

**SERVICE PLAN**

**FOR**

**CITYSET METROPOLITAN DISTRICT NO. 2**

**CITY OF GLENDALE, COLORADO**

Prepared

by

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## **I. INTRODUCTION**

### **A. Purpose and Intent.**

This Service Plan is being submitted for the CitySet Metropolitan District No. 2. The District is being formed in conjunction with the CitySet Metropolitan District No. 1. It is anticipated that the Districts will each function as a separate district, but will work in cooperation to service the Project, as hereinafter defined.

The District is an independent unit of local government, separate and distinct from the City, as hereinafter defined, and, except as may otherwise be provided for by the State, as hereinafter defined, 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 or the Intergovernmental Agreement between the City and the District. It is intended that the District will provide a part or all of the Public Improvements, as hereinafter defined, for the use and benefit of the inhabitants and taxpayers of the District. The primary purpose of the District will be to finance the construction of these Public Improvements.

### **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, as hereinafter defined. The District is therefore necessary in order for the Public Improvements required for the Project to be provided in the most economical manner possible.

### **C. Objective of the City Regarding the District's 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 and redevelopment of the Public Improvements from the proceeds of Debt, as hereinafter defined, to be issued by the District. The Debt is expected to be repaid from public improvement fees, taxes and other legally available revenues, as further set forth in the Service Plan. No debt service mill levy shall be imposed and collected at a level higher than the Maximum Debt Mill Levy, as hereinafter defined, for any Taxable Property, as hereinafter defined. Debt that is issued within the parameters described in the Financial Plan, as hereinafter defined, is expected to insulate property owners from excessive tax burdens to support the servicing of the Debt and is expected to result in a timely and reasonable discharge of the Debt.

This Service Plan is intended to establish both a limited purpose for the District and explicit financial constraints that are not to be violated under any circumstances. The primary purpose is to provide for the Public Improvements associated with development and regional needs. Operational and maintenance activities are allowed, but only as authorized by the Intergovernmental Agreement.



The District shall be authorized to finance the Public Improvements that can be funded from Debt to be repaid from sources including public improvement fees, a mill levy that shall not exceed the Maximum Debt Mill Levy and other legally available revenues.

## **II. DEFINITIONS**

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

Approved Development Plan: means a development plan or other process established by the City for identifying, among other things, Public Improvements necessary for facilitating development of property within and outside of the Service Area, as approved by the City pursuant to the City Code, and as amended, pursuant to the City Code, from time to time.

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 pledged public improvement fees and other legally available revenues, and may impose an *ad valorem* property tax mill levy.

City: means the City of Glendale, Colorado.

City Code: means the Code of Ordinances of the City of Glendale, Colorado.

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

District: means CitySet Metropolitan District No. 2.

Districts: means the District and CitySet Metropolitan District No. 1, collectively.

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.

Financial Plan: means the Financial Plan of the District as described in Article VI, which describes (i) how the Public Improvements are to be financed; (ii) how the Debt is expected to be incurred; and (iii) the estimated operating revenue derived from legally available revenues for the first budget year.

Inclusion Area Boundaries: means the boundaries of the area described in the Inclusion Area Boundary Map.

Inclusion Area Boundary Map: means the map attached hereto as **Exhibit C-2**.

Intergovernmental Agreement: means the intergovernmental agreement attached hereto as **Exhibit D** between the District and the City of Glendale, Colorado.

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

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

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

Project: means the development or property commonly referred to as CitySet, located in the City of Glendale, Colorado.

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 Article V below, to serve the future taxpayers and inhabitants of the Service Area, as determined by the Board. Public Improvements may also include limited improvements outside of the Service Area. The City will maintain all Public Improvements located outside of the Service Area.

Service Area: means the property within the Initial District Boundary Map and the Inclusion Area Boundary Map.

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

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

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

State: means the State of Colorado.

