

ADAMS COUNTY OPEN SPACE GRANT AGREEMENT

The Grant Agreement ("Agreement") is made and entered into this day of , 202 , between the City of Brighton ("Applicant") and the County of Adams, acting through the Board of County Commissioners ("Adams County").

RECITALS

WHEREAS, in November 1999, the citizens of Adams County passed a county-wide one-fifth of one percent Open Space Sales Tax (the "Tax"); and

WHEREAS, in November 2004, the citizens of Adams County reauthorized the Tax and increased it to one-fourth of one percent; and

WHEREAS, in November 2020, the citizens of Adams County authorized the permanent extension of the existing county-wide sales tax of one-fourth of one percent for the continuing purpose of preserving open space and creating and maintaining parks and recreation facilities; and

WHEREAS, the majority of the revenues collected are distributed to qualifying jurisdictions through a competitive grant process; and

WHEREAS, on September 16th 2022, Applicant applied for an Adams County Open Space Grant to complete the "Cherry Meadows Park" (the "Project"); and

WHEREAS, on November 29th 2022, Adams County awarded Applicant an Adams County Open Space Grant to complete the Project; and

WHEREAS, Adams County awarded the Project 33.33% of the total Project costs, not to exceed \$600,000.00.

AGREEMENT

NOW, THEREFORE, the Parties hereto agree as follows:

1. **Grant Award.** Adams County hereby awards to Applicant a grant in the amount of 33.33% of the total Project costs, not to exceed \$600,000.00 (the "Grant"), subject to terms and conditions set forth in this Agreement.
2. **Project Scope.** Applicant shall complete the Project as described in the grant application, attached as Exhibit 1 ("Project Scope"), and incorporated herein by this reference. Exhibit 1 attachments include the grant application and all application attachments. Applicant shall not materially modify the Project Scope without the approval of Adams County. Applicant may request a modification to the Project Scope in compliance with the Modification Policy in the Open Space Policies and Procedures, attached as Exhibit 2 and incorporated herein by this reference, as may be amended from time to time by Adams County in its sole discretion. Adams County may elect to terminate this Agreement and deauthorize its funding for the Project in the

event it determines that the Project Scope has been materially modified without its approval and/or if Applicant fails to comply with the Modification Policy.

3. Completion Date. Applicant shall complete the Project no later than November 29, 2024 ("Completion Date"), which is two years after the date of Adams County's approval of the Project. Project completion requires all necessary documentation be submitted to Open Space staff on or before the Completion Date. Applicant may request an extension of the Completion Date in compliance with the Extension Policy in the Open Space Policies and Procedures, exhibit 2, as may be amended from time to time by the Board of County Commissioners in its sole discretion. Adams County may elect to terminate this Agreement and deauthorize its funding for the Project in the event that this Completion Date is not met and/or if Applicant fails to comply with the Extension Policy.
4. Compliance with Open Space Sales Tax Resolution and Open Space Policies and Procedures. Applicant shall use the Grant in accordance with Resolution 2020-480, and the Open Space Policies and Procedures, collectively attached hereto as Exhibit 2.
5. Audits and Accounting Records. Applicant shall maintain standard financial accounts, documents, and records relating to the completion of the Project. The accounts, documents and records related to the completion of this Project shall be subject to examination and audit by Adams County staff (the "Staff") prior to receiving the Grant. All such accounts, documents, and records shall be kept in accordance with generally accepted accounting principles and be subject to an annual independent audit as set forth in Exhibit 2.
6. Payment of Grant. Adams County agrees to make payments to the Applicant in the following manner:
 - a. Payments. Adams County agrees to disburse grant funds to Applicant to provide reimbursement for the payment of project costs upon successful completion of the Project, or on a quarterly basis. Itemized Reimbursement Requests, as set forth below, are required for reimbursements. Should the Project take two full years to complete, the Reimbursement Request for the final period of the project must be received by November 29th, 2024 to remain compliant with the Project Completion Date, as set forth above. Reimbursements disbursed from Adams County shall not exceed 33.33% of project costs incurred during the previous period with cumulative reimbursements totaling no more than \$600,000.00.
 - b. Acceptable Expenditures. Applicant can request payment for 33.33% of all project costs incurred within the previous period with cumulative reimbursements totaling no more than \$600,000.00 that: (1) have already been paid by the Applicant, and (2) are listed in the approved budget attached as Exhibit 1, under Application Attachment A – Project Budget. Applicant may request disbursement of grant funds for costs that have been incurred, but not paid by Applicant. However, Adams County will consider such

requests on a case-by-case basis and distribution of grant funds for these purposes is not guaranteed.

