

CONSTRUCTION FUNDING AGREEMENT

Concerning the Construction of a Roundabout at Waterton Road and Middle Fork Street, Douglas County, Colorado

This CONSTRUCTION FUNDING AGREEMENT (this “**Agreement**”) is made and entered into as of the _____ day of _____, 2026 (the “**Effective Date**”), by and between STERLING RANCH COMMUNITY AUTHORITY BOARD, a political subdivision and public corporation of the State of Colorado formed pursuant to C.R.S. Section 29-1-203.5 (“**CAB**”) and the BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS, STATE OF COLORADO (“**County**”). Individually, the County and the CAB may be referred to herein as a “**Party**”, or collectively, the County and the CAB may be referred to herein as the “**Parties**”.

RECITALS

A. The CAB exists to provide for the design, installation, financing, operations, repair, replacement, and maintenance of public improvements to serve the residents of a master-planned community commonly known as “**Sterling Ranch**” on behalf of Sterling Ranch Colorado Metropolitan District Nos. 1-7 (each, a “**District**” and collectively, the “**Districts**”). Sterling Ranch is more particularly described in the Sterling Ranch Planned Development recorded December 10, 2013 with the Douglas County Clerk and Recorder at Reception No. 2013095325, as subsequently amended.

B. The CAB and the County have a commitment to planned growth and development, and to the orderly extension of services, including roads and other transportation infrastructure.

C. The CAB and the County acknowledge that roundabouts, as opposed to traffic signals, provide enhanced pedestrian, vehicular, and bicycle safety at certain intersections, and ultimately lower the County’s ongoing maintenance costs as compared to traffic signals.

D. The County is willing to construct a roundabout and related public improvements at the intersection of Waterton Road and Middle Fork Street (the “**Roundabout**”). The Roundabout is depicted on the preliminary plans attached hereto as **EXHIBIT A** (the “**Roundabout Preliminary Plans**”).

E. The County is currently constructing a roundabout at Waterton Road and Eagle River Street, and it would be cost effective and timely to construct the Roundabout concurrently.

F. The CAB wishes to fund a portion of the construction of the Roundabout up to the Maximum Reimbursement Amount (as hereinafter defined). The CAB acknowledges that the construction of the Roundabout materially benefits the CAB and the residents of the Districts by supporting development of Sterling Ranch, and that the Roundabout provides for the safety of the students of John Adams Academy, and for the residents of Sterling Ranch that wish to cross Waterton Road at Middle Fork Street. The CAB and the County acknowledge that it is necessary and appropriate for the CAB to undertake the obligation to reimburse the Reimbursement Obligations (as hereinafter defined) set forth herein in order to facilitate the funding and construction of the Roundabout by the County.

G. Pursuant to Colorado Constitution Article XIV, Section I 8(2)(a) and C.R.S 29-1-203, the CAB and the County may cooperate or contract with each other to provide any function, service or facility lawfully authorized to each.

H. The Parties have determined it to be in their own best interests and that of their taxpayers and service users to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree as follows:

AGREEMENT

For and in consideration of the Recitals and the mutual covenants and stipulations herein, the Parties agree as follows:

1. **Agreement to Construct the Public Improvements.** The County agrees to construct the Roundabout consistent with the applicable construction plans for Roundabout (the “**Construction Plans**”), which will be reviewed and approved the CAB, including any changes or modifications required by any other applicable governing law concerning the construction of the Roundabout. The County shall be solely responsible for obtaining all permitting, inspection, and approvals related to the construction of the Roundabout.

2. **Public Improvements Construction Standard.** The County shall cause the Roundabout to be constructed in accordance with the Public Improvements Construction Standard (as hereinafter defined). As used herein, the term “**Public Improvements Construction Standard**” means construction and installation in a good, workmanlike and claim free manner and in conformity with the Construction Plans (as may be modified pursuant to the terms hereof) and the applicable requirements of any Governmental Authorities (as hereinafter defined) who will accept any particular portion of the Roundabout. “**Governmental Authorities**” means the County or any other governmental or political subdivision of the State of Colorado accepting ownership and maintenance responsibilities for the Roundabout.

3. **Maximum Reimbursement Amount.** Subject to the satisfaction of all applicable requirements herein, the CAB agrees to pay and reimburse the County for a portion of the Verified Costs (as hereinafter defined) of the Roundabout as set forth herein. The maximum amount of Verified Costs authorized under this Agreement is **Two Million Dollars and Zero Cents (\$2,000,000.00)** (the “**Maximum Reimbursement Amount**”). Any CAB funding for the Roundabout beyond the Maximum Reimbursement Amount shall require the additional approval and consent the CAB in its sole discretion, and nothing in this Agreement shall be construed as obligating the CAB to spend any amounts beyond the Maximum Reimbursement Amount without additional approval. The Parties acknowledge that any additional CAB funding is likely to require a formal amendment to this Agreement.

