



Legislation Text

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Resolution Rescinding Resolution Nos. 9-06, 83-14, 111-21 and 112-21 and Adopting a New Policy to be Applied to Applications to Create or Modify a District Authorized under Titles 31 And 32 of the Colorado Revised Statutes, Model Service Plans and a Model Business Improvement District Operating Plan and Budget

Presenter:

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Summary:

This resolution would adopt a comprehensive amendment of the City's currently adopted Special District Policy ("Policy") which dates from 2006, along with updated versions model service plans for metropolitan districts and operating plans and budgets for business improvement districts (BIDs) (collectively "Model Plans"). These recommended changes were discussed and deliberated in detail by a specifically constituted Special District Working Group which convened from November 2021 through June of 2022. This recommended new Policy and the Model Plans also respond to recommendations made as part of a September 2021 review of metropolitan districts provided by the City Auditor.

The amended Policy and Model Plans would apply to City Council action concerning Colorado Revised Statutes Title 31 and 32 districts [Metropolitan Districts, Business Improvement Districts (BIDs) and General Improvement Districts (GIDs)] going forward from its date of approval.

This item was introduced at a City Council Work Session on June 27, 2022. Please refer to the summary of that discussion provided below. The item was then originally scheduled for hearing on July 12, 2022 but continued to this date in order to assure the latest versions of the recommended documents were available for City Council consideration.

The versions of the four documents provided as exhibits to this draft resolution have been edited for formatting and technical corrections.

Recent correspondence addressed to all-Council is provided as a single attachment.

Background:

The City's purpose of the Policy is to provide limits and parameters pertinent to the creation, amendment or use of these statutorily authorized categories of districts. The Policy has not been updated since January 2006. There is a general need for an update based on more than 15 years of experience, during which over 100 new districts have been created in the City, along with Council authorization and formal issuance of around one billion dollars in related district debt. A Policy update task force and process was also specifically recommended by City Council in conjunction with their series of district educational sessions held in 2019 and 2020. Additionally, a September 2021

metropolitan districts policy review prepared by the City Auditor specifically recommended this update, and suggested certain areas of focus for it (refer to attached 21-18 City of Colorado Springs Metropolitan Districts Policy Review).

The 2006 Policy consists of 22 short paragraphs or statements on less than three pages. Although it remains a high level document, the new Policy has been expanded considerably.

Added elements include, but are not limited to the following:

- Retained and new content now organized under topical headings
- Introductory and purpose statements added
- Key terms and definitions now included
- More focus on impacts and aspects of multiple district structures as well as emphasis on modernizing communications and disclosure, including consistency with recent changes in State statutes

Significant changes include, but are not limited to the following:

- Providing an option for City Council to “pre-authorize” the future formal issuance of district debt at the time of approval or new or amended district plans, while maintaining consistency with the City Charter
- Increasing the Maximum Debt Mill Levy for residential metropolitan districts from 30.0 mills Gallagher adjusted (back to 2006) to 50.0 mills with no retroactive adjustment. There would be no change to non-residential Debt Mill Levy caps.
- Increasing the Maximum Operating Mill Levy for residential metropolitan districts from 10.0 mills (Gallagher adjusted back to 2006) to 20.0 mills, with no retroactive adjustment
- New requirements and limits related to Related Party Privately Placed Debt and Developer Funding Agreements, including interest rate caps for these categories of district financial obligations.
- Language and limits related to overlapping district mill levies (i.e. Combinations of Districts).
- Additional language addressing communication and disclosure, including certain additional requirements for the web sites that are now otherwise required by the State for most metropolitan districts. Extension of the web site requirement (which only applies to metropolitan districts) to BIDs.
- Modifications addressing the approach to metropolitan district annual reports, now that these are required by the State for most metropolitan districts, and are required to be posted on websites

This Policy will not be directly applicable to districts created under City Code (i.e. Special Improvement Maintenance Districts or Local Improvement Districts)

Metropolitan District Model Service Plans

Colorado Springs is the approving authority for Title 32 metropolitan districts proposed to be created or amended on properties wholly included in city limits. The service plan is the authorizing document that allows these districts to be created via election and court processes. They establish authorities and further limits in addition to statutory parameters. Since 2006, the City has adopted and required the use of model service plans. These essentially function as a standard form contract. Petitioners fill in the necessary information, with the review and approval process focusing on any deviations from the model. There is a single district any multiple district version, With both documents containing many similar provisions. The primary differences are limited to addressing the plural nature of multiple district structures along with language and limitations addressing the overlap of in the interactions among multiple districts. attached model service plans have been updated to reflect the new Policy. One significant change is the elimination of the district disclosure form, since this information is now required by the state to be posted on district websites. An additional exhibit has now been included to provide for the financial plan in public improvements summaries necessary to support the option for Council to approve future debt issuances at the time of district plan approval.

