



**RESOLUTION NO. 07-223**

**BOARD OF COUNTY COMMISSIONERS  
COUNTY OF EL PASO, STATE OF COLORADO**

**RESOLUTION TO APPROVE THE TITLE 32 LORSON RANCH  
METROPOLITAN DISTRICTS 1-7 AMENDED SERVICE PLAN, -LORSON  
RANCH METROPOLITAN DISTRICTS (ID-07-001)**

**WHEREAS**, Lorson Ranch Metropolitan Districts did file an application with the Development Services Department of El Paso County, Colorado, pursuant to 32-1-202 et. seq., C.R.S., as amended, for the review of the amended Service Plan for the Lorson Ranch Metropolitan Districts 1-7 (the "Districts") to increase the maximum combined mill levy cap from sixty (60) mills to seventy-three (73) mills by allowing an additional separate operational mill levy cap of up to thirteen (13) mills for the purpose of providing fire protection services; and

**WHEREAS**, a public hearing was held by the El Paso County Planning Commission on April 17, 2007, upon which date the Planning Commission did by formal resolution recommend approval of the subject amended Service Plan with conditions and notations; and

**WHEREAS**, pursuant to the provisions of Title 32, Article 1, C.R.S., as amended, the Board held a public hearing on the Service Plan for the Districts on May 24, 2007; and

**WHEREAS**, based on the evidence, testimony, exhibits, study of the master plan for the unincorporated area of the County, study of the proposed service plan, recommendations of the El Paso County Planning Commission, comments of the El Paso County Development Services Department, comments of public officials and agencies, and comments from all interested parties, this Board finds as follows:

1. That proper publication and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners of El Paso County.
2. That the hearings before the Planning Commission and the Board of County Commissioners of El Paso County were extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested parties were heard at those hearings.

3. There is sufficient existing and projected need for organized service in the area to be served by the proposed Special Districts.
4. Existing service in the area to be served by the proposed Special Districts is inadequate for present and projected needs.
5. The proposed Special Districts are capable of providing economical and sufficient service to the area within the proposed boundaries.
6. The area to be included in the proposed Special Districts has or will have the financial ability to discharge the proposed indebtedness on a reasonable basis.
7. Adequate service is not or will not be available to the area through the County, other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis.
8. The facility and service standards of the proposed Special Districts are compatible with the facility and service standards of each county within which the proposed Special Districts are to be located and each municipality which is an interested party.
9. The proposal is in substantial compliance with a Master Plan adopted pursuant to C.R.S. §30-28-106.
10. The proposal is in compliance with any duly adopted county, regional or state long-range water quality management plan for the area.
11. The creation of the proposed Special Districts will be in the best interests of the area proposed to be served.

**NOW, THEREFORE, BE IT RESOLVED** the Board of County Commissioners of El Paso County, Colorado, hereby approves the amended Service Plan submitted by Lorson Ranch Metropolitan Districts for Lorson Ranch Metropolitan Districts 1-7 to increase the maximum combined mill levy cap from sixty (60) mills to seventy-three (73) mills by allowing an additional separate operational mill levy cap of up to thirteen (13) mills for the purpose of providing fire protection services, for property more particularly described in Exhibit A, which is attached hereto and incorporated by reference;

**AND BE IT FURTHER RESOLVED** that the following conditions and notations shall be placed upon this approval:

**CONDITIONS:**

1. As stated in the Service Plan, the combined debt service and operational mill levy shall not exceed seventy-three (73.0) mills (Gallagher-adjusted) for any property within these Districts, with no more than fifty (50) mills dedicated to debt service, no more than ten (10) mills devoted to operations and maintenance exclusive of fire protection and an additional separate operational cap of thirteen (13) mills allowed to be used for fire protection services, either by contract with another entity or as a service provided directly by these Districts. These caps shall remain in place until and unless the Board of County Commissioners subsequently determines to remove the mill levy cap in a manner consistent with State Statutes at a subsequent public hearing.
2. Conditions 2-4 of the original September 2, 2004 approval (Resolution No. 04-366) remain in force and effect. Conditions 5 and 6 are deleted by this action.
3. As stated in the original and amended Service Plans, the maximum, authorized indebtedness for these combined Districts shall be \$300 million (three hundred million dollars), Gallagher adjusted, and not to exceed \$80 million (eighty million dollars) for any individual district without express, prior authorization of the Board of County Commissioners. Any increase in authorized debt beyond this amount shall constitute a material modification of the Service Plan and require additional applications, review and approvals.
4. As stated in the Service Plan, the period of maturity for each bond issue shall be limited to no more than thirty (30) years without express, prior approval of the Board of County Commissioners. Such approval, although required, may or may not be considered by the Board of County Commissioners to be a material modification, which would trigger the need to revise the Service Plan at the time of the request.

