

INTERGOVERNMENTAL AGREEMENT
HOME INVESTMENT PARTNERSHIPS PROGRAM
CONSORTIUM - [INSERT JURISDICTION]

THIS INTERGOVERNMENTAL AGREEMENT (HEREAFTER, "Agreement") is made and entered into this ____ day of _____, 2021, between the BOARD OF COUNTY COMMISSIONERS, COUNTY OF ADAMS (HEREAFTER "COUNTY"), a political subdivision of the STATE of COLORADO, located at 4430 South Adams County Parkway, Brighton, Colorado, 80601-8205, and the [INSERT JURISDICTION] (HEREAFTER "CITY"), a home-rule municipality, located at [INSERT ADDRESS]. The COUNTY and the CITY may be referred to collectively as "Parties," and individually as "Party."

RECITALS

WHEREAS, the United States Government, through the National Affordable Housing Act of 1990 (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 Adams County as a Participating Jurisdiction ("PJ") to administer such 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), 92.101 Consortia of the ACT 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 CITY and COUNTY 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 ("HOME Regulations"), 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"). 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; and

WHEREAS, the CITY and COUNTY recognize the need to address the community issues of homelessness, deteriorating housing stock, increase the supply of permanent affordable housing for lower-income households, and affordable and supportive housing for persons and families residing or wishing to reside in the CITY and have determined that it will be mutually beneficial and in the public interest to enter into an Intergovernmental Agreement regarding participation in HOME Consortium; and

WHEREAS, the CITY desires to enter into an Intergovernmental Agreement with the COUNTY to participate in a consortium for the purpose of using HOME funds in the city, 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 affect the housing-related problems of lower-income persons; and

WHEREAS, the COUNTY has elected to administer such Federal funds for its HOME Consortium through the Adams County Community Development Division; and

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

WHEREAS, this Intergovernmental Agreement is intended to fully supersede and replace the previous Agreement between the Parties.

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

I. GENERAL PROVISIONS

A. CITY and COUNTY Cooperation. The CITY and COUNTY will cooperate on the HOME projects and activities conducted with the CITY's HOME funding allocation during the Federal Program Years identified in this Agreement.

B. 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 to the Consortium at qualification periods.

C. Program Year/Term of Agreement. The Parties agree that beginning with Program Year ("PY") 2022, the HOME Consortium PY start date shall be October 1, 2022 and the PY end date will be September 30, 2023. The three federal fiscal years for which the Consortium is receiving HOME funding is FY 2022, 2023, 2024. Both the CITY and COUNTY agree that the duration of this Agreement shall cover funding for HOME PYs 2022, 2023, 2024, beginning on October 1, 2022 and ending on September 30, 2025. The PY may be modified during the agreement term with written notice to the HOME Consortium and approval from HUD. No Consortium member may withdraw from the Consortium while the Agreement is in effect. The Agreement remains in effect until the expenditures of HOME PYs 2022, 2023 and 2024 funds for eligible activities and all HOME funds are closed out in HUD's Integrated Disbursement and Information System ("IDIS"), pursuant to 24 CFR 92.507.

D. IGA Renewal and Amendments. The COUNTY and the CITY can renew this agreement for any successive qualification periods. Each such period will last for three federal fiscal years. The County shall notify the CITY in writing by the date specified in HUD's most current Consortia Designation Notice or HOME Consortia web page of the 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 provided to the CITY to the HUD field office. The CITY will respond 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 15 days prior to the COUNTY's deadline to notify HUD of the Consortium participants for the new qualification period.

Any programmatic, administrative, or operational changes to this Agreement shall be made by

written amendment to this Agreement, which shall be mutually agreed upon and executed by both the CITY and COUNTY. Amendments shall be made pursuant to HUD's most current Consortia Designation Notice.

E. Distribution of Funds. The allocation of HOME funds earmarked for the CITY shall be determined by HUD through the HOME Consortia Participating Members Percentage Report (also called the Consortia Share Report) that is posted on HUD's website. The CITY shall determine how the CITY's HOME allocation will be used on an annual basis and this will be authorized through the passing of a City Council Resolution.

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 HUD regulations. The COUNTY will notify the CITY of its Total Gross HOME allocation, which will identify the breakdown of Administration set-aside for the COUNTY and the CITY's net allocation of HOME funds. Such allocations shall not be modified or withdrawn unless mutually agreed upon in writing by both parties.

