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SENATE BILL 09-141

BY SENATOR(S) Tapia, Schwartz, Foster, Harvey, Kester, King K., Mitchell, Penry, Scheffel, Schultheis;
also REPRESENTATIVE(S) Looper and Pace, Vigil, Curry, Fischer, Gardner B., Green, Labuda, Liston, McFadyen, Merrifield, Priola, Ryden, Stephens.

CONCERNING THE CREATION OF THE FOUNTAIN CREEK WATERSHED, FLOOD CONTROL, AND GREENWAY DISTRICT.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 32, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 11.5
Fountain Creek Watershed, Flood Control, and Greenway District

PART 1
GENERAL PROVISIONS

32-11.5-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "FOUNTAIN CREEK WATERSHED, FLOOD CONTROL, AND

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

GREENWAY DISTRICT ACT".

32-11.5-102. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) THE FOUNTAIN CREEK WATERSHED, INCLUDING FOUNTAIN CREEK, RELATED WETLANDS, EXISTING TRAILS, AND RECREATIONAL FACILITIES, IS A UNIQUE AND HIGH QUALITY WATERSHED THAT IS AN IMPORTANT RESOURCE AND ASSET TO THE PEOPLE OF EL PASO COUNTY, PUEBLO COUNTY, AND THE STATE OF COLORADO;

(b) THERE ARE MANY CHALLENGES ARISING FROM THE UNIQUE NATURE OF THE FOUNTAIN CREEK WATERSHED, INCLUDING TORRENTIAL STORMS THAT OCCUR INTERMITTENTLY IN URBAN AND RURAL AREAS THAT DRAIN INTO FOUNTAIN CREEK AND RESULT IN INCREASED POTENTIAL FOR FLOOD DANGER TO PROPERTY, NATURAL RESOURCES, AND PERSONS WITHIN THE URBAN AND RURAL AREAS OF THE WATERSHED;

(c) IT IS NECESSARY TO ADDRESS FLOODING, DRAINAGE, SEDIMENTATION, WATER QUALITY, WATER QUANTITY, AND EROSION PROBLEMS WITHIN THE FOUNTAIN CREEK WATERSHED IN EL PASO COUNTY AND PUEBLO COUNTY;

(d) BECAUSE THE FOUNTAIN CREEK WATERSHED IS PHYSICALLY LOCATED IN BOTH EL PASO COUNTY AND PUEBLO COUNTY AND CROSSES THE JURISDICTIONAL BOUNDARIES OF THE TWO COUNTIES, THE CITIES OF COLORADO SPRINGS, FOUNTAIN, MANITOU SPRINGS, AND PUEBLO, AND THE TOWNS OF PALMER LAKE, GREEN MOUNTAIN FALLS, AND MONUMENT, THE WATERSHED INCLUDES LARGE AREAS OF BOTH INCORPORATED AND UNINCORPORATED LAND, WHICH HAS:

(I) RESULTED IN THE FRAGMENTATION AND PROLIFERATION AMONG THE COUNTIES AND MUNICIPALITIES OF POWERS, RIGHTS, PRIVILEGES, AND DUTIES PERTAINING TO STORM WATER, FLOOD MITIGATION, AND ATTENUATION AND DRAINAGE WITHIN THE WATERSHED; AND

(II) LEFT THE COUNTIES AND MUNICIPALITIES UNABLE TO ACQUIRE SUITABLE CAPITAL IMPROVEMENTS FOR THE MITIGATION OF THE FLOODING, DRAINAGE, AND EROSION PROBLEMS WITHIN THE WATERSHED;

(e) IN ORDER TO ADDRESS FLOODING, DRAINAGE, SEDIMENTATION, WATER QUALITY, WATER QUANTITY, AND EROSION PROBLEMS AND RECREATIONAL OPPORTUNITIES WITHIN THE FOUNTAIN CREEK WATERSHED AND EFFECTIVELY PROTECT, DEVELOP, AND USE THE NATURAL RESOURCES WITHIN THE WATERSHED, IT IS NECESSARY AND APPROPRIATE TO CREATE THE FOUNTAIN CREEK WATERSHED, FLOOD CONTROL, AND GREENWAY DISTRICT AND TO AUTHORIZE THE DISTRICT TO PRIMARILY MANAGE, ADMINISTER, AND FUND THE CAPITAL IMPROVEMENTS NECESSARY IN THE FOUNTAIN CREEK WATERSHED AND THE FOUNTAIN CREEK WATERSHED MANAGEMENT AREA TO:

(I) PREVENT AND MITIGATE FLOODING, SEDIMENTATION, AND EROSION;

(II) IMPROVE WATER QUALITY AND OTHERWISE ADDRESS WATER QUALITY AND WATER QUANTITY ISSUES;

(III) IMPROVE DRAINAGE;

(IV) FUND THE ACQUISITION AND PROTECTION OF OPEN SPACE;

(V) DEVELOP PUBLIC RECREATIONAL OPPORTUNITIES, INCLUDING PARKS, TRAILS, AND OPEN SPACE; AND

(VI) IMPROVE WILDLIFE AND AQUATIC HABITAT AND RESTORE, ENHANCE, ESTABLISH, AND PRESERVE WETLANDS.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

(a) A GENERAL LAW CANNOT BE MADE APPLICABLE TO THE FOUNTAIN CREEK WATERSHED, FLOOD CONTROL, AND GREENWAY DISTRICT, OR TO THE PROPERTIES, POWERS, DUTIES, PRIVILEGES, IMMUNITIES, RIGHTS, LIABILITIES, AND DISABILITIES PERTAINING THERETO AS PROVIDED IN THIS ARTICLE, BECAUSE OF THE NUMBER OF ATYPICAL FACTORS AND SPECIAL CONDITIONS CONCERNING THEM;

(b) THE CREATION OF THE FOUNTAIN CREEK WATERSHED, FLOOD CONTROL, AND GREENWAY DISTRICT PROMOTES THE HEALTH, COMFORT, SAFETY, CONVENIENCE, AND WELFARE OF ALL THE PEOPLE OF THE STATE AND IS OF SPECIAL BENEFIT TO THE INHABITANTS OF THE DISTRICT AND THE

PROPERTY WITHIN THE DISTRICT;

(c) ALL PROPERTY TO BE ACQUIRED BY THE DISTRICT UNDER THIS ARTICLE SHALL BE OWNED, OPERATED, ADMINISTERED, AND MAINTAINED FOR AND ON BEHALF OF ALL OF THE PEOPLE OF THE DISTRICT;

(d) ALL LEGAL AND AVAILABLE FUNDING SOURCES SHALL BE AVAILABLE TO THE DISTRICT, INCLUDING, BUT NOT LIMITED TO, MILL LEVIES, SERVICE FEES, SPECIAL ASSESSMENTS, AND GIFTS, GRANTS, AND DONATIONS FROM PUBLIC, PRIVATE, AND NOT-FOR-PROFIT SOURCES.

32-11.5-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ASSESSABLE PROPERTY" MEANS ANY TRACT OF LAND IN AN IMPROVEMENT DISTRICT SPECIALLY BENEFITED BY A PROJECT PAID FOR IN WHOLE OR IN PART BY THE DISTRICT BY THE LEVY OF ASSESSMENTS OTHER THAN:

(a) A TRACT OWNED BY THE FEDERAL GOVERNMENT ABSENT ITS CONSENT TO THE ASSESSMENT OF THE TRACT; OR

(b) A STREET, ALLEY, HIGHWAY, OR OTHER PUBLIC RIGHT-OF-WAY OF A PUBLIC BODY.

(2) "ASSESSMENT UNIT" MEANS A UNIT OR QUASI-IMPROVEMENT DISTRICT DESIGNATED BY THE BOARD FOR THE PURPOSE OF PETITION, REMONSTRANCE, AND ASSESSMENT IN THE CASE OF A COMBINATION OF PROJECTS IN AN IMPROVEMENT DISTRICT.

(3) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE DISTRICT.

(4) "BOND" MEANS ANY BOND, NOTE, WARRANT, INTERIM CERTIFICATE, CONTRACT, OR OTHER EVIDENCE OF INDEBTEDNESS OF THE DISTRICT ISSUED OR OTHERWISE EXECUTED PURSUANT TO THIS ARTICLE, INCLUDING, BUT NOT LIMITED TO, ANY OBLIGATION TO THE UNITED STATES IN CONNECTION WITH A LOAN FROM OR GUARANTEED BY THE UNITED STATES.

(5) "CHAIRPERSON" MEANS THE PRESIDING OFFICER OF THE BOARD

OR HIS OR HER SUCCESSOR IN FUNCTIONS, IF ANY.

(6) "CITIZENS ADVISORY GROUP" MEANS THE CITIZENS APPOINTED BY THE BOARD TO REPRESENT VARIOUS INTERESTS IDENTIFIED IN THIS ARTICLE AND TO CONSULT WITH AND OFFER ADVICE TO THE BOARD ON MANAGING THE WATERSHED.

(7) "CONDEMNATION" OR "CONDEMN" MEANS THE EXERCISE OF THE POWER OF EMINENT DOMAIN BY THE DISTRICT FOR THE PURPOSE OF ACQUIRING PROPERTY FOR ANY PROJECT, FACILITIES, OR INTEREST THEREIN AUTHORIZED BY THE DISTRICT PURSUANT TO THIS ARTICLE.

(8) "CORPORATE DISTRICT" MEANS A DISTRICT CONSTITUTING A BODY CORPORATE AND POLITIC AND A POLITICAL SUBDIVISION OF THE STATE, INCLUDING, BUT NOT LIMITED TO, A SCHOOL DISTRICT, A JUNIOR COLLEGE DISTRICT, A SPECIAL DISTRICT CREATED PURSUANT TO ARTICLE 1 OF THIS TITLE, ANY OTHER KIND OF DISTRICT CREATED PURSUANT TO THIS TITLE, A PUBLIC IMPROVEMENT DISTRICT, OR A LOCAL IMPROVEMENT DISTRICT; EXCEPT THAT "CORPORATE DISTRICT" DOES NOT INCLUDE THE DISTRICT OR AN IMPROVEMENT DISTRICT.

(9) (a) "CORRIDOR" MEANS AN AREA GENERALLY NORTHERLY TO SOUTHERLY ALONG FOUNTAIN CREEK THAT CONSISTS OF THE PORTION OF THE ONE-HUNDRED-YEAR FLOODPLAIN OF FOUNTAIN CREEK, AS DEFINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY AND FURTHER IDENTIFIED ON MAPS PROMULGATED BY THE AGENCY, HEREINAFTER REFERRED TO AS THE "FEMA ONE-HUNDRED-YEAR FLOODPLAIN", CONSISTING OF FLOODPLAINS IN EL PASO COUNTY THAT LIE SOUTH OF THE MUNICIPAL LIMITS OF THE CITY OF FOUNTAIN AND THE FLOODPLAIN IN PUEBLO COUNTY THAT LIES NORTH OF THE MUNICIPAL LIMITS OF THE CITY OF PUEBLO.

(b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (9), PUBLIC BODIES NOT REPRESENTED ON THE BOARD, THROUGH THEIR GOVERNING BODIES, MAY CONSENT TO THE JURISDICTION OF THE DISTRICT AND ADD PROPERTY TO THE CORRIDOR. THE REPRESENTED PUBLIC BODIES SHALL ALSO HAVE THE OPTION OF ADDING ADDITIONAL SECTIONS OF THE WATERSHED WITHIN THEIR RESPECTIVE JURISDICTIONAL BOUNDARIES TO THE CORRIDOR AND CONSENT TO THE JURISDICTION OF THE DISTRICT.

(10) "DIRECTOR" MEANS A MEMBER OF THE BOARD.

(11) "DISTRICT" MEANS THE FOUNTAIN CREEK WATERSHED, FLOOD CONTROL, AND GREENWAY DISTRICT CREATED IN SECTION 32-11.5-201, THE BOUNDARY OF WHICH IS DEFINED IN SECTION 32-11.5-202.

(12) "ELIGIBLE ELECTOR" MEANS AN ELIGIBLE ELECTOR AS DEFINED IN SECTION 32-1-103 (5).

(13) "ENGINEER" MEANS ANY ENGINEER IN THE PERMANENT EMPLOY OF THE DISTRICT, ANY LICENSED PROFESSIONAL ENGINEER, OR ANY FIRM OF PROFESSIONAL ENGINEERS AS DETERMINED BY THE BOARD THAT:

(a) HAS SKILL AND EXPERIENCE IN THE FIELD OF DESIGNING AND PREPARING PLANS AND SPECIFICATIONS FOR AND SUPERVISING THE CONSTRUCTION OF FACILITIES LIKE THOSE THE DISTRICT IS AUTHORIZED TO ACQUIRE;

(b) IS PRACTICING ENGINEERING UNDER THE LAWS OF THE STATE; AND

(c) IS SELECTED, RETAINED, AND COMPENSATED BY THE DISTRICT AS REQUIRED BY SECTION 32-11.5-205 (1) (h) (I).

(14) "EQUIP" MEANS THE FURNISHING OF ALL NECESSARY OR DESIRABLE, RELATED, OR APPURTENANT MACHINERY, FURNISHINGS, APPARATUS, PARAPHERNALIA, AND OTHER GEAR, OR ANY COMBINATION THEREOF, PERTAINING TO ANY PROJECT OR OTHER PROPERTY OF THE DISTRICT, OR ANY INTEREST THEREIN, AUTHORIZED IN THIS ARTICLE OR OTHERWISE RELATING TO FACILITIES.

(15) "FACILITIES" MEANS ALL OR ANY PORTION OF THE DRAINAGE, FLOOD CONTROL, AND RECREATIONAL SYSTEM OF THE DISTRICT, CONSISTING OF ALL PROPERTY OWNED OR ACQUIRED BY THE DISTRICT THROUGH PURCHASE, CONSTRUCTION, OR OTHERWISE, THAT IS USED BY THE DISTRICT IN CONNECTION WITH DRAINAGE, FLOOD CONTROL, AND RECREATION, WHETHER SITUATED WITHIN OR OUTSIDE, OR BOTH WITHIN AND OUTSIDE, THE TERRITORY OF THE DISTRICT, INCLUDING, BUT NOT LIMITED TO, WATER RIGHTS FOR RECREATIONAL OR FLOOD CONTROL USES, OR BOTH, NATURAL AND ARTIFICIAL WATERCOURSES FOR THE COLLECTION, CHANNELING, IMPOUNDING, AND DISPOSITION OF RAINFALL, OTHER SURFACE AND SUBSURFACE DRAINAGE, AND STORM AND FLOOD WATERS, INCLUDING, BUT

NOT LIMITED TO, DITCHES, PONDS, DAMS, SPILLWAYS, RETARDING BASINS, DETENTION BASINS, NONPOINT SOURCE WATER QUALITY TREATMENT AND ABATEMENT SYSTEMS, LAKES, RESERVOIRS, CANALS, CHANNELS, LEVEES, REVETMENTS, DIKES, WALLS, EMBANKMENTS, BRIDGES, INLETS, OUTLETS, CONNECTIONS, LATERALS, OTHER COLLECTION LINES, INTERCEPTING SEWERS, OUTFALLS, OUTFALL SEWERS, TRUNK SEWERS, FORCE MAINS, SUBMAINS, WATERLINES, SLUICES, FLUMES, SYPHONS, SEWER LINES, PIPES, OTHER TRANSMISSION LINES, CULVERTS, PUMPING STATIONS, GAUGING STATIONS, STREAM GAUGES, RAIN GAUGES, ENGINES, VALVES, PUMPS, METERS, JUNCTION BOXES, MANHOLES, OTHER INLET AND OUTLET STRUCTURES, MOTOR VEHICLES, BUCKET MACHINES, INLET AND OUTLET CLEANERS, BACKHOES, DRAGLINES, GRADERS, OTHER EQUIPMENT, APPARATUS, FIXTURES, STRUCTURES, AND BUILDINGS, FLOOD WARNING SERVICES, AND APPURTENANT TELEPHONE, TELEGRAPH, RADIO, AND TELEVISION APPARATUS, OTHER WATER DIVERSION, DRAINAGE, AND FLOOD CONTROL FACILITIES, TRAILS, OPEN SPACE, HABITAT FOR WILDLIFE AND AQUATIC LIFE, AND ALL APPURTENANCES AND INCIDENTALS NECESSARY, USEFUL, OR DESIRABLE FOR ANY SUCH FACILITIES INCLUDING REAL AND OTHER PROPERTY THEREFOR.

(16) "FISCAL YEAR" MEANS THE TWELVE MONTHS COMMENCING ON THE FIRST DAY OF JANUARY OF ANY CALENDAR YEAR AND ENDING ON THE LAST DAY OF DECEMBER OF THE SAME CALENDAR YEAR.

(17) "FOUNTAIN CREEK WATERSHED" OR "WATERSHED" MEANS THE WATERSHED OFFICIALLY DENOMINATED BY THE UNITED STATES GOVERNMENT AS "WATERSHED BOUNDARY DATASET, HYDRAULIC UNIT CODE # 11020003, FOUNTAIN CREEK SUB-BASIN OF THE ARKANSAS RIVER, COLORADO".

(18) "FOUNTAIN CREEK WATERSHED MANAGEMENT AREA" OR "WATERSHED MANAGEMENT AREA" MEANS THAT PORTION OF THE DISTRICT THAT CONSISTS OF TOWNSHIPS WITHIN THE WATERSHED AND OTHER TOWNSHIPS THAT WILL BENEFIT FROM IMPROVEMENTS TO THE WATERSHED AND THAT IS LEGALLY DESCRIBED AS TOWNSHIPS 11S68W, 11S67W, 11S66W, 12S68W, 12S67W, 12S66W, 12S65W, 13S68W, 13S67W, 13S66W, 13S65W, 14S68W, 14S67W, 14S66W, 14S65W, 14S64W, 15S67W, 15S66W, 15S65W, 15S64W, 16S67W, 16S66W, 16S65W, 16S64W, 17S66W, 17S65W, 17S64W, 18S66W, 18S65W, 18S64W, 19S66W, 19S65W, 19S64W, 20S66W, 20S65W, 20S64W, 21S66W, 21S65W, 21S64W OF THE 6TH PRINCIPAL MERIDIAN.

