

RESOLUTION 2025-059
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROVING A FIRST AMENDMENT TO THE
AMENDED AND RESTATED SERVICE PLAN FOR
FOOTHILLS METROPOLITAN DISTRICT

A. The Colorado Special District Act authorizes the formation of a metropolitan district within the City by approval of the district's service plan by adoption of a resolution of Council and subsequent voter approval at the organizing election.

B. Part 2, Article 1 of Title 32 of the Colorado Revised Statutes (C.R.S.) further specifies the requirements and procedures, including a hearing before the Council, for approval of a proposed service plan or any amendment thereto that constitutes a material modification thereof.

C. The City's Financial Management Policy 10 – Metro Districts (the "Metro District Policy"), as authorized by City Council Resolutions 2021-045, 2019-016, 2018-079, and 2008-069, further establishes the criteria, guidelines, and processes for the City in considering applications for service plans for proposed metropolitan districts and amendments to those plans. The Policy sets expectations that metropolitan districts will provide broad public benefits, requires applicant assurances and specific commitments, and provides for enforcement of these public benefits by inclusion of related terms in district service plans, development agreements and other contracts.

D. On September 4, 2012, Council held a public hearing on the formation of a metropolitan district, the proposed areas and boundaries of which were wholly within the corporate limits of the City. Council approved the formation of the Foothills Metropolitan District (the "District"), by adoption of Resolution 2012-084, which included the findings of Council regarding the need for organized service in the proposed area, the capability of the District to provide economical and sufficient services, and determining that a condition was the approval of a future amendment to the original service plan, which was general in nature, in which the District would set forth details of its financial plans and plan of improvements.

E. The District was organized by Order and Decree Organizing District, issued on November 30, 2012, and recorded on January 10, 2013.

F. On May 7, 2013, Council approved, by adoption of Resolution 2013-043, a Redevelopment and Reimbursement Agreement (the "Redevelopment Agreement") by and between the City, the Fort Collins Urban Renewal Authority, the District, and the previous developer of the Foothills Mall property within the boundaries of the District.

G. MXD Fort Collins, LLC, a Delaware limited liability company (the "Developer") is the current owner of real property, which is a mixed-use development formerly referred to as the Foothills Mall.

H. On May 7, 2013, Council held a public hearing on amendments that proposed material modifications to the 2012 District service plan, including the provision of detailed financial plans and plan of improvements for the District (the “Amended and Restated Service Plan”). Council approved the Amended and Restated Service Plan for the District by adoption of Resolution 2013-044.

I. Since 2013, the District exercised its authority, per the Amended and Restated Plan, to issue debt and levy taxes to provide eligible improvements for the benefit of property owners and taxpayers within the District. Eligible improvements provided by the District facilitated a mixed-use redevelopment of property within the District service plan area, including construction of a commercial parking structure, retail and commercial property development, and construction of multi-family dwelling units.

J. Over the last ten years, robust economic activity within some portions of the District service plan area generated revenues to contribute to repayment of the debt issued to finance the public infrastructure improvements of the District. However, during that period, the interior portions of the legacy Foothills Mall fell below expectations due to lower than estimated occupancy rates. Further, since 2016, there have been international and national trends impacting consumer and other market behaviors within the District boundaries, including retail consolidation, the COVID pandemic, rising construction costs, and increasing housing costs.

K. Recently, the impacts of these local, national, international trends have necessitated an evaluation of the revenues pledged for repayment of the annual debt service of the District. Further, the changing economic landscape has required an examination of the changes that may be necessary to refinance the current debt of the District, and the consideration of future public infrastructure improvements that may be necessary for the continued redevelopment within the service plan area of the District.

L. On December 18, 2024, the Board of Directors of the District requested, pursuant to Section XI of the Amended and Restated Plan, that the City consider material modifications in the form of a proposed First Amendment to the Amended and Restated Service Plan (the “First Amendment”) to increase the debt cap for the District, to extend the maximum debt term of the District, to add additional eligible improvements to the District service plan to facilitate continued redevelopment, to raise additional revenues for the District pursuant to its existing authority and the Redevelopment Agreement, and for the District to issue additional debt.

M. On February 6, 2025, staff presented the proposed First Amendment to the Council Finance Committee with a recommendation to refer the First Amendment to Council for consideration, with additional information on District revenues, firm details on the affordable housing commitment of the Developer, and clarity on the public improvement fee amount.

N. On April 18, 2025, notice of a public hearing on the First Amendment was made by publication in the Fort Collins Coloradoan and by sent by United States first

class mail to all owners of record within the District, to the Division of Local Government, and to the governing bodies of any municipality and special district levying an ad valorem tax in the next preceding tax year and which has boundaries within a three mile radius of the District's boundaries.

O. On May 20, 2025, Council held a public hearing on the proposed First Amendment, at which Council reviewed the First Amendment and considered the testimony and evidence presented at the public hearing.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The Council hereby determines that the changes proposed in the First Amendment constitute material modifications of the Amended and Restated Service Plan for the District, per Section XI thereof, for which notice, a hearing, and action by resolution are required, pursuant to C.R.S. §§ 32-1-204.5 and 32-1-207(2) and the Metro District Policy.

Section 2. The Council hereby determines that the notification requirements of the Metro District Policy, as well as the statutory notification requirements in Part 3, Article 1 of Title 32, C.R.S., have been complied with regarding the public hearing on the First Amendment.

Section 3. The Council, after considering the testimony and evidence presented, and after its review of the First Amendment, hereby finds that the First Amendment contains, or sufficiently provides for, the items described in C.R.S. § 32-1-202(2).

Section 4. The Council's findings are based solely upon the evidence in the First Amendment presented at the public hearing and the City has not conducted any independent investigation of the evidence. The City makes no guarantee as to the financial viability of the District or the achievability of the desired results.

Section 5. The Council hereby approves the First Amendment, attached hereto as Exhibit A and incorporated herein by this reference, subject to the following: (1) full execution of an approved Public Benefits Agreement between the City and the Developer addressing the commitments supporting the approval of the First Amendment; and (2) full execution of an amendment to the Redevelopment Agreement to align the definition of "Add-On PIF" with the amended definition in the First Amendment.

Section 6. The approval of Council of the First Amendment is not a waiver or a limitation upon any power that the City Council is legally permitted to exercise with respect to the property within the District.

Passed and adopted on May 20, 2025.

Mayor

ATTEST:

City Clerk

Effective Date: May 20, 2025

Approving Attorney: Dianne Criswell

Exhibit A: First Amendment to the Amended and Restated Service Plan for Foothills
Metropolitan District.