

RESOLUTION NO. 28-22

A RESOLUTION APPROVING THE SECOND AMENDMENT TO THE SERVICE PLAN FOR PEAK METROPOLITAN DISTRICT NOS. 1-3 TO MODIFY THE INCLUSION AREA BOUNDARIES AND TO ALLOW FOR LIMITED SECURITY SERVICES AS AN OPERATIONS AND MAINTENANCE FUNCTION

WHEREAS, Section 32-1-207, C.R.S., provides that a special district may materially modify its service plan only upon petition to the governing body of the municipality within which the special district lies and adoption of resolution of approval by such governing body; and

WHEREAS, the City Council of the City of Colorado Springs approved the Service Plan for the Peak Metropolitan District Nos. 1-3 ("Districts") on August 28, 2018 (the "Original Service Plan"); and

WHEREAS, City council approved a First Amendment to Service Plan ("First Amendment to Service Plan") to authorize covenant enforcement as an operations and maintenance function, on February 12, 2019; and

WHEREAS, the Districts have submitted for review and City Council has reviewed the Second Amendment to Service Plan for the Districts which specifically allows for a modification to the Districts' inclusion area boundaries, authorizes provision of limited security services, and addresses concealed carry firearm provisions; and

WHEREAS, City Council considered the Second Amendment to Service Plan, as well as other testimony and evidence presented at a public hearing on March 22, 2022, to determine whether to approve the Second Amendment to 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. Council hereby finds that approval of the Second Amendment to Service Plan is in the best interests of the City and the Districts.

Section 3. The Second Amendment to Service Plan attached as Exhibit 1 is hereby approved.

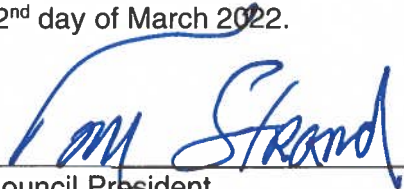
Section 4. With the exception of those modifications specifically addressed in the First and Second Amendments to Service Plan, the Original Service Plan shall remain in full

force and effect.

Section 5. All ordinances or resolutions, or parts thereof, in conflict with this Resolution are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such Resolution nor revive any Resolution thereby.

Section 6. This Resolution shall be effective upon its approval by City Council.

DATED at Colorado Springs, Colorado, this 22nd day of March 2022.



Council President

ATTEST:



Sarah Johnson, City Clerk



DRAFT
McGEADY BECHER P.C.
2/9/22

**SECOND AMENDMENT TO THE
CONSOLIDATED SERVICE PLAN FOR
PEAK METROPOLITAN DISTRICT NO. 1
PEAK METROPOLITAN DISTRICT NO. 2
PEAK METROPOLITAN DISTRICT NO. 3
IN THE
CITY OF COLORADO SPRINGS, COLORADO**

Prepared by
McGeady Becher P.C.
450 E. 17th Avenue, Suite 400
Denver, CO 80203

Approved: March 22, 2022

Initials: _____

Article I. PURPOSE AND INTENT

Peak Metropolitan District Nos. 1, 2, and 3 (the “**Districts**”) were organized pursuant to a Consolidated Service Plan approved by the City Council of the City of Colorado Springs, Colorado, (“**City Council**”) on August 28, 2018 by Resolution No. 95-18 (the “**Original Service Plan**”).

A First Amendment to the Consolidated Service Plan for Peak Metropolitan District Nos. 1, 2, and 3 was approved by the City Council on February 12, 2019 by Resolution No. 22-19 (the “**First Amendment**”). The First Amendment authorized the Districts to provide covenant enforcement and design review services within the boundaries and service area of the Districts. The First Amendment also modified Exhibit D to the Original Service Plan to specifically authorize the Districts to undertake and provide certain operations and maintenance services.

This Second Amendment to the Original Service Plan (“**Second Amendment**”) expands the authority of the Districts to provide security services and park and recreation programming within their Service Area and to increase the boundary of property that may be included into a District, resulting in modifications to certain exhibits to the Original Service Plan.

