

MEMORANDUM OF UNDERSTANDING
CONCERNING DEVELOPMENT AND CONSTRUCTION

THIS MEMORANDUM OF UNDERSTANDING ("Memorandum") is made as of _____, 1998, by and between STONEGATE VILLAGE METROPOLITAN DISTRICT ("Village"), and LINCOLN PARK METROPOLITAN DISTRICT (formerly known as STONEGATE CENTER METROPOLITAN DISTRICT) (whether known by either name, hereinafter referred to as "Lincoln Park"), both quasi-municipal corporations and political subdivisions of the State of Colorado (collectively hereinafter referred to as the "Districts").

RECITALS

WHEREAS, the purposes for which each of the Districts were formed are provision of water, sanitation, street, transportation and parks and recreation facilities and services; and

WHEREAS, pursuant to Colorado Constitution Article XIV, Section 18(2)(a), and Section 29-1-203, C.R.S., the Districts may cooperate or contract with each other to provide any function, service or facility lawfully authorized to each, and any such contract may provide for the sharing of costs, the imposition of taxes, and the incurring of debt; and

WHEREAS, each District has, pursuant to Section 32-1-205 C.R.S., prepared a Service Plan (individually, the "Service Plan" and collectively, the "Service Plans") and have received all required governmental approvals therefor; and

WHEREAS, each Service Plan discloses and establishes the necessity for and desirability of an intergovernmental agreement concerning the construction, operation, and maintenance of certain regional facilities and the provision of services; and

WHEREAS, each District was organized with the approval of the County of Douglas, State of Colorado, and with the approval of their respective electors, fully contemplating cooperation between the Districts as provided in their respective Service Plans; and

WHEREAS, Village and Lincoln Park entered into a Regional Facilities Construction Agreement dated February 22, 1984 ("Original Facilities Agreement"), under which some of the facilities contemplated thereunder were built; and

WHEREAS, the Districts amended and restated in its entirety the Original Facilities Agreement by entering into a First Amended and Restated Regional Facilities Construction Agreement, dated April 15, 1992, and subsequently amended and restated the First Amended and Restated Regional Facilities Construction Agreement by entering into a Second Amended and Restated Regional Facilities Construction Agreement, dated November 21, 1996 (the "Second Amendment"); and

WHEREAS, the Second Amendment states that it is intended and anticipated that Village shall finance, construct, and operate water and sewer systems ("Systems") adequate to service an

ultimate build-out of at least 2,531 SFE's within Village as it now exists or may hereafter be expanded, including units currently in place or under construction. In addition, the Systems are intended to provide service to Lincoln Park as provided in the Second Amendment and, to the extent that additional capacity exists or is added by Lincoln Park to the Systems, taps in excess of those described above are dedicated in perpetuity to supply taps to Lincoln Park; and

WHEREAS, the Districts acknowledge and agree that the owner of real property within Lincoln Park has proposed a rezoning of uses within both Lincoln Park and Village which will enable Lincoln Park to more efficiently discharge its existing indebtedness and provide enhanced recreational and transportation services to existing Village homeowners and future Lincoln park Owners; and

WHEREAS, the Districts acknowledge and agree that development is occurring and has occurred both in Village and Lincoln Park, and that in some instances the area developed has been or will be annexed to Village as it occurs where such annexation is in the best interests of both Parties; and

WHEREAS, in the case of development within Lincoln Park, the Second Amendment contemplates that Lincoln Park will pay the cost of expanding the Systems in order to serve that development, however the Parties acknowledge and agree that efficiencies in the Systems and changes in the development densities in Village have made capacity available for development in Lincoln Park; and

WHEREAS, Village and Lincoln Park desire to clarify their joint policies and agreements with respect to future development under the Second Amendment and the manner in which the right to connect to the systems, and the compensation for such connections, shall be determined; and

WHEREAS, Village and Lincoln Park each intend, based upon their respective Service Plans and the Second Amendment, to construct such street, park and other facilities, and provide such other services, as are deemed appropriate by the Districts; and

WHEREAS, the Parties desire to state their understanding with respect to the construction of such additional facilities and the provision of such additional services, and to clarify their joint intention to coordinate the same such that the areas with their respective boundaries receive comparable facilities and services in the most efficient and cost effective manner; and

WHEREAS, the Parties wish to also clarify their joint policies and agreements with respect to the location of the boundaries of the two districts as development occurs, and describe and clarify the relationships between those owning property and/or residing within the respective Districts;

COVENANTS

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and stipulations herein, the Districts agree as follows:

A. GENERALLY

This Memorandum shall become effective on and as of the date first written above and shall remain in full force and effect unless terminated in accordance with its terms. Capitalized terms contained herein shall, unless otherwise indicated, have the same meaning as in the Second Amendment. Where the provisions of this Memorandum conflict with those of the Second Amendment, the provisions hereof shall apply.

