

September 10, 2024

Arapahoe County Public Works, Planning Division
Attn: Ms. Kathleen Hammer
6924 S. Lima Street
Centennial, CO 80112

Re: Eastgate Metropolitan District Nos. 1-6
Response to Referral Comments Received July 2, 2024 and August 26, 2024

Dear Ms. Hammer,

This letter is in response to the questions raised in your email of July 2, 2024 and August 26, 2024 regarding the service plan for the Eastgate Metropolitan District Nos. 1-6 (the “**Districts**”).

July 2, 2024

1. There is a difference in the commercial sq ft in the service plan, 385,000, and financial model 405,000.

The service plan has been updated to reflect the financial model. The commercial square footage in the financial model is the current estimated commercial square footage for the project.

2. The model assumes the mills for District 4-6 go up to 58 which is over the cap. It could be because you are assuming a change in the assessment rate but that needs to be clear. Our consultant doesn’t think you need to do that because you are running it a 1.65x debt service coverage.

Please see the revised financial model in the revised service plan draft showing 50 mills for all Districts. The 58 mills was based on an assumed adjustment in the mill levy cap to maintain revenue neutrality. Please note that the service plan does allow for an adjustment to the debt service mill levy cap to account for changes in the assessment ratios or method of calculating actual values after January 1, 2024.

3. The service plan says the costs of all improvements, District and Regional, are \$54.3 million which matches up with the Exhibit however the financial plan generates \$66 million in project funds.

The revised financial plan shows a potential total project fund of \$54.3 million, reduced from \$66 million.

Further, and as noted by Hilltop Securities in their letter of June 28, 2024, the actual amount of debt that the Districts will issue will ultimately be limited by the mill levy cap, the market at the time of issuance, the amount of development within the project, and the costs of the public improvements. *See Hilltop Security letter, June 28, 2024, pp. 3-4* (concluding that the Districts will be capable of extinguishing all bonds within the parameters established with the Service Plan).

4. Hilltop Securities Letter, June 28, 2024

No response required.

August 26, 2024

1. “What does applicant have to support a finding of sufficient evidence under [§ 32-1-203(2)(c), C.R.S.]?”

Section 32-1-203(2)(c), C.R.S. requires a finding that the “proposed special district is capable of providing economical and sufficient service to the area within its proposed boundaries.”

Here, the Districts’ financial plan shows that it has the economic ability to provide the services set forth in the service plan. The financial plan shows that the Districts have the capacity to issue \$68.836 million in bonds, which will generate a project fund of \$38.7 million for District Improvements - Service Area Improvements and \$15.6 million for District Improvements– Regional Improvements. The project fund amounts shown in the financial plan equal the project capital costs as set forth in the service plan of \$38.72 million for District Improvements - Service Area Improvements and \$15.59 million for District Improvements - Service Area Improvements.

Based on the projected development of the area, these services are sufficient to provide the public improvements needed for the Eastgate Development.

2. Can you provide justification of the need to include sewer and water in the service plan when sewer and water are going to be provided by the existing special districts.

Water service will be provided by the City of Aurora. However, the infrastructure to provide the water service will need to be constructed by the Districts. The service plan has been revised to reflect the limitation on providing water service.

Sewer service will be provided by the City of Aurora. However, the infrastructure to provide sewer service will need to be constructed by the Districts. The service plan has been revised to reflect the limitation on providing water service.

3. Please identify who will own and operate the parks and trails within the Eastgate Development.

The Districts will own and operate the local and neighborhood parks and trails within the Eastgate Development.

4. Estimated costs to organize the Districts seems low.

A revised estimate is included in the service plan.

5. Development Agreement/Vesting

No response required – to be addressed in a separate development agreement.

6. The service plan mentions Rangeview Metropolitan District and City of Aurora as potential water and sewer providers. The 1041 states the City of Aurora will be the water and wastewater provider.

The 1041 agreement currently specifies that water and wastewater services will be provided by the City of Aurora. However, to maintain flexibility, the Districts will continue to evaluate water and sewer providers and may seek water and sewer services from a different provider in order to secure the most favorable rates, fees, water quality, and services for the Eastgate Development.

Please feel free to contact me or Jeffrey Keeley with any questions or to discuss further.

Sincerely,

ERB LAW, LLC



Jeffrey E. Erb, Esq.

Cc: Jeffrey Keeley

March 27, 2024

Arapahoe County Public Works, Planning Division
6924 S. Lima Street
Centennial, CO 80112

Re: Eastgate Metropolitan District Nos. 1-6
Response to Referral Comments Received February 28, 2024

Dear Planning Division,

This letter is provided in response to the February 28, 2024 referral comments and redlines provided for the Eastgate Metropolitan District Nos. 1-6 proposed Service Plan.

