

**INTERGOVERNMENTAL AGREEMENT REGARDING
CONTRIBUTION OF ARAPAHOE COUNTY OPEN SPACE PROGRAM FUNDS
PROJECT NAME: RIVERSIDE DOWNS at the SOUTH PLATTE RIVER**

This Intergovernmental Agreement ("Agreement"), is made and entered into by and between **THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ARAPAHOE, STATE OF COLORADO**, (the "County") and **THE CITY OF LITTLETON, COLORADO** (the "City"), a municipality and political subdivision of the State of Colorado (collectively, "Parties" and individually a "Party").

WHEREAS, on November 4, 2003, and on November 1, 2011, the voters of Arapahoe County approved a countywide sales and use tax to be deposited in the Arapahoe County Open Space Fund and used for specified open space purposes as set forth in County Resolution No. 030381, as amended by Resolution No. 110637 (Open Space Resolution);

WHEREAS, the Open Space Resolution authorizes the County to expend a portion of the tax funds for the development and improvement of trails and land for passive outdoor recreation and also to expend funds on joint projects, as more fully set forth therein;

WHEREAS, in 2014, the South Platte Working Group (SPWG) and Arapahoe County Open Spaces Advisory Board approved the South Platte River Corridor Planning Joint Project Proposal which provides funding for approved planning and study projects along the river corridor;

WHEREAS, the County, as part of a joint project with the City, desires to provide funding towards the design, permitting and bid documents for the Riverside Downs project, which is an eligible use of funds under the Open Space Resolution;

WHEREAS, this intergovernmental agreement is authorized by Article XIV, Section 18 of the Colorado Constitution and COLO. REV. STAT. § 29-1-203.

NOW, THEREFORE, the County and the City agree as follows:

1. Funding Amount. The County agrees to contribute fifty percent (50%) of the total project cost, not to exceed (\$70,000) from the Arapahoe County Open Space Fund (County Funds) to the City to be used solely towards the design, permitting and bid documents for the Riverside Downs project (Joint Project) as described in Exhibit A. The County's contribution is contingent upon the Grantee contributing a balance of funding in the amount of \$70,000, to complete the Joint Project for a total project cost of \$140,000.
2. Disbursement of County Funds. The County Funds shall be paid to the City subsequent to execution of this Agreement and within 30 days of request for payment by the City.
3. Time for Use of County Funds. The Parties agree that the County Funds will be expended by no later than two years from the date of transfer of County Funds

from the County to the City, unless a longer period of time is otherwise agreed to by the County in writing.

4. Interest on County Funds. The Parties further agree that, after receipt of the County Funds, the City will use any interest earned on the County Funds only for the Joint Project referenced above.
5. Administration of Joint Project. The City shall be responsible for the direct supervision and administration of the Joint Project. The City also agrees to comply with all local, state and federal requirements while completing the Joint Project unless specifically waived.
6. Acknowledgement of Parties. The City agrees to acknowledge the County as a contributor to the Joint Project in all publications, news releases and other publicity issued by the City related to the Joint Project and agrees to allow the County to do the same.
7. Record Keeping Requirements. The City shall maintain a complete set of books and records documenting their use of the County Funds and their supervision and administration of the Joint Project. The County or any of its duly authorized representatives shall have reasonable access to any books, documents, papers, and records of the City which are pertinent to the Joint Project for the purpose of making an audit, examination, or excerpts. The City shall keep all books, documents, papers, and records, which are pertinent to the Joint Project, for a minimum of three (3) years. The City agrees to report to the County any unexpended County Funds and consult with the County concerning proper accounting for unexpended County Funds.
8. Reimbursement of County Funds. The City understands and agrees that failure to expend the funds and complete the Joint Project in accordance with this Agreement will result in the County Funds being refunded to the Arapahoe County Open Space Fund. If the total project cost is less than \$140,000, 50% of the remaining funds will be returned to the County.
9. Remedies. The rights and remedies of the County as set forth in this Agreement shall not be exclusive and are in addition to any other rights or remedies provided by law.
10. No Waiver of Rights. A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any Party.
11. Relationship of the Parties. The City shall perform all duties and obligations under this Agreement as an independent contractor and shall not be deemed by virtue of this Agreement to have entered into any partnership, joint venture, employer/employee, or other relationship with the County.

12. No Third Party Beneficiaries. Nothing in this Agreement shall give or allow any claim or right of action whatsoever by any third party, including, but not limited to, any agents or contractors of the Parties.
13. Severability. Should any one or more provisions of this Agreement be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective; provided, however, the Parties shall forthwith enter into good faith negotiations and proceed with due diligence to draft a provision that will achieve the original intent of the Parties hereunder.
14. Written Amendment Required. This Agreement may be amended, modified, or changed, in whole or in part, only by written agreement duly authorized and executed by the Parties.
15. Venue. Venue for the trial of any action arising out of any dispute hereunder shall be in Arapahoe County District Court, pursuant to the appropriate rules of civil procedure.
16. Notices. Notices, as referred to in this Agreement, shall be sent to:

COUNTY: Board of County Commissioners of Arapahoe County
5334 South Prince Street
Littleton, Colorado 80120-1136

and

Arapahoe County Attorney
5334 South Prince Street
Littleton, Colorado 80120-1136

and

Arapahoe County Open Spaces
6934 S Lima St, Unit A
Centennial, Colorado 80112

and

CITY: City of Littleton

17. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado.