B. AS TO WATER AND SEWER SERVICE

1. Construction Coordination.

The Districts agree that, except as otherwise agreed pursuant to the Second Amendment, Village will contract for and supervise construction of the Facilities necessary to provide water and sewer services to the area remaining in Village and the area in Lincoln Park. The Districts shall by mutual agreement schedule the phasing of construction to accommodate the progress of development within the Districts.

Village, in its discretion, may elect to have all or any reasonable portion of the said Facilities constructed or acquired by Lincoln Park without Village involvement other than enforcement of such Village Rules, Regulations, and Standards as are generally applicable to such Facilities.

2. Dedication of Sewer Capacity. In order to ensure adequate sewage treatment capacity for the Village development, and subject to the terms and conditions of the Second Amendment, the Districts agree that the right to use, and collect revenues from, the first 550,000 gallons per day of sewage treatment capacity made available in the Sewer Facilities shall be dedicated to Village. In addition, so long as Village is able to meet the need for sewage treatment capacity in Village, as evidenced by the prompt issuance and servicing of combined water and sewer taps, as and when requested by owners of property within Village, Lincoln Park may utilize the capacity dedicated hereunder to Village on a temporary basis, in its discretion, to serve customers within Lincoln Park; provided, that:

a. From the date hereof until such time as Lincoln Park and Village have connected sewer connections which utilize the dedicated capacity of 550,000 gallons per day, the applicable system development fees of Village charged for the provision of access to the Sewer Facilities shall apply to all development whether located in Village or Lincoln Park, (except to the extent that Lincoln Park decides to add its own incremental surcharge to the system

development fees of Village) and an amount equivalent to Village's system development fee shall be paid to Village, until the dedicated capacity of 550,000 gallons has been utilized. 2

b. Once the dedicated capacity of 550,000 gallons has been utilized, the then applicable system development fees of Village charged for the provision of access to the Sewer Facilities shall continue to apply and, to the extent system development fees are collected by Village for development within Village they shall be paid over to Lincoln Park.

c. In all other respects, the Second Amendment shall control the availability of capacity in and access to the Sewer Facilities.

3. Dedication of Water Capacity. In order to ensure adequate water treatment capacity for the Village development, and subject to the terms and conditions of the Second Amendment, the Districts agree that the right to use, and collect revenues from, the first 2,531 three-quarter inch water tap equivalents to be developed and delivered through the Water Facilities, as well as the water capacity necessary to serve the Stonegate Community Park, Challenger Park and the E-470 right of way, shall be dedicated in perpetuity to Village. In addition, so long as Village is able to meet the need for water service in Village, as evidenced by the prompt issuance and servicing of combined water and sewer taps, as and when requested by owners of property within Village, Lincoln Park may utilize the water tap equivalents dedicated hereunder to Village on a temporary basis, in its discretion, to serve customers within Lincoln Park; provided, that:

a. From the date hereof until such time as Lincoln Park and Village have connected water tap equivalents which utilize the dedicated capacity of 2,531 three-quarter inch water tap equivalents, the applicable system development fees of Village charged for the provision of access to the Water Facilities shall apply to all development whether located in Village or Lincoln Park, (except to the extent that Lincoln Park decides to add its own incremental surcharge to the system development fees of Village) and an amount equivalent to Village's system development fee shall be paid to Village, until the dedicated capacity of 2,531 3/4" water tap equivalents has been utilized.

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~~b. From the date hereof until such time as Lincoln Park and Village have connected water tap equivalents which utilize the dedicated capacity of 2,531 three-quarter inch water tap equivalents, to the extent that connections are made in Lincoln Park to the Water Facilities, then Lincoln Park shall pay over to Village annually, as tax receipts are received by Lincoln Park for the properties connected, that amount which represents the annual tax revenue which Village would have received with respect to those properties had they been located within Village and subject to the debt service mill levy of Village.~~

~~c. At such time as Lincoln Park and Village have connected water tap equivalents which utilize the dedicated capacity of 2,531 three-quarter inch water tap equivalents, then, to the extent that additional development occurs in Village the annual dollar amount required to be paid by Lincoln Park under subparagraph b., above, shall be reduced, dollar-for-~~

dollar, by that amount of tax revenues that Village receives from the application of its debt service mill levy to such additional development.

d. At such time as Lincoln Park and Village have connected water tap equivalents which utilize the dedicated capacity of 2,531 three-quarter inch water tap equivalents, the then applicable system development fees of Village charged for the provision of access to the Water Facilities shall continue to apply and, to the extent system development fees are collected by Village for development within Village they shall be paid over to Lincoln Park.

e. Once all of the developable property within both Districts has been developed through the construction thereon of residential or commercial improvements, as those terms are commonly used in the Denver metropolitan area, and whether such improvements are taxable or not, then in that event the requirements of this paragraph B. 3. shall cease and be discharged.

f. In all other respects, the Second Amendment shall control the availability of capacity in and access to the Water Facilities.

