



TOWN OF ELIZABETH

CHRIS LOWE/INTERIM TOWN ADMINISTRATOR

MEMORANDUM

To: Mayor and Board of Trustees

From: Chris Lowe, Interim Town Administrator

Cc: Mike DeVol, Public Works Director

Date: May 26, 2026

Re: Pine Ridge Metropolitan District Wastewater Agreement

The Intergovernmental Agreement on your agenda is with Pine Ridge Metropolitan District, located in the County. This agreement is to service wastewater from a residential development designed for up to 186 homes. As previously noted, and included in additional information provided by both the developer and our Water/Wastewater staff, the plant currently operates below capacity, and this buildout will increase the amount of treatment in the plant by about 7%. This would basically take the operating capacity from its current 42% to 49%. Please see the Public Works Director memo included in your packet for additional discussion of the technical merits and advantages to our utility by the addition of this development to our system.

Unanticipated concerns raised at the May 12 meeting regarding Elizabeth Municipal Code Sec. 13-3-140 (d) that provides for a different cost structure for sewer tap fees outside of the Town's corporate limits, forestalled our discussion of the merits of this agreement. Further research was conducted to address the advisability of this agreement. This agreement has been in discussion since last summer through the fall of 2025. Research revealed that the former Town Administrator sent an email in early October 2025, indicating that the Board was "agreeable to the terms set forth below" and referenced those terms as the sewer tap and renewable water tap fees currently paid at the in-town rates. Because of this language, it was assumed that the Board had been fully apprised of the underlying reasons for this agreement and its benefits to the Town's utility. Apparently, that did not occur, so the following analysis should provide some context for the previous staff recommendation and why staff continues to recommend this agreement as a significant benefit to the Town.

For perspective, it should be noted that the gross revenues for our Water/Wastewater Utility (Fund 52) are approximately \$2 million per year. This number varies by annual consumption obviously, but this number gives us a good baseline for comparison of revenue that this deal would bring in for the Town's benefit. Roughly speaking, sewer revenues make up about half of the utilities revenues. In calculating revenue derived from this agreement, at the current sewer tap fee in effect (\$14,064.67 per connection) and the current renewable water fee (\$7,446.00 per connection), at full buildout of 186



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homes, fees paid would be \$4,000,984. Obviously, those 186 homes would not be constructed at those current rates as our tap fees are adjusted biannually to account for inflation. Realistically, over the next few years as that development is built out, those actual revenues will be between \$4 and \$6 million.

It should be noted that the doubling of the out-of-town rates is in the Elizabeth municipal code for sewer tap fees but not included in the renewable water tap fee portion of the Code. Thus, if this agreement applied the current Elizabeth Municipal Code Sec. 13-3-140 (d) to this fee and the additional \$14,064 was doubled on the sewer connection fee, the revenue generated from this application would be \$2.6 million. So, one might ask what the Town is receiving if the Board exercises its discretion in approving the agreement as presented with “in-town” fees in exchange for foregoing receipt of this additional \$2.6 million. A brief discussion of the purpose of impact fees and the benefit to the Town’s utility may prove helpful.

Utility impact fees are a key tool for funding the infrastructure growth that comes with new development, ensuring that costs are borne by those who benefit. They are legally constrained to be fair, proportional, and directly tied to the services funded, and they play a vital role in maintaining reliable utility services as communities expand. The following points are important to understand the potential advisability of this agreement. The close proximity to the Town's existing wastewater system, means that the Town is not responsible for extending its infrastructure to the connection point of this new development. The District is paying 100% of all infrastructure necessary for the Town to serve the property. This includes the extension of the existing mainline, the lift station and all service lines to the lots. The District will be responsible for the long-term maintenance of all lines and the lift station. Unlike in developments within Town limits, the Town has no maintenance responsibility at all for the collection system.

Impact fees are imposed to ensure that municipalities are appropriately compensated for the costs associated with new development. Typically, when a residential development is connected to the wastewater system, those impact fees are intended to cover not just the costs of operating the treatment system, but also the maintenance and management of the collection system. In this proposed agreement, the Town is not responsible for those costs. Our only costs are associated with maintaining capacity in our treatment plant and the connection of our main to this new development. So, while this development is outside the Town limits, we have no responsibility for maintenance and expansion of the collection system, yet we receive the impact fee equivalent to a development that would require this expansion. In simpler terms, we get the benefit of the fee without absorbing the full cost of that expansion. Our only cost is treating the wastewater in our plant which has plenty of capacity to do so and will not cause additional infrastructure costs of expansion. Moreover, we will also charge by consumption of the increased wastewater that our plant processes.

This agreement is truly a win-win for both the Town and the Pine Ridge Metro District. It should be noted that the developer could use other means to provide wastewater treatment to this development



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without any benefit to the Town. The developer could construct a plant to treat just these 186 homes at its own cost without using the Town's infrastructure. Now, other options for the developer have their own disadvantages in terms of timing and cost, which is why this agreement benefits both parties with the current terms. This agreement allows the developer and the Town to avoid duplication of wastewater public services in an area that abuts the Town's corporate limits and to partner together to provide benefit to the members of the development and to all Town residents by maximizing the profitability of our utility. In this agreement, the Town is receiving the benefit of significant impact fees without having to increase its capital outlay to realize those additional revenues.

Staff Recommendation:

Staff recommends approval of the IGA with Pine Ridge Metropolitan District.



TOWN OF ELIZABETH

MICHAEL DEVOL/PUBLIC WORKS DIRECTOR

To: Mayor and Board of Trustees

From: Mike Devol Public Works Director

Cc: Chris Lowe, Interim Town Administrator

Date: May 26, 2026

Re: Pine Ridge Metropolitan District Wastewater Agreement

The intergovernmental agreement that is presented has been recently reviewed by Public Works and I would like to expand on some earlier discussions concerning this agreement. Public Works (PW) would like to share the calculations we use for determining the amount of flow when a project is presented to us:

One single family home/equivalent (SFE) in Elizabeth averages between 2,400 – 4,000 gallons of usage per month in non-irrigated winter months. Using that average PW uses 130 gallons per day (GPD) as an average for our daily calculations for planning numbers. $130 \text{ GPD} \times 186 \text{ SFE} = 24,180 \text{ GPD}$ or .024 million gallons per day (mgd). The Wastewater Plant currently operates at 181,000 GPD or .18 mgd plus the addition of .024 would bring plant capacity to 205,180 GPD or .21 mgd. Plant current permitted capacity is 500,000 GPD or .50 mgd, this would bring the plant capacity rounding up for planning to 42 percent of permitted treatment. Bear in mind that the Town must show intent to expand capacity once flows reach 85 percent of capacity or 425,000 GPD. We use the same calculations for all proposed projects for our 2, 5, 10, 15 years projected planning for any areas that are currently annexed or possible annexations whether they are directly adjacent to town or flag poled within town. These calculations have been completed for Gold Creek Commons and Abraham properties for projected wastewater treatment flows.

The addition of wastewater flow from Pine Ridge Metro District will be specifically for treatment of their raw wastewater. The Town will not be supplying potable water for their project. The Pine Ridge system will tie-in to the town's already existing sanitary sewer mainline that public works currently maintains. The addition of a Mag Meter at the tie-in point will be paid for by the developer and then maintained by the town. The town will use the data collected from the mag meter for accurate billing of treated wastewater flows from Pine Ridge Metro District. This data will also be collected and recorded in our Supervisory Control and Data Acquisition (SCADA) system used for monitoring and projecting daily, weekly, monthly and yearly flows for reporting to the Colorado Department of Health and Environment (CDPHE). Typically, when a developer pays impact fees, those fees are intended to assist the utility in



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MICHAEL DEVOL/PUBLIC WORKS DIRECTOR

scaling its operations for the additional customers added by the development. In addition, these fees are intended to also compensate the utility for the maintenance of water and sewer transmission lines, wells, lift stations and employees related to operations of these individual items. As this project is contemplated, the Town's utility is not responsible for any maintenance costs of the system other than the infrastructure, like the mainline that is already maintained. The only additional maintenance in this agreement is for the Town to maintain the Mag Meter. Essentially, a portion of the fees realized by the Town's utility in this agreement represent revenue intended to compensate for maintenance without the actual maintenance cost to the Town.

