

**AGENDA**  
**TOWN OF HUDSON - BOARD OF TRUSTEES**  
**REGULAR MEETING**  
**December 2, 2015 - 6:00 P.M.**

**PLEDGE OF ALLEGIANCE**

**CALL TO ORDER AND ROLL CALL**

**ADDITIONS TO AGENDA**

**CITIZEN'S COMMENTS**

**1) CONSENT AGENDA**

(Consent Agenda Items are considered to be routine and will be enacted by one motion and vote. There will be no separate discussion of Consent Agenda Items unless a Board member or Citizen so requests, in which case the item may be removed from the Consent Agenda and considered at the end of the Regular Agenda.)

- a. Board of Trustees Minutes – Regular Meeting, November 18, 2015
- b. Payment of Bills
- c. Liquor License Renewal – Pit Stop Liquor
- d. Liquor License Renewal – RDS Village dba Hudson Market

**2) PUBLIC HEARING**

- a. Resolution Nos. 15-32 through 15-37, Service Plans for Shaklee Centre Metropolitan Districts Nos. 1 through 6

**3) GENERAL BUSINESS**

- a. Ordinance No. 15-13, Second Reading, United Power franchise renewal
- b. Resolution No. 15-40, Enacting a Supplemental Budget and Appropriation for the 2015 Budget of the Town of Hudson
- c. Resolution 15-30, A Resolution adopting the 2016 Budget for the Town of Hudson, Colorado, and appropriating monies for implementation of budget for the calendar year beginning on the first day of January, 2016, and ending on the last day of December, 2016
- d. Resolution 15-31, A Resolution levying general property taxes for the year 2015, to help defray the costs of government for the Town of Hudson, Colorado, for the 2016 Budget year
- e. Ordinance No. 15-15, First Reading, An Ordinance approving the conveyance of Town-owned property known as Lots 17 through 20, Block 1, Hudson Heights addition, plus the adjoining vacated north fifteen feet of Fifth Avenue
- f. Resolution No. 15-32, Approving the Service Plan for Shaklee Centre Metropolitan District No. 1
- g. Resolution No. 15-33, Approving the Service Plan for Shaklee Centre Metropolitan District No. 2

- h. Resolution No. 15-34, Approving the Service Plan for Shaklee Centre Metropolitan District No. 3
- i. Resolution No. 15-35, Approving the Service Plan for Shaklee Centre Metropolitan District No. 4
- j. Resolution No. 15-36, Approving the Service Plan for Shaklee Centre Metropolitan District No. 5
- k. Resolution No. 15-37, Approving the Service Plan for Shaklee Centre Metropolitan District No. 6
- l. Memorandum of Understanding and Contribution Agreement, Kerr McGee Oil & Gas Onshore LP
- m. Town Marshal Policies and Procedures
- n. Ordinance 15-16, First Reading, An Ordinance repealing and reenacting Section 2-11 of the Hudson Municipal Code regarding deadlines for affidavits for write in candidates and cancellation of elections
- o. Resolution 15-38, A Resolution declaring the Town's intent to conduct the April 5, 2016, Regular Municipal Election as a Mail Ballot Election
- p. Resolution 15-39, A Resolution authoring the Town Clerk to appoint Election Judges for the Town's April 5, 2016, Regular Municipal Election

3) **STAFF REPORTS**

4) **ADJOURNMENT**

MINUTES  
TOWN OF HUDSON - BOARD OF TRUSTEES  
REGULAR MEETING  
November 18, 2015 - 6:00 P.M.

PLEDGE OF ALLEGIANCE

CALL TO ORDER AND ROLL CALL

Mayor Patch called the meeting to order at 6:00 p.m.

ROLL CALL

Mayor, Raymond Patch - Present  
Trustee, Matt Cole – Present  
Trustee, Laura Hargis – Present  
Trustee, Christine Hamilton – Present  
Trustee, Julia Stell – Present  
Trustee, Terri Davis – Absent  
Trustee, Maria Chavez - Present

Town Clerk/Treasurer, Linnette Barker took roll call, and a quorum of the Mayor Pro-Tem and (5) Trustees were present.

Town Staff Present:

Town Administrator – Joe Racine  
Town Attorney – Kathryn Sellars  
Town Clerk/Treasurer– Linnette Barker  
Economic Development Director – Dan Hamsmith  
Public Works Director – Ron Allen  
Utility Director – Hunter Fobare  
Public Safety Director – Brent Flot

ADDITIONS TO AGENDA

CITIZEN'S COMMENTS

Billie Stam was present to introduce herself. Mrs. Stam will be starting with the Town of Hudson on November 30, 2015 as the new Recreation Director/Events Coordinator.

Nick Montelbano, from New Vision Development presented five home models proposed for Hudson Hills. The Hudson Hills Filing No. 1 PD plan has architectural standards that must be met. Joe Racine, Town Administrator, reported that, as a condition of annexation before a building permit is issued the school property needs to be dedicated. Ryan Carlson, owner of Hudson Hills was present and reported that the deed and title should be ready within a week. The Board of Trustees consensus was to add the home model approval to the regular agenda item 3.a.1.

1) **CONSENT AGENDA**

(Consent Agenda Items are considered routine and will be enacted by one motion and vote. There will be no separate discussion of Consent Agenda Items unless a Board member or Citizen so requests, in which case the items may be removed from the Consent Agenda and considered at the end of the Regular Agenda.)

- a. Board of Trustees Minutes, Regular Meeting, November 4, 2015
- b. Payment of Bills
- c. Liquor License Renewal – End of the Trail dba Rough Rider Saloon

Trustee Cole made a motion, seconded by Trustee Hargis to approve the Consent Agenda.

The vote was as follows:

Aye: Trustees Cole, Hargis, Stell, Hamilton, Chavez and Mayor Patch

Nay - None

Mayor Patch declared the motion carried.

## 2) PUBLIC HEARING

- a. Update to the Floodplain Overlay District in Section 16-146(c) (2) of the Hudson Land Development Code to comply with the National Flood Insurance Program.

Mayor Patch opened the Public Hearing for the update to Section 16-146(c) (2) of the Hudson Land Development Code to comply with the National Flood Insurance Program at 6:25 pm.

Joe Racine, Town Administrator, reported this is to incorporate revised floodplain maps. All required public notification requirements for the update to the ordinance were completed. Staff recommended approval of the update and the Planning Commission voted unanimously to recommend approval to the Board of Trustees.

No public comment.

Mayor Patch closed the Public Hearing at 6:29 pm.

## 3) GENERAL BUSINESS

- a. Ordinance No. 15-13, Second Reading, United Power franchise renewal

Trustee Cole made a motion, seconded by Trustee Stell to continue Ordinance No. 15-13, Second Reading, United Power franchise renewal until December 2, 2015.

The vote was as follows:

Aye: Trustees Cole, Stell, Chavez, Hargis, Hamilton and Mayor Patch

Nay – Trustee Cole

Mayor Patch declared the motion carried.

- a.1. Home Models, Hudson Hills Phase 1

Mayor Patch made a motion, seconded by Trustee Cole to approve the Bluestem, Autumn Moor, Morning Light, Feather Reed and Sweetgrass home models with alternative siding, as presented to the Board by New Vision Development Partners and to authorize Town Staff to make future decisions regarding architectural compliance with the PD plan house plans in Hudson Hills.

The vote was as follows:

Aye: Trustees Cole, Hargis, Stell, Hamilton, Chavez and Mayor Patch

Nay – Trustee Cole

Mayor Patch declared the motion carried.

- b. Ordinance No. 15-14, Second Reading, An Ordinance Amending the Hudson Municipal Code concerning updated Flood Insurance Rate Maps

Trustee Hargis made a motion, seconded by Trustee Cole to approve Ordinance No. 15-14, Second Reading, An Ordinance amending the Hudson Municipal Code concerning updated flood insurance rate maps.

The vote was as follows:

Aye: Trustees Hargis, Cole, Stell, Chavez, Hamilton and Mayor Patch

Nay - None

Mayor Patch declared the motion carried.

- c. Approval job description – Deputy Marshal

Brent Flot, Public Safety Director, presented the proposed job description for the Deputy Marshal.

Trustee Cole made a motion, seconded by Trustee Hargis to approve Deputy Marshal job description.

The vote was as follows:

Aye: Trustees Cole, Hargis, Hamilton, Stell, Chavez and Mayor Patch

Nay - None

Mayor Patch declared the motion carried.

- d. Bid Award – Street Repairs

Joe Racine, Town Administrator, reported that during the cleanup of the BNSF derailment last spring the railroad's crews and contractor used town streets on both sides of the tracks for access to the accident site. BNSF paid \$44,431.22 to the Town for the street repairs.

Ron Allen, Public Works Director, reported that he received three bids. Mr. Allen recommended approval of A-One Chipseal bid for \$44,431.22.

Trustee Hargis made a motion, seconded by Trustee Chavez to approve the A-One Chipseal bid for \$44,431.22.

The vote was as follows:

Aye: Trustees Hargis, Chavez, Stell, Hamilton, Cole and Mayor Patch

Nay - None

Mayor Patch declared the motion carried.

- e. Report: DRAFT Memorandum of Understanding and Contribution Agreement with Kerr McGee Oil & Gas Onshore LP

Joe Racine, Town Administrator, reported that he just received the draft Memorandum of Understanding and Contribution Agreement with Kerr McGee Oil & Gas Onshore LP. The agreements are a good faith effort by Kerr McGee to meet the Board's conditions on the USR permits for the two Shaklee Well Pads.

Trustee Hargis made a motion, seconded by Trustee Cole to continue the Memorandum of Understanding and Contribution Agreement with Kerr McGee Oil & Gas Onshore LP until December 2, 2016.

The vote was as follows:

Aye: Trustees Hargis, Cole, Stell, Chavez, Hamilton and Mayor Patch

Nay - None

Mayor Patch declared the motion carried.

- f. Resolution 15-29, A Resolution to cancel the Regular Board of Trustees Meeting on December 16, 2015

Trustee Cole made a motion, seconded by Trustee Hargis to approve Resolution 15-29, A Resolution to cancel the Regular Board of Trustees Meeting on December 16, 2015 and to pay the Board of Trustees for the cancelled meeting.

The vote was as follows:

Aye: Trustees Cole, Hargis, Hamilton, Stell, Chavez and Mayor Patch

Nay - None

Mayor Patch declared the motion carried.

- g. Resolution 15-28, A Resolution setting procedures for the Christmas Bonus compensation for employees of the Town of Hudson

Trustee Cole made a motion, seconded by Trustee Chavez to approve Resolution 15-28, A Resolution setting procedures for the Christmas Bonus compensation for employees of the Town of Hudson.

The vote was as follows:

Aye: Trustees Cole, Chavez, Stell, Hargis, Hamilton and Mayor Patch

Nay - None

Mayor Patch declared the motion carried.

Mayor Patch made a motion, seconded by Trustee Cole to pay the employees the same bonus amount as last year subject to Resolution 15-28.

The vote was as follows:

Aye: Trustees Cole, Chavez, Hargis, Hamilton, Stell and Mayor Patch

Nay - None

Mayor Patch declared the motion carried.

**3) STAFF REPORTS**

Joe Racine, Town Administrator, reported that he went to Grand Junction for the grant presentation for the Town Hall. The 2016 draft budget includes grant proceeds and a 50% match for the Town Hall. Notice of the grant awards will be presented the 1<sup>st</sup> or 2<sup>nd</sup> week in December.

Ron Allen, Public Works Director, requested that we take the old street sweeper to Ritchie or Roller Auctions. The Board of Trustees consensus was to take the old street sweeper to one of these auctions.

Ron Allen, Public Works Director, reported that he hired Kelley Dewey in the Public Works Department.

Hunter Fobare, Utility Director, reported that the Utility Department will start working on the water meter replacements; most of the remaining meters are inside homes. They will be working with residents to schedule the replacements.

Brent Flot, Public Safety Director, reported he will be attending a meeting with the Weld County Commissioners for the radio system.

Dan Hamsmith, Economic Development Director, reported that the Town Hall Lighting will be held on December 4, 2015 from 6:00 – 8:00 pm.

Mayor Patch, reported that the Home Rule Charter Commission will start meeting on November 30, 2015 at 6:00 pm.

**ADJOURNMENT**

The meeting adjourned at approximately 7:05 p.m.

TOWN OF HUDSON, COLORADO

\_\_\_\_\_  
Mayor

ATTEST

\_\_\_\_\_  
Town Clerk

## Report Criteria:

Report type: GL detail

Check.Type = {&lt;&gt;} "Adjustment"

Check Issue Date	Check Number	Vendor Number	Payee	Invoice Number	Description	Invoice GL Account	Check Amount
11/30/2015	51181	1136	Asphalt Specialties Co Inc.	15130-2	CR 49 Overlay - Mill	23-71-7714	18,054.25
Total 51181:							18,054.25
11/30/2015	51182	2	Atmos Energy	111015-3014	Natural Gas Utility - 557 Ash Street	70-64-6412	26.22
11/30/2015	51182	2	Atmos Energy	111015-3014	Natural Gas Utility - 557 Ash Street	10-64-6412	26.21
11/30/2015	51182	2	Atmos Energy	113015-3014	Natural Gas Utilities - 509 Cherry Street	10-68-6412	31.11
Total 51182:							83.54
11/30/2015	51183	1208	BBR	02932	Dumpster	10-68-6633	350.00
Total 51183:							350.00
11/30/2015	51184	1281	Bob Behrends Roofing	19350	Sparboe Roof	70-68-6633	2,827.20
11/30/2015	51184	1281	Bob Behrends Roofing	19351	Deep Well Roof	70-68-6633	627.60
Total 51184:							3,454.80
11/30/2015	51185	683	Bratton's Office Equipment Inc.	012559	Canon IRC Contract and Meter Charge	10-64-6633	668.23
Total 51185:							668.23
11/30/2015	51186	46	CarQuest Auto Parts Stores	2057-376008	Equipment Repairs - Batteries	10-68-6633	462.26
11/30/2015	51186	46	CarQuest Auto Parts Stores	2057-376008	Core Return	10-68-6633	81.00
Total 51186:							381.26
11/30/2015	51187	30	Century Link	110715-303-	Telephone Service - 303-536-4003	75-68-6410	101.96
11/30/2015	51187	30	Century Link	110715-303-	Fax Line	10-64-6410	64.39
11/30/2015	51187	30	Century Link	110715-303-	Telephone Service - 303-536-9311	10-64-6410	78.11
11/30/2015	51187	30	Century Link	110715-303-	Telephone Service - 303-536-9311	70-64-6410	78.11
11/30/2015	51187	30	Century Link	110715-303-	Telephone Service - 303-536-9365	70-68-6410	53.68
Total 51187:							376.25
11/30/2015	51188	1239	CH2E Colorado LLC	T-296	Tire Diposal - Town Clean Up Days	10-68-6730	23.10
Total 51188:							23.10
11/30/2015	51189	36	Colorado Analytical Laboratories I	151020036	Water Samples	70-68-6633	1,089.00
11/30/2015	51189	36	Colorado Analytical Laboratories I	151103081	Wastewater Samples	75-68-6633	209.70
11/30/2015	51189	36	Colorado Analytical Laboratories I	151110073	Wastewater Samples	75-68-6633	111.60
Total 51189:							1,410.30
11/30/2015	51190	37	Coren Printing Inc.	79770	Letterhead with New Logo	10-64-6720	109.27
Total 51190:							109.27
11/30/2015	51191	33	DPC Industries Inc.	737005004-1	WW Chemicals	75-68-6710	70.00

Check Issue Date	Check Number	Vendor Number	Payee	Invoice Number	Description	Invoice GL Account	Check Amount
11/30/2015	51191	33	DPC Industries Inc.	737005097-1	Water Chemicals	70-68-6710	857.50
Total 51191:							927.50
11/30/2015	51192	53	Farm & Home Lumber	110415-2088	Retainage from New PW Shop	22-71-7713	11,837.43
Total 51192:							11,837.43
11/30/2015	51193	503	Flowmation Inc.	3547	Fort Lupton Flow Meter	70-68-6710	1,639.00
Total 51193:							1,639.00
11/30/2015	51194	54	Fort Lupton City of	FIN2015317	O&M for Joint Water Treatment Facility	70-68-6515	4,455.66
Total 51194:							4,455.66
11/30/2015	51195	1265	Galls LLC	004340861	Police Equipment	10-66-7734	471.97
Total 51195:							471.97
11/30/2015	51196	396	Gator Rubbish	111515-3094	Trash Service - WW Treatment Plant	75-68-6633	48.00
11/30/2015	51196	396	Gator Rubbish	307788	Trash Service - Lagoon Sewer	75-68-6633	100.00
11/30/2015	51196	396	Gator Rubbish	308233	Trash Service - 258 Fifth Avenue	10-68-6633	48.00
11/30/2015	51196	396	Gator Rubbish	308269	Trash Service - 509 Cherry Street	10-68-6633	48.00
11/30/2015	51196	396	Gator Rubbish	309403	Portable Toilet - Oct 2015	10-69-6415	205.00
11/30/2015	51196	396	Gator Rubbish	309403	Trash Service - 557 Ash Street	10-64-6633	38.00
Total 51196:							487.00
11/30/2015	51197	877	Great Panes Glassworks/Profit Re	15460	Memorial Brick Pavers	10-69-6633	129.50
Total 51197:							129.50
11/30/2015	51198	1047	JE-CO Equipment	W 1-1018	Plow Truck Repair	10-68-6633	1,164.82
11/30/2015	51198	1047	JE-CO Equipment	W 1-1026	Mack Repairs	10-68-6633	634.55
Total 51198:							1,799.37
11/30/2015	51199	276	Joe Racine	113015	Mileage	10-64-6213	293.82
11/30/2015	51199	276	Joe Racine	113015	Medicare Reimbursement	10-64-6110	149.90
11/30/2015	51199	276	Joe Racine	113015	Meals for EIAF Presentation	10-64-6210	19.38
11/30/2015	51199	276	Joe Racine	113015	Computer, Camera Phone	10-64-6633	50.00
Total 51199:							513.10
11/30/2015	51200	1283	Jordan High Pressure Washer Cor	62282	Sewer Jetter Repair	75-68-6633	2,515.63
Total 51200:							2,515.63
11/30/2015	51201	134	Judith A. McGill	112015	Mileage - PC Agendas, Veteran Day Supplies	10-64-6213	25.88
Total 51201:							25.88
11/30/2015	51202	1282	Motorola Solutions Inc.	41215242	Radios	10-66-7734	7,509.75

Check Issue Date	Check Number	Vendor Number	Payee	Invoice Number	Description	Invoice GL Account	Check Amount
Total 51202:							7,509.75
11/30/2015	51203	1146	Rebecca Utecht	113015	Mileage - Bank Deposits, Conference and PC Packets	10-64-6213	201.25
11/30/2015	51203	1146	Rebecca Utecht	113015	Cell Phone - December 2015	10-64-6411	25.00
Total 51203:							226.25
11/30/2015	51204	1043	Stolfus	15027-3	Hudson Comp Plan	10-65-6633	472.50
Total 51204:							472.50
11/30/2015	51205	896	Swanhorst & Company LLC	110915	Final Billing on Audit of 12/31/14 Financial Statements	25-64-6632	570.00
11/30/2015	51205	896	Swanhorst & Company LLC	110915	Final Billing on Audit of 12/31/14 Financial Statements	10-64-6632	2,565.00
11/30/2015	51205	896	Swanhorst & Company LLC	110915	Final Billing on Audit of 12/31/14 Financial Statements	70-64-6632	1,282.50
11/30/2015	51205	896	Swanhorst & Company LLC	110915	Final Billing on Audit of 12/31/14 Financial Statements	75-64-6632	1,282.50
Total 51205:							5,700.00
11/30/2015	51206	536	Verizon Wireless	9755339562	Cell Phone Service - Mayor Patch	10-61-6411	52.31
11/30/2015	51206	536	Verizon Wireless	9755339562	Ops Cell Phone Service	10-88-6411	52.31
11/30/2015	51206	536	Verizon Wireless	9755339562	Admin Cell Phone Service	10-64-6411	17.15
11/30/2015	51206	536	Verizon Wireless	9755339562	Water Cell Phone Service	70-64-6411	23.15
11/30/2015	51206	536	Verizon Wireless	9755339562	Wastewater Cell Phone Service	70-68-6411	23.15
11/30/2015	51206	536	Verizon Wireless	9755339562	Police Cell Phone Service	10-66-6411	44.84
11/30/2015	51206	536	Verizon Wireless	9755339562	Wastewater Cell Phone Service	75-68-6411	23.16
Total 51206:							236.07
11/30/2015	51207	293	Virulent Solutions Inc.	H151124HPL	Laptop Setup - Billie Stam	10-64-6633	902.50
11/30/2015	51207	293	Virulent Solutions Inc.	H151125JUD	Repair Judy's Computer	10-64-6633	665.00
Total 51207:							1,567.50
11/30/2015	51208	13	Weld County Sheriffs Office	110915	Weld County Sherrif's Patrol Time	10-66-6632	10,278.52
Total 51208:							10,278.52
Grand Totals:							75,703.63

## Report Criteria:

Report type: GL detail

Check.Type = {&lt;-&gt;} "Adjustment"

**LIQUOR OR 3.2 BEER LICENSE  
 RENEWAL APPLICATION**

Fees Due	
Renewal Fee	\$227.50
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Related Resort \$75 x _____	_____
<b>Amount Due/Paid</b>	

PIT STOP LIQUOR  
 PO BOX 127  
 HUDSON CO 80642-0127

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

**PLEASE VERIFY & UPDATE ALL INFORMATION BELOW**

**RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE**

Licensee Name PSL INVESTMENTS LLC		DBA PIT STOP LIQUOR		
Liquor License # 03717770000	License Type Liquor Store (city)	Sales Tax License # 03717770000	Expiration Date 2/8/2016	Due Date 12/25/2015
Street Address 618 CEDAR HUDSON CO 80642				Phone Number 303536-4591
Mailing Address PO BOX 127 HUDSON CO 80642-0127				
Operating Manager	Date of Birth 8-2-44	Home Address 2278 Clancy Ct. Brighton, Co. 80601	Phone Number 303960-6120	

- Do you have legal possession of the premises at the street address above?  YES  NO  
 Is the premises owned or rented?  Owned  Rented\* \*If rented, expiration date of lease \_\_\_\_\_
- Since the date of filing of the last annual application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested.  YES  NO  
**NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS:** If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
- Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation.  YES  NO
- Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation.  YES  NO
- Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation.  YES  NO *3.2 license 165 N. Market St. Market Street Mart Keenesburg, Co. 80643*
- SOLE PROPRIETORSHIPS, HUSBAND-WIFE PARTNERSHIPS AND PARTNERS IN GENERAL PARTNERSHIPS:** Each person must complete and sign the DR 4679: Affidavit - Restriction on Public Benefits (available online or by calling 303-205-2300) and attach a copy of their driver's license, state-issued ID or valid passport.