(19) "GOVERNING BODY" MEANS A CITY COUNCIL, BOARD OF TOWN TRUSTEES, BOARD OF COUNTY COMMISSIONERS, BOARD OF DIRECTORS, OR OTHER ENTITY IN WHICH THE LEGISLATIVE POWERS OF A PUBLIC BODY ARE VESTED.

(20) "IMPROVEMENT" OR "IMPROVE" MEANS THE EXTENSION, ENLARGEMENT, BETTERMENT, ALTERATION, RECONSTRUCTION, REPLACEMENT, OR MAJOR REPAIR OF FACILITIES, A PROJECT, INFRASTRUCTURE, RELATED PROPERTY, OR AN INTEREST THEREIN.

(21) "IMPROVEMENT DISTRICT" MEANS A CONTIGUOUS OR NONCONTIGUOUS GEOGRAPHICAL AREA WITHIN THE WATERSHED MANAGEMENT AREA THAT IS DESIGNATED AND DELINEATED BY THE BOARD BY AN ASSIGNED NUMBER OR IN SOME OTHER MANNER THAT SEPARATELY IDENTIFIES IT FROM ANY OTHER IMPROVEMENT DISTRICT AND CONTAINS FACILITIES OR A PROJECT, OR AN INTEREST IN FACILITIES OR A PROJECT, THE COST OF WHICH IS TO BE DEFRAYED WHOLLY OR IN PART BY THE LEVY OF SPECIAL ASSESSMENTS AGAINST EACH TRACT WITHIN THE AREA.

(22) "INFRASTRUCTURE" MEANS ONE OR MORE ELEMENTS OF A DRAINAGE OR FLOOD CONTROL SYSTEM THAT IS SIMILAR IN KIND TO FACILITIES BUT OWNED BY A PUBLIC BODY OR OTHER PERSON OTHER THAN THE DISTRICT.

(23) "MAILED NOTICE" MEANS ANY DESIGNATED WRITTEN OR PRINTED NOTICE ADDRESSED TO THE OWNER OF RECORD OF EACH TRACT ASSESSED OR TO BE ASSESSED BY DEPOSIT AT LEAST FOURTEEN DAYS PRIOR TO THE DESIGNATED HEARING OR OTHER TIME OR EVENT IN THE UNITED STATES MAIL, POSTAGE PREPAID, AS FIRST-CLASS MAIL.

(24) "MUNICIPALITY" MEANS AN INCORPORATED CITY OR TOWN.

(25) "NEWSPAPER" MEANS A NEWSPAPER PRINTED IN THE ENGLISH LANGUAGE AT LEAST ONCE EACH CALENDAR WEEK.

(26) "PROJECT" MEANS ANY FACILITY OR RELATED GROUP OF FACILITIES THAT THE BOARD DETERMINES TO AUTHORIZE, CONSTRUCT, OR ACQUIRE AT ONE TIME.

(27) "PUBLICATION" OR "PUBLISH" MEANS ONE PUBLICATION AT

LEAST FOURTEEN DAYS PRIOR TO THE DATE OF A HEARING OR EVENT IN EACH OFFICIAL NEWSPAPER DESIGNATED BY THE DISTRICT PURSUANT TO SECTION 32-11.5-205 (1) (l).

(28) (a) "PUBLIC BODY" MEANS THE STATE OF COLORADO OR ANY AGENCY, INSTRUMENTALITY, OR CORPORATION THEREOF; ANY COUNTY, MUNICIPALITY, CORPORATE DISTRICT, AUTHORITY, OR STATE INSTITUTION OF HIGHER EDUCATION; OR ANY OTHER BODY CORPORATE AND POLITIC AND POLITICAL SUBDIVISION OF THE STATE.

(b) "PUBLIC BODY" DOES NOT INCLUDE THE FEDERAL GOVERNMENT OR THE DISTRICT.

(29) "REPRESENTED PUBLIC BODY" MEANS A PUBLIC BODY THAT IS ENTITLED, ALONE OR IN CONCERT WITH ANOTHER PUBLIC BODY, TO APPOINT ONE OR MORE DIRECTORS TO THE BOARD.

(30) "SERVICE CHARGES" MEANS THE FEES, RATES, AND OTHER CHARGES FOR THE USE OF THE FACILITIES OF THE DISTRICT OR FOR ANY RELATED SERVICE RENDERED BY THE DISTRICT.

(31) "SMALL MUNICIPALITIES" MEANS, COLLECTIVELY, THE TOWN OF GREEN MOUNTAIN FALLS, THE CITY OF MANITOU SPRINGS, THE TOWN OF MONUMENT, AND THE TOWN OF PALMER LAKE, COLORADO.

(32) "SPECIAL ASSESSMENT" MEANS A CHARGE LEVIED AGAINST ANY TRACT SPECIALLY BENEFITED IN AN IMPROVEMENT DISTRICT BY ANY PROJECT THAT SHALL BE MADE ON A FRONT-FOOT, ZONE, AREA, OR OTHER EQUITABLE BASIS AS DETERMINED BY THE BOARD; EXCEPT THAT THE CHARGE SHALL NOT EXCEED THE ESTIMATED MAXIMUM SPECIAL BENEFITS TO THE TRACT ASSESSED AS DETERMINED BY THE BOARD PURSUANT TO PART 5 OF THIS ARTICLE.

(33) "TECHNICAL ADVISORY COMMITTEE" MEANS THE ADVISORY COMMITTEE MADE UP OF TECHNICAL EXPERTS APPOINTED BY THE BOARD TO PROVIDE RECOMMENDATIONS TO THE BOARD REGARDING PUBLIC POLICY OR EXPENDITURE OF FUNDS FOR THE BENEFIT OF THE WATERSHED.

(34) (a) "TRACT" MEANS ANY LOT OR OTHER PARCEL OF LAND FOR ASSESSMENT PURPOSES, WHETHER PLATTED OR UNPLATTED, REGARDLESS OF

LOT OR LAND LINES.

(b) LOTS, PLOTS, BLOCKS, AND OTHER SUBDIVISIONS MAY BE DESIGNATED IN ACCORDANCE WITH ANY RECORDED PLAT THEREOF, AND ALL LANDS, PLATTED AND UNPLATTED, SHALL BE DESIGNATED BY A DEFINITE LEGAL DESCRIPTION.

32-11.5-104. Public purpose - liberal construction - sufficiency of article. (1) THE EXERCISE OF ANY POWER AUTHORIZED IN THIS ARTICLE BY THE BOARD ON BEHALF OF THE DISTRICT AND ANY PROJECT AUTHORIZED PURSUANT TO THIS ARTICLE EFFECTS A PUBLIC PURPOSE.

(2) THIS ARTICLE BEING NECESSARY TO SECURE AND PRESERVE THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE, THE RULE OF STRICT CONSTRUCTION SHALL NOT APPLY TO THIS ARTICLE. THIS ARTICLE SHALL BE LIBERALLY CONSTRUED TO EFFECT ITS PURPOSES.

(3) (a) EXCEPT AS OTHERWISE PROVIDED IN THE STATE CONSTITUTION, SECTION 25-8-102 (4), C.R.S., OR THIS ARTICLE, THIS ARTICLE, WITHOUT REFERENCE TO ANY OTHER LAW, SHALL CONSTITUTE FULL AUTHORITY FOR THE EXERCISE OF THE POWERS GRANTED IN THIS ARTICLE, INCLUDING WITHOUT LIMITATION THE FINANCING OF ANY PROJECT AUTHORIZED IN THIS ARTICLE WHOLLY OR IN PART AND THE ISSUANCE OF BONDS TO EVIDENCE THE FINANCING.

(b) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, NO OTHER LAW WITH REGARD TO THE AUTHORIZATION OR ISSUANCE OF BONDS OR THE EXERCISE OF ANY OTHER POWER GRANTED IN THIS ARTICLE THAT PROVIDES FOR AN ELECTION, REQUIRES AN APPROVAL, OR IN ANY WAY IMPEDES OR RESTRICTS THE CARRYING OUT OF THE ACTS AUTHORIZED IN THIS ARTICLE SHALL APPLY TO PROCEEDINGS TAKEN UNDER OR ACTS DONE PURSUANT TO THIS ARTICLE.

(c) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, NO NOTICE, CONSENT, OR APPROVAL BY ANY PUBLIC BODY OR OFFICER THEREOF SHALL BE REQUIRED AS A PREREQUISITE TO THE SALE OR ISSUANCE OF ANY BONDS OR THE MAKING OF ANY CONTRACT OR THE EXERCISE OF ANY OTHER POWER UNDER THIS ARTICLE.

(d) THE POWERS CONFERRED BY THIS ARTICLE SHALL BE IN ADDITION

AND SUPPLEMENTAL TO, AND NOT IN SUBSTITUTION FOR, AND THE LIMITATIONS IMPOSED BY THIS ARTICLE SHALL NOT AFFECT, THE POWERS CONFERRED BY ANY OTHER LAW.

(e) NOTHING IN THIS ARTICLE SHALL REPEAL OR AFFECT ANY OTHER LAW EXCEPT TO THE EXTENT THAT THIS ARTICLE IS INCONSISTENT WITH ANY OTHER LAW, THIS ARTICLE BEING INTENDED TO PROVIDE A SEPARATE METHOD OF ACCOMPLISHING ITS OBJECTIVES AND NOT AN EXCLUSIVE ONE. THIS ARTICLE SHALL NOT BE CONSTRUED AS REPEALING, AMENDING, OR CHANGING ANY OTHER LAW EXCEPT TO THE EXTENT THAT THE OTHER LAW IS INCONSISTENT WITH THIS ARTICLE. THIS ARTICLE SHALL NOT BE CONSTRUED AS REPEALING, MODIFYING, OR AMENDING ANY EXISTING LAW OR COURT DECREE CONCERNING THE DETERMINATION OR ADMINISTRATION OF WATER RIGHTS.

PART 2 DISTRICT ADMINISTRATION AND POWERS

32-11.5-201. Creation of district. THERE IS HEREBY CREATED THE FOUNTAIN CREEK WATERSHED, FLOOD CONTROL, AND GREENWAY DISTRICT, WHICH SHALL BE A BODY POLITIC AND CORPORATE AND A POLITICAL SUBDIVISION OF THE STATE. THE DISTRICT SHALL NOT BE AN AGENCY OF STATE GOVERNMENT AND SHALL NOT BE SUBJECT TO ADMINISTRATIVE DIRECTION BY ANY DEPARTMENT, COMMISSION, BOARD, BUREAU, OR AGENCY OF THE STATE.

32-11.5-202. Boundaries of the district. THE AREA COMPRISING THE DISTRICT CONSISTS OF THE COUNTIES OF EL PASO AND PUEBLO.

32-11.5-203. Board of directors - general powers and delegation thereof - manner of appointment - compensation. (1) (a) THE DISTRICT SHALL BE GOVERNED BY A BOARD OF DIRECTORS, AND, SUBJECT TO PARAGRAPH (b) OF THIS SUBSECTION (1), THE BOARD SHALL EXERCISE ALL POWERS, RIGHTS, PRIVILEGES, AND DUTIES OF THE DISTRICT AS PROVIDED IN THIS ARTICLE.

(b) (I) THE BOARD MAY CREATE AN EXECUTIVE COMMITTEE OF THE BOARD AND MAY DELEGATE TO THE COMMITTEE SUCH POWER TO ACT ON BEHALF OF THE DISTRICT AS THE BOARD MAY DETERMINE BY RESOLUTION, EXCEPT AS LIMITED BY THE SUPERMAJORITY REQUIREMENTS SPECIFIED IN

SECTION 32-11.5-204 (1) (b) (II).

(II) THE BOARD MAY APPOINT AN EXECUTIVE DIRECTOR FOR THE DISTRICT AND MAY DELEGATE THE EXERCISE OF ANY OF ITS EXECUTIVE, ADMINISTRATIVE, AND MINISTERIAL POWERS TO THE EXECUTIVE DIRECTOR AND ANY OTHER STAFF OF THE DISTRICT. THE EXECUTIVE DIRECTOR SHALL HAVE SUCH POWERS AS MAY BE GRANTED BY THE BOARD, WHICH MAY INCLUDE, BUT ARE NOT LIMITED TO, THE ABILITY TO HIRE EMPLOYEES, CONSULTANTS, OR STAFF TO HELP CARRY OUT THE DAY TO DAY OPERATIONS OF THE DISTRICT AND TO HELP EXECUTE THE SPENDING PLAN ADOPTED BY THE BOARD. THE BOARD MAY ALSO CONTRACT FOR PROFESSIONAL SERVICES, INCLUDING, BUT NOT LIMITED TO, FINANCIAL, LEGAL, AND ENGINEERING SERVICES, TO THE EXTENT NECESSARY TO ADMINISTER AND IMPLEMENT THE PURPOSES OF THIS ARTICLE.

(2) (a) THE BOARD SHALL CONSIST OF NINE DIRECTORS APPOINTED AS FOLLOWS:

(I) ONE PUEBLO COUNTY COMMISSIONER APPOINTED BY THE PUEBLO COUNTY BOARD OF COUNTY COMMISSIONERS AS A REPRESENTATIVE OF PUEBLO COUNTY;

(II) ONE EL PASO COUNTY COMMISSIONER APPOINTED BY THE EL PASO COUNTY BOARD OF COUNTY COMMISSIONERS AS A REPRESENTATIVE OF EL PASO COUNTY;

(III) ONE CITY OF PUEBLO CITY COUNCIL MEMBER OR THE MAYOR OF THE CITY OF PUEBLO APPOINTED BY THE PUEBLO CITY COUNCIL AS A REPRESENTATIVE OF THE CITY OF PUEBLO;

(IV) ONE CITY OF COLORADO SPRINGS CITY COUNCIL MEMBER OR THE MAYOR OF THE CITY OF COLORADO SPRINGS APPOINTED BY THE COLORADO SPRINGS CITY COUNCIL AS A REPRESENTATIVE OF THE CITY OF COLORADO SPRINGS;

(V) ONE CITY OF FOUNTAIN CITY COUNCIL MEMBER OR THE MAYOR OF THE CITY OF FOUNTAIN APPOINTED BY THE FOUNTAIN CITY COUNCIL AS A REPRESENTATIVE OF THE CITY OF FOUNTAIN;

(VI) ONE DIRECTOR APPOINTED BY THE PUEBLO COUNTY BOARD OF

COUNTY COMMISSIONERS WHO IS EITHER A REPRESENTATIVE OF THE LOWER ARKANSAS VALLEY CONSERVANCY DISTRICT OR A CITIZEN OF PUEBLO COUNTY AND WHO REPRESENTS THE INTERESTS OF PERSONS FROM THE PORTION OF THE DISTRICT THAT LIES EAST OF THE CONFLUENCE OF FOUNTAIN CREEK AND THE ARKANSAS RIVER;

(VII) ONE DIRECTOR APPOINTED JOINTLY BY THE COLORADO SPRINGS CITY COUNCIL AND THE EL PASO COUNTY BOARD OF COUNTY COMMISSIONERS WHO IS EITHER A REPRESENTATIVE OF THE SMALL MUNICIPALITIES SELECTED FROM CANDIDATES NOMINATED BY THE SMALL MUNICIPALITIES, OR, IF THE SMALL MUNICIPALITIES DO NOT SUBMIT AT LEAST ONE CANDIDATE, THEN A CITIZEN OF EL PASO COUNTY;

(VIII) ONE DIRECTOR APPOINTED JOINTLY BY THE PUEBLO CITY COUNCIL AND THE PUEBLO COUNTY BOARD OF COUNTY COMMISSIONERS WHO IS A CITIZEN AT LARGE AND RESIDES IN PUEBLO COUNTY; AND

(IX) ONE DIRECTOR APPOINTED JOINTLY BY THE EL PASO COUNTY AND PUEBLO COUNTY BOARDS OF COUNTY COMMISSIONERS WHO IS A MEMBER OF THE CITIZENS ADVISORY GROUP. THE CITIZENS ADVISORY GROUP SHALL PROVIDE TWO OR MORE NOMINEES FOR THE DIRECTOR POSITION TO THE BOARDS, BUT THE BOARDS SHALL NOT BE LIMITED TO THE NOMINEES IN APPOINTING THE DIRECTOR.

(b) THE TERM OF EACH DIRECTOR SHALL COMMENCE ON FEBRUARY 1; EXCEPT THAT THE TERMS OF THE DIRECTORS INITIALLY APPOINTED SHALL COMMENCE IMMEDIATELY UPON THEIR APPOINTMENT. THE DIRECTORS INITIALLY APPOINTED PURSUANT TO SUBPARAGRAPHS (I), (IV), (VII), AND (IX) OF PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL SERVE INITIAL TERMS THROUGH JANUARY 31, 2011, AND THE DIRECTORS INITIALLY APPOINTED PURSUANT TO SUBPARAGRAPHS (II), (III), (V), (VI), AND (VIII) OF PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL SERVE INITIAL TERMS THROUGH JANUARY 31, 2012. THE TERM OF EACH DIRECTOR APPOINTED AFTER THE INITIAL APPOINTMENTS SHALL BE FOR TWO YEARS. EACH APPOINTING AUTHORITY OR PAIR OF JOINT APPOINTING AUTHORITIES HAS SOLE DISCRETION TO REAPPOINT ANY DIRECTOR WHO THE AUTHORITY OR AUTHORITIES INITIALLY APPOINTED.

(c) EACH APPOINTING AUTHORITY SHALL SELECT AND APPOINT ITS RESPECTIVE DIRECTOR IN ANY LAWFUL MANNER AS DETERMINED BY THE

APPOINTING AUTHORITY. EACH APPOINTING AUTHORITY SHALL DESIGNATE AND PROVIDE NOTICE TO THE OTHER REPRESENTED PUBLIC BODIES OF THE IDENTITY OF ITS RESPECTIVE DIRECTOR, AND ANY DESIGNEE OR ALTERNATE IT MAY CHOOSE TO NAME, WITHIN THIRTY DAYS AFTER THE APPOINTMENT. EACH APPOINTING AUTHORITY MAY ALSO NAME AN ALTERNATE DIRECTOR TO ATTEND MEETINGS IF THE PRIMARY DIRECTOR IS UNAVAILABLE TO ATTEND OR HAS A CONFLICT OF INTEREST.

