

Resolution No. R-019 - 052

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO**

**RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN
THE TOWN OF CASTLE ROCK AND THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, STATE OF COLORADO, CONCERNING
FUNDING OF THE FOUNDERS PARKWAY AND ALLEN WAY INTERSECTION
IMPROVEMENTS, PROJECT NUMBER CI 2019-021.**

WHEREAS, the Board of County Commissioners of the County of Douglas (the "County") and the Town of Castle Rock (the "Town"), desire to enter into an intergovernmental agreement concerning funding of the Founders Parkway and Allen Way Intersection Improvements; and

WHEREAS, the County is willing to enter into such an agreement with the Town in accordance with the terms and conditions set forth in the intergovernmental agreement attached hereto; and

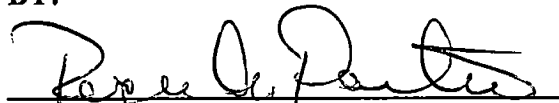
WHEREAS, governmental entities are authorized to enter into intergovernmental agreements pursuant to the provisions of Article XIV, Section 18(2)(a) of the Colorado Constitution, and section 29-1-203, C.R.S.; now, therefore,

BE IT RESOLVED, BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS, STATE OF COLORADO, that the intergovernmental agreement between the Board of County Commissioners of the County of Douglas and the Town of Castle Rock, a copy of which is attached hereto and incorporated herein, is hereby approved, and the Chair of the Board is authorized to execute the agreement on behalf of Douglas County.

PASSED AND ADOPTED this 14th day of May, 2019, in Castle Rock, Douglas County, Colorado.

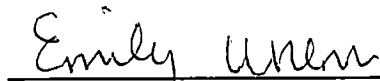
**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO**

BY:



ROGER A. PARTRIDGE, Chair

ATTEST:



EMILY WRENN, Clerk to the Board



**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE TOWN OF CASTLE ROCK AND THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, STATE OF COLORADO, CONCERNING
FUNDING OF THE FOUNDERS PARKWAY AND ALLEN WAY INTERSECTION
IMPROVEMENTS PROJECT**

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into this 15th day of May, 2019, by and between the Town of Castle Rock, (the "Town"), and the Board of County Commissioners of Douglas County, State of Colorado, (the "County"), hereinafter collectively referred to as the "Parties."

RECITALS

WHEREAS, the Parties are legally empowered under Section 29-1-201, et seq., C.R.S. to enter into this Agreement; and

WHEREAS, the Town and the County desire to cooperate in advancing the design and construction necessary to improve the Founders Parkway (State Highway 86) and Allen Way Intersection, as generally described on the attached Exhibit A and hereinafter referred to as the "Project"; and

WHEREAS, in accordance with the terms and conditions stated in this Agreement, the County is willing to contribute partial funding for the construction of the Project; and

WHEREAS, the Parties currently anticipate that construction of the Project will likely begin in the first quarter of 2019; and

WHEREAS, other governmental agencies recognize the importance and benefits of improving the Founders Parkway / Allen Way Intersection, and therefore the Town has entered into a separate intergovernmental agreement with the State of Colorado (the Colorado Department of Transportation), ("CDOT"), regarding the Federal and State contributions and requirements for the Project; and

WHEREAS, CDOT, by separate agreement with the Town, agrees to provide a contribution to this Project; and

WHEREAS, the Town is responsible for securing all necessary funding required to design and construct the Project, and

WHEREAS, the Town is responsible for managing the Project, including providing project oversight for design through completion of construction; and

WHEREAS, the County's only responsibility is for its voluntary financial contribution for a portion of the Project construction costs as identified in Section 4 below; and

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 by both Parties and shall continue until thirty-six (36) months.

3. **Town Responsibilities and Contribution.**

The Town currently estimates the total cost of the **Project** to be \$4,264,000.00 which is hereinafter referred to as the "**Project Cost Estimate**".

The Town, in coordination with **CDOT**, agrees to manage all aspects of the **Project**. The Town is responsible for the completion of the **Project** and obtaining necessary **CDOT** approvals.

By separate agreement, the Town anticipates receiving \$2,280,000.00 for the **Project** from **CDOT** (which includes \$2,000,000.00 in Federal funds and \$280,000.00 in State funds).

Except as expressly provided in **Section 4**, below, the Town shall be responsible for paying for all costs for the **Project**, including any cost more than the **Project Cost Estimate**.

Following the award of the construction contract for the **Project**, the Town may provide the County with an invoice requesting the full **County Contribution** as identified in **Section 4** below. However, the Town, at its sole discretion, has the option to delay invoicing the County for up to **twenty-four (24) months** from the date of execution of this Agreement.

The Town's invoice shall state the date that the Town awarded a construction contract. Included with the Town's invoice, the Town shall provide the County with a copy of the Bid Tabulations results and the final Engineer's Estimate of probable costs.

