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1 of 14 RES R\$0.00 D\$0.00

Patricia Berger
Lake County

06-67-561

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF LAKE, STATE OF COLORADO**

RESOLUTION NO. 21-16

**RESOLUTION REGARDING SERVICE PLAN FOR
PAN-ARK ESTATES METROPOLITAN DISTRICT**

WHEREAS, the Board of County Commissioners of the County of Lake, State of Colorado, is vested with administering the affairs of Lake County, Colorado, pursuant to state statutes; and

WHEREAS, pursuant to the provisions of the "Special District Control Act", Part 2 of Article 1, Title 32, C.R.S., the Proponents of the proposed District filed a Service Plan for the proposed Pan-Ark Estates Metropolitan District ("District") on June 8, 2021; and

WHEREAS, the District would provide services to Pan-Ark Estates, a semi-rural community located above Twin Lakes in an unincorporated portion of the County; and

WHEREAS, pursuant to the provisions of Subsections 32-1-202(1) and 32-1-204(1), C.R.S., the Board of County Commissioners of Lake County, Colorado, ("Board") scheduled a public hearing on the Service Plan to be held at 1:00 p.m. on July 22, 2021; and

WHEREAS, notice of the date, time and location and purpose of said hearing was duly published in the *Herald Democrat*, a newspaper of general circulation, on July 1, 2021; notice was provided to the Division of Local Government in the Department of Local Affairs ("Division") of the name and type of the proposed District; notice of the date, time and location of the said hearing was provided to the Proponents; to the governing body of each municipality and of each special district which had levied an ad valorem tax within the next preceding tax year and which had boundaries within a radius of three (3) miles of the District; and to said Division, as required by Subsections 32-1-202(1) and 32-1-204(1), C.R.S.; and mailing of a letter notification to the property owners within the boundaries of the proposed District, as listed on the records of the Lake County Assessor, was completed on June 28, 2021, as required by Section 32-1-204(1.5); and

WHEREAS, of primary importance to the Proponents is to improve the maintenance of public improvements, particularly the roads, within the Pan-Ark Estates community, which are in a current state of disrepair due to the inability of the Pan-Ark Estates homeowners' association to obtain adequate funding for repairs and maintenance because the owners association has no ability to enforce collection of dues; and

WHEREAS, the Proponents intend to submit to the District's eligible electors at the November 2, 2021 election the ballot measures of (a) whether to organize the District and (b) a TABOR Question of whether to raise taxes to pay for the operation and maintenance of public improvements within the District, including the roads; and

WHEREAS, if the eligible electors approve the ballot measures, the District will begin collecting taxes in 2022 to serve the needs of the Pan-Ark community; and

WHEREAS, the Proponents for the District provided evidence at the hearing that if the ballot measures are not approved at the November 2, 2021 election, the community may be unable to continue maintenance of the roads within the Pan-Ark Estates community beginning in 2022, to the detriment of the health, safety and welfare of residents and visitors; and

WHEREAS, the Board does not have a policy requiring Lake County Planning Commission review of a proposed Service Plan under Sections 32-1-202(1)(a) and 30-28-112, C.R.S., so referral to the Planning Commission is not required; and

WHEREAS, the Board received fifty-nine (59) written requests from property owners for exclusion from the District under Section 32-1-203(3.5)(a), C.R.S.; and

WHEREAS, this Board did on July 22, 2021, conduct a full public hearing on this matter, taking evidence establishing the jurisdiction of the Board to hear this matter, and further taking evidence regarding the substantive issues set forth in Section 32-1-203, C.R.S., at which hearing all interested parties were afforded an opportunity to be heard; and

WHEREAS, this Board has fully considered the Service Plan and all testimony and other evidence presented to it in this matter relating to the Service Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF LAKE, STATE OF COLORADO:

Section 1. The recitals above are incorporated into this Resolution as the findings and determination of the Board.

Section 2. The Board hereby determines that all of the jurisdictional and other requirements of Sections 32-1-202 and 32-1-204, C.R.S., have been fulfilled, including those relating to the filing and form of the Service Plan, the form and publication of the public notice of the hearing on the Service Plan and the type of public hearing held herein.

Section 3. Based upon the information contained within the Service Plan and evidence presented to the Board at the hearing, the Board hereby finds and determines as follows:

A. That the proponents met the burden of proof that granting the requests for exclusion from the District submitted by certain property owners would not be in the best interests of the community or the proposed special district.