4. **Verified Costs.** The County shall submit the following along with any request for reimbursement for construction costs related to the Roundabout. Once the CAB has reasonably determined that the following requirements are met, such costs shall constitute “**Verified Costs**”:

i. Evidence that the Roundabout or any portion thereof substantially complies with the Public Improvements Construction Standard;

ii. A statement that no mechanics’ or materialmen’s liens or draw on public surety have been asserted against the Roundabout or any portion thereof; and conditional lien waivers (conditional only on the issuing financial institution honoring the instrument used to pay the same) have been obtained from any service providers that constructed the Roundabout; and

iii. The County has provided the CAB with all contracts, change orders, pay requests, invoices or proof of payment for the County’s actual out-of-pocket costs without fee or markup.

5. **Reimbursement Obligation.** The CAB's obligation to reimburse the County for Verified Costs, and together with any accrued Interest (as hereinafter defined), shall be the "**Reimbursement Obligation.**" The CAB shall review any costs submitted by the County in conformance with Section 4, make a determination of Verified Costs and issue payment within forty five (45) days of initial submittal (the "**Payment Deadline**"). Interest on unpaid Reimbursement Obligations shall accrue on Verified Costs beginning on the day after the Payment Deadline. Interest shall accrue at the rate of four percent (4%) simple interest per annum ("**Interest**") until paid.

6. **Sources of Repayment.** The Parties agree that the CAB may pay the Reimbursement Obligations from any revenue source lawfully available to the CAB determined by the CAB, in its reasonable discretion, to be available for such purpose, including but not limited to, the net proceeds of bonds issued by the CAB, subject to any permitted uses of bond proceeds; taxes, fees, rates, tolls, charges; and any available moneys not otherwise pledged to payment of bonds, used for operation and maintenance expenses, or otherwise encumbered. In order to minimize the Interest paid, the CAB will use good faith, reasonable efforts to endeavor to reimburse the amounts owed under this Agreement as soon as reasonably possible. IT IS HEREBY AGREED AND ACKNOWLEDGED THAT THIS AGREEMENT EVIDENCES AN INTENT TO REIMBURSE THE COUNTY FOR THE REIMBURSEMENT OBLIGATIONS, BUT THAT THIS AGREEMENT SHALL NOT CONSTITUTE A DEBT OR INDEBTEDNESS OF THE CAB WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION, NOR SHALL IT CONSTITUTE A MULTIPLE FISCAL YEAR FINANCIAL OBLIGATION, AND THE MAKING OF ANY REIMBURSEMENT HEREUNDER SHALL BE AT ALL TIMES SUBJECT TO ANNUAL APPROPRIATION BY THE CAB.

7. **Taxes, Fees and Permits.** The County or its service providers shall secure and pay for all approvals, easements, assessments, charges, permits and governmental fees, licenses and inspections necessary for completion of the Roundabout. The parties acknowledge that the County is exempt under Section 39-26-708(1), C.R.S. from the obligation to pay sales and use taxes applicable to materials furnished by or through its service providers pertaining to the Roundabout.

8. **Progress Reports.** During the construction of the Roundabout, the County shall provide, on a minimum of a monthly basis, a written report to the CAB on the status of construction and the estimated final construction costs.

9. **Ownership and Maintenance of Roundabout.** The Parties acknowledge that the Roundabout will be owned and maintained by the County excepting any landscaped areas which may be owned or maintained by the CAB as required by plat, zoning, or other agreement. The County agrees to reasonably cooperate with acceptance and warranty requirements of the CAB for such landscaped areas.

10. **Default.** If any party hereto breaches any provision of this Agreement and fails to cure such breach within 30 days after written notice thereof, the non-breaching party shall be entitled to any and all remedies, legal or equitable, which may be available including, without limitation, specific performance; provided, however, each of CAB and County waives any right to seek or recover consequential, exemplary, special, punitive, or indirect damages.

11. **Responsibility.** Each Party shall be responsible for its respective acts and omissions and those of its agents, employees, contractors, subcontractors, successors and assigns.