5. Prior to funding any Local Public Improvements, as this term is defined in the adopted El Paso County Special District Policies, the Districts shall provide assurances that El Paso County, and any other eligible taxing entity, will be held harmless with respect to the potential loss of Sales Tax Revenue associated with the purchase of construction materials associated with these Local Public Improvements, had they been privately funded.
6. The Districts agree to the extent that the Service Plan approved by the Board of County Commissioners includes the power of eminent domain and/or the power of dominant eminent domain, that its power of eminent domain and/or power of dominant eminent domain, regardless of the extent of the power granted to special districts and/or metropolitan districts under state law, shall be limited to the acquisition of property that the Districts intend to be owned, controlled or maintained by the Districts and/or another government entity and is for the material use or benefit of the general public, and which term "material use or benefit for the general public" shall never include as a material purpose the acquisition of property for the furtherance of an economic development plan and which term shall also never include as a purpose an intent to convey such property or to make such property available to a private entity for economic development purposes. The phrase "furtherance of an economic development plan" does not include condemnation of property to facilitate public infrastructure that is necessary for the development of the project.
7. The Districts shall provide an updated Annual Report Disclosure Form to future purchasers of property in a form consistent with Exhibit B to this Resolution. Such notice shall be recorded with this amended Service Plan and each Final Plat associated with this development. In conjunction with subsequent plat recordings, applicable County staff is authorized to administratively approve updates of the disclosure form to reflect current contact information and calculations.

**NOTATIONS:**

1. Notations 1 and 2 of the original 2004 approval (Resolution No. 04-366) remain in force and effect.

2. In the event the El Paso County Development Services Department is requested to withhold authorization of building permits pending verification of payment of building permit fees, this arrangement may require a formal agreement, which, among other things, holds the County harmless in the event authorization is inadvertently issued without such proof of payment.
3. Approval of this Service Plan shall be in no way construed to infer a requirement or obligation of the Board of County Commissioners to approve any future land use request for this property.
4. Nothing in this approval is intended to preclude these districts from providing coordinated and consolidated fire protection services in conjunction with other fire protection providers through an Intergovernmental Agreement, Fire Authority and/or future independent fire protection district.

**AND BE IT FURTHER RESOLVED** that the record and recommendations of the El Paso County Planning Commission be adopted.

**AND BE IT FURTHER RESOLVED** that a certified copy of this Resolution shall be filed in the records of the County and submitted to the petitioners for the purpose of filing in the District Court of El Paso County.

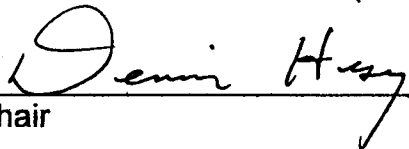
**AND BE IT FURTHER RESOLVED** that all resolutions or parts thereof, in conflict with the provisions hereof, are hereby repealed.

**DONE THIS 24<sup>th</sup>** day of May 2007, at Colorado Springs, Colorado.

**BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO**

ATTEST:

By:   
Deputy County Clerk

By:   
Chair

AMENDMENT TO  
CONSOLIDATED SERVICE PLAN  
FOR  
LORSON RANCH METROPOLITAN DISTRICTS NOS. 1-7  
EL PASO COUNTY, COLORADO

## I. SUMMARY

The final version of the Consolidated Service Plan (“Service Plan”) for the Lorson Ranch Metropolitan Districts Nos. 1-7 (collectively, the “Districts”) was approved by the Board of County Commissioners of El Paso County, Colorado (“Board”) on September 2, 2004.

Pursuant to C.R.S. § 32-1-207(2), the Districts now desire to amend the Service Plan through this Amended Consolidated Service Plan (“Amended Service Plan”). Any references to the “Service Plan” in the Service Plan and this Amended Service Plan specifically include the provisions of both the Service Plan and this Amended Service Plan. In particular, the Districts desire to amend the Service Plan to authorize the provision of fire protection services as authorized by C.R.S. § 32-1-1004(2)(a). As a result of the authorization of fire protection services, the Districts are also requesting additional related and appropriate amendments to support this additional power.

