil Procedure 106(a)(4). Failure of an Owner to timely appeal said Order constitutes a waiver by them of any right they may otherwise have to contest the City’s right to eliminate or remove the violations from the Property, to implement the additional maintenance or security measures and charge the resulting costs against the Owner, the Property or both the Owner and the Property.

15.03.100 Violation and Penalty

Violations of this Chapter are strict liability offenses. It is unlawful and a municipal offense for any Owner of Property in the City to violate any requirements or provisions of this Chapter. Any person, firm or corporation that violates any portion of this Chapter shall be subject to prosecution in the Lakewood Municipal Court, administrative enforcement, or any other remedy available at law.
15.03.110 Enforcement of Other Chapters of this Code

The requirements of this Chapter are in addition to and shall not be considered to conflict with or abrogate any and all other requirements of the LMC, including but not limited to the Nuisance Code, Zoning Code, Property Maintenance Code and all codes adopted by reference in the LMC. Nothing in this Chapter shall operate to eliminate, mitigate, or otherwise affect the legal responsibilities and duties of each Owner to comply with each and every law applicable to real property located within the City, including but not limited to building, housing, nuisance, and zoning regulations.

15.03.120 Severability

If any part, term, or provision of this Chapter is held by a court of competent jurisdiction to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights, obligations and enforcement of this Chapter shall be continued in full force and effect as if the Chapter did not contain the particular part, term, or provision held to be invalid.

SECTION 2. This Ordinance shall take effect thirty (30) days after final publication.

SECTION 3. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

I hereby attest and certify that the within and foregoing Ordinance was introduced and read on first reading at a hybrid regular meeting of the Lakewood City Council on the 10th day of July, 2023; published by title in the Denver Post and in full on the City of Lakewood’s website, www.lakewood.org, on the 13th day of July 2023; set for public hearing on the 24th day of July, 2023, read, finally passed and adopted by the City Council on the 24th day of July, 2023 and, signed and approved by the Mayor on the ____ day of July, 2023.

________________________________________
Adam Paul, Mayor

ATTEST:

________________________________________
Jay Robb, City Clerk

APPROVED AS TO FORM:

________________________________________
Alison McKenney Brown, City Attorney
STAFF MEMO

DATE OF COUNCIL MEETING: JULY 10, 2023 / AGENDA ITEM NO. 8
JULY 24, 2023 / AGENDA ITEM NO. 11

To: Mayor and City Council

From: Max Kirschbaum, Director of Public Works, 303-987-7901

Subject: ACQUISITION ORDINANCE FOR 20TH AVENUE SIDEWALK (WEST OF NELSON ST) PROJECT

This ordinance was approved on 1st Reading by a vote of 9 ayes 1 nay.

SUMMARY STATEMENT: This ordinance would authorize steps necessary to acquire interests in property to construct a sidewalk connection on the south side of 20th Avenue west of Nelson St to connect to the existing sidewalk at the Quail Street Park.

The City of Lakewood has budgeted funds to provide a 5-foot-wide sidewalk along the south side of 20th Avenue west of Nelson Street. The project will complete a missing sidewalk section that will allow safer pedestrian travel extending from Simms Street to Kipling Street.

This ordinance declares the city’s intent to acquire property interests necessary for the project and initiates the negotiation process between the City and the property owners for necessary property rights. It also authorizes acceptance of conveyance instruments and, if needed, condemnation of property interests. However, condemnation would not occur prior to additional City Council approval by resolution.

A map is attached that conceptually illustrates the property rights that are anticipated to be needed. Three permanent easements illustrated in blue are needed, one on each of the properties at 1990 Owens Court, 1995 Newcombe Drive, and 1995 Nelson Street for storm drainage. It is anticipated that temporary easements for the construction period, illustrated in orange on the maps, will be required from twelve properties. The temporary easements are required to perform minor re-grading and landscape restoration to blend the area behind the new sidewalk into the surrounding site features and yards.

BUDGETARY IMPACTS: The project is funded by TABOR Funds and Stormwater Management Utility Funds.

STAFF RECOMMENDATION: Approval of the ordinance.

ALTERNATIVES: If this Ordinance is not approved, the following existing conditions will remain: Pedestrian facilities along the south side of 20th Avenue will not exist with no accessible connection provided along 20th Avenue.

PUBLIC OUTREACH: City staff has contacted the affected property owners seeking to discuss the project. Notification of City Council’s consideration of this ordinance has been mailed to each property owner. The notification includes clear language that there could be no discussion of land value at the City Council hearing.
about this ordinance because this is the very start of the acquisition process and no land values have yet been determined.

**NEXT STEPS:** Begin the acquisition process and complete preparation of construction bid documents.

**ATTACHMENTS:**
- Ordinance O-2023-29
- Project Maps

**REVIEWED BY:**
- Kathleen E. Hodgson, City Manager
- Benjamin B. Goldstein, Deputy City Manager
- Alison McKenney Brown, City Attorney
AN ORDINANCE

DECLARING THE INTENT OF THE CITY OF LAKEWOOD TO ACQUIRE INTEREST IN PROPERTY FOR PUBLIC PURPOSES FOR PEDESTRIAN AND STORMWATER IMPROVEMENTS ALONG WEST 20TH AVENUE WEST OF NELSON STREET TO THE QUAIL STREET PARK AND AUTHORIZING NEGOTIATIONS WITH PROPERTY OWNERS, ACCEPTANCE OF CONVEYANCE INSTRUMENTS AND CONDEMNATION OF REAL PROPERTY INTERESTS (SUBJECT TO FURTHER COUNCIL APPROVAL)

