

**A RESOLUTION APPROVING THE INTERGOVERNMENTAL AGREEMENT
BETWEEN ADAMS COUNTY AND THE CITY OF COMMERCE CITY FOR THE
HOME CONSORTIUM PROGRAM FOR PROGRAM YEARS 2025, 2026 AND 2027**

Res 2024-048

WHEREAS, HOME Investment Partnerships Program (HOME) is a federal block grant designed to create affordable housing through activities that build, buy, or rehabilitate affordable housing for rent or homeownership or provide direct rental or homebuyer assistance to low-income people; and

WHEREAS, HOME funds, authorized through Title 1 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701), are allocated through the U.S. Department of Housing and Urban Development (HUD) to state and local governments that meet the thresholds; and

WHEREAS, the City of Commerce City (City) is eligible to participate in the consortium of geographically contiguous neighboring localities whose members' combined allocation amounts meets HUD's threshold to have an allocation of HOME funds that are separate from the state amount; and

WHEREAS, the City and Adams County desire to enter into an intergovernmental agreement to cover a three-year period from October 1, 2025, through September 30, 2027.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY AS FOLLOWS:

SECTION 1. Findings. The recitals of this resolution are incorporated as findings of the City Council. This resolution is found to be necessary for the preservation of public health, safety, and welfare and in the public interest. Additionally, the City Council finds:

- (a) All required notices and hearings have been completed.
- (b) The 2024 HOME Agreement is ready for approval.

SECTION 2. Actions. The City Manager or his designee is hereby authorized to take all actions necessary to submit and obtain approval for the 2024 Annual Action Plan upon approval by the City Council.

(a) The intergovernmental agreement between the City of Commerce City and Adams County for participation in the Home Investment Partnerships Consortium for program years 2025, 2026, and 2027, substantially in the form attached hereto as Exhibit A, is hereby approved.

RESOLVED AND PASSED THIS 20TH DAY OF MAY 2024.

CITY OF COMMERCE CITY, COLORADO

Steven J. Douglas, Mayor

ATTEST

Brittany Rodriguez, Acting City Clerk

Exhibit A

INTERGOVERNMENTAL AGREEMENT HOME INVESTMENT PARTNERSHIPS PROGRAM CONSORTIUM

THIS INTERGOVERNMENTAL AGREEMENT (HEREAFTER, “AGREEMENT”) is made and entered into this _____ day of _____, 2024, between the BOARD OF COUNTY COMMISSIONERS, COUNTY OF ADAMS, a political subdivision of the STATE of COLORADO, located at 4430 South Adams County Parkway, Brighton, Colorado, 80601 (HEREAFTER “COUNTY” or “LEAD ENTITY”); the CITY OF THORNTON, a home-rule municipality, located at 9500 Civic Center Drive, Thornton, Colorado, 80229; the CITY OF WESTMINSTER, a home-rule municipality, located at 4800 W 92nd Avenue, Westminster, Colorado, 80031; and the CITY OF COMMERCE CITY, a home-rule municipality, located at 7887 E 60th Avenue, Commerce City, Colorado, 80022 (each individually, “CITY” and collectively, “CITIES”). The COUNTY and the CITIES may be referred to collectively as “PARTIES,” and individually as “PARTY.”

RECITALS

WHEREAS, the United States Government, through the Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended (the “ACT”), has established the HOME Investment Partnerships Act Program (“HOME”), administered through the U.S. Department of Housing and Urban Development (“HUD”) and has designated the County as a Participating Jurisdiction (defined below) to administer Federal funds, subject to certain conditions, for the purpose of expansion and rehabilitation of the supply of decent, safe, sanitary, and affordable housing and to strengthen partnerships among all levels of government and the private sector; and

