

RESOLUTION NO. 136-18

A RESOLUTION AUTHORIZING THE DISPOSAL OF SURPLUS CITY PROPERTY TO J. SEAN O'HEARN (PURCHASER), AS THE ONE LOGICAL, POTENTIAL PURCHASER

WHEREAS, City of Colorado Springs ("City"), by and through its enterprise, the Colorado Springs Municipal Airport ("Airport"), currently owns, by fee title, 900 acres, more or less, of real property situated in Colorado Springs, El Paso County, Colorado, as generally depicted and described on **Exhibit A**, which is attached and incorporated into this Resolution, ("Peak Innovation Park") and is an area of land designated as a mixed use business park development for the benefit of the Airport; and

WHEREAS, the City currently owns, by fee title, the parcel of land to be disposed of in accordance with this Resolution which is 1/10<sup>th</sup> of one acre (4,356 square feet) more or less, of real property situated in the southwest quarter of Peak Innovation Park, as generally depicted and described on **Exhibit B**, which is attached and incorporated into this Resolution, (the "Property"); and

WHEREAS, the Airport is the controlling department of the Property; and

WHEREAS, Peak Innovation Park, which includes the Property, was purchased with Federal Aviation Administration ("FAA") grant funds on November 6, 1970, for the purpose of noise abatement and runway approach protection; and

WHEREAS, on June 14, 2006, the FAA issued the Airport a letter releasing Peak Innovation Park land from aeronautical use requirements which frees that land for Airport business park development. See **Exhibit C**; and

WHEREAS, no other department or city enterprise has expressed an interest in the Property; and

WHEREAS, City Code § 7.7.1804(B) (2001) and Chapter 5 of *The Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interest* ("Real Estate Manual") authorizes the disposal of surplus property to one logical, potential purchaser upon City Council approval; and

WHEREAS, on August 28, 2018, Resolution No. 98-18 (**Exhibit D**), City Council approved the Service Plan for the Peak Metropolitan Districts Nos., 1, 2, and 3 for the purpose of financing the construction of Public Improvements as defined in the *Consolidated Service Plan for Peak Metropolitan District Nos., 1, 2, and 3, in the City of Colorado Springs, Colorado* ("Service Plan"); and

WHEREAS, the Airport intends to develop Peak Innovation Park as a mixed use development for such beneficial uses as may be determined by the Airport from time to time (the "Project"); and

EXHIBIT A

WHEREAS, the Airport's master developer, UFCS, Airport, LLC, ("Urban Frontier"), pursuant to Resolution No. 98-18, intends to organize two special financial districts and one management district to serve the Project, in accordance with the provisions of the Special District Act, C.R.S. § 32-1-101 *et seq.*, and the approved Service Plan attached as **Exhibit D**; and

WHEREAS, the Special District Act provides that only "eligible electors" may vote at required special district elections and serve on the Board of Directors of a special district; and

WHEREAS, under C.R.S. § 32-1-103(5), an eligible elector must be an individual who, or whose spouse or civil union partner, is a registered Colorado voter and either a resident of the proposed or existing special district, or an owner of taxable real or personal property within the proposed or existing special district; and

WHEREAS, C.R.S. § 32-1-103(5)(b), provides that a person may be considered an owner of taxable real or personal property, and thus become qualified as an eligible elector, if the person, or the person's spouse or civil union partner, is obligated to pay taxes under an Agreement to purchase taxable property situated within the boundaries of a proposed or existing special district; and

WHEREAS, C.R.S. § 32-1-808, provides additional authority and requirements regarding the qualification of eligible electors; and

WHEREAS, C.R.S. § 32-1-808(2)(a)(III), permits an individual to be qualified as an eligible elector if there are less than eleven (11) eligible electors as of any date before an organizational election; and

WHEREAS, there are currently less than eleven (11) eligible electors; and

WHEREAS, in order to become an eligible elector pursuant to C.R.S. § 32-1-103(5)(b), the Purchaser identified herein desires to procure an option to purchase an undivided 1/10<sup>th</sup> of an acre interest in the Property together with any and all easements, rights of way and appurtenances thereto upon the terms and provisions as hereinafter set forth; and

WHEREAS, the Property is situated in a drainage basin which is an area within Peak Innovation Park that is neither feasible nor economical to develop; and

WHEREAS, the Property has been vacant since its initial acquisition in November, 1970, without interest from any other potential purchaser; and

WHEREAS, in April 2007, the City, via its request for procurement ("RFP") process, retained COPT Cresterra Master, LLC ("Cresterra") as its master developer for the Airport business park; and

WHEREAS, upon mutual termination of its contract with Cresterra, the City, via its RFP process, retained Urban Frontier, in May 2016, as its master developer for the Airport's business park. Urban Frontier rebranded the business park as "*Peak Innovation Park*"; and

WHEREAS, since 2006, the Property has been marketed by the Airport and both of its master developers; and

WHEREAS, the development of a business park for the benefit of the Airport is unprecedented and necessarily requires the creation of metropolitan districts for the primary purpose of financing the construction and maintenance of the Public Improvements as defined in the Service Plan, which catalyzes the economic engine of the business park; ensures high level, attractive architectural design standards; and provides for high level maintenance of the infrastructure throughout the life of the business park; and

WHEREAS, the creation of the metropolitan district(s) necessarily requires the sale of the Property to meet the requirements under the Special District Act, C.R.S. § 32-1-101 *et seq.*; and

WHEREAS, pursuant to City Code § 7.7.1804 (B) and Chapter 5, § 5.4 of the Real Estate Manual, Purchaser is the one logical, potential purchaser for the following reasons:

- Selling the Property for a fee simple interest complies with the Special District Act, C.R.S. § 32-1-101 *et seq.*;
- Selling the Property to Purchaser is anticipated to significantly benefit the Airport because there are no other governmental entities, including the City, which have deemed it desirable, feasible, or practical to undertake the planning, designing, construction, installation, relocations, redevelopment and financing of the Public Improvements defined in the Service Plan which are necessary for the development and completion of the Peak Innovation Park Project;
- Selling the Property to Purchaser for the intended use fits within the compatible land uses of the Airport;
- Selling the Property to Purchaser, in particular, for the intended use supports the Airport's reason for requesting the FAA release the land from aeronautical use requirements;
- Purchaser, in addition to a fiduciary duty, will have the best interest of Peak Innovation Park in mind because Purchaser is a managing partner of Evertia Consulting Group, LLC, an engineering and planning firm contracted to Urban Frontier for all of Urban Frontier's developments;
- There are minimal utilities and other infrastructure located within the Property site area. Creating a metropolitan district reduces the economic burden on the Airport by cost shifting the construction of necessary infrastructure improvements among several developments and ensuring continued, long-term maintenance of the improvements;
- The creation of a metropolitan district is anticipated to increase the marketability of Peak Innovation Park for commercial developers because cost sharing of necessary infrastructure improvements reduces the costs associated with developing adjacent parcels and provides the opportunity for the Airport to develop "pad-ready" sites;

- For the foregoing reasons, selling the Property to Purchaser for the creation of a metropolitan district provides a high probability of increasing the land values within Purchaser's particular Peak Innovation Park financial district;
- The Airport has a federal, statutory obligation to be and remain self-sustainable. For the foregoing reasons and in light of the fact metropolitan districts are an industry standard and require a board of directors, selling the Property to Purchaser affords the Airport with a high probability of continuing to comply with its federal, statutory obligations; and

WHEREAS, the Airport met with the FAA to discuss releasing the Property to Purchaser as a fee simple sales transaction and the FAA verbally agreed the intended use would be compatible with the Airport and thereby concurs with the sale of the Property to stimulate growth of Peak Innovation Park and the Airport; and

WHEREAS, the Airport followed the City process for retaining an approved appraiser who is in the process of determining the fair market value ("FMV") of the Property. In compliance with FAA regulations, City Code § 7.7.1803, and the Real Estate Manual, the City shall negotiate a value equal to or greater than fair market value for the sale of the Property; and

WHEREAS, the Airport recommends disposal of the Property to Purchaser, as the one logical potential purchaser in accordance with the Real Estate Manual and City Code § 7.7.1804 (B).

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:**

Section 1. City Council finds that the sale of the Property, described and depicted in **Exhibit B** is in compliance with the City's Real Estate Manual, the City Charter, the City Code, and all other applicable laws.

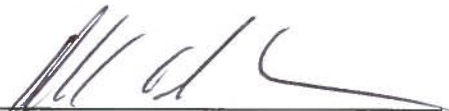
Section 2. In accordance with City Code § 7.7.1804 (B) and the Real Estate Manual, Chapter 5, City Council finds, for the reasons set forth in the recitals above, Purchaser, is the one logical, potential purchaser of the Property.

Section 3. In accordance with Chapter 5, § 5.4 of the Real Estate Manual, City Council hereby authorizes the sale of the Property to Purchaser, for not less than FMV as established by the City's real estate appraisal and subject to the applicable terms and conditions of the Real Estate Manual; FAA regulations, including all required deed restrictions; and all contractual obligations negotiated by the parties.


Section 4. Pursuant to the Real Estate Manual, Chapter 2, § 2.11, the City's Real Estate Services Manager is authorized to execute all documents necessary to complete the disposition of the Property and to obtain the Mayor's signature on the Quitclaim Deed to convey the Property to Purchaser.


Section 5. The Mayor is authorized to sign all necessary petitions and other documents for the inclusion of certain real property into the boundaries of the Peak Metropolitan District.

Dated at Colorado Springs, Colorado this 13<sup>th</sup> day of November, 2018.

  
\_\_\_\_\_  
Council President

ATTEST:

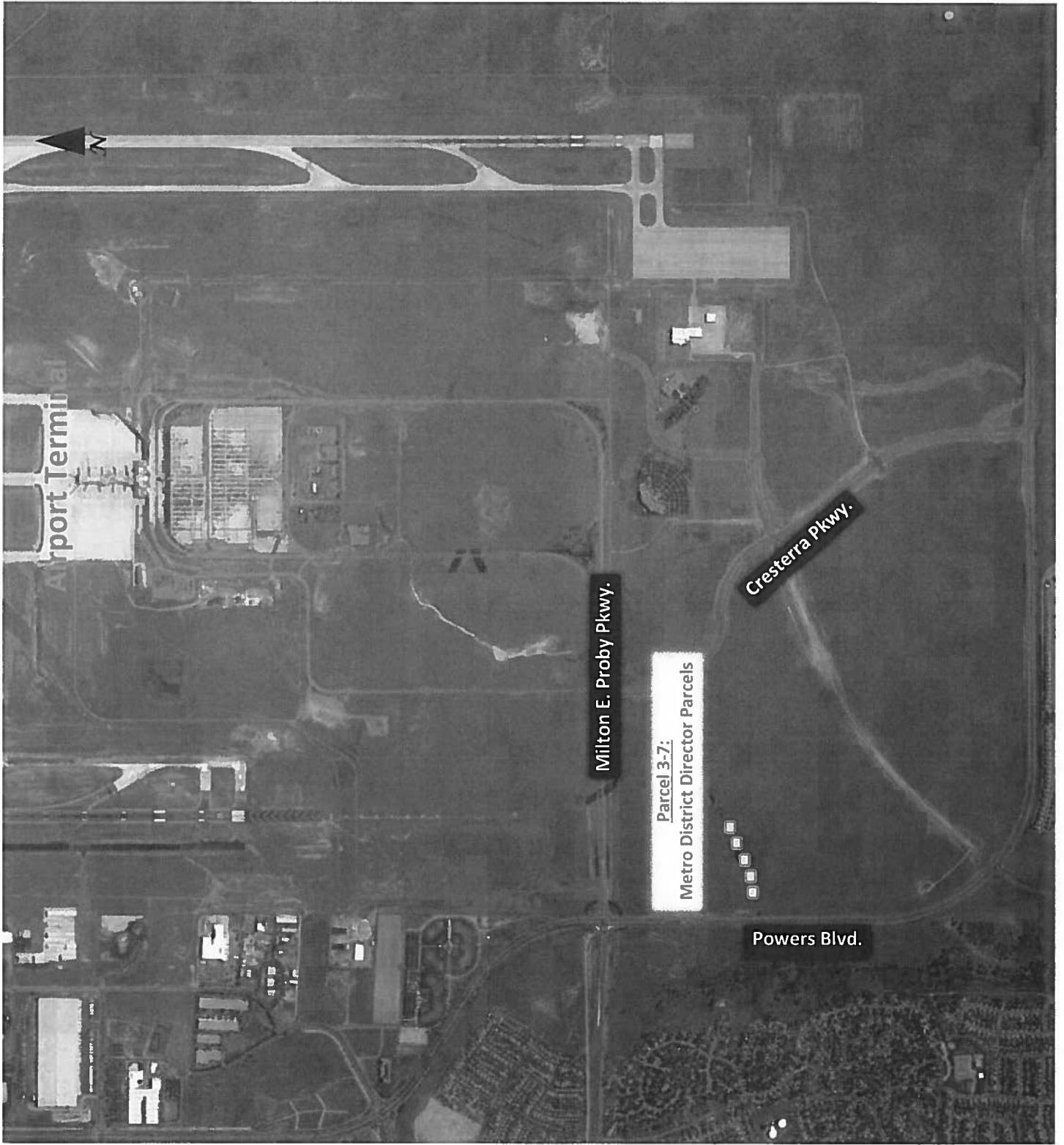
  
\_\_\_\_\_  
Sarah B. Johnson, City Clerk



The seal is circular with a double-line border. The outer ring contains the text "COLORADO SPRINGS" at the top and "COLORADO" at the bottom. The inner ring contains "INCORPORATED" at the top and "1871" at the bottom. In the center, there is a smaller circle with the word "SEAL" and a small emblem below it.



EXHIBIT A





U.S. Department  
of Transportation  
Federal Aviation  
Administration

Denver Airports District Office  
26805 E. 68<sup>th</sup> Avenue, Room 224  
Denver, Colorado 80249  
303-342-1250; FAX 303-342-1260

June 14, 2006

Mr. Mark Earle, Director of Aviation  
Colorado Springs Airport  
7770 Milton E. Proby Parkway, Suite 50  
Colorado Springs, CO 80916-4900

Dear Mr. Earle:

This is in response to your request dated January 10, 2006, on behalf of the City of Colorado Springs, Colorado for the release of certain land at the Colorado Springs Airport, from restrictions and conditions of agreements with the U.S. Government.

Enclosed are two copies of Instrument of Release, please sign these copies and return one copy to our office.

Sincerely,

Craig A. Sparks, Manager  
Denver Airports District Office

Enclosure

EXHIBIT C



## INSTRUMENT OF RELEASE

**THIS INSTRUMENT OF RELEASE**, made by the United States of America, acting through the Federal Aviation Administration to the City of Colorado Springs, Colorado.

### **WHEREAS,**

The United States, acting by and through the Administrator, Federal Aviation Administration granted Federal Funds for land acquisition and development of the Colorado Springs Municipal Airport, in Grant Agreements numbered 6-08-0010-02 and 06-08-0010-05; and

### **WHEREAS,**

Said Grant Agreements provide that said land is for airports use, and

### **WHEREAS,**

The Administrator of the Federal Aviation Administration has determined that the hereinafter described land no longer serves the purpose for which it was acquired and made subject to certain terms, conditions, reservations and restrictions in said Grant Agreement.

**NOW THEREFORE**, for and in consideration of the City of Colorado Springs, Colorado, expending funds on grant eligible terminal development and the further benefits to accrue to the United States and to civil aviation, the Administrator of the Federal Aviation Administration, on behalf of the United States, hereby releases unto the City of Colorado Springs, Colorado, the hereinafter described real property subject to the following provisions and reservations:

1. That the City of Colorado Springs, Colorado agrees to continue to be bound by and further agrees to reserve unto itself, its successors and assignees in any instruments of transfer conveying title or interest in the hereinafter described real property, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the real property hereinafter described, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation of or flight in the said airspace and for the use of said airspace for landing on, taking off from, or operating on the Colorado Springs Airport.

2. That the City of Colorado Springs, Colorado expressly agrees for themselves, their successors and assignees to restrict the height of structures, objects of natural growth and other obstructions on the hereinafter described real property to a height consistent with 14 CFR Part 77. The City of Colorado Springs pledges that any necessary 7460-1 analysis will be completed prior to commencing vertical construction within the subject parcels. As of the date of this letter, the Federal Aviation Administration recommends that building heights not exceed 6,126 feet above sea level on Section 5 and westerly portion of Section 4; and 6,133 feet above sea level on Section 6 of Parcels 19A-B, 10B, 17, 21A, 20A-B and 21B2-B. However, both parties acknowledge that these allowable heights serve as a guide and buildings heights may exceed these limits or may be restrictive under these limits based on the appropriate 14 CFR Part 77 analysis to be completed prior to vertical construction commencing.
3. That the City of Colorado Springs, Colorado expressly agrees for themselves, their successors and assignees to prevent any use of the hereinafter described real property which would interfere with landing or taking off of aircraft at the Colorado Springs Airport, or otherwise constitute an airport hazard. In the event the aforesaid covenant is breached, the grantor is to reserve the right to enter upon the land released hereunder and to remove the offending structure or object and to cut the offending growth, all of which shall be at the expense of the grantees.

By this Instrument of Release, the United States of America by and through the Administrator, Federal Aviation Administration, hereby releases the real property described below from all the remaining conditions, reservations and restrictions except those reserved herein, contained in the identified Grant Agreements.

The real property is located in the County of El Paso, State of Colorado, and legally described as follows:

All that certain Tract or Parcel of land in Section 31 and the Southwest quarter, Section 32, Township 14 South, Range 65 West of the Sixth Principal Meridian, City of Colorado Springs, El Paso County, Colorado, being described as follows:

Basis of Bearings: The southerly line of the Southwest quarter of Section 4, Township 15 South, Range 65 West, being monumented on the East end by 3 1/2"

aluminum cap stamped "RLS 10377", and at the West end by a 2 1/2" aluminum cap stamped "PLS 17664", being assumed to bear N89°51'15"W, a distance of 2636.20 feet.

Commencing at the South quarter corner to said Section 4, thence N89°51'15"W on the southerly line of said Southwest quarter and the southerly line of said Lot 2, a distance of 1734.20 feet to the point of beginning;

Thence continuing on the southerly line of said Lot 2 the following two (2) courses;

1. N89°51'15"W, a distance of 902.00 feet;
2. S89°34'00"W, a distance of 2618.33 feet;

Thence on the southerly and westerly line of said Lot 2 and the northerly and easterly line of Powers Boulevard as recorded in Book 5307 at page 1472 the following five (5) courses;

1. S89°35'33"W, a distance of 2678.10 feet;
2. S89°03'27"W, a distance of 2650.91 feet;
3. S89°03'28"W, a distance of 818.06 feet to a point of curve;
4. On the arc of a curve to the right, whose center bears N00°56'32"W, having a delta of 90°10'39", a radius of 1895.00 feet, a distance of 2982.53 feet to a point of tangent;
5. N00°45'53"W, a distance of 3410.72 feet;

Thence N00°45'53"W, on the easterly line of said Powers Boulevard and the westerly line of Lot 1 of said Colorado Springs Airport and Industrial Park, a distance of 220.00 feet;

Thence N89°33'22"E, a distance of 2011.64 feet;

Thence N00°27'36"W, a distance of 1536.35 feet;

Thence N89°17'34"E, a distance of 5385.24 feet;

Thence S00°30'05"E, a distance of 1657.01 feet;

Thence N89°30'14"E, a distance of 1640.30 feet;

Thence S00°25'41"E, a distance of 2235.59 feet;

Thence N89°34'07"E, a distance of 1552.85 feet;

Thence N00°27'20"W, a distance of 2148.01 feet to the southerly line of Lot 1, Colorado Springs Airport Filing No. 1 recorded under Reception No. 201029279;

Thence N89°11'37"E, along said southerly line, a distance of 15.91 feet;

Thence N89°11'37"E, along southerly line of Lot 1, Colorado Springs Airport and Industrial Park Filing No. 2, recorded under Reception No. 94150257, a distance of 119.69 feet;

Thence N89°24'29"E along the southerly line of said Lot 1, a distance of 911.07 feet;

Thence S00°02'11"E, a distance of 5317.29 feet to the point of beginning.

Containing a calculated area of 1546.8981 acres.

By its acceptance of this Instrument of Release the City of Colorado Springs, Colorado covenants and agrees for itself, its successors and assigns to comply with and observe all the limitations set forth herein, expressly limited to the above described property.

The Airport Layout Plan and the Exhibit "A" Property Map must be revised to reflect the revised airport boundaries.

IN WITNESS WHEREOF the United States of America has caused this Instrument of Release to be executed as of the 14<sup>th</sup> day of June 2006.

**UNITED STATES OF AMERICA**

**Administrator,**

**Federal Aviation Administration**

By *Chiang A Sparks*  
Manager, Denver Airports District Office

ATTEST:

ACCEPTED:

By *Kathryn M Young*  
City Clerk

By *[Signature]*  
Aviation Director, City of Colorado Springs

APPROVED: \_\_\_\_\_  
City

**APPROVED AS TO FORM**

*[Signature]* 7/3/06  
SENIOR ATTORNEY  
CITY OF COLORADO SPRINGS

RESOLUTION NO. 95-18

A RESOLUTION OF THE CITY OF COLORADO SPRINGS  
APPROVING A SERVICE PLAN FOR THE PEAK  
METROPOLITAN DISTRICTS NOS. 1, 2 AND 3

WHEREAS, Section 32-1-204.5, C.R.S., provides that no special district shall be organized within a municipality except upon adoption of a resolution approving or conditionally approving the service plan of a proposed special district; and

WHEREAS, the City passed Resolution No. 9-06 adopting a Special District Policy to be applied to applications to create or modify a district authorized under Titles 31 and 32 of the Colorado Revised Statutes and adopting 'Model Service Plans' to be used in establishing and modifying metropolitan districts (the "Policy and Model Service Plan"); and

WHEREAS, the City has considered the service plan ("Service Plan") for the Peak Metropolitan Districts Nos. 1, 2 and 3 (the "Districts") with the recommended maximum mill levies and all other testimony and evidence presented at the Council meeting; and

WHEREAS, it appears to the City Council that the recommended maximum mill levies and other provisions of this Service Plan are consistent with the Policy and Model Service Plan.

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

Section 1. The above and foregoing recitals are incorporated herein by reference and are adopted as findings and determinations of the City Council.

