

RESOLUTION

RESOLUTION NO. **32**

INTRODUCED BY COUNCILLORS

SERIES OF 2022

DeMott, Seymour

A RESOLUTION APPROVING THE CONSOLIDATED SERVICE PLAN FOR THE UPLANDS METROPOLITAN DISTRICTS NOS. 1 AND 2

WHEREAS, C.R.S. § 32-1-201.5 provides that no special district shall be organized except upon adoption of a resolution approving the service plan of the proposed special district;

WHEREAS, a consolidated service plan dated May 11, 2022 has been submitted to the City Council of the City of Westminster (the “City”) for the Uplands Metropolitan Districts Nos. 1 and 2 (the “Districts”) in compliance with C.R.S. § 32-1-204.5 and City policies (the “Service Plan”);

WHEREAS, included with the Service Plan is a form of intergovernmental agreement between the City and the Districts setting forth terms and conditions required of the Districts when they are organized (the “IGA”), attached hereto and incorporated herein as Exhibit A.

WHEREAS, the territory of the proposed Districts is located wholly within the boundaries of the City;

WHEREAS, adequate notice has been published and sent to property owners and interested parties of a public hearing of the City Council of the City to review the Service Plan; and

WHEREAS, the City Council of the City has conducted a public hearing on the Service Plan for the Districts.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER, COLORADO:

Section 1. That notice of the hearing was properly given and the City Council has jurisdiction to hear this matter.

Section 2. The City Council makes the following findings:

- (a) There is sufficient existing and projected need for organized service in the area to be serviced by the proposed Districts.
- (b) The existing service in the area to be served by the proposed Districts is inadequate for present and projected needs.
- (c) The proposed Districts are capable of providing economical and sufficient service to the areas within their proposed boundaries.
- (d) The area to be included in the proposed Districts has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

Section 3. The Service Plan dated May 11, 2022, for the Districts is hereby approved. Nothing herein limits the City’s powers with respect to the Districts, the property within the Districts, or the improvements to be constructed by the Districts. The City’s findings are based solely upon the evidence in the Service Plan and such other evidence presented at the public hearing. The City makes no guarantee as to the financial viability of the Districts or the achievability of the results.

Section 4. The form of IGA is hereby approved and the City Manager is authorized to sign the IGA in substantially the same form as Exhibit A.

PASSED AND ADOPTED this 12 day of September, 2022.

Nancy McNally

Nancy McNally, Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

Abby Fitch

Abby Fitch, City Clerk

David Frankel

Dave Frankel, City Attorney

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF WESTMINSTER
AND UPLANDS METROPOLITAN DISTRICTS NOS. 1 AND 2 REGARDING THE
CONSOLIDATED SERVICE PLAN FOR THE DISTRICTS**

THIS INTERGOVERNMENTAL AGREEMENT is made and entered into as of this _____ day of _____, 2022, by and among the **City of Westminster**, State of Colorado (“**City**”), **Uplands Metropolitan District No. 1**, a quasi-municipal corporation and political subdivision of the State of Colorado (“**District No. 1**”), and **Uplands Metropolitan District No. 2**, a quasi-municipal corporation and political subdivision of the State of Colorado (“**District No. 2**” and together with District No. 1, the “**Districts**”). The City and the Districts are collectively referred to as the “**Parties**” and individually referred to as a “**Party**.”

RECITALS

A. The Districts were organized to provide those services and to exercise powers as are more specifically set forth in the Consolidated Service Plan for the Districts approved by the City on _____, 2022 (“**Service Plan**”);

B. The Service Plan makes reference to the execution of an intergovernmental agreement between the City and the Districts, as required by the City Policies and Procedures for Title 32 District Formation (“**Policy**”);

C. The City and the Districts have determined it to be in the best interests of their respective taxpayers, residents and property owners to enter into this Intergovernmental Agreement (“**Agreement**”); and

D. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Service Plan.

