



Commerce City

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In Control: City Council

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RESOLUTION APPROVING THE AMENDED AND RESTATED SERVICE PLAN FOR BUCKLEY CROSSING METROPOLITAN DISTRICT AND THE RELATED INTERGOVERNMENTAL AGREEMENT

Summary:

The applicant is proposing to amend and restate the service plan for the existing Buckley Crossing Metropolitan District and a service plan for a new metropolitan district to be known as Buckley Crossing Metropolitan District No. 2, consisting of area to be excluded from the existing district. The proposals are based on updated development plans for the property and updating financial plans. The new applications are required to comply with the City's model service plan. The applicant has proposed various modifications to the model service plan. City Council approval of the service plans are required to allow the amendment and to form the new district. The two plans will be reviewed in a consolidated public hearing.

Note: The new state law will be effective later this year. This law will apply to these districts, unless modified in the future.

Following the August 2, 2021 hearing and continuance, the applicant and staff have renegotiated the Service Plans based on the comments and direction from Council. More detail on the changes is available in the background section and in the attached documents (see Comparison to August 2 Draft).

Background:

The Service Plan follows the administrative Model Service Plan recommended to Council by staff, with modifications negotiated. Bold elements below show key updates following the August 2, 2021, hearing.

Powers and Authority:

- Authorizes general powers and authority under Title 32 (Special District Act), subject to limitations in the Service Plan (see Sections II, V.A).
- **In addition, the Service Plan now:**

- **Specifically includes the requirements of SB21-262 and imposes future new requirements of the Special District Act, while restricting the application of any new powers or authorities granted by future laws (Sections I, V.A).**
- **Highlights the public benefit of the construction of High Plains Parkway (Section II.D).**
- **If property in the district is to be sold for a non-taxable use, the district must determine that there is no material impact to the District's ability to meet debt service obligations. If that determination cannot be made, the District must impose a fee on the purchaser to cover the loss of property tax and use such funds to pay for debt retirement. Prior notice to the City is required (Section V.A.16.c).**
- **Requires land acquisitions by the District from a developer to be based on an independent appraisal (Section V.A.23).**
- **Requires public improvements to be certified by an independent professional engineer as to inventory and cost (Section V.A.23).**

Financial Authority:

- Permits the districts to finance improvements funded by debt to be repaid from fees and mill levies, subject to the limits of the Service Plan:
 - Total Debt Issuance Limitation of \$123,706,250 (see Sections V.A.15, VI.A), supported by the financial plan (see Exhibit E) and estimated improvements costs of \$60,631,521 (see Section V.B, Exhibit D).
 - A Maximum Combined Mill Levy of:
 - § Existing District: 66.796 mills is proposed. This consists of a Maximum Debt Mill Levy of **50 mills (previously 55.664 mills for BCMD)** and a Maximum Operation & Mill Levy of 10 mills **(previously 11.132 mills for BCMD)** (when the debt mill levy becomes unlimited). (See Section VI.C.).
 - § District 2: 60 mills is proposed. This consists of a Maximum Debt Mill Levy of 50 mills and a Maximum Operation & Maintenance Mill Levy of 10 mills (when the debt mill levy becomes unlimited). (See Section VI.C.)
 - Authorizes a Mill Levy Adjustment **for the Maximum Debt Mill Levy only, using a base year of 2021 (Section VI.C.1)**, to reflect changes in in the

method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement, as of January 2019. **The Operation & Maintenance Mill Levy is not subject to adjustment (Section VI.C.3).**

- o Limits the term of mill levies for repayment of Debt for residential properties to 40 years, **which can no longer be extended even by a by a resident-controlled board (Section VI.D).**
- o Actual debt authorization and mill levy authorization requires TABOR-compliant election.
- o **Deletion of ability to override Maximum Debt Mill Levy (Former Section VI.C.2).**
- o **Limitation of interest rates to 12% and underwriting discounts to 3% (previously, 18% and 3% for default interest rates) (Section VI.B).**

Transparency & Governance:

- Provides for a single district structure (see Section V.C.).
- Identifies organization and initial operating costs of \$50,000 per district and a first year operating budget of \$40,000 for the first district and \$25,000 for the second (see Section VI.I).
- Requires increased disclosures and reporting, including annual notice to the City (see Section VII), annual mailed notices to property owners (see Section IX.D), holding board meetings within the City (see Section IX.C), disclosures to initial purchasers and potential residential buyers (see Sections IX.A, IX.B).
- **Additional transparency components now include:**
 - o **Specifies additional annual report contents (Section VII.B) and authorizes the City to post the report (Section VII.A).**
 - o **Prohibition on including marketing materials or ads for development or developers within the District Boundaries on the District's website (Section IX.D).**
 - o **Following a sale to an End User, requires District meetings (Section X.A):**
 - **At least quarterly**
 - **To included remote access participation and comment**
 - **To meet on weekday evenings at least once per year and when the**

District is considering any of these: annual budget, revenue pledge or reimbursement agreements, Service Plan modification requests, Debt issuance or refinancing, and issues relating to sales to tax exempt property.