**AFFIRMATION & CONSENT**

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business Harry Kleve	Title Managing Member
Signature <i>[Signature]</i>	Date 11-9-15

**REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY**

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S. **THEREFORE THIS APPLICATION IS APPROVED.**

Local Licensing Authority For	Date
Signature	Title
	Attest

MEMORANDUM  
November 16, 2015

TO: Hudson Marshal's Office

FROM: Linnette Barker  
Town Clerk

SUBJECT: LIQUOR LICENSE RENEWAL

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This memorandum is to request a liquor license inspection for the Pit Stop Liquor Store.

The liquor license renewal application for the Pit Stop Liquor Store was received November 12, 2015. The owner is Larry Kleve with the business being located at 618 Cedar Street, Hudson, Colorado 80642. The type of license held for this business is Retail Liquor Store License - Malt, Vinous and Spirituous License. The last inspection date was November 2014.

I will place the renewal of this liquor license on the agenda for the Board of Trustees meeting scheduled for Wednesday, December 2, 2016. I will need the information back by November 25, 2015.

If you have any questions concerning this renewal, please contact me at 303.536.9311.

Thank you!

Linnette Barker

## INSPECTION REPORT

Case Number				Date of Report <i>11/25/15</i>
Name <i>Larry And Sue Kieve</i>				Time In/Out
Trade Name <i>Pit Stop Liquor</i>				Manager <i>Shantel Sigurdson</i>
Address <i>618 Cedar St</i>				License Type <i>Retail Liquor Store</i>
City <i>Hudson</i>		State <i>Colorado</i>		Zip <i>80642</i>
				Telephone <i>(303)536-4591</i>
Yes	No	N/A	Item	Comment
<input checked="" type="checkbox"/>			Valid State Liquor License Posted	
<input checked="" type="checkbox"/>			Valid State Sales Tax License Posted	
<input checked="" type="checkbox"/>			Valid Local License Posted	
		<input checked="" type="checkbox"/>	Valid Federal Tax Stamp Posted	
		<input checked="" type="checkbox"/>	Valid Food Service License Posted	
<input checked="" type="checkbox"/>			Minor Warning Sign Posted	
		<input checked="" type="checkbox"/>	Meals or Snacks Available	
<input checked="" type="checkbox"/>			Cleanliness is Adequate	
			Books and Invoices Available	
<input checked="" type="checkbox"/>			Beer Stock Acceptable	
<input checked="" type="checkbox"/>			Wine Stock Acceptable	
<input checked="" type="checkbox"/>			Liquor Stock Acceptable	
<input checked="" type="checkbox"/>			Alcohol Purchased from Permitted Sources	
		<input checked="" type="checkbox"/>	Compliance with Gambling Restrictions	
<input checked="" type="checkbox"/>			Manager Registered with Authorities	
<input checked="" type="checkbox"/>			Licensee in Possession/Control of Premises	
<input checked="" type="checkbox"/>			Trade Name Properly Registered	
<input checked="" type="checkbox"/>			Compliance with Intoxicated Sale Restrictions	
<input checked="" type="checkbox"/>			Compliance with Sale to Minor Provisions	
<input checked="" type="checkbox"/>			Premise Physical Control Adequate	
		<input checked="" type="checkbox"/>	Acceptable Dispensing Systems	
		<input checked="" type="checkbox"/>	Off Premise Storage Licensed	
<input checked="" type="checkbox"/>			Only Permitted Items Sold	
Other Issues:				
Warning Issued    Yes <input checked="" type="checkbox"/> No			Warned About: <i>NA</i>	
Investigator Name/Number <i>Brent Flot H101</i>			Person Advised: <i>NA</i>	

Liquor/Beer License Worksheet

The following concerns are noted: NA

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The Licensee and the Marshal's Office have collectively agreed to implement the following to correct concerns noted above: (A time line and corrective action should be listed for each concern)

NA

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Shantel Sigwardt  
Establishment Owner, Please Print

11/25/2015  
Date

Shantel Sigwardt  
Establishment Signature

[Signature]  
Marshal's Signature

Use another sheet of paper or attach separate proposal to this packet if needed.

Attach copies of all reports associated with this establishment for the last year.

Both the Marshal and the Owner of the establishment will be required to attend the Liquor Hearing to testify to the above agreement.

LIQUOR/BEER RENEWAL REVIEW FORM

Date:

To:

From:

Subject: Liquor License Check

In accordance with the new procedure for Liquor and/or beer license checks, please review all records on the following establishment for any associated reports during the last year and return your report to the Hudson Town Clerk to the Board's Office within two weeks. Your report will be used by the Town Board in considering renewal of the liquor and/or beer license.

PLEASE RESPOND NO LATER THAN:

ESTABLISHMENT:

Current license expires:



X No Concerns

Bj  
Marshal's Initials

\_\_\_\_\_ The Marshal's Office had a concern and the Marshal has mutually worked with the licensee to correct the concern. (Complete Attached Worksheet)

\_\_\_\_\_ Unresolved concerns exist requiring a Probable Cause Hearing scheduled by the Town Board. (Complete Attached Worksheet)



Please notify \_\_\_\_\_ at Extension \_\_\_\_\_ of the date and time of the Town Board's renewal hearing.

## LIQUOR OR 3.2 BEER LICENSE RENEWAL APPLICATION

Fees Due	
Renewal Fee	_____
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Amount Due/Paid	

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

**PLEASE VERIFY & UPDATE ALL INFORMATION BELOW**

**RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE**

Licensee Name RDS Village LLC		DBA Hudson Market		
Liquor License # 4600191	License Type 3.2% Beer Off Premises (city)	Sales Tax License # 29880109	Expiration Date 10/6/2015	Due Date
Street Address 540 Main St. Hudson CO 80642				Phone Number 303-536-4980
Mailing Address P O Box 39 Hudson, CO 80642				
Operating Manager	Date of Birth	Home Address	Phone Number	

1. Do you have legal possession of the premises at the street address above?  YES  NO  
 Is the premises owned or rented?  Owned  Rented\* \*If rented, expiration date of lease \_\_\_\_\_
2. Since the date of filing of the last annual application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested.  YES  NO  
**NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS:** If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
3. Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation.  YES  NO
4. Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation.  YES  NO
5. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation.  YES  NO
6. **SOLE PROPRIETORSHIPS, HUSBAND-WIFE PARTNERSHIPS AND PARTNERS IN GENERAL PARTNERSHIPS:** Each person must complete and sign the DR 4679: Affidavit – Restriction on Public Benefits (available online or by calling 303-205-2300) and **attach a copy of their driver's license, state-issued ID or valid passport.**

**AFFIRMATION & CONSENT**

*I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.*

Type or Print Name of Applicant/Authorized Agent of Business KASHPAL SINGH / DAVINDER SINGH SANDHU	Title PARTNER SHIPS
Signature Rupal si / Davinder Singh Sandhu	Date 11-23-25

**REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY**

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S. **THEREFORE THIS APPLICATION IS APPROVED.**

Local Licensing Authority For	Date
Signature	Title
	Attest

## INSPECTION REPORT

Case Number				Date of Report <i>11/30/2015</i>	
Name <i>RDS VILLAGE</i>				Time In/Out	
Trade Name <i>THE BARN STORE</i>				Manager	
Address <i>540 Main Street</i>				License Type <i>3.2% beer Retail off Premises</i>	
City <i>Hudson</i>		State <i>Colorado</i>		Zip <i>80642</i>	
Telephone					
Yes	No	N/A	Item	Comment	
<input checked="" type="checkbox"/>			Valid State Liquor License Posted		
<input checked="" type="checkbox"/>			Valid State Sales Tax License Posted		
<input checked="" type="checkbox"/>			Valid Local License Posted		
		<input checked="" type="checkbox"/>	Valid Federal Tax Stamp Posted		
		<input checked="" type="checkbox"/>	Valid Food Service License Posted		
<input checked="" type="checkbox"/>			Minor Warning Sign Posted		
		<input checked="" type="checkbox"/>	Meals or Snacks Available		
<input checked="" type="checkbox"/>			Cleanliness is Adequate		
<input checked="" type="checkbox"/>			Books and Invoices Available		
<input checked="" type="checkbox"/>			Beer Stock Acceptable		
		<input checked="" type="checkbox"/>	Wine Stock Acceptable		
		<input checked="" type="checkbox"/>	Liquor Stock Acceptable		
<input checked="" type="checkbox"/>			Alcohol Purchased from Permitted Sources		
		<input checked="" type="checkbox"/>	Compliance with Gambling Restrictions		
<input checked="" type="checkbox"/>			Manager Registered with Authorities		
<input checked="" type="checkbox"/>			Licensee in Possession/Control of Premises		
<input checked="" type="checkbox"/>			Trade Name Properly Registered		
<input checked="" type="checkbox"/>			Compliance with Intoxicated Sale Restrictions		
<input checked="" type="checkbox"/>			Compliance with Sale to Minor Provisions		
<input checked="" type="checkbox"/>			Premise Physical Control Adequate		
		<input checked="" type="checkbox"/>	Acceptable Dispensing Systems		
		<input checked="" type="checkbox"/>	Off Premise Storage Licensed		
<input checked="" type="checkbox"/>			Only Permitted Items Sold		
Other Issues: <i>N/A</i>					
Warning Issued    Yes <input checked="" type="radio"/> No    Warned About:					
Investigator Name/Number <i>Brent Flot H101</i> Person Advised:					

Liquor/Beer License Worksheet

The following concerns are noted: N/A

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The Licensee and the Marshal's Office have collectively agreed to implement the following to correct concerns noted above: (A time line and corrective action should be listed for each concern)

N/A

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Rashpal Singh  
Establishment Owner, Please Print

11/30/2015  
Date

Rupali  
Establishment Signature

B. E. F. H.  
Marshal's Signature

Use another sheet of paper or attach separate proposal to this packet if needed.

Attach copies of all reports associated with this establishment for the last year.

Both the Marshal and the Owner of the establishment will be required to attend the Liquor Hearing to testify to the above agreement.

LIQUOR/BEER RENEWAL REVIEW FORM

Date:

To:

From:

Subject:      Liquor License Check

In accordance with the new procedure for Liquor and/or beer license checks, please review all records on the following establishment for any associated reports during the last year and return your report to the Hudson Town Clerk to the Board's Office within two weeks. Your report will be used by the Town Board in considering renewal of the liquor and/or beer license.

PLEASE RESPOND NO LATER THAN:

ESTABLISHMENT:

Current license expires:

.....  
\_\_\_\_\_ No Concerns

BA  
\_\_\_\_\_ Marshal's Initials

\_\_\_\_\_ The Marshal's Office had a concern and the Marshal has mutually worked with the licensee to correct the concern. (Complete Attached Worksheet)

\_\_\_\_\_ Unresolved concerns exist requiring a Probable Cause Hearing scheduled by the Town Board. (Complete Attached Worksheet)  
.....

Please notify \_\_\_\_\_ at Extension \_\_\_\_\_ of the date and time of the Town Board's renewal hearing.

**PUBLIC HEARING**  
**METROPOLITAN DISTRICT SERVICE PLANS**  
**SHAKLEE CENTRE METROPOLITAN DISTRICTS NOS. 1 THROUGH 6**

December 2, 2015

**MAYOR:**

I WOULD LIKE TO OPEN THE PUBLIC HEARING FOR THE SERVICE PLANS FOR SIX PROPOSED METROPOLITAN DISTRICT SERVICE PLANS.  
(STATE TIME)

WILL THE CLERK PLEASE STATE THE PURPOSE OF THE HEARING?

**TOWN CLERK:**

A PUBLIC HEARING FOR THE PURPOSE OF RECEIVING COMMENTS ON SIX PROPOSED METROPOLITAN DISTRICT SERVICE PLANS, THE SHAKLEE CENTRE METROPOLITAN DISTRICTS 1 THROUGH 6.

**MAYOR:**

WAS THE NOTICE FOR THIS EVENING'S HEARING PUBLISHED IN THE LOCAL NEWSPAPER?

**ADMINISTRATOR:**

THE ANNEXATION AND ZONING HEARING WAS ADVERTISED BY THE APPLICANT IN THE NOVEMBER 6, 2015, EDITION OF THE GREELEY TRIBUNE.

**MAYOR:**

I WILL FIRST RECOGNIZE THE TOWN ADMINISTRATOR TO PRESENT STAFF COMMENTS ON THE PROPOSED SERVICE PLANS AND TO ANSWER QUESTIONS. I WILL THEN INVITE THE APPLICANT TO PRESENT THE REQUEST. I WILL THEN RECOGNIZE MEMBERS OF THE AUDIENCE WHO WISH TO SPEAK TO THE BOARD REGARDING THE PROPOSED

SERVICE PLANS. ALL WISHING TO SPEAK MAY COME FORWARD, ONE AT A TIME, TO THE PODIUM, SIGN IN AND STATE YOUR NAME AND ADDRESS FOR THE RECORD.

DOES THE ADMINISTRATOR HAVE A PRESENTATION.  
**(STAFF PRESENTATION)**

**MAYOR:**

DOES THE APPLICANT WISH TO ADDRESS THE BOARD ON THIS MATTER?

IF SO, PLEASE SIGN IN AND STATE YOUR NAME AND ADDRESS FOR THE RECORD.

**MAYOR:**

IS THERE ANY MEMBER OF THE PUBLIC WHO WISHES TO ADDRESS THE BOARD ON THIS MATTER?

IF SO, PLEASE SIGN IN AND STATE YOUR NAME AND ADDRESS FOR THE RECORD.

**MAYOR:**

DO ANY OF THE BOARD MEMBERS HAVE ANY REMAINING QUESTIONS OF STAFF ON THIS MATTER?

THERE BEING NO FURTHER DISCUSSION, I DECLARE THE PUBLIC HEARING IS CLOSED AT (STATE TIME).

**MAYOR:**

THE BOARD WILL CONSIDER ACTION ON THIS MATTER LATER IN THE AGENDA.  
NEXT AGENDA ITEM

## MEMORANDUM

3.a.

**To:** Board of Trustees  
**From:** Joe Racine, Town Administrator  
**Date:** December 2, 2015  
**Subject:** Ordinance No. 15-14, First Reading, United Power franchise renewal

### Attachment

After weeks of delays and continuances for the required advertising, the United Power franchise renewal is presented at this meeting for final action. Ordinance No. 15-14 approves the franchise for another twenty years.

United Power, the Town's electric power provider, operates under the terms of a franchise agreement. The current franchise, codified in Chapter 5, Article 2 of the Municipal Code, expired on November 1<sup>st</sup>. As a section of the Municipal Code, the proposed franchise renewal (61 pages in length) is proposed for adoption by ordinance.

Significant changes from the current ordinance include the following:

- Cost control on work that is done for the Town by United Power. [Section 6.8(B)]
- 20 year term. (The previous franchise agreement had been extended to 25 years.)

Franchises are agreements with the Town that detail the manner in which the service will be provided to the Town, and the use of Town streets for construction of facilities necessary to conduct the business. As with the current franchise, the franchise fee is 3% of revenue from sale of electricity. An additional 1.5% is set aside for the undergrounding fund.

The ordinance was approved on first reading at the October 21<sup>st</sup> meeting and has been tabled each meeting since. Although the current franchise term ended on November 1<sup>st</sup>, the terms of the ordinance will remain in effect until the replacement ordinance is adopted and becomes effective.

Representatives from United Power will be on hand at the meeting to answer questions.

ORDINANCE NO.

NO. 15-13  
Series of 2015

**TITLE: AN ORDINANCE APPROVING A FRANCHISE AGREEMENT WITH UNITED POWER, INC.**

BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF HUDSON, COLORADO, THAT:

Section 1. Article 2 of Chapter 5 of the Hudson Municipal Code, granting a franchise to United Power, Inc., is repealed and reenacted to read as follows:

**Sec. 5-50 Definitions.**

(a) **Short Title.** This agreement shall be known as the Town of Hudson/United Power Electric Franchise Agreement (“Franchise Agreement” or “Agreement”).

(b) **Definitions.** For the purpose of this franchise, the following words and phrases shall have the meaning given in this article . When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words “shall” or “will” are mandatory and “may” is permissive. Words not defined in this article shall be given their common and ordinary meaning.

“**Board of Trustees**” means the governing body of the Town of Hudson.

“**CPUC**” means the Colorado Public Utilities Commission.

“**Electric Distribution Facility**” means that portion of United Power’s electric system, which delivers electricity from the substation breakers to United Power’s meters including all devices connected to that system.

“**Electricity**” and “**Electric Service**” means all electric energy and electric service provided to customers located within the Town, including street lighting and traffic signal services.

“**Emergencies**” means an event that directly influences the ability to provide service or is life threatening.

“**Energy Conservation**” means the decrease in energy requirements of specific customers during any selected time period, with end-use services of such customers held constant.

**“Energy Efficiency”** means methods of energy conservation, reduced demand or improved load factors resulting from hardware, equipment, devices, or practices that are installed or instituted at a customer facility.

**“Facilities”** means all physical components of United Power which are deemed necessary by United Power to provide electricity within and through the Town for transportation, distribution and sale of electricity and include, but are not limited to, plants, works, systems, substations, transmission and distribution structures, lines, street lighting fixtures, equipment, conduit, transformers, underground lines, meter reading devices, communications and data transfer equipment, wires, cables, poles, and building structures.

**“Town Property”** refers to the surface, the air space above the surface and the area below the surface of any property owned or controlled by the Town or hereafter held by the Town, that would not otherwise fall under the definition of “Streets.”

**“Party”** or **“Parties”** refers to and includes United Power and the Town, either singly or collectively as the context requires.

**“Private Project”** refers to any project which is not covered by the definition of “Public Project.”

**“Public Project”** refers to (1) any public work or improvement within the Town that is wholly owned or wholly funded by the Town; or (2) any public work or improvement within the Town where fifty percent (50%) or more of the funding is provided by any combination of the Town, the federal government, the State of Colorado, in the County of Weld, and other entities established under Title 32 of the Colorado Revised Statutes.

**“Public Utility Easement”** refers to any easement over, under, or above public or private property, lawfully acquired by or dedicated to the use of United Power, its predecessors in interest, or other public utility companies for the placement of public utility facilities, including but not limited to United Power facilities. Public Utility easement shall not include any easement for the use of United Power that is located within the Streets.

**“Renewable Resource”** refers to any facility, technology, measure, plan or action utilizing a renewable “fuel” source such as wind, solar, biomass, geothermal, municipal, animal, waste-tire or other waste, or hydroelectric generation of twenty megawatts or less, including any eligible renewable energy resource as defined in § 40-2-124(i)(a), C.R.S., as the same shall be amended from time to time.

**“Residents”** means all persons, businesses, industry, governmental agencies and any other entity whatsoever, presently located or which are hereinafter located, in whole or in part, within the territorial boundaries of the Town of Hudson.

**“Revenues”** means those amounts of money, which United Power bills for the sale of electricity under authorized rates to residents and any other sums that are generated by United Power from the use of its Facilities located within the Streets and Public Utilities easement. The word “revenue” does not include any other receipts including, but not limited to, receipts from the Town or any other person or entity, pole attachment revenue, disconnect/reconnect charges or late payment charge, but only receipts of money from the sale of electricity to Residents.

**“Service Area”** means the area within the Town of Hudson, which United Power is certified to serve by the CPUC.

**“Streets and Public Places”** means streets, alleys, viaducts, bridges, highways, avenues, boulevards, roads, lanes, public rights-of-way, easements, and places suitable for the placement of facilities that are located in the Town.

**“Street Lighting Facilities”** refers to all United Power facilities necessary to provide street lighting service.

**“Street Lighting Service”** refers to the illumination of streets and other Town property by means of United Power-owned non-ornamental street lights and United Power-owned ornamental street lights located in the Town or along the streets adjacent to the Town limits thereof, supplied from United Power’s overhead or underground electric distribution system.

**“Tariff”** or **“Tariffs”** shall mean the rules, regulations and rates which apply to United Power’s provision of electric service to its customers.

**“Town”** means the Town of Hudson located in Weld County, Colorado.

**“Town Administrator”** means the Town Administrator, and any agent, representative, officer or employee of the Town designated by the Town Council or the Town Administrator to act as the official Town representative with the authority to act on behalf of the Town under this franchise.

**“Town Streets”** means the roads, streets and associated right-of-way easements owned or controlled by the Town.

**“Traffic Facilities”** refers to any Town-owned or authorized traffic signal, traffic signage or other traffic control or monitoring device, equipment or facility, including all associated controls, connections and other support facilities or improvements, located in any streets or other Town property.

**“Traffic Signal Lighting Service”** refers to the furnishing of electricity from United Power’s distribution system for use in traffic facilities pursuant to the rules and regulations relating to such service in United Power’s Tariffs.

“**United Power**” means United Power, Inc. of Colorado, a Colorado not-for-profit electric cooperative, and its successors and assigns, but does not include its affiliates, subsidiaries or any other entity in which it has an ownership interest.

**Sec 5-51 Grant of Franchise**

(a) **Grant of Franchise.** The Town hereby grants to United Power, for the period specified herein, and subject to the conditions, terms and provisions contained in this Agreement, an exclusive right to furnish, sell and distribute electricity within the Town, to the Town and to all residents of the Town within United Power’s service area as specified by the CPUC. Subject to the conditions, terms and provisions contained in this Agreement, the Town also hereby grants to United Power an exclusive right to acquire, construct, install, locate, maintain, operate and extend into, within and through the Town all facilities reasonably necessary to furnish, sell and distribute electricity within the Town, and as may be necessary to carry out the terms of this Agreement, subject to the Town’s prior right of usage for and subject to the Town’s reasonable exercise of the police powers including, but not limited to, zoning, subdivision, permit and building code requirements. These rights shall extend to all areas of the Town within United Power’s service area as specified by the CPUC, as the Town is now constituted, and to additional areas as the Town may increase in size by annexation or otherwise in said service area. The Town and United Power do not waive any of their rights under the statutes and Constitution of the State of Colorado and the United States, except as otherwise specifically set forth herein. The rights granted in this franchise will include the right to provide street lighting service and traffic signal lighting service to the Town, for which the Town will pay in accordance with its agreement with United Power or its established Tariffs. These rights shall extend to all areas of the Town within United Power’s certificated territory, as it is now constituted and to additional areas as the Town may increase in size by annexation or otherwise within United Power’s service territory.