WHEREAS, 24 Code of Federal Regulations (“CFR”) Part 92.101, Consortia, provides that a consortium of geographically contiguous units of general local government can be considered to be a unit of general local government for the purposes of receiving an allocation and participation in the HOME program, and a determination has been made by HUD that the Parties are geographically contiguous and are eligible to participate in a HOME Consortium; and

WHEREAS, HUD rules and regulations governing HOME funds, as published in 24 CFR Part 92, provide that a county is eligible to receive HOME funds as a “Participating Jurisdiction,” as defined therein, and must submit to HUD an annual request for funding in the form of an Annual Action Plan (“AAP”); and

WHEREAS, The cities and units of local government within a county may be included in the Participating Jurisdiction by intergovernmental or cooperative agreement and may thereby be included in the Participating Jurisdiction’s HOME program, making up the HOME Consortium; and

WHEREAS, the Parties recognize the need to address community-wide housing issues including, increasing the supply of affordable housing, rehabilitation and preservation of affordable housing stock, and housing programs that help low-to-moderate income persons and families; and

WHEREAS, the Parties have determined that it will be mutually beneficial and in the public interest to participate in a HOME Consortium; and

WHEREAS, the Parties desire to enter into an intergovernmental agreement with each other to participate in a HOME Consortium for the purpose of using HOME funds, as authorized by Title II of the ACT to enhance cooperation between jurisdictions and to maximize the use of resources available by local governments to positively impact the housing-related problems of lower-income persons and families; and

WHEREAS, the COUNTY has elected to administer HOME funds for its HOME Consortium as the Lead Entity, under the administration of Adams County Community & Economic Development; and

WHEREAS, each CITY and COUNTY are authorized to enter into cooperative agreements pursuant to the Colorado Constitution, Article XIV, § 18, and § 29-1-203, CRS; and

WHEREAS, each CITY will remain its own entitlement community for the direct receipt and administration of Community Development Block Grant ("CDBG") funds from HUD; and

NOW THEREFORE, in consideration of the promises and the cooperative actions contemplated hereunder, the Parties agree as follows:

I. GENERAL PROVISIONS

A. Cooperation. The PARTIES agree to cooperate on the terms of this AGREEMENT and the implementation of carrying out the ACT for the term of this AGREEMENT.

B. Lead Entity and Representative Appointment. The COUNTY is designated as the LEAD ENTITY of the Adams County HOME Consortium ("CONSORTIUM") and will act in the representative capacity for all member units of general local government for the purposes of HOME per 24 CFR Part 92. As the LEAD ENTITY, the COUNTY may add new members and/or incorporate auto renewal provisions through an amendment to the Agreement that must be signed all Parties.

C. Term of Agreement and Program Year. The term of this AGREEMENT ("AGREEMENT TERM") shall cover three consecutive Federal Fiscal Years ("FFY"). This AGREEMENT qualifies the HOME CONSORTIUM for the three FFYs, 2025, 2026, and 2027. FFY 2025 will begin October 1, 2024, and end September 30, 2025. FFY 2026 will begin October 1, 2025, and end September 30, 2026. FFY 2027 will begin October 1, 2026, and end September 30, 2027. The PARTIES may not withdraw from the CONSORTIUM during the AGREEMENT TERM.

The AGREEMENT remains in effect until all funds from FFYs 2025, 2026 and 2027 are fully expended and all HOME funds are closed out in HUD's Integrated Disbursement and Information System ("IDIS"), or the funds are returned to HUD, pursuant to 24 CFR 92.507.

The PARTIES agree to have the same HUD Program Year ("PY") for the HOME CONSORTIUM and each PARTY's CDBG program. The PARTIES agree that the PY will be October 1 through September 30. The PY may be modified during the AGREEMENT TERM with cooperative written notice from the CITIES and COUNTY to HUD and approval by HUD.

