

RESOLUTION NO. R-021- 077

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

RESOLUTION APPROVING THE INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE TOWN OF PARKER (TOWN) AND THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS, STATE OF COLORADO, (COUNTY), REGARDING COST SHARING FOR PARKER ROAD OPERATIONAL IMPROVEMENT PROJECT, DOUGLAS COUNTY PROJECT NUMBER CI 2020-026.

WHEREAS, the Board of County Commissioners of the County of Douglas (the “County”) and the Town of Parker (the “Town”), desire to execute the intergovernmental agreement regarding cost sharing concerning funding for Parker Road (Lincoln Avenue to Pine Lane); and

WHEREAS, the County is willing to enter into such amendment 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 Parker, 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 27th day of July, 2021, in Castle Rock, Douglas County, Colorado.

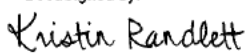
THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO


BY:

DocuSigned by:

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ABE LAYDON, Chair

ATTEST:

DocuSigned by:

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KRISTIN RANDETT, Clerk to the Board

DocuSigned by:


**INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF PARKER AND
THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS
REGARDING COST SHARING FOR PARKER ROAD OPERATIONAL
IMPROVEMENTS PROJECT (LINCOLN AVENUE TO PINE LANE)**

THIS INTERGOVERNMENTAL AGREEMENT (the "Agreement") is made and entered into this _____ day of _____, **2021**, by and between the Town of Parker, Colorado, a Colorado home rule municipality (the "Town"), and the Board of County Commissioners of Douglas County, Colorado (the "County"), hereinafter collectively referred to as the "Parties."

WITNESSETH:

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

WHEREAS, the County and the Town desire to cooperate in advancing the construction associated with improving safety and traffic operations on Parker Road between Lincoln Avenue and Pine Lane, (the "Project"). Parker Road (State Highway 83) is a critical component of the region's transportation network and this Project will help to reduce congestion, improve safety and mobility for residents of the Town and County. The Project limits are shown in **Exhibit A**, which is attached hereto and incorporated by this reference; and

WHEREAS, the Parties agree to advance the Project in exchange for mutual commitments of the Parties hereto; and the Parties desire to share in the cost of the Project, described herein; and

WHEREAS, the Town is responsible for managing all aspects of Project, including providing project oversight during design, right-of-way acquisition and construction; and

WHEREAS, the Town is responsible for securing all funding necessary to design and construct the Project, except for the County's contribution; and

WHEREAS, through the Transportation Improvement Program (TIP) project selection process for the Douglas County Subregion Transportation Forum, the Denver Regional Council of Governments ("DRCOG") selected this Project to receive partial funding for constructing the Project. The Town estimates the Project will cost \$4 million to construct, and anticipates receiving a total of \$2,500,000 in a combination of State and Federal funds; and

WHEREAS, the County previously indicated their willingness to contribute financially to advance the Project at the time that the Town submitted a TIP application to DRCOG, and

WHEREAS, the County's only responsibility is for its voluntary contribution for a portion of the Project costs as identified in **Section 1**; and

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which is mutually acknowledged, the Parties hereto agree as follows:

1. County Contribution and Responsibilities. The County agrees to pay to the Town an amount not to exceed Five Hundred Thousand Dollars and No Cents (\$500,000.00), hereinafter referred to as the “County Contribution” for the purpose of constructing the Project. The County Contribution shall be used solely for paying for a portion of the cost to construct the Project. In no event will the County be liable for paying the Town any amount more than the County Contribution, including for any additional work authorized by the Town or for any unforeseen project costs or claims.

The County agrees to open a Douglas County Purchase Order to the Town within thirty (30) days after execution of this Agreement; and the County agrees to pay the Town the County’s lump sum contribution within thirty (30) days after the County has received a written invoice from the Town containing a statement that the Town has selected a contractor for the Project and the Colorado Department of Transportation (CDOT) concurs with Town staff recommendation to award a construction contract, and intends to seek Town Council approval to award the contract.

If the Town elects to unilaterally increase the Project cost and its Project budget, it may do so; provided it does not include an increase in the County Contribution. The County Contribution may not be increased without both Parties executing an amendment to this Agreement prior to any additional expenditures in which the Town wants the County to participate.

2. Town Contribution and Responsibilities. The Town shall be responsible for managing all phases of the Project. Except as expressly provided in **Section 1**, (County Contribution and Responsibilities), the Town shall be responsible for all other project responsibilities and project costs, including changes to the initial scope of work or adding supplementary tasks in order to further advance the Project. The Town is responsible for completing the Project.

The Town will track Project monthly construction costs and will use this information to provide a summary of the total Project construction costs within thirty (30) days after completion or termination of the Project and provide a copy to County.

If the Project is terminated after construction has been initiated and prior to completion, then the Town will provide written notification to the County; and the Town shall refund the County a portion of the remaining unused construction funding; and this proportional refund amount shall be based on County Contribution being equivalent to twelve percent (12%) of the anticipate \$4 million needed to construct the Project. The Town shall refund the County within forty-five (45) days for the reason stipulated above.

3. Time of Performance. Upon execution of this Agreement, the Town shall diligently pursue award of the construction contract. The Town anticipates awarding a construction before **September 30, 2022** and anticipates the construction will be substantially completed before **October 31, 2023**.

4. 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, including a return of the funds described in **Section 1** of this Agreement in the event of a default by the other Party. In the event that the construction contract is delayed and does not commence before **May 31, 2023**, unless an extension is agreed to in writing by both Parties prior to **May 15, 2023**, the County may terminate this Agreement and the Town will give a full refund of any County Contribution received. This Section shall survive the termination of this Agreement.

5. 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.

Town of Parker: Town of Parker
 Attn: Director of Engineering / Public Works
 20120 E. Mainstreet
 Parker, Colorado 80138

Douglas County: Douglas County
 Attn: Director of Engineering Services
 100 Third Street
 Castle Rock, Colorado 80104

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

6. Appropriation. Pursuant to C.R.S. § 29-1-110, the financial obligations of the Town and the County contained herein which are payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available.

7. No Waiver of Governmental Immunity Act. The Parties hereto understand and agree that the Parties, their Commissioners, Councilmembers, 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, §§ 24-10-101 to 120, C.R.S., or otherwise available to the County.

8. 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.

9. Colorado Law. This Agreement shall be governed by the laws of the State of Colorado. 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.

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

11. 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.

12. Severability. It is understood and agreed by the Parties hereto that if any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

13. Recitals. The Recitals to this Agreement are incorporated herein by this reference.

146. Entirety. This Agreement merges and supersedes all prior negotiations, representations and agreements between the Parties 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 PARKER, COLORADO

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Acting Town Clerk

APPROVED AS TO FORM:

James S. Maloney, Town Attorney

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BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY

_____, Chair

ATTEST:

APPROVED AS TO CONTENT:

Kristin Randlett,
Clerk to the Board

Douglas J. DeBord,
County Manager

APPROVED AS TO FORM:

APPROVED AS TO FISCAL CONTENT:

Chris Pratt,
Senior Assistant County Attorney

Andrew Copland,
Director of Finance