B. That there is sufficient existing and projected need for organized service in the area to be serviced by the District;

C. That the existing service in the area to be served by the District is inadequate for the present and projected needs;

D. That the District is capable of providing economical and sufficient service to the area within their proposed boundaries; and

E. That the area included in the District has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

Section 4. The Board hereby finds and determines that:

A. The issues of whether the District should be organized and taxes should be increased to pay for District services are questions that should be decided by the eligible electors of the proposed District as a matter of self-determination for the Pan-Ark Estates community; and

B. Given the state of the roads within the Pan-Ark Estates community, it is of the utmost importance that the Proponents be given the opportunity to submit the proposed organization and TABOR ballot measures to the District's eligible electors at the November 2, 2021 election; and

C. The Board does not have a policy requiring Lake County Planning Commission review of a proposed Service Plan under Sections 32-1-202(1)(a) and 30-28-112, C.R.S.

D. The Special District Act enables the Board to submit the Service Plan to the County Planning Commission, but gives the Board full discretion with regard to whether to accept the County Planning Commission's recommendations.

E. In the interest of time, the Board has decided to reserve submission of the Service Plan to the Planning Commission and proceed with approval of the Service Plan in order to enable the Proponents to submit the ballot measures to eligible electors on November 2, 2021.

Section 5. Upon approval of the District by the electors, the District Board shall provide an annual report and consult with Lake County Road and Bridge Department prior to adopting each annual budget for the District.

Section 6. The Service Plan of the proposed District shall be and is hereby approved in the form attached hereto as Exhibit A and incorporated herein by this reference.

Section 7. The Clerk to the Board is hereby directed to advise the Proponents in writing of this action and to attach a certified copy of this Resolution for the purpose of filing the same with the District Court of Lake County.

Section 8. All Resolutions, or parts thereof, in conflict with the provisions hereof, are hereby repealed to the extent of such conflict only.

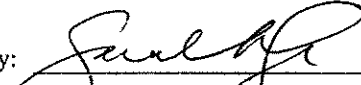
Section 9. This Resolution, immediately upon its passage, shall be authenticated by the signatures of the Board of County Commissioners and the County Clerk and Recorder and sealed with the corporate seal of the County.


Section 10. This Resolution is necessary for the public health, safety and welfare of the citizenry of the County of Lake, State of Colorado.

MOVED, READ, FINALIZED AND ADOPTED by the Board of County Commissioners of the County of Lake, State of Colorado, at its special meeting held the 26th day of July 2021.

COUNTY OF LAKE, STATE OF
COLORADO, By and Through Its
BOARD OF COUNTY COMMISSIONERS

By:



Sarah Mudge, Commissioner


Kayla Marcella, Commissioner
RECUSED

Jeff Fiedler, Commissioner



Attest:



Patricia Berger
Clerk to the Board of
County Commissioners

EXHIBIT A

(SERVICE PLAN AS APPROVED BY BOARD OF COUNTY COMMISSIONERS)

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Patricia Berger
Lake County

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SERVICE PLAN
FOR THE
PAN-ARK ESTATES METROPOLITAN DISTRICT

1. INTRODUCTION

This Service Plan is being submitted for the Pan-Ark Estates Metropolitan District (the “**District**”) to be located within Lake County, Colorado (the “**County**”). The District shall be an independent unit of local government, separate and distinct from the County. The District may choose to do business as “Pan-Ark Estates” or a similar designation.

Pan-Ark Estates is a semi-rural community located above Twin Lakes in an unincorporated portion of the County. The Pan-Ark Estates Home and Property Owners Association (the “**HOA**”), originally formed in 1977, has owned, operated, and maintained many of the shared community improvements and facilities for Pan-Ark Estates since its organization. The HOA is funded entirely through voluntary payment of membership dues, which have historically not been uniformly paid by all residents and property owners. Currently, only about one-third of property owners pay membership dues. As a result, the HOA has been unable to finance and acquire equipment necessary for proper maintenance of public improvements which benefit the community. No existing governmental entity has indicated a willingness to provide these improvements and services for the community.

Thus, after careful analysis and projections for the costs of providing such community services, the HOA Board of Directors has determined the formation of a metropolitan district which could raise revenue by an operating mill levy and transfer of ownership and responsibility for maintaining these public improvements to the District would be the most effective way to serve the community. It is anticipated that the HOA would dissolve after successful organization of the District and transfer of all assets to the District.

