

BGC

RESOLUTION NO. 24 – 331 Amended

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

**RESOLUTION DECLARING ORGANIZATION OF EL PASO COUNTY PUBLIC  
IMPROVEMENT DISTRICT NO. 5, EL PASO COUNTY, COLORADO, AND  
ORDERING ELECTION ON NOVEMBER 5, 2024**

WHEREAS, the Board of County Commissioners of El Paso County Colorado (“Board”) is in receipt of a Petition for Organization of El Paso County Public Improvement District No. 5, El Paso County, Colorado (the “District”), submitted in accordance with the provisions of Section 30-20-501, *et seq.*, Colorado Revised Statutes (the “PID Act”); and

WHEREAS, the Petition states that it has been signed by taxpaying electors representing the owners of one hundred percent (100%) of the taxable real property described in the Petition as the initial boundaries of the District, and, as permitted by Section 30-20-504 (4), C.R.S., contains a request for a waiver of the requirements for notice, publication, hearing, and the filing of a bond, as provided in Section 30-20-506, -507, and -508, C.R.S.; and

WHEREAS, the Board has determined that the Petition has been presented in conformity with the requirements of the PID Act and that the allegations of the Petition are true; and

WHEREAS, the Board is authorized by Section 30-20-508 (4)(c), C.R.S. to adopt a resolution declaring the District organized without any notice, hearing, election, or the filing of a bond, provided that the Petition has been signed by one hundred percent of the owners of the taxable real property constituting the boundaries of the District as described in Exhibit A to the Petition, when the Petition contains a request for waiver of such proceedings; and

WHEREAS, the Board has determined that, based upon information contained in the tax rolls of the County, from the last official registration list, and from such other evidence that has been presented by Petitioner in connection with the filing of the Petition, that the Petition has been signed by taxpaying electors representing one hundred percent (100%) of the owners of taxable real property constituting the boundaries of the District as described in Exhibit A to the Petition; and

WHEREAS, the organization of the District will serve the best interests of the property included or to be included in the future in to the boundaries of the District, as well as the best interests of the County generally.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of El Paso County, Colorado as follows:

1. Procedural Findings and Determinations. The Board hereby finds and determines:



- a. That the contents of the Petition satisfy the requirements of Section 30-20-505, C.R.S. and the allegations of the Petition are true;
- b. That, based upon information contained in the tax rolls of the County, the last official voter registration list, and such other evidence that has been presented by Petition in connection with the filing of the Petition, the Petition has been signed by taxpaying electors representing one hundred percent (100%) of the owners of taxable real property constituting the boundaries of the District as described in Exhibit A to the Petition;
- c. That the Petition contains a request, pursuant to Section 30-20-505 (4), C.R.S., for a waiver of the requirements for notice, publication, hearing, and the filing of a bond, as provided in Sections 30-20-506, -507, and -508, C.R.S.;
- d. That the Petitioner's request for a waiver of notice, publication, hearing, election, and filing of a bond is granted;
- e. That it has not been shown that the proposed public improvements will not confer a general benefit on the District, or that the cost of the improvements to be funded through the Maximum Mill Levy would be excessive as compared with the value of property within the District;
- f. That the Board therefore has authority under Section 30-20-508 (4)(c), C.R.S. to adopt a resolution declaring the District organized without any notice, publication, hearing, election, or the filing of a bond; and
- g. That the organization of the District will confer a general benefit on the property within the proposed District and will serve a public purpose and promote the health, prosperity, security, and general welfare of the County.

2. Declaration of Organization of District. The "El Paso County Public Improvement District No. 5," El Paso County, Colorado is hereby declared organized. The District shall be a public or quasi-municipal subdivision of the State of Colorado and a body corporate with the limited powers set forth in the PID Act and otherwise subject to the provisions and limitations of this Resolution.

3. Purposes of District. The District is being organized as part of the implementation of the El Paso County Major Transportation Corridors Plan ("MTCP"), the Road Impact Fee Study ("Study"), and the El Paso County Road Impact Fee Program ("Fee Program"). The District will be authorized to provide those types of public improvements further described in Paragraph 6 of this Resolution by any means permitted under the PID Act, as it may be amended from time to time, subject to limitations set forth in this Resolution. It is anticipated that additional public improvement districts may be organized in the future by separate Petition which, collectively with the District, are expected to provide for such public improvements. The District is being organized to coordinate its activities with El Paso County Public Improvement District No. 1 ("District No.

1”) pursuant to one or more intergovernmental agreements by which the Revenues (hereafter defined) of the District will be pledged to District No. 1 to facilitate the provision of major transportation improvements as set forth in the MTCP, the Study, or the Fee Program.

