



## Legislation Details (With Text)

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**Title:** A Resolution approving an amendment to the Amended and Restated Service Plan for Banning Lewis Ranch Metropolitan Districts Nos. 1, 2, 3, 4, 5 and 7 to allow an unlimited maximum debt service mill levy in District No. 2

(Legislative)

**Presenter:**  
Carl Schueler, Comprehensive Planning Manager, Planning and Community Development  
Peter Wysocki, Planning and Community Development Director

**Sponsors:**

**Indexes:** BLR, Metropolitan District

**Code sections:**

**Attachments:** 1. Figure 1- BLR2 PowerPoint, 2. Figure 2- Resolution BLR Service Plan Amendment, 3. Figure 3- BLRMD No. 2 - Service Plan Amendment 9-23-16 RL, 4. Figure 4- Excerpt From the City Model Service Plans, 5. Figure 5- 9-21-16\_Transmittal Letter, 6. Figure 6- Banning Lewis Community Presentation Aug 2016, 7. Figure 7- Banning Lewis Ranch Proposed Refunding QA, 8. BLR District 1-5 & 7 Amended and Restated Service Plan February 26 2008, 9. Resolution 115-16

Date	Ver.	Action By	Action	Result
11/8/2016	1	City Council	adopted	Pass
10/24/2016	1	City Council Work Session	referred	

A Resolution approving an amendment to the Amended and Restated Service Plan for Banning Lewis Ranch Metropolitan Districts Nos. 1, 2, 3, 4, 5 and 7 to allow an unlimited maximum debt service mill levy in District No. 2

(Legislative)

**Presenter:**

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**Summary:**

This is a request by the Banning Lewis Ranch Metropolitan District No. 2 ("District") for approval of a service plan amendment to allow an unlimited mill levy when the total principal amount of debt will exceed 3% (three percent) of the Assessor's market value of the property within the District. The City's Model Special District Service Plan and the District's current service plan require the Gallagher-adjusted debt service mill levy for residential metropolitan districts to not exceed 30.0 mills unless an exceedance is approved by a board consisting of homeowners owning property within the District --

and then only if the ratio of total debt to the County Assessor's market value is equal to or less than 3% (three percent) of the Assessor's market value of the property within the District. The Board of the District is now controlled by resident homeowners, and desires to refinance its remaining debt at a substantially lower interest rate, which is in turn tied to removing the current mill levy cap. The District board is willing to trade off some limited risk of an escalation of its mill levy in return for the more likely scenario of lower overall financing costs and the consequent opportunity to reduce their debt service mill levy from 30.0 to 23.0 mills.

The amendment has been prepared in the form of a stand-alone document inclusive of only the proposed changes. If the amendment is approved, the balance of the existing consolidated service plan would remain in force and effect.

**Previous Council Action:**

On September 13, 2005, City Council approved the formation and service plan of the Banning Lewis Ranch Metropolitan Districts No. 1-7 (the "Districts") by Resolution No. 162-05. City Council has subsequently approved an Amended and Consolidated Plan (the "Service Plan") for the Districts No. 1-5 and 7, by Resolution No. 52-08 adopted on March 11, 2008. On May 26, 2009, by Resolution 118-09, City Council amended the 2008 Service Plan. On April 9, 2013 City Council approved the issuance of up to \$8,500,000 in initial debt for this District in the form of bank-owned limited general obligation tax bonds, by Resolution No. 33-13. 2014 Series B limited tax general obligation tax subordinate bonds in an amount not to exceed \$3,000,000 were approved by City Council on April 22, 2014, 2014 Resolution No. 41-14.

This agenda item was introduced at an Informal City Council work session on October 24, 2016.

**Background:**

Metropolitan districts are created under Colorado Statute and City Policy to finance and/or maintain certain public improvements, primarily utilizing a property tax mill levy as the revenue source. These districts are separate legal entities from the City.

Material modifications of a service plan require City Council approval, with this change clearly falling in that category.

