

**AGREEMENT
FOR OPERATIONAL COST SHARING**

THIS AGREEMENT FOR OPERATIONAL COST SHARING ("Agreement") is made and effective this 7th day of August, 2018, by and between the CONCORD METROPOLITAN DISTRICT ("District") and CONCORD BUSINESS CENTER OWNERS' ASSOCIATION ("Association").

RECITALS

A. The District owns certain roadway and drainage improvements located within the Concord Business Center as further described in **Exhibit A**, attached hereto and incorporated herein ("Improvements").

B. The District and the Association serve the same general geographic area and have a mutual interest and need in regard to operating the Association improvements and the Improvements as efficiently as possible to maximize the benefit to the constituents of the Association and the District.

C. The Association contracts for certain road maintenance, replacement and operation services for the roadways that belong to Association and the District desires to work with the Association to provide the maintenance, replacement and operation for the Improvements in a like manner so as to keep such costs as low as possible and to minimize duplicative effort by the District and Association (the "Operation and Maintenance Costs").

D. The District Service Plan and the Special District Act (Title 32-1-101, *et seq.*, C.R.S., allow for the District to contract with the Association for operations and maintenance efforts and cost sharing as contemplated in this Agreement.

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 parties agree as follows:

1. Purpose. The purpose of this Agreement is to establish the means for sharing of the Operation and Maintenance Costs between the District and Association.
2. Description of Operation and Maintenance Costs. The Operation and Maintenance Costs to be cooperatively funded by the Association and the District pursuant to this Agreement shall be those costs incurred by the Association for general operation and maintenance of the Improvements including all soft costs, snow removal, patching, sealing, asphalt replacement and other required maintenance activities as would be normally required by the Association for its own roadway improvements. The District's share of the Operation and

Maintenance costs is to be 18.39% of the total costs incurred by the Association for these activities ("District Share").

3. Payment of Operation and Maintenance Costs. The District expressly intends that the funds necessary for the District Share shall be derived by the imposition of the District's currently assessed operations mill levy or other available District funds. The Association will invoice the District each November 1st for the following year's estimated District Share with a reasonable amount of detail describing the general categories of operation and maintenance activities anticipated to be undertaken. On or before November 1 of each year, the Association shall provide a reconciled invoice showing the operations and maintenance activities actual cost for that year, the balance of the replacement reserve and any other items related to the Improvements. If the actual costs are in excess of the District Share paid for that year, the District shall pay the Association such amount with the following year's District Share amount. If the actual costs are less than the District Share paid for that year, the District shall be credited that amount on the following year's District Share invoice.

4. Operation and Maintenance Activities. Upon execution of this Agreement all Operation and Maintenance Costs shall be paid by the Association. The Association shall be soleley responsible for contracting and hiring such parties as are necessary for the operation and maintenance of the Improvements.

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

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

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

8. No Third Party Beneficiaries. Nothing in this Agreement 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 parties of any of the terms, covenants and conditions hereof to be performed, kept and observed by the other party 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 Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, then the legality, validity and enforceability of the remaining provisions of this Agreement will not be affected thereby; and in lieu of each such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Agreement 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 Agreement is intended as the complete integration of all understandings between the parties and constitutes the entire agreement with respect to the subject matter herein. No prior or contemporaneous addition, deletion or other amendment to this Agreement shall have any force of effect, unless embodied herein in writing.

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

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 Agreement exists, the text shall control.

14. Governing Law and Jurisdiction. This Agreement and all disputes arising hereunder shall be governed by the laws of the State of Colorado, and the parties agree that the venue and jurisdiction over any claim arising from this Agreement shall lie in the District Court of Douglas County.

15. Term. This Agreement may be terminated at any time by either of the parties upon 60 days' written notice to the other party. Upon termination, the Operation and Maintenance Costs incurred to date by the Association shall be invoiced with the remaining balance of that year's District Share returned to District along with all amounts accrued by Association for capital replacement funding.

16. Notice. Any written notice required by this Agreement 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:

District: Concord Metropolitan District
 c/o CliftonLarsonAllen LLP
 8390 E Crescent Parkway, Suite 300
 Greenwood Village, CO 80111
 Attn: Bob Blodgett
 (303) 779-4525

With copy Spencer Fane Britt & Browne LLP
to: 1700 Lincoln Street, Suite 2000
 Denver, CO 80203
 Attn: Russ Dykstra
 Fax: (303) 839-3838
 Phone: (303) 839-3800

Association: Concord Business Owners Association
c/o IBC Holdings
1153 Bergen Parkway
Suite I454
Evergreen, CO 80439

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

[This space left intentionally blank The signature pages follow].