C. AS TO PARK FACILITIES

1. Ownership, Operation, Maintenance and Replacement Costs of Park Facilities. Except as agreed herein, the Park Facilities and related components constructed within Village shall be owned, operated, and maintained by Village at Village's expense, and the Park Facilities and related components constructed within Lincoln Park shall be owned, operated, and maintained by Lincoln Park at Lincoln Park's expense.

2. Use of Park Facilities.

The Parties acknowledge and agree that each has and will provide significant park and recreational amenities for the purpose of serving the needs and benefits of the residents and property owners of both Districts. The Parties further acknowledge that it is impracticable to restrict the use of those amenities so as to differentiate between Village and Lincoln residents. Accordingly, residents and property owners of Lincoln Park may freely use any Park Facility of Village on a first come, first served basis, and residents and property owners of Village may freely use any Park Facility of Lincoln on a first come, first served basis, in each case subject to the following:

a. The Parties shall cooperate to administer the property owners and residents lists of each so that both Districts and their administrative staffs and consultants are able to manage the use of the Districts' Park Facilities to the maximum benefit of their combined constituency; and

b. The Parties shall appoint a five member committee, consisting of two members of each Board of Directors who shall appoint a fifth member of their choosing, in order to draft and approve joint rules and regulations concerning the use and operation of each of the Park Facilities, such rules and regulations to be administered for the joint benefit of the Districts' combined constituency;

c. The Parties hereby pledge to cooperate and communicate on a regular basis both among themselves and with other interested parties with a view to providing the best and most available Park Facilities to the residents and property owners of the Districts on the most cost effective basis.

D. AS TO BOUNDARIES

1. Amendment of District Boundaries.

The Parties acknowledge and agree that, to the extent that development within Lincoln Park is compatible with that occurring in Village, and is located such that continuing to have it located within Lincoln Park would create confusion among neighbors through different tax burdens or water and sewer billings with respect to adjacent or closely neighboring properties, it is in the best interests of all concerned, if financially and legally feasible, as determined through the mutual agreement of the parties, to have the property in question excluded from Lincoln Park and included into Village. To the extent that such action occurs then in that event, the property in question and its owners and residents shall be subject to and enjoy all of the same rights, obligations and privileges as any other property, owners and residents within and of Village.

2. Consolidation. In order to foster efficiencies and reduce the number of special districts within Douglas County, upon the substantial completion of development within both Districts, or upon the seventh anniversary date of the effective date of this Memorandum of Understanding, which ever first occurs, Village will file with Lincoln a Consolidation Resolution in conformance with C.R.S. Section 32-1-602(2)(a), it being the intention of the Boards of Directors of the Districts that, if mutually agreeable, the organizational structures of the Districts be merged in a manner and at a time which is in the best interests of all concerned. Pursuant to Section 32-1-602(2)(e), the debt of each of the two Districts outstanding at that time, if any, shall remain the obligation of the area which originally incurred the indebtedness. 2008

E. MISCELLANEOUS

1. Relationship of Parties. This Agreement does not and shall not be construed as creating a relationship of joint venturers, partners, or employer-employee between the Districts.

2. Liability of Districts. No provision, covenant or agreement contained in this Agreement, nor any obligations herein imposed upon each District nor the breach thereof,

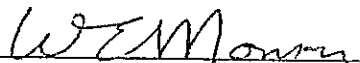
nor the issuance and sale of any bonds by a District, shall constitute or create an indebtedness of the other District within the meaning of any Colorado constitutional provision or statutory limitation. Neither District shall have any obligation whatsoever to repay any debt or liability of the other District.

3. No Third Parties. This Memorandum is a cooperative arrangement between the Parties and their Boards of Directors, and no third party rights or beneficiaries exist or are hereby created. In so providing, the Parties have their respective residents and landowners specifically in mind, as well as any other persons or entities that may come forward, without limitation.


4. Assignment. Neither this Agreement, nor any of either District's rights, obligations, duties or authority hereunder may be assigned in whole or in part by either District without the prior written consent of the other District. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed to be consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

ATTEST:


Secretary or Assistant Secretary

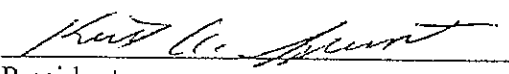
LINCOLN PARK METROPOLITAN
DISTRICT


President

ATTEST:


Secretary or Assistant Secretary

STONEGATE VILLAGE METROPOLITAN
DISTRICT


President