Referral comments were received from:

1. Arapahoe County
 - a. Public Works & Development: Kat Hammer
 - b. Engineering
2. Southeast Metro Stormwater Authority
3. Hilltop Securities

Response

1. Arapahoe County
 - a. Public Works & Development: Kat Hammer

i. *Comment:* Please explain why there is no cap on the Districts' Operations and Maintenance or Regional Improvements Mill Levy. *See February 28, 2024 Email.*

Response: There is no statutorily required limit on the mill levy for operations and maintenance (which includes the Regional Improvements Mill Levy). Because of this, no cap is set in the Service Plan to allow the Districts maximum flexibility to determine the appropriate funding sources (taxes or fees) to support Districts' services as well as to ensure that adequate revenue is available for the Districts to provide the required services. Considering the size and significant time horizon connected to the development, the Districts do not want to be in a position where a mill levy cap is set at a level that prevents the Districts from providing the services needed for the development. Nevertheless, the Districts estimate that a total mill levy of approximately 75 mills will be sufficient to support the services needed and will endeavor to set the mill levy at the level needed to provide for debt service obligations, operational expenses and to build capital reserves as needed.

In addition, this Service Plan language is consistent with the approved service plans for the Sky Ranch Metropolitan District Nos. 1-8, which are located immediately to the east and south of the Eastgate Development. The Sky Ranch Metropolitan Districts' service plans specifically state that there is no cap on the operations and maintenance (and by implication, Regional Improvement Mill Levy). *See, e.g., Service Plan for Sky Ranch Metropolitan District No. 6, §§ IX, X.D (clarifying that there is no cap on the operations and maintenance mill levy and that the regional improvement mill levy is part of the operations and maintenance mill levy).* The Districts for the Eastgate Development are proposing the same structure as its neighboring development for consistency in the area.

ii. *Comment:* Please explain why there is no limit on the length of time the Districts can levy a Debt Service Mill Levy in the Service Plan. *See February 28, 2024 Email.*

Response: There is no statutorily required cap on the length of time a debt service mill levy can be imposed. There is no cap in the Service Plan on the length of time the debt service mill levy can be imposed to account for potential future refinancings of debt, which could extend the time needed for a debt service mill levy. For example, a thirty-year bond may be refinanced in year 15. Maximum debt service savings may occur if the refinanced bond's term was set at 30 years, which could allow for a maximum present value savings as well as a larger immediate reduction in the mill levy due to the reduced payment obligation. Limiting the total debt mill levy imposition term would take away this opportunity and could result in the Districts' tax payers paying more for debt than necessary.

In addition, this Service Plan language is consistent with the approved service plans for the Sky Ranch Metropolitan District Nos. 1-8, which are located immediately to the east and south of the Eastgate Development. The Sky Ranch Metropolitan Districts service plans do not contain any language limiting the length of time the debt service mill levy may be imposed, noting only, as does the service plan for the Eastgate Districts, that no bond may be issued with an amortization longer than forty years. *See, e.g., Service Plan for Sky Ranch Metropolitan District No. 6, § VII.C (stating that the maximum amortization term shall be forty years); Service Plan for Eastgate Metropolitan District Nos. 1-6, § VII.C (stating that no series of bonds shall be issued that mature more than forty-years after the date of issuance).* The Districts for the Eastgate Development are proposing the same limits regarding the debt mill imposition term as its neighboring development for consistency in the area.

iii. *Comment:* Projected costs of public infrastructure are lower than the debt limit shown in the financial plan and the par authorization contained in the Service Plan. *See February 28, 2024 Email.*

Response: The estimated costs of District Improvements (includes both the Districts' Service Area and Regional Improvements) is \$54,316,193, while the financial plan for the District Improvements shows bonding capacity of \$127,999,000.

Recognizing the anticipated increase in the cost of construction over time and the potential for revisions to the development plan over time, the Districts propose limiting the debt cap to \$82,000,000, which is approximately 150% of the anticipated District Improvements cost and a reduction of \$45,999,000 from what is show in the financial plan and previous Service Plan

draft. The Districts believe that this reduction will provide a reasonable amount of flexibility to account for future increases in construction costs over current estimates while also providing a lower maximum debt limit.

b. Engineering

i. *Service Plan Redlines.* Redlines in the Service Plan reflect suggested changes to typos and misspellings.

