

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF LONE TREE AND THE BOARD OF COUNTY
COMMISSIONERS OF THE COUNTY OF DOUGLAS, STATE OF COLORADO,
REGARDING A FINANCIAL CONTRIBUTION FOR ADDITIONAL PRE-
CONSTRUCTION ACTIVITIES RELATED TO THE I-25 / LINCOLN AVENUE
TRAFFIC AND MOBILITY IMPROVEMENT PROJECT**

THIS INTERGOVERNMENTAL AGREEMENT (“**Agreement**”) is made and entered into this _____ day of _____, 2026 by and between the City of Lone Tree, Colorado, a Colorado home rule municipality (the "**City**"), and the Board of County Commissioners of Douglas County, State of Colorado, (the "**County**"), hereinafter collectively referred to as the "**Parties**."

RECITALS

WHEREAS, the Parties are legally empowered under Sections 29-1-201 *et seq.*, C.R.S., to enter into this Agreement; and

WHEREAS, the Parties are working together to advance the design and construction of traffic and mobility improvements for the portion of Lincoln Avenue between Park Meadows Drive and Oswego Street, located partially within the City’s jurisdictional boundary and partially located within unincorporated Douglas County, which includes improvements at Lincoln / Interstate 25 Interchange (the “**Project**”); and

WHEREAS, the Parties executed an agreement on **May 11, 2021**, regarding financial contribution for completing the initial pre-construction activities, which included the following: data collection, public outreach, surveying, traffic modeling, alternative screening analysis, selecting preferred alternatives, advancing the National Environmental Policy Act (NEPA) environmental clearance documentation, preparing construction cost estimates, conduct subsurface utility engineering investigation, and preparing preliminary plans (30% plans) for the multimodal early construction package; and

WHEREAS, the City and the County desire to cooperate in advancing additional pre-construction activities (“**Additional Pre-Construction Activities**”), as described in more detail in **Exhibit A-1**, associated with the **Project**; and

WHEREAS, the Parties agree to share in the cost of the **Additional Pre-Construction Activities** for the **Project**, which includes but is not limited to costs for the following tasks: additional public outreach, additional surveying, completion of the National Environmental Policy Act (NEPA) environmental clearance process, additional subsurface utility engineering investigation, and completion of final (100% complete plans) for the early multimodal construction package, provide additional traffic analysis associated with advancing preliminary design (30% complete plans) for the Havana / Lincoln Offset-T Intersection and for the Lincoln Avenue / Cottonwood Creek bike / ped grade-separation; and provide concept designs (15% complete plans) for improvements around the I-25 / Lincoln Avenue Interchange and Park Meadows Drive Intersection,

preconstruction costs associated with selecting Construction Manager/General Contractor (CMGC) as an alternative delivery procurement method; right-of-way acquisition and utility relocation costs; and

WHEREAS, the City is responsible for managing all the **Additional Pre-Construction Activities** associated with the **Project**, and agrees to collaborate with the County on selecting short and long term transportation solutions for the **Project**; and

WHEREAS, the City is responsible for securing all funding for the **Additional Pre-Construction Activities**, except for the County's contribution as set forth in this Agreement; and

WHEREAS, financial contributions for the initial **Pre-Construction Activities**, associated with the initial agreement, (executed May 11, 2021), were as follows:

- Douglas County: \$1,250,000.00 (31.25%)
- Lone Tree (includes \$250,000.00 contingency): \$1,250,000.00 (31.25%)
- DRCOG: \$1,500,000.00 (37.50%)

WHEREAS, the Parties previously indicated their willingness to each contribute up to **\$1,000,000.00** to advance **Additional Pre-Construction Activities**; and

WHEREAS, it is the Parties' understanding that DRCOG / CDOT are supportive of allocating **\$1,600,000.00** of the current project budget to advance the **Additional Pre-Construction Activities** identified in **Exhibit A-1**; and

WHEREAS, in addition to providing technical support, the County's only other responsibility is to contribute one million dollars and no cents (**\$1,000,000.00**) for funding a portion of the cost to advance the **Additional Pre-Construction Activities** as identified in **Section 4** of this Agreement.

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

1. **Acknowledgment and Incorporation of Recitals.** The foregoing recitals are hereby acknowledged by the Parties to be true and correct and are incorporated into this Agreement.

2. **Term.** This Agreement shall commence upon execution by both Parties and shall continue until twelve (12) months following completion of the **Additional Pre-Construction Activities**.

3. **City Responsibilities and Contribution.**

The Parties have estimated that the cost of the **Additional Pre-Construction Activities** will not exceed **Three Million Six Hundred Dollars and No Cents (\$3,600,000.00)**, hereinafter referred to as the “**Project Additional Pre-Construction Cost Estimate**”.

It is anticipated that the City’s contribution for the **Additional Pre-Construction Activities** will be **One Million Dollars and No Cents (\$1,000,000.00)**; and at the sole discretion of the City, it agrees to manage all aspects of the **Additional Pre-Construction Activities**. Except as expressly provided in **Section 4**, the City shall be responsible for paying for all costs for the **Additional Pre-Construction Activities**, including any cost in excess of the **Project Additional Pre-Construction Cost Estimate**. Additionally, the City is responsible for completing the **Additional Pre-Construction Activities** identified in **Exhibit A-1** that both the City and County agree to advance.

