

RESOLUTION NO. 163-17

A RESOLUTION APPROVING AN AMENDMENT TO THE
SERVICE PLAN FOR THE FLYING HORSE
METROPOLITAN DISTRICTS NOS. 1-3

WHEREAS, Section 32-1-207, C.R.S., provides that no special district may materially modify its service plan except upon petition to the governing body of the municipality within which the special district lies and adoption of resolution of approval by such governing body; and

WHEREAS, pursuant to the provisions of Title 32, Colorado Revised Statutes, and pursuant to proper notice having been provided as required by law, the City Council held a public hearing and approved the original formation and the Consolidated Service Plan (the "Original Service Plan") for the Flying Horse Metropolitan Districts Nos. 1-3 (the "Districts") by Resolution No. 184-04 adopted on August 24, 2004; and

WHEREAS, the Districts have petitioned the City to approve an Amendment to Service Plan ("Amendment to Service Plan") to increase the maximum combined debt service and operating mill levy for Flying Horse Metropolitan District Nos. 1-3 from 35.0 mills to 40.0 mills; and

WHEREAS, the Amendment to Service Plan also includes a restriction on end user debt service fees which conforms to the City's current special district policy; and

WHEREAS, the Districts submitted for review and City Council reviewed the Amendment to Service Plan for the Districts; and

WHEREAS, City Council considered the Amendment to Service Plan, as well as all other testimony and evidence presented at a public hearing on November 28, 2017, to determine whether to approve the Districts' proposed Amendment to Service Plan.

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

Section 1. The above and foregoing recitals are incorporated herein by reference and are adopted as findings and determinations of the City Council.

Section 2. Council hereby finds that approval of the Service Plan Amendment is in the best interest of the City and the Districts.

Section 3. The Amendment to Service Plan as attached in Exhibit 1 is hereby approved.

Section 4. With the exception of those modifications specifically addressed in the Amendment to Service Plan, the Original Service Plan shall remain in full force and effect.

DATED at Colorado Springs, Colorado, this 12th day of December, 2017.



Council President

ATTEST:


Sarah B. Johnson, City Clerk



**PETITION FOR APPROVAL OF
AMENDMENT TO SERVICE PLAN FOR
FLYING HORSE METROPOLITAN DISTRICT NOS. 1, 2 AND 3
CITY OF COLORADO SPRINGS, COLORADO**

WHEREAS, the Service Plan for the Flying Horse Metropolitan District Nos. 1, 2 and 3 (the "Original Service Plan") was approved by the City Council of the City of Colorado Springs, Colorado ("City Council" or the "City"), on August 24, 2004; and

WHEREAS, the Boards of Directors of the Flying Horse Metropolitan District Nos. 1, 2 and 3 (the "Board" or the "Districts") have prepared an Amendment to Service Plan for the Districts due to the fact that the operations and maintenance costs the Districts are expected to incur have increased substantially over what was anticipated, as reflected in the Original Service Plan, thus necessitating the need to increase the aggregate mill levy cap for both debt service and operations to 40 mills for each of the Districts, while retaining the existing maximum debt service mill levy for each of the Districts at 30 mills; and

WHEREAS, the proposed Amendment to Service Plan also includes a restriction on end user debt service fees in order to conform to the City's current special district policy; and

WHEREAS, the Original Service Plan generally permits an amendment of the Original Service Plan with approval by the City Council in accordance with the City's ordinances and applicable state law, including the Special District Act, Sections 32-1-101, *et seq.*, C.R.S.; and

WHEREAS, Section 32-1-207, C.R.S., specifically provides that an amendment to the Original Service Plan may be initiated by a petition by the Districts to the City Council and that such amendment process shall conform as far as practicable to the process followed for the approval of the Original Service Plan; and

WHEREAS, Section 32-1-207(2), C.R.S., provides for a service plan amendment processing fee in an amount not to exceed Two Hundred and Fifty Dollars (\$250.00) (the "Processing Fee"); and

WHEREAS, the Districts respectfully request the City Council to approve the Amendment to Service Plan as submitted by the Districts.

NOW, THEREFORE, THE BOARDS OF DIRECTORS OF THE DISTRICTS HEREBY PETITION THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS, COLORADO, FOR APPROVAL OF THE AMENDMENT TO SERVICE PLAN FOR THE DISTRICTS IN ACCORDANCE WITH THE PROVISIONS OF SECTION 32-1-207, C.R.S. IN SUPPORT OF THIS PETITION, THE BOARD STATES AS FOLLOWS:

(1) The Board has considered the content of the Amendment to Service Plan for the Districts and has approved the same.

(2) The Original Service Plan provides the maximum debt service mill levy for each of the Districts shall be 30 mills, and the aggregate mill levy cap for both debt service and operations for each of the Districts shall be 35 mills. The proposed Amendment to Service Plan

seeks to increase the aggregate mill levy cap to 40 mills for each of the Districts, while retaining the maximum debt service mill levy for each of the Districts at 30 mills.

