

## **STREETSCAPE MAINTENANCE SERVICES AGREEMENT**

### **Park Meadows Metropolitan District/ Western Standard Services Company**

**(7505 Parkway Drive - Most of Lot 1, Block 2, Parkway Subdivision Filing No. 1, 1<sup>st</sup> Amendment)**

**(Parkway Drive - Part of Lot 1, Block 2, Parkway Subdivision Filing No. 1, 1<sup>st</sup> Amendment)**

This Streetscape Maintenance Services Agreement ("Agreement"), is made this \_\_\_\_ day of \_\_\_\_\_, 2005, between the Park Meadows Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado (the "District") and Western Standard Services Company, a Colorado corporation, which is either the owner or occupant of certain real property located within the District. For purposes of this Agreement Western Standard Services Company shall hereinafter be referred to as the "Property Holder". The District and the Property Holder may be individually referred herein to as a "Party" and may be collectively referred to herein as the "Parties".

In consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The Property Holder has been providing landscape maintenance services including irrigation water to certain portions of the streetscape located within public right-of-way adjacent to the Property Holder's real property, and/or located within a portion of the Property Holder's real property adjacent to the public right of way. The location of such streetscape is generally depicted on Exhibit "A" attached hereto, and shall hereafter be referred to as the "Streetscape". The District has agreed to maintain the Streetscape, providing streetscape maintenance services as more particularly described on Exhibit "B", at District's cost ("Streetscape Maintenance Services"). The Streetscape Maintenance Services specifically exclude annual beds in and /or adjacent to the Streetscape, and the maintenance of sidewalks, curbs, masonry wall, light fixtures, signs, fences or vertical structures.

2. During the initial term or any renewal term of this Agreement, the Property Holder will continue to provide irrigation water to the Streetscape in the same general quantities as it has provided prior to the effective date of this Agreement, at its cost. In addition, the Property Holder will be primarily responsible, at its cost, for maintenance, repair, and replacement of the irrigation system that provides water to the Streetscape. The District may make minor repairs and adjustments to the irrigation system such as nozzle replacements, head alignments and clock adjustments. The District will be responsible for making any repairs to the irrigation system providing water to the Streetscape caused by the District or the District's landscape contractor. Otherwise, the Property Holder shall be responsible for major irrigation system repairs, maintenance, or replacement, including cleaning of plugged irrigation lines, relocation of portions of the irrigation system, additions to the irrigation system, locating valves, irrigation start-up in spring and winterization in fall, maintenance, repair or replacement of clocks or electrical components, and maintenance, repair, or replacement of mainlines and lateral lines.

3. If, subsequent to the effective date of this Agreement, any vegetation dies due to

insufficient irrigation water being supplied by the Property Holder, the Property Holder shall be responsible for replacing such vegetation. The Property Holder shall also be responsible for repairing and/or replacing any damage to landscape improvements or vegetation within the Streetscape, which results from any other cause such as vandalism or casualty loss. However, if such vegetation dies because of deficiencies in the Streetscape Maintenance Services provided by the District, the District will pay for the cost of replacing such vegetation. Any replacement of vegetation, whether by the District or the Property Holder, shall be in compliance with the requirements of any site plan that has been approved by the City of Lone Tree or Douglas County that includes the Streetscape. To the extent that either Party is responsible (pursuant to this paragraph) for the replacement of any vegetation that is not required by any approved site plan, such replacement shall be at the discretion of the responsible Party. To the extent that as of the effective date of this Agreement, the Streetscape is not in compliance with any landscape plan previously approved by the City of Lone Tree or the County of Douglas, the District assumes no obligation to bring the Streetscape into compliance with such approved plan. Further, the District shall have no responsibility to make any Streetscape Improvements which are required by the City of Lone Tree subsequent to the effective date of this Agreement.

4. As previously stated, certain portions of the Streetscape depicted on Exhibit "A" may not be located in the public right-of-way but may be located on an adjacent portion of the Property Holder's real property. The Property Holder hereby grants a license to the District to enter upon the Property Holder's real property for the purpose of providing the Streetscape Maintenance Services described in this Agreement.

