

RESOLUTION NO. 200 - 23

A RESOLUTION ADOPTING FINAL FORM OF THE AGREEMENT AND JOINT PLAN FOR THE EXCLUSION OF CERTAIN PROPERTY FROM THE BLACK FOREST FIRE RESCUE PROTECTION DISTRICT

WHEREAS, the City Council finds that it is in the City's interest to cooperate with neighboring jurisdictions to provide for continuous fire protection and emergency first response services; and

WHEREAS, certain annexed areas of the City have been served by the Black Forest Fire Rescue Protection District ("District"); and

WHEREAS, the City and the District have both been providing fire protection and emergency first response services to the property; and

WHEREAS, the City and the District have negotiated the attached Agreement and Joint Plan ("Exhibit A") and made a part hereof, pursuant to C.R.S. § 32-1-502(2)(c) to provide an orderly transition of primary responsibility for fire protection and emergency first response services; and

WHEREAS, the City, upon exclusion of the property from the District, will be the sole provider to the property for fire protection and emergency first response services; and

WHEREAS, the City will file a court Petition pursuant to C.R.S. § 32-1-502, et seq., to exclude the property from the District and the Agreement and Joint Plan is a necessary requirement for the City to undertake exclusion of property from District; and

WHEREAS, the Agreement and Joint Plan needs to be authorized and approved by the City Council of the City of Colorado Springs in order for the City to file the court Petition for exclusion.

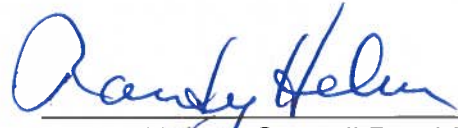
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. The City Council now adopts this resolution approving the Agreement and Joint Plan attached hereto as Exhibit "A."

Section 2. The City Council further authorizes the Mayor to execute the Agreement and Joint Plan and further authorizes the Mayor and city staff to take such actions and to execute

such instruments and documents as necessary for the filing of court petitions for exclusion of property from District.

DATED at Colorado Springs, Colorado, this 28th day of November 2023.



Randy Helms, Council President

ATTEST:



Sarah B. Johnson, City Clerk



EXHIBIT "A"

Agreement and Joint Plan

**AGREEMENT AND JOINT PLAN FOR EXCLUSION
OF CERTAIN PROPERTY FROM
THE BLACK FOREST FIRE RESCUE PROTECTION DISTRICT
OF EL PASO COUNTY, COLORADO**

This Agreement and Joint Plan for Exclusion of Certain Property from the Black Forest Fire Rescue Protection District of El Paso County, Colorado (the "Agreement"), is entered into between the City of Colorado Springs, a home rule city and Colorado municipal corporation (the "City") and the Black Forest Fire Rescue Protection District (the "District"), pursuant to the provisions of Part 5 of Article 1 of Title 32, C.R.S., a provision of the Special District Act.

PARTIES, JURISDICTION AND VENUE

1. This action is based upon the Petition to be filed by the City pursuant to C.R.S. § 32-1-502, *et seq.*, to exclude certain real property from the District because that property has been annexed into the City, which also provides fire suppression, fire prevention, ambulance, emergency rescue, hazardous materials and emergency medical services (collectively, "Emergency Services"). The property to be excluded is described in **Exhibit A** attached hereto and incorporated herein by reference (the "Property").

2. This Agreement and Joint Plan was prepared and submitted pursuant to and in satisfaction of the requirements of C.R.S. § 32-1-502(2)(c) which provides that as a condition to the exclusion of the Property:

[t] he governing body of the City and the board of directors of the District shall each submit a plan for the disposition of assets and continuation of services to all areas of the District, and that said plans shall include, if applicable, provisions for the maintenance and continuity of facilities to be utilized by the territories both within and without the municipal boundaries and of services to all territories served or previously served by the special district, and further, that if the City and the District agree upon a single plan and enter into a contract incorporating its provisions, the court shall review such contract, and if it finds the contract to be fair and equitable, the court shall approve the contract and incorporate its provisions into its exclusion order.

3. The City Council of the City, as its governing body, has met, considered and approved all of the terms of this Agreement and Joint Plan.

4. The Board of Directors of the District, as its governing body, has met, considered and approved all of the terms of this Agreement and Joint Plan.

5. The Court has jurisdiction over all claims for relief asserted and venue is proper

pursuant to C.R.S. § 32-1-303(1)(a).

AGREEMENT AND JOINT PLAN

1. All notice requirements of the statute and of the Colorado Rules of Civil Procedure have been fully, completely and properly complied with. No objection to the exclusion has been made by any taxpaying elector. The District and the City consent to the exclusion of the Property, subject to the provisions of this Agreement and Joint Plan.