In addition, the Pine Ridge Metro agreement will be adding additional funds for the already existing town maintained sanitary sewer main, the existing upgraded Gold Lift Station (2023), and start of the needed Water Reclamation and Re-Use Plant Upgrade. The renewable resource fees will allow the town to complete engineering and permitting of a re-use water plant for the watering of High School and Jr High School sports fields that are presently using potable water that are adjacent to the wastewater plant. Public Works believe that the Pine Ridge Metro Agreement would benefit the Town financially without the usual addition of added infrastructure costs and maintenance.

Staff Recommendation:

Public Works Approves of the Intergovernmental Agreement (IGA) with Pine Ridge Metropolitan District.

Thank you,

Mike Devol
Public Works Director
Town of Elizabeth, Colorado

RESOLUTION 26R21

A RESOLUTION APPROVING THE INTERGOVERNMENTAL AGREEMENT FOR WASTEWATER SERVICE BETWEEN THE TOWN OF ELIZABETH AND THE PINE RIDGE METROPOLITAN DISTRICT

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ELIZABETH, COLORADO AS FOLLOWS:

Section 1. The Intergovernmental Agreement for Wastewater Service between the Town of Elizabeth and the Pine Ridge Metropolitan District, attached hereto as **Exhibit A**, is hereby approved, and the Mayor is authorized to execute the same on behalf of the Town.

PASSED, APPROVED, and ADOPTED this ____ day of _____, 2026, by the Board of Trustees of the Town of Elizabeth, Colorado, on first and final reading, by a vote of _____ for and _____ against.

Angela Ternus, Mayor

ATTEST

Michelle M. Oeser, Town Clerk

INTERGOVERNMENTAL AGREEMENT FOR WASTEWATER SERVICE

THIS INTERGOVERNMENTAL AGREEMENT FOR WASTEWATER SERVICE (the "Agreement") is made and entered into this ____ day of _____, 2026, by and between the Town of Elizabeth, a municipal corporation (the "Town"), and Pine Ridge Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado (the "District") (each a "Party" and collectively the "Parties").

WHEREAS, pursuant to C.R.S. § 29-1-203(1), the Town and the District, each political subdivisions of the State of Colorado, may cooperate with one another to provide any function, service or facility lawfully authorized to each, including the sharing of costs;

WHEREAS, the District is organized to provide sanitation services to the currently undeveloped real property more particularly described in **Exhibit A**, attached hereto and incorporated herein (the "Property");

WHEREAS, the District is located outside the corporate limits of the Town;

WHEREAS, the District desires to send, and the Town desires to receive, effluent wastewater service (the "Wastewater Service") from a residential development within the District, not to exceed one hundred eighty-six (186) single family homes (the "Development"), which will require the construction and installation of certain wastewater mains, lines, lift stations and related infrastructure and facilities, which are more particularly described in **Exhibit B**, attached hereto and incorporated herein (the "Improvements");

WHEREAS, the Improvements identify one lift station with a contingency for a second lift station and, regardless of the number of lift stations required for the Development, such construction of the necessary number of lift stations shall be the responsibility of the District;

WHEREAS, the Town's wastewater system has sufficient capacity to provide the Wastewater Service to support the Development; and

WHEREAS, the Parties desire to memorialize the terms and conditions of extension of the Wastewater Service to the Property.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

I. PURPOSE

This Agreement sets forth the terms and conditions under which the Property shall connect to the Town's wastewater system. All provisions of this Agreement are in addition to, and not in lieu of, any requirements of the Code and other applicable law, including without limitation C.R.S. § 31-35-701, *et seq.*

II. TERM

This Agreement shall commence on the Effective Date and continue in perpetuity, or until terminated by mutual agreement of the parties.

III. CONSTRUCTION OF WASTEWATER FACILITIES

A. *General.* The District shall, at its own expense, design, construct and install all Improvements necessary for the Property in accordance with plans approved by the Town (the "Plans"), as well as all applicable Colorado Department of Public Health and Environment and Town standards and specifications (the "Standards"). The District shall furnish, at its own expense, all necessary engineering, consulting and construction services relating to the design and construction of the Improvements. These services shall be performed by or as applicable under the supervision and construction management of a professional engineer licensed in the State of Colorado.

B. *Phasing of the Improvements.* The approved plans for the Improvements are included in the final plat for the Development approved by the County. The construction of the Improvements will be phased to support the phasing of the Development as it progresses. The Improvements to be constructed for each phase of the Development shall be determined by the Town prior to the issuance by Town of a permit for construction of the Improvements for that phase (the "Phase Improvements") and as set forth in a Phase Improvements Agreement for the Phase Improvements in substantially the form attached hereto as Exhibit C and incorporated herein by this reference (the "Phase Improvements Agreement").

C. *Testing and Inspection.* The District shall employ, at its own expense, a licensed testing company to perform all testing of materials or construction reasonably required by the Town. The District shall furnish copies of test results to the Town on a timely basis. At all times during construction, the Town shall have access to inspect materials and work, and all materials and work not conforming to the Plans or Standards shall be repaired or removed and replaced at the District's expense.

C. *Rights-of-way and Easements.* Prior to construction of any Phase Improvements that require additional rights-of-way or easements, the District shall acquire, at its own expense, all such rights-of-way and easements for such Phase Improvements. Any easements or rights-of-way conveyed to the Town shall be free and clear of liens, taxes and encumbrances and shall be conveyed on documents in a form acceptable to the Town.

D. *Permits.* The District shall, at its own cost, obtain all necessary permits to construct and install each of the Phase Improvements, including without limitation the following:

- i. Any permits required by the United States Corps of Engineers;
- ii. Colorado Department of Health and Environment General Permit for Stormwater Discharges Associated with Construction Activity;
- iii. Grading, stormwater quality and right-of-way permits;

- iv. Air quality permit; and
- v. Any other permits required to complete the Improvements.

E. *As-Built Drawings.* Upon completion of construction of the Phase Improvements, the District shall provide the Town with complete "as-built" drawings in the form required by the Standards for such Phase Improvements.

F. *Applicable Law.* The District shall at all times comply with all applicable law, including all federal, state and local statutes, regulations, ordinances, decrees and rules relating to the emission, discharge, release or threatened release of a hazardous material into the air, surface water, groundwater or land, the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation or investigation of a hazardous material, and the protection of human health and safety, including without limitation the following, as amended: the Comprehensive Environmental Response, Compensation and Liability Act; the Hazardous Materials Transportation Act; the Resource Conservation and Recovery Act; the Toxic Substances Control Act; the Clean Water Act; the Clean Air Act; the Occupational Safety and Health Act; the Solid Waste Disposal Act; the Davis Bacon Act; the Copeland Act; the Contract Work Hours and Safety Standards Act; the Byrd Anti-Lobbying Amendment; the Housing and Community Development Act; and the Energy Policy and Conservation Act.

H. *Accessibility.* The District shall comply with the accessibility standards for an individual with a disability adopted by the State Office of Information Technology pursuant to C.R.S. § 24-85-103, and shall to the extent permitted by law indemnify, hold harmless and assume liability on behalf of the Town and its officers, employees, agents and attorneys for all costs, expenses, claims, damages, liabilities, court awards, attorney fees and related costs, and any other amounts incurred by the Town in relation to the District's noncompliance with such accessibility standards.

IV. IMPROVEMENTS GUARANTEE

A. *Amount and Form.* The costs listed in **Exhibit B** are the current estimates of the total costs of the Improvements. To secure the construction and installation of the Phase Improvements, the District shall provide the security required under each Phase Improvements Agreement in an amount equal to 110% of the costs for the Phase Improvements that are the subject of such Phase Improvements Agreement using the current estimates on **Exhibit B** for such Phase Improvements (the "Financial Guarantee"). If the costs listed in **Exhibit B** increase or additional Improvements are required, the Town may require the amount of the Financial Guarantee that is the subject of the Phase Improvements Agreement to increase accordingly. The Financial Guarantee may be reduced in accordance with the terms of the Phase Improvements Agreement.

B. *Timing.* The District shall not commence construction, including without limitation staking, earth work, overlot grading or the erection of any structure, temporary or otherwise, on any Phase Improvements until the Town has approved the Financial Guarantee as required under the Phase Improvements Agreement for such Phase Improvements.