(b) **Effective Date and Term of Franchise.** This Franchise shall be effective as of the effective date of the ordinance adopting the same and shall supersede any prior franchise grants to United Power by the Town, and shall supersede the previous provisions of Article 2, Chapter 5 of the Municipal Code of the Town of Hudson. The term of the Franchise shall be twenty (20) years unless extended by mutual agreement of the parties. This Franchise is not intended to revoke any prior license, grant, or right to use the Streets or other Town property and such licenses, grants or rights of use are hereby affirmed. Such rights shall hereafter be governed by the terms of this Franchise. Any events occurring prior to the effective date of this Agreement shall be construed under the agreement in place as of the date of any such event except that any provisions relating to under-grounding of distribution lines shall be construed under this Agreement. All under-grounding fund balances in existence and work-in-process on the date this Franchise Agreement becomes effective shall carry forward unaffected by this transition and as provided generally herein.

(c) **Financial Responsibility.**

(1) At the time of presentation of the letter accepting the terms of this Franchise, United Power shall submit to the Town certificates of insurance to demonstrate that United Power has the following insurance coverage to meet its obligations under the Franchise Agreement:

worker's compensation insurance, comprehensive general liability and automobile liability insurance. The Town shall be listed as an additional listed insured for the comprehensive general liability insurance. United Power shall continuously maintain such coverage during the term of the Franchise, and the certificates of insurance shall be kept current by annual revisions as of January 1 during the term of the franchise. The Town reserves the right to request and receive a copy of an insurance certificate(s) from United Power's insurers, demonstrating the placement of the coverage required hereunder. The Town may require, from time to time, and United Power agrees to provide, additional reasonable funding of United Power's indemnification obligations as a self-insured, if United Power is acting as a self-insured. Nothing herein contained shall create any right in any third party or cause the Town to be liable to any party for a failure so to act.

(2) The parties hereto understand and agree that the Town, its officers, and its employees are relying on, and do not waive or intend to waive by any provision of this Franchise Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101, et seq., C.R.S., as from time to time amended, or otherwise available to the Town, its officers, or its employees.

(3) The Town agrees to list United Power as an additional listed insured on the Town's insurance policies, and to cover any claims by any person or entity for injuries (including death) to persons or damage to property, including theft, resulting in whole or in part from the acts or omissions of the Town, its trustees, employees, agents, contractors, and subcontractors, or in connection with or based upon a violation of applicable federal, state or local laws by the Town, and related to the facilities and operations described in this Franchise Agreement.

**(d) Notice of Boundary Changes.**

(1) United Power will provide the Town with a map defining the current United Power service area within the Town within thirty (30) days of the execution of this Agreement and will transmit the map as an attachment to a letter from United Power to the Town Administrator.

(2) United Power will notify the Town within thirty (30) days of any changes in boundaries of United Power service area in the Town. Such notice will be in written form addressed to the Town Administrator.

(3) The Town will notify United Power of a proposed annexation within fourteen (14) days of the Town Council's resolution finding the petition for annexation to be in substantial compliance with the statutory requirements. Further, the Town will notify United Power of final approval of all annexations of land into the Town which occur within United Power's service area, within thirty (30) days after the effective date of the annexation. Failure by the Town to comply with the thirty-day time frame does not preclude the Town from collecting franchise fees from revenues received by United Power from residents of the annexed area after the effective date of the annexation.

**(e) Conditions, Limitations and Exclusions.**

(1) The right to use and/or occupy public streets, alleys, viaducts, bridges, roads and public places for the purposes set forth herein is not, and shall not be deemed to be an exclusive franchise, and the Town reserves the right to itself to make or grant a similar use of public streets and other public places to any other person, firm or corporation. The right to make reasonable use of Town streets and other public property to provide electric service to the Town and its residents under the Franchise is subject to and subordinate to any Town usage of said streets or other public property.

(2) Nothing contained in this Franchise shall be construed to authorize United Power to engage in any activities requiring a license or permission from the Town other than the provision of electric service without first obtaining such license or permission. This Agreement does not grant United Power the right, privilege or authority to engage in the cable television business, but does not prohibit joint use agreements between United Power and cable television companies for the shared use of facilities. Any such joint use agreement entered by United Power shall be consistent with United Power's obligations and responsibilities under this Franchise, including inserting provisions that require any joint user of an above ground facility be required to bear their costs of relocating such facility under-ground where United Power converts its shared above ground facilities to an under-ground facility.

(3) This Agreement does not grant United Power the right, privilege or authority to use or occupy any land currently designated as parks, park land or open space of the Town or which may in the future be so designated except to the extent United Power is currently using or occupying said parks, park land or open space and as otherwise authorized in writing by the Town. United Power shall not expand its use or occupancy of said parks, park land or open space except by specific written authorization of the Town; provided, however, that nothing herein contained shall limit or restrict United Power's right to maintain, renovate, repair or replace any such facilities currently occupying said parks, park land or open space, subject to the conditions set forth in this Franchise. The Town may require removal, relocation, or under-grounding of facilities from any parks, park land or open space subject to conditions set forth herein.

**(f) Police Powers.**

(1) The Town retains the following rights in regard to this Franchise:

A. To use, control and regulate, through the exercise of its police power, Town streets, public easements and other Town property, places and the space above and beneath them.

B. To impose such other regulations as may be determined by the Town Council to be necessary in the exercise of its police power to protect the health, safety, welfare and convenience of the public.

(2) United Power expressly acknowledges the Town's right to adopt, from time to time, in addition to the provisions contained herein, such laws, including ordinances and regulations, as it may deem necessary in the exercise of its governmental powers. If the Town considers making any substantive changes in its local codes or regulations that in the Town's reasonable opinion will

significantly impact United Power's operations in the Town's Streets and other Town property, it will make a good faith effort to advise United Power of such consideration; provided, however, that lack of notice shall not be justification for United Power's non-compliance with any applicable local requirements. United Power expressly acknowledges the Town's right to enforce regulations concerning United Power's access to or use of the Streets and other Town property, including requirements for permits.

(3) United Power shall comply with all laws, regulations, permits, and orders enacted by the Town that are applicable to United Power's provision of electric service within the Town. Compliance with the terms of this Franchise shall be deemed to constitute compliance with the Municipal Code of the Town of Hudson.

(g) **Payment of Expenses Incurred by Town in Relation to Ordinance.** At the Town's option, United Power shall reimburse the Town for expenses incurred in publication of notices and ordinances related to this Franchise.

(h) **Continuation of Utility Service.** In the event this Franchise is not renewed at the expiration of its term or is terminated for any reason, and the Town has not provided for alternative utility service, United Power will not remove any United Power facilities pending resolution of the disposition of the system, or portions thereof, and shall continue to provide, and be paid for at current rates, electric service within the Town until the Town arranges for utility service from another provider. United Power further agrees that it will not withhold any continued interim electric services necessary to protect the public. The Town agrees that in the circumstances of this Section 5-51, United Power shall be entitled to monetary compensation as provided in United Power's Tariffs on file with the CPUC and United Power shall be entitled to collect from residents and shall be obligated to pay the Town, at the same times and in the same manner as provided in the Franchise, an aggregate amount equal to the amount which United Power would have paid as a franchise fee as consideration for the continued interim use of the Town Streets. Only upon receipt of written notice from the Town stating that the Town has adequate alternative electric service for residents and upon order of the CPUC shall United Power be allowed to discontinue the provision of electric service to the Town and its residents. United Power will be compensated through the agreed upon final date of interim electric service provided by United Power.

#### **Sec 5-52 Franchise Fee**

(a) **Franchise Fee.** In consideration for the grant of this Franchise, United Power shall pay the Town a sum equal to three percent (3%) of all revenues received from the sale of electricity within the Town. Payment of the franchise fee shall not exempt United Power from any lawful taxation upon its property or sales, except as set forth in 3.5 below. All amounts paid to United Power by the Town for use of electricity by any of its departments shall be excluded from computation of the franchise fee.

(b) **Surcharge of Franchise Fee.** United Power may collect this fee by adding a surcharge not to exceed the franchise fee upon all Town residents that use facilities of United Power in the Town to obtain electrical service.

(c) **Electric Service Provided to the Town.** No franchise fee shall be charged to the Town for electric service provided to the Town for its own consumption, including Street Lighting Service and Traffic Signal Lighting Service.

(d) **Franchise Fee Payment in Lieu of Certain Taxes and Other Fees.** The Town accepts payment of the franchise fee by United Power in lieu of any occupation tax, occupancy tax, license tax, or similar tax or fee the Town might charge United Power or its subcontractors for the privilege of doing business in the Town, for the use or occupation of Town Streets, for the installation, operation and maintenance of United Power facilities, or for any other personal, real property, sales, use, or other tax or fee of any kind.

(e) **Franchise Fee Payment Not In Lieu of Permit or Other Fees.** Payment of the franchise fee does not exempt United Power from any other lawful tax or fee imposed generally upon persons doing business within the Town, including by way of illustration any fee for a street closure permit, an excavation permit, a street cut permit, or other lawful permits hereafter required by the Town, except that the franchise fee provided for herein shall be in lieu of any occupation fee or similar tax for the use of Town Streets.

(f) **Payment Schedule.** Unless otherwise specifically provided herein, payment of the franchise fee accruing after the effective date of this Agreement shall be made in monthly installments not more than twenty days following the close of the month for which payment is to be made for the franchise fees resulting from the sale of electricity. Initial and final payments shall be prorated for the portions of the months at the beginning and end of the term of this Agreement. All payments shall be made to the Town in care of the Director of Finance.

(g) **Audit of Franchise Fee Payments.**

(1) If requested, every three (3) years commencing at the end of the third year of this Franchise, United Power shall conduct an internal audit to investigate and determine the correctness of the franchise fee paid to the Town. Such audit shall be limited to the previous three (3) calendar years. If requested, United Power shall provide a written report to the Town Administrator containing the audit findings regarding the franchise fee paid to the Town for the previous three (3) calendar years.

(2) If the Town disagrees with the results of the audit, and if the parties are not able to informally resolve their differences, the Town may conduct its own audit at its own expense, and United Power shall cooperate fully, including but not necessarily limited to, providing the Town's auditor with all information reasonably necessary to complete the audit. If the results of a Town audit conducted pursuant to Section 5-52(g) concludes that United Power has underpaid the Town by three percent (3%) or more, in addition to the obligation to pay such amounts to the Town, United Power shall also pay all costs of the audit. Errors arising solely from customer addresses inadvertently not identified as located within the municipal boundaries of the Town shall not be included in determining the error rate unless the Town has provided specific detailed written notice to United Power that such location address is within the municipal boundaries of the Town.

(3) Either party may challenge any written notification of error as provided for in this Section 5-52 of this Franchise by filing a written notice to the other party within thirty (30) days of receipt of the written notification of error. The written notice shall contain a summary of the facts and reasons for the party's notice. The parties shall make good faith efforts to resolve any such notice of error before initiating any formal legal proceedings for the resolution of such error.

(4) In addition to the three year audit provided above, the Town Administrator, or official Town representative, shall have access to the metering records of United Power during normal business hours upon reasonable notice for the purpose of auditing to ascertain that the franchise fee has been correctly computed and paid. All information obtained by the Town Administrator during a franchise fee audit shall be kept confidential and shall be utilized for the sole purpose of verifying that the franchise fee has been correctly computed and paid.

**(h) Change of Franchise Fee and Other Franchise Terms.** The Town Council, upon giving ninety (90) days' notice to United Power, may request that the Town and United Power review the franchise fee rate and other material financial aspects of the Franchise. Upon such a request by the Town, the parties shall engage in good faith negotiations related to amending the franchise fee rate, and/or other related provisions of this Franchise to allow the Town to receive a different franchise fee rate, or other significant change in the financial aspects of the Agreement. In no event shall the franchise fee rate be increased more than twenty percent (20%) in any five (5) year period.

**(i) Most Favored Party Clause.** United Power shall report to the Town, within 60 days of execution, the terms of any franchise or of any change of franchise in any other municipality that contains a franchise fee or other significant financial benefit greater than the franchise fee rate or other significant financial benefit to the Town contained in this Franchise. United Power shall also report about such other provisions which may be beneficial to the Town. If the Town Board of Trustees decides the Franchise fee or other significant financial benefit should be incorporated into the Franchise, then such change shall be agreed to in writing and approved by the Town Board of Trustees by ordinance.

**(j) Contract Obligation.** This Franchise Agreement constitutes a valid and binding agreement between United Power and the Town. In the event that the franchise fee specified in this Agreement is declared illegal, unconstitutional or void for any reason by final judgment of any court (or other proper authority), United Power shall be contractually bound to pay monthly fees to the Town in an aggregate amount that would be equivalent to the amount which would have been paid by United Power as a franchise fee hereunder as consideration for use of the Town Streets and other Town property.

**(k) Payment of Taxes and Fees.** United Power shall pay and discharge as they become due, promptly and before delinquency, all taxes, assessments, rates, charges, license fees, municipal liens, levies, excises, or imposts, whether general or special, or ordinary or extra-ordinary, of every name, nature, and kind whatsoever, including all governmental charges of whatsoever name, nature, or kind, which may be levied, assessed, charged, or imposed, or which may become a lien or charge

against this Agreement (“Impositions”), provided that United Power shall have the right to contest any such impositions and shall not be in breach of this section so long as it is actively contesting such impositions. The Town shall not be liable for the payment of taxes, late charges, interest or penalties of any nature other than pursuant to applicable Tariffs on file and in effect from time to time with the CPUC.

(l) **Changes in Utility Service Industries.** The Town and United Power recognize that utility service industries are the subject of restructuring initiatives by legislative and regulatory authorities, and are also experiencing other changes as a result of mergers, acquisitions, and reorganizations. Some of such initiatives and changes have or may have an adverse impact upon the franchise fee revenues provided for herein. In recognition of the length of the term of this Franchise, United Power agrees that in the event of any such initiatives or changes and to the extent permitted by law, upon receiving a written request from the Town, United Power will cooperate with and assist the Town in amending this Franchise to assure that the Town receives an amount in franchise fees or some other form of periodic compensation that is the same amount of franchise fee rate paid to the Town as of the date that such initiatives and changes adversely impact the future franchise fee revenue.

#### **Sec. 5-53 Administration of Franchise**

##### **(a) Supervision.**

(1) **Town Designee.** The Town Administrator, or the Manager's designated representative, is hereby designated the official of the Town having full power and authority to take appropriate action for and on behalf of the Town and its inhabitants to enforce the provisions of this Franchise and to investigate any alleged violations or failures of United Power to comply with the provisions hereto or to adequately and fully discharge its responsibilities and obligations hereunder. The failure or omission of said official Town representative to so act shall not constitute any waiver or estoppel nor limit independent action by other Town officials. The Town Administrator may also designate one or more Town representatives to act as the primary liaison with United Power as to particular matters addressed by this Franchise and shall provide United Power with the name and telephone numbers of said Town representatives. The Town may change these designations by providing written notice to United Power. The Town's designee shall have the right, at all reasonable times, to inspect any United Power facilities in Town Streets.

(2) **United Power Designee.** United Power shall designate a representative to act as the primary liaison with the Town and shall provide the Town with the name, address, and telephone number for United Power's representative under this Franchise. United Power may change its designation by providing written notice to the Town. The Town shall use this liaison to communicate with United Power regarding electric service and related service needs for Town facilities.

(3) In order to facilitate such duties of the said official Town representative, United Power agrees as follows:

A. To allow said official Town representative or his designee reasonable access to any part of United Power's plant that is directly used to serve the Town of Hudson, works and systems, and that said Town official may make and supervise tests to determine the quality of the electric service supplied the customers of United Power within the municipal boundaries of the Town of Hudson. Access to United Power facilities described in this paragraph and 4.1(C)(2) shall be on an "appointment made" basis during normal business hours. The Town official(s) provided access shall be accompanied by at least one employee of United Power of its choosing. The Town official(s) shall comply with all United Power requirements for such access, and particularly safety requirements. For safety reasons, United Power shall have the right to designate — at its sole discretion — the method, means, and timing of such access, which access United Power can terminate or deny at its discretion.

B. To grant said official Town representative or his designee reasonable access to the books and records of United Power, insofar as they relate to matters covered by this Franchise, upon advance appointment made during normal business hours.

C. To provide said Town official with such reasonable and necessary reports containing or based on information readily obtainable from United Power's books and records as the Town may from time to time request with respect to the electric service supplied under this franchise.

D. To meet as requested with said official Town representative to share information useful in coordinating management, operation and repair of the facilities of United Power and the operations and property of the Town.

**(b) Coordination of Work.**

(1) United Power agrees to meet with the Town's designee upon written request for the purpose of reviewing, implementing, or modifying mutually beneficial procedures for the efficient processing of United Power bills, invoices and other requests for payment.

(2) United Power agrees to coordinate its activities in Town Streets and on other Town Property with the Town. The Town and United Power will meet annually upon the written request of the Town designee to exchange their respective short-term and long-term forecasts and/or work plans for construction and other similar work which may affect Town Streets and other Town Property. The Town and United Power shall hold such meetings as either deems necessary to exchange additional information with a view towards coordinating their respective activities in those areas where such coordination may prove beneficial and so that the Town will be assured that all provisions of this Franchise, building and zoning codes, and air and water pollution regulations are complied with, and that aesthetic and other relevant planning principles have been given due consideration.

(c) **Examination of Records.** The Parties agree that any duly authorized representative of the Town and United Power shall have access to and the right to examine any directly pertinent non-confidential books, documents, papers, and records of the other party involving any activities related to this Franchise. All such records must be kept for a minimum of four (4) years. To the extent that either Party believes in good faith that it is necessary in order to monitor compliance with the terms of this Franchise to examine confidential books, documents, papers, and records of the other Party, the Parties agree to meet and discuss providing confidential materials, including but not limited to providing such materials subject to a reasonable confidentiality agreement which effectively protects the confidentiality of such materials.

#### **Sec. 5-54 Reports**

(a) **Reports of United Power Operations.** United Power shall submit reasonable financial and operating reports containing or based on information available from United Power's books and records annually to the Town and other reports the Town may from time to time request with respect to the operations of United Power under this Franchise, provided that such information can be provided at a reasonable cost to the Town. Such form of reports may be changed from time to time as mutually agreed between the Town and United Power.

(b) **Annual Reports.** United Power shall provide the Town on or before May 1 of each year beginning, for the preceding calendar year, after the effective date of this franchise:

- (1) United Power's then modified debt service calculation;
- (2) A report of margins collected by United Power; and
- (3) Short-term (three years or less) and long-term (over three years) plans for all major capital improvements, construction and excavation within the Town or affecting service to the Town and its residents.

(c) **Requested Reports.** Upon request by the Town, United Power shall provide the Town:

- (1) A list of real property and leasehold interests in real property owned by United Power within the municipal boundaries of the Town, for the purpose of calculating property taxes; and
- (2) A map (paper or electronic copy) indicating the major location of United Power facilities within and contiguous of the municipal boundaries of the Town of Hudson.
- (3) A report regarding the reliability indexes of United Power's electric service.
- (4) A list of all Town electrical accounts and account numbers and items metered.
- (5) A list of street lights in the Town energized by United Power.

(d) **Copies of Tariffs and Regulatory Filings.** United Power shall notify the Town of all proposals to change rates relating to service by United Power to its customers located within the Town. Upon request by the Town, United Power shall provide the Town with copies of all rules, regulations, rate tariffs, and policies. Town acknowledges that United Power is a not-for-profit electric cooperative formed primarily to distribute electrical energy, and its utility rates are not subject to regulation by the CPUC and are largely determined by the cost of acquiring electric power from its supplier(s).

**Sec. 5-55 Supply, Construction And Design**

(a) **Adequate Supply at Lowest Reasonable Cost.** United Power shall work with its wholesale power suppliers to take all reasonable and necessary steps to assure an adequate supply of electricity to United Power's customers at the lowest reasonable cost consistent with long term supply reliability.

(b) **Service Reliability.**

(1) United Power shall operate and maintain United Power facilities efficiently and economically and in accordance with general utility practices and best systems, methods, and skills consistent with the provision of adequate, safe, and reliable electric service. United Power recognizes and agrees that, as part of its obligations and commitments under this Franchise, United Power shall carry out each of its performance obligations in a timely, expeditious, efficient, economical, and workmanlike manner.

(2) United Power shall be excused from the performance of its obligations hereunder, to the extent that performance of said obligations are delayed due to: failure of high voltage transmission facilities needed to serve the Town which are beyond United Power's responsibility and control; strikes; acts of public enemies; war; order of military authority; insurrections; riots; acts of epidemics; tornadoes; landslides; earthquakes; floods; any Act of God; or any other reason beyond United Power's control. Notwithstanding the foregoing, if the supply of electricity to United Power's customers should be interrupted due to any circumstance beyond United Power's control, United Power shall take all necessary and reasonable actions to restore such supply at the earliest practicable time.

(c) **Planned Outage.** If the supply of electricity to United Power's customers should be interrupted due to a planned outage, except cases of emergency outage repair, United Power shall notify, consistent with the provisions of Section 5-55, its customers as soon as practical in advance of the planned outage. United Power agrees that it will in good faith try to contact all customers at least forty-eight (48) hours prior to a planned outage.

(d) **Town Participation.** The Town shall have the right to approve major facility site plans within the Town. Upon reasonable notice to United Power, the Town shall have the right to hold public hearings related to United Power's facilities, site selection, under-grounding of overhead lines, construction and service quality. United Power agrees to fully participate in such public

hearings as requested by the Town and to provide to the Town information available to United Power that relates to the hearings described in this paragraph.

(e) **Compliance with Town Requirements.** Representatives of the Town and United Power shall meet annually to discuss annual and long-term planning for capital improvement projects contemplated by each within the Town. United Power shall include within its capital improvement projects the plans of the Town relating to same. United Power and the Town shall exchange copies of their reports or plans regarding annual and long-term planning for capital improvement projects with descriptions of construction activities including, to the extent known, the timing and method of construction.