This Service Plan is prepared and submitted in accordance with Title 32, Article 1, C.R.S. (the “**Special District Act**”) as one of the initial steps in organizing the District.

The contents of this Service Plan will provide the basis for the formation, operation and financial management of the District. This Service Plan has been designed with sufficient flexibility to enable the District to provide required services and facilities under evolving circumstances, without the need for numerous amendments. The District will be governed by a five-member Board of Directors (the “**District Board**”) comprised of owners and residents in the District, who will be able to make decisions based upon the future needs of the community.

2. **DISTRICT BOUNDARIES AND SERVICE AREA**

The District’s Service Area covers the semi-rural community of Pan-Ark Estates located above Twin Lakes. Pan-Ark Estates includes the Refiling of Twin Lakes Addition No. 1A of the Mount Elbert Plamor Ranch, the Twin Lakes Addition No. 1B of the Mount Elbert Plamor Ranch, and the Twin Lakes Addition No. 1-C of the Mount Elbert Plamor Ranch as such subdivision plats are recorded in the real property records for Lake County, Colorado, under Reception Nos. 233815, 230598, and 235796, respectively. The District’s boundaries include all of the North 1/2 of Section 9 and the South West 1/4 of Section 10, Township 11 South, Range 80 West of the 6th Principal Meridian, Lake County, Colorado, and are consistent with the current area served by the HOA (the “**District Boundaries**”). A map of the District Boundaries is attached hereto as Exhibit A.

3. **Population Projections and Assessed Valuation**

The District Boundaries currently include approximately 480 acres of residential property with 1,156 total lots. The estimated population of the District at full build-out is approximately 2,589 people. The current assessed value of all property within the District Boundaries is estimated for the purposes of this Service Plan to be approximately \$6.54 million (the actual assessed value will be certified by the County Assessor). There are currently approximately 110 residential homes constructed in the District Boundaries and the District’s assessed value is anticipated to increase as additional lots are improved and homes are constructed.

4. **PROPOSED POWERS, IMPROVEMENTS AND SERVICES**

(a) **Powers of the District**

The District shall have all the powers, and may provide any of the improvements (collectively the “**Public Improvements**”) and services, of a metropolitan district under the Special District Act, as determined by the Board from time to time. The primary initial responsibilities of the District will be to own, operate and maintain the community’s roads, including without limitation those established via easements, as well as common areas, and related improvements. Future responsibilities the Board may undertake include wildfire mitigation.

(i) *Operations and Maintenance.* The District shall acquire, construct, maintain, relocate, operate, and finance the Public Improvements. The District shall be authorized, but not obligated, to construct, own, operate and maintain Public Improvements that may be dedicated to the County or other public entity.

(ii) *Construction Standards.* The District will to the fullest extent practical or as required by law ensure that all Public Improvements are maintained in

accordance with the standards and specifications of the County and any other governmental entities having proper jurisdiction. Neither the County nor any other governmental entity shall be required to inspect Public Improvements or take any other action in order to enforce this provision.

(b) Preliminary Engineering Survey

The most pressing Public Improvement for the District to operate and maintain are the roads. An estimate of the initial anticipated costs of maintaining roads within the District Boundaries, including financing the acquisition of a road grader and other appropriate and necessary equipment and labor for maintenance and snow removal of roads. The District is not currently anticipated to construct any land or Public Improvements; rather, all Public Improvements would be dedicated by the HOA at no charge. The District may provide for operation and maintenance of other Public Improvements as determined from time to time by the duly elected District Board, which will have the flexibility to adjust to the future needs and conditions of the District's constituents.

Since no new Public Improvements are planned, there is no need to prepare a preliminary engineering or architectural survey or a general description of the facilities to be constructed and the standards of such constructions. Any facilities or improvements constructed by the District in the future will be designed and constructed in accordance with the standards and specifications of the County.

(c) Eminent Domain Limitation

The District shall not exercise its statutory power of eminent domain or dominant eminent domain for the purpose of condemning property to widen or relocate roads within the District Boundaries.

5. FINANCIAL PLAN

(a) District Revenues

It is anticipated that the District will be funded by a proposed property tax levy which is expected to generate \$100,000 in 2022, with the actual tax increase subject to approval by the District's voters at an election under Article X, Section 20 of the Colorado Constitution ("TABOR"). (For comparison, the HOA's annual budget of approximately \$70,000 has been unable to keep up with the community's needs.) The tax levy is expected to ensure the District has the flexibility to allow for a dynamic economic environment without placing too large of a burden on the taxpayers.

