

# Metropolitan Districts 201

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# General Information

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- This presentation builds on topics covered in the Metropolitan District 101 Presentation held on June 11, 2020 at 6 p.m.
- Here is a link to the Metropolitan District 101 Presentation:  
<https://timnath.org/metro-districts-101/>
- This presentation will focus on the concepts and legal questions surrounding “developer-controlled” Boards of Directors and other Metro District structures.

# Overview of Presentation

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- Who can be on the Board of Directors? (slides titled: Board of Directors, Eligible Electors, Why would the Colorado legislature allow eligible electors to be qualified via contracts?, and Limitations on Qualifying Eligible Electors).
- Structure of Metro Districts (slides titled: Example Structure of Metro Districts, Single Metro District, Control Metro Districts, Multiple Metro Districts, Overlay Metro Districts, Metro District Inclusion Area, Single Metro District and Debt, Control Metro Districts and Debt, and Multiple Metro Districts and Debt ).
- Questions to Discuss (slides titled: What differentiates a Control Metro District Structure from a Multiple Metro District Structure?, Why has the industry shifted from the Control Metro District Structures to Resident Controlled Multiple Metro District Structures?, and What can I do if I live in a Control Metro District Structure?)
- Conclusion
- **Note** – this presentation does not include detailed discussion about operations and maintenance of metropolitan districts or the type of debt that can be issued by metropolitan districts. The next presentation “Metropolitan District 301” will focus on the types of debt metropolitan districts can issue.



# Board of Directors

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- A Board of Directors governs every metropolitan district in Colorado.
- The Board of Directors can be 5 or 7 members.
- Each member of the Board of Directors is elected or appointed for specific terms of office (1-4 years depending on the timing of election or appointment).



# Eligible Electors

- Every “**eligible elector**” is able to vote in a Metro District election and is eligible to serve on the Board of Directors.
- According to the Special District Act, an “**eligible elector**” means **a person** who is registered to vote and: (1) who is **a resident** of the Metro District; (2) who is **a property owner** of property within the Metro District; or (3) who is the **spouse or civil union partner of a property owner** who owns property within the Metro District. (See Section 32-1-103(5), C.R.S.)
- However, the Special District Act expressly permits a person who is obligated to pay taxes under a contract to purchase taxable property situated within the boundaries of the special district or the area to be included within the special district to be considered **a property owner**.
- It is this specific statutory provision that allows development entities to qualify individuals as “**eligible electors**” who can to vote in a Metro District election and can serve on the Board of Directors.

# Why would the Colorado legislature allow eligible electors to be qualified via contracts?

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- At the time of the organizational election it is very unlikely that there will be any residents or people that own property within the development. Often a development entity such as a corporation or limited liability company will be the only property owner. Without this provision, there usually would not be any eligible electors to form a Metro District.
- The development entity and its lender will want assurances that they will have representation on the Board of Directors prior to agreeing to finance the project. Sometimes homebuilders within a community will require some guarantee by the developer of an opportunity for representation on the Board of Directors, as well.
- The ability to qualify eligible electors under the Special District Act was limited in 2006 by the adoption of Senate Bill 06-95.



# Limitations On Qualifying Eligible Electors

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- The ability to qualify individuals as “eligible electors” **is limited** by the Special District Act. (See Section 32-1-808, C.R.S.)
- Development entities can qualify individuals as “eligible electors” by entering into contracts to purchase taxable property in the following scenarios:
  - **A vacancy exists on the board** of the special district and, within ten days of the publication of notice of such vacancy, no otherwise qualified eligible elector files a letter of interest in filling such position with the board;
  - **In any organizational election** at which there are more than ten eligible electors, on or after the second day before the filing deadline for self-nomination and acceptance forms or letters pursuant to section 32-1-305.5 (4), the number of otherwise qualified eligible electors who have filed such self-nomination and acceptance forms or letters is less than the number of special district director offices to be voted upon at such election;
  - There are less than eleven eligible electors as of any date before **an organizational election**; or
  - On or after the day **after the filing deadline for self-nomination and acceptance forms** or letters pursuant to section 1-13.5-303, C.R.S., before any regular special district election, the number of otherwise qualified eligible electors who have filed self-nomination and acceptance forms or letters pursuant to section 1-13.5-303, C.R.S., is less than the number of special district director offices to be voted upon at the election.
- Please note that one eligible elector = one vote. Regardless of how an eligible elector is qualified the person is still only able to cast one vote.

