

**RESOLUTION NO. R-021- 076**

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

**RESOLUTION APPROVING THE INTERGOVERNMENTAL AGREEMENT (IGA)  
BETWEEN THE CITY OF LONE TREE (CITY) AND THE BOARD OF COUNTY  
COMMISSIONERS OF THE COUNTY OF DOUGLAS, STATE OF COLORADO,  
(COUNTY), REGARDING A FINANCIAL CONTRIBUTION FOR THE C-470 TRAIL  
CONNECTOR TO RTD / PARK MEADOWS LRT PROJECT, ASSOCIATED WITH  
DOUGLAS COUNTY PROJECT NUMBER CI 2021-035.**

**WHEREAS**, the Board of County Commissioners of the County of Douglas (the “County”) and the City of Lone Tree (the “City”), desire to execute an intergovernmental agreement regarding a financial contribution for the C-470 Trail Connector to RTD / Park Meadows LRT Project; and

**WHEREAS**, the County is willing to enter into such amendment with the City in accordance with the terms and conditions set forth in the 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 of Lone Tree, 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 27th day of July, **2021**, in Castle Rock, Douglas County, Colorado.

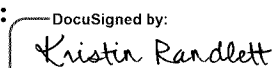
**THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF DOUGLAS, COLORADO**

**BY:**

DocuSigned by:  


**ABE LAYDON, Chair**

**ATTEST:**

DocuSigned by:  


**KRISTIN RANDETT, Clerk to the Board**

DocuSigned by:



**INTERGOVERNMENTAL AGREEMENT BETWEEN  
THE CITY OF LONE TREE AND THE BOARD OF COUNTY  
COMMISSIONERS OF THE COUNTY OF DOUGLAS, STATE OF COLORADO,  
REGARDING A FINANCIAL CONTRIBUTION FOR THE C-470 TRAIL  
CONNECTOR TO RTD / PARK MEADOWS LRT PROJECT**

THIS INTERGOVERNMENTAL AGREEMENT ("**Agreement**") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, **2021** 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 are legally empowered under Section 29-1-201, et seq., C.R.S. to enter into this Agreement; and

WHEREAS, the City and the County desire to cooperate in advancing design and construction activities associated with the C-470 Trail Connector to RTD / Park Meadows Light Rail Station (LRT) Project, as described in more detail on the attached **Exhibit A** and hereinafter referred to as the "**Project**"; and

WHEREAS, the Parties agree to share in both the pre-construction and construction costs for the **Project**, which includes but is not limited to the following tasks: public outreach, surveying, traffic modeling, alternative screening analysis, selecting a preferred alternative and completing the National Environmental Policy Act (NEPA) environmental clearance process, preparing construction cost estimate, conducting a detailed subsurface utility engineering investigation, right-of-way acquisition, utility relocates, preliminary design, final design; and all construction activities; and

WHEREAS, the City is responsible for managing all pre-construction and all construction activities associated with the **Project**; and

WHEREAS, the City is responsible for securing funding for the **Project**, except for the County's contribution; and

WHEREAS, the City was selected to receive **\$1,600,000.00** from the State of Colorado for construction through the Safer Main Streets (SMS) project selection process in order to provide partial funding for the **Project**; and

WHEREAS, in addition to providing technical support during pre-construction, the County's only responsibility is to contribute **\$300,000.00** for funding a portion of the **Project** costs associated with advancing pre-construction and/or construction activities as identified in **Section 4**; 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 Agreement.

2. **Term.** This Agreement shall commence upon execution by both Parties and shall continue until twelve (12) months following substantial completion of the **Project** as that term is defined in the City's General Conditions.

3. **City Responsibilities and Contribution.**

The Parties estimated the **Project** to cost **\$2,100,000**, hereinafter referred to as the "**Project Cost Estimate**" which includes the **County Contribution**, as that term is defined below in **Section 4** of this Agreement.

It is anticipated that the City's contribution will be **One Million Eight Hundred Thousand Dollars and No Cents (\$1,800,000.00)** which includes the **\$1,600,000.00** grant from the State of Colorado pursuant to the Safer Main Streets project selection process. The City agrees to manage all aspects of the **Project**. Except as expressly provided in **Section 4** of this Agreement, the City shall be responsible for paying for all **Project** costs, including any cost in excess of the **Project Cost Estimate**.

Once the City has determined to award a pre-construction contract for the **Project**, the City shall submit an invoice to Douglas County Public Works Engineering, (attention Ashley Pennick), requesting full payment from the County of the **County Contribution**, as defined below; and such invoice shall include a statement that the City has awarded a pre-construction contract for the **Project** and stipulate the amount of the awarded contract.

Upon written request from the County, the City agrees to provide the County with a copies of applicable **Project** expenditures.

4. **County Responsibilities and Contribution.**

The County agrees to provide the City with a lump sum payment not to exceed **Three Hundred Thousand Dollars and No Cents (\$300,000.00)**, referred to herein as the "**County Contribution**" for the sole purpose of contributing funds to advance the pre-construction and/or construction activities. It is anticipated that the City will utilize the majority of the County's contribution to advance pre-construction activities; and any remaining portion of the County Contribution may be used for construction. In no event will the County be liable for paying the City any amount in excess of the **County Contribution**, including for any unforeseen **Project** costs or claims.

The County shall pay the **County Contribution** to the City within thirty (30) days after the County has received a written invoice from the City associated with the award of a pre-construction contract for the **Project**. The **County Contribution** shall be used by the City solely for the **Project**. The City will not use the **County Contribution** for any other purpose unless agreed to by both Parties by executing a formal written contract amendment.

If any of the **County Contribution** is not used within thirty-six (36) months of being paid to the City, then the City shall notify the County; and the County may request any unused portion of the County Contribution be returned to the County with sixty (60) days' of written notice. Under this provision, any amount the City desires to retain (not refunded to the County), shall be detailed in a written request and presented by the City for the County's consideration, and said request shall include copies of applicable supporting documentation justifying why the unused funds are still needed for additional Project costs. The County will determine in its sole discretion if the City may retain such funds.

5. **Time of Performance.** Upon execution of this Agreement by both Parties, the City shall diligently pursue award of a contract for the **Project's** preconstruction activities. Currently, the Parties anticipates that the pre-construction activities will be substantially completed on or before **December 31, 2022**. Construction activities shall be initiated and completed in accordance with the requirements established for the Safer Main Street grant.

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 Agreement in the event of a default by the other Party. In the event that the pre-construction activities does not commence before **March 31, 2022**, unless an extension is agreed to in writing by both Parties prior to **March 15, 2022**, the County may terminate this Agreement and the City will give a full refund of any County Contribution received. This Section shall survive the termination of this Agreement.

7. **Notice.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is to be given, at the address set forth below, or at such other address as has been previously furnished in writing, to the other Party. Such notice shall be deemed to have been given when deposited in the United States mail.

City of Lone Tree:     City of Lone Tree  
                                  9220 Kimmer Drive, Suite 100  
                                  Lone Tree, Colorado 80124  
                                  Attention: Seth Hoffman, City Manager  
                                  [Seth.hoffman@cityoflonetree.com](mailto:Seth.hoffman@cityoflonetree.com)

With a copy to: Michow Cox & McAskin LLP  
 Attn: Lone Tree City Attorney  
 6530 S. Yosemite Street, Ste 200  
 Greenwood Village, Colorado 80111

Douglas County: Douglas County  
 100 Third Street  
 Castle Rock, Colorado 80104  
 Attention: Douglas J. DeBord, County Manager  
[DDebord@douglas.co.us](mailto:DDebord@douglas.co.us)

With an electronic copy sent to [attorney@douglas.co.us](mailto:attorney@douglas.co.us)

8. **Appropriation.** Pursuant to section 29-1-110, C.R.S., any financial obligations of the County contained herein that are payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available on an annual basis. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the City not performed during the current fiscal year is subject to annual appropriation, and thus any obligations of the City hereunder shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

9. **Additional Documents.** The Parties agree to execute any additional documents or take any additional action that is necessary to carry out the intent of this Agreement.

10. **Colorado Law.** The laws of the State of Colorado shall govern this Agreement. Venue for any action hereunder shall be in the District Court, County of Douglas, State of Colorado and the Parties waive any right to remove any action to any other court, whether state or federal.

11. **Separate Entities.** The Parties enter into this Agreement as separate, independent governmental entities and shall maintain such status throughout.

12. **No Third-Party Beneficiaries.** The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to the Parties, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement. Any beneficiary of the terms and conditions of this Agreement are not intended beneficiaries but are incidental beneficiaries only.

13. **No Waiver of Governmental Immunity Act.** The Parties hereto understand and agree that the County, its commissioners, officials, officers, directors, agents and employees, and the City, its council members, officials, officers, directors, agents and

employees are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, sections 24-10-101 to 120, C.R.S., or otherwise available to the County and the City.

14. **Entirety**. This Agreement merges and supersedes all prior negotiations, representations and agreements between the Parties hereto relating to the subject matter hereof and constitutes the entire agreement between the Parties concerning the subject matter hereof.

