

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF
JEFFERSON AND THE BOARD OF COUNTY COMMISSIONERS OF THE
COUNTY OF DOUGLAS, STATE OF COLORADO, REGARDING FINANCIAL
CONTRIBUTION FOR STRUCTURE E-6-4A BRIDGE PROJECT**

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into this _____ day of _____, **2024** by and between the Board of County Commissioners of Jefferson County, State of Colorado, a body politic and corporate (“**Jeffco**”), and the Board of County Commissioners of Douglas County, State of Colorado, a body politic and corporate (“**Dougco**”), hereinafter collectively referred to as the “**Parties**.”

RECITALS

A. The Parties desire to make certain transportation improvements to Structure E-6-4A bridge that carries County Road 67 over the South Platte River, which is located approximately two miles downstream of the Trumbull Bridge, that is north of Deckers, Colorado, hereinafter referred to as the “**E-6-4A Bridge Project**” or the “**Project**”.

B. The Parties are legally empowered under Section 29-1-201, et seq., C.R.S. to enter into this Agreement.

C. The proposed improvements associated with the **E-6-4A Bridge Project** will occur in both Jefferson County and Douglas County. The South Platte River, that flows under Structure E-6-4A, represents the jurisdictional boundary between the two Counties. The general public, tourists, campers, and constituents in both Counties rely on this bridge for their daily travel needs. Additionally, the bridge provides access for the North Fork Fire District and other emergency services. Structure E-6-4A is currently on Jefferson County’s bridge inventory list; and a recent inspections report identified the need to repair or replace the bridge.

D. Jeffco is responsible for managing all of the pre-construction activities for the **E-6-4A Bridge Project** and the design is anticipated to be completed in summer 2024.

E. Jeffco is responsible for managing all of the construction activities for the **E-6-4A Bridge Project** and anticipates beginning construction in late 2024 or early 2025.

F. In connection with the **E-6-4A Bridge Project**, Dougco desires to voluntarily contribute funds to pay for a portion of the project costs.

G. Dougco and Jeffco desire to enter into this Agreement to memorialize the agreements relating to funding the design and construction of the **E-6-4A Bridge Project**.

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 of this Agreement by both Parties and shall continue until twelve (12) months following substantial completion of construction of the **E-6-4A Bridge Project**.

3. **The Construction Plans for the E-6-4A Bridge Project.** The Parties agree that Jeffco is responsible for managing all the pre-construction activities and all the construction activities associated with the **E-6-4A Bridge Project**.

Jeffco has entered a contract with Alfred Benesch & Company to prepare the Construction documents (plans and specifications) for the **E-6-4A Bridge Project**. The final construction plans shall generally conform to the 95% complete plan review set labeled "South Platte River Bridge Improvements, Structure Number E-6-4A, Jefferson County Department of Transportation and Engineering, T&E Project No. 8-69-1-4058", incorporated herein by this reference (the "Plans"). Dougco has reviewed the 90% complete plans and concurs with Jeffco's decision to move forward with completing the pre-construction activities and bidding the construction contract as soon as the necessary additional right-of-way is acquired, and environmental clearances have been obtained.

4. **Construction Contract for the E-6-4A Bridge Project.** Jeffco plans to bid and award a construction contract in accordance with Jeffco's policies for competitive bidding (the "Construction Contract") and Jeffco is responsible for administering the Construction Contract. The Parties both agree to allow the Contractor to carry out the necessary work within each party's applicable roadway right-of-way and / or easements in accordance with the Plans. Jeffco shall be responsible for holding the Contractor responsible to carry out the work in accordance with the Plans. Currently, the **E-6-4A Bridge Project** is estimated to cost approximately \$3,000,000 to \$4,000,000.

5. **Douglas County Contribution.** Dougco agrees to voluntarily pay Jeffco a one-time lump sum amount of One Million Dollars and No Cents (\$1,000,000.00), hereinafter referred to as the "**Dougco Contribution**" which shall be used for the sole purpose of partially funding the preconstruction and / or construction activities associated with the **E-6-4A Bridge Project**. In no event will Dougco be liable for paying Jeffco more than the **Dougco Contribution**, including for any unforeseen project costs or contractor and other third-party claims.

Following the execution of this Agreement, the **Dougco Contribution** is payable to Jeffco within thirty (30) days after the date Jeffco issues the Notice to Proceed for the

E-6-4A Bridge Project. Jeffco shall provide Dougco with a written invoice stating that Jefferson County issued the Notice to Proceed to the contractor selected for the **E-6-4A Bridge Project** and identifying the date of same. Included with this invoice, Jeffco shall provide Dougco with a copy of the executed Construction Contract, and a copy of the Notice to Proceed and a copy of the bid tabulations. The Dougco invoice shall be sent to the Douglas County Public Works Director pursuant the Notice paragraph herein.

6. **Jeffco's Contract with the Contractor.** Jeffco is responsible for managing the Contractor during construction. Dougco, at its sole discretion, may conduct field inspections within its own right-of-way but Dougco shall not direct, supervise, communicate with, or otherwise control the Contractor. If Dougco observes any work or materials that are not being performed in accordance with, or which do not conform with, the Construction Documents, the Dougco Representative shall notify the Jeffco Representative, who shall bring the matter to the attention of the Contractor and ensure the Contractor fixes any discrepancies. Notwithstanding the above, Dougco may meet with the Contractor provided that the Jeffco Representative or designee is also present at such meetings. The Parties acknowledge, that all formal direction, supervision, and control of the Contractor remains exclusively with the Jeffco Representative.

