

**FIRST AMENDMENT TO THE
CONSOLIDATED SERVICE PLAN FOR
PEAK METROPOLITAN DISTRICT NO. 4
PEAK METROPOLITAN DISTRICT NO. 5
PEAK METROPOLITAN DISTRICT NO. 6
PEAK METROPOLITAN DISTRICT NO. 7
IN THE
CITY OF COLORADO SPRINGS, COLORADO**

Prepared by
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Approved: _____

Initials: _____

Article I. PURPOSE AND INTENT

Peak Metropolitan District Nos. 4, 5, 6, and 7 (the “**Districts**”) were organized and operate pursuant to a Consolidated Service Plan as approved by the City Council of the City of Colorado Springs, Colorado, on July 26, 2022, by Resolution No. 103-22 (the “**Original Service Plan**”).

This First Amendment to the Consolidated Service Plan for Peak Metropolitan District Nos. 4, 5, 6, and 7 (the “**First Amendment**”) modifies the description of permitted services to be provided by the District identified in Exhibit D to the Original Service Plan to now include stormwater and drainage services (“**Revised 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 **Revised 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 **Revised Exhibit D** to this Service Plan. In addition, in accordance with Section 32-1-1004(7), C.R.S., the Districts shall 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 identified in **Revised 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, the City may require an intergovernmental agreement with the Districts describing the conditions under which permitted services will be provided by the Districts. If the Districts are authorized to operate and maintain certain park and recreation improvements set forth in **Revised 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. Article V. A.3. Article V. Section A.3. of the Original Service Plan, as amended, is hereby deleted and replaced in its entirety with the following:

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. For the avoidance of doubt, in accordance with any applicable statutory requirements, proceeds from the sale of debt instruments and other revenue of Districts may be used to pay the costs for acquiring interests in land necessary for Public Improvements which are not required to be dedicated for public use by annexation agreements or City land use codes. 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.

D. Exhibit D. Exhibit D to the Original Service Plan is hereby deleted and replaced in its entirety with Attachment I to this First Amendment, referred to as **Revised Exhibit D.**

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

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

ATTACHMENT A

REVISED 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
Stormwater Maintenance provided in association with any Public Improvements, including maintenance and repair of stormwater and drainage facilities	Yes
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