(d) IF A BOARD VACANCY OCCURS FOR ANY REASON INCLUDING, BUT NOT LIMITED TO, A DIRECTOR NO LONGER POSSESSING A MANDATORY QUALIFICATION FOR BOARD MEMBERSHIP THAT THE DIRECTOR HELD AT THE TIME OF HIS OR HER APPOINTMENT TO THE BOARD, THE APPOINTING AUTHORITY THAT APPOINTED THE DIRECTOR SHALL FILL THE VACANCY BY APPOINTING A SUCCESSOR DIRECTOR TO SERVE FOR THE UNEXPIRED TERM. THE SUCCESSOR DIRECTOR SHALL POSSESS ANY MANDATORY QUALIFICATION SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (2).

(3) (a) A DIRECTOR SHALL NOT RECEIVE A SALARY OR COMPENSATION OR REIMBURSEMENT FOR ANY EXPENSES INCURRED IN THE PERFORMANCE OF HIS OR HER DUTIES, OTHER THAN AS MAY BE PROVIDED BY THE REPRESENTED PUBLIC BODY OR OTHER ORGANIZATION THE DIRECTOR REPRESENTS AT THE SOLE DISCRETION OF THE REPRESENTED PUBLIC BODY OR ORGANIZATION OR UNLESS AUTHORIZED BY THE BOARD.

(b) A DIRECTOR SHALL NOT RECEIVE ANY COMPENSATION AS AN OFFICER, ENGINEER, ATTORNEY, EMPLOYEE, OR OTHER AGENT OF THE DISTRICT.

32-11.5-204. Board - meetings - records. (1) (a) EXCEPT FOR THE INITIAL BOARD, EACH BOARD SHALL MEET IN JANUARY OF EACH YEAR AT A REGULAR PLACE OF MEETING WITHIN THE DISTRICT FOR THE QUALIFICATION OF NEW DIRECTORS AND FOR THE SELECTION OF NEW OFFICERS. THE INITIAL BOARD AT ITS FIRST MEETING, AND EACH SUCCESSOR BOARD AT THE ANNUAL MEETING HELD IN JANUARY OF EACH YEAR THEREAFTER, SHALL, BY A MAJORITY VOTE OF A QUORUM OF THE DIRECTORS, ELECT THE FOLLOWING OFFICERS:

(I) A CHAIRPERSON WHO SHALL PRESIDE OVER ALL MEETINGS OF THE BOARD AND SEE THAT THE MEETINGS AND DEBATE ARE CONDUCTED IN AN ORDERLY AND EXPEDITIOUS MANNER. EXCEPT AS OTHERWISE PERMITTED BY

SECTION 32-11.5-203 (1) (b) (II), THE CHAIRPERSON SHALL SIGN ALL CONTRACTS, AGREEMENTS, AND LEGAL DOCUMENTS OF THE BOARD AND IN GENERAL SHALL PERFORM ALL DUTIES INCIDENT TO THE OFFICE OF CHAIRPERSON.

(II) A VICE-CHAIRPERSON WHO SHALL ASSUME THE DUTIES OF THE CHAIRPERSON IN THE CHAIRPERSON'S ABSENCE.

(b) (I) A MAJORITY OF THE DIRECTORS SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS BY THE BOARD UNLESS A DIFFERENT NUMBER IS SET BY RESOLUTION OF THE BOARD AT THE ANNUAL MEETING. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE OR IN THE BYLAWS, THE AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE BOARD OF DIRECTORS SHALL BE SUFFICIENT TO CONDUCT THE BUSINESS OF THE BOARD. IF LESS THAN A QUORUM IS PRESENT AT A MEETING, THE CHAIRPERSON OR OTHER PRESIDING OFFICER MAY COMPEL THE ATTENDANCE OF ANY ABSENT MEMBER IN SUCH MANNER AND UNDER SUCH PENALTIES AS THE BOARD MAY PROVIDE OR MAY ADJOURN THE MEETING TO A DIFFERENT TIME AND PLACE. IF THE MEETING IS ADJOURNED, THE CHAIRPERSON SHALL NOTIFY ABSENT DIRECTORS OF THE TIME AND PLACE OF THE ADJOURNED MEETING.

(II) SUBJECT TO THE REQUIREMENT THAT A QUORUM OF THE BOARD BE PRESENT TO VOTE, THE BOARD SHALL ADOPT SPENDING OR OTHER FISCAL POLICY RESOLUTIONS, INCLUDING, BUT NOT LIMITED TO, RESOLUTIONS THAT, SUBJECT TO APPLICABLE VOTER APPROVAL REQUIREMENTS, ESTABLISH OR INCREASE TAXES LEVIED OR FEES IMPOSED AND COLLECTED BY THE DISTRICT OR MULTIPLE-FISCAL YEAR FINANCIAL OBLIGATIONS TO BE INCURRED BY THE DISTRICT, AND PUBLIC POLICY RESOLUTIONS, INCLUDING BUT NOT LIMITED TO RESOLUTIONS THAT INITIATE CONDEMNATION PROCEEDINGS AND RESOLUTIONS TO INITIATE OR VOLUNTARILY PARTICIPATE IN LITIGATION, ONLY BY A SUPERMAJORITY VOTE AS FOLLOWS:

Board Members Appointed	Votes Required for Approval
2	2
3	2
4	3
5	4
6	4

7
8
9

5
6
7

(III) EACH DIRECTOR OR DIRECTOR'S ALTERNATE SHALL BE ENTITLED TO ONE VOTE, AND VOTING BY PROXY SHALL NOT BE PERMITTED.

(IV) ALL MEETINGS OF THE BOARD, THE TECHNICAL ADVISORY COMMITTEE, THE CITIZENS ADVISORY GROUP, OR ANY EXECUTIVE COMMITTEE OR OTHER COMMITTEE DESIGNATED BY THE BOARD SHALL BE HELD IN THE DISTRICT SUBJECT TO THE OPEN MEETINGS PROVISIONS OF THE "COLORADO SUNSHINE ACT OF 1972", PART 4 OF ARTICLE 6 OF TITLE 24, C.R.S.

(V) THE DIRECTORS, THE TECHNICAL ADVISORY COMMITTEE, THE CITIZENS ADVISORY GROUP, OR ANY EXECUTIVE COMMITTEE OR OTHER COMMITTEE DESIGNATED BY THE BOARD MAY PARTICIPATE IN ANY MEETING OF THE BOARD OR COMMITTEE BY MEANS OF A TELEPHONE CONVERSATION OR SIMILAR COMMUNICATION EQUIPMENT BY WHICH ALL PERSONS PARTICIPATING IN THE MEETING CAN HEAR EACH OTHER AT THE SAME TIME. SUCH REMOTE PARTICIPATION SHALL CONSTITUTE PRESENCE IN PERSON AT THE MEETING.

(2) (a) THE BOARD SHALL PERFORM ALL LEGISLATIVE ACTS OF A GENERAL AND PERMANENT NATURE BY RESOLUTION, WHICH MAY REQUIRE APPROVAL BY A SUPERMAJORITY VOTE AS SPECIFIED IN SUBPARAGRAPH (II) OF PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION. ON ALL RESOLUTIONS AND ORDERS, THE ROLL SHALL BE CALLED, AND THE AYES AND NOES SHALL BE RECORDED. AFTER PASSAGE, ALL RESOLUTIONS AND ORDERS SHALL BE RECORDED IN THE RECORDS OF THE OFFICES OF THE CLERK AND RECORDERS OF EL PASO AND PUEBLO COUNTIES, RECORDED IN A BOOK KEPT BY THE DISTRICT FOR THAT PURPOSE, AND AUTHENTICATED BY THE SIGNATURE OF THE PRESIDING OFFICER OF THE BOARD AND THE SECRETARY OF THE BOARD.

(b) THE DISTRICT AND THE BOARD SHALL BE SUBJECT TO THE "COLORADO OPEN RECORDS ACT", ARTICLE 72 OF TITLE 24, C.R.S.

(c) ALL DISTRICT RECORDS ARE SUBJECT TO AUDIT AS PROVIDED BY LAW FOR POLITICAL SUBDIVISIONS OF THE STATE.

32-11.5-205. Powers of the district. (1) THE DISTRICT, ACTING THROUGH THE BOARD OR THROUGH OTHER PERSONS TO WHOM THE BOARD HAS DELEGATED ANY OF ITS POWERS AS AUTHORIZED BY THIS ARTICLE, HAS THE FOLLOWING GENERAL AND ADMINISTRATIVE POWERS:

(a) TO HAVE PERPETUAL EXISTENCE;

(b) TO SUE AND BE SUED;

(c) TO ADOPT BYLAWS FOR THE REGULATION OF ITS AFFAIRS AND THE CONDUCT OF ITS BUSINESS;

(d) TO FIX THE TIME AND PLACE AT WHICH ITS REGULAR MEETINGS SHALL BE HELD WITHIN THE DISTRICT AND TO PROVIDE FOR THE CALLING AND HOLDING OF SPECIAL MEETINGS;

(e) TO ADOPT AND USE A SEAL;

(f) TO MAINTAIN OFFICES AT ANY PLACE WITHIN THE DISTRICT IT MAY DESIGNATE;

(g) (I) TO APPOINT A SECRETARY AND A TREASURER OF THE BOARD. EACH POSITION MAY BE FILLED BY A DIRECTOR OR BY ANOTHER PERSON, AND BOTH POSITIONS MAY BE FILLED BY THE SAME PERSON.

(II) THE SECRETARY OF THE BOARD SHALL KEEP A RECORD OF THE MINUTES OF ALL MEETINGS, ENSURE THAT ALL NOTICES REQUIRED BY LAW ARE DULY GIVEN AND POSTED, SERVE AS THE CUSTODIAN OF BOARD RECORDS, ATTEST TO DOCUMENTS AS THE NEED ARISES, AND PERFORM SUCH OTHER FUNCTIONS AS MAY BE PRESCRIBED BY THE BOARD.

(h) (I) SUBJECT TO THE PROVISIONS OF SECTION 32-11.5-203 (1) (b) AND SUBPARAGRAPH (II) OF THIS PARAGRAPH (h), TO HIRE AND FIX THE COMPENSATION OF OFFICERS AND EMPLOYEES AND HIRE OR RETAIN OTHER PERSONS, INCLUDING BUT NOT LIMITED TO PROFESSIONALS SUCH AS ENGINEERS, ATTORNEYS, ACCOUNTANTS, AND OTHER FINANCIAL PROFESSIONALS.

(II) (A) NO DIRECTOR, OFFICER, EMPLOYEE, OR AGENT OF THE DISTRICT SHALL BE INTERESTED IN ANY CONTRACT OR TRANSACTION WITH

THE DISTRICT EXCEPT IN HIS OR HER OFFICIAL CAPACITY OR AS IS PROVIDED IN HIS OR HER CONTRACT OF EMPLOYMENT WITH THE DISTRICT.

(B) NEITHER THE HOLDING OF ANY OFFICE OR EMPLOYMENT OF A PUBLIC BODY OR OF THE FEDERAL GOVERNMENT NOR THE OWNING OF ANY PROPERTY WITHIN THE STATE, WITHIN OR OUTSIDE THE DISTRICT, SHALL BE DEEMED A DISQUALIFICATION FOR MEMBERSHIP ON THE BOARD OR EMPLOYMENT BY THE DISTRICT OR DEEMED A DISQUALIFICATION FOR COMPENSATION FOR SERVICES AS AN OFFICER, EMPLOYEE, OR AGENT OF THE DISTRICT.

(C) A DIRECTOR SHALL NOT VOTE ON ANY ISSUE WITH RESPECT TO WHICH THE DIRECTOR HAS A CONFLICT OF INTEREST AS REQUIRED BY SECTIONS 18-8-308, 24-18-108.5, AND 24-18-110, C.R.S. AN APPOINTING BODY MAY NAME AN ALTERNATE DIRECTOR TO CURE THE TEMPORARY DISQUALIFICATION, AND THE ALTERNATE MAY VOTE IN PLACE OF THE DISQUALIFIED DIRECTOR.

(i) TO APPOINT A TECHNICAL ADVISORY COMMITTEE OF TECHNICAL EXPERTS TO PROVIDE RECOMMENDATIONS TO THE BOARD REGARDING PUBLIC POLICY OR EXPENDITURE OF FUNDS FOR THE BENEFIT OF THE WATERSHED AND TO CARRY ON TECHNICAL AND OTHER INVESTIGATIONS OF ALL KINDS, MAKE MEASUREMENTS, COLLECT DATA, AND MAKE ANALYSES, STUDIES, AND INSPECTIONS PERTAINING TO FACILITIES, PROJECTS, AND RELATED PROPERTY BOTH WITHIN AND OUTSIDE THE DISTRICT;

(j) TO APPOINT A CITIZENS ADVISORY GROUP REPRESENTING VARIOUS INTERESTS PERTAINING TO THE WATERSHED TO CONSULT WITH AND OFFER ADVICE TO THE BOARD REGARDING THE MANAGEMENT OF THE WATERSHED;

(k) TO APPOINT ONE OR MORE PERSONS TO ACT AS CUSTODIANS OF THE MONEYS OF THE DISTRICT FOR PURPOSES OF DEPOSITING THE MONEYS IN ANY DEPOSITORY AUTHORIZED IN SECTION 24-75-603, C.R.S. CUSTODIANS SHALL GIVE SURETY BONDS IN SUCH AMOUNTS AND FORM AND FOR SUCH PURPOSES AS THE BOARD REQUIRES.

(l) TO DESIGNATE AN OFFICIAL NEWSPAPER PUBLISHED IN EL PASO COUNTY AND AN OFFICIAL NEWSPAPER PUBLISHED IN PUEBLO COUNTY AND TO PUBLISH ANY NOTICE OR OTHER INSTRUMENT IN ANY ADDITIONAL NEWSPAPER OR NEWSPAPERS AS THE BOARD DEEMS NECESSARY;

(m) TO ENTER INTO CONTRACTS AND AGREEMENTS, INCLUDING, BUT NOT LIMITED TO, CONTRACTS AND AGREEMENTS WITH ANY PUBLIC BODY OR AGENCY THEREOF OR WITH THE FEDERAL GOVERNMENT;

(n) (I) TO TRADE, EXCHANGE, PURCHASE, CONDEMN IN THE MANNER PROVIDED IN ARTICLES 1 TO 7 OF TITLE 38, C.R.S., AND OTHERWISE ACQUIRE, OPERATE, MAINTAIN, AND DISPOSE OF REAL AND PERSONAL PROPERTY, INCLUDING INTERESTS THEREIN, WITHIN OR OUTSIDE THE DISTRICT.

(II) IF THE CONSTRUCTION OF ANY PROJECT OR PART OF A PROJECT AUTHORIZED IN THIS ARTICLE REQUIRES THE REMOVAL AND RELOCATION OF ANY PUBLIC UTILITY FACILITY OR ANY PARK OR UTILITY FACILITY OWNED OR OPERATED BY A PUBLIC BODY OR AN ENTERPRISE OF A PUBLIC BODY, WHETHER ON PRIVATE OR PUBLIC RIGHT-OF-WAY OR OTHERWISE, THE DISTRICT SHALL COOPERATE WITH THE PUBLIC BODY TO DETERMINE THE NECESSITY OF THE REMOVAL AND RELOCATION AND, IF NECESSARY, THE APPROPRIATE REIMBURSEMENT TO THE OWNER OF THE PARK OR PUBLIC UTILITY FACILITY FOR THE EXPENSE OF THE REMOVAL AND RELOCATION, INCLUDING THE COST OF ANY NECESSARY LAND OR RIGHTS IN LAND AND ANY OTHER RESULTING COSTS.

(o) TO INSTITUTE, MAINTAIN, AND ADMINISTER A SYSTEMATIC AND UNIFORM PROGRAM OF PREVENTIVE MAINTENANCE IN THE DISTRICT;

(p) TO PROMULGATE SUCH RESOLUTIONS AND ISSUE SUCH ORDERS AS THE DISTRICT DEEMS NECESSARY OR CONVENIENT FOR THE OPERATION, MAINTENANCE, MANAGEMENT, GOVERNMENT, AND USE OF FACILITIES AND ANY OTHER DRAINAGE AND FLOOD CONTROL FACILITIES UNDER ITS CONTROL, WHETHER SITUATED WITHIN OR OUTSIDE OR BOTH WITHIN AND OUTSIDE THE TERRITORIAL LIMITS OF THE DISTRICT;

(q) TO PROMOTE, CONSTRUCT, AND MANAGE THE PROTECTION AND IMPROVEMENT OF THE WATERSHED TO PREVENT AND MITIGATE FLOODING, EROSION, AND SEDIMENTATION, IMPROVE DRAINAGE AND WATER QUALITY, ADDRESS WATER QUANTITY, PROVIDE A HEALTHY RIPARIAN HABITAT WITH RECREATIONAL AMENITIES, INCLUDING, BUT NOT LIMITED TO, OPEN SPACE AND TRAILS, IMPROVE WILDLIFE AND AQUATIC HABITAT, AND RESTORE, ENHANCE, ESTABLISH, AND PRESERVE WETLANDS;

(r) TO PREPARE AND SUBMIT BALLOT LANGUAGE TO PLACE ONE OR

MORE FUNDING MEASURES BEFORE THE AFFECTED ELECTORS IN PUEBLO AND EL PASO COUNTIES; AND

(s) TO PROVIDE INFORMATION TO EDUCATE THE PUBLIC CONCERNING THE PURPOSES AND BENEFITS OF THE DISTRICT.