# Example Structures of Metro Districts

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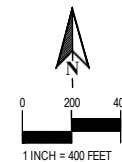
- Single Metro District
- Control Metro Districts
- Multiple Metro Districts
- Overlay Metro Districts
- Metro District Inclusion Areas



# Single Metro District

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- Is the simplest structure and has been widely use since at least the 1980s.



LOCATION:

A PART OF THE WEST HALF OF SECTION 16  
TOWNSHIP 3 SOUTH, RANGE 69 WEST, 6TH P.M.,  
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

SCALE: 1"=400'	DATE: 06-04-18	PROJECT NO: 0049-1613	AREA: 61.21 AC	PATH: J:\00491613\SURVEY\DISTRICT\HASKINS_STATION_DISTRICT-NO1.DWG
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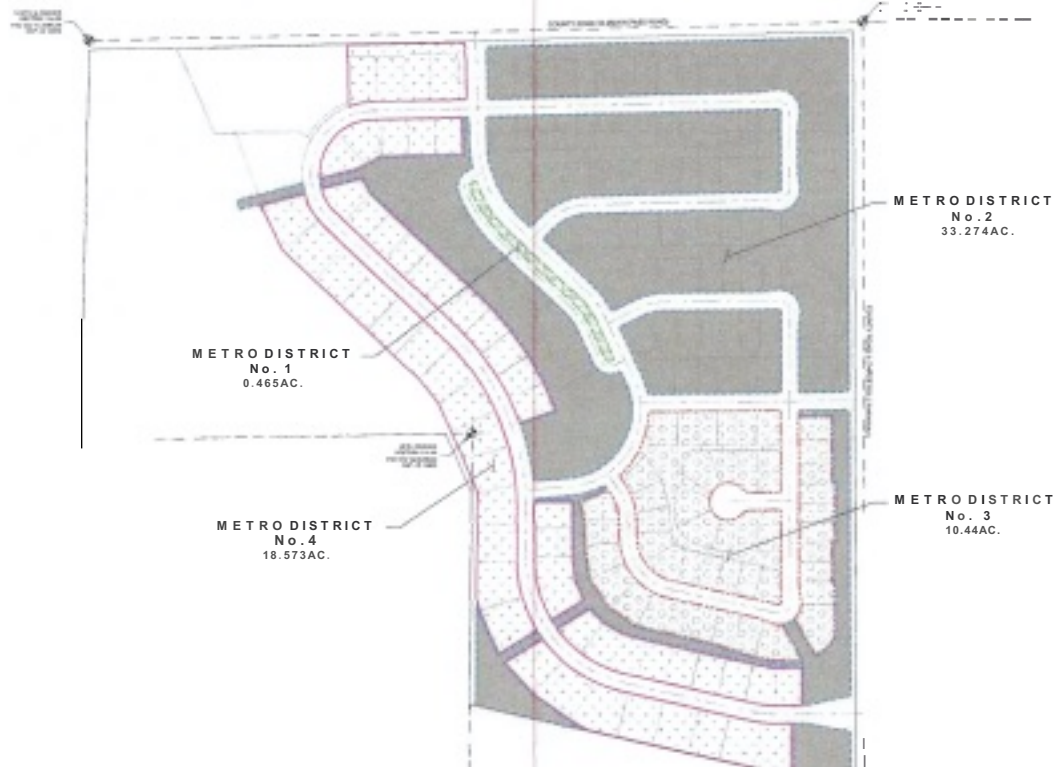
# Control Metro Districts

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- In the past, this structure was very common for large projects.
- Notice the boundaries of the Control District as compared to the Financing District.