Section 2. The City Council of the City of Colorado Springs, having reviewed the Petition for Approval the Service Plan and the Service Plan, as submitted by the petitioner, has determined, based solely upon the Petition for Approval and evidence presented to City Council in support of said Service Plan, that:

- a. There is a sufficient existing and projected need for organized service in the area to be served by the Districts;
- b. The existing service in the area to be served by the Districts is not adequate for present and projected needs;
- c. The proposed Districts are capable of providing economic and sufficient

service to the area within its boundaries; and

- d. The area to be included in the proposed special districts has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

Section 3. As set forth in 7-100 of the City Charter and in the Service Plan, the total debt of any proposed Districts shall not exceed 10 percent of the total assessed valuation, of the taxable property within the Districts unless this resolution is approved by at least a two-thirds vote of the entire City Council.

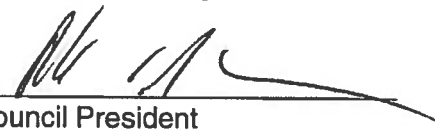
Section 4. The Districts shall not be authorized to operate or maintain public improvements other than those listed in Exhibit D of the Service Plan until and unless this power is subsequently granted by the City. Such an approval may be by separate resolution, which would not require a formal amendment of the Service Plan.

Section 5. The Service Plan for the Districts is hereby approved.


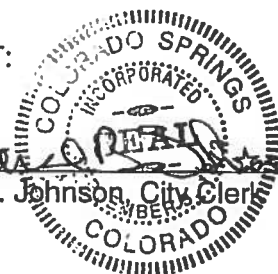
Section 6. The City's approval of the Service Plan is not a waiver of, nor a limitation upon any power that the City is legally permitted to exercise with respect to the property subject to the proposed Districts.

Section 7. This Resolution shall be in full force and effect immediately upon its adoption.

DATED at Colorado Springs, Colorado this 28<sup>th</sup> day of August, 2018.

  
Council President

ATTEST:

  
Sarah B. Johnson, City Clerk  


**CONSOLIDATED SERVICE PLAN FOR  
PEAK METROPOLITAN DISTRICT NOS. 1, 2 AND 3  
IN THE CITY OF COLORADO SPRINGS, COLORADO**

Prepared

by

McGeady Becher P.C.

450 E. 17<sup>th</sup> Avenue, Suite 400

Denver, Colorado 80203

Approved: August 28, 2018

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**LIST OF EXHIBITS**

<b>EXHIBIT A-1</b>	Legal Description of Initial District Boundaries
<b>EXHIBIT A-2</b>	Legal Description of Inclusion Area Boundaries
<b>EXHIBIT B</b>	Colorado Springs Vicinity Map
<b>EXHIBIT C-1</b>	Initial District Boundary Map
<b>EXHIBIT C-2</b>	Inclusion Area Boundary Map
<b>EXHIBIT D</b>	Description of Permitted Services to be Provided by the Districts
<b>EXHIBIT E</b>	Form of Disclosure to Purchasers of Property within the Districts

## **I. INTRODUCTION**

### **A. Purpose and Intent**

The Districts are independent units of local government, separate and distinct from the City, and, except as may otherwise be provided for by State or local law or this Service Plan, their activities are subject to review by the City only insofar as they may deviate in a material matter from the requirements of the Service Plan. It is intended that the Districts will provide a part or all of the Public Improvements for the use and benefit of all anticipated inhabitants and taxpayers of the Districts. The primary purpose of the Districts will be to finance the construction of these Public Improvements.

The Districts are not being created to provide ongoing operations and maintenance services other than those specifically set forth in **Exhibit D** to this Service Plan.

### **B. Need for the Districts**

There are currently no other governmental entities, including the City, located in the immediate vicinity of the Districts that consider it desirable, feasible or practical to undertake the planning, design, acquisition, construction installation, relocation, redevelopment, and financing of the Public Improvements needed for the Project. Formation of the Districts is, therefore, necessary in order for the Public Improvements required for the Project to be provided in the most economic manner possible.

### **C. Objective of the City Regarding Districts Service Plan**

The City's objective in approving the Service Plan for the Districts is to authorize the Districts to provide for the planning, design, acquisition, construction, installation, relocation, and redevelopment of the Public Improvements from the proceeds of Debt to be issued by the Districts. All Debt is expected to be repaid by taxes imposed and collected for no longer than the Maximum Debt Mill Levy Imposition Term for residential properties and at a tax mill levy no higher than the Maximum Debt Mill Levy for commercial and residential properties, and/or repaid by Fees, as long as such Fees are not imposed upon or collected from Taxable Property owned or occupied by an End User for the purpose of creating a capital cost payment obligation as further described in Section V.A.11. Debt which is issued within these parameters and, as further described in the Financial Plan, will insulate property owners from excessive tax burdens to support the servicing of the Debt and will result in a timely and reasonable discharge of the Debt.

This Service Plan is intended to establish a limited purpose for the Districts and explicit financial constraints that are not to be violated under any circumstances. The primary purpose is to provide for the Public Improvements associated with development and regional needs. Operational activities are allowed, but only as specified in **Exhibit D** to this Service Plan.

It is the intent of the Districts to dissolve upon payment or defeasance of all Debt incurred or upon a court determination that adequate provision has been made for the payment of all Debt, and if any District has authorized operating functions under an intergovernmental

agreement (IGA) with the City, to retain only the power necessary to impose and collect taxes or Fees to pay for these costs.

The Districts shall be authorized to finance the Public Improvements that can be funded from Debt to be repaid from tax revenue collected from a mill levy which shall not exceed the Maximum Debt Mill Levy in any District and which shall not exceed the Maximum Debt Mill Levy Imposition Term in Residential Districts. It is the intent of this Service Plan to assure to the extent possible that no property in any District bears an economic burden that is greater than that associated with the Maximum Debt Mill Levy in amount, and that no property in a Residential District bears an economic burden that is greater than that associated with the Maximum Debt Mill Levy Imposition Term in duration even under bankruptcy or other unusual situations. Generally, the costs of Public Improvements that cannot be funded within these parameters are not costs to be paid by the Districts.

## II. DEFINITIONS

In this Service Plan, the following terms shall have the meanings indicated below, unless the context hereof clearly requires otherwise:

Approved Development Plan: a Master Plan and other more detailed land use approvals established by the City for identifying, among other things, Public Improvements necessary for facilitating the development of property within the Service Area as approved by the City pursuant to the City Code and as amended pursuant to the City Code from time to time.

Board: the board of directors of one District or the boards of directors of all Districts, in the aggregate.

Bond, Bonds or Debt: bonds or other obligations for the payment of which any District has promised to impose an ad valorem property tax mill levy.

City: the City of Colorado Springs, Colorado.

City Code: the City Code of the City of Colorado Springs, Colorado.

City Council: the City Council of the City of Colorado Springs, Colorado.

Commercial Districts: District Nos. 1, 2 and 3, inclusive, containing property classified for assessment as nonresidential.

Debt: any bond, note debenture, contract or other multiple-year financial obligation of a District which is payable in whole or in part from, or which constitutes a lien or encumbrance on the proceeds of ad valorem property tax imposed by a District.

Debt to Actual Market Value Ratio: the ratio derived by dividing the then-outstanding principal amount of all Debt of the District by the actual market valuation of the taxable property of the District, as such actual market valuation is certified from time to time by the appropriate county assessor.

District No. 1: Peak Metropolitan District No. 1.

District No. 2: Peak Metropolitan District No. 2.

District No. 3: Peak Metropolitan District No. 3.

District or Districts: any one or all the District Nos. 1 through 3, inclusive.

End User: means any owner, or tenant of any owner, of any taxable improvement within the District, who is intended to become burdened by the imposition of ad valorem property taxes subject to the Maximum Debt Mill Levy. By way of illustration, a resident homeowner, renter, commercial property owner, or commercial tenant is an End User. The business entity that constructs homes or commercial structures is not an End User.

Ex Officio Board Member: means the Colorado Springs Airport Director of Aviation or its designee.

External Financial Advisor: a consultant that: (1) advises Colorado governmental entities on matters relating to the issuance of securities by Colorado governmental entities, including matters such as the pricing, sales and marketing of such securities and the procuring of bond ratings, credit enhancement and insurance in respect of such securities; (2) shall be an underwriter, investment banker, or individual listed as a public finance advisor in the Bond Buyer's Municipal Market Place; and (3) is not an officer of the District.

Fees: means any fee imposed by the District for services, programs or facilities provided by the District, as described in Section V.A.11. below.

Financial Plan: the Financial Plan described in Section VII which describes (a) how the Public Improvements are to be financed; (b) how the Debt is expected to be incurred; and (c) the estimated operating revenue derived from property taxes for the first budget year.

Inclusion Area Boundaries: the boundaries of the area described in the Inclusion Area Boundary Map.

Inclusion Area Boundary Map: the map attached hereto as **Exhibit C-2**, describing the property proposed for inclusion within one, but not any more than one, of the boundaries of the Districts.

Initial District Boundaries: the boundaries of the area described in the Initial District Boundary Map.

Initial District Boundary Map: the map attached hereto as **Exhibit C-1**, describing the District's initial boundaries.

Maximum Debt Mill Levy: the maximum mill levy any of the Districts is permitted to impose for payment of Debt as set forth in Section VI.E below.

Maximum Debt Mill Levy Imposition Term: the maximum term for imposition of a Debt Service mill levy in Residential Districts as set forth in Section VI.F below.

Maximum Operating Mill Levy: the maximum mill levy any of the Districts is permitted to impose for payment of operating and maintenance expenses as set forth in Section VI.J below.

Project: the development or property commonly referred to as "Peak Innovation Park" at the City of Colorado Springs Airport.

Public Improvements: a part or all of the improvements authorized to be planned, designed, acquired, constructed, installed, relocated, redeveloped and financed as generally described in the Special District Act, except as specifically limited in Section V below to serve the future taxpayers and inhabitants of the Service Area as determined by the Board of one or more of the Districts.

Service Area: the property within the Initial District Boundary Map and the Inclusion Area Boundary Map.

Service Plan: the service plan for the Districts approved by City Council.

Service Plan Amendment: an amendment to the Service Plan approved by City Council in accordance with the City's ordinance and the applicable State law.

Special District Act: Section 32-1-101, et seq., of the Colorado Revised Statutes, as amended from time to time.

State: the State of Colorado.

### **III. BOUNDARIES**

The area of the Initial District Boundaries includes approximately 0.3 acres (approximately 0.1 acres per District) and the total area proposed to be included in the Inclusion Area Boundaries is approximately 2,569.32 acres. A legal description of the Initial District Boundaries is attached hereto as Exhibit A-1, and legal description of the Inclusion Area Boundaries is attached hereto as Exhibit A-2. A map of the Initial District Boundaries is attached hereto as Exhibit C-1, and a map of the Inclusion Area Boundaries is attached hereto as Exhibit C-2. A vicinity map is attached hereto as Exhibit B. It is anticipated that the Districts' Boundaries may change from time to time as the Districts undergo inclusions and exclusions pursuant to Section 32-1-401, et seq., CRS, and Section 32-1-501, et seq., CRS, subject to the limitations set forth in Article V below.

### **IV. PROPOSED LAND USE/POPULATION PROJECTIONS/ASSESSED VALUATION**

The Service Area consists of approximately 2,569.62 acres. The current assessed valuation of the Service Area is \$0.00 for purposes of this Service Plan and, at build out, is expected to be sufficient to reasonably discharge the Debt under the Financial Plan. The Project

will be entirely commercial and is anticipated to include approximately 9.5 million square feet of commercial space, with build-out projected to occur in 2040.

