

INTERGOVERNMENTAL AGREEMENT

Cherry Creek School District No. 5 – Parker Jordan Metropolitan District
Concerning Red Hawk Ridge Elementary School Playground

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into to be effective this 9th day of December, 2013 by and between the PARKER JORDAN METROPOLITAN DISTRICT (“PJMD”) and the CHERRY CREEK SCHOOL DISTRICT No. 5 (“Cherry Creek”), and collectively referred to herein as the “Parties”.

RECITALS

WHEREAS, Cherry Creek owns and operates Red Hawk Ridge Elementary School (“Red Hawk Ridge”), which is inside the boundaries of PJMD; and

WHEREAS, Cherry Creek and PJMD have recognized that playground improvements at Red Hawk Ridge are needed to improve the quality of the educational experience at the school and to provide a park and recreation facility that will be of benefit to Cherry Creek and PJMD, the inhabitants of their district boundaries, and taxpayers; and

WHEREAS, Cherry Creek has the authority to provide playground facilities that can be used as park and recreation facilities by the general public at times when school is not in session and PJMD has authority pursuant to its Service Plan and C.R.S. § 32-1-1004(2)(d), to provide parks or recreation facilities, which the PJMD Board has found includes playgrounds; and

WHEREAS, pursuant to Colo. Const. Art. XIV, § 18(2)(a) and C.R.S. § 29-1-203, Cherry Creek and PJMD desire to cooperate and contract with each other to provide playground facilities lawfully authorized to each of the contracting parties pursuant to the terms of this Agreement.

COVENANTS

NOW, THEREFORE, for and in consideration of the premises and the promises contained herein, the Parties agree as follows:

1. Cherry Creek has, and will continue to, provide access and entry to the property, described in Exhibit A and attached hereto, to PJMD and its contractors, during non-school hours and/or under such reasonable conditions as are required by the Executive Director of Educational Support Services, for the purpose of access, planning, design, engineering, and surveying reasonably necessary for installation of turf, landscaping, drainage facilities, irrigation systems, playground equipment, shade structures, picnic tables, lighting, and all playground appurtenances (“Improvements”).

2. PJMD shall submit written plans and an engineer's estimate of probable costs for proposed Improvements ("Plans").

3. If Cherry Creek's Executive Director of Educational Support Services approves the Improvements and Plans for construction, PJMD shall deposit 120% of the engineer's estimate of probable costs into an account created by Cherry Creek to pay for the acquisition, construction, and installation of the Improvements ("Account") at Red Hawk Ridge.

4. Using the Account, Cherry Creek will use the Plans to finalize bidding documents and will put the Improvements out to bid using Cherry Creek's regular public bidding procedures. Cherry Creek, in consultation with PJMD, will evaluate and select the winning bidder and enter into the contract or contracts for construction.

5. Cherry Creek will draw upon the Account to pay the costs of the Improvements, including construction management costs. Cherry Creek will consult with PJMD concerning change orders. The Parties intend that the Improvements will be completed for use in Summer, 2014.

6. In the event that less than the entire Account has been spent after all costs of the Improvements have been paid, any funds in the Account shall be returned to PJMD.

7. In the event of an overrun that would cost more than the available funds in the Account, Cherry Creek shall notify PJMD, they shall meet to discuss the preferred course of action (for example, to cut the scope of work or increase the amount to be paid by PJMD), and then promptly implement the decision.

8. Following completion of the Improvements and any applicable warranty period, Cherry Creek shall own, operate, repair, replace, and maintain the Improvements at Red Hawk Ridge for the benefit of Cherry Creek and PJMD's constituents at Cherry Creek's expense

9. Cherry Creek shall allow the use of the Improvements by PJMD's constituents at such times and in such manner as will not unreasonably interfere with Red Hawk Ridge. However, any Red Hawk Ridge activities will be given first priority over the use of said Improvements by PJMD's constituents and third parties. Any organized and scheduled usage of said Improvements by PJMD constituents will be given second priority and will be coordinated with the Red Hawk Ridge calendar of activities, as well as with Cherry Creek's facilities rental calendar. Any third parties who desire to rent said facilities must make those requests through the Cherry Creek's facilities rental office and those activities will be given third priority.

10. Cherry Creek will install a plaque or sign at the playground to memorialize PJMD and Cherry Creek's cooperation and contributions to furnish the Improvements. The cost of said signage will be incorporated into project costs and/or be paid by PJMD.

11. All financial obligations of a Party contained herein shall be subject to the approval and the annual budget and appropriations of such Party.

12. Any notice furnished under this Agreement shall be properly given by hand delivery/courier, registered mail, or email addressed as follows:

If to PJMD: Parker Jordan Metropolitan District
c/o CliftonLarsonAllen LLP
8390 E. Crescent Parkway, Suite 500
Greenwood Village, CO 80111
Bob.blodgett@claconnect.com

City a copy to: Spencer Fane & Grimshaw LLP
Attn: Rick Kron
1700 Lincoln Street, Suite 3800
Denver, CO 80203
rkron@spencerfane.com

If to Cherry Creek: Cherry Creek School District No. 5
Attn: Randy Hawbaker
Executive Director of Educational Support Servs.
9301 E. Union Ave.
Greenwood Village, CO 80111
rhawbaker@cherrycreekschools.org

With a copy to: Cherry Creek School District No. 6
Attn: Sonja S. McKenzie, Esq.
General Counsel
4700 S. Yosemite St.
Greenwood Village, CO 80111
smckenzie3@cherrycreekschools.org

Notice shall be deemed effective upon receipt.

13. This Agreement may be terminated upon mutual agreement of the Parties.

14. Nothing herein shall be deemed or construed as a waiver of the provisions of the Colorado Governmental Immunity Act, found at C.R.S. § 24-10-101 et seq., as applied to Cherry Creek or PJMD.

15. This Agreement may be executed in counterparts. Electronic signatures hereon shall have the same validity as original signatures.

[signature page follows]

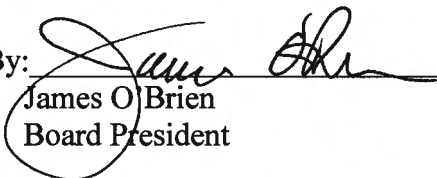
IN WITNESS WHEREOF, the Parties have approved this Agreement to be effective as of the date first set forth above.

PARKER JORDAN METROPOLITAN DISTRICT

By: _____
Norman A. Sheldon, President

ATTEST:

CHERRY CREEK SCHOOL DISTRICT

By:  _____
James O'Brien
Board President

ATTEST:

 _____

VICKIE DAVIS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID # 19974012843
MY COMMISSION EXPIRES JULY 17, 2017

IN WITNESS WHEREOF, the Parties have approved this Agreement to be effective as of the date first set forth above.

PARKER JORDAN METROPOLITAN DISTRICT

By: Norman Sheldon
Norman A. Sheldon, President

ATTEST:

[Red Signature]

CHERRY CREEK SCHOOL DISTRICT

By: _____
James O'Brien
Board President

ATTEST:
