

BURGUNDY PARK SUBDIVISION PAVING PROJECT
INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement (the “Burgundy Park IGA”) is entered into by and between the **Burgundy Park Public Improvement District of Boulder County**, a public or quasi-municipal subdivision and body corporate of the State of Colorado (“District”), and the **County of Boulder**, a body politic and corporate of the State of Colorado (“County”), each and together also referred to as Party or Parties.

WITNESSETH:

WHEREAS, the District was organized upon the adoption of Resolution No. 2017-136 by the County, recorded in the real property records of the County at Reception No. 03628166, which occurred after an affirmative vote of the majority of the eligible electors within the District’s boundaries on November 7, 2017 (the “Election”), for the purposes of paying the costs of resurfacing county roads within the District, including repaving and/or reconstruction of asphalt roads; sidewalk improvements; concrete curb, gutter and cross-pans directly associated with road resurfacing; and other costs directly associated with resurfacing work (the “Project”);

WHEREAS, § 29-1-203, C.R.S., as amended, authorizes the Parties to enter into an Intergovernmental Agreement to set forth rights and obligations, financial and otherwise, of the Parties in providing any service lawfully authorized to each Party, including the sharing of costs and the imposition of taxes;

WHEREAS, § 29-1-203(1), C.R.S., authorizes a contract between governmental entities to include cost-sharing provisions for any duration, notwithstanding any other provisions of law;

WHEREAS, in the Election, eligible electors voted to authorize the District to enter a multiple-fiscal year obligation with the County as partial financing for the Project;

WHEREAS, in the Election, eligible electors further voted to authorize the District to impose a real property tax of up to 16.597 mills on properties within the District for the purpose of repaying the multiple-fiscal year obligation to the County;

WHEREAS, pursuant to § 30-20-510, C.R.S., the Board of County Commissioners of the County serves ex officio as the board of directors of the District; and

WHEREAS, the Parties wish to clarify and elaborate on their respective rights and obligations for financing and managing District operations and the Project;

NOW, THEREFORE, in consideration of the above and the mutual covenants and commitments made herein, the Parties agree as follows:

1. DESCRIPTION OF THE PROJECT

The Project will rehabilitate approximately one-half mile of County-owned roads within the Burgundy Park neighborhood (the “Roads”), which includes (i) repaving, chip and seal application, and reconstruction of asphalt roads; (ii) repairs to concrete curb, gutter, cross-pans and ADA-compliant curb ramps directly associated with Project work; and (iii) other items such as contracted geotechnical engineering, material testing, and inspections that are directly associated with the Project.

The Project consists of three phases: an initial reconstruction of the roadway pavement along with repairs to concrete facilities directly adjoining and related to the pavement work, on the Roads (the “Initial Work”); subsequent applications of asphalt chip and oil seal approximately every six or seven years, or as deemed necessary in the County’s sole discretion to maintain the life of the pavement surface, and occurring prior to a second re-paving (the “Chip Seals”); and asphalt overlays of the Roads every 20 to 25 years in perpetuity, together with further applications of asphalt chip and oil seal (the “Future Work”). The Initial Work will begin by November 2019.

2. COUNTY WILL BE MANAGE CONTRACTING FOR THE PROJECT

The District hereby requests, and the County hereby agrees, that the County will act as the manager of the Project and enter into all necessary contracts. The District will fund the Project as set forth in this Burgundy Park IGA, including any attachments and amendments hereto. The County, after notice to representatives of the District and subject to the terms of this Burgundy Park IGA, will have sole discretion over the timing, method, scope, and all administration of Project work.

3. COUNTY AND DISTRICT WILL SHARE THE COSTS OF THE PROJECT

3.1 Estimated Costs and Mill Levy

County staff estimates that the Initial Work and the Chip Seals will, together, cost \$618,000. The total of the Initial Work, Chip Seals, and Future Work necessary in the next 20 years is estimated to be \$1,082,000.

To pay the District’s portion of the costs, the mill levy approved by voters will be imposed on properties in the District. In 2017, the adjusted assessed value of all property within the District was \$2,200,000.00. On that basis, to meet the District’s portion of the total Project cost, including Future Work, a necessary mill levy of 16.597 mills was calculated, equivalent to \$119.50 per \$100,000.00 in 2017 actual property value. The mill levy will be imposed beginning in tax year 2018 and remain in place in perpetuity or until adjusted by the District board of directors. The County will reevaluate projected costs for the Future Work, and any subsequent needs, in 2027 and at least every 10 years thereafter. If such cost projections go

down, the mill levy will be revised downward accordingly. The mill levy will not be raised without approval of a majority of the eligible electors of the District.

3.2 County Contribution

The District is a pilot program that the County hopes will provide a solution for Burgundy Park and be a successful example to other neighborhoods desiring road improvements that the County does not have the resources to complete. As such, the County has agreed to contribute 30% of the actual costs of the Initial Work to ensure the success of this first cooperative effort. The District will fund 70% of the actual costs of the Initial Work and 100% of the Chip Seals and the Future Work through the mill levy.