4. District Boundaries. The initial boundaries of the District shall be those described in Exhibit A, attached hereto and incorporated herein by reference. The initial boundaries are subject to modification in accordance with the PID Act. Any petition by the owners of property seeking inclusion into the boundaries of the District shall require such property to be subject to all of the obligations of the District, both existing and future, from and after the date of approval of such inclusion by the Board of Directors (hereafter defined).

5. Board of Directors. The Board shall constitute ex officio the board of directors of the District pursuant to Section 30-20-510, C.R.S. (the “Board of Directors”).

6. Public Improvements Authorized. The District shall be authorized to provide for those public roadway improvements and appurtenances as are included in the MTCP, the Study, or the Fee Program, as the same may be modified in the future by the El Paso County Planning Commission or Board pursuant to notice and public hearings held with respect thereto (“Future Program Documents”). Subject to the approval of the Advisory Board (as hereafter defined), the District may fund additional roadway improvements (including but not limited to grading, paving, curbs, gutters, traffic signage and signalization, sidewalks, street lighting, and storm drainage) (the “Advisory Board Approved Improvements”). The public improvements described in the MTCP, the Study, the Fee Program, any Future Program Documents, or constituting Advisory Board Approved Improvements shall be referred to herein as the “Public Improvements.” The Public Improvements shall be the exclusive public roadway improvements and appurtenances the District is authorized to provide, and no further consent of the taxpaying electors of the District or election to approve such Public Improvements shall be required under Section 30-20-512 (1)(f), C.R.S. Any petition by the owner of taxable real property seeking inclusion into the District in the future shall contain an acknowledgement and consent on the part of the petitioner that the Public Improvements authorized to be provided by the District shall be as defined in this Resolution and that no further consent of the taxpaying electors of the District or election to approve any such Public Improvements shall be required under Section 30-20-512 (1)(f), C.R.S.

7. Powers and Limitations.

- a. The District shall have all of the powers granted to public improvement districts under the PID Act, as it may be amended from time to time.
- b. Notwithstanding the foregoing, and upon voter approval, the maximum mill levy that the District shall be authorized to impose (combined aggregate for debt service, operations, or capital improvements) shall be five (5) mills, provided that such maximum mill levy shall be adjusted up or down to account for changes in law or the method by which assessed valuation is calculated occurring after the date of organization of the District, so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted, are neither diminished nor enhanced as a result of such changes

(the "Maximum Mill Levy"), unless an increase in this mill levy shall be approved by the eligible electors of the District at an election called for such purpose and conducted in accordance with the applicable electors of the Uniform Election Code of 1992, being Articles 1 to 13 of Title 1, Colorado Revised Statutes. The Advisory Board shall be authorized to request the Board to conduct such an election, and the form of any such election questions shall be subject to approval by the Advisory Board (hereafter defined).

- c. The District shall be authorized to fund the costs of Public Improvements using revenues derived from the Maximum Mill Levy, proceeds of Debt issued by the District, and any other legally available funds (the "Revenues"), provided that such revenues are pledged or otherwise transferred to District No. 1 to be applied to the Fee Program by said District. The term "Debt" shall mean any instrument issued by the District with a term of greater than one fiscal year payable from any of the revenues lawfully available to the District.
- d. No property may be included within the boundaries of the District after December 31<sup>st</sup> of the eighth year following the year of approval of the first petition for inclusion into the District (the "Inclusion Deadline"). The Board of Directors may prescribe specific time limits for inclusion shorter than this period in its discretion.
- e. No Debt shall be issued by the District after twenty (20) years from the date of the Inclusion Deadline.
- f. No property tax shall be certified by the District for any purpose after twenty (20) years from the date of the Inclusion Deadline.
- g. The Board of Directors may adopt bylaws and/or rules and regulations establishing administrative procedures for the conduct of business by the District, the establishment of and qualifications for membership in the Advisory Board (as hereafter defined), and other matters as may be appropriate and necessary for the orderly conduct of business by the District.

8. Advisory Board. An Advisory Board has been created in connection with the organization of District No. 1, such Advisory Board to collectively represent all PIDs to be created to implement the Fee Program. The Board of Directors shall have the authority to create an additional advisory board for the District upon the petition of the owners of at least 51% of the taxable property within the District, such advisory board to be comprised of such persons, have such authority, and perform such functions as the Board of Directors may determine will serve the best interests of the property within the District.