17. Counterparts. This Agreement 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.

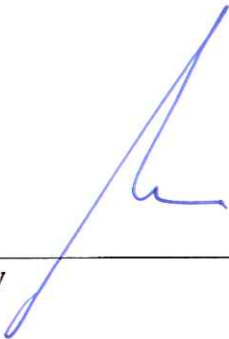
CONCORD METROPOLITAN DISTRICT,
a quasi-municipal corporation and political
subdivision of the State of Colorado

By: 

President

Attest:

Secretary



Secretary

**Concord Business Center Owners
Association**

By: 

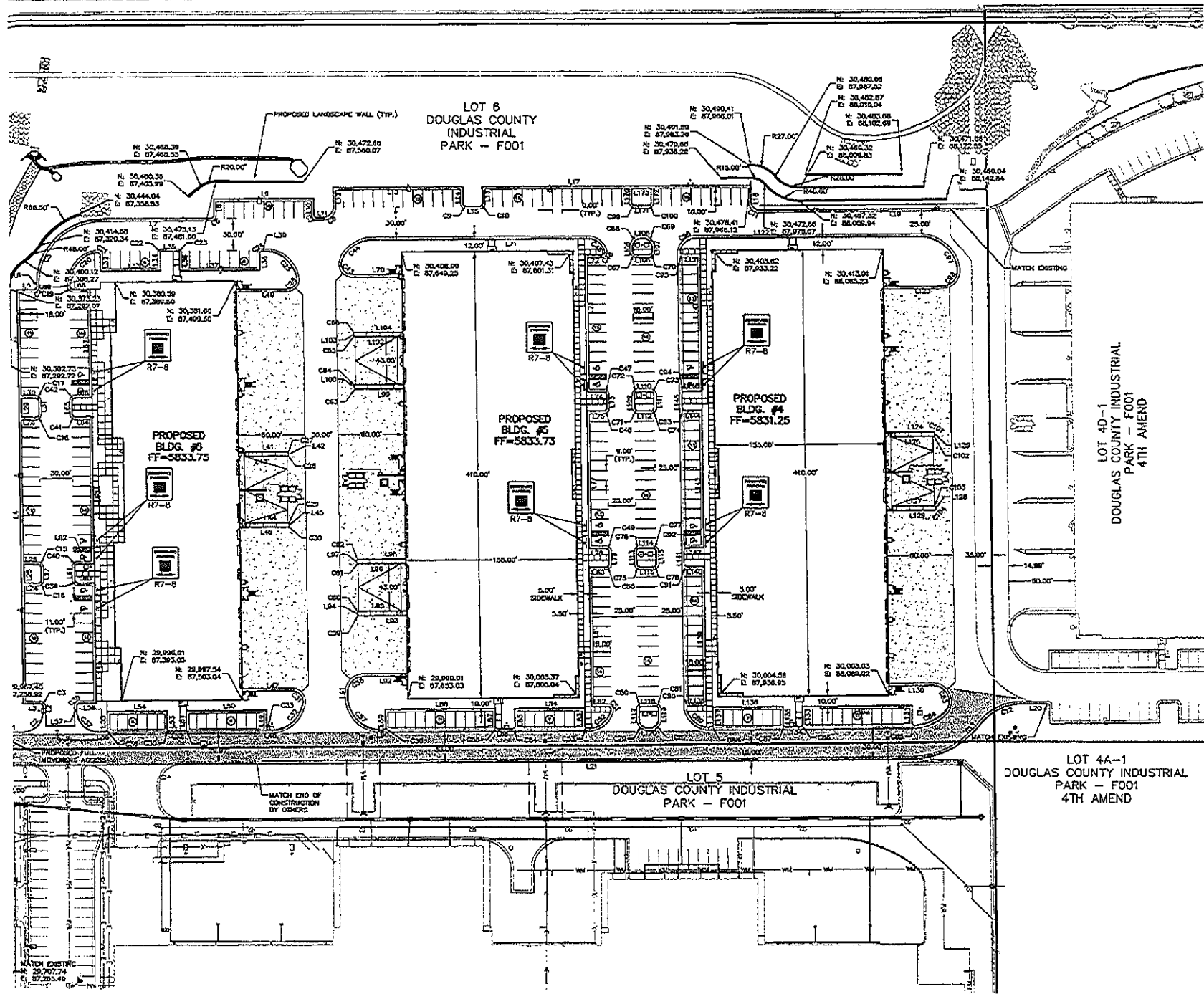
Its: PRESIDENT

EXHIBIT A

IMPROVEMENTS

JAMES E. CASEY AVENUE

LOT 6
DOUGLAS COUNTY
INDUSTRIAL
PARK - F001



NOTES:

- 1) ALL DIMENSIONS ARE TO FLOWLINE UNLESS
- 2) ALL HANDICAP RAMPS SHALL BE CONSTRUCTED WITH DETECTIBLE WARNING PADS, REFERENCE DET
- 3) CONTRACTOR SHALL FIELD VERIFY EXISTING TO CONSTRUCTION, NOTIFY ENGINEER IMMEDIATELY ON DISCREPANCIES FROM PLANS.
- 4) RE: GEOTECH REPORT FOR PAVEMENT RECORD
- 5) ALL SIGNAGE AND STRIPING FOR PUBLIC AND PRIVATE ROADWAYS, WALKWAYS OR BICYCLE TRAILS SHALL CONFORM TO THE MOST RECENT EDITION OF THE FEDERAL MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD), THE COLORADO SUPPLEMENTAL MANUAL ON DOUGLAS COUNTY SIGNAGE AND STRIPING STANDARDS.
- 6) ALL PAVEMENT MARKINGS ARE SUBJECT TO CHANGE DUE TO SEASON AND/OR WEATHER. TEMPORARY MARKING MATERIALS SHALL BE INSTALLED WHEN WEATHER ALLOW.

LEGEND:

- PROPERTY LINE
- EXISTING CURB & GUTTER
- PROPOSED CATCH CURB & GUTTER
- PROPOSED SPILL CURB & GUTTER
- PROPOSED CONCRETE WALKWAY

LOT 4D-1
DOUGLAS COUNTY INDUSTRIAL
PARK - F001
4TH AMEND

LOT 4A-1
DOUGLAS COUNTY INDUSTRIAL
PARK - F001
4TH AMEND

LOT 5
DOUGLAS COUNTY INDUSTRIAL
PARK - F001



ASSISTANT DIRECTOR
DATE
ENGINEERING SERVICE



Shared Lane Way – Estimated Expenses

Date: December 29, 2017 (Revised 5/22/18)
To: Concord Metro District Board
From: IBC Property Services, LLC
Re: Shared Lane Way Expenses (Revision 1)

Dear Board Members,

The Concord Metro District Board requested during the November 2017 meeting that IBC Property Services provide updated costs for the annual and long-term maintenance of the shared lane way between Douglas County Industrial Park-F001 Lots 5 (ViaWest) and 6 (IBC Concord IV).

The civil engineer (Ware Malcomb) calculated that the total asphalt area in the IBC Concord IV development to be 157,599sf and the asphalt area contained in the shared access lane to be 28,987sf. The resultant percentage of asphalt in the shared lane is 18.39%. IBC Property Services, through the Concord Business Center Owners' Association, is currently maintaining 100% of the shared lane way.

Listed below are the 2018 annual maintenance costs associated with the shared lane way. Additionally, IBC Property Services has provided estimated costs for a reserve fund to address the long-term maintenance and repairs of the shared lane way. Should the Concord Metro District Board agree to take financial responsibility for the recurring and long-term maintenance of the lane way, the invoicing and reimbursement would be processed from/to the Concord Business Center Owners' Association.

Best Regards,

IBC Property Services

Recurring Annual Maintenance:

<u>Service</u>	<u>2018 Expense</u>	<u>Comments</u>
Sweeping	\$ 618	Swept 2 times per month. \$280.00/mo. * 18.39%
Litter Pick	\$ 298	Litter pick up 4 times per month. \$135/mo. * 18.39%
Snow Removal	\$ <u>1,500</u>	Removal with 1.5" of snow accumulation or more. 7-month contract. (Snow removal is a fixed rate contract and will be reconciled at the end of the season based on actual snow-fall totals.)
Total	\$ 2,416	
Admin Fee (15%)	\$ 362	Administrative Fee
PM Fee (20%)	\$ <u>483</u>	Property Management Fee
	\$ 3,261	2018 annual maintenance costs

Maintenance & Repairs Reserve Fund Estimates:

<u>Service</u>	<u>Est. Expense</u>	<u>Comments</u>
Patch & Seal	\$ 8,825	Estimate for work to be performed twice every 10 years beginning in June 2020:
		- Crack Seal: \$6.28/l.f. x 250lf = \$ 1,570
		- Infrared Patching: \$87/5'x7' area. = \$ 1,038 min.
		- Seal Coat: \$0.20/sf x 28,987sf = <u>\$ 5,797</u>
		Sub-Total \$ 8,405
		PM Fee (5%) <u>\$ 420</u>
		Total \$ 8,825
Mill & Overlay	\$64,221	Estimate for work to be performed once every 10 years beginning in June 2026:
		- Asphalt mill & overlay: \$2.11/sf x 28,987sf = \$ 61,163
		PM Fee (5%) <u>\$ 3,058</u>
		Total \$ 64,221