

RESOLUTION NO. 60 - 22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS, COLORADO APPROVING A FOURTH SERVICE PLAN AMENDMENT FOR THE COLORADO CROSSING METROPOLITAN DISTRICTS NO. 1 THROUGH 3 TO AUTHORIZE AN INCREASE IN THE COMBINED MAXIMUM AUTHORIZED DEBT OF THE DISTRICTS FROM \$50,000,000 TO \$72,000,000 AND TO AUTHORIZE THE CREATION OF SPECIAL IMPROVEMENT DISTRICTS

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. 1-3 (the "Districts") by Resolution No. 126-06 adopted on August 22, 2006; 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 public hearings and approved First, Second and Third Amendments the Original Service Plan (by Resolutions Nos. 111-16, 157-18 and 105-20 respectively); and

WHEREAS, Colorado Crossing Metropolitan Districts Nos. 1-3 (the "Districts") have petitioned the City to approve a Fourth Amendment to Service Plan ("Fourth Amendment of the Service Plan") to authorize an increase in the maximum combined authorized indebtedness of the Districts from \$50,000,000 to \$72,000,000, and with general obligation debt not to exceed \$60,000,000, and special assessment debt not to exceed \$12,000,000.

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 a Fourth Amendment of the Service Plan for the Districts; and

WHEREAS, City Council considered the Second Amended Service Plan, as well as all other testimony and evidence presented at the April 26, 2022 City Council meeting to determine whether the Districts' proposed Fourth Amendment of the Service Plan satisfies the requirements of the Policy.

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 complies with the Policy and provisions of the Model Service Plans and remains consistent with the findings made in as part of the original Service Plan approval.

Section 3. The Fourth Amendment of the Service Plan as attached in Exhibit 1 is hereby approved.



Section 4. With the exception of those modifications specifically addressed in the Fourth Amendment of the Service Plan, the Original Service Plan and the First, Second and Third Amendments of the Service Plan shall remain in full force and effect.

DATED at Colorado Springs, Colorado, this 26th day of April 2022.



Council President

ATTEST:


Sarah B. Johnson, City Clerk


**FOURTH 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**

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Approved:
April __, 2022

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**”).

The First Amendment to the Consolidated Service Plan for Colorado Crossing Metropolitan District Nos. 1, 2, and 3 (the “**First Amendment**”) was approved on October 25, 2016 and increased 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.

The Second Amendment to the Consolidated Service Plan for Colorado Crossing Metropolitan District Nos. 1, 2, and 3 (the “**Second Amendment**”) was approved on December 11, 2018, and modified Exhibit D to the Original Service Plan and the First Amendment (the “**Second Amended Exhibit D**”) to specifically authorize the Districts to undertake and provide certain maintenance services more specifically described in the Second Amended Exhibit D.

The Third Amendment to the Consolidated Service Plan for Colorado Crossing Metropolitan District Nos. 1, 2, and 3 (the “**Third Amendment**”) was approved on November 10, 2020, and modified the Original Service Plan to amend relevant provisions to update the Preliminary Engineering Survey and the Total Debt Issuance Limitation based upon current development plans and public infrastructure needs, as further described therein.

Since organization of the Districts and approval of the Third Amendment, modifications to the development plans and public infrastructure needs within the Service Area of the Districts have occurred. The updated estimates of the costs necessary to provide the Improvements necessary for development of the Districts now total approximately \$60,648,072. To fund these additional development costs, the Districts believe it is in the best interests of the Districts to increase their Total Debt Issuance Limitation and to authorize the Districts to organize two (2) Special Improvement Districts (“**SIDs**”) pursuant to Section 32-1-1101.7, C.R.S., and the authority granted by and procedures set forth in Parts 5 and 11 of Article 25 of Title 31, C.R.S. (collectively, the “**SID Statutes**”). Once organized, the Districts will be authorized to impose Special Assessments on the properties within the boundaries of the SIDs and issue bonds secured by revenues generated as a result of imposition of the Special Assessments (“**SID Bonds**”) subject to the Total Debt Issuance Limitation.

Together, the Original Service Plan, First Amendment, Second Amendment, Third Amendment, and this Fourth Amendment shall be collectively referred to as the “**Service Plan**.”

Article II. AMENDMENT

A. Article V, Section A, Part 10. Article V, Section A, Part 10 of the Third Amendment provides, inter alia, that the Districts shall not issue Debt in an aggregate principal amount in excess of \$50,000,000. Article V, Section A, Part 10 is hereby deleted and replaced in its entirety with the language below:

“10. Total Debt Issuance Limitation. The issuance of all bonds or other debt instruments of the Districts shall be subject to the approval of the City Council. City Council’s review of the bonds or other debt instruments of the Districts shall be conducted to ensure compliance with the Service Plan and all applicable laws. The Districts shall not issue Debt which, in an aggregate principal amount, is in excess of \$72,000,000. The foregoing shall not include the principal amount of Debt issued for the purpose of refunding or refinancing lawfully issued Debt. Within the Total Debt Issuance Limitation, the Districts shall not issue Debt supported by general obligation revenues in excess of \$60,000,000, and shall not issue Debt supported by assessment revenues in excess of \$12,000,000.”

B. Article V, Section B. Article V, Section B of the Third Amendment sets forth a cost estimate of \$44,700,000 for the Public Improvements necessary to serve the Service Area. As a result of changes to the development plans in the Service Area of the Districts since approval of the Third Amendment, the Districts desire to further modify the Third Amendment to recognize the current cost estimate for such Public Improvements. As such, the first paragraph of Article V, Section B is hereby deleted and replaced in its entirety with the following paragraph:

“ The Districts shall have the authority to provide for the planning, design, acquisition, construction installation, relocation, redevelopment, maintenance, and financing of the Public Improvements within and without the boundaries of the Districts, to be more specifically defined in an Approved Development Plan. An estimate of the costs of the Public Improvements which may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, maintained or financed has been prepared based upon a preliminary engineering survey and estimates derived from Approved Development Plans on the property in the Service Area and is approximately \$60,648,072.”

C. The following Article V, Section A, Part 16. shall be added:

“Special Improvement District. The Districts shall have the authority, pursuant to Section 32-1-1101.7, C.R.S., to establish two (2) special improvement districts within the boundaries of the Districts, including the power to levy assessments which, pursuant to Section 31-25-507, C.R.S., may only be imposed in an amount that does not exceed the benefit conferred by the financed Public Improvements, and which will be payable prior to the transfer of any affected property to an end user. By way of illustration, a resident homeowner, renter, commercial property owner, or commercial tenant is an end user. The business entity that constructs homes or commercial structures is not an end user.”

D. Article V, A.16. A new Section A.16 is hereby added to Article V as follows:

“16. Concealed Carry Prohibition. The District shall not adopt or enact an ordinance, resolution, rule or other regulation that prohibits or restricts an authorized permittee from carrying a concealed handgun in a building or specific

area under the direct control or management of the District as provided in C.R.S. § 18-12-214.”

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

F. In the event of any express conflict or inconsistency between the terms of the Original Service Plan, the First Amendment, the Second Amendment, the Third Amendment, and this Fourth Amendment, the Fourth Amendment shall control and govern.