

**INTERGOVERNMENTAL AGREEMENT
AMONG
THE TOWN OF LYONS, THE CITY OF LONGMONT,
THE TOWN OF MEAD, THE TOWN OF FIRESTONE,
THE COUNTY OF BOULDER, THE COUNTY OF WELD,
AND
THE STATE OF COLORADO
DEPARTMENT OF TRANSPORTATION**

THIS AGREEMENT (hereinafter referred to as the "Agreement") is entered into effective as of the date defined below by and among the Cities/Towns of Lyons, Longmont, Mead, and Firestone and the Counties of Boulder and Weld (hereinafter referred to collectively as the "Cities and Counties"), and the State of Colorado, Department of Transportation (hereinafter referred to as the "Department"), said parties being referred to collectively herein as the "Agencies."

RECITALS:

WHEREAS, The Agencies are authorized by the provisions of Article XIV, Section 18(2)(a), Colorado Constitution, and Sections 29-1-201, et. seq., C.R.S., to enter into contracts with each other for the performance of functions that they are authorized by law to perform on their own; and

WHEREAS, Each Agency is authorized by Section 43-2-147(1)(a), C.R.S., to regulate access to public highways within its jurisdiction; and

WHEREAS, The coordinated regulation of vehicular access to public highways is necessary to maintain the efficient and smooth flow of traffic without compromising pedestrian and alternative modes of transportation circulation, to reduce the potential for traffic accidents, to protect the functional level and optimize the traffic capacity, to provide an efficient spacing of traffic signals, and to protect the public health, safety and welfare; and

WHEREAS, The Agencies desire to provide for the coordinated regulation of vehicular access for the section of United States Highway 36 between McConnell Drive (M.P 21.00) and Highland Drive (M.P. 21.764), and the section of Colorado State Highway 66 between Highland Drive (M.P. 28.693) and Weld County Road 19 (M.P. 47.912) (hereinafter referred to as the "Segment"), which is within the jurisdiction of the Agencies; and

WHEREAS, The Agencies desire to collaborate to assure all transportation modes including pedestrian, bicycle, vehicle, and mass transit are given sufficient consideration and adequate funding support with each transportation improvement project that affects access within the identified project limits; and

WHEREAS, The Agencies are authorized pursuant to Section 2.12 of the 2002 State Highway Access Code, 2 C.C.R. 601-1 (the "Access Code") to achieve such objective by written agreement among themselves adopting and implementing a comprehensive and mutually acceptable highway access control plan for the Segment for the purposes recited above; and

WHEREAS, The development of this Access Control Plan adheres to the requirements of the Access Code, Section 2.12.

NOW THEREFORE, for and in consideration of the mutual promises and undertakings herein contained, the Agencies agree as follows:

1. The Access Control Plan dated September 2019 for the Segment (hereinafter referred to as the “Access Control Plan”) is attached hereto as Exhibit A and incorporated herein.
2. The Agencies shall regulate access to the Segment in compliance with the Access Control Plan, the Highway Access Law, section 43-2-147, C.R.S., (the “Access Law”) and the applicable sections of the Access Code. Vehicular access to the Segment shall be permitted when such access is in compliance with the Access Control Plan, the Access Law and the applicable sections of the Access Code.
3. Accesses that were in existence in compliance with the Access Law prior to the effective date of this Agreement may continue in existence until such time as a change in the access is required by the Access Control Plan or in the course of highway reconstruction. When closure, modification, or relocation of access is necessary or required, the Agency(ies) having jurisdiction shall utilize appropriate legal process to affect such action.
4. Actions taken by any Agency with regard to transportation planning and traffic operations within the areas described in the Access Control Plan shall be in conformity with this Agreement. Per Section 2.12 (3) of the Access Code, design waivers may be approved if agreed upon by the Agencies having jurisdiction.
5. Parcels of real property created after the effective date of this Agreement that adjoin the Segment shall not be provided with direct access to the Segment unless the location, use and design thereof conform to the provisions of this Agreement.
6. This Agreement supersedes and controls all prior written, oral agreements, and representations of the Agencies and constitutes the whole agreement between them with respect to regulating vehicular access to the Segment. No additional or different oral representation, promise or agreement shall be binding on either Agency. This agreement may be amended or terminated only in writing executed by the Agencies with express authorization from their respective governing bodies or legally designated officials. Upon thirty-day notice, any party to this Agreement may withdraw from the Agreement in writing, without consent of the other party. To the extent the Access Control Plan, attached as Exhibit A to this Agreement, is modified by a change, closure, relocation, consolidation or addition of an access, the Agencies may amend the attached Exhibit A so long as the amendment to the Access Control Plan is executed in writing and amended in accord with the Access Law and Access Code. The Access Control Plan Amendment Process has been included in Exhibit B. This Agreement is based upon and is intended to be consistent with the Access Law and the Access Code as now or hereafter constituted. An amendment to either the Access Law or the Access Code that becomes effective after the effective date of this Agreement and that conflicts irreconcilably with an express provision of this Agreement may be grounds for revision of this Agreement.
7. This Agreement does not create any current financial obligation for any Agency. Any future financial obligation of any Agency shall be subject to the execution of an appropriate encumbrance document, where required. Agencies involved in or affected by any particular or site-specific undertaking provided for herein will cooperate with each other to agree upon a fair and equitable allocation of the costs associated therewith, however, notwithstanding any provision of this Agreement, no Agency shall be required to expend its public funds for such undertaking without the express prior approval of its governing body, director, and if required, state controller. All financial obligations of the

Agencies hereunder shall be contingent upon sufficient funds therefore being appropriated, budgeted, and otherwise made available as provided by law.

