

AGENDA ITEM SUMMARY

March 21, 2017

City Council

STAFF

Mark Jackson, PDT Deputy Director

SUBJECT

Resolution 2017-026 Authorizing the Mayor to Execute an Intergovernmental Agreement Between the City of Fort Collins and the Colorado Department of Transportation for the City's Contribution of Funds for the North Interstate 25 Improvements.

EXECUTIVE SUMMARY

The purpose of this item is to enter into an intergovernmental agreement/contract with CDOT to remit \$2.25 million in budgeted City funds (\$1.125M each year 2017-18), for the purpose of providing local matching funds for the North I-25 Improvements project. Local match funding contributions from Fort Collins and other regional agencies allow the I-25 improvements to be accelerated by as many as fifteen years. Funds were identified and appropriated as part of the 2017-2018 Budget.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

Interstate 25 (I-25) is the key interstate linkage in Northern Colorado, and serves as a major freight route as well as a key general travel connection between the Denver metro area to the south. Current infrastructure deficiencies, combined with increasing travel demand on the corridor result in safety and congestion issues along the Northern Colorado I-25 Corridor. Numerous efforts, initiatives, and actions have been taken or are underway to accelerate improvements to I-25.

The City of Fort Collins has collaborated with the Colorado Department of Transportation (CDOT), Larimer County, and other regional agencies, organizations and private interests to identify funding assistance and pursue long-term, sustainable funding for transportation needs in Colorado. Six local agencies, Larimer and Weld Counties, and a private developer through Loveland's Metro District, committed \$25 million in funds to help CDOT meet local match requirements for the TIGER grant award and planned corridor improvements. Breakdown of local funding contributions include:

- City of Fort Collins \$2.25M
- City of Loveland \$2M
- Town of Berthoud \$500K
- Town of Johnstown \$1M
- Larimer County mill levy \$10M (under Larimer County Funding IGA)
- Weld County \$2M
- Town of Timnath \$500K
- Town of Windsor \$1M
- Loveland Metro District \$6M

Construction of I-25 improvements in Northern Colorado is already underway, and is scheduled to be complete by end of 2020. Improvements will include addition of a third managed lane in each direction between SH-14

(Mulberry) and SH-402 (Loveland), bridge improvements, regional trail connections, and slip ramps and a new park and ride facility at Kendall Parkway. Fort Collins is also currently working with CDOT, Town of Timnath, and private partners to help fund improvements to the Prospect Road/I-25 interchange as part of the overall corridor project.

CITY FINANCIAL IMPACTS

Funds intended for 2017 local match to the I-25 Improvements Project were appropriated as part of the 2017-2018 Budget approval. The offers containing these funds were ranked #1 in each budget year. The agreement states the City will remit \$1.125 in April of 2017 and in 2018, subject to annual appropriation.

BOARD / COMMISSION RECOMMENDATION

Both the I-25 Improvements Project (as part of the 2011 North I-25 Environmental Impact Statement) and the 2017-2018 Budget for Outcomes (BFO) were presented to the City of Fort Collins Transportation Board. The Transportation Board received two briefings on the I-25 project in 2016. No action was taken but feedback was positive.

PUBLIC OUTREACH

Both the I-25 Improvements Project (as part of the 2011 North I-25 Environmental Impact Statement) and the 2017-2018 Budget for Outcomes (BFO) conducted significant public outreach in Fort Collins. CDOT, in conjunction with other regional agency partners, will continue to provide significant communication and information resources throughout the I-25 project using a variety of media.

