

RESOLUTION NO. 3
SERIES 2017INTRODUCED BY: EARL HOELLEN
SECONDED BY: AL BLUM

**A
RESOLUTION
OF THE CITY COUNCIL
OF THE CITY OF CHERRY HILLS VILLAGE
APPROVING THE FIRST AMENDMENT
TO THE INTERGOVERNMENTAL AGREEMENT
WITH ARAPAHOE COUNTY REGARDING CONTRIBUTION
OF CITY OF CHERRY HILLS VILLAGE FUNDS
TO THE HIGH LINE CANAL VISIONING PROJECT**

WHEREAS, C.R.S. Section 29-1-203 authorizes governments to cooperate or contract with one another to provide any function, service, or facility; and

WHEREAS, Section 13.6 of the Cherry Hills Village Home Rule Charter authorizes the City Council, by resolution or by ordinance, to enter into contracts or agreements with other governmental units for receiving services; and

WHEREAS, the City Council has approved funding for the High Line Canal Visioning Project in 2015, 2016, and 2017; and

WHEREAS, the City Council approved an Intergovernmental Agreement with Arapahoe County regarding contribution of City funds to the High Line Canal Visioning Project in 2015 (attached as Exhibit A) ; and

WHEREAS, the City Council desires to approve an amendment to the Intergovernmental Agreement in order to authorize funding in 2016 and 2017 (attached as Exhibit B).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cherry Hills Village, Colorado that:

Section 1. The City Council hereby approves the attached First Amendment to the Intergovernmental Agreement with Arapahoe County regarding contribution of City funds to the High Line Canal Visioning Project (Exhibit B) in substantially the same form as attached hereto, subject to minor modifications that do not increase the City's financial obligations and review and approval of any such modifications by the City Manager and City Attorney.

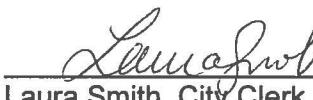
This Resolution shall be effective immediately.

Introduced, passed and adopted at the regular meeting of City Council this 3rd day of January, 2017, by a vote of 5 yes 0 no.

(SEAL)


Laura Christman, Mayor

ATTEST:


Laura Smith, City Clerk

APPROVED AS TO FORM:

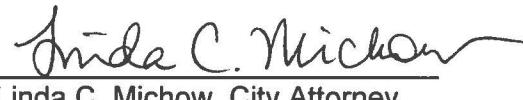

Linda C. Michow, City Attorney

Exhibit A**Intergovernmental Agreement with Arapahoe County Regarding Contribution of Funds to
the High Line Canal Visioning Project**

**INTERGOVERNMENTAL AGREEMENT REGARDING
CONTRIBUTION OF CITY OF CHERRY HILLS VILLAGE FUNDS
PROJECT NAME: HIGH LINE CANAL VISIONING PROJECT**

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 CHERRY HILLS VILLAGE**, a home rule municipality and political subdivision of the State of Colorado (the "City") (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 (the "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 access to public lands and also to expend funds on joint projects, as more fully set forth therein;

WHEREAS, in March, 2015, the County committed \$30,000 in funds from the Open Space funds pledged to the High Line Canal Working Group to contract with the High Line Canal Conservancy (HLCC) to undertake a comprehensive community outreach and visioning project for the future of the High Line Canal (the "Visioning Plan");

WHEREAS, in June, 2015, Great Outdoors Colorado awarded a \$75,000 planning grant to the County and HLCC to further support the Visioning Plan (the "GOCO Grant");

WHEREAS, the overall budget for the Visioning Plan is estimated to be a minimum of \$250,000, and on September 15, 2015 the City approved funding to go toward the Visioning Plan and to help the County and HLCC fulfill the matching requirements of the GOCO Grant; and

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 City agree as follows:

1. **Funding Amount.** The City agrees to contribute Ten Thousand Dollars (\$10,000.00) (the "City Funds") toward the Visioning Plan project as described in the GOCO Grant application attached as **Exhibit A**.
2. **Disbursement of City Funds.** Subsequent to execution of this Agreement, the City Funds shall be paid to the County via check by October 16, 2015.
3. **Time for Use of City Funds.** The Parties agree that the Visioning Plan will be completed and the City Funds will be expended by no later than two (2) years from the date of this fully executed IGA, unless a longer period of time is otherwise agreed to by the City in writing.

