

RESOLUTION 2020-045
OF THE CITY COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CITY MANAGER TO SIGN INTERGOVERNMENTAL
AGREEMENTS WITH METROPOLITAN DISTRICTS TO PROVIDE THE CITY WITH
CONTRACTUAL REMEDIES TO ENFORCE THOSE DISTRICTS' APPROVED SERVICE
PLANS, CONSISTENT WITH THE PREVIOUSLY APPROVED SERVICE PLANS

WHEREAS, metropolitan districts are quasi-municipal governmental entities authorized to be organized within municipalities under Colorado's Special District Act in Title 32, Article 1 of the Colorado Revised Statutes (the "Act") provided the service plan of those metropolitan districts are first approved by the governing body of the municipality within which the districts are to be organized; and

WHEREAS, on February 5, 2019, the City Council adopted Resolution 2019-016 approving the City's revised policy for reviewing the service plans of metropolitan districts proposed by applicants to be organized under the Act within the City's boundaries (the "Metro District Policy"); and

WHEREAS, one revision in the Metro District Policy was to add to the City's "Model Service Plan," which is attached to the Policy, a new section requiring metropolitan districts, after they are organized, to enter into an intergovernmental agreement with the City for the sole purpose of granting to the City contractual remedies to enforce the requirements and limitations in the approved service plan, which remedies are in addition to the statutory remedies the City already has under the Act to enforce these requirements and limitations ("Service Plan Enforcement IGA"); and

WHEREAS, the City Council has approved five service plans that require the organized metropolitan districts to enter into a Service Plan Enforcement IGA with the City and these districts are the Northfield Metropolitan District Nos. 1-3, Mulberry Metropolitan Districts Nos. 1-6, Gateway at Prospect Metropolitan District Nos. 1-7, Rudolph Farms Metropolitan District Nos. 1-6 and the SW Prospect I-25 Metropolitan District Nos. 1-7 (collectively, the "Districts"); and

WHEREAS, the form of the Service Plan Enforcement IGA that the Districts have agreed to enter with the City is attached as Exhibit "A" and incorporated herein by reference; and

WHEREAS, four of the Districts have signed their Service Plan Enforcement IGA, substantially in the form of Exhibit "A," and presented it to the City for its signing; and

WHEREAS, the City Council wishes to authorize the City Manager to sign on the City's behalf these Service Plan Enforcement IGAs required by past metropolitan district service plans approved by the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT COLLINS, COLORADO, as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby authorizes the City Manager sign on the City's behalf the Service Plan Enforcement IGAs to be entered into with the Districts in substantially the form attached as Exhibit "A," subject to minor modifications as the City Manager, in consultation with the City Attorney, may determine to be necessary and appropriate to protect the interests of the City or to effectuate the purposes of this Resolution.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 5th day of May, A.D. 2020.

DocuSigned by:
Wade Troxell
F972F432DED1484...

Mayor

ATTEST:

DocuSigned by:
Silvan Calderon
DA94896740DA4BA...

City Clerk

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT (this "Agreement") is made and entered into by and between the **City of Fort Collins, Colorado**, a Colorado home rule municipality (the "City"), and _____ quasi-municipal corporations and political subdivisions of the State of Colorado (collectively, the "Districts"). The City and the Districts shall be collectively referred to as the "Parties."

RECITALS

WHEREAS, the Districts were organized to provide those services and to exercise powers as are more specifically set forth in the Districts' Service Plan dated _____, which may be amended from time to time as set forth therein (the "Service Plan"); and

WHEREAS, the Service Plan requires the execution of an intergovernmental agreement between the City and the Districts to provide the City with contract remedies to enforce the requirements and limitations imposed on the Districts in the Service Plan; and

WHEREAS, the City and the Districts have determined it to be in their best interests to enter into this Agreement as provided in the Service Plan.

NOW, THEREFORE, for and 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 Service Plan is hereby incorporated in this Agreement by this reference. The Districts agree to comply with all provisions of the Service Plan, as it may be amended from time to time in accordance with the provisions thereof, and the provisions of Article 1 of Title 31 of the Colorado Revised Statutes (the "Special District Act"). Capitalized terms used herein not otherwise defined in this Agreement shall have the meanings, respectfully, specified in the Service Plan.

2. City Prior Approvals. The Districts shall obtain any prior City, City Manager or City Council approvals as required in the Service Plan before undertaking any action requiring such approval.

3. Enforcement. The Parties agree that this Agreement may be enforced at law or in equity, including actions seeking specific performance, mandamus, prohibitory or mandatory injunctive relief, or other appropriate relief. The Parties also agree that this Agreement may be enforced pursuant to C. R. S. Section 32-1-207 and other provisions of the Special District Act granting rights to municipalities or counties approving a service plan of a special district.

4. Amendment. This Agreement may be amended, modified, changed, or terminated in whole or in part only by a written agreement duly authorized and executed by the Parties hereto.

5. Governing Law; Venue. This Agreement shall be governed by and construed under the applicable laws of the State of Colorado. Venue for any judicial action to interpret or enforce this Agreement shall be in Larimer County District Court of the Eighth Judicial District for the State of Colorado.

6. Beneficiaries. Except as otherwise stated herein, this Agreement is intended to only describe the rights and responsibilities of and between the named Parties and is not intended to and shall not be deemed to confer any rights upon any other persons or entities not named as parties in this Agreement.

7. Effect of Invalidity. If any portion of this Agreement is held invalid or unenforceable for any reason by a court of competent jurisdiction as to any or all the Parties, such portion shall be deemed severable and its invalidity or its unenforceability shall not cause the entire Agreement to be terminated.

8. Assignability. Neither the City nor the Districts shall assign their rights or delegate their duties hereunder without the prior written consent of the other Parties. Any assignment of rights or delegation of duties without such prior written consent shall be deemed null and void and of no effect. Notwithstanding the foregoing, the City and the Districts may enter into contracts or other agreements with third parties to perform any of their respective duties required under this Agreement.

9. Successors and Assigns. This Agreement and the rights and obligations created hereby shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

_____ METROPOLITAN DISTRICT NO. _____

By: _____
President

ATTEST:

CITY OF FORT COLLINS, COLORADO

By: _____
Darin A. Atteberry, City Manager

ATTEST:

City Clerk