

FIRST AMENDMENT TO SERVICE PLAN
FOR
NORTH VISTA HIGHLANDS METROPOLITAN
DISTRICT NO. 5

CITY OF PUEBLO, COLORADO

Prepared by:

ICENOGLE SEAVER POGUE, P.C.
4725 S. MONACO ST., SUITE 360
DENVER, CO 80237
(303) 292-9100

Submitted: April 7, 2020
Approved:

I. INTRODUCTION

The Service Plan for North Vista Highlands Metropolitan District No. 5 (the “Service Plan”) was approved by the City Council of the City of Pueblo, Colorado (“Council”) on September 24, 2018. The North Vista Highlands Metropolitan District No. 5 (the “District”) was organized by order of the District Court for Pueblo County, Colorado, dated November 28, 2018, and recorded in the Pueblo County Clerk and Recorder’s office on November 28, 2018 at Reception No. 2124118, after approval of the eligible electors of the District at an organizational election held on November 6, 2018. The District was organized to finance, construct, operate, and maintain certain public improvements for the use and benefit of the District’s residents, property owners, and taxpayers. This First Amendment to the Service Plan (“First Amendment”) is intended to be read in conjunction with the Service Plan. Unless otherwise defined herein, all capitalized terms used herein shall have the meaning given to them in the Service Plan.

As provided in the Service Plan, Exhibit A-3 attached thereto reflected the Future Inclusion Area and is anticipated to be a part of the Development. The Developer has acquired, or is under contract to acquire, additional real property located within and adjacent to the existing Future Inclusion Area. The Board of Directors for the District (the “Board”) has determined that such additional real property will benefit Development and has determined that it is in the best interests of the residents, property owners, and taxpayers of the District to amend the Service Plan to include such additional property into the Future Inclusion Area. Also, the Board seeks to amend the Service Plan to clarify the District’s authority to include and exclude property described in the Future Inclusion Area into and from the District Boundaries.

In addition, to ensure the timely completion of infrastructure improvements to serve the Development, the Board has determined that it is in the best interests of the residents, property

owners, and taxpayers of the District to amend the Service Plan to modify the District's ability to exercise the power of eminent domain as needed.

II. FIRST AMENDMENT TO SERVICE PLAN

The Second Paragraph of Section IV of the Service Plan entitled District Boundaries/Maps is hereby amended and restated as follows:

The property described on **Amended Exhibit A-3** attached hereto and incorporated herein, is owned by the Developer and The Home Town Finance Company, and is anticipated to be a part of the Development (the "Future Inclusion Area"). A map of the Future Inclusion Area and current District Boundaries is attached on **Amended Exhibit A-4** attached hereto. Only boundary adjustments which add to, or subtract from, the total acreage of the Service Area, which includes the existing District Boundaries and the Future Inclusion Area, shall be considered a material modification of this Service Plan and shall require the prior written approval from the City Council. No additional approval from the City Council shall be required for boundary adjustments which do not increase or decrease the total acreage of the Service Area; so long as the total acreage of the Districts does not change, the Districts' individual boundaries may be adjusted as the Districts deem necessary to account for development pace, infrastructure phasing requirements, and other market conditions. Such adjustments shall be effected pursuant to Sections 32-1-401, *et seq.*, and 32-1-501, *et seq.*, C.R.S. The revisions made to this paragraph in this First Amendment are intended to clarify the original intent of the Service Plan as it relates to boundary adjustments. Any boundary adjustments completed by the District prior to this First Amendment and in compliance with the provisions set forth in this First Amendment are not considered to be a material modification of the Service Plan requiring prior written approval of City Council.

Section VI.C.3. of the Service Plan regarding the Limitations of District's Powers is hereby amended and restated as follows:

3. To ensure the timely construction and completion of public infrastructure to serve the Development, the District may exercise its statutory power of eminent domain, subject to the conditions set forth herein. Except as may be required in connection with the construction, installation, and expansion of Home of Heroes Parkway, the District shall not exercise its statutory power of eminent domain without first providing written notice to the Mayor of the City requesting consent for the District to exercise its statutory power of eminent domain with respect to the property described in the written notice. Within ten (10) days of receipt of the notice, the Mayor shall provide either (a) written consent for the District to exercise its statutory power of eminent domain with respect to the property described in the notice, which consent shall not be unreasonably withheld or, (b) written objection to the District's request to exercise its statutory power of eminent domain as described in the notice.

III. EFFECT OF FIRST AMENDMENT

Except as otherwise set forth in this First Amendment, all other provisions of the Service Plan shall remain in full force and effect.

AMENDED EXHIBIT A-3

Amended Legal Description of Future Inclusion Area

The legal description of real property set forth herein includes the legal description of the Future Inclusion Area described in Exhibit A-3 to the Service Plan and the additional property being added to the Future Inclusion Area via this First Amendment.

PARCEL A:

A PARCEL OF LAND LOCATED IN SECTIONS 5, 6, 7 AND 8, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE 6TH P.M. IN THE COUNTY OF PUEBLO AND STATE OF COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE NW 1/4 OF THE SW 1/4, W 1/2 OF THE SE 1/4 AND THE SW 1/4 OF THE NE 1/4 OF SECTION 5; EXCEPT FOR THE FOLLOWING DESCRIBED PROPERTY:

Commencing at the Southeast corner of the W 1/2 of the NE 1/4 of Section 8, Township 20 South, Range 64 West of the 6th P.M. also being the true point of beginning, thence proceeding South 89 degrees 50 minutes 30 seconds West along the south line of the said W 1/2 of the NE 1/4, a distance of 209.12 feet; thence North 01 degrees 49 minutes 26 seconds East, distance of 209.12 feet; thence North 89 degrees 50 minutes 30 seconds East, a distance of 209.12 feet to the east line of the said W 1/2 of the NE 1/4; thence South 01 degrees 49 minutes 26 seconds West along the east line of the said w 1/2 of the NE 1/4 a distance of 209.45 feet to the true point of beginning.

AND

THE NE 1/4 OF THE SE 1/4 OF SECTION 6; EXCEPT FOR THE FOLLOWING DESCRIBED PROPERTY:

Commencing at the Northwest corner of the NE 1/4 of the SE 1/4 of Section 6, Township 20 South, Range 64 West of the 6th P.M. also being the true point of beginning, thence proceeding North 89 degrees 13 minutes 06 seconds East along the north line of said NE 1/4 of the SE 1/4, a distance of 209.25 feet; thence South 2 degrees 02 minutes 21 seconds West, a distance of 209.25 feet; thence South 89 degrees 13 minutes 06 seconds West, a distance of 209.25 feet to the west line of said NE 1/4 of the SE 1/4; thence North 2 degrees 2 minutes 21 seconds East along the west line of said NE 1/4 of the SE 1/4, a distance of 209.25 feet to the true point of beginning

AND

ALL OF THE NW 1/4 OF SECTION 7 LYING EASTERLY OF THE EASTERLY RIGHT-OF-WAY LINE OF OVERTON ROAD AS PRESENTLY LOCATED, EXCEPT THAT PORTION PLATTED AS FOUNTAIN LAKE SUBSTATION RECORDED APRIL 14, 2017 UNDER RECEPTION NO. 2067565 AND EXCEPT THE FOLLOWING DESCRIBED PROPERTY:

Commencing at the Northwest corner of the NW ¼ of Section 7, Township 20 South, Range 64 West of the 6th P.M. thence proceeding South 71 degrees 28

minutes 23 seconds East a distance of 1,680.35 feet to the south west corner of the Fountain Lake Substation according to the recorded plat thereof as filed for record on at Reception No. 2067565 in the Pueblo County Records and the true point of beginning, thence proceeding North 88 degrees 28 minutes 44 seconds East along the south line of the said Fountain Lake Substation, distance of 212.94 feet; thence South 5 degrees 27 minutes 23 seconds East, distance of 209.49 feet; thence South 88 degrees 28 minutes 44 seconds West, a distance of 209.49 feet to the east line of the Overton Road right of way as presently located; thence North 5 degrees 27 minutes 23 seconds West along said east right-of-way line, a distance of 91.63 feet; thence along the arc of a curve to the left whose radius is 1,995.79 feet a distance of 118.17 feet to the true point of beginning

AND

THE NE 1/4 OF SECTION 8; EXCEPT FOR THE FOLLOWING DESCRIBED PROPERTY:

Commencing at the Southeast corner of the NE ¼ of Section 8, Township 20 South, Range 64 West of the 6th P.M. also being the true point of beginning, thence proceeding South 88 degrees 02 minutes 18 seconds West along the south line of the said NE ¼, a distance of 209.37 feet; thence North 1 degrees 25 minutes 55 seconds East, distance of 209.37 feet; thence North 88 degrees 02 minutes 18 seconds East, a distance of 209.37 feet to the east line of the said NE ¼; thence South 1 degrees 25 minutes 55 seconds West along the east line of the said NE ¼ a distance of 209.37 feet to the true point of beginning.

And

Commencing at the Northeast corner of the NE ¼ of Section 8, Township 20 South, Range 64 West of the 6th P.M. also being the true point of beginning, thence proceeding South 01 degrees 25 minutes 55 seconds West along the east line of the said NE ¼, a distance of 209.45 feet; thence South 89 degrees 50 minutes 30 seconds West, distance of 209.45 feet; thence North 01 degrees 25 minutes 55 seconds East, a distance of 209.45 feet to the north line of the said NE ¼; thence North 89 degrees 50 minutes 30 seconds East along the north line of the said NE ¼ a distance of 209.45 feet to the true point of beginning.

AND

ALL OF THAT CERTAIN TRACT OF GROUND KNOWN AS FOUNTAIN LAKE HOTEL AND PARK GROUNDS AND INCLUDED WITHIN A PORTION OF SECTIONS 5, 6, 7 AND 8 BOUNDED ON THE NORTHEAST BY PARK PLACE, ON THE SOUTHEAST BY SANTA FE AVENUE EAST; ON THE SOUTHWEST BY LAKE PLACE AND ON THE NORTHWEST BY SANTA FE AVENUE WEST; AS SHOWN ON THE RECORDED PLAT THEREOF AS FILED FOR RECORD ON DECEMBER 12, 1888;

AND

ALL OF LOTS AND BLOCKS IN SAID FOUNTAIN LAKE SUBDIVISION MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF BLOCK 5;
LOT 27, BLOCK 8;
ALL OF BLOCKS 11 AND 15
LOTS 1 TO 17 BOTH INCLUSIVE, LOTS 22 TO 29 BOTH INCLUSIVE AND LOTS 31 TO 34 BOTH INCLUSIVE, BLOCK 22;
ALL OF BLOCKS 23, 28 AND 30;
LOTS 1 TO 14 BOTH INCLUSIVE, BLOCK 38;
ALL OF BLOCKS 39, 40, 41, 43, 49, 53, 54, 56, 57 AND 60;
LOTS 4 TO 12 BOTH INCLUSIVE, LOTS 16, 18, 20, 22, 23 AND 24, BLOCK 63;
ALL OF BLOCKS 64, 65, 66 AND 67;
LOTS 1 TO 4 BOTH INCLUSIVE, LOTS 9, 10, AND LOTS 22 TO 28 BOTH INCLUSIVE, BLOCK 68;
ALL OF BLOCKS 72, 73, 74, 75, 76, 77, 78, 78 1/2, 80, 80 1/2, 90 AND 91;
LOTS 11 TO 21 BOTH INCLUSIVE AND FRACTION ON END IN BLOCK 92;
ALL OF BLOCKS 95, 96, 97, 100, 103, 106 AND 108;
LOTS 4 TO 14 BOTH INCLUSIVE, LOTS 17 TO 24 BOTH INCLUSIVE, BLOCK 110;
LOTS 1 TO 14 BOTH INCLUSIVE, LOT 21, BLOCK 111;
ALL OF BLOCKS 113, 114, 115 AND 117;
LOTS 11 TO 28 BOTH INCLUSIVE, BLOCK 118;
ALL OF BLOCKS 119, 120, 121, 122, 123, 124, 125 AND 126;
ALL OF BLOCKS 128, 130, 132, 133, 134, 135, 136, 137 AND 138;
LOTS 1 TO 4 BOTH INCLUSIVE AND LOTS 28 TO 31 BOTH INCLUSIVE, BLOCK 139;
ALL OF BLOCK 140;
ALL OF BLOCKS 142 TO 177;
ALL OF BLOCK 182;
LOTS 23 TO 32 BOTH INCLUSIVE, BLOCK 183;
ALL OF BLOCKS 184, 186 AND 188;
ALL OF BLOCKS 190 THROUGH 201.

PARCEL B:

ALL OF THE LOTS AND BLOCKS IN FOUNTAIN LAKE SUBDIVISION ACCORDING TO THE RECORDED PLAT THEREOF AS FILED FOR RECORD ON DECEMBER 12, 1888 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOTS 1, 2, 3 AND 9 THROUGH 23, BOTH INCLUSIVE, BLOCK 1;
ALL OF BLOCKS 2, 3, 4, 6 AND 7;
LOTS 1 TO 26 BOTH INCLUSIVE AND LOT 28, BLOCK 8;
ALL OF BLOCKS 9, 10, 12, 13, 14, 13, 17, 18, 19, 20 AND 21;
LOTS 18 TO 21 BOTH INCLUSIVE AND LOT 30, BLOCK 22;
ALL OF BLOCKS 24, 25, 26, 27, 29, 31, 32, 33, 34, 35, 36 AND 37;

LOTS 15 TO 28 BOTH INCLUSIVE, BLOCK 38;
ALL OF BLOCKS 42, 44, 45, 46, 47, 48, 50, 51, 52;
LOTS 1 TO 13 BOTH INCLUSIVE AND LOTS 18 TO 22 BOTH INCLUSIVE AND LOTS 28 TO 34 BOTH INCLUSIVE, BLOCK 55;
ALL OF BLOCKS 58, 59, 61 AND 62;
LOTS 1 TO 3 BOTH INCLUSIVE AND LOTS 13, 14, 15, 17, 19, 21 AND LOTS 25 TO 28 BOTH INCLUSIVE, BLOCK 63;
LOTS 5 TO 8 BOTH INCLUSIVE AND LOTS 11 TO 21 BOTH INCLUSIVE, BLOCK 68;
ALL OF BLOCKS 69, 70, 71, 79, 81, 82, 83, 84, 85;
LOTS 29 TO 32 BOTH INCLUSIVE, BLOCK 86;
ALL OF BLOCKS 87, 88, 89;
LOTS 1 TO 10 BOTH INCLUSIVE, BLOCK 92;
ALL OF BLOCKS 93, 94, 98, 99, 101, 102, 104, 105, 107, 109;
LOTS 1 TO 3 BOTH INCLUSIVE AND LOTS 25 TO 28 BOTH INCLUSIVE, BLOCK 110;
LOTS 15 TO 18 BOTH INCLUSIVE, LOTS 19, 20 AND LOTS 22 TO 28 BOTH INCLUSIVE, BLOCK 111;
ALL OF BLOCKS 112 AND 116;
LOTS 1 TO 10 BOTH INCLUSIVE, BLOCK 118;
ALL OF BLOCKS 127, 129 AND 131;
LOTS 5 TO 27 BOTH INCLUSIVE, AND LOTS 32 TO 34 BOTH INCLUSIVE, BLOCK 139;
ALL OF BLOCKS 141, 178, 179, 180;
LOTS 1 TO 22 BOTH INCLUSIVE, BLOCK 183;
ALL OF BLOCKS 187 AND 189;

Containing 1,054.49 acres, more or less

The additional real property being added to the Future Inclusion Area via this First Amendment is as follows:

THE NW1/4 OF SECTION 7, TOWNSHIP 20 SOUTH, RANGE 64 WEST OF THE 6TH P.M. IN THE COUNTY OF PUEBLO AND STATE OF COLORADO LYING WESTERLY OF COUNTY ROAD (OVERTON ROAD) EXCEPT PORTION CONVEYED TO CITY OF PUEBLO IN DEED RECORDED JULY 8, 1952 IN BOOK 1187 AT PAGE [292](#) AND EXCEPT PORTION CONVEYED TO ROBERT C. AND BARBARA BARR IN DEED RECORDED SEPTEMBER 20, 2016 UNDER RECEPTION NO. [2048608](#) AND EXCEPT THAT PORTION CONVEYED TO WILLIAM G. AND TERRI LORENZ IN DEED RECORDED SEPTEMBER 20, 2016 UNDER RECEPTION NO. [2048609](#).

LOTS 14, 15, 16 AND 17 AND LOTS 23, 24, 25, 26 AND 27, BLOCK 55, FOUNTAIN LAKE SUBDIVISION, COUNTY OF PUEBLO, STATE OF COLORADO

LOTS 15 AND 16, BLOCK 110, FOUNTAIN LAKE SUBDIVISION, COUNTY OF PUEBLO, STATE OF COLORADO

LOTS 1 TO 32, INCLUSIVE, BLOCK 185, FOUNTAIN LAKE SUBDIVISION, COUNTY OF PUEBLO, STATE OF COLORADO

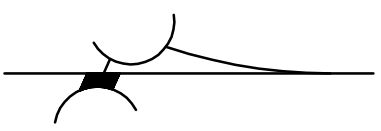
LOTS 1 TO 32 INCLUSIVE, BLOCK 181, FOUNTAIN LAKE SUBDIVISION, COUNTY OF PUEBLO, STATE OF COLORADO

EXHIBIT A-4

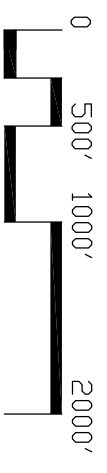
Boundary Map of the District, Financing Districts and Future Inclusion Area

This Boundary Map includes the current boundaries of the District and the Financing Districts as such boundaries existed on the date of approval of this First Amendment to the Service Plan and the amended Future Inclusion Area incorporating the additional real property being added to the Future Inclusion as described in Exhibit A-3 attached hereto.

NORTH VISTA HIGHLANDS METROPOLITAN DISTRICT

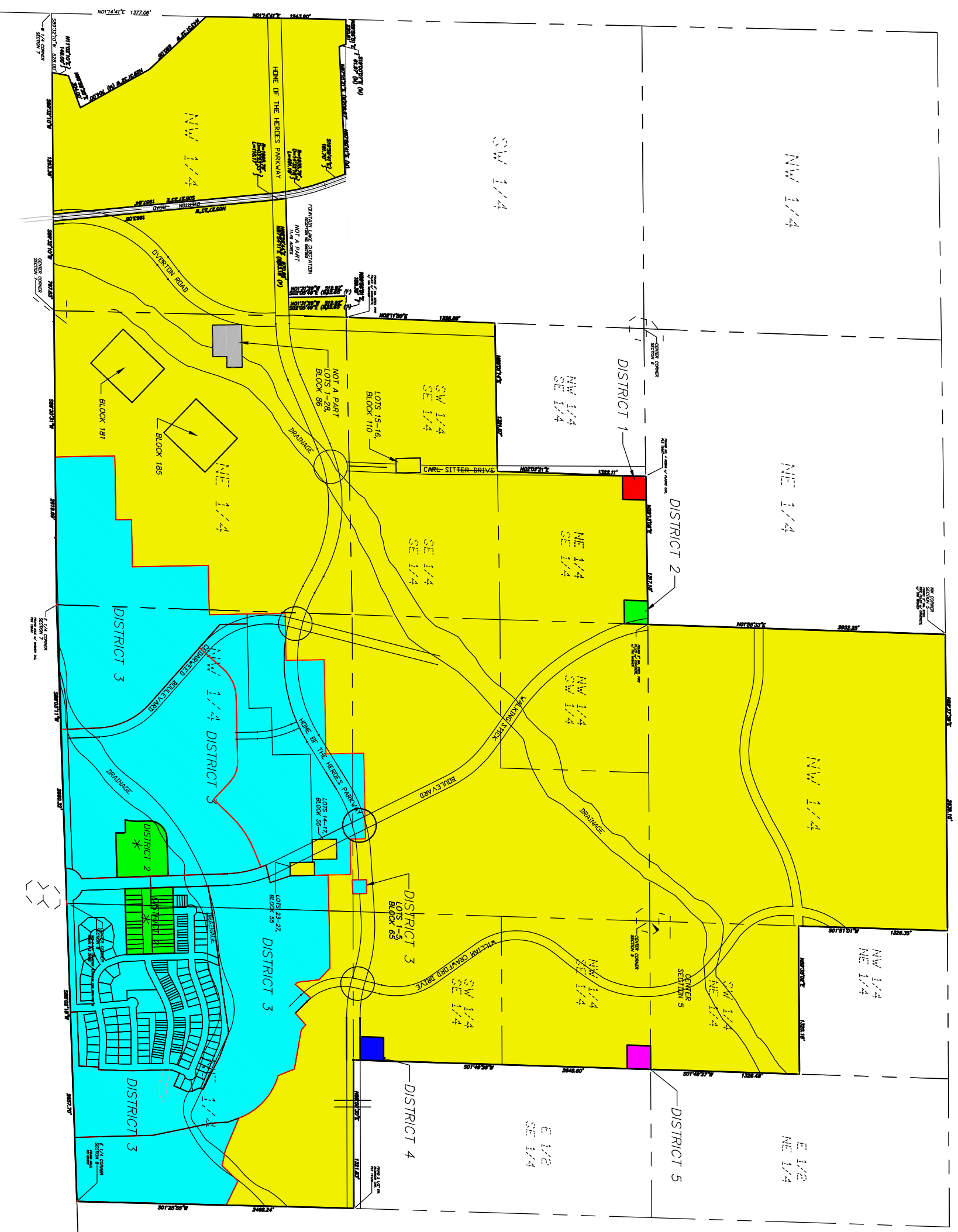


SCALE: 1" = 1,000'



LEGEND

- = DISTRICT 1 (1.00 ACRES)
- = DISTRICT 2 (11.59 ACRES)
- = DISTRICT 3 (282.38 ACRES)
- = DISTRICT 4 (1.00 ACRES)
- = DISTRICT 5 (1.00 ACRES)
- = FUTURE INCLUSION AREA (867.14 ACRES)
- = PROPERTIES INSIDE OVERALL BOUNDARY NOT A PART OF METROPOLITAN DISTRICT—NOT INCLUDED IN DISTRICTS OR FUTURE INCLUSION AREA AREAS (1.99 ACRES)
- ✱ = "AIR SPACE PARCEL" INCLUDED IN DISTRICT 3



NORTH STAR ENGINEERING AND SURVEYING		INC	
111 E. 5TH ST. PUEBLO, CO 81003		(719)544-6823 (719)544-6825 FAX	
NVH-MD DISTRICT MAP			
TITLE:	AS SHOWN	DRAWN BY:	DJA
SCALE:	03-30-2020	CHECKED BY:	MLC
DATE:	FILE: NVH-MD_district.mxd	JOB NO.:	1700902
		SHEET:	1 OF 1