4. Administration of the Visioning Project. The City acknowledges that the Visioning Plan will primarily be led and administered by the HLCC, and the County will enter into a service agreement with HLCC to complete the project.
5. Record Keeping Requirements. The County shall maintain a complete set of books and records documenting use of the City Funds related to the Visioning Plan. The City or any of its duly authorized representatives shall have reasonable access to any books, documents, papers, and records of the County which are pertinent to the Visioning Project for the purpose of making an audit, examination, or excerpts. The County shall keep all books, documents, papers, and records, which are pertinent to the Visioning Plan, for a minimum of three (3) years. The County agrees to report to the City any unexpended City Funds and consult with the City concerning proper accounting for unexpended City Funds.
6. Reimbursement of City Funds. The County understands and agrees that failure to expend the funds and complete the Visioning Plan in accordance with this Agreement will result in the City Funds being refunded to the City.
7. Remedies. The rights and remedies of the City as set forth in this Agreement shall not be exclusive and are in addition to any other rights or remedies provided by law.
8. 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.
9. Relationship of the Parties. The County 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 City.
10. 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.
11. 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.
12. 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.
13. 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.
14. Notices. Notices, as referred to in this Agreement, shall be sent to:

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

and

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

and

CITY: City of Cherry Hills Village
Attn: City Manager
2450 E. Quincy Avenue
Cherry Hills Village, CO 80113

and

City Attorney
c/o City of Cherry Hills Village
2450 E. Quincy Avenue
Cherry Hills Village, CO 80113

15. **Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado.
16. **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.
17. **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.
18. **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.
19. **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.
20. **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.

21. 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 6th day of October, 2015.

ATTEST:

By: Laura Smith

Laura Smith
City Clerk

CITY:

By: Laura Christman

Laura Christman
Mayor

ATTEST:

By:

Ardelia Seghers
Name Ardelia Seghers
Title Program Administrator

COUNTY OF ARAPAHOE
STATE OF COLORADO

By: Shannon Carter

Shannon Carter, Director
Intergovernmental Relations and Open Spaces
Pursuant to Resolution No. 150211



Exhibit B**First Amendment to the Intergovernmental Agreement with Arapahoe County Regarding
Contribution of Funds to the High Line Canal Visioning Project**

**FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT REGARDING
CONTRIBUTION OF CITY OF CHERRY HILLS VILLAGE FUNDS
PROJECT NAME: HIGH LINE CANAL VISIONING PROJECT**

This First Amendment to Intergovernmental Agreement (“First Amendment”), 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 CHERRY HILLS VILLAGE**, a home rule municipality and political subdivision of the State of Colorado (the “City”) (collectively, “Parties” and individually a “Party”).

WHEREAS, the City and County previously entered into that certain Intergovernmental Agreement Regarding Contribution of City of Cherry Hills Village Funds for the High Line Canal Visioning Project dated October 6, 2015 (“Agreement”); and

WHEREAS, pursuant to the terms of the Agreement, the City and County committed and paid funds to the High Line Canal Working Group through a contract with the High Line Canal Conservancy (“HLCC”) to undertake a comprehensive community outreach and visioning project for the future of the High Line Canal (the “Visioning Plan”); and

WHEREAS, the overall budget for the Visioning Plan is estimated to be a minimum of \$250,000; and

WHEREAS, the City has paid Ten Thousand Dollars to the Visioning Plan and has budgeted and appropriated additional amounts for 2016 and 2017 on terms and conditions memorialized in this First Amendment; and

WHEREAS, this First Amendment is authorized by Article XIV, Section 18 of the Colorado Constitution and COLO. REV. STAT. § 29-1-203 and under Paragraph 10 of the Agreement.

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

1. Paragraph 1 of the Agreement, titled *Funding Amount*, is hereby amended to add the City’s payment of \$15,000 for 2016 and \$15,000 for 2017 to pay toward the Visioning Plan project as described in the GOCO Grant application attached as **Exhibit A** to the Agreement.
2. Paragraph 2 of the Agreement, titled Disbursement of City Funds, is hereby amended to read as follows:

Disbursement of City Funds. Within thirty (30) days of execution of this First Amendment, the City shall pay to the County the amount of Fifteen Thousand Dollars (\$15,000.00) for its 2016 funding commitment toward the Visioning Plan, and within sixty (60) days of execution of this First Amendment, the City shall pay to the County its 2017 commitment of Fifteen Thousand Dollars (\$15,000.00).

3. Except as amended hereby, the terms and conditions set forth in the Agreement shall remain in full force and effect.

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

DATED this 3rd day of January, 2017.

ATTEST:

By: Laura Smith

Laura Smith
City Clerk

CITY:

By: Laura Christman

Laura Christman
Mayor

ATTEST:

By: Josh Tenneson
Name Josh Tenneson
Title Grants & Acquisitions Manager

COUNTY OF ARAPAHOE
STATE OF COLORADO

By: Shannon Carter
Shannon Carter, Director
Intergovernmental Relations and Open Spaces
Pursuant to Resolution No. 150211 160097