# SOUTHWEST TIMNATH METRO DISTRICT MAP

SECTION 11, TOWNSHIP 8 NORTH, RANGE 68 WEST,  
TOWN OF TIMNATH, COUNTY OF LARIMER, STATE OF COLORADO



**NE** NORTHERN  
ENGINEERING

## LEGEND:

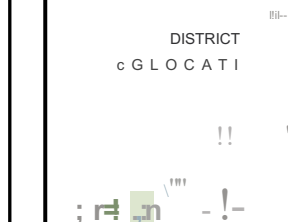
- - - District Number
- 0 Section Corner
- Metro District Parcel No. 1
- Metro District Parcel No. 2
- IT] - Metro District Parcel No. 3
- Metro District Parcel No. 4

## DISTRICT ACREAGE:

SOUTHWEST TIMNATH METRO DISTRICT LAND DISTRIBUTION TABLE				
DISTRICT	TOTAL AC.	AC.	% OF TOTAL	
METRO DISTRICT No. 1	0.465	0.465	1.39	
METRO DISTRICT No. 2	33.274	33.274	98.61	
METRO DISTRICT No. 3	10.44	10.44	31.39	
METRO DISTRICT No. 4	18.573	18.573	55.81	
TOTAL	23.752	23.752	100.00	

NORTH

JANUARY 8, 2016



## VICINITY MAP

**SOUTHWEST  
TIMNATH**

Metropolitan Districts

**DISTRICT MAP**



# TIMNATH RANCH METROPOLITAN DISTRICT MAP

LOCATED IN SECTION 11, TOWNSHIP 6 NORTH, RANGE 68 WEST, 6th P.M.  
TOWN OF TIMNATH, COUNTY OF LARIMER, STATE OF COLORADO



**NE**  
NORTHERN  
ENGINEERING

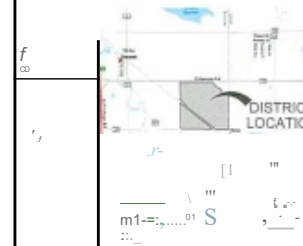
## LEGEND:

- 12 - Section Corner
- 13 - Metro District No. 1
- 14 - Metro District No. 2
- 15 - Metro District No. 3
- 16 - Metro District No. 4
- 17 - Dir. Parcel District No. 1
- 18 - Dir. Parcel District No. 2
- 19 - Dir. Parcel District No. 3
- 20 - Dir. Parcel District No. 4

## DISTRICT ACREAGE:

PARCEL	SW	SE	NE	TOTAL
METRODIST #1	74.10.000	110.134	8.57	192.755
METRODIST #2	12.152.11	194.1	52.15	258.353
METRODIST #3	2.1.110	91.024	1.011	94.145
METRODIST #4	1.09.911	1.05.1	1.051	2.242
DIRECTOR'S PARCEL #1	2.232	0.011	0.01	2.243
DIRECTOR'S PARCEL #2	2.242	0.012	0.01	2.254
DIRECTOR'S PARCEL #3	2.232	0.011	0.01	2.243
DIRECTOR'S PARCEL #4	2.242	0.012	0.01	2.254

9 NORTH  
DECEMBER, 2017



## VICINITY MAP

**TIMNATH  
RANCH**  
Metropolitan District

**DISTRICT MAP**

# Resident Controlled Multiple Metro District Structures

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- Currently, this structure most common for large projects.
- Notice the boundaries of the Metro Districts are often very similar in size.



