

STATE OF COLORADO AMENDMENT

Amendment #: 1

Project #: SHO M455-124 (21966-25868-25869-25870)

SIGNATURE AND COVER PAGE

State Agency Department of Transportation		Amendment Routing Number 20-HA4-XC-03022-M0001
Local Agency CITY OF FORT COLLINS		Original Agreement Routing Number 20-HA4-XC-03022
Agreement Maximum Amount	\$15,281,335.00	Agreement Performance Beginning Date June 15, 2020
		Initial Agreement Expiration Date March 10, 2030

THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

Each person signing this Amendment represents and warrants that he or she is duly authorized to execute this Amendment and to bind the Party authorizing his or her signature.

<p>STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director</p> <p>_____</p> <p>Keith Stefanik, P.E., Chief Engineer</p> <p>Date: _____</p>

<p style="text-align: center;">LOCAL AGENCY CITY OF FORT COLLINS</p> <p>_____</p> <p style="text-align: center;">Signature</p> <p>By: <u>Jenni Arndt, Mayor</u></p> <p>Date: _____</p>	<p style="text-align: center;">ADDITIONAL LOCAL AGENCY SIGNATURES CITY OF FORT COLLINS</p> <p>ATTEST:</p> <p>_____</p> <p style="text-align: center;">Signature</p> <p>By: <u>Heather Walls, Interim City Clerk</u></p> <p>Date: _____</p> <p>APPROVED AS TO FORM:</p> <p>_____</p> <p style="text-align: center;">Signature</p> <p>By: <u>Heather N. Jarvis, Assistant City Attorney</u></p> <p>Date: _____</p>
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In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate.

<p>STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>By: _____</p> <p style="text-align: center;">Department of Transportation</p> <p>Effective Date: _____</p>

1) PARTIES

This Amendment (the “Amendment”) to the Original Agreement (the “Agreement”) shown on the Signature and Cover Page for this Amendment is entered into by and between the Local Agency and the State.

2) TERMINOLOGY

Except as specifically modified by this Amendment, all terms used in this Amendment that are defined in the Agreement shall be construed and interpreted in accordance with the Agreement.

3) EFFECTIVE DATE AND ENFORCEABILITY

A. Amendment Effective Date

This Amendment shall not be valid or enforceable until the Amendment Effective Date shown on the Signature and Cover Page for this Amendment. The State shall not be bound by any provision of this Amendment before that Amendment Effective Date, and shall have no obligation to pay the Local Agency for any Work performed or expense incurred under this Amendment either before or after the Amendment term shown in **§3.B** of this Amendment.

B. Amendment Term

The Parties’ respective performances under this Amendment and the changes to the Agreement contained herein shall commence on the Amendment Effective Date shown on the Signature and Cover Page for this Amendment and shall terminate on the termination of the Agreement.

4) PURPOSE

The Parties entered into the Agreement for the design and construction of US287 and Trilby Road Intersection Improvements. The Parties now desire to update Agreement provisions and the Statement of Work, increase the total budgeted funds and update the Funding Provisions.

5) MODIFICATIONS

The Parties now desire to:

a) Add the following to the Agreement §2.A:

The State shall have no obligation to pay Local Agency for any Work performed or expense incurred after the Agreement Expiration Date or after required billing deadline specified in §7.B.i.e., or the expiration of Special Funding if applicable, whichever is sooner. The State’s obligation to pay Agreement Funds exclusive of Special Funding will continue until the Agreement Expiration Date. If Agreement Funds expire before the Agreement Expiration Date, then no payments will be made after expiration of Agreement Funds.

b) Add the following to the Agreement §2.D:

Termination due to Project Completion

This Agreement may be terminated early upon project completion after the final invoice has been paid. The Local Agency must submit an invoice clearly marked “Final Invoice” to CDOT. Once that invoice has been paid any remaining funds can be liquidated from the project. The State shall notify Local Agency by providing written notice to Local Agency of the termination in accordance with §16. The notice shall specify the effective date of the termination and will be the Agreement Expiration Date.

c) Add the following to the Agreement §5.II:

“**Special Funding**” means an award by Federal agency or the State which may include but is not limited to one or a combination of Multimodal Transportation & Mitigation Options Funding, Revitalizing Main Streets, Safer Main Streets, Stimulus Funds, Coronavirus Response and Relief Supplemental Funds, ARPA, SLFRF, or COVID Relief.

d) Add the following to the Agreement §7.B.i.e:

If a project is funded in part with Federal or State Special Funding, there may be an expiration date for the funds. The expiration date applies to grants and local funds used to match grants. To receive payment or credit for the match, Work must be completed or substantially completed, as outlined in the terms of the grant, prior to the expiration date of the Special Funding and invoiced in compliance with the rules outlined in the award of the funding. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Agreement.