D. IGA Renewal and Amendments. The Parties may renew the CONSORTIUM for any successive qualification periods. Successive qualification periods will last for three FFYs. The COUNTY shall notify each of the CITIES in writing by the date specified in HUD's most current Consortia Designation

Notice of each CITY's right to decide whether to continue to participate in the CONSORTIUM for the next qualification period. The COUNTY shall send a copy of the written notification to the HUD field office. Each CITY shall respond to the COUNTY with its decision whether to renew its participation in the CONSORTIUM for the next qualification period through a signed City Council resolution; this will be provided to the COUNTY at least fifteen (15) days prior to the COUNTY's deadline to notify HUD of the Consortium participants for the new qualification period.

Any future programmatic, administrative, or operational changes to this AGREEMENT shall be made by written amendment hereto, which shall be mutually agreed upon and executed by the PARTIES and submitted to HUD. Amendments shall be made pursuant to HUD's most current Consortia Designation Notice. The PARTIES agree that they will adopt any amendment to the Agreement incorporating changes necessary to meet the requirement for cooperative agreements set forth in the HOME Consortium qualification notice applicable for a subsequent three-year Consortium qualification period, and to submit such amendment to HUD as provided in the notice.

E. Distribution of Funds. The allocation of HOME funds from HUD to the COUNTY shall be allocated according to HOME program regulations. The COUNTY will retain up to ten percent (10%) of the total HOME annual allocation of the CONSORTIUM for program administration and other expenses related to program operations, in accordance with the ACT. Fifteen percent (15%) of the total HOME allocation must be set-aside for Community Housing Development Organizations ("CHDO"). CHDO set-aside may be used within all eligible areas of Adams County. The remainder of the HOME allocation will be split utilizing the annually published HOME Consortia Participating Members Percentage Report (also called the Consortia Share Report) that is posted on HUD's website, herein referred to as "CITIES HOME ALLOCATION." The CITIES HOME ALLOCATION shall be used to fund projects that comply with the ACT within the CITIES or other areas of the CONSORTIUM.

As the LEAD ENTITY, the COUNTY will review and award HOME funds to projects that are eligible for HOME funds, meet HUD regulations, and are ready to commence construction or operations within 24-months of the receipt of an application to meet HOME local project commitment requirements listed in 24 CFR 92.2. At a minimum, the COUNTY will accept HOME applications annually.

In the event an awarded HOME project is unable to meet the commence and 24-month commitment deadline, as required by the ACT, the COUNTY reserves the right to reallocate the CITIES HOME ALLOCATION to another eligible HOME project that can meet the 24-month commitment deadline to minimize the risk of losing the CONSORTIUM's HOME allocation. If the 24-month commitment deadline in the ACT is modified or extended by statute or regulation, the COUNTY will adjust the reallocation of the CITIES HOME ALLOCATION accordingly.

F. Program Income. Should any HOME-funded projects in any CITY or the COUNTY generate Program Income ("PI"), defined as repayment, interest or return on the HOME investment, the PARTIES agree that the income shall be returned to the COUNTY and be deposited into the local HOME Investment fund account. Per 24 CFR 92.503, PI that is collected by the COUNTY must be committed at the beginning of the next PY before the COUNTY can make a request of HOME funds from the U.S. Treasury account. Therefore, HOME Program Income funds shall be used first to fund eligible HOME activities in the subsequent year. Each CITY agrees and understands that ten percent (10%) of all Program Income received from HOME-funded projects may be retained by the COUNTY for program administration costs. The Program Income will be calculated in accordance with 24 CFR Part 92.

G. Designated Project Representatives. Parties agree that the designated representatives for the purposes of administering this Agreement are:

City of Thornton
Community Connections Division
9471 Dorothy Boulevard
Thornton, CO 80229
Email: Cheryl.steinburg@thorntonco.gov
Phone: (720) 977-5812

City of Westminster
Community Services Department
4800 W 92nd Avenue
Westminster, CO 80031
Email: ADD
Phone: ADD

City of Commerce City
Community Development Department
7887 E 60th Avenue
Commerce City, CO 80022
Email: glewis@c3gov.com
Phone: 720-760-5545

And

Adams County
Community & Economic Development
4430 South Adams County Parkway
Brighton, CO 80601
Email: commdev@adcogov.org
Phone: (720) 523-6200

A Party may change its Designated Representative through written notice to all the PARTIES, as provided in Paragraph H. Notices, below.