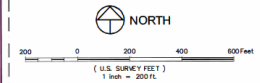
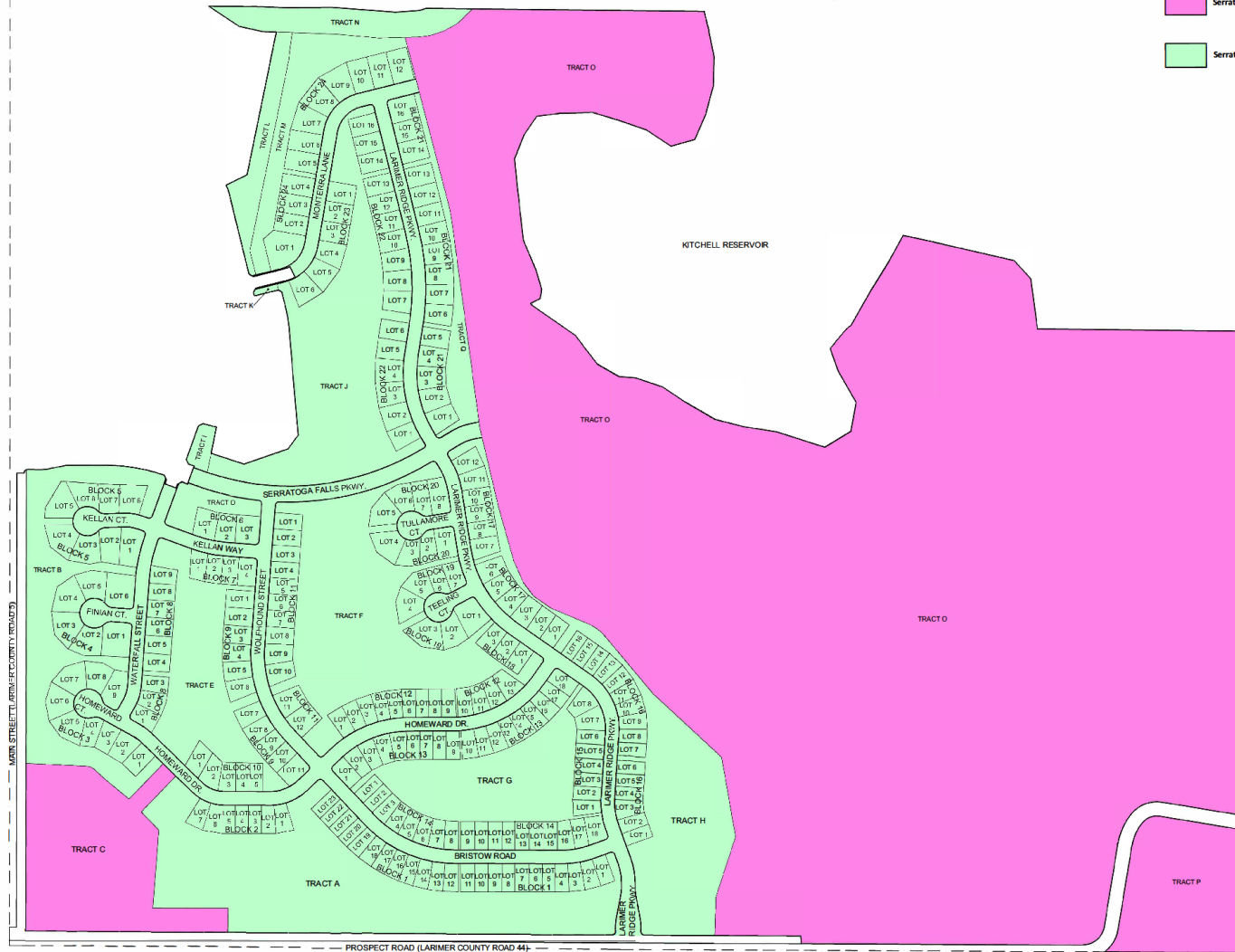
# SERRATOGA FALLS - SECOND FILING

A REPLAT OF TRACTS B, D, E AND F, SERRATOGA FALLS - FIRST FILING, LOCATED IN SECTION 14, TOWNSHIP 7 NORTH, RANGE 68 WEST OF THE 6th PRINCIPAL MERIDIAN, TOWN OF TIMNATH, COUNTY OF LARIMER, STATE OF COLORADO

Map Created on December 30th, 2019

-  Serratoga Falls Metropolitan District No. 1  
Legal ID #65579
-  Serratoga Falls Metropolitan District No. 3  
Legal ID #65581

IN  
N,



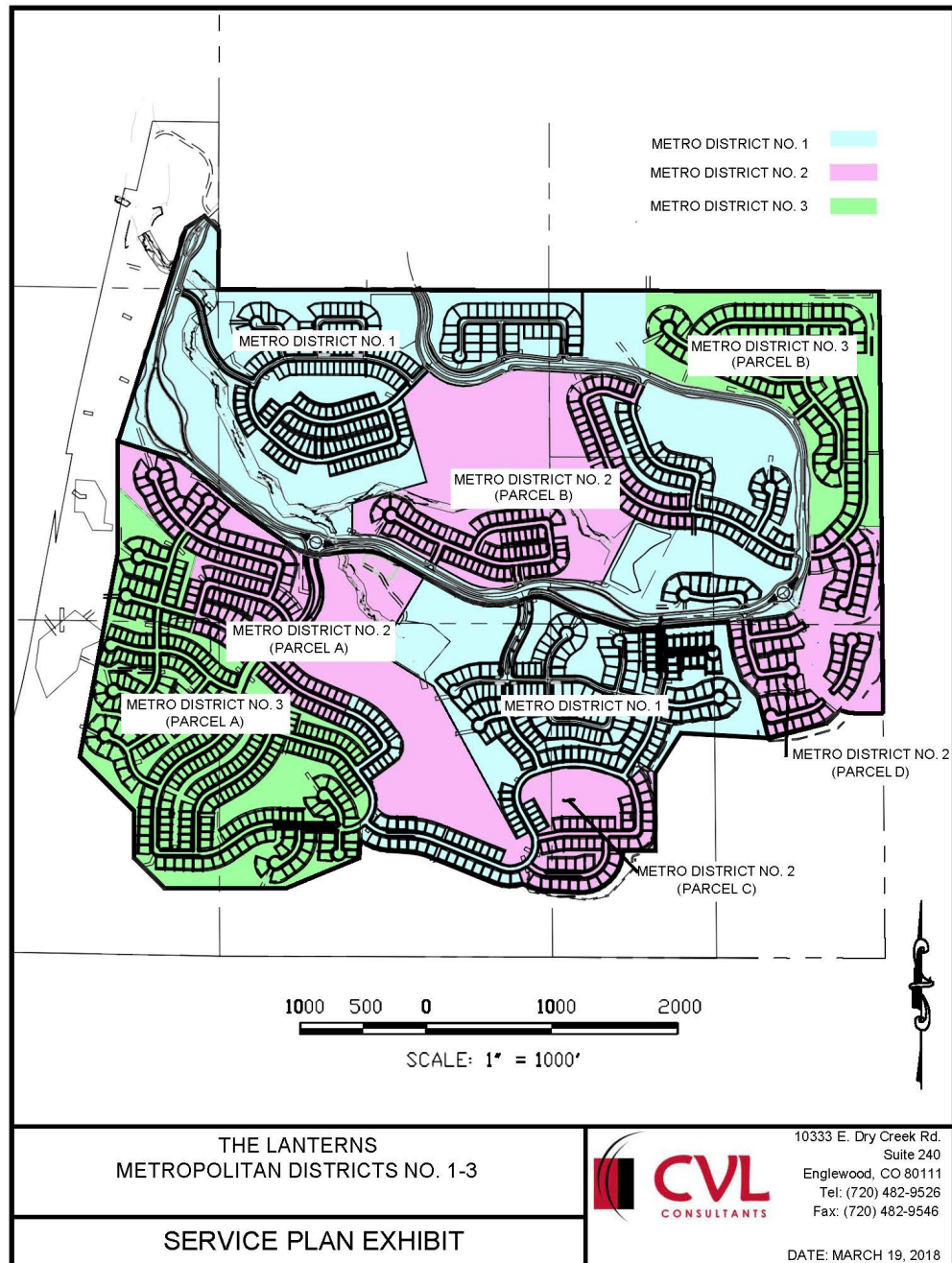
Robert C. Fawcett  
Registered Professional Land Surveyor  
Colorado Registration No. 38026  
For and on behalf of Northern Engineering Services, Inc.