(2) THE DISTRICT HAS THE FOLLOWING FINANCIAL POWERS:

(a) TO PROVIDE FUNDING DERIVED FROM BOTH EL PASO AND PUEBLO COUNTIES TO SUPPORT THE DISTRICT;

(b) TO PROVIDE COOPERATION AND FINANCIAL AND TECHNICAL ASSISTANCE THROUGHOUT THE FOUNTAIN CREEK WATERSHED;

(c) (I) SUBJECT TO THE REQUIREMENTS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH (c), TO FINANCE THE ACQUISITION, CONSTRUCTION, OPERATION, OR MAINTENANCE OF PROJECTS AND ANY OTHER LAWFUL OPERATIONS OF THE DISTRICT THROUGH:

(A) THE ESTABLISHMENT OF SERVICE CHARGES WITHIN THE WATERSHED MANAGEMENT AREA PURSUANT TO PART 3 OF THIS ARTICLE;

(B) THE IMPOSITION OF MILL LEVIES, LEVIED AT A TOTAL RATE OF NO MORE THAN FIVE MILLS, ON ALL TAXABLE PROPERTY WITHIN THE DISTRICT AND THE ISSUANCE OF BONDS PURSUANT TO PART 4 OF THIS ARTICLE;

(C) THE CREATION OF IMPROVEMENT DISTRICTS AND IMPOSITION OF SPECIAL ASSESSMENTS ON ALL PROPERTY WITHIN AN IMPROVEMENT DISTRICT PURSUANT TO PART 5 OF THIS ARTICLE;

(D) THE ACCEPTANCE OF GIFTS, GRANTS, AND DONATIONS FROM PUBLIC, PRIVATE, AND NOT-FOR-PROFIT SOURCES;

(E) CERTIFICATES OF PARTICIPATION; AND

(F) ANY OTHER LAWFUL MEANS AUTHORIZED IN THIS ARTICLE.

(II) (A) NO ACTION BY THE DISTRICT TO ESTABLISH OR INCREASE ANY SPECIAL ASSESSMENT AUTHORIZED BY THIS ARTICLE AND, IN ACCORDANCE WITH SECTION 20 (4) (a) OF ARTICLE X OF THE STATE

CONSTITUTION, NO ACTION BY THE DISTRICT TO ESTABLISH OR INCREASE ANY TAX OR MILL LEVY AUTHORIZED BY THIS ARTICLE SHALL TAKE EFFECT UNLESS FIRST SUBMITTED TO A VOTE OF THE ELIGIBLE ELECTORS OF THE DISTRICT OR, IN THE CASE OF A SPECIAL ASSESSMENT, THE ELIGIBLE ELECTORS OF THE IMPROVEMENT DISTRICT IN WHICH THE SPECIAL ASSESSMENT IS PROPOSED TO BE COLLECTED.

(B) NO ACTION BY THE DISTRICT CREATING A MULTIPLE-FISCAL YEAR DEBT OR OTHER FINANCIAL OBLIGATION THAT IS SUBJECT TO SECTION 20 (4) (b) OF ARTICLE X OF THE STATE CONSTITUTION SHALL TAKE EFFECT UNLESS FIRST SUBMITTED TO A VOTE OF THE ELIGIBLE ELECTORS OF THE DISTRICT OR, IN THE CASE OF IMPROVEMENT DISTRICT BONDS TO BE PAID WITH REVENUES FROM A SPECIAL ASSESSMENT, THE ELIGIBLE ELECTORS OF THE IMPROVEMENT DISTRICT IN WHICH THE SPECIAL ASSESSMENT IS PROPOSED TO BE COLLECTED.

(C) THE QUESTIONS PROPOSED TO THE ELIGIBLE ELECTORS UNDER SUB-SUBPARAGRAPHS (A) AND (B) OF THIS SUBPARAGRAPH (II) SHALL BE SUBMITTED AT A BIENNIAL ELECTION OF THE DISTRICT, A GENERAL ELECTION, OR ANY ELECTION TO BE HELD ON THE FIRST TUESDAY IN NOVEMBER OF AN ODD-NUMBERED YEAR. THE ACTION SHALL NOT TAKE EFFECT UNLESS A MAJORITY OF THE ELIGIBLE ELECTORS VOTING ON THE QUESTION AT THE ELECTION VOTE IN FAVOR THEREOF. ELECTIONS SHALL BE HELD AND CONDUCTED, AND THE RESULTS DETERMINED, IN THE MANNER PROVIDED BY ARTICLES 1 TO 13 OF TITLE 1, C.R.S. NO DISTRICT MONEYS MAY BE USED TO URGE OR OPPOSE PASSAGE OF AN ELECTION REQUIRED UNDER THIS SECTION.

(d) (I) SUBJECT TO THE LIMITATIONS SPECIFIED IN PART 3 OF THIS ARTICLE AND SUBPARAGRAPH (II) OF THIS PARAGRAPH (d), TO IMPOSE SERVICE CHARGES FOR THE AVAILABILITY OR USE OF THE FACILITIES OF THE DISTRICT, PLEDGE SERVICE CHARGE REVENUES FOR THE PAYMENT OF BONDS, AND ENFORCE THE COLLECTION OF SERVICE CHARGE REVENUES BY CIVIL ACTION OR BY ANY OTHER MEANS PROVIDED BY LAW.

(II) THE POWER OF THE DISTRICT TO ESTABLISH SERVICE CHARGES IS LIMITED TO THE AREAS WITHIN THE COUNTIES OF EL PASO AND PUEBLO THAT ARE WITHIN THE FOUNTAIN CREEK WATERSHED MANAGEMENT AREA.

(e) TO OBTAIN FINANCIAL STATEMENTS, APPRAISALS, ECONOMIC

FEASIBILITY REPORTS, AND VALUATIONS OF ANY TYPE PERTAINING TO THE FACILITIES OR ANY PROJECT OR ANY RELATED PROPERTY;

(f) TO DEPOSIT MONEYS OF THE DISTRICT IN ANY DEPOSITORY AUTHORIZED IN SECTION 24-75-603, C.R.S.;

(g) TO CREATE SPECIAL FUNDS AND ACCOUNTS AS A SOURCE OF REPAYMENT FOR BONDS, INCLUDING RESERVES REQUIRED OR DESIRED FOR THAT PURPOSE, OR FOR PAYMENT OF PROJECT ACQUISITION, CONSTRUCTION, OPERATION, MAINTENANCE, OR OTHER RELATED COSTS;

(h) TO INVEST OR DEPOSIT ANY DISTRICT MONEYS IN THE MANNER PROVIDED BY PART 6 OF ARTICLE 75 OF TITLE 24, C.R.S., AND TO DIRECT A CORPORATE TRUSTEE THAT HOLDS ANY DISTRICT MONEYS TO INVEST OR DEPOSIT THE MONEYS IN INVESTMENTS OR DEPOSITS OTHER THAN THOSE SPECIFIED BY SAID PART 6 IF THE BOARD DETERMINES, BY RESOLUTION, THAT THE INVESTMENT OR DEPOSIT MEETS THE STANDARD ESTABLISHED IN SECTION 15-1-304, C.R.S., THE INCOME IS AT LEAST COMPARABLE TO INCOME AVAILABLE ON INVESTMENTS OR DEPOSITS SPECIFIED BY SAID PART 6, AND THE INVESTMENT WILL ASSIST THE BOARD IN THE FINANCING, CONSTRUCTION, OPERATION, OR MAINTENANCE OF ITS PROJECTS OR FACILITIES;

(i) (I) SUBJECT TO THE LIMITATIONS SET FORTH IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (i), UNTIL SUCH TIME AS THE DISTRICT HAS SUFFICIENT FUNDING TO OPERATE INDEPENDENT OF FUNDING FROM THE REPRESENTED PUBLIC BODIES, TO REQUEST FROM THE REPRESENTED PUBLIC BODIES APPROPRIATE STAFF, RESOURCES, AND FUNDING SUPPORT. THE REPRESENTED PUBLIC BODIES MAY FUND INDEPENDENT STAFF OR PLEDGE TO SUPPORT THE DISTRICT WITH THEIR OWN EMPLOYEES OR CONTRIBUTE FUNDING IN ANY MANNER DEEMED EQUITABLE AND APPROPRIATE BY THE REPRESENTED PUBLIC BODIES AND THE DISTRICT.

(II) IN ACCORD WITH THE STATE CONSTITUTION OR ANY CHARTER OF A REPRESENTED PUBLIC BODY, PERFORMANCE OF A REPRESENTED PUBLIC BODY'S OBLIGATIONS UNDER THIS ARTICLE IS EXPRESSLY SUBJECT TO ANNUAL APPROPRIATION OF FUNDS BY THE RESPECTIVE GOVERNING BODY OF THE PUBLIC BODY. IF SUFFICIENT MONEYS ARE NOT APPROPRIATED FOR PERFORMANCE OF A PUBLIC BODY'S OBLIGATIONS UNDER THIS ARTICLE OR APPROPRIATED FUNDS CANNOT BE EXPENDED DUE TO APPLICABLE SPENDING

LIMITATIONS, PERFORMANCE OF THE PUBLIC BODY UNDER THIS ARTICLE SHALL BE NULL AND VOID BY OPERATION OF LAW, AND THE PUBLIC BODY SHALL THEREAFTER HAVE NO LIABILITY FOR COMPENSATION OR DAMAGES TO ANY PERSON IN EXCESS OF THE PUBLIC BODY'S AUTHORIZED APPROPRIATION FOR THE PURPOSES OF THIS ARTICLE OR THE APPLICABLE SPENDING LIMIT, WHICHEVER IS LESS. A REPRESENTED PUBLIC BODY SHALL NOTIFY ALL OTHER REPRESENTED PUBLIC BODIES AND THE DISTRICT AS SOON AS PRACTICABLE IN THE EVENT OF NONAPPROPRIATION OR IN THE EVENT A SPENDING LIMITATION BECOMES APPLICABLE.

(3) THE DISTRICT HAS THE FOLLOWING JURISDICTIONAL AND LAND USE POWERS:

(a) WITHIN THE CORRIDOR, TO EXERCISE FULL LAND USE AUTHORITY;
AND

(b) OUTSIDE OF THE CORRIDOR, BUT WITHIN THE WATERSHED MANAGEMENT AREA, TO EXERCISE ADVISORY LAND USE AUTHORITY ONLY; EXCEPT THAT THE DISTRICT SHALL BE ENTITLED TO RECEIVE NOTICE FROM ALL REPRESENTED PUBLIC BODIES AND TO PROVIDE COMMENTS TO SUCH REPRESENTED PUBLIC BODIES REGARDING LAND USE APPLICATIONS FOR PROJECTS LOCATED OUTSIDE THE CORRIDOR, BUT WITHIN THE WATERSHED MANAGEMENT AREA, THAT, IN THE OPINION OF THE APPLICABLE REPRESENTED PUBLIC BODY'S PLANNING DIRECTOR OR PLANNING DIRECTOR'S DESIGNEE, WILL HAVE A DIRECT OR INDIRECT IMPACT ON THE FOUNTAIN CREEK WATERSHED. EACH REPRESENTED PUBLIC BODY SHALL SEND NOTICE TO THE DISTRICT IDENTIFYING ITS PLANNING DIRECTOR OR DESIGNEE. THE DISTRICT MAY REQUEST TO REVIEW LAND USE APPLICATIONS OF ANY REPRESENTED PUBLIC BODY FOR PROJECTS LOCATED OUTSIDE THE CORRIDOR THAT MAY DIRECTLY OR INDIRECTLY IMPACT THE WATERSHED.

(c) THROUGHOUT THE WATERSHED MANAGEMENT AREA, INCLUDING WITHIN THE CORRIDOR, THE DISTRICT HAS THE AUTHORITY TO ACCEPT AND MANAGE FUNDING FOR THE MANAGEMENT AND CONSTRUCTION OF ANY STREAM IMPROVEMENT AUTHORIZED BY THE REPRESENTED PUBLIC BODY OR BODIES WITH JURISDICTION OVER THE AREA IN WHICH THE IMPROVEMENT WILL BE LOCATED.

(4) THE DISTRICT HAS THE FOLLOWING COOPERATIVE AND MISCELLANEOUS POWERS:

(a) TO PROVIDE FOR COMPREHENSIVE PLANNING AND, WHERE POSSIBLE, COORDINATE WITH ALL REGIONAL SPECIAL PURPOSE DISTRICTS, REGIONAL MULTIPURPOSE PLANNING AGENCIES, LOCAL AND REGIONAL PLANNING COMMISSIONS, AND OTHER MULTIJURISDICTIONAL POLITICAL SUBDIVISIONS OPERATING WHOLLY OR PARTLY WITHIN THE DISTRICT;

(b) TO ADOPT A COMPREHENSIVE PROGRAM FOR THE ACQUISITION, CONSTRUCTION, OPERATION, AND MAINTENANCE OF FACILITIES;

(c) TO ESTABLISH, OPERATE, AND MAINTAIN FACILITIES WITHIN THE WATERSHED MANAGEMENT AREA ACROSS OR ALONG ANY PUBLIC STREET, HIGHWAY, BRIDGE, VIADUCT, OR OTHER PUBLIC RIGHT-OF-WAY, OR IN, UPON, UNDER, OR OVER ANY VACANT PUBLIC LANDS THAT ARE OR MAY BECOME THE PROPERTY OF A PUBLIC BODY SUBJECT TO FIRST OBTAINING CONSENT FROM THE PUBLIC BODY HAVING JURISDICTION OVER THE SAME, WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD, BUT MAY BE CONTINGENT UPON REASONABLE CONDITIONS BEING MET. THE DISTRICT SHALL COOPERATE WITH ANY PUBLIC BODY HAVING SUCH JURISDICTION, SHALL PROMPTLY RESTORE ANY SUCH STREET, HIGHWAY, BRIDGE, VIADUCT, OR OTHER PUBLIC RIGHT-OF-WAY TO ITS FORMER STATE OF USEFULNESS AS NEARLY AS MAY BE, AND SHALL NOT ADVERSELY AFFECT THE USEFULNESS THEREOF.

(d) (I) TO THE EXTENT CONSISTENT WITH THE JURISDICTIONAL AND LAND USE AUTHORITY SET FORTH IN SUBSECTION (3) OF THIS SECTION, TO ADOPT FLOODPLAIN ZONING RESOLUTIONS AND ORDERS PERTAINING TO PROPERTIES WITHIN THE WATERSHED MANAGEMENT AREA THAT AFFECT THE COLLECTION, CHANNELING, IMPOUNDING, OR DISPOSITION OF RAINFALL, OTHER SURFACE AND SUBSURFACE DRAINAGE, OR STORM AND FLOOD WATERS AS IT DEEMS NECESSARY OR CONVENIENT. IF A DISTRICT FLOODPLAIN ZONING RESOLUTION OR ORDER CONFLICTS WITH A FLOODPLAIN ZONING RESOLUTION OR ORDER ADOPTED BY ANY OTHER PUBLIC BODY, THE MORE RESTRICTIVE RESOLUTION OR ORDER SHALL CONTROL.

(II) NO DISTRICT FLOODPLAIN RESOLUTION OR ORDER SHALL BE ADOPTED OR AMENDED EXCEPT BY ACTION OF THE BOARD AFTER A PUBLIC HEARING HELD BY THE BOARD AT WHICH ANY PUBLIC BODY OWNING DRAINAGE AND FLOOD CONTROL INFRASTRUCTURE OR OTHERWISE EXERCISING POWERS AFFECTING DRAINAGE AND FLOOD CONTROL IN THE AFFECTED AREA, WHETHER DIRECTLY OR THROUGH AN ENTERPRISE, AND

OTHER INTERESTED PERSONS HAVE AN OPPORTUNITY TO BE HEARD. THE BOARD SHALL PROVIDE MAILED NOTICE OF THE HEARING TO EACH SUCH PUBLIC BODY AND SHALL ALSO PUBLISH NOTICE OF THE HEARING FOR THE BENEFIT OF OTHER INTERESTED PERSONS.

(e) TO ENTER INTO COOPERATIVE OR CONTRACTUAL AGREEMENTS WITH ANY GOVERNMENT, AS DEFINED IN SECTION 29-1-202 (1), C.R.S., AS AUTHORIZED IN SECTION 29-1-203, C.R.S., CONCERNING COMPREHENSIVE PLANNING OR THE PROVISION OF ANY FUNCTION, SERVICE, OR FACILITY AUTHORIZED BY THIS ARTICLE, INCLUDING, BUT NOT LIMITED TO:

(I) JOINT OPERATING OR SERVICE CONTRACTS AND AGREEMENTS; ACQUISITION, IMPROVEMENT, EQUIPMENT, OR DISPOSAL CONTRACTS; PERSONNEL SHARING AGREEMENTS; OR OTHER ARRANGEMENTS CONCERNING PERSONNEL, ANY FACILITIES, PROJECT, OR RELATED PROPERTY OR ANY SIMILAR PROPERTY OR EQUIPMENT OWNED BY THE FEDERAL GOVERNMENT OR A PUBLIC BODY; AND

(II) CONTRACTS AND AGREEMENTS FOR THE PROVISION AND OPERATION BY THE DISTRICT OF ANY DRAINAGE, FLOOD CONTROL, OR RECREATIONAL PROPERTY OR EQUIPMENT RELATED TO FACILITIES OR PROJECTS OF THE DISTRICT IN EXCHANGE FOR COMPENSATION SUFFICIENT TO DEFRAY THE COST TO THE DISTRICT OF PROVIDING, OPERATING, AND MAINTAINING THE PROPERTY OR EQUIPMENT;

(f) TO DO ALL THINGS NECESSARY TO BE QUALIFIED TO ACCEPT AND TO ACCEPT CONTRIBUTIONS OR LOANS FROM THE FEDERAL GOVERNMENT FOR THE PURPOSE OF FINANCING THE PLANNING, ACQUISITION, IMPROVEMENT, EQUIPMENT, MAINTENANCE, AND OPERATION OF ANY PROJECT OR AUTHORIZED ACTIVITY OF THE DISTRICT AND TO ENTER INTO CONTRACTS AND COOPERATE WITH THE FEDERAL GOVERNMENT IN THE FINANCING, PLANNING, ACQUISITION, IMPROVEMENT, EQUIPMENT, MAINTENANCE, AND OPERATION OF ANY SUCH PROJECT OR AUTHORIZED ACTIVITY IN ACCORDANCE WITH ANY APPLICABLE FEDERAL LEGISLATION UNDER WHICH AID, ASSISTANCE, AND COOPERATION MAY BE FURNISHED BY THE FEDERAL GOVERNMENT;

(g) SUBJECT TO ANY LIMITATIONS SPECIFIED IN THIS ARTICLE OR ARTICLES 1 TO 7 OF TITLE 38, C.R.S., TO ENTER UPON ANY LAND TO MAKE SURVEYS, BORINGS, SOUNDINGS, AND EXAMINATIONS AND TO LOCATE

FACILITIES, PROJECTS, ROADWAYS, AND OTHER RIGHTS-OF-WAY PERTAINING TO FACILITIES AND PROJECTS AS NEEDED TO ACCOMPLISH THE PURPOSES OF THE DISTRICT;

(h) TO MEDIATE ANY DIFFERENCES ARISING AMONG THE REPRESENTED PUBLIC BODIES IN CONNECTION WITH ANY FACILITIES, PROJECT, OR ACTIVITY OF THE DISTRICT; AND

(i) TO HAVE AND EXERCISE ALL RIGHTS AND POWERS NECESSARY OR INCIDENTAL TO OR IMPLIED FROM THE SPECIFIC POWERS GRANTED IN THIS ARTICLE.