9. Tax/Debt Election. As authorized by Section 30-20-508 (4)(a), C.R.S., the Board hereby orders that the question of incurring indebtedness or levying taxes to fund the costs of the Public Improvements, along with such other questions as may be necessary to effectuate the purposes for which the District is being organized, shall be submitted to an election of the eligible electors of the District to be held on November 5, 2024 by mail ballot (the "Election"). In connection therewith, the Board hereby appoints Steve Schleiker, El Paso County Clerk and Recorder, as the Designated Election Official for purposes of conducting the Election. The Board further orders that the Designated Election Official complete the holding of the Election in accordance with Article 13.5, Title 1, Colorado Revised Statutes and all other applicable laws. The Board hereby certifies the questions set forth in Exhibit B, attached hereto and incorporated herein by reference, to the 2024 local election ballot.

10. Indebtedness. No indebtedness of the District or any other obligation or liability of the District shall be construed as an indebtedness, obligation, or liability of El Paso County, and any bonds or other obligations issued by the District to fund Public Improvements shall contain a statement to this effect.

11. Resolution Conclusive. This Resolution shall finally and conclusively establish the regular organization of the District against all persons, unless an action attacking the validity of the organization is commenced in a court of competent jurisdiction within thirty (30) days after the date of adoption hereof.

12. Modification of Organizational Resolution. The terms and provisions of this Resolution may not be modified except as follows:

- a. By the filing of a petition to amend the Resolution signed by the owners of taxable real property constituting one hundred percent (100%) of the total valuation assessment within the District, and with the concurrence of said petition by the Advisory Board, following which the Board may adopt a resolution amending this Resolution as authorized without further proceedings;
- b. By the filing of a petition to amend the Resolution signed by not less than the owners of taxable real property constituting at least fifty-one percent (51%) of the total valuation for assessment within the District, and with the concurrence of the Advisory Board, followed by notice and conduct of a public hearing pursuant to Section 30-20-507, C.R.S., following which the BoCC shall order an election on the proposed amendment in accordance with the election procedures set forth in Section 30-20-508 (4)(a), C.R.S. by the eligible electors (as defined in Section 30-20-503 (1), C.R.S.) of the District; and if a majority of the votes cast at the election are in favor of the amendment, then the BoCC shall adopt a resolution amending the Resolution as authorized;
- c. By recommendation of the Advisory Board to the BoCC, followed by notice and conduct of a public hearing pursuant to Section 30-20-507, C.R.S.,

following which the BoCC may adopt an amended resolution without an election; or

- d. By initiation of the BoCC directly so long as the Advisory Board concurs, followed by notice and conduct of a public hearing pursuant to Section 30-20-507, C.R.S., following which the BoCC may adopt an amended resolution without an election.

Notwithstanding the foregoing, the BoCC may, in its discretion, order an election on the proposed amendment in accordance with the election procedures set forth in Section 30-20-508 (4)(a), C.R.S. by the eligible electors (as defined in Section 30-20-503 (1), C.R.S.) of the District, or otherwise conduct procedures by which approval by the property owners within the District of the proposed amendment would be obtained. Further, no amendment to the Resolution that would increase the Maximum Mill Levy (Section 7.b), extend the date for issuance of Debt (Section 7.e) or extend the period during which the Maximum Mill levy may be assessed (Section 7.f) may be made except pursuant to approval of the eligible electors of the District (as defined in Section 30-20-503 (1), C.R.S.) at an election held in accordance with the election procedures set forth in Section 30-20-508 (4)(a), C.R.S.

13. Dissolution. The Board shall be authorized to dissolve the District in accordance with the procedures set forth in Section 30-20-507, C.R.S.

14. Severability. If any section, subsection, paragraph, clause or other provision of this Resolution is held to be invalid, the invalidity of such section, subsection, paragraph, clause or other provision shall not affect any of the remaining provisions of this Resolution, the intent being that the same are severable.

15. Effective Date. This Resolution shall be effective immediately.

DONE THIS 27th day of August, 2024 at Colorado Springs, Colorado.

ATTEST:

By: \_\_\_\_\_  
Steve Schleiker  
County Clerk & Recorder



BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

By: Cami Bremer  
Cami Bremer, Chair

**EXHIBIT A**  
**Initial PID Boundaries**

**Lot 16 except the southeasterly 5 feet, Block 9, Widefield Heights Filing No. 2**

## **EXHIBIT B**

**SHALL EL PASO COUNTY PUBLIC IMPROVEMENT DISTRICT NO. 5, EL PASO COUNTY TAXES BE INCREASED BY UP TO \$1,000,000 ANNUALLY AND EACH YEAR THEREAFTER BY WHATEVER ADDITIONAL AMOUNTS MAY BE RAISED FROM THE IMPOSITION OF AD VALOREM PROPERTY TAXES LEVIED IN ANY FISCAL YEAR AT A RATE NOT TO EXCEED 5.000 MILLS, PROVIDED THAT SUCH MAXIMUM MILL LEVY SHALL BE ADJUSTED UP OR DOWN TO ACCOUNT FOR CHANGES IN LAW OR THE METHOD BY WHICH ASSESSED VALUATION IS CALCULATED SO THAT, TO THE EXTENT POSSIBLE, THE ACTUAL TAX REVENUES GENERATED BY THE MILL LEVY, AS ADJUSTED, ARE NEITHER DIMINISHED NOR ENHANCED AS A RESULT OF SUCH CHANGES, WITH ALL REVENUES GENERATED AND THE EARNINGS ON SUCH REVENUE TO BE COLLECTED AND SPENT EACH YEAR WITHOUT LIMITATION BY THE REVENUE AND SPENDING LIMITS OF, AND WITHOUT AFFECTING THE DISTRICT'S ABILITY TO COLLECT AND SPEND OTHER REVENUES OR FUNDS UNDER, ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, THE LIMITS IMPOSED ON INCREASES IN PROPERTY TAXATION BY SECTION 29-1-301, C.R.S., OR ANY OTHER LAW WHICH PURPORTS TO LIMIT THE DISTRICT'S REVENUES OR EXPENDITURES AS IT CURRENTLY EXISTS OR AS IT MAY BE AMENDED IN THE FUTURE?**

**SHALL EL PASO COUNTY PUBLIC IMPROVEMENT DISTRICT NO. 5, EL PASO COUNTY BE AUTHORIZED TO COLLECT, RETAIN, AND SPEND THE FULL AMOUNT OF ALL REVENUES FROM ANY SOURCE WHATSOEVER, INCLUDING BUT NOT LIMITED TO, TAXES, FACILITY FEES, IMPACT FEES, SERVICE CHARGES, INSPECTION CHARGES, ADMINISTRATIVE CHARGES, GRANTS, OR ANY OTHER FEE, RATE, TOLL, PENALTY, OR CHARGE AUTHORIZED BY LAW OR CONTRACT TO BE IMPOSED, COLLECTED OR RECEIVED BY THE DISTRICT, SUCH AMOUNTS TO CONSTITUTE A VOTER-APPROVED REVENUE CHANGE AND BE COLLECTED, RETAINED AND SPENT BY THE DISTRICT WITHOUT REGARD TO ANY SPENDING, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, THE LIMITS IMPOSED ON INCREASES IN PROPERTY TAXATION BY SECTION 29-1-301, C.R.S., OR ANY OTHER LAW WHICH PURPORTS TO LIMIT THE DISTRICT'S REVENUES OR EXPENDITURES AS IT CURRENTLY EXISTS OR AS IT MAY BE AMENDED IN THE FUTURE, AND WITHOUT LIMITING IN ANY YEAR THE AMOUNT OF OTHER REVENUES THAT MAY BE COLLECTED, RETAINED, AND SPENT BY THE DISTRICT?**

**SHALL EL PASO COUNTY PUBLIC IMPROVEMENT DISTRICT NO. 5, EL PASO COUNTY BE AUTHORIZED TO ENTER INTO ONE OR MORE INTERGOVERNMENTAL AGREEMENTS WITH THE STATE OR ONE OR MORE POLITICAL SUBDIVISIONS OF THE STATE FOR THE PURPOSE OF FINANCING THE COSTS OF ANY PUBLIC IMPROVEMENTS, FACILITIES, SYSTEMS, PROGRAMS, OR PROJECTS WHICH THE DISTRICT MAY LAWFULLY PROVIDE, OR FOR THE PURPOSE OF PROVIDING FOR THE OPERATIONS AND MAINTENANCE OF THE DISTRICT AND ITS FACILITIES AND PROPERTIES, WHICH AGREEMENTS MAY CONSTITUTE MULTIPLE FISCAL**



YEAR FINANCIAL OBLIGATIONS OF THE DISTRICT TO THE EXTENT PROVIDED THEREIN AND OTHERWISE AUTHORIZED BY LAW, AND IN CONNECTION THEREWITH SHALL THE DISTRICT BE AUTHORIZED TO MAKE COVENANTS REGARDING THE ESTABLISHMENT, PLEDGE AND USE OF AD VALOREM TAXES, RATES, FEES, TOLLS, PENALTIES, AND OTHER CHARGES OR REVENUES OF THE DISTRICT, AND COVENANTS, REPRESENTATIONS, AND WARRANTIES AS TO OTHER MATTERS ARISING UNDER THE AGREEMENTS, ALL AS MAY BE DETERMINED BY THE DISTRICT BOARD OF DIRECTORS?