RESOLUTION 2017-026
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL
AGREEMENT BETWEEN THE CITY OF FORT COLLINS AND THE COLORADO
DEPARTMENT OF TRANSPORTATION FOR THE CITY'S CONTRIBUTION
OF FUNDS FOR THE NORTH INTERSTATE 25 IMPROVEMENTS

WHEREAS, Interstate 25 ("I-25") serves as the primary north-south highway connection for Northern Colorado, including Larimer County, Colorado (the "County"), the City of Fort Collins, Colorado (the "City"), and the City of Loveland, Colorado, the Town of Estes Park, Colorado, the Town of Timnath, Colorado, the Town of Berthoud, Colorado, the Town of Windsor, Colorado, the Town of Wellington, Colorado, and the Town of Johnston, Colorado (individually referred to as "Municipality" or collectively as "Municipalities"); and

WHEREAS, I-25 is the primary roadway route for regional connectivity to commerce health care, education and employment and is designated as a federal freight route; and

WHEREAS, I-25 in Northern Colorado is considered significantly congested such that traffic flow is impaired and quality of life is adversely affected; and

WHEREAS, the Colorado Department of Transportation ("CDOT") completed an Environmental Impact Statement in August 2011 that identified and evaluated multi-modal transportation improvements along approximately 60 miles of the I-25 corridor from the Fort Collins Wellington area to Denver and identified areas of I-25 and associated structures such as bridges that needed to be expanded and/or improved; and

WHEREAS, CDOT has proposed to expand I-25 from two lanes (north and south) to three lanes (north and south) for approximately fourteen miles between State Highway 14 and State Highway 402, replace the Cache la Poudre Bridge and the Union Pacific Railroad Bridge north of State Highway 34, expand the Kendall Parkway Crossing under I-25 and expand the Bridge over the Big Thompson River and the Bridge over the Great Western Railway to accommodate a third travel lane (the "North I-25 Improvements Project" or "Project"); and

WHEREAS, the North I-25 Improvements Project, which is currently estimated to cost \$237 million, will be funded by state, federal, and local contributions, including local matching fund commitments from multiple sources to accelerate the timing of the Project; and

WHEREAS, on November 17, 2015, City Council adopted Resolution 2015-100 expressing its conceptual support for and willingness to contribute funding to the County annually for five years for CDOT's completion of the Project; and

WHEREAS, on October 4, 2016, City Council adopted Resolution 2016-077, authorizing execution of an Intergovernmental Agreement for Funding I-25 Improvements dated December 27, 2017, (the "Larimer County I-25 Funding IGA"), pursuant to which the City, County, and Municipalities agreed to contribute specified funding for the Project to the County, anticipated to

generate a total of \$10 million over a five-year period (subject to annual appropriation) to be paid by the County to CDOT for the Project under a separate agreement; and

WHEREAS, the City and CDOT wish to enter into an additional intergovernmental agreement (the “2017 City/CDOT IGA”) to contribute additional funding in the amount of \$2.25 million over two fiscal years for Phase 1 of the North I-25 Improvements Project (subject to annual appropriation in 2018); and

WHEREAS, the City’s additional contribution under the 2017 City/CDOT IGA will serve a public purpose by producing significant economic benefits to the citizens of Fort Collins, including preserving the economic vitality of the City, maintaining and increasing employment in the City, stabilizing and improving the long term tax base of the City, and providing additional economic health benefits and improvements to the quality of life for the City citizens by improving transportation facilities connecting the City and its citizens to commerce, health care, education and employment in the Northern Colorado region; and

WHEREAS, the City Council has determined that the 2017 City/CDOT IGA is in the best interests of the City; and

WHEREAS, funds in the amount of \$2.25 million for the City's additional contribution under the 2017 City/CDOT IGA have been included in the City's 2017-2018 budget approved by City Council and the amount of \$1.125 million has been appropriated by City Council for expenditure in 2017; and

WHEREAS, Article II, Section 16 of the City Charter of Fort Collins empowers the City Council, by ordinance or resolution, to enter into contracts with governmental bodies to furnish governmental services and make charges for such services, or enter into cooperative or joint activities with other governmental bodies; and

WHEREAS, under Section 1-22 of the City Code, intergovernmental agreements and other cooperative arrangements between the City and other governmental entities are to be submitted to the City Council for review, unless they fit within one of the exceptions that permit execution by the City Manager; and

WHEREAS, Section 29-1-203 of the Colorado Revised Statutes provides that governments may cooperate or contract with one another to provide certain services or facilities when such cooperation or contracts are authorized by each party thereto with the approval of its legislative body or other authority having the power to so approve.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS:

Section 1. That the City Council hereby makes any and all determinations and findings contained in the recitals set forth above.

