



ICENOGL SEAVR POGUE

June 11, 2018

VIA ELECTRONIC MAIL

Bob Slentz
Town Attorney
Town of Castle Rock
100 N. Wilcox St.
Castle Rock, CO 80104
BSlentz@CRgov.com

Re: Amendment to Service Plan to Bella Mesa Metropolitan District

Mr. Slentz:

Thank you very much for taking the time to work with me regarding the request for an amendment to the service plan for the Bella Mesa Metropolitan District which was approved by the Town Council by Resolution No. 2004-120 on August 24, 2004, which service plan was amended by resolution of the District's Board of Directors adopted on May 4, 2006 after publication of a Notice of Amendment to Service Plan in The Douglas County News-Press on March 9, 2006 (the "Service Plan").

As you are aware, Section VIII of the Service Plan provides that material modifications of the Service Plan "include modifications of a basic or essential nature including, but not limited to, additions to the types of services provided by the District, change in revenue sources, or any of the events of conditions enumerated in the Town Code or § 32-1-207(2), C.R.S." In turn, the Town Code includes at Section 11.02.060(H) "the disconnection from the corporate limits of any property within the District's boundaries exceeding either ten percent (10%) of the service area of the District or ten (10) acres in area."

As we have discussed, due to the down turn in the economy that occurred after approval of the Service Plan and organization of the District, development is yet to occur within the boundaries of the District and ownership of the property had changed hands several times. As a result, development plans within the boundaries of the District have changed since the approval of the Service Plan and, while progress is being made to development the property within the District, the exact nature of that development plan is still unfolding. One of the potential plans for development within the District would include a sale of a portion of the real property within the District to a developer that would want to exclude the property from the boundaries of the District. This potential exclusion would remove approximately 296 acres of the current 406 acres in the District, which would exceed the ten percent (10%) threshold for a material modification set forth in Section 11.02.060(H) of the Town Code.

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However, until sale of that property is final it is uncertain whether the exclusion will be necessary. Given the time and expense involved with processing a material modification to a special district service plan, requiring the District to process a material modification of the Service Plan in order for the current owner of the property within the District to move forward with potential alternate development plans and/or sale of a portion of the property within the District would create an undue financial burden on the District. Further, given that development plans remain in flux, this requirement may result in several material modifications being pursued and potentially abandoned as plans change; this would compound the financial burden on the District and its taxpayers and additionally create unnecessary administrative burden for the Town.

In order to prevent any undue burdens on the District or the Town and to facilitate progress towards development within the District the District is requesting that the Town consider approving an amendment to the Service Plan which would waive the application of Section 11.02.060(H) of the Town Code prior to the exclusion of property within the District and instead require application of Section 11.02.060(H) of the Town Code after exclusion of any property meeting the threshold set forth in Section 11.02.060(H) of the Town Code. The result would be that the District is required to process a material modification of the Service Plan after exclusion of any property meeting the threshold described above and prior to the District undertaking any of its approved functions other than routine entity maintenance and statutory compliance activities. This would allow the property owner within the District the flexibility necessary to continue to explore alternate development plans without creating a financial burden on the District or unnecessary administrative burden for the Town but would still allow the Town to require a material modification to the District's service plan in the event an exclusion meeting the threshold set forth in Section 11.02.060(H) of the Town Code occurs.

Please feel free to contact me with any questions and thank you again for your assistance with this matter.

Sincerely,

ICENOGLE SEAVER POGUE
A Professional Corporation

Jennifer L. Ivey

cc:
Board of Directors, Bella Mesa Metropolitan District.