H. Notices. The PARTIES agree that any notices permitted or required by this AGREEMENT shall be deemed delivered when personally delivered or upon deposit in the United States Postal Service, fully pre-paid, certified, return receipt requested, and addressed to the Designated Representative identified in Paragraph G or via electronic mail (email) when delivery verification is provided through email delivery notification methods. A PARTY may change its address by notice issued in accordance with this paragraph.

I. Conflict of Interest. The PARTIES acknowledge that they will comply with Conflict of Interest regulations at 24 CFR Part 92.356.

II. RESPONSIBILITIES OF THE COUNTY

A. Administrative Oversight. The COUNTY, as the LEAD ENTITY, is ultimately responsible for the administrative oversight and supervision of all HOME funds allocated to the CONSORTIUM and its members, per 24 CFR Part 92. As such, the COUNTY is responsible for ensuring that all HOME funds awarded are expended in accordance with the ACT and relevant cross-cutting regulations, Consolidated Plan/AAP, subrecipient, developer, and contractor agreements, and all Federal, State, and local regulations and notices pertaining to HOME funding. Per HUD's Consortia Designation Notice, CPD 13-002, as amended, superseded, or rescinded, the COUNTY shall be responsible for renewing the AGREEMENT and submitting

amendments to the AGREEMENT to the HUD field office. The COUNTY is responsible to provide no less than forty-five (45) days-notice to each CITY of any deadlines that would require City Council action.

B. Legal Liability and Responsibilities. PARTIES recognize and understand that the COUNTY is the LEAD ENTITY for the CONSORTIUM and, therefore, shall be held by HUD to be legally liable and responsible for the execution of the HOME program. The COUNTY assumes overall responsibility for ensuring the CONSORTIUM's HOME program is carried out in compliance with the requirements of HOME, including requirements concerning a joint Consolidated Plan, as set forth in HUD regulations 24 CFR Parts 91 and 92, circulars promulgated by the Federal departments, agencies, and commissions related to the HOME program.

C. Subawards and Agreements. The COUNTY shall create and subaward HOME funds through subrecipient, developer, or contractor agreements for all the HOME-funded projects and activities of the CONSORTIUM. If a CITY applies to undertake a HOME-funded project, an agreement between such CITY and the COUNTY will be executed, provided that the project is HOME-eligible and authorized through a City Council Resolution. The COUNTY will provide the CITY with a copy of all fully executed agreements and amendments for HOME-funded projects within thirty (30) days of their execution.

D. Eligibility Review and Compliance Monitoring. The COUNTY shall be responsible for confirming eligibility and compliance of the HOME projects and activities with all applicable Federal, State, and local regulations. The COUNTY shall be responsible for monitoring of all HOME-funded projects to ensure compliance with applicable regulations associated with the HOME program, including, but not limited to, Davis-Bacon Act, Contract Work Hours and Safety Standards Act, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Uniform Federal Accessibility Standards ("UFAS"), Americans with Disabilities Act, and the Residential Lead-Based Paint Hazard Reduction Act of 1992, and Uniform Relocation Act ("URA").

E. Reporting Requirements. The COUNTY shall report on HOME funds and activities through IDIS and closeout projects within a timely manner. Upon request, the COUNTY will provide the CITIES with HOME activity reports and close out reports for any applicable HOME-funded projects and activities. The COUNTY will file all standard and required HOME reports with HUD as necessary to comply with applicable Federal regulations. The COUNTY shall further be responsible for maintaining proper documentation of the COUNTY's administrative expenses.