32-11.5-206. Approval of other infrastructure. (1) SUBJECT TO THE LIMITATIONS SPECIFIED IN SECTION 32-11.5-205 (3), ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1), ONLY THE FEDERAL GOVERNMENT MAY ACQUIRE OR IMPROVE WITHIN THE TERRITORIAL LIMITS OF THE WATERSHED MANAGEMENT AREA ANY DRAINAGE AND FLOOD CONTROL OR RECREATIONAL INFRASTRUCTURE, UNLESS A PROPOSAL FOR THE ACQUISITION OR IMPROVEMENT IS REVIEWED BY, AND IN THE CASE OF INFRASTRUCTURE WITHIN THE CORRIDOR APPROVED BY, THE BOARD; EXCEPT THAT A PUBLIC BODY OR OTHER PERSON MAY ACQUIRE OR IMPROVE GUTTERS AND RAINSPOTS ATTACHED TO BUILDINGS OR OTHER STRUCTURES; CURBS AND GUTTERS APPURTENANT TO STREETS, ALLEYS, HIGHWAYS, AND OTHER RIGHTS-OF-WAY; OR A COLLECTION OR SECONDARY STORM DRAINAGE SYSTEM, AS DEFINED IN THE EL PASO COUNTY DRAINAGE CRITERIA MANUAL OR THE PUEBLO COUNTY DRAINAGE CRITERIA MANUAL, AS APPLICABLE, OR IN ANY SUCCESSOR PUBLICATIONS TO EITHER MANUAL. IF A PUBLIC BODY OR OTHER PERSON OTHER THAN THE FEDERAL GOVERNMENT ACQUIRES OR IMPROVES SUCH INFRASTRUCTURE WITHIN THE CORRIDOR WITHOUT BOARD REVIEW AND APPROVAL, THE BOARD MAY ORDER MODIFICATION OF THE INFRASTRUCTURE TO MEET THE REASONABLE SPECIFICATIONS AND OTHER REQUIREMENTS OF THE DISTRICT.

(2) (a) THE BOARD SHALL NOT APPROVE A PROPOSAL FOR DRAINAGE, FLOOD CONTROL, OR RECREATIONAL INFRASTRUCTURE ACQUISITION OR IMPROVEMENT WITHIN THE WATERSHED MANAGEMENT AREA UNLESS THE INFRASTRUCTURE TO BE ACQUIRED OR IMPROVED APPROPRIATELY COMPLEMENTS OR SUPPLEMENTS FACILITIES, BOTH PROPOSED AND ACQUIRED, AND IS CONSISTENT WITH ANY COMPREHENSIVE PROGRAM FOR THE ACQUISITION AND CONSTRUCTION OF FACILITIES ADOPTED BY THE

DISTRICT PURSUANT TO SECTION 32-11.5-205 (4) (b). THE BOARD MAY WITHHOLD ITS APPROVAL OR DISAPPROVE A PROPOSAL FOR DRAINAGE, FLOOD CONTROL, OR RECREATIONAL INFRASTRUCTURE ACQUISITION OR IMPROVEMENT ONLY IF THE INFRASTRUCTURE TO BE ACQUIRED OR APPROVED DOES NOT COMPLEMENT OR SUPPLEMENT FACILITIES OR DOES NOT CONFORM TO ANY COMPREHENSIVE PROGRAM OF THE DISTRICT.

(b) IF A PROPOSAL FOR DRAINAGE, FLOOD CONTROL, OR RECREATIONAL INFRASTRUCTURE ACQUISITION OR IMPROVEMENT WITHIN THE WATERSHED MANAGEMENT AREA DOES NOT SUFFICIENTLY DELINEATE THE INFRASTRUCTURE TO BE ACQUIRED OR IMPROVED FOR THE BOARD TO DETERMINE WHETHER THE INFRASTRUCTURE COMPLEMENTS OR SUPPLEMENTS FACILITIES AND CONFORMS TO ANY COMPREHENSIVE PROGRAM OF THE DISTRICT, THE BOARD MAY DEMAND SUCH ADDITIONAL INFORMATION AS IT DEEMS NECESSARY OR DESIRABLE TO MAKE SUCH A DETERMINATION. THE BOARD MAY DELAY ITS CONSIDERATION OF THE PROPOSAL UNTIL IT RECEIVES ANY ADDITIONAL INFORMATION REQUESTED.

32-11.5-207. Powers of public bodies. (1) A PUBLIC BODY, FOR THE PURPOSE OF AIDING AND COOPERATING IN ANY PROJECT AUTHORIZED IN THIS ARTICLE, MAY:

(a) SELL, LEASE, LOAN, DONATE, GRANT, CONVEY, ASSIGN, TRANSFER, AND OTHERWISE DISPOSE TO THE DISTRICT ANY PROJECT-RELATED INFRASTRUCTURE, PROPERTY, OR INTEREST THEREIN;

(b) MAKE AVAILABLE TO THE DISTRICT FOR TEMPORARY USE, OR OTHERWISE DISPOSE OF, ANY MACHINERY, EQUIPMENT, INFRASTRUCTURE, OR OTHER PROPERTY AND ANY AGENTS, EMPLOYEES, PERSONS WITH PROFESSIONAL TRAINING, OR OTHER PERSONS TO EFFECT THE PURPOSES OF THIS ARTICLE. ANY PROPERTY OWNED BY AND PERSONS IN THE EMPLOY OR SERVICE OF A PUBLIC BODY SHALL, WHILE PERFORMING ANY AUTHORIZED SERVICE, ACTIVITY, OR UNDERTAKING FOR THE DISTRICT, HAVE AND RETAIN ALL OF THE POWERS, PRIVILEGES, IMMUNITIES, RIGHTS, AND DUTIES, AND BE DEEMED TO BE ENGAGED IN THE SERVICE AND EMPLOYMENT, OF THE PUBLIC BODY, NOTWITHSTANDING THAT THE SERVICE, ACTIVITY, OR UNDERTAKING IS BEING PERFORMED FOR THE DISTRICT.

(c) ENTER INTO ANY AGREEMENT OR JOINT AGREEMENT BETWEEN OR AMONG THE FEDERAL GOVERNMENT, THE DISTRICT, A PUBLIC BODY, OR ANY

COMBINATION THEREOF WITH RESPECT TO ACTION OR PROCEEDINGS PERTAINING TO ANY POWER GRANTED IN THIS ARTICLE AND THE USE OR JOINT USE OF ANY INFRASTRUCTURE, FACILITIES, PROJECT, OR OTHER PROPERTY;

(d) SELL, LEASE, LOAN, DONATE, GRANT, CONVEY, ASSIGN, TRANSFER, OR PAY OVER TO THE DISTRICT INFRASTRUCTURE, PROPERTY, OR MONEYS FOR THE PURPOSE OF ALLOWING THE DISTRICT TO FINANCE, ACQUIRE, IMPROVE, EQUIP, OPERATE, OR MAINTAIN FACILITIES OR PROJECTS;

(e) TRANSFER, GRANT, CONVEY, OR ASSIGN TO THE DISTRICT ANY CONTRACTS AWARDED BY THE PUBLIC BODY FOR THE ACQUISITION, IMPROVEMENT, OR EQUIPMENT OF ANY PROJECT NOT COMMENCED OR NOT COMPLETED; AND

(f) BUDGET AND APPROPRIATE, AS REQUIRED, THE PROCEEDS OF TAXES, SERVICE CHARGES, AND OTHER REVENUES LEGALLY AVAILABLE TO PAY ALL BONDS AND OTHER OBLIGATIONS ARISING FROM THE EXERCISE OF ANY POWERS GRANTED IN THIS ARTICLE AS PAYMENTS FOR THE BONDS OR OTHER OBLIGATIONS BECOME DUE.

PART 3 SERVICE CHARGES

32-11.5-301. Service charges. (1) (a) THE DISTRICT MAY IMPOSE AND COLLECT SERVICE CHARGES, OR SPECIAL FEES AS DEFINED BY COLORADO LAW, FOR DIRECT OR INDIRECT CONNECTION WITH, OR THE USE OR SERVICES OF, FACILITIES, INCLUDING, BUT NOT LIMITED TO, MINIMUM CHARGES AND CHARGES FOR THE AVAILABILITY OF FACILITIES OR RELATED SERVICES. SUCH SERVICE CHARGES MAY ONLY BE CHARGED WITHIN THE WATERSHED MANAGEMENT AREA.

(b) SERVICE CHARGES MAY BE CHARGED TO AND COLLECTED IN ADVANCE OR OTHERWISE BY THE DISTRICT AT ANY TIME FROM ANY OWNER OR OCCUPANT OF REAL PROPERTY WITHIN THE WATERSHED MANAGEMENT AREA THAT DIRECTLY OR INDIRECTLY IS, HAS BEEN, OR WILL BE CONNECTED WITH FACILITIES OR FROM WHICH OR ON WHICH ORIGINATES OR HAS ORIGINATED RAINFALL, OTHER SURFACE AND SUBSURFACE DRAINAGE, OR STORM AND FLOOD WATERS THAT HAVE ENTERED OR WILL ENTER FACILITIES, AND THE OWNER OR OCCUPANT OF ANY SUCH REAL PROPERTY SHALL BE

LIABLE FOR AND SHALL PAY THE SERVICE CHARGES TO THE DISTRICT WHEN DUE AND PAYABLE.

(c) SERVICE CHARGES OF THE DISTRICT SHALL ACCRUE FROM THE DATE ON WHICH THE BOARD ESTIMATES, IN ANY RESOLUTION AUTHORIZING THE ISSUANCE OF ANY BONDS TO BE PAID FROM SERVICE CHARGE REVENUES OR IN ANY CONTRACT WITH ANY PERSON, THAT THE FACILITIES FOR WHICH THE SERVICE CHARGE IS IMPOSED WILL BE AVAILABLE FOR SERVICE OR USE.

(2) (a) SERVICE CHARGES:

(I) SHALL BE IMPOSED AT RATES REASONABLY CALCULATED TO DEFRAY ONLY THE COSTS OF THE FACILITIES FOR WHICH THEY ARE IMPOSED THAT ARE NOT DEFRAYED BY OTHER DISTRICT REVENUES;

(II) SHALL, AS NEARLY AS THE DISTRICT DEEMS PRACTICABLE AND EQUITABLE, BE UNIFORM THROUGHOUT THE WATERSHED MANAGEMENT AREA FOR THE SAME TYPE, CLASS, AND AMOUNT OF USE OF FACILITIES OR RELATED SERVICES;

(III) MAY BE BASED OR COMPUTED:

(A) ON MEASUREMENTS OF DRAINAGE FLOW DEVICES DULY PROVIDED AND MAINTAINED BY THE DISTRICT OR BY ANY USER AS APPROVED BY THE DISTRICT;

(B) ON THE CONSUMPTION OF WATER IN, ON, OR IN CONNECTION WITH THE REAL PROPERTY ON WHICH THE SERVICE CHARGE IS IMPOSED, MAKING DUE ALLOWANCE FOR COMMERCIAL AND OTHER USE OF WATER DISCHARGED INTO ANY SANITARY SEWER SYSTEM AND FOR ANY INFILTRATION OF GROUND WATER AND DISCHARGE OF SURFACE RUNOFF INTO THE SEWER SYSTEM;

(C) ON THE CAPACITY OF THE CAPITAL IMPROVEMENTS IN, ON, OR CONNECTED WITH THE REAL PROPERTY ON WHICH THE SERVICE CHARGE IS IMPOSED;

(D) ON THE AVAILABILITY OF SERVICE OF FACILITIES;

(E) ON ANY OTHER FACTORS DETERMINING THE TYPE, CLASS, AND

AMOUNT OF USE OR SERVICE OF FACILITIES; OR

(F) ON ANY COMBINATION OF THE FACTORS SPECIFIED IN SUB-SUBPARAGRAPHS (A) TO (E) OF THIS SUBPARAGRAPH (III).

(b) FOR PURPOSES OF DETERMINING SERVICE CHARGES, THE DISTRICT MAY GIVE WEIGHT TO THE SPECIFIC CHARACTERISTICS OF ANY REAL PROPERTY, INCLUDING, BUT NOT LIMITED TO, LOCATION WITHIN THE WATERSHED, THE CHARACTERISTICS OF CAPITAL IMPROVEMENTS, BOTH PROPOSED AND EXISTING, IN ANY SUBDIVISION OR OTHER AREA IN THE WATERSHED MANAGEMENT AREA OR ANY OTHER SPECIAL MATTER AFFECTING THE RUNOFF OF RAINFALL, OTHER SURFACE AND SUBSURFACE DRAINAGE, OR STORM AND FLOOD WATERS FROM THE REAL PROPERTY DIRECTLY OR INDIRECTLY INTO THE DISTRICT'S FACILITIES.

(c) THE DISTRICT MAY SET REASONABLE PENALTIES FOR ANY DELINQUENCIES IN THE PAYMENT OF SERVICE CHARGES, INCLUDING WITHOUT LIMITATION INTEREST ON DELINQUENT SERVICE CHARGES FROM ANY DATE DUE AT A RATE NOT EXCEEDING ONE PERCENT PER MONTH, OR FRACTION OF A MONTH, REASONABLE ATTORNEY FEES, AND OTHER COSTS OF COLLECTION.

(3) THE DISTRICT SHALL PRESCRIBE AND REVISE A SCHEDULE OF ANY SERVICE CHARGES IT IMPOSES OR COLLECTS. THE SCHEDULE SHALL COMPLY WITH THE TERMS OF ANY CONTRACT OF THE DISTRICT AND SHALL ENSURE THAT THE SERVICE CHARGES OF THE DISTRICT ARE ADEQUATE, TAKING INTO ACCOUNT OTHER AVAILABLE DISTRICT REVENUES AND ANTICIPATED SERVICE CHARGE DELINQUENCIES, TO:

(a) PAY ALL FACILITIES OPERATION AND MAINTENANCE EXPENSES;

(b) PAY PUNCTUALLY THE PRINCIPAL OF AND INTEREST ON ANY BONDS PAYABLE FROM REVENUES OF FACILITIES;

(c) MAINTAIN REQUIRED RESERVES OR SINKING FUNDS; AND

(d) PAY ALL EXPENSES INCIDENTAL TO FACILITIES OR PROJECTS, INCLUDING, BUT NOT LIMITED TO, CONTINGENCIES AND ACQUISITION, IMPROVEMENT, AND EQUIPMENT COSTS, REQUIRED BY THE TERMS OF ANY CONTRACT OR OTHERWISE DEEMED NECESSARY OR DESIRABLE BY THE DISTRICT.

(4) THE DISTRICT SHALL KEEP A COPY OF ANY SCHEDULE OF SERVICE CHARGES IN EFFECT ON FILE AT ITS PRINCIPAL OFFICE AND SHALL ALLOW INSPECTION OF THE SCHEDULE WHENEVER THE OFFICE IS OPEN FOR BUSINESS.

(5) EXCEPT AS OTHERWISE PROVIDED IN A CONTRACT OR AGREEMENT ENTERED INTO BY THE DISTRICT AS AUTHORIZED BY SECTION 32-11.5-205 (4) (e), ONLY THE BOARD MAY PRESCRIBE, SUPERVISE, OR REGULATE THE PERFORMANCE OF SERVICES PERTAINING TO FACILITIES OR SET OR ALTER SERVICE CHARGES.

PART 4 TAXES AND BONDS

32-11.5-401. Taxes. SUBJECT TO THE ELECTION REQUIREMENTS SPECIFIED IN SECTION 32-11.5-205 (2) (c) (II) AND THE LIMITATIONS SPECIFIED IN PART 3 OF ARTICLE 1 OF TITLE 29 C.R.S., THE DISTRICT MAY LEVY AND COLLECT AD VALOREM TAXES, LEVIED AT A RATE OF NO MORE THAN FIVE MILLS, ON AND AGAINST ALL TAXABLE PROPERTY WITHIN THE DISTRICT. THE PROCEEDS OF AD VALOREM TAXES MAY BE USED FOR ANY AUTHORIZED PURPOSE OF THE DISTRICT INCLUDING, BUT NOT LIMITED TO, THE FUNDING OF RESERVE FUNDS TO BE USED TO REPAY BONDS ISSUED PURSUANT TO SECTION 32-11.5-402, DEFRAY MAINTENANCE, OPERATION, AND DEPRECIATION COSTS OF FACILITIES, AND IMPROVE FACILITIES.

32-11.5-402. Bonds. (1) SUBJECT TO THE ELECTION REQUIREMENTS SPECIFIED IN SECTION 32-11.5-205 (2) (c) (II), THE DISTRICT MAY, FROM TIME TO TIME, ISSUE BONDS FOR ANY OF ITS CORPORATE PURPOSES. THE BONDS SHALL BE ISSUED PURSUANT TO A RESOLUTION OF THE BOARD OR A TRUST INDENTURE, SHALL NOT BE SECURED BY AN ENCUMBRANCE, MORTGAGE, OR OTHER PLEDGE OF REAL OR PERSONAL PROPERTY OF THE DISTRICT, AND SHALL BE PAYABLE FROM ANY DISTRICT REVENUES UNLESS THE BOND RESOLUTION OR TRUST INDENTURE SPECIFICALLY LIMITS THE SOURCE OF DISTRICT REVENUES FROM WHICH THE BONDS ARE PAYABLE.

