

**A MEMORANDUM OF UNDERSTANDING BETWEEN
ARAPAHOE COUNTY, THE CITY OF CENTENNIAL AND THE CITY OF
GREENWOOD VILLAGE**

WITNESSETH:

WHEREAS, Arapahoe County, Colorado, the City of Centennial, Colorado and the City of Greenwood Village, Colorado, have joined to create a coalition (the "coalition") to identify federal discretionary planning and construction funds for the intersection at I-25 and Arapahoe Road; and

WHEREAS, the Colorado Department of Transportation has not made this critical intersection a top funding priority and the Federal Highway Administration (FHWA) has not approved advancing the environmental process for the project that is needed to adequately relieve congestion and improve safety; and

WHEREAS, Capital Partnerships, Inc. (CPI) is an expert in identifying such federal discretionary transportation funds, having facilitated the designation of over \$2.2 billion for its clients in 20 years of doing business and has been working successfully with local governments in Colorado to identify such funds; and

WHEREAS, CPI has excellent contacts at the U.S. Department of Transportation and the Federal Highway Administration in Washington to help advance the administrative process of this project;

NOW, THEREFORE, in consideration of the mutually binding covenants and conditions set forth herein, the Parties hereto agree as follows:

1. PURPOSE

The purpose of this Agreement is to specify payment terms for the members of the coalition as it relates to the contract for services between Greenwood Village and CPI. This agreement establishes the working relationship and staff contacts for the coalition.

2. SCOPE OF SERVICES

Greenwood Village agrees to be the contracting entity with CPI to perform the following services:

CPI will provide the following scope of services to the Coalition:

A. Development of Federal Funding Strategy

Provide advice to the Coalition and implement the actions necessary to identify federal discretionary planning and construction funds for the I-25/Arapahoe Road intersection project and to insure that the Federal Highway Administration (FHWA) does not stand in the way of constructing a locally preferred project. The overall construction cost of this project, based upon the alternative chosen, will range from \$75-115 million.

B. Work with the U.S. Department of Transportation to Advance the Project

The FHWA has recently communicated the position that the environmental process cannot proceed until all of the federal, state and local funding has been identified for this project. Working with the relevant Members of the Colorado Congressional Delegation and others, a strategy will be implemented to educate the FHWA on the locally preferred alternative that the position they are taking is unrealistic and that the environmental process should move forward expeditiously. Contact will also be made at the appropriate time with the Secretary of Transportation Mary Peters and the current FHWA Administrator, and meetings will be set up with those individuals if necessary.

C. FY 2009 U.S. Department of Transportation/Housing and Urban Development (THUD) Appropriations Bill

Work with the offices of Representative Tom Tancredo, Senator Wayne Allard, Senator Ken Salazar, Senator Patty Murray [Chairperson of the Senate Transportation Appropriations Subcommittee], Congressman John Olver (Chairman, House Transportation Appropriations Subcommittee and others to identify federal highway discretionary planning and construction funds for the project. A realistic goal would be to identify up to \$2 million in the FY 2009 Appropriations bill.

D. Reauthorization of SAFETEA

The Reauthorization of SAFETEA must be completed before September 30, 2009, but the process will begin in 2008. Regional hearings will be held around the country by the U.S. Department of Transportation and several Hill Committees and it will be important for the Coalition to provide testimony at several of those hearings. In addition, a goal of \$15-20 million in federal discretionary highway construction funds could be identified as a High Priority Project in this bill.

E. Coordination of Legislative Efforts

Provide key federal legislators and their staff with appropriate and timely information regarding the project and its future federal funding needs. In addition, the following services would be provided:

1. Work with the staff of the House and Senate Appropriations Committees to prepare the appropriate requests for discretionary highway funding for FY 2009. A list of answers to Committee questions must be submitted in a timely manner to the respective House and Senate Committees.
2. Prepare the testimony for any regional SAFETEA Reauthorization

hearings on the project to be presented by a representative of the Coalition.

3. Attend House and Senate Transportation Authorization and Appropriations Committee hearings as needed.
4. Assist Coalition representatives in preparing for meetings with Members of Congress and set up appointments for Capitol Hill Legislative Days when appropriate. Identify opportunities for Coalition representatives to testify and prepare that testimony.
4. Draft brief summaries of key meetings/hearings as appropriate.
5. Follow up on meetings with congressional members and staff to insure that information needs are adequately addressed.

3. KEY PERSONNEL

Kenneth W. Butler, Senior Principal of CPI, will be committed to the project on a priority basis.

Timothy Hannegan of Wexler & Walker Public Policy Associates is retained as a subcontractor to assist with the federal transportation authorization and appropriations process.