Approval of this Service Plan by the City does not imply approval of the development of a specific area within the Districts nor does it imply approval of the number of residential units or the total site/floor area of commercial or industrial buildings identified in this Service Plan or any of the exhibits attached thereto, unless the same is contained within an Approved Development Plan.

**V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES**

**A. Powers of the Districts and Service Plan Amendment**

The Districts shall have the power and authority to provide the Public Improvements and related operation and maintenance services within and without the boundaries of the Districts as such power and authority is described in the Special District Act, and other applicable statutes, common law and the Constitution, subject to the limitations set forth herein.

1. Operations and Maintenance Limitation. The purpose of the Districts is to plan for, design, acquire, construct, install, relocate, redevelop, and finance the Public Improvements. The Districts shall dedicate the Public Improvements to the City or other appropriate jurisdiction or owners association in a manner consistent with the Approved Development Plan and other rules and regulations of the City and applicable provisions of the City Code. The Districts shall not be authorized to operate and maintain any part or all of the Public Improvements after such dedication, including park and recreation improvements, unless the provision of such ongoing operation and maintenance is specifically identified in **Exhibit D** attached hereto. In the City's sole discretion, an IGA between the City and the District may be required in order to better describe the conditions under which these permitted services will be provided by the District. If the Districts are authorized to operate and maintain certain park and recreation improvements set forth in **Exhibit D**, any fee imposed by the Districts for access to such park and recreation improvements shall not result in non-District residents paying a user fee that is greater than, or otherwise disproportionate to, similar Fees and taxes paid by residents of the Districts. However, the Districts shall be entitled to impose an administrative fee as necessary to cover additional expenses associated with non-District residents to ensure that such costs are not the responsibility of the Districts residents. All such Fees shall be based upon the determination of the District imposing such fee that such fee does not exceed a reasonable annual market fee for users of such facilities. Notwithstanding the foregoing, all parks and trails shall be open to the general public including non-District residents free of charge.

2. City Charter Limitations. In accordance with Article 7-100 of the City Charter, the Districts shall not issue any Debt instrument for any purpose other than construction of capital improvements with a public purpose necessary for development.

As further set forth in Article 7-100 of the City Charter, the total Debt of any proposed District shall not exceed 10 percent of the total assessed valuation of the taxable property within the District unless approved by at least a two-thirds vote of the entire City Council.

3. Use of Bond Proceeds and Other Revenue of the Districts Limitation.

Proceeds from the sale of debt instruments and other revenue of Districts may not be used to pay landowners within the District for any real property required to be dedicated for public use by annexation agreements or land use codes. Examples of ineligible reimbursements include, but are not limited to: the acquisition of rights of way, easements, water rights, land for prudent line drainage, parkland, or open space, unless consent from the City Council is given. Proceeds from the sale of debt instruments and other revenue of the Districts also may not be used to pay for the construction of any utility infrastructure except for those categories of utility infrastructure covered by utility tariffs, rules, and regulations. Additionally, if the landowner/developer constructs the public infrastructure and conveys it to the District in return for a reimbursement obligation from the District, prior to making such reimbursement for such amounts, the District must receive the report of an independent engineer or accountant confirming that the amount of the reimbursement is reasonable.

4. Recovery Agreement Limitation. Should the Districts construct infrastructure subject to a recovery agreement with the City or other entity, the Districts retain all benefits under the recovery agreement. Any subsequent reimbursement for public improvements installed or financed by the Districts will remain the property of the Districts to be applied toward repayment of their Debt, if any. Any reimbursement revenue not necessary to repay the Districts Debt may be utilized by the District to construct additional public improvements permitted under the approved Service Plan.

5. Construction Standards Limitation. The Districts will ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having proper jurisdiction. The Districts will obtain the City's approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work.

6. Privately Placed Debt Limitation. Prior to the issuance of any privately placed Debt for capital related costs, the District shall obtain the certification of an External Financial Advisor substantially as follows:

We are [I am] an External Financial Advisor within the meaning of the Districts' Service Plan.

We [I] certify that (1) the net effective interest rate (calculated as defined in Section 32-1-103(12), CRS) to be borne by [insert the designation of the Debt] does not exceed a reasonable current [tax-exempt] [taxable] interest rate, using criteria deemed appropriate by us [me] and based upon our [my] analysis of comparable high yield securities; and (2) the structure of [insert designation of the Debt], including maturities and early redemption provisions, is reasonable considering the financial circumstances of the District.

7. Inclusion Limitation. The Districts shall not include within any of their boundaries any property outside the Service Area without the prior written consent of the City Council.



8. Overlap Limitation. The boundaries of the Districts shall not overlap unless the aggregate mill levy for payment of Debt of the overlapping Districts will not at any time exceed the Maximum Debt Mill Levy of the Districts. Additionally, the Districts shall not consent to the organization of any other district organized under the Special District Act within the Service Area which will overlap the boundaries of the Districts unless the aggregate mill levy for payment of Debt of such proposed districts will not at any time exceed the Maximum Debt Mill Levy of the Districts.

9. Initial Debt Limitation. On or before the date on which there is an Approved Development Plan, the District shall not (a) issue any Debt, (b) impose a mill levy for the payment of Debt by direct imposition or by transfer of funds from the operating fund to the Debt service funds, or (c) impose and collect any Fees used for the purpose of repayment of Debt.

10. Total Debt Issuance Limitation. The issuance of all bonds or other debt instruments of Districts shall be subject to the approval of the City Council. City Council's review of the bonds or other debt instruments of the Districts shall be conducted to ensure compliance with the Service Plan and all applicable laws. The Districts shall not issue Debt in an aggregate principal amount in excess of \$200,000,000, provided that the foregoing shall not include the principal amount of Debt issued for the purpose of refunding or refinancing lawfully issued Debt.

11. Fee Limitation. The District may impose and collect Fees as a source of revenue for repayment of debt, capital costs, and/or for operations and maintenance. No Fee related to the funding of costs of a capital nature shall be authorized to be imposed upon or collected from Taxable Property owned or occupied by an End User which has the effect, intentional or otherwise, of creating a capital cost payment obligation in any year on any Taxable Property owned or occupied by an End User. Notwithstanding any of the foregoing, the restrictions in this definition shall not apply to any Fee imposed upon or collected from Taxable Property for the purpose of funding operation and maintenance costs of the District.

12. Monies from Other Governmental Sources. The Districts shall not apply for or accept Conservation Trust Funds, Great Outdoors Colorado Funds, or other funds available from or through governmental or nonprofit entities that the City is eligible to apply for, except pursuant to an intergovernmental agreement with the City. This Section shall not apply to specific ownership taxes which shall be distributed to and a revenue source for the Districts without any limitation.

13. Consolidation Limitation. The Districts shall not file a request with any court to consolidate with another Title 32 district without the prior written consent of the City.

14. Bankruptcy Limitation. All of the limitations contained in this Service Plan, including, but not limited to, those pertaining to the Maximum Debt Mill Levy and the Maximum Debt Mill Levy Imposition Term have been established under the authority of the City to approve a Service Plan with conditions pursuant to Section 32-1-204.5, CRS. It is expressly intended that such limitations:

(a) Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Service Plan Amendment; and

(b) Are, together with all other requirements of Colorado law, included in the “political or governmental powers” reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the “regulatory or electoral approval necessary under applicable nonbankruptcy law” as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Debt Mill Levy or, for Residential Districts, the Maximum Debt Mill Levy Imposition Term, shall be deemed a material departure from this Service Plan pursuant to Section 32-1-207, CRS and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the Districts.

**15. Service Plan Amendment Requirement.** This Service Plan has been designed with sufficient flexibility to enable the Districts to provide required services and facilities under evolving circumstances without the need for numerous amendments. While the assumptions upon which this Service Plan are generally based are reflective of an Approved Development Plan for the property within the Districts, the cost estimates and Financing Plan are sufficiently flexible to enable the Districts to provide necessary services and facilities without the need to amend this Service Plan as development plans change. Modification of the general types of services and facilities, and changes in proposed configurations, locations, or dimensions of various facilities and improvements shall be permitted to accommodate development needs consistent with then-current Approved Development Plans for the property. Actions of the Districts which violate the limitations set forth in V.A.1-12 above or in VI.B-F. shall be deemed to be material departures from this Service Plan and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the Districts.

**16. Eminent Domain Powers Limitation.** Currently, the District does not expect to use the power of eminent domain. The District shall not exercise the power of eminent domain except upon the prior written consent of the City.

**B. Preliminary Engineering Survey**

The Districts shall have authority to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, maintenance, and financing of the Public Improvements within and without the boundaries of the Districts, to be more specifically defined in an Approved Development Plan. An estimate of the costs of the Public Improvements which may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, maintained or financed was prepared based upon a preliminary engineering survey and estimates derived from the Approved Development Plan on the property in the Service Area and is approximately \$100,000,000.

The Districts shall be permitted to allocate costs between such categories of the Public Improvements as deemed necessary in their discretion.

All of the Public Improvements described herein will be designed in such a way as to assure that the Public Improvements standards will be compatible with those of the City and shall be in accordance with the requirements of the Approved Development Plan. All descriptions of the Public Improvements to be constructed, and their related costs, are estimates only and are subject to modification as engineering, development plans, economics, the City's requirements, and construction scheduling may require. Upon approval of this Service Plan, the Districts will continue to develop and refine cost estimates contained herein and prepare for issuance of Debt. All cost estimates will be inflated to then-current dollars at the time of the issuance of Debt and construction. All construction cost estimates assume construction to applicable local, State or Federal requirements.

C. Multiple District Structure.

It is anticipated that the Districts, collectively, will undertake the financing and construction of the Public Improvements. The nature of the functions and services to be provided by each District shall be clarified in an IGA between and among the Districts. The maximum term of such IGA shall be forty (40) years from its effective date. All such agreements will be designed to help assure the orderly development of the Public Improvements and essential services in accordance with the requirements of this Service Plan. Implementation of such IGA is essential to the orderly implementation of this Service Plan. Accordingly, except as may be otherwise provided in such IGA, any determination of any one of the Board of Directors to set aside at the Agreement without the consent of all of the Board of Directors of the other Districts shall be a material modification of the Service Plan. Said IGA may be amended by mutual agreement of the Districts without the need to amend this Service Plan.

Given the unique nature of the underlying initial ownership of the property to be served by the Districts, in addition to the elected Board of Directors seats, the Districts shall each also establish and maintain an additional position for an Ex Officio Board Member. The Ex Officio Board Member shall not be entitled to vote or have authority to bind or act for Districts, however, to the extent provided by law, the Ex Officio Board Member shall otherwise have the same rights as the elected Board of Directors including, but not limited to, the right to receive notice of all meetings of the Board of Directors and to receive all agendas and agenda packets for such meetings, the right to be included on all correspondence and communications to the Board of Directors, and the right to participate in discussions of the Board of Directors.

VI. FINANCIAL PLAN

A. General

The Districts shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment of the Public Improvements from its revenue and by and through the proceeds of Debt to be issued by the Districts. The Financial Plan for the Districts shall be to issue such Debt as the Districts can reasonably pay from revenue derived from the Maximum Debt Mill Levy and other legally available revenue, within the Maximum Debt Mill Levy Term for Residential Districts. The total Debt that the Districts shall be permitted to issue shall not exceed the total Debt issuance limitation set forth in Section V.A.10 hereof, and shall be permitted to be issued on a schedule and in such year or years as the

Districts determine shall meet the needs of the Financial Plan referenced above and phased to serve development as it occurs. All bonds and other Debt issued by the Districts may be payable from any and all legally available revenue of the Districts, including general ad valorem taxes to be imposed upon all taxable property of the Districts. The Districts will also rely upon various other revenue sources authorized by law. These will include the power to assess Fees, rates, tolls, penalties, or charges as provided in the Special District Act or other State statutes. No Districts will be allowed to impose a sales tax.