In addition, the District may assess and impose fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(1), C.R.S., as amended from time to time.

(b) Debt

The HOA has no debt, nor is any debt currently anticipated to be incurred by the District. The District Board may issue enterprise revenue bonds and/or seek voter approval to issue general obligation debt under TABOR in the future.

The interest rate on any debt is expected to be the market rate at the time such debt is issued. The proposed maximum interest rate on any debt is 18% and the proposed maximum underwriting discount is 5%. Debt, if and when issued, will comply with all relevant requirements of this Service Plan and applicable laws.

The District shall not pledge any revenue or property of the County as security for the indebtedness set forth in this Service Plan. Approval of this Service Plan shall not be construed as a guarantee by the County of payment of any of the District's obligations, nor shall anything in the Service Plan be construed so as to create any responsibility or liability on the part of the County in the event of default by the District in the payment of any such obligation.

(c) Financial Plan

The Financial Plan for the District is attached hereto as Exhibit B. As set forth in the Financial Plan, revenue assumptions, like all other financial information contained therein, are based on reliable historical data from the records, including those of the HOA. The District's tax base is expected to be stable or increasing, and the development and sale of real property is not expected to be necessary to assure economic security. If unforeseen changes result in operational shortfalls, the District Board will have to consider raising its service fees, seeking voter approval for a mill levy increase, seeking voter approval for the imposition of a sales tax, or making adjustments to services. The Financial Plan sets forth reasonably estimated projections, and such projections shall not serve as limitations on the District's financial capabilities except as otherwise expressly set forth in the Service Plan. The District does not currently anticipate entering into any intergovernmental agreements, but will have authority to do so at the discretion of the District Board.

(d) TABOR Compliance

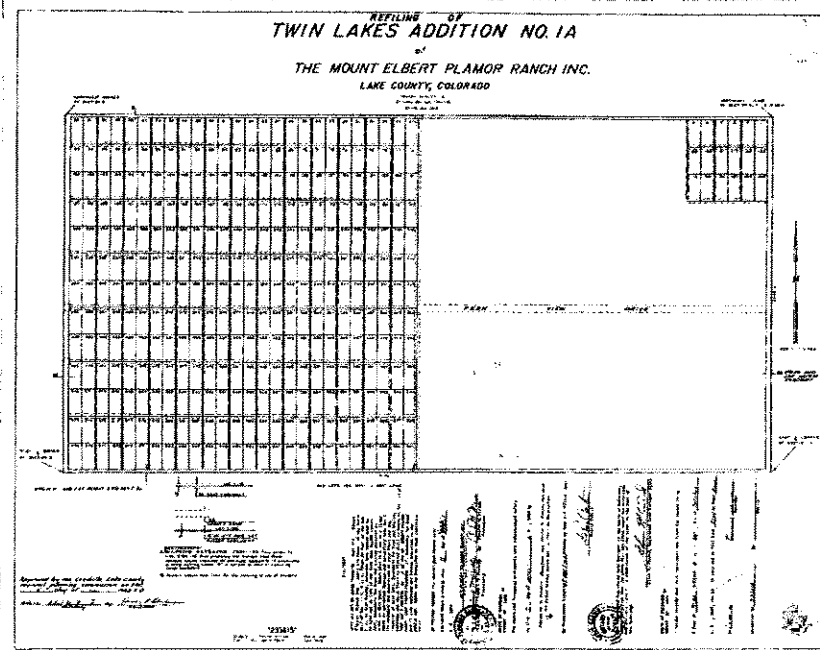
The District will comply with the provisions of TABOR. In the discretion of the Board, the District may set up other qualifying entities and enterprises to manage, fund, construct and operate facilities, services, and programs. To the extent allowed by law, any entity created by the District will remain under the control of the District's Board.