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

### **III. BOUNDARIES**

The area of the Initial District Boundaries includes approximately Four and Seven Tenths (4.7) acres and the total area proposed to be included in the Inclusion Area Boundaries is approximately Seven and Thirty-One Hundredths (7.31) acres. A legal description of the Initial District Boundaries is attached hereto as **Exhibit A-1** and a legal description of the Inclusion Area Boundaries is attached hereto as **Exhibit A-2**. A vicinity map is attached hereto as **Exhibit B**. A map of the Initial District Boundaries is attached hereto as **Exhibit C-1**, and a map of the Inclusion Area Boundaries is attached hereto as **Exhibit C-2**. 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 Seven and Thirty-One Hundredths (7.31) acres of land. The current assessed valuation of the Service Area is Three Million Six Hundred Twenty-Five Thousand One Hundred Eighty Dollars (\$3,625,180) for purposes of this Service Plan and, at build out, revenue derived from public improvement fees, *ad valorem* taxes and other legally available revenue, is expected to be sufficient to reasonably discharge the Debt under the Financial Plan. The population of the District at build-out is estimated to be approximately One Thousand Two Hundred (1,200) people.

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

#### **V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES**

##### **A. Powers of the District and Service Plan Amendment.**

The District shall have the power and authority to provide the Public Improvements and related operation and maintenance services within and without the boundaries of the District as such power and authority is described in the Special District Act and other applicable statutes, common law and the Constitution, subject to the limitations set forth herein.

1. **Operations and Maintenance Limitation.** The purpose of the District is to plan for, design, acquire, construct, install, relocate, redevelop, finance, operate and maintain the Public Improvements. The District intends to plan, design, acquire, finance, construct, install, relocate and redevelop, operate and maintain parking structures, surface parking, plaza improvements, other public improvements, street and roadway improvements and identification signage as part of the Development Plan and to own, operate and maintain (or contract with an owners association to operate and maintain) such improvements.

Those Public Improvements that are not conveyed to the City, or other governmental entities, may be conveyed to an owners association, as appropriate. With regard to those Public Improvements that will be dedicated to an owners association, the District shall undertake the operations and maintenance responsibilities for the improvements until such time as they are accepted by an owners association. The District is expected to undertake all ownership, operations and maintenance responsibilities for those Public Improvements that are not conveyed to the City or other governmental entities, or an owners association, as appropriate, and will do so either itself or by contract with an owners association. Additionally, the District shall be authorized to provide ongoing services related to the maintenance of landscaping improvements and related to covenant enforcement, as provided under Section 32-1-1004(8)(a), C.R.S. During the period that the District operates any such facilities, revenue to pay the expenses of operations may be obtained from fees and levies legally imposed by the District and/or other legally available revenues of the District. The City will maintain those Public Improvements located outside of the Service Area. Approval of this Service Plan by the City constitutes the City's agreement that the District may perform the functions described herein.

2. Construction Standards Limitation. The District will ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the City or other governmental entities having proper jurisdiction. The District will obtain the City's approval of civil engineering plans and will obtain applicable permits for the construction and installation of Public Improvements prior to performing such work.

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

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

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

4. Inclusion Limitation. The District shall not include within its boundaries any property outside the Service Area without the prior written consent of the City Council. The District shall not include within any of its boundaries any property inside the Inclusion Area boundaries without the prior written consent of the City except upon petition of the fee owner or owners of one hundred percent of such property as provided in Section 32-1-401(1)(A), C.R.S.

5. Overlap Limitation. The boundaries of the Districts shall not overlap unless such overlap is permissible under the Special District Act and other applicable State law. The Initial District Boundaries will initially overlap with the initial boundaries of CitySet Metropolitan District No. 1. Additionally, the District shall not consent to the organization of any other district organized under the Special District Act within the Service Area which will overlap the boundaries of the District unless such overlap is permissible under the Special District Act and other applicable State law.

6. Total Debt Issuance Limitation. The District shall not issue Debt in excess of Sixty Million Dollars (\$60,000,000).

7. Monies from other Governments/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. This Section shall not apply to specific ownership taxes which shall be distributed to and a revenue source for the District without any limitation.

8. Consolidation Limitation. The District shall not file a request with any Court to consolidate with another Title 32 district without the prior written consent of the City, unless such consolidation is with CitySet Metropolitan District No. 1.

9. Additional Services. In addition to the other powers of the District set forth in this Article V, the District shall also have the power and authority to, but shall not be obligated to, provide any and all of such additional services and exercise such powers as are expressly or impliedly granted to special districts by Colorado law, including those powers enumerated in Sections 32-1-1101 and 32-1-1101.7, C.R.S. The exercise of any such powers and authorities shall not be deemed a material modification of this Service Plan.