5. The District shall require that its contractors and subcontractors comply with applicable workers' compensation insurance requirements, and maintain general liability insurance with combined single coverage limits in an amount of not less than \$1,000,000.00 per occurrence. Within 30 days of a request, the District shall furnish to the Property Holder updated certificates or memoranda of insurance demonstrating compliance with such requirements. Compliance with the provisions of this section shall in no way be construed as a waiver by the District of any constitutional, statutory, or other governmental immunity provided to the District by applicable law.

6. In consideration of the benefits provided to the Property Holder by the District hereunder, and except as otherwise provided in this Agreement, the Property Holder hereby releases the District from any claims, actions, causes of action, suits, damages, liabilities, losses, costs or expenses which arise out of or are related to the Streetscape Maintenance Services unless such claims are a result of willful acts or omissions of the District, its agents or contractors.

7. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, any person other than the Parties, any right, remedy, or claim under by reason of this Agreement and all of the covenants, terms and provisions in this Agreement shall be for the sole and exclusive benefit of the Parties.

8. The initial term of this Agreement shall begin on the date that it is fully executed by both Parties, and shall terminate on December 31, 2006. This Agreement shall be subsequently renewed for successive one-year renewal terms beginning on January 1, 2007, unless terminated or

not renewed in accordance with the following:

a. The District may terminate this Agreement on not less than three (3) months prior written notice to the Property Holder. The Property Holder may terminate this Agreement on not less than forty-five (45) days prior written notice to the District.

b. This Agreement shall terminate at the end of its initial term, or at the end of any renewal term, if the District's Board of Directors fails to appropriate funds for the succeeding renewal term sufficient to permit the District to carry out its responsibilities and obligations hereunder. In such event, the District shall endeavor in good faith to provide the Property Holder with notice of termination/non-renewal because of such non-appropriation not less than three (3) months prior to the end of the then current term. However, failure to provide such notice shall not affect the validity of the termination of this Agreement on December 31 of the then current term.

c. Any liability or obligation which either Party incurs under this Agreement prior to its termination date shall survive the termination of this Agreement.

9. Nothing contained in this Agreement shall constitute a waiver of sovereign immunity by the District under applicable Colorado law.

10. Neither Party shall be liable for failure to perform hereunder if such failure is the result of Force Majeure and any time limit expressed in this Agreement shall be extended for the period of any delay resulting from any Force Majeure. "Force Majeure" shall mean causes beyond the reasonable control of a Party such as, but not limited to, accidents, weather conditions, acts of God, strikes, work stoppages, unavailability of or delay in receiving labor or materials, faults by contractors, subcontractors, utility companies or third parties, fire or other casualty, or action of government authorities.

11. This Agreement shall inure to the benefit of, and be binding upon any successors or assigns of the Parties.

12. Each Party represents to the other that such Party has full power and authority to execute, deliver, and perform this Agreement; that the individuals executing this Agreement on behalf of said Party are fully empowered and authorized by all requisite action to do so; that this Agreement constitutes a valid and legally binding obligation of such Party enforceable against such Party in accordance with its terms; that such execution, delivery, and performance will not contravene any legal or contractual restriction binding upon such Party; and that there is no legal action, proceeding, or investigation of any kind now pending or to the knowledge of such Party threatened against or affecting such Party or the execution, delivery, or performance of this Agreement.

13. This Agreement may be signed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

14. All notices, consents or other instruments or communications provided for under this Agreement shall be in writing, signed by the Party giving the same, and shall be deemed properly given and received (a) when actually delivered and received in person, (b) on the next business day after deposit for delivery with a nationally recognized overnight carrier service during business hours on a business day; or (c) four (4) business days after deposit in the United States mail, by certified mail with return receipt requested. All such notices or other instruments shall be transmitted with delivery or postage charges prepaid, addressed to the Party at the address below or to such other address as such Party may designate by written notice to the other Party:

If to the Property Holder:

Western Standard Services Company  
5670 Greenwood Plaza Blvd., Ste. 300  
Greenwood Village, CO 80111  
Attn: Michael Mastro

If to the District:

Bob Blodgett, District Manager  
Park Meadows Metropolitan District  
c/o R.S. Wells L.L.C.  
Fiddler's Green Center, Building 1  
6399 South Fiddler's Green Circle, Suite 102  
Greenwood Village, Colorado 80111-4974

With a copy to:

Ernest F. Fazekas II, Legal Counsel  
Folkestad Fazekas Barrick & Patoile, P.C.  
18 S. Wilcox Street, Suite 200  
Castle Rock, Colorado 80104


Either Party by written notice so provided may change the address to which future notices shall be sent.