2. The parties further stipulate that:

- A. The City has provided and is now providing comparable Emergency Services that the District provides in or to the Property.
- B. The City Council has agreed by resolution to this Agreement and Joint Plan which will provide the Emergency Services provided by the District to the Property effective January 1, 2024.
- C. No election has been held or is required to be held pursuant to C.R.S. § 32-1-502(5), and the parties stipulate that the quality of service including, but not limited to, the fire insurance costs for the improvements within the Property will not be adversely affected by this exclusion.
- D. The District owns no facilities or assets located within the Property.

3. Pursuant to C.R.S. § 32-1-502, District and City agree to the following plan for disposition of assets and continuation of services to all areas of the District:

- A. The District owns no real property or improvements within the Property and the City does not seek ownership of any such assets located in any other part of the District.
- B. The City does not seek ownership of any firefighting equipment or other personal property now owned by the District and the Order of Exclusion may so state.
- C. The City shall provide Emergency Services to the Property and shall continue to honor any mutual aid agreement with the District applicable to any District territory not excluded.
- D. Primary responsibility for Emergency Services in all territory of the District not proposed for exclusion shall remain with the District.

4. The City shall assume primary responsibility for Emergency Services to the

Property effective January 1, 2024. Nothing in this Agreement and Joint Plan shall impair or negate the validity or effectiveness of any existing mutual aid agreement between the parties.

5. The District and its firefighters, including those residing in the Property, shall continue to have the right to operate District and personal vehicles and equipment as authorized emergency vehicles within said excluded area and the City, for bona fide emergency purposes, as the District may deem necessary in fulfilling District obligations. Authorized emergency vehicles shall be those as defined by C.R.S. § 42-1-102 and shall include the right of District firefighters who reside in the excluded area to respond to emergency calls in personal vehicles and District vehicles which are operated as emergency vehicles.

6. Pursuant to C.R.S. § 32-1-503:

- A. The change of boundaries of the District, which is accomplished by the Court Order, shall not impair nor affect its organizations, nor shall it affect, impair or discharge any contract, obligation, lien, or charge on which it might be liable or chargeable had such change of boundaries not been made.
- B. For taxes imposed in year 2024 and thereafter, the excluded property shall not be subject to any property tax levied by the District for operating costs.
- C. For the purpose of retiring the District's outstanding indebtedness and the interest thereon existing at the effective date of the exclusion order, the Property shall be obligated to the same extent as all other property within the District but only for that proportion of the District's outstanding indebtedness and the interest thereon existing immediately prior to January 1, 2024.
- D. The Property shall in no event become obligated for the payment of any bonded indebtedness created after the date of the Court's order of exclusion.

7. Enforcement of the terms and conditions of this Agreement, and all rights of action relating to enforcement of this Agreement, shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any third person or entity, including, but not limited to, the past, present and future owners and occupants of the Property or any portion of the Property, or any of their successors or assigns. It is the express intention of the City and the District that any person or entity, other than the Parties to this Agreement, receiving services or benefits hereunder shall be deemed to be incidental beneficiaries only.

8. In the event the court does not approve the petition under the terms and conditions of the Agreement and enter an order of exclusion as provided for in the Agreement, this Agreement shall be deemed void.

9. This Agreement and Joint Plan is subject to and shall be interpreted under the law of the State of Colorado, and the Charter, City Code, Ordinances, Rules and Regulations of the City of Colorado Springs, Colorado, a Colorado home rule city. Court venue and jurisdiction shall exclusively be in the District Court for El Paso County, Colorado.

10. In accord with the Colorado Constitution, Article X, Section 20, and the City Charter, performance of the City's obligations under this Agreement are expressly subject to appropriation of funds by the City Council and the availability of those funds under Constitutional and Charter limitations. In accord with the Colorado Constitution, Article X, Section 20, performance of the District's obligations under the Agreement is expressly subject to the appropriation of funds by the Board of Directors of the District and the availability of these funds under Constitutional limitations.

11. The following provisions shall be contained in any order for exclusion of property from the District:

The order shall provide for the retention of jurisdiction by the Court as necessary to implement, interpret, or modify the Court Order and shall provide for the retention by the Court of jurisdiction for the implementation, interpretation, or modification of this Agreement.

12. This Agreement shall not be deemed a waiver by the City of provisions available to the City under Article 1 of Title 32 C.R.S. or as otherwise provided by law to exclude the Property; nor shall this Agreement be deemed a waiver by the District to object to or contest any exclusion proceedings initiated by the City under the provisions available to the District under Article 1 of Title 32 C.R.S. or as otherwise provided by law.