- o **Prohibiting rules, regulations, or agreements that diminish or remove the ability of End Users to be appointed or elected to the Board (Section X.B).**

City Oversight:

- **Requires an opportunity for the City Council to review and comment (but not approve) the issuance of any indebtedness and refinancing any outstanding indebtedness. In addition, the service plan now also requires the District's submission to include a written opinion from an External Financial Advisor (Section VI.A2.c).**
- **Requires an opportunity for administrative review of revenue pledge or reimbursement agreements to another metropolitan district or a developer-controlled entity (Section VI.G).**
- **Prohibits the District from forming authorities or other entities without Council approval (Section V.A.21).**
- **Prohibits the District from imposing special assessments without Council approval (Section V.A.17).**
- **Requires payment of an annual oversight fee, if one is imposed by Council through ordinance (Section X.C).**
- **Establishes more clear terms for material modifications (Consolidated V.A.21 with new text in new Section XI).**
- **Establishes sanctions (New Section XIII).**

Approval Standard:

A service plan for metropolitan district wholly within the City's boundary is subject to approval by the City Council pursuant to C.R.S. 32-1-204.5. Material modifications to existing plans are subject to the same criteria. C.R.S. 32-1-207(2)(a). The service plan must include all items required by C.R.S. 32-1-202(2).

The service plan must be disapproved unless satisfactory evidence is presented to establish (C.R.S. 32-1-203(2)):

- There is sufficient existing and projected need for organized service in the area to be serviced;

- The existing service in the area to be served is inadequate for present and projected needs;
- The proposed district is capable of providing economical and sufficient service to the area within its proposed boundaries; and
- The area to be included in the district has or will have the financial ability to discharge the proposed indebtedness on a reasonable basis.

C.R.S. 32-1-202(2) requires that a service plan contain:

- A description of the proposed services (*see Sections II, V.A*);
- A financial plan showing how the proposed services are to be financed, including the proposed operating revenue derived from property taxes for the first budget year of the district, which shall not be materially exceeded except as authorized pursuant to section 32-1-207 or 29-1-302, C.R.S. All proposed indebtedness for the district shall be displayed together with a schedule indicating the year or years in which the debt is scheduled to be issued. The board of directors of the district shall notify the board of county commissioners or the governing body of the municipality of any alteration or revision of the proposed schedule of debt issuance set forth in the financial plan (*see Exhibit F*);
- A preliminary engineering or architectural survey showing how the proposed services are to be provided (*see Section V.B.1, Exhibit D*);
- A map of the proposed special district boundaries and an estimate of the population and valuation for assessment of the proposed special district (*see Sections III-IV.A, Exhibits A-1 & A-2, B-1 & B-2*);
- A general description of the facilities to be constructed and the standards of such construction, including a statement of how the facility and service standards of the proposed special district are compatible with facility and service standards of any county within which all or any portion of the proposed special district is to be located, and of municipalities and special districts which are interested parties pursuant to section 32-1-204(1) (*see Section V.A.5, V.B.2, XI.F, Exhibit F*);
- A general description of the estimated cost of acquiring land, engineering services, legal services, administrative services, initial proposed indebtedness and estimated proposed maximum interest rates and discounts, and other major expenses related to the organization and initial operation of the district (*see Section VI.1.1*);
- A description of any arrangement or proposed agreement with any political subdivision for the performance of any services between the proposed special district and such other political subdivision, and, if the form contract to be used is available, it shall be attached to the service plan (*see Section V.A.15, V.C., X, District Activities IGA*);
- Information, along with other evidence presented at the hearing, satisfactory to establish that each of the criteria set forth in section 32-1-203, if applicable, is met;
- Such additional information as the City Council may require by resolution on which to base its findings pursuant to section 32-1-203.

Policy Issue: Whether the proposed service plans should be approved pursuant to C.R.S. 32-1-203(2) and C.R.S. 32-1-204.5.

Staff Responsible (Department Head): Cathy Blakeman, Deputy City Manager

Staff Presenting: John Bourjaily, Management Analyst

Financial Impact: N/A

Funding Source: N/A

Staff Recommendation: Approval.

Suggested Motion: I move to approve Resolution 2021-51.

Alternatives:

1. Approve the service plans.
2. Approve the service plans with conditions.
3. Disapprove the service plans.