

**RESOLUTION NO. 15-32**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF CASTLE PINES, COLORADO,  
APPROVING THE FIRST AMENDMENT TO SERVICE PLANS FOR  
THE CANYONS METROPOLITAN DISTRICT NOS. 1 – 11 AND  
AUTHORIZING EXECUTION OF AN AMENDMENT TO THE  
INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY AND  
DISTRICT NOS. 1 - 11**

**WHEREAS**, pursuant to Section 32-1-204.5, C.R.S., as amended, the First Amendment to the Amended and Restated Service Plan for The Canyons Metropolitan District No. 1, the First Amendment to the Amended and Restated Service Plan for The Canyons Metropolitan District Nos. 2 – 4 and the First Amendment to the Consolidated Service Plan for The Canyons Metropolitan District Nos. 5 – 11 (collectively, the “Service Plan Amendment”) was submitted to the City Council of the City of Castle Pines, Colorado for review; and

**WHEREAS**, a copy of the proposed Service Plan Amendment is attached to this Resolution as Exhibit A-1 and Exhibit A-2 and is incorporated herein by reference;

**WHEREAS**, pursuant to the provisions of Title 32, Article 1, C.R.S., as amended (the “Special District Act”), the City Council held a public hearing on the Service Plan Amendment on December 8, 2015; and

**WHEREAS**, notice of the hearing before the City Council was duly published in the Douglas County News-Press, a newspaper of general circulation within the City, on November 12, 2015; and

**WHEREAS**, notice of the hearing before the City Council was also sent to property owners and governmental entities within a three miles radius of the Canyons Metropolitan District Nos. 1 – 11 (collectively, the “Districts”), which governmental entities have imposed a mill levy, in accordance with the notice requirements of the Special District Act; and

**WHEREAS**, the City Council has considered the documents submitted by the Board of Directors of the Districts, including the proposed Service Plan Amendment, and has considered all other testimony and other relevant evidence presented at the hearing; and

**WHEREAS**, based on the evidence presented the City Council finds that the Service Plan Amendment should be approved; and

**WHEREAS**, the Service Plans for the Districts were previously approved by City Council pursuant to Resolution No. 09-73 and 09-74 dated October 22, 2009; and

**WHEREAS**, the Service Plans require the execution of an intergovernmental agreement by and between the City and the Districts for the purpose of assigning the relative rights and

responsibilities between the City and the Districts with respect to certain functions, operations, and obligations; and

**WHEREAS**, the City and the Districts entered into that certain Intergovernmental Agreement dated December 6, 2010 (the “Canyons IGA”); and

**WHEREAS**, City Council’s approval of the Service Plan Amendment necessitates the approval of an amendment to the Canyons IGA, specifically the First Amendment to the Canyons IGA in substantially the form attached hereto as Exhibit B and incorporated herein by reference (the “Canyons IGA First Amendment”); and

**WHEREAS**, the City Council desires to approve the Canyons IGA First Amendment,

**THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO, THAT:**

**Section 1.** The City Council hereby (a) adopts the above recitations as findings of the City Council; (b) authorizes the Mayor, in consultation with the City Attorney, to make such changes as may be needed to the Canyons IGA First Amendment in order to correct any nonmaterial errors or language; and (c) authorizes the Mayor to execute the Canyons IGA First Amendment following review by the City Attorney’s Office.

**Section 2.** The City Council hereby determines that all of the requirements of Title 32, Article 1, Part 2, C.R.S., as amended, and of the City relating to the filing of the Service Plan Amendment have been fulfilled and that notice of the hearing was given in the time and manner required by law.

**Section 3.** The proposed Service Plan Amendment, attached to this Resolution as Exhibit A-1 and Exhibit A-2, and dated December 8, 2015 is hereby approved without condition.

**Section 4.** This Resolution shall be filed in the records of the City and a certified copy thereof submitted to the Districts.

**Section 5.** If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining issues of this Resolution.

**Section 6.** **Effective Date.** This Resolution shall take effect upon its approval by the City Council.

**INTRODUCED, READ AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES** by a vote of 7 in favor and 0 against this 8<sup>th</sup> day of December, 2015.

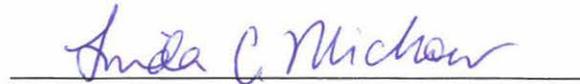


**ATTEST:**

  
\_\_\_\_\_  
Sharon Washington, City Clerk

  
\_\_\_\_\_  
Jeffrey T. Huff, Mayor

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Linda C. Michow, City Attorney

**FIRST AMENDMENT TO  
AMENDED AND RESTATED SERVICE PLAN FOR  
THE CANYONS METROPOLITAN DISTRICT NO. 1**

Prepared by:

WHITE BEAR ANKELE TANAKA & WALDRON  
Professional Corporation  
2154 East Commons Avenue, Suite 2000  
Centennial, Colorado 80122

As approved by the City of Castle Pines  
on

December 8, 2015

## **I. INTRODUCTION**

The Amended and Restated Service Plan for The Canyons Metropolitan District No. 1 (the "Service Plan") was approved by the City Council for the City of Castle Pines, Colorado, (the "City") on October 22, 2009.