C. *Draw by the District.* Prior to Initial Acceptance, if the District has posted cash as a Financial Guarantee under the Phase Improvements Agreement, the District may draw, no more frequently

than monthly, on the cash for payment of costs incurred in the construction of the Phase Improvements, pursuant to the terms of the Phase Improvements Agreement. The amount of the Financial Guarantee shall not be reduced below 10% of the actual cost of construction and installation of the Phase Improvements to assure that amount is available to fund the Financial Guarantee during the Warranty Period

D. *Draw by the Town.* If any Phase Improvements are not satisfactorily completed within the periods of time specified in the Phase Improvements Agreement for such Phase Improvements, the Town may draw on the Financial Guarantee to complete those Phase Improvements. If the Financial Guarantee is to expire within 14 days and the District has not yet provided a satisfactory replacement, or completed the Phase Improvements, the Town may draw on the Financial Guarantee for those Phase Improvements and either hold such funds as security for performance under the Phase Improvements Agreement for such Phase Improvements or spend such funds to finish the Phase Improvements or correct problems with such Phase Improvements as the Town deems appropriate. If the Town has drawn on the Financial Guarantee, and a satisfactory replacement guarantee is provided or the subject Phase Improvements have been completed, then the Town will release any funds received as a result of its draw within a reasonable period of time, or within 10 days of a request by the District.

E. *Reduction.* Upon Initial Acceptance of any Phase Improvements, the Financial Guarantee posted pursuant to the Phase Improvements Agreement for such Phase Improvements shall be reduced to the amount of 10% of the total actual cost of construction and installation of such Phase Improvements. The reduced Financial Guarantee shall be held by the Town during the Warranty Period.

V. ACCEPTANCE OF IMPROVEMENTS AND WARRANTY

A. *Initial Acceptance.* No later than 10 days after any Phase Improvements are substantially complete, the District shall request an inspection by the Town of such Phase Improvements. If the District does not request this inspection, the Town may conduct the inspection without the District's approval.

- i. If the Phase Improvements are satisfactory, the Town shall grant Initial Acceptance.
- ii. If the Phase Improvements are not satisfactory, the Town shall provide written notice to the District of the repairs, replacements, construction or other work required to receive Initial Acceptance of the Phase Improvements. The District shall complete all needed repairs, replacements, construction or other work within 30 days of said notice. After the District completes the repairs, replacements, construction or other work required, the District shall request of the Town a re-inspection of such work to determine if Initial Acceptance can be granted, and the Town shall provide written notice to the District of the acceptability or unacceptability of such work prior to proceeding to complete any such work at the District's expense. If the District does not complete the repairs, replacements, or other work required within 30 days, the District shall be in breach of this Agreement. The costs of re-inspection shall be borne by the District.

B. *Final Acceptance.* At least 30 days before 2 years has elapsed from the issuance of Initial Acceptance of any Phase Improvements, or as soon thereafter as weather permits, the

District shall request an inspection by the Town of such Phase Improvements. If the District does not request this inspection, the Town may conduct the inspection without the District's approval.

i. If the Phase Improvements are satisfactory, the Town shall grant Final Acceptance of such Phase Improvements.

ii. If the Phase Improvements are not satisfactory, the Town shall provide written notice to the District of the work required to receive Final Acceptance. After the District completes such work, the District shall request a re-inspection, and the Town shall provide written notice to the District of the acceptability or unacceptability of such work. If the District does not complete the required work in an acceptable manner within 30 days, the District shall be in breach of this Agreement.

C. *Warranty.* For each Phase Improvements to be dedicated to the Town, the District shall provide the Town with a 2-year warranty, commencing on the date of Initial Acceptance of the Phase Improvements (the "Warranty Period"). Specifically, but not by way of limitation, the District shall warrant that: the title is marketable and its transfer rightful; the Phase Improvements are free from any security interest or other lien or encumbrance; and the Phase Improvements are free of defects in materials or workmanship. During the Warranty Period, the District shall, at its own expense, take all actions necessary to maintain the Phase Improvements and make all necessary repairs or replacements.

VI. MAINTENANCE

A. *Improvements.* Unless dedicated to and accepted in writing by the Town for maintenance, all Improvements shall be maintained by the District. Acceptance by the Town of ownership of any Phase Improvements does not constitute acceptance by the Town of maintenance for such Phase Improvements. If the District desires to transfer maintenance obligations to any other entity, the District shall obtain prior written approval from the Town.

B. *Wastewater Main.* Notwithstanding the foregoing, the public wastewater main through which the Town shall provide Wastewater Service to the Property shall be the responsibility of the Town up to the tie-in at the Property boundary, and the District shall be responsible for maintenance of all Improvements from the tie-in at the Property boundary upstream to and through the Property. The District shall maintain the Improvements from the wastewater main upstream of the tie-in at the Property boundary, unless dedicated to and accepted in writing by the Town.

VII. CONNECTION TO THE TOWN'S WASTEWATER SYSTEM

A. *Connection to the Public Main.* Upon completion of any Phase Improvements the District shall apply for connection to the Town's wastewater system. The Town's Public Works Department shall determine scheduling of the physical tap or connection of the service line to the public main. The tap to the public main for the Property's service line and the installation of corporation cocks shall be performed by the Town.

B. *Required Easements.* The District shall grant the Town all easements required to maintain the Improvements upon connection to the Town's wastewater system.

C. *Wastewater System Fees.* The District shall be responsible for all fees and connection fees associated with the Town's provision of Wastewater Service, including without limitation the Town's wastewater tap fee and renewable water resource fee, pursuant to the Town's then-current fee schedule, which shall be due at the time of issuance of building permits for the Development. As of the date of this Agreement, such system fees include a wastewater tap fee in the amount of \$14,064.67 per single family residence and a renewable water resource fee of \$7,446.00 per single family residence, in accordance with Town of Elizabeth Resolution No. 23R37.

VIII. PROVISION OF WASTEWATER SERVICE

A. *Wastewater Service to Property.* Upon final connection of any Phase Improvements to the Town's wastewater system, the Town shall sell and deliver to the Property Wastewater Service in accordance with this Agreement, the Elizabeth Municipal Code, and all other applicable rules and regulations, as such rules and regulations may be amended at any time so long as such rules and regulations apply to all users of the Town's wastewater system. The District acknowledges and agrees that the Town shall be the sole provider of Wastewater Service to the Property. Any change in the wastewater service requirements for the Property shall require approval by the Town and amendment to this Agreement. All wastewater uses on the Property shall at all times be consistent with Town policies, rules and regulations, as amended, governing the Wastewater Service.

B. *Monthly Wastewater Service Fees.* The Town shall administer, and the District shall pay monthly, all fees and other charges related to the provision of Wastewater Service to the Property at the Town's then-current out of Town rates and in accordance with the Town Code and any other applicable policies, rules and regulations (the "Wastewater Service Charges") including the default and remedy provisions therein; provided, however, that no Wastewater Service Charges shall be imposed on any building and other Wastewater Service-served structure until it has received a building permit from the Elbert County Building Department. As of the date of this Agreement, such Wastewater Services Charges are \$94.94 per month per single family residence. The District agrees it shall, pursuant to C.R.S. § 32-1-1001(1)(j)(I) fix and from time to time increase monthly wastewater services charges to be imposed and collected from each home provided Wastewater Services under this Agreement in sufficient amount to pay the Town the monthly Wastewater Service Charges the District is obligated to pay under this Agreement ("**District Wastewater Fees**"). Until paid, all District Wastewater Fees, including penalties and charges for any delinquency in payment and the costs of collection, shall constitute a perpetual lien on any home served and may be foreclosed in the same manner as provided by the laws of the State for the foreclosure of mechanics liens. In addition, the District has the ability to certify to the treasurer of Elbert County past due amounts for wastewater services pursuant to C.R.S. § 32-1-1101(1)(e), to be collected by Elbert County and to be remitted to the District for payment to the Town, in the same manner as property taxes are collected. The District shall take all necessary and reasonable steps to collect the District Wastewater Fees in amounts sufficient to pay the Town the Wastewater Charges in a timely and efficient way.

C. *Limitations.* This Agreement is only for the provision of Wastewater Service as herein described and no expansion of uses, connections, or service beyond those set forth herein is in any way authorized by this Agreement.