F. Program Income. Should any CITY HOME-funded projects generate Program Income ("PI"), the Parties agree that the income shall go towards CITY HOME-funded projects and/or be used specifically for CITY residents through other approved HOME-funded projects, unless such projects are unavailable and HUD commitment and/or expenditure deadlines are threatened. The CITY agrees and understands that ten percent (10%) of all PI received from CITY HOME-funded projects shall be retained by the COUNTY for program administration costs. The PI will be calculated in accordance with 24 CFR, including 92.207, 92.503, and 92.504.

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

[INSERT JURISDICTION]
[INSERT DEPARTMENT]
[INSERT ADDRESS]
[INSERT ADDRESS]
[INSERT PHONE]
[INSERT EMAIL]

And

Adams County
Community Development Division
Division Manager of Record
4430 South Adams County Parkway
Brighton, Colorado 80601-8205
720.523.6201
MScheere@adcogov.org

Either Party may change its Designated Representative through written notice to the other Party, 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 I or via electronic mail (email) when delivery verification is provided through email delivery notification methods. Either Party may change its address by notice issued in accordance with this paragraph.

I. Conflict of Interest. In accordance with 24 CFR Part 92.356, no employee official, agent, or consultant of the CITY or COUNTY shall exercise any function or responsibility in which a conflict of interest, real or apparent, would arise.

II. RESPONSIBILITIES OF THE COUNTY

A. Administrative Oversight. The COUNTY, as a designated Urban County and Participating Jurisdiction, 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 allocated to the CITY are expended in accordance with the Consolidated Plan/AAP, sub-recipient agreements, resolutions and all Federal, State, and local regulations and notices pertaining to HOME funding. Per HUD's Consortia Designation Notice, the COUNTY shall be responsible for renewing the IGA and submitting amendments to the IGA to the HUD field office. The COUNTY is responsible to provide no less than forty-five (45) days notice to the 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 governmental 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. Sub-Recipient Agreements. The COUNTY shall create and enter into sub-recipient agreements for all the HOME-funded projects and activities of the Consortium. Sub-recipient agreements for CITY HOME-funded projects will be executed on an annual basis, providing that HOME-eligible projects are developed and authorized through a CITY Council Resolution. The COUNTY will provide the CITY with a copy of all fully executed sub-recipient agreements and amendments for HOME-funded projects within 30 days of their execution. The COUNTY shall take all actions reasonably required to comply with the applicable provisions of the sub-recipient agreements.

D. Eligibility Review and Compliance Monitoring. The COUNTY shall be responsible for confirming eligibility and compliance of the CITY's HOME projects and activities with all applicable Federal, State and local regulations. Also, the COUNTY shall be responsible to provide 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 close out projects within a timely manner. Upon request, the COUNTY will provide the CITY with HOME activity reports and close out reports for any HOME-funded CITY projects and activities and separate reports for CITY Program Income funded activities. Also, 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.

III. RESPONSIBILITIES OF THE CITY

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

B. Action Plan/Consolidated Annual Performance and Evaluation Report (CAPER) Submissions. The CITY, as an Entitlement Community, prepares its own AAP and CAPER each year for the CDBG program. The CITY will refer to the COUNTY's AAP and CAPER for information related to HOME-funded projects. The 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 CITY 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. The CITY is responsible for completing the sections required for the CITY's 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 hereto 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 HUD Fair Housing regulations. Both the CITY and the COUNTY shall prepare and submit their own Analysis of Impediments to Fair Housing and be responsible for performance measures established in their respective Analysis of Impediments report.

C. Indemnification. The Parties agree that, to the extent possible, the COUNTY and the CITY shall indemnify and hold the other, its officers, agents, and employees harmless from and against any and all claims, actions, liabilities, costs, including attorney fees, and other costs of defense, arising out of or in way related to any act or failure to act by each other and each other's officers, agents, and employees, and contractors, in connection with this Agreement.

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.

IN WITNESS WHEREOF, the Parties have caused their names to be affixed hereto and in agreement thereof, this ____ day of _____, 2021.

[INSERT JURISDICTION],

A Colorado Municipal Corporation

[INSERT AUTHORIZED REPRESENTATIVE]

[INSERT ADDRESS]

[INSERT ADDRESS]

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

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

Chair

ATTEST:
STAN MARTIN, CLERK & RECORDER

Deputy Clerk

APPROVED AS TO FORM:

Adams County Attorney's Office

DRAFT