

## **Procedures for Inclusion of Property into the Cascade Metropolitan District No. 1**

At several meetings of the Board of Directors (the “Board”) of the Cascade Metropolitan District No. 1 (the “District”), many customers in attendance have expressed continued frustration and concern with the fact that the District’s customers are not located within the boundaries of the District and, therefore, are not afforded the opportunity to vote in District elections or qualify to run for the Board of Directors for the District. Others have requested that the District collect its revenues through taxes instead of fees.

For those who are not familiar with the District’s boundaries, they consist of acreage in the mountains west of US Highway 24 and do not include any of the current customers’ property. For water and sanitation districts, it is very common for service to be provided to properties entirely outside of their boundaries because the service is often based entirely on fees, not property taxes. In recent years, there has been a shift in this structure to have service provided within the District’s boundaries so that customers can not only vote and participate on the boards but also so that the District can collect revenues through a tax base in addition to fees, which taxes are a much more reliable source of revenue for districts and carry the bonus of allowing customers to deduct the taxes on their income tax returns. Before a district can impose taxes on property within its boundaries, it is required to have the authorization of its electors, so the taxing power is not automatic.

As a result of the discussions at the August and previous meetings, many members of the public expressed their desire to petition to include their property within the District’s boundaries. The statutes governing water and sanitation districts set forth these requirements. There are two ways in which property owners can seek inclusion: 1) petition by individual property owners; and 2) resolution of the Board or community petition with a community election.

### **1. Petition for Inclusion by Individual Property Owners.**

This process is a piecemeal approach in that each individual property owner can sign a petition to include his/her property. This approach is not as practical because it likely results in a “Swiss cheese” configuration where you have pockets of owners within the District and pockets of those outside the boundaries, which, oftentimes, results in inequities to all customers. Notwithstanding, it does allow for the inclusion of individual properties into the District’s boundaries.

A form of petition for inclusion is posted on legal counsel’s website ([www.whitebearankele.com](http://www.whitebearankele.com)) and can be completed by any property owner and submitted to Leon Gomes, the District’s manager ([lgomes@sdmsi.com](mailto:lgomes@sdmsi.com)), or Jennifer Tanaka, the District’s general counsel ([jtanaka@wbapc.com](mailto:jtanaka@wbapc.com)). The petition must be signed by all owners of the property that is seeking inclusion. If the property is owned by an entity such as a corporation or company, then the authorized representative of the entity must sign the petition.

Upon submittal of the petition, the District will publish a notice of public hearing on the petition and the Board will consider the approval of the inclusion at a public meeting. Upon adoption of a resolution for inclusion, legal counsel submits a motion and proposed order to the El Paso

County District Court which then issues an Order for Inclusion. Legal counsel then records the order and the property is, at that point, deemed included into the District's boundaries.

## **2. Board Resolution or Community Petition and Community Election.**

Colorado law provides a second method in which the whole community can be included in a single action. The process begins with a petition which is either initiated by the property owners themselves through signature of no less than 20% or 200, whichever number is less, of the taxpaying electors of the area proposed for inclusion, or through the adoption of a resolution by the Board.

The Board then conducts a public hearing to consider whether the inclusion should be allowed. The Board is required to provide written notice to each property owner within the area proposed for inclusion notifying them of the hearing date, time and location and setting forth specific information regarding the District so that owners are aware of the impacts of the inclusion on their property. Property owners are able to attend the hearing and anyone who believes the Board should not allow the inclusion has to show cause in writing. If property owners representing more than 50% of the area to be included object in writing at least 10 days before this hearing, then the inclusion cannot proceed beyond this point.

If the Board approves the inclusion, it adopts a resolution to this effect and files the resolution with the El Paso District Court. The Court then orders an election of the electors within the area proposed for inclusion. This election is conducted in the same manner as other elections in that it follows the election laws prescribed for districts. Unlike director elections conducted to date, this election cannot be cancelled since there is a question placed before the voters. If a majority of the votes cast are in favor of the inclusion, then the Court enters an order declaring the property included. If the majority of votes are against the inclusion, then the property is not included.

This process ensures that all property within the community is included so that you do not have the piecemeal approach described above; however, the costs associated with such an election are likely to be approximately \$20,000.

Customers are welcome to submit individual petitions to the Board or a community petition to the Board for consideration. Should there be any questions regarding the process, please do not hesitate to contact the District's Manager, Leon Gomes (303-987-0835; lgomes@sdmsi.com) or the District's General Counsel, Jennifer Tanaka (303-858-1800; jtanaka@wbapc.com).