NOW THEREFORE, in consideration of the covenants and mutual agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

COVENANTS AND AGREEMENTS

1. Incorporation by Reference. The Districts agree to comply with the terms and limitations of the Service Plan and the City Policy, as amended, both of which are incorporated herein by this reference.

2. Enforcement. The Parties agree that this Agreement may be enforced in law or in equity for specific performance, injunctive or other appropriate relief. The Parties also agree that this Agreement may be enforced pursuant to C.R.S. § 32-1-207, and other provisions of Title 32, Article 1, C.R.S., *et seq.* (“**Special District Act**”), granting rights to municipalities approving a service plan of a special district.

3. Service Plan Amendment Requirement. Material modifications of the Service Plan may be made by the Districts only by petition to and approval by City Council. Such approval of modifications shall be required with regard to any changes of a basic or essential nature that the City deems, in its sole discretion, a material modification, whether or not they are deemed to be immaterial by the District and shall include but not be limited to changes to the limitations set forth in the Service Plan. Changes to the Service Plan of a minor technical nature may be approved administratively by the City. The City shall determine if a change is minor or technical in nature.

4. City Remedies for Material Departure from Service Plan. Pursuant to C.R.S. § 32-1-207(3), the City may seek to enjoin any material departure from the Service Plan that the City deems, in its sole discretion, a material modification of this Service Plan. References to material modifications in the Service Plan, or actions or inactions of the Districts that expressly constitute material modifications pursuant to the terms of the Service Plan or the Special District Act, shall not limit the City's ability to enforce the entirety of the Service Plan, and the City may seek to enjoin any material departure as a material modification. Notwithstanding the foregoing, injunctive relief shall not be the City's exclusive remedy for a material departure the City deems a material modification of the Service Plan, and the City shall be entitled to exercise all remedies available by law or in equity, specifically including the remedies set forth in the City Municipal Code, and suits for specific performance and/or monetary damages.

5. Notices. All notices, demands, requests or other communications to be sent by one Party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the address or by courier service, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To the District:	Uplands Metropolitan District Nos. 1-3 c/o McGeady Becher P.C. 450 E. 17 th Avenue, Suite 400 Denver, CO 80203 Attn: Paula J. Williams Phone: 303-592-4380 Fax: 303-592-4385
------------------	---

To the City:	City of Westminster Director of Finance 4800 West 92 nd Avenue Westminster, CO 80031 Phone: 303-658-2400 Fax: 720-706-3923
--------------	--

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with United Parcel Service or other nationally recognized overnight air courier service or three (3) business days after deposit in the United States mail. By giving the other Party at least ten (10) days written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

6. Amendment. This Agreement may be amended, modified, changed or terminated in whole or in part by a written agreement duly authorized and executed by the Parties and without amendment to the Service Plan.

7. Assignment. None of the Parties hereto shall assign any of its rights nor delegate any of its duties hereunder to any person or entity without having first obtained the prior written consent of the other Parties, which consent will not be unreasonably withheld. Any purported assignment or delegation in violation of the provisions hereof shall be void and ineffectual.

8. Governing Law and Venue. This Agreement shall be governed and construed under the laws of the State of Colorado, and venue shall be in the district court of Adams County.

9. Inurement. Each of the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

10. Integration. This Agreement constitutes the entire agreement between the Parties with respect to the matters addressed herein. All prior discussions and negotiations regarding the subject matter hereof are merged herein.

11. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the Districts and the City any right, remedy or claim under or by reason of this Agreement or any covenants, terms, conditions or provisions thereof, and all the covenants, terms, conditions and provisions in this Agreement by and on behalf of the Districts and the City shall be for the sole and exclusive benefit of the Districts and the City.

12. Severability. If any covenant, term, condition or provision under this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition or provision shall not affect any other provisions contained herein, the intention being that such provisions are severable.