12. **Notices.** All notices, statements, demands, requirements, documents or other communications required or permitted to be given, served, or delivered by or to any Party or any intended recipient hereunder shall be in writing and shall be either delivered by hand, sent by a nationally recognized overnight courier service, or prepaid certified or registered mail, return receipt requested, to the Party or

intended recipient at its address stated below, or sent by email to the Party or intended recipient at its email address stated below or to such other address as any Party may from time to time have notified any other Party as being its address for purposes of this instrument to the exclusion of all previously applicable addresses (provided that, unless the receiving party acknowledges receipt of any email transmission, then notice shall be promptly followed by delivery pursuant to one of the other means permitted herein). Any such communications shall be deemed to have been given, served, or delivered:

- (i) if delivered by hand, upon delivery;
- (ii) if delivered by overnight courier, on the next business day following the date of delivery to the courier;
- (iii) if sent by mail, four days after the date of mailing; or
- (iv) if sent by email, upon transmission (receipt electronically confirmed) if during normal business hours of the recipient, otherwise on the next day that is not a Saturday, Sunday or federal legal holiday.

The addresses of the parties are as follows:

If to the CAB:

Sterling Ranch Community Authority Board
Attn: General Manager
9350 Roxborough Park Road Littleton, CO 80125
Gary.Debus@sterlingranchcab.com (720-830-5275)

With a copy to:

Sterling Ranch Community Authority Board
Attn: General Counsel
9350 Roxborough Park Road Littleton, CO 80125
legalnotices@sterlingranchcab.com

If to the County:

Douglas County Department of Public Works Engineering
Attn: Director of Public Works (jherman@dougals.co.us)
100 Third Street, Suite 250
Castle Rock, CO 80104

13. **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the state of Colorado. In the event of a dispute between the Parties, which results in litigation, the exclusive venue for such action shall be Douglas County, State of Colorado.

14. **Attorneys' Fees.** In the event of any litigation relating to the rights and obligations of the parties pursuant to this Agreement, each Party will be responsible for its own costs and attorneys' fees.

15. **Amendment.** This Agreement may not be amended or modified except by an instrument in writing duly executed by the Parties, or all of their successors and assigns, and recorded in the real property records of Douglas County, Colorado.

16. **Assignment.** No Party shall have the right to assign its rights or obligations hereunder without the prior written consent of the Parties hereto, which may not be unreasonably withheld, conditioned or delayed.

17. **Benefit and Binding Effect.** This instrument and all of the terms and provisions hereof shall inure to the benefit of and be binding upon the Parties, and their successors and permitted assigns.

18. **Severability.** If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, then the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby; and in lieu of each such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and which shall be legal, valid and enforceable.

19. **Counterparts.** This Agreement may be executed and delivered in any number of counterparts, each of which, when so executed and delivered, shall be deemed to be an original and all of which shall constitute one and the same instrument.

20. **Force Majeure Delays.** “Force Majeure Delays” shall mean delays suffered by a party in connection with the performance of any work hereunder as the result of causes beyond the reasonable control of such party, such as, but not limited to, acts of God, strikes, work stoppages, unavailability of or delay in receiving labor or materials, defaults by contractors or subcontractors, weather conditions, fire or other casualty, unreasonable delays by governmental authorities in processing and approvals, and governmental moratoriums. Any Party shall notify the other Parties of a Force Majeure Delay no later than 10 days after the commencement of such delay.

21. **Third Party Beneficiaries.** This Agreement shall not be intended to and shall not be deemed to confer rights or benefits to any persons or entities not named as Parties hereto. Nothing herein shall be deemed a land use approval, nor construed, in any way as approval of any future land use application.

22. **Sovereign Immunity.** Nothing contained in this Agreement shall constitute a waiver of sovereign immunity or be construed as a waiver of the rights and privileges available under the Colorado Governmental Immunity Act, §§ 24-10-101, et seq., C.R.S., as amended from time to time.

23. **Public Officials and Executives.** No elected official, director, officer, agent or employee of the County or the CAB, nor any director, officer, employee or personal representative of the County or the CAB shall be charged personally or held contractually liable by or to any other party under this Agreement or because of any breach hereof or because of its execution, approval or attempted execution of this Agreement.

24. **Entire Agreement.** This Agreement constitutes the entire understanding of the Parties with respect to the subject matters covered herein and any prior agreements, whether written or oral, with respect to any matters covered by this Agreement are superseded.

[signature pages follow]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first written above.

**STERLING RANCH COMMUNITY AUTHORITY
BOARD**

By: _____
Harold R. Smethills, Jr., President

Attest:

Secretary / Assistant Secretary

Approved as to legal form:

General Counsel

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS, STATE OF COLORADO

By: _____
George Teal , Chair

Attest:

By: _____
Name: _____
Deputy Clerk to the Board

Approved as to Fiscal Content:

Christie Guthrie
Director of Finance

Approved as to Legal Form:

Arielle Denis
Assistant County Attorney

Approved as to Content:

Douglas J. Debord
County Manager

EXHIBIT A

Roundabout Preliminary Plans

[see attached]

