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File No. 5025418-2300

October 4, 2017

City Council of the City of Colorado Springs
Attention: Carl Schueler, Comprehensive Planning Manager
30 South Nevada Avenue
Colorado Springs, Colorado 80903

Re: Flying Horse Metropolitan District Nos. 1, 2 and 3; Amendment to Service Plan

Dear Mr. Schueler:

Our firm serves as legal counsel to Flying Horse Metropolitan District Nos. 1, 2 and 3 ("Petitioner" or "Districts"). On behalf of the Petitioner, attached please find the following items:

1. Title 32 Special District Transmittal Form
2. An executed Petition for Approval of Amendment to Service Plan for Flying Horse Metropolitan District Nos. 1, 2 and 3;
3. Proposed Amendment to Service Plan;
4. Proposed Resolution Approving the Petition and Amendment to Service Plan; and
5. Proposed schedule utilizing a submittal date of October 4, 2017.

In addition to the foregoing, Petitioner understands and agrees that, upon request from the City, it will remit to the City a processing fee payment in the amount of \$250.00 pursuant to Section 32-1-702(2), C.R.S.

The original service plan for the Petitioner was approved by the City Council by Resolution No. 184-04 adopted on August 24, 2004. The original service plan provides a maximum debt service mill levy for each of the districts of 30 mills, and an aggregate mill levy cap for both debt service and operations for each of the districts of 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.

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.

DN 2769603.1



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Based on actual expenditures of the Districts, the proposed increase in the aggregate mill levy cap is necessary in order to provide the Petitioner adequate financial ability to pay for ongoing district-related operations and maintenance activities, including but not limited to operation and maintenance of the Petitioner's park and recreation areas for the benefit of the Petitioner's residents and the public. The Districts have been dependent upon developer contributions to fund the operation and maintenance of these areas, and such funding will not be available in the future.

Petitioner requests that the enclosed Petition and supporting documentation be presented to City Council as soon as possible to allow progression as outlined in the attached schedule so the Districts may certify their 2017 mill levies by the statutory deadline of December 15.

We appreciate your assistance in this matter and look forward to working with you toward approval of the proposed Amendment to Service Plan.

Sincerely,

Russell W. Dykstra

City of Colorado Springs Titles 31 and 32 Special District Transmittal Form

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| Date plan received (to be filed in by City): |
|---|

Petitioner: Flying Horse Metropolitan District Nos. 1, 2 and 3

District name(s): Flying Horse Metropolitan District Nos. 1, 2 and 3

District location: Northgate Road and Highway 83, City of Colorado Springs

District size (acres): 1,566 acres

| Metropolitan District | Business Improvement District | General Improvement District |
|---|-------------------------------|------------------------------|
| <input checked="" type="checkbox"/> Residential <input checked="" type="checkbox"/> Commercial | N/A | N/A |
| <input type="checkbox"/> New <input checked="" type="checkbox"/> Amended/restated: Does current metro district have existing residents? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | N/A | N/A |
| <input type="checkbox"/> Single District Service Plan <input checked="" type="checkbox"/> Multiple District Service Plan | N/A | N/A |

Requested City Council hearing date (not less than 60 days from submittal): November 14, 2017

Please attach a transmittal letter which includes the following summary information:

1. Justification for petitioner's request to City Council to approve this district.
2. A general description of future development plans, if known.
3. Identify any deviation from the Model Plan(s) and provide an explanation/justification for each one.

**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.

Resolution No. __-17

**A RESOLUTION APPROVING AN AMENDMENT TO THE
SERVICE PLAN FOR FLYING HORSE METROPOLITAN DISTRICT NOS. 1, 2 AND 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 a 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 of the City of Colorado Springs, Colorado (“City Council” or “City”) held a public hearing and approved the original formation and the consolidated service plan (the “Original Service Plan”) for Flying Horse Metropolitan District Nos. 1, 2 and 3 (the “Districts”) 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 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); 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 has reviewed the Amendment to Service Plan for the Districts; and

WHEREAS, following due and proper notice, City Council considered the Amendment to Service Plan, as well as all other testimony and evidence presented at a public hearing on the ____ day of _____, 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. City Council hereby finds that approval of 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 hereto and incorporated by reference herein 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 ____ DAY OF _____, 2017.

CITY OF COLORADO SPRINGS

By: _____
City Council President

ATTEST:

By: _____
City Clerk

**PROPOSED TIMELINE FOR FLYING HORSE METROPOLITAN DISTRICT NOS. 1-3
AMENDMENT TO SERVICE PLAN
CITY OF COLORADO SPRINGS**

| DATE | ACTION |
|-------------|---|
| October 4 | <p>Submit Title 32 Special District Transmittal Form, and Amendment to Service Plan and related documents (15 hard copies)</p> <p>If requested, filing with City Clerk filing fee \$250.</p> |
| October 9 | <p>City confirms completeness of submitted documents.</p> <p>Possible deadline regarding publication and mailing of notice of hearing on Amended Service Plan (20 days prior to hearing).</p> <p>Immediate preparation of Notice of Hearing by City Clerk (District prepares and provides to City) for mailing and publication (Colorado Springs Daily Transcript).</p> |
| October 13 | Staff schedules City Council hearing date. All documents in final form. |
| November 14 | City Council Hearing; City Council approves, conditionally approves, or disapproves the Amendment to Service Plan. |
| November 15 | <p>Obtain certified copy of the City's Resolution approving the Amended Service Plan.</p> <p>Court filing of the Amended Service Plan and certified approval resolution from the City Council.</p> |