10. Service Plan Amendment Requirement. This Service Plan has been designed with sufficient flexibility to enable the District to provide required services and facilities under evolving circumstances without the need for numerous amendments. Actions of the District that violate the limitations set forth in this Service Plan or the Intergovernmental Agreement shall be deemed to be material modifications to this Service Plan and breaches of the Intergovernmental Agreement, and the City shall be entitled to all remedies available at law or in equity under State and local law.

11. Bankruptcy Limitation. All of the limitations contained in this Service Plan, including, but not limited to, those pertaining to the Maximum Debt Mill Levy, 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; and

(b) Are, together with all other requirements of State 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 that results in a pledge, that exceeds the Maximum Debt Mill Levy, shall be deemed a material modification of this Service Plan pursuant to Section 32-1-207, C.R.S., and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the City as part of a Service Plan Amendment.

B. Preliminary Engineering Survey.

The District shall have authority to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, maintenance, and financing of the Public Improvements within and without the boundaries of the District, to be more specifically defined in an Approved Development Plan. An estimate of the costs of the Public Improvements that may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, maintained or financed was prepared based upon a preliminary engineering survey and estimates derived from the zoning on the property in the Service Area (and, as applicable, outside of the Service Area) and is not expected to exceed Forty Million Dollars (\$40,000,000).

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 shall be in accordance



with the requirements of the Approved Development Plan. All construction cost estimates are based on the assumption that construction conforms to applicable local, State or Federal requirements.

C. Multiple District Structure.

It is anticipated that the Districts, collectively, will undertake the financing and construction of the improvements contemplated herein. Specifically, the Districts shall enter into an intergovernmental agreement which shall govern the relationship between the Districts with respect to the financing, construction and operation of the improvements contemplated herein. The District will establish a mechanism whereby one or both of the Districts may separately or cooperatively fund, construct, install and operate the improvements.

VI. FINANCIAL PLAN

A. General.

The District shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment of the Public Improvements from its revenues and by and through the proceeds of Debt to be issued by the District. The Financial Plan for the District shall be to issue such Debt as the District can reasonably pay from public improvement fees, revenues derived from ad valorem taxes not exceeding the Maximum Debt Mill Levy and other legally available revenues, which may include revenue assigned by third parties. The total Debt that the District shall be permitted to issue shall not exceed Sixty Million Dollars (\$60,000,000) 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 Financial Plan referenced above and phased to serve development as it occurs. All bonds and other Debt issued by the District may be payable from any and all legally available revenues of the District.

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 will be five percent (5%). Debt, when issued, will comply with all relevant requirements of this Service Plan, State law and Federal law as then applicable to the issuance of public securities.

C. Maximum Debt Mill Levy.

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

1. For any portion of the District's aggregate Debt that exceeds fifty percent (50%) of the District's assessed valuation, the Maximum Debt Mill Levy for such portion of Debt shall be fifty (50) mills less the number of mills necessary to pay unlimited mill levy Debt described in Section VI.C.2 below; adjusted to account for 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, 2010, 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. In the event that any portion of the District's aggregate Debt 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.

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

D. Debt Repayment Sources.

The District anticipates it will receive and pledge for repayment of debt public improvement fees and other legally available revenues. The District may also impose a mill levy on Taxable Property within its boundaries as a source of revenue for repayment of Debt.

E. Debt Instrument Disclosure Requirement.

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

By acceptance of this instrument, the owner of this Bond agrees and consents to all of the limitations in respect of the payment of the principal of and interest on this Bond contained herein, in the resolution of the District authorizing the issuance of this Bond and in the Service Plan for creation of the District. Similar language describing the limitations in respect of the payment of the principal of and interest on Debt set forth in this Service Plan shall be included in any document used for the offering of the Debt for sale to persons, including, but not limited to, a developer of property within the boundaries of the District.

F. 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 the 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.

G. 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.

H. District's Operating Costs.

The estimated cost of acquiring land, engineering services, legal services and administrative services, together with the estimated costs of the District's organization and initial operations, is part of the estimated cost of Public Improvements, which 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 first year's operating budget for the Districts is anticipated to be approximately Fifty Thousand Dollars (\$50,000) and will be derived from property taxes, fees, rates, tolls, charges, developer advances and other revenues.

The District will have the power to impose and assess a mill levy as necessary for provision of operation and maintenance services to its taxpayers and service users. The Maximum Debt Mill Levy shall not apply to the District's power to impose and assess a mill levy as necessary for provision of operation and maintenance.