6. CONCLUSION

The HOA has served the Pan-Ark Estates community since its formation in 1977. It has evolved with the community but its dependence upon voluntary payment of membership dues has led the HOA Board to the determination that establishment of the District is the only responsible and sustainable path to provide quality service to the Pan-Ark Estates community. It is in the best interests of the community to have a financially stable organization capable of maintaining and providing Public Improvements for the benefit of the entire community. Financial responsibility should not be placed on the few who pay membership dues, but should be shared fairly by all the residents and taxpayers who benefit from the shared community assets and Public Improvements. As required by Section 32-1-203(2), C.R.S., this Service Plan establishes that:

- (1) That there is sufficient existing and projected need for organized service in the area to be serviced by the District;
- (2) That the existing service in the area to be served by the District is inadequate for the present and projected needs;
- (3) That District is capable of providing economical and sufficient service to the area within their proposed boundaries;
- (4) That the area included in the District has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis;
- (5) That adequate service is not, or will not be available to the area through existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis;
- (6) That the facility and service standards of the District are compatible with the facility and service standards of the County and each municipality which is an interested party under Section 32-1-204(1), C.R.S.;
- (7) The proposal is in substantial compliance with any master plan adopted pursuant to Section 30-28-106, C.R.S.;
- (8) That the proposal is in compliance with any duly adopted city, county, regional, or state long-range water quality management plan for the area; and
- (9) The powers and of services of the District will be in the best interests of the area proposed to be served.

EXHIBIT A
Maps of District Boundaries



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Patricia Berger
Lake County

TWIN LAKES ADDITION NO. 1B
of
THE MOUNT ELBERT PLAMOR RANCH
LAKE COUNTY, COLORADO

MAP AS SHOWN
IN SECTION 18

SECTION 18
TWP. 6 N. R. 10 W.

SECTION 18
TWP. 6 N. R. 10 W.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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THE STATE OF COLORADO, County of Lake, do hereby certify that the within and foregoing plat is a true and correct copy of the original as shown to the undersigned by the applicant.

STATEMENT

I, the undersigned, County Clerk of Lake County, Colorado, do hereby certify that the within and foregoing plat is a true and correct copy of the original as shown to the undersigned by the applicant.

In presence of the undersigned, the following persons have appeared before me, to wit:

Patricia Berger *[Signature]*

Witness my hand and the seal of my office at the City and County of Lake, Colorado, this 27th day of July, 2021.



APPROVED AND FORWARDED:
[Signature]

SECTION 18
TWP. 6 N. R. 10 W.

Approved by the Landbath, Ltd.
County of Lake, Colorado
[Signature]



Witness my hand and the seal of my office at the City and County of Lake, Colorado, this 27th day of July, 2021.

EXHIBIT B
Financial Plan

PAN ARK ESTATES METROPOLITAN DISTRICT
PROJECTED BUDGET
JAN 2022 TO DEC 2022

Projected Tax Revenues	plus	100,000.00	PROJECTED TAX REVENUES
Other Income	plus	5,000.00	MEWA CONTRIBUTION
EXPENSES	minus	92,748.96	PROJECTED EXPENSES
BALANCE		12,251.04	PROJECTED BALANCE

EXPENSES				PROJECTED
ADMINISTRATIVE/OFFICE	per month	months		TOTAL
Bookkeeping	200.00	12	2400.00	
Quickbooks			480.00	
Office Supplies			90.00	
Annual Meeting/Picnic			500.00	
Website / Email Blast			300.00	
				3,770.00
EQUIPMENT/MAINTENANCE	per month	months		TOTAL
906 CAT Rental	1,508.58	9	18102.96	
Fuel, Oil, Etc.			3000.00	
Tires, Chains, Etc			1000.00	
Projected grader payment			12000	
Grader Maintenance			5200	
				39,302.96
OPERATOR COSTS				TOTAL
Equipment operators			20000.00	
				20,000.00
PROJECTS/MAINTENANCE (SUMMER)				TOTAL
Road Base & Mag Chloride			2000	
Road Signs				
Culverts				
				2,000.00
LEGAL & PROFESSIONAL				TOTAL
Attorney Fees			20000.00	
				20,000.00
INSURANCE / FEES / TAXES				TOTAL
License Plates Plow Truck			300.00	
Insurance Plow Truck			1060.00	
HOA / Inland Marine			3879.00	
Property taxes (pavilion)			287.00	
Equipment operators liability insur.			650.00	
				6,176.00
UTILITIES				TOTAL
Electric - Sangre De Cristo			1500.00	
				1,500.00
TOTAL OF EXPENSES				TOTAL PROJECTED
				92,748.96

STATE OF COLORADO
COUNTY OF LAKE

I, Patricia A. Berger, Clerk and Recorder
to and for said County, in the State aforesaid, do hereby
certify that the within and foregoing is a true and correct copy of
a DEED OF TRUST, Reception No. 382137
as it appears recorded in my office this day, JULY 27, 2021
in book page witness my hand and official seal
this JULY 27, 2021

PATTY BERGER CLERK AND RECORDER

BY 



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