Bryan Weimer, Arapahoe County, shall be the Arapahoe County Coalition staff contact. Jacque Wedding-Scott, City of Centennial, shall be the City of Centennial Coalition staff contact. Jim Sanderson, City of Greenwood Village, shall be the City of Greenwood Village Coalition staff contact.

4. TERM OF AGREEMENT

- A. The term of this Agreement is March 1, 2008 to December 31, 2009.
- B. The Coalition has the option to extend this Agreement for up to one additional year beyond December 31, 2009.
- C. Such extension shall require agreement by all parties and shall be executed through an amendment to this agreement.

5. TERMINATION

This Agreement can be terminated with thirty (30) days written notice. If, at any time, the agreement between Greenwood Village and CPI is terminated, the terms of this agreement shall automatically terminate.

6. FEES AND COMPENSATION

CPI's fees and compensation will be structured as follows:

- A. Retainer of \$15,000 per month, beginning March 2008, (Washington area expenses included).
Expenses outside of the Washington area must be approved in advance by the members of the Coalition.

7. PAYMENT SCHEDULE

- A. Fees and Expenses. The City of Greenwood Village will receive an invoice from CPI dated the first (1st) of each month during the term of this Agreement for services provided to Greenwood Village by CPI in the previous thirty (30) days. Copies of each invoice shall be forwarded to the coalition members. Each entity to the Coalition shall be responsible for an equal share of the invoice up to a maximum of \$5,000 per month for Centennial and \$5,000 per month for Arapahoe County. Upon receipt of the invoice, each member shall forward payment to Greenwood Village in the amount of \$5,000 per month for the term of the Agreement, not to exceed \$60,000 per year for both Centennial and Arapahoe County. Greenwood Village shall be responsible for all payments to CPI including any additional invoiced amounts in excess of \$15,000 per month or \$180,000 per year.

8. NONAPPROPRIATIONS

Pursuant to Section 29-1-110, Colorado Revised Statutes, as amended, the financial obligations of the members of the Coalition as set forth herein after the current fiscal/calendar year are contingent upon funds for that purpose being appropriated, budgeted and otherwise available. This Agreement is automatically terminated on January 1st of the first fiscal year for which funds are not appropriated. The members of the Coalition shall give the City of Greenwood Village written notice of such nonappropriation.

9. SEPARABILITY

If any provision in the Agreement is rendered or declared illegal by existing or subsequently enacted legislation or by decree of a court of last resort, the Parties will meet promptly to substitute provisions for those rendered or declared illegal.

10. VENUE

The laws of the State of Colorado shall govern this Agreement. Venue for any action for the enforcement of this Agreement shall be in the appropriate court for Arapahoe County, Colorado. Any judgment shall be limited to specific performance and/or injunctive relief and no Party shall have any claim or remedy for monetary damages arising from an alleged breach of this Agreement against another Party. This Agreement is not intended to modify or eliminate the standing the Parties may possess independent of this Agreement. The Parties agree that the rule that ambiguities in a contract are to be construed against the drafting party shall not apply to the interpretation of this Agreement.

11. CONTACTS AND RECEIPT OF NOTICES

Technical questions, support and any reports or notices permitted or required to be given hereunder shall be deemed to have been received if mailed postage prepaid and addressed as follows:

If to Arapahoe County:

Bryan Weimer
Public Works and Development
10730 East Briarwood Avenue, Suite 100
Centennial, Colorado 80112-3853

If to Greenwood Village:

Jim Sanderson, City Manager
City of Greenwood Village
6060 South Quebec Street
Greenwood Village, Colorado 80111

If to Centennial:

Jacque Wedding-Scott, City Manager
City of Centennial
12503 East Euclid Drive, #200
Centennial, Colorado 80111

12. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties relative to the subject matter of this Agreement. No representation, promise or condition in connection with the subject matter of the Agreement shall be binding upon either Party unless expressed herein. This Agreement supersedes and voids any prior or collateral understandings, oral or written, between Parties concerning the subject of the Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized representatives on the date indicated below their respective signatures.

ARAPAHOE COUNTY, COLORADO

Signature: Susan Beckman

Printed Name: Susan Beckman

Title: Chair, Arapahoe County Commissioner

Date: 6/19/08

CITY OF CENTENNIAL, COLORADO

Signature: Randolph E. Pye

Printed Name: Randolph E. Pye

Title: Mayor

Date: 6/2/2008

CITY OF GREENWOOD VILLAGE, COLORADO

Signature: Nancy N. Sharpe

Printed Name: Nancy N. Sharpe

Title: Mayor

Date: 6/16/08