Within sixty (60) days after the Town has given notice of award to the contractor, the Town agrees to provide the County with: one (1) full set, (with 11x17 plan sheets), of the final construction documents (plans and specifications) marked "For Construction" and stamped by a Colorado Licensed Professional Engineer for the **Project**, and one electronic copy on a CD or thumb drive of the same documents.

Within sixty (60) days after final acceptance of the work for the construction of the **Project**, the Town shall provide the County with a written summary of construction costs incurred by the Town for the **Project**, and copies of applicable construction expenditures; and this information shall be provided to the County electronically on either a CD or thumb drive.

4. **County Responsibilities and Contribution.**

The County agrees to pay to the Town an amount not to exceed **Two Hundred Fifty Thousand Dollars and No Cents (\$250,000.00)**, hereinafter referred to as the **"County Contribution"** for the sole purpose of contributing to the construction of the **Project**. In no event will the County be liable for paying the Town any amount more than the **County Contribution**, including for any unforeseen reasons or project claims.

The **County Contribution** is payable to the Town within forty-five (45) days after the County has received a written invoice from the Town containing a written notice that the Town has awarded the construction contract for the **Project** and the invoice contains the other invoice requirements identified in **Section 3** above. The **County Contribution** shall be used by the Town for constructing the **Project** and will be used for no other purpose unless agreed to by both Parties in writing.

If the **County** is not invoiced by the Town within twenty-four (24) months after the execution date of the Agreement, then this Agreement will need to be amended to avoid the **County Contribution** from being permanently withdrawn (annulled); and such amendment must be agreeable to both Parties.

5. **Time of Performance.** Upon execution of this Agreement by both Parties, the Town shall diligently pursue award of the construction contract and commencing construction of the **Project** in the first quarter of **2019**. The Town currently anticipates the **Project** will be substantially completed and open to traffic by **December 31, 2019**.

6. **Remedies.** 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.

7. **Notice.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is to be given, at the address set forth below, or at such other address as has been previously furnished in writing, to the other Party. Such notice shall be deemed to have been given when deposited in the United States mail.

If to Town: Director of Public Works
 Town of Castle Rock
 4175 North Castleton Court
 Castle Rock, CO 80109

With a copy to: Town Attorney
 Town of Castle Rock
 100 North Wilcox Street
 Castle Rock, CO 80104

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

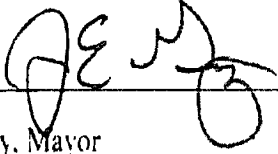
Attention: Janet Herman, Engineering Director
JHerman@douglas.co.us

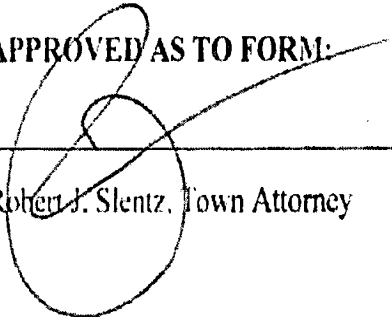
With electronic copy sent to attorney@douglas.co.us


8. **Appropriation.** Pursuant to section 29-1-110, C.R.S., any financial obligations of the Town and the County 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.
9. **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.
10. **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 Douglas, State of Colorado and the Parties waive any right to remove any action to any other court, whether state or federal.
11. **Separate Entities.** The Parties enter into this Agreement as separate, independent governmental entities and shall maintain such status throughout.
12. **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.
13. **No Waiver of Governmental Immunity Act.** The Parties hereto understand and agree that the County, its commissioners, officials, officers, directors, agents and employees, and the Town, its council members, 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 County and the Town.
14. **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.

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

TOWN OF CASTLEROCK, COLORADO

 Date: 12/18/18
Jason E. Gray, Mayor

APPROVED AS TO FORM:

Robert J. Slentz, Town Attorney

ATTEST:

for Lisa Anderson, Town Clerk




BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY


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 5/15/2019
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Roger A. Partridge, Chair


APPROVED AS TO CONTENT:

ATTEST:
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 5/15/2019
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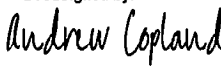
Emily Wrenn,
Clerk to the Board

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Douglas J. DeBord,
County Manager

APPROVED AS TO FORM:
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Chris Pratt, Senior
Assistant County Attorney

APPROVED AS TO FISCAL CONTENT:
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Andrew Copland,
Director of Finance

EXHIBIT A

(Page 1 of 2)

The proposed Founders Parkway (State Highway 86) / Allen Way Intersection traffic operational improvement project will include widening Founders Parkway to accommodate a second eastbound left turn lane from Founders Parkway to northbound Allen Way, and providing a dedicated right turn lane from westbound Founders Parkway to northbound Allen Way. The Project improvements also includes converting a westbound lane to a shared through / right turn lane to provide a second northbound I-25 on-ramp lane. Additionally, the Project improvements will make changes to Allen Way, which includes adding a second southbound right turn lane at Founders Parkway and adding a second through lane at Allen Way and Allen Street intersection. The proposed Founders Parkway / Allen Way Intersection Improvements Project are illustrated on the following page of this exhibit.

EXHIBIT A
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