

ARTICLE 4

INCLUSIONS

4-1 REQUIRED SUBMITTALS: Any Property Owner who desires to include his/her property within the District's boundaries shall submit the following to the District:

4-1-1 Petition. A written petition stating that assent to the inclusion is given by the fee owner or owners of the property proposed for inclusion and signed by each such owner exactly as his/her name appears on the instrument by which he/she took title to the property. The signatures of all petitioners must be acknowledged in the same manner as provided by Colorado law for acknowledgments on instruments conveying real property.

4-1-2 Legal Description and Survey Drawing. A printed legal description of the property proposed for inclusion, and a survey drawing showing the property's exact location, its location in relation to the boundaries of the District, and bearing the signature and seal of a professional land surveyor registered in the State of Colorado.

4-1-3 Vicinity Map. A vicinity map showing the general location and the boundaries of the property in relation to existing streets or other prominent terrain features.

4-1-4 Evidence of Title and Authorization of Signatories. Evidence of title sufficient to assure that the Petitioner(s) has/have fee title to the property. If a corporation, partnership, or joint venture owns the property, the Petitioner(s) shall furnish such additional information (*i.e.*, partnership agreement, Joint Venture Affidavit as provided by Section 38-30-166, C.R.S., etc.) as may be requested by the District in order to determine that the signatories have been authorized by that entity to execute such documents.

4-1-5 Narrative Description. A written statement setting forth the total acreage of the property to be included, the existing zoning, the proposed zoning, the proposed use, the construction schedule, and the service requirements.

4-1-6 Costs Deposit. A deposit in the amount of \$500.00 to defray the District's costs of reviewing and processing the Petition as provided by and subject to the terms of Section 7-5.

4-2 **PROCEDURE:** Following submittal and District approval of the submittals required in Section 4-1 above, inclusion proceedings shall be conducted as follows:

4-2-1 **Feasibility Study.** The District shall perform a feasibility study in order to determine whether and under what conditions the property proposed for inclusion can be served by the District System.

4-2-2 **Notice of Public Hearing.** At the first regular meeting of the Board following approval of the submittals, the Board shall set the date of the public hearing on the inclusion and order notice thereof to be provided according to law.

4-2-3 **Public Hearing.** The public hearing and the Board decision made pursuant thereto shall be held in accordance with applicable state law.

4-2-4 **Conditions.** If the Board Order of Inclusion contains conditions which must be met before it is to become effective, the District will ensure that all such conditions have been met before filing the Board Order of Inclusion with the court and applying for a Court Order of Inclusion.

4-3 **CONDITIONS OF INCLUSION:** The included property and its owners are subject to the following conditions, together with any and all such additional conditions and requirements as may be imposed by the Board:

4-3-1 **Rules and Regulations.** With respect to all matters affecting or in any way touching upon the allocation or provision of service to the property, the property and its owners shall be bound by and subject to these Rules and Regulations, as now or hereafter constituted.

4-3-2 **Easements.** The Property Owner shall, at no cost to the District, obtain, grant and convey, or cause to be granted and conveyed, to the District any and all easements within or outside the included property required by the District to serve such property. In addition, the Property Owner shall be responsible for and pay all costs and expenses of whatever kind associated with the acquisition and approval of all such easements, whether located within the included property or outside of it. These expenses may include those associated with condemnation, but this shall not be construed as imposing any obligation whatever upon the District to commence or prosecute any condemnation action.

4-3-3 **Design and Construction.** The Property Owner shall, at his/her sole cost and expense, design, construct, and install all Sewer Mains and any other facilities

required by the District to serve the included property. All such facilities shall be constructed according to these Rules and Regulations, and such design, construction, and installation shall be subject to inspection or observation and approval by the District.

- 4-3-4 Conveyance of Facilities.** Upon completion of the Sewer Mains and any other facilities and approval thereof by the District, the Property Owner shall convey them to the District according to the terms and conditions set forth in Article 6 of these Rules and Regulations
- 4-3-5 Service Not Guaranteed.** The allocation of Taps for and the provision of service to the included property shall be governed at all times by these Rules and Regulations. The process of including property within the District does not guarantee service to the included property. The District may be limited in the number of new Taps that may be made to the District System because of allocation policies imposed by Englewood, and the provisions of service to the included property may further be limited or delayed indefinitely because of the location or capacity limitations of existing facilities. Accordingly, by including its property within the District, the Property Owner shall be deemed to waive any right, claim, or cause of action of any kind which it may assert against the District based upon the inability of the latter to provide service to the included property.
- 4-3-6 Enlargement of Structures.** No Property Owner may enlarge, add on to, or extend any portion of his/her existing improvements receiving service (including buildings, landscape areas, and any other grounds or structures that use District services) into an area outside the boundaries of the District without including such additional property prior to commencing such enlargement or extension, or obtaining approval for extra-territorial service for such improvements.
- 4-3-6 Inclusion Agreement.** Upon District approval of the inclusion, the Property Owner and the District shall enter into an inclusion agreement setting forth the terms and conditions of such inclusion, and containing all provisions relating to the particular circumstances of serving the property.
- 4-3-7 Evidence of Inclusion.** Property Owner shall furnish satisfactory evidence of inclusion whenever such evidence is requested by the District. Satisfactory evidence shall consist of a tax receipt, or certificate in lieu thereof, received from, and signed by, the County Treasurer.