Section 2. That the Mayor is hereby authorized to execute the 2017 City/CDOT IGA substantially in the form attached hereto as Exhibit "A," with such modifications and additions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City or effectuate the purposes set forth herein and not otherwise inconsistent with this Resolution.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 21st day of March, A.D. 2017.

Mayor

ATTEST:

City Clerk

(Local \$CDOTWRK)
 PROJECT: I-25 North: SH 402 – SH 14 (21506)
 REGION 4 (dz)

Routing # 17-HA4-XC-00072
 SAP # 331001577
FOR CDOT TRACKING PURPOSES
 (subject to change).

CONTRACT

THIS CONTRACT made this ___ day of _____ 20___, (the “Contract”) by and between the State of Colorado for the use and benefit of the Colorado Department of Transportation (the “State”) and the City of Fort Collins (the “Local Agency”), the State and the Local Agency together shall be referred to as the “Parties” and individually as “Party.”

RECITALS

1. The Local Agency has made funds available for Project SH 402 – SH 14 (21506), which shall consist of improvements to North Interstate-25 (the “Project” or “Work”) and desires to contribute funds for the Project, as evidenced by an appropriate ordinance or resolution duly passed and adopted by the authorized representatives of the Local Agency, which expressly authorizes the Local Agency to enter into this Contract and to expend its funds for the Project. A copy of this ordinance or resolutions is attached hereto and incorporated herein as **Exhibit B**.
2. Required approval, clearance, and coordination have been accomplished from and with appropriate agencies.
3. This Contract is executed under the authority of CRS §§ 29-1-203, 43-1-110, 43-1-116, 43-2-101(4)(c), 43-2-144, and **Exhibit B**.
4. The Local Agency has funds available and desires to provide the funding for the improvements, as described in Section 4.
5. Pursuant to CRS § 43-2-104.5, as amended, the State may contract with Local Agencies to provide maintenance and construction of highways that are part of the State or Local Agency highway system.
6. The Local Agency anticipates design and construction improvements to North Interstate-25. The State has completed and submitted a preliminary Scope of Work describing the general nature of the Work. The Local Agency understands that before the Work begins, the Scope of Work may be revised as a result of design changes made by the State, in coordination with the Local Agency, in its internal review process.
7. The Parties hereto desire to agree upon the division of responsibilities with regard to the Project.

THE PARTIES NOW AGREE THAT:

Section 1. Scope of Work

The Work under this Contract shall consist of improvements to North Interstate-25, for which the Local Agency shall provide funding and the State shall be responsible for the design and construction of the improvements. The Project will take place from approximately just north of State Highway 402 to just south of State Highway 14, between Johnstown/Loveland and Fort Collins, Colorado. The Work includes improvements, constructions and replacements, as described in **Exhibit A**.

Section 2. Order of Precedence

In the event of conflicts or inconsistencies between this Contract and its exhibits, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

1. This Contract
2. **Exhibit A** (Scope of Work)
3. Other Exhibits in descending order of their attachment.

Section 3. Term

This Contract shall be effective upon approval of the State Controller or designee. The term of this Contract shall continue through the completion and final acceptance of the Project by the State, the Federal Highway Administration (“FHWA”), and the Local Agency.

Section 4. Project Funding Provisions

A. The Local Agency is prepared to provide their portion of the funding for the Work, as provided in §4.B and as evidenced by an appropriate ordinance or resolution duly passed and adopted by the authorized representatives of the Local Agency, which expressly authorizes the Local Agency to enter into this Contract and to expend its funds for the Project. A copy of this ordinance or resolution is attached hereto and incorporated herein as **Exhibit B**.