IN WITNESS WHEREOF, each Party has executed this Agreement.


**[THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY]**

PROPERTY HOLDER:

WESTERN STANDARD SERVICES COMPANY,  
a Colorado corporation

By:   
Name: Michael E Mastro  
Title: General Manager  
Date: 8-9-06

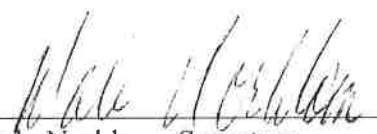
ATTEST:

By:   
Name: Sandra Elias  
Title: Assistant  
Date: 1.9.2006

PARK MEADOWS METROPOLITAN DISTRICT,  
a quasi-municipal corporation and political  
subdivision of the State of Colorado

By:  Date: 9/27/05  
Douglas A. MacGregor, President

ATTEST:

By:   
Dale Norblom, Secretary

**EXHIBIT A**  
**STREETSCAPE**



VICINITY MAP  
SCALE 1" = 2000'

TOTAL PARKING SPACES = 48 SPACES  
PARKING STALLS ARE TYPICALLY 9'x16'

BUILDING COVERAGE = 6,887 S.F.  
FUTURE BUILDING COVERAGE = 5,760 S.F.  
TOTAL BUILDING COVERAGE = 12,647 S.F. = 14.1%  
TOTAL PAVING = 56,179 S.F. = 62.4%  
OPEN SPACE = 21,138.4 S.F. = 23.5%  
TOTAL LAND AREA = 89,964.4 S.F. = 100%

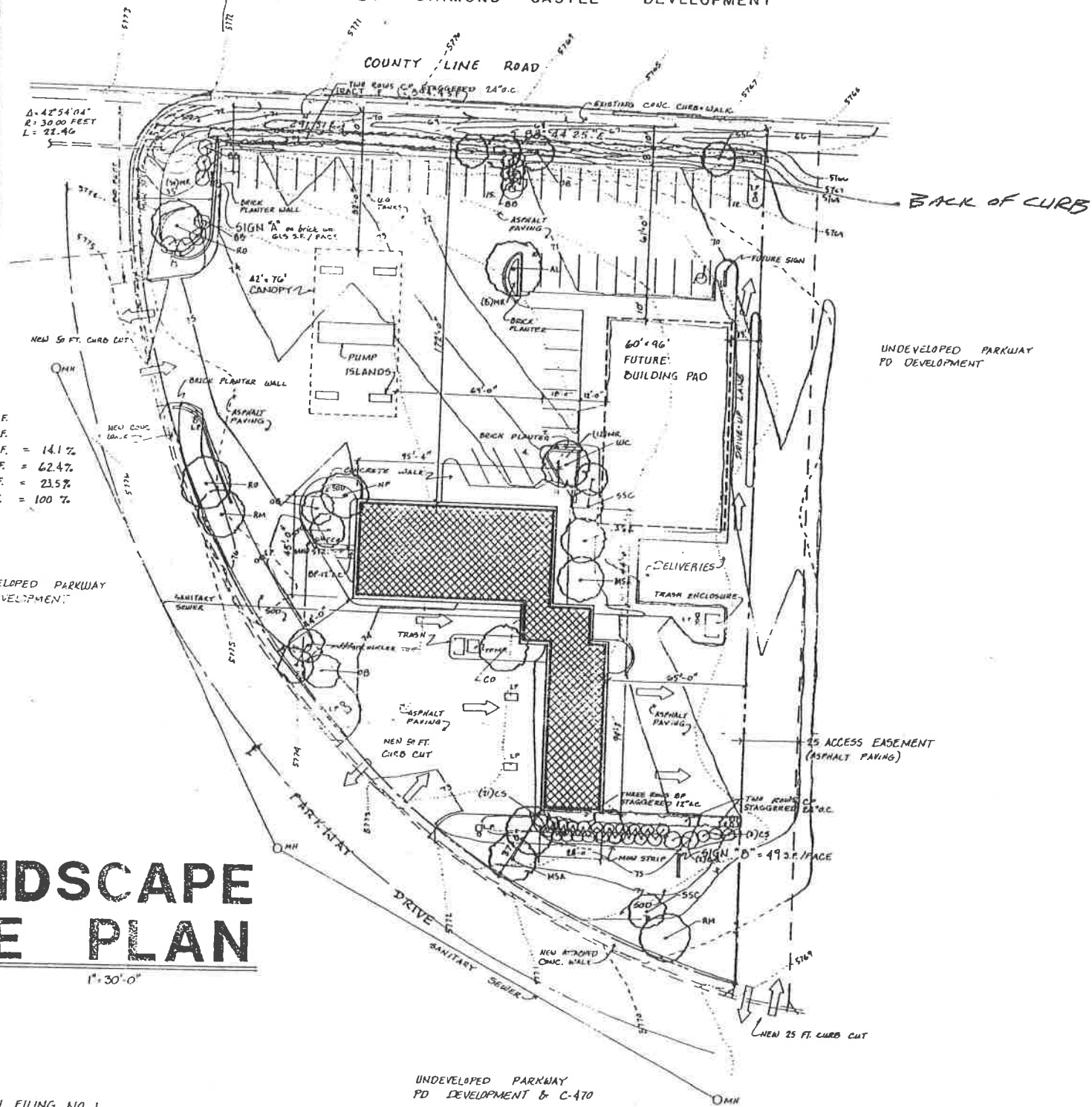
LIGHT POLES (OHLPS) ARE TYPICALLY 20FT. MAX.

