

RESOLUTION NO. 21-41

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF CASTLE PINES, COLORADO,
APPROVING THE THIRD AMENDMENT TO
AMENDED AND RESTATED SERVICE PLAN FOR THE CANYONS
METROPOLITAN DISTRICT NO. 4**

WHEREAS, pursuant to Title 32, Article 1, C.R.S., as amended (the “Special District Act”), the City Council (the “City Council”) for the City of Castle Pines (the “City”) approved 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 on October 22, 2009, the 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 on December 8, 2015, and the Second Amendment to Amended and Restated Service Plan for The Canyons Metropolitan District No. 4 and Consolidated Service Plan for The Canyons Metropolitan District Nos.5-7 on December 10, 2019; and

WHEREAS, pursuant to Section 32-1-207, C.R.S. and Section 4-4-190 of the Castle Pines Municipal Code (the “City Code”), the Third Amendment to Amended and Restated Service Plan for The Canyons Metropolitan District No. 4 attached hereto as **Attachment 1** (the “Service Plan”) was submitted to the City Council; and

WHEREAS, pursuant to Section 32-1-207, C.R.S. and Section 4-4-190 of the City Code, a material modification of the Service Plan may be made by the Board of Directors of The Canyons Metropolitan District No. 4 (the “District”) only by petition to and approval by the City Council in substantially the same manner as was provided for the approval of the original service plan; and

WHEREAS, pursuant to the Special District Act and Article 4 of Chapter 4 of the City Code, the City Council held a public hearing on the Service Plan on November 9, 2021; and

WHEREAS, notice of the public hearing before the City Council was duly published in the Denver Post and the Douglas County News-Press, newspapers of general circulation within the City, on October 15, 2021 and October 21, 2021, respectively; and

WHEREAS, notice of the public hearing before the City Council was duly sent by U.S. mail on October 15, 2021 to North Canyons, LLLP, as petitioner, and to the governing body of any municipality or special district which has levied an ad valorem tax within the next preceding tax year and which has boundaries within a radius of three (3) miles of the District’s boundaries; and

WHEREAS, notice of the public hearing before the City Council was duly sent by U.S. mail on October 14, 2021 to the property owners within the District as listed on the records of the County Assessor; and

WHEREAS, notice of the public hearing before the City Council was provided by U.S. mail on October 14, 2021 to the Division of Local Government in the Department of Local Affairs; and

WHEREAS, the City Council has considered the documents submitted by the Board of Directors of the District, the Service Plan and all other testimony and evidence presented at the public hearing; and

WHEREAS, the City Council finds that the Service Plan should be approved.

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

Section 1. The City Council hereby determines that all of the requirements of the Special District Act and Article 4 of Chapter 4 of the City Code relating to the filing of the Service Plan have been fulfilled and that notice of the public hearing was given in the time and manner required by law.

Section 2. The City Council further determines that all pertinent facts, matters and issues were submitted at the public hearing; that all interested parties were heard or had the opportunity to be heard; and that evidence satisfactory to the City Council of each of the following was presented:

- a. There is sufficient existing and projected need for organized service in the area to be serviced by the District; and
- b. The existing service in the area to be served by the District is inadequate for present and projected needs; and
- c. The District is capable of providing economical and sufficient service to the area within its proposed boundaries; and
- d. The area to be included in the District has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis; and
- e. The Service Plan is in substantial compliance with Article 4 of Chapter 4 of the City Code.

Section 3. The City Council also finds that approval of the Service Plan is in the best interests of the residents or future residents of the area proposed to be served.

Section 4. The City Council hereby approves the Service Plan for the District as submitted.

Section 5. This Resolution shall be filed in the records of the City and a certified copy thereof submitted the District. The City Council hereby affirms that it shall take further action as may be necessary to reaffirm or validate the authorization and findings provided herein.

Section 6. All prior resolutions or any parts thereof, to the extent they are inconsistent with this Resolution, are hereby rescinded.

Section 7. This Resolution is effective upon adoption.

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 9th DAY OF NOVEMBER, 2021.

DocuSigned by:
Tera Stave Radloff
6E0C8EB279DC47D...
Tera Stave Radloff, Mayor

ATTEST:

DocuSigned by:
Tobi Duffey
AD03A3802032499...
Tobi Duffey, CMC, City Clerk

APPROVED AS TO FORM:

DocuSigned by:
Linda C. Michow
6241DE8988FF444...
Linda C. Michow, City Attorney



ATTACHMENT 1

(Attached)

**THIRD AMENDMENT TO
AMENDED AND RESTATED SERVICE PLAN FOR
THE CANYONS METROPOLITAN DISTRICT NO. 4**

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

November 9, 2021

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 “**Original Service Plan**”) was approved by the City Council for the City of Castle Pines, Colorado (the “**City**”) on October 22, 2009.

The First Amendment to 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 “**First Amendment**”) was approved by the City Council for the City on December 8, 2015.

The Second Amendment to the Amended and Restated Service Plan for The Canyons Metropolitan District No. 4 and Consolidated Service Plan for The Canyons Metropolitan District Nos. 5-7 (the “**Second Amendment**”) was approved by the City Council for the City on December 10, 2019.

The Second Amendment requires each of the Districts to impose, collect and remit the City Operations Mill Levy in accordance with the City Operations Mill Levy IGA.

This Third Amendment to the Amended and Restated Service Plan for The Canyons Metropolitan District No. 4 (the “**Third Amendment**,” and together with the Original Service Plan, the First Amendment, and Second Amendment, the “**Service Plan**”), clarifies that (i) the City Operations Mill Levy IGA does not constitute Bond, Bonds or Debt under the Service Plan, and (ii) the City Operations Mill Levy constitutes a mill levy imposed for operational or administrative purposes and does not constitute a mill levy imposed for Debt under the Service Plan.

II. AMENDMENTS

1. The definition of “Bond, Bonds or Debt” in Section II. Definitions of the Service Plan is hereby amended and restated as follows:

Bond, Bonds or Debt: means bonds or other obligations for the payment of which any District has promised to impose an ad valorem property tax mill levy, and/or collect Fee revenue, excluding the City Operations Mill Levy IGA, which City Operations Mill Levy IGA shall not constitute a Bond, Bonds or Debt under this Service Plan.

2. The definition of “City Operations Mill Levy” in Section XII City Operations Mill Levy of the Service Plan is hereby amended and restated as follows:

“City Operations Mill Levy” means a mill levy to be levied by the Districts and remitted to the City to be used by the City for the upkeep, operation, maintenance, repair and replacement of, and the provision of services related to, City Maintained Improvements, as set forth in one or more intergovernmental agreement(s) entered into between the City and one or more of the Districts (the “City Operations Mill Levy IGA”). The City Operations Mill Levy constitutes a mill levy imposed for operational or administrative purposes, and

does not constitute a mill levy imposed for Debt under this Service Plan. The City Operations Mill Levy shall be subject to the Maximum Mill Levy.

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