

INTERGOVERNMENTAL AGREEMENT
Meadowbrook Parkway / Marksheffel Road Intersection

This Intergovernmental Agreement (“Agreement”) is entered into on October 15, 2015 (“Effective Date”) by and between the County of El Paso, State of Colorado, a body corporate and politic and a political subdivision of the State of Colorado, (“County”), by and through the Board of County Commissioners of El Paso County, Colorado (“Board”), and the Central Marksheffel Metropolitan District, a special district duly formed pursuant to Title 32, Colorado Revised Statutes (“District”). The County and the District may be referred to hereinafter as the Parties.

Recitals

WHEREAS, the intersection of Meadowbrook Parkway and Marksheffel Road (“Intersection”) lies within the boundaries of the District; and

WHEREAS, the Parties recognize that as development occurs in the area, the resulting increases in traffic will warrant the installation of traffic signals and related improvements at the Intersection (“Intersection Improvements”); and

WHEREAS, the District agrees to fund the Intersection Improvements pursuant to the terms and conditions below.

Agreement

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Incorporation of Recitals. The Parties hereby incorporate by reference the above-stated Recitals into this Agreement as if fully set forth herein.

2. Deposit of Funds. Within thirty (30) days of the Effective Date, the District shall deposit with the County the sum of two hundred thirty-four thousand four hundred twelve dollars (\$234,412) (the “Intersection Funds”). Such amount shall constitute the District’s entire contribution to the Intersection Improvements, and no further contributions shall be required from the District. The County shall deposit the Intersection Funds in a separate interest-bearing account and shall only use such funds and the earnings therefrom for the Intersection Improvements.

3. Intersection Improvements.

- a. At such time as the Intersection Improvements are warranted based upon a current traffic analysis and pursuant to the El Paso County Engineering Criteria Manual, the County shall construct the same using the Intersection Funds. In the event the cost of constructing the Intersection Improvements exceeds the Intersection Funds, neither the District nor any property within the

District shall have any obligation to make any further contribution. In the event that any Intersection Funds remain after the Intersection Improvements are completed, such funds and the interest earnings thereon shall be immediately returned to the District, but in no event longer than thirty (30) days from final contract payment to the County's contractor.

- b. In the event the County has not commenced construction of the Intersection Improvements by October 15, 2019, then at the election of the District all Intersection Funds and any earnings thereon shall be immediately returned to the District. The return of the Intersection Funds pursuant to this subparagraph shall not relieve the District of any obligation it may otherwise have to contribute to the Intersection Improvements at such time as they are warranted, with said contribution to remain limited to the amount of the Intersection Funds pursuant to Section 2 above.

4. General Provisions.


- a. This Agreement may be amended by mutual written agreement of the Parties or their respective successors or assigns.
- b. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Colorado. Venue shall be exclusively in the District or County Court in and for El Paso County, Colorado.
- c. The undersigned hereby acknowledge and represent that they have the legal authority to bind their respective Party to this Agreement.
- d. If any paragraph, section, subsection, clause or phrase of this Agreement is, for any reason, held to be invalid by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Agreement.
- e. The waiver of a breach of any of the provisions of this Agreement by any Party shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or other provision of this Agreement.
- f. This Agreement does not and shall not be deemed to confer on any third party the right to the performance of or proceeds under this Agreement, to claim any damages or to bring any legal action or other proceeding against any Party for any breach or other failure to perform this Agreement.
- g. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages shall all be attached to a single instrument.

- h. The Parties hereby agree that if any dispute cannot be resolved by mutual agreement of the Parties, such dispute may be resolved in law or in equity. The Parties further agree and acknowledge that this Agreement may be enforced at law or in equity. In addition to any other available remedies, in the event of a breach of this Agreement, any Party may request a court of competent jurisdiction to enter a writ of mandamus to compel the breaching Party to perform under this Agreement, and any Party may seek from a court of competent jurisdiction temporary and/or permanent restraining orders, or orders for specific performance, to compel the other to perform in accordance with the obligations set forth in this Agreement.
- i. A fully executed copy of this Agreement shall be recorded in the records of the El Paso County Clerk and Recorder.

In witness of the foregoing provisions, the Parties have executed this Agreement as of the Effective Date set forth above.

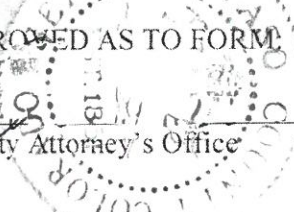
ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO


County Clerk & Recorder 15-424A

By: 
Amy Lathen, Chair

APPROVED AS TO FORM:


County Attorney's Office Hori L. Seago

CENTRAL MARKSHEFFEL METROPOLITAN DISTRICT

By: _____

Name and Title

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

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County Clerk & Recorder

By: _____
Amy Lathen, Chair

APPROVED AS TO FORM:

County Attorney's Office

CENTRAL MARKSHEFFEL METROPOLITAN DISTRICT

By: *Randle W. Case II* Vice President

Randle W. Case II, Vice President
Name and Title

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

[Signature]
General Counsel to the District