D. *Town Rules and Regulations.* The District acknowledges and agrees that Property and all users of Town Wastewater Service on the Property shall be bound by, and all Wastewater Service provided hereunder shall be subject to all applicable provisions of the Code, as well as all applicable rules, policies or regulations of the Town, including the default and remedy provisions therein, now in effect or as may be hereafter adopted.

E. *Enforcement by the Town.* The District hereby acknowledges and agrees that the Town has the right to enforce its rules, policies, regulations, ordinances and the terms of this Agreement regarding the Wastewater Service. In the event that the District or any user of the Wastewater Service provided for in this Agreement violate the rules, policies, regulations or ordinances of the Town, the Town shall have all remedies available to it at law or in equity.

IX. DISCONNECTION FROM THE TOWN'S WASTEWATER SYSTEM.

The Town and the District do not anticipate and are not planning on the District ever disconnecting the Improvements from the Town's wastewater system, terminating this Agreement or terminating the Wastewater Service to be provided by the Town to the District pursuant to this Agreement. In the unlikely event the District identifies an alternative source for the provision of wastewater services to its service users ("Alternative Wastewater Service Source"), the District will provide written notice to the Town thirty six (36) months prior written notice of its intention to secure an alternative source for the provision of wastewater services to its service users (the "Termination Notice"). Within forty five (45) days from receipt of the Termination Notice by the Town, the District and the Town will work together in good faith to develop a plan for the transition of the provision of the Wastewater Service to the Alternative Wastewater Service Source. This Agreement shall not terminate, and the provision of Wastewater Service hereunder shall not terminate, until the connection to the Alternative Wastewater Service Source has been made and all amounts due to the Town under this Agreement have been paid in full by the District.

X. INDEMNIFICATION

To the extent permitted by law, the District agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representatives, agents, employees, attorneys, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by the omission, error, professional error, mistake, negligence, or other fault of the District, or any officer, employee, representative, agent or subcontractor of the District. In addition, the District shall pay all property taxes on property underlying Improvements to be dedicated to the Town, if any, before acceptance by the Town, and shall indemnify and hold harmless the Town for any such property tax liability.

XI. THE DISTRICT'S REPRESENTATIONS AND WARRANTIES

The District hereby represents and warrants to the Town that all of the following are true and correct as of the date of signature and the Effective Date: this Agreement has been duly authorized and executed by the District as the legal, valid and binding obligation of the District, and is enforceable as to the District in accordance with its terms; the persons executing this Agreement on behalf of the District is duly authorized and empowered to execute and deliver this Agreement on behalf of the District; to the best of the District's knowledge, there is no pending or threatened litigation, administrative proceeding or other proceeding pending or threatened against the District which, if decided or determined adversely, would have a material adverse effect on the ability of the District to undertake its obligations under this Agreement nor, to the best of the District's knowledge, is there any fact or condition of the Property known to the District that may have a material adverse effect on the District's ability to develop the Property as contemplated; and neither the execution of this Agreement nor the consummation of the transaction contemplated by this Agreement will constitute a breach under any contract, agreement or obligation to which the District is a party or by which the District is bound or affected.

XII. TITLE 32 SPECIAL DISTRICTS

The Town hereby acknowledges that the District has been organized pursuant to and in accordance with the provisions of C.R.S. § 32-1-101, *et seq.*, for the purpose of providing facilities and services to the Property as well as properties outside of its boundaries. The Town hereby consents to the organization of the District, and confirms all prior actions and approvals taken or obtained with respect to the District.

XIII. MISCELLANEOUS

A. *Governing Law and Venue.* This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Elbert County, Colorado.

B. *No Waiver.* Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.

C. *Integration.* This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

D. *Third Parties.* There are no intended third-party beneficiaries to this Agreement.

E. *Notice.* All notice required under this Agreement shall be in writing and shall be hand delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below. Either party, by notice so given, may change the address to which future notices shall be sent.

Notice to the Town: Town of Elizabeth
Attn: Public Works Director
Town of Elizabeth
Attn: Director of Community Development
151 South Banner Street
Elizabeth, Colorado 80107

With a copy to: Hoffmann, Parker, Wilson & Carberry, P.C.
Attn: Corey Y. Hoffmann, Town Attorney
511 16th Street, Suite 610
Denver, Colorado 80202

Notice to District: Pine Ridge Metropolitan District
Attn: District Manager
c/o Public Alliance
7555 E Hampden Ave Suite 501
Denver, Colorado 80231

With a copy to: McGeady Becher Cortese Williams P.C.
Attn: Suzanne Meintzer
450 East 17th Ave Suite 400
Denver, Colorado 80203

F. *Severability.* If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

G. *Modification.* This Agreement may only be modified upon written agreement of the Parties.

H. *Assignment.* Neither this Agreement nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other; provided, however, that the District shall have the right to assign this Agreement without the Town's consent to an entity affiliated with or formed by one or more directors of the District with 30 days' notification to the Town.

I. *Recordation.* This Agreement shall be recorded with the Clerk and Recorder of Elbert County, Colorado, shall run with the land, and shall be binding upon and inure to the benefit of the heirs, successors and permitted assigns of the Parties.

J. *No Regulated Public Utility Status.* The Parties hereby agree that the Town is not a regulated public utility compelled to serve any other similarly situated parties. The District shall not at any time petition the Colorado Public Utilities Commission to acquire jurisdiction over any wastewater rate set by the Town.

K. *Governmental Immunity.* The Town, the District and their officers, attorneys and employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town, the District and their officers, attorneys or employees.

L. *Rights and Remedies.* The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

M. *Subject to Annual Appropriation.* Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town or the District not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

N. *Force Majeure.* No Party shall be in breach of this Agreement if such Party's failure to perform any of the duties under this Agreement is due to Force Majeure, which shall be defined as the inability to undertake or perform any of the duties under this Agreement due to acts of God, floods, storms, fires, sabotage, terrorist attack, strikes, riots, war, labor disputes, forces of nature, the authority and orders of government or pandemics.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

TOWN OF ELIZABETH, COLORADO

Angela Ternus, Mayor

ATTEST:

Michelle Oeser, Town Clerk

**PINE RIDGE METROPOLITAN
DISTRICT**

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was subscribed, sworn to and acknowledged before me this ____
day of _____, 2026, by _____ as _____ of
_____.

My commission expires: _____

(S E A L)

