

PAGOSA AREA WATER AND SANITATION DISTRICT)
)
ARCHULETA COUNTY) S.S.
)
STATE OF COLORADO)

NOTICE OF SPECIAL MEETING

NOTICE IS HEREBY GIVEN that a Special Meeting of the Board of Directors of the Pagosa Area Water and Sanitation District (PAWSD) has been scheduled for Thursday May 29, 2025 at 5:00 p.m. The Special Meeting will be held at 100 Lyn Avenue, Pagosa Springs, Colorado.

Proposed Agenda is as follows:

1. Call to Order
2. Roll Call
3. Proposal Presentation by Zipper Valley Ranch, LLC
4. Consideration of Main Line Extension Agreement – Town of Pagosa Springs

PAGOSA AREA WATER AND SANITATION DISTRICT

By /s/ Justin Ramsey
For the Board of Directors



Board Agenda Summary Sheet

	To	Action	Signature, Date		To	Action	Signature, Date
1	Justin Ramsey	Review		6			
2	Board	Approve		7			
3				8			
4				9			
5				10			

Name of Action Official:

Renee Lewis

Phone:

Board Meeting Date:

May 29, 2025

Priority

☐ High

☒ Medium

☐ Low

Subject: Main Line Extension Acceptance Agreement – Town of Pagosa Springs

Please find attached the Main Line Extension Acceptance Agreement – Town of Pagosa Springs. The conditions of acceptance have been approved by Justin Ramsey. If approved by the Board, Mr. Ramsey will provide this and related main line extension materials to the Town's project representatives.

MAIN LINE EXTENSION ACCEPTANCE AGREEMENT

This MAIN LINE EXTENSION ACCEPTANCE AGREEMENT (the "**Agreement**") is made and entered into as of the _____ day of _____, 2025, by and between PAGOSA AREA WATER AND SANITATION DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado (the "**District**"), and **Town of Pagosa Springs** (the "**Developer**"). The District and the Developer are individually a "**Party**" and collectively the "**Parties**."

RECITALS

WHEREAS, the District is a quasi-municipal corporation and political subdivision of the State of Colorado;

WHEREAS, the District's Service Plan was approved by Archuleta County on January 26, 1977 (the "**Service Plan**");

WHEREAS, the District was formed, inter alia, for the purpose of designing, acquiring, constructing, installing, operating, maintaining, and financing water and wastewater systems subject to any limitations contained in the Service Plan for the District;

WHEREAS, the Board of Directors of the District (the "**Board**") approved the most recent revisions to the Rules and Regulations for Pagosa Area Water and Sanitation District on May 22, 2025 (the "**Rules and Regulations**");

WHEREAS, the Rules and Regulations set forth the procedure by which the District may accept certain water lines, wastewater lines, and related structures and appurtenances (collectively "**Public Improvements**");

WHEREAS, the Parties desire to establish the terms and conditions for the District's acceptance of Public Improvements constructed by the Developer;

WHEREAS, the Parties do not intend hereby to enter into a public works contract as defined in § 24-91-103.5(I)(b), C.R.S.;

WHEREAS, the Parties do not intend hereby to enter into a contract for work or materials in accordance with § 32-1-1001(1)(d)(I), C.R.S.;

WHEREAS, pursuant to § 32-1-1001(1)(d)(I), C.R.S., the District is permitted to enter into contracts and agreements affecting the affairs of the District;

WHEREAS, accordingly, the Board has determined the best interests of the District, its property owners, and the public, are served by entering into this Agreement; and

WHEREAS, the Parties have authorized their respective officers or representatives to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises expressed herein, the Parties hereby agree as follows:

COVENANTS AND AGREEMENTS

1. Purpose of Agreement. This Agreement shall establish the terms and conditions for the District's acceptance of Public Improvements constructed by the Developer. The District has determined this Agreement serves a public use, and is in furtherance of the purposes for which the District was organized.