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- e) Update the Statement of Work and replace **Exhibit A** with **Exhibit A-1**, which is attached hereto. Any reference in the Agreement to **Exhibit A** shall now be a reference to **Exhibit A-1**.
- f) Increase the total budgeted funds from \$4,217,896.00 by \$11,063,439.00 to a new total budgeted funds of \$15,281,335.00. These funds may include Special Funding.
- g) Update the Funding Provisions and replace **Exhibit C-4** with **Exhibit C-5**, which is attached hereto. Any reference in the Agreement to **Exhibit C** shall now be a reference to **Exhibit C-5**.
- h) Update the Local Agency Resolution and replace **Exhibit D** with **Exhibit D-1**, which is attached hereto. Any reference in the Agreement to **Exhibit D** shall now be a reference to **Exhibit D-1**.

6) LIMITS OF EFFECT

This Amendment is incorporated by reference into the Agreement, and the Agreement and all prior amendments or other modifications to the Agreement, if any, remain in full force and effect except as specifically modified in this Amendment. Except for the Special Provisions contained in the Agreement, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Agreement or any prior modification to the Agreement, the provisions of this Amendment shall in all respects supersede, govern, and control. The provisions of this Amendment shall only supersede, govern, and control over the Special Provisions contained in the Agreement to the extent that this Amendment specifically modifies those Special Provisions.

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EXHIBIT A-1
STATEMENT OF WORK

Name of Project: US 287 & Trilby Road Intersection Improvements

Project Number: SHO M455-124

SubAccount #: 21966 – 25868 – 25869 - 25870

The Colorado Department of Transportation (CDOT) will oversee the City of Fort Collins (City) when the City designs and constructs the following: US 287 & Trilby Road Intersection Improvements (Work). CDOT and the City believe it will be beneficial to perform this Work to improve safety and operations at the intersection. Proposed improvements for the project include construction of dual northbound and southbound left turn lanes, right turn lanes on Trilby Road, raised medians, replacement of the traffic signal.

This Work will conform to all standards of AASHTO, Americans with Disabilities Act (ADA), MUTCD, and all applicable state and federal regulations. The design phase will identify more exact requirements, qualities, and attributes for this Work (hereinafter referred to as the Exact Work). The Exact Work shall be used to construct designed improvements. The design phase is anticipated to begin in the summer of 2020 and the construction phase is anticipated to begin in the Spring of 2024.

If Highway Infrastructure Programs (HIP) funds are used, all HIP funds must be encumbered by September 30, 2026. Obligated earmark balances are available for expenses properly charged to the account and incurred until September 30, 2031.

By accepting funds for this Scope of Work, Local Agency acknowledges, understands, and accepts the continuing responsibility for the safety of the traveling public after initial acceptance of the project. **Local Agency is responsible for maintaining and operating the scope of work described in this Exhibit A-1 constructed under this Agreement at its own cost and expense during its useful life.**

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EXHIBIT C-5 - FUNDING PROVISIONS

City of Fort Collins - SHO M455-124 (21966 – 25868 – 25869 - 25870)

A. Cost of Work Estimate

The Local Agency has estimated the total cost the Work to be \$15,281,335.00 which is to be funded as follows:

1. FUNDING		
CMAQ		
a.	Federal Funds (82.79% of CMAQ Award)	\$748,732.00
b.	Local Agency (17.21% of CMAQ Award)	\$155,643.00
HSIP		
c.	Federal Funds (100% of SHO Award)	\$2,250,000.00
HIP		
d.	Federal Funds (82.79% of HIP Award)	\$1,870,000.00
e.	Local Agency (17.21% of HIP Award)	\$388,727.00
STBG		
f.	Federal Funds (82.79% of STBG Award)	\$5,272,260.00
g.	Local Agency (17.21% of STBG Award)	\$1,095,973.00
FSA		
h.	State Funds (100% of FSA Award)	\$3,500,000.00
TOTAL FUNDS ALL SOURCES		\$15,281,335.00
2. OMB UNIFORM GUIDANCE		
a.	Federal Award Identification Number (FAIN):	TBD
b.	Name of Federal Awarding Agency:	FHWA
c.	Local Agency Unique Entity Identifier	VEJ3BS5GK5G1
d.	Assistance Listing # Highway Planning and Construction	ALN 20.205
e.	Is the Award for R&D?	No
f.	Indirect Cost Rate (if applicable)	N/A
g.	Amount of Federal Funds Obligated by this Action:	\$0.00
h.	Amount of Federal Funds Obligated to Date (including this Action):	\$2,411,525.00
3. ESTIMATED PAYMENT TO LOCAL AGENCY		
a.	Federal Funds Budgeted	\$10,140,992.00
b.	State Funds Budgeted	\$3,500,000.00
c.	Less Estimated Federal Share of CDOT-Incurred Costs	\$0.00
TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY		89.27%
TOTAL ESTIMATED FUNDING BY LOCAL AGENCY		10.73%
TOTAL PROJECT ESTIMATED FUNDING		100.00%
TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY		\$13,640,992.00
TOTAL ESTIMATED FUNDING BY LOCAL AGENCY		\$1,640,343.00
TOTAL PROJECT ESTIMATED FUNDING		\$15,281,335.00
4. FOR CDOT ENCUMBRANCE PURPOSES		
a.	Total Encumbrance Amount (Federal, State + Local Agency Funds)	\$15,281,335.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109	\$0.00
NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS		\$15,281,335.00

Note: Only \$3,174,059.00 is currently available. Additional funds will become available after execution of an Option letter (Exhibit B) or formal Amendment.

