

**INTERGOVERNMENTAL AGREEMENT REGARDING
2010 GRANT OF ARAPAHOE COUNTY OPEN SPACE PROGRAM FUNDS
PROJECT NAME: CHERRY CREEK CROSSING AND TRAIL**

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 **PARKER JORDAN METROPOLITAN DISTRICT**, a municipality and political subdivision of the State of Colorado (the "Grantee") (collectively, "Parties" and individually a "Party").

WHEREAS, on November 4, 2003, the voters of Arapahoe County approved a county-wide sales and use tax to be used for specified Open Space purposes as set forth in County Resolution No. 030381; and

WHEREAS, Resolution No. 030381 authorizes the County to award grants of funds from the Open Space Sales and Use Tax ("Grant Funds") to be distributed to municipalities and special districts, as more fully set forth therein;

WHEREAS, on **May 18, 2010** the County approved the Grantee's Project Application, which is attached hereto and incorporated by reference herein as Exhibit A, ("Project Application"), subject to the execution of an intergovernmental agreement and subject to the terms and conditions contained herein;

WHEREAS, the County desires to enter into intergovernmental agreements, as a condition of grant approval, with such municipalities and special districts that have been approved for grants from the County; and

WHEREAS, these intergovernmental agreements are authorized by Article XIV, Section 18 of the Colorado Constitution and COLO. REV. STAT. § 29-1-203.

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

1. Amount of Grant. The County agrees to provide Grantee with Grant Funds in the amount not to exceed **\$250,000** from the Arapahoe County Open Space, Parks and Trails Grant Program for the **Cherry Creek Crossing and Trail** ("Grant Project").
2. Use of Grant Funds. The Grantee agrees that it shall only use the Grant Funds for the Grant Project, as set forth in Exhibit A.
3. Time For Use of Grant Funds. The Grantee agrees that such Grant Funds will be expended by no later than two years from the date of transfer of Grant Funds from the Grantor to the Grantee, unless a longer period of time is otherwise agreed to by the County in writing.

4. Interest on Grant Funds. The Grantee further agrees that, after receipt of its Grant, the Grantee will use any interest earned on the Grant only for the Grant Project as set forth in its approved grant application.
5. Administration of Grant Project. The Grantee shall be responsible for the direct supervision and administration of the Grant Project. The County shall not be liable or responsible for any cost overruns on the Grant Project. Nor shall the County have any duty or obligation to provide any additional funding for the Grant Project if the Grant Project cannot be completed with the amount of Grant Funds awarded by the County to the Grantee.
6. Grant Project Site Visits. Upon 24 hours written notice to the Grantee, the Grantee agrees to allow the County to make site visits before, during, at the completion of and/or after the Grant Project.
7. Acknowledgement of County by Grantee. The Grantee agrees to acknowledge the County as a contributor to the Grant Project in all publications, news releases and other publicity issued by the Grantee related to the project and agrees to allow the County to do the same. If any events are planned in regard to the Grant Project, the County shall be acknowledged as a contributor in the invitation to such events. Grantee shall cooperate with the County in preparing public information pieces, providing photos of the Grant Project from time to time, and providing access to the Grant Project for publicity purposes.
8. Required Sign at Project Site. Grantee agrees to erect and permanently maintain at least one sign in a publicly visible area in recognition of the grant from the Arapahoe County Open Space Program. The location, form, design, and wording of such sign shall be approved by the County. Such sign shall be erected prior to the completion of the Grant Project or its public opening, whichever is the earlier.
9. Report Requirements. On or before **January 31, 2011** the Grantee agrees to provide the County with an initial Grant Project status report that describes the amount of progress in completing the Grant Project, Grant Project milestones, and the use of the Grant Funds to date. The status report shall include a spreadsheet comparing the original budget to actual expenses, plus two (2) or more high resolution digital photographs showing progress and seasonal context at the Grant Project site. The Grantee agrees to provide the County with additional Grant Project status reports, which shall be due at the end of every six month period after the initial status report is submitted, until the Grant Project is completed. Upon completion of the Grant Project, the Grantee also agrees to submit to the County a final report, including a cover letter and a final spreadsheet comparing the original budget to actual expenses that certifies what the Grant Funds have been used for and that the Grant Funds have been used in accordance with County Resolution No. 030381. The final report shall also include a detailed project summary along with high resolution photographs of the various stages of the Grant Project development and its completion. The Grantee further agrees to provide the County with an electronic copy of the final report, including separate high resolution digital photographs. The final report shall be submitted within

three (3) months of project completion unless a longer period of time has been agreed to by the County in writing. The County shall be allowed to use information and photographs from reports in publications, public information updates, and on the County's web site.

10. Failure to Submit Required Reports. Upon written notice from the County's Open Space Manager, informing the Grantee that it has failed to submit any required status report and/or final report, the Grantee shall submit such reports to the County through the County's Open Space Manager within thirty (30) days, and, if it fails to do so, the Grantee shall be deemed to be in violation this Agreement. The Grantee shall be ineligible for any future Grant Funds, until and unless such reports have been submitted to the County's Open Space Manager.
11. Record Keeping Requirements. The Grantee shall maintain a complete set of books and records documenting its use of the Grant Funds and its supervision and administration of the Grant Project. The County or any of its duly authorized representatives shall have reasonable access to any books, documents, papers, and records of the Grantee which are pertinent to the Grant Project for the purpose of making an audit, examination, or excerpts. The Grantee shall keep all books, documents, papers, and records, which are pertinent to the Grant Project, for a minimum of three years. Grantee agrees to report to the County any unexpended Grant Funds and consult with the County concerning proper accounting for unexpended Grant Funds prior to completion of the Grant Project final report.
12. Reimbursement of Grant Funds. The Grantee understands and agrees that if the Grant is not used in accordance with its approved Grant Application and/or this Agreement, the County may require the Grantee to reimburse the County in the amount of such Grant Funds that are not used for the Grant Project or in compliance with this Agreement.
13. 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.
14. No Waiver of Rights. A waiver by either 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 either Party.
15. Changes to Grant Project. The Grantee agrees and understands that its Grant Project, once it has been approved by the County, may not be changed without the County's prior approval. Changes must be requested in writing and may not begin until an amendment to this Agreement has been approved by the County.
16. Transfer of Interest in Grant Project. The Grantee understands and agrees that no land or interests acquired with the Grant Funds as part of the Grant Project may be sold, leased, traded, or otherwise conveyed, nor may an exclusive license or permit on said land or interests be given, without prior approval of the Grantee's governing body after conducting a public hearing. The Grantee further agrees if