(f) **Excavation, Construction, and Maintenance and Repair Work.** United Power shall be responsible for obtaining, paying for, and complying with all applicable permits including, but not limited to, excavation, street closure and street cut permits, in the manner required by the laws, ordinances, and regulations of the Town. All construction, excavation, maintenance and repair work done by United Power shall be done in a timely manner, which minimizes inconvenience to the public and individuals. When United Power does any work in or affecting the Town Streets, it shall, at its own expense, promptly remove any obstructions there from and restore such Town Streets or other Town Property to a condition that meets applicable Town standards. If weather or other conditions do not permit the complete site restoration for work done pursuant to this Section, United Power may with the approval of the Town, temporarily restore the affected Town Streets or other Town Property, provided that such temporary site restoration is at United Power's sole expense and provided further that United Power promptly undertakes and completes any necessary permanent site restoration when the weather or other conditions no longer prevent such permanent restoration. All site restoration work under this section shall be subject to inspection by the official Town representative and compliance by United Power with reasonable remedial action required by said official pursuant to inspection and left in equivalent or better conditions as found. Upon the request of the Town, United Power shall restore the Streets or other Town Property to a better condition than existed before the work was undertaken, provided that the Town shall be responsible for any additional costs of such site restoration. If United Power fails to promptly restore the Town Streets or other Town Property as required by this Section, and if, in the reasonable discretion of the Town, immediate action is required for the protection of public health and safety, the Town may, upon giving reasonable notice to United Power that is commensurate with the danger posed, restore such Town Streets or other Town Property or remove the obstruction there from; provided however, Town actions do not unreasonably interfere with United Power facilities. United Power shall be responsible for the actual cost incurred by the Town to restore such Town Streets or other Town Property or to remove any obstructions there from. In the course of its site restoration of Town streets or other Town property under this Section, the Town shall not perform work on United Power facilities unless specifically authorized by United Power in writing on a project by project basis and subject to the terms and conditions agreed to in such authorization.

(g) **Outages and Restoration of Service.**

(1) **Customer Notification.** Upon request, United Power shall provide annually to the Town Administrator a written protocol that addresses the process for customer notification of

power outages, including the specific provisions to be included in the notice, the estimated time for restoration, the manner by which such notice shall be provided, and the contact names and telephone numbers associated therewith. The notification shall be included in the Annual Report.

(2) Town Notification. United Power shall provide to the Town daytime and nighttime telephone numbers of a designated United Power representative from whom the Town designee may obtain status information from United Power on a twenty-four (24) hour basis concerning interruptions of electrical service in any part of the Town.

(3) Restoration. In the event United Power's electric system, or any part thereof, is partially or wholly destroyed or incapacitated, United Power shall use due diligence to restore such systems to satisfactory service within the shortest practicable time, or provide a reasonable alternative to such system if United Power elects not to restore such system.

**(h) Installation and Maintenance of United Power Facilities.**

(1) United Power Facilities. Except for emergencies, the construction, excavation, installation, maintenance, renovation, repair and replacement of any facilities by United Power within the municipal boundaries of the Town shall be subject to permitting, inspection and approval of locations by the official Town representative. Such regulation shall include, but not be limited to the following matters: location of facilities in the streets, alleys and dedicated easements; disturbance and reconstruction of pavement, sidewalks and surface of streets, alleys, dedicated easements and driveways. All United Power facilities shall be installed so as to cause a minimal amount of interference with such property. United Power facilities shall not interfere with any water mains or sewer mains or Town telecommunications facilities, traffic signal lights, parks, or any other municipal use of the Town's streets and right-of-ways except to the extent the Town agrees through the permit process. United Power shall erect and maintain its facilities in such a way as to minimize interference with trees and other natural features and vegetation. United Power and all its subcontractors shall comply with all permitting, local regulations and ordinances. In emergency situations, United Power shall, after the fact, comply with permitting and inspection requirements of the Town. United Power shall install, repair, renovate and replace its facilities with due diligence in good and workmanlike manner, and United Power's facilities will be of sufficient quality and durability to provide adequate and efficient electric service to the Town and its residents.

(2) Town Projects. Where United Power performs construction projects requested by the Town, United Power shall provide in advance a cost estimate for such work in sufficient detail to justify the estimated total cost. The Town shall deposit funds with United Power in the amount of the cost estimate prior to commencement of the work. Construction project change orders shall be limited to significant changes in project scope that are requested by and approved by the Town. United Power will promptly invoice any Town approved change orders to the Town and the Town will promptly pay the change order invoice. Upon completion of the agreed work, United Power will provide a final detailed report to the Town, reconciling the original projected cost estimates, including any approved change orders, to the actual costs incurred in completing the project. Upon reconciliation of the construction of the extension, the construction deposit shall be compared to the actual cost of the design and construction as entered in to the books of United Power. If the actual

cost is less than originally estimated, United Power shall promptly refund the portion of the construction deposit greater than the actual costs, without interest, to the Town. United Power will exercise commercially reasonable means to keep the cost of projects performed for the Town to a minimum, and will bill the Town for such construction projects at costs that are reasonably comparable to using qualified personnel and industry standards for similar work. Where projects requested by the Town, that are located on a Town owned parcel, require removal of electrical facilities, United Power will not reasonably withhold approval of the Town to perform such work, so long as United Power has determined that said work can be accomplished in as safe manner as to not cause harm to any of its distribution system, or other electrical facilities.

**(i) Obligations Regarding United Power Facilities**

(1) United Power Facilities. All United Power facilities within Town Streets shall be maintained in good repair and condition.

(2) United Power Work Within the Town. All work within Town Streets performed or caused to be performed by United Power shall be done:

A. In a high-quality manner;

B. In a timely and expeditious manner;

C. In a manner which minimizes inconvenience to the public; in a cost-effective manner, which may include the use of qualified contractors; and in accordance with all applicable laws, ordinances, and regulations.

(3) Permit and Inspection. The installation, renovation, and replacement of any United Power facilities in the Town Streets or other Town Property by or on behalf of United Power shall be subject to permit, inspection and approval by the Town. Such inspection and approval may include, but shall not be limited to, the following matters: location of United Power facilities, cutting and trimming of trees and shrubs, and disturbance of pavement, sidewalks, and surfaces of Town Streets or other Town Property. United Power agrees to cooperate with the Town in conducting inspections and shall promptly perform any remedial action lawfully required by the Town pursuant to any such inspection.

(4) Compliance. United Power and all of its contractors shall comply with the requirements of all municipal laws, ordinances, regulations, permits, and standards, including but not limited to requirements of all building and zoning codes, and requirements regarding curb and pavement cuts, excavating, digging, and other construction activities. United Power shall assure that its contractors working in Town Streets or other Town Property hold the necessary licenses and permits required by law.

**(j) Increase in Voltage.**

(1) Customer Notification. United Power shall use best efforts to notify affected customers if there will be facility changes that result in a material increase in voltage of the service to such customers.

(2) Town Facilities. United Power shall reimburse the Town for the cost of upgrading the electrical system or facility of any Town building or facility that uses electric service where such upgrading is caused or occasioned by United Power's decision to increase the voltage of delivered electrical energy unless such change is caused by, requested or mandated by the Town.

(3) As-Built Drawings. Upon reasonable written request of the Town designee, United Power shall provide within ninety (90) days of the request, as-built drawings of any United Power facility installed within the Town Streets or contiguous to the Town Streets. As used in this section, as-built drawings refers to the facility drawings as maintained in United Power's geographical information system or any equivalent system. United Power shall not be required to create drawings that do not exist at the time of the request.

**(k) Relocation of United Power Facilities.**

(1) Relocation Obligation. United Power shall at its sole cost and expense temporarily or permanently remove, relocate, change or alter the position of any United Power facility in Town streets or in other Town Property whenever the Town shall determine that such removal, relocation, change or alteration is necessary for the completion of any public project. For all relocations, United Power and the Town agree to cooperate on the location and relocation of United Power facilities in the Town Streets or other Town Property in order to achieve relocation in the most efficient and cost-effective manner possible. Upon request of the Town, United Power will exercise commercially reasonable means to relocate facilities in a shorter period of time for good cause shown by Town and United Power shall not unreasonably deny such relocation. Notwithstanding the foregoing, once United Power has relocated any United Power facility at the Town's direction, if the Town requests that the same United Power Facility be relocated within two (2) years, the subsequent relocation shall not be at United Power's expense.

(2) Private Projects. United Power shall not be responsible for the expenses of any relocation required by the Town's direct or indirect assistance for private projects, and United Power has the right to require the payment of estimated relocation expenses from the affected private party before undertaking such relocation. Upon completion, the parties shall perform a "true-up" to ensure United Power has been fully compensated for all work performed.

(3) Relocation Performance. The relocations set forth in Section 5-55(a) of this Franchise Agreement shall be completed within a reasonable time, not to exceed ninety (90) days from the later of the date on which the Town designee requests in writing that the relocation commence, or the date when United Power is provided all service application submittal requirements. United Power shall be entitled to an extension of time to complete a relocation where United Power's performance was delayed due to a cause that could not be reasonably anticipated by United Power or is beyond its reasonable control, after exercise of best efforts to perform, including without limitation fire, strike, war, riots, acts of governmental authority, acts of God, forces of

nature, judicial action, unavailability or shortages of labor, materials or equipment and failures or delays in delivery of materials. Upon request of United Power, the Town may also grant United Power reasonable extensions of time for good cause shown and the Town shall not unreasonably withhold any such extension.

(4) Town Revision of Supporting Documentation. Any revision by the Town of all service application submittal requirements provided to United Power that causes United Power to substantially redesign and/or change its plans regarding facility relocation shall be deemed good cause for a reasonable extension of time to complete the relocation under the franchise.

(5) Completion. Each such relocation shall be deemed complete only when United Power actually relocates the United Power facilities, restores the relocation site in accordance with Section 5-55, subsections (f) and (g) of this Franchise or as otherwise agreed with the Town, and removes from the site or properly abandons on site all unused facilities, equipment, material and other impediments.

(6) Scope of Obligation. Except as otherwise set forth herein, the relocation obligation set forth in this Section shall only apply to United Power facilities located in Town Streets or other Town Property and shall not apply (i) to United Power facilities located on property owned by United Power in fee, (ii) to United Power facilities located in Town property whose ownership or use was donated to the Town by United Power, and (iii) to United Power facilities located in privately-owned easements or public utility easements, unless such public utility easements are on or in Town-owned property.

(7) Underground Relocation. Underground facilities shall be relocated underground. Above ground facilities shall be placed above ground unless United Power is paid for the incremental amount by which the underground cost would exceed the above ground cost of relocation, or the Town requests that such additional incremental cost be paid out of available funds under Section 5-57 of this Franchise.

(8) Coordination. When requested in writing by the Town or United Power, representatives of the Town and United Power shall meet to share information regarding anticipated projects which will require relocation of United Power facilities in Town Streets or other Town Property. Such meetings shall be for the purpose of minimizing conflicts where possible and to facilitate coordination with any timetable established by the Town for any public project.

(9) Proposed Alternatives Or Modifications. Upon receipt of written notice of a required relocation, United Power may propose an alternative to or modification of the public project requiring the relocation in an effort to mitigate or avoid the impact of the required relocation of United Power facilities. The Town shall in good faith review the proposed alternative or modification. The Town's acceptance of the proposed alternative or modification shall be at the sole discretion of the Town, provided however that such acceptance shall not be unreasonably withheld. In the event the Town designee accepts the proposed alternative or modification, United Power agrees to promptly compensate the Town for all additional costs, expenses or delay that the Town reasonably determines that it has incurred as a direct result of implementing the proposed alternative.

**(l) Service to New Areas.** If, during the term of this Franchise, the municipal boundaries of the Town are expanded within United Power's service area, United Power shall extend service to residents of the newly incorporated areas, and United Power shall be paid therefor, in accordance with United Power's extension policy set forth in its Tariffs at the earliest practicable time. Service to annexed areas shall be in accordance with the terms of this Franchise Agreement, including payment of franchise fees as defined in Section 5-52 of this franchise.

**(m) New or Modified Service to Town Facilities.** In providing new or modified electric service to Town facilities, United Power agrees to perform as follows:

(1) **Performance.** United Power shall complete each project requested by the Town within a reasonable time. The Parties agree that a reasonable time shall not exceed one hundred eighty (180) days from the date upon which the Town designee makes a written request and provides all service application submittal requirements as described in this section. Upon request of the Town, United Power may complete electric service to Town facilities in less than one hundred eighty (180) days for good cause shown and United Power shall not unreasonably deny such expedited service. United Power shall be entitled to an extension of time to complete a project where United Power's performance was delayed due to a cause that could not be reasonably anticipated by United Power or is beyond its reasonable control, after exercise of best efforts to perform, including but not limited to fire, strike, war, riots, acts of governmental authority, acts of God, forces of nature, judicial action, unavailability or shortages of materials or equipment and failures or delays in delivery of materials. Upon request of United Power, the Town designee may also grant United Power reasonable extensions of time for good cause shown and the Town shall not unreasonably withhold any such extension.

(2) **Town Revision of Supporting Documentation.** Any revision by the Town of supporting documentation provided to United Power that causes United Power to substantially redesign and/or change its plans regarding new or modified service to Town facilities shall be deemed good cause for a reasonable extension of time to complete the relocation under the franchise.

(3) **Completion/Restoration.** Each such project shall be complete only when United Power actually provides the service installation or modification required, restores the project site in accordance with the terms of the franchise or as otherwise agreed with the Town and removes from the site or properly abandons on site any unused facilities, equipment, material and other impediments.

**(n) Modifications to United Power Facilities.** United Power shall modify United Power facilities, including manholes and other appurtenances in Town Streets and other Town Property, to accommodate Town street maintenance, repair and paving operations at no cost to the Town. In providing such modifications to United Power facilities, United Power agrees to perform as follows:

(1) **Performance.** United Power shall complete each requested modification within a reasonable time, not to exceed thirty (30) days from the date upon which the Town makes a

written request and provides to United Power all information reasonably necessary to perform the modification. United Power shall be entitled to an extension of time to complete a modification where United Power's performance was delayed due to a cause that could not be reasonably anticipated by United Power or is beyond its reasonable control, after exercise of best efforts to perform, including but not limited to fire, strike, war, riots, acts of governmental authority, acts of God, judicial action, unavailability or shortages of materials or equipment and failures or delays in delivery of materials. Upon request of United Power, the Town may also grant United Power reasonable extensions of time for good cause shown and the Town shall not unreasonably withhold any such extension.

(2) **Completion/Restoration.** Each such modification shall be complete only when United Power actually adjusts United Power facility to accommodate the Town operations in accordance with Town instructions and, if required, readjusts, following Town paving operations.

(3) **Coordination.** As requested by the Town or United Power, representatives of the Town and United Power shall meet regarding anticipated street maintenance operations which will require such modifications to United Power facilities in Town Streets or other Town Property. Such meetings shall be for the purpose of coordinating and facilitating performance under this Section.

**(o) Third Party Damage Recovery.**

(1) **Damage to United Power Interests.** If any individual or entity damages any United Power facilities that United Power is responsible to repair or replace, to the extent permitted by law, the Town will notify United Power of any such incident and will provide to United Power within a reasonable time all pertinent information within its possession regarding the incident and the damage, including the identity of the responsible individual or entity.

(2) **Damage to Town Interests.** If any individual or entity damages any United Power Facilities for which the Town is obligated to reimburse United Power for the cost of the repair or replacement of the damaged facility, to the extent permitted by law, United Power will notify the Town of any such incident and will provide to the Town within a reasonable time all pertinent information within its possession regarding the incident and the damage, including the identity of the responsible individual or entity.

(3) **Meeting.** United Power and the Town agree to meet periodically, upon written request of either party, for the purpose of developing, implementing, reviewing, improving and/or modifying mutually beneficial procedures and methods for the efficient gathering and transmittal of information useful in recovery efforts against third parties for damaging United Power facilities.

**(p) Technological Improvements.** United Power may install future improvements and technological advances to its equipment and service within the Town, at United Power's discretion (but upon reasonable notice to the Town), when such improvements and advances are technologically and economically feasible, and safe and beneficial to the Town.

**Sec. 5-56 Compliance**

(a) **Town Regulation.** The Town expressly reserves, and United Power expressly recognizes, the Town's right and duty to adopt, from time to time, in addition to the provisions herein contained, such provisions, ordinances and rules and regulations ("New Provisions") as may be deemed necessary by the Town, in the exercise of its police power, to protect the health, safety and welfare of its citizens and their properties. However, adoption of such new provisions shall not be inconsistent with the provisions in this Agreement. Town shall give United Power 180 days written notice of any provisions, ordinances, rules or regulations which may affect United Power's rights, obligations, and performance hereunder, and shall not implement the same until United Power has the ability to meet and confer with the Town concerning such New Provisions. If the New Provisions alter the parties' rights, obligations or performance hereunder in any way, the parties shall meet and confer on either modifying this Agreement or terminating it.

(b) **Compliance with Regulatory Agencies.** United Power shall assure that its distribution facilities comply with the standards promulgated by all regulatory agencies with jurisdiction over United Power's services.

(c) **Continued Compliance with Air and Water Pollution Laws.** United Power shall use its best efforts to take measures which will result in its facilities and operations meeting the standards required by applicable Town, county, state and federal air and water pollution laws, and laws regulating transportation of hazardous materials. Upon the Town's request, United Power will provide the Town with a status report of such measures.

**Sec. 5-57 Underground Construction And Overhead Conversion**

(a) **New Lines Under-grounded.** United Power shall place all newly constructed electrical distribution lines underground unless approved otherwise by the Town.

(b) **Overhead Conversion of Electrical Lines.** United Power agrees to allocate an annual amount, equivalent to one and one-half percent (1-1/2%) of the preceding calendar year's electric revenues derived from customers within the Town, for the purpose of under-grounding United Power's existing overhead electric distribution facilities within the Town, at the expense of United Power, as requested by the Town (the "Under-grounding Funds"). Any unexpended portion of the one and one-half percent (1-1/2%) revenues shall be carried over to succeeding years. Until three (3) years from the conclusion of this Agreement and upon request by the Town, United Power agrees to anticipate amounts to be available for up to three (3) years in advance to be used to underground its overhead distribution facilities, as requested by the Town. Any amounts so advanced shall be credited against amounts to be expended in succeeding years until such advance is eliminated. Except as provided in Section 5-55(g) no relocation expenses which United Power would be required to expend pursuant to Section 5-55 of this Franchise Agreement shall be charged to this allocation. United Power shall not withhold approval of the plans of the Town except where essential for safety, or protection of the operating integrity of United Power's electric system. If, after any and all undergrounding of United Power lines has taken place and no more United Power overhead lines remain in the Town, there are any undergrounding funds remaining, or, if at any time

the Town and United Power mutually agree in writing, undergrounding funds may be used by the Town for other mutually agreed electric utility related projects in the Town mutually agreed upon by the Town and United Power.

**(c) Planning and Coordination of Under-grounding Projects.** The Town and United Power shall mutually plan in advance the scheduling of under-grounding projects to be undertaken according to this Section as a part of the review and planning for other Town and United Power construction projects. In addition, the Town and United Power agree to meet, as required, to review the progress of then-current under-grounding projects and to review planned future under-grounding projects. The purpose of such meetings shall be to further cooperation between the Town and United Power to achieve the orderly under-grounding of United Power facilities. At such meetings, the parties shall review:

(1) Undergrounding, including conversions, public projects and replacements which have been accomplished or are underway, together with United Power's plans for additional undergrounding;

(2) Public projects anticipated by the Town; and

(3) Such meetings shall be held to achieve a continuing program for the orderly under-grounding of electrical lines in the Town.

**(d) Cooperation with Other Utilities.** When undertaking a project of under-grounding, the Town and United Power shall work with other utilities or companies which have their lines overhead to attempt to have all lines under-grounded as part of the same project. When other utilities or companies such as cable television and telephone companies or other utilities with overhead facilities embark upon a program of underground construction where United Power has overhead facilities, United Power shall cooperate with these utilities and companies and undertake to underground United Power facilities as part of the same project at no cost to the Town. United Power shall not be required to pay for the cost of under-grounding the facilities of other companies or the Town.

**(e) Town Requirement to Underground.** In addition to the provisions of this Section, the Town may require any above ground United Power Facilities to be moved underground at the Town's expense.

(1) **Undergrounding Performance.** Upon receipt of a written request from the Town, United Power shall, to the extent of monies available in the Fund and as otherwise provided herein, underground United Power facilities in accordance with the procedures set forth in this Section 5-57.

(2) **Performance.** United Power shall complete each under-grounding project requested by the Town within a reasonable time, not to exceed one hundred eighty (180) days from the later of the date upon which the Town designee makes a written request and the date the Town provides to United Power all service application submittal requirements. United Power shall be

entitled to an extension of time to complete each under-grounding project where United Power's performance was delayed due to a cause that could not be reasonably anticipated by United Power or is beyond its reasonable control, after exercise of best efforts to perform, including but not limited to, fire, strike, war, riots, acts of governmental authority, acts of God, forces of nature, judicial action, unavailability or shortages of materials or equipment and failures or delays in delivery of materials. Upon request of United Power, the Town may also grant United Power reasonable extensions of time for good cause shown and the Town shall not unreasonably withhold any such extension.

(3) **Town Revision of All Service Application Submittal Requirements.** Any revision by the Town of all service application submittal requirements provided to United Power that causes United Power to substantially redesign and/or change its plans regarding an undergrounding project shall be deemed good cause for a reasonable extension of time to complete the undergrounding project under the franchise.

(4) **Completion/Restoration.** Each such undergrounding project shall be deemed complete only when United Power actually undergrounds the designated United Power facilities, restores the undergrounding site in accordance with Section 5-55, subsections (f) and (g) of this franchise or as otherwise agreed with the Town designee and removes from the site or properly abandons on site any unused facilities, equipment, material and other impediments.

(5) **Estimates.** Promptly upon receipt of an undergrounding request from the Town and all service application submittal requirements necessary for United Power to design the undergrounding project, United Power shall prepare a detailed, good faith cost estimate of the anticipated actual cost of the requested project for the Town to review and, if acceptable, issue a project authorization. United Power will not proceed with any requested project until the Town has provided a written acceptance of United Power estimate.

