

**INTERGOVERNMENTAL DISTRICT FACILITIES CONSTRUCTION AND
SERVICE AGREEMENT**

THIS INTERGOVERNMENTAL DISTRICT FACILITIES CONSTRUCTION AND SERVICE AGREEMENT (the “Agreement”) is made and entered into the 4th day of December, 2023 (the “Effective Date”), by and between GOLD HILL NORTH BUSINESS IMPROVEMENT DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado (the “Operating District”), and GOLD HILL NORTH METROPOLITAN DISTRICT NOS. 1 & 2, quasi-municipal corporations and political subdivisions of the State of Colorado (collectively, the “Financing Districts”). The Operating District and the Financing Districts are collectively referred to herein as the “Parties” or as the “Districts.”

RECITALS

WHEREAS, the Operating District is duly organized and existing under and pursuant to the constitution, laws of the State of Colorado, and the initial Operating Plan, as approved by the City Council of the City of Colorado Springs through Ordinance No. 21-62 on August 10, 2021 (the “Operating Plan”);

WHEREAS, the Financing Districts are duly organized and existing under and pursuant to the constitution, laws of the State of Colorado, and the Service Plan for the Financing Districts, which the City Council of the City of Colorado Springs approved through Resolution No. 100-21 on July 27, 2021 (the “Service Plan”); and

WHEREAS, the Districts were created for the purpose of providing certain public improvements and services to and for the benefit of the properties within and without the Districts in accordance with Title 32, Article 1, C.R.S. (the “Special District Act”), and pursuant to the Operating Plan and the Service Plan; and

WHEREAS, the Financing Districts are empowered by Section 32-1-1101, C.R.S., and the Operating District is empowered by Section 31-25-1221, C.R.S., to issue bonds for the public purposes of the Districts; and

WHEREAS, pursuant to Article XIV, Section 18(2)(a) of the Colorado Constitution, and Section 29-1-201, *et seq.*, C.R.S., the Districts may cooperate or contract with each other to provide any function, service, or facility lawfully authorized to each District, including financing, constructing, operating, and maintaining public improvements (“Public Improvements”), and any such contract may provide for the sharing of costs, the imposition and collection of taxes, and the incurring of debt; and

WHEREAS, the Districts may, in an ongoing effort to provide for the financing, construction and operations of the Public Improvements, agree among themselves to alter, from time to time, their respective roles, responsibilities and obligations in order to most efficiently and effectively provide the public improvements and services contemplated under the Operating Plan and the Service Plan; and

WHEREAS, the Boards of Directors of the Districts have determined that it is in the best interests of the Districts and the taxpayers and residents thereof for the Operating District to construct the Public Improvements benefitting the Districts and for the Financing Districts to contribute to the costs related to the construction of the Public Improvements in accordance with the terms of this Agreement; and

WHEREAS, the Boards of Directors of the Districts have determined that it is in the best interests of the Districts and the taxpayers and residents thereof for any or all of the Districts to incur indebtedness in the form of the issuance of bonds pursuant to which one or both of the Districts will issue general obligation bonds (“Bonds”) for the purpose of funding the Public Improvements for the Districts subject to the conditions set forth in the Bonds and related documents (together “Bond Documents”); and

WHEREAS, the Districts agree that the Operating District will own (subject to discretionary or mandatory transfer to other governmental entities), operate, and maintain the Public Improvements on behalf of the Districts; and

WHEREAS, in order to provide funding for the Public Improvements and certain administrative, operation, and maintenance costs of the Districts, the Districts agree to impose and collect a debt service mill levy and an operations and maintenance mill levy within their respective boundaries; and

WHEREAS, the Financing Districts agree to pledge the revenues from their debt service and operations and maintenance mill levies to the Operating District or to the repayment of the Operating District’s obligations pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Districts hereby agree as follows:

AGREEMENT

1. **Purpose and Scope of Agreement.** The purpose of this Agreement is to set forth the rights and obligations of the Districts to fund the Public Improvements and thereafter the continued operation and maintenance of Public Improvements, in addition to the rights and obligations of the Operating District to operate and maintain the Public Improvements on behalf of the Districts. The Districts acknowledge and agree that the Public Improvements to be designed and constructed by the Operating District will benefit all property owners and residents within the Districts. It is agreed by the Districts that the Districts shall use their best efforts to fund the Public Improvements, however, in accordance with Service Plan, the Districts will not be required to issue any debt which exceeds the ability of the Districts to service such debt from debt service revenues generated by the imposition of the maximum debt mill levy, as that term is defined in the Operating Plan and the Service Plan, subject to the adjustment of the maximum debt mill levy, as provided for therein. The Districts will also not be required to issue any debt in excess of the applicable voted debt authority of the Districts.

