

RESOLUTION NO. 2018-__

**A RESOLUTION APPROVING AN AMENDMENT TO THE SERVICE PLAN FOR
THE BELLA MESA METROPOLITAN DISTRICT**

WHEREAS, the Bella Mesa Metropolitan District f/k/a Vistas at Rock Canyon Metropolitan District (“District”) is a special district located wholly within the boundaries of the Town of Castle Rock, Colorado (“Town”); and

WHEREAS, on August 24, 2004, the Town Council of the Town approved a service plan for the District by Resolution No. 2004-120, 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”); and

WHEREAS, 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.”; and

WHEREAS, 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”; and

WHEREAS, development plans within the boundaries of the District have changed since the approval of the Service Plan and are still in flux; and

WHEREAS, 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; and

WHEREAS, the 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; and

WHEREAS, the potential exclusion would not constitute a material modification for purposes of § 32-1-207(2), C.R.S.; and

WHEREAS, 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 and may result in several material modifications being pursued which would compound the financial burden on the District and its taxpayers and additionally create unnecessary administrative burden for the Town; and

WHEREAS, in order to prevent any undue burdens on the District or the Town and to facilitate progress towards development within the District the Town wishes to 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, thereby requiring the District 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; and

WHEREAS, the Town Council finds that this modification of the application of Section 11.02.060(H) of the Town Code in in the best interests of the public and will foster development within the District which will in turn allow the District to provide the services as contemplated by the Service Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO AS FOLLOWS:

1. Consent to Exclusion of Property. The Town Council hereby consents to the exclusion of property from the boundaries of the District in excess of the threshold of either ten percent (10%) of the service area of the District or ten (10) acres in area as set forth in Section 11.02.060(H) of the Town Code without the District receiving prior approval from the Town of a Service Plan amendment, provided, however, that in the event that the District receives an order from the Douglas County District Court excluding property from its boundaries in excess of such threshold, the District must thereafter receive approval from the Town of an amendment to its Service Plan prior to District undertaking any action in furtherance of its Capital or Financial Plan including, but not limited to the issuance by the District of general obligation bonds. However, prior to obtaining approval of such Service Plan amendment, the District may continue to conduct routine entity maintenance and statutory compliance activities which for purposes of this Resolution includes, but are not limited to, maintaining a current and accurate map, provided legally required notices to electors, the Town, Douglas County and/or the State of Colorado, conducting meetings, preparing, adopting and filing a budget and mill levy certification, preparing, approving and filing an annual audit or audit, collecting property taxes, conducting special district elections and contracting with the necessary consultants and contractors to perform the foregoing activities.

2. Limited Effect of Consent. Except as expressly modified by this Resolution, all provisions of the Service Plan and the Town Code's application thereto shall remain in full force and effect.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2018 by the Town Council of the Town of Castle Rock, Colorado, on first and final reading by a vote of ____ for and ____ against.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jennifer Green, Mayor

Approved as to form:

Robert J. Slentz, Town Attorney