- c. Reimbursement Request. Applicant shall submit via hand delivery, email, or regular mail, to Adams County an itemized Reimbursement Request for project costs that have been incurred as of the date of the request. Each Reimbursement Request shall contain the following: (1) copies of invoices and/or employee time sheets complete with a spreadsheet indicating hours worked, wages earned, and taxes and benefits paid for work related specifically to the Project; (2) documentation substantiating that the Applicant has paid for the costs for which it is requesting reimbursement, including but not limited to cancelled checks or proof of a wire transfer; and (3) a brief summary of the work completed to date.
 - d. Approval of Payment of Reimbursement Requests. The Adams County Open Space Program Manager shall approve or disapprove the amount of each Reimbursement Request within fifteen (15) days of receipt of a legible Reimbursement Request. Payment shall be made to Applicant by check or electronic fund transfer.
 - e. Disapproval of Reimbursement Request. If Adams County disapproves any amount or amounts in a Reimbursement Request, Adams County shall promptly notify Applicant of the reason, therefore. Upon receipt of disapproval, Applicant and Adams County shall meet within one week to discuss what, if anything, the Applicant can do to obtain payment of the requested amount that was denied.
7. Signage. Applicant shall erect and maintain an Adams County Open Space Sign, which shall be provided by Adams County, in a prominent place on the Project site, unless the Project will not be open to the public.
8. Publicity. In all press releases regarding this Project, Applicant shall include the following statement: "This Project was funded in part with proceeds from the Adams County Open Space Sales Tax. The Adams County Open Space Sales Tax was originally passed by the Adams County voters in 1999, and reauthorized and permanently extended in November 2020.
9. Miscellaneous Provisions.
- A. Good Faith. Both Parties have an obligation to act in good faith, including the obligation to make timely communication of information that may reasonably be believed to be of interest to the other party.
 - B. Applicable Law. Colorado law applies to the interpretation and enforcement of this Agreement. Venue for any dispute shall be in Adams County, Colorado.
 - C. Time is of the essence. Time is of the essence in this Agreement.

- D. Authority. The undersigned represents and warrants that he or she is duly authorized and has legal capacity to execute this agreement on behalf of the Applicant, that the Applicant's obligations in this Grant Agreement have been authorized, and that the Grant Agreement is a valid and legal agreement binding on the Applicant in accordance with its terms.
- E. Survival. The terms and provisions of this Agreement and Applicant's obligations hereunder shall survive the funding of the Grant.
- F. Entire Agreement. Except as expressly provided herein, this Agreement constitutes the entire agreement of the parties. No changes to this Agreement shall be valid unless made in writing and signed by the parties to this Agreement.

The remainder of this page is left blank intentionally.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

BOARD OF COUNTY COMMISSIONERS
COUNTY OF ADAMS, STATE OF COLORADO

Chair

ATTEST:
CLERK AND RECORDER'S OFFICE

Deputy Clerk

APPROVED AS TO FORM:

County Attorney's Office

City of Brighton

By (signature)

Printed name

Title

ATTEST:

APPROVED AS TO FORM:



ADAMS COUNTY OPEN SPACE

ATTACHMENT A - PROJECT BUDGET

All organizations or individuals providing in-kind contributions are required to provide a letter of commitment outlining their contribution(s) as stated in the Project Budget.
Attachment A should include dollar amounts.

Date: _____

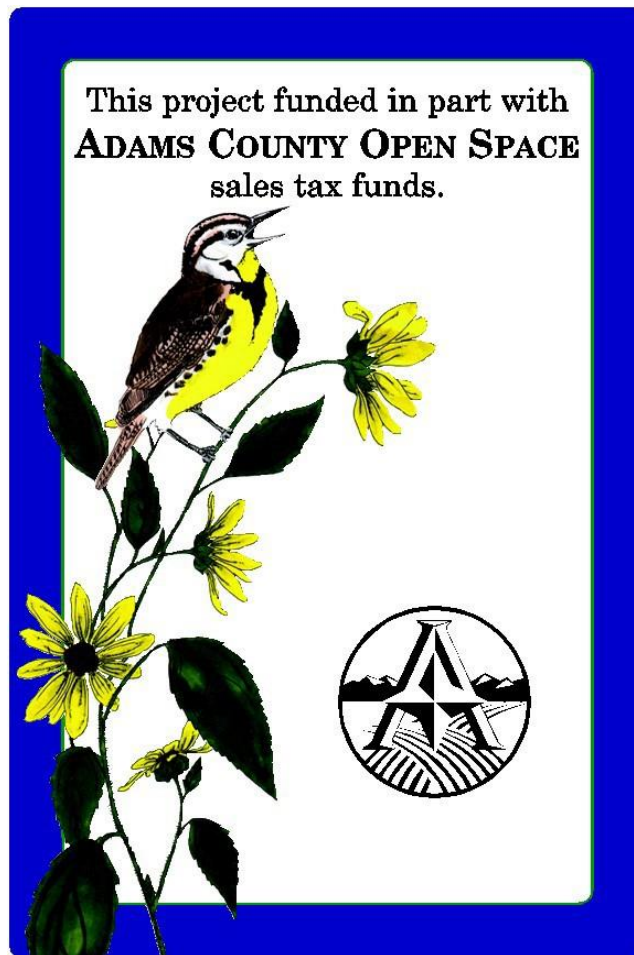
Project Name: _____

Amount Requested: _____

% Total Project Costs: _____

Description of Item/Expense	Grant Request	Previous ADCO Award	Applicant Match	Partner Match	In-Kind (funds/services to be provided by applicant or partner)	Total Project Costs
Budget Total						