such sale, lease, trade or conveyance is made or an exclusive license or interest has been given, the proceeds shall be deposited in an open space fund to be used for purposes consistent with Resolution No. 030381.

17. Use Restrictions on Acquired Lands. Arapahoe County requires legally binding use-restrictions on all real property acquired with County Open Space funds to ensure the long-term protection of lands for parks and open space purposes, consistent with County Resolution #030381. Grantee herein agrees to place use restrictions on all real property acquired with the Grant Funds, by executing and recording a Deed of Conservation Easement that encumbers such property. Prior to execution and recording, the Grantee must first obtain written approval as to the form and content of the Conservation Easement, and the manner and timing of its recording, from the County Attorney's Office, and must also obtain written approval as to the holder of the Conservation Easement from the Arapahoe County Open Space Manager. Grantee is required to obtain such approvals prior to any funds being disbursed by the County for purposes of the acquisition of real property by, or on behalf of, the Grantee.
18. Maintenance. Grantee agrees to assume responsibility for continuous long-term maintenance and public safety of open space lands, trails, recreation facilities, amenities, signage or other projects funded by this County Open Space Grant.
19. Relationship of the Parties. The Grantee 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.
20. 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 Grantee.
21. 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.
22. 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 County and the Grantee.
23. 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.
24. 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 80166-0001

and

Arapahoe County Attorney
5334 South Prince Street
Littleton, Colorado 80166-0001

and

Arapahoe County Open Space Manager
10730 East Briarwood Avenue, Suite 100
Centennial, Colorado 80112-3853

and

DISTRICT: Bob Blodgett
District Manager
Parker Jordan Metro District
c/o R.S. Wells, LLC
8390 East Crescent Parkway, Suite 500
Greenwood Village, CO 80111-2811

and

Dianne Miller
General Counsel
Parker Jordan Metropolitan District
Miller & Associates Law Offices, LLC
700 17th Street, Suite 2200
Denver, CO 80202

25. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado.
26. 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.
27. 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.
28. 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.

29. 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.
30. Disbursement of Grant Funds. For land acquisition projects, Grant funds are to be made available to the Grantee by the County at the time of real estate closing. For all other Grant Projects, funds shall be transferred soon after the execution of the IGA. The preferred method used by the County for transfer of Grant project funds is by ACH Authorization. Grantee agrees to this method.
31. 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.
32. Governmental Immunity. Nothing in this Agreement shall be construed as a waiver of the rights and privileges of the County and the Grantee pursuant to the Colorado Governmental Immunity Act, § 24-10-101, *et seq.*, C.R.S., as the same may be amended from time to time.
33. Signatures. The signatories to this Agreement represent that they are fully authorized to execute this Agreement and bind their respective entities.


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

DATED this 5 day of August, 2011.

ATTEST:

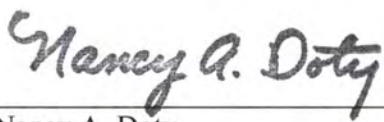
GRANTEE:


By: 
Special District Counsel

By: 
Name: Norman A. Sheldon
Title: President

ATTEST:

COUNTY OF ARAPAHOE
STATE OF COLORADO

By: 
Nancy A. Doty,
Clerk to the Board

By: 
Bob Toll, Open Space Manager,
~~Pursuant to Resolution # 100140~~
Shannon Cantor
Reso # 0110143

**ARAPAHOE COUNTY, COLORADO
AUTHORIZATION AGREEMENT
FOR AUTOMATIC DEPOSITS (ACH CREDITS)**

I (we) hereby authorize Arapahoe County Government to initiate credit entries, and if necessary, reverse any incorrect ACH credit entries made in error to our bank account indicated below.

OPEN SPACE

GRANT PROJECT TITLE: Cherry Creek Crossing and Trail

ENTITY NAME: Parker Jordan Metro District

FEDERAL E.I.N. 84-1567986

ADDRESS:

STREET 8390 E. Crescent Parkway, Suite 600

CITY, STATE, ZIP Greenwood Village, CO 80111

DEPOSITORY NAME Centennial Bank

ADDRESS:

STREET 13700 E. Arapahoe Road

CITY, STATE, ZIP Centennial, CO 80112

DEPOSITORY TRANSIT NUMBER 107005953

DEPOSITORY ACCOUNT NUMBER 2113100

CHECKING

SAVINGS

This agreement is to remain in full force and effect until Arapahoe County Government has received written notification from the ENTITY of its termination in such time and manner to afford Arapahoe County Government and DEPOSITORY a reasonable opportunity to act on it. It is the responsibility of ENTITY to fill out a new agreement if the ENTITY changes banks or accounts.

Date 8-15-11 Phone 303-265-7955 Email address Kristin.craire@cliftonpr.com

Authorized Signature

Kristin Craire

Title

Accountant for the District

Authorized Signature

[Signature]

Title

District Manager 8-15-11