

# COUNCIL COMMUNICATION

<b>Meeting Date:</b> March 9, 2010	1 <sup>st</sup> Reading _____ 2 <sup>nd</sup> Reading _____	<b>Legal Review:</b>	<b>Agenda Location:</b> Public Hearing	<b>Agenda Item:</b> 9A
<b>Subject:</b> A RESOLUTION APPROVING THE SERVICE PLAN FOR VILLAGE AT THORNCREEK METROPOLITAN DISTRICT AND THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF THORNTON AND VILLAGE AT THORNCREEK METROPOLITAN DISTRICT REGARDING THE SERVICE PLAN FOR THE DISTRICT.				
<b>Prepared by:</b> Karen Widomski		<b>Approved by:</b> Jack Ethredge		<b>Ordinance previously introduced by:</b> _____
<b>Reviewed by:</b> Jeff Coder		<b>Presented by:</b> Glenda Lainis Policy Planning Manager		

**KEY CONSIDERATIONS:**

**I. SERVICE PLAN**

- Talarico & Associates, Inc. has submitted an application consisting of a Service Plan and related documents to create the Village at Thorncreek Metropolitan District (“the District”). Council is required by State law to approve the Service Plan before the organization of the District can be voted on at the May 2010 election.
- The Service Plan is in the form of the City’s model service plan for metropolitan districts.
- Description of the District:
  - The initial area of the District consists of approximately 28.323 acres and is located entirely within the City of Thornton; generally located on the northwest corner of East 128th Avenue and Washington Street.
  - Inclusion Area:
    - The Service Plan identifies a potential future Inclusion Area of 1.112 acres. The Inclusion Area is located entirely within the City of Thornton; generally located north of East 128th Avenue and west of Grant Drive, currently addressed as 12851 Grant Drive, Thornton, Colorado.
    - The developer of the District, Talarico & Associates, Inc., anticipates purchasing the Inclusion Area property; however this land transfer has not occurred yet. Exhibit E of the Service Plan, ‘Property Owner Consent’, does not include a signed consent form from the current property owner of 12851 Grant Street.
    - The applicant mailed a public hearing notice and map identifying the District and Inclusion Area boundaries to the current property owner of 12851 Grant Street as required by State law. The public hearing notice states that if the property owner objects to being included in the District, the property owner can submit a written request for exclusion to City Council no later than 10 days prior to the public hearing date.
    - The City received a letter (Attachment 1) from the property owner, Elio Sports Marketing, Inc. (ESM) dated February 26, 2010 (11 days prior to the public hearing date) which indicated objections to having 12851 Grant Street included in the District under certain conditions but did not appear to object to inclusion if 100 percent of the property owners gave consent. Staff was uncertain how to interpret the letter’s intent and asked for clarification.
    - On March 2, 2010, the City received a second letter from ESM (Attachment 2), indicating that ESM objects to being included in the District at this time, but does not object to the Service Plan identifying the Inclusion Area as long as any future inclusion of the property requires consent of 100 percent of the property owners.

- The current language in Service Plan Section V.A.12, below, complies with ESM's request:

Inclusion Limitation. The District shall not include within any of its boundaries any property outside the Service Area without the prior written consent of the City Council. The District shall not include within any of its boundaries any property inside the Inclusion Area Boundaries without the prior written consent of the City Council except upon petition of the fee owner or owners of one hundred percent (100%) of such property proposed to be included as provided in Section 32-1-401(1)(a), C.R.S.

- By approving the Service Plan, City Council signifies that the City does not object to the property being identified as a future Inclusion Area as long as the inclusion complies with Section V.A.12 of the Service Plan.
- The total Service Area of the District, including both the initial District Boundaries and the Inclusion Area, is 29.435 acres.
- This is a residential and commercial district with an estimated build-out population of approximately 792 people and 42,990 square feet of commercial development.
- The District is being organized to finance the public improvements required by the Conceptual Site Plan for the project known as The Village at Thorncreek in Rolling Hills Subdivision Filings No. 3 and No. 6. The types of public improvements permitted to be financed by the District are described in the Colorado State Statutes, subject to the limitations described in the Service Plan.
- The District's total debt issuance limitation is \$8,000,000. Estimated District costs include:

Public Improvements cost	\$5,276,000
Administration, organization and initial operations	\$1,210,316
First year operating budget	\$50,000

- The public hearing notice for the request to create a metropolitan district was published in the Northglenn-Thornton Sentinel on February 11, 2010, and notices were sent by first class mail to property owners within the proposed initial District area and future inclusion area, as well as surrounding taxing entities.

## II. INTERGOVERNMENTAL AGREEMENT

- An Intergovernmental Agreement (IGA) between the City and the District has been prepared for City Council's consideration.
- The IGA is in the form of the City's model IGA for metropolitan districts.
- The IGA contains the same language for Inclusion Limitation as in Section V.A. 12 of the Service Plan, identified above, and is in compliance with EMS's request regarding their property.
- The IGA will not take effect until signed by the District in the form approved by City Council at the first meeting of its board of directors after its organizational election.

**BUDGET/STAFF IMPLICATIONS:**

- The District is exempt from sales and use taxes but has stated in the Service Plan that it will not exercise this provision when purchasing materials and services within the City.

