

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF FORT COLLINS AND THE FORT COLLINS URBAN RENEWAL AUTHORITY REGARDING THE AUTHORITY'S CONTRIBUTION OF FUNDS FOR THE NORTH COLLEGE DRAINAGE IMPROVEMENT DISTRICT PROJECT

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into the date of last signature below, by and between the City of Fort Collins, a Colorado municipal corporation (the “City”), and the Fort Collins Urban Renewal Authority, a corporate body and political subdivision of the state (the “Authority”). The City and Authority shall also hereafter be jointly referred to as “Parties” or individually as “Party.”

RECITALS

WHEREAS, in 2004, the Fort Collins City Council adopted Resolution 2004-152 approving the North College Avenue Urban Renewal Plan, which it amended in 2015 in Resolution 2015-106 (the “North College Plan”); and

WHEREAS, the North College Plan was adopted to facilitate the elimination and prevention of blighted areas within the plan area identified in the Plan (the “Plan Area”) by promoting and assisting undertakings and activities within the Plan Area involving the development, redevelopment and rehabilitation of Plan Area properties as part of a single urban renewal project (the “North College Project”); and

WHEREAS, the Fort Collins Urban Renewal Authority (the “Authority”) implements and administers the North College Plan; and

WHEREAS, a drainage analysis and report for the North College Drainage Improvement District (“NCDID”) area was completed in 2006, and updated in June 2017, and includes conceptual stormwater improvements, cost estimates and a phased implementation approach; and

WHEREAS, in 2019, the Authority contributed \$300,000 to the City to help fund the design of the NCDID improvements, including transportation designs for North Mason Street (Alpine Street to Hickory Street), along with Alpine Street, Pinon Street and Hemlock Street (Mason Street to North College Avenue) (the “Project”); and

WHEREAS, the Project is ready to commence the next stage of the Project, and the City and the Authority want to partner and contribute additional funds for the acquisition of public right-of-way, stormwater infrastructure and outfall construction and street-roadway design and construction; and

WHEREAS, the Authority’s Board of Commissioners (the “Board”) has reviewed the Project and identified several benefits it will provide in furtherance of the North College Plan’s goal to eliminate blight and redevelop the Plan Area to meet the needs and expectations of the Authority, the surrounding neighborhood, and the City at large, which benefits include, without limitation: (i) improvements to portions of North Mason Street, Alpine Street, Pinon Street and Hemlock Street, (ii) stormwater improvements that will reduce the likelihood that College Avenue in the Plan Area will overtop during a flood, (iii) improvements that will improve connectivity between the Plan Area and downtown Fort Collins, and (iv) improvements that will bring the area

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up to stormwater standards found in the rest of the City and encourage reinvestment in the neighborhood (collectively, the “Project Benefits”); and

WHEREAS, therefore, the Authority desires to contribute up to \$4,750,000 to help fund the Project; and

WHEREAS, in consideration of the Project Benefits, the Board has adopted Authority Resolution No. 2026-163 approving this Agreement and appropriating \$4,750,000 to be paid to the City pursuant to the terms of this Agreement to help fund the Project, which is estimated to cost a total of approximately \$18,300,000; and

WHEREAS, the City Council has also approved this Agreement in its Resolution _____ in order to accept the funds for the Project from the Authority; and

WHEREAS, the City and the Authority are authorized to enter into this Agreement to cooperate in the funding and construction of the Project pursuant to C.R.S. § 29-1-203 and the Colorado Urban Renewal Law, including, without limitation, C.R.S. § 31-25-112, and the City is further authorized to do so under City Charter Article II, Section 16.

NOW, THEREFORE, in light of the foregoing recitals, which the Parties adopt as true and incorporate as part of this Agreement, and in consideration of the promises contained herein and other good and valuable consideration, the receipt and adequacy of which the Parties hereby acknowledge, the Parties agree as follows:

1. **The Authority’s Obligation**. The Authority agrees to pay the City up to \$4,750,000 pursuant to the following terms:

(a) **Right-of-Way Acquisition**. The Authority agrees to pay the City the lesser of \$550,000 or 40% of the total cost for the City to acquire necessary right-of-way from private property owners for the construction of the Project. The City shall undertake these acquisitions and shall then submit detailed statements of these costs and related documentation as necessary to the Authority for payment by the Authority within sixty (60) days. The Authority will pay these right-of-way acquisition funds to the City’s Transportation Services Fund.

(i) The Authority is released from and does not have to pay these funds towards right-of-way acquisition if the City does not appropriate amounts deposited into the Transportation Services Fund pursuant to Section 1(a) above by September 1, 2026 for the purpose of the acquisitions of right-of-way and complete the acquisitions by December 31, 2027.