Notary Public

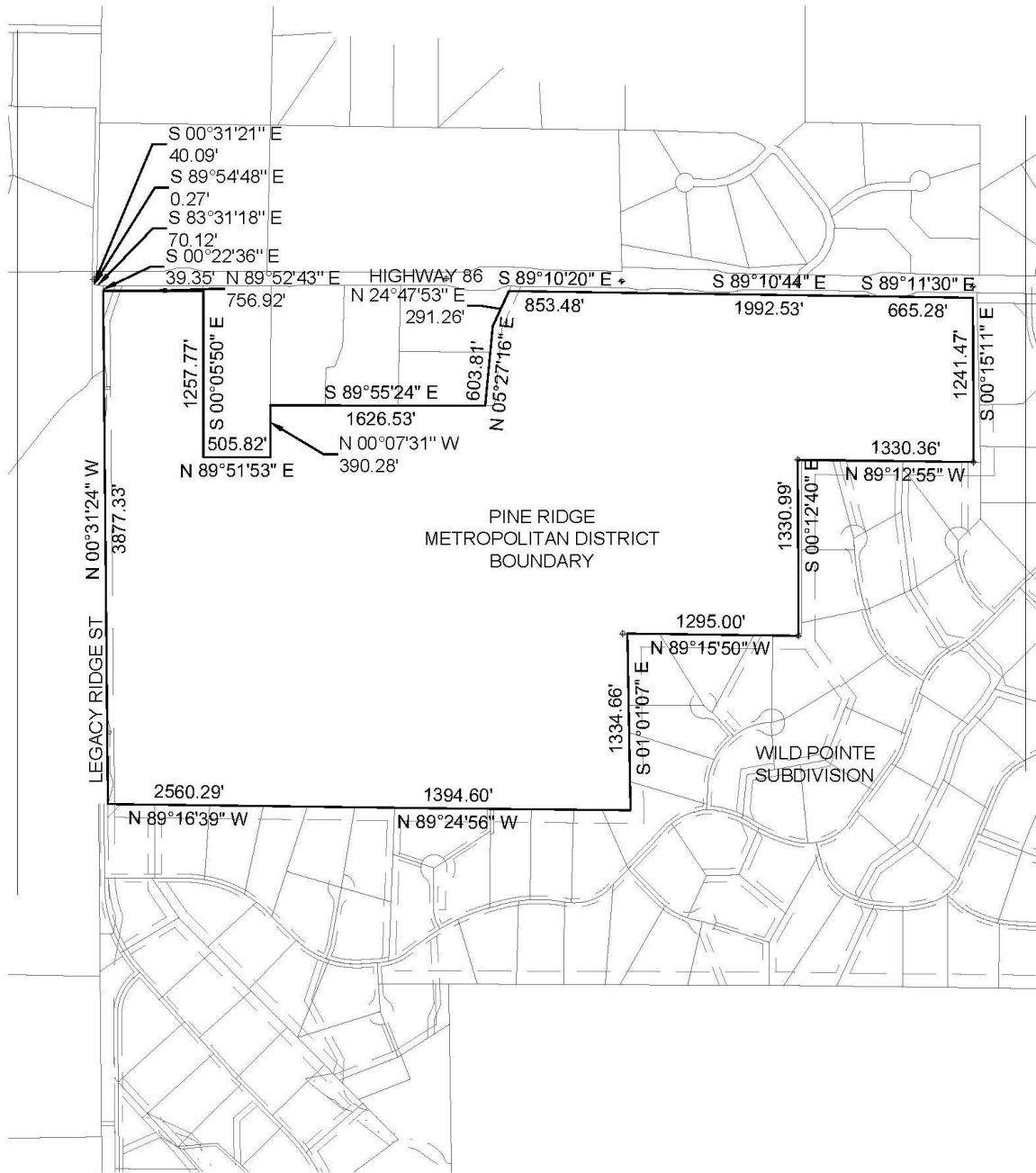
Legal Description

DESCRIPTION OF PROPERTY:

CONTAINING 419.96 ACRES +/-



PINE RIDGE METROPOLITAN DISTRICT BOUNDARY AND INCLUSION AREA



Project Number: 23015
J:\P\B\23015\23015.dwg

2N Civil, LLC

6 Inverness Ct. E., Suite 125
Englewood, CO 80112
Phone 303-925-0544 Fax 303-925-0547
www.2NCivil.com

**METROPOLITAN DISTRICT
BOUNDARY MAP**
MF INVESTMENT PARTNERS, LLC

Drawn By: EPT
Checked By:
Revisions: 1/8/25

Page 2



EXHIBIT B
To Intergovernmental Agreement for Wastewater Service
Improvements

EXHIBIT B

		PINE RIDGE METROPOLITAN DISTRICT	
		Concept Plans	
		SUMMARY OF PROBABLE CONSTRUCTION COST	
June 16, 2026		2N JOB NO: 23015	
ITEM	QUANTITY	UNIT COST	COST
Sanitary Sewer			
Sewer Pipe	22,368 L.F.	\$ 75.00	\$ 1,677,600.00
Lift Station	1 L.S.	\$ 500,000.00	\$ 500,000.00
Force Main	2,345 L.F.	\$ 70.00	\$ 164,150.00
4' Diameter Manholes	118 E.A.	\$ 6,500.00	\$ 767,000.00
Connection to Town manhole	1 E.A.	\$ 4,500.00	\$ 4,500.00
			\$ 3,113,250.00
Subtotal			\$ 3,113,250.00
10% Contingency			\$ 311,325.00
Total			\$ 3,424,575.00

This estimate of probable construction cost was prepared for estimating purposes only. 2N Civil, LLC cannot be held responsible for variances from this estimate, as actual costs may vary due to bid and market fluctuations.

EXHIBIT C
To Intergovernmental Agreement for Wastewater Service

Phase Improvements Agreement

EXHIBIT C

PHASE IMPROVEMENTS AGREEMENT

THIS PHASE IMPROVEMENTS AGREEMENT (the "Agreement") is made this _____ day of _____, 20__, by and between the Town of Elizabeth, Colorado, a municipal corporation (the "Town"), and Pine Ridge Metropolitan District, a political subdivision and quasi-municipal corporation of the State of Colorado (the "District").

RECITALS

A. The District is the owner of certain real property which is more particularly described in Exhibit A, attached hereto and incorporated herein (the "Property").

B. The Property is located outside of the boundaries of the Town, but within the service area of the Town of Elizabeth for purposes of the Town providing residential effluent wastewater treatment services.

C. The Town and District seek to enter into this Agreement to allow the District to construct the Phase Improvements as generally described on Exhibit B attached hereto and incorporated herein by this referenced, and as described in the associated construction documents approved by the Director of Public Works of the Town (collectively the "Phase Improvements") and to connect the Phase Improvements to the Town of Elizabeth wastewater treatment system (the "System").

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which are mutually acknowledged, the parties hereto agree as follows:

1. **Purpose.** The purpose of this Agreement is to set forth the terms, conditions and fees to be paid by the District, to allow connection to the System.

2. **Fees.** The following fees shall be paid to the Town by the District.

a. The District hereby agrees to pay the Town the actual cost to the Town for plan review, engineering review, and surveying review, prior to and during the process of constructing the to connect the Phase Improvements to the System, and for construction observation, inspection and materials testing during the construction process for the Phase Improvements, and for construction observation, inspection and materials testing and electronic deliverable review during the warranty period for such Phase Improvements (the "actual costs"), and administrative fees not to exceed one hundred fifteen percent (115%) of the actual costs.

3. **Specific Conditions.** The District hereby agrees to construct the Phase Improvements as more particularly described in Exhibit B, attached hereto and incorporated herein by this reference.

4. **Breach by the District; the Town's Remedies.** In the event of a breach of any of the terms and conditions of this Agreement by the District, the Board of Trustees shall be notified

immediately and the Town may take such action, as permitted and/or authorized by law, this Agreement or the ordinances as the Town deems necessary to protect the public health, safety and welfare; and to protect the citizens of the Town from hardship and undue risk. The remedies include, but are not limited to:

- a. A demand that the security given for the completion of the Phase Improvements be paid or honored; or
- b. Any other remedy available at law.

Unless necessary to protect the immediate health, safety and welfare of the Town, or to protect the interest of the Town with regard to security given for the completion of the Phase Improvements, the Town shall provide the District thirty (30) days' written notice of its intent to take any action under this paragraph, during which thirty-day period the District may cure the breach described in the notice and prevent further action by the Town.

5. Phase Improvements and Warranty. All Phase Improvements as approved by the Director of Public Works of the Town, shall be installed and completed at the expense of the District and dedicated and/or conveyed to the Town. The Phase Improvements required by this Agreement, as well as associated construction documents approved by the Director of Public Works of the Town and the costs of the Phase Improvements, are set forth on Exhibit B. All Phase Improvements covered by this Agreement shall be constructed in accordance with the construction documents drawn according to regulations and construction standards for such Phase Improvements and approved by the Director of Public Works of the Town.

The District shall warrant any and all Phase Improvements, which are conveyed to the Town, pursuant to this Agreement, for a period of two (2) years from the date the Town's Director of Public Works grants probationary acceptance of the Phase Improvements, as approved by the Town. The warranty period shall extend to the date final acceptance is granted in writing by the Town's Director of Public Works. The District shall be responsible for scheduling the necessary inspections for probationary and final acceptance. Specifically, but not by way of limitation, the District shall warrant the following:

- a. That the title conveyed shall be marketable and its transfer rightful;
- b. Any and all facilities conveyed shall be free from any security interest or other lien or encumbrance; and
- c. Any and all facilities so conveyed shall be in conformity with the Town's specifications and shall be free of defects in materials or workmanship for a period of two (2) years, as stated above, including, but not limited to, cracks, breakage, settling, or other deterioration of the Phase Improvements, no matter the cause, for a period of two (2) years, as stated above.