Adams County Open Space Program Policies and Procedures



Newly Revised and Adopted June 24, 2013

**As Amended January 6, 2014, November 14, 2017, July 14, 2020
and July 27, 2021**

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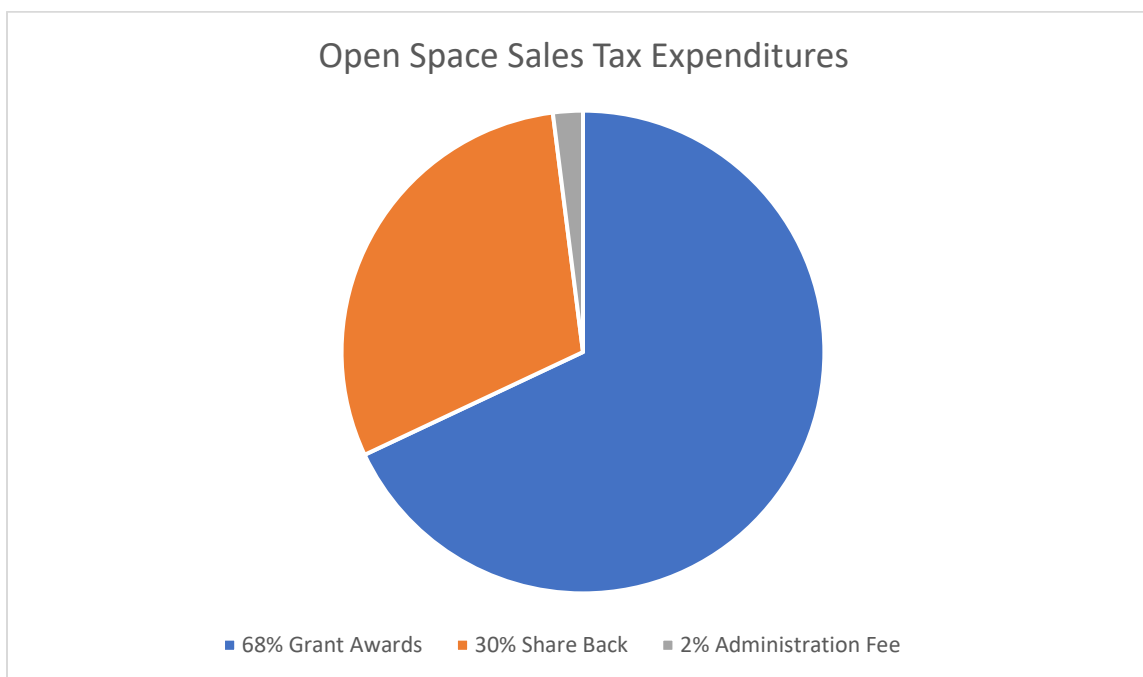
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Introduction

Adams County citizens passed an Open Space Tax on November 2, 1999, and reauthorized it on November 2, 2004, to be extended until December 31, 2026. The voter approved issue called for 68% of the proceeds from the tax to be distributed to eligible jurisdictions by a grant process. The Open Space “Tax Issue” also provides for 30% of the funds to be returned to the Cities and County based on a formula of where the tax is collected. Two percent may be used for administrative purposes. Adams County Open Space Sales Tax funds are subject to an annual independent audit.

At an election on November 3, 2020, Adams County citizens then approved permanently extending the existing county wide sales tax of one-fourth of one percent (one-fourth penny per dollar) for the continued purpose of preserving open space and creating and maintaining parks and recreation facilities.



This document is meant to provide a brief overview of each component of the Sales Tax program and provide specific guidance for use of 30% Share back funds and the administration of the 68% Grant Fund.

2% Administration Fund

The 2% Administration Fund is the first set of funds removed from the Sales Tax revenues. These monies are used annually to fund the salaries and benefits of Open Space staff who administer the program. In addition, these funds are used for the day-to-day administration of the entire Sales Tax revenue. Major costs from this fund include public relations costs (such as promotional materials, attending local community days, and publishing an annual report), and all costs associated with coordinating two grant

cycles per year. The budget for these funds is developed annually by Open Space staff and is approved by the Adams County Parks and Open Space Director, the Adams County

Finance Department staff, and ultimately the Adams County Board of County Commissioners (BoCC) as part of the overall County budget.

Annual Report

An annual report describing projects funded with the open space funds will be made available to the residents of Adams County annually. The County will compile information based upon reporting they receive from each jurisdiction describing how 30% Share back funds were used. The County will also compile a list of projects funded in the past year, including a brief description of each project and the amount of funding awarded.

Annual Audits

All expenditures of Open Space Sales Tax funds are subject to an annual audit. This includes projects awarded grant funds as well as funds disbursed from the 30% portion of the Sales Tax Fund.

30% Share back Program

Purpose

The Share back Program distributes a portion of Open Space Sales Tax revenues directly back to the taxing jurisdiction for use on either passive or active projects. The share back is distributed as described in Section 7(b)(iii) of Resolution 2020-480: “After payment of the administrative fee, thirty percent (30%) of the remaining Open Space Sales Tax collected shall be automatically returned to the cities, towns and unincorporated area of Adams County in the same proportion as is the ratio of Open Space Sales Tax collected within the city, town or unincorporated area to the total County sales tax collections, as computed from information provided by the Colorado Department of Revenue. This money may be used by the jurisdiction for either active or passive uses but shall not be used to augment existing parks and open space budgets”.

Distributions of these funds are made twice yearly to all qualified jurisdictions. Payments are distributed as electronic fund transfers or check to the qualified jurisdiction, or in the case of Adams County, as an internal transfer of funds.

Eligible Expenses

Share back funds received by the qualified jurisdiction may be used for passive or active uses. However, there are some limitations to use of the share back funds, including but not limited to:

- As stated in Resolution 2020-480 Section 7 (c) (iv), “no land or interests acquired with revenues of the Open Space Sales Tax may be sold, leased, traded, or otherwise conveyed, nor may an exclusive license or permit on such land or interests be given, without the approval of such action by the Board [of County Commissioners]”.

- Funds from the 30% distribution can be used to maintain active and passive projects previously funded through the Open Space Sales Tax but may not otherwise augment existing budgets.

Annual Reporting

In approximately January of each year, Open Space staff will distribute an annual reporting form to qualified jurisdictions. The purpose of this form is to detail how each qualified jurisdiction allocated the previous year's 30% distribution. Forms from all qualified jurisdictions must be returned to Adams County Open Space staff prior to any spring distributions being processed. The information acquired through this process will be included in the annual report.

