

**Intergovernmental Agreement
Between Boulder County and Town of Erie
Concerning the US287 and Isabelle Road Intersection Safety Improvement Project**

This Intergovernmental Agreement (the “Agreement”) is entered into as of the ____ day of _____, 2020, by and between the County of Boulder, a body corporate and politic of the State of Colorado (“Boulder County” or “County”), and the Town of Erie, a Colorado municipal corporation (hereinafter referred to as the “Town”) (each a “Party” or, collectively, the “Parties”).

RECITALS

WHEREAS, the functions described in this Agreement are lawfully authorized to each of the Parties which perform such functions hereunder, as provided in article 20 of title 29; part 1 of article 28 of title 30; § 31-12-101, et seq.; parts 2 and 3 of article 23 of title 31; C.R.S., as amended; and

WHEREAS, §29-1-201, et seq., C.R.S., as amended, authorizes the Parties to cooperate and contract with one another with respect to functions lawfully authorized to each of the Parties and the people of the State of Colorado have encouraged such cooperation and contracting through the adoption of Colorado Constitution, Article XIV, §18 (2); and

WHEREAS, the Parties have each followed the procedure required for each to enter into this Agreement; and

WHEREAS, the County in partnership with the Colorado Department of Transportation (“CDOT”), is pursuing design for planned improvements to the intersection of US287 and Isabelle (the “Project”) in the unincorporated county; and

WHEREAS, the 0.10% County-wide sales tax approved by the voters of Boulder County on November 4, 2007 and scheduled to sunset on June 30, 2024, provides \$2.8 million in funding to match the CDOT contribution of \$2.35 million for the design and construction of the project; and

WHEREAS, the Town has requested the installation of an additional westbound left turn lane on Isabelle Road to assist with future traffic volumes and improve the future LOS of that movement; and

WHEREAS, the Project includes the acquisition of a road right-of-way easement for a small section of Town Road; and

WHEREAS, this Agreement addresses the cost sharing for construction of the additional turn lane and for the additional right-of-way required for the Town road.

AGREEMENT

NOW THEREFORE, in consideration of the above and the mutual covenants and promises set forth herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The County shall serve as the lead agency responsible for the design and construction of the Project and shall include the Town in project scoping, design review, progress meetings and discussion.
 2. The County shall advertise and contract construction with a private contractor and shall track all costs associated with construction of the additional westbound left turn lane. After payment the County will invoice the Town for one-hundred percent (100%) of the turn-and costs not to exceed \$120,000. The Town shall pay all invoices from the County within 60 days of receipt of the same.
 3. The County shall acquire all easements required for construction and operation of the improvements including those on county parcel number 146522000020, otherwise known as *10974 Isabelle Road* to accommodate the final alignment of the Town Road. After acquisition, the County will invoice the Town for one-hundred percent (100%) of the acquisition costs not to exceed \$10,000 and will quit claim the easement to the Town for use on their roadway. The Town shall pay all invoices from the County within 60 days of receipt of the same.
- C. ENTIRE AGREEMENT; AMENDMENTS.
This Agreement contains the entire agreement between the Parties. It may be amended only by written agreement approved by both Parties.
- D. SEVERABILITY.
If any portion of this Agreement is held by a court in a final, non-appealable decision to be invalid or unenforceable as to any Party, the entire Agreement shall be terminated, it being the understanding and intent of the Parties that every portion of the Agreement is essential to and not severable from the remainder.
- E. NO JOINT VENTURE OR PARTNERSHIP.
Nothing contained in this Agreement is intended to create a partnership or joint venture between the City and the County with respect to construction of the Underpass Improvements, and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not provide for the joint exercise by the parties of any activity, function or service, nor does it create a joint enterprise, nor does it authorize any Party hereto to act as an agent of the other Party hereto for any purpose whatsoever.
- F. NO THIRD-PARTY BENEFICIARIES.
The Parties, in their corporate and representative governmental capacities, are the only entities intended to be the beneficiaries of the Agreement, and no other person or entity is so intended.

G. ENFORCEMENT.

Any one or more of the Parties may enforce this Agreement by any legal or equitable means including specific performance, declaratory and injunctive relief. No other person or entity shall have any right to enforce the provisions of this Agreement.

H. GOVERNING LAW AND VENUE.

The laws of the State of Colorado shall govern this Agreement and venue shall lie in the County of Boulder.

I. PARTY REPRESENTATIVES; NOTICE.

Referrals made under the terms of this Agreement shall be sent to the Parties' representatives listed below. Any required notices or referrals shall be in writing and shall be hand delivered or sent by facsimile transmission or United States mail, postage prepaid, to the addresses of the parties herein set forth. All notices by hand delivery shall be effective upon receipt. All facsimile transmissions shall be effective upon transmission receipt. All notices by mail shall be considered effective seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below.

ENTITY:

County of Boulder

REPRESENTATIVE:

Tim Swope
Capital Program Coordinator
Boulder County Public Works Department
P.O. Box 471
Boulder, CO 80306

Town of Erie

Todd Fessenden
Public Works Director
645 Holbrook Street
PO Box 750
Erie, CO 80516

Name or address changes for representatives shall be made in writing, mailed to the other representatives at the then current address.

J. HEADINGS.

The paragraph headings in this Agreement shall not be used in the construction or interpretation hereof as they have no substantive effect and are for convenience only.

K. PAYMENT SUBJECT TO APPROPRIATION.

The provisions of this Agreement are contingent upon funds for that purpose being appropriated, budgeted and/or otherwise made available.

EXECUTED as of the date first set forth above.

BOULDER COUNTY:

Deb Gardner, Chair
Board of Boulder County Commissioners

Attest: _____
Clerk to the Board

Town of Erie:

Mayor

Attest:

Town Clerk