

SUPPLEMENT TO INTERGOVERNMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT is made and entered into by and between the **CITY AND COUNTY OF DENVER (City)**, a municipal corporation of the State of Colorado (State), and the **HIGH PERFORMANCE TRANSPORTATION ENTERPRISE (HPTE)**, a division of the **DEPARTMENT OF TRANSPORTATION (CDOT)**, together, the “Parties.”

WITNESSETH:

WHEREAS, the City and the State entered into an agreement between themselves and the Regional Transportation District, a political subdivision of the State, dated May 21, 1993 (the “Agreement”) to cooperate to establish general provisions with respect to the ownership, operation, and maintenance of the 20th Street HOV Project, as defined in the Agreement; and

WHEREAS, in the Agreement, the City accepted ownership of all of the 20th Street HOV Project structure as part of the Denver city street system; and

WHEREAS, in the Agreement, the State was given the “exclusive right to operate and shall operate the 20th Street HOV Project structure”, including the right to establish occupancy requirements, hours of operation and direction of travel and supervising and controlling the automatic traffic gates on the structure; and

WHEREAS, the Parties now wish to clarify that the State, acting by and through CDOT and HPTE, may assign its right to operate the 20th Street HOV Project structure to Plenary Roads Denver LLC, or its successors, assigns, or replacements, in each case as determined by the State (each an “Operator”), and that such right to operate includes the right to charge a toll; and

WHEREAS, in exchange for such consideration, HPTE agrees that any money derived from its concession agreement with the Operator, dated June 20, 2013 (Concession Agreement) available for such purpose will be used to pay for major maintenance needed on the 20th Street HOV Project structure as required by Paragraph 5 of the Agreement, thereby diminishing the share of the cost of such major maintenance that might otherwise be due from the City.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and obligations herein set forth the parties agree as follows:

1. That Paragraph 3 of the Agreement permits the State, acting by and through CDOT and HPTE, to assign its rights and responsibilities with regard to the 20th Street HOV Project structure to the then applicable Operator, and such powers to operate include the power to establish and collect a toll. Such assignment does not alleviate the State's, CDOT's, or HPTE's responsibility to provide maintenance services pursuant to paragraphs 2 and 4 of the Agreement should the Operator not perform under the Concession Agreement.

2. That HPTE will first use any money derived from the Concession Agreement and available for that purpose to pay for major maintenance on the 20th Street HOV Project structure, and any remaining amount of such expense to be shared equally by the parties as provided in Paragraph 5 of the Agreement. "Major maintenance" shall have the meaning set forth in the Agreement: "includes replacement of part or all of the deck of the structure, and replacement of part or all of the entire structure."

3. HPTE consent to the use of electronic signatures by the City. This Supplemental Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of this Supplemental Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of this Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

4. Except as herein supplemented, the Agreement, as previously amended, is affirmed and ratified in each and every particular.