2. Requirements for Acceptance of Public Improvements. As required by Sections 5.0, 8.0, and 10.0 of the Rules and Regulations, as applicable, the Parties acknowledge and agree that in order for the District to accept Public Improvements constructed by the Developer, the Developer must:

a. Provide the District with plans designed and sealed by a Colorado registered engineer according to the District Engineer's specifications and approval. Said specifications shall comply with the District's construction specifications unless provided otherwise.

b. Request the District's water and/or wastewater models be run to verify the impacts the proposed Public Improvements will have on the system. All fees associated with model runs shall be paid by the Developer.

c. Construct and install Public Improvements in accordance with the District-approved plans with inspections completed by the District at all listed milestones.

d. Any and all repairs, replacements, relocations, and/or upgrades to existing District infrastructure deemed necessary by the District in its sole discretion shall be paid by the Developer.

e. Any and all repairs, replacements, relocations, and/or upgrades to the existing District infrastructure deemed necessary by the District in its sole discretion due to damage occurring during the construction and/or installation of Public Improvements, regardless of the original condition, shall be paid by the Developer.

f. Receive final inspection and approval by the District for compliance with the Rules and Regulations, which approval the Parties hereby agree shall be evidenced by an Engineer Certification, as defined in Paragraph 3.c of this Agreement.

g. Provide for District Board of Directors approval written agreement from Pagosa Fire Protection District absolving the District of all liability associated with fire flow, residual pressures, and durations.

h. Grant such rights of way and easements as are required for the installation, repair, maintenance, and improvement of the subject facilities. The cost of surveying and platting such easements shall be borne by the Developer.

i. Deed and/or convey via Bill of Sale, as applicable, the mains and appurtenances to the District free and clear of all liens and encumbrances.

j. Provide a warranty bond for two years following the date of acceptance by the District, in an amount based upon the cost of construction as provided by Developer and determined by the District to be adequate to cover potential warranty costs for the new facilities. If significant occurrences of maintenance and repair problems should take place during such two-year warranty period, a warranty bond in the amount of 125% of the cost of such maintenance and repairs shall be extended for successive periods of two years from the date of such maintenance

and repairs until a full two years shall have elapsed without such repair and maintenance problems occurring.

k. Record all deeds, easements, and other documents as required with the Clerk and Recorder for Archuleta County, Colorado.

l. Submit to the District an "as-constructed" or "as-built" set of plans and specifications, as certified by the Developer's Colorado registered engineer.

3. Inspection. Upon substantial completion of Public Improvements or a component thereof which is intended to be conveyed to the District for ownership, operation, and maintenance, the procedures listed below shall be followed:

a. The Developer shall give written notice to the District requesting an inspection of the completed Public Improvements (the "**Inspection Notice**") and concurrently therewith provide construction plans and any applicable construction standards;

b. The District's engineer (who must be a civil engineer licensed in Colorado having experience in the design and construction of public improvements) or District's Manager and Developer or Developer's representative shall inspect the Public Improvements within 21 days of the Inspection Notice (the "**Inspection**"), unless the Parties mutually agree to extend the deadline;

c. If the District's engineer finds after Inspection that: (1) the Public Improvements (or its individual components and/or subsystems, if applicable) have been constructed in substantial accordance with the construction plans and any applicable construction standards provided for in the District's specifications, modeling results, and/or in consultation with the District (subject to any reasonable punch list items to correct any defective work); (2) the Public Improvements are fit for their intended purpose; and (3) the Public Improvements comply with the Rules and Regulations, then within 14 days after the Inspection, unless the Parties mutually agree to extend the deadline, the District's engineer shall notify the District in writing of its findings and provide certification of the same (the "**Engineer Certification**"); and

d. If any defective work is identified during the Inspection, the District Manager will prepare a punch list of items requiring remedial action to correct any defective work. Such corrective work will be performed by the Developer within 60 days of the issuance of an Engineer Certification.

4. Application Review Procedures for Acceptance of Public Improvements. After the Developer believes that all conditions set forth in Paragraph 2 of this Agreement have been met, Developer shall submit to the District an Application for Acceptance of Public Improvements in the form of **Exhibit A** as well as all requisite documents. Upon review by the District and/or its designated representative of such an application and determination that all conditions set forth in Paragraph 2 of this Agreement have been met, the District shall consider acceptance of the Public Improvements at its next regularly scheduled meeting.