(2) BONDS MAY BE EXECUTED AND DELIVERED BY THE DISTRICT AT SUCH TIMES, MAY BE IN SUCH FORM AND DENOMINATIONS AND INCLUDE SUCH TERMS AND MATURITIES, MAY BE SUBJECT TO OPTIONAL OR MANDATORY REDEMPTION PRIOR TO MATURITY WITH OR WITHOUT A PREMIUM, MAY BE IN FULLY REGISTERED FORM OR BEARER FORM REGISTRABLE AS TO PRINCIPAL OR INTEREST OR BOTH, MAY BEAR SUCH

CONVERSION PRIVILEGES, MAY BE PAYABLE IN SUCH INSTALLMENTS AND AT SUCH TIMES NOT EXCEEDING FORTY YEARS FROM THE DATE THEREOF, MAY BE PAYABLE AT SUCH PLACE OR PLACES WHETHER WITHIN OR WITHOUT THE STATE, MAY BEAR INTEREST AT SUCH RATE OR RATES PER ANNUM, WHICH MAY BE FIXED OR VARY ACCORDING TO INDEX, PROCEDURE, OR FORMULA OR AS DETERMINED BY THE DISTRICT OR ITS AGENTS, WITHOUT REGARD TO ANY INTEREST RATE LIMITATION APPEARING IN ANY OTHER LAW OF THE STATE, MAY BE SUBJECT TO PURCHASE AT THE OPTION OF THE HOLDER OR THE DISTRICT, MAY BE EVIDENCED IN SUCH MANNER, MAY BE EXECUTED BY SUCH OFFICERS OF THE DISTRICT, INCLUDING THE USE OF ONE OR MORE FACSIMILE SIGNATURES SO LONG AS AT LEAST ONE MANUAL SIGNATURE APPEARS ON THE BONDS, WHICH MAY BE EITHER OF AN OFFICER OF THE DISTRICT OR OF AN AGENT AUTHENTICATING THE SAME, MAY BE IN THE FORM OF COUPON BONDS THAT HAVE ATTACHED INTEREST COUPONS BEARING A MANUAL OR FACSIMILE SIGNATURE OF AN OFFICER OF THE DISTRICT, AND MAY CONTAIN SUCH PROVISIONS NOT INCONSISTENT WITH THIS ARTICLE, ALL AS PROVIDED IN THE RESOLUTION OF THE DISTRICT UNDER WHICH THE BONDS ARE AUTHORIZED TO BE ISSUED OR AS PROVIDED IN A TRUST INDENTURE BETWEEN THE DISTRICT AND ANY BANK OR TRUST COMPANY HAVING FULL TRUST POWERS.

(3) BONDS MAY BE SOLD AT PUBLIC OR PRIVATE SALE AT SUCH PRICE OR PRICES, IN SUCH MANNER, AND AT SUCH TIMES AS DETERMINED BY THE BOARD, AND THE BOARD MAY PAY ALL FEES, EXPENSES, AND COMMISSIONS THAT IT DEEMS NECESSARY OR ADVANTAGEOUS IN CONNECTION WITH THE SALE OF THE BONDS. THE POWER TO FIX THE DATE OF SALE OF THE BONDS, TO RECEIVE BIDS OR PROPOSALS, TO AWARD AND SELL BONDS, TO FIX INTEREST RATES, AND TO TAKE ALL OTHER ACTION NECESSARY TO SELL AND DELIVER THE BONDS MAY BE DELEGATED TO AN OFFICER OR AGENT OF THE DISTRICT. ANY OUTSTANDING BONDS MAY BE REFUNDED BY THE DISTRICT PURSUANT TO ARTICLE 56 OF TITLE 11, C.R.S. ALL BONDS AND ANY INTEREST COUPONS APPLICABLE THERETO ARE DECLARED TO BE NEGOTIABLE INSTRUMENTS.

(4) THE RESOLUTION OR A TRUST INDENTURE AUTHORIZING THE ISSUANCE OF THE BONDS MAY PLEDGE ALL OR A PORTION OF THE SPECIAL FUND, MAY CONTAIN SUCH PROVISIONS FOR PROTECTING AND ENFORCING THE RIGHTS AND REMEDIES OF HOLDERS OF ANY OF THE BONDS AS THE DISTRICT DEEMS APPROPRIATE, MAY SET FORTH THE RIGHTS AND REMEDIES OF THE HOLDERS OF ANY OF THE BONDS, AND MAY CONTAIN PROVISIONS

THAT THE DISTRICT DEEMS APPROPRIATE FOR THE SECURITY OF THE HOLDERS OF THE BONDS, INCLUDING, BUT NOT LIMITED TO, PROVISIONS FOR LETTERS OF CREDIT, INSURANCE, STANDBY CREDIT AGREEMENTS, OR OTHER FORMS OF CREDIT ENSURING TIMELY PAYMENT OF THE BONDS, INCLUDING THE REDEMPTION PRICE OR THE PURCHASE PRICE.

(5) ANY LAWFUL PLEDGE OF MONEYS OR OTHER PROPERTY MADE BY THE DISTRICT OR BY ANY PERSON OR GOVERNMENTAL UNIT WITH WHICH THE DISTRICT CONTRACTS SHALL BE VALID AND BINDING FROM THE TIME THE PLEDGE IS MADE. THE SPECIAL FUND OR OTHER PROPERTY SO PLEDGED SHALL IMMEDIATELY BE SUBJECT TO THE LIEN OF THE PLEDGE WITHOUT ANY PHYSICAL DELIVERY OR FURTHER ACT, AND THE LIEN OF THE PLEDGE SHALL BE VALID AND BINDING AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN TORT, CONTRACT, OR OTHERWISE AGAINST THE PLEDGING PARTY REGARDLESS OF WHETHER THE CLAIMING PARTY HAS NOTICE OF THE LIEN. THE INSTRUMENT BY WHICH THE PLEDGE IS CREATED NEED NOT BE RECORDED OR FILED.

(6) NEITHER THE MEMBERS OF THE BOARD, EMPLOYEES OF THE DISTRICT, NOR ANY PERSON EXECUTING THE BONDS SHALL BE LIABLE PERSONALLY ON THE BONDS OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THE ISSUANCE THEREOF.

(7) THE DISTRICT MAY PURCHASE ITS BONDS OUT OF ANY AVAILABLE MONEYS AND MAY HOLD, PLEDGE, CANCEL, OR RESELL SUCH BONDS SUBJECT TO AND IN ACCORDANCE WITH AGREEMENTS WITH THE HOLDERS THEREOF.

(8) THE STATE HEREBY PLEDGES AND AGREES WITH THE HOLDERS OF ANY BONDS AND WITH THOSE PARTIES WHO ENTER INTO CONTRACTS WITH THE DISTRICT PURSUANT TO THIS ARTICLE THAT THE STATE WILL NOT LIMIT, ALTER, RESTRICT, OR IMPAIR THE RIGHTS VESTED IN THE DISTRICT OR THE RIGHTS OR OBLIGATIONS OF ANY PERSON WITH WHICH IT CONTRACTS TO FULFILL THE TERMS OF ANY AGREEMENTS MADE PURSUANT TO THIS ARTICLE. THE STATE FURTHER AGREES THAT IT WILL NOT IN ANY WAY IMPAIR THE RIGHTS OR REMEDIES OF THE HOLDERS OF BONDS UNTIL THE BONDS HAVE BEEN PAID OR UNTIL ADEQUATE PROVISION FOR PAYMENT HAS BEEN MADE. THE DISTRICT MAY INCLUDE THIS PROVISION AND UNDERTAKING FOR THE STATE IN ITS BONDS.

(9) ALL BANKS, TRUST COMPANIES, SAVINGS AND LOAN

ASSOCIATIONS, INSURANCE COMPANIES, EXECUTORS, ADMINISTRATORS, GUARDIANS, TRUSTEES, AND OTHER FIDUCIARIES MAY LEGALLY INVEST ANY MONEYS WITHIN THEIR CONTROL IN ANY BONDS ISSUED UNDER THIS ARTICLE. PUBLIC ENTITIES, AS DEFINED IN SECTION 24-75-601 (1), C.R.S., MAY INVEST PUBLIC FUNDS IN BONDS ONLY IF THE BONDS SATISFY THE INVESTMENT REQUIREMENTS ESTABLISHED IN PART 6 OF ARTICLE 75 OF TITLE 24, C.R.S.

(10) THE INCOME OR OTHER REVENUES OF THE DISTRICT, ALL PROPERTIES AT ANY TIME OWNED BY THE DISTRICT, BONDS, AND THE TRANSFER OF AND THE INCOME FROM BONDS SHALL BE EXEMPT FROM ALL TAXATION AND ASSESSMENTS IN THE STATE. IN THE RESOLUTION OR INDENTURE AUTHORIZING BONDS, THE DISTRICT MAY WAIVE THE EXEMPTION FROM FEDERAL INCOME TAXATION FOR INTEREST ON THE BONDS. BONDS SHALL BE EXEMPT FROM THE PROVISIONS OF ARTICLE 51 OF TITLE 11, C.R.S.

PART 5 IMPROVEMENT DISTRICTS AND SPECIAL ASSESSMENTS

32-11.5-501. Improvement districts, special assessments, and bonds - general authority of district. SUBJECT TO THE ELECTION REQUIREMENTS SPECIFIED IN SECTION 32-11.5-205 (2) (c) (II) AND THE PROCEDURAL AND OTHER REQUIREMENTS OF THIS PART 5, THE DISTRICT MAY CREATE ONE OR MORE IMPROVEMENT DISTRICTS, LEVY SPECIAL ASSESSMENTS AGAINST ALL OF THE ASSESSABLE PROPERTY IN AN IMPROVEMENT DISTRICT, AND CAUSE THE ASSESSMENTS TO BE COLLECTED TO DEFRAY WHOLLY OR IN PART THE COST OF ACQUIRING, CONSTRUCTING, OR IMPROVING ONE OR MORE PROJECTS. SUBJECT TO THE ELECTION REQUIREMENTS SPECIFIED IN SECTION 32-11.5-205 (2) (c) (II), THE DISTRICT MAY ALSO ISSUE BONDS TO BE REPAID FROM THE REVENUES GENERATED BY SPECIAL ASSESSMENTS AND, IF APPLICABLE, ANY OTHER MONEYS PLEDGED TO SECURE THE PAYMENT OF THE BONDS.

32-11.5-502. Initiating procedure. (1) THE PROCEDURE FOR ACQUIRING, CONSTRUCTING, OR IMPROVING ANY PROJECT TO BE FUNDED IN WHOLE OR IN PART WITH REVENUES GENERATED BY SPECIAL ASSESSMENTS CAN BE INITIATED BY THE PROVISIONAL ORDER METHOD DESCRIBED IN SUBSECTION (2) OF THIS SECTION OR THE PETITION METHOD DESCRIBED IN SUBSECTION (3) OF THIS SECTION.

(2) (a) WHENEVER THE BOARD DETERMINES THAT THE INTEREST OF

THE DISTRICT REQUIRES ANY PROJECT TO BE FUNDED IN WHOLE OR IN PART WITH REVENUES GENERATED BY SPECIAL ASSESSMENTS, THE BOARD, BY RESOLUTION APPROVED BY A SUPERMAJORITY VOTE AS SPECIFIED IN SECTION 32-11.5-204 (1) (b) (II), SHALL DIRECT THE ENGINEER TO PREPARE:

(I) PRELIMINARY PLANS SHOWING:

(A) A TYPICAL SECTION OF THE CONTEMPLATED PROJECT; AND

(B) THE TYPES OF MATERIAL, APPROXIMATE THICKNESS, AND WIDTH;

(II) A PRELIMINARY ESTIMATE OF THE TOTAL COST OF THE PROJECT;
AND

(III) AN ASSESSMENT PLAT SHOWING:

(A) THE AREA TO BE ASSESSED; AND

(B) THE AMOUNT OF MAXIMUM BENEFITS ESTIMATED TO BE ASSESSED AGAINST EACH TRACT.

(b) THE RESOLUTION OF THE BOARD SHALL DESCRIBE THE PROJECT IN GENERAL TERMS BUT MAY PROVIDE FOR ONE OR MORE TYPES OF CONSTRUCTION, AND THE ENGINEER SHALL SEPARATELY ESTIMATE THE COST OF EACH TYPE OF CONSTRUCTION. THE ESTIMATE MAY BE MADE IN A LUMP SUM OR BY UNIT PROCESS, AS DEEMED MOST APPROPRIATE BY THE ENGINEER FOR THE COMPLETED FACILITIES.

(c) THE RESOLUTION OF THE BOARD SHALL STATE:

(I) WHAT PART OR PORTION OF THE EXPENSE OF THE DESCRIBED PROJECT IS OF SPECIAL BENEFIT AND IS TO BE PAID FOR WITH REVENUES GENERATED BY SPECIAL ASSESSMENTS;

(II) WHAT PART OF THE PROJECT, IF ANY, HAS BEEN OR IS PROPOSED TO BE FUNDED WITH REVENUES GENERATED FROM SOURCES OTHER THAN SPECIAL ASSESSMENTS; AND

(III) THE BASIS BY WHICH THE COST OF THE PROJECT WILL BE APPORTIONED AND SPECIAL ASSESSMENTS WILL BE LEVIED.

(d) IN CASE A SPECIAL ASSESSMENT IS NOT TO BE MADE ACCORDING TO FRONT FEET, THE RESOLUTION OF THE BOARD SHALL:

(I) BY APT DESCRIPTION DESIGNATE THE IMPROVEMENT DISTRICT, INCLUDING THE TRACTS TO BE ASSESSED;

(II) DESCRIBE DEFINITELY THE LOCATION OF THE PROJECT; AND

(III) STATE THAT THE SPECIAL ASSESSMENT IS TO BE MADE UPON ALL THE TRACTS BENEFITED BY THE PROJECT PROPORTIONATELY TO THE BENEFITS RECEIVED.

(e) IN CASE A SPECIAL ASSESSMENT IS TO BE UPON THE ABUTTING PROPERTY ON A FRONTAGE BASIS, IT SHALL BE SUFFICIENT FOR THE RESOLUTION SO TO STATE AND TO DEFINE THE LOCATION OF THE PROJECT TO BE MADE.

(f) THE RESOLUTION OF THE BOARD NEED NOT DESCRIBE IN DETAIL EACH PARTICULAR TRACT TO BE ASSESSED BUT MAY SIMPLY DESIGNATE THE PROPERTY, IMPROVEMENT DISTRICT, OR LOCATION SO THAT THE VARIOUS TRACTS TO BE ASSESSED CAN BE DETERMINED TO BE WITHIN THE PROPOSED IMPROVEMENT DISTRICT.

(g) THE ENGINEER SHALL FORTHWITH PREPARE AND FILE WITH THE DISTRICT:

(I) THE PRELIMINARY PLANS;

(II) THE PRELIMINARY ESTIMATE OF COST; AND

(III) THE ASSESSMENT PLAT.

(h) UPON THE FILING OF THE PLANS, PRELIMINARY ESTIMATE OF COST, AND PLAT, THE BOARD SHALL EXAMINE THE SAME. IF THE BOARD FINDS THE PLANS, ESTIMATE, AND PLAT TO BE SATISFACTORY, IT SHALL MAKE A PROVISIONAL ORDER BY RESOLUTION TO THE EFFECT THAT THE PROJECT SHALL BE ACQUIRED, CONSTRUCTED, OR IMPROVED.

(3) (a) THE OWNER OR OWNERS OF TRACTS TO BE ASSESSED IN A PROPOSED IMPROVEMENT DISTRICT FOR NOT LESS THAN NINETY-FIVE

PERCENT OF THE ENTIRE COST OF A PROJECT, COMPRISING MORE THAN FIFTY PERCENT OF THE AREA OF THE PROPOSED IMPROVEMENT DISTRICT AND ALSO COMPRISING A MAJORITY OF THE LANDOWNERS RESIDING IN THE PROPOSED IMPROVEMENT DISTRICT, MAY, BY WRITTEN PETITION, INITIATE THE ACQUISITION, CONSTRUCTION, OR IMPROVEMENT OF ANY ASSESSMENT PROJECT THAT THE BOARD IS AUTHORIZED TO INITIATE SUBJECT TO THE FOLLOWING LIMITATIONS:

(I) THE BOARD MAY INCORPORATE THE PROJECT IN ONE OR MORE EXISTING OR ALTERNATIVE PROPOSED IMPROVEMENT DISTRICTS;

(II) THE BOARD IS NOT REQUIRED TO PROCEED WITH THE CONSTRUCTION, ACQUISITION, OR IMPROVEMENT OF THE PROJECT OR ANY PART THEREOF IF, AFTER HOLDING A PROVISIONAL ORDER HEARING PURSUANT TO SECTION 32-11.5-507, THE BOARD DETERMINES THAT IT IS NOT IN THE PUBLIC INTEREST FOR THE PROPOSED PROJECT OR PART THEREOF TO GO FORWARD; AND

(III) A PARTICULAR KIND OF PROJECT, MATERIAL THEREFOR, OR A PART THEREOF NEED NOT BE CONSTRUCTED, ACQUIRED, IMPROVED, OR LOCATED AS PROVIDED IN THE PETITION IF THE BOARD DETERMINES THAT IT IS NOT IN THE PUBLIC INTEREST.

(b) THE BOARD IS NOT REQUIRED TO TAKE ANY FURTHER ACTION REGARDING A PETITION IF THE BOARD DETERMINES BY RESOLUTION THAT THE CONSTRUCTION, ACQUISITION, OR IMPROVEMENT OF THE PROPOSED PROJECT IS PROBABLY NOT FEASIBLE, THE RESOLUTION REQUIRES A CASH DEPOSIT OR A PLEDGE OF PROPERTY IN AT LEAST AN AMOUNT DESIGNATED BY THE BOARD PROBABLY TO BE SUFFICIENT TO DEFRAY THE COSTS LIKELY TO BE INCURRED BY THE BOARD BEFORE AND DURING THE ATTEMPTED ACQUISITION, CONSTRUCTION, OR IMPROVEMENT OF THE PROJECT DESIGNATED IN THE PETITION, AND THE DEPOSIT OR PLEDGE IS NOT PROVIDED TO THE BOARD WITHIN TWENTY DAYS AFTER MAILED NOTICE IS GIVEN TO THE PERSON PRESENTING THE PETITION OR AFTER ONE PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE DISTRICT OF A NOTICE OF THE RESOLUTION'S ADOPTION AND OF ITS CONTENT IN SUMMARY FORM. THE BOARD MAY SUBSEQUENTLY, AS IT DEEMS NECESSARY, REQUIRE ONE OR MORE ADDITIONAL DEPOSITS OR PLEDGES AS A CONDITION PRECEDENT TO THE CONTINUATION OF ACTION BY THE DISTRICT.