In light of the proposed financing to support the provision of fire protection services, and as further described in this Amended Service Plan, the Districts propose that they shall have the ability to impose a separate operating mill levy of up to thirteen (13) mills solely for purposes of funding the Districts’ provision of fire protection services. Notwithstanding the foregoing, each District’s operating mill levy cap (exclusive of the fire protection mill levy as further described herein) would remain at the current cap of ten (10) mills.

Except as expressly stated herein, or as may be implied by the modifications made by this Amended Service Plan, all other provisions of the Service Plan remain in full force and effect. Additionally, unless otherwise defined in this Amended Service Plan, all capitalized terms used in this Amended Service Plan shall have the meanings ascribed to such terms in the Service Plan. A copy of the approved Service Plan is attached hereto as Exhibit A.

The second full paragraph under the title “EXECUTIVE SUMMARY” in the Service Plan is amended to read as follows (edits in *italics*):

“The Districts are being organized to provide public improvements consisting of water, wastewater, streets, bridges, traffic controls and signage, drainage improvements, mosquito control, *fire protection services*, and park and recreation facilities, as more fully described within. This Consolidated Service Plan (“Service Plan”) establishes a coordinated plan for the delivery of necessary public infrastructure at the lowest cost to permit the development of the Project. The Service Plan proposes a multiple district structure that includes a specialized

working relationship between District No. 1 (also referred to as the “Service District”) and District Nos. 2-7 (referred to as the “Financing Districts”).”

## II. INTRODUCTION

A. Subsection C (titled “Purpose of the Districts”) of Section II of the Service Plan (titled “INTRODUCTION”) is hereby amended to insert the following as subsections 7 and 8, with the previous subsection 7 (titled “Other”) to be re-numbered as subsection 9:

7. Fire Protection. The power to provide for the design, financing, acquisition, construction, installation, completion, operation and maintenance of fire protection services, whether offsite or onsite, and including, but not limited to, appropriate protection against fire by any available means, and which may or may not also include the supply of ambulance and emergency medical and rescue services. The Districts shall be authorized to provide such fire protection services either directly or through intergovernmental agreements with third parties. To that end, the Districts may enter into one or more intergovernmental agreements with the Colorado Centre Metropolitan District (“CCMD”), Rolling Hills Ranch Metropolitan Districts 1-8 (“Rolling Hills”), and/or other providers through which fire protection services may be provided, including but not limited to operations and maintenance of fire protection infrastructure improvements constructed by the Districts, CCMD, Rolling Hills and/or other providers.

8. Statutory Powers. It is proposed that the Districts will provide certain essential public improvements for the use and benefit of future property owners and residents within the boundaries of the Districts. The Districts shall therefore be empowered to provide all improvements and services authorized to be provided by special districts under the Special District Control Act, C.R.S. § 32-1-101 *et seq.*, specifically including, but not limited to, the powers enumerated in this Service Plan, and except to the extent limited by this Service Plan.

## III. FINANCIAL PLAN ANALYSIS

A. The first full paragraph of subsection 2 (titled “Operating Mill Levy Cap”) of subsection A (titled “Financing of Proposed Facilities and Services”) of Section IV of the Service Plan (titled “FINANCIAL PLAN ANALYSIS”) is hereby amended to read as follows:



2. Operating Mill Levy Cap. Each Districts' operating mill levy (*exclusive of the fire protection mill levy further described below*) shall be initially capped at ten (10) mills and, subject to approval of an election question or questions authorizing the collection of operating revenues as a voter-approved revenue change under TABOR, shall be subject to adjustment to take into account any change in law with respect to assessment of property for taxation purposes, any change in the ratio for determining assessed valuation, or any similar change, using the 2004 ratio of assessment for residential property of 7.95% as the base year for calculating any such adjustments in such ratio. *Notwithstanding the foregoing, and in addition to the ten (10) mills operating mill levy cap for each District, the Districts shall have the additional ability to impose a separate operating mill levy of up to thirteen (13) mills to be used solely in connection with the Districts' provision of fire protection services, whether or not such fire protection services are operated and/or maintained by or through the Districts, CCMD, Rolling Hills and/or other providers.*