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WBS Element 21966.10.30	Performance Period Start*/End Date 04/02/2021 - 03/30/2025	Design 3020	\$924,998.00
WBS Element 25868.20.10	Performance Period Start/End Date 03/12/2024 – 04/30/2025	Const. 3301	\$2,249,061.00
WBS Element 25869.20.10	Performance Period Start/End Date TBD – TBD	Const. 3301	\$0.00
WBS Element 25870.20.10	Performance Period Start/End Date TBD - TBD	Const. 3301	\$0.00

* For CMAQ, HSIP, HIP and STBG funds, the Local Agency should not begin work until all three (3) of the following are in place: 1) Phase Performance Period Start Date; 2) the execution of the document encumbering funds for the respective phase; and 3) Local Agency receipt of the official Notice to Proceed. Any work performed before these three (3) milestones are achieved will not be reimbursable.

**For FSA funds, the Local Agency should not begin work until both of the following are in place: 1) the execution of the document encumbering funds for the respective phase; and 2) Local Agency receipt of the official Notice to Proceed. Any work performed before these two (2) milestones are achieved will not be reimbursable.

For 25868, 25869, and 25870, the construction funding and WBS elements have not yet been designated to each subaccount.

B. Funding Ratios

The funding ratio for the federal & State funds for this Work is 89.27% federal & State funds to 10.73% Local Agency funds, and this ratio applies only to the \$15,281,335.00 that is eligible for federal & State funding. All other costs are borne by the Local Agency at 100%. If the total cost of performance of the Work exceeds \$15,281,335.00 and additional federal & State funds are not available, the Local Agency shall pay all such excess costs. If the total cost of performance of the Work is less than \$15,281,335.00, then the amounts of Local Agency and federal & State funds will be decreased in accordance with the funding ratio described in **A1. This applies to the entire scope of Work.**

C. Maximum Amount Payable

The maximum amount payable to the Local Agency under this Agreement shall be \$13,640,992.00. For CDOT accounting purposes, the federal funds of \$10,140,992.00, the State funds of \$3,500,000.00 and the Local Agency funds of \$1,640,343.00 will be encumbered for a total encumbrance of \$15,281,335.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total budget is \$15,281,335.00 unless this amount is increased by an executed amendment before any increased cost is incurred. The total cost of the Work is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and any cost is subject to revisions agreed to by the parties prior to bid and award. The maximum amount payable will be reduced without amendment when the actual amount of the Local Agency’s awarded Agreement is less than the budgeted total of the federal funds and the Local Agency funds. The maximum amount payable will be reduced through the execution of an Option Letter as described in Section 7. E. of this contract. **This applies to the entire scope of Work.**

D. Single Audit Act Amendment

All state and local government and non-profit organizations receiving \$750,000 or more from all funding sources defined as federal financial assistance for Single Audit Act Amendment purposes shall comply with the audit requirements of 2 CFR part 200, subpart F (Audit Requirements) see also, 49 CFR 18.20 through 18.26. The Single Audit Act Amendment requirements applicable to the Local Agency receiving federal funds are as follows:

i. Expenditure less than \$750,000

If the Local Agency expends less than \$750,000 in Federal funds (all federal sources, not just Highway funds) in its fiscal year then this requirement does not apply.

ii. Expenditure of \$750,000 or more-Highway Funds Only

If the Local Agency expends \$750,000 or more, in Federal funds, but only received federal Highway funds (Catalog of Federal Domestic Assistance, CFDA 20.205) then a program specific audit shall be performed. This audit will examine the “financial” procedures and processes for this program area.

iii. Expenditure of \$750,000 or more-Multiple Funding Sources

If the Local Agency expends \$750,000 or more in Federal funds, and the Federal funds are from

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multiple sources (FTA, HUD, NPS, etc.) then the Single Audit Act applies, which is an audit on the entire organization/entity.

iv. Independent CPA

Single Audit shall only be conducted by an independent CPA, not by an auditor on staff. An audit is an allowable direct or indirect cost.

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EXHIBIT D-1
LOCAL AGENCY RESOLUTION

[To be provided by the Local Agency prior to routing for signatures]