(3) The proposed increase in the aggregate mill levy cap for both debt service and operations for each of the Districts is necessary and justified in order to provide the Districts adequate financial ability to pay for operations and maintenance activities, including but not limited to operation and maintenance of the Districts' park and recreation improvements and services for the benefit of the Districts' residents and the public.

(4) The proposed Amendment to Service Plan also includes a restriction on end user debt service fees in order to conform to the City's current special district policy.

(5) The Original Service Plan, as amended by the Amendment to Service Plan, substantially complies with the Special District Act and local applicable law.

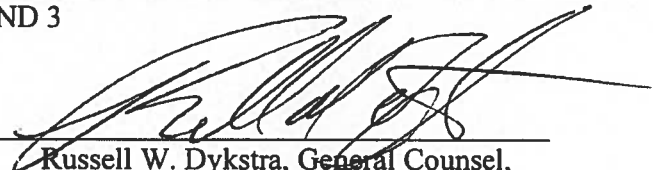
(6) The Districts are prepared to pay, and will pay, the Processing Fee in connection with this Petition upon request by the City.

THEREFORE, THE DISTRICTS RESPECTFULLY REQUEST THAT THE CITY COUNCIL SCHEDULE A PUBLIC HEARING TO CONSIDER THE AMENDMENT TO SERVICE PLAN FOR THE DISTRICTS AND ADOPT A RESOLUTION APPROVING THE SAME.

Petition executed this 4th day of October, 2017.

FLYING HORSE METROPOLITAN DISTRICT NOS. 1,
2 AND 3

By: _____



Russell W. Dykstra, General Counsel,
Flying Horse Metropolitan District Nos. 1, 2 and 3,
On Behalf of the Boards of Directors of Flying
Horse Metropolitan District Nos. 1, 2 and 3

**FLYING HORSE METROPOLITAN DISTRICT NOS. 1, 2 AND 3
IN THE CITY OF COLORADO SPRINGS, COLORADO**

AMENDMENT TO SERVICE PLAN

1. INTRODUCTION

The consolidated service plan (the "Service Plan") for the Flying Horse Metropolitan District Nos. 1, 2 and 3 ("Districts") was approved by the City Council of the City of Colorado Springs, Colorado, on August 4, 2004, and the Districts were organized by Order of the District Court in and for El Paso County on November 4, 2004.

The Boards of Directors of the Districts have determined it to be in the best interests of the Districts to seek this Amendment to Service Plan (this "Amendment") in order to amend the Service Plan to increase the Districts' aggregate mill levy cap from 35 mills, as originally set forth in the Service Plan, to 40 mills. As originally approved, the Service Plan provides the maximum debt service mill levy for each of the Districts shall be 30 mills, and the aggregate mill levy cap for both debt service and operations for each of the Districts shall be 35 mills.

This Amendment increases the aggregate mill levy cap for both debt service and operations to 40 mills for each of the Districts, while retaining the maximum debt service mill levy for each of the Districts at 30 mills, in order to provide the Districts adequate financial ability to pay for operations and maintenance activities, including but not limited to operation and maintenance of the Districts' park and recreation areas for the benefit of the Districts' residents and the public.

In addition, this Amendment amends the Service Plan to reflect that no fees other than one-time builder-paid development fees shall be pledged for repayment of any debt, consistent with current City policy.

2. AMENDMENT

Except as modified by this Amendment, all provisions of the Service Plan remain as originally approved and shall continue in full force and effect.

The Service Plan is hereby amended by this Amendment as follows:

A. The maximum debt service mill levy for each of the Districts shall be thirty (30) mills, and the aggregate mill levy cap for both debt service and operations for each of the Districts shall be forty (40) mills, provided the maximum debt service mill levy and the aggregate mill levy cap may be increased or decreased to reflect changes in the method of calculating assessed valuation of constitutionally mandated tax credit, cut or abatement on or after January 1, 2005, as set forth in the Service Plan. Any and all provisions of the Service Plan regarding the aggregate mill levy cap for both debt service and operations for each of the Districts are hereby amended to be consistent with this Amendment.

B. Section C of the Service Plan, "FINANCIAL PLAN ANALYSIS," is hereby amended to include the following subsection 15:

If the Districts impose a development or capital fee for the purpose of repayment of debt, such fee shall be a one-time fee, payable prior to any resident or ultimate third party end-user taking title to the property, and no further fees or charges of the Districts shall be pledged for repayment of District debt.

3. RATIONALE.

A. The current aggregate mill levy cap for both debt service and operations for each of the Districts of 35 mills has in effect limited the Districts' operations and maintenance mill levy to 5 mills. An operations and maintenance mill levy of 5 mills has not been and is not anticipated to be adequate to generate sufficient funds to allow the Districts to cover their full operations and maintenance expenses, including, but not limited to, operations and maintenance of substantial parks and recreation services and amenities in the Districts. By increasing the Districts' aggregate mill levy cap to 40 mills, this Amendment will allow the Districts an additional 5 mills necessary to support the Districts' operations and maintenance activities without impacting the Districts' existing debt service ability or obligations.

B. The amendment to Section C, Financial Plan Analysis, reflects current City policy in regards to the pledge of development fees for debt service.