B. Subsection A (titled "Financing of Proposed Facilities and Services") of Section IV of the Service Plan (titled "FINANCIAL PLAN ANALYSIS") is hereby amended to insert the following as subsection 6, with the previous subsection 6 (titled "Rates and Charges") to be re-numbered as subsection 7 and the previous subsection 7 (titled "Development Fees/Development Agreements") to be re-numbered as subsection 8:

6. Intergovernmental Agreements for Fire Protection Services. As also described in Sections V and VI, the Districts expect to provide fire protection services including, but not limited to, operation and maintenance of fire protection services, whether offsite or onsite, and also including, but not limited to, appropriate protection against fire by any available means, and which may or may not also include the supply of ambulance and emergency medical and rescue services. In connection with the provision of such fire protection services, the Districts shall be authorized to enter into one or more IGAs with such parties which will establish the terms under which fire protection services are to be provided. (See the additional discussion under Sections V and VI.). The Districts may exercise any of its powers through enterprises established in accordance with Article X, Section 20 of the Colorado Constitution (TABOR).

C. Attached as Exhibit B to this Amended Service Plan is an updated financial analysis and a letter from the Districts that address the provision of fire protection services by, or on behalf of, the Districts, as contemplated herein.

#### **IV. INFRASTRUCTURE ANALYSIS**

A. Subsection B (titled "Description of Types of Public Improvements") of Section V of the Service Plan (titled "INFRASTRUCTURE ANALYSIS") is hereby amended to insert the following as subsection 9, with the previous subsection 9 (titled "County Construction Standards") to be re-numbered as subsection 10:

9. Fire Protection Services. The Districts anticipate providing the design, financing, acquisition, construction, installation, completion, operation and maintenance of fire protection services, whether offsite or onsite, and including, but not limited to, appropriate protection against fire by any available means, and which may or may not also include the supply of ambulance and emergency medical and rescue services. In this regard, the Districts may enter into one or more IGAs with CCMD, Rolling Hills, and/or other entities relating to the provision of fire protection services, and the subsequent operations and maintenance of fire protection facilities.

#### **V. AGREEMENTS**

Section VI of the Service Plan (titled "AGREEMENTS") is hereby amended to insert the following as subsection C and D, with the previous subsection C (titled "Other Agreements") to be re-numbered as subsection E:

##### **C. -Fire Protection Services**

The Districts are cognizant that the Board of County Commissioners has indicated a preference for the provision of fire protection services in a joint and shared manner. The Districts agree with this policy objective and intend to continue to pursue such collaborative efforts. With this in mind, and as previously stated, the Districts, either individually or jointly, shall be authorized to enter into one or more IGAs with CCMD, Rolling Hills, and/or other entities through which such parties may from time to time deliver fire protection services, and which may or may not also include the supply of ambulance and emergency medical and rescue services. Alternatively, the Districts may take an assignment of any agreement entered into between the Developer or other owners of property within the Project, and such service providers, pertaining to such services. It is expected that the service commitment will provide fire protection services to property within the Districts, in connection with the payment of certain monies for provision of such services (in the form of fire protection fees or similar charges intended to represent payment for the use of such services), and the payment of ongoing rates and charges for monthly services thereafter to defray the operational

costs of such service providers in providing fire protection services to the Project. It is also expected that the IGAs will provide for the long-term operations and maintenance of facilities constructed by the Districts and/or by such providers, and for the dedication of such facilities to such providers in connection therewith.

#### D. Developer Funding Agreements

The Districts acknowledge that the Board of County Commissioners has recently reviewed and revised its policy with respect to developer funding agreements. As the Districts have used, and contemplate the future use of, developer funding agreements in connection with the financing of improvements for the Districts, the Districts understand that they are obligated to comply with such developer funding agreement policy revisions going forward.

### VI. MISCELLANEOUS

Except as expressly stated in this Amended Service Plan, or as may be implied by the modifications made by this Amended Service Plan, all other provisions of the Service Plan remain in full force and effect.

### VII. CONCLUSION

It is requested that the Board of County Commissioners of El Paso County, Colorado, which has jurisdiction to approve this Amended Service Plan by virtue of § 32-1-207, C.R.S., adopt a resolution which approves this Amended Service Plan for the Districts, as submitted.