

# CITY COUNCIL COMMUNICATION



**MEETING DATE:** October 24, 2023

**ITEM NUMBER:** 9.H

**SECOND READING:**

{{customfields.ResoOrdNumber}}

**TYPE OF ITEM:** Consent

**PRESENTED BY:**

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## **SUBJECT/AGENDA TITLE:**

A Resolution Of The Longmont City Council Authorizing The First Amendment To Redevelopment And Reimbursement Agreement For The Village At The Peaks Development Among The City Of Longmont, The Longmont Urban Renewal Authority, The Twin Peaks Metropolitan District, And NMMS Twin Peaks, LLC

## **EXECUTIVE SUMMARY:**

In 2013, as part of the redevelopment of the Twin Peaks Mall into the Village at the Peaks (VATP), the City and the Longmont Urban Renewal Authority (LURA) entered into a Redevelopment and Reimbursement Agreement (RRA) with the Twin Peaks Metro District (TPMD) and the developer, NewMark Merrill. The TPMD was formed by the developer as a means to issue debt and to reimburse the developer for costs incurred but not reimbursed by the City and LURA. Earlier this summer staff was contacted by the District and informed of their plan to issue debt to reimburse the developer for that purpose. The District's bond counsel is requesting an amendment to the original Redevelopment and Reimbursement Agreement (RRA) that is critical to the ability of the District to issue the debt. The proposed resolution would approve the amendment needed to the RRA.

## **COUNCIL OPTIONS:**

1. Approve the Resolution
2. Do not approve the Resolution

## **RECOMMENDED OPTIONS:**

Approve the Resolution

## **FISCAL IMPACT & FUND SOURCE FOR RECOMMENDED ACTION:**

There is no change in current fiscal impact from the amendment to the RRA

## **BACKGROUND AND ISSUE ANALYSIS:**

As part of the original redevelopment of Village at the Peaks (VATP), the Twin Peaks Metro District (TPMD) was formed to reimburse the developer, NewMark Merrill, for \$7 million of costs incurred that were not originally reimbursed by the Certificates of Participation (COP's)

issued by the City. The TPMD is authorized to levy up to 50 mills under their service plan, 25 mills for debt service and 25 mills for operating expense. The 25 mills for debt service is committed through 2037 to serve the debt service on the COP's issued by the City. Currently the developer has an agreement with the District to cover the costs of the operating expenses of the VATP. As a result, the 25 mills for operations are used to pay down the interest on the developer advance.

Earlier this summer staff was contacted by the District and informed of their plan to issue debt for this purpose. The District will be issuing new bonds in accordance with the terms already permitted in the District's service plan. The new bond will repay the outstanding ~\$7mm principal and ~\$1mm in accrued interest owed the original developer and the new bond will rely on the 25 mills that is currently being used to make principal and interest payments toward the outstanding developer advance. Under the Service Plan, the District needs to submit proposed bond documents to the City for its review and consent. The District submitted the documents and staff reviewed them and found them to be sufficient. The proposed financial plan is to issue 30-year bonds in the amount of \$8 million. The 25 mills levied for operating will cover payments through 2037. After the COP's are paid off in 2037 the 25 mills for debt service will all be directed to payments on the District's bond. Thus, from 2038 on through 2053 the full 50 mills will go toward servicing the debt on the District's bonds.

The District's bond counsel is requesting an amendment to the original Redevelopment and Reimbursement Agreement (RRA). The present language in the RRA explicitly requires LURA to remit to the District the full 25 mills of unpledged operations and maintenance levy. If the District pledges those 25 mills to the proposed bond, LURA could potentially argue that it no longer has to remit the 25 mills on the increment portion that it is presently obligated to remit. The last sentence of Section 8.3 states "The District shall use the District Operating Revenue to pay its normal and reasonable operating and maintenance expenses". The bond counsel is concerned that this sentence prohibits the TPMD from using the increment returned by LURA to pay debt service on the bonds they propose. The District wants the proposed amendment in order to be assured that this technicality would not deprive it of that revenue. Without the benefit of that revenue the proposed bond financing would not be feasible. Staff has reviewed this matter with the City's bond counsel and he is in agreement that the wording should be corrected and is critical to the bond issuance. Thus, the City Attorney has drafted the proposed amendment to the RRA and the resolution to approve the amendment.

**ATTACHMENTS:**

Att 1 - Resolution

Att 2 - First Amendment to Redevelopment and Reimbursement Agreement