In an effort to minimize the number of districts necessary to finance the public improvements required for The Canyons project, increase efficiency of operation and reduce costs, The Canyons Metropolitan District No. 1 (the "District") desires to eliminate the "Maximum Debt Mill Levy Impositions Term" provision contained in the Service Plan. In addition, the District desires to: 1) reduce the maximum interest rate on any Debt from eighteen percent (18%) to twelve percent (12%); 2) allow the District to own, operate and maintain park and recreation improvements, landscaped or open space parcels; 3) provide covenant enforcement and design review; and 4) remove the limitations on the Operations Fee.

The Board of Directors of the District therefore respectfully request, pursuant to this First Amendment to the Service Plan, that the following amendments be made to the Service Plan:

## **II. AMENDMENT**

1. Subsections 1 and 11 of Section V.A. of the Service Plan are hereby amended and restated as follows:

1. Operations and Maintenance Limitation. The purpose of the District is to coordinate the design, acquisition, construction, installation, relocation, redevelopment and financing of the Public Improvements. The Public Improvements shall be dedicated to the City, the Parker Water and Sanitation District ("PWSD") or other appropriate governmental entity in a manner consistent with the Approved Development Plan and other rules and regulations of the City and applicable provisions of the City Code. Pending final acceptance by the City, or for those Public Improvements that are not ultimately conveyed to the City, PWSD, or other appropriate governmental entity, the District shall at all times be authorized to undertake and coordinate any operational requirements for such Public Improvements. Upon acceptance by the City, PWSD, or other appropriate governmental entity, the District shall not be authorized to operate or maintain such Public Improvements, unless the provision of such operation and maintenance is pursuant to an intergovernmental agreement with the City or other appropriate governmental entity. In the event that the District is required to own, operate or maintain Public Improvements pursuant to an intergovernmental agreement, such intergovernmental agreement may authorize imposition of an additional Operations Fee, as is necessary, for the operation and maintenance of such Public Improvements. Notwithstanding the foregoing, the District shall be authorized, but not obligated, to own, operate and maintain park and recreation improvements, landscaped or open space parcels without an intergovernmental agreement with the City. The District shall also be permitted to provide covenant control and design review as authorized in the Special District Act.

11. Fee Limitation. Each of the Districts may impose and collect Fees as a source of revenue for repayment of debt, capital costs, and/or for operations and maintenance. No Fee related to the funding of costs of a capital nature shall be authorized to be imposed upon or collected from Taxable Property owned or occupied by an End User which has the effect,

intentional or otherwise, of creating a capital cost payment obligation in any year on any Taxable Property owned or occupied by an End User. Notwithstanding any of the foregoing, the restrictions in this section shall not apply to any Operations Fee imposed upon or collected from Taxable Property. Imposition of a Capital Fee shall be limited to an amount not greater than \$5,000 per unit for residential property and \$1 per each square foot of finished space for non-residential uses, including, but not limited to commercial property, churches, day care centers, fire stations and schools, increased by the lesser of five percent (5%) annually or by the percentage increase in the Denver-Boulder Consumer price index percentage increase for the prior calendar year (the "Annual Increase"), beginning on January 1, 2017. The Districts shall be prohibited from imposing Capital Fees which exceed the applicable Capital Fee plus the applicable Annual Increase amount, without obtaining the prior written approval of the City Council.

2. Section VI.B. of the Service Plan is hereby amended and restated as follows:

B. Maximum Voted Interest Rate and Maximum Underwriting Discount.

The interest rate on any Debt is expected to be the market rate at the time the Debt is issued. In the event of a default, the proposed maximum interest rate on any Debt is not expected to exceed twelve percent (12%). The proposed maximum underwriting discount will be five percent (5%). Debt, when issued, will comply with all relevant requirements of this Service Plan, State law and Federal law as then applicable to the issuance of public securities.

3. Section VI.E. of the Service Plan is hereby removed in its entirety and shall have no further force of effect and all other references to the Maximum Mill Levy Imposition Term shall be deemed stricken from the Service Plan.

4. Except as specifically amended as set forth above, all other provisions of the Service Plan shall remain in full force and effect.