Model BID Operating Plan and Budget

Colorado Revised Statutes Title 31 requires Council to approve an Operating Plan and Budget for BIDs at the time of their initial approval by ordinance, followed by submittal and approval of these documents annually thereafter. Council has had an adapted model for these documents since 2014. This new model reflects the language and content of the proposed new Policy.

Working Group Membership and Process

A list of Special District Working Group members is attached, along with a brief summary of each meeting. More detail on agendas and minutes is available at the following link:

<https://coloradosprings.gov/planning-and-development/page/special-districts?mlid=33886>

The Working Group was appointed by the Mayor's office with Council representation (Councilors Henjum and Williams) determined by Council. Members included a cross section representatives with district legal, accounting and management experience, along with representatives of the development industry and a member from the Board of Realtors, Council of Neighbors and Organizations (CONO). Also included was a resident member of a metropolitan district board, as well as a participant representing the Maverick Observer. Several other individuals were regular attendees and observers.

Although there was broadly shared agreement on topics such as the importance of effective disclosure and communication, Working Group consensus was not achieved on all of these recommendations. The Working Group used an informed consent approach, with not all members agreeing with all the changes. In particular, Mr. Hoiles of the Maverick Observer, disagreed on the need for the recommended increase in the maximum debt mill levy for residential districts as well as the increase in the maximum operating mill levies. He recommended against the option of Council authorization of debt at the district approval stage. He also suggested stricter limits on privately placed debt or developer advances. Mr. Knechtel advocated for Policy language addressing the IGAs among multiple metropolitan districts. Industry representatives questioned the need or value of some of additional required disclosure information as well as some of the language focusing on

related party debt. Ms. Clarissa Thomas of the Board of Realtors, specifically advocated for a limited, non-redundant and non-complex approach to real estate disclosure requirements.

Applicability and Next Steps

Following adoption this updated Policy and the model service plans would apply to all newly created metropolitan districts as well as those metropolitan districts that need to or choose to amend their existing service plans. Beginning in October of 2022 this Policy and its associated model BID operating plan and budget would be used for all new BIDs as well as with the annual approvals of all existing BIDs. This Policy and the new metropolitan district model service plans would not apply retroactively to existing metropolitan districts that do not have a need or desire to amend their plans. There is language in Council's approval resolution addressing applications that are substantially in process at the time of adoption of this Policy and its associated model plans.

June 27, 2022 Work Session Summary

At the June 27, 2022 Work Session, Peter Wysocki and others acknowledged the efforts of the Special District Working Group. Staff presented a PowerPoint summarizing the high points of the Policy and model plans, the Working Group process, major topics, and key elements. Councilman Murray asked a question about subordinate debt, with staff noting the Working Group ultimately decided not to recommend specific parameters regarding that topic. He also expressed concerns about the proposed increase in allowable mill levy caps, and he asked about documentation of minority opinions of the Working Group. Councilwoman Henjum provided her perspective on the process and its importance, noting the approximately one billion dollars in district debt currently issued, or in the process of being issued. She asked two questions, one on multiple district structures, and the other on limits on related party privately placed debt. Councilman Williams provided observations on the importance of systematizing this process, including keeping it as consistent as possible with State statutes, which he believes will make it more efficient for districts to operate in the future as they transition from developer control. This is because the rules and procedures would be less customized, such that groups like the Special District Association could better assist future boards. Chief of Staff Jeff Greene, concluded with a statement about the importance of districts in light of the evolving "developer pay" model of development finance. He also wanted to clarify that districts would need to come back to Council for approval of any higher mill levies and for authorization to issue future debt without the need to for separate Council approval.

Previous Council Action:

Council adopted the current Policy and the original metropolitan district model service plans on January 24, 2006 by Resolution 9-06. That document superseded the 2000 Special District Policy which had been adopted on August 22, 2000 by Resolution 122-00. In 2012, Council approved a minor amendment of the model service plans addressing end user fees. Council originally approved a model template for BID operating plans and budgets in 2014. Both the model service plans and the BID Operating Plan and Budget templates underwent minor amendments to address concealed carry permitting limitation on August 24, 2021 (Resolution Nos.111-21 and 112-21 respectively).

Financial Implications:

N/A

Board/Commission Recommendations:

N/A

Stakeholder Process:

Suggested modifications to the Special District Policy were considered as part of a thorough and comprehensive Special District Working Group process as described above. In addition to the Working Group process, these documents were provided for comment to other individuals and firms specializing in the special districts process. An El Paso County staff member was included in the Working Group communications and meeting invites. Meeting agendas were posted and the Working Group meetings were open.

Alternatives:

City Council has the options of approving, denying or modifying this resolution or the attached Policy or Model Plans.

Proposed Motion:

Adopt the Resolution Rescinding Resolution Nos. 9-06, 83-14, 111-21 and 112-21 and Adopting a New Special District Policy to be Applied to Applications to Create or Modify a District Authorized under Titles 31 And 32 of the Colorado Revised Statutes, Model Service Plans and a Model Business Improvement District Operating Plan and Budget.