

## Background on Metro Districts

- **Metropolitan districts** are a type of Colorado special district that provides at least two types of services—fire, mosquito, parks and recreation, safety protection, sanitation, solid waste disposal, street improvement, television relay, transportation, water—and are created in accordance with the Special District Act (Title 32, Article 1, C.R.S.).
  - Metro districts are independent governmental entities formed to finance, design, acquire, install, construct, operate and/or maintain public improvements that are not otherwise being provided.
- **Existing regulations for metro districts include many protections for homebuyers and consumers:**
  - Multiple disclosures provided at each step of the homebuying process
  - Mill-levy caps
  - Maximum terms for debt service mill levy
  - Putting development risk on bond holders instead of homeowners as a result of the mill-levy cap and limited term for debt service mill levy
  - Reducing costs for homebuyers since other methods of financing the same infrastructure are more expensive, particularly in large master-planned communities
  - Allowing for development to pay its way as the cost of new infrastructure is funded by the property owners who benefit rather than the public at large
- **Metro district financing for public improvements is the best available option to support public improvements in the new housing community developments needed to meet the affordable housing challenge in Colorado.**
  - If these public infrastructure costs were included in the price of each home, many residents would be priced out of the market.
  - Instead, metro districts spread these costs out over time, and the residents of the metro district repay them through long-term property tax payments.
- **Metro district financing involves bond underwriting, a process that encourages an independent market-based review of the financial viability of the housing project and associated public improvements.**
  - Metro district financing is a tool used to ensure that the cost of growth and development is paid by the new users – homebuyers within the new community.
- **Growth in metro districts mirrors Colorado’s rapid population growth and increased home building within the past decade.**
  - According to the Special District Association and Division of Local Government, there are 1,819 metro districts in Colorado.

### Previous System

- Local government decision makers in the 1970s and 1980s embraced the growth planning model that new growth (development) needs to “pay its way.”
- This was a significant departure from the historical approach to constructing infrastructure.
  - Local government previously constructed and owned all major infrastructure such as roads, parks, schools, utilities and fire protection through community-wide tax revenues.
  - Cities and towns better controlled where new development would take place, and all residents (new and old) shared in the costs of building new or upgrading existing infrastructure, and then operating and maintaining all public infrastructure in perpetuity.
  - Newer residents generally paid more on average through property taxes and use taxes with newer, higher valued properties.

### Current System

- Current “pay its way” system now requires residents in new homes to pay for the direct infrastructure required for their homes by requiring developers to provide those improvements as part of the approval processes.
  - Note that new residents are part of the overall tax base that pays for county/city-wide upgrades, expansions, and maintenance of the original infrastructure.
- **Metro districts have become a common way for a portion of the required public improvements to be financed.**
  - With mill levy limitations, the total potential public improvement costs are often not fully paid through metro districts, requiring developers to include portions of the costs in the home price
  - Access to capital, and the relative costs of capital, are just a few of the reasons why funding public improvements through metro districts is done.
- **In the absence of an HOA or Cities/Towns (or other local government) taking ownership and maintenance responsibilities for all of the public improvements, with increased frequency Metro districts are often filling that void:**
  - In unincorporated areas, metro districts may own, operate and maintain fire, water and sewer systems when there are no other local governments to do so.
  - Even within Cities/Towns, metro districts often continue to own, operate and maintain landscaping, parks, recreation facilities and non-dedicated public streets because the City/Town has not agreed to accept some public improvements.
  - The Highlands Ranch Metropolitan District, for example, built \$185 million in public infrastructure to allow for its nationally recognized 22,000-acre planned community. This metro district continues to provide ongoing operations and maintenance of a number of these improvements, including, notably, parks, recreation and open space facilities and services.
  - Some special districts, for example South Suburban Park and Recreation District, fill a void in the services that are not being provided by Counties/Cities/Towns in urban areas.
  - Metro districts are also taking on other traditional HOA duties such as enforcement of protective covenants, reducing the number of competing community governance entities.

### Gallagher and TABOR

- Two Colorado constitutional measures – Gallagher and TABOR – have unintentionally provided more motivation to use metro districts and have also made it much more confusing.

- **The Gallagher Amendment** was approved by voters in 1982 and, among other things, froze the assessment rate for non-residential property at 29% and dictated that the assessment rate for residential property would change as needed to maintain a statewide split in property taxes between residential property (45%) and non-residential property (55%).
- This effectively reduced taxes for residential property (the residential assessment rate has declined from 21% to 7.15%) but also resulted in less revenue for the existing cities and towns.
- With less revenue available, more pressure was put on growth to “pay its way” and metro districts are a fundamental tool in doing so.
- The changes in valuation effectively reduced the general tax burden on residential properties, providing the economic opportunity for metro district taxes.
- Voters can pass a “Gallagher Adjustment,” but it has proven hard to get voters in established communities to do so.
  - Voter-approved “Gallagher Adjustments” have led to much confusion regarding perceived tax increases.
  - A Gallagher Adjustment only allows an increase in a mill levy to make up for the loss in tax revenue resulting from a change in the residential assessment rate, this is best explained in an example using the change in residential assessment rate that occurred in 2016/2017 (from 7.96% to 7.2%):

#### **Property tax calculation**

(market value of property) X (assessment rate) X (mill levy) = Property tax

#### **50 Mills without Gallagher Adjustment**

\$100,000 X 7.96% X 50.000 mills = \$398

\$100,000 X 7.20% X 50.000 mills = \$360

#### **50 Mills with Gallagher Adjustment**

\$100,000 X 7.96% X 50.000 mills = \$398

\$100,000 X 7.20% X 55.277 mills = \$398

- **The Taxpayers Bill or Rights (TABOR)** was approved by voters in 1992 and places limits on the amount of revenue that governments can retain and spend and required advance voter approval for tax increases.
  - Like the Gallagher Amendment, TABOR has also made it harder for cities and towns to find funding to provide services and has increased the pressure for new growth to “pay its way.”
  - By requiring new development to “pay its way,” cities and towns avoid the requirement to get voter approval for tax increases and bonding authority.
  - Expenditures and revenue of the development do not cause the city to run afoul of the revenue and spending limits of the TABOR Amendment – instead the burden of taxation and bonding authority is shifted to the taxpaying residents in metro districts.