The City agrees to provide the County with copies of the applicable professional services contracts for the Project's Additional Pre-Construction Activities. Once the City has determined to award a contract for some of the **Additional Pre-Construction Activities**, the City shall submit an invoice to Douglas County Public Works Engineering (attention Ashley Pennick), requesting full payment of the **County Contribution**, as defined below; and such invoice shall include a statement that the City has finalized the scope and fee for the contract(s) for the **Additional Pre-Construction Activities** and stipulate the amount the City plans to award to the contractor(s).

4. **County Responsibilities and Contribution.**

The County agrees to provide the City with a lump sum payment not to exceed **One Million Dollars and No Cents (\$1,000,000.00)**, referred to herein as the “**County Contribution**,” for the sole purpose of contributing funds to advance the **Additional Pre-Construction Activities** as identified in the awarded contract for such **Additional Pre-Construction Activities** associated with the tasks identified in **Exhibit A-1** attached hereto. In no event will the County be liable for paying the City any amount in excess of the **County Contribution**, including for any unforeseen costs or claims related to the **Additional Pre-Construction Activities**.

The County shall pay the **County Contribution** to the City within thirty (30) days after the County has received a written invoice from the City for the **Additional Pre-Construction Activities**. The **County Contribution** shall be used by the City solely for the **Additional Pre-Construction Activities**. The City will not use the **County Contribution** for any other purpose unless agreed to by both Parties by executing a formal written contract amendment.

If any of the **County Contribution** is not used within thirty-six (36) months of being paid to the City, then the City shall notify the County; and the County may request any unused portion of the **County Contribution** be returned to the County with sixty (60)

days' of written notice. Under this provision, any amount the City desires to retain (not refunded to the County), shall be detailed in a written request and presented by the City for the County's consideration. Said request shall include copies of applicable supporting documentation justifying why the unused funds are still needed for additional project costs. The County will determine in its sole discretion if the City may retain such funds.

5. ***Time of Performance.*** Upon execution of this Agreement by both Parties, the City shall diligently pursue the award of a contract for the completion of the **Additional Pre-Construction Activities**. Currently, the City anticipates that the **Additional Pre-Construction Activities** will be substantially completed before **December 31, 2027**.

6. ***Remedies.*** The Parties hereto acknowledge and agree that each Party may exercise all rights and remedies in law or in equity, by a decree in specific performance, or such other legal or equitable relief as may be available, including a return of the funds described in **Section 4** of this Agreement in the event of a default by the other Party. In the event that the **Additional Pre-Construction Activities** do not commence before **October 31, 2026**, unless an extension is agreed to in writing by both Parties prior to **October 15, 2026**, the County may terminate this Agreement and the City will give a full refund of any **County Contribution** received. This Section shall survive the termination of this Agreement.

7. ***Notice.*** Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is to be given, at the address set forth below, or at such other address as has been previously furnished in writing, to the other Party. Such notice shall be deemed to have been given when deposited in the United States mail.

City of Lone Tree: City of Lone Tree
9220 Kimmer Drive, Suite 100
Lone Tree, Colorado 80124
Attention: Seth Hoffman, City Manager

With electronic copy sent to:
Seth.Hoffman@cityoflonetree.com

Douglas County: Douglas County
100 Third Street
Castle Rock, Colorado 80104
Attention: Janet Herman, Director of Public Works
JHerman@douglas.co.us

With an electronic copy sent to attorney@douglas.co.us

8. ***Appropriation.*** Pursuant to section 29-1-110, C.R.S., any financial obligations of the County contained herein that are payable after the current fiscal year are

contingent upon funds for that purpose being appropriated, budgeted and otherwise made available on an annual basis. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the City not performed during the current fiscal year is subject to annual appropriation, and thus any obligations of the City hereunder shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

9. **Additional Documents.** The Parties agree to execute any additional documents or take any additional action that is necessary to carry out the intent of this Agreement.

10. **Colorado Law.** The laws of the State of Colorado shall govern this Agreement. Venue for any action hereunder shall be in the District Court, County of Douglas, State of Colorado and the Parties waive any right to remove any action to any other court, whether state or federal.

11. **Separate Entities.** The Parties enter into this Agreement as separate, independent governmental entities and shall maintain such status throughout.

12. **No Third-Party Beneficiaries.** 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 Parties, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement. Any beneficiary of the terms and conditions of this Agreement are not intended beneficiaries but are incidental beneficiaries only.

13. **No Waiver of Governmental Immunity Act.** The Parties hereto understand and agree that the County, its commissioners, officials, officers, directors, agents and employees, and the City, its council members, officials, officers, directors, agents and employees, are relying on and do not waive or intend to waive by any provisions of this Agreement the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, sections 24-10-101 to 120, C.R.S., or otherwise available to the County and the City.

14. **Entirety.** This Agreement merges and supersedes all prior negotiations, representations and agreements between the Parties hereto relating to the subject matter hereof and constitutes the entire agreement between the Parties concerning the subject matter hereof.