The Town will accept for maintenance the Phase Improvements up to the tie-in at the Property boundary to the Town's wastewater system and the District shall be responsible for maintenance from the tie-in at the Property boundary upstream to and through the Property after the warranty period has expired, provided all warranty work has been completed. The Phase

Improvements to be maintained by the District shall be as more particularly described in Exhibit C, attached hereto and incorporated herein by this reference (the "District-Maintained Phase Improvements"). The District shall make all corrections necessary to bring the Phase Improvements into conformity with the Town's specifications, prior to final acceptance.

6. Observation. The Town shall have the right to make reasonable engineering observations at the District's expense, as the Town may request. Observation, acquiescence in, or approval by any engineering inspector of the construction of physical facilities at any particular time shall not constitute the approval by the Town of any portion of the construction of such Phase Improvements. Such approval shall be made by the Town only after completion of construction and in the manner hereinafter set forth.

7. Completion of Phase Improvements. The obligations of the District provided for in paragraph 3 of this Agreement, including the inspections hereof, shall be performed on or before _____, 20 __, and proper application for acceptance of the Phase Improvements shall be made on or before such date. Upon completion of construction by the District of such Phase Improvements, the Town's Director of Public Works or his designee shall inspect the improvements and certify with specificity their conformity or lack thereof to the Town's specifications. The District shall make all corrections necessary to bring the improvements into conformity with the Town's specifications. Once approved by the Town's Director of Public Works, the Town shall accept said improvements upon conveyance, pursuant to paragraph 9; provided, however, the Town shall not be obligated to accept the Phase Improvements until the actual costs described in paragraphs 2.a. and b. of this Agreement are paid in full by the District.

8. Related Costs – Phase Improvements. The District shall provide all necessary engineering designs, surveys, field surveys and incidental services related to the construction of the Phase Improvements, at its sole cost and expense, including reproducible "as built" drawings certified accurate by a professional engineer registered in the State of Colorado.

9. Phased Improvements to be the Property of the Town or District. The District will own, operate and maintain all of the Phase Improvements except for those specifically identified to be dedicated to the Town on Exhibit C. The Phase Improvements accepted by the Town shall be warranted for a period of two (2) years following probationary acceptance by the Town, as provided above, and shall be dedicated to the as more particularly described in Exhibit C. Upon completion of construction and conformity with the approved construction plans, and any properly approved changes, the District shall convey to the Town, by bill of sale, any of the Phased Improvements identified on Exhibit C to be dedicated to the Town, if any. The District shall own, operate and maintain all of the Phase Improvements not identified on Exhibit C to be dedicated to the Town.

10. Performance Guarantee. In order to secure the construction and installation of the Phase Improvements, the District shall, no later than ninety (90) days after the execution of this Agreement, furnish the Town, at the District's or the District's assignee's expense, with the performance guarantees described herein. The performance guarantees shall be in the form of cash or an irrevocable letter of credit in which the Town is designated as beneficiary, in an amount equal to one hundred ten percent (110%) of the estimated costs of the Phase Improvements to be constructed and installed, as set forth in Exhibit B, to secure the performance and completion of

the Phase Improvements (the "Performance Guarantees"). The District agrees that approval of this Agreement is contingent upon the District's provision of Performance Guarantees to the Town within ninety (90) days of the execution of this Agreement, in the amount and form provided herein, and the failure of the District to provide a Performance Guarantees to the Town, in the manner provided herein, shall negate the Town's approval of this Agreement. Letters of credit shall be substantially in the form and content set forth in Exhibit D-1, attached hereto and incorporated herein, and shall be subject to the review and approval of the Town Attorney. The cash shall be paid to the Town according to the terms and conditions of the "Financial Guarantee," which shall be substantially in the form and content set forth in Exhibit D-2, attached hereto and incorporated herein, and shall be subject to the review and approval of the Town Attorney. The District shall not start the construction of any Phase Improvements on the Property, including, but not limited to, staking, earth work, overlot grading or the erection of any structure, temporary or otherwise, until the Town has received and approved the Performance Guarantees.

The estimated costs of the Phase Improvements shall be a figure mutually agreed upon by the District and the Town's Director of Public Works, as set forth in Exhibit B. If, however, they are unable to agree, the Director of Public Works' estimate shall govern after giving consideration to information provided by the District, including, but not limited to, construction contracts and engineering estimates. The purpose of the cost estimate is solely to determine the amount of security. No representations are made as to the accuracy of these estimates and the District agrees to pay the actual costs of all such Phase Improvements.

The estimated costs of the Phase Improvements may increase in the future. Accordingly, the Town reserves the right to review and adjust the cost estimates on an annual basis. Adjusted cost estimates will be made according to changes in the Construction Costs Index, as published by the Engineering News Record. If the Town adjusts the cost estimate for the Phase Improvements, the Town shall give written notice to the District. The District shall, within thirty (30) days after receipt of said written notice, provide the Town with new or amended Performance Guarantees in the amount of the adjusted cost estimates. If the District refuses or fails to so provide the Town with new or amended Performance Guarantees, the Town may exercise the remedies provided for in paragraph 4 of this Agreement; provided, however, that prior to increasing the amount of additional security required, the Town shall give credit to the District for all required Phase Improvements which have actually been completed so that the amount of security required at any time shall relate to the cost of required Phase Improvements not yet constructed.

In the event the Phase Improvements are not constructed or completed within the period of time specified by paragraph 6 of this Agreement or a written extension of time mutually agreed upon by the parties to this Agreement, the Town may draw on the Performance Guarantees to complete the Phase Improvements called for in this Agreement. In the event the letter of credit is to expire within fourteen (14) calendar days and the District has not yet provided a satisfactory replacement, the Town may draw on the letter of credit, and either hold such funds as security for performance of this Agreement, or spend such funds to finish the Phase Improvements or correct problems with the Phase Improvements, as the Town deems appropriate.

Upon completion of performance of such improvements, conditions and requirements within the required time and the approval of the Town Public Works Director, the District shall issue an irrevocable letter of credit to the Town in the amount of ten (10%) of the total cost of

construction and installation of the Phase Improvements, to be held by the Town during the two-year warranty period or, in the alternative, if the Performance Guarantees held by the Town are cash, the Town will reduce the cash amount to ten percent (10%) of the total cost of construction and installation of the Phase Improvements, to be held by the Town during the two-year warranty period. If the Phase Improvements are not completed within the required time, the monies may be used to complete the improvements.

11. Indemnification. To the extent permitted by law, the District shall indemnify and hold harmless the Town, its officers, employees, agents or servants from any and all suits, actions and claims of every nature and description caused by, arising from or on account of any act or omission of the District, or of any other person or entity for whose act or omission the District is liable, with respect to construction of the Phase Improvements; and the District shall pay any and all judgments rendered against the Town as the result of any suit, action or claim, together with all reasonable expenses and attorney fees incurred by the Town in defending any such suit, action or claim.

The District shall pay all property taxes on the Property dedicated to the Town, and shall indemnify and hold harmless the Town for any property tax liability.

The District shall require that all contractors and other employees engaged in construction of Phase Improvements shall maintain adequate workers' compensation insurance and public liability coverage and shall faithfully comply with the provisions of the Federal Occupational Safety and Health Act.

12. Waiver of Defects. In executing this Agreement the District waives all objections it may have concerning defects, if any, in the formalities whereby it is executed, or concerning the power of the Town to impose conditions on the District, as set forth herein, and concerning the procedure, substance and form of the ordinances or resolutions adopting this Agreement.

13. Modifications. This Agreement shall not be amended, except by subsequent written agreement of the parties.

14. Release of Liability. It is expressly understood that the Town cannot be legally bound by the representations of any of its officers or agents or their designees, except in accordance with the Elizabeth Municipal Code and the laws of the State of Colorado.

15. Captions. The captions to this Agreement are inserted only for the purpose of convenient reference and in no way define, limit or prescribe the scope or intent of this Agreement or any part thereof.

16. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns, as the case may be.

17. Invalid Provision. If any provision of this Agreement shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision hereof, and all of the other provisions shall remain in full force and effect. It is the intention of the parties hereto that if any provision of this Agreement is capable of two

constructions, one of which would render the provision void and the other which would render the provision valid, then the provision shall have the meaning which renders it valid.

18. Governing Law. The laws of the State of Colorado shall govern the validity, performance and enforcement of this Agreement. Should either party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that venue of such suit or action shall be in Elbert County, Colorado.