**VII. ANNUAL REPORT**

A. General.

The District shall be responsible for submitting an annual report to the City's City Manager's office no later than September 15<sup>th</sup> of each year.

B. Report Contents.

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<sup>st</sup> of the prior year.
2. Agreements with other governmental entities, either entered into or proposed as of December 31<sup>st</sup> of the prior year.



3. A list of all facilities and improvements constructed or acquired by the District and those that have been dedicated to and accepted by the City as of December 31<sup>st</sup> of the prior year.

4. Audit of the District's financial statements, for the year ending December 31<sup>st</sup> of the previous year, prepared in accordance with generally accepted accounting principles or audit exemptions, if applicable.

5. Notice of continuing disclosure undertaking for events of default by the District, which continue beyond a ninety (90) day period, under any Debt instrument.

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

#### **VIII. DISCLOSURE TO PURCHASERS**

The District will use reasonable efforts to assure that all developers of the property located within the District provide written notice to all purchasers of property in the District regarding the Maximum Debt Mill Levy and setting forth a general description of the District's authority to impose and collect taxes, rates, fees, tolls, charges and other amounts and a description of rates, fees, tolls, charges and other amounts the District plans to impose and collect.

#### **IX. INTERGOVERNMENTAL AGREEMENT**

The form of the Intergovernmental Agreement is attached hereto as **Exhibit D**. The District shall approve and execute the Intergovernmental Agreement within ninety (90) days of the date of organization. Failure of the District to execute the Intergovernmental Agreement as required herein shall constitute a material modification and shall require a Service Plan Amendment. The City Council shall approve the Intergovernmental Agreement in the form attached as **Exhibit D** at the public hearing approving the Service Plan. The Intergovernmental Agreement may be amended by mutual agreement of the City and District, which amendment shall not require this Service Plan to be amended. In the event of conflict between the Intergovernmental Agreement and this Service Plan, the Intergovernmental Agreement shall govern.

#### **X. 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;

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;

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

6. The facility and service standards of the District are compatible with the facility and service standards of the City within which the special district is to be located and each municipality which is an interested party under Section 32-1-204(1), C.R.S.;

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

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

9. The creation of the District is in the best interests of the area proposed to be served.

## **EXHIBIT A-1**

### **Legal Description of the Initial District Boundaries**

Lot 2, Sonley, County of Arapahoe, State of Colorado  
Recorded February 22, 2010 at Reception No. 201017059

## **EXHIBIT A-2**

### **Legal Description of the Inclusion Area Boundaries**

Lot 1 and Lot 2, Sonley, County of Arapahoe, State of Colorado  
Recorded February 22, 2010 at Reception No. 201017059