15. **Severability.** If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

16. **Modification.** This Agreement may only be modified upon written agreement signed by the Parties.

17. **No Waiver.** Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by either Party shall not constitute a waiver of any of the other terms or obligations of this Agreement.

18. **Assignment.** Neither this Agreement nor any of the rights or obligations of the Parties hereto, shall be assigned by either Party without the written consent of the other.

19. **Survival.** Any terms and conditions of the Agreement that require continued performance, compliance, or effect beyond the termination date of the Agreement shall survive such termination date and shall be enforceable in the event of a failure to perform or comply.

20. **Agreement Controls.** In the event a conflict exists between this Agreement and any term in any exhibit attached or incorporated into this Agreement, the terms in this Agreement shall supersede the terms in such exhibit.

21. **Force Majeure.** Neither the County nor the City shall be liable for any delay in, or failure of performance of, any covenant or promise contained in this Agreement, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to extent that, such delay or failure is caused by “force majeure.” As used in this Agreement, “force majeure” means acts of God, acts of the public enemy, acts of terrorism, unusually severe weather, fires, floods, epidemics, quarantines, strikes, labor disputes and freight embargoes, to the extent such events were not the result of, or were not aggravated by, the acts or omissions of the non-performing or delayed party.

22. **Authority.** The individuals executing this Agreement represent that they are expressly authorized to enter into this Agreement on behalf of the City of Lone Tree and the County and bind their respective entities.

23. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document. In addition, the Parties specifically acknowledge and agree that electronic signatures shall be effective for all purposes, in accordance with the provisions of the Uniform Electronic Transactions Act, Title 24, Article 71.3 of the Colorado Revised Statutes.

[signature page follows]

IN WITNESS WHEREOF, this Agreement is executed by the Parties hereto as of the date first written above.

CITY OF LONE TREE, COLORADO

Marissa Harmon, Mayor

ATTEST:

APPROVED AS TO FORM:

Ahnjoulie DeBoyes, City Clerk

Linda Michow, City Attorney

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY

George Teal, Chair

ATTEST:

APPROVED AS TO CONTENT:

_____,
Clerk to the Board

Douglas J. DeBord,
County Manager

APPROVED AS TO FORM:

APPROVED AS TO FISCAL CONTENT:

Chris Pratt,
Senior County Attorney

Christie Gutherie,
Director of Finance

Exhibit A-1

Additional Pre-Construction Activities for the I-25 / Lincoln Avenue Traffic & Mobility Improvements Project

Background Information

Both the Lincoln Avenue and I-25 corridors are critical elements to the regional transportation network and maintaining a reliable network is paramount not only to Douglas County and the City of Lone Tree but also to the numerous other constituents that utilize Lincoln Avenue and the I-25 corridors on regular basis. Lincoln Avenue is a critical regional principal arterial roadway and it accommodates commuters traveling to and from such places as Aurora, Castle Pines, Castle Rock, Centennial, Englewood, Littleton, Highlands Ranch and numerous other places located in unincorporated Arapahoe, Elbert and Douglas Counties. The I-25 / Lincoln Avenue Traffic & Mobility Improvements Project, was initiated by the local agencies because they recognized the need to improve mobility and alleviate congestion along this heavily traveled corridor and adjacent to areas that are anticipated to see additional high-density development. The enhancements to the existing corridor that can improve the safety and comfort for all types of users is of primary importance.

Advancing the following **Additional Pre-Construction Activities** allows the City and County to get closer to being able construct much needed multi-modal and traffic operational improvements for the portion of the Lincoln Avenue Corridor between Park Meadows Drive and Oswego Street, which includes improvements at the I-25 / Lincoln Interchange area.

Additional Pre-Construction Activities - major tasks include the following:

- Provide additional public outreach, additional surveying, completion of the National Environmental Policy Act (NEPA) environmental clearance process for specific construction packages (when required), additional subsurface utility engineering investigation and supplemental geotechnical investigations and reports
- Completion of final (100% complete plans and specifications) for the early multimodal construction package project
- Provide additional traffic analysis associated with advancing preliminary design (30% complete plans) for the Havana / Lincoln Offset-T Intersection
- Prepare preliminary design (30% complete plans) for the Lincoln Avenue / Cottonwood Creek bike / ped grade-separation

- Provide concept designs (15% complete plans) for improvements at the I-25 / Lincoln Avenue Interchange ramps
- Provide concept designs (15% complete plans) for improvements at the Lincoln Avenue / Park Meadows Drive Intersection
- If the Parties decide to move forward an alternative delivery method for procuring a contractor for one of more of the anticipated construction packages, then the preconstruction costs associated with hiring a Construction Management/General Contractor (CMGC) are eligible **Project** expenditures for the City and County to share on a 50/50 basis, provided both parties agree to the authorization of these tasks, which proceed under the City's CMGC contract.
- Funds may be used for right-of-way acquisition and utility relocation costs, provided both parties agree to the authorization of these tasks, which will proceed under City's contracts for professional services and utility companies, districts, etc.