UNDEVELOPED PARKWAY  
PD DEVELOPMENT

ARAPAHOE COUNTY - COMMERCIAL DEVELOPMENT (SAFEWAY CENTER)

# AMOCO STATION

BY DIAMOND CASTLE DEVELOPMENT



## LANDSCAPE SITE PLAN

SCALE 1" = 30'-0"

**LEGAL DESCRIPTION:**

LOT 1, BLOCK 2, PARKWAY SUBDIVISION FILING NO. 1  
A PART OF THE NORTH 1/2 OF SECTION 4, T6S, R67W  
OF THE 6th P.M., COUNTY OF DOUGLAS, STATE OF COLORADO

**NOTES:**

1. LANDSCAPING SHALL BE PLANTED AND MAINTAINED IN A NEAT, CLEAN AND HEALTHY CONDITION BY THE OWNER. THIS SHALL INCLUDE PROPER PRUNING, MOWING OF LAWNS, WEEDING, REMOVAL OF LITTER, AND THE REGULAR WATERING OF ALL PLANTINGS. SHOULD ANY PLANT MATERIALS DIE, THE OWNER OR HIS ASSIGNS OR HEIRS SHALL BE RESPONSIBLE FOR THE PLANT REPLACEMENT WITHIN ONE PLANTING SEASON AND IN CONFORMANCE WITH THE LANDSCAPE MATERIAL REQUIREMENTS SET FORTH BY THIS PLAN, OR ALTERNATIVE MATERIAL ACCEPTABLE TO THE COUNTY.

UNDEVELOPED PARKWAY  
PD DEVELOPMENT & C-470

**PLANTING SCHEDULE**

Symbol	Botanical Name	Common Name	Size
SSC	-MALUS SPRING SNOW	-SPRING SNOW CRAB	1 1/2"
MSA	-FRAXINUS PENNSYLVANICA	LAN. - MARSHALL'S ASH	2 1/2"
DO	-EUONYMUS ALATUS COMPACTA	-COMPACT BURNING BUSH	5 GAL.
RM	-ACER RUBRUM	-RED MAPLE	2"
CS	-CORTADERIA SELLOANA	-WHITE PAMPAS GRASS	1 GAL.
ASA	-ACER SACCHARINUM	-SILVER MAPLE	2 1/2"
CO	-CELTIS OCCIDENTALIS	-HACKBERRY	1 1/2"
WC	-CATALPA SPECIOSA	-WESTERN CATALPA	2"
NP	-PRUNUS AMERICANA 'NEWPORT'	-NEWPORT PLUM	1 1/2"
OB	-AESCULUS GLABRA	-OHIO BUCKEYE	2"
AL	-TILIA AMERICANA	-AMERICAN LINDEN	2 1/2"
CP	-QUERCUS DOREALIS	-NORTHERN RED OAK	2 1/2"
RP	-LIGUSTRUM VULGARE 'CHEYENNE'	-CHEYENNE PRIVET	2 1/2"
MR	-MAHONIA REPENS	-REDBERRY MAHONIA	1 GAL.

