

**FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF COMMERCE CITY AND
THE REGIONAL TRANSPORTATION DISTRICT
REGARDING ARTWORK FOR THE NORTH METRO RAIL LINE**

THIS FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT (this “**First Amendment**”) is made and entered into as of _____, 2021 (the “**Effective Date**”) between the REGIONAL TRANSPORTATION DISTRICT, a political subdivision of the State of Colorado (“**RTD**”) and the **CITY OF COMMERCE CITY**, Colorado, a Colorado home rule municipality (the “**City**”). RTD and the City are each a “Party” and collectively, the “Parties.”

WHEREAS, The Parties made and entered into that certain Intergovernmental Agreement, dated March 27, 2020 (the “**Original Agreement**”).

WHEREAS, Section 7 of the Original Agreement permits amendments in writing executed by both Parties.

WHEREAS, the Parties now desire to amend the Original Agreement.

AGREEMENT

For and in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Capitalized Terms. Capitalized terms shall have the meanings set forth in the Original Agreement unless otherwise indicated herein or in the recitals hereto.

2. Amendment of Section 3.b. of the Original Agreement. Section 3.b.i. is hereby replaced with the following:

b. Ownership, Location and Maintenance of Art Pieces:

- i. RTD will own the Art Pieces. RTD will accept ownership upon completion of the Art Pieces’ installation. The artist and/or City contractor will inform RTD in writing when the installation is complete.

3. Replacement of Exhibit B to the Original Agreement. Exhibit B of the Original Agreement is hereby replaced with the attached Exhibit B.

4. Amendment of Section 3.e. of the Original Agreement. Section 3.e. is hereby replaced with the following:

e. Art Selection and Criteria:

- i. The City was responsible for all artist selection, committee approvals, contracting, inspection, coordination, oversight, and payment to

commissioned artists for the Art Pieces funded through this IGA, as well as the selection of and payment to commissioned artists for the PCS Wraps funded through this IGA. In accordance with the City's process for choosing public art, the City has selected an artist for the Art Pieces.

ii. To the extent in compliance with existing law, the City agrees to the following RTD guidelines in selection of images in the artwork: No obscenity, no illegal activity, no advertising of commercial products, no promotion of political viewpoints, and no promotion of tobacco or marijuana products.

iii. The City will contract with the artist selected by the City and include a provision in such contract requiring the artist to use material for the Art Pieces that is designed to be corrosion resistant such as stainless steel or galvanized mild steel, with a life of 30 years for wear and tear. In addition, any paint system for the Art Pieces must be designed to provide a minimum 15-year limited warranty from loss of shade or shine, such as the Tnemec brand paint system.

iv. The materials and the coatings used for and the general size of and location of the Art Piece is subject to RTD's approval, which approval is hereby provided and acknowledged. If any materials, coatings or the size of the Art Piece changes, such changes will also be subject to RTD's prior written approval, which will not be unreasonably withheld

5. Amendment of Section 3.f. of the Original Agreement. Section 3.f.iv. is hereby replaced with the following:

f. Payments and Reimbursements

iv. The City shall submit all reimbursement requests no later than December 31, 2021. If installation of the Art Pieces is not completed by December 31, 2021, due to no fault of the City, the City will be entitled to reimbursement from RTD for any funds the City expended in reliance of this IGA, subject to the cumulative funding caps set forth in paragraph 3.a.

6. Amendment of Section 3.g. of the Original Agreement. Section 3.g. is hereby replaced with the following:

g. As of the date of this First Amendment, the PCS Wraps are installed. The Parties agree that the installation of the Art Pieces will be complete by July 1, 2021; provided that if the City's selected artist cannot acquire the materials necessary to complete the Art Pieces by such date, or if either the principal artist, any of the artist's suppliers, or assistants must quarantine and/ or recover from COVID-19 and no other supplier is available to fulfill the items needed to manufacture the Art Pieces, the City will inform RTD in writing and the installation of the Art Pieces will be completed by December 31, 2021.

7. Miscellaneous

a. Counterparts and Execution. This First Amendment may be executed in counterparts. Signatures on separate originals will constitute and be of the same effect as signatures on the same original. Electronic, digital, and faxed signatures will constitute original signatures.

b. Original Agreement in Full Force and Effect. Except as amended by this First Amendment, the Original Agreement is in full force and effect in accordance with its terms and all other terms remained unchanged.

[SIGNATURE PAGE[S] FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the date first set forth above.

CITY OF COMMERCE CITY

Benjamin A. Huseman, Mayor

ATTEST:

Dylan Gibson, City Clerk

APPROVED AS TO FORM:

Sarah L. Geiger, Senior Assistant City Attorney

THE REGIONAL TRANSPORTATION DISTRICT,
a political subdivision of the State of Colorado

By: _____
Henry J. Stoppolecamp, P.E., AGM, Capital Programs
Date: _____

APPROVED AS TO LEGAL FORM:

By: _____
Aimée Beckwith, Associate General Counsel
Date: _____