(c) WHENEVER A DEPOSIT OR PLEDGE IS MADE AND THEREAFTER THE BOARD DETERMINES THAT ACQUISITION, CONSTRUCTION, OR IMPROVEMENT OF A PROJECT PROPOSED BY PETITION IS NOT FEASIBLE WITHIN A REASONABLE PERIOD, THE BOARD MAY REQUIRE THAT ALL OR ANY PORTION OF THE COSTS INCURRED BY THE DISTRICT IN CONNECTION WITH THE PETITION OR PROJECT BE DEFRAID FROM THE DEPOSIT OR PROCEEDS OF THE PLEDGED PROPERTY UNLESS THE PETITIONERS OR OTHER INTERESTED PERSONS DEFRAID THE COSTS WITHIN TWENTY DAYS AFTER THE BOARD DETERMINES THE AMOUNT TO BE DEFRAID BY RESOLUTION.

(d) ANY SURPLUS MONEYS REMAINING FROM A DEPOSIT OR PLEDGE SHALL BE RETURNED BY THE DISTRICT TO THE PERSON MAKING THE SAME.

(4) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS SECTION, UPON THE FILING OF A PETITION PURSUANT TO SAID SUBSECTION (3), THE BOARD SHALL PROCEED IN THE SAME MANNER AS PROVIDED IN SUBSECTION (2) OF THIS SECTION FOR PROCEEDINGS INITIATED BY THE BOARD.

32-11.5-503. Combination of projects. (1) MORE THAN ONE PROJECT MAY BE COMBINED IN AN IMPROVEMENT DISTRICT IF THE BOARD DETERMINES THAT THE COMBINATION WILL BE EFFICIENT AND ECONOMICAL.

(2) IF PROJECTS COMBINED IN ONE IMPROVEMENT DISTRICT ARE SEPARATE AND DISTINCT DUE TO SUBSTANTIAL DIFFERENCES IN THEIR CHARACTER OR LOCATION OR OTHER SUBSTANTIAL DIFFERENCES, EACH PROJECT SHALL BE CONSIDERED AS A SEPARATE ASSESSMENT UNIT OR QUASI-IMPROVEMENT DISTRICT FOR THE PURPOSE OF PETITION, REMONSTRANCE, AND ASSESSMENT.

(3) IF PROJECTS ARE COMBINED, THE BOARD SHALL DESIGNATE THE PROJECT AND THE AREA CONSTITUTING EACH ASSESSMENT UNIT, AND, IN THE ABSENCE OF ARBITRARY AND CAPRICIOUS ACTION OR ABUSE OF DISCRETION, ITS DETERMINATION THAT THERE IS OR IS NOT SUCH A COMBINATION AND ITS DETERMINATION OF THE PROJECT AND THE AREA CONSTITUTING THE ASSESSMENT UNIT SHALL BE FINAL AND CONCLUSIVE.

(4) THE COSTS OF ACQUIRING, CONSTRUCTING, OR IMPROVING EACH PROJECT SHALL BE SEGREGATED FOR THE LEVY OF ASSESSMENTS, AND AN EQUITABLE SHARE OF THE INCIDENTAL COSTS SHALL BE ALLOCATED TO EACH

ASSESSMENT UNIT.

32-11.5-504. Effect of estimates. (1) UNLESS OTHERWISE SPECIFICALLY PROVIDED IN THIS ARTICLE, NO ESTIMATE OF THE COST OF A PROJECT REQUIRED OR AUTHORIZED IN THIS PART 5 SHALL CONSTITUTE A LIMIT ON THE COST OR A LIMIT ON THE POWERS OF THE BOARD OR OF ANY OFFICERS, AGENTS, OR EMPLOYEES OF THE DISTRICT.

(2) NO ASSESSMENT SHALL EXCEED THE AMOUNT OF THE ESTIMATE OF MAXIMUM SPECIAL BENEFITS FROM THE PROJECT TO ANY TRACT ASSESSED.

32-11.5-505. Fixing hearing and notice. (1) IN A RESOLUTION CONSTITUTING A PROVISIONAL ORDER PURSUANT TO SECTION 32-11.5-502 (2), THE BOARD SHALL SET A TIME AT LEAST TWENTY DAYS AFTER THE DATE OF THE RESOLUTION AND A PLACE AT WHICH THE OWNERS OF THE TRACTS TO BE ASSESSED OR ANY OTHER INTERESTED PERSONS MAY APPEAR BEFORE THE BOARD AND BE HEARD AS TO THE PROPRIETY AND ADVISABILITY OF ACQUIRING, CONSTRUCTING, OR IMPROVING THE PROVISIONALLY ORDERED PROJECT.

(2) NOTICE OF THE MEETING REQUIRED BY SUBSECTION (1) OF THIS SECTION SHALL BE GIVEN BY PUBLICATION AND BY MAIL TO ALL OWNERS OF RECORD OF THE TRACTS TO BE ASSESSED.

(3) THE NOTICE REQUIRED BY SUBSECTION (2) OF THIS SECTION SHALL INCLUDE THE FOLLOWING INFORMATION:

(a) THE KIND OF PROJECT PROPOSED;

(b) THE ESTIMATED COST OF THE PROJECT AND THE PORTION, IF ANY, TO BE PAID FROM SOURCES OTHER THAN SPECIAL ASSESSMENTS;

(c) THE BASIS FOR APPORTIONING THE SPECIAL ASSESSMENTS, WHICH SHALL BE IN PROPORTION TO THE SPECIAL BENEFITS DERIVED TO EACH OF THE SEVERAL TRACTS COMPRISING THE ASSESSABLE PROPERTY AND ON A FRONT-FOOT, AREA, ZONE, OR OTHER EQUITABLE BASIS;

(d) THE NUMBER OF INSTALLMENTS AND THE TIME IN WHICH THE SPECIAL ASSESSMENTS ARE PAYABLE;

(e) THE MAXIMUM RATE OF INTEREST ON UNPAID INSTALLMENTS OF SPECIAL ASSESSMENTS;

(f) THE AREA OF THE IMPROVEMENT DISTRICT TO BE ASSESSED;

(g) THE TIME AND PLACE AT WHICH THE BOARD WILL CONSIDER THE ORDERING OF THE PROPOSED PROJECT AND HEAR ALL COMPLAINTS, PROTESTS, AND OBJECTIONS THAT MAY BE MADE IN WRITING AND FILED WITH THE DISTRICT AT LEAST THREE DAYS IN ADVANCE OR MAY BE MADE VERBALLY AT THE HEARING BY THE OWNER OF ANY TRACT TO BE ASSESSED OR BY ANY OTHER INTERESTED PERSON;

(h) THE FACT THAT THE DESCRIPTION OF THE TRACTS TO BE ASSESSED, THE MAXIMUM AMOUNT OF BENEFITS ESTIMATED TO BE CONFERRED ON EACH TRACT, AND ALL RELATED PROCEEDINGS ARE ON FILE AND MAY BE EXAMINED AT MAIN OFFICES OF THE DISTRICT DURING BUSINESS HOURS BY ANY INTERESTED PERSON; AND

(i) A STATEMENT THAT REGARDLESS OF THE BASIS USED FOR APPORTIONING ASSESSMENTS, IN CASES OF WEDGE-SHAPED, V-SHAPED, OR ANY OTHER IRREGULAR-SHAPED TRACTS, AN AMOUNT APPORTIONED THERETO SHALL BE IN PROPORTION TO THE SPECIAL BENEFITS THEREBY DERIVED.

(4) THE DISTRICT SHALL MAINTAIN PROOF OF PUBLICATION AND PROOF OF MAILING OF THE NOTICE REQUIRED BY SUBSECTIONS (1) AND (2) OF THIS SECTION AND DESCRIBED IN SUBSECTION (3) OF THIS SECTION IN THE RECORDS OF THE DISTRICT UNTIL ANY SPECIAL ASSESSMENTS IMPOSED TO FUND THE PROJECT THAT IS THE SUBJECT OF THE PROVISIONAL ORDER HAVE BEEN PAID IN FULL.

32-11.5-506. Subsequent modifications. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, THE BOARD MAY MODIFY OR RESCIND BY RESOLUTION ANY BOARD ACTION RELATING TO THE CREATION OF AN IMPROVEMENT DISTRICT OR THE IMPOSITION OF SPECIAL ASSESSMENTS AT ANY TIME BEFORE ADOPTING A RESOLUTION CREATING THE IMPROVEMENT DISTRICT PURSUANT TO SECTION 32-11.5-509 AND AUTHORIZING A PROJECT TO BE FUNDED IN WHOLE OR IN PART WITH REVENUES GENERATED BY SPECIAL ASSESSMENTS.

(2) NO SUBSTANTIAL CHANGE IN A PROPOSED IMPROVEMENT DISTRICT, DETAILS, PRELIMINARY PLANS, SPECIFICATIONS, OR ESTIMATES SHALL BE MADE AFTER THE FIRST PUBLICATION OR MAILING OF NOTICE TO PROPERTY OWNERS, WHICHEVER OCCURS FIRST; EXCEPT THAT THE BOARD MAY DELETE A PORTION OF A PROJECT OR ANY TRACT FROM THE PROPOSED IMPROVEMENT DISTRICT OR FROM ANY ASSESSMENT UNIT, AND THE ENGINEER MAY MAKE MINOR CHANGES IN TIME, PLANS, AND MATERIALS FOR A PROJECT AT ANY TIME BEFORE ITS COMPLETION.

32-11.5-507. Provisional order hearing. (1) AT THE PROVISIONAL ORDER HEARING, ANY PROPERTY OWNERS INTERESTED IN A PROPOSED PROJECT TO BE FUNDED IN WHOLE OR IN PART WITH REVENUES GENERATED BY SPECIAL ASSESSMENTS MAY PRESENT THEIR VIEWS TO THE BOARD. THE BOARD MAY ADJOURN THE HEARING FROM TIME TO TIME.

(2) IF THE BOARD DETERMINES, AFTER CONSIDERING ALL VIEWS PRESENTED AT THE PROVISIONAL ORDER HEARING, THAT IT IS NOT IN THE PUBLIC INTEREST THAT THE PROPOSED PROJECT OR A PORTION OF THE PROPOSED PROJECT GO FORWARD, THE BOARD SHALL ORDER BY RESOLUTION THAT THE PROCEEDING FOR THE REJECTED PROJECT OR PORTION SHALL STOP. THE REJECTED PROJECT OR PORTION MAY ONLY RESUME IF THE BOARD ADOPTS A NEW RESOLUTION.

32-11.5-508. Post-hearing procedure. (1) AFTER THE PROVISIONAL ORDER HEARING, THE BOARD SHALL DETERMINE WHETHER TO FORM THE PROPOSED IMPROVEMENT DISTRICT AND ANY ASSESSMENT UNIT WITHIN THE PROPOSED IMPROVEMENT DISTRICT.

(2) IF THE BOARD DESIRES TO FORM THE PROPOSED IMPROVEMENT DISTRICT BUT ALSO DESIRES TO MODIFY THE DISTRICT, THE BOARD SHALL DIRECT THE ENGINEER TO PREPARE AND PRESENT TO THE BOARD:

(a) A REVISED AND DETAILED ESTIMATE OF THE TOTAL COST, INCLUDING WITHOUT LIMITATION THE COST OF ACQUIRING, CONSTRUCTING, OR IMPROVING EACH PROPOSED PROJECT. UNLESS OTHERWISE SPECIFICALLY PROVIDED IN THIS ARTICLE, THE REVISED ESTIMATE SHALL NOT CONSTITUTE A LIMITATION FOR ANY PURPOSE.

(b) FULL AND DETAILED PLANS AND SPECIFICATIONS FOR EACH PROPOSED PROJECT DESIGNED TO PERMIT AND TO ENCOURAGE COMPETITION

AMONG THE BIDDERS IF ANY PROJECTS ARE TO BE ACQUIRED, CONSTRUCTED, OR IMPROVED BY CONSTRUCTION CONTRACT; AND

(c) A REVISED MAP AND ASSESSMENT PLAT SHOWING THE LOCATION OF EACH PROPOSED PROJECT AND THE TRACTS TO BE ASSESSED THEREFOR.

(3) THE BOARD, IN THE RESOLUTION CREATING THE IMPROVEMENT DISTRICT OR IN A SEPARATE RESOLUTION, MAY COMBINE OR DIVIDE THE PROPOSED PROJECTS INTO SUITABLE CONSTRUCTION UNITS FOR THE PURPOSE OF LETTING SEPARATE AND INDEPENDENT CONTRACTS, REGARDLESS OF THE EXTENT OF ANY PROJECT CONSTITUTING AN ASSESSMENT UNIT AND REGARDLESS OF WHETHER OR NOT A PORTION OF THE COST OF ANY PROJECT IS TO BE DEFRAIDED WITH REVENUES OTHER THAN REVENUES GENERATED BY SPECIAL ASSESSMENTS.

(4) NOTHING IN THIS PART 5 SHALL BE CONSTRUED AS NOT REQUIRING THE SEGREGATION OF COSTS OF UNRELATED IMPROVEMENT PROGRAMS FOR ASSESSMENT PURPOSES.

32-11.5-509. Creation of improvement district. (1) WHEN AN ACCURATE ESTIMATE OF COST, FULL AND DETAILED PLANS AND SPECIFICATIONS, AND THE MAP AND ASSESSMENT PLAT ARE PREPARED, PRESENTED, AND ARE SATISFACTORY TO THE BOARD, REGARDLESS OF WHETHER THE PRELIMINARY ESTIMATE OF COST, PLANS AND SPECIFICATIONS, AND MAP AND ASSESSMENT PLAT ARE MODIFIED PURSUANT TO SECTION 32-11.5-508 AND ANY REQUIRED ELECTION HAS BEEN HELD, THE BOARD SHALL BY RESOLUTION CREATE THE IMPROVEMENT DISTRICT AND ORDER THE PROPOSED PROJECT TO BE ACQUIRED, CONSTRUCTED, OR IMPROVED.

(2) THE RESOLUTION SHALL PRESCRIBE:

(a) THE EXTENT OF THE IMPROVEMENT DISTRICT AND OF ANY ASSESSMENT WITHIN THE IMPROVEMENT DISTRICT BY BOUNDARIES OR BY OTHER BRIEF DESCRIPTION;

(b) THE KIND AND LOCATION OF EACH PROPOSED PROJECT;

(c) THE AMOUNT OR THE PROPORTION OF THE TOTAL COST TO BE DEFRAIDED BY SPECIAL ASSESSMENTS, THE METHOD OF LEVYING SPECIAL ASSESSMENTS, THE NUMBER OF INSTALLMENTS, AND THE TIMES AT WHICH

SPECIAL ASSESSMENTS WILL BE PAYABLE; AND

(d) THE CHARACTER AND THE EXTENT OF ANY CONSTRUCTION UNITS PURSUANT TO SECTION 32-11.5-508 (3).

(3) THE ENGINEER MAY FURTHER REVISE THE COST, PLANS AND SPECIFICATIONS, AND THE MAP AND ASSESSMENT PLAT FOR ALL OR ANY PART OF A PROJECT, AND THE BOARD MAY AMEND THE RESOLUTION CREATING THE IMPROVEMENT DISTRICT ACCORDINGLY PRIOR TO LETTING ANY CONSTRUCTION CONTRACT AND PRIOR TO ANY PROPERTY BEING ACQUIRED OR ANY WORK BEING DONE OTHER THAN BY INDEPENDENT CONTRACT LET BY THE DISTRICT.

32-11.5-510. Construction contracts. NO CONTRACT FOR CONSTRUCTION WORK TO ACQUIRE OR IMPROVE THE PROJECT CONTEMPLATED SHALL BE MADE OR AWARDED NOR SHALL THE BOARD INCUR ANY EXPENSE OR ANY LIABILITY IN RELATION THERETO, EXCEPT FOR MAPS, PLATS, DIAGRAMS, ESTIMATES, PLANS, SPECIFICATIONS, AND NOTICES, UNTIL AFTER THE PROVISIONAL ORDER HEARING AND NOTICE PROVIDED FOR IN THIS PART 5 HAVE BEEN HAD AND GIVEN.

32-11.5-511. Division of tract. IF A TRACT IS DIVIDED AFTER A SPECIAL ASSESSMENT HAS BEEN LEVIED AND DIVIDED INTO INSTALLMENTS AND BEFORE THE COLLECTION OF ALL THE INSTALLMENTS, THE BOARD MAY REQUIRE THE COUNTY ASSESSOR TO APPORTION THE UNCOLLECTED AMOUNTS UPON THE SEVERAL PARTS OF THE TRACT SO DIVIDED PROPORTIONALLY BASED UPON THEIR VALUATION FOR ASSESSMENT FOR TAXES. THE APPORTIONMENT SHALL BE CONCLUSIVE ON ALL PARTIES, AND ALL SUBSEQUENT ASSESSMENTS SHALL BE ACCORDING TO THE APPORTIONMENT.

PART 6 ANNEXATION

32-11.5-601. Annexation of lands to watershed management area. (1) THE TERRITORIAL LIMITS OF THE WATERSHED MANAGEMENT AREA MAY BE ENLARGED BY THE ANNEXATION OF ADDITIONAL REAL PROPERTY THERETO:

(a) BY PETITION AND CONSENT OF THE FEE OWNER PURSUANT TO

SECTIONS 32-11.5-602 AND 32-11.5-606;

(b) BY PETITION OF THE ELIGIBLE ELECTORS PURSUANT TO SECTIONS 32-11.5-603, 32-11.5-604, AND 32-11.5-606;

(c) BY ACTION INITIATED BY THE DISTRICT PURSUANT TO SECTIONS 32-11.5-605 AND 32-11.5-606 WITH THE CONSENT OF THE GOVERNING BODY OF EACH COUNTY OR MUNICIPALITY THAT INCLUDES ANY OF THE REAL PROPERTY TO BE ANNEXED; OR

(d) BY PETITION BY THE GOVERNING BODY OF EACH COUNTY OR MUNICIPALITY THAT INCLUDES ANY OF THE REAL PROPERTY TO BE ANNEXED.

32-11.5-602. Petition of fee owners. (1) THE FEE OWNER OF ANY REAL PROPERTY CONTIGUOUS TO THE TERRITORIAL LIMITS OF THE WATERSHED MANAGEMENT AREA AND CAPABLE OF BEING SERVED WITH FACILITIES OF THE DISTRICT MAY FILE WITH THE BOARD A PETITION IN WRITING SEEKING THE INCLUSION OF THE PROPERTY IN THE WATERSHED MANAGEMENT AREA.

(2) THE PETITION AUTHORIZED IN SUBSECTION (1) OF THIS SECTION SHALL:

(a) SET FORTH AN ACCURATE LEGAL DESCRIPTION OF THE PROPERTY OWNED BY THE PETITIONERS;

(b) STATE THAT ASSENT TO THE ANNEXATION OF THE PROPERTY IS GIVEN BY THE SIGNERS THERETO, CONSTITUTING ALL THE FEE OWNERS OF THE PROPERTY; AND

(c) BE ACKNOWLEDGED IN THE SAME MANNER REQUIRED FOR CONVEYANCE OF LAND.

(3) A FEE OWNER MAY NOT WITHDRAW A PETITION AFTER CONSIDERATION BY THE BOARD OR FILE FURTHER OBJECTIONS EXCEPT IN THE CASE OF FRAUD OR MISREPRESENTATION.

(4) THE BOARD SHALL HEAR A PETITION FILED PURSUANT TO SUBSECTION (1) OF THIS SECTION AT AN OPEN MEETING AFTER PUBLISHING NOTICE OF THE FILING OF THE PETITION, THE PLACE, TIME, AND DATE OF THE

MEETING, AND THE NAMES AND ADDRESSES OF THE PETITIONERS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OR COUNTIES IN WHICH THE REAL PROPERTY PROPOSED TO BE ANNEXED IS LOCATED.

(5) THE BOARD SHALL GRANT A PETITION BY RESOLUTION IF IT DETERMINES THAT THE PROPOSED ANNEXATION IS FEASIBLE AND IN THE BEST INTERESTS OF THE DISTRICT. THE BOARD MAY DETERMINE THAT ANNEXATION OF ONLY A PORTION OF THE PROPERTY PROPOSED TO BE ANNEXED IS APPROPRIATE.

32-11.5-603. Petition of eligible electors. (1) NOT LESS THAN TEN PERCENT OR ONE HUNDRED, WHICHEVER NUMBER IS SMALLER, OF THE ELIGIBLE ELECTORS OF ANY REAL PROPERTY THAT IS CONTIGUOUS TO THE WATERSHED MANAGEMENT AREA AND CONTAINS TWENTY-FIVE THOUSAND OR MORE SQUARE FEET OF LAND MAY FILE A PETITION WITH THE BOARD IN WRITING SEEKING THE ANNEXATION OF THE PROPERTY TO THE WATERSHED MANAGEMENT AREA; EXCEPT THAT NO SINGLE TRACT OR PARCEL OR PROPERTY CONTAINING TEN ACRES OR MORE MAY BE INCLUDED IN THE WATERSHED MANAGEMENT AREA WITHOUT THE CONSENT OF THE OWNER.

(2) A PETITION SHALL DESCRIBE THE AREA TO BE ANNEXED AND SHALL BE ACKNOWLEDGED IN THE SAME MANNER REQUIRED FOR CONVEYANCES OF LAND.

(3) THE BOARD SHALL CAUSE NOTICE OF THE FILING OF A PETITION TO BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OR COUNTIES IN WHICH THE PROPERTY PROPOSED TO BE ANNEXED IS LOCATED, AND THE NOTICE SHALL STATE:

(a) THAT A PETITION HAS BEEN FILED;

(b) THE NAMES OF THE PETITIONERS;

(c) A DESCRIPTION OF THE AREA PROPOSED TO BE ANNEXED;

(d) THE PLACE, TIME, AND DATE OF A BOARD HEARING ON THE PROPOSED ANNEXATION AT WHICH THE BOARD WILL CONSIDER THE PETITION AND ALL WRITTEN OBJECTIONS TO THE PETITION; AND

(e) A STATEMENT THAT ALL INTERESTED PERSONS MAY APPEAR AT

THE BOARD HEARING AND SHOW CAUSE IN WRITING WHY THE PETITION SHOULD NOT BE GRANTED.

(4) THE ELIGIBLE ELECTORS MAY NOT WITHDRAW A PETITION AFTER CONSIDERATION BY THE BOARD OR FILE FURTHER OBJECTIONS EXCEPT IN THE CASE OF FRAUD OR MISREPRESENTATION.

(5) THE BOARD SHALL GRANT A PETITION BY RESOLUTION IF IT DETERMINES THAT THE PROPOSED ANNEXATION IS FEASIBLE AND IN THE BEST INTERESTS OF THE DISTRICT.

32-11.5-604. Annexation election. (1) IF A PETITION IS PROVISIONALLY GRANTED PURSUANT TO SECTION 32-11.5-602 OR 32-11.5-603, THE BOARD BY RESOLUTION SHALL:

(a) MAKE AN ORDER TO THAT EFFECT;

(b) DIRECT THAT THE QUESTION OF INCLUSION OF THE REAL PROPERTY PROPOSED TO BE ANNEXED WITHIN THE WATERSHED MANAGEMENT AREA BE SUBMITTED TO THE ELIGIBLE ELECTORS OF THE AREA THAT INCLUDES THE REAL PROPERTY ONLY; AND

(c) DESIGNATE THE SECRETARY OF THE BOARD AS THE DESIGNATED ELECTION OFFICIAL TO GIVE NOTICE AND CONDUCT THE ELECTION ACCORDING TO THE PROVISIONS OF ARTICLES 1 TO 13 OF TITLE 1, C.R.S.

(2) IF A MAJORITY OF THE VOTES CAST ON THE QUESTION AT THE ELECTION FAVOR INCLUSION, THE BOARD SHALL BY RESOLUTION ENTER AN ORDER MAKING THE REAL PROPERTY A PART OF THE WATERSHED MANAGEMENT AREA.

32-11.5-605. Annexation initiated by the board. (1) (a) AT ANY TIME AND AS A CONDITION TO AN ANNEXATION INITIATED BY THE BOARD, THE BOARD MAY ADOPT A RESOLUTION DETERMINING THAT REAL PROPERTY PROPOSED FOR ANNEXATION:

(I) IS CONTIGUOUS TO THE TERRITORIAL LIMITS OF THE WATERSHED MANAGEMENT AREA;

(II) CONTAINS SIX HUNDRED FORTY OR MORE ACRES OF LAND;

(III) HAS BECOME URBANIZED BY HAVING A POPULATION OF AT LEAST ONE THOUSAND PERSONS PER SQUARE MILE AND HAVING AT LEAST FIVE HUNDRED DWELLING UNITS PER SQUARE MILE; AND

(IV) IS CAPABLE OF BEING SERVED BY THE FACILITIES OF THE DISTRICT.

(b) A RESOLUTION ADOPTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL PROVISIONALLY ORDER THE ANNEXATION OF THE REAL PROPERTY PROPOSED TO BE ANNEXED.

(2) THE BOARD SHALL CAUSE NOTICE OF THE ADOPTION OF A RESOLUTION PURSUANT TO SUBSECTION (1) OF THIS SECTION TO BE GIVEN BY PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OR COUNTIES IN WHICH THE PROPERTY PROPOSED TO BE ANNEXED IS LOCATED, AND THE NOTICE SHALL STATE:

(a) THAT THE RESOLUTION HAS BEEN ADOPTED;

(b) THE DESCRIPTION OF THE AREA PROPOSED TO BE ANNEXED;

(c) THE PLACE, TIME, AND DATE OF A BOARD HEARING ON THE PROPOSED ANNEXATION AT WHICH THE BOARD WILL CONSIDER ALL WRITTEN OBJECTIONS TO THE FINALIZATION OF THE ANNEXATION; AND

(d) THAT ALL INTERESTED PERSONS MAY APPEAR AT THE BOARD HEARING AND SHOW CAUSE IN WRITING WHY THE ANNEXATION SHOULD NOT BE MADE FINAL.

(3) PRIOR TO THE BOARD HEARING, THE BOARD SHALL OBTAIN WRITTEN CONSENT TO ANNEX THE PROPERTY FROM THE GOVERNING BODY OF EACH COUNTY OR MUNICIPALITY THAT INCLUDES ANY OF THE REAL PROPERTY PROPOSED TO BE ANNEXED.

(4) IF, AFTER THE BOARD HEARING, THE BOARD DETERMINES BY RESOLUTION THAT THE PROPOSED ANNEXATION IS FEASIBLE AND IN THE BEST INTEREST OF THE DISTRICT, THE BOARD SHALL FURNISH BY MAIL TO THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT WITHIN THE DEPARTMENT OF LOCAL AFFAIRS COPIES OF BOTH THE RESOLUTION ADOPTED PURSUANT TO SUBSECTION (1) OF THIS SECTION AND THE POST-HEARING

RESOLUTION AND SHALL REQUEST THAT THE DIRECTOR APPROVE THE ANNEXATION.

(5) IF THE DIRECTOR APPROVES THE ANNEXATION IN WRITING, THE BOARD, UPON THE RECEIPT OF SUCH APPROVAL, SHALL BY RESOLUTION ENTER A FINAL ORDER ANNEXING THE REAL PROPERTY TO THE DISTRICT.

32-11.5-606. General annexation provisions. (1) THE FAILURE OF ANY PERSON IN THE WATERSHED MANAGEMENT AREA OR IN AN AREA PROPOSED TO BE ANNEXED TO THE WATERSHED MANAGEMENT AREA TO FILE A WRITTEN OBJECTION TO A PROPOSED ANNEXATION IN A PROPERLY NOTICED HEARING OF THE BOARD THEREON CONSTITUTES THE ASSENT OF THE PERSON TO THE INCLUSION IN THE WATERSHED MANAGEMENT AREA OF THE AREA DESCRIBED IN THE NOTICE OF THE HEARING FOR ANNEXATION.

(2) A DETERMINATION BY THE BOARD THAT A PROPOSED ANNEXATION IS FEASIBLE AND IN THE BEST INTERESTS OF THE DISTRICT SHALL BE FINAL, CONCLUSIVE, AND NOT SUBJECT TO REVIEW.

(3) WHENEVER THE BOARD BY RESOLUTION ENTERS AN ORDER ANNEXING REAL PROPERTY TO THE WATERSHED MANAGEMENT AREA, THE BOARD SHALL FILE THE RESOLUTION WITH:

(a) THE SECRETARY OF STATE;

(b) THE STATE ATTORNEY GENERAL;

(c) THE DIVISION OF LOCAL GOVERNMENT; AND

(d) THE COUNTY CLERK AND RECORDER, COUNTY ASSESSOR, AND COUNTY TREASURER OF EACH COUNTY IN WHICH THE ANNEXED REAL PROPERTY IS LOCATED.

(4) A BOARD RESOLUTION ANNEXING REAL PROPERTY TO THE WATERSHED MANAGEMENT AREA IS A FINAL ORDER AND SHALL FINALLY AND CONCLUSIVELY ESTABLISH THE ANNEXATION OF THE REAL PROPERTY TO THE WATERSHED MANAGEMENT AREA AGAINST ALL PERSONS; EXCEPT THAT THE ATTORNEY GENERAL, ON BEHALF OF THE STATE, WITHIN THIRTY DAYS OF THE FILING OF THE RESOLUTION WITH THE ATTORNEY GENERAL AS REQUIRED BY PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION, MAY FILE A

PROCEEDING IN THE NATURE OF QUO WARRANTO AGAINST THE ANNEXATION. AN ANNEXATION SHALL NOT BE DIRECTLY OR COLLATERALLY QUESTIONED IN ANY SUIT, ACTION, OR PROCEEDING EXCEPT AS EXPRESSLY AUTHORIZED IN THIS SUBSECTION (4).

(5) AFTER THE DATE OF THE FINAL ANNEXATION OF REAL PROPERTY TO THE WATERSHED MANAGEMENT AREA BY RESOLUTION OF THE BOARD, THE ANNEXED REAL PROPERTY SHALL BE LIABLE FOR ITS PROPORTIONATE SHARE OF EXISTING BONDED INDEBTEDNESS OF THE DISTRICT BUT SHALL NOT BE LIABLE FOR ANY TAXES OR SERVICE CHARGES LEVIED OR ASSESSED PRIOR TO ITS ANNEXATION TO THE WATERSHED MANAGEMENT AREA. THE ANNEXATION OF THE REAL PROPERTY TO THE WATERSHED MANAGEMENT AREA SHALL NOT BE MADE SUBJECT TO OR CONTINGENT UPON THE PAYMENT OR ASSUMPTION OF ANY PENALTY, TOLL, OR CHARGE, OTHER THAN THE TAXES AND SERVICE CHARGES THAT ARE UNIFORMLY MADE, ASSESSED, OR LEVIED WITHIN THE WATERSHED MANAGEMENT AREA EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS ARTICLE.

(6) THE DISTRICT AND THE OWNER OF ANY REAL PROPERTY SOUGHT TO BE ANNEXED TO THE WATERSHED MANAGEMENT AREA MAY ENTER INTO AN AGREEMENT WITH RESPECT TO THE TERMS AND CONDITIONS ON WHICH THE PROPERTY MAY BE ANNEXED.

PART 7 MISCELLANEOUS

32-11.5-701. Budgets, accounts, audits, and construction contracting. (1) THE DISTRICT SHALL ADOPT A BUDGET FOR EACH FISCAL YEAR, SHALL MAINTAIN ACCOUNTS, AND SHALL CAUSE AUDITS TO BE MADE PERTAINING TO THE FINANCIAL AFFAIRS OF THE DISTRICT AS RESPECTIVELY PROVIDED IN THE "LOCAL GOVERNMENT BUDGET LAW OF COLORADO", PART 1 OF ARTICLE 1 OF TITLE 29, C.R.S., THE "COLORADO LOCAL GOVERNMENT UNIFORM ACCOUNTING LAW", PART 5 OF ARTICLE 1 OF TITLE 29, C.R.S., AND THE "COLORADO LOCAL GOVERNMENT AUDIT LAW", PART 6 OF ARTICLE 1 OF TITLE 29, C.R.S.

(2) THE DISTRICT SHALL BE SUBJECT TO THE PROVISIONS OF ARTICLE 91 OF TITLE 24, C.R.S., REGARDING CONSTRUCTION CONTRACTING. IN ACCORDANCE WITH SECTION 24-101-105 (2), C.R.S., THE DISTRICT MAY ADOPT ALL OR ANY PART OF THE "PROCUREMENT CODE", ARTICLES 101 TO

112 OF TITLE 24, C.R.S. THE DISTRICT MAY ALSO AWARD CONTRACTS USING AN INTEGRATED PROJECT DELIVERY METHOD PURSUANT TO THE "INTEGRATED DELIVERY METHOD FOR SPECIAL DISTRICT PUBLIC IMPROVEMENTS ACT", PART 18 OF ARTICLE 1 OF THIS TITLE.

32-11.5-702. No action maintainable. AN ACTION OR PROCEEDING AT LAW OR IN EQUITY TO REVIEW ANY ACTS OR PROCEEDINGS OR TO QUESTION THE VALIDITY OR ENJOIN THE PERFORMANCE OF ANY ACT OR PROCEEDINGS OR THE ISSUANCE OF ANY BONDS OR FOR ANY OTHER RELIEF AGAINST OR FROM ANY ACTS OR PROCEEDINGS DONE UNDER THIS ARTICLE, WHETHER BASED UPON IRREGULARITIES OR JURISDICTIONAL DEFECTS, SHALL NOT BE MAINTAINED UNLESS COMMENCED WITHIN THIRTY DAYS AFTER THE PERFORMANCE OF THE ACT OR PROCEEDINGS AND IS THEREAFTER PERPETUALLY BARRED.

32-11.5-703. Early hearings. ANY CIVIL ACTION IN WHICH THERE MAY ARISE A QUESTION REGARDING THE VALIDITY OF ANY POWER GRANTED IN THIS ARTICLE OR OF ANY OTHER PROVISION OF THIS ARTICLE SHALL BE ADVANCED AS A MATTER OF IMMEDIATE PUBLIC INTEREST AND CONCERN AND SHALL BE HEARD AT THE EARLIEST PRACTICABLE MOMENT.

32-11.5-704. Freedom from judicial process. (1) EXECUTION OR OTHER JUDICIAL PROCESS SHALL NOT ISSUE AGAINST ANY PROPERTY OF THE DISTRICT AUTHORIZED IN THIS ARTICLE, NOR SHALL ANY JUDGMENT AGAINST THE DISTRICT BE A CHARGE OR LIEN UPON ITS PROPERTY.

(2) SUBSECTION (1) OF THIS SECTION DOES NOT APPLY TO OR LIMIT THE RIGHT OF ANY BONDHOLDER, TRUSTEE, OR ASSIGNEE OF A BONDHOLDER, THE FEDERAL GOVERNMENT WHEN IT IS A PARTY TO ANY CONTRACT WITH THE DISTRICT, OR ANY OTHER OBLIGEE UNDER THIS ARTICLE TO FORECLOSE, OTHERWISE TO ENFORCE, AND TO PURSUE ANY REMEDIES FOR THE ENFORCEMENT OF ANY PLEDGE OR LIEN GIVEN BY THE DISTRICT ON THE PROCEEDS OF ANY TAXES, ASSESSMENTS, REVENUES, OR ANY OTHER MONEYS OF THE DISTRICT.

SECTION 2. 38-1-202 (1) (f), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

38-1-202. Governmental entities, corporations, and persons authorized to use eminent domain. (1) The following governmental

entities, types of governmental entities, and public corporations, in accordance with all procedural and other requirements specified in this article and articles 2 to 7 of this title and to the extent and within any time frame specified in the applicable authorizing statute may exercise the power of eminent domain:

(f) The following types of single purpose districts, special districts, authorities, boards, commissions, and other governmental entities that serve limited governmental purposes or that may exercise eminent domain for limited purposes on behalf of a county, city and county, city, or town:

(XX.5) THE FOUNTAIN CREEK WATERSHED, FLOOD CONTROL, AND GREENWAY DISTRICT CREATED IN SECTION 32-11.5-201, C.R.S., AS AUTHORIZED IN SECTION 32-11.5-205 (1) (n) (I), C.R.S.

SECTION 3. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Peter C. Groff
PRESIDENT OF
THE SENATE

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO