

RESOLUTION NO. R - 018 - 036

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO

A RESOLUTION APPROVING THE FIRST AMENDMENT TO
AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LONE TREE AND
THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS, STATE
OF COLORADO, REGARDING FINANCIAL CONTRIBUTION TOWARD THE COUNTY
LINE ROAD / I-25 OPERATIONAL IMPROVEMENTS PROJECT,
DOUGLAS COUNTY PROJECT NUMBER CI 2010-013

WHEREAS, the Board of County Commissioners of the County of Douglas (the "County") and the City of Lone Tree (the "City"), desire to enter into an amendment to an intergovernmental agreement regarding funding for the Phase 2A Improvements associated with the County Line Road / I-25 Operational Improvements Project, located west of I-25; and

WHEREAS, the County is willing to enter into such an amendment with the City in accordance with the terms and conditions set forth in the First Amendment to an intergovernmental agreement attached hereto; and

WHEREAS, governmental entities are authorized to enter into intergovernmental agreements pursuant to the provisions of Article XIV, Section 18(2)(a) of the Colorado Constitution, and section 29-1-203, C.R.S.; now, therefore,

BE IT RESOLVED, BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS, STATE OF COLORADO, that the intergovernmental agreement between the Board of County Commissioners of the County of Douglas and the City, a copy of which is attached hereto and incorporated herein, is hereby approved, and the Chair of the Board is authorized to execute the agreement on behalf of Douglas County.

PASSED AND ADOPTED this 10th day of April, 2018, in Castle Rock, Douglas County, Colorado.

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO

BY: Lora L. Thomas

LORA L. THOMAS, Chair

ATTEST:

Emily Wren

Emily Wrenn, Clerk to the Board



**FIRST AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF LONE TREE AND THE BOARD OF COUNTY
COMMISSIONERS OF THE COUNTY OF DOUGLAS, STATE OF COLORADO,
REGARDING FINANCIAL CONTRIBUTION TOWARD THE COUNTY LINE
ROAD / I-25 OPERATIONAL IMPROVEMENTS PROJECT,
DOUGLAS COUNTY PROJECT NUMBER CI 2010-013**

THIS FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT ("Amendment No. 1") is made and entered into this 10th day of April, 2018, 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 entered into the original Intergovernmental Agreement dated May 17, 2017 (the "Agreement") concerning the design and construction of certain improvements located on the west side of I-25, known in the Agreement as the "Overall Improvements West of I-25"; and

WHEREAS, the Parties anticipated the Overall Improvements West of I-25, would be implemented utilizing multiple construction phases, with some of these improvements being constructed beginning in 2017 and other improvements anticipated to be constructed in 2018 and 2019; and

WHEREAS, in 2017 the Parties completed construction of the Phase 1A Initial Improvements (as defined in the Agreement); and

WHEREAS, the Parties anticipate funding multiple construction phases in order to implement the Overall Improvements West of I-25 with minimum impacts to the traveling public, and the remaining anticipated work has been split into two (2) remaining construction phases, namely Phase 2A Improvements and Phase 2B Improvements; and

WHEREAS, the Parties now intend to proceed with certain improvements that will be constructed in 2018 which are hereinafter referred to as the "Phase 2A Improvements", as generally depicted on the attached Exhibit A; and

WHEREAS, the Phase 2B Improvements, as generally depicted on the attached Exhibit B, are anticipated to be constructed in 2019 and will require a future separate amendment to the Agreement; and

WHEREAS, the Parties now agree to amend the Agreement in order to advance the construction of the Phase 2A Improvements; and

WHEREAS, in accordance with the terms and conditions stated in this Amendment No. 1, the County is willing to contribute additional funding for the design and construction associated with the Phase 2A Improvements; and

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 Amendment No. 1.

2. Term. The Term of the Agreement shall be extended until twelve (12) months following completion of construction of the Phase 2A Improvements.

3. City Responsibilities and Contribution for Phase 2A Improvements.

The City, County and consultants have estimated the total construction costs for the Phase 2A Improvements to be Three Million Dollars and No Cents (\$3,000,000.00), hereinafter referred to as the "Phase 2A Cost Estimate".

By separate agreement(s), the City anticipates and is responsible for collecting a \$500,000 contribution from the Park Meadows Metropolitan District, (PMMD) and collecting a \$250,000 contribution from the City of Centennial (Centennial), for constructing a portion of the Phase 2A Improvements.

The City agrees to manage all aspects of the construction of the Phase 2A Improvements. Except as expressly provided in Section 4, below, the City shall be responsible for paying for all construction costs for the Phase 2A Improvements, including any cost in excess of the Phase 2A Cost Estimate.

Within sixty (60) days after final acceptance of the work, the City shall provide the County with a written summary of all construction costs incurred by the City for the Phase 2A Improvements, and provide the County with copies of applicable construction documents and expenditures.

4. County Responsibilities and Contribution for Phase 2A Improvements.

The County has contracted with several consultants in order to provide professional services needed to advance the design and construction of the Overall

Improvements West of I-25; and the County agrees to pay directly those consultants with whom the County has contracted, including the services provided to the County associated with advancing the **Phase 2A Improvements**, and these additional project costs are not included as part of the County contribution as identified in this **Amendment No. 1**.

As part of this **Amendment No. 1**, the County agrees to pay to the City an amount not to exceed **Two Million Two Hundred Fifty Thousand Dollars and no Cents (\$2,250,000.00)**, for the **Phase 2A Improvements**, hereinafter referred to as the "**County Phase 2A Contribution**". Absent an express written amendment to the Agreement, the County will not be liable for paying the City any amount in excess of the **County Phase 2A Contribution**, including for any unforeseen project costs or claims.

Furthermore, the County hereby authorizes the City to apply the **Excess Funds** from the **Phase 1A Initial Improvements**, in the amount of **\$240,000.00**, to the costs of the **Phase 2A Improvements**. Therefore, the **County Phase 2A Contribution** requires an additional **\$2,010,000.00** payable to the City.

Therefore, the total contribution from the County for **Phase 1A Initial Improvements (\$1,850,000.00)** and **Phase 2A Improvements (\$2,010,000.00)** shall not exceed **Three Million Eight Hundred Sixty Thousand Dollars and no Cents (\$3,860,000.00)**.

The remaining amount (**\$2,010,000.00**), of the **County Phase 2A Contribution** is payable to the City within twenty (20) days after the County has received a written invoice from the City containing a written notice that the City has awarded construction contract(s) for the **Phase 2A Improvements**. The **County Phase 2A Contribution** shall be used by the City for constructing the **Phase 2A Improvements** and will be used for no other purpose unless agreed to by both Parties in writing.

Following a written request from the County Public Works Engineering representative, any unused **County Phase 2A Contribution** funds (the "**Phase 2A Excess Funds**") shall be returned to the County no later than six (6) months following completion of the work and final acceptance by the City for the **Phase 2A Improvements**. In calculating the amount of **Phase 2A Excess Funds** to be refunded to the County, the **County Phase 2A Contribution** shall be used for construction costs incurred by the City after first subtracting the **\$750,000** contribution not provided by the County (currently anticipated from PMMD and Centennial).

The County at its sole discretion may authorize the City to hold the **Phase 2A Excess Funds** remaining from the **Phase 2A Improvements** for use in order to advance the remaining **Overall Improvements West of I-25** hereinafter referred to as the **Phase 2B Improvements** as shown on **Exhibit B**. In the event the County elects to authorize the City to hold the **Phase 2A Excess Funds**, no portion of the **Phase 2A Excess Funds** shall be expended unless and until the Parties have executed a written agreement, whether in the form of an amendment or a separate agreement, to perform additional work beyond

that depicted in Exhibit A hereto and providing the terms and conditions for the expenditure of such **Phase 2A Excess Funds**.

5. **Time of Performance.** Upon execution of this Amendment by both Parties, the City shall diligently pursue award of construction contract(s) and construction of the **Phase 2A Improvements**. The City anticipates that the **Phase 2A Improvements** will be substantially completed and open to traffic by **November 15, 2018**.

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 Amendment if actual construction of the **Phase 2A Improvements** does not commence by **July 1, 2018**, unless agreed to in writing by both Parties. This Section shall survive the termination of this Amendment.

7. **No Other Modifications.** Except as provided herein, all other terms and conditions of the Agreement remains in full force and effect.

[signature page follows]

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

CITY OF LONE TREE, COLORADO

Jacqueline A. Millet, Mayor

ATTEST:

APPROVED AS TO FORM:

Jay Robb
City Clerk

Kristin Schledorn
Assistant City Attorney

**BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY**

Lora L. Thomas, Chair

ATTEST:

APPROVED AS TO CONTENT:

Emily Wrenn,
Clerk to the Board

Douglas J. DeBord,
County Manager

APPROVED AS TO FORM:

APPROVED AS TO FISCAL CONTENT:

Chris Pratt,
Assistant County Attorney

Andrew Copland
Director of Finance

EXHIBIT A

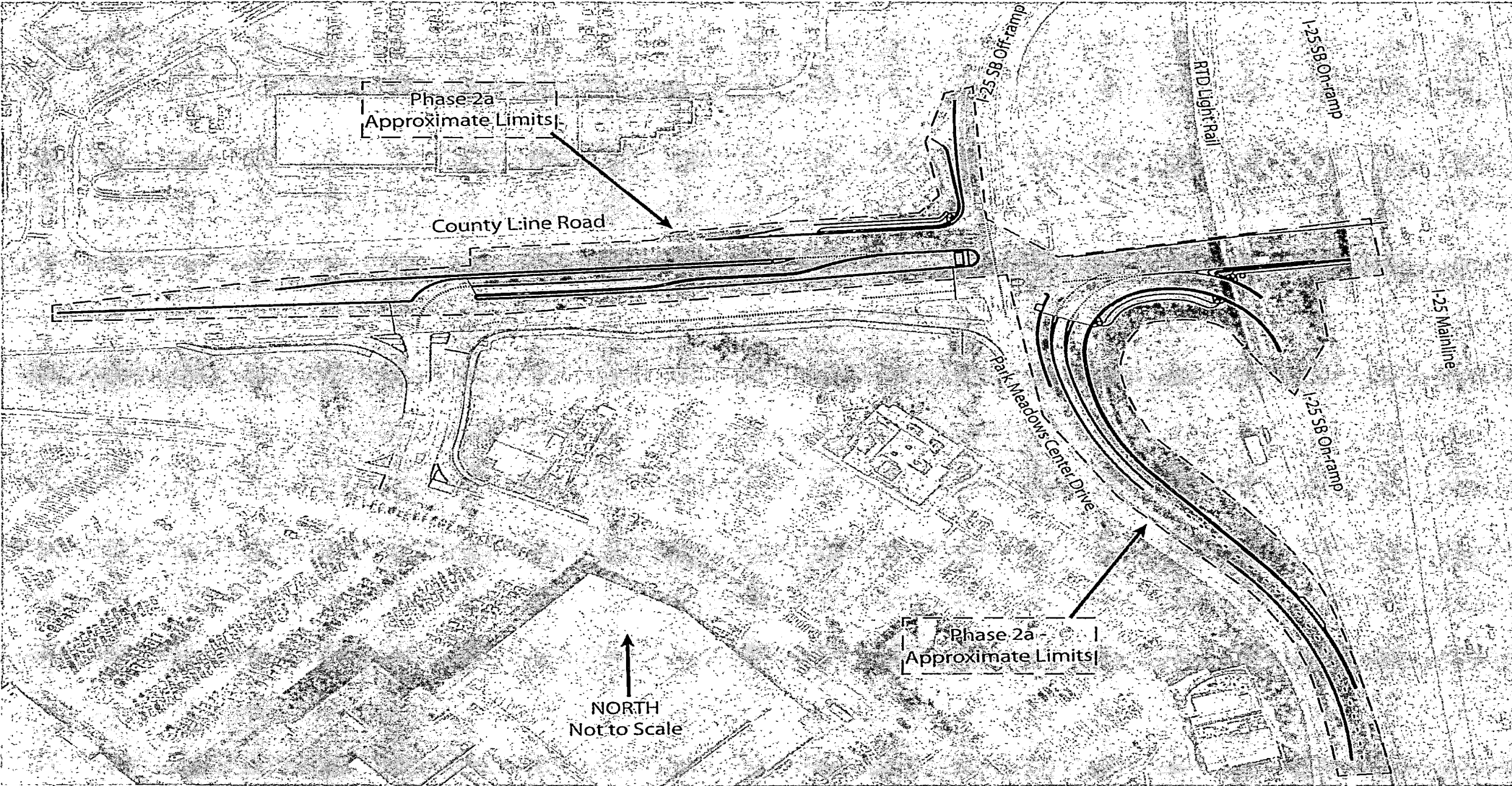
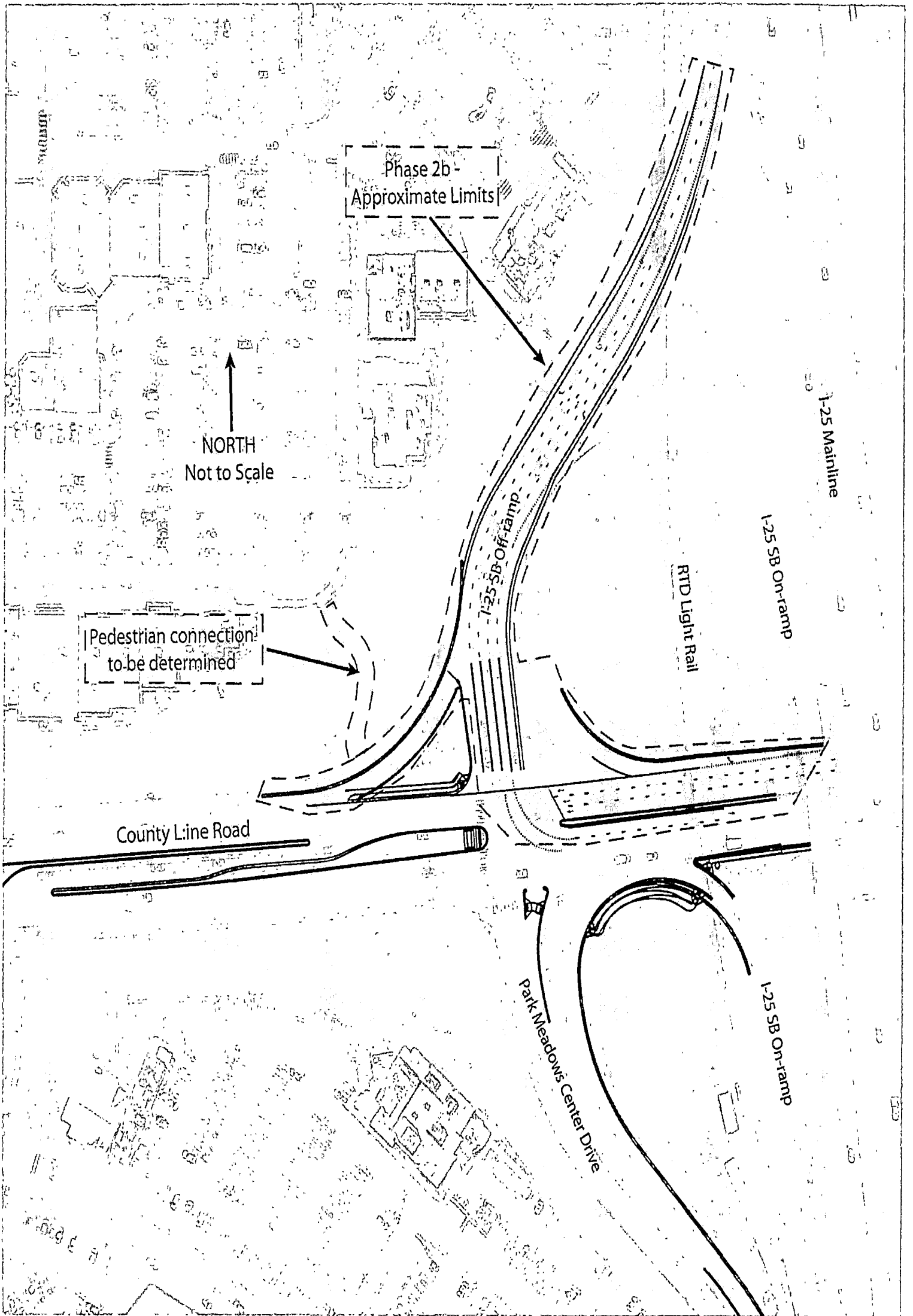


EXHIBIT B





1612 Specht Point Road, Suite 105
Fort Collins, Colorado 80525
p 970.266.1066 f 970.266.1075

www.f-w.com

EXHIBIT A-1 SCOPE OF WORK

Drainage System Improvements – Pinery Area

This scope of work is being defined at the request of Douglas County, and is adjacent to work being done for the Pinery Water and Wastewater District. Douglas County provided preliminary drawings that generally depicted locations within the project area that had drainage issues. A site visit was done with the County and preliminary revisions to the proposed drainage improvements were discussed along the alignment. This scope assumes the proposed improvements will be based on the preliminary drawings as revised based on the site visit. Revisions to these proposed improvements are anticipated once survey data is available and once the County has reviewed the preliminary design drawings.



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EXHIBIT B-1
FEE BREAKDOWN

Coordination/Project Management	\$1,000
Review Existing Conditions/30% Preliminary Design/Review with County	\$9,700
Revisions/60% Design/Site Visit/Review with County	\$10,700
Revisions/Final Design/Review with County	\$11,400
Bid Phase Services	\$4,000
Total Fees	\$36,800