**FIRST AMENDMENT TO**  
**AMENDED AND RESTATED SERVICE PLAN FOR**  
**THE CANYONS METROPOLITAN DISTRICT NOS. 2-4**  
**AND**  
**CONSOLIDATED SERVICE PLAN FOR**  
**THE CANYONS METROPOLITAN DISTRICT NOS. 5-11**  
**CITY OF CASTLE PINES, COLORADO**

Prepared by:

WHITE BEAR ANKELE TANAKA & WALDRON  
Professional Corporation  
2154 East Commons Avenue, Suite 2000  
Centennial, Colorado 80122

As approved by the City of Castle Pines  
on

December 8, 2015

## **I. INTRODUCTION**

The Amended and Restated Service Plan for The Canyons Metropolitan District Nos. 2-4 and Consolidated Service Plan for The Canyons Metropolitan District Nos. 5-11 (the "Service Plan") was approved by the City Council for the City of Castle Pines, Colorado, (the "City") on October 22, 2009.

In an effort to minimize the number of districts necessary to finance the public improvements required for The Canyons project, increase efficiency of operation and reduce costs, The Canyons Metropolitan District Nos. 2-11 (the "Districts") desire to eliminate the "Maximum Debt Mill Levy Impositions Term" provision contained in the Service Plan. In addition, the Districts desire to: 1) reduce the maximum interest rate on any Debt from eighteen percent (18%) to twelve percent (12%); 2) allow the Districts to own, operate and maintain park and recreation improvements, landscaped or open space parcels; 3) provide covenant enforcement and design review; and 4) remove the limitations on the Operations Fee.

The Boards of Directors of the Districts therefore respectfully request, pursuant to this First Amendment to the Service Plan, that the following amendments be made to the Service Plan:

## **II. AMENDMENT**

1. Subsections 1 and 11 of Section V.A. of the Service Plan are hereby amended and restated as follows:

1. Operations and Maintenance Limitation. The purpose of the Districts is to coordinate the design, acquisition, construction, installation, relocation, redevelopment and financing of the Public Improvements. The Public Improvements shall be dedicated to the City, the Parker Water and Sanitation District ("PWSD") or other appropriate governmental entity in a manner consistent with the Approved Development Plan and other rules and regulations of the City and applicable provisions of the City Code. Pending final acceptance by the City, or for those Public Improvements that are not ultimately conveyed to the City, PWSD, or other appropriate governmental entity, the Districts shall at all times be authorized to undertake and coordinate any operational requirements for such Public Improvements. Upon acceptance by the City, PWSD, or other appropriate governmental entity, the Districts shall not be authorized to operate or maintain such Public Improvements, unless the provision of such operation and maintenance is pursuant to an intergovernmental agreement with the City or other appropriate governmental entity. In the event that any District is required to own, operate or maintain Public Improvements pursuant to an intergovernmental agreement, such intergovernmental agreement may authorize imposition of an additional Operations Fee, as is necessary, for the operation and maintenance of such Public Improvements. Notwithstanding the foregoing, the Districts shall be authorized, but not obligated, to own, operate and maintain park and recreation improvements, landscaped or open space parcels without an intergovernmental agreement with the City. The Districts shall also be permitted to provide covenant control and design review as authorized in the Special District Act.

11. Fee Limitation. Each of the Districts may impose and collect Fees as a source of revenue for repayment of debt, capital costs, and/or for operations and maintenance. No Fee related to the funding of costs of a capital nature shall be authorized to be imposed upon or

collected from Taxable Property owned or occupied by an End User which has the effect, intentional or otherwise, of creating a capital cost payment obligation in any year on any Taxable Property owned or occupied by an End User. Notwithstanding any of the foregoing, the restrictions in this section shall not apply to any Operations Fee imposed upon or collected from Taxable Property. Imposition of a Capital Fee shall be limited to an amount not greater than \$5,000 per unit for residential property and \$1 per each square foot of finished space for non-residential uses, including, but not limited to commercial property, churches, day care centers, fire stations and schools, increased by the lesser of five percent (5%) annually or by the percentage increase in the Denver-Boulder Consumer price index percentage increase for the prior calendar year (the "Annual Increase"), beginning on January 1, 2017. The Districts shall be prohibited from imposing Capital Fees, which exceed the applicable Capital Fee plus the applicable Annual Increase amount, without obtaining the prior written approval of the City Council.

2. Section VI.B. of the Service Plan is hereby amended and restated as follows:

B. Maximum Voted Interest Rate and Maximum Underwriting Discount.

The interest rate on any Debt is expected to be the market rate at the time the Debt is issued. In the event of a default, the proposed maximum interest rate on any Debt is not expected to exceed twelve percent (12%). The proposed maximum underwriting discount will be five percent (5%). Debt, when issued, will comply with all relevant requirements of this Service Plan, State law and Federal law as then applicable to the issuance of public securities.

3. Section VI.E. of the Service Plan is hereby removed in its entirety and shall have no further force of effect and all other references to the Maximum Mill Levy Imposition Term shall be deemed stricken from the Service Plan.

4. Except as specifically amended as set forth above, all other provisions of the Service Plan shall remain in full force and effect.