

RESOLUTION NO. 2018-

A RESOLUTION APPROVING THE FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF CASTLE ROCK AND COLORADO DEPARTMENT OF TRANSPORTATION FOR THE DESIGN AND CONSTRUCTION OF THE FOUNDERS PARKWAY (SH 86) & ALLEN WAY INTERSECTION IMPROVEMENTS

WHEREAS, the Town and the State of Colorado are parties to the State of Colorado, Department of Transportation Agreement with the Town of Castle Rock, regarding the design and construction of improvements in and around the Founders Parkway (SH-86) and Allen Way intersection ("IGA") dated

WHEREAS, the parties have agreed to amend the IGA to provide for the addition of new Signal Pool Federal Funds, update the Cost of Work and Design, as further set forth in the IGA.

WHEREAS, such additional federal funds will be used to reimburse Town for the cost of design and construction of the new signal poles.

NOW, THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO AS FOLLOWS:

Section 1. Approval. The First Amendment to State of Colorado, Department of Transportation Agreement with the Town of Castle Rock, in the form attached as Exhibit 1 is hereby approved. The Mayor and other proper Town officials are hereby authorized to execute the Agreement by and on behalf of the Town of Castle Rock, Colorado.

Section 2. Encumbrance and Authorization for Payment. In order to meet the Town's financial obligation under the IGA, the Town Council authorizes the expenditure and payment from the 2018 appropriation account 135-3175-431.78-38, in an amount not to exceed \$132,000, unless authorized in writing by the Town of Castle Rock.

PASSED, APPROVED AND ADOPTED this 18th day of December, 2018 by the Town Council of the Town of Castle Rock, Colorado, on first and final reading by a vote of ___ for and ___ against.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason E. Gray, Mayor

Approved as to form:

Approved as to content:

Robert J. Slentz, Town Attorney

Robert Goebel, P.E., Director of Public Works

1) PARTIES

This Amendment (the “Amendment”) to the Original Agreement shown on the Signature and Cover Page for this Amendment (the “Agreement”) is entered into by and between the Local Agency and the State.

2) TERMINOLOGY

Except as specifically modified by this Amendment, all terms used in this Amendment that are defined in the Agreement shall be construed and interpreted in accordance with the Agreement.

3) EFFECTIVE DATE AND ENFORCEABILITY

A. Amendment Effective Date

This Amendment shall not be valid or enforceable until the Amendment Effective Date shown on the Signature and Cover Page for this Amendment. The State shall not be bound by any provision of this Amendment before that Amendment Effective Date, and shall have no obligation to pay the Local Agency for any Work performed or expense incurred under this Amendment either before or after the Amendment term shown in **§3.B** of this Amendment

B. Amendment Term

The Parties’ respective performances under this Amendment and the changes to the Agreement contained herein shall commence on the Amendment Effective Date shown on the Signature and Cover Page for this Amendment and shall terminate on the termination of the Agreement.

4) PURPOSE

The parties entered into this agreement for CDOT overseeing the Town of Castle Rock in the design and construction of improvements in an around Founders Parkway (SH-86) & Allen Way Intersection

5) MODIFICATIONS

The Parties now agree to amend the original contract through Amendment 1, to replace Exhibit C with Exhibit C-1, attached hereto. All references to Exhibit C are replaced by Exhibit C-1.

This modification adds New Signal Pool Federal Funds, updates the total Cost of Work, and updates Design Phase Performance Period Start and End Dates, as shown in Exhibit C-1.

6) LIMITS OF EFFECT

This Amendment is incorporated by reference into the Agreement, and the Agreement and all prior amendments or other modifications to the Agreement, if any, remain in full force and effect except as specifically modified in this Amendment. Except for the Special Provisions contained in the Agreement, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Agreement or any prior modification to the Agreement, the provisions of this Amendment shall in all respects supersede, govern, and control. The provisions of this Amendment shall only supersede, govern, and control over the Special Provisions contained in the Agreement to the extent that this Amendment specifically modifies those Special Provisions.

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EXHIBIT C-1- FUNDING PROVISIONS

STU M185-010 (21475)

A. Cost of Work Estimate

The Local Agency has estimated the total cost the Work to be \$2,912,000.00, which is to be funded as follows:

1. BUDGETED FUNDS				
a.	Federal Funds Funds (STP @ 80.00%)			\$2,000,000.00
b.	Local Agency Matching Funds (STP @ 20.00%)			\$500,000.00
c.	State Contribution (FASTER Safety @ 100%)			\$280,000.00
d.	Federal Contribution (New Signal Pool @ 100%)			\$132,000.00
TOTAL BUDGETED FUNDS				\$2,912,000.00
2. OMB UNIFORM GUIDANCE				
a.	Federal Award Identification Number (FAIN):			NA
b.	Federal Award Date (also Phase Performance Start Date):			NA
c.	Amount of Federal Funds Obligated:			\$223,912.00
d.	Total Amount of Federal Award:			\$2,132,000.00
e.	Name of Federal Awarding Agency:			FHWA
f.	CFDA# - Highway Planning and Construction			CFDA 20.205
g.	Is the Award for R&D?			No
h.	Indirect Cost Rate (if applicable)			N/A
3. ESTIMATED PAYMENT TO LOCAL AGENCY				
a.	Federal Funds Budgeted (1a)			\$2,000,000.00
b.	State FASTER funds (1c)			\$280,000.00
c.	Federal Contribution (1d)			\$132,000.00
d.	Less Estimated Federal Share of CDOT-Incurred Costs			\$0.00
TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY				\$2,412,000.00
4. FOR CDOT ENCUMBRANCE PURPOSES				
a.	Total Encumbrance Amount			\$2,912,000.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109			\$239,900.00
Net to be encumbered as follows:				\$2,672,100.00
<i>NOTE: Only the Design funds are currently available; the Construction funds will become available after the federal authorization and execution of an Option Letter (Exhibit D) or Amendment.</i>				
WBS Element 21475.10.30	Performance Period Start*/End Date 9/7/2016 / 12/31/2018	Design	3020	\$279,890.00
WBS Element 21475.20.10	NA / NA	Construction	3301	\$0.00

*The Local Agency should not begin work until all three of the following are in place:

- 1) Phase Performance Period Start Date; 2) The execution of the document encumbering funds for the respective phase; and
- 3) Local Agency receipt of the official Notice to Proceed. Any work performed before these three milestones are achieved will not be reimbursable.

B. Matching Funds

The matching ratio for the state participating funds for this Work is 80.00% federal-aid funds to 20.00% Local Agency funds, it being understood that such ratio applies only to the \$2,912,000.00 that is eligible for state participation, it being further understood that all non-participating costs are borne by the Local Agency at 100%. If the total participating cost of performance of the Work exceeds \$2,912,000.00, and additional federal funds are made available for the Work, the Local Agency shall pay 20.00% of all such costs eligible for federal participation and 100% of all non-participating costs; if additional federal funds are not made available, the Local Agency shall pay all such excess costs. If the total participating cost of performance of the Work is less than \$2,912,000.00, then the amounts of Local Agency and state funds will be decreased in accordance with the funding ratio described herein. The performance of the Work shall be at no cost to the State.

C. Maximum Amount Payable

The maximum amount payable to the Local Agency under this Agreement shall be \$2,412,000.00 (for CDOT accounting purposes, the federal and state funds of \$2,412,000.00 and the Local Agency matching funds of \$500,000.00 (Less ROW of \$239,900.00) will be encumbered for a total encumbrance of \$2,672,100.00), unless such amount is increased by an appropriate written modification to this Agreement executed before any increased cost is incurred. It is understood and agreed by the parties hereto that the total cost of the Work stated hereinbefore is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and that such cost is subject to revisions (in accord with the procedure in the previous sentence) agreeable to the parties prior to bid and award.

The maximum amount payable shall be reduced without amendment when the actual amount of the Local Agency's awarded contract is less than the budgeted total of the federal participating funds and the Local Agency matching funds. The maximum amount payable shall be reduced through the execution of an Option Letter as described in Section 7. A. of this contract.

D. Single Audit Act Amendment

All state and local government and non-profit organizations receiving more than \$750,000 from all funding sources defined as federal financial assistance for Single Audit Act Amendment purposes shall comply with the audit requirements of 2 CFR part 200, subpart F (Audit Requirements) see also, 49 C.F.R. 18.20 through 18.26. The Single Audit Act Amendment requirements applicable to the Local Agency receiving federal funds are as follows:

i. Expenditure less than \$750,000

If the Local Agency expends less than \$750,000 in Federal funds (all federal sources, not just Highway funds) in its fiscal year then this requirement does not apply.

ii. Expenditure of \$750,000 or more-Highway Funds Only

If the Local Agency expends \$750,000 or more, in Federal funds, but only received federal Highway funds (Catalog of Federal Domestic Assistance, CFDA 20.205) then a program specific audit shall be performed. This audit will examine the "financial" procedures and processes for this program area.

iii. Expenditure of \$750,000 or more-Multiple Funding Sources

If the Local Agency expends \$750,000 or more in Federal funds, and the Federal funds are from multiple sources (FTA, HUD, NPS, etc.) then the Single Audit Act applies, which is an audit on the entire organization/entity.

iv. Independent CPA

Single Audit shall only be conducted by an independent CPA, not by an auditor on staff. An audit is an allowable direct or indirect cost.