

RESOLUTION #R-149-2008

A RESOLUTION APPROVING THE FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT CONCERNING THE CONSTRUCTION AND MAINTENANCE OF THE I-25/US 34 INTERCHANGE – INTERIM IMPROVEMENTS

WHEREAS, the District and the City have entered into that certain Centerra Master Financing and Intergovernmental Agreement dated January 20, 2004 (the “MFA”) to provide, among other things, for the financing for certain regional public infrastructure improvements; and

WHEREAS, the District and the City have entered into that certain Intergovernmental Agreement Concerning the Construction and Maintenance of the I-25/US 34 Interchange – Interim Improvements dated June 3, 2008 (the “Agreement”); and

WHEREAS, pursuant to the Agreement, the District and the City, acting as the “Local Agency,” are cooperating in the construction and maintenance of the interim improvements more specifically known as Colorado Department of Transportation (“CDOT”) Project CC 0341-066 (15401), which includes safety improvements to the interchange, architectural enhancements to the bridge, and landscape enhancements; and

WHEREAS, the District and the City desire to amend the Agreement to establish the District’s responsibility for maintenance of the bridge enhancements and landscape enhancements through the term of the MFA; and

WHEREAS, as governmental entities in Colorado, the City and the District are authorized, pursuant to C.R.S. § 29-1-203, to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the First Amendment to Intergovernmental Agreement Concerning the Construction and Maintenance of the I-25/US 34 Interchange – Interim Improvements (the “First Amendment”), attached hereto as Exhibit A and incorporated herein by reference, is hereby approved.

Section 2. That the City Manager and the City Clerk are hereby authorized and directed to execute the First Amendment on behalf of the City of Loveland.

Section 3. That the City Manager is authorized, following consultation with the City Attorney, to approve changes to the First Amendment.

Section 4. That this Resolution shall take effect as of the date and time of its adoption.

ADOPTED this 16th day of December, 2008.

Eugene N. Pielin, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


Assistant City Attorney

EXHIBIT A

**FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT
CONCERNING THE CONSTRUCTION AND MAINTENANCE OF THE I-25/US
34 INTERCHANGE – INTERIM IMPROVEMENTS**

THIS FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT CONCERNING THE CONSTRUCTION AND MAINTENANCE OF THE I-25/US 34 INTERCHANGE – INTERIM IMPROVEMENTS (“First Amendment”) is entered into this ___ day of _____, 2008, by and between the CITY OF LOVELAND, COLORADO, a home rule municipality (the “City”), and CENTERRA METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”).

WHEREAS, the District and the City have entered into that certain Centerra Master Financing and Intergovernmental Agreement dated January 20, 2004 (the “MFA”), to provide, among other things, for the financing for certain regional public infrastructure improvements; and

WHEREAS, the District and the City have entered into that certain Intergovernmental Agreement Concerning the Construction and Maintenance of the I-25/US 34 Interchange – Interim Improvements, dated June 3, 2008 (the “Agreement”); and

WHEREAS, pursuant to the Agreement, the District and the City, acting as the “Local Agency,” are cooperating in the construction and maintenance of the interim improvements more specifically known as Colorado Department of Transportation (“CDOT”) Project CC 0341-066 (15401), which includes safety improvements to the interchange, architectural enhancements to the bridge, and landscape enhancements; and

WHEREAS, the District and the City desire to amend the Agreement to establish the District’s responsibility for maintenance of the bridge enhancements and landscape enhancements through the term of the MFA.

NOW, THEREFORE, in consideration of the promises of the parties hereto and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, it is agreed as follows:

1. That Paragraph 5 of the Agreement is hereby amended in its entirety as follows:

5. Maintenance. The Parties acknowledge that the Intergovernmental Agreement between the City and CDOT requires the bridge enhancements (Exhibit B) and landscaping (Exhibit C) to be maintained by the City. The District will act on behalf of the City to secure and manage all necessary maintenance contracts for the bridge enhancements and landscaping each year. Said maintenance is anticipated to include, but is not limited to, routine care and placement of plants, trees and irrigation system, mowing of all grasses including dry land seeded area, periodic cleaning, replacement or repair of the bridge lighting and stone work,

painting of the steel beams, and paying all utility bills. The District will be responsible for funding all maintenance activities during the term of the MFA. The Parties will agree to an equitable sharing, as determined by the City in its sole discretion, of the maintenance costs following expiration of the MFA. Maintenance of the safety improvements will be the responsibility of the City and CDOT in accordance with the Intergovernmental Agreement between them.

2. That all capitalized terms not otherwise defined herein shall have the meaning given them in the Agreement.
3. That except as otherwise provided in this First Amendment, all other terms and conditions in the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this First Amendment or counterpart copies thereof as of the date first written above.

(Remainder of page left intentionally blank)

CITY OF LOVELAND, COLORADO, a Colorado
municipal corporation

By: _____

Don F. Williams, City Manager

ATTEST:

By: _____

City Clerk

APPROVED AS TO LEGAL FORM:

By: _____

City Attorney

CENTERRA METROPOLITAN DISTRICT NO. 1,
a quasi-municipal corporation and political
subdivision of the State of Colorado

By: _____

Kim L. Perry, President

ATTEST:

By: _____

Daniel Herlihey, Secretary