B. The maximum amount payable by the Local Agency under this Contract shall be \$2,250,000.00, unless such amount is increased by an appropriate written modification to this Contract executed before any increased cost is incurred. It is understood and agreed by the Parties that the total cost of the Work stated herein is the best estimate available, based on the design data as approved at the time of execution of this Contract, and that such cost is subject to revisions (in accord with the procedure in the previous sentence) agreeable to the Parties prior to bid and award.

C. The Parties agree that this Contract is contingent upon all funds designated for the Project herein being made available from State sources, as applicable. Should these sources fail to provide necessary funds as agreed upon herein, the Contract may be terminated by either Party, provided that any Party terminating its interest and obligations herein shall not be relieved of any obligations

which existed prior to the effective date of such termination or which may occur as a result of such termination.

Section 5. Project Payment Provisions

A. The Local Agency shall remit to the State a payment of \$1,125,000.00 by April 30 of years 2017 and 2018 during the term of this agreement, as shown in the Payment Schedule in Exhibit A.

B. The State shall prepare and submit to the Local Agency, no more than annually, documentation for costs incurred relative to the Project. The State's documentation shall include a description of the amounts of services performed, the dates of performance and the amounts and description of expenses. The documentation shall be prepared in accordance with the State's standard policies, procedures and standardized billing format.

C. The Parties agree that this Contract is contingent upon Local Agency funds designated for the Project herein being budgeted, appropriated and made available from Local Agency and municipal sources, as applicable. Should Local Agency and/or municipal sources fail to budget, appropriate and make available necessary funds for Local Agency as agreed upon herein, the Contract may be terminated by either Party, provided that Local Agency shall be responsible for its proportionate share of the annual payment calculated as \$1,100,000 x number of days elapsed from prior annual payment, divided by 365.

Section 6. State and Local Agency Commitments

A. Design [if applicable]

1. If the Work includes preliminary design or final design (the "Construction Plans"), or design work sheets, or special provisions and estimates (collectively referred to as the "Plans"), CDOT shall comply with the following requirements, as applicable:
 - a. perform or provide the Plans, to the extent required by the nature of the Work.
 - b. prepare final design (Construction Plans) in accord with the requirements of the latest edition of the American Association of State Highway Transportation Officials ("AASHTO") manual or other standard, such as the Uniform Building Code, as approved by CDOT.
 - c. prepare special provisions and estimates in accord with the State's Roadway and Bridge Design Manuals and Standard Specifications for Road and Bridge Construction.
 - d. include details of any required detours in the Plans, in order to prevent any interference of the construction work and to protect the traveling public.
 - e. stamp the Plans produced by a Colorado Registered Professional Engineer.
 - f. provide final assembly of Plans and Contract documents.
 - g. be responsible for the Plans being accurate and complete.
 - h. make no further changes in the Plans following the award of the construction

contract except by agreement in writing between the Parties. The Plans shall be considered final when approved and accepted by the Parties hereto, and when final they shall be deemed incorporated herein.

B. Construction [if applicable]

1. If the Work includes construction, CDOT shall perform the construction in accordance with the approved design plans. Such administration shall include project inspection and testing; approving sources of materials; performing required plant and shop inspections; documentation of contract payments, testing and inspection activities; preparing and approving pay estimates; preparing, approving and securing the funding for contract modification orders and minor contract revisions; processing contractor claims; construction supervision; and meeting the Quality Control requirements of the FHWA/CDOT Stewardship Agreement.
2. If the State is the responsible Party:
 - a. it shall appoint a qualified professional engineer, licensed in the State of Colorado, as the State Agency Project Engineer (“SAPE”), to perform that administration. The SAPE shall administer the Project in accordance with this Contract, the requirements of the construction contract and applicable State procedures.
 - b. if bids are to be let for the construction of the Project, the State shall, in conjunction with the Local Agency, advertise the call for bids and upon concurrence by the Local Agency will award the construction contract(s) to the low responsive, responsible bidder(s).
 - (1) in advertising and awarding the bid for the construction of a federal-aid project, the State shall comply with applicable requirements of 23 USC § 112, 23 CFR 633 and 635, and CRS § 24-92-101 *et seq.* Those requirements include, without limitation, that the State and Local Agency shall incorporate Form 1273 in its entirety verbatim into any subcontract(s) for those services as terms and conditions therefore, as required by 23 CFR 633.102(e).
 - (2) the Local Agency has the option to concur or not concur in the proposal of the apparent low bidder for work on which competitive bids have been received. The Local Agency must declare its concurrence or non-concurrence within 3 working days after said bids are publicly opened.
 - (3) by indicating its concurrence in such award, the Local Agency, acting by or through its duly authorized representatives, agrees to provide additional funds, subject to their availability and appropriation for that purpose, if required to complete the Work under this Project if no additional federal-aid funds will be made available for the Project.