**RECOMMENDATION:**

- Staff recommends approval of the Service Plan for the creation of the Village at Thorncreek Metropolitan District and the IGA because the application conforms to the form and content of the model service plan and model IGA, the criteria of Chapter 66 of the City Code, Colorado State law, and the City's Metropolitan District Policy Guidelines.

**HISTORY:**

- **Annexation:** All of the property proposed to be in the Service Area of the District was annexed into the City of Thornton on May 28, 1974, by Ordinance No. 621.
- **Zoning of District's eastern parcel:** The District's eastern parcel, Lot 2 of Rolling Hills Subdivision Filing No. 3, was zoned Single-Family Attached (SFA) and Business Park (BP) on January 25, 1993, as part of the City-wide transitional zoning to coincide with adoption of a new Development Code. On February 28, 2000, the property was zoned Community Retail (CR). On December 16, 2008, the property was rezoned Planned Development (PD) allowing for commercial retail and multifamily uses. The Conceptual Site Plan/Overall Development Plan was also approved on December 16, 2008.
- **Zoning of District's western parcel:** The District's western parcel (including the proposed Inclusion Area), Rolling Hills Subdivision Filing No. 6, was zoned Business Park (BP) on January 25, 1993, as part of the City-wide transitional zoning to coincide with adoption of a new Development Code. On October 25, 2005, the property was zoned Planned Development (PD) allowing for a commercial center including retail and office use. The Conceptual Site Plan/Overall Development Plan for this commercial center was also approved on October 25, 2005.

## RESOLUTION

A RESOLUTION APPROVING THE SERVICE PLAN FOR VILLAGE AT THORNCREEK METROPOLITAN DISTRICT AND THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF THORNTON AND VILLAGE AT THORNCREEK METROPOLITAN DISTRICT REGARDING THE SERVICE PLAN FOR THE DISTRICT.

WHEREAS, pursuant to the provisions of Chapter 66 of the Thornton City Code and the Special District Act, Part 2 of Article 1, Title 32, C.R.S., a Service Plan and an Intergovernmental Agreement have been submitted to the City of Thornton ("City") for the creation of Village at Thorncreek Metropolitan District (the "District") whose District boundaries are wholly within the corporate limits of the City; and

WHEREAS, the Service Plan, attached as Exhibit A, submitted to the City outlines the terms and conditions under which the District will be authorized to exist; and

WHEREAS, the Service Plan identifies Inclusion Area Boundaries that may be included in the Service Area of the District at a future date with City Council approval or upon petition of the fee owner or owners of one hundred percent (100%) of such property proposed to be included; and

WHEREAS, the Service Plan provides that the District will construct infrastructure improvements which are in the best interest of the health, safety and welfare of the City; and

WHEREAS, the City Council of the City of Thornton ("City Council") has conducted a public hearing on March 9, 2010, regarding the Service Plan; and

WHEREAS, the Special District Act requires that any Service Plan submitted to the District Court for the creation of a special district must first be approved by resolution of the governing body of the municipality within which the District lies; and

WHEREAS, the Intergovernmental Agreement between the City and the District, attached as Exhibit B, has been prepared in accordance with the terms, provisions, and limitations contained in the Service Plan and identifies the powers granted to the District.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF THORNTON, COLORADO, AS FOLLOWS:

1. The City Council determines that the requirements of Chapter 66 and the requirements of Sections 32-1-202(2), 32-1-203(2) and 32-1-204.5, C.R.S. have been satisfied by the Service Plan and Intergovernmental Agreement for Village at Thorncreek Metropolitan District.
2. The City Council determines that the City's notification requirements have been complied with regarding the public hearing on the Service Plan.

3. In accordance with the requirements of Chapter 66 of the City Code, the City Council hereby finds that:
  - a. There is sufficient existing and projected need for organized service in the area to be served by the District.
  - b. The existing service in the area to be serviced by the proposed District is inadequate for present and projected needs.
  - c. The District is capable of providing economical and sufficient service to the area within the proposed boundaries.
  - d. The area included within the District has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.
  
4. In accordance with the requirements of Chapter 66 of the City Code, the City Council also finds that:
  - a. The service standards of the District are compatible with the service standards of the City.
  - b. The creation of the District will be in the best interests of the area proposed to be served.
  
5. The City Council's findings are based solely upon the evidence in the Service Plan as presented at the public hearing and the City has not conducted any independent investigation of the evidence. The City makes no guarantee as to the financial viability of the District or the achievability of the results.
  
6. The Village at Thorncreek Metropolitan District Service Plan is hereby approved. The terms, provisions, and limitations of the Service Plan have been incorporated in the Intergovernmental Agreement.
  
7. The Intergovernmental Agreement attached hereto and incorporated herein by this reference is hereby approved, but shall not be effective until executed by the City and the District. The District is not authorized to issue any debt until the time that the Intergovernmental Agreement is executed.
  
8. The City Council's approval of the Service Plan and Intergovernmental Agreement is not a waiver or a limitation upon any power, which the City Council is legally permitted to exercise with respect to the property subject to the District.
  
9. The City Manager is authorized to sign, and the City Clerk to attest, the Intergovernmental Agreement.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Thornton, Colorado, on \_\_\_\_\_, 2010.

CITY OF THORNTON, COLORADO

\_\_\_\_\_  
Erik Hansen, Mayor

ATTEST:

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Nancy A. Vincent, City Clerk