



## Legislation Text

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Introduction of the Sands Metropolitan Districts Nos. 1-4 and Pending Sands Annexations 1-4

(Legislative)

**Presenter:**

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**Summary:**

This is an informational briefing on the Sands Metropolitan Districts Nos. 1-4 (“Districts”) in anticipation of pending requests for annexations that are expected to result in the annexed properties remaining in County-created metropolitan districts and with a service plan subject to El Paso County Board of Commissioners (“BCC”) jurisdiction as the “approving authority”.

**Previous Council Action:**

None.

An annexation petition is pending for certain properties now included in Sands Metropolitan Districts No. 1-3.

**Background:**

Annexation petitions are pending for properties known as the Sands Annexations 1-4 located at the northeast corner of Constitution Avenue and Marksheffel Boulevard. The proposed land uses for these properties include a combination of residential, commercial and industrial uses. In 2016 these and other properties were included in metropolitan districts formed in the unincorporated area of El Paso County and authorized by a service plan approved by the Board of County Commissioners. The consolidated service plan for the Districts encompasses four (4) different districts (District Nos. 1-4). The parcels in District No. 4 are not part of and pending annexation, and moreover, are not eligible for annexation at this time (due to lack of contiguity). An attached map depicts the current boundaries of the Districts. Under State law, if the boundaries of a metropolitan district or combination of districts become entirely included within the boundaries of a municipality, the district (s) can request that municipality to take over as the “approving authority”. However, if any of the district(s)’ property remains outside of municipal boundaries, this option is not available.

Therefore, if these annexations were to be approved, the only direct option City Council will have are either to accept the annexation with metropolitan districts subject to County approving authority. The prospective annexors do have the option to either attempt to amend their current service plan with the County to have it comport more closely with the Colorado Springs model, or to exclude the District No. 4 property, thereby making the remaining metropolitan district areas eligible for acceptance by the City as the approving authority. The annexors have stated a reluctance to pursue either of these options based on a combination of their impact on the timing of their annexation requests, the associated costs, and potential implications for financial benefits from these Districts.

There are a variety of differences between typical County and City service plans with respect to powers allowed and limits imposed. In some cases the City is more permissive and in others it is more limiting. The attached February 22, 2018 letter from counsel for the Districts highlights the applicable language in Colorado Revised Statutes and provides a comparison between this service plan and the typical City model.

Of particular note are the allowances in the County service plan for Gallagher adjusted debt service mill levies of 50.0 versus 30.0 mills for districts with residential uses, along with an additional operations and maintenance levy of 5.0 mills for the specified purpose of covenant enforcement.

It should also be noted that, regardless of which jurisdiction has “approving authority”, this authority only comes into play in particular instances. These include material modifications that trigger need to amend the service plan, requirements for annual (information only reports), and City Council authorization for formal debt issuance. In most other cases, metropolitan districts operate as independent governmental entities.

Based on Colorado Revised Statutes in combination with the expectations of the annexors, the only available option for annexation of these properties would be with the Districts “as is”, and subject to the continuing approval authority of the Board of County Commissioners.

The current draft of the Sands annexation agreement contains the following or similar language

*“The Service Plan for the Sands Districts has been approved by the El Paso County Board of County Commissioners. After annexation, the Board of County Commissioners will continue to be the approving authority for the Sands Districts, and the City acknowledges that the District will continue to operate pursuant to the approved Service Plan.”*

These annexation petitions have been recommended for approval by the Planning Commission. The Planning Commission does not review nor recommend action on special districts. The tentative schedule for City Council action on the annexation petitions is as follows:

- 4/10: Council resolution setting hearing date (consent/ no presentation)
- 5/22: Council 1<sup>st</sup> reading (new business with full presentation)
- 6/12: Council 2<sup>nd</sup> reading

This topic and issue were discussed at a March 13, 2018 meeting of the City Council Budget Committee, at which time it was recommended the matter should be scheduled for a Council Work

Session.

**Financial Implications:**

There would no direct financial implications to general City taxpayers and ratepayers outside of the boundaries of these metropolitan district, in the event properties included in Districts 1-3 were to be annexed.

**Board/Commission Recommendation:**

N/A

**Stakeholder Process:**

N/A

**Alternatives:**

NA at this time. Council has the discretion to accept or not accept the associated annexation requests, and then approve or deny them with or without conditions, and subject to an annexation agreement. The developer and Districts also have options to amend their service plan with the County, or to exclude property not currently eligible for City annexation and then submit a request to the City to become the approving authority.

**Proposed Motion:**

N/A

N/A