7. **Contractor Payments and Change Orders.** Jeffco shall be responsible for making all payments to the Contractor and for issuing change orders regarding the **E-6-4A Bridge Project**. Jeffco shall have total discretion to issue change order(s) for work within Jeffco and Dougco's roadway right of way (ROW) and / or easements associated with completing the **Bridge Project**.

8. **Termination of Construction Contract.** In the event the Construction Contract is terminated, and Jeffco does not construct the **E-6-4A Bridge Project** pursuant to the Contract Documents, Jeffco shall reimburse Dougco seventy-five percent (75%) of the **Dougco Contribution** which represent Dougco's contribution for the construction phase of the **Project**. And said reimbursement payment is due within sixty (60) days of Jeffco's decision not to construct the **Project**.

9. **Time of Performance.** Upon execution of this Agreement by both Parties, Jeffco shall diligently pursue construction of the **E-6-4A Bridge Project**. Currently, Jeffco anticipates that the construction will be substantially completed and open to traffic on or before **October 31, 2025**. If Jeffco has not initiated the construction phase of the **Project** on or before **December 31, 2026**, either Party may proceed to take the necessary steps to terminate this Agreement.

10. **Completion of the E-6-4A Bridge Project.** Jeffco will notify Dougco Representatives once the Contractor has notified the Jeffco Representative that construction of the **E-6-4A Bridge Project** is substantially complete. Dougco has the right to attend weekly progress meetings and to participate in inspections of the work, including the final inspection. Said inspections shall be conducted with the Jeffco Representative at a time mutually agreeable to the Parties. Absent Dougco's written consent, Jeffco agrees

that it shall not accept any work that does not substantially conform to the Construction Documents.

11. **Authorized Representatives.** Jeffco designates Mike Vanatta and Evan Brown as the Jeffco Representatives under this Agreement. Dougco designates Art Griffith and Neil Sarno as the Dougco Representatives under this Agreement. Each party shall be notified of any change by the other in its authorized representatives.

12. **Remedies.** Dougco shall release Jeffco, its agents and employees from all liability, claims or demands arising from the design and construction of the **E-6-4A Bridge Project**. 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.

13. **Notice.**

a. Any notice required or permitted by this Agreement shall be in writing and shall be deemed received if given by: (i) electronic mail (as set forth in subsection (b) below) when transmitted, if transmitted on a business day and during normal business hours of the recipient, and otherwise on the next business day following transmission; (ii) certified mail, return receipt requested, postage prepaid, three (3) business days after being deposited in the United States mail; or (iii) overnight carrier service or personal delivery, when received. Notice shall be given to the parties at the following addresses:

Jefferson County: Director, Transportation & Engineering Division
100 Jefferson County Parkway, #3500
Golden, Colorado 80419
Tel: (303) 271-8495

Attention: Mike Vanatta, Director
E-mail: mvanatta@jeffco.us

and Evan Brown, Engineering Manager
Email: ebrown@jeffco.us

with a copy to:

Jefferson County Attorney
100 Jefferson County Parkway, #5500
Golden, Colorado 80419
Tel: (303) 271-8900
E-mail: CAOContracts@jeffco.us

Douglas County: Public Works Engineering Director
100 Third Street, Suite 220
Castle Rock, Colorado 80104

Attention: Janet R. Herman, Engineering Director
E-mail: JHerman@douglas.co.us

and Art Griffith, CIP Manager
E-mail: agriffit@douglas.co.us

with an electronic copy sent to: attorney@douglas.co.us

b. **Electronic Mail.** The parties agree that: (i) any notice or communication transmitted by electronic mail shall be treated in all manner and respects as an original written document; (ii) any such notice or communication shall be considered to have the same binding and legal effect as an original document; and (iii) at the request of either party, any such notice or communication shall be re-delivered or re-executed, as appropriate, by the party in its original form. The parties further agree that they shall not raise the transmission of a notice or communication, by electronic mail, as a defense in any proceeding or action in which the validity of such notice or communication is at issue and hereby forever waive such defense. For purposes of this Contract, the term “electronic mail” means email.

14. **Appropriation.** Pursuant to section 29-1-110, C.R.S., any financial obligations of Dougco and Jeffco 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.

15. **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.

16. **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 Jefferson, State of Colorado and the Parties waive any right to remove any action to any other court, whether state or federal.

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

18. **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.

19. **No Waiver of Governmental Immunity Act.** The Parties hereto understand and agree that the Parties, its commissioners, 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 Parties.

20. **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.

21. **Execution by Counterparts; Electronic Signatures.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The Parties approve the use of electronic signatures for execution of this Agreement. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, C.R.S. §§24-71.3-101 to -121.

[signature pages follow]

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



COUNTY OF JEFFERSON
STATE OF COLORADO

A handwritten signature in blue ink, appearing to be "Lesley Dahlkemper", is written over a horizontal line.

Lesley Dahlkemper, Chairman
Board of County Commissioners

ATTEST:

A handwritten signature in blue ink is written over a horizontal line.

Clerk to the Board

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to be "Carey Markel", is written over a horizontal line.

Carey Markel
Deputy County Attorney

[Douglas County signature page follow]

**BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY**

_____, Chair

ATTEST:

APPROVED AS TO CONTENT:

Douglas J. DeBord,
County Manager

Clerk to the Board

APPROVED AS TO FORM:

APPROVED AS TO FISCAL CONTENT:

Chris Pratt,
Senior Assistant County Attorney

Andrew Copland,
Director of Finance