F. Public Participation. The COUNTY shall adhere to HUD requirements regarding public notification and public hearing processes necessary to receive HOME funds. Notices will follow the COUNTY's Citizen Participation Plan.

III. RESPONSIBILITIES OF THE CITY

A. Eligibility Review. Each CITY will work with agencies eligible to use HOME funds to evaluate needs in the community and identify potential projects that could be funded through the HOME program. Each CITY will provide guidance to agencies on applying for HOME funds and evaluate the potential projects for initial eligibility.

B. Annual Action Plan ("AAP")/Consolidated Annual Performance and Evaluation Report ("CAPER") Submissions. Each CITY, as an Entitlement Community of CDBG, prepares its own AAP and CAPER each year for the CDBG program. Each CITY will refer to the COUNTY's AAP and CAPER for information related to HOME-funded projects. Each CITY shall provide the COUNTY with a City Council Resolution on these documents so the COUNTY can incorporate the project description into the COUNTY'S AAP.

IV. MUTUAL RESPONSIBILITIES

A. Consolidated Plan. During the years that the entitlement communities in Adams County prepare and submit a joint Consolidated Plan, the CITIES and COUNTY will collaborate on the development of the Consolidated Plan. As the lead entity of the HOME Consortium, the COUNTY is responsible for the completion and submission of the Consolidated Plan for HOME funds. Each CITY is responsible for completing the sections required for its CDBG program and funding allocations. The COUNTY is responsible for the sections related to the funding received directly by the COUNTY, which includes HOME funds.

B. Fair Housing. PARTIES collectively and individually agree to affirmatively further fair housing, in accordance with all Federal rules, regulations, and requirements. Each PARTY shall be responsible for compliance with applicable HUD Fair Housing regulations.

C. Matching Contribution of HOME funds. The Act requires no less than 25 percent (25%) match pursuant to 24 CFR 92.218. Match contributions will be evaluated on an individual project basis and will be vetted and tracked by the COUNTY. In the event the CITY provides an eligible matching contribution to a HOME funded project, the CITY must provide official documentation demonstrating the match to the COUNTY fifteen (15) days after the end of the Program Year, October 15, for the purpose of reporting in the CAPER.

D. Venue. The laws of the State of Colorado shall govern as to the interpretation, validity and effect of this Agreement. The Parties agree that jurisdiction and venue for any disputes arising under this Agreement shall be with the District Court of Adams County, Colorado.

E. Modification. This Agreement contains the entire understanding of the Parties and neither it, nor the rights and obligations hereunder, may be changed, modified, or waived, except by instrument in writing signed by all Parties.

F. Execution in Counterparts. This Agreement may be executed in any number of counterparts and the Parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have caused their names to be affixed hereto and in agreement thereof, this ____ day of _____, 2024.

CITY OF THORNTON,
A Colorado Home Rule Municipal Corporation

Brett E. Henry, Interim City Manager
9500 Civic Center Drive
Thornton, Colorado 80229

ATTEST:

Kristen N. Rosenbaum, City Clerk

APPROVED AS TO FORM:

Tami Yellico, City Attorney

CITY OF WESTMINSTER,
A Colorado Home Rule Municipal Corporation

ADD
4800 W 92nd Avenue
Westminster, CO 80031

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney's Office

CITY OF COMMERCE CITY,
A Colorado Home Rule Municipal Corporation

Mayor Steven Douglas
7887 E 60th Avenue
Commerce City, CO 80022

ATTEST:

Dylan Gibson, City Clerk

APPROVED AS TO FORM:

Lee Zarzecki, City Attorney
Commerce City, City Attorney

**COUNTY OF ADAMS, STATE OF COLORADO
BOARD OF COUNTY COMMISSIONERS**

Chair

ATTEST:

Josh Zygielbaum, CLERK & RECORDER

Deputy Clerk

APPROVED AS TO FORM:

Adams County Attorney's Office