# Overlay Metro Districts

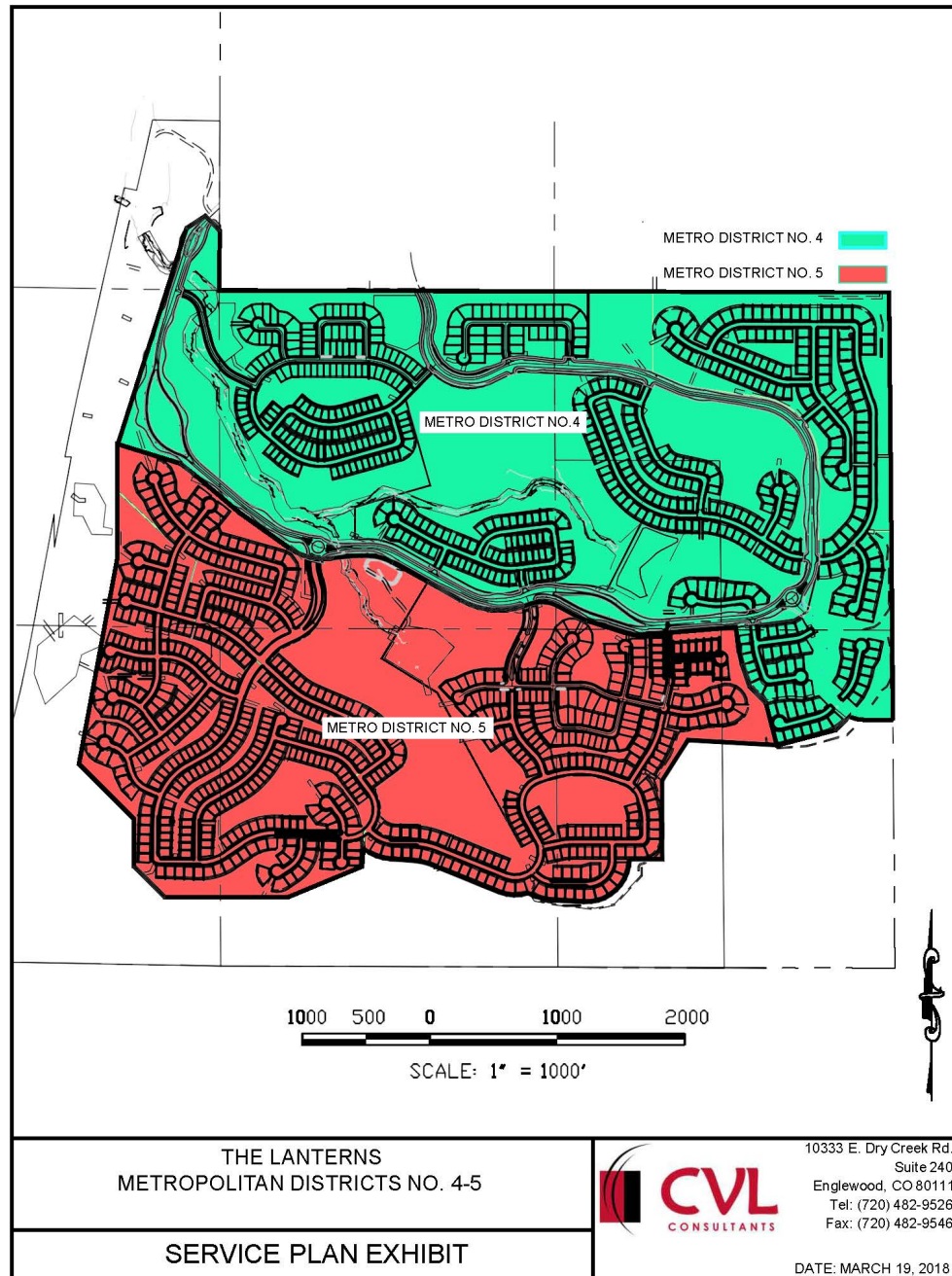
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- This is newer structure that can be used to separate the issuance of debt from the operations and maintenance.
- In this example project, District Nos. 1-3 can issue debt but cannot perform operations and maintenance services. District Nos. 4-5 can only perform operations and maintenance services.
- District Nos. 1-3 are tied to the phasing of development and District Nos. 4-5 are tied to the type of housing project (active adult versus single-family).











