

RESOLUTION NO. 111-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS, COLORADO APPROVING A SERVICE PLAN AMENDMENT FOR THE COLORADO CROSSING METROPOLITAN DISTRICTS NOS. 1, 2 AND 3 TO AUTHORIZE OPERATION AND MAINTENANCE OF A PARKING GARAGE AND TO INCREASE THE MAXIMUM OPERATING MILL LEVY FOR THE DISTRICTS FROM 10.0 MILLS TO 20.0 MILLS

WHEREAS, by Resolution 9-06, the City Council approved the Special District Policy on January 24, 2006, a City Financial Policy Regarding the Use of Districts (the "Policy"), providing for certain financial and other limitations in the use of special districts as an available method in financing public infrastructure; and

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 Colorado Crossing Metropolitan Districts Nos. 1, 2, and 3 (the "Districts") by Resolution No. 126-06 adopted on August 22, 2006; and

WHEREAS, the Districts have petitioned the City to approve an amendment to the Original Service Plan ("Amendment to Service Plan") to authorize operation and maintenance of a parking garage and an increase in the Maximum Operating Mill Levy for the Districts from 10.0 mills to 20.0 mills.

WHEREAS, the Policy contains requirements for the content and limitations associated with new or amended service plans; 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 the October 25, 2016 City Council meeting 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:

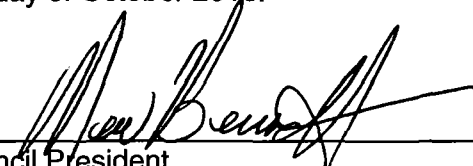
Section 1. The above and foregoing recitals are incorporated herein by reference and are adopted as findings and determinations of the City Council.

Section 2. Council hereby finds that the Amendment to Service Plan 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 25th day of October 2016.



Council President

ATTEST:



Sarah Johnson, City Clerk



FIRST AMENDMENT TO THE
CONSOLIDATED SERVICE PLAN FOR
COLORADO CROSSING METROPOLITAN DISTRICT NO. 1
COLORADO CROSSING METROPOLITAN DISTRICT NO. 2
COLORADO CROSSING METROPOLITAN DISTRICT NO. 3
IN THE
CITY OF COLORADO SPRINGS, COLORADO

Prepared by
McGeady Becher P.C.
450 E. 17th Avenue, Suite 400
Denver, CO 80203

Submitted: July 25, 2016

Approved [_____], 2016

Article I. PURPOSE AND INTENT

Colorado Crossing Metropolitan District Nos. 1, 2 and 3 (the “**Districts**”) were organized and operate pursuant to a Consolidated Service Plan as approved by the City Council of the City of Colorado Springs, Colorado, on August 22, 2006 (the “**Original Service Plan**”).

This First Amendment to the Consolidated Service Plan for Colorado Crossing Metropolitan District Nos. 1, 2, and 3 (the “**First Amendment**”) increases the Maximum Operating Mill Levy authorized to be imposed by the Districts in order to provide the Districts with the ability to generate revenues in amounts sufficient to address the increased operations and maintenance obligations of the Districts.

This First Amendment modifies Exhibit D to the Original Service Plan (the “**Amended Exhibit D**”) to specifically authorize the Districts to undertake and provide certain operations and maintenance services more specifically described in the Amended Exhibit D.

Article II. AMENDMENT

A. Article VI, G. Article VI, Section G of the Original Service Plan is hereby deleted and replaced in its entirety with the following paragraph:

“Each of the Districts may impose a mill levy on taxable property within its boundaries as a primary source of revenue for repayment of debt service and for operations and maintenance. The Districts may also rely upon various other revenue sources authorized by law. At the Districts’ discretion, these may include the power to assess fees, rates, tolls, penalties or charges as provided in Section 32-1-1001(1) C.R.S., as amended from time to time. 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 as to a lot or parcel of property prior to any resident or ultimate third party end-user taking title to such property and no further fees or charges of the Districts shall be pledged for repayment of District debt. In no event shall the debt service mill levy in any District exceed the Maximum Debt Mill Levy or, for the Residential Districts, the Maximum Debt Mill Levy Imposition Term.”

B. Article VI, J. The second paragraph of Article VI, Section J of the Original Service Plan is hereby deleted and replaced in its entirety with the following paragraph:

“During such time as the Commercial District undertakes to provide, or pledges revenues to provide, operation and maintenance services related to the public parking structure as described in Exhibit D, the Maximum Operating Mill Levy for the payment of such District’s operating and maintenance expenses shall be twenty (20) mills; provided that if, on or after January 1, 2006, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement; the mill levy limitation applicable to such operating and maintenance expenses may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill

levy, as adjusted for changes occurring after January 1, 2006, are neither diminished nor enhanced as a result of such changes (the "Additional Mill Levy"). For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation. The Commercial District shall be authorized to impose the Additional Mill Levy commencing with the mill levy certification for the year prior to the anticipated receipt of a certificate of occupancy for the public parking structure.

In the event the Commercial District does not undertake to provide, or pledge revenues to provide, operation and maintenance services related to the public parking structure as described in Exhibit D, and for each of the other Districts at any time, the Maximum Operating Mill Levy for the payment of operating and maintenance expenses shall be ten (10) mills; provided that if, on or after January 1, 2006, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement; the mill levy limitation applicable to such operating and maintenance expenses may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2006, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation."

C. Exhibit D. Exhibit D to the Original Service Plan is hereby deleted and replaced in its entirety with Attachment A attached to this First Amendment.

D. All provisions of the Service Plan not expressly modified by this Amendment remain unchanged and in full force and effect.

E. In the event of any express conflict of inconsistency between the terms of the Original Service Plan and this First Amendment, this First Amendment shall control and govern.

ATTACHMENT A

EXHIBIT D TO THE SERVICE PLAN

Description of Permitted Services to be Provided by the Districts

<u>Description of Services</u>	<u>IGA Required (Yes or No)</u>
Operation and maintenance services related to recreational facilities.	No
Operation and maintenance related to entrance features, landscaped areas, pocket parks, street trees, streetscape, and all parks.	No
Operation and maintenance services related to public parking structures.	No