## **EXHIBIT B**

### **Vicinity Map**

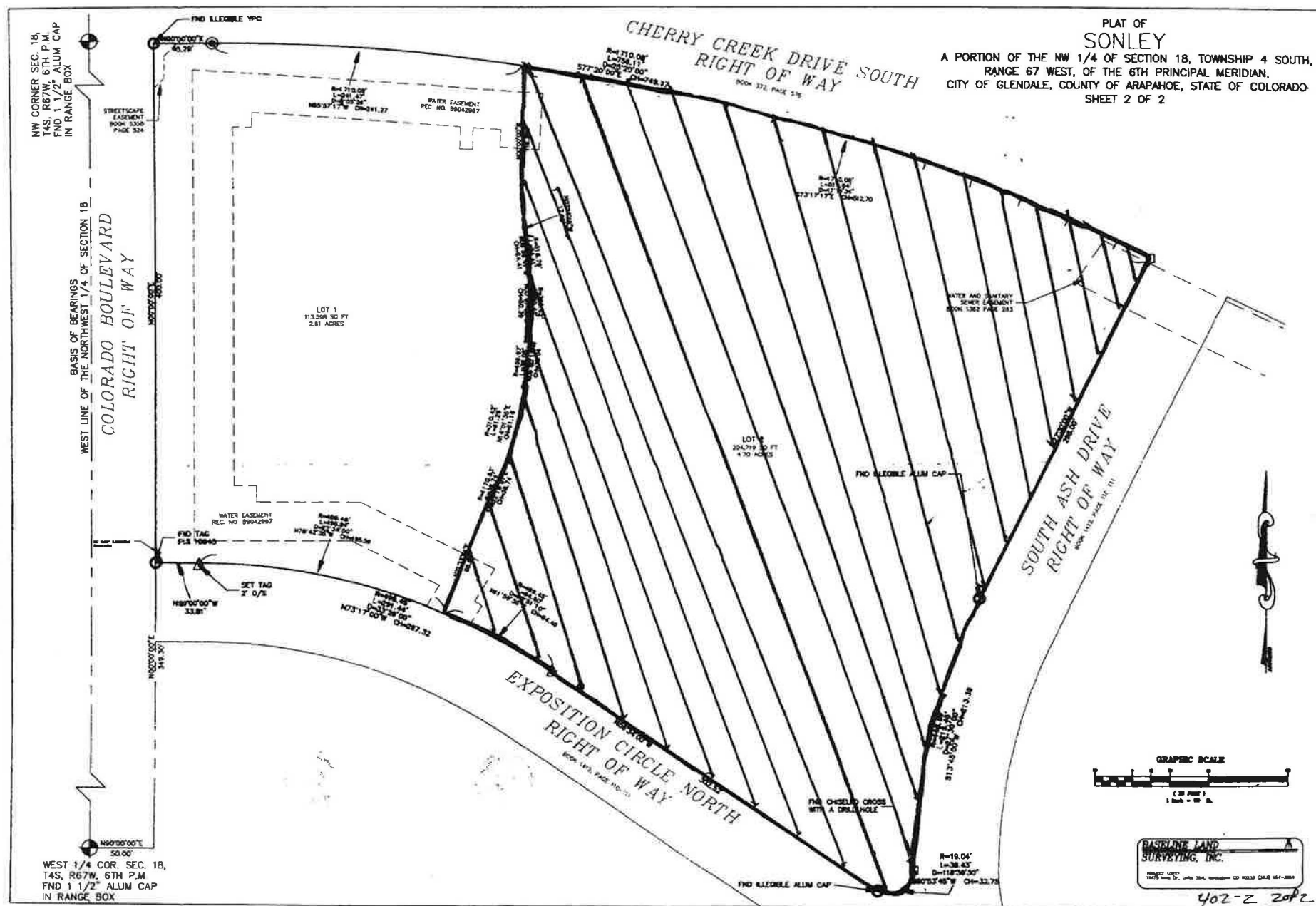
# VICINITY MAP



**EXHIBIT C-1**

**Initial District Boundary Map**

# INITIAL DISTRICT BOUNDARY MAP

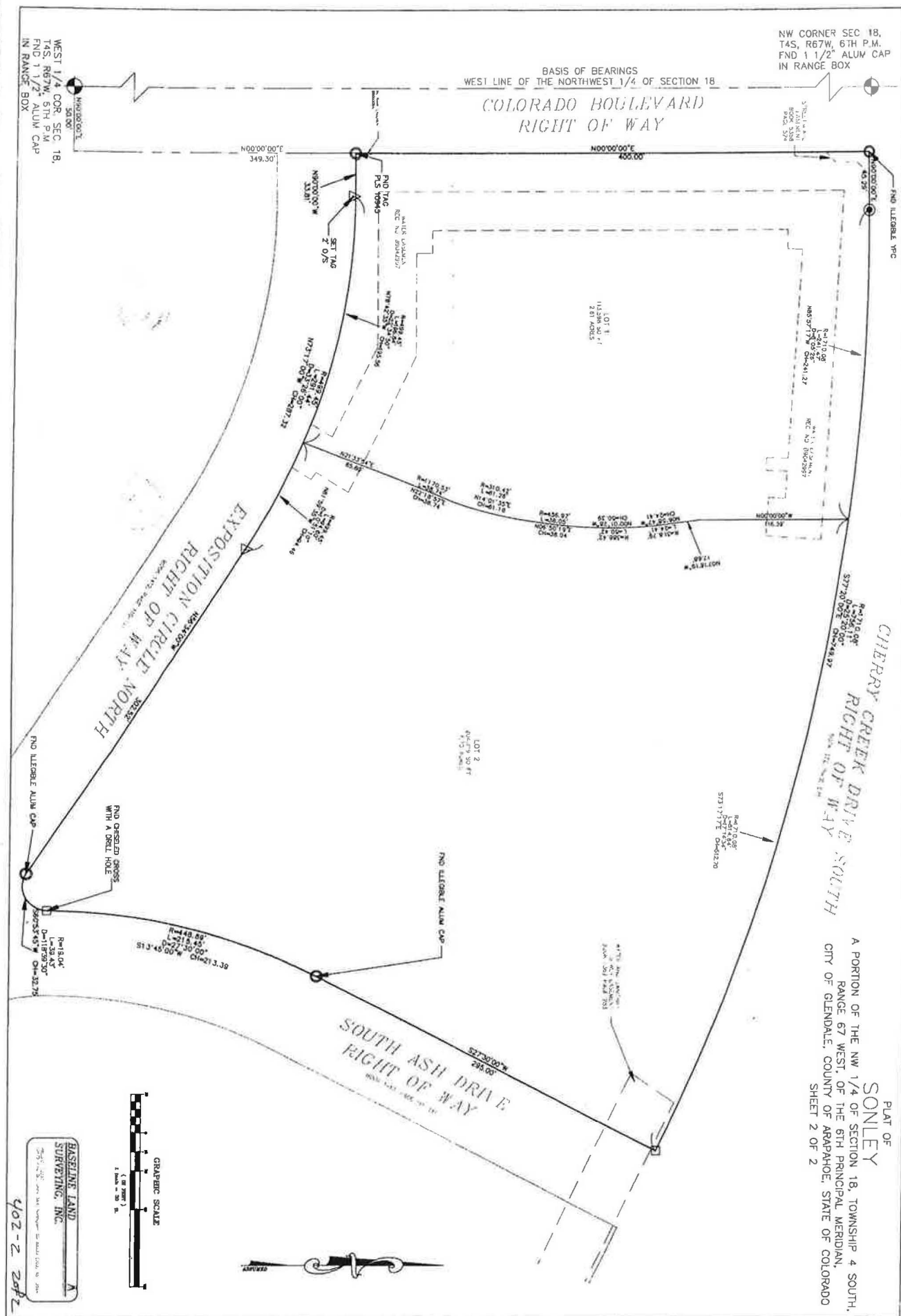




## **EXHIBIT C-2**

### **Inclusion Area Boundary Map**

## INCLUSION AREA BOUNDARY MAP



## **EXHIBIT D**

### **Intergovernmental Agreement**

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
THE CITY OF GLENDALE, COLORADO  
AND  
CITYSET METROPOLITAN DISTRICT NO. 2**

THIS INTERGOVERNMENTAL AGREEMENT (this "Agreement") is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2010, by and between the CITY OF GLENDALE, a home rule city of the State of Colorado (the "City"), and CITYSET METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado (the "District"). The City and the District are collectively referred to as the "Parties."

**RECITALS**

WHEREAS, the District was organized to provide those services and to exercise powers as are more specifically set forth in the District's Service Plan approved by the City on \_\_\_\_\_, 2010 (the "Service Plan"); and

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

WHEREAS, the District is being formed in conjunction with the CitySet Metropolitan District No. 1 (collectively, the "Districts"); and

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

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

**COVENANTS AND AGREEMENTS**

1. Operations and Maintenance. The District shall dedicate the Public Improvements (as defined in the Service Plan) to the City, other jurisdiction(s), or an owners association, as appropriate, in a manner consistent with the Approved Development Plan and other rules and regulations of the City and applicable provisions of the City Code.

The District is expected to undertake all ownership, operations and maintenance responsibilities for the Public Improvements that are not conveyed to the City or other governmental entities, or an owners association, as appropriate, and will do so either itself or by contract with an owners association. The District is authorized to provide for the ongoing operations and maintenance of landscaping improvements, and is authorized to provide covenant enforcement services, in accordance with Section 32-1-1004(8)(a), C.R.S. Revenue to pay the expenses of operations may be obtained from fees and levies legally imposed by the District or other legally available revenues of the District. Whether the facilities are operated directly by District, or are operated by an owners association, user fees may be obtained by the District to offset the expenses.

2. Construction Standards. The District will ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having proper jurisdiction and in accordance with the requirements of the Approved Development Plan. 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. All construction cost estimates are based on the assumption that construction conforms to applicable local, State or Federal requirements.

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

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

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

4. Inclusion. The District shall not include within its boundaries any property outside the Service Area without the prior written consent of the City Council.

