

FIRST AMENDMENT TO LOAN AGREEMENT

THIS FIRST AMENDMENT TO LOAN AGREEMENT (the "Amendment") is made and entered into effective this ___ day of _____, 20__ (the "Effective Date"), by and between CITY OF COMMERCE CITY, COLORADO, a home rule municipality whose address is 7887 East 60th Avenue, Commerce City, CO 80022 ("Lender"), BUFFALO HIGHLANDS METROPOLITAN DISTRICT, ADAMS COUNTY, COLORADO ("Borrower" or "District"), and BUFFALO HIGHLANDS, LLC, a Colorado limited liability company whose principal business address is 222 Milwaukee Street, Suite 300, Denver, CO 80206 ("Property Owner").

WHEREAS, the parties desire to amend that certain Loan Agreement dated July 19, 2013, relating to the provision by Lender of financing for a public improvements project involving 96th Avenue within Commerce City, Colorado (the "Loan Agreement"), which made available to District a term loan in the maximum principal amount of Five Million Five Hundred Thousand dollars (\$5,500,000.00) (the "Loan");

WHEREAS, the parties desire to increase the Loan by Six Hundred Eighty Thousand dollars (\$680,000.00) (the "Additional Loan Funds") to a total principal amount of Six Million One Hundred Eighty Thousand dollars (\$6,180,000.00); and

WHEREAS, the Agreement provides that any such amendments must be in writing and by mutual agreement of the Parties.

NOW, THEREFORE, the parties agree as follows:

1. Amendments. The Loan Agreement is hereby amended as follows:

a. The first paragraph is amended to add Buffalo Highlands, LLC, as a party, and shall read as follows:

This **LOAN AGREEMENT** (this "Agreement") is made and entered into as of July 19, 2013, by and between **BUFFALO HIGHLANDS METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (the "District"), **THE CITY OF COMMERCE CITY, COLORADO**, a home rule city and political subdivision of the State of Colorado, in its capacity as lender (the "Lender"), and **BUFFALO HIGHLANDS, LLC**, a Colorado limited liability company whose principal business address is 222 Milwaukee Street, Suite 300, Denver, CO 80206 ("Property Owner").

b. In the sixth (6th) "Whereas" clause, the amount of \$5,500,000.00 is hereby amended to read "\$6,180,000.00".

c. The following definitions in ARTICLE I are hereby amended to read as follows:

"Authorizing Resolution" means the resolutions adopted by the Board on July 16, 2013, and _____, 201____, authorizing the District to enter into the Loan and execute and deliver the Notes, this Agreement, and any other necessary and required related documents

"Loan" means the loan made by the Lender to the District in the maximum principal amount of \$6,180,000.00 as evidenced by the Notes and made in accordance with the terms and provisions of this Agreement.

"Loan Amount" means an amount not to exceed Six Million One Hundred Eighty Thousand and 00/100 U.S. Dollars (\$6,180,000.00).

“Notes” means the Buffalo Highlands Metropolitan District Promissory Note, Series 2013, evidencing the Loan issued in the original maximum principal amount of \$5,500,000.00, from the District, as maker, to the Lender, as payee (sometimes referred to hereinafter as the “First Note”); and the Buffalo Highlands Metropolitan District Promissory Note, Series 2014, evidencing the Loan issued in the additional principal amount of \$680,000.00, from the District, as maker, to the Lender, as payee (sometimes referred to hereinafter as the “Second Note”).

- d. Except where referred to as the “First Note” or the Second Note,” every instance in the Loan Agreement in which the singular term “Note” appears shall be amended to the plural “Notes”.
 - e. In Section 2.01(a), the amount of \$5,500,000.00 is hereby amended to read “\$6,180,000.00”.
 - f. Section 2.04 is hereby amended with the addition of a new subsection (i) to read as follows:
 - (i) Property Owner hereby agrees to guarantee the amount of the Second Note and to execute the necessary documents for placement by the Lender of a lien in favor of the Lender upon each of Parcels identified E, F & G in the “Buffalo Highlands PUD Zone Document” on file with the Lender and dated July 20, 2005, in the amount of Six Hundred Eighty Thousand dollars (\$680,000.00), such lien to be released only upon full payment and satisfaction of the Second Note. Property Owner expressly agrees that completion of the Project, and in particular the planned improvements to 96th Avenue, will convey a direct benefit to Property Owner’s adjacent property and that such benefit constitutes sufficient consideration to Property Owner for the guarantee contained in this subsection. Notwithstanding the foregoing, the District’s obligations as set forth in this Agreement shall continue as to the full Loan amount.
 - g. The former subsection (i) to Section 2.04 shall be renumbered as a new subsection (j) to Section 2.04.
2. Remainder of Agreement in Full Force and Effect. All other provisions of and exhibits to the Agreement not expressly modified hereby shall remain unchanged and in full force and effect.
 3. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original and all such counterparts taken together shall be deemed to constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the Effective Date.

CITY OF COMMERCE CITY

Brian K. McBroom, City Manager

ATTEST:

Laura J. Bauer, CMC, City Clerk

Approved as to form:

Gregory D. Graham, Assistant City Attorney

Recommended for approval:

Maria D'Andrea, Director
Department of Public Works

Roger Tinklenberg, Director
Department of Finance

**BUFFALO HIGHLANDS METROPOLITAN
DISTRICT**

By _____
President

[SEAL]

Attest:

By _____
Secretary