19. Attorney Fees. Should this Agreement become the subject of litigation to resolve a claim of default of performance by the District and a court of competent jurisdiction determines that the District was in default in the performance of the Agreement, the District shall pay the attorney fees, expenses and court costs of the Town.

Notice. All notice required under this Agreement shall be in writing and shall be hand delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below. Either party, by notice so given, may change the address to which future notices shall be sent.

Notice to the Town: Town of Elizabeth
Attn: Public Works Director
Town of Elizabeth
Attn: Director of Community Development
151 South Banner Street
Elizabeth, Colorado 80107

With a copy to: Hoffmann, Parker, Wilson & Carberry, P.C.
Attn: Corey Y. Hoffmann, Town Attorney
511 16th Street, Suite 610
Denver, Colorado 80202

Notice to District: Pine Ridge Metropolitan District
Attn: District Manager
c/o Public Alliance
7555 E Hampden Ave Suite 501
Denver, Colorado 80231

With a copy to: McGeady Becher Cortese Williams P.C.
Attn: Suzanne Meintzer
450 East 17th Ave Suite 400
Denver, Colorado 80203

20. Force Majeure. Whenever the District is required to complete the construction, repair or replacement of Phase Improvements by an agreed deadline, the District shall be entitled to an extension of time equal to a delay in completing the foregoing, due to unforeseeable causes beyond the control and without the fault or negligence of the District, including, but not limited to, acts of God, weather, fires and strikes.

21. Approvals. Whenever approval or acceptance of the Town is necessary, pursuant to any provision of this Agreement, the Town shall act reasonably and in a timely manner in responding to such request for approval or acceptance.

22. Assignment or Assignments. There shall be no transfer or assignment of any of the rights or obligations of the District under this Agreement, without the prior written approval of the Town. The District agrees to provide the Town with at least fourteen (14) days' advance written notice of the transfer or assignment of any of the rights and obligations of the District under this Agreement.

23. Title and Authority. The District expressly warrants and represents to the Town that it is the record owner of the property constituting the Property and further represents and warrants, together with the undersigned individuals, that the undersigned individuals have full power and authority to enter into this Site Plan Agreement. The District and the undersigned individuals understand that the Town is relying on such representations and warranties in entering into this Agreement.

WHEREFORE, the parties hereto have executed this Agreement on the day and year first above written.

TOWN OF ELIZABETH, COLORADO

By: _____
Angela Ternus, Mayor

ATTEST:

Michelle M. Oeser, Town Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, Town Attorney

By: _____
James Marshall, President

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, as _____ of _____.

Notary Public

EXHIBIT A
To Phase Improvements Agreement
Property

4924-1051-9734, v. 3

9

4911-8678-1871, v. 8

C-9

EXHIBIT B
To Phase Improvements Agreement
Phase Improvements

4924-1051-9734, v. 3

10

4911-8678-1871, v. 8

C-10

EXHIBIT C

To Phase Improvements Agreement

**Description of Phase Improvements to be Dedicated to and Owned and Maintained by the
Town and Phase Improvements to be Owned and Maintained by the District**

EXHIBIT D-1
To Phase Improvements Agreement
Form of Letter of Credit

4924-1051-9734, v. 3

12

4911-8678-1871, v. 8

D-1-1

EXHIBIT D-1

To Phase Infrastructure Agreement

FORM- IRREVOCABLE LETTER OF CREDIT

Issuing Bank's Letterhead

Irrevocable Letter of Credit

Issuing Bank: [Type in bank name.]
Letter of Credit No.: [Type letter of credit
number.]
Amount: [Type in aggregate amount.]

Issuance Date: [Type loc issuance date.]
Expiry Date: [Type loc expiration date.]
Name of District: Pine Ridge Metropolitan
District

Town of Elizabeth
[Address]

Attention: Mayor and Town Attorney

Ladies and Gentlemen:

We hereby establish this Irrevocable Letter of Credit in your favor for an amount up to the aggregate sum of \$_____ U.S. Dollars.

Funds under this credit are available to you by your draft or drafts drawn at sight on us containing the number of this Letter of Credit, as set forth above, in the Form of Sight Draft attached hereto as Exhibit 1 and incorporated by this reference. Partial drawings are permitted. The amount of the funds available under this Letter of Credit may not be reduced, except by payment of drafts drawn hereunder, or pursuant to written authorization given to us by the Town. The sole condition for payment of any draft under this Letter of Credit is that the draft be accompanied by a letter, on the Town's letterhead, signed by the Mayor or designee, stating that one or more of the following conditions exist:

a. The Town has determined that the District is in default of its obligations under that certain Phase Improvements Agreement, to secure the performance of the Phase Improvements as defined in the Phase Improvements Agreement dated _____ between the Town and the District.

or

b. That the expiry date of this Irrevocable Letter of Credit is less than fourteen (14) days from the date of the Mayor or designee's letter and the District has not provided the Town with a replacement letter of credit in an amount and form acceptable to the Town to secure the performance of Phase Improvements as defined in the Phase Improvements Agreement dated _____ between the Town and the District.

4907-3535-1478, v. 2

EXHIBIT D-1

To Phase Infrastructure Agreement

Drafts for payment by the Town, pursuant to this Letter of Credit, shall be deemed timely presented if, prior to the date of expiration of the Letter of Credit, the draft is deposited in the U.S. mail or otherwise delivered for transmission by any other usual means of communication with postage or cost of transmission prepaid and properly addressed to the above letterhead address.

We hereby agree with the Town that such drafts will be processed in good faith and duly honored, upon presentation to us, as provided herein. In case of wrongful dishonor, we agree to reimburse the Town for all court costs, investigative costs and reasonable attorneys fees the Town may incur in obtaining payment, according to the terms of this Letter of Credit. This Letter of Credit shall be governed by and construed in accordance with the laws of the State of Colorado. We further agree that the exclusive venue for any action concerning this Letter of Credit shall be the District Court for Elbert County, Colorado.

Very truly yours,
[Name of Bank]

By: _____
Signature of Authorized Signing Officer

0

Print
Name
[Signature **Must** Be Notarized]

STATE OF COLORADO)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____,
20 __, by _____, as _____ of _____.

My commission expires: _____.

SEAL

Notary Public

4907-3535-1478, v. 2

EXHIBIT D-1
To Phase Infrastructure Agreement

EXHIBIT 1
To Letter of Credit Form
FORM OF SIGHT DRAFT

Date: _____

At sight, pay to the order of Town of Elizabeth _____
Dollars
(\$_____), for value received and charge to the account of Pine Ridge
Metropolitan District.

Drawn under Letter of Credit No _____
[*type letter of credit issuance date*].

To: [*name of Issuing Bank*] _____, Town of Elizabeth, beneficiary,

[*Address of Issuing Bank*] _____

By: [*type Mayor or designee*]

4907-3535-1478, v. 2

EXHIBIT D-2
To Phase Improvements Agreement
Form of Financial Guarantee Agreement

4924-1051-9734, v. 3

13

4911-8678-1871, v. 8

D-2-1

EXHIBIT D-2

FINANCIAL GUARANTEE AGREEMENT

THIS FINANCIAL GUARANTEE AGREEMENT (the "Agreement") is entered into this _____ day of _____, 20__, by and between the Town of Elizabeth, Colorado, a municipal corporation (the "Town"), and Pine Ridge Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado (the "District").

RECITALS

WHEREAS, the Town and the District have entered into that certain Intergovernmental Agreement for Wastewater Service (the "Wastewater Service IGA") dated _____, 20__, concerning that certain real property known as _____, which is more particularly described in **Exhibit A**, which is attached to the Wastewater Service IGA (the "Property"); and

WHEREAS, pursuant to the Wastewater Service IGA, the District has agreed to install and complete at its expense certain Improvements (as that term is defined in the Wastewater Service IGA) on the Property.

WHEREAS, the installation of the Improvements is anticipated to be installed in phases and the Wastewater Service IGA requires the District to enter into a Phase Improvements Agreement for each set of Phase Improvements (as that term is defined in the Wastewater Service IGA) and to provide the Town with a financial guarantee, in an amount equal to one hundred ten percent (110%) of the costs of the Phase Improvements set forth in the related Phase Improvements Agreement naming the Town as the designated beneficiary, to secure the performance and completion of such Phase Improvements.