68% Grant Fund

Purpose

The 68% Grant Fund is a competitive grant process where parks and open space projects compete for limited funds available through the Sales Tax program. Applications are reviewed by the Open Space Advisory Board (OSAB), comprised of seven (7) volunteer members appointed by the BoCC. The OSAB makes funding recommendations to the BoCC based on funds available and project merits. All final funding decisions are made by the BoCC.

Available Funding

The funding available in each grant cycle is comprised of the grant fund share of Open Space Sales Tax revenues for the last six months of the previous year (Spring grant cycle) or the first six months of the year (Fall grant cycle), all interest earnings on Open Space Sales Tax revenues, any unallocated monies remaining from previous revenues, and monies returned to the fund due to projects coming in under budget or projects that were unable to be completed.

Funding is limited for each grant cycle. The OSAB can elect to recommend a project be funded in full, part, or may choose not to recommend funding for the project. The BoCC will review the recommendations of the OSAB and award in full, modify the amount, or deny grant funds to specific projects.

Applicants for projects or phases of projects that were not awarded Open Space Sales Tax funds in the full amount requested in the initial grant proposal are encouraged to reapply for up to two additional grant cycles following the initial submittal, in the event the applicant deems the project worthwhile of additional funding.

Grant Cycle Timeline

Grant cycles occur twice each year in March and September. For a more detailed grant cycle schedule, visit www.adcogov.org/open-space-grant-information or contact Open Space Sales Tax Grant Program staff.

Applicant Eligibility

Applicants must not have any unresolved compliance issues. The applicant must be in compliance on projects previously funded with Adams County Open Space Sales Tax Funds, including funds received from the 30% Open Space Sales Tax distributions. Compliance includes but is not limited to completion of projects as funded and provision of information when requested or due.

Qualified Jurisdictions

The Qualified Jurisdictions are defined as the sales tax collecting entities in the County and special districts that solely provide parks or recreational facilities or programs currently include: City of Arvada, City of Aurora, Town of Bennett, Bennett Park and Recreation District, City of Brighton, City of Commerce City, City of Federal Heights, Hyland Hills Park and Recreation District, City of Northglenn, Strasburg Parks and Recreation District, City of Thornton, City of Westminster, and Adams County.

Qualified jurisdictions must have an adopted Parks and/or Open Space Plan. Metropolitan Districts that provide park and recreation services among other services shall not be considered park and recreation districts for the purposes of these policies and procedures.

Sponsored Organizations

Any organization, including, but not limited to Metropolitan Districts providing services in addition to parks and recreation, other governmental entities and non-profit organizations are eligible to apply, provided they are sponsored by a qualified jurisdiction. These organizations must receive sponsorship from one of the qualified jurisdictions, as evidenced by documentation from the sponsoring qualified jurisdiction indicating their sponsorship of and support for the project. These organizations should contact the most appropriate qualified jurisdiction well ahead of the grant application due date to allow for enough time to navigate that jurisdiction's process. If seeking sponsorship from Adams County, please contact Open Space staff at least 6 weeks ahead of the grant application due date for additional information. If a qualified jurisdiction agrees to sponsor an application, the sponsored application does not count against the qualified jurisdiction's allowed number of applications per grant cycle.

The role of the sponsoring qualified jurisdiction is flexible, but at minimum consists of providing approval for the requesting organization to apply for the program. A more significant relationship between sponsoring qualified jurisdiction and sponsored organization is encouraged, especially for organizations new to the Open Space program, but is not required. Any additional contact between the sponsoring qualified jurisdiction and sponsored organization is optional at the will of either party.

Eligible Projects

Staff will review the application and project for conformance with the voter-approved "Tax" and the Open Space Policy and Procedures.

Facilities, including but not limited to parks, sports fields, golf courses, and recreation centers, or land must be accessible to the public, inclusive of those with disabilities, except for land acquisitions and conservation easements for agricultural preservation and habitat preservation.

Eligible Project Types

The following is a list of eligible projects for the Adams County Open Space Sales Tax Grant Program. This list comes from Resolution 2020-480 7-(c). If a prospective project is not directly related to one of these items, please contact Open Space staff for further discussion. Adams County Open Space Sales Tax funds in the grant program can be used for:

Purchase, construction, maintenance of the following:

- Horse, bike, running trails
- Natural areas with limited development for fishing, hiking, walking, or biking
- Wildlife preserves
- Lakes for fishing with accessible walks, docks, picnic areas, and restrooms
- Conservation easements on agricultural land
- Environmental education programs
- Lands and waterways as community buffers
- River and stream corridor land
- Unimproved flood plains
- Wetlands
- Preservation of cemeteries
- Picnic facilities

Acquisition of:

- Fee title interest and less than fee title interest(s) in real property for open space, natural areas, wildlife habitat, agricultural and ranch lands, historical amenities, parks, and trails. Less than fee title interests include easements (including conservation and agricultural), leases, options, future interests, covenants, development rights, subsurface rights and contractual rights, either on an exclusive or nonexclusive basis.
- Water rights and water storage rights for use in connection with aforementioned purposes
- Rights-of-way and easements for trails and access to public lands and to build and improve such trails and accessways.
- Joint projects between counties and municipalities, recreation districts, or other governmental entities in the County.