The City's 30 mill maximum debt service mill levy for residential districts has been part of City Policy since 2006. Although Colorado Springs borrowed heavily from the City of Aurora's model service plans as part of its 2005 policy process, it appears that its distinction between commercial and residential maximum mill levies was locally derived. The presumptive rationale for a lower residential cap for taxes initially put in place by developers was a "consumer protection" interest for residential property purchasers who might not have the level of financial awareness and sophistication associated with typical commercial property owners and purchasers. It was understood at the time that bond purchasers ordinarily require a higher interest rate in exchange for their risk associated with a hard and fast cap on pledged revenues available to service the debt.

Section VI.E.1 of the Colorado Springs Model Service Plan (refer to attached excerpt) allows for a removal of the mill levy caps by the board of the district at such time as it is controlled by resident property owners and providing that the total amount of debt does not exceed 3% of the market value of taxable property in the District. The challenge in this case is that the outstanding debt exceeds this 3% threshold (it currently stands at about 4% of market value) and, because the District is predominantly built out, it is projected to take several years to pay down the debt to a point where the

required ratio is achieved. The District would like to take advantage of lower costs of financing now.

The origin of the 2005-2006 3% debt to property value cap is not entirely clear to current City staff, but again it appears to be locally derived because this provision does not appear in the Aurora model from that period. The rationale for using a market value rather than a more typical assessed value ratio may have stemmed from a concern with the prior volatility of the residential versus commercial assessment ratios associated with application of the Gallagher Amendment at the time. Again, because of Gallagher, and this being a residential district, it may be worth noting that this District comes much closer to meeting the no more than 3% debt to market value ratio, than it does to meeting the City Charter Article 7-100 requirement that the total debt of any proposed district shall not exceed ten percent (10%) of the total assessed valuation of the taxable property within the District unless approved by at least a two-thirds vote of the entire Council.

Notwithstanding the presumed intent of the 3% provision included in the current and standard service plan, staff recommends that it be allowed to be removed in this case on the basis of the demonstration of financial benefit to the taxpayers of this District. This is combined with the presumption that resident (or end user) property owners should have the option to assess and decide on their tolerance for financial risk in exchange for expected decreases in tax exposure over time.

At the October 24, 2016 Council work session, Ms. Stacy Jensen, resident member of the District Board of Directors provided background including the fact that the entire board is now comprised of resident property owning electors. She stated that communication had been provided to all resident taxpayers, and that, after questions, there appears to be no remaining opposition to this request. Information has also gone out to owners on Facebook etc. Ms. Jensen noted the Board is aware of the risk trade-offs. She further noted that if property values were to decrease substantially, the property tax rate would go up, but the amount levied per home would be largely unchanged.

This amendment could support the following Strategic Plan objective:

“Facilitate intergovernmental cooperation and regionalization to support efforts that provide efficiencies and improve services.”

If City Council does approve this service plan amendment, consideration should be given to a more comprehensive amendment of the Model Service Plans at some point in the future.

#### **Financial Implications:**

As also discussed under the following agenda item, this decision represents basic risk management trade-off associated with the strong likelihood of lower overall tax and financing cost for resident property owners balanced against the possibility of escalating mill levies in the relatively unlikely circumstance that property values in this area would decline substantially. Because the debt service mill levy would start out (and is intended to remain at) 23.0 mills, AV would need to decrease by about 24% before a greater-than-30.0 mill levy scenario could be triggered.

It should be noted that mature entities including cities, towns and utilities often issue debt with an unlimited pledge of applicable revenues.

#### **Board/Commission Recommendation:**

The City's staff-level Special District Committee has been provided copies of these materials. One member of the Committee expressed initial concern with this amendment and asked questions about

the origin and intent of the current policy. No other comments or concerns have been stated.

**Stakeholder Process:**

The resident-controlled board of directors of this District recommends approval of this proposed amendment, and has provided communication and outreach to other property owners within the District. The Board has represented that, although there originally were questions, at this time there is substantial support for this opportunity for refinancing, and there is no significant opposition. It is expected that the Board will make these representations formally and in person in conjunction with presentation of this request to City Council.

**Alternatives:**

City Council could choose to approve, deny or modify the proposed resolution.

**Proposed Motion:**

Move adoption of the resolution approving an amendment to the Amended and Restated Service Plan for Banning Lewis Ranch Metropolitan District Nos. 1, 2, 3, 4, 5, and 7 to allow an unlimited maximum debt service mill levy for District No. 2

N/A