WHEREAS, to enhance pedestrian safety and to build pedestrian and stormwater facilities along West 20th Avenue west of Nelson Street to the Quail Street Park, the City of Lakewood (the “City”) desires to implement the West 20th Avenue Sidewalk (West of Nelson Street) Improvements Project (the “Project”), which will install pedestrian and stormwater improvements along West 20th Avenue west of Nelson Street to the Quail Street Park (the “Improvements”);

WHEREAS, in order to install the Improvements, the City must acquire certain property interests from the owners of property adjacent to the Project (the “Property Interests”);

WHEREAS, in order to acquire the Property Interests in compliance with State law, the City Council desires to:

a. Declare the City’s intent to acquire the Property Interests for public purposes in fulfillment of the requirements of Section 38-1-121, C.R.S.;

b. Authorize negotiations for, and acquisitions of, the Property Interests;

c. Accept the instruments of conveyance for the Property Interests; and

d. Authorize the City Attorney to initiate condemnation proceedings (subject to further Council approval) to acquire the Property Interests in the event the City is unable to acquire the Property Interests despite good faith efforts to do so;

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the City Council desires to comply with the Lakewood Municipal Code by setting a public hearing to provide City staff and the public an opportunity to present evidence and testimony regarding the proposal identified herein; and

WHEREAS, approval of this Ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies any particular proposal related to this proposal identified herein.
NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, State of Colorado:

SECTION 1. The West 20th Avenue Sidewalk (West of Nelson Street) Improvements Project (the “Project”) will serve a public purpose by building pedestrian and stormwater facilities along West 20th Avenue west of Nelson Street to the Quail Street Park, and it is necessary to acquire certain Property Interests, further described in Section 2 herein, to advance such public purpose.

SECTION 2. It is the intent of the City of Lakewood to acquire the Property Interests in the form of (i) permanent easements; (ii) temporary construction easements; or (iii) any other interests as may be warranted for the Project, with any improvements contained herein. The properties from which the Property Interests are currently anticipated to be acquired are identified in Exhibit A, attached hereto and incorporated herein by this reference. At such time as the City Manager or designee (the “City Manager”) confirms that any or all of those parcels identified on Exhibit A are necessary for the Project, the City Manager shall give notice of intent to acquire such Property interests in conformance with Section 38-1-121, C.R.S.

SECTION 3. The City Manager is hereby authorized to negotiate in good faith to acquire the Property Interests. Negotiations shall be based upon appraisal reports acquired in conformance with Section 38-1-121, C.R.S. or valuations approved by the City Manager. The City Manager is hereby authorized to make offers to any property owner based upon such appraisal reports or valuations and to execute agreements for the acquisition of the Property Interests.

SECTION 4. The City Council hereby accepts on behalf of the City, upon recordation, the instruments of conveyance of the Property Interests acquired pursuant to Section 3 above.

SECTION 5. The City’s Chief Financial Officer is hereby authorized and directed to pay, upon receipt of appropriate documentation, the amounts set forth in the contracts and agreements provided for herein.

SECTION 6. In the event the City Manager is unable to negotiate an agreement for the acquisition of any necessary Property Interest, despite good faith efforts to do so, the City Manager shall bring to the City Council a resolution identifying the Property Interests to be acquired by condemnation, and the City Council shall thereby authorize or deny the exercise of the City’s eminent domain power over such Property Interests pursuant to Section 14.4 of the City of Lakewood home rule charter.

SECTION 7. All interested parties are hereby advised that, in the event the City Council approves the exercise of the City’s eminent domain power over one or more Property Interests identified in such resolution, the City Attorney, on behalf of the City, shall commence condemnation proceedings with respect to such Property Interests and shall be authorized to apply to the proper court of immediate possession of the Property Interests to be acquired by condemnation, and the City’s Chief Financial Officer and all
other officers and agents of the City shall cooperate with the City Attorney in the condemnation action, make any deposits and payments as may be necessary for acquisition of the Property Interests, and pay the costs thereof and any condemnation award as it may be finally determined. The City Attorney shall additionally be authorized to employ such expert witnesses, including appraisers, as the City Attorney determines necessary for the purposes of the condemnation authorized by this Ordinance and the aforesaid resolution, and the City's Chief Financial Officer is directed to pay the costs and expenses of employing such expert witnesses and appraisers.

SECTION 8. Nothing herein is intended to authorize the expenditure of monies in excess of the funds appropriated for the Project.

SECTION 9. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided such remaining portions or application of the Ordinance are not determined by the court to be inoperative.

SECTION 10. This Ordinance shall take effect thirty (30) days after final publication.

I hereby attest and certify that the within and foregoing Ordinance was introduced and read on first reading at a hybrid regular meeting of the Lakewood City Council on the 10th day of July, 2023; published by title in the Denver Post and in full on the City of Lakewood’s website, www.lakewood.org, on the 13th day of July, 2023; set for public hearing on the 24th day of July, 2023, read, finally passed and adopted by the City Council on the 24th day of July, 2023 and, signed and approved by the Mayor on the ____ day of July, 2023.

_________________________________
Adam Paul, Mayor

ATTEST:

_________________________________
Jay Robb, City Clerk

APPROVED AS TO FORM:

_________________________________
Alison McKenney Brown, City Attorney
EXHIBIT A

Property Interests for the following addresses:

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<th>North side of 20th</th>
<th>South side of 20th</th>
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<td>39-332-99-003</td>
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<td>10901 West 20th Avenue</td>
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<tr>
<td></td>
<td>39-334-03-002</td>
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<tr>
<td></td>
<td>10640 West 20th Avenue</td>
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<td>39-334-03-003</td>
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<td></td>
<td>10660 West 20th Avenue</td>
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