13. No Liability of City. The City has no obligation whatsoever to construct any improvements that the Districts are required to construct, or pay any debt or liability of the Districts including any bonds.

14. Paragraph Headings. Paragraph headings are inserted for convenience of reference only.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first set forth above.

**UPLANDS METROPOLITAN DISTRICT
NO. 1**, a quasi-municipal corporation and
political subdivision of the State of Colorado

By: _____
Its: _____

ATTEST:

By: _____
Its: _____

**UPLANDS METROPOLITAN DISTRICT
NO. 2**, a quasi-municipal corporation and
political subdivision of the State of Colorado

By: _____
Its: _____

ATTEST:

By: _____
Its: _____

CITY OF WESTMINSTER

Jody Andrews, Interim City Manager

ATTEST:

Abby Fitch, City Clerk

APPROVED AS TO FORM:

Dave Frankel, City Attorney

Certificate Of Completion

Envelope Id: C6FB2FC16ACA4F35968776F806E65AB7	Status: Completed
Subject: Please DocuSign: Res31; 32.pdf	
DocuSignDocumentType: Legislation	
CobbleStoneNumber:	
DateOfContract:	
Source Envelope:	
Document Pages: 8	Signatures: 6
Certificate Pages: 2	Initials: 0
AutoNav: Enabled	Envelope Originator:
Enveloped Stamping: Enabled	City of Westminster
Time Zone: (UTC-07:00) Mountain Time (US & Canada)	4800 West 92nd Avenue
	Westminster, CO 80031
	westminsterdocusign@cityofwestminster.us
	IP Address: 198.243.1.248

Record Tracking

Status: Original	Holder: City of Westminster	Location: DocuSign
9/19/2022 9:56:15 PM	westminsterdocusign@cityofwestminster.us	

Signer Events

Signature	Timestamp
Nancy McNally NMcNally@cityofwestminster.us Mayor City of Westminster Security Level: Email, Account Authentication (None)	Sent: 9/19/2022 9:56:15 PM Viewed: 9/20/2022 12:04:22 AM Signed: 9/20/2022 12:04:30 AM
Signature Adoption: Pre-selected Style Using IP Address: 75.166.1.253 Signed using mobile	

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

David Frankel dfrankel@cityofwestminster.us City Attorney City of Westminster Security Level: Email, Account Authentication (None)	David Frankel Signature Adoption: Pre-selected Style Using IP Address: 73.78.26.36 Signed using mobile	Sent: 9/20/2022 12:04:32 AM Viewed: 9/20/2022 12:07:20 AM Signed: 9/20/2022 12:08:04 AM
--	---	---

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Abby Fitch afitch@cityofwestminster.us City Clerk City of Westminster Security Level: Email, Account Authentication (None)	Abby Fitch Signature Adoption: Pre-selected Style Using IP Address: 198.243.1.248	Sent: 9/20/2022 12:08:05 AM Viewed: 9/20/2022 9:24:29 AM Signed: 9/20/2022 9:24:38 AM
--	---	---

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Abby Fitch afitch@CityofWestminster.us City Clerk City of Westminster Security Level: Email, Account Authentication (None)	<div style="border: 2px solid blue; padding: 5px; display: inline-block;"> COPIED </div>	Sent: 9/19/2022 9:56:15 PM Viewed: 9/19/2022 9:56:15 PM Signed: 9/19/2022 9:56:15 PM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Witness Events	Signature	Timestamp
----------------	-----------	-----------

Notary Events	Signature	Timestamp
---------------	-----------	-----------

Envelope Summary Events	Status	Timestamps
-------------------------	--------	------------

Envelope Sent	Hashed/Encrypted	9/19/2022 9:56:15 PM
Certified Delivered	Security Checked	9/20/2022 9:24:29 AM
Signing Complete	Security Checked	9/20/2022 9:24:38 AM
Completed	Security Checked	9/20/2022 9:24:38 AM

Payment Events	Status	Timestamps
----------------	--------	------------