- c. If all or part of the construction work is to be accomplished by State personnel (i.e. by force account), rather than by a competitive bidding process, the State will ensure that all such force account work is accomplished in accordance with the pertinent State specifications and requirements with 23 CFR 635 (B), Force Account Construction.

Section 7. ROW Acquisition and Relocation [if applicable]

If the Project includes a right of way, prior to this project being advertised for bids, the State will certify in writing that all right of way has been acquired in accordance with the applicable state and federal regulations, or that no additional right of way is required. The Work to be designed and constructed by CDOT under the Project shall be on CDOT right of way (“ROW”).

Any acquisition/relocation activities must comply with: all applicable federal and State statutes and regulations, including but not limited to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (P.L. 91-646) and the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs as amended (49 CFR P24); CDOT’s Right of Way Manual; and CDOT’s Policy and Procedural Directives.

Allocation of Responsibilities are as follows:

- Federal participation in right of way acquisition (3111 charges), relocation (3109 charges) activities, if any, and ROW incidentals (expenses incidental to acquisition/relocation of right of way – 3114 charges);
- Federal participation in ROW acquisition (3111 charges), relocation (3109 charges) but no participation in incidental expenses (3114 charges); or
- No federal participation in ROW acquisition (3111 charges) and relocation activities (3109 expenses).

Regardless of the option selected above, the State retains oversight responsibilities. The Local Agency’s and the State’s responsibilities for each option is specifically set forth in CDOT’s Right of Way Manual. The manual is located at http://www.dot.state.co.us/ROW_Manual/.

If ROW is purchased for a State highway, including areas of influence of the State highway, the Local Agency shall immediately convey title to such right of way to CDOT after the Local Agency obtains title.

Section 8. Utilities

If necessary, the responsible Party shall be responsible for obtaining the proper clearance or approval from any utility company, which may become involved in this Project. Prior to this Project being advertised for bids, the responsible Party shall certify in writing that all such clearances have been obtained.

Section 9. Railroads

Reserved.

Section 10. Environmental Obligations

The State shall perform all Work in accordance with the requirements of the current federal and state environmental regulations including the National Environmental Policy Act of 1969 (“NEPA”) as applicable.

Section 11. Maintenance Obligations

The State shall maintain and operate the improvements constructed under this Contract at its own cost and expense during their useful life, in a manner satisfactory to the State and FHWA. The State will make proper provisions for such maintenance obligations each year. Such maintenance and operations shall be conducted in accordance with all applicable statutes, ordinances, and regulations. The State and FHWA shall make periodic inspections of the Project to verify that such improvements are being adequately maintained.

Section 12. Record Keeping

The State shall maintain a complete file of all records, documents, communications, and other written materials, which pertain to the costs incurred under this Contract. The State shall maintain such records for a period of 6 years after the date of termination of this Contract or final payment hereunder, whichever is later, or for such further period as may be necessary to resolve any matters which may be pending. The State shall make such materials available for inspection at all reasonable times and shall permit duly authorized agents and employees of the Local Agency and FHWA to inspect the Project and to inspect, review, and audit the Project records.

