

EXHIBIT A

INTERGOVERNMENTAL AGREEMENT
FOR 47TH AVENUE ROAD IMPROVEMENTS

THIS INTERGOVERNMENTAL AGREEMENT is made and entered into this _____ day of _____, 2020, by and between the City of Greeley, Colorado (hereinafter referred to as "Greeley,"), with offices located at 1000 10th Street, Greeley, Colorado 80631, and the City of Evans, Colorado (hereinafter referred to as "Evans"), with offices located at 1100 37th Street 1h Street, Evans, Colorado 80620, for construction widening of a portion of 47th Avenue as a major arterial street between US 34 and 37th Street.

WITNESSETH:

WHEREAS, Greeley and Evans each have jurisdiction of portions of **47th Avenue** as depicted on Exhibit C; which is attached hereto and incorporated herein by this reference: and,

WHEREAS, the parties desire to jointly enter into the Scope of Work as shown on Exhibit A which is attached hereto and incorporated herein by this reference (hereafter referred to as the "Project"); and

WHEREAS, each party wishes to make road improvements to **47th Avenue** in their respective jurisdiction and share the costs of improvements on **47th Avenue** from approximately **37th Street in Evans**; and approximately **31th Street in Greeley**

WHEREAS, both parties hereto desire to enter into this Agreement for the purpose of defining their respective roles and responsibilities regarding the completion of this Project; and

WHEREAS, both parties are authorized to enter into this Agreement by C.R.S. § 29-1-203 and Colorado Constitution Article XIV § 18(2)(1), for the purpose of achieving greater efficiencies for the provision of services to the public.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS CONTAINED HEREIN, THE ADEQUACY OF WHICH IS ACKNOWLEDGED BY AND BETWEEN THE PARTIES, THE PARTIES AGREE AS FOLLOWS:

MAXIMUM ESTIMATED COSTS AND PAYMENT PARTY FOR THE PROJECT. This is a joint project between Greeley and Evans for the construction of a major arterial street. Evans will be coordinating the final design. The Project limits between Greeley and Evans are from the City Limits south to 37th Street for the City of Evans and from the City Limits north to 31st Street for the City of Greeley.

The maximum estimated cost to each party for the Project, as specifically detailed on IGA, is as follows:

City of Greeley Costs:	\$ 214,822.50
City of Evans Costs:	<u>\$3,561,758.50</u>
Total Project Costs:	<u>\$ 3,776,581.00</u>

It is understood and agreed by both parties hereto that the total cost of the project stated herein is the best estimate available pre-bid and pre-award, and such cost is subject to revisions based upon the actual costs for the items established at a later date.

Greeley agrees to pay \$ **214,822.50** to Evans as Greeley's entire financial contribution to the Project upon approval and signing of this Agreement by both parties. All costs for the Project in excess of the \$ **214,822.50** paid by Greeley shall be the responsibility of Evans.

Subject to the approval of the invoice by Evans, which approval will not be unreasonably withheld, Greeley shall reimburse Evans within thirty (30) days of receipt of each invoice.

PROJECT SCHEDULE. Evans will coordinate the project design schedule as specified in Exhibit B which is attached hereto and incorporated herein by this reference.

AMOUNT CONTINGENT UPON APPROPRIATION OF FUNDS. This Agreement is contingent upon all funds designated for the Project herein being made available from Greeley and Evans. Should these sources fail to provide necessary funds as agreed upon herein, the contract may be terminated by either party upon written notice being delivered to the other party.

ROADWAY STANDARDS. The Parties agree that the entire roadway shall meet or exceed City of Evans Standards provided that the northern 365'+/- of the project is intended to meet or exceed City of Greeley roadway standards as well.

JOINT RESPONSIBILITIES. The Parties shall be jointly responsible for the review of the final design.

ENTIRE AGREEMENT. This writing, together with the exhibits hereto, constitutes the entire Agreement between the parties hereto with respect to the subject matter herein, and shall be binding upon said parties, their officers, employees, agents and assigns and shall inure to the benefit of the respective survivors, heirs, personal representatives, successors and assigns of said parties.

PRESERVATION OF IMMUNITY. Nothing in this agreement shall be construed as a waiver of immunity provided by common law or by state statute, including the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et. seq., and further shall not be deemed as an assumption of any duty with respect to any non-party to this Agreement.

NO THIRD-PARTY BENEFICIARY ENFORCEMENT. It is expressly understood and agreed that 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 undersigned parties.

Nothing in this Agreement shall give or allow any claim or right of action whatsoever by any other person not included in the Agreement. It is the express intention of the undersigned parties that any entity other than the undersigned parties receiving services or benefits under this Agreement shall be incidental beneficiary only.

MODIFICATION AND BREACH. This Intergovernmental Agreement contains the entire agreement and understanding between the parties to this and supersedes any other Intergovernmental Agreements concerning the subject matter of this transaction, whether oral or written. No modification, amendment, notation, renewal, or other alteration of or to this Intergovernmental Agreement shall be deemed valid or of any force or effect whatsoever, unless mutually agreed upon in writing by the undersigned parties. No breach of any term, provision, or clause of this Intergovernmental Agreement shall be deemed waived or excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party hereto, or waiver of, a breach by any other party, whether express or implied, shall not constitute a consent to, waiver of, or excuse for any other different or subsequent breach.

REMEDIES. This Agreement shall be governed by the laws of the State of Colorado. Any and all legal action necessary to enforce the Agreement will be held in Weld County, Colorado. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise, including but not limited to specific performance. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof. In any action brought by either party for the enforcement of the obligations of the other party, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

NOTICES. All notices required herein shall be mailed via First Class Mail to the parties' representatives at the addresses set forth below:

CITY OF GREELEY:
Tom Hellen, P.E., City Engineer
City of Greeley, Public Works Dept.
1001 9th Avenue
Greeley, CO 80631
Phone: (970) 350-9792
Tom.Hellen@greeleygov.com

CITY OF EVANS:
Mark Oberschmidt, P.E. City Engineer
City of Evans, Engineering Dept.
1100 37th Street
Evans, CO 80620-2036
Phone: (970) 475-1110
moberschmidt@evanscolorado.gov

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF GREELEY, COLORADO

CITY OF EVANS, COLORADO

By: _____
Mayor

By: _____
Mayor

ATTEST:

ATTEST:

By: _____
City Clerk

By: _____
City Clerk

APPROVED AS TO LEGAL FORM:

APPROVED AS TO LEGAL FORM:

By: _____
City Attorney, Greeley

By: _____
City Attorney, Evans

APPROVED AS TO SUBSTANCE:

APPROVED AS TO SUBSTANCE:

By: _____
City Manager, Greeley

By: _____
City Manager, Evans

AVAILABILITY OF FUNDS:

By: _____
Director of Finance

Exhibit A – Scope of Work

Exhibit B – Project Schedule

Exhibit C – Project Jurisdictional Limits