8. Should any one or more sections or provisions of this Agreement be judicially determined to be invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Agreement, the intention being that the various provisions hereof are severable.
9. By signing this Agreement, the Agencies acknowledge and represent to one another that all procedures necessary to validly contract and execute this Agreement have been performed, and that the persons signing for each Agency have been duly authorized by such Agency to do so.
10. No portion of this Agreement shall be deemed to constitute a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions of the Colorado Governmental Immunity Act, C.R.S. Section 24-10-101, et. seq. Nor shall any portion of this Agreement be deemed to have created a duty of care that did not previously exist with respect to any person not a party to this Agreement.
11. It is expressly understood and agreed that 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 undersigned parties and nothing in this Agreement shall give or allow any claim or right of action whatsoever by any other person not included in this Agreement. It is the express intention of the undersigned parties that any entity other than the undersigned parties receiving services or benefits under this Agreement shall be an incidental beneficiary only.
12. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one original Agreement. Facsimile signature shall be as effective as an original signature.
13. Effective Date. The Effective Date of this Agreement shall be the date of the last party to sign.

CONCUR:

Regional Transportation Director

Date

“EXHIBIT – A”
UNITED STATES HIGHWAY 36 AND COLORADO STATE HIGHWAY 66
(US 36 MP 21.00-MP 21.764 AND CO 66 MP 28.693 AND MP 47.912)
ACCESS CONTROL PLAN
September 2019

Town of Lyons, City of Longmont, Town of Mead, Town of Firestone, Boulder County, Weld County, and the State of Colorado Department of Transportation

I. PURPOSE

The purpose of this Access Control Plan (ACP) is to provide the Agencies with a comprehensive roadway access control plan for the pertinent segment of United States Highway 36 between McConnell Drive (M.P. 21.00) and Highland Drive (M.P. 21.764), as well as the section of Colorado State Highway 66 between Highland Drive (M.P. 28.693) and Weld County Road 19 (M.P. 47.912).

II. AUTHORITY

The development of this Access Control Plan was completed pursuant to the requirements of the Access Code, Section 2.12, and adopted by the attached Agreement.

III. RESPONSIBILITIES

It is the responsibility of each of the Agencies to this Agreement to ensure that vehicular access to the Segment shall only be in conformance with this Agreement. The cost of access improvements, closures and modifications shall be determined pursuant to section 43-2-147(6) C.R.S., the Agreement, and this Access Control Plan. All access construction shall be consistent with the design criteria and specifications of the Access Code.

IV. EXISTING AND FUTURE ACCESS

- A. The attached table provides a listing of each existing and future access point in the Segment. For each access point the following information is provided: location, description of the current access status, the future configuration (Access Plan), and the condition(s) for change. All access points along United States Highway 36 and Colorado State Highway 66 are defined by the approximate Department reference point (in hundredths of a mile) based on CDOT Highway Segment Description Mileposts. All access points are located at the approximate centerline of the access (+/- 50 feet) unless otherwise noted in the Access Control Plan and associated tables. Exhibits graphically illustrating the Access Plan are attached for reference. In case of discrepancy, the Access Control Plan Table takes precedence.
- B. All highway design and construction will be based on the assumption that the Segment will have a sufficient cross section to accommodate all travel lanes and sufficient right-of-way to accommodate longitudinal installation of utilities.

V. ACCESS MODIFICATION

Any proposed access modification including but not limited to an addition must be in compliance with this Agreement and the current Access Code design standards unless the Agency or Agencies having jurisdiction approves a design waiver under the waiver subsection of the Code.

Any access described in this section, which requires changes or closure as part of this Agreement or if significant public safety concerns develop, including but not limited to, when traffic operations have deteriorated, a documented accident history pattern has occurred, or when consistent complaints are received, may be closed, relocated, or consolidated, or turning movements may be restricted, or the access may be brought into conformance with this Access Control Plan, when a formal written request

Exhibit A
United States Highway 36 and Colorado State Highway 66
Access Control Plan

documenting reasons for the change is presented by the Agency(ies) having jurisdiction, with Department concurrence, or in the opinion of the Department, with the appropriate jurisdictional agency's concurrence, any of the following conditions occur:

- a. The access is determined to be detrimental to the public's health, safety and welfare;
- b. the access has developed an accident history that in the opinion of the Agency(ies) having jurisdiction or the Department is correctable by restricting the access;
- c. the access restrictions are necessitated by a change in road or traffic conditions;
- d. there is an approved (by the Agency(ies) having jurisdiction) change in the use of the property that would result in a change in the type of access operation as defined by the Access Code;
- e. a highway reconstruction project provides the opportunity to make highway and access improvements in support of this Access Control Plan; or
- f. the existing development does not allow for the proposed street and road network.