# Metro District Inclusion Area

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- Most of the time, the final boundaries of the project and the final boundaries of one or more metropolitan districts are not fully known at the time the service plan is approved.
- To address this, most service plans allow the developer to include an “Inclusion Area” into the service plan. The Inclusion Area identifies property that the developer intends to include into the boundaries of one or more metropolitan districts as the development occurs.
- The Town of Timnath Model Service Plan (the “Model Service Plan”) includes the concept of an inclusion area as a default.

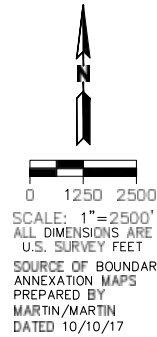
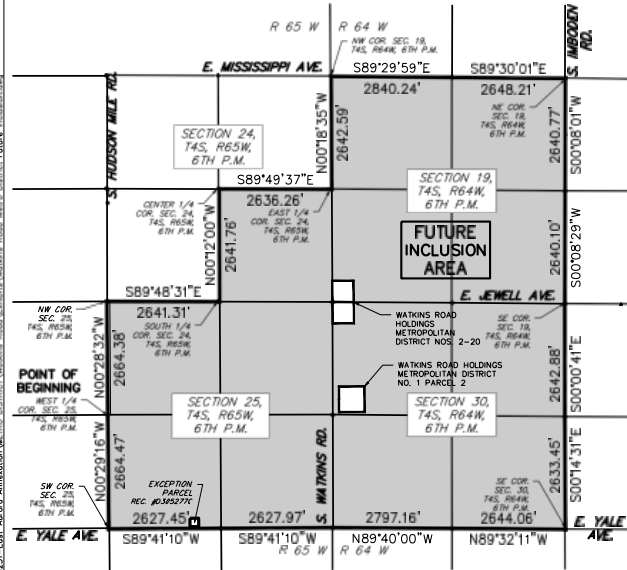
# WATKINS ROAD HOLDINGS METROPOLITAN DISTRICT FUTURE INCLUSION AREA

VICINITY MAP  
1"=4000'



SITE

DRAWING LOCATION: G:\4200\14.0225-Gen. Acct. Annexation\METRO DISTRICT\Watkins Road Holdings\Watkins Road Holdings District Future Inclusion Area



DATE: 01/05/18  
SHEET 2 OF 2

**MARTIN/MARTIN**  
CONSULTING ENGINEERS  
12499 WEST COLFAX AVENUE, LAKEWOOD, COLORADO 80215  
303.431.6100 MARTINMARTIN.COM



# Single Metro District and Debt

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- For smaller projects that are anticipated to develop quickly, the developer may choose to organize a single Metro District.
- Generally, in the Single Metro District structure debt is issued relatively early in the development of the project.
- Generally, in this structure there will be residents in the Metro District as soon as the first home is sold to a homebuyer.
- For reference see the map on slide 10.

# Control Metro Districts and Debt

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- The Town of Timnath Model Service (the “Model Service Plan”) anticipates that if there are multiple Metro Districts serving one project, the Metro Districts will be **collectively undertaking the financing and construction of public improvements**.
- One way to collectively undertake the financing and construction of public improvements is to organize a **Control Metro District** and one or more **Financing Metro District(s)**.
- In the past, it was common to organize a Control Metro District and one or more Financing Metro District(s) to serve one project because development entities and their lenders have a significant financial investment in a large project, so they are interested in maintaining control of the financing of the public improvements that will support the project through the issuance of debt by the Control Metro District.
- Metropolitan districts are formed to finance **public improvements**. The development entities of both small and large projects are also required to construct **private improvements** to complete the development. Maintaining control of the metropolitan district financing is only one part of financing and developing a successful project.



# Control Metro Districts and Debt (cont.)

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- Generally, in a Control Metro District structure the Control Metro District will issue the debt with a pledge of property tax revenue from the Financing Metro District(s). This structure helps the developer line up financing for the multiple phases of a larger project.
- Generally, in this structure there will not be residents in the Control Metro District and there will be residents in the Financing Metro District(s).