(6) **Report of Actual Costs.** Upon completion of each under-grounding project, United Power shall submit to the Town a detailed report of United Power's actual cost to complete the project and United Power shall reconcile this total actual cost with the accepted cost estimate.

(7) **Audit of Underground Projects.** The Town may require that United Power undertake an independent audit of any under-grounding project for five hundred thousand dollars (\$500,000.00) or greater. The cost of any such independent audit shall reduce the amount of the fund. United Power shall cooperate fully with any audit and the independent auditor shall prepare and provide to the Town and United Power a final audit report showing the actual costs associated with completion of the project. If a project audit is required by the Town, only those actual project costs, including reasonable internal costs and overhead as charged to the project by United Power's normal cost accounting rules and protocols, confirmed and verified by the independent auditor as commercially reasonable and commercially necessary to complete the project shall be charged to the fund.

**(f) Audit of Underground Fund.** Upon written request of the Town, but no more frequently than once every three (3) years, United Power shall audit the fund for the Town. Such audits shall be limited to the previous three (3) calendar years. United Power shall provide the audit

report to the Town and shall reconcile the fund consistent with the findings contained in the audit report. If the Town has concerns about any material information contained in the audit, the parties shall meet and make good faith attempts to resolve any outstanding issues. If the matter cannot be resolved to the Town's reasonable satisfaction, United Power shall, at its expense, cause an independent auditor, selected by agreement with the Town, to investigate and determine the correctness of the charges to the underground fund. The independent auditor shall provide a written report containing its findings to the Town and United Power. United Power shall reconcile the fund consistent with the findings contained in the independent auditor's written report. If the independent auditor's report confirms United Power's allocations, costs and expenses, the Town shall be responsible for fifty percent (50%) of the cost for the independent auditor's work and report.

**Sec. 5-58 Environment And Conservation**

**(a) Environmental Leadership.** United Power is committed to using the earth's resources wisely; supporting the advancement of emerging technologies, and helping its customers use energy as efficiently as possible. United Power shall strive to conduct its operations in a way that avoids adverse environmental impacts where feasible, subject to constraints faced by a cooperative utility. In doing so, United Power shall consider environmental issues in its planning and decision making, and shall invest in environmentally sound technologies when such technologies are deemed prudent and feasible. United Power shall continue with its voluntary carbon reduction program to reduce greenhouse gas emissions and shall continue to explore ways to reduce water consumption at its facilities. United Power shall continue to work with the U.S. Fish and Wildlife Service to develop and implement avian protection plans to reduce electrocution and collision risks by eagles, raptors and other migratory birds caused by transmission and distribution lines.

**(b) Energy Conservation and Efficiency.**

**(1) Energy Efficiency Programs.**

A. General. The Town and United Power recognize and agree that energy conservation and efficiency programs offer opportunities for the efficient use of energy and reduction of customers' energy consumption and costs. United Power recognizes and shares the Town's desire to advance the implementation of cost-effective energy conservation and efficiency programs, which direct opportunities to United Power's customers to manage more efficiently their use of energy and, thereby, create the opportunity to reduce their energy consumption, costs, and impact on the environment. United Power shall seek to develop and offer energy efficiency programs to its customers. United Power commits to offer Demand Side Management (DSM) programs and similar succeeding programs, which provide customers the opportunity to reduce their energy usage. In doing so, United Power recognizes the importance of (i) implementing cost-effective programs, the benefits of which could otherwise be lost if not pursued in a timely fashion and (ii) developing cost-effective energy management programs for the various classes of United Power's customers. United Power commits to offer programs that attempt to capture market opportunities for cost-effective energy efficiency improvements such

as municipal specific programs that provide cash rebates for efficient lighting, energy design programs to assist architects and engineers to incorporate energy efficiency in new construction projects, and recommissioning programs to analyze existing systems to optimize performance and conserve energy. United Power shall advise the Town and United Power's customers of the availability of assistance that United Power makes available for investments in energy conservation, and may do so through dissemination of such information through its District Representatives, newsletters, newspaper advertisements, bill inserts and energy efficiency workshops and by maintaining information of these programs on United Power's website.

B. Town Improvements. United Power agrees to work with the Town to implement periodic grant or other financial assistance programs or mechanisms to assist the Town in defraying costs incurred by the Town in making technology changes and/or modifications to Town facilities or purchasing equipment to provide energy efficiencies and/or conservation. A mutually cooperative process including discussion during the June to August time frame for each ensuing budget year to include such expenditures in the next annual budget cycle will materially assist the parties in best utilizing such grant or other financial assistance programs. Both parties must agree on the program uses, terms, conditions and funding mechanisms for all such grant or other financial assistance programs before United Power will advance any funds for such program.

C. Renewable Resource Programs. United Power agrees to invest in clean, renewable electric power and include renewable resource programs as an integral part of United Power's provision of electric service to its customers. United Power will continue to promote existing or new programs in its service territory and take the following steps to encourage participation by the Town and United Power's customers in available renewable resource programs.

- i. Notify the Town regarding eligible renewable resource programs;
- ii. Provide the Town with support regarding how the Town may participate in eligible renewable resource programs; and
- iii. Advise customers regarding participation in eligible renewable resource programs.

(2) Five Year Review. The Town and United Power agree to meet no less frequently than every five (5) years during the term of the Franchise to review and exchange information concerning new and additional energy conservation and efficiencies that may be implemented to further the stated intention of this Section 5-58.

**Sec. 5-59 Use of United Power Facilities**

**(a) Town Use of United Power Facilities.** The Town shall be permitted to make use of United Power's distribution facilities such as poles and conduits in the Town at no cost to the Town for the placement of Town equipment or facilities necessary to serve a legitimate police, fire, emergency, communications, public safety or traffic control purpose, or for any other purpose consistent with exercise of the Town's municipal powers and services. The Town shall notify United Power in writing in advance of its intent to use United Power facilities and the nature of such use. The Town shall be responsible for its materials costs and any costs associated with modifications to United Power facilities to accommodate the Town's joint use of such United Power facilities and for any electricity used. No such use of United Power facilities shall be required if it would constitute a safety hazard or would interfere with United Power's use of United Power facilities. Any such Town use must comply with the National Electric Safety Code and all other applicable laws, rules and regulations. Subsequently, if United Power determines that it will no longer utilize the shared facilities, Town will be responsible, at its cost, for procuring alternatives for its facilities. United Power will be required to provide at least one hundred eighty (180) days' notice if it intends to abandon any shared facility, unless such change is occasioned by external circumstances beyond United Power's control. In that event, reasonable notice is all that is required.

**(b) Use of United Power Land.** United Power shall grant to the Town use of distribution and transmission rights-of-way which it now, or in the future, owns or has an interest in within the Town for the purposes set forth in the Colorado Parks and Open Space Act of 1984, provided that United Power shall not be required to allow such use in any circumstance where such use would interfere with United Power's use of the distribution and transmission rights-of-way. Such grant shall be made only if United Power is given at least sixty (60) days advance notice of the Town's desired use. Any use by the Town pursuant to this Section 5-59 shall be made at the Town's sole expense, and shall be subject to any safety or other requirements imposed by United Power. The Town hereby expressly understands that United Power's rights-of-way contain electrical lines that could prove deadly if contact is made with any electrical current. The Town shall hold harmless and indemnify United Power for any and all liability and damages associated with the Town's use of United Power's distribution and transmission rights-of-way, conduits and poles, including the payment of United Power's reasonable attorney and expert witness fees, if applicable, except if the loss is caused by United Power's own negligence.

**(c) Third Party Use of United Power Facilities.** If requested in writing by the Town, United Power may allow other companies who hold Town franchises, or otherwise have obtained consent from the Town to use the streets, to utilize United Power facilities for the placement of their facilities upon approval by United Power and agreement upon reasonable terms and conditions including payment of fees established by United Power. No such use shall be permitted if it would constitute a safety hazard or would interfere with United Power's use of United Power facilities. United Power shall not be required to allow the use of United Power facilities for the provision of utility service except as otherwise required by law.

**(d) Emergencies.** Upon request, United Power will cooperate with the Town in developing an emergency management plan. In the case of any emergency or disaster, United Power shall, upon verbal request of the Town, make available United Power facilities for temporary emergency use during the emergency or the disaster period. Such use of United Power facilities shall

be of a limited duration and will only be allowed if the use does not interfere with United Power's own use of such United Power facilities.

**Sec. 5-60 Right of First Purchase/Use of United Power Land**

(a) **Right of First Purchase.** If at any time during the term of this franchise, United Power proposes to sell or dispose of any of its real property located within the Town, it shall grant to the Town the right of first purchase of same. United Power shall obtain an appraisal by a qualified appraiser on any such real property and the Town shall have sixty (60) days after receipt of the qualified appraisal in which to exercise the right of first purchase at the appraised value by giving written notice to United Power. If the Town is not satisfied with the appraisal tendered by United Power, the Town may obtain, within thirty (30) days of United Power's tender of its appraisal, and at the Town's cost, a second appraisal which, upon receipt, shall be tendered to United Power. If United Power is satisfied with the Town's appraisal, then, upon notice, the Town shall purchase the property at the price set forth in the second appraisal. If United Power is not satisfied with the second appraisal, then the appraisers issuing the first and second appraisals shall choose a third appraiser who will also appraise the property. The Town and United Power shall share the cost of the third appraiser equally and shall be bound by the value concluded by the third appraiser. The sixty (60) day time period by which the Town may have the first right to purchase the property shall be extended thirty (30) days from the dates of the second or third appraisal (as the case may be), and the Town shall close on the sale and pay the value set forth in the controlling appraisal within said thirty (30) days. Should the Town not provide the required written notice that it wishes to purchase the subject property within the time frames above, United Power may proceed to negotiate with others for the sale of such property, provided that United Power may not sell such property for an amount less than ninety-five percent (95%) of the appraised value without first providing the Town an opportunity to purchase such property at such lesser price, in which instance the Town shall have thirty (30) days to determine if it wishes to purchase such property.

**Sec. 5-61 Indemnification of Town**

(a) **Town Held Harmless.** United Power shall construct, maintain and operate its facilities in a manner which provides reasonable protection against injury or damage to persons or property. United Power shall not be obligated to hold harmless or indemnify the Town for claims, demands, judgments or losses which a court of competent jurisdiction has found to have arisen out of or in connection with any act of any nature, or failure to act of any nature, of the Town or its officers, contractors, agents or employees.

(b) **Notice to United Power.** Within sixty (60) days after receipt of the same by the Town Attorney, the Town will provide notice to United Power of the pendency of any claim or action against the Town arising out of the exercise by United Power of its franchise rights. United Power will be permitted, at its own expense, to appear and defend or to assist in defense of such claim.

(c) **Indemnification.**

(1) **Town Indemnified.** United Power shall indemnify, defend and hold the Town harmless from and against claims, demands, liens and all liability or damage of whatsoever kind on account of or arising from the grant of this franchise, the exercise by United Power of the related rights, or from the operations of United Power within the Town, and shall pay the costs of defense plus reasonable attorneys' fees. The Town shall (a) give prompt written notice to United Power of any claim, demand or lien with respect to which the Town seeks indemnification hereunder and (b) unless in the Town's judgment a conflict of interest may exist between the Town and United Power with respect to such claim, demand or lien, shall permit United Power to assume the defense of such claim, demand, or lien with counsel satisfactory to the Town. If such defense is assumed by United Power, United Power shall not be subject to any liability for any settlement made without its consent. If such defense is not assumed by United Power or if the Town determines that a conflict of interest exists, the parties reserve all rights to seek all remedies available in this franchise against each other.

Notwithstanding any provision hereof to the contrary, United Power shall not be obligated to indemnify, defend or hold the Town harmless to the extent any claim, demand or lien arises out of or in connection with any negligent or intentional act or failure to act of the Town or any of its officers or employees.

(d) **Immunity.** Nothing in this Agreement shall be construed as a waiver of the notice requirements, defenses, immunities and limitations the Town may have under the Colorado Governmental Immunity Act (§4-10-101, et seq., C.R.S.) or of any other defenses, immunities, or limitations of liability available to the Town by law.

(e) **Waiver of Subrogation.** The Town and United Power hereby waive and release any and all rights of action for negligence against the other which may hereafter arise on account of damage to their respective property resulting from any fire, or other casualty of the kind covered by standard fire insurance policies with extended coverage, regardless of whether or not, or in what amounts, such insurance is now or hereafter carried by the Town and United Power. These waivers and releases shall apply between the Town and United Power, and they shall also apply to any claims under or through either one as a result of any asserted right of subrogation. All policies of insurance covering property damage obtained by either the Town or United Power concerning the property shall waive the insurer's right of subrogation against the other party.

## **Sec. 5-62      Transfer of Franchise**

### **(a)      Consent of Town Required.**

(1) United Power shall not sell, transfer or assign this franchise or any rights under this Franchise to another, by stock exchange, merger, or otherwise, excepting only corporate reorganizations of United Power not involving a third party, unless the Town shall approve in writing such sale, transfer or assignment of rights. Approval of the sale, transfer or assignment shall not be unreasonably withheld. The charging or collection of the transfer fee hereinafter set forth is conclusively deemed reasonable.

(2) In order that the Town may share in the value this Franchise adds to United Power's operations, any such transfer or assignment by United Power of rights under this franchise requiring Town approval under Section 5-62(a) shall require that the transferee promptly pay to the Town an amount that is equal to the lesser of (i) Three dollars (\$3.00) per metered account located within the municipal boundaries of the Town or (ii) three times the most recent twelve (12) months of franchise fees collected by the Town from United Power. In the event only a portion of United Power's service area within the municipal boundaries of the Town is transferred, the transfer fee shall be calculated by multiplying the greater of (i) and (ii) above by number of customers transferred, divided by the then current number of customers served by United Power in the Town before said transfer. Such transfer fee shall not be recovered from the Town or from the Town residents or property owners through electric rates of customers in the Town or by a surcharge of the Residents of the Town by the transferee or United Power.

(3) Any sale, transfer or assignment of electric facilities which cause degradation of electric service within United Power's Service Area or results in a significant increase in rates to Town customers, shall constitute a violation of this Franchise.

### **Sec. 5-63 Municipally-Produced Utility Service**

#### **(a) Municipally-Produced Utility Service.**

(1) **Town Reservation.** The Town expressly reserves the right to engage in the production of utility service to the extent permitted by law. United Power agrees to negotiate in good faith long term contracts to purchase Town-generated power made available for sale, consistent with CPUC and established United Power Board requirements and considering the then existing agreements with United Power's current providers.

(2) **Franchise Not to Limit Town's Rights.** Subject to the provisions of Part 2 of Title 40, Article 9.5 of the Colorado Revised Statutes, nothing in this Franchise prohibits the Town from becoming an aggregator of utility service or from selling utility service to customers should it be permissible under law.

### **Sec. 5-64 Purchase Or Condemnation**

(a) **Town's Right to Purchase or Condemn.** The right of the Town to construct, purchase or condemn any public utility works or ways, and the right of United Power in connection therewith, as provided by the Colorado Constitution and Statutes, are hereby expressly reserved. The Town shall have the right during the term of this Franchise and using the procedures set forth herein, to purchase United Power facilities, land, rights-of-way and easements now owned or to be owned by United Power located within the municipal boundaries of the Town.

(b) **Notice of Intent to Purchase or Condemn.** The Town shall provide United Power no less than one (1) year's prior written notice of its intent to purchase or condemn United Power facilities. Nothing in this section shall be deemed or construed to constitute consent by United Power to the Town's purchase or condemnation of United Power facilities.

(c) **Negotiated Purchase Price or Condemnation Award.** Upon the exercise of the Town's option to purchase, the parties shall negotiate in good faith to determine a mutually acceptable purchase price. This purchase price will be calculated by the methodology set forth in § 40-9.5-201, C.R.S.

(d) **Continued Cooperation by United Power.**

(1) In the event the Town exercises its option to purchase or condemn, United Power agrees that it will continue to supply in whole or in part any service it supplies under this Franchise Agreement and the ordinance adopting the same, at the Town's request, for the duration of the term of this Agreement. United Power's facilities shall be available for continued service until nine months after final order is entered in a condemnation proceeding or the effective date of a purchase agreement between the parties; provided however, said obligation to maintain facilities shall not exceed a twenty-four (24) month period after the termination of the franchise. United Power shall continue to provide service pursuant to the terms of this Agreement for said twenty-four (24) months until the Town has either purchased or condemned United Power's facilities, or alternative arrangements have been made to supply electricity to the Town and its residents, whichever date shall occur earlier. The Town shall not pay for any services no longer required.

(2) United Power shall cooperate with the Town by making available then existing pertinent United Power records, which are not privileged, to enable the Town to evaluate the feasibility of acquiring United Power facilities. United Power shall not be obligated to conduct studies or accrue data without reimbursement by the Town, but will make such studies if reimbursed its actual costs for the same. United Power shall take no action, which could inhibit the Town's ability to effectively or efficiently use the acquired systems. At the Town's request, United Power shall supply electricity for use by the Town in a Town-owned system.

**Sec. 5-65 Changing Conditions.**

United Power and the Town recognize that many aspects of the electric utility business are currently the subject of discussion, examination and inquiry by different segments of industry and affected regulatory authorities and that these activities may ultimately result in fundamental changes in the way United Power conducts its business and meets its service obligations. In recognition of the present state of uncertainty respecting these matters, United Power and the Town agree, on request of the other, to negotiate in good faith an amendment of this franchise or enter into separate, mutually satisfactory arrangements to effect a proper accommodation of such developments.

**Sec. 5-66 Uncontrollable Forces.**

Neither the Town nor United Power shall be in breach of this Franchise Agreement if a failure to perform any of the duties under this franchise is due to uncontrollable forces, which shall include but not be limited to accidents, breakdown of equipment, shortage of materials, acts of God, floods, storms, fires, sabotage, terrorist attack, strikes, riots, war, labor disputes, forces of nature, the authority and orders of government and other causes or contingencies of whatever nature beyond the

reasonable control of the party affected, which could not reasonably have been anticipated and avoided.

**Sec. 5-67 Breach and Remedies**

(a) **Non-Contestability.** The Town and United Power agree to take all reasonable and necessary actions to assure that the terms of this Franchise are performed and except as may be specifically provided in this Franchise Agreement neither will take any unilateral legal action to secure the modification or amendment of this Franchise.

(b) **Breach/Notice/Cure/Remedies.** Except as otherwise provided in this Franchise, if a party (the “breaching party”) to this Franchise fails or refuses to perform any of the terms or conditions of this Franchise (a “breach”), the other party (the “non-breaching party”) may provide written notice to the breaching party of such breach. Upon receipt of such notice, the breaching party shall be given a reasonable time, not to exceed thirty (30) days, in which to remedy the breach and except as provided under Section 5-66 . If the breaching party does not remedy the breach within the time allowed in the notice, the non-breaching party may exercise the following remedies for such breach:

- (1) Specific performance of the applicable term or condition; and
- (2) Recovery of actual damages from the date of such breach incurred by the non-breaching party in connection with the breach, but excluding any consequential damages.

(c) **Termination of Franchise by Town.** In addition to the foregoing remedies, if United Power fails or refuses to perform any material term or condition of this Franchise (a “material breach”), and such failure is not an occurrence by force majeure under Section 5-66, the Town may provide written notice to United Power of such material breach. Upon receipt of such notice, United Power shall be given a reasonable time, not to exceed ninety (90) days, within which to remedy the material breach. If United Power does not remedy the material breach within the time allowed in the notice, the Town may, at its sole option, terminate this Franchise. This remedy shall be in addition to the Town’s right to exercise any of the remedies provided for elsewhere in this franchise. Upon such termination, United Power shall continue to provide electric service to the Town and its residents until the Town makes alternative arrangements for such service and be paid for such service in accordance with United Power’s Bylaws. United Power shall also be entitled to collect from Residents and shall be obligated to pay the Town, at the same times and in the same manner as provided in the Franchise, an aggregate amount equal to the amount which United Power would have paid as a franchise fee as consideration for use of the Town streets.

(d) **United Power Shall Not Terminate Franchise.** In no event, other than caused by the Town’s material breach of this Agreement, does United Power have the right to terminate this Franchise but may transfer its rights hereunder after notice to Town and as otherwise set forth in Section 5-62.

(e) **No Limitation.** Except as provided herein, nothing in this Franchise shall limit or restrict any legal rights or remedies that either party may possess arising from any alleged breach of this Franchise.

#### **Sec. 5-68 United Power Operations**

(a) **Corporate Structure.** Unless otherwise required by law, United Power shall continue its operations hereunder as a Colorado nonprofit corporation and cooperative controlled by its customers and as generally provided under § 40-9.5-101, et seq., C.R.S. This subsection shall not limit the power of United Power to engage in other lawful business ventures through the use of subsidiary or controlled entities, including for profit ventures.

#### **Sec. 5-69 Amendments**

(a) **Amendment to Franchise.** This Franchise Agreement represents the entire Franchise Agreement between the parties and, except as otherwise specified in this Agreement and the granting of the Franchise Fees and matters related thereto, there are no oral or collateral agreements or understandings.

This Franchise Agreement may be amended only by an instrument in writing signed by United Power and the Town.

(b) **Proposed Amendments.** At any time during the term of this Franchise, the Town or United Power may propose amendments to this Franchise by giving thirty (30) days written notice to the other of the proposed amendment(s) desired. However, nothing contained in this Section 5-69 shall be deemed to require either Party to consent to any amendment proposed by the other Party.

#### **Sec.5-69 Equal Opportunity**

(a) **Equal Opportunity.** United Power is an equal opportunity employer. United Power will comply with all federal, state and Town laws regarding employment, contracting and operating its business activities with a policy of non-discrimination with people of all race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability or any other protected status in accordance with all federal, state or local laws.

(b) **Contracting.** United Power agrees to require all of its contractors to comply with all federal, state and Town laws regarding employment, contracting and operating their business activities with regards to non-discrimination with people of all race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability or any other protected status in accordance with all federal, state or local laws.

(c) **Economic Development.** The parties agree that promoting economic development with the Town is in the best interest of all parties. United Power is committed to the principle of stimulating, cultivating and strengthening the participation and representation of under-represented groups in the local Hudson business community. United Power believes that increased participation

and representation of under-represented groups will lead to mutual and sustainable benefits for the local economy. United Power is also committed to the principle that the success and economic well-being of United Power is closely tied to the economic strength and vitality of the diverse communities and people it serves. United Power believes that contributing to the development of a viable and sustainable economic base among all United Power customers is in the best interests of United Power and its member-owners and will keep these goals in mind in formulating its economic development strategies, programs and policies.

