

**SECOND AMENDMENT TO  
SERVICE PLAN  
FOR  
CIELO METROPOLITAN DISTRICT  
DOUGLAS COUNTY, COLORADO**

Prepared

By

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## **I. INTRODUCTION**

The Service Plan for the Cielo Metropolitan District (the “District”) was approved by the Douglas County Board of County Commissioners on September 8, 2015 (the “Service Plan”) pursuant to Resolution No. R. 015-105 recorded with the Douglas County Clerk and Recorder (the “Clerk and Recorder”) on September 9, 2015 at Reception No. 2015065257. The organizational and TABOR elections took place on November 3, 2015. The court decree organizing the District was recorded with the Clerk and Recorder on March 30, 2016 at Reception No. 2016018835.

The First Amendment to the Service Plan for the District (the “First Amendment”) was approved by the Douglas County Board of County Commissioners on January 5, 2021, pursuant to Resolution No. R-21-012 recorded with the Clerk and Recorder on January 21, 2021 at Reception No. 2021008277.

The Board of Directors of the District (the “Board”) is requesting the Douglas County Board of County Commissioners approve this Second Amendment to the Service Plan (the “Second Amendment”) to allow the Board to adjust the mill levy for the repayment of debt when there are changes in the method of calculating assessed valuation, so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted, are neither diminished nor enhanced as a result of such changes

The current Service Plan, as amended, provides *“In the event of legislation implementing changes in the ratio of actual valuation to assessed valuation for residential real property, pursuant to Article X, section 3(1)(b) of the Colorado Constitution after January 1, 2015, the mill levy limitations provided herein will be increased or decreased as to all taxable property in the District to reflect such changes so that, to the extent possible, the actual tax revenues generated by the mill levy, as adjusted, are neither diminished nor enhanced as a result of such changes (“Gallagher Adjustment”).*

As the Gallagher Amendment was repealed by Colorado voters (Amendment B) the Board is, arguably, unable to increase or decrease the mill levy limitations to account for changes in the method of calculating assessed value *“so that, to the extent possible, the actual tax revenues generated by the mill levy, as adjusted, are neither diminished nor enhanced as a result of such changes.”* The proposed amendment would clarify that the District is authorized to adjust the mill levy limitations based on changes in the method of calculating assessed valuation, even though those changes are not based on the Gallagher Amendment.

## **II. AMENDMENT**

A. Section X.C. of the Service Plan and First Amendment is amended and restated in its entirety as follows:

## **X. FINANCIAL INFORMATION**

C. Identification of District Revenue

The District will impose a mill levy on taxable property within its boundaries as a primary source of revenue for repayment of debt and for operations and maintenance. The District may also rely upon various other revenue sources authorized by law. At the District's discretion, these may include the power to assess fees, rates, tolls, penalties, or charges as provided for in C.R.S. § 32-1-1001(1), as amended.

A Maximum Total Mill Levy of 60 mills is authorized to support debt service and operations and maintenance of the District. The District may request an amendment to the Service Plan, in accordance with Section XIII, to eliminate mill levy caps when the debt to assessed value ratio falls below fifty percent (50%).

If, on or after January 1, 2015, 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 and 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 so that to the extent possible, the actual tax revenue generated by the mill levy are neither diminished nor enhanced as a result of such changes ("Mill Levy Adjustment"). For purposes of the foregoing, a change in the ratio of actual valuation and any constitutional or legislative changes in the actual value against which the assessment rate is applied shall be deemed to be a change in the method of calculating assessed valuation.

B. The term "Gallagher Adjustment" shall be replaced with the term "Mill Levy Adjustment" throughout the Service Plan.

### **III. EFFECT OF SECOND AMENDMENT; EFFECTIVE DATE.**

Except as specifically amended as set forth above, all other provisions of the Service Plan and First Amendment shall remain in full force and effect. Unless otherwise defined herein, capitalized terms shall have the meanings set forth in the Service Plan or First Amendment as applicable. To the extent there are any inconsistencies between this Second Amendment and the Service Plan or the First Amendment, this Second Amendment shall control. This Second Amendment shall be effective on the date of the effective date of the Board of County Commissioner's Resolution approving this Second Amendment.