18. Counterparts. This Agreement may be executed in multiple counterparts, each of which will be deemed to be an original and all of which taken together will constitute one and the same agreement.
19. Incorporation of Exhibits. Unless otherwise stated in this Agreement, any exhibits, applications, resolutions, or other documents referenced in this Agreement shall be incorporated by reference into this Agreement for all purposes.
20. Section Headings. The headings for any section of this Agreement are only for the convenience and reference of the Parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.
21. Assignment. The rights, or any parts thereof, granted to the Parties herein may be assigned only with the prior written consent of the non-assigning party.
22. Extent of Agreement. This Agreement constitutes the entire agreement of the Parties hereto. The Parties agree that there have been no representations made regarding the subject matter hereof other than those, if any, contained herein, that this Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof, and further agree that the various promises and covenants contained herein are mutually agreed upon and are in consideration of one another.
23. Signatures. The signatories to this Agreement represent that they are fully authorized to execute this Agreement and bind their respective entities.

SIGNATURES ON FOLLOWING PAGES

IN WITNESS WHEREOF, the County and the City have executed this Agreement as of the date set forth below.

DATED this _____ day of _____, 2014.

ATTEST:

CITY:

By: _____
Name
Title

By: _____
Name
Title

DRAFT

ATTEST:

COUNTY OF ARAPAHOE
STATE OF COLORADO

By: _____
Name
Title

By: _____
Shannon Carter, Director
Intergovernmental Relations and Open Spaces
Pursuant to Resolution No. 130152

DRAFT

**EXHIBIT A
JOINT PROJECT**

**RIVERSIDE DOWNS
AT THE SOUTH PLATTE RIVER**

GENERAL OUTLINE OF SCOPE AND FEES TO COMPLETE PERMITTING AND BID DOCUMENTS

Prepared By DHM Design/ McLaughlin Whitewater 5/20/14

- **Special Services : Total \$27k (range \$20k - \$30k)**
 - Permitting and support- \$10k (*Note permits can take 4 to 6 months*)
 - Summary of task: MWDG permitting support of ERO's CWA 404 and 401 permits, support of DHM with Littleton and GESC/ Stormwater permits.
 - Base Mapping & Survey: \$10K
 - Summary of task: Topographic survey on existing buildings/infrastructure adjacent to proposed plaza, trail, river bank (at access) and river cross sections.
 - Property Ownership (approximate – this is not a legal boundary survey) - \$5k
 - Summary of task: Title search with limited field work to find existing property corners.
 - Stakeholder Engagement - \$2k
 - Summary of task: attend two meeting with stakeholders
- **Preliminary Design: Total \$44k (range \$ 40k - \$50k)**
 - Coordination Meetings & Project Management - \$4500
 - Summary of task: Assumes 6 weeks design schedule
 - Hydrology and Hydraulics - \$6k
 - Summary of task: Flood hydraulics for Corps Flood Readiness submittal
 - Scour Analysis - \$1500
 - Summary of task: scour analysis to design toe/bank protection of in-river improvements
 - Preliminary Design Drawings - \$26k
 - Summary of task: Existing conditions, demolition plan, layout plan, grading plan, landscape plan, irrigation plan, site details, lighting/electrical plan (DHM, IDC, JCN), three river drawings including details/sections + two vegetation drawings (by ark with MWDG drafting). Preliminary cost estimate.
 - Report for Corps Submittal - \$6k
 - Summary of task: includes a plan and profile drawing of flood “work map” and technical writeup on analysis completed
- **Final Design: Total \$61.5k (range \$55k - \$65k)**
 - Coordination Meetings & Project Management - \$4500
 - Summary of task: Assumes 6 weeks design schedule
 - Final Design Drawings - \$32,500
 - Summary of task: Existing conditions, demolition plan, layout plan, grading plan, landscape plan, irrigation plan, site details, lighting/electrical plan (DHM, IDC, JCN), three river drawings including details/sections + two vegetation drawings (by ark with MWDG drafting). Final cost estimate.
 - Erosion & Sediment Control Plans & SWMP - \$7k

- Summary of task: ESC drawings and SWMP plan for project includes upland and river areas
- Final Design Technical Memorandum - \$2500
 - Summary of task: final report of design for permitting
- Specifications - \$5k
 - Summary of task: river specifications based on MWDG and UDFCD standards
- Construction Documents (100% drawings) - \$10k
 - Summary of task: incorporate final comments and prepare docs for bidding.

The river work looks modest on the renderings but will need to be engineered to withstand flooding, scour and river forces. Any work in the channel will trigger CWA 404 and 401 permitting that requires quite a bit of analysis and documentation

PROJECT TOTAL: \$132,500 (Range \$115K to \$145K)