To improve, protect, manage, patrol, and maintain:

- Open space
- Natural areas
- Wildlife habitats
- Agricultural and ranch lands
- Historical amenities

- Parks
- Trails

To pay for related acquisition, construction, equipment, operation, and maintenance costs

To implement and effectuate the purposes of the Open Space Program

Acquisition and maintenance of:

- Lands with significant natural resource, scenic, and wildlife habitat values
- Lands that are buffers maintaining community identity
- Lands that are to be used for trails and/or wildlife migration routes
- Lands that will be preserved for agricultural or ranch purposes
- Lands for outdoor recreation purposes limited to passive recreational use, including but not limited to hiking, hunting, fishing, photography, nature studies, and if specifically designated, bicycling or horseback riding
- Lands with other important values such as scenic and historic sites that contribute to the County's and County municipalities' natural and cultural heritage

Purchase, construction, equipping, and maintenance of:

- Sports fields
- Golf courses
- Recreation centers
- Lands for park purposes
- Park and recreational improvements and facilities

In addition to eligible project types, the following list indicates Eligible Project Expenses. This list is meant to clarify eligible expenses but is not a comprehensive list of eligible expenses. Please contact Open Space staff regarding expenses not otherwise included on this list. These items can appear in the project budget and be reimbursed for as a part of the project. They can be grant request, applicant / partner match, or in-kind contribution or any combination thereof. The following items are Eligible Project Expenses:

- Consultant costs for acquisition, planning, design, and/or construction of parks, trails, or open space (including natural areas, wildlife habitats, agricultural lands, ranch lands, and historical amenities)
- General volunteer time or Board member time (see Salary below)
- Organization fees including certification and accreditation fees (directly relating to project or program, or a requirement thereof)
- Training tuition for programs/certifications directly related to the project
- Staff time and expenses that are related to a specific project (see Salary below)
- Costs that directly relate to the planning activities (inventories, design, GIS/mapping, printing, etc.)
- Existing operations and maintenance
- Public input costs (meeting rooms, mailings or other advertising, facilitation, surveys and web-based outreach)

- Acquisition of conservation easement or land for open space, park, or trail purposes:
 - Purchase price
 - Water rights
 - Mineral rights
 - Associated closing costs
 - Appraisal
 - Survey
 - Environmental assessment and cleanup
 - Baseline report
 - Mineral remoteness report, etc.
- Conservation easement stewardship endowments for passive use land acquisitions (see Conservation easement stewardship endowment below)
- Park amenities, including but not limited to:
 - Athletic fields/courts
 - Track and field facilities (including projects involving artificial turf)
 - Playgrounds
 - Swings
 - Climbing structures
 - Skateparks/rinks
 - Swimming pools (indoor or outdoor)
 - Splashpads
 - Water slides
 - Water slides
- Trails, including:
 - Bridges
 - Underpasses
 - Overpasses
- Construction and/or redevelopment of golf courses
- Development and/or redevelopment of environmental education facilities, outdoor classrooms, and natural areas intended for environmental education purposes
- Programmatic funding for environmental education
- Disc golf courses
- Whitewater parks
- Fishing piers and boat docks
- Sculptures and artwork in a park or open space, including memorials
- Outdoor amenities located at fairgrounds
- Concession stands and storage buildings located in a park or open space and used in association with activities conducted at the park or open space
- Indoor facilities, including:
 - Recreation centers
 - Buildings at fairgrounds
 - Nature Centers
- Infrastructure, including:
 - Irrigation

- Drainage
 - Parking lot
 - Lighting
 - Utilities, etc.
- Amenities, including:
 - Restrooms
 - Drinking fountains
 - Benches
 - Landscaping
 - Picnic tables
 - Grills
 - Pavilions
 - Amphitheaters or outdoor performing arts centers when located in a park or open space
 - Signage
 - Fencing
 - Lighting
 - Historical facilities when located in a park or open space, etc.
- Eligible work completed prior to application (see Prior Completed Work below)
 - Land acquisition and design work within three (3) years of application
 - All other eligible work within one (1) year of application.
- Expenses associated with on-the-ground project management
- Printing and development of parks, trails and open space related publications
- Promotional items (all to include Open Space logo, see Open Space Signage and Logo Use policy)
- Indirect costs (see Indirect Costs below)
- Non-fixed assets, including:
 - Lawnmowers
 - Snow blowers
 - Gloves
 - Shovels
 - Rakes
 - Weed eaters
 - Staff uniforms
 - Wildlife cameras, etc.
- Costs associated with volunteer programs, including:
 - Food and drink
 - Training
 - Clothing
 - Appreciation items
- Donations of the items above can be counted as in-kind match

The following are ineligible project expenses and may not appear in any form on the project budget:

- Fundraising costs
- Any meeting costs not associated with the project
- Grant writing

- Events, publications, advertising, and/or similar event items for fundraising
- Amusement parks
- Recreational program costs, including:
 - Staffing
 - T-shirts or uniforms
 - Trophies

Medals, etc.

Salary

Salary is an eligible project expense if it is project and/or program specific. The salary being funded must be time-limited and for specific project-related job duties, not general job duties of the position. At the time of project completion, documentation of hours spent working on the project must be provided either through timesheets or other tracking mechanism. Please speak with Open Space staff for specific questions related to salary and the documentation required.

Conservation easement stewardship endowment

A conservation easement stewardship endowment is meant to be the principle investment into a dedicated fund for use by the easement Grantee for annual stewardship and monitoring costs. The amount of the endowment allowance is determined by multiple factors that have been agreed upon by the qualifying jurisdictions. To reflect the perpetual nature of these obligations, the amount allowed as part of a grant request may fluctuate over time to reflect current costs in staffing, etc. and current interest rates. Please contact Open Space staff regarding current conservation easement stewardship endowment practices and allowance.