Response: Service Plan was amended to correct typos and misspellings. *See Service Plan, p 9 and 12.*

ii. *Comment:* Districts' maintenance of street improvements should include roadway pavement. *See Service Plan, p 5.*

Response: Service Plan was amended to grant the Districts the power to provide for the acquisition, construction, completion, installation and/or operation and maintenance of roadway pavement.

iii. *Comment:* Retaining walls within drainage easements are not allowed in Arapahoe County. *See Service Plan, p 5.*

Response: Service Plan has been amended to reflect that no retaining walls within an Arapahoe County drainage easement are allowed.

iv. *Comment:* Retention ponds are not allowed within Arapahoe County.

Response: Service Plan has been amended to reflect that no retention ponds will be located within the Districts' boundaries.

v. *Comment:* The Districts will need to contact County Open Spaces and Division for ownership and maintenance responsibility for its park and recreation facilities. *See Service Plan, p 8.*

Response: The Districts will contact County Open Spaces and Division for ownership and maintenance responsibility for its park and recreation facilities.

All other redlines regarding services provided by other governmental entities have been reviewed and the Service Plan has been amended to reflect these redlines.

vi. *Comment:* Exhibits to the Service Plan need to be amended so they are clearer and easier to read.

Response: Revised exhibits will be provided.

2. Southeast Metro Stormwater Authority

i. *Service Plan Redlines*: Redlines in the Service Plan reflect suggested changes to typos and misspellings.

Response: Service Plan has been amended to correct typos and misspellings. *See Service Plan, p 9.*

b. *Comment*: The Districts need to also own and operate detention and retention ponds within their boundaries. *See Service Plan, p 8.*

Response: Per Adams County Engineering, retention ponds are not allowed within the County. The Storm Sewer System already includes detention ponds as shown in the Description of Proposed Services, therefore, no amendments to the Service Plan are necessary to reflect that the Districts will own and operate detention (not retention) ponds within their boundaries.

3. Hilltop Securities

a. *Comment*: Reasonable that the Districts will be capable of extinguishing all bonds within the parameters established within the body of the Service Plan.

No response required.

Please let me know if you would like to discuss any of the comments or response in additional detail or have any questions.

Sincerely,

ERB LAW, LLC



Jeffrey E. Erb, Esq.

Cc: Jeff Keeley

January 15, 2024

Arapahoe County Public Works, Planning Division
6924 S. Lima Street
Centennial, CO 80112

Re: Eastgate Metropolitan District Nos. 1-6
Response to Referral Comments

Dear Planning Division,

This letter is provided in response to the referral comments provided for the Eastgate Metropolitan District Nos. 1-6 proposed service plan.

Referral comments were received from:

1. Sable Altura Fire District
2. Hilltop Securities
3. Southeast Metro Stormwater Authority
4. Regional Transportation District
5. Adams County Engineer

Response

1. Sable Altura Fire District

No response required.

2. Hilltop Securities

a. Identification of Coordinating District. *Page 1.*

The Service Plan contemplates the creation of six districts to support the Eastgate Development. At this time, no specific district is identified as a “Coordinating District” due to the early stage of planning and development. The districts may enter into agreements with each other regarding the sharing of administrative services, *Service Plan*, Sections III.B; VI.A, or the pledge of revenue to debt issued to support the construction of public improvements needed for the Eastgate Development. *Service Plan*, Sections III.B.; IV.B.

In any event, due to the interconnected public improvements within the entire Eastgate Development, the intent is for the districts to work together on the construction and timing of debt needed for public improvements, as well as to provide administrative services in the manner that is the most cost effective for the community.

b. Mill Levy Caps. *Page 1.*

The Service Plan includes a debt service mill levy cap of 50 mills for bonds whose value exceeds 50% of the issuing District's assessed valuation at the time of issuance. *Service Plan*, Section VII.E.1.

To preserve maximum flexibility, the Service Plan does not include a cap on the General Fund (Operations Mill Levy) or the Regional Improvements Mill Levy (a component part of the General Fund Mill Levy), although the total mill includes of Debt, General Fund and the Regional Improvement Mill Levy is not expected to exceed 75 mills. The districts will only impose a property tax mill levy in an amount needed to support operations and maintenance, debt service, and requirements for capital and reserve funding.

Finally, a total mill levy of approximately 75 mills is within the range of district-imposed mill levies for surrounding developments, which range from a high of 122 mills to a low of 36 mills, with an average of 69 mills. *See Service Plan*, Exhibit G – Surrounding Mill Levy Information.

c. Service Plan Debt Limit Exceeds Estimated Costs. *Page 1.*

The total estimated debt limit that can be supported by the Districts exceeds the current estimated costs of public improvements.

