

TOWN OF FRISCO

AND

COLORADO DEPARTMENT OF TRANSPORTATION

FIRST AMENDMENT TO WORK FORCE HOUSING PLANNING AGREEMENT
Dated as of _____, 2021

FIRST AMENDMENT TO WORK FORCE HOUSING PLANNING AGREEMENT

THIS FIRST AMENDMENT TO WORK FORCE HOUSING PLANNING AGREEMENT (this “First Amendment”), is made by and between the TOWN OF FRISCO, a Colorado home rule municipal corporation (the “Town”), and the STATE OF COLORADO acting by and through the COLORADO DEPARTMENT OF TRANSPORTATION, Property Management division (“CDOT” or “State”).

Recitals

This Agreement is made with respect to the following facts:

A. On or about September 9, 2020, the Town and CDOT entered into that certain Work Force Housing Planning Agreement (the “Agreement”) in order to jointly plan for, and potentially construct, a work-force housing project for purposes of Town and State work-force housing (the “Project”) on certain property owned by CDOT identified in the Agreement; and

B. In the Agreement, the Town and CDOT agreed to divide equally between them the various costs and expenses that were anticipated in connection with the design and planning efforts for the Project, and to expend not more than Two Hundred Thousand Dollars (\$200,000.00), in aggregate total in connection with such efforts; and

C. The Town and CDOT have conducted a request-for-proposals process for professional services in connection with the design and planning process for the Project under the Agreement, and have determined as a result of that process that Three Hundred Thousand Dollars (\$300,000.00) is a more realistic estimate of the reasonable cost of services that will be necessary to design and plan for the Project pursuant to the Agreement; and

D. Accordingly, the Town and CDOT desire to amend the Agreement to authorize the expenditure, in aggregate total, of the sum of Three Hundred Thousand Dollars for the design and planning efforts set forth Project under the Agreement.

Agreement

NOW, THEREFORE, in consideration of the foregoing Recitals, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and CDOT agree that this First Amendment shall amend the Agreement as follows:

SECTION 1 Section 2.09 of the Agreement is hereby deleted and restated to read in its entirety as follows:

Section 2.09 Costs and Expenses of Planning for the Project. Each party shall provide such personnel and other internal administrative resources as reasonably necessary to cooperate in the joint planning effort under this Agreement, and each party shall solely bear the costs and expenses of the internal personnel and other administrative resources it has provided hereunder. Except as may be expressly otherwise provided in this

Agreement, CDOT and the Town shall share equally in the payment of all other costs and expenses incurred under this Agreement, up to the aggregate sum of Three Hundred Thousand Dollars (\$300,000.00). The parties agree that attorney's fees shall not be subject to this Section 2.09 and that such attorney's fees shall be borne by the party incurring such obligations. The parties agree that they shall not, without additional written agreement approved in accordance with §4.12, incur costs and expenses under this Agreement in excess of said amount, and each party agrees that it has duly appropriated the sum of One Hundred Fifty Thousand Dollars (\$150,000.00) for expenditure under this Agreement as of the Effective Date. The parties agree that each party shall, within thirty (30) days of written invoice therefor, promptly reimburse the other party for its share of any expenses incurred under and in accordance with this Agreement.

SECTION 2 All capitalized terms used in this First Amendment shall have the same meaning as provided in the Agreement. Except as expressly amended by this First Amendment, the Agreement shall remain in full force and effect. Except for the Special Provisions contained in the Agreement, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this First Amendment and any of the provisions of the Agreement or any prior modification to the Agreement, the provisions of this First Amendment shall in all respects supersede, govern, and control.

SECTION 3 Amendment Effective Date. This First Amendment shall not be valid or enforceable until the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature Page for this First Amendment ("Amendment Effective Date"). CDOT shall not be bound by any provision of this First Amendment before that Amendment Effective Date, and shall have no obligation to pay for any work performed or expense incurred either before or after of the Amendment term shown in §4 of this First Amendment.

SECTION 4 Amendment Term. The parties' respective performances under this First Amendment and the changes to the Agreement contained herein shall commence on the Amendment Effective Date and shall terminate on the termination of the Agreement.

IN WITNESS WHEREOF, the Town and CDOT have caused these presents to be executed by their duly authorized officers, as of the date first above written.

TOWN OF FRISCO

ATTEST:

Deborah Wohlmuth, CMC, Town Clerk

Hunter Mortensen, Mayor

STATE OF COLORADO

Jared S. Polis, Governor
Department of Transportation
Shoshana M. Lew, Executive Director

By: Stephen Harelson, P.E., Chief Engineer

Date: _____

In accordance with §24-30-202, C.R.S., this First Amendment is not valid until signed and dated below by the State Controller or an authorized delegate.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____
Office of the State Controller, Controller Delegate

Effective Date: _____