Section 13. Termination Provisions

This Contract may be terminated as follows:

A. Termination for Convenience. The State may terminate this Contract at any time the State determines that the purposes of the distribution of moneys under the Contract would no longer be served by completion of the Project. The State shall effect such termination by giving written notice of termination to the Local Agency and specifying the effective date thereof, at least 20 days before the effective date of such termination.

B. Termination for Cause. If, through any cause, the Local Agency shall fail to fulfill, in a timely and proper manner, its obligations under this Contract, or if the Local Agency shall violate any of the covenants, agreements, or stipulations of this Contract, the State shall thereupon have the right to terminate this Contract for cause by giving written notice to the Local Agency of its intent to terminate and at least 10 days opportunity to cure the default or show cause why termination is otherwise not appropriate. In the event of termination, all finished or unfinished documents, data,

studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Local Agency under this Contract shall, at the option of the State, become its property, and the Local Agency shall be entitled to receive just and equitable compensation for any services and supplies delivered and accepted. The Local Agency shall be obligated to return any payments advanced under the provisions of this Contract.

Notwithstanding the above, the Local Agency shall not be relieved of liability to the State for any damages sustained by the State by virtue of any breach of the Contract by the Local Agency, and the State may withhold payment to the Local Agency for the purposes of mitigating its damages until such time as the exact amount of damages due to the State from the Local Agency is determined.

If after such termination it is determined, for any reason, that the Local Agency was not in default or that the Local Agency's action/inaction was excusable, such termination shall be treated as a termination for convenience, and the rights and obligations of the Parties shall be the same as if the Contract had been terminated for convenience, as described herein.

Section 14. Legal Authority

The Local Agency warrants that it possesses the legal authority to enter into this Contract and that it has taken all actions required by its procedures, by-laws, and applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Contract and to bind the Local Agency to its terms. The person(s) executing this Contract on behalf of the Local Agency warrants that such person(s) has full authorization to execute this Contract.

Section 15. Representatives and Notice

All communications relating to activities for the Work shall be exchanged between representatives of the State's Transportation Region 4 and the Local Agency. All communication, notices, and correspondence shall be addressed to the individuals identified below. Either Party may from time to time designate in writing new or substitute representatives.

If to the State:

Katrina Kloberdanz
CDOT Region 4
10601 W. 10th St.
Greeley, Colorado 80634
970.350.2211
Katrina.Kloberdanz@state.co.us

If to the Local Agency:

Mark A. Jackson, AICP
City of Fort Collins
PO Box 580
Fort Collins, CO 80522
970.416.2029
mjackson@fcgov.com

Section 16. Successors

Except as herein otherwise provided, this Contract shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

Section 17. Third Party Beneficiaries

It is expressly understood and agreed that the enforcement of the terms and conditions of this Contract and all rights of action relating to such enforcement, shall be strictly reserved to the State and the Local Agency. Nothing contained in this Contract shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the State and the Local Agency that any such person or entity, other than the State or the Local Agency receiving services or benefits under this Contract shall be deemed an incidental beneficiary only.

Section 18. Governmental Immunity

Notwithstanding any other provision of this Contract to the contrary, no term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, CRS § 24-10-101, *et seq.*, as now or hereafter amended. The Parties understand and agree that liability for claims for injuries to persons or property arising out of negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of CRS § 24-10-101, *et seq.*, as now or hereafter amended and the risk management statutes, CRS § 24-30-1501, *et seq.*, as now or hereafter amended.

Section 19. Severability

To the extent that this Contract may be executed and performance of the obligations of the Parties may be accomplished within the intent of the Contract, the terms of this Contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof.

Section 20. Waiver

The waiver of any breach of a term, provision, or requirement of this Contract shall not be construed or deemed as a waiver of any subsequent breach of such term, provision, or requirement, or of any other term, provision or requirement.

Section 21. Entire Understanding

This Contract is intended as the complete integration of all understandings between the Parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein by writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a writing executed and approved pursuant to the State Fiscal Rules.

