

**INTERGOVERNMENTAL AGREEMENT REGARDING
A GRANT OF FUNDS FOR THE SECOND PHASE OF THE
WILLOW STREET IMPROVEMENT PROJECT**

This Intergovernmental Agreement (“Agreement”) is made and entered into on the date of last signature below, by and between the CITY OF FORT COLLINS, COLORADO, a Colorado municipal corporation (the “City”), and the FORT COLLINS, COLORADO, DOWNTOWN DEVELOPMENT AUTHORITY, a body corporate and politic (the “DDA”).

WITNESSETH:

WHEREAS, pursuant to C.R.S.§31-25-808(g), the DDA is empowered to make contributions, grants, and loans to the City which will further the statutory mission of the DDA;

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

WHEREAS, C.R.S. §29-1-203 also 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;

WHEREAS, pursuant to intergovernmental agreements (“IGAs”) between the City and the DDA in 2014 and 2019, the DDA granted to the City the combined sum of six hundred eighty thousand dollars (\$680,000) (collectively, the “Phase 1 Willow Project Grants”), for use in connection with the preparation of engineering design plans and for construction of the River District Improvement Project – Willow Street (the “Phase 1 Willow Street Project”);

WHEREAS, subsequent to the 2019 IGA, the City received additional funding for the Phase 1 Willow Street Project through the voter-approved Community Capital Improvement 10-Year Quarter-Cent Sales Tax, resulting in savings to the DDA, estimated by the City to be seventy thousand dollars (\$70,000) (the “Phase 1 Savings”);

WHEREAS, the DDA, for the Phase 1 Willow Project Grants, is entitled to a street oversizing reimbursement under the City’s Transportation Capital Expansion Fee reimbursement program, estimated by the City to be one hundred thirty-six thousand four hundred twelve dollars (\$136,412) (the “Phase 1 Fee Reimbursement”);

WHEREAS, the DDA and the City desire to have final engineering and streetscape design plans prepared for an additional River District improvement project along Willow Street, between Linden Street and Lincoln Street (the “Phase 2 Willow Street Project”);

WHEREAS, the City intends to release a request for proposals (“RFP”) regarding the

preparation of final engineering and streetscape design plans for the Phase 2 Willow Street Project;

WHEREAS, the DDA desires to contribute a total of two hundred fifty thousand dollars (\$250,000) to the Phase 2 Willow Street Project, which will consist of the Phase 1 Savings, the Phase 1 Fee Reimbursement, and additional budgeted funds from the DDA in the amount of up to forty-three thousand five hundred eighty-eight dollars (\$43,588), to be used by the City for its payment obligations under the contract that arises out of the RFP;

WHEREAS, to fund construction of the Phase 2 Willow Street Project, the City is considering including such project on its Community Capital Improvement Projects list ("CCIPL"), which will be submitted to voters for approval at the general election to be held on November 4, 2025;

WHEREAS, in the event the City declines to include the Phase 2 Willow Street Project on its CCIPL or to otherwise fund the Phase 2 Willow Street Project, this Agreement shall be terminated as hereinafter set forth;

WHEREAS, the Phase 2 Willow Street Project is intended to further and fulfill all adopted plans and guidelines of the City pertaining to the River District, including the City Plan, Transportation & Infrastructure Master Plan, Active Modes Plan, Downtown Plan, Parking Plan, River District Streetscape Improvements Project Plan, and the River Downtown Redevelopment Zone District Guidelines;

WHEREAS, the Phase 2 Willow Street Project is located within the boundaries of the DDA and such project is consistent with the statutory goals and purposes of the DDA as set forth in C.R.S. §31-25-801, et seq., and the DDA's adopted plan of development;

WHEREAS, the Phase 2 Willow Street Project will further the mission of the DDA by increasing safety, improving traffic flow, and creating a more visually appealing and attractive pedestrian environment along Willow Street; and

WHEREAS, by Resolution 2025-_____, the City Council of the City authorized the Mayor to execute this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and other valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties adopt the foregoing recitals and agree as follows:

1. Grant of DDA Funds. Except as provided in Section 3 below, the DDA shall grant to the City the sum of two hundred fifty thousand dollars (\$250,000) under, and subject to, the following terms and conditions:

- a. *Grant of Funds, Amounts and Sources*. The City shall not be eligible to receive any funds pursuant to this Agreement until it has selected a contractor to perform the services requested in the RFP (the "Contractor") and has entered into a contract for the same (the "Contract"). The City agrees that the Contract shall contain the

termination provision described in Section 3 below. Upon execution of the Contract by the City and the Contractor, the DDA shall pay to the City the sum of two hundred fifty thousand dollars (\$250,000), which shall consist of the Phase 1 Savings (estimated to be \$70,000), the Phase 1 Fee Reimbursement (estimated to be \$136,412), and other budgeted funds of the DDA in the amount of forty-three thousand five hundred eighty-eight dollars (\$43,588) (or such lesser amount as is necessary to bring the DDA's total contribution to \$250,000). (All funds contributed to the City under this Section 1(a) shall be referred to hereinafter collectively as the "Grant Funds").