5. Overlap Limitation. The boundaries of the Districts shall not overlap unless such overlap is permissible under the Special District Act and other applicable State law. The Initial District Boundaries will initially overlap with the initial boundaries of CitySet Metropolitan District No. 1. Additionally, the District shall not consent to the organization of any other district organized under the Special District Act within the Service Area which will overlap the boundaries of the District unless such overlap is permissible under the Special District Act and other applicable State law.

6. Monies from Other Governments/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. This section shall not apply to specific ownership taxes which shall be distributed to and a revenue source for the District without any limitation.

7. Total Debt Issuance. The District shall not issue Debt in excess of Sixty Million Dollars (\$60,000,000).

8. 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, unless such consolidation is with CitySet Metropolitan District No. 1.

9. Bankruptcy Limitation. All of the limitations contained in this Agreement, including, but not limited to, those pertaining to the Maximum Debt Mill Levy 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; 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 that results in a pledge that exceeds the Maximum Debt Mill Levy shall be deemed a material modification of the Service Plan, 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.

10. Disclosure to Purchasers. The District will use reasonable efforts to assure that all developers of the property located within the District provide written notice to all purchasers of property in the District regarding the Maximum Debt Mill Levy and setting forth a general description of the District’s authority to impose and collect taxes, rates, fees, tolls, charges and other amounts and a description of rates, fees, tolls, charges and other amounts the District plans to impose and collect.

11. Service Plan Amendment Requirement. Actions of the District that violate the limitations set forth in the Service Plan or this Agreement shall be deemed to be material modifications to the Service Plan and breaches of this Agreement and the City shall be entitled to all remedies available at law or in equity under State and local law.

12. Multiple District Structure. It is anticipated that the Districts, collectively, will undertake the financing and construction of the improvements contemplated herein. Specifically, the Districts shall enter into an intergovernmental agreement which shall govern the relationships between the Districts with respect to the financing, construction and operation of the improvements contemplated herein. The District will establish a mechanism whereby one or both of the Districts may separately or cooperatively fund, construct, install and operate the improvements.

13. Annual Report. The District shall be responsible for submitting an annual report to the City no later than September 15<sup>th</sup> of each year.

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

(i) Boundary changes made or proposed to the District’s boundary as of December 31<sup>st</sup> of the prior year;

(ii) Agreements with other governmental entities, either entered into or proposed as of December 31<sup>st</sup> of the prior year;

(iii) A list of all facilities and improvements constructed or acquired by the District and those that have been dedicated to and accepted by the City as of December 31<sup>st</sup> of the prior year;

(iv) Audit of the District's financial statements for the year ending December 31<sup>st</sup> of the previous year prepared in accordance with generally accepted accounting principles or audit exemptions, if applicable;

(v) Notice of continuing disclosure undertaking for events of default by the District, which continue beyond a ninety (90) day period, under any Debt instrument; and

(vi) Any inability of the District to pay its obligations as they come due in accordance with the term of any Debt instruments, which continue beyond a ninety (90) day period.

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

(c) For any portion of the District's 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) mills less the number of mills necessary to pay unlimited mill levy Debt described in Section VI.C.2 of the Service Plan; provided that if, on or after January 1, 2010, 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 are 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, 2010, 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.

(d) In the event that any portion of the District's aggregate Debt 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.

(e) For purposes of the foregoing, once Debt has been determined to be within Section VI.C.2 of the Service Plan, 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.

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

15. 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.

16. Security for Debt. The District shall not pledge any revenue or property of the City as security for the indebtedness set forth in the Service Plan. Approval of the Service Plan and this Agreement shall not be construed as a guarantee by the City of payment of any of the District's obligations, nor shall anything in the Service Plan or this Agreement 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.

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

To the District	CitySet Metropolitan District No. 2 c/o MaryAnn McGeady, Esq. 450 E. 17th Ave., Suite 400 Denver, CO 80203
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To the City:	City of Glendale Attention: City Manager 950 S. Birch Street Glendale, Colorado 80246
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All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with Federal Express or other nationally recognized overnight air courier service or three (3) business days after deposit in the United States mail. By giving the other party hereto at least ten (10) days written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

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

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

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

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

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

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

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

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

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

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

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

**[SIGNATURE PAGE FOR INTERGOVERNMENTAL AGREEMENT]**

CITYSET METROPOLITAN DISTRICT  
NO. 2

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

Attest:

\_\_\_\_\_  
Secretary

CITY OF GLENDALE, COLORADO

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

Attest:

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

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