2. **Funding of Public Improvements.** The Districts hereby agree that, to the extent the Districts determine it is financially feasible to do so, the Districts shall fund the repayment of the Bonds pursuant to the terms of the Bond Documents, which may include revenue from the imposition of fees, charges, and ad valorem property taxes.

3. **Construction of Public Improvements.** The Operating District will, on behalf of the Districts, contract for and supervise the construction or acquisition of the Public Improvements. All construction and acquisitions shall be subject to good faith efforts of the Operating District to obtain all necessary governmental approvals. The Operating District shall exercise its best efforts to comply with Colorado law and other applicable rules, laws, regulations, and orders in its contractual undertakings concerning the construction of the Public Improvements.

4. **Ownership and Operation of Public Improvements.** It is acknowledged that all Public Improvements will either be dedicated to the City of Colorado Springs or other governmental entity, or will be owned and operated by the Operating District (the “District-Owned Improvements”). With respect to the District-Owned Improvements, the Financing Districts hereby engage the Operating District, and the Operating District hereby accepts such engagement, as the “operator” of the Public Improvements, which engagement the Districts hereby agree and acknowledge is further defined and limited by the following:

- a) Subject to subsection (f) hereof, the Operating District shall hold fee simple title to the District-Owned Improvements and shall operate and maintain the same solely on behalf of, and for the benefit of, the Districts and the property owners thereof. The Operating District shall not impose any fees for the use of the District-Owned Improvements by property owners of the Financing Districts, except as expressly agreed by the Financing Districts. The Operating District shall engage all contractors required to carry out all functions necessary for the operation and maintenance of the District-Owned Improvements, provided that any such engagement shall be subject to termination upon the same notice provided in subsection (f) hereof.
- b) The Operating District shall operate the District-Owned Improvements in accordance with such written guidance (including operating policies and procedures, and minimum maintenance standards) as may be adopted by the Operating District after consultation with the Financing Districts. Operation of the District-Owned Improvements shall include obtaining necessary insurance for the District-Owned Improvements in the manner determined reasonably appropriate by the Operating District and in compliance with applicable law, and providing such other specific services as may be set forth in a writing executed by the Districts. The District-Owned Improvements shall be operated and maintained in such manner as is reasonably determined from time to time by the Operating District, subject to the funding of costs of such operation and maintenance (including insurance premiums and related costs) by the Financing Districts (as more particularly provided in subsection (g) hereof). Any written document providing for a level or standard of operation or maintenance of the District-Owned Improvements executed by the Operating District and the

Financing Districts shall constitute a supplement to this Agreement, shall be binding upon the Districts, and may not be amended except by written agreement executed by the Districts.

