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**FIRST AMENDMENT
TO
INTERGOVERNMENTAL AGREEMENT
BY AND BETWEEN
PARK MEADOWS METROPOLITAN DISTRICT,
PARK MEADOWS BUSINESS IMPROVEMENT DISTRICT
REGARDING
LANDSCAPE MAINTENANCE OF THE PUBLIC RIGHT-OF-WAY ADJACENT
TO THE PARK MEADOWS MALL**

This **FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT** (the "Agreement") is entered into effective as of the 31st day of March, 2012, by and between the **PARK MEADOWS METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (the "District") and the **PARK MEADOWS BUSINESS IMPROVEMENT DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (the "BID"), (collectively referred to herein as the "Parties" or each individually as a "Party").

RECITALS

WHEREAS, the District was organized pursuant to §§ 32-1-101, *et seq.*, C.R.S. for the purpose of constructing, operating and maintaining certain public facilities and improvements in accordance with its approved service plan, as amended from time to time; and

WHEREAS, the BID was organized pursuant to §§ 31-25-1201, *et seq.*, C.R.S. for the purpose of constructing, operating and maintaining certain public facilities and improvements as authorized by the ordinance creating the BID, as amended from time to time; and

WHEREAS, the District and the BID, as Colorado governments, are constitutionally and statutorily empowered pursuant to Colo. Const., Article XIV, §18 and § 29-1-201, *et seq.*, C.R.S. to cooperate or contract via intergovernmental agreement with one another to provide functions, services or facilities authorized to each cooperating government; and

WHEREAS, the District and the BID both historically maintained landscaped areas in proximity to the Parkway Meadows Mall and effective April 1, 2011 entered into an intergovernmental agreement establishing the terms and conditions by which the landscaping historically maintained by the District would thereafter be maintained by the BID (the "IGA"); and

WHEREAS, the District and the BID wish to extend the term of the IGA to December 31, 2012 and to provide for annual renewal thereafter.

JMM

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

COVENANTS AND AGREEMENTS

A. Paragraphs 2 and 3 of IGA are hereby replaced in their entirety with the following:

2. **TERM.** The term of the IGA shall be extended to 12:00 p.m. on December 31, 2012. Thereafter, the Agreement shall renew annually for up to two additional one year terms, subject to annual appropriation as provided in Paragraph 8 of the IGA, or upon termination as provided in Paragraph 5 of the IGA, whichever is first to occur.

3. **PAYMENT FOR SERVICES.** For the remainder of 2012 the District shall pay the BID a not-to-exceed annual amount of Ten Thousand Eight Hundred and Thirty Dollars and Eighty-Seven Cents (\$10,830.87) for the Services. The total amount shall be paid in nine (9) equal monthly installments of One Thousand Two Hundred Three Dollars and Forty-Three Cents (\$1,203.43) (the "Monthly Payment") regardless of the amount of specific Services provided within each monthly period so long as the Services are performed to the standards described herein. The District shall pay the Monthly Payment to the BID by the 15th of each month during the term of this Agreement unless the District notifies the BID in writing that the Services have not been provided in accordance with this Agreement and the BID has failed to cure the deficiency within five (5) business days of such notice. If such noted deficiency has not been cured or provision made for curing same within the five (5) business days following notice, the District may withhold a portion of the Monthly Payment directly attributable to the deficient performance until same is cured and shall pay the remainder of the Monthly Payment to the BID. If the deficient performance has not been cured the District may pursue its remedies provided hereunder included but not limited to termination of this Agreement. If additional work not included in the Services is requested by the District or recommended by the BID, the parties hereto shall prepare a written scope of the additional work and the charges for such work. Upon approval by the District the BID shall provide the additional work and shall invoice the District for the pre-approved amount(s). The District shall pay such amount to the BID within 30 days of invoice. If additional work recommended by the BID is not approved by the District the BID shall have no liability or responsibility for any damages or other consequences resulting from the recommended additional work not being provided.

A handwritten signature in black ink, appearing to be "J.M.M.", located in the upper right corner of the page.

B. IGA TERMS REAFFIRMED. Except as specifically amended hereby, all the terms and provisions of the Agreement shall remain in full force and effect

C. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument.

[Remainder of page intentionally left blank]

Handwritten initials

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the day and year first above written. By signature of its representatives below, each party affirms it has taken all necessary action to authorize said representative to execute this Agreement.

PARK MEADOWS METROPOLITAN DISTRICT

By: Mark Thomas
Its: Vice President

ATTEST:

Regina Pearson

STATE OF Colorado)
)
COUNTY OF Arapahoe) ss.

The foregoing instrument was acknowledged before me this 7th day of September, 2012 by Mark Thomas and _____ as Vice President and _____ of the PARK MEADOWS METROPOLITAN DISTRICT.

WITNESS my hand and official seal.

My commission expires: Aug. 19, 2014
Jill A. Neuffer
Notary Public



J.M.M.

**PARK MEADOWS BUSINESS
IMPROVEMENT DISTRICT**

By: JOHN M. MULLINS
Its: JOHN M. MULLINS
DISTRICT MANAGER

ATTEST:

STATE OF CO)
COUNTY OF DOUGLAS)

ss.

The foregoing instrument was acknowledged before me this 15 day
of OCTOBER, 2012 by JOHN MULLINS and _____
_____, as _____ and
_____ of the **PARK MEADOWS BUSINESS
IMPROVEMENT DISTRICT.**

WITNESS my hand and official seal.

My commission expires: 03-01-2015

JOSHUA JAMES HIATT
NOTARY PUBLIC
STATE OF COLORADO
MY COMMISSION EXPIRES 03/01/2015

Joshua James Hiatt
Notary Public