Indirect Costs

Up to 10% of a project's direct costs may be requested as part of the grant request. Additional indirect costs can be included as part of the applicant match. The Open Space program strongly encourages applicants to request reasonable amounts of funding for indirect costs to ensure that the application is competitive.

Indirect costs include costs which are frequently referred to as overhead expenses (e.g., rent and utilities) and general and administrative expenses (e.g., officers' salaries, accounting department costs and personnel department costs).

Prior Completed Work

Acquisition of property and design work previously completed and related to a specific project are eligible expenses, as long as the work is completed within three years of the application date. All other

expenses, as listed in the Eligible Project Expenses section, are eligible as long as the work is completed within one year of the application date. Individual expenses may be older than the deadline only if the final work is completed within the deadline timeframe. All previously incurred expenses will be expected to submit the same documentation at project closeout as work completed directly as a part of the grant project (including invoices and proof of payment).

Specific Requirements of Land Acquisitions

To meet the intent of Resolution 2020-480 7-(c), land purchased with Open Space sales tax dollars with passive funds will be encumbered to perpetually protect the passive uses of the property.

Primarily, this encumbrance will take the form of a conservation easement. In some instances, a conservation easement may not be the best tool for land preservation and a declaration of covenants, conditions and restrictions may be placed on the land in lieu of the conservation easement. These situations may include but are not limited to property where there is less than five acres of habitat or preservable land, sites where there are no easily identified conservation values, a redevelopment site or site where significant changes to the property are anticipated, or land purchased solely for use as a trail corridor. In all situations, it is at Open Space staff's sole discretion whether a conservation easement or declaration of covenants, conditions and restrictions will be used to protect the land's passive uses.

The negotiation, approval, and full execution of a conservation easement or a declaration of covenants, conditions and restrictions are required before such a project will be closed out. Additional information on project closeout can be found in subsequent sections. Land purchased using active funds will not be required to have an encumbrance on the property. If the acquiring organization desires to place a conservation easement on a portion of a property purchased with active funds, please contact Open Space staff for additional information.

Applying to the Program

Application Types

- The terms Passive and Active are only used for internal purposes.
- Mini Grant applications are for uses defined in either of the above sections but are geared towards smaller scale projects. A project is determined to be a Mini-Grant if the total amount of the grant request does not exceed \$25,000. Funding for mini grants is limited to \$50,000 per year. The Mini Grant is also limited to one application per applicant, per grant cycle.

Submission Requirements

Each qualified jurisdiction or sponsored organization applying to the Open Space Program may only submit up to three (3) grants per grant cycle, up to two (2) of which may be full project applications (i.e., not mini grants). For sponsored organizations, each project in a single grant cycle must be sponsored by a different qualified jurisdiction. Each qualified jurisdiction may only sponsor one project per grant cycle

from any given sponsored organization, but there is no limit on the total number of applications a qualified jurisdiction may sponsor in any grant cycle. Sponsored applications do not count against a qualified jurisdiction's allowed number of applications per grant cycle.

Applications must be submitted online during the spring and fall grant cycles. Applications are submitted online at www.adcogov.org/open-space-grant-information. No applications will be accepted after the deadline date, with the exception of additional documentation requested by the Parks, Open Space and Cultural Arts Staff, the OSAB, or the BoCC.

The primary contact person(s) identified in the Open Space Application will be used for all official correspondence for each submitted project, including all correspondence regarding project status reports and closeout information. Please contact Parks, Open Space and Cultural Arts staff as soon as it becomes necessary to change the primary contact person.

Matching Funds

In-kind sources of funds, such as donations of goods or services or volunteer hours are acceptable forms of match. All donations of goods or services must be documented in the application with a letter from the donor describing the donation and its estimated value. The use of volunteer hours is acceptable.

Applicants must estimate the number of volunteer hours anticipated for completion of the project and include in the project narrative a description of the work to be completed by those volunteers.

Volunteer time should be valued at the standard rate for the state of Colorado as found at http://www.independentsector.org/volunteer_time. Please see the Glossary of Terms for additional information about what constitutes in-kind contributions.

All projects must leverage the funds being requested of the Open Space Grant Program. Applicants must provide a minimum of 30% of the total project costs toward the project. Any additional funds brought toward the project will be considered favorably by the OSAB during their evaluation.

Application Components Specific to Real Estate Transactions

For real estate transactions, applicants should obtain a qualified buyer's appraisal, see Glossary of Terms, page 17. When a qualified appraisal is not available at the time of application, applicants should provide additional information with their application verifying the purchase price they are estimating. Additional information can include, but is not limited to, recent purchases by the organization of similar land, comparable listings or sales in the area, and other information used by the applicant to determine the cost included in the application. A qualified appraisal will be required prior to project closeout, or prior to closing if funds are to be wired at the time of closing. When the applicant is seeking to buy property for a price that exceeds the qualified appraisal value, the OSAB will make recommendations on a case-by-case basis to the BoCC for final approval. If no appraisal was available to the OSAB and more is paid for the property than the appraised value, unless specifically requested by the grantee from the BoCC, no reimbursement will be made for a purchase price exceeding the appraised value. If the grantee

wishes to be reimbursed for that additional amount, a request will be sent to the BoCC for approval prior to reimbursement.