WHEREAS, the District and the Town have entered into a Phase Improvements Agreement dated _____, for the Phase Improvements set forth in **Exhibit B** thereto (the "Phase Improvements").

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which is hereby acknowledged and confessed, the parties hereto covenant and agree as follows:

1. Purpose. The purpose of this Agreement is to provide for a financial guarantee to the Town for the performance and completion of the Phase Improvements and, accordingly, to supplement the terms and conditions of the Wastewater Service IGA and the Public Infrastructure Agreement for the Phase Improvements. Defined terms within the Wastewater Service IGA and the Phase Improvements Agreement shall have the same meaning when used herein unless otherwise defined herein.

2. Financial guarantee. In order to secure the performance and completion of the Phase Improvements, the District agrees to deposit with the Town the sum of _____ Dollars (\$ _____), which represents one hundred ten percent (110%) of the estimated cost of the Phase Improvements (the "Financial Guarantee Funds"). All Financial Guarantee Funds shall be

deposited in the Town's General Fund. The Town shall not be required to pay the District any interest on the Financial Guarantee Funds.

The estimated costs of the Phase Improvements shall be a figure mutually agreed upon by the District and the Town's Director of Public Works. If, however, they are unable to agree, the Director of Public Works' estimate shall govern after giving consideration to information provided by the District including, but not limited to, construction contracts and engineering estimates. The purpose of the cost estimate is solely to determine the amount of the financial guarantee. No representations are made as to the accuracy of these estimates, and the District agrees to pay the actual costs of all such Phase Improvements.

The estimated costs of the Phase Improvements may increase in the future. Accordingly, the Town reserves the right to review and adjust the cost estimate prior to the issuance of any grading permit for the Property and on an annual basis thereafter. Adjusted cost estimates will be made according to changes in the Construction Costs Index as published by the *Engineering News Record* or based upon actual construction bids, as determined by the Town in the exercise of its sole discretion. If the Town adjusts the cost estimate for the Phase Improvements, the Town shall give written notice to the District. The District shall, within thirty (30) days after receipt of said written notice, provide the Town with new funds in the amount of the adjusted cost estimates. If the District refuses or fails to so provide the Town with additional Financial Guarantee Funds, the Town may exercise the remedies provided for in Section IV. D. of the Wastewater Service IGA provided, however, that prior to increasing the amount of additional Financial Guarantee Funds required, the Town shall give credit to the District for all required Phase Improvements which have actually been completed so that the amount of Financial Guarantee Funds required at any time shall relate to the cost of required Phase Improvements not yet constructed.

3. Release of Financial Guarantee Funds.

a. The District intends to enter into several different contracts with different contractors to install the Phase Improvements. It is the intent of the parties hereto that Financial Guarantee Funds will be released as work is completed on each individual contract. In the event the Phase Improvements are not constructed or completed within the period of time specified in paragraph 7 of the Phase Improvements Agreement or a written extension of time mutually agreed upon by the parties to this Agreement, the Town may draw on the Financial Guarantee Funds to complete the Phase Improvements called for in this Agreement.

b. The Financial Guarantee Funds are to be used solely and exclusively for the completion of the Phase Improvements. The Town will disburse up to ninety percent (90%) of the estimated cost of the Phase Improvements as progress payments according to the schedule of values attached as **Exhibit 1** and incorporated by this reference (the "Schedule of Values"), upon the District's satisfaction of the following draw requirements:

1. The District delivers an application to the Town (which includes a certification signed by the District of the percentage of the total Phase Improvements completed according to the Schedule of Values), which application will be made no more

than once per month and shall be tied to progress toward the completion of the Phase Improvements, as identified in the application (the "Application").

2. Upon receipt of the Application, the Town shall have thirty (30) calendar days within which to provide written acknowledgement from the Public Works Director or designee of the Town that the Application may be paid, partially paid or denied. The Town's affirmation and payment will not constitute approval by the Town of the completion and/or acceptance of the Phase Improvements, or any portion thereof. Such acknowledgement shall not be unreasonably denied or withheld by the Town and shall be given if the Phase Improvements described in the Application are completed in accordance with the construction plans approved by the Town.

3. The Town shall have no obligation to provide probationary acceptance of the Phase Improvements, until all of the Phase Improvements are completed and all deficiencies, of any type, including, but not limited to, maintenance, materials or workmanship, that are identified by the Public Works Director at the final inspection are corrected (regardless of the cause of the deficiency).

4. Upon the Town's probationary acceptance of the Phase Improvements, the District has the option of substituting a letter of credit for ten percent (10%) of the cost of the Phase Improvements that the Town is holding for the two-year warranty period, as described in Phase Improvements Agreement, in a form and from a financial institution acceptable to the Town.

c. That portion of the Financial Guarantee Funds which represents ten percent (10%) of the estimated costs of the Phase Improvements shall be retained by the Town during the two-year warranty period described in the Phase Improvements Agreement. At the end of the warranty period and upon final acceptance by the Town, the remaining Financial Guarantee Funds shall be released to the District. The Town may draw on the Financial Guarantee Funds during the warranty period to correct any problems with the Phase Improvements which have not been corrected by the District, as provided by the Phase Improvements Agreement.

4. Modifications. This Agreement shall not be amended, except by subsequent written agreement of the parties.

5. Release of Liability. It is expressly understood that the Town cannot be legally bound by the representations of any of its officers or agents or their designees, except in accordance with the Elizabeth Municipal Code and the laws of the State of Colorado.

6. Captions. The captions to this Agreement are inserted only for the purpose of convenient reference and in no way define, limit, or prescribe the scope or intent of this Agreement or any part thereof.

7. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns as the case may be.

8. Invalid Provision. If any provision of this Agreement shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other

provision hereof, all of the other provisions shall remain in full force and effect. It is the intention of the parties hereto that if any provision of this Agreement is capable of two (2) constructions, one of which would render the provision void, and the other which would render the provision valid, then the provisions shall have the meaning which renders it valid.

9. Governing law. The laws of the State of Colorado shall govern the validity, performance and enforcement of this Agreement. Should either party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that venue of such suit or action shall be in Elbert County, Colorado.

10. Notice. All notice required under this Agreement shall be in writing and shall be hand delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below. Either party, by notice so given, may change the address to which future notices shall be sent.

Notice to the Town: Town of Elizabeth
Attn: Public Works Director
Town of Elizabeth
Attn: Director of Community Development
151 South Banner Street
Elizabeth, Colorado 80107

With a copy to: Hoffmann, Parker, Wilson & Carberry, P.C.
Attn: Corey Y. Hoffmann, Town Attorney
511 16th Street, Suite 610
Denver, Colorado 80202

Notice to District: Pine Ridge Metropolitan District
Attn: District Manager
c/o Public Alliance
7555 E Hampden Ave Suite 501
Denver, Colorado 80231

With a copy to: McGeady Becher Cortese Williams P.C.
Attn: Suzanne Meintzer
450 East 17th Ave Suite 400
Denver, Colorado 80203

11. Assignment or Assignments. There shall be no transfer or assignment of any of the rights or obligations of the District under this Agreement without the prior written approval of the Town. The District agrees to provide the Town with at least fourteen (14) days' advance written notice of the transfer or assignment of any of the rights and obligations of the District under this Agreement.

12. Title and Authority. The District expressly warrants and represents to the Town that it has the full power and authority to enter into this Financial Guarantee Agreement. The District and the undersigned individual(s) understand that the Town is relying on such representations and warranties in entering into this Agreement.

13. Conflict with Phase Improvements Agreement. In the event there is a conflict between the language contained within the Financial Guarantee Agreement and the language contained within the Phase Improvements Agreement, the language contained in the Phase Improvements Agreement shall control.

WHEREFORE, the parties hereto have executed this Agreement on the day and year first above written.

TOWN OF ELIZABETH, COLORADO

By: _____
Town Administrator

ATTEST:

Michelle Oeser, Town Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, Town Attorney

PINE RIDGE METROPOLITAN DISTRICT

By: _____
James Marshall, President

STATE OF COLORADO)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
20__, by _____, as _____ of _____.

My commission expires: _____.

SEAL

Notary Public

EXHIBIT 1
TO FINANCIAL GUARANTEE AGREEMENT

Schedule of Values