3.3 Multiple-Fiscal Year Obligation and Repayment

As described in Paragraph 4.1 below, the County will pay the full costs of the Initial Work as the work is completed. The District will be responsible to repay the County 70% of the actual costs of Initial Work through application of revenue from the mill levy, which repayment constitutes the multiple-fiscal year obligation approved at the Election. The District may not incur an obligation to the County greater than \$460,320 without a vote of eligible electors. t.

Each year, after the District has funded all legally required reserves and the mandatory 1% fee to the Boulder County Treasurer for collection of taxes, the District agrees to transfer all remaining mill levy revenue to the County for deposit into the Road and Bridge Fund, with this obligation continuing uninterrupted until the District's 70% portion of the actual costs of the Initial Work and 100% of the cost of the Chip Seals are fully repaid. Upon full repayment, tax revenue will accrue to the District's account to pay for Future Work as described in Section 4.1 below.

4. DISTRICT ADMINISTRATION DUTIES

4.1 Contracting and Payment of Project Costs

At no additional cost to the District, the County, through its Transportation Department, will conduct all engineering and design and enter into and manage all contracts necessary to complete the Project. The County will have sole discretion to select contractors and administer contracts for the Project.

The County will pay all costs of the Initial Work and the Chip Seals from its Road and Bridge Fund and receive repayment from the District as described in Section 3.3 above. When Future Work becomes necessary in the County's sole discretion, the District will transfer all funds necessary for such work from its account to the County Road and Bridge Fund for use as described in this Burgundy Park IGA.

4.2 Other Services

At no additional cost to the District: County staff in the Transportation Department will maintain records related to the design and completion of the Initial Work and Future Work; County staff in the Assessor's Office and the Treasurer's Office will administer and maintain records regarding the mill levy and its revenue; County staff in the Finance Department will maintain the District's accounting records; County staff in the Budget Department will provide necessary budget planning and reporting services; and the Boulder County Attorney's Office will provide legal advice to the District board of directors.

4.3 Routine Maintenance

The County shall continue to provide, at its cost and expense and without cost to the District, routine maintenance and services to the Roads including snow removal, street sweeping, sidewalk repairs, and annual asphalt patching and repairs as deemed necessary by the County in its sole discretion.

5. MISCELLANEOUS

5.1 Complete Agreement; Binding Effect

This Contract represents the complete agreement between the Parties and shall be fully binding upon the successors, heirs, and assigns of the Parties, if any, during the term hereof.

5.2 No Joint Venture or Partnership

It is not the purpose or intention of this Burgundy Park IGA to create (and it should not be construed as creating) a joint venture, partnership or any type of association, and the Parties are not authorized to act as an agent or principal for each other with respect to any matter except as specifically described herein.

5.3 No Third Party Beneficiaries

The enforcement of the terms and conditions of this Burgundy Park IGA and all rights of action relating to such enforcement shall be strictly reserved to the Parties, and nothing contained in this Burgundy Park IGA shall give or allow any claim or right of action whatsoever by any other or third person. It is the express intent of the Parties that any person receiving services or benefits under this Burgundy Park IGA shall be deemed an incidental beneficiary only.

5.4 No change to Ownership of Roads

Nothing in this Burgundy Park IGA or any activities related to the Project shall be deemed to affect in any way title to the Roads and related rights-of-way.

5.5 Governmental Immunity

Nothing in this Burgundy Park IGA shall be construed in any way to be a waiver of the Parties' immunity protection under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended.

5.6 Amendment of this Burgundy Park IGA

This Burgundy Park IGA may be amended, modified or supplemented only by a subsequent written agreement signed by the Parties.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties have executed and entered into this Burgundy Park IGA as of the latter day and year indicated below.

Executed by Boulder County on the 8 day of May, 2018.

COUNTY OF BOULDER
BOARD OF COUNTY COMMISSIONERS

ATTEST: Cecilia G. Lacey

By: Cecilia S. Lacey
Clerk to the Board of Commissioners



By: Cindy Domenico
Cindy Domenico, Chair

By: Elise Jones
Elise Jones, Vice-Chair

By: Deb Gardner
Deb Gardner, Commissioner

[Further signatures on following page]

Executed by Burgundy Park Public Improvement District of Boulder County on the 8 day of May, 2018.



BURGUNDY PARK PUBLIC
IMPROVEMENT DISTRICT OF
BOULDER COUNTY
BOARD OF DIRECTORS

ATTEST: Cecilia G. Lacey

By: Cecilia G. Lacey

By: Cindy Domenico
Cindy Domenico, Director

By: Elise Jones
Elise Jones, Director

By: Deb Gardner
Deb Gardner, Director