# Multiple Metro Districts and Debt

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- The Town of Timnath Model Service (the “Model Service Plan”) anticipates that if there are multiple Metro Districts serving one project the Metro Districts will be **collectively undertaking the financing and construction of public improvements**.
- One way to collectively undertake the financing and construction of public improvements is to organize a Multiple Metro District structure.
- The common practice in the development community now is to organize multiple Metro Districts to serve one project because: (1) development entities and their lenders have a significant financial investment in a large project, so they are interested in remaining qualified for the Board of Directors of each Metro District for as long as possible; (2) development entities and their lenders want to ensure the ability to issue debt from one or more Metro Districts to align with development goals.
  - For example, Metro District No. 1 will issue debt for development in Phase 1 (included in the boundaries of Metro District No. 1) and Phase 2 (included in the boundaries of Metro District No. 2). By consolidating the issuance of debt, both Metro District No. 1 and Metro District No. 2 save on the cost of issuance of debt and are often able to secure more project funds relative to the size of the debt issuance to fund public improvements than either would be able to do separately because they have separate tax basis.



# Multiple Metro Districts and Debt (cont.)

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- Generally, in a multiple Metro District structure one Metro District will issue debt and one or more Metro District(s) will pledge their property tax revenue to the Metro District that issued the debt. This is accomplished through a **pledge agreement** amongst the Metro Districts.
- A pledge agreement memorializes promises amongst the Metro Districts that each will impose property taxes and remit the revenue derived therefrom to the Metro District that issued the debt for the purposes of helping to pay down the debt.
  - One way to think about a pledge agreement is to analogize it to a homeowners association. In a homeowners association, each homeowner agrees to pay fees for the common improvement maintenance and replacement when they move in. The neighborhood is able to function and be well-maintained by the homeowners association because each homeowner is doing their part to fund the operations and capital replacement of the homeowners association through fee.
- Generally, in this Metro District structure, there will be residents in each Metro District as development occurs and they will be eligible to serve on the Board of Directors as soon as they close on the purchase of their homes.

# Questions to Discuss

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- What differentiates a Control Metro District Structure from a Multiple Metro District Structure?
- Why has the industry shifted from the Control Metro District Structure to a Multiple Metro District Structure?
- What can I do if I live in a Control Metro District Structure?



# What differentiates a Control Metro District Structure from a Multiple Metro District Structure?

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Most Developer  
Control

- Control Metro District Structure
- Little to no resident involvement with the control district

Moderate  
Developer  
Control

- Multiple Metro District Structure
- Residents can be involved in each of the Metro Districts

Less Developer  
Control

- Single Metro District Structure
- Residents can be involved in the Metro District

## Why has the industry shifted from the Control Metro District Structure to a Multiple Metro District Structure?

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- Under IRS rules “political subdivision” bonds are tax exempt (lower interest rate)
- In 2013, the IRS issued a technical advice memorandum (“TAM”) for a development district (similar to a metropolitan district) in Florida which found that the development district was not a “political subdivision” because its structure was intended to perpetuate private control by the developer as opposed to a transition of control to the residents of the project (i.e., taxation without representation)
- This IRS ruling has made the entire metropolitan district bond issuance community urge/require that tax-exempt debt only be issued from metropolitan districts that currently have or will have residents within their boundaries.
- This is an example of the industry self-regulating and evolving past control districts



# What can I do if I live in a Control Metro District Structure?

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- The Financing District(s) are unlikely to be responsible for the issuance of debt but they may be responsible for operations and maintenance for things like landscaping, clubhouse/pool, medians, etc. Your involvement could change the way your community looks and feels to residents.
- The Financing District(s) and their residents and taxpayers can hold the Control District accountable by attending Board of Director meetings to ask questions and requesting copies of public documents to better understand the structure and how to operate within it.

# Conclusion

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- This presentation has provided basic information about who can serve on the Board of Directors and the various structures of Metro Districts.
- The Multiple Metro District structure is permitted by the Special District Act is used to ensure orderly development of residential and commercial projects.
- The development community is transitioning away from the Control Metro District structure to the Multiple Metro District structure, which often phases in residents on the Board of Directors as development occurs.
- The next presentation “Metropolitan District 301” will focus on the types of debt metropolitan districts can issue.



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