- b. *Use of Grant Funds.* The Grant Funds shall be expended by the City solely for the following: (i) payments to the Contractor for its performance of the Contract; and (ii) to cover costs incurred by the City which are directly related to the Contract, including, but not limited to, materials, printing, and document and/or data production or reproduction. The parties anticipate that development of the designs under the RFP may require the assistance of a consultant with expertise in negotiations with railroad companies. If such professional railroad consultant is not retained by the Contractor as a subcontractor under the Contract, but rather is hired directly by the City, such costs incurred by the City for such purpose shall be deemed to be costs related to the Contract and shall be eligible for payment under this Agreement. For the avoidance of doubt, the City understands and agrees that it shall not receive any funds for City staff time spent working on the Phase 2 Willow Street Project or in relation thereto.
- c. *Accounting.* The City shall periodically provide to the DDA copies of Contractor invoices and other documentation sufficient for the DDA to determine that the Grant Funds have been expended by the City in a manner consistent with this Agreement. The frequency with which the City shall provide such information shall be as reasonably determined by the parties, but in no case more often than once every sixty (60) days.
- d. *Acknowledgement of City Plans and Guidelines Pertaining to River District.* The City and DDA agree that the Phase 2 Willow Street Project is intended to further and fulfill all adopted plans and guidelines of the City pertaining to the River District, including the City Plan, Transportation & Infrastructure Master Plan, Active Modes Plan, Downtown Plan, Parking Plan, River District Streetscape Improvements Project Plan, and the River Downtown Redevelopment Zone District Guidelines.
- e. *Reduction in Grant Funds Due to Receipt of Other Funds.* In the event that the City receives third-party funding for the Phase 2 Willow Street Project, via grant award or any other source sufficient to obviate the need for all or a portion of the Grant Funds, the City agrees that such third-party funding shall be applied to such project and shall serve to reduce the Grant Funds by a commensurate amount.
- f. *Expiration of Grant Funds.* Any Grant Funds not expended by the City for the above-stated purposes by December 31, 2027, shall be promptly returned to the

DDA.

- g. *Maximum Amount of Grant Funds under IGA.* The maximum amount of DDA funds that shall be disbursed to the City pursuant to this Agreement shall be \$250,000.

2. DDA Involvement in Community Engagement, RFP, and Designs. The City agrees to involve the DDA in the Phase 2 Willow Street Project as follows:

- a. *Community Engagement.* The parties acknowledge that community engagement with River District stakeholders will be necessary for a successful final design for the Phase 2 Willow Street Project. The parties agree to cooperate in good faith to develop a mutually-agreeable process for stakeholder engagement.
- b. *RFP Review.* The City agrees to provide the DDA with a meaningful opportunity to review and comment on the RFP prior to its issuance, and further agrees to in good faith consider feedback on the RFP provided by DDA staff.
- c. *Design Development Process.* The City agrees to provide the DDA with a meaningful opportunity to participate in the design development process under the RFP to include, but not be limited to, providing the DDA with copies of draft and final designs as they are delivered to the City, and the opportunity to attend meetings at which designs are presented and discussed. The City further agrees to in good faith consider feedback on designs provided by DDA staff.

3. Termination of IGA for Non-Inclusion of Project on CCIPL, Required Contract Provision. The City agrees to include in the Contract a provision allowing the City to terminate the Contract without cause upon fifteen days' notice. In the event that the City declines to include the Phase 2 Willow Street Project on its CCIPL, the City agrees to issue notice of termination to the Contractor within three (3) business days of the date on which the City Council of the City finalizes the CCIPL, unless the City has otherwise committed to and secured funding for the Project and provided evidence of such to the DDA. The City shall be entitled to use the Grant Funds to pay the Contractor for sums due under the Contract through the date of termination. After such final payment has been made to the Contractor, this Agreement shall terminate and the City shall promptly return to the DDA any remaining Grant Funds. For the avoidance of doubt, the failure of voters to approve the CCIPL ballot measure shall not trigger the requirement for Contract termination or otherwise affect this Agreement.

4. Notice. All notices to be given to parties hereunder shall be in writing and shall be sent by certified mail to the addresses specified below:

DDA: Downtown Development Authority
Attn: Executive Director
19 Old Town Square, Suite 230
Fort Collins, CO 80524

With a copy to: Liley Law, LLC
Attn: Joshua C. Liley

2727 Redwing Road, Suite 342
Fort Collins, CO 80526

CITY: City of Fort Collins
Attn: Director of Infrastructure Services
215 N. Mason Street
Fort Collins, CO 80521

With a copy to: City of Fort Collins
Attn: City Attorney
300 LaPorte Avenue
Fort Collins, CO 80521

5. Governing Law. This Agreement shall be governed by, and its terms construed under, the laws of the State of Colorado.

6. Annual Appropriations. Any financial obligations of the DDA or the City arising under this Agreement which are payable after the current fiscal year are contingent upon funds for that purpose being annually appropriated, budgeted, and otherwise made available by the City Council of the City, in its discretion, and/or the DDA Board, in its discretion, as applicable

7. No Third-Party Beneficiaries. It is the mutual intent of the parties that this Agreement shall inure to the benefit of only the parties hereto. Accordingly, nothing in this Agreement shall be construed as creating any right or entitlement which inures to the benefit of any third party.

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

CITY OF FORT COLLINS, COLORADO,
a Colorado municipal corporation

By: _____
Jeni Arndt, Mayor

Date: _____

ATTEST:

Delynn Coldiron, City Clerk

APPROVED AS TO FORM:

Heather N. Jarvis, Assistant City Attorney

FORT COLLINS, COLORADO, DOWNTOWN
DEVELOPMENT AUTHORITY, a body corporate
and politic

By: _____
David Lingle, Chair

Date: _____

ATTEST:

Cheryl A. Zimlich, Secretary