

**ORIGINAL**

R-016-051

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
THE CITY OF LONE TREE AND THE BOARD OF COUNTY COMMISSIONERS OF  
THE COUNTY OF DOUGLAS, STATE OF COLORADO, REGARDING FINANCIAL  
CONTRIBUTION TOWARD A PEDESTRIAN BRIDGE OVER LINCOLN AVENUE  
WITHIN THE CITY OF LONE TREE AND THE COUNTY OF DOUGLAS**

THIS INTERGOVERNMENTAL AGREEMENT, ("Agreement"), is made and entered into this 10<sup>th</sup> day of May, 2016, by and between the City of Lone Tree, Colorado, a Colorado home rule municipality (the "City"), and the Board of County Commissioners of Douglas County, State of Colorado, (the "County"), hereinafter collectively referred to as the "Parties."

**RECITALS**

WHEREAS, the Parties are legally empowered under Section 29-1-201, et seq., C.R.S. to enter into this Agreement; and

WHEREAS, Lincoln Avenue is a major thoroughfare that transverses the City within the County; and

WHEREAS, the Parties are aware that it can be very challenging for pedestrians and bicycle traffic to cross Lincoln Avenue at grade, which is a barrier to these modes of travel due to the width of the road and the large volume of vehicular traffic it carries; and

WHEREAS, the use of pedestrian traffic signals and crosswalks can have a deleterious effect on overall traffic operations since a significant amount of signal time is needed to provide adequate time for pedestrians to cross Lincoln Avenue at grade, which is primarily due to the roadway's width; and

WHEREAS, the City desires to establish a safe and convenient means of access for pedestrians and bicyclists to and from both sides of Lincoln Avenue; and

WHEREAS, the City has concluded that constructing a bridge that will carry pedestrians and bicyclists over Lincoln Avenue is the most efficacious solution to the problem; and

WHEREAS, the City has concluded that the proposed bridge should be located where it can readily connect to existing established trails that serve the community; and

WHEREAS, the Parties desire to cooperate and share in the funding needed to construct this regionally significant pedestrian / bicycle bridge over Lincoln Avenue improvement project, hereinafter referred to as (the "Project"); and

WHEREAS, the Project will positively affect traffic operations for the traveling public, as well as the enhance access to existing and future business and recreational opportunities in both the City and County; and

WHEREAS, other governmental bodies and private entities recognize the importance of this Project and are committing funds toward its construction by separate agreement(s); and

WHEREAS, the County is willing to contribute funds for constructing the Project, according to the terms and conditions stated in this Agreement;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which are mutually acknowledged, the Parties hereto agree as follows:

1. **Acknowledgment and Incorporation of Recitals.** The foregoing recitals are hereby acknowledged by the Parties to be true and correct and are incorporated into this Agreement.

2. **Term.** This Agreement shall commence upon execution by both Parties (the "Effective Date") and shall continue until the County has reimbursed the City for the County's portion of the Project's construction cost and the City has constructed the Project.

3. **City Contribution.** The City has estimated that the total Project costs will exceed Six Million Dollars, (which includes but is not limited to the costs associated with the design, right-of-way acquisition, utility relocations, material testing, inspections and construction). The City agrees to manage all aspects of the Project from inception through completion of construction. The City agrees to own, operate, and maintain the improvements associated with the Project. The City agrees that it is responsible to pay the consultants and contractor directly for applicable Project costs. The City shall diligently pursue completion of the project.

4. **County Contribution.** The County contribution shall be used to reimburse the City for a portion of the actual construction costs. The County agrees to pay the City a one-time lump sum payment of One Million Dollars and No Cents (\$1,000,000.00), which is due within forty-five (45) days after receipt of an invoice from the City. The City may request reimbursement from the County after the City has incurred at least \$1,000,000 in actual construction cost. The invoice submitted by the City shall include a copy of the most recent contractor's monthly progress payment that identifies the actual cost for the work completed. Said payment shall be the County's total contribution.

5. **Remedies.** The Parties hereto acknowledge and agree that each Party may exercise all rights and remedies in law or in equity, by a decree in specific performance, or such other legal or equitable relief as may be available. This Section shall survive the termination of this Agreement.