Application Criteria and Scoring

OSAB will request presentations by applicants for all applications. Presentations for mini-grant applications are welcomed but not required. Presentations will not be scored and are for informational purposes only. The OSAB will review projects and make funding recommendations to the BoCC based on criteria and information provided by the applicant in the following categories:

- Grant Fund Use
- Project Funding
- Project Support
- Project Management and Applicant's Past Performance of Awarded Projects
- Project Location within Adams County

Other factors favorably considered by the OSAB when included in an applicant's answers to the existing questions on the grant application:

- Inclusivity of projects for people of all abilities
- Measured water efficiency
- Measured energy conservation
- Facility maintenance
- Use of recycled material
- Use of sustainable materials in construction, when possible
- Use of native/Colorado appropriate species

The OSAB utilizes standard score sheets while reviewing projects. Examples of the most recent score sheets can be requested from Open Space staff at any time. Each OSAB member ranks the projects based on their impressions of the project. Each project receives a unique ranking from each OSAB member. For example, if there are ten projects in a particular cycle, the OSAB members assign a one (1) to their highest priority project and a ten (10) to their least priority project. The rankings for each project are then totaled and projects are organized from highest ranking (lowest number of points) to lowest ranking (highest number of points). The projects are then discussed by the OSAB in rank order and funding recommendations are made.

Note: Current scoring practice is described. This process may be changed as the OSAB changes and as projects change. Any changes to OSAB scoring of projects will be shared with applicants prior to the grant cycle in which the changes will be instituted.

After Grant Award

If a press release is issued, include the following statement:

“Funds were awarded from proceeds of the Adams County Open Space Sales Tax, which was passed by Adams County voters in 1999, and reauthorized in November 2004 to be extended until December 31, 2026 and reauthorized for a permanent extension on November 3, 2020”.

Grant Agreement

The BoCC will publicly award the grants at a public hearing. At the public hearing, Open Space staff will distribute copies of the grant agreement to each successful applicant. Signed grant agreements are due back to Open Space staff within 45 days of the public hearing. Once they are received back, Open Space staff will have the agreements signed by the BoCC and will return one fully executed copy to the applicant in either electronic or paper form. The BoCC reserves the right to add specific conditions as part of the Grant Agreement and/or Conservation Easement. A revised budget sheet shall be requested if awarded funds differ from the original grant request.

Project Due Date

All projects must be completed within two years of the grant award date. All documentation necessary to close out the project must be submitted to Open Space staff or an extension must be requested by this date. If no documentation is received by Open Space staff by the project due date, this may result in non-compliance. Please see the Grant Non-compliance section below.

Project Extension Policy

Requests for extension must be received prior to the project due date, preferably one month prior to the project due date. A sample Extension Request form is available on the website at <https://www.adcogov.org/open-space-grant-information> under “Required Forms”. Forms may be updated at any time.

As such, Grantee should confirm with Open Space staff the correct form to submit for their request. Project extension requests may be approved for up to 6 months at a time by Open Space staff. Grantee should include in their request progress made to date on the project, barriers to completion of the project and plans to overcome said barriers, and a timeline for project completion. If, at Open Space staff’s discretion, no significant progress towards completion has been made, the extension request may be denied.

If a request for an extension is denied, Grantee will be promptly notified by Open Space staff. Upon receiving this notification, the Grantee must notify Adams County Open Space in writing as to whether or not they will complete the project as originally funded. If the Grantee is unable to complete the project as originally funded, a termination of Grant Agreement will be executed by Adams County and the Grantee will be required to deauthorize awarded funds or return all previously awarded funds for that project along with accrued interest and applicable market value adjustment within 30 days of receiving the Termination of Grant Agreement. Failure to respond to such a notification will result in an

automatic de-authorization of the grant and may result in non-compliance. Please see Grant Non-compliance section below.

Project Modification Policy

If a change to an awarded project is anticipated, Grantee should contact Open Space staff to discuss the proposed change. At that time, Open Space staff will determine whether a formal project modification should be requested. Most change requests will likely fall into one of three categories: 1) minor material change, no request necessary; 2) more significant change to project described in the application, but no change to the budget, staff approval possible, and 3) significant change that impacts the intent of the project and/or the project budget, BoCC approval necessary. If there is any question of which category the request falls into, it will be elevated to the next level for approval.

If it is deemed necessary, the Grantee must submit a Modification Request form to Adams County Open Space staff. A sample Modification form is available on the website at <https://www.adcogov.org/open-space-grant-information> under "Required Forms". Forms may be updated at any time.

If necessary, this information will be forwarded to the BoCC along with a full staff report for the BoCC's consideration. If the modification request is rejected and the project cannot be completed as originally approved, the Grantee may request deauthorization of the grant award and submit a new application for the revised project for consideration in future grant cycles.

Failure to notify Adams County Open Space staff of changes to an awarded project may result in non-compliance. Please see Grant Non-compliance section below.

Grant Non-compliance

A non-compliance issue may arise due to a failure to adhere to the project due date policy, extension policy, modification policy, or at Open Space staff's discretion. At such time that Open Space staff feels a non-compliance issue has arisen, staff will forward the information and a full staff summary to the BoCC. The BoCC will review the issue and determine what if any remedy will be required. Potential consequences of non-compliance include 1) deauthorization of the current grant award, with a request to repay any funds plus interest already disbursed for the award, 2) suspension of the Grantee from participating in the Open Space Grant program as an applicant, partner, or sponsor, or 3) any other consequence deemed appropriate by the BoCC.