(ii) If the City must utilize eminent domain proceedings to acquire right-of-way necessary for the Project, the Authority is not expected to and will not participate in such litigation, and it will be a solely City initiated process. If, after completion of the Project construction, there is surplus land that is not needed by the City, the City and the Authority agree to cooperate to provide the Authority with the opportunity to take possession of said land to ensure that it is stewarded in a manner that is consistent with the North College Plan.

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(b) **Project Construction.** The Authority agrees to pay the City the lesser of \$4,200,000 or 34% of the total cost of the Project construction. Upon the City entering into the construction contract(s) for the Project and having appropriated sufficient funds for the City's contribution towards the Project, the City shall present the contract(s) to Authority staff, along with detailed statements of the total Project cost and related documentation as reasonably requested by Authority staff for payment by the Authority.

(i) The Parties acknowledge that the Authority will appropriate these Project construction funds in two tranches, one for \$2,100,000 in the 2027 Authority annual budget and one for \$2,100,000 in the 2028 Authority annual budget. Once the Authority has funds appropriated, the Authority will pay the City within sixty (60) days. The Authority will pay these Project construction funds to the City's Storm Drainage Fund.

(ii) The Authority is released from and does not have to pay these funds towards Project construction if the City does not commence construction by July 1, 2027 and complete it by December 31, 2029.

(c) **Capped and Contingent.** The Authority's total contribution is \$4,750,000. Upon written request from the City, the Executive Director of the Authority can authorize the transfer of funds between the two caps set forth at Section 1(a) and (b) but never to exceed the total cap amount. The Authority's commitment to pay these funds is contingent upon and will only occur after the City appropriates sufficient funds in order to be able to proceed with all aspects of the Project.

2. **Project Ownership.** During and after Project completion, the City shall be the owner of the Project and shall also be responsible for its long-term maintenance.

3. **TABOR.** The Parties understand and acknowledge that the Authority is not subject to the Taxpayer's Bill of Rights in Article X, Section 20 of the Colorado Constitution. The Parties therefore intend that the Authority's debt obligation in Section I above is a binding obligation enforceable by the City at law and in equity as provided in Section 3 below and such enforcement is not contingent upon the future appropriation of funds by the Board.

4. **Remedies Upon Default.** Upon the failure of either Party to comply with any of its obligations contained herein (a "Default"), the non-defaulting Party shall provide written notice of the Default to the defaulting Party. Immediately upon receipt of such notice, the defaulting Party shall promptly cure such Default within thirty (30) days, or if not susceptible of cure within thirty (30) days, within such time as agreed upon by the non-defaulting Party for the cure of such Default. If the defaulting Party fails to cure or remedy the Default within the time period prescribed, the non-defaulting Party may protect and enforce any or all of its rights and the obligations of the defaulting Party under this Agreement by suit in equity or action at law, in Larimer County District Court, whether for the specific performance of any covenants or agreements in this Agreement or otherwise, or take any action authorized or permitted under applicable law, and may require and enforce the performance of all acts and things required to be performed hereunder by the other Party. Each and every remedy of either Party shall, to the extent permitted by law, be cumulative

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and shall be in addition to any other remedy given hereunder or now or hereafter existing at law or in equity.

5. **Amendments.** This Agreement may only be amended, changed, modified or altered in a writing signed by both Parties.

6. **Implementing Agreements and Further Assurances.** The Parties agree to execute such other documents, and take such other actions, as will be reasonably requested by the other Party to confirm or clarify the intent of the provisions hereof and to effectuate the agreements herein contained.

7. **Term; Termination.** This Agreement shall remain in full force and effect until the Authority's debt obligation under this Agreement is paid in full to the City. However, in the event the City does not commence right-of-way acquisition or the construction of the Project by the dates set forth in Section 1, this Agreement shall terminate and both Parties shall be released from all remaining obligations under this Agreement.

8. **No Third-Party Beneficiaries.** No term or provision of this Agreement is intended to be for the benefit of any person, entity, association or organization not a party to this Agreement, and no such other person, entity, association or organization shall have any right or cause of action hereunder.

9. **Applicable Law and Venue.** This Agreement shall be governed by and construed under the laws of the City of Fort Collins and the State of Colorado, and the venue for any judicial proceedings related to this Agreement shall be in Larimer County District Court.

10. **Section Headings.** The captions or headings herein are for convenience or reference only and shall in no way define or limit the scope or intent of any provision or section of this Agreement.