## Affordability

- **Estimates for the public infrastructure costs associated with new development range from \$30,000 to \$40,000 per home.**
- In a metro district, those costs are generally paid by proceeds of the bonds issued by the district over the term of the bonds, usually 30 years, in the form of property taxes, rather than being added to the initial cost of the home.
  - The bonds (debt) are paid from the proceeds of the debt service mill levy, which is approved in conjunction with the formation of the district.
  - Property tax is often deductible on the federal and state taxes of the property owner.
  - Valuation of the new homes for property taxes is generally low in the beginning, but as infrastructure is installed and new homes and businesses are built, the value increases and the revenue generated by the mill levy increases as well.
- Without a metro district, those public infrastructure costs will be added to each home, significantly increasing the cost to purchase a home and meaning that many more Coloradoans could not afford a home.
  - According to National Association of Homebuilders' latest estimates, a \$1,000 increase in the cost of a median-priced new home will push more than 127,000 U.S. households out of the market.
- The financing mechanism provided by metro districts also allows development to meet the expectations of homebuyers and proceed in a coordinated and comprehensive fashion with roads, sewers, parks and other amenities being available in a reasonable timeframe.

## Role of Local Government

- **Decisions to allow growth are made through a local government's land-use approval process.**
  - Developers and homebuilders are often required to pay and include impact fees, tap fees, land dedications and other costs in the purchase price of a home.
  - Impact fees are the least cost-efficient public improvement financing option. The fees are paid early and typically add 150% of the amount of the fee to the cost of the home.
  - Many infrastructure projects are very expensive, and "saving up" for them through the incremental collection of impact fees can unnecessarily delay important development needed in the community.
- The requirements of the Special District Act, in addition to ongoing compliance and disclosures, set forth a rigorous process for organizing a district that includes review and approval of the district's service plan during at least one public hearing before the applicable county/municipality after mailed and published public notice.
  - Frequently, the Service Plan required by the county/municipality sets limitations on mill levies, term of bonds, limiting boundary changes, and restricting eminent domain powers.
- Once a development is approved and a metro district is formed, that entity facilitates the financing, construction and operation of the public improvements and services needed for that approved growth.

## Disclosure and Accountability

- **Although the home buying experience can be an overwhelming experience for many people, there are several ways that information about metro districts is provided as part of purchasing a home:**
  - Taxing information for metro districts is included in the tax certificate available at the time of purchase.

- In some jurisdictions, metro districts record a document with a good faith estimate of future taxes anticipated as part of their organization process.
  - The title policy for each home includes all recorded documents related to any special district the home is within, which typically includes the service plan, order and decree and the public disclosure statement described below.
    - A public disclosure statement and map of all special districts is required to be recorded by Section 32-1-104.8, C.R.S. in the real property records and includes the name of the district, the powers of the district, a statement about the district having several methods to raise revenues including issuing debt, levying taxes, and imposing fees and charges.
  - The Purchase and Sale Agreement has a disclosure required by Section 38-35.7-101, C.R.S., printed in bold all-cap type, informing the purchaser that the property may be in a special district and subject to property tax, and encouraging buyers to get more information about special taxing districts.
- **In addition to the information that is provided as part of the homebuying process, information about special districts is readily available online from the Division of Local Government and the Special District Association and the following reoccurring disclosures are made by districts:**
  - The public disclosure statement discussed above is updated any time new property is included in a special district.
  - Annual transparency notices are provided by metro districts as provided in Section 32-1-809, C.R.S. and include contact information for the districts, the names and contact information for the manager and board members, time and places of regular meetings, current mill levy, the date of the next regular special district election, information about how to run for election, and address of a website (if any).
  - Revised district boundary maps are maintained with the Division of Local Government, County Assessor, and County Clerk and Recorder as required by Section 32-1-306, C.R.S.
  - Many municipalities and counties also require that districts file an annual report as set forth in Section 32-1-207(3)(c)-(d), C.R.S. which includes information about the district including information on the progress of the special district in the implementation of the service plan.
- **Districts are also subject to myriad statutory and regulatory requirements, including:**
  - The Colorado Open Records Act, which provides members of the public the right to inspect all public records at reasonable times.
  - The Colorado Open Meeting Law or Sunshine Act, which declares it to be “a matter of statewide concern and the policy of this state that the formation of public policy is public business and may not be conducted in secret.”
  - TABOR (discussed above)
  - The Gallagher Amendment (discussed above)
  - The Colorado Local Government Election Code
    - District elections are generally held every two-years in May (elections are currently being transitions from even-numbered to odd-numbered years so election will be held in May 2020, May 2022, and May 2023 to complete the transition) and are generally for staggered four-year terms (3-year terms are being used in 2020 and 2022).