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DONE this 30th day of November, 2023.

DISTRICT:

Black Forest Fire Rescue Protection District

By: _____
Richard Nearhoof, Board Chair

ATTEST:

Secretary

APPROVED AS TO FORM:

Linda Glesne
Counsel for the District

CITY:

City of Colorado Springs, a home rule
city and Colorado municipal corporation

By: Blessing A. Mobolade
Blessing A. Mobolade, Mayor

ATTEST:

Sarah B. Smith
City Clerk



APPROVED AS TO FORM:

Frederick Stein
Frederick Stein
Office of the City Attorney

EXHIBIT A

Excluded Property Address Lists

East/South Vollmer Rd

7244 RED CARDINAL LOOP
7250 RED CARDINAL LOOP
7256 RED CARDINAL LOOP
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7268 RED CARDINAL LOOP
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7892 WAGONWOOD PL
7886 WAGONWOOD PL
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7862 WAGONWOOD PL
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8421 HARDWOOD CIR
7870 DRY WILLOW WAY
7856 DRY WILLOW WAY
7842 DRY WILLOW WAY
7828 DRY WILLOW WAY
7814 DRY WILLOW WAY
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7686 SPRUCE PINE GRV
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7656 SPRUCE PINE GRV
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7608 SPRUCE PINE GRV
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7693 JACK PINE GRV
7683 JACK PINE GRV
7673 JACK PINE GRV
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7682 JACK PINE GRV
7672 JACK PINE GRV
7662 JACK PINE GRV
7652 JACK PINE GRV
7642 JACK PINE GRV
7632 JACK PINE GRV
7622 JACK PINE GRV
7612 JACK PINE GRV

7602 JACK PINE GRV
7694 PITCH PINE VW
7684 PITCH PINE VW
7674 PITCH PINE VW
7664 PITCH PINE VW
7654 PITCH PINE VW
7644 PITCH PINE VW
7634 PITCH PINE VW
7624 PITCH PINE VW
7614 PITCH PINE VW
7604 PITCH PINE VW
7775 FOREST MEADOWS AVE
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7745 FOREST MEADOWS AVE
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7873 SAND LAKE HTS
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7543 RED FIR PT
7531 RED FIR PT
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7507 RED FIR PT
7568 RED FIR PT
7556 RED FIR PT
7544 RED FIR PT
7532 RED FIR PT
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7508 RED FIR PT
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7541 SILVER LARCH PT
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7504 SILVER LARCH PT
7567 RED CREEK VW
7555 RED CREEK VW
7543 RED CREEK VW
7531 RED CREEK VW
7519 RED CREEK VW
7507 RED CREEK VW
7566 RED CREEK VW
7554 RED CREEK VW
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7506 RED CREEK VW
7145 FOREST MEADOWS AVE
7155 FOREST MEADOWS AVE
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7175 FOREST MEDOWS AVE

7157 BLACK SPRUCE HTS
7167 BLACK SPRUCE HTS
7177 BLACK SPRUCE HTS
7187 BLACK SPRUCE HTS
7134 SAND LAKE HTS
7144 SAND LAKE HTS
7154 SAND LAKE HTS
7164 SAND LAKE HTS
7677 BLACK SPRUCE HTS
7667 BLACK SPRUCE HTS
7657 BLACK SPRUCE HTS
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7627 BLACK SPRUCE HTS
7617 BLACK SPRUCE HTS
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7547 BLACK SPRUCE HTS
7537 BLACK SPRUCE HTS
7527 BLACK SPRUCE HTS
7517 BLACK SPRUCE HTS
7734 SAND LAKE HTS
7724 SAND LAKE HTS
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7574 SAND LAKE HTS
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7687 CONIFER CONE GRV
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7617 CONIFER CONE GRV
7607 CONIFER CONE GRV
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7618 GRAND FIR PT
7608 GRAND FIR PT
7690 WOODY CONES VW
7680 WOODY CONES VW
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7630 WOODY CONES VW
7620 WOODY CONES VW
7610 WOODY CONES VW
7663 RED FIR PT
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7627 RED FIR PT
7615 RED FIR PT
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7673 SILVER LARCH PT
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7636 SILVER LARCH PT
7624 SILVER LARCH PT
7612 SILVER LARCH PT
7520-7587 COPPER RANGE HTS
6820-7547 COPPER PEAK PT
7512-7577 COPPER WEST VW
7110 SAND LAKES HTS
7115 FOREST MEADOWS AVE