Access construction shall be consistent with the design and specifications of the current State Highway Access Code.

“EXHIBIT - B”
UNITED STATES HIGHWAY 36 AND COLORADO STATE HIGHWAY 66
(US 36 MP 21.00-MP 21.764 AND CO 66 MP 28.693 AND MP 47.912)
ACCESS CONTROL PLAN
AMENDMENT PROCESS

1. A request for an amendment of the Access Control Plan must be initiated by one of the Agencies. The initiating Agency will be responsible for the costs associated with completing and documenting the Amendment.
2. Amendment requests must be submitted to and agreed upon by the affected jurisdictions: Department staff, City staff and/or County staff of the Intergovernmental Agreement, depending on the property location. The property or properties that are directly affected by the proposed amendment must be located within a jurisdiction’s boundaries or within the boundaries of a legally recognized planning area, such as a Growth Management Area, for the jurisdiction to be considered an affected jurisdiction.
3. An amendment request shall include hard copy and electronic files of the following:
 - a) Description of changes to the Access Control Plan requested
 - b) Justification for the Amendment
 - c) Traffic Impact Study or analysis, depending upon the magnitude of the change requested. Any affected jurisdiction of the Intergovernmental Agreement can request this supporting documentation.
 - d) Amended Access Control Plan Table
 - e) Amended Access Control Plan Exhibit(s)/Map(s)
4. The Agencies shall review the submittal concurrently for completeness and for consistency with the access objectives, principles, and strategies described in the *Colorado State Highway 66 Access Control Plan* (September 2019) executive summary and Appendix for this corridor and with the design criteria and permit process of the State Highway Access Code.
5. Prior to approval of an amendment, all property owners directly affected by the amendment must be notified in writing and be given thirty (30) calendar days to state any objections. If an objection is lodged, approval of the amendment must be referred to the Agencies respective governing bodies. Depending on the magnitude of the change requested, a public meeting may be required. Any affected jurisdiction of the Intergovernmental Agreement can request a public meeting. The Agency initiating the amendment request shall be responsible for all public notification and public process, unless otherwise agreed to by the Agencies.
6. Amendments must be approved in writing by the following authorized designated officials: Regional Transportation Director for the Department, the City Manager and/or County Manager. At the authorized designated official’s discretion, approval may be referred to their respective governing bodies: Chief Engineer for the Department and local elected officials for the City and County.
7. A written amendment must include the following:
 - a) Declarations page defining the parties, effective date, and details of the amendment. Refer to sample amendment attached to this Exhibit as Exhibit C.

Exhibit B
United States Highway 36 and Colorado State Highway 66
Access Control Plan Amendment Process

- b) Signatures page for authorized designated officials. Refer to Exhibit C.
- c) Amended Access Control Plan table and exhibits. Table and exhibits should be replaced in their entirety.

A signed amendment must be attached to the original Intergovernmental Agreement.

- 8. If a minimum of 66% of the jurisdictions of the Intergovernmental Agreement do not come to agreement on a proposed amendment, the content of the original Access Control Plan remains intact.

“EXHIBIT – C”
SAMPLE AMENDMENT TO
INTERGOVERNMENTAL AGREEMENT
AMONG THE TOWN OF LYONS, THE CITY OF LONGMONT,
THE TOWN OF MEAD, THE TOWN OF FIRESTONE,
THE COUNTY OF BOULDER, THE COUNTY OF WELD,
AND THE STATE OF COLORADO
DEPARTMENT OF TRANSPORTATION
DATED _____

WHEREAS:

The Town of Lyons, the City of Longmont, the Town of Mead, the Town of Firestone, the County of Boulder, and the County of Weld (hereinafter referred to collectively as the “Cities and Counties”) and the State of Colorado, Department of Transportation (hereinafter referred to as the “Department”), said parties being referred to collectively herein as the “Agencies”, entered into an Agreement on _____, 2019 to adopt an Access Control Plan dated September, 2019 for the section of United States Highway 36 between McConnell Drive (M.P 21.00) and Highland Drive (M.P. 21.764), and the section of Colorado State Highway 66 between Highland Drive (M.P. 28.693) and Weld County Road 19 (M.P. 47.912) (hereinafter referred to as the "Segment").

The Agencies desire to amend this Agreement in accordance with the attached table for the Segment.

NOW, THEREFORE, the Agencies do hereby agree:

The Agreement and the terms and conditions therein shall remain unchanged other than those sections and exhibits listed below:

The attached table and exhibits for United States Highway 36 and Colorado State Highway 66 in Exhibit A shall be replaced with the table attached to this Amendment.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year written above:

Town of Lyons, Colorado

 Town Administrator Date

City of Longmont, Colorado

 City Manager Date

Town of Mead, Colorado

 Town Manager Date

Town of Firestone, Colorado

Town Manager Date

County of Boulder, Colorado

County Manager Date

County of Weld, Colorado

County Manager Date

State of Colorado, Department of Transportation

Regional Transportation Director Date