This Second Amendment modifies the legal description of inclusion area boundaries identified in Exhibit A-2 to the Original Service Plan (“**Amended Exhibit A-2**”), modifies the inclusion area boundary map identified as Exhibit C-2 to the Original Service Plan (“**Amended Exhibit C-2**”) and further modifies the description of permitted services to be provided by the District identified in Exhibit D to the Original Service Plan, which was previously amended by the First Amendment (“**Further Amended Exhibit D**”).

Article II. AMENDMENT

A. Article I, A. Article I, Section A of the Original Service Plan is hereby deleted and replaced in its entirety with the following:

“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.

This Service Plan authorizes the Districts to own, operate, and maintain certain Public Improvements more specifically described in **Further Amended Exhibit D**, attached hereto and incorporated herein by reference. The Districts are not being created to provide ongoing operations and maintenance services other than those specifically set forth in **Further Amended Exhibit D** to this Service Plan. In addition, in accordance with Section 32-1-1004(7), C.R.S., the Districts

shall also have the power to provide security services for any area within the Districts, in accordance with such statutory provision.

In addition, in accordance with Section 32-1-1004(8), C.R.S., the Districts shall also have the power to provide covenant enforcement and design review services within the boundaries of the Districts if the declaration, rules and regulations, or any similar document containing the covenants to be enforced for the area within the District name the District as the enforcement or design review entity.”

B. Article V, A. Article V, Section A of the Original Service Plan is hereby deleted and replaced in its entirety with the following:

“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 of the Public Improvements after such dedication, unless the provision of such ongoing operation and maintenance is specifically identified in **Further Amended Exhibit D.** In accordance with Section 32-1-1004(7), C.R.S., the Districts shall also have the power to provide security services for any area within the Districts. Additionally, in accordance with Section 32-1-1004(8), C.R.S., the Districts shall have the power to provide covenant enforcement and design review services within the boundaries of the Districts if the declaration, rules and regulations, or any similar document containing the covenants to be enforced for the area within the Districts name the Districts as the enforcement or design review entity. The Districts shall have the power to provide covenant enforcement and design review services only if revenues used to provide such services are derived from the area in which the services are furnished. The Districts shall have the ability to impose fees and charges for purposes identified in the covenants, for the purpose of enforcing the covenants. In the City’s sole discretion, an intergovernmental agreement between the City and the Districts may be required in order to better describe the conditions under which these permitted services will be provided by the Districts. If the Districts area authorized to operate and maintain certain park and recreation improvements set forth in **Further Amended Exhibit D.** any fee imposed by the Districts for access to such park and recreation improvements shall not result in non-District Colorado

Springs 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 Colorado Springs 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(s) 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 Colorado Springs residents free of charge."

C. Exhibit A-2. Exhibit A-2 to the Original Service Plan, "Legal Description of Inclusion Area", is hereby deleted and replaced in its entirety with Attachment I to this Second Amendment, referred to as **Amended Exhibit A-2**.

D. Exhibit C-2. Exhibit C-2 to the Original Service Plan, "Inclusion Area Boundary Map", is hereby deleted and replaced in its entirety with Attachment II to this Second Amendment, referred to as **Amended Exhibit C-2**.

E. Exhibit D. Exhibit D to the Original Service Plan, previously amended by the First Amendment, "Description of Permitted Services to be Provided by the Districts", is hereby deleted and replaced in its entirety with Attachment III to this Second Amendment, referred to as **Further Amended Exhibit D**.

F. All provisions of the Original Service Plan, as amended by the First Amendment, not expressly modified by this Second Amendment remain unchanged and in full force and effect.

G. In the event of any express conflict of inconsistency between the terms of the Original Service Plan and the First Amendment, this Second Amendment shall control and govern.

ATTACHMENT I

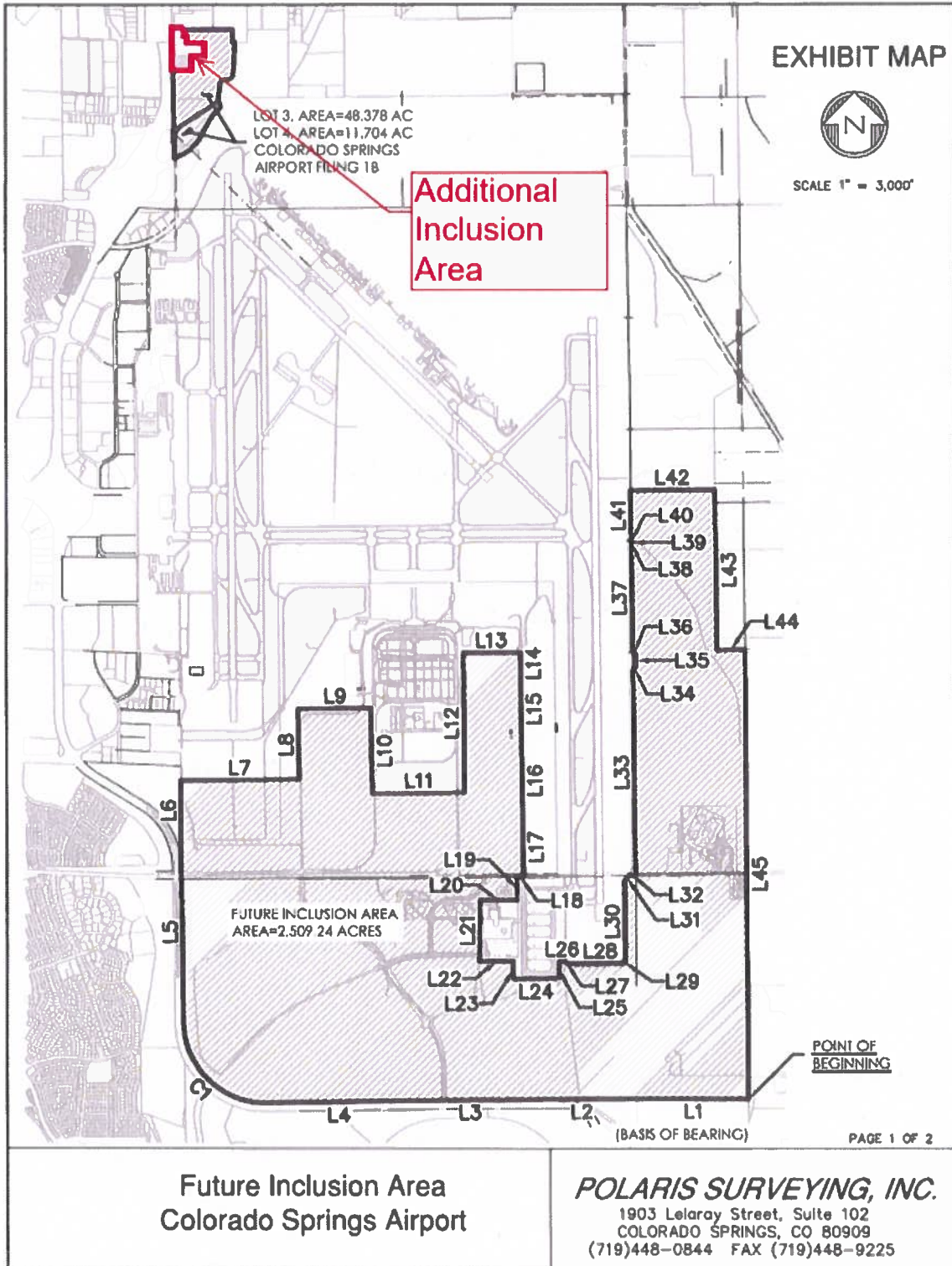
AMENDED EXHIBIT A-2

Legal Description of Inclusion Area Boundaries

TO BE INSERTED

ATTACHMENT II

AMENDED EXHIBIT C-2 Inclusion Area Boundary Map



ATTACHMENT III

FURTHER AMENDED 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	No
Landscape Maintenance, including without limitation, maintenance and repair of open space, trails and streetscape	No
Park and Recreation, including without limitation, programming and management of services	No
Security Services, including without limitation, parking enforcement and related matters	No
Operation, Maintenance, and Administration Services related to covenant enforcement and design review	No