RESOLUTION NO. 22-065, Series of 2022

TITLE: A RESOLUTION APPROVING ADJUSTMENT OF MILL LEVIES RESULTING FROM LEGISLATIVE OR CONSTITUTIONALLY MANDATED REDUCTIONS

WHEREAS, THE TOWN COUNCIL OF PARKER FINDS

A. In 1982, the State of Colorado (the "State") approved an amendment to the State constitution (the "Gallagher Amendment") which required that residential property equal 45% of the statewide valuation for assessment and nonresidential property equal 55% of the statewide valuation for assessment, with the nonresidential assessment rate being set at 29%, with the expectation that the residential assessment rate would decrease over time; and

B. In order to lessen the impact of revenue reductions resulting from constitutionally mandated reductions in the residential assessment rate, it became common for metropolitan district service plans, including service plans approved by the Town of Parker (the "Town"), to include "Gallagher Adjustment" language that allowed a metropolitan district to increase or decrease its mill levy to offset any changes in the residential assessment rate; and

C. The purpose of the adjustment language was to ensure that, to the extent possible, the actual tax revenue generated by the applicable mill levy was neither diminished nor enhanced by changes to the residential assessment rate; and

D. In November 2020, the State's voters approved Amendment B, which repealed the Gallagher Amendment and provided the General Assembly with the authority to decrease the assessment rate in the future; and

E. Since the repeal of the Gallagher Amendment, the General Assembly has passed legislation in each year that has reduced the assessment rate for different classes of property and there have also been numerous initiative petitions that have sought to permanently reduce the assessment rate for different classes of property; and

F. The Town has been approached by counsel for several metropolitan districts that have service plans that were originally approved by the Town requesting a solution to allow the districts to adjust their mill levies for legislative changes in the assessment rate like they would for constitutional changes; and

G. The Town has determined that service plans approved prior to the date of this resolution may be amended to include specific language included in this resolution that allows for a mill levy adjustment for legislative as well as constitutional changes, and that such amendment is not a material modification of any prior service plans; and

H. The Town has also determined to amend various sections of its existing Model Service Plan to conform the mill levy adjustment language to the language included herein.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, AS FOLLOWS:

Section 1. The foregoing recitals are incorporated in and made a part of this Resolution.

Section 2. The Board of Directors of any metropolitan district with a service plan approved by the Town Council prior to the date of this resolution may pass a resolution resolving that this resolution be appended to the district's service plan and providing that the "Mill Levy Adjustment," "Gallagher Adjustment" or similar definition in the district's service plan, or provisions in the district's service plan permitting the adjustment of mill levies to offset changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement authorized, shall be amended to conform with the following language:

> Mill Levy Adjustment: means, if, on or after [THE DATE CURRENTLY IN THE DISTRICT'S SERVICE PLAN PERTAINING TO ADJUSTMENTS], there are changes in the method of calculating assessed valuation or any constitutionally or statutorily mandated tax credit, cut or abatement, the [mill levies authorized under the service plan], may be increased or decreased to reflect such changes, such increases and decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the applicable mill levy, as adjusted for changes occurring after [THE DATE CURRENTLY IN THE DISTRICT'S SERVICE PLAN PERTAINING TO ADJUSTMENTS], are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation, and any constitutional or legislative changes in the actual value against which the assessment rate is applied, shall be deemed to be a change in the method of calculating assessed valuation.

Section 3. The definition of "Mill Levy Adjustment" in the Model Service Plan shall be amended to read as follows:

> Mill Levy Adjustment: means, if, on or after January 1, 2019, there are changes in the method of calculating assessed valuation or any constitutionally **or statutorily** mandated tax credit, cut or abatement, the mill levy to which the Mill Levy Adjustment applies may be increased or decreased to reflect such changes, such increases and decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the applicable mill levy, as adjusted for changes occurring after January 1, 2019, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation, **and any constitutional or legislative changes in the actual value against which the assessment rate is applied**, shall be deemed to be a change in the method of calculating assessed valuation.

Section 4. Section VI(C)(1) of the Model Service Plan shall be amended to read as follows:

(1) For the portion of any aggregate District Debt which exceeds 50% of the District's assessed valuation, the Maximum Debt Mill Levy for such portion of Debt shall be [THE NUMBER OF MILLS CURRENTLY AUTHORIZED UNDER DISTRICT'S SERVICE PLAN OR 57 MILLS AS APPROPRIATE] less the number of mills necessary to pay unlimited mill levy Debt described in Section VI.C.2 below, subject to the Mill Levy Adjustment. As of the date of this Service Plan, the Mill Levy Adjustment allows for a Maximum Debt Mill Levy of _____ mills. Except for permitted Mill Levy Adjustments, the District's mill levy **imposed by the District for payment of Debt** shall not exceed the Maximum Debt Mill Levy. If the District otherwise proposes to adjust its mill levy **for the payment of Debt** above the Maximum Debt Mill Levy for any purpose ~~**of offsetting any constitutionally or legislatively mandated credit, cut, abatement or change in the method of calculating assessed valuation**~~ **other than a Mill Levy Adjustment**, the District shall first submit all relevant details of such proposed adjustment to the Town Administrator, who may approve such proposed adjustment in writing or refer the proposal to the Town Council, which may elect to treat the proposed ~~**mill levy**~~ **Maximum Debt Mill Levy** adjustment as a material modification of the Service Plan. If the Town Council determines that such **proposed** adjustment **to the Maximum Debt Mill Levy** constitutes a material modification of the Service Plan, the District shall proceed to amend the Service Plan in accordance with Section 32-1-207, C.R.S. The District shall obtain written approval of the Town Administrator or of a Service Plan amendment prior to any such ~~**mill levy**~~ **proposed Maximum Debt Mill Levy** adjustment.

Section 5. Nothing herein shall permit any metropolitan district with a service plan approved by the Town Council that does not contain language permitting the adjustment of mill levies to offset changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement to amend the district's service plan to include a Mill Levy Adjustment. Any such amendment is deemed to be a material modification by the Town Council.

Section 6. If any section, paragraph, clause or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution.

RESOLVED AND PASSED this _____ day of _____, 2022.

TOWN OF PARKER, COLORADO

_____
Jeff Toborg, Mayor

ATTEST:

_____
Chris Vanderpool, Town Clerk