5. **Termination.** The City may terminate this Agreement prior to commencing construction or prior to requesting reimbursement from the County; and the County may terminate this Agreement if the City has not awarded a contract to construct the Project before June 30, 2017.

6. **Notice.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is to be given, at the address set forth below, or at such other address as has been previously furnished in writing, to the other Party. Such notice shall be deemed to have been given when deposited in the United States mail.

City of Lone Tree: City of Lone Tree  
9220 Kimmer Drive, Suite 100  
Lone Tree, Colorado 80124  
Attention: Seth Hoffman, City Manager

Douglas County: Douglas County  
100 Third Street  
Castle Rock, Colorado 80104  
Attention: Douglas J. DeBord, County Manager

7. **Appropriation.** Pursuant to section 29-1-110, C.R.S., any financial obligations of the City and the County contained herein that are payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available on an annual basis.

8. **Additional Documents.** The Parties agree to execute any additional documents or take any additional action that is necessary to carry out the intent of this Agreement.

9. **Colorado Law.** The laws of the State of Colorado shall govern this Agreement. Venue for any action hereunder shall be in the District Court, County of Douglas, State of Colorado and the Parties waive any right to remove any action to any other court, whether state or federal.

10. **Separate Entities.** The Parties enter into this Agreement as separate, independent governmental entities and shall maintain such status throughout.

11. **No Third Party Beneficiaries.** The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to the Parties, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement. Any beneficiary of the terms and conditions of this Agreement are not intended beneficiaries but are incidental beneficiaries only.

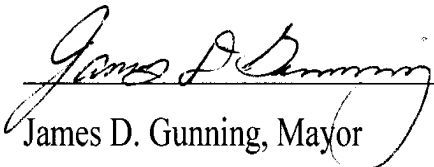
12. **No Waiver of Governmental Immunity Act.** The Parties hereto understand and agree that the County, its commissioners, officials, officers, directors, agents and employees, and the City, its council members, officials, officers, directors, agents and employees are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, sections 24-10-101 to 120, C.R.S., or otherwise available to the County and the City.

13. **Entirety.** This Agreement merges and supersedes all prior negotiations, representations and agreements between the Parties hereto relating to the subject matter hereof and constitutes the entire agreement between the Parties concerning the subject matter hereof.


IN WITNESS WHEREOF, this Agreement is executed by the Parties hereto as of the date first written above.



**CITY OF LONE TREE, COLORADO**

  
James D. Gunning, Mayor

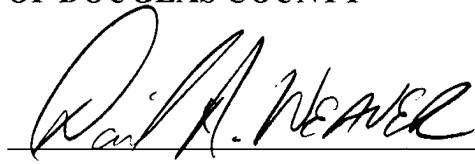
**ATTEST:**

  
Jennifer Pettinger, CMC  
City Clerk

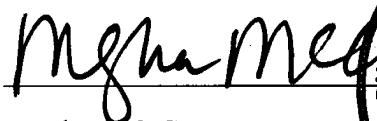
**APPROVED AS TO FORM:**


  
Neil Rutledge  
Assistant City Attorney

**BOARD OF COUNTY COMMISSIONERS  
OF DOUGLAS COUNTY**

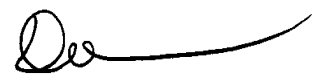
  
David A. Weaver, Chair

**ATTEST:**


  
Meghan McCann,  
Deputy Clerk to the Board



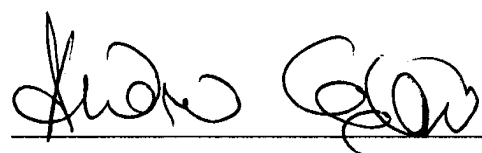
**APPROVED AS TO CONTENT:**

  
Douglas J. DeBord,  
County Manager

**APPROVED AS TO FORM:**

  
Nick Pijoan,  
Sr. Assistant County Attorney

**APPROVED AS TO FISCAL CONTENT:**

  
Andrew Copland,  
Director of Finance