

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF
COMMERCE CITY AND ADAMS COUNTY REGARDING COST-SHARING
FOR US 85 AND 120TH AVENUE PROJECT**

This **INTERGOVERNMENTAL AGREEMENT** (“Agreement”) is made and entered into effective the _____, 2026, (the “Effective Date”), by and between the **CITY OF COMMERCE CITY**, a Colorado home rule municipality located at 7887 East 60th Avenue, Commerce City, CO 80022 (the “City”) and the Board of County Commissioners of **ADAMS COUNTY, COLORADO**, a body corporate and politic whose principal business address is 4330 South Adams County Parkway, Brighton, CO 80601 (the “County”) (collectively referred to herein as the “Parties” or each individually as a “Party”).

RECITALS

WHEREAS, Section 18(2)(a) of Article XIV of the Colorado Constitution, as well as Section 29-1-201, *et seq.*, and 29-20-105 of the Colorado Revised Statutes authorize and encourage governments to cooperate by contracting with one another for their mutual benefit;

WHEREAS, the U.S. Department of Transportation, Federal Railroad Administration (“FRA”) awarded the City a Fiscal Year 2021 Consolidated Rail Infrastructure and Safety Improvements Grant (“CRISI Grant”) for the construction of a grade separated crossing at US 85 and Union Pacific Railroad at 120th Avenue (the “Project”);

WHEREAS, the City and FRA previously executed a Grant Agreement dated September 9, 2024, attached as **Exhibit A** to this Agreement and incorporated herein by reference, to which the County is not a party, wherein the City accepted the CRISI Grant in the amount of Nine Million Five Hundred Eighty-Nine Thousand Dollars (\$9,589,000.00) and requires a local contribution in the total amount of Eight Million Two Hundred Ninety-Two Thousand Dollars (\$8,292,000) (the “Total Local Match”) towards the cost of the Project;

WHEREAS, in recognition of the regional benefits of the Project to the citizens of both Parties, the City has requested, and the County agrees, that the County will contribute Four Million Three Hundred Ninety-Five thousand Dollars (\$4,395,000) (the “County Local Match”) to the City as part of the Total Local Match;

WHEREAS, in recognition of the regional benefits of the Project to the citizens of both Parties, the City will contribute Two Million One Hundred Eighty Thousand Dollars (\$2,180,000) as a portion of the Total Local Match;

WHEREAS, in recognition of the regional benefits of the Project to the citizens of the City of Brighton, Colorado (“Brighton”), the City has requested, and Brighton agrees, that Brighton will contribute Two Million Seven Hundred Seventeen Thousand Dollars (\$2,717,000) to the City as a portion of the Total Local Match pursuant to a separate intergovernmental agreement; and

WHEREAS, the Parties wish to enter into this Agreement to formalize and establish the terms of the County's funding commitment of the County Local Match for the Project.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein, and for other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Parties do hereby agree as follows:

1. **Agreement.** Subject to the terms and conditions set forth in this Agreement, the County hereby agrees to contribute the County Local Match of Four Million Three Hundred Ninety-Five thousand Dollars (\$4,395,000) to the City, which funds shall be used by the City to partially fulfill the Total Local Match obligations for the Project.

2. **County's Contribution - Payment.** Subject to final approval by the Board of County Commissioners of Adams County, the County shall pay the County Local Match to the City pursuant to the reimbursement schedule set forth below.

<u>Payment Date</u>	<u>Amount</u>
By December 31 st , 2026	\$1,197,500.00
By December 31 st , 2027	\$1,000,000.00
By December 31 st , 2028	\$2,197,500.00
Total	\$4,395,000.00

3. **Assignment.** Neither the County nor the City may assign this Agreement or parts hereof or its rights hereunder without the express written consent of the other Party.

4. **Time is of the Essence.** The Parties acknowledge that time is of the essence in the performance of this Agreement.

5. **No Partnership or Agency.** Notwithstanding any language in this Agreement or any representation or warranty to the contrary, neither the City nor the County shall be deemed or constitute a partner, joint venturer or agent of the other. Any actions taken by the Parties pursuant to this Agreement shall be deemed actions as an independent contractor of the other.

6. **No Third-Party Beneficiaries.** It is expressly understood and agreed that 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. It is the express intention of the Parties that any person other than the City and the County shall be deemed to be only an incidental beneficiary under this Agreement.

7. **Notices.** Any notices or other communications required or permitted by this Agreement or by law to be served on, given to, or delivered to either Party hereto by the other Party shall be in writing and shall be deemed duly served, given, or delivered when personally delivered to the Party to whom it is addressed or, in lieu of such personal services, when received in the United States mail, first-class postage prepaid addressed to:

The County:
Board of County Commissioners, Adams County
4330 S. Adams County Parkway
Brighton, CO 80602
Attn: _____

The City:
City of Commerce City
8602 Rosemary Street
Commerce City, CO 80022
Attn: CIP Manager

With a copy of any such notice to:

City Attorney
City of Commerce City
7887 East 60th Avenue
Commerce City, CO 80022

Either Party may change its address for the purpose of this Section by giving written notice of such change to the other Party in the manner provided in this Section.

8. Headings. The headings and captions in this Agreement are intended solely for the convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

9. Controlling Law and Venue. The Parties hereto agree that exclusive jurisdiction and venue for the resolution of any dispute relating to this Agreement to be provided hereunder shall lie in Adams County, Colorado.

10. No Waiver. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.

11. Binding Contract. This Agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the Parties.

12. Entire Contract. This Agreement constitutes the entire agreement between the Parties and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect.

13. Contract Modification. This Agreement may not be amended, altered, or otherwise changed except by a written agreement between the Parties.

14. Severability. The invalidity or unenforceability of any portion or previous version of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and, in such event, the Parties shall negotiate in good faith to replace such invalidated provision in order to carry out the intent of the Parties in entering into this Agreement.

15. Counterpart Execution. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

16. Accessibility.

a. The Parties will comply with all applicable provisions of §§ 24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability (“Accessibility Standards”), as established by the State of Colorado Office of Information and Technology (“OIT”) pursuant to § 24-85-103(2.5) C.R.S. The Parties will also comply with all State of Colorado technology standards related to technology accessibility with Level AA of the most current version of the Web Content Accessibility Guidelines (“WCAG”), incorporated in the State of Colorado technology standards.

17. Electronic Signatures and Electronic Records. The County consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature under the Agreement, 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 the 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 the 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.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first written above. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

ADAMS COUNTY, COLORADO

By: Chair of the Board of County
Commissioners

ATTEST:

APPROVED AS TO FORM:

County Clerk

County Attorney's Office

CITY OF COMMERCE CITY

Steve J. Douglas Mayor

ATTEST:

APPROVED AS TO FORM:

Stephen J. Ruger, City Clerk

Kwali M. Farbes, Senior Assistant City Attorney

EXHIBIT A

Intergovernmental Agreement between the City and FRA dated September 6, 2024