Construction costs are based on current estimated costs and the financial plan assumes loan terms based on historical data that are more favorable than current conditions. Considering these two factors, a service plan debt limit that exceeds the current estimated public improvement costs is reasonable to account for future inflations in construction costs, unanticipated construction conditions, as well as the possibility that the bond market conditions at the time of issuance will be less favorable for the districts than estimated. By setting the service plan debt limit at the amount supported by the financial plan, the districts can also avoid the costly and time-consuming need to amend the service plan in the future to increase the service plan debt limits.

Ultimately, the amount of debt issued by the districts will be limited to the amount of eligible expenses and the ability of the districts to make debt service payments.

d. Debt term but no cap on debt service mill levy. *Page 1.*

A debt maturity term of 40 years is the maximum allowed by the Colorado Supplemental Public Securities Act. § 11-57-207(1)(a), C.R.S. Although it is typical for a maturity term to be 30 years or less, allowing the potential for the maximum bond maturity term provides the maximum amount of flexibility when structuring the transaction.

There is no cap on the length of time the debt service mill levy can be imposed to account for potential future refinancings of debt, which could extend the total time of debt service beyond 40 years. This could occur if, for example, a thirty-year bond was refinanced in year 15, and the term of the refinanced bond was 30 years. While the total length of time of debt service would be extended, the districts could net a total savings by extending the term of a refinanced bond due to reduced debt service payments and/or could reduce the amount of annual debt service paid by the property owners in the districts.

- e. Developer Advances. Interest may compound/annual appropriations. *Page 2.*

Any advances to the districts for operational costs would be provided pursuant to a future agreement between the district and the developer entity. There is no prohibition on these agreements imposing interest on the amount advanced. Any repayment under an advance and reimbursement agreement would only be repaid by the districts if funds were available, and repayments would be subject to annual appropriation by the districts, unless such repayment obligation was otherwise converted to a taxable debt instrument.

- f. Project Funding – Project fund exceeds estimated costs. *Page 3.*

Please see the response in Section 2.c.

3. Regional Transportation District

- a. No response required.

4. Southeast Metro Storm Water Authority

- a. Narrative – Long-Range Water Quality Management

The Eastgate Development anticipates receiving water and sewer service from either the Rangeview Metropolitan District or the City of Aurora.

Stormwater management is currently anticipated to be provided by the districts.

The details regarding water, sewer and stormwater management will be determined during the development review and approval process.

- b. Service Plan

- i. Section V.B. – Duplicate language.

Duplicate language has been removed.

- ii. V.M. – Ownership of stormwater facilities.

Please see response in Section 4.a. regarding ownership of stormwater facilities.

- c. Exhibit E-2 – District Improvements

Stormwater will be conveyed offsite. Please see the attached (1) additional drawing showing off-site stormwater improvements and (2) updated cost projections for regional improvements, adjusting the total from \$17,098,627 to \$18,464,643. These sheets have been added to the service plan and the totals within the service plan have been adjusted accordingly.

Finally, clarification was added that the Districts will have the power to levy a sales tax as allowed by Section 32-1-1106 to assist, if needed, with the cost of park improvements, streets, safety controls and fire protection infrastructure.

5. Adams County Engineer

a. Narrative – Comprehensive Plan

The revisions to the narrative were made. A revised Narrative is provided with this submittal.

b. Service Plan

i. Purpose. *Page 2.*

Sanitary and storm sewer were separated.

ii. Proposed Land Use. *Page 3.*

Updated proposed single family unit count provided based on updated GDP.

iii. Proposed Services. *Pages 2, 4.*

Sanitary and storm sewer have been separated into different categories.

iv. Service To Be Provided by Other Governmental Entities. *Page. 8.*

Revisions made to note that storm sewer, detention and water quality facilities are intended to be owned and maintained by the Districts.

c. Exhibit D-1.

Updated exhibit provided.

d. Exhibit D-2.

Updated exhibit provided.

e. Exhibit E-1.

Updated exhibit provided.

f. Exhibit E-2.

Updated exhibit provided.

In addition, the revised service plan includes an updated financial plan reflecting updated assessment ratios for 2024. *See Exhibit F.* The updated bond amounts are included in the revised service plan.

Please let me know if you would like to discuss any of the comments or response in additional detail or have any questions.

Sincerely,

ERB LAW, LLC

A handwritten signature in blue ink, appearing to read "Jeffrey E. Erb". The signature is stylized and cursive.

Jeffrey E. Erb, Esq.

Cc: Jeff Keeley

November 27, 2023

Arapahoe County Public Works, Planning Division
6924 S. Lima Street
Centennial, CO 80112

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Dear Planning Division,

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Response

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Please let me know if you would like to discuss any of the comments or response in additional detail or have any questions.

Sincerely,

ERB LAW, LLC

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Jeffrey E. Erb, Esq.

Cc: Jeff Keeley