**Sec. 5-70 Immigration**

(a) **Illegal Aliens.** At all times during the term of this Franchise Agreement, United Power agrees that it will comply with all applicable Federal, State and Town laws prohibiting the employment of, or contracting with, undocumented workers or illegal aliens.

(b) **Employment Prohibited.** United Power shall not knowingly employ or contract with an undocumented worker or illegal alien to perform work for United Power that is or may be related to this Franchise Agreement or knowingly contract with a subcontractor who knowingly employs or contracts with undocumented workers (illegal aliens) to perform work under this franchise.

(c) **Affirmative Action.** United Power agrees to take affirmative action to ensure that it does not employ or contract with undocumented workers or illegal aliens to perform work on this franchise.

(d) **Subcontractors.**

(1) United Power shall require all subcontractors of United Power to certify in writing to United Power that the subcontractor does not knowingly employ or contract with undocumented workers or illegal aliens and further to agree in writing not to knowingly employ or contract with an undocumented worker or illegal alien to perform work that is or may be related to this Franchise Agreement.

(2) United Power shall not enter into a contract with a subcontractor that fails to certify to United Power that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work that is or may be related to this Franchise Agreement.

(3) If United Power obtains actual knowledge that a subcontractor performing work under this franchise agreement knowingly employs or contracts with an illegal alien, United Power shall:

A. Notify the subcontractor and the Town within three (3) days that United Power has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

B. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to Section 5-70, the subcontractor does not terminate the employment or contract with the illegal alien; except that United Power shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

(e) **Compliance.** United Power shall comply with any reasonable request by the Town or the Colorado Department of Labor and Employment made in the course of an investigation that the Town or the Department is undertaking for the purpose determining the immigration status of all newly hired employees or contractors working on this franchise, including, but not limited to:

(1) Inspections and/or interviews at such locations as this contract is being performed;

(2) Review documentation related to the immigration status and/or employment eligibility of all newly hired employees or contractors performing work which is or may be related to this franchise; or,

(3) Any other reasonable steps as necessary to determine whether United Power or subcontractor is complying with the provisions of this franchise related to the employment of or contracting with undocumented workers or illegal aliens.

(f) **Documentation.** United Power shall, upon request, provide to the Town copies of documentation and verification of immigration status and employment eligibility received by United Power for itself or from subcontractors; and, if requested, copies of information received from a subcontractor submitted to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

(g) **Violation.** If United Power violates a provision of this Section 5-70, such violation may constitute a breach of this Franchise Agreement and the Town, in its sole discretion, may terminate the Franchise for breach of contract. If the Franchise is so terminated, United Power shall be liable for actual damages to the Town.

#### **Sec 5-71      Miscellaneous**

(a) **No Waiver.** Neither the Town nor United Power shall be excused from complying with any of the terms and conditions of this franchise by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions. Further, neither the Town nor United Power waives any rights under the laws, statutes and/or constitution of the State of Colorado or of the United States except as otherwise specifically set forth herein.

(b) **Successors and Assigns.** The rights, privileges, franchises and obligations granted and contained in this Agreement shall inure to the benefit of and be binding upon United Power, its successors and assigns as same may succeed to the rights of United Power pursuant to Section 5-61.

(c) **Notice and Representatives.** Both parties shall designate from time to time in writing, representatives for United Power and the Town who will be the person(s) to whom notices shall be sent regarding any action to be taken under this Agreement. Notice shall be in writing and forwarded by certified mail, or hand delivery, facsimile or electronic transmission with proof of delivery, to the persons and addresses as hereinafter stated unless the names and addresses are changed at the written request of either party, delivered in the manner provided herein. Until any such change shall hereafter be made, notices shall be sent to the following:

For the Town of Hudson:

Town Administrator  
Hudson Town Hall  
557 Ash Street, P.O. Box 351  
Hudson, CO 80642-0351

With a faxed copy to: (303) 536-4753

For United Power:

Chief Executive Officer  
United Power, Inc.  
500 Cooperative Way  
Brighton, CO 80603

With a faxed copy to: (303) 659-2172

(d) **Severability.** Should any one or more provisions of this Agreement be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective; provided however, the parties shall forthwith enter into good faith negotiations and proceed with due diligence to draft a replacement provision that will achieve the original intent of the parties hereunder.

(e) **Entire Agreement.** This Agreement constitutes the entire agreement of the parties. There have been no representations made other than those contained in this Agreement.

(f) **Third Parties, Rights to Third Parties.** Nothing herein contained shall be construed to provide rights or benefits to third parties.

(g) **Prevailing Party.** In any judicial or administrative action to enforce any of the terms or conditions of this franchise, the party that substantially prevails as determined by the court shall be entitled to recover its costs and expenses incurred in such action, including reasonable attorney fees.

(h) **Headings for Reference Only.** The headings used in this franchise are for references only and convey no substantive rights or impose no substantive obligations on the Parties.

(i) **Responsibility for Language.** The Parties hereby acknowledge during the drafting of this document each has been represented by legal counsel and that each party bears equal and identical responsibility for the language of this Agreement. In case of ambiguity, there shall be no

presumption based upon responsibility for drafting this franchise, and the Agreement shall not be construed against one party in favor of another.

(j) **Authority.** Each party represents and warrants that except as set forth below, it has taken all actions that are necessary or that are required by its ordinances, regulations, procedures, bylaws, or applicable laws, to legally authorize the undersigned signatories to execute this Agreement on behalf of the parties to its terms. The persons executing this Agreement on behalf of each of the parties warrant that they have full authorization to execute this Agreement.

(k) **Applicable Law.** Colorado law shall apply to the construction and enforcement of this franchise. The parties agree that venue for any litigation arising out of this franchise shall be in the District Court for Weld County, State of Colorado.

**Sec 5-72 Approval**

(a) **Town Approval.** This grant of Franchise shall not become effective unless approved and granted by ordinance of the Town Council.

(b) **United Power Approval.** United Power shall file with the Town Clerk its written approval of this Franchise and of all of its terms and provisions at least ten (10) days prior to public hearings set for consideration of the Ordinance by the Town Council. United Power shall file with the Town Clerk its written ratification thereof within ten (10) days after the approval of this Franchise Agreement by the Town Council. The acceptance and ratification shall in form and content be approved by the Town Attorney. If United Power shall fail to timely file its written acceptance or ratification as herein provided, this Franchise shall be and become null and void.

Section 2. Safety Clause. The Town Board of Trustees hereby finds, determines, and declares that this ordinance is promulgated under the general police power of the Town of Hudson, that it is promulgated for the health, safety, and welfare of the public, and that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 3. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. Effective Date. This Ordinance shall become effective thirty (30) days after final publication.

INTRODUCED, READ IN FULL, AND ADOPTED this 21<sup>st</sup> day of October, 2015.

IN WITNESS WHEREOF, the parties have executed this agreement this \_\_\_\_ day of \_\_\_\_\_, 2015.

UNITED POWER, INC.,  
a Colorado nonprofit corporation

By: \_\_\_\_\_  
United Power CEO

TOWN OF HUDSON, COLORADO

\_\_\_\_\_  
Raymond Patch, Mayor

ATTEST:

\_\_\_\_\_  
Linnette Barker, CMC, Town Clerk

PASSED ON SECOND AND FINAL READING this \_\_\_\_ day of \_\_\_\_\_,  
2015, AND ORDERED PUBLISHED ONCE IN FULL.

TOWN OF HUDSON, COLORADO

\_\_\_\_\_  
Raymond Patch, Mayor

ATTEST:

\_\_\_\_\_  
Linnette Barker, CMC, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Corey Y. Hoffmann, Town Attorney

**MEMORANDUM**

**3.b.**

**To:** Board of Trustees

**From:** Joe Racine, Town Administrator

**Date:** December 2, 2015

**Subject:** Resolution No. 15-40, 2015 Budget supplement

**Attachment**

During the course of 2015 there were two unanticipated projects that caused the actual expenses in Fund 23, Paving Sales Tax, to exceed the budgeted expense. These projects were the improvements on CR41, south of CR8, and the overlay on the Town's portion of CR49.

The total amount budgeted, i.e. "appropriated," for 2015 in Fund 23 was \$579,731. At the time of this memo, the anticipated end-of-year expense in this fund is \$778,853, approximately \$200,000 over the budgeted expense. In order to ensure that the actual end of year expense is within the budgeted amount, the attached resolution No. 15-40 increases the expense/appropriation by \$225,000, to the new total of \$804,731.

RESOLUTION NO.

15-40

**TITLE: A RESOLUTION ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION FOR THE 2016 BUDGET OF THE TOWN OF HUDSON**

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

Section 1. The 2016 budget for the Town of Hudson, Colorado, is hereby amended by enacting a supplemental budget and appropriation as follows:

- a. Fund Code 23, Paving Sales Tax Fund, Total Expenditures and Fund Transfers, and Appropriations are increased to \$804,731.00.

INTRODUCED, READ and PASSED this 2<sup>nd</sup> day of December, 2015.

TOWN OF HUDSON, COLORADO

\_\_\_\_\_  
Raymond Patch, Mayor

ATTEST:

\_\_\_\_\_  
Linnette Barker, Town Clerk

## MEMORANDUM

**3.c.**

**To:** Board of Trustees  
**From:** Joe Racine, Town Administrator  
**Date:** December 2, 2015  
**Subject:** Resolution No. 15-30, 2016 Budget adoption

### **Attachment**

Attached is Resolution No. 15-30, adopting the proposed Town Budget for fiscal year 2016. The budget is presented after a series of meetings, including a preliminary budget being delivered to the Board on October 2<sup>nd</sup> and a hearing on November 20<sup>th</sup>. The budget is balanced, as required by Colorado law, and provides for another busy year of activity for the Board and the staff. Included in the budget is a Budget Message, providing detail as to the programs and projects that are proposed to be accomplished in the coming year.

Along with the budget are Resolution No. 15-40, amending the appropriation for 2015 in Fund 23, Paving Sales Tax, and Resolution No. 15-31, setting the mill levies for the year. Mill levies are proposed to be continued at their current levels.

RESOLUTION NO.

15-30

**A RESOLUTION ADOPTING THE 2016 BUDGET FOR THE TOWN OF HUDSON, COLORADO, AND APPROPRIATING MONIES FOR IMPLEMENTATION OF THE BUDGET FOR THE CALENDAR YEAR BEGINNING ON THE FIRST DAY OF JANUARY, 2016, AND ENDING ON THE LAST DAY OF DECEMBER, 2016.**

WHEREAS, the Board of Trustees of the Town of Hudson, Colorado desires to adopt an operating budget for the Town in accordance with 29-1-101, et seq., C.R.S.; and

WHEREAS, the Proposed 2016 Budget has been submitted to this governing body for its consideration; and

WHEREAS, upon due and proper notice in accordance with the requirements of the Local Government Budget Law, said proposed budget was open for inspection by the public at a designated place, a public hearing was held and interested taxpayers were given the opportunity to file or register any objections to said proposed budget; and

WHEREAS, the Proposed 2016 Budget presents a complete financial plan by fund and that sets forth the proposed expenditures, anticipated revenues, fee schedule, estimated beginning and ending balances, and three year's comparable data; and

WHEREAS, no fund represented within the Proposed Budget provides for expenditures in excess of available revenues and beginning fund balances, as required by law.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF HUDSON, COLORADO:

SECTION 1. That the budget as herein submitted and attached hereto, is hereby approved with funding so appropriated for the Town of Hudson, Colorado for calendar year 2016

INTRODUCED, READ AND ADOPTED by the Board of Trustees this 2<sup>nd</sup> day of December, 2015.

(SEAL)

ATTEST:

\_\_\_\_\_  
Raymond Patch  
Mayor

\_\_\_\_\_  
Linnette Barker  
Town Clerk

## MEMORANDUM

**3.d.**

**To:** Board of Trustees  
**From:** Joe Racine, Town Administrator  
**Date:** December 2, 2015  
**Subject:** Resolution No. 15-31, 2016 Mill Levies

### **Attachments**

Attached is Resolution No. 15-31, approving the Town's property tax mill levies at the same levels that they have been for previous years. The levies are 15.966 for capital improvements and 14.377 for general operations.

Note that the property tax collections are based on both the tax rate (mill levy) and the assessed valuation of property and mineral development within the Town as set by the County Assessor. The tax rate is set by the attached resolution. The valuation amount is delivered to the Town in two steps: a preliminary valuation in August; and a final valuation that is received by the town in early December. The final valuation received from the Assessor that is used in the final budget is \$70,914,360. This is slightly different than the preliminary valuation of \$70,544,170 that was included in earlier drafts of the budgets. A copy of the Assessor's final valuation is attached.

## CERTIFICATION OF VALUATION BY WELD COUNTY ASSESSOR

Name of Jurisdiction: **0413 - HUDSON TOWN**

New Entity: No

IN WELD COUNTY ON 11/24/2015

<b>USE FOR STATUTORY PROPERTY TAX REVENUE LIMIT CALCULATIONS (5.5% LIMIT) ONLY</b>
------------------------------------------------------------------------------------

IN ACCORDANCE WITH 39-5-121(2)(a) AND 39-5-128(1), C.R.S. AND NO LATER THAN AUGUST 25, THE ASSESSOR CERTIFIES THE TOTAL VALUATION FOR ASSESSMENT FOR THE TAXABLE YEAR 2015 IN WELD COUNTY, COLORADO

1. PREVIOUS YEAR'S NET TOTAL TAXABLE ASSESSED VALUATION:	\$63,489,730
2. CURRENT YEAR'S GROSS TOTAL TAXABLE ASSESSED VALUATION: *	\$70,914,360
3. LESS TIF DISTRICT INCREMENT, IF ANY:	\$0
4. CURRENT YEAR'S NET TOTAL TAXABLE ASSESSED VALUATION:	\$70,914,360
5. NEW CONSTRUCTION: **	\$9,950
6. INCREASED PRODUCTION OF PRODUCING MINES: #	\$0
7. ANNEXATIONS/INCLUSIONS:	\$5,807,710
8. PREVIOUSLY EXEMPT FEDERAL PROPERTY: #	\$0
9. NEW PRIMARY OIL OR GAS PRODUCTION FROM ANY PRODUCING OIL AND GAS LEASEHOLD ## OR LAND (29-1-301(1)(b) C.R.S.):	\$100,950
10. TAXES COLLECTED LAST YEAR ON OMITTED PROPERTY AS OF AUG. 1 (29-1-301(1))(a) C.R.S.):	\$411.15
11. TAXES ABATED AND REFUNDED AS OF AUG. 1 (29-1-301(1)(a) C.R.S.) and (39-10-114(1)(a)(I)(B) C.R.S.):	\$983.41

\* This value reflects personal property exemptions IF enacted by the jurisdiction as authorized by Art. X, Sec.20(8)(b), Colo.

\*\* New construction is defined as: Taxable real property structures and the personal property connected with the structure.

# Jurisdiction must submit respective certifications (Forms DLG 52 AND 52A) to the Division of Local Government in order for the values to be treated as growth in the limit calculation.

## Jurisdiction must apply (Forms DLG 52B) to the Division of Local Government before the value can be treated as growth in the limit calculation.

<b>USE FOR 'TABOR' LOCAL GROWTH CALCULATIONS ONLY</b>
-------------------------------------------------------

IN ACCORDANCE WITH THE PROVISION OF ARTICLE X, SECTION 20, COLO CONST, AND 39-5-121(2)(b), C.R.S. THE ASSESSOR CERTIFIES THE TOTAL ACTUAL VALUATION FOR THE TAXABLE YEAR 2015 IN WELD COUNTY, COLORADO ON AUGUST 25, 2015

1. CURRENT YEAR'S TOTAL ACTUAL VALUE OF ALL REAL PROPERTY: @	\$173,751,779
ADDITIONS TO TAXABLE REAL PROPERTY:	
2. CONSTRUCTION OF TAXABLE REAL PROPERTY IMPROVEMENTS: !	\$125,000
3. ANNEXATIONS/INCLUSIONS:	\$6,890,939
4. INCREASED MINING PRODUCTION: %	\$0
5. PREVIOUSLY EXEMPT PROPERTY:	\$239,414
6. OIL OR GAS PRODUCTION FROM A NEW WELL:	\$115,366
7. TAXABLE REAL PROPERTY OMITTED FROM THE PREVIOUS YEAR'S TAX WARRANT: (If land and/or a structure is picked up as omitted property for multiple years, only the most current year's actual value can be reported as omitted property.)	\$0
DELETIONS FROM TAXABLE REAL PROPERTY:	
8. DESTRUCTION OF TAXABLE REAL PROPERTY IMPROVEMENTS:	\$0
9. DISCONNECTIONS/EXCLUSION:	\$0
10. PREVIOUSLY TAXABLE PROPERTY:	\$0

@ This includes the actual value of all taxable real property plus the actual value of religious, private schools, and charitable real property.

! Construction is defined as newly constructed taxable real property structures.

% Includes production from new mines and increases in production of existing producing mines.

IN ACCORDANCE WITH 39-5-128(1), C.R.S. AND NO LATER THAN AUGUST 25, THE ASSESSOR CERTIFIES TO SCHOOL DISTRICTS: 1. TOTAL ACTUAL VALUE OF ALL TAXABLE PROPERTY:----->

\$0

**NOTE: All levies must be Certified to the Board of County Commissioners NO LATER THAN DECEMBER 15, 2015**

Data Date: 11/24/2015

RESOLUTION NO.

15-31

**A RESOLUTION LEVYING GENERAL PROPERTY TAXES FOR THE YEAR 2015,  
TO HELP DEFRAY THE COSTS OF GOVERNMENT FOR THE TOWN OF  
HUDSON, COLORADO, FOR THE 2016 BUDGET YEAR.**

WHEREAS, the Board of Trustees of the Town of Hudson, Colorado, has adopted the annual budget in accordance with 29-1-101, et seq., C.R.S., on December 2, 2015; and

WHEREAS, the amount of money necessary to balance the budget for general operating expenses is \$1,019,536; and

WHEREAS, the amount of money necessary to balance the budget for the Property Tax Special Revenue Fund capital projects, bonds, interest and debt is \$1,132,219.00; and

WHEREAS, the 2015 valuation for assessment for the Town of Hudson, Colorado, as certified by the Weld County Assessor is \$70,914,360.00.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF HUDSON, COLORADO:

SECTION 1. That for the purpose of meeting all general operating expenses of the Town of Hudson, Colorado, during the 2016 budget year, there is hereby levied a tax of 14.377 mills upon each dollar of the total valuation for assessment of all taxable property within the Town for the year 2015.

SECTION 2. That for the purpose of meeting all capital project expenses including general obligation bonds, interest and debt of the Town of Hudson, Colorado during the 2016 budget year, there is hereby levied a tax of 15.966 mills upon each dollar of the total valuation for assessment of all taxable property within the Town for the year 2015.

SECTION 3. That the Town Clerk is hereby authorized and directed to immediately certify to the County Commissioners of Weld County, Colorado, the mill levy for the Town of Hudson, Colorado as hereinabove determined and set.

INTRODUCED, READ AND ADOPTED by the Board of Trustees this 2<sup>nd</sup> day of December, A.D., 2015.

TOWN OF HUDSON, COLORADO

\_\_\_\_\_  
Raymond Patch  
Mayor

(SEAL)

ATTEST:

\_\_\_\_\_  
Linnette Barker  
Town Clerk

## MEMORANDUM

**3.e.**

**To:** Board of Trustees  
**From:** Joe Racine, Town Administrator  
**Date:** December 2, 2015  
**Subject:** Ordinance No. 15-15, Authorizing sale of old town shop site

### **Attachment**

With the construction of the new public works maintenance facility, the Town has no need for the site for the old shop building at 5<sup>th</sup> Avenue and Cherry Street. The property is 115' x 125' in size, about 1/3 acre. This is enough room for two houses.

Sale of surplus town property requires an ordinance by the Board of Trustees, declaring the property to be surplus and authorizing sale of the property "upon such terms and conditions as the governing body may determine."

If approved, the ordinance will be brought to the Board on January 6<sup>th</sup> for consideration on second and final reading. At that meeting we might also present an agreement with Greeley Habitat for Humanity for the Board's consideration by which the Town would donate the land, taps and fees for the purpose of constructing two Habitat houses for veterans. The Mayor and I have had preliminary discussions with the folks from Habitat and they are very enthusiastic about doing such a project.

Action on this ordinance only makes sale possible. Any sale or donation of the site would require separate action by the Board.

ORDINANCE NO.

15-15  
Series of 2015

**TITLE: AN ORDINANCE APPROVING THE CONVEYANCE OF TOWN-OWNED PROPERTY KNOWN AS LOTS 17 THROUGH 20, BLOCK 1, HUDSON HEIGHTS ADDITION, PLUS THE ADJOINING VACATED NORTH FIFTEEN FEET OF FIFTH AVENUE**

BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF HUDSON, COLORADO, THAT:

Section 1. The Board of Trustees hereby approves the conveyance of the Town-owned property known as Lots 17 through 20, Block 1, Hudson Heights Addition plus the Adjoining Vacated North Fifteen Feet of Fifth Avenue (the "Property"), and authorizes the Mayor to execute any necessary documents regarding said conveyance.

Section 2. The Board of Trustees further finds pursuant to C.R.S. § 31-15-713(1)(b) that the Property can no longer be held for a valid governmental purpose, and thus the Town is authorized to dispose of the property pursuant to C.R.S. § 31-15-713(1)(b) "upon such terms and conditions as the governing body may determine."

Section 3. Safety Clause. The Town Board of Trustees hereby finds, determines, and declares that this ordinance is promulgated under the general police power of the Town of Hudson, that it is promulgated for the health, safety, and welfare of the public, and that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 4. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 5. Effective Date. This Ordinance shall become effective thirty (30) days after final publication.

INTRODUCED, READ IN FULL, AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

TOWN OF HUDSON, COLORADO

\_\_\_\_\_  
Raymond Patch, Mayor

ATTEST:

\_\_\_\_\_  
Linnette Barker, CMC, Town Clerk

PASSED ON SECOND AND FINAL READING this \_\_\_\_\_ day of \_\_\_\_\_, 2015, AND ORDERED PUBLISHED ONCE IN FULL.

