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Resolution No. 17- 294

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

**RESOLUTION TO APPROVE THE SERVICE PLAN FOR PETERSON
GATEWAY METROPOLITAN DISTRICT (ID-17-004)**

WHEREAS, Space Village Retail, LLC, did file an application with the Planning and Community Development Department of El Paso County, pursuant to Section 32-1-204 (2), C.R.S., for the review of a draft service plan for Click here to enter text. Metropolitan District; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on October 3, 2017, upon which date the Planning Commission did by formal resolution recommend approval of the subject Service Plan with conditions and a notation(s); and

WHEREAS, on October 24, 2017, the Board ordered a public hearing to be held on the Service Plan; and

WHEREAS, notice of the hearing before the Board was duly published in *The El Paso County Advertiser and News* on October 4, 2017, as required by law; and

WHEREAS, notice of the hearing before the Board was duly mailed by first class mail, to interested persons, defined as: The owners of record of all property within the proposed Title 32 district as such owners of record are listed in the proposed service plan; and the governing body of any municipality or special district which has levied an ad valorem tax within the next preceding tax year, and which has boundaries within a radius of three (3) miles of the proposed district's boundaries; 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 District on October 24, 2017; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, study of the proposed service plan for Click here to enter text. Metropolitan District, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, and comments from all interested persons, and comments by the El

Paso County Planning Commission during the hearing, this Board finds as follows:

1. That the application for the draft service plan for the Special District was properly submitted for consideration by the Planning Commission and Board of County Commissioners.
2. 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.
3. 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 persons were heard at those hearings.
4. That all exhibits were received into evidence.
5. There is sufficient existing and projected need for organized service in the area to be served by the proposed Special District.
6. Existing service in the area to be served by the proposed Special District is inadequate for present and projected needs.
7. The proposed Special District is capable of providing economical and sufficient service to the area within the proposed boundaries.
8. The area to be included in the proposed Special District has or will have the financial ability to discharge the proposed indebtedness on a reasonable basis.
9. 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.
10. The facility and service standards of the proposed Special District are compatible with the facility and service standards of each county within which the proposed Special District is to be located and each municipality which is an interested party.
11. The proposal is in substantial compliance with a Master Plan adopted pursuant to C.R.S. §30-28-106.

12. The proposal is in compliance with any duly adopted county, regional or state long-range water quality management plan for the area.

13. The creation of the proposed Special District will be in the best interests of the area proposed to be served.

NOW, THEREFORE, BE IT RESOLVED the El Paso County Board of County Commissioners, Colorado, hereby determines that the requirements of Sections 32-1-207, C.R.S., relating to the modification of a service plan for the Peterson Gateway Metropolitan District have been fulfilled in a timely manner;

BE IT FURTHER RESOLVED the Board hereby approves the Service Plan submitted for the Peterson Gateway Metropolitan District, 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 shall be placed upon this approval:

CONDITIONS OF APPROVAL

1. Any future annexation of territory by the District (any territory more than five (5) miles from the District boundary lines) shall be considered a material modification of the amended Service Plan and shall require prior Board of County Commissioners' approval.
2. The Districts shall provide a disclosure form to future purchasers of property in a form consistent with the approved Special District Annual Report form. Such notice shall be recorded with this service plan. With each subsequent final plat associated with the Ellicott Town Center development prepared by the developer, the developer shall provide written notation on the plat of this annually filed public notice and include reference to the El Paso County Development Services' website where the most up-to-date notice can be found. County staff is authorized to administratively approve updates of the disclosure form to reflect current contact information and calculations.
3. The Districts are expressly prohibited from creating separate sub-districts except upon prior notice to the Board of County Commissioners, and subject to the Board of County Commissioners right to declare such creation to be a material modification of the Service Plan, pursuant to C.R.S. § 32-1-1101(1)(f)(I).

4. Approval of this application shall not constitute relinquishment or undermining of the County's authority to require the developer to complete subdivision improvements as required by the Land Development Code and Engineering Criteria Manual and to require subdivision improvements agreements or development agreements and collateral of the developer at the final plat stage to guarantee improvements.
5. Any expansions, extensions, or construction of new facilities by the District will require prior review by the Development Services Department to determine if such actions are subject to the requirements of Appendix B of the Land Development Code, Guidelines and Regulations for Areas and Activities of State Interest (a.k.a. "1041 Regulations). If it is determined that such regulations apply, then the District will be required to submit the appropriate development permit application(s) prior to construction.

NOTATION

1. Approval of this Service Plan shall in no way be construed to infer a requirement or obligation of the Board of County Commissioners to approve any future land use requests for any property within the District's service area.

AND BE IT FURTHER RESOLVED, the record and recommendations of the El Paso County Planning Commission be adopted, except as modified herein.

