

RESOLUTION NO. 157 - 24

A RESOLUTION OF THE CITY OF COLORADO SPRINGS APPROVING A LIMITED AMENDMENT TO THE AMENDED AND RESTATED CONSOLIDATED SERVICE PLAN OF THE ALLISON VALLEY METROPOLITAN DISTRICTS NO. 1 & NO. 2 TO ALLOW AN INCREASE OF THE MAXIMUM OPERATIONAL MILL LEVY FROM 10.0 MILLS TO 20.0 MILLS

WHEREAS, Section 32-1-204.5, C.R.S., provides that no special district shall be organized within a municipality except upon adoption of a resolution approving or conditionally approving the service plan of a proposed special district; and

WHEREAS, the City passed Resolution No. 111-22 adopting a 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 and adopting model service plans to be used in establishing and modifying metropolitan districts (the "Policy and Model Service Plan"); and

WHEREAS, the City approved an Amended and Restated Consolidated Service Plan ("Service Plan") for Allison Valley Metropolitan District No. 1 and Allison Valley Metropolitan District No. 2 by Resolution No. 87-15 dated September 8, 2015; and

WHEREAS, the City has considered an amendment ("Amendment") to the Service Plan for the Allison Valley Metropolitan District No. 1 and No. 2 (the "Districts") with the recommended maximum mill levies and all other testimony and evidence presented at the Council meeting; and

WHEREAS, it appears to the City Council that the recommended maximum mill levies and other provisions of this Amendment are consistent with the Policy and Model 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. The City Council of the City of Colorado Springs, having reviewed the Amendment, as submitted by the petitioner, has determined, based solely upon the Amendment and evidence presented to City Council in support of said Amendment, that it is consistent with the Policy and Model Service Plan.

Section 3. Based on approval of this resolution by at least a two-thirds vote of the entire City Council, as set forth in 7-100 of the City Charter, separate future City Council authorization of debt issuance by the Districts shall not be required. In addition, the total debt of the Districts may

exceed 10 percent of the total assessed valuation of the taxable property within the Districts, provided that such debt is issued in general conformity with the Authorized Debt of the District per the Service Plan as it relates to the proposed mill levy and term of such bonds.

Section 4. The Districts shall not be authorized to operate or maintain public improvements other than those listed in Exhibit D of the Service Plan until and unless this power is subsequently granted by the City. Such an approval may be by separate resolution, which would not require a formal amendment of the Service Plan.

Section 5. The Amendment to the Service Plan for the Districts, attached as Exhibit 1, is hereby approved.

Section 6. The Districts shall clearly and affirmatively disclose any potential for property tax mill levy increases associated with this Amendment to all existing and future contract purchasers of property within the Districts.

Section 7. The City's approval of the Amendment is not a waiver of, nor a limitation upon, any right or power that the City is legally permitted to exercise with respect to the property subject to the Districts.

Section 8. This Resolution shall be in full force and effect immediately upon its adoption.

DATED at Colorado Springs, Colorado this 22nd day of October 2024


Randy Helms, Council President

ATTEST:


Sarah B. Johnson, City Clerk



LIMITED AMENDMENT
TO
AMENDED AND RESTATED
CONSOLIDATED SERVICE PLAN
FOR
ALLISON VALLEY METROPOLITAN DISTRICT NO. 1
ALLISON VALLEY METROPOLITAN DISTRICT NO. 2

IN THE CITY OF COLORADO SPRINGS, COLORADO

Prepared

by

Spencer Fane LLP
1700 Lincoln Street, Suite 2000
Denver, Colorado 80203

Amended and Restated Consolidated Service Plan approved
by the City of Colorado Springs on September 8, 2015

This Limited Amendment Dated _____

This Limited Amendment to the Amended and Restated Consolidated Service Plan amends only a single provision of the Consolidated Service Plan, the remainder of the Amended and Restated Consolidated Service Plan shall remain in full force and effect.

I. INTRODUCTION AND PURPOSE OF LIMITED AMENDMENT

The City of Colorado Springs (“City”) approved the Amended and Restated Consolidated Service Plan (“Service Plan”) for Allison Valley Metropolitan District No. 1 and Allison Valley Metropolitan District No. 2 by Resolution No. 87-15 dated September 8, 2015. This Limited Amendment to the Service Plan is submitted on behalf of Allison Valley Metropolitan Districts No. 1 and 2, and specifically at the request of the Board of Directors of Allison Valley Metropolitan District No. 2 (“District No. 2”), to permit the Districts to impose up to twenty (20) mills, as adjusted, as is now permitted by the City’s model service plan. The existing Service Plan was approved under the City’s prior model service plan. The City’s Special District Policy and model service plan were revised and updated on August 9, 2022.

Since the Service Plan was approved, District No. 2 has fully built out and is transitioning from developer control to resident control. At present, the Board of Directors of District No. 2 consists of one developer Director and three resident Directors with one vacancy on the Board. In familiarizing themselves with district operations and finances, the Board and various residents, have noted that the ten (10) mill operating mill levy (capped by the City’s prior model service plan) is and has been inadequate to fund basic operations and maintenance within the Allison Valley Metropolitan Districts (which includes The Farm community), thereby causing the Districts to incur developer advances with repayment and interest obligations or causing the Districts to otherwise forego desired operation and maintenance services because the operating funds are inadequate. The analysis conducted based on operating needs confirms that the shortfall will continue indefinitely, and it is anticipated that the developer will not continue to extend developer advances once the development is complete.

In adopting a revised and updated model service plan, the City included an increase in the maximum operating mill levy raising it from ten (10) mills to twenty (20) mills.

The limited purpose of this Limited Amendment is to amend the Service Plan to allow the cap on the operating mill levy to be increased from ten (10) mills to (20) mills, consistent with the model service plan now in use by the City. This Limited Amendment was presented at the statutory Annual Meeting and received general community support.

II. AMENDMENT

The Districts’ Service Plan presently states at Section VI, J:

J. Maximum Operating Mill Levy

In addition to the capital costs of the public Improvements, the Districts will require operating funds for administration and to plan and cause the Public Improvements to be constructed and maintained. The first year’s operating budget is estimated to be \$50,000 which is anticipated to be derived from property taxes and other revenue.

The Maximum Operating Mill Levy for the Payment of the Districts operating and maintenance expenses shall be **10 mills**; provided that if, on or after January 1, 2006, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement; the mill levy limitation applicable to such operation and maintenance expenses may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenue generated by the mill levy, as adjusted for changes occurring after January 1, 2006, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation. (emphasis supplied)

The proposed Limited Amendment is to amend the 10 mills in the paragraph above to **20 mills**. The maximum debt service mill levy will not change.

III. EFFECT OF THE AMENDMENT

Except as specifically amended as set forth above, all other provisions of the Service Plan shall remain in full force and effect. To the extent there are any inconsistencies between this Limited Amendment and the Service Plan, this Limited Amendment shall control.

IV. REQUESTED APPROVAL

It is hereby requested that the City Council of the City of Colorado Springs, Colorado, which has jurisdiction to approve this Limited Amendment by virtue of Section 32-1-207(2), C.R.S., *et seq.*, as amended, adopt a resolution of approval which approves this Limited Amendment to the Service Plan as submitted.