Section 22. Survival of Contract Terms

Notwithstanding anything herein to the contrary, the Parties understand and agree that all terms and conditions of this Contract and the exhibits and attachments hereto which may require continued

performance, compliance or effect beyond the termination date of the Contract shall survive such termination date and shall be enforceable by the State as provided herein in the event of such failure to perform or comply by the Local Agency.

Section 23. Modification and Amendment

This Contract is subject to such modifications as may be required by changes in federal or State law, or their implementing regulations. Any such required modification shall automatically be incorporated into and be part of this Contract on the effective date of such change as if fully set forth herein. Except as provided above, no modification of this Contract shall be effective unless agreed to in writing by both Parties in an amendment to this Contract that is properly executed and approved in accordance with applicable law.

Section 24. Disputes

Except as otherwise provided in this Contract, any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement will be decided by the Chief Engineer of the Department of Transportation. The decision of the Chief Engineer will be final and conclusive unless, within 30 calendar days after the date of receipt of a copy of such written decision, the Local Agency mails or otherwise furnishes to the State a written appeal addressed to the Executive Director of the Department of Transportation. In connection with any appeal proceeding under this clause, the Local Agency shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Local Agency shall proceed diligently with the performance of the Contract in accordance with the Chief Engineer's decision. The decision of the Executive Director or his duly authorized representative for the determination of such appeals will be final and conclusive and serve as final agency action. This dispute clause does not preclude consideration of questions of law in connection with decisions provided for herein. Nothing in this Contract, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

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THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

* Persons signing for The Local Agency hereby swear and affirm that they are authorized to act on The Local Agency's behalf and acknowledge that the State is relying on their representations to that effect.

**THE LOCAL AGENCY
City of Fort Collins**

Print: _____

Title: _____

*Signature

Date: _____

STATE OF COLORADO

John W. Hickenlooper, GOVERNOR

Colorado Department of Transportation
Shailen P. Bhatt, Executive Director

By: Joshua Laipply, P.E., Chief Engineer

Date: _____

2nd Local Agency Signature if needed

Print: _____

Title: _____

*Signature

Date: _____

LEGAL REVIEW

Cynthia H. Coffman, Attorney General

By: _____
Signature - Assistant Attorney General

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or delegate.

**STATE CONTROLLER
Robert Jaros, CPA, MBA, JD**

By: _____
Colorado Department of Transportation

Date: _____

EXHIBIT A - SCOPE OF WORK

North Interstate 25 Phase 1 Project

Scope of Work

The Colorado Department of Transportation (“CDOT”) will complete the North Interstate 25 Phase 1 Project (Hereinafter referred to as “this work”). The project is located on I-25 approximately from just north of State Highway 402 to just south of State Highway 14, covering 14 miles in length between Johnstown/Loveland and Fort Collins, Colorado.

I-25 is the primary north-south route through Colorado, and is the only continuous north-south interstate route in the state, providing access to, through, and from northern Colorado. This segment of I-25 currently has two general purpose lanes in each direction. The project adds a third travel lane in both directions to be operated as a tolled express lane which will accommodate high occupancy vehicles and charge tolls.

Elements of Project Scope:

- Increase capacity by adding an express lane in both directions
- Provide a painted buffer to separate the express lane from general purpose travel
- Construct wider shoulders
- Replace or rehabilitate aging bridges, and widen additional structures
- Improve multi-modal access to regional transit to promote mode shift
- Improve bus service performance and reduce each total trip time by adding new bus slip ramps to access a new Park-n-Ride
- Create new pedestrian and bicycle access under I-25 at Kendall Parkway
- Connect the Cache la Poudre River Regional Trail under I-25, also to serve as a wildlife corridor

By way of a Design Build (DB) contract and using a best value evaluation method, CDOT will select a contractor that will Design and Build this project, including innovations to save time and resources. This approach leaves exact elements intentionally undefined.

Local Agencies have contributed funds for improvements to I-25 included in this work.

**LOCAL AGENCY
ORDINANCE
or
RESOLUTION**