

INTERGOVERNMENTAL AGREEMENT BETWEEN ADAMS COUNTY AND THE CITY
OF COMMERCE CITY REGARDING
DISBURSEMENT OF CORONAVIRUS AID, RELIEF AND ECONOMIC SECURITY
ACT FUNDS

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement"), is made this _____ day of _____, 2020, by and between Adams County, Colorado, located at 4430 S. Adams County Parkway, Brighton, CO 80601 ("County") and the City of Commerce City, Colorado located at 7887 E. 60th Avenue, Commerce City, CO 80022 ("City") for the purpose of disbursing funds provided by the Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136 ("CARES").

WITNESSETH:

WHEREAS, Section 18(2) of Article XIV of the Colorado Constitution and Sections 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; and,

WHEREAS, the COVID-19 pandemic has created myriad economic distress and unanticipated costs in American society to individuals and families, to businesses, and to the state and local governments addressing the pandemic's effects; and,

WHEREAS, Congress recently enacted CARES to provide relief funds to individuals, businesses, and state and local governments; and,

WHEREAS, CARES allows the County to directly receive funds for costs incurred in fighting and ameliorating the effects of COVID-19; and,

WHEREAS, pursuant to the terms of this Agreement, the County wishes to disburse to City, and City wishes to receive from County, CARES funds to City for COVID-19 related costs incurred by City.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

I. FUNDING

CARES funds are allocated based on the percentage of the population in a given state that resides in the jurisdiction requesting direct funding from the federal government. County is similarly allocating CARES funds based on the percentage of the County population residing in its cities and towns, as well as in the unincorporated portions of the County. The spreadsheet attached as Exhibit A, and incorporated herein, shows the amount of CARES funds available to each Adams County city and town.

County will disburse to City the funds allocated to City in Exhibit A in a maximum of three equal payments. Each payment of one-third of the total allocation will be disbursed to City only after County receives an invoice from City for each one-third payment. Funds from each one-third payment must be fully expended before City invoices County for the next one-third payment. City understands and agrees that the County's obligation to disburse these CARES funds is expressly contingent upon the County receiving said funds from the federal government. In the event the federal government fails to remit said funds, or reduces said funds, the County may reduce or terminate its payment accordingly. No Adams County funds shall be encumbered or involved in this Agreement.

City must submit reports on the expenditure of its CARES funds, including the amount and purpose of each expenditure, to County monthly. County shall not disburse its subsequent one-third payments if City has not complied with this monthly reporting requirement for each of its previous one-third payments. Any CARES funds not spent by December 4, 2020, shall be returned to the County so that the County's obligation to return unspent CARES funds to the Federal Treasury may be timely fulfilled.

II. SCOPE OF PROJECT AND ACCOUNTING

CARES funds shall be spent solely for the COVID-19 related costs set forth in CARES. CARES imposes expenditure and accounting obligations upon local governments receiving CARES funds. City agrees to be solely responsible for ensuring that it spends and accounts for the CARES funds received from the County in strict compliance with CARES requirements. Because CARES is recent legislation, the parties anticipate that additional federal legislation, rules, and regulations may be promulgated regarding the expenditure and accounting requirements. City shall familiarize itself with, and shall adhere to, all current and subsequent legislation, rules, and regulations. In the event of non-compliance with its legislative and regulatory mandates, the federal government may seek reimbursement of funds it deems were not spent in compliance with its legislation and rules. In the event the federal government seeks reimbursement of funds

spent by City, City shall be solely responsible for reimbursing said funds, and, in the event the federal government seeks reimbursement of funds spent by City from County, City shall reimburse County for any funds returned by County on City's behalf within thirty days of County's reimbursement.

III. PUBLIC NECESSITY

The Parties agree that the work performed pursuant to this Agreement is necessary for the health, safety, comfort, convenience, and welfare of all the people in Adams County in the fight against COVID-19.

IV. LIABILITY

Each party hereto shall be responsible for any suits, demands, costs or actions at law resulting from its own acts or omissions and may insure against such possibilities as appropriate.

The Parties hereto understand and agree that the City, the County, their officers and employees are relying on, and do not waive or intend to waive by any provision of the Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 *et seq.*, as from time-to-time amended, or otherwise available to either party, their officers, or their employees.

V. NOTICES

A. Any notices, demands, or other communications required or permitted to be given by any provision of this Agreement shall be given in writing, delivered personally or sent by registered mail, postage prepaid and return receipt requested, addressed to Parties at the addresses set forth below or at such other address as either party may hereafter or from time to time designate by written notice to the other party given when personally delivered or mailed, and shall be considered received in the earlier of either the day on which such notice is actually received by the party to whom it is addressed or the third day after such notice is mailed.

For Adams County:

Adams County Manager's Office
4430 S. Adams County Parkway
Brighton, Colorado 80601-8206

Adams County Attorney's Office
4430 South Adams County Parkway, Suite C5000B
Brighton, Colorado 80601-8206

For City:

City Manager, City of Commerce City
7887 E. 60th Avenue
Commerce City, Colorado 80022

City Attorney, City of Commerce City
7887 E. 60th Avenue
Commerce City, Colorado 80022

B. The Parties each agree to designate and assign a representative to act on the behalf of said Parties in all matters related to this Agreement. Each representative shall coordinate all Agreement-related issues between the Parties, shall attend all necessary meetings, and shall be responsible for providing all available related information upon request by the County or the City. Said representatives shall have the authority for all approvals, authorizations, notices or concurrences required under this Agreement, but shall not be authorized to amend the terms of this Agreement.

VI. AMENDMENTS

This Agreement contains all of the terms agreed upon by and among the Parties. Any amendments or modifications to this Agreement shall be in writing and executed by the Parties hereto to be valid and binding.

VII. SEVERABILITY

If any clause or provision herein contained shall be adjudged to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such invalid or unenforceable clause or provision shall not affect the validity of the Agreement as a whole and all other clauses or provisions shall be given full force and effect.

VIII. APPLICABLE LAWS

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for any and all legal actions regarding the transaction covered herein shall lie in Adams County, Colorado.

IX. ASSIGNABILITY

No party to this Agreement shall assign or transfer any of its rights or obligations hereunder without the prior written consent of the non-assigning party or parties to this Agreement.

X. BINDING EFFECT

The provisions of this Agreement shall bind and shall inure to the benefit of the Parties hereto and to their respective successors and permitted assigns.

XI. EMPLOYMENT STATUS

This Agreement shall not change the employment status of any employees of the Parties. No party shall have the right to control or direct the activities of any employees of another related to this Agreement.

XII. NO DISCRIMINATION IN EMPLOYMENT

In connection with the performance of work under this Agreement, the Parties agree not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified because of race, color, ancestry, creed, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability and further agree to insert the foregoing provision in all subcontracts hereunder.

XIII. APPROPRIATIONS

Notwithstanding any other term, condition, or provision herein, each and every obligation of the Parties stated in this Agreement is subject to the requirement of a prior appropriation of funds therefor by the appropriate governing body of the City and/or the County.

XIV. 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, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of the Parties that any person or party other than either one of the Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

XV. ILLEGAL ALIENS

The Parties agree that any public contract for services executed as a result of this intergovernmental agreement shall prohibit the employment of illegal aliens in compliance with §8-17.5-101 C.R.S. et seq.

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.

Signatures on next page.

CITY OF COMMERCE CITY

Benjamin A. Huseman, Mayor

ATTEST:

Dylan Gibson, CMC, Interim City Clerk

APPROVED AS TO FORM:

Robert Sheesley, City Attorney

BOARD OF COUNTY COMMISSIONERS
ADAMS COUNTY, COLORADO

Chair

ATTEST:

Erica Hannah, Deputy Clerk

APPROVED AS TO FORM:

Adams County Attorney's Office