15. **Severability**. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

16. **Modification**. This Agreement may only be modified upon written agreement signed by the Parties.

17. **No Waiver**. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by either Party shall not constitute a waiver of any of the other terms or obligations of this Agreement.

18. **Assignment**. Neither this Agreement nor any of the rights or obligations of the Parties hereto, shall be assigned by either Party without the written consent of the other.

19. **Survival**. Any terms and conditions of the Agreement that require continued performance, compliance, or effect beyond the termination date of the Agreement shall survive such termination date and shall be enforceable in the event of a failure to perform or comply.

20. **Agreement Controls**. In the event a conflict exists between this Agreement and any term in any exhibit attached or incorporated into this Agreement, the terms in this Agreement shall supersede the terms in such exhibit.

21. **Force Majeure**. Neither the County nor the City shall be liable for any delay in, or failure of performance of, any covenant or promise contained in this Agreement, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to extent that, such delay or failure is caused by "force majeure." As used in this Agreement, "force majeure" means acts of God, acts of the public enemy, acts of terrorism, unusually severe weather, fires, floods, epidemics, quarantines, strikes, labor disputes and freight embargoes, to the extent such events were not the result of, or were not aggravated by, the acts or omissions of the non-performing or delayed party.

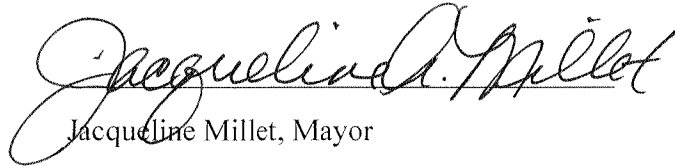
22. **Authority**. The individuals executing this Agreement represent that they are expressly authorized to enter into this Agreement on behalf of the City of Lone Tree and the County and bind their respective entities.

23. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document. In addition, the Parties specifically acknowledge and agree that electronic signatures shall be effective for all purposes, in accordance with the provisions of the Uniform Electronic Transactions Act, Title 24, Article 71.3 of the Colorado Revised Statutes.

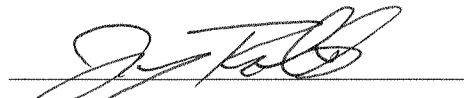
[signature page follows]

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

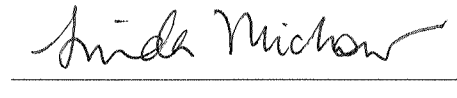
**CITY OF LONE TREE, COLORADO**

  
Jacqueline Millet, Mayor

**ATTEST:**

  
Jay Robb, City Clerk

**APPROVED AS TO FORM:**

  
City Attorney

**BOARD OF COUNTY COMMISSIONERS  
OF DOUGLAS COUNTY**

\_\_\_\_\_  
\_\_\_\_\_, Chair

**ATTEST:**

\_\_\_\_\_  
Kristin Randlett,  
Clerk to the Board

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Douglas J. DeBord,  
County Manager

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Chris Pratt,  
Senior Assistant County Attorney

**APPROVED AS TO FISCAL CONTENT:**

\_\_\_\_\_  
Andrew Copland,  
Director of Finance



## **Exhibit A**

### **Scope of Work**

#### **For the C-470 Trail Connector to RTD / Park Meadows LRT Project**

This **Project** involves designing and constructing a 10-foot wide shared-use path to connect the C-470 regional multi-use trail to the RTD County Line Light Rail Station located adjacent to Park Meadows Retail Resort. **Project** elements include new crosswalks, ADA-compliant ramps, and pedestrian actuation at the signalized intersection where the proposed trail connector crosses Park Meadows Center Drive. Additionally, the **Project** includes providing secure bicycle parking adjacent to the LRT station with video surveillance provided by the Lone Tree Police Department at their substation located at the Park Meadows Retail Resort.

The City is responsible for overseeing the pre-construction activities, including finalizing the consultant professional services contracts associated with the **Project**, consistent with the information that appeared in the Final Request for Proposals, (as amended); and in accordance with the final scope of work established by the City and negotiated with the consultant team selected and awarded a contract with the City. The pre-construction activities include the following tasks: public outreach, surveying, traffic modeling, alternative screening analysis, selecting a preferred alternative and completing the National Environmental Policy Act (NEPA) environmental clearance process, preparing construction engineering cost estimates, conducting a detailed subsurface utility engineering investigation, right-of-way acquisition, utility relocates, preliminary and final design; and preparing the final construction bid documents (plans and specifications).

Regarding the construction activities, the City is responsible for overseeing and managing all phases of construction, which includes managing the contractor, the construction management, inspection services and material testing requirements for this Safer Main Streets project.