TOWN OF HUDSON, COLORADO

\_\_\_\_\_  
Raymond Patch, Mayor

ATTEST:

\_\_\_\_\_  
Linnette Barker, CMC, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Corey Y. Hoffmann, Town Attorney

## MEMORANDUM

**To:** Board of Trustees  
**From:** Joe Racine, Town Administrator  
**Date:** December 2, 2015  
**Subject:** PUBLIC HEARING. Resolutions No. 15-32 through 15-37, Shaklee Metropolitan Districts

**2.a.**  
**3.f. through 3.k.**

### Attachments

Attached to this memo are a set of six resolutions, approving service plans for six metropolitan districts for the "Shaklee Centre," property between the prison and County Road 49 that was annexed and zoned by the Town in 2009. Formation of the districts was anticipated by language in the annexation agreement: *The Town will reasonably cooperate with the Property Owner's efforts for the formation and operation of the Financing District(s) if the Property Owner elects to pursue creation of the same.*

The metropolitan districts provide for construction, operation and maintenance of public improvements on the approximately 850 acre site. However, the service plans reference the annexation agreement which states: *All facilities constructed by the Property Owner either directly or through the Financing Districts will be conveyed to the Town. Neither the Property Owner nor the Financing Districts shall have any right or authority to provide water or sewer service, but instead shall be permitted only to acquire water rights, construct facilities and convey the same to the Town.*

It is intended that public improvements within the site will be operated or maintained by the Town unless the Town refuses to accept dedication of the constructed improvements. The primary purpose of the districts is to levy taxes on property within the district, using the proceeds of the tax for construction of water, sewer, street and other public improvements.

The service plans govern the operation of metropolitan districts, and determine the taxing limits within which the districts operate. If approved, the districts will hold elections. The debt limit specified for District #1 is \$325,000,000. The District is effectively allowed to impose a mill levy that is sufficient to service the debt.

Districts 2 through 6 consist of only a fraction of an acre each. However, their service areas include the whole of the remaining 842 acres. Representatives from the petitioner will be on hand at the hearing to explain the relationship between the five small districts and the one primary district.

## MEMORANDUM

To: Board of Trustees, Town of Hudson  
Cc: Joe Racine, Town Administrator  
Corey Hoffmann, Town Attorney  
From: McGeady Sisneros, P.C./DPFG, Inc.  
Date: November 30, 2015  
Re: Service Plans for the Shaklee Centre Metropolitan District Nos. 1-6

**SUBJECT:** Public Hearings to Consider Resolutions to Approve Service Plans for:  
Shaklee Centre Metropolitan District No. 1  
Shaklee Centre Metropolitan District No. 2  
Shaklee Centre Metropolitan District No. 3  
Shaklee Centre Metropolitan District No. 4  
Shaklee Centre Metropolitan District No. 5  
Shaklee Centre Metropolitan District No. 6

The Board of Trustees is also requested to authorize execution of related intergovernmental agreements (“IGAs”) between the proposed Shaklee Centre Metropolitan Districts and the Town related to implementing the Service Plans.

**APPLICANT:** CC Open A, LLC (Represented by MaryAnn McGeady and Erin Clark of McGeady Sisneros, P.C./ Joe Knopinski of DPFG, Inc.)

### SUMMARY

Enclosed for your consideration are six (6) Service Plans and related IGAs for the proposed Shaklee Centre Metropolitan District Nos. 1-6 (the “**Districts**”), which would provide public facilities financing to the approximately 843 acre Shaklee Centre development (the “**Development**”). The terms within the Service Plans and IGAs have been reviewed by Joe Racine, Town Administrator, and Corey Hoffmann, Town Attorney, and negotiated with the Applicant to assure compliance with Title 32, Article I, Colorado Revised Statutes (the “**Special District Act**”) and with that certain Annexation Agreement entered into by and between the

Corey Hoffmann, Town Attorney  
November 30, 2015  
Page 2

Town, CC Open A, LLC, Kerry L. Shaklee, Kathleen S. Osburn, and Karen L. McGill on January 21, 2009, which Agreement was recorded in the Weld County Clerk and Recorder's Office on February 27, 2009.

### Site

The Development is generally located south of Weld CR 18.5, west of Weld CR 49, north of I-76 and Weld CR 16, and east of Weld CR 45.5. The Town owns an approximately nine (9) acre parcel containing a wastewater treatment plant that is surrounded by the proposed Districts, but is excluded from the Districts' Service Area.

The property is approved for mixed land use development, including residential, commercial, industrial, and open space uses. Specific land uses will be determined as development planning progresses and detailed applications are submitted to the Town for approval.

### Metropolitan District Structure

A metropolitan district is an independent unit of local government formed pursuant to the Special District Act for the purpose of financing, constructing and maintaining public improvements related to a particular development. Once organized, the Districts would have the ability to levy ad valorem property taxes, charge fees, and issue tax-exempt bonds to finance infrastructure to serve the Development.

The proposed Districts are anticipated to coordinate to provide financing and limited services to the property within their combined Service Area. The initial district boundary of District No. 1 contains approximately 842 acres. The initial district boundaries of District Nos. 2-6 each contain approximately 0.230 acres. Over time it is anticipated that property will be excluded from the boundaries of District No. 1 and included into the boundaries of one or more of the related Districts as specific land development plans are negotiated with and approved by the Town.

### Service Plan/IGA Limitations

The Service Plans and related IGAs provide for the Districts to impose mill levies and issue debt in order to finance the planning, design, acquisition, construction, installation, relocation and redevelopment of public infrastructure needed to facilitate development of the Project, including roadways and water and sewer lines. Upon completion, such improvements will be dedicated to the Town.

For purposes of the Service Plans, estimated public infrastructure costs have been estimated at \$192,227 per acre, based on average costs for similar service plans in the greater Denver metropolitan region, for a total estimate for the Development of \$162,047,361. The

Corey Hoffmann, Town Attorney  
November 30, 2015  
Page 3

Total Debt Issuance Limitation provided for in the Service Plans and IGAs is \$325,000,000 and the Maximum Debt Mill Levy is fifty (50) mills.

Town consent is required prior to any of the Districts including property from outside of their respective initial district boundaries or consolidating with another Title 32 district other than one of the six (6) Shaklee Centre Metropolitan Districts. Also, the Districts are not permitted to have overlapping boundaries if the aggregate mill levy for payment of debt in the area of overlap would at any time exceed the Maximum Debt Mill Levy.

In addition, the Districts will each be required to file annual reports with the Town Attorney regarding the status of development and statutory compliance and to provide written notice to purchasers of property within the Districts' respective boundaries regarding the Maximum Debt Mill Levy and describing the Districts' general authority to impose and collect rates, fees, tolls and charges in the interest of transparency to all owners of property within the District boundaries, but residential homebuyers in particular.

Representatives for the Applicant will be present at the public hearings (which are related and may be conducted concurrently) to provide additional detail regarding the Service Plans and IGAs.

RESOLUTION NO.  
15-32

**TITLE: APPROVING THE SERVICE PLAN FOR SHAKLEE CENTRE  
METROPOLITAN DISTRICT NO. 1**

**WHEREAS**, Pursuant to Section 32-1-204.5, C.R.S., as amended, a Service Plan (“Service Plan”) for the proposed Shaklee Centre Metropolitan District No. 1 (“District”) has been submitted to the Board of Trustees (“Board”) of the Town of Hudson (“Town”).

**WHEREAS**, Pursuant to the provisions of Title 32, Article 1, C.R.S., as amended, the Board held a public hearing on the Service Plan for the District on December 2, 2015.

**WHEREAS**, Notice of the hearing before the Board was duly published in The Greeley Tribune, a newspaper of general circulation within the Town, on November 6, 2015, as required by law, and forwarded to the petitioners, others entitled to postcard or letter notice, the Division of Local Government, and the governing body of each municipality and Title 32 district that has levied an ad valorem tax within the next preceding tax year and that has boundaries within a radius of three miles of the District.

**WHEREAS**, The Board has considered the Service Plan and all other testimony and evidence presented at the hearing.

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF HUDSON, COLORADO:

Section 1. The Board hereby determines that all of the requirements of Title 32, Article 1, Part 2, C.R.S., as amended, relating to the filing of the Service Plan for the District have been fulfilled and that notice of the hearing was given in the time and manner required by law.

Section 2. The Board further determines that all pertinent facts, matters and issues were submitted at the public hearing; that all interested parties were heard or had the opportunity to be heard and that evidence satisfactory to the Board of each of the following was presented:

(a) There is sufficient existing and projected need for organized service in the area to be serviced by the proposed District;

(b) The existing service in the area to be served by the proposed District is inadequate for present and projected needs;

(c) The proposed District is capable of providing economical and sufficient service to the area within the proposed boundaries;

(d) The area to be included in the proposed District has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis;

(e) Adequate service is not, or will not be, available to the area through the Town of Hudson or other existing quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis;

(f) The facility and service standards of the proposed District are compatible with the facility and service standards of the Town and each municipality which is an interested party under Section 32-1-204, C.R.S.;

(g) The proposal is in substantial compliance with a comprehensive plan adopted pursuant to the Town code;

(h) The proposal is in compliance with any duly adopted Town, regional, or state long-range water quality management plan for the area;

(i) The creation of the proposed District will be in the best interests of the area proposed to be served; and

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

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

Section 4. The Mayor and the Town Clerk are hereby authorized to execute, on behalf of the Town, the IGA in substantially the form presented at this meeting, with such technical additions, deletions, and variations as the Town Attorney may deem necessary or appropriate and not inconsistent with this Resolution.

Section 5. This Resolution shall be filed in the records of the Town and a copy thereof submitted to the petitioners for the District for the purpose of filing in the District Court of Weld County.

Section 6. All prior resolutions or any parts thereof, to the extent that they are inconsistent with this Resolution, are hereby rescinded.

INTRODUCED, READ AND PASSED this \_\_\_\_ day of December, 2015.

TOWN OF HUDSON, COLORADO

\_\_\_\_\_  
Raymond Patch, Mayor

Attest:

\_\_\_\_\_  
Linnette Barker, CMC, Town Clerk

**SERVICE PLAN**

**FOR**

**SHAKLEE CENTRE METROPOLITAN DISTRICT NO. 1**

**TOWN OF HUDSON, WELD COUNTY, COLORADO**

Prepared

by

McGeady Sisneros, P.C.  
450 E. 17<sup>th</sup> Avenue, Suite 400  
Denver, Colorado 80203

Pre-Submittal: October 5, 2015

Formal Submittal: November 18, 2015

Approved: \_\_\_\_\_, 2015

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**LIST OF EXHIBITS**

EXHIBIT A	Legal Description of Initial District No. 1 Boundary
EXHIBIT B-1	Hudson Vicinity Map
EXHIBIT B-2	Initial District No. 1 Boundary Map
EXHIBIT C	Form of Intergovernmental Agreement

**SERVICE PLAN FOR  
SHAKLEE CENTRE METROPOLITAN DISTRICT NO. 1**

**I. INTRODUCTION**

A. Purpose and Intent.

The District , as hereinafter defined, is an independent unit of local government, separate and distinct from the Town, 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 Town only insofar as they may deviate in a material manner from the requirements of the Service Plan or the Intergovernmental Agreement between the Town and the District, as hereinafter defined. 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 and construct or acquire these Public Improvements.

B. Need for the District.

There are currently no other governmental entities, including the Town, 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, maintenance 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 Town Regarding District's Service Plan.

The Town'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, and for the operation and maintenance of certain of the Public Improvements. All Debt is expected to be repaid, and the costs of operating and maintaining certain of the Public Improvements are expected to be paid by taxes, fees, rates, tolls and charges, and other legally available revenues. No debt service mill levy shall be imposed and collected at a level higher than the Maximum Debt Mill Levy, as hereinafter defined. Debt which is issued within these parameters, as further described in the Financial Plan, as hereinafter defined, will insulate property owners from excessive tax burdens to support the servicing of the Debt and will result in a timely and reasonable discharge of the Debt.

This Service Plan is intended to establish 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 the Property and to provide certain operation and maintenance services related to the Public Improvements, subject to the limitations set forth herein. Additional operational activities are allowed, but only as authorized by an Intergovernmental Agreement with the Town.

The District shall be authorized to finance the Public Improvements that can be funded from Debt to be repaid, in part, from tax revenues collected from a mill levy which shall not exceed the Maximum Debt Mill Levy. It is the intent of this Service Plan to assure to the extent possible that no property within the District's boundaries bears a property tax burden for repayment of Debt that is greater than that associated with the Maximum Debt Mill Levy even under bankruptcy or other unusual situations.

## II. DEFINITIONS

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

Board: means the board of directors of the District.

Bond, Bonds or Debt: means bonds or other obligations for the payment of which the District has promised to impose an *ad valorem* property tax mill levy but shall not include the District's promise to impose an *ad valorem* property tax mill levy pursuant to an intergovernmental agreement.

C.R.S.: means the Colorado Revised Statutes, as the same may be amended from time to time.

District or District No. 1: means Shaklee Centre Metropolitan District No. 1.

Districts: means District No. 1, Shaklee Centre Metropolitan District No. 2, Shaklee Centre Metropolitan District No. 3, Shaklee Centre Metropolitan District No. 4, Shaklee Centre Metropolitan District No. 5, and Shaklee Centre Metropolitan District No. 6, 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.

Financial Plan: means the combined Financial Plans of the Districts as described in Section 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 property taxes for the first budget year.

Initial District No. 1 Boundary: means the boundary of the area legally described in **Exhibit A** and depicted on the Initial District No. 1 Boundary Map.

Initial District No. 1 Boundary Map: means the map attached hereto as **Exhibit B-2**, depicting the Initial District No. 1 Boundary.

Intergovernmental Agreement: means the intergovernmental agreement between the District and the Town in the form attached hereto as **Exhibit C**.

Land Use Plan: means the zoning documents approved for the Property and either a Sketch Plan, Preliminary Plat and Final Plat, or Planned Unit Development for the Project, together with any required Subdivision Improvement Agreement(s) as approved by the Town pursuant to the Town Code, as any of the foregoing may be amended from time to time with Town approval, and which identify, among other things, the Public Improvements necessary for facilitating development of property within the Service Area and, as applicable, the entity or entities responsible for operating and maintaining such Public Improvements on an ongoing basis.

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

Project: means the development or property commonly referred to as Shaklee Centre.

Property: means the property within the Service Area.

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

Service Area: means the property described in **Exhibit A** and depicted on the Initial District No. 1 Boundary Map, as well as any additional property actually included into the boundaries of any one of the Districts in accordance with Section V.

Service Plan: means this service plan for District No. 1, as approved by the Town Board in accordance with applicable State law.

Service Plan Amendment: means an amendment to the Service Plan as approved by the Town Board in accordance with applicable State law.

Special District Act: means Section 32-1-101, *et seq.*, C.R.S., as amended from time to time.

State: means the State of Colorado.

TABOR: means the Taxpayer's Bill of Rights set forth at Article X, Section 20 of the Colorado Constitution.

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

Town: means the Town of Hudson, Colorado.

Town Board: means the Board of Trustees of the Town.

Town Code: means the Municipal Code for the Town, as amended from time to time.

### **III. BOUNDARIES**

The area within the Initial District No. 1 Boundary includes approximately Eight Hundred Forty-Two (842) acres. A legal description of the Initial District No. 1 Boundary is attached hereto as **Exhibit A**. A vicinity map is attached hereto as **Exhibit B-1**. An Initial District No. 1 Boundary Map is attached hereto as **Exhibit B-2**. It is anticipated that District No. 1's boundaries may change from time to time, particularly as portions of the Project are excluded from District No. 1 and included into the boundaries of the other Districts from time to time, pursuant to Section 32-1-401, *et seq.*, C.R.S., Section 32-1-501, *et seq.*, C.R.S., and subject to the limitations set forth in Section V below.

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

The Service Area consists of approximately Eight Hundred Forty-Three (843) acres of land. The current assessed valuation of the Service Area is considered to be \$-0- for purposes of this Service Plan and, at build-out, is expected to be sufficient to reasonably discharge the Debt under the Financial Plan. The daytime population of the District at build-out is estimated to be approximately Five Thousand (5,000) people.

### **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 Colorado 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 and finance the Public Improvements. Public Improvements located within the Service Area and financed or constructed by the District—in particular, public streets, water, and sanitary sewer improvements—will be dedicated to the Town for ongoing operation, maintenance and repair in a manner consistent with that certain Annexation Agreement dated January 21, 2009, and recorded in the Weld County Clerk and Recorder's Office on February 27, 2009, at Reception No. 3608062, by and between the Town and Kerry L. Shaklee, Kathleen S. Osburn, Karen L. McGill, and CC Open A, LLC, and any future subdivision improvement agreements or other development agreements applicable to the Public Improvements within the Service Area. Those Public Improvements that are not accepted by the Town may be retained by the District for ongoing operation, maintenance and repair in a manner consistent with the Land Use Plan,

applicable rules and regulations of the Town, applicable provisions of the Town Code, and any agreements between the Town and District.

During any period that the District operates and maintains Public Improvements located within its boundaries, revenue to pay the expenses of such operations and maintenance may be obtained from fees legally imposed by the District or other legally available revenues of the District, including *ad valorem* property taxes imposed for such purpose. The District shall be authorized to provide covenant enforcement and design review, as provided under Section 32-1-1004(8)(a), C.R.S., and to the extent authorized in an approved Land Use Plan.

2. Construction Standards Limitation. The District will ensure that the Public Improvements are designed and constructed to standards and specifications that are comparable to the standards and specifications of the Town or other governmental entities within which the Public Improvements are located. For all Public Improvements constructed within the Town's boundaries for which the Town will assume ownership, operations and maintenance responsibility, the District will obtain the Town's approval of civil engineering plans and applicable permits for construction and installation of Public Improvements, as required by Town rules and regulations, 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 from outside of the Initial District No. 1 Boundary without the prior written consent of the Town Board.

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

6. Total Debt Issuance Limitation. The District shall not issue Debt in excess of Three Hundred Twenty-Five Million Dollars (\$325,000,000), provided that the

foregoing shall not include the principal amount of Debt which has been refunded by the issuance of refunding Debt.

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 Town is eligible to apply for, except pursuant to an Intergovernmental Agreement with the Town. This Section shall not apply to specific ownership taxes, which shall be distributed to and constitute 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 Town Board, unless such consolidation is with one or more of the related Districts.

9. 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 Town 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 which results in a pledge, that would cause the District to impose a mill levy for repayment of Debt 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 Town Board as part of a Service Plan Amendment.

10. Additional Services. In addition to the other powers of the District set forth in this Section V and subject to the limitations set forth in Section V.A.1, the District shall also have the 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 by Colorado law, including the power of covenant enforcement, design review and those powers enumerated in Sections 32-1-1101 and 32-1-1101.7, C.R.S. Pursuant to Section 32-1-1101(1)(f)(I), C.R.S., and Section 32-1-1101(1.5)(e), C.R.S., the District shall have the authority to divide the District into one or more areas consistent with the services, programs and facilities to be furnished therein. Pursuant to Section 32-1-1101.7, C.R.S. (the “SID Statute”), the District is authorized to establish a special improvement district within its boundaries to assess property, to provide and finance renewable energy and energy efficient improvements, and to undertake all activities set

forth in the SID Statute, as it may be amended from time to time. The exercise of any such powers and authorities shall not be deemed a material modification of this Service Plan.

11. Service Plan Amendment Requirement. The 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 which violate the limitations of this Service Plan or the Intergovernmental Agreement shall be deemed material modifications to this Service Plan and breaches of such Intergovernmental Agreement, and the Town shall be entitled to all remedies available at law or in equity under State and local law.

12. Preliminary Engineering Survey. The District shall have the authority to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, maintenance and financing of the Public Improvements within and without the boundaries of the District, which will be more specifically defined in the Land Use Plan. An estimate of the costs of the Public Improvements which may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, maintained or financed was prepared based upon a preliminary engineering survey and estimates derived from the proposed land uses on the property in the Service Area and is approximately One Hundred Sixty-Two Million Forty-Seven Thousand Three Hundred Sixty-One Dollars (\$162,047,361).

All of the Public Improvements within the Town boundaries will be designed in such a way as to assure that the Public Improvements standards will be compatible with those of the Town and shall be in accordance with the requirements of the Land Use Plan. All construction cost estimates are based on the assumption that construction conforms to applicable local, State and federal requirements.

B. Multiple District Structure.

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

VI. FINANCIAL PLAN

A. General.

The District shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment, and operations and maintenance 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 revenues derived from the Maximum Debt Mill Levy and other legally available revenues. The total Debt that the District shall be permitted to issue shall not exceed

Three Hundred Twenty-Five Million Dollars (\$325,000,000) 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 Debt issued by the District may be payable from any and all legally available revenues of the District, including general *ad valorem* taxes to be imposed upon all Taxable Property within the District. The District will also rely upon various other revenue sources, including the power to assess fees, rates, tolls, penalties or charges as provided in Section 32-1-1001(1), C.R.S., as amended from time to time.

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 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 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, 2016, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

2. For any portion of the District’s aggregate Debt which is equal to or less than fifty percent (50%) of the District’s assessed valuation, either on the date of issuance or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate.

3. For purposes of the foregoing, once Debt has been determined to be within Section VI.C.2 above, so that the District is entitled to pledge to its payment an unlimited *ad valorem* mill levy, the District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in the District’s Debt to assessed

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

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 Town 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 Town 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 Town 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 Administrative and 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 District is anticipated to be approximately Fifty Thousand Dollars (\$50,000) and will be derived from property taxes, developer advances and other revenues.

The Maximum Debt Mill Levy for the repayment of Debt shall not apply to the District's ability to increase its mill levy as necessary for provision of administrative and, to the extent authorized herein, operation and maintenance services to its taxpayers and service users.

The District's costs for administration shall include, but not be limited to, the authority to pay Directors' compensation in amounts no greater than those amounts allowed under the Special District Act.

**VII. ANNUAL REPORT**

A. General.

The District shall be responsible for submitting an annual report to the Town Attorney's office no later than August 1<sup>st</sup> of each year following the year in which an Order and Decree creating the District has been issued.

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 Town 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 exemption, if applicable.

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

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

#### **VIII. DISSOLUTION**

Upon an independent determination of the Town Board that the purposes for which the District was created have been accomplished, the District agrees to file a petition in the appropriate District Court for dissolution, pursuant to the applicable State statutes. In no event shall a dissolution occur until the District has provided for: (a) the payment or discharge of all its outstanding indebtedness; (b) assumption by some other appropriate entity of its essential services and operation and maintenance responsibilities for the Public Improvements; and (c) other financial obligations as required pursuant to State statutes.

