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INTERGOVERNMENTAL AGREEMENT FOR OPERATIONAL COST SHARING

THIS INTERGOVERNMENTAL AGREEMENT FOR OPERATIONAL COST SHARING ("IGA") is made and entered into this 15th day of September, 2023, to be effective January 1, 2024, by and between the FIRST AND MAIN NORTH BUSINESS IMPROVEMENT DISTRICT ("FMNBID") and FIRST AND MAIN BUSINESS IMPROVEMENT DISTRICT NO. 2 ("FMBID No. 2") (each a "District" and collectively the "Districts").

RECITALS

A. The Districts are authorized to contract with one another pursuant to Section 29-1-201, *et seq.*, C.R.S., and Article XIV, Section 18(2)(a) of the Colorado Constitution.

B. The Districts were formed by the City of Colorado Springs (the "City") in accordance with the Business Improvement District Act, Section 31-25-1201 *et seq.*, C.R.S. (the "Act") and have operated in accordance with their respective Operating Plans and enacting ordinances.

C. The Districts serve the same general geographic area and have a mutual interest and need in regard to operating the Districts as efficiently as possible to maximize the benefit to the constituents in each District.

D. The Districts desire to share in the costs of operating the Districts and maintaining the public improvements in a like manner so as to keep such costs as low as possible and to minimize duplicative effort by the Districts (the "Operation and Maintenance Costs").

E. The Districts' Operating Plans, as the same were approved by the City, allow for cooperation between the Districts for operations and maintenance efforts and cost sharing as contemplated in this IGA.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein, and other good and valuable consideration, the adequacy of which is hereby acknowledged, the Districts agree as follows:

1. Purpose. The purpose of this IGA is to establish the means for sharing of the Operation and Maintenance Costs between the Districts.

2. Description of Operation and Maintenance Costs. The Operation and Maintenance Costs to be cooperatively funded by the Districts pursuant to this IGA shall be those costs incurred by the Districts for general operation of the Districts including accounting,

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legal, management and other consultant or administrative costs along with all required maintenance activities as required by the Districts within the combined boundaries of the Districts as same may be amended from time to time. Operation and Maintenance Costs shall not include infrastructure construction costs or bond financing costs of issuance or bond repayment obligations of individual Districts.

3. Payment of Operation and Maintenance Costs. The Districts expressly intend that the funds necessary for the Operation and Maintenance Costs shall be derived between and among the Districts by the imposition of the 1 mill currently assessed by each District within its boundaries. Each District agrees to continue to impose the 1 mill, as may be adjusted in any given year to align with the mill levy cap set forth in the Operating Plans, upon all property within its boundaries for the duration of this IGA. If either of the Districts does not impose the mill levy as required herein, for any reason in any year, this IGA may be terminated by either or both of the Districts without recourse or penalty. Upon receipt of the funds from the operational mill levy, FMNBID shall transfer the total amount of operational mill levy receipts to FMBIDNo.2.

4. Operation and Maintenance Activities. Upon execution of this IGA, all Operation and Maintenance Costs invoiced or billed to any of the Districts shall be given to FMBIDNo.2 for payment and handling. Each District shall cooperate in hiring consultants and contractors for operations and maintenance services to maximize efficiency; however, FMBIDNo.2 shall be solely responsible for hiring and contracting with said contractors for all operations and maintenance services for the Districts.

5. Debt. Nothing in this IGA shall be deemed as creating a multi-fiscal year obligation by any of the Districts or a debt as defined in Article X, Section 20 of the Colorado Constitution.

6. Assignability. This IGA may not be assigned or delegated without the prior written consent of the Districts.

7. Relationship of the Districts. By executing this IGA, the Districts shall not be deemed to assume any liability for intentional or negligent acts, errors, or omissions of the other Districts, or any officer or employee thereof.

8. No Third Party Beneficiaries. Nothing in this IGA is intended to create or grant to any third party or person any right or claim for damages or the right to bring or maintain any action at law.

9. Non-waiver of Rights. No waiver of default by the Districts of any of the terms, covenants and conditions hereof to be performed, kept and observed by the other District shall be construed or shall operate as a waiver of any subsequent default of any of the terms, covenants or conditions herein contained.

10. Severability. If any provision of this IGA is held to be illegal, invalid or unenforceable under present or future laws effective during the term of this IGA, then the legality, validity and enforceability of the remaining provisions of this IGA will not be affected thereby; and in lieu of each such illegal, invalid or unenforceable provision, there will be added

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automatically as a part of this IGA a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and which will be legal, valid and enforceable.

11. Integration. This IGA is intended as the complete integration of all understandings between the Districts and constitutes the entire agreement between the Districts with respect to the subject matter herein. No prior or contemporaneous addition, deletion or other amendment to this IGA shall have any force of effect, unless embodied herein in writing.

12. Modification. Modification or waiver of this IGA or any covenant, condition or provisions herein shall not be valid unless in writing and duly executed by the Districts.

13. Captions. The headings, sections and paragraphs herein are included only for convenience and reference. If any conflict between any heading and the text of this IGA exists, the text shall control.

14. Indemnification. To the extent allowable by law, the Districts agree that each shall indemnify the others, their officers, employees and agents from and against any claim, damages, losses or expenses which are the result of negligent acts or omissions from their respective officers, employees or agents in connection with this IGA.

15. Governing Law and Jurisdiction. This IGA and all disputes arising hereunder shall be governed by the laws of the State of Colorado, and the Districts agree that the venue and jurisdiction over any claim arising from this IGA shall lie in the District Court of El Paso County.

16. Term. This IGA may be terminated at any time by any of the Districts upon 60 days' written notice to the remaining Districts.

17. Notice. Any written notice required by this IGA shall be deemed delivered on the happening of any of the following: (1) hand delivery to the persons at the addresses below; (2) delivery by facsimile with confirmation of receipt to the fax number below (to be followed by the mailing of a copy of said notice); or (3) within three (3) days of being sent certified, first class mail, postage prepaid, return receipt requested addressed as follows:

FMNBID:
First and Main North Business Improvement District
c/o Spencer Fane LLP
1700 Lincoln Street, Suite 2000
Denver, CO 80203
Attn: Russell W. Dykstra
Fax: (303) 839-3838
Phone: (303) 839-3800

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FMBID No. 2: First and Main Business Improvement District No. 2
c/o Spencer Fane LLP
1700 Lincoln Street, Suite 2000
Denver, CO 80203
Attn: Russell W. Dykstra
Fax: (303) 839-3838
Phone: (303) 839-3800

Each District shall have the right, by giving written notice to the other District, to change the address at which its notices are to be received.

18. Counterparts. This IGA may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document.

Made and entered into as of the date first written above.

FIRST AND MAIN NORTH BUSINESS IMPROVEMENT DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado

By: DocuSigned by: Timothy Seibert F9387EC0B99F48F...
Timothy Seibert, President

Attest: DocuSigned by: David Jenkins 5B54775D758F4FF...
Secretary

FIRST AND MAIN BUSINESS IMPROVEMENT DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado

By: DocuSigned by: Timothy Seibert F9387EC0B99F48F...
Timothy Seibert, President

Attest: DocuSigned by: David Jenkins 5B54775D758F4FF...
Secretary