Open Space Signage and Logo Use

An Adams County Open Space Sign provided or approved by Open Space staff will be posted in a prominent place at the project site once the project is completed. This does not apply to projects that will not have public access (i.e., conservation easement projects or planning projects). Signs provided by the County must remain up at the project site through the reporting period (i.e., 10 years). For acquisitions funded through the Open Space program, signs must remain up on the property through the life of the sales tax. Open Space staff will periodically do audits of signs at project locations and will

offer replacement signs when needed. Grantee may also ask for replacement signs at any time when a sign becomes damaged or otherwise in poor condition. Following the expiration of the Open Space Sales Tax, signs shall remain in place until damaged or otherwise in poor condition at which time the sign may be removed and not replaced.

If the Grantee wishes not to place a separate Adams County Open Space sign, but rather to use the logo as a part of new signage to be produced for the project, a high-quality digital design file of the Adams County Open Space logo can be provided by Open Space staff. Use of the Adams County Open Space logo on other permanent signage must be approved by Open Space staff prior to final production of said signage. The program logo can also be provided for other uses via digital image files at the sole discretion of Open Space staff. Any additional usage of the program logo must be approved by Open Space staff.

School playgrounds funded by the Open Space Tax must post the hours that the play areas are open to the public. Example: Playground is closed while school is in session from 8 am to 2pm. Playground is open to the public from 3:30 p.m. time to 8:00 p.m.

Reimbursement and Closeout Process

Funds will be disbursed:

- Once the project has been both physically and contractually completed as funded, or at a specified periodic reimbursement date as described in the grant agreement (subject to documentation described below).
- The documentation requested in the reimbursement process has been received and verified by staff. Documentation should indicate that all work has been completed, invoiced, and paid on the project contract, including payment of retainage, as necessary.
- If the final product of a project is a document, including but not limited to a plan, design, or construction documents, those documents must be sent to Open Space staff for inclusion in the project file and for project closeout. In addition, if a document is being developed in association with a land purchase including but not limited to surveys, baseline assessments, or environmental analysis, those documents must be forwarded to Open Space staff for project closeout.

The amount of funds disbursed will correspond to the submitted project budget. The amount of disbursement will be adjusted as necessary to maintain the level of funding originally awarded and specified in the Grant Agreement. All reimbursements will be based on the award percentage of the total project costs, up to the full award amount. At no time will the amount of reimbursement, whether periodic or final, exceed the project expenditures when in-kind contributions are used as match.

Unused grant funds will be returned to the grant fund. For example, if a project is under budget the leverage amount will be based on the final cost of the awarded project and the remaining award amount will be returned to the grant fund for future reallocation. Under no circumstances will the amount of funds reimbursed by Adams County Open Space Sales Tax increase over the awarded amount represented in the Grant Agreement. An increased percentage of project costs will only be allowed if approved by the BoCC in a modification requesting such a change (see Project Modification Policy).

In the case of periodic reimbursements, all procedures for reimbursement remain the same, see All Other Projects Reimbursement Process section below. The reimbursement will be for the awarded percentage for the project for that time period. Open Space staff will keep records of all periodic reimbursements to ensure that the total never exceeds the maximum award stated in the grant agreement.

Failure to provide requested documents may result in non-compliance. Examples of all forms can be found at www.adcogov.org/open-space-grant-information under required forms.

Land Acquisition/Conservation Easement Reimbursement Process

The awarded funds can be disbursed to the Grantee after closing or directly to the title company at the time of closing. The Grantee will need to provide Adams County Open Space with copies of the following documents to receive the grant award:

- Copies of All Easements/Encumbrances
- Final Contract
- Full Qualified Appraisal
- Preliminary Buyers Settlement Agreement
- Title Commitment

It is the applicant's responsibility to ensure that Open Space staff is kept informed of any changes to the date, time or location of the closing. Adams County Open Space must have the wiring instructions at least five (5) business days ahead of the scheduled closing to forward to the Adams County Treasurer's Office to set up the wire transfer. All other documents should be to Open Space staff a minimum of two (2) business days before closing to have funds wired to closing. After closing, copies of the following documents must be forwarded to the Open Space Office prior to the project being closed out:

- Grant Closeout Request Form
- Recorded Deeds specific to this transaction
- Signed Settlement Statement
- Title Policy
- Fully executed Conservation Easement must be on file with Open Space staff (for passive acquisitions)
- Associated invoices and checks
- Other applicable items

All Other Projects Reimbursement Process

For all other projects, to close out a project the applicant must submit to the Open Space Office copies of the following documentation:

- Grant Closeout Request Form
- Completed Grant Closeout Worksheet
- Copies of ALL invoices listed on Grant Closeout Worksheet

- Copies of cancelled checks (front and back) for all costs indicated on Grant Closeout Worksheet OR
- Signature of authorized Financial Officer on Grant Closeout Worksheet certifying all payments have been made
- Documentation for all in-kind donations (e.g., letter from donor stating value, invoice from business indicating value)
- Examples of all forms can be found at www.adcogov.org/open-space-grant-information under “Required Forms”.

Reporting Following Closeout

As stated in Resolution 2020-480, “no land or interests acquired with revenues of the Open Space Sales Tax may be sold, leased, traded, or otherwise conveyed, nor may an exclusive license or permit on such land or interests be given, without the approval of such action by the Board [of County Commissioners]”.

At the 5- and 10-year anniversaries of project closeout, Open Space staff will send Grantee a reporting form for all projects closed out during that timeframe, not including planning projects or environmental education programs. This form will request basic information about all closed out projects specifically what, how and why anything has changed on the project. Grantee will include dated photos of the project for Open Space staff review. If in Open Space staff’s opinion, the intent of the original project has been changed, a full report will be forwarded to the BoCC. At that time, the BoCC will review the information and determine what, if any, action will be taken, including but not limited to the return of all grant funds plus interest.