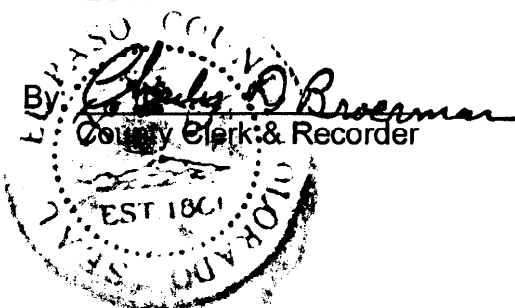
AND BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be filed in the records of the County and submitted to the petitioners for the purpose of filing in the District Court of El Paso County.

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

DONE THIS 24th day of October, 2017, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
EL PASO COUNTY, COLORADO

ATTEST:



By: 

Mark Waller
President Pro Tempore

Exhibit A

PARCEL A:

THAT PORTION OF THE NORTHWEST 1/4 OF SECTION 17, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE WEST LINE OF SAID NORTHWEST 1/4 THAT IS 481.2 FEET SOUTH ON SAID WEST LINE FROM THE NORTHWEST CORNER OF SAID NORTHWEST 1/4; THENCE NORTH 481.2 FEET ON SAID WEST LINE TO THE NORTHWEST CORNER OF SAID NORTHWEST 1/4; THENCE EAST ON THE NORTH LINE OF SAID NORTHWEST 1/4 244 FEET; THENCE SOUTHERLY PARALLEL WITH THE WEST LINE OF SAID NORTHWEST 1/4 TO A POINT ON THE SOUTHEASTERLY LINE OF THE FORMER RIGHT OF WAY OF THE COLORADO AND SOUTHERN RAILWAY COMPANY (FORMERLY THE RIGHT OF WAY OF THE DENVER AND NEW ORLEANS RAILROAD COMPANY); THENCE SOUTHWESTERLY ON THE SOUTHEASTERLY LINE OF SAID FORMER RIGHT OF WAY TO A POINT 200 FEET NORTHEASTERLY THEREON FROM ITS INTERSECTION WITH THE WEST LINE OF SAID NORTHWEST 1/4; THENCE ANGLE RIGHT 90 DEGREES NORTHEASTERLY 100 FEET TO THE NORTHWESTERLY LINE OF SAID FORMER RIGHT OF WAY; THENCE NORTHEASTERLY ON SAID NORTHWESTERLY LINE TO ITS INTERSECTION WITH A LINE DRAWN EASTERLY FROM THE POINT OF BEGINNING AND AT RIGHT ANGLES TO THE WEST LINE OF SAID NORTHWEST 1/4; THENCE WEST ON SAID LINE 177.8 FEET TO THE POINT OF BEGINNING, EXCEPT THOSE PORTIONS DESCRIBED IN DEEDS RECORDED IN BOOK 1865 AT PAGE 240 AND IN BOOK 1005 AT PAGE 202 AND EXCEPT ANY PORTIONS THEREOF CONTAINED WITHIN THE PUBLIC HIGHWAY.

PARCEL B:

A TRACT OF LAND IN THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 17, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6TH P.M., SITUATED IN EL PASO COUNTY, COLORADO AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 17, THENCE NORTH 89 DEGREES 59 MINUTES 43 SECONDS EAST ON THE NORTH LINE OF SAID SECTION 17, 244.00 FEET; THENCE SOUTH 9 DEGREES 00 MINUTES 00 SECONDS EAST AND PARALLEL TO THE WEST LINE OF SAID SECTION 17, 50.00 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF STATE HIGHWAY 94 AND THE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED HEREIN; THENCE CONTINUE ON LAST MENTIONED COURSE, 582.18 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF THE COLORADO AND SOUTHERN RAILWAY; THENCE NORTH 53 DEGREES 51 MINUTES 00 SECONDS EAST ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE OF THE COLORADO AND SOUTHERN RAILWAY, 357.00 FEET; THENCE NORTH 9 DEGREES 00 MINUTES 00 SECONDS WEST, 291.18 FEET TO A POINT ON SAID SOUTHERLY RIGHT OF WAY LINE OF STATE HIGHWAY 94; THENCE SOUTH 89 DEGREES 59 MINUTES 43 SECONDS WEST ON SAID SOUTHERLY RIGHT OF WAY LINE OF STATE HIGHWAY 94, 289.50 FEET TO THE POINT OF BEGINNING, EXCEPT THAT PORTION PLATTED AS SPACE VILLAGE FILING NO. 2 RECORDED APRIL 17, 1967 IN PLAT BOOK 84 AT PAGE 177.

PARCEL C:

A PERPETUAL, NON-EXCLUSIVE AND IRREVOCABLE EASEMENT AND RIGHT OF WAY FOR ACCESS AND UTILITIES . . . PURPOSES AS CREATED BY EASEMENT AND MAINTENANCE AGREEMENT RECORDED APRIL 21, 1968 IN BOOK 5498 AT PAGE 588.