- c) The Operating District shall not sell, transfer, convey or otherwise encumber any portion of the District-Owned Improvements located within the boundaries of the Financing Districts without the prior written consent of the Financing Districts.
- d) Prior to any dissolution of the Operating District, the Operating District shall cause all District-Owned Improvements located within the boundaries of the Financing Districts to be conveyed to or at the direction of the Financing Districts.
- e) Any revenues arising from, or payable as a result of, the District-Owned Improvements, shall constitute the property of the Operating District unless a separate written agreement is entered into between the Financing Districts and the Operating District expressly regarding the disposition of such funds.
- f) The Financing Districts may determine to terminate their engagement of the Operating District as operator of the District-Owned Improvements at any time upon 180 days' written notice. No later than 180 days after the receipt of any written notice of any such termination, the Operating District shall cause legal title in all District-Owned Improvements that are located within the boundaries of the Financing Districts to be conveyed to or at the direction of the Financing Districts and shall cause all contracts relating to the operation and maintenance of the District-Owned Improvements that are within the boundaries of the Financing Districts to be assigned to or at the direction of the Financing Districts. The Financing Districts shall pay the Operating District all costs the Operating District incurs prior to the date of termination as determined pursuant to subsection (g) hereof.
- g) The obligation of the Operating District to operate and maintain the District-Owned Improvements is subject to the Financing Districts providing moneys sufficient to fund the same. The Financing Districts hereby agree that, so long as they have not terminated the engagement of the Operating District as operator of the District-Owned Improvements as provided in subsection (f) hereof, the Financing Districts shall impose ad valorem property taxes and/or fees sufficient to fund the operation and maintenance costs of the District-Owned Improvements at the levels or standards set forth in a written agreement between the Operating District and the Financing Districts, or in the event that no written agreement is in place, according to the standards established by policies, procedures or rules and regulations adopted by the Districts from time to time. The Operating District shall submit to the Financing Districts no later than September 15, or such other date as may be agreed upon by the Districts, an estimate of the costs anticipated for operation and maintenance of the

District-Owned Improvements. The Financing Districts shall, in their sole discretion, accept or modify such estimate, which acceptance or modification shall be reflected in the annual adopted budgets of the Financing Districts. The Operating District shall be obligated to provide the operation and maintenance of the District-Owned Improvements only to the extent of funding made available by the Financing Districts. Under no circumstances shall the Operating District be obligated to fund operation and maintenance costs of the District-Owned Improvements that benefit the Financing Districts or to provide operating and maintenance services on behalf of the Financing Districts that are not funded by the Financing Districts.

5. **Administrative Services.** The Operating District shall perform various administrative functions for the Districts, including, but not limited to, preparation of annual budgets, engagement of legal counsel and other consultants, and statutory compliance measures. The Financing Districts hereby engage the Operating District, and the Operating District hereby accepts such engagement, as the “district administrator,” which engagement the Districts hereby agree and acknowledge is further defined and limited by the following:

- a) Subject to subsection (d) hereof, the Operating District shall perform, or cause to be performed, the following administrative services for the Districts: accounting, legal, management, insurance administration, election administration, budget and audit preparation, preparation of notices, meeting materials, district information, record keeping, financial planning, and any other services required from time to time to ensure statutory compliance of the Districts. The Operating District shall engage all contractors required to carry out all functions necessary for the provisions of such administrative services, provided that any such engagement shall be subject to termination upon the same notice provided in subsection (c) hereof.
- b) The Operating District shall provide the administrative services in accordance with such written guidance (including policies, procedures and rules and regulations adopted by the Districts) as may be provided by the Financing Districts and agreed upon by the Operating District. Until such time as any such guidance is provided by the Financing Districts, the Operating District shall provide such administrative services in such manner as is reasonably determined from time to time by the Operating District, subject to the funding of costs thereof by the Financing Districts (as more particularly provided in subsection (d) hereof).
- c) The Financing Districts may determine to terminate their engagement of the Operating District as district administrator at any time upon 180 days written notice. No later than 180 days after the receipt of any written notice of any such termination, the Operating District shall cause all contracts relating to the provision of administrative services for the Financing Districts to be assigned to or at the direction of the Financing Districts, if reasonably possible.

- d) The obligation of the Operating District to provide the administrative services is subject to the Financing Districts providing moneys sufficient to fund the same. The Financing Districts hereby agree that, so long as they have not terminated the engagement of the Operating District as district administrator as provided in subsection (c) hereof, the Financing Districts shall impose ad valorem property taxes and/or fees sufficient to fund the costs of administrative services, as such costs are estimated and set forth from time to time in the annual budgets of the Financing Districts. The Operating District shall submit to the Financing Districts no later than September 15, or such other date as may be agreed upon by the Districts, an estimate of the costs anticipated for such administrative services. The Financing Districts shall, in their sole discretion, accept or modify such estimate, which acceptance or modification shall be reflected in the annual adopted budgets of the Financing Districts. The Operating District shall be obligated to provide the administrative services described in subsection (a) above only to the extent of funding made available by the Financing Districts. Under no circumstances shall the Operating District be obligated to fund administrative costs that benefit the Financing Districts, or to provide administrative services on behalf of the Financing Districts that are not funded by the Financing Districts.

6. **Operating District Compensation.** The compensation for the provision of services hereunder by the Operating District shall be agreed upon by the Districts on or before the Districts' adoption of their annual budgets.

7. **Term.** Unless terminated earlier as provided herein, this Agreement shall remain in full force and effect from the Effective Date and shall terminate within forty-five (45) years of the date the initial debt of the Districts is issued, unless the Districts extend such term upon approval by a majority of the Boards of Directors of the Districts and at such time as a majority of the directors of the Boards of Directors are End Users, as that term is defined in the Service Plan, and where the majority of End Users on each Board of Directors approve of such extension. Upon termination of this Agreement, the Operating District shall: (i) cause legal title in all District-Owned Improvements that are located within the boundaries of the Financing Districts to be conveyed to or at the direction of the Financing Districts; (ii) cause all contracts relating to the operation and maintenance of the District-Owned Improvements that benefit the Financing Districts to be assigned to or at the direction of the Financing Districts; and (iii) cause all contracts relating to the provision of administrative services for the Financing Districts to be assigned to or at the direction of the Financing Districts, if reasonably possible. The Financing Districts shall pay the Operating District all costs the Operating District incurs prior to the date of termination as determined pursuant to Sections 4(g) and 5(d) above."

8. **Operating District Termination Rights.** The Operating District shall have the option to terminate the provisions hereof pertaining to its engagement as operator of the District-Owned Improvements and/or district administrator upon 180 days prior written notice to the Financing Districts. In addition, in the event that the Districts cannot agree upon a budget for the provision of such services, including the Operating District's compensation for the same, the Operating District shall have the option to terminate this Agreement within 15 days of the

Financing Districts' adoption of their annual budgets. Upon the termination of the portion of this Agreement pertaining to the services provided in Section 4, the Operating District shall cause legal title in all District-Owned Improvements located within the boundaries of the Financing Districts to be conveyed to or at the direction of the Financing Districts, and shall cause all contracts relating to the operation and maintenance of such District-Owned Improvements to be assigned to or at the direction of the Financing Districts.

9. **Tax Exempt Status.** By their execution hereof, the Districts covenant, promise and agree not to undertake any act or commit any omission, which would adversely affect the tax-exempt status of the interest paid on any tax-exempt bonds or loans issued by the Districts for the purpose of funding, constructing or acquiring the Public Improvements.

10. **No Unintended Third Party Beneficiaries.** Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the developer and the parties hereto, any rights, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all of the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the parties shall be for the sole and exclusive benefit of the parties, except as provided in Section 4 hereof. The covenants, terms, conditions, and provisions contained herein shall inure to and be binding upon the representatives, successors, and permitted assigns of the parties hereto. This Agreement is not intended to create any third-party beneficiaries, implied trusts, or similar implied agreements, nor may the provisions hereof be enforced by any person or entity not a party hereto, including without limitation, the owners of bonds issued by the Districts.

11. **Severability.** If any covenant, term, condition, or provision under this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that such provisions are severable.

12. **Amendment.** This Agreement may be amended from time to time by agreement between the parties hereto; provided, however, that no amendment, modification, or alteration of the terms or provisions hereof shall be binding upon the parties unless the same is in writing and duly executed by the parties hereto.

[Signature page to follow]

IN WITNESS WHEREOF, the Districts have executed this Agreement on the date first above written.

**GOLD HILL NORTH BUSINESS
IMPROVEMENT DISTRICT**

By: Stephanie D. Edwards
Stephanie Edwards, President

ATTEST: JW Olson
John Olson, Secretary

**GOLD HILL NORTH METROPOLITAN
DISTRICT NO. 1**

By: Stephanie D. Edwards
Stephanie Edwards, President

ATTEST: JW Olson
John Olson, Secretary

**GOLD HILL NORTH METROPOLITAN
DISTRICT NO. 2**

By: Stephanie D. Edwards
Stephanie Edwards, President

ATTEST: JW Olson
John Olson, Secretary