#### **IX. DISCLOSURE TO PURCHASERS**

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

#### **X. INTERGOVERNMENTAL AGREEMENT**

The form of the Intergovernmental Agreement is attached hereto as **Exhibit C**. The District shall approve the Intergovernmental Agreement at its first Board meeting after its organizational election, in the same form as is attached on **Exhibit C** and with any revisions as approved by the Town Board. 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 Town Board shall approve the Intergovernmental Agreement in the form attached as **Exhibit C** at the public hearing approving the Service Plan. The Intergovernmental Agreement may be amended by mutual agreement of the Town and District, which amendment shall not require a Service Plan Amendment or other form of Town Board approval. In the event of conflict between the Intergovernmental Agreement and this Service Plan, the Intergovernmental Agreement shall govern.

#### **XI. CONCLUSION**

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

1. There is sufficient existing and projected need for organized service in the area to be serviced by the District;
2. The existing service in the area to be served by the District is inadequate for present and projected needs;
3. The District is capable of providing economical and sufficient service to the area within its proposed boundaries;
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 Town 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 Town 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 Town Code;
8. The proposal is in compliance with any duly adopted Town, 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**

**Legal Description of Initial District No. 1 Boundary**

## Legal Description

### Shaklee Centre Metropolitan District No. 1 Boundary

A PARCEL OF LAND LOCATED IN THE SOUTH HALF OF SECTION 24, IN SECTION 25 AND IN THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 2 NORTH, RANGE 65 WEST AND IN SECTION 30, TOWNSHIP 2 NORTH, RANGE 64 WEST, ALL OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SECTION 25, WHENCE THE NORTH ONE-QUARTER CORNER OF SECTION 25 BEARS NORTH  $89^{\circ}46'30''$  EAST 2652.85 FEET; THENCE ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 24 NORTH  $00^{\circ}07'05''$  WEST 1318.20 FEET TO THE SOUTH ONE-SIXTEENTH CORNER OF SECTION 23 AND 24; THENCE ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER NORTH  $89^{\circ}49'14''$  EAST 1321.25 FEET TO THE SOUTHWEST ONE-SIXTEENTH CORNER OF SECTION 24; THENCE ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 24 NORTH  $89^{\circ}48'40''$  EAST 1321.21 FEET TO THE CENTER-SOUTH ONE-SIXTEENTH CORNER OF SECTION 24; THENCE ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 24 NORTH  $89^{\circ}48'41''$  EAST 1321.71 FEET TO THE SOUTHWEST ONE-SIXTEENTH CORNER OF SECTION 24; THENCE ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 24 SOUTH  $00^{\circ}47'08''$  EAST 1315.45 FEET TO THE EAST ONE-SIXTEENTH CORNER OF SECTIONS 24 AND 25; THENCE ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 25 NORTH  $89^{\circ}49'46''$  EAST 1327.23 FEET TO THE NORTHEAST CORNER OF SECTION 25; THENCE ALONG AN EXTENSION OF SAID NORTH LINE NORTH  $89^{\circ}49'46''$  EAST 40.00 FEET TO A POINT OF INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF WELD COUNTY ROAD NO. 49; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO COURSES: 1) SOUTH  $01^{\circ}02'07''$  EAST 2639.09 FEET; 2) SOUTH  $01^{\circ}02'13''$  EAST 2368.65 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF INTERSTATE 76; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO COURSES: 1) NORTH  $65^{\circ}03'03''$  WEST 0.74 FEET; 2) SOUTH  $55^{\circ}18'57''$  WEST 95.30 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF WELD COUNTY ROAD NO. 49; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE NORTH  $01^{\circ}02'13''$  WEST 2421.41 FEET TO A POINT ON THE SOUTH LINE OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 25, SAID LINE BEING THE NORTHERLY PROPERTY LINE OF JOSEPH IANELLI, PARCEL NUMBER 130725000014; THENCE ALONG SAID NORTH PROPERTY LINE SOUTH  $89^{\circ}09'41''$  WEST 1297.60 FEET TO THE EAST ONE-SIXTEENTH CORNER OF SECTION 25; THENCE ALONG THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 25, SAID LINE BEING THE WESTERLY PROPERTY LINE OF JOSEPH IANELLI, PARCEL NUMBER 130725000014, JAMES BELL, PARCEL NUMBER

130725000013, AND HOWARD YOUNGER, PARCEL NUMBER 130725000012, SOUTH 00°48'23" EAST 2546.25 FEET, WHENCE THE EAST ONE-SIXTEENTH CORNER OF SECTIONS 25 AND 36 BEARS SOUTH 00°48'23" EAST 100.00 FEET; THENCE PARALLEL WITH THE SOUTH LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 25 SOUTH 88°49'31" WEST 500.00 FEET TO A POINT BEING 500.00 FEET WEST OF THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 25 (AS MEASURED AT RIGHT ANGLES); THENCE PARALLEL WITH THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 25, SOUTH 00°48'23" EAST 100.00 FEET TO THE SOUTH LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 25; THENCE ALONG THE SOUTH LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 25 SOUTH 88°49'31" WEST 848.24 FEET TO THE SOUTH ONE-QUARTER CORNER OF SECTION 25; THENCE ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 25 SOUTH 87°27'28" WEST 2592.87 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF WELD COUNTY ROAD NO. 47 AS PRESENTLY EVIDENT AND ESTABLISHED BY USAGE, WHENCE THE SOUTHWEST CORNER OF SECTION 25 BEARS SOUTH 87°27'28" WEST 29.74 FEET; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE NORTH 00°54'07" WEST 2758.42 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF WELD COUNTY ROAD NO. 16.5 AS PRESENTLY EVIDENT AND ESTABLISHED BY USAGE; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE SOUTH 89°18'20" WEST 1867.13 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SECTION 26; THENCE ALONG SAID SOUTH LINE NORTH 89°51'30" WEST 736.57 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF WELD COUNTY ROAD NO. 45.5 AS PRESENTLY EVIDENT AND ESTABLISHED BY USAGE, WHENCE THE CENTER ONE-QUARTER CORNER OF SECTION 26 BEARS NORTH 89°51'30" WEST 71.80 FEET; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE NORTH 00°57'40" WEST 2680.16 FEET TO A POINT ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 26, WHENCE THE NORTH ONE-QUARTER CORNER OF SECTION 26 BEARS SOUTH 89°45'50" WEST 76.38 FEET; THENCE ALONG SAID NORTH LINE NORTH 89°45'50" EAST 2576.06 FEET TO THE NORTHWEST CORNER OF SECTION 25 AND THE POINT OF BEGINNING.

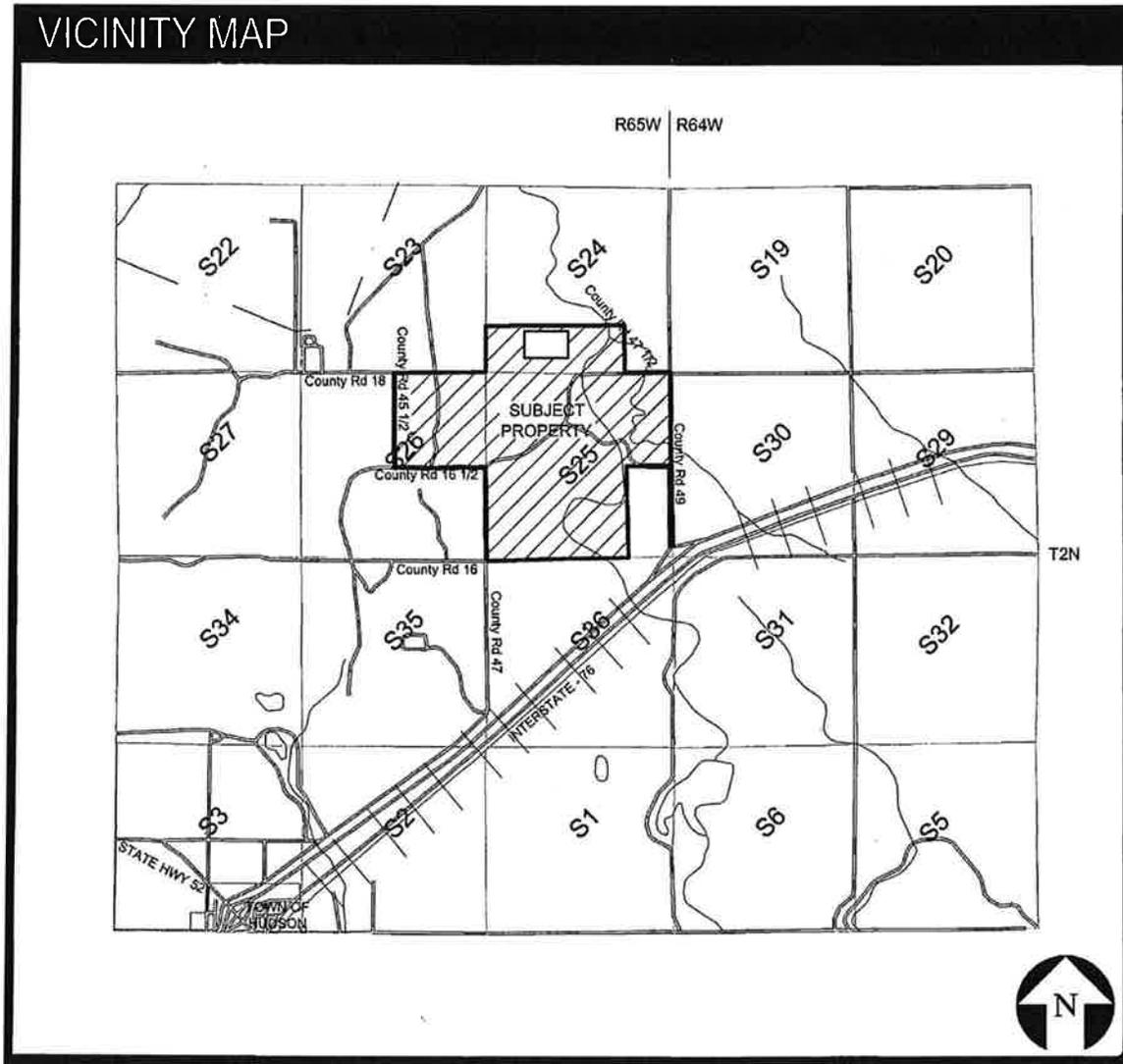
EXCEPT THAT PORTION KNOWN AS THE TOWN OF HUDSON WASTEWATER TREATMENT PLANT IN WELD COUNTY, COLORADO, DESCRIBED AS A PORTION OF LAND COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 24; THENCE NORTH 19°38' WEST 856.01 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°52' WEST 900 FEET; THENCE NORTH 00°07' EAST 450 FEET; THENCE NORTH 89°52' EAST 900 FEET; THENCE SOUTH 00°07' WEST 450 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 842 ACRES MORE OR LESS, TOGETHER WITH AND SUBJECT TO ALL EASEMENTS AND RIGHT-OF-WAY EXISTING AND/OR OF PUBLIC RECORD.



EXHIBIT B-1

Hudson Vicinity Map

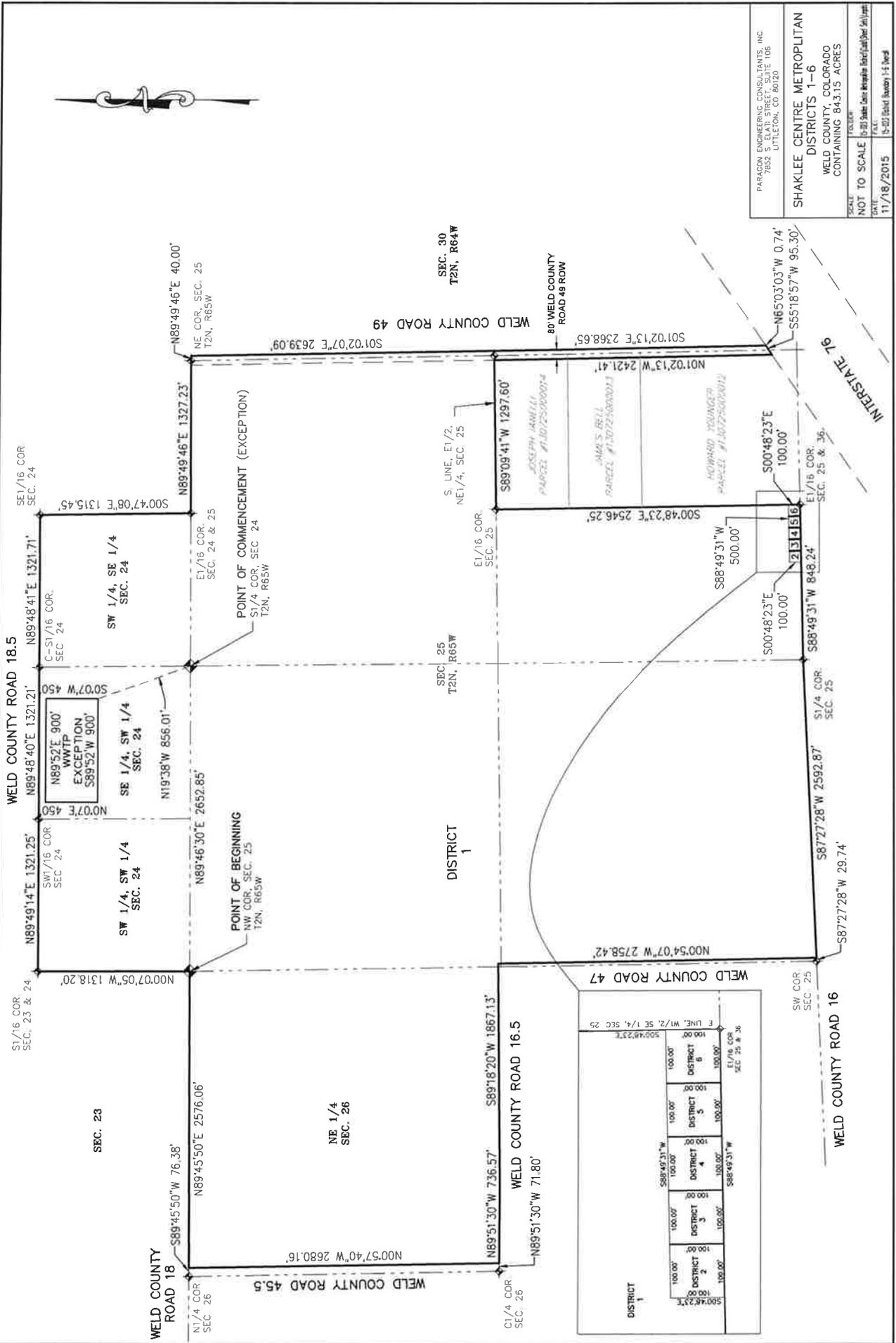


SHAKLEE ANNEXATION TO THE TOWN OF HUDSON

**EXHIBIT B-2**

**Initial District No. 1 Boundary Map**





PARAGON ENGINEERING CONSULTANTS, INC 7852 S. ILLINOIS STREET SUITE 105 LITTLETON, CO 80120	
SHAKLEE CENTRE METROPOLITAN DISTRICTS 1-6 WELD COUNTY, COLORADO CONTAINING 843.15 ACRES	
SCALE	NOT TO SCALE
PROJECT	15-201 State One Interstate Interchange Relocation
DATE	11/18/2015
DRAWN	15-201 Road Study 1-6.dwg

**EXHIBIT C**

**Form of Intergovernmental Agreement**

**INTERGOVERNMENTAL AGREEMENT BETWEEN**  
**TOWN OF HUDSON, COLORADO**  
**AND**  
**SHAKLEE CENTRE METROPOLITAN DISTRICT NO. 1**

THIS AGREEMENT is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the TOWN OF HUDSON, COLORADO (the "Town"), and SHAKLEE CENTRE METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado (the "**District**"). The Town and the District may be collectively referred to herein 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 Town on \_\_\_\_\_, 20\_\_ (the "**Service Plan**"); and

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

WHEREAS, the Town and the District have determined it to be in the best interests of their respective taxpayers, residents and property owners to enter into this Intergovernmental Agreement (the "**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. **Definitions.** Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Service Plan.
2. **Operations and Maintenance.** The purpose of the District is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. Public Improvements located within the Service Area and financed or constructed by the District—in particular, public streets, water, and sanitary sewer improvements—will be dedicated to the Town for ongoing operation, maintenance and repair in a manner consistent with that certain Annexation Agreement dated January 21, 2009, and recorded in the Weld County Clerk and Recorder's Office on February 27, 2009, at Reception No. 3608062, by and between the Town and Kerry L. Shaklee, Kathleen S. Osburn, Karen L. McGill, and CC Open A, LLC, and any future subdivision improvement agreements or other development agreements applicable to the Public Improvements within the Service Area. Those Public Improvements that are not accepted by the Town may be retained by the District for ongoing operation, maintenance and repair in a manner consistent with the Land Use Plan, applicable rules and regulations of the Town, applicable provisions of the Town Code, and any agreements between the Town and District.

During any period that the District operates and maintains Public Improvements located within its boundaries, revenue to pay the expenses of such operations and maintenance may be obtained from fees legally imposed by the District or other legally available revenues of the District, including *ad valorem* property taxes imposed for such purpose. The District shall be authorized to provide covenant enforcement and design review, as provided under Section 32-1-1004(8)(a), C.R.S., and to the extent authorized in an approved Land Use Plan.

3. Construction Standards. The District will ensure that the Public Improvements are designed and constructed to standards and specifications that are comparable to standards and specifications of the Town or other governmental entities within which the Public Improvements are located. For all Public Improvements constructed within the Town's boundaries for which the Town will assume ownership, operations and maintenance responsibility, the District will obtain the Town's approval of civil engineering plans and applicable permits for construction and installation of Public Improvements, as required by Town rules and regulations, prior to performing such work.

4. 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.

5. Inclusion. The District shall not include within its boundaries any property from outside of the Initial District No. 1 Boundary without the prior written consent of the Town Board.

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

7. Total Debt Issuance. The District shall not issue Debt in excess of Three Hundred Twenty-Five Million Dollars (\$325,000,000), provided that the foregoing shall not include the principal amount of Debt which has been refunded by the issuance of refunding Debt.

8. 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 Town is eligible to apply for, except pursuant to an intergovernmental agreement with the Town. This section shall not apply to specific ownership taxes which shall be distributed to and a revenue source for the District without any limitation.

9. 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 Town Board, unless such consolidation is with one or more of the related Districts.

10. Bankruptcy Limitation. All of the limitations contained in the Service Plan, including, but not limited to, those pertaining to the Maximum Debt Mill Levy, have been established under the authority of the Town 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 which results in a pledge, that would cause the District to impose a mill levy for repayment of Debt that exceeds the Maximum Debt Mill Levy, shall be deemed a material modification of the 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 Town as part of a Service Plan Amendment.

11. Additional Services. In addition to the other powers of the District set forth in the Service Plan and subject to the limitations set forth in Section 2 of this Agreement, the District shall also have the 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 by Colorado law, including the power of covenant enforcement, design review and those powers enumerated in Sections 32-1-1101 and 32-1-1101.7, C.R.S. Pursuant to Section 32-1-1101(1)(f)(I), C.R.S., and Section 32-1-1101(1.5)(e), C.R.S., the District shall have the authority to divide the District into one or more areas consistent with the services, programs and facilities to be furnished therein. Pursuant to Section 32-1-1101.7, C.R.S. (the “SID Statute”), the District is authorized to establish a special improvement district within its boundaries to assess property, to provide and finance renewable energy and energy efficient improvements, and to undertake all activities set forth in the SID Statute, as it may be amended from time to time. The exercise of any such powers and authorities shall not be deemed a breach of this Agreement.

12. Dissolution. Upon an independent determination of the Town Board that the purposes for which the District was created have been accomplished, the District agrees to file a petition in the appropriate District Court for dissolution, pursuant to the applicable State statutes. In no event shall a dissolution occur until the District has provided for: (a) the payment or

discharge of all of its outstanding indebtedness; (b) assumption by some other appropriate entity of its essential services and operation and maintenance responsibilities for the Public Improvements; and (c) other financial obligations as required pursuant to State statutes.

13. Disclosure to Purchasers. The District will use reasonable efforts to assure that all developers of property located within the District provide written notice to all purchasers of property in the District regarding the Maximum Debt Mill Levy, as well as a general description of the District's authority to impose and collect rates, fees, tolls and charges.

14. Service Plan Amendment Requirement. Actions of the District which 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 Town shall be entitled to all remedies available at law or in equity under State and local law.

15. Annual Report. The District shall be responsible for submitting an annual report to the Town Attorney's office no later than August 1<sup>st</sup> of each year following the year in which an Order and Decree creating the District has been issued.

a. Report Contents.

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 Town 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 exemption, if applicable;
- v. Notice of continuing disclosure undertaking for events of default by the District, under any Debt instruments, which continue beyond a ninety (90) day period; 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.

16. 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:

a. 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; 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 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, 2016, 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.

b. For any portion of the District's aggregate Debt which is equal to or less than fifty percent (50%) of the District's assessed valuation, either on the date of issuance or at any time thereafter, the mill levy to be imposed to repay such portion of Debt shall not be subject to the Maximum Debt Mill Levy and, as a result, the mill levy may be such amount as is necessary to pay the Debt service on such Debt, without limitation of rate.

c. 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 valuation 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.

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

18. 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



21. 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.

22. 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.

23. 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.

24. Governing Law and Venue. This Agreement shall be governed and construed under the laws of the State of Colorado. Venue for all actions brought hereunder shall be in the District Court in and for Weld County.

25. 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.

26. 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.

27. 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 Town 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 Town shall be for the sole and exclusive benefit of the District and the Town.

28. 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.

29. 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.

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

**[SIGNATURE PAGE FOLLOWS]**

**[SIGNATURE PAGE TO INTERGOVERNMENTAL AGREEMENT BETWEEN  
TOWN OF HUDSON, COLORADO AND SHAKLEE CENTRE METROPOLITAN  
DISTRICT NO. 1]**

SHAKLEE CENTRE METROPOLITAN  
DISTRICT NO. 1

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

Attest:

\_\_\_\_\_  
Secretary

TOWN OF HUDSON

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

Attest:

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

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