B. Maximum Voted Interest Rate and Maximum Underwriting Discount

The interest rate on any Debt is expected to be the market rate at the time the Debt is issued. The proposed maximum interest rate on any Debt is not expected to exceed 18%. The proposed maximum underwriting discount will be 5%. Debt, when issued, will comply with all relevant requirements of this Service Plan, State law and Federal law as then applicable to the issuance of public securities.

C. No-Default Provisions

Debt issued by a District shall be structured so that failure to pay debt service when due shall not of itself constitute an event of default or result in the exercise of remedies. The foregoing shall not be construed to prohibit events of default and remedies for other occurrences including, without limitation, (1) failure to impose or collect the Maximum Debt Mill Levy or such portion thereof as may be pledged thereto, or to apply the same in accordance with the terms of the Debt, (2) failure to impose or collect other revenue sources lawfully pledged to the payment thereof or to apply the same in accordance with the terms of the Debt, (3) failure to abide by other covenants made in connection with such Debt, or (4) filing by a District as a debtor under any bankruptcy or other applicable insolvency laws. Notwithstanding the foregoing, Debt will not be structured with a remedy which requires the District to increase the Maximum Debt Mill Levy in any District or, in Residential Districts, the Maximum Debt Mill Levy Imposition Term.

D. Eligible Bondholders

All District bonds or other debt instrument, if not rated as investment grade, must be issued in minimum denominations of \$100,000 and sold only to either accredited investors as defined in rule 501 (a) promulgated under the Securities Act of 1933 or to the developer(s) of property within the District.

E. Maximum Debt Mill Levy

The Maximum Debt Mill Levy shall be the maximum mill levy a District is permitted to impose upon the taxable property of the Districts for payment of Debt, and shall be determined as follows:

1. For Residential Districts the Maximum Debt Mill Levy shall be calculated as follows:

(a) The Maximum Debt Mill Levy shall be 30 mills; provided that if, on or after January 1, 2006, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board of the issuing District in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenue generated by the mill levy, as adjusted for changes occurring after January 1, 2006, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

(b) At such time as the Debt to Actual Market Value Ratio within a Residential District is equal to or less than three percent (3%), the Board of that Residential District may request City Council approval for the right to pledge such mill levy as is necessary to pay the Debt service on such Debt, without limitation of rate. At the time of such request, a majority of the members of the Board must consist of homeowners owning property within the District. Once Debt has been determined to meet the above criterion, so that the District is entitled to pledge to its payment an unlimited ad valorem mill levy, such District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in such District's Debt to Actual Market Value Ratio.

2. For Commercial Districts the Maximum Debt Mill Levy shall be calculated as follows:

(a) The Maximum Debt Mill Levy shall be 50 mills; provided that if, on or after January 1, 2006, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board of the issuing District in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenue generated by the mill levy, as adjusted for changes occurring after January 1, 2006, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

To the extent that the Districts are composed of or subsequently organized into one or more subdistricts as permitted under Section 32-1-1101, CRS, the term "District" as used in this Section VI.E. shall be deemed to refer to the District and to each such sub district separately, so that each of the subdistricts shall be treated as a separate, independent district for purposes of the application of this Section VI.E.

F. Maximum Debt Mill Levy Imposition Term

Residential Districts shall not impose a Debt Service mill levy which exceeds 40 years after the year of the initial imposition of such Debt Service mill levy unless (1) a majority of the Board of Directors of the District imposing the mill levy are residents of such District, and (2) such Board has voted in favor of issuing Debt with a term which requires or contemplates the imposition of a Debt service mill levy for a longer period of time than the limitation contained herein. There shall be no Maximum Debt Mill Levy Imposition Term in Commercial Districts.

G. Debt Repayment Sources

Each of the Districts may impose a mill levy on taxable property within its boundaries as a primary source of revenue for repayment of debt service and for operations and maintenance. The Districts may also rely upon various other revenue sources authorized by law. At the Districts discretion, these may include the power to assess Fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(1), CRS, as amended from time to time. In no event shall the debt service mill levy in any District exceed the Maximum Debt Mill Levy or, for Residential Districts, the Maximum Debt Mill Levy Imposition Term

H. Debt Instrument Disclosure Requirement

In the text of each Bond and any other instrument representing and constituting Debt, the District shall set forth a statement in substantially the following form:

By acceptance of this instrument, the owner of this Bond agrees and consents to all of the limitations in respect of the payment of the principal of and interest on this Bond contained herein, in the resolution of the District authorizing the issuance of this Bond and in the Service Plan for the District.

Similar language describing the limitations in respect of the payment of the principal of and interest on Debt set forth in this Service Plan shall be included in any document used for the offering of the Debt for sale to persons including, but not limited to, a developer of property within the boundaries of the Districts.

I. Security for Debt

No Debt or other financial obligation of any Districts will constitute a debt or obligation of the City in any manner. The faith and credit of the City will not be pledged for the repayment of any Debt or other financial obligation of any Districts. This will be clearly stated on all offering circulars, prospectuses, or disclosure statements associated with any securities issued by any Districts. Districts shall not utilize the City of Colorado Springs' name in the name of the District.

J. Maximum Operating Mill Levy

In addition to the capital costs of the Public Improvements, the Districts will require operating funds for administration and to plan and cause the Public Improvements to be constructed and maintained. The first year's operating budget is estimated to be \$150,000 which is anticipated to be derived from property taxes and other revenue.

The Maximum Operating Mill Levy for the payment of the Districts operating and maintenance expenses shall be 10 mills; provided that if, on or after January 1, 2006, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement; the mill levy limitation applicable to such operating and maintenance expenses may be increased or decreased to reflect such changes, such increases or 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 revenue generated by the mill levy, as adjusted for changes occurring after January 1, 2006, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

K. Developer Financial Assurances

The mere existence of the Districts will not be considered a substitute for financial assurances required under applicable City land use ordinances and regulations.

VII. ANNUAL REPORT

A. General

Each of the Districts shall be responsible for submitting an annual report to City Council and to the Director of the City's Budget Department no later than August 1 of each year following the year in which the Order and Decree creating the District has been issued. The Districts may cooperate in the creation and submittal of the report, provided the presentation of information in the report clearly identifies the applicable information pertaining to each District.

B. Reporting of Significant Events

The annual report shall include information as to any of the following:

1. Boundary changes made or proposed to the Districts' boundary as of December 31 of the prior year.
2. Intergovernmental agreements with other governmental entities, either entered into or proposed as of December 31 of the prior year.
3. Copies of the Districts' rules and regulations, if any, as of December 31 of the prior year.
4. A summary of any litigation which involves any of the Districts' Public Improvements as of December 31 of the prior year.
5. Status of the Districts' construction of the Public Improvements as of December 31 of the prior year.
6. A list of all facilities and improvements constructed by the Districts that have been dedicated to and accepted by the City as of December 31 of the prior year.
7. The assessed valuation of the Districts for the current year.
8. Current year budget including a description of the Public Improvements to be constructed in such year.

9. Audit of the Districts' financial statements, for the year ending December 31 of the previous year, prepared in accordance with generally accepted accounting principles or audit exemption, if applicable.

10. Notice of any uncured events of noncompliance by the Districts under any Debt instrument which continue beyond a 90-day period.

11. Any inability of the Districts to pay their obligations as they come due, in accordance with the terms of such obligations, which continue beyond a 90-day period.

12. Copies of any Certifications of an External Financial Advisor provided as required by the Privately Placed Debt Limitation provision.

## **VIII. DISSOLUTION**

Upon an independent determination of the City Council that the purposes for which the Districts were created have been accomplished, the Districts agree to file petitions in the appropriate District Court for dissolution pursuant to the applicable State statutes. In no event shall a dissolution occur until the Districts have provided for the payment or discharge of all of their outstanding indebtedness and other financial obligations as required pursuant to State statutes.

## **IX. DISCLOSURE TO PURCHASERS**

The Districts will use reasonable efforts to assure that all developers of the property located within the Districts provide written notice to all purchasers of property in the Districts regarding the Maximum Debt Mill Levy, as well as a general description of the Districts' authority to impose and collect rates, Fees, tolls and charges. The form of notice shall be substantially in the form of Exhibit E hereto; provided that such form may be modified by the District so long as a new form is submitted to the City prior to modification. Within 90 days of District formation, the District will record the approved Disclosure form with the El Paso County Clerk and Recorder against all property included in the District and a copy to the City Clerk's Office.

## **X. CONCLUSION**

It is submitted that this Service Plan for the Districts, as required by Section 32-1-203(2), CRS, and Section 122-35 of the City Code, establishes that:

1. There is sufficient existing and projected need for organized service in the area to be serviced by the Districts;
2. The existing service in the area to be served by the Districts is inadequate for present and projected needs;
3. The Districts are capable of providing economical and sufficient service to the area within its proposed boundaries; and



4. The area to be included in the Districts does have, and will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

5. Adequate service is not, and will not be, available to the area through the City or County or other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis.

6. The facility and service standards of the District are compatible with the facility and service standards of the City within which the special district is to be located and each municipality which is an interested party under Section 32-1-204(1), CRS.

7. The proposal is in substantial compliance with a comprehensive plan adopted pursuant to the City Code.

8. The proposal is in compliance with any duly adopted City, regional or State long-range water quality management plan for the area.

9. The creation of the District is in the best interests of the area proposed to be served.

**EXHIBIT A-1**

**Legal Description of Initial District Boundaries**

**Peak Metropolitan District No. 1  
Legal Description of Initial District Boundary**

A parcel of land located in Section 5, Township 15 South, Range 65 West, of the 6<sup>th</sup> Principle Meridian, El Paso County, Colorado, described as follows:

Commencing at the S1/4 Corner of Section 32, Township 14 South, Range 65 West of said 6<sup>th</sup> P.M. (the Southwest Corner of said Section 32 bears S89°11'31"W, 2672.19 feet – Basis of Bearing), thence S18°00'18"W, 474.29 feet to the **TRUE POINT OF BEGINNING;**

Thence S00°00'38"E, 66.00 feet;

Thence S89°59'22"W, 66.00 feet;

Thence N00°00'38"W, 66.00 feet;

Thence N89°59'22"E, 66.00 feet to the **TRUE POINT OF BEGINNING.**

Area = 4,356 Sq.Ft. (0.10 Acres more or less)

Randall D Hency, PLS No. 27605

Polaris Surveying Inc  
1903 Lalaray Street, Suite 102  
Colorado Springs, Co. 80909

**Peak Metropolitan District No. 2  
Legal Description of Initial District Boundary**

A parcel of land located in Section 5, Township 15 South, Range 65 West, of the 6<sup>th</sup> Principle Meridian, El Paso County, Colorado, described as follows:

Commencing at the S1/4 Corner of Section 32, Township 14 South, Range 65 West of said 6<sup>th</sup> P.M. (the Southwest Corner of said Section 32 bears S89°11'31"W, 2672.19 feet – Basis of Bearing), thence S15°49'42"W, 537.44 feet to the **TRUE POINT OF BEGINNING**;

Thence S00°00'38"E, 66.00 feet to a point on the fence line for the ADAGC lease area ;

Thence S89°59'22"W, 66.00 feet along the fence line for the ADAGC lease area;

Thence N00°00'38"W, 66.00 feet;

Thence N89°59'22"E, 66.00 feet to the **TRUE POINT OF BEGINNING**.

Area = 4,356 Sq.Ft. (0.10 Acres more or less)

Randall D Hency, PLS No. 27605

Polaris Surveying Inc  
1903 Lalaray Street, Suite 102  
Colorado Springs, Co. 80909

**Peak Metropolitan District No. 3  
Legal Description of Initial District Boundary**

A parcel of land located in Section 5, Township 15 South, Range 65 West, of the 6<sup>th</sup> Principle Meridian, El Paso County, Colorado, described as follows:

Commencing at the S1/4 Corner of Section 32, Township 14 South, Range 65 West of said 6<sup>th</sup> P.M. (the Southwest Corner of said Section 32 bears S89°11'31"W, 2672.19 feet – Basis of Bearing), thence S22°20'59"W, 559.07 feet to the **TRUE POINT OF BEGINNING**;

Thence S00°00'38"E, 66.00 feet to a point on the fence line for the ADAGC lease area ;

Thence S89°59'22"W, 66.00 feet along the fence line for the ADAGC lease area;

Thence N00°00'38"W, 66.00 feet;

Thence N89°59'22"E, 66.00 feet to the **TRUE POINT OF BEGINNING**.

Area = 4,356 Sq.Ft. (0.10 Acres more or less)

Randall D Hency, PLS No. 27605

Polaris Surveying Inc  
1903 Lalaray Street, Suite 102  
Colorado Springs, Co. 80909

**EXHIBIT A-2**

**Legal Description of Inclusion Area**

## Future Inclusion Area – Colorado Springs Airport

A parcel of land located in Sections 31, 32 and 33, Township 14 South, Range 65 West, and Sections 4, 5, and 6, Township 15 South, Range 65 West all of the 6<sup>th</sup> Principle Meridian, El Paso County, Colorado, described as follows: **BEGINNING** at the Southeast Corner of Colorado Springs Airport, Filing No. 1, a subdivision plat recorded under reception number 201029279 of the records of El Paso County, Colorado;

*(The following six (6) courses are along southerly and westerly lines of said Colorado Springs Airport, Filing No. 1)*

Thence N 89° 51' 14" W along the south line of said Colorado Springs Airport, Filing No. 1 (Basis of Bearing), 2636.20 feet;

Thence, S 89° 34' 01" W, 2618.33 feet;

Thence, S 89° 35' 34" W, 2678.10 feet;

Thence, S 89° 03' 29" W, 3468.97 feet to the beginning of a curve to the right;

Thence westerly, northwesterly and northerly, 2982.54 feet along the arc of said curve to a point of intersection with a non-tangent tangential line, said arc having a radius of 1895.00 feet, a central angle of 90° 10' 40" and being subtended by a chord that bears N45° 51' 11"W, 2684.09 feet;

Thence, N 00° 42' 08" W, 4348.29 feet to the Southwest Corner of Colorado Springs Airport and Industrial Park Filing No. 1, a subdivision plat recorded under reception number 94150256 of the records of El Paso County, Colorado;

Thence, N 00° 21' 03" W, 1400.00 feet along a westerly line of said Colorado Springs Airport and Industrial Park Filing No. 1 and along a westerly line of said Colorado Springs Airport, Filing No. 1B, a subdivision plat recorded under reception number 218714079 of the records of El Paso County, Colorado

Thence, N 89° 29' 58" E, 2800.00 feet;

Thence, N 00° 30' 02" W, 1675.00 feet;

Thence, N 89° 29' 58" E, 1717.79 feet;

Thence, S 00° 30' 02" E, 2016.56 feet;

Thence, N 89° 29' 58" E, 2190.96 feet;

Thence, N 00° 20' 36" W, 3297.29 feet;

Thence, N 89° 39' 24" E, 1358.12 feet to the airports SIDA (Airfield) security fence line;

*(The following six (6) courses and distances are along the fence line for the airports SIDA (Airfield) security fence line)*

Thence, S 00° 24' 03" E, 493.73 feet;

Thence, S 00° 26' 39" E, 1660.95 feet;

Thence, S 00° 26' 24" E, 1730.67 feet;

Thence, S 00° 36' 11" E, 1420.43 feet;

Thence, S 89° 38' 36" W, 150.80 feet;

Thence, S 00° 26' 15" E, 552.92 feet to a point on the fence line for the ADACG lease area;

Thence, S 89° 59' 22" W, 883.03 feet along said fence line for the ADACG lease area.

Thence, S 00° 06' 35" W, 1449.58 feet along said fence line for the ADACG lease area.

Thence, N 89° 59' 07" E, 777.75 feet along said fence line for the ADACG lease area to a point on the airports SIDA (Airfield) security fence line;

*(The following eighteen (18) courses and distances are along the fence line for the airports SIDA (Airfield) security fence line)*

Thence, S 00° 01' 58" E, 414.88 feet;

Thence, N 89° 35' 18" E, 1084.01 feet;

Thence, N 00° 26' 35" W, 399.83 feet;

Thence, S 89° 55' 18" E, 142.55 feet;

Thence, S 45° 12' 22" E, 70.27 feet;

Thence, N 89° 32' 33" E, 1325.82 feet;

Thence, N 44° 28' 29" E, 70.53 feet;

Thence, N 00° 25' 23" W, 1901.99 feet;

Thence, N 43° 09' 02" E, 180.39 feet;

Thence, N 89° 02' 24" E, 141.03 feet;



Thence, N 00° 30' 02" W, 4872.36 feet;

Thence, N 51° 04' 03" E, 82.05 feet;

Thence, N 00° 23' 51" W, 323.10 feet;

Thence, N 59° 44' 01" W, 76.20 feet;

Thence, N 00° 35' 50" W, 2571.80 feet;

Thence, N 88° 48' 47" E, 12.28 feet;

Thence, N 01° 11' 13" W, 55.17 feet;

Thence, N 86° 48' 49" W, 11.73 feet;

Thence, N 00° 19' 28" W, 1200.75 feet to a point on the east line of Colorado Springs Airport and Industrial Park Filing No. 2, a subdivision plat recorded under reception number 94150257 of the records of El Paso County, Colorado;

Thence, N 89° 37' 32" E, 1995.50 feet along an easterly line of said Colorado Springs Airport and Industrial Park Filing No. 1;

Thence, S 00° 27' 23" E, 3800.45 feet along an easterly line of said Colorado Springs Airport and Industrial Park Filing No. 1;

Thence, N 88° 48' 26" E, 662.89 feet along an easterly line of said Colorado Springs Airport and Industrial Park Filing No. 1;

Thence S 00° 13' 46" E a distance of 10621.86 feet along an easterly line of said Colorado Springs Airport and Industrial Park Filing No. 2 and easterly line of said Colorado Springs Airport and Industrial Park Filing No. 1 to the **POINT OF BEGINNING.**

Area = 2,509.24 Acres +/-

TOGETHER WITH

Lot 3 and Lot 4, Colorado Springs Airport, Filing No. 1B, a subdivision plat recorded under reception number 218714079 of the records of El Paso County, Colorado.

Area Lot 3 = 48.378 Acres +/-

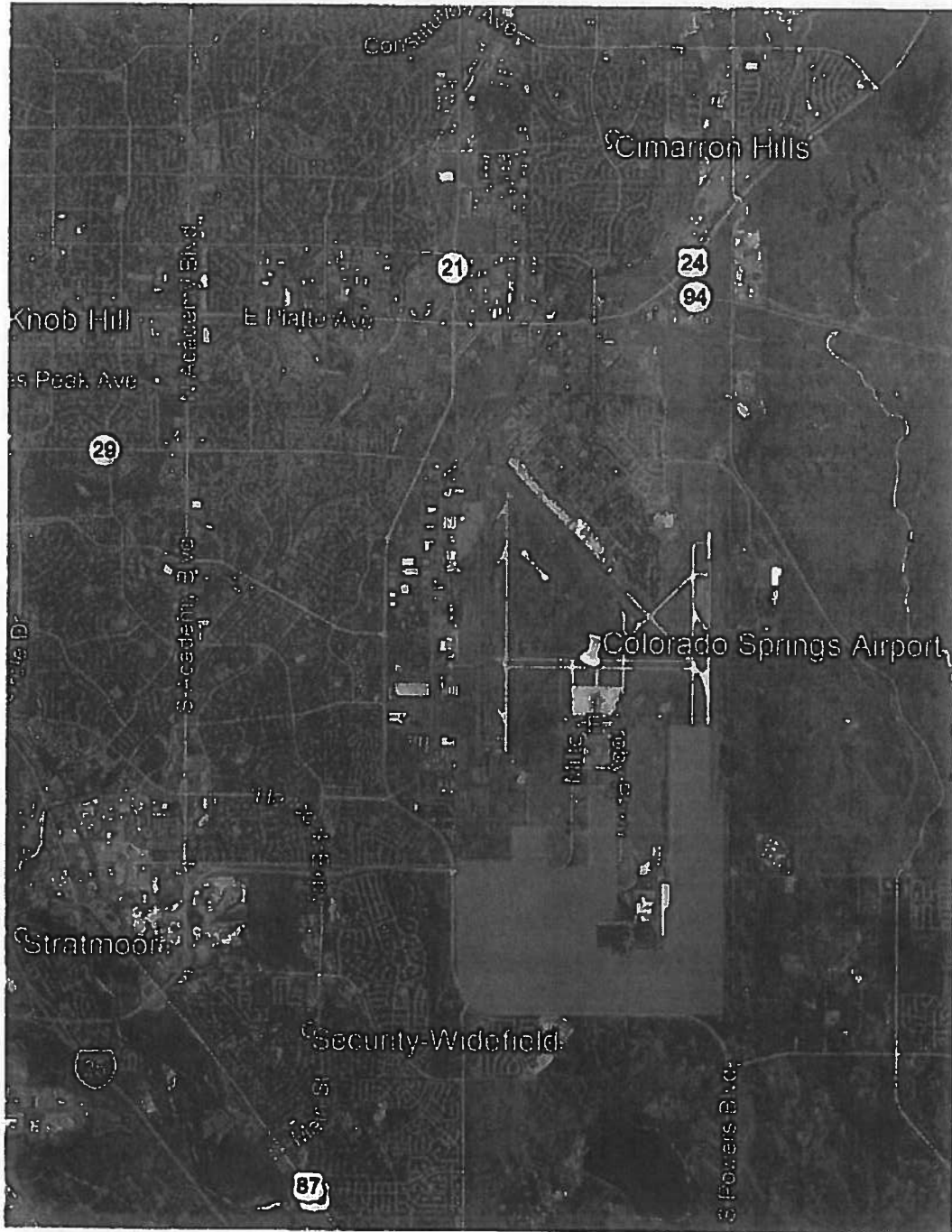
Area Lot 4 = 11.704 Acres +/-

Total Combined Areas = 2,569.32 Acres +/-

**EXHIBIT B**

Colorado Springs Vicinity Map

# VICINITY MAP



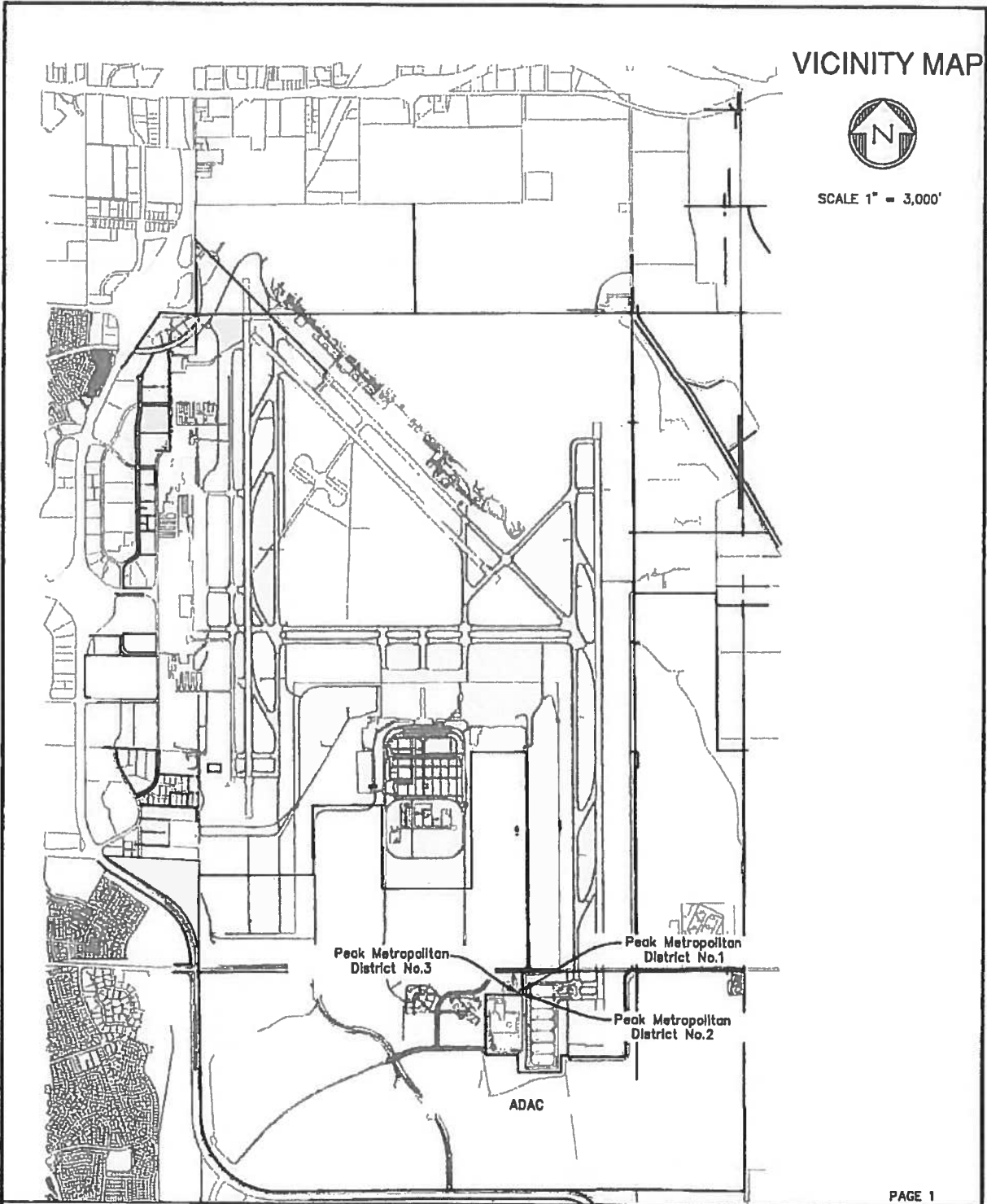
PEAK METROPOLITAN DISTRICTS

**EXHIBIT C-1**  
**Initial District Boundary Map**

VICINITY MAP



SCALE 1" = 3,000'



PAGE 1

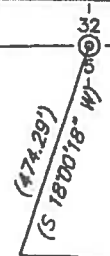
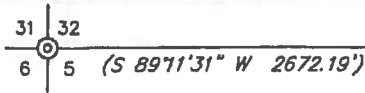
Peak Metropolitan District  
Vicinity Map

**POLARIS SURVEYING, INC.**  
1903 Lelaray Street, Suite 102  
COLORADO SPRINGS, CO 80909  
(719)448-0844 FAX (719)448-9225

EXHIBIT MAP

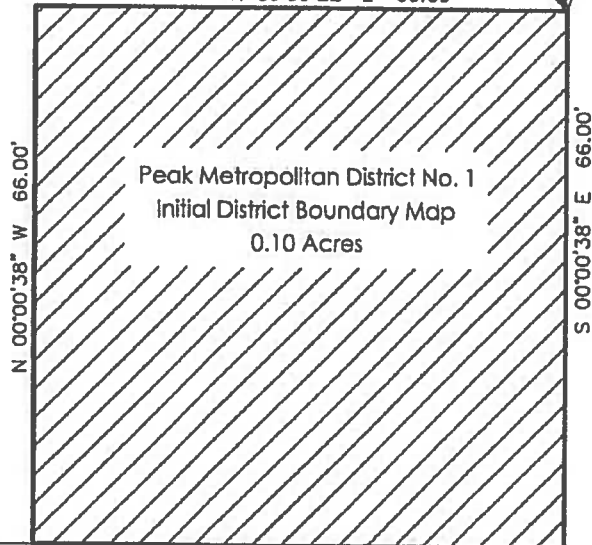


SCALE 1" = 20'



TRUE POINT OF BEGINNING

N 89°59'22" E 66.00'



Peak Metropolitan District No. 1  
Initial District Boundary Map  
0.10 Acres

S 89°59'22" W 66.00'

3

2

Peak Metropolitan District No. 1  
Initial District Boundary Map

**POLARIS SURVEYING, INC.**  
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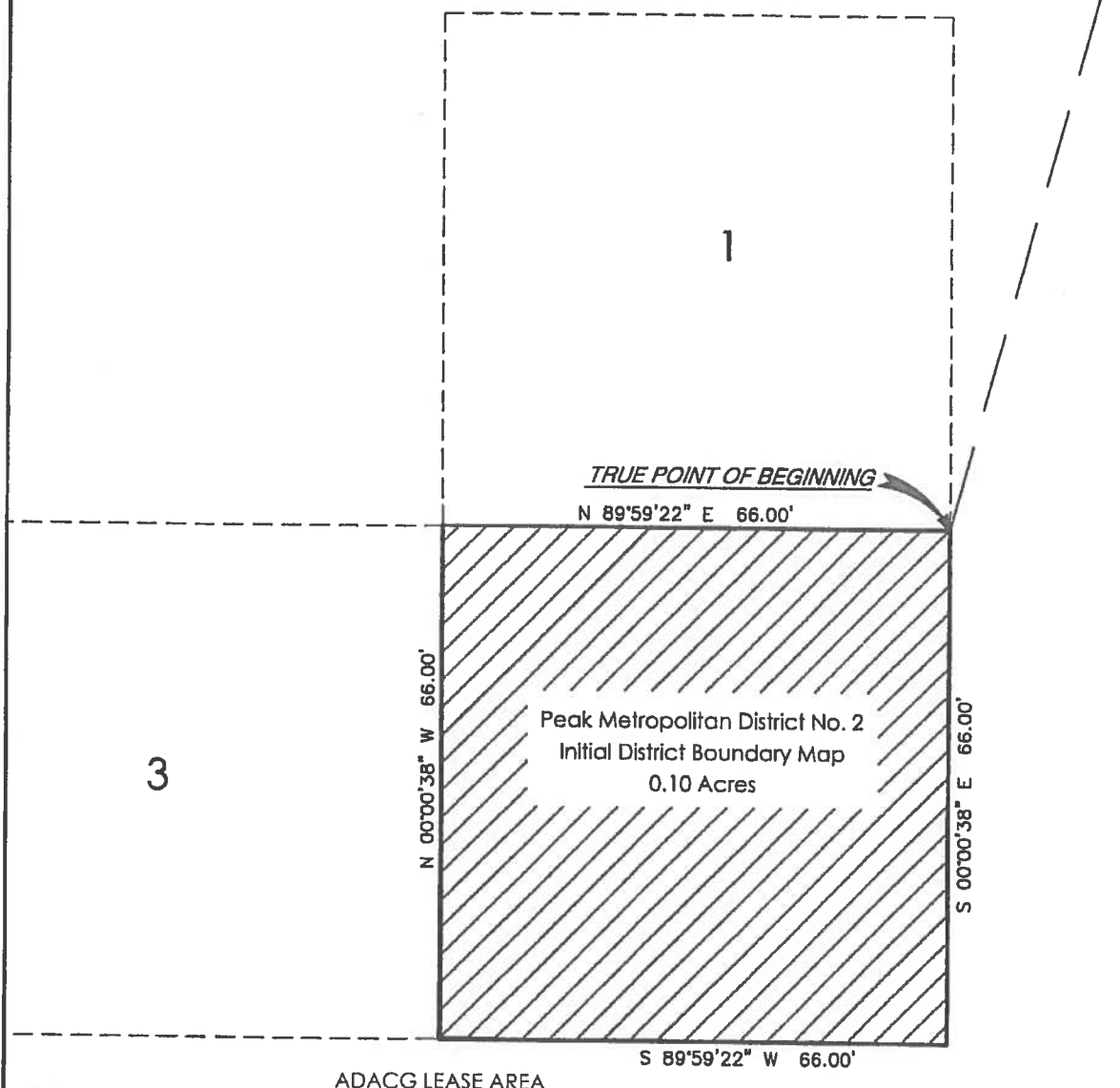
EXHIBIT MAP



SCALE 1" = 20'

31 32  
6 5 (S 89°11'31" W 2672.19')

32  
(S 15°49'42" W)  
(537.44')



Peak Metropolitan District No. 2  
Initial District Boundary Map

PAGE 1 OF 1  
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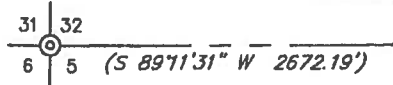
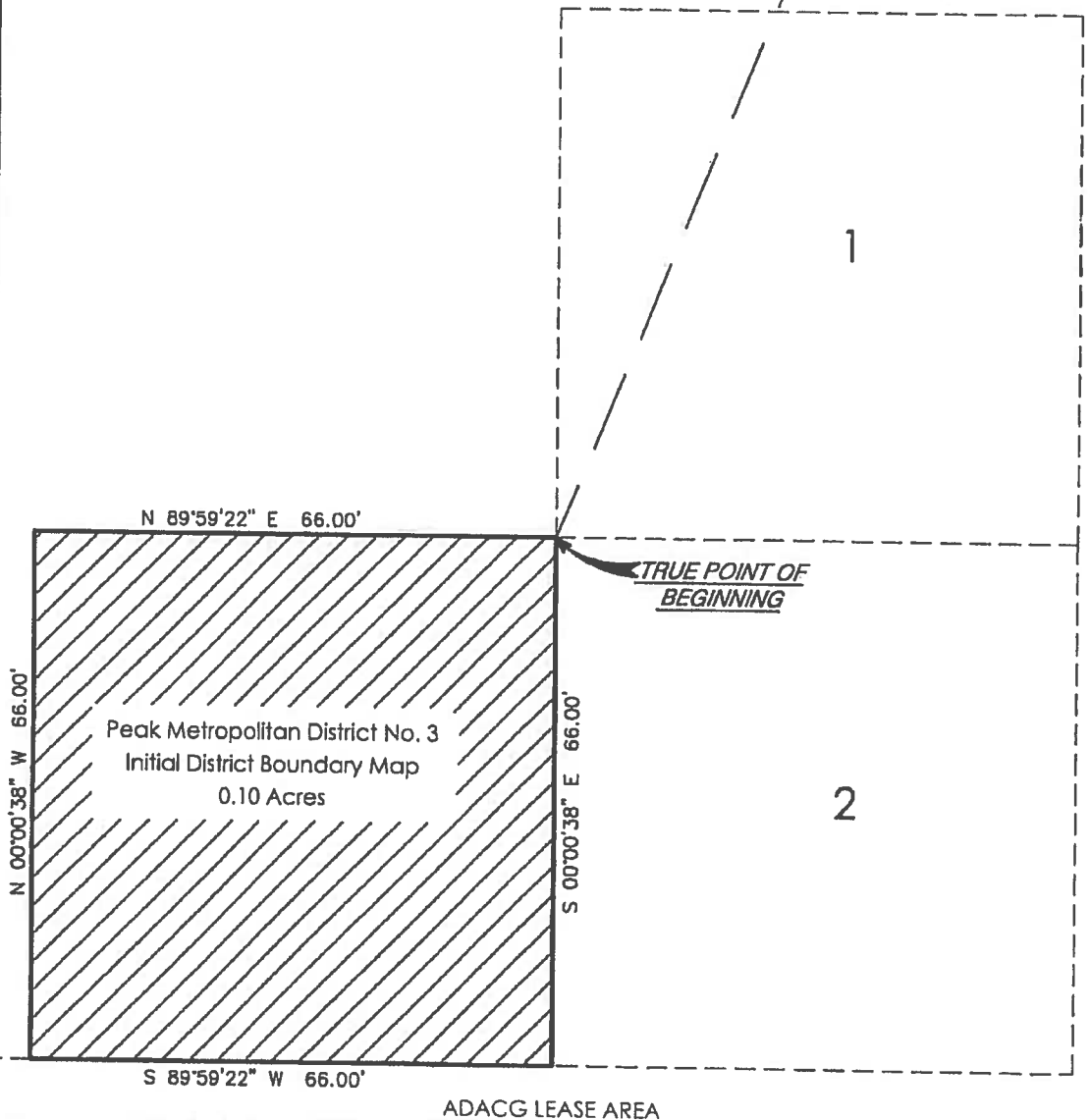
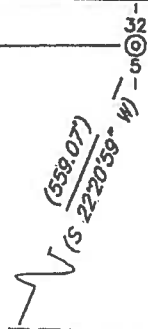


EXHIBIT MAP



SCALE 1" = 20'



<p>Peak Metropolitan District No. 3 Initial District Boundary Map</p>	<p>PAGE 1 OF 1</p> <p><b>POLARIS SURVEYING, INC.</b> 1903 Lelaray Street, Suite 102 COLORADO SPRINGS, CO 80909 (719)448-0844 FAX (719)448-9225</p>
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**EXHIBIT C-2**

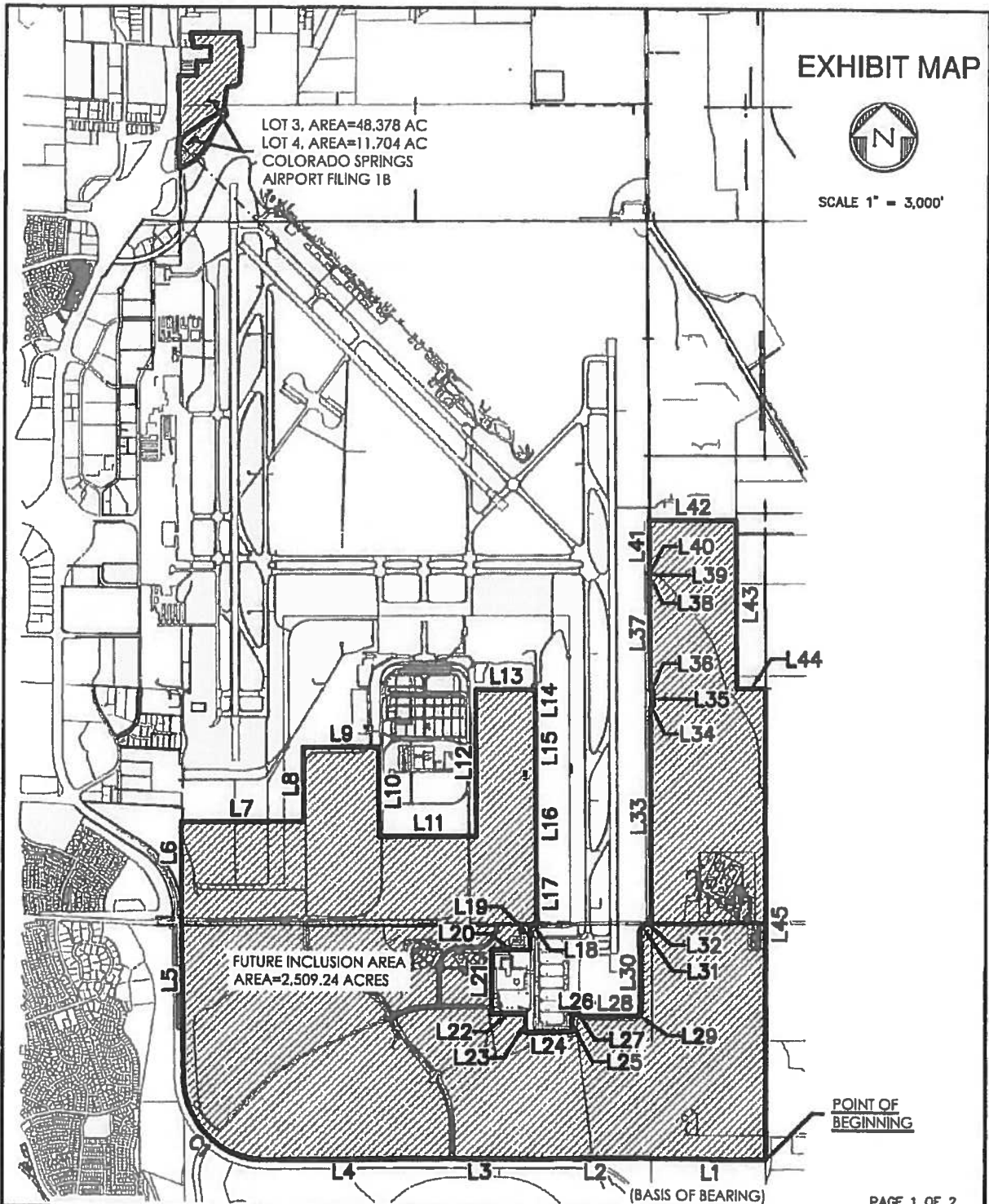
**Inclusion Area Boundary Map**

EXHIBIT MAP



SCALE 1" = 3,000'

LOT 3, AREA=48.378 AC  
LOT 4, AREA=11.704 AC  
COLORADO SPRINGS  
AIRPORT FILING 1B



Future Inclusion Area  
Colorado Springs Airport

**POLARIS SURVEYING, INC.**  
1903 Lelaray Street, Suite 102  
COLORADO SPRINGS, CO 80909  
(719)448-0844 FAX (719)448-9225

LINE TABLE		
LINE	BEARING	LENGTH
L1	N89° 51' 14"W	2636.20
L2	S89° 34' 01"W	2618.33
L3	S89° 35' 34"W	2678.10
L4	S89° 03' 29"W	3468.97
L5	N00° 42' 08"W	4348.29
L6	N00° 21' 03"W	1400.00
L7	N89° 29' 58"E	2800.00
L8	N00° 30' 02"W	1675.00
L9	N89° 29' 58"E	1717.79
L10	S00° 30' 02"E	2016.56
L11	N89° 29' 58"E	2190.96
L12	N00° 20' 36"W	3297.29
L13	N89° 39' 24"E	1358.12
L14	S00° 24' 03"E	493.73
L15	S00° 26' 39"E	1660.95
L16	S00° 26' 24"E	1730.67
L17	S00° 36' 11"E	1420.43
L18	S89° 38' 36"W	150.80
L19	S00° 26' 15"E	552.92
L20	S89° 59' 22"W	883.03
L21	S00° 06' 35"W	1449.58
L22	N89° 59' 07"E	777.75
L23	S00° 01' 58"E	414.88

LINE TABLE		
LINE	BEARING	LENGTH
L24	N89° 35' 18"E	1084.01
L25	N00° 26' 35"W	399.83
L26	S89° 55' 18"E	142.55
L27	S45° 12' 22"E	70.27
L28	N89° 32' 33"E	1325.82
L29	N44° 28' 29"E	70.53
L30	N00° 25' 23"W	1901.99
L31	N43° 09' 02"E	180.39
L32	N89° 02' 24"E	141.03
L33	N00° 30' 02"W	4872.36
L34	N51° 04' 03"E	82.05
L35	N00° 23' 51"W	323.10
L36	N59° 44' 01"W	76.20
L37	N00° 35' 50"W	2571.80
L38	N88° 48' 47"E	12.28
L39	N01° 11' 13"W	55.17
L40	N86° 48' 49"W	11.73
L41	N00° 19' 28"W	1200.75
L42	N89° 37' 32"E	1995.50
L43	S00° 27' 23"E	3800.45
L44	N88° 48' 26"E	662.89
L45	S00° 13' 46"E	10621.86

Curve Table			
Curve #	Length	Radius	Delta
C1	2982.539	1895.000	090°10'40"

Future Inclusion Area  
Colorado Springs Airport

**POLARIS SURVEYING, INC.**  
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**EXHIBIT D**

Description of Permitted Services to be Provided by the Districts

<u>Description of Services</u>	<u>IGA Required (Yes or No)</u>
Street Maintenance, including without limitation, snow removal	Yes
Landscape Maintenance, including without limitation, maintenance of open space, trails, and streetscape	Yes

**EXHIBIT E**

**NOTICE OF SPECIAL DISTRICT DISCLOSURE**

(to be provided to every purchaser of real property within the boundaries of the District)

Name of District(s):	
Contact Information for District:	
Type of District(s): (i.e. if dual or three districts concept - insert language regarding limited rights of property owners)	
Identify District(s) Improvements Financed by Proposed Bonds (List by major categories, i.e. Roads – Powers Blvd):	
Identify Services/Facilities Operated/Maintained by District(s):	
Mill Levy Cap: (Describe Procedure for any Adjustments to Mill Levy Cap) <i>(Note: This District may or may not be certifying a mill levy at the time of your purchase. Please verify by contacting the District.)</i>	
Authorized Debt of the District(s) per Operating or Service Plan:	
Voter Authorized Debt per Election:	
District Boundaries:	See attached map
<u>Sample Calculation of Mill Levy Cap for a Residential Property</u> <b>Assumptions:</b> Market value is \$250,000 Mill levy cap is 40 mills  <b>Calculation:</b> $\$250,000 \times .0796 = \$19,900$ (Assessed Valuation) $\$19,900 \times .040$ mills = <b>\$796 per year in taxes owed solely to the Special District</b>	<u>Sample Calculation of Mill Levy Cap for a Commercial, Office or Industrial Property</u> <b>Assumptions:</b> Market value is \$750,000 Mill levy cap is 60 mills  <b>Calculation:</b> $\$750,000 \times .29 = \$217,500$ (Assessed Valuation) $\$217,500 \times .060$ mills = <b>\$13,050 per year in taxes owed solely to the Special District</b>