5. District Acceptance Resolution. Upon consideration of acceptance of the Public Improvements at its Board meeting and determination that all requirements set forth in the Rules and Regulations and this Agreement have been met, the Board shall accept the Public Improvements on behalf of the District by adopting a resolution declaring satisfaction of the conditions to acceptance as set forth in this Agreement, subject to any variances or waivers which the District may allow in its sole and absolute discretion, and with any reasonable conditions the District may specify (the "**District Acceptance Resolution**"). The District Acceptance Resolution shall be in the form of **Exhibit B**. Upon

adoption of the District Acceptance Resolution, the District shall assume ownership and maintenance responsibilities of the Public Improvements.

6. Default/Remedies. In the event of a breach or default of this Agreement by any Party, the non-defaulting Party, after having given notice to the other Party and a 30-day period to cure said breach or default, shall be entitled to exercise all remedies available at law or in equity. In the event of any litigation, arbitration, or other proceeding to enforce the terms, covenants, or conditions hereof, the prevailing Party in such proceeding shall obtain as part of its judgment or award its reasonable attorneys', expert witness fees, and court costs.

7. Notices. All notices, demands, and communications (collectively, "**Notices**") under this Agreement shall be delivered or sent, addressed to the address of the intended recipient set forth below or such other address as a Party may designate by notice pursuant to this Section, by: (a) first class, registered or certified mail, postage prepaid, return receipt requested, (b) nationally recognized overnight carrier, or (c) sent by confirmed facsimile transmission or email. Notices shall be deemed given either one business day after delivery to the overnight carrier, three days after being mailed as provided in clause (a) or (b) above, or upon confirmed delivery as provided in clause (c) above.

District: Pagosa Area Water and Sanitation District
100 Lyn Ave
Pagosa Springs, CO 81147

Developer: Town of Pagosa Springs
P.O. Box 1859
Pagosa Springs, CO 81147

8. Amendments. This Agreement may only be amended or modified by a writing executed by the Parties.

9. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be illegal, void, or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such illegal, void, or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid, or unenforceable provision so that the resulting reformed provision is legal, valid, and enforceable.

10. Governing Law Venue. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located.

11. Assignment. This Agreement may not be assigned by either Party and any attempt to do so shall be null and void.

12. Authority. By execution hereof, the District and the Developer represent and warrant their representative signing hereunder has full power and lawful authority to execute this Agreement and to bind the respective Party to the terms hereof.

13. Entire Agreement. This Agreement constitutes and represents the entire, integrated agreement between the Parties with respect to the matters set forth herein, and hereby supersedes any and all prior negotiations, representations, agreements, or arrangements of any kind with respect to those matters, whether written or oral. This Agreement shall become effective upon the date set forth above.

14. Inurement. The terms of this Agreement shall be binding upon and inure to the benefit of the Parties as well as their respective successors.

15. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

16. Negotiated Provisions. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement.

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

18. Electronic Storage and Execution. The Parties agree that the transactions described herein may be conducted and related documents may be signed and stored by electronic means. Copies, telecopies, facsimiles, electronic files, and other reproductions of electronically signed and stored documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action, or suit in the appropriate court of law. Without limiting the foregoing, the Parties agree that in the event that any individual or individuals who are authorized to execute or consent to this Agreement on behalf of the District or the Developer are not able to be physically present to manually sign this Agreement or any amendments or consents thereto, that such individual or individuals are hereby authorized to execute the same electronically via an electronic signature. Any electronic signature so affixed to this Agreement or any amendments or consents thereto shall carry the full legal force and effect of any original, handwritten signature.

19. Counterpart Execution. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument.

Signature Pages Follow

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first above written.

DEVELOPER:

By: _____

Name: _____

Its: _____

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first above written.

Pagosa Area Water and Sanitation District

By: _____

Name: _____

Its: _____

Jim Smith, President/Chairman
Glenn Walsh, Vice President
Bill Hudson, Secretary



Alex Boehmer, Treasurer
Gene Tautges, Director

EXHIBIT A

Application for Acceptance of Public Improvements

Applicant Name: _____

Applicant Address: _____

State: _____ **Zip:** _____ **Daytime Phone #:** _____

Alt. Phone / Cell: _____

Email: _____

List of Public Improvements proposed by Applicant for acceptance by the Pagosa Area Water and Sanitation District (attach "as built"):

By its signature below, the Applicant certifies that this Application for Acceptance of Public Improvements and all documents submitted in support of this application are true and correct and that the Applicant is authorized to sign this application.

Signature: _____

Date: _____