**LANDSCAPE SPECIFICATIONS & NOTES**

- Plant material quality shall comply with the current A.A.H. Standards for nursery stock. Plants shall meet or exceed sizes specified. All trees shall have well branched tops with reasonably straight well developed single leaders, unless otherwise specified in the plant list. The landscape Architect reserves the right of refusing to accept plant material of inferior quality.
- Planting pits shall be dug with a diameter twice the diameter of the ball or root spread of the plant; they shall be dug 1/2 deeper than the root system of the plant. Planting pits shall be backfilled with a uniform mixture of excavated soil and ground mountain peat moss used:
  - 1 cu. ft. of peat moss per 5 gallon container or small container plant;
  - 2 cu. ft. of peat moss per B & B Shrub or per evergreen tree less than 6' high;
  - 4 cu. ft. of peat moss per deciduous tree, 2'-3' caliper, or evergreen tree, 6'-10' high;
  - 6 cu. ft. of peat moss per shade tree of 3'-4' caliper, or evergreen tree 10'-12' high.
- All plants shall be fertilized at the time of planting with 21 gram agriform slow release fertilizer tablets 20-10-5 in accordance with the quantities recommended. Tablet shall be placed in the backfill mixture below grade.
- Trees shall be guyed (or staked) to the extent necessary to keep them in plumb position until the tree is established. If stakes are used they shall be 2"x2"x6" wood stakes (or poles), or 6" steel fence posts (shop painted with a coat of black oil base paint). Wire loops at the trunk shall be encased in 1/2" rubber hose.
- Trunks of all deciduous trees with more than 2" caliper, except salk or populus species, shall be wrapped with an approved tree wrap spirally from the ground to the height of the second branch. Wrapping shall be secured to the trunk in an acceptable manner.
- Landscaping will be maintained and watered by an automatic sprinkler system.

THIS SITE PLAN HAS BEEN REVIEWED AND FOUND TO BE COMPLETE AND IN ACCORD WITH THE GOVERNING DOUGLAS COUNTY REGULATIONS.

(signature) BUILDING DEPARTMENT, DIRECTOR \_\_\_\_\_ DATE \_\_\_\_\_

(signature) FIRE DISTRICT, REPRESENTATIVE \_\_\_\_\_ DATE \_\_\_\_\_

(signature) HIGHWAY DEPARTMENT, DIRECTOR \_\_\_\_\_ DATE \_\_\_\_\_

(signature) PLANNING DEPARTMENT, COUNTY REFERRAL GROUP COORDINATOR \_\_\_\_\_ DATE \_\_\_\_\_

(signature) DOUGLAS COUNTY ENGINEER \_\_\_\_\_ DATE \_\_\_\_\_

AMOCO STATION  
FOR WESTERN PUMP-IT, INC.

Prepared By:  
B.P.T. ARCHITECTS, P.C.  
ACADEMY PLACE #205  
7533 WEST JEFFERSON AVE.  
LAKEWOOD, COLORADO 80113  
(303) 980-0997  
Date Prepared: JUNE 12, 1986

PMMD  
#5/#6



**EXHIBIT B**  
**STREETSCAPE MAINTENANCE SERVICES**  
*(28 - week period: April 1 through October 15, 2006*  
*plus winter policing Jan., Feb., March, Nov., Dec.)*  
**FOR PMMD**

<b><u>Turf</u></b>	<b><u>Times/Year</u></b>
Mowing	28
Edging Walks	14
Edging Curbs	7
Pre-Emergent Weeds	2
Fertilizing	3
Broadleaf Weeds	2
Thatch Removal	as needed
Aeration	2
<b><u>Trees/Shrubs/Bed Weeds</u></b>	
Pruning (trees under 12' and shrubs)	2
Arbor Care inspection and report	2
Mulch	per quote
Growth Inhibitor	as needed
Pre-Emergent Weeds	2
Post-Emergent Weeds/Spot Treatment	as needed
<b><u>Irrigation Systems</u></b>	
Inspection (visual)	weekly
Winterization	N/A
Spring Mobilization	N/A
<b><u>Miscellaneous</u></b>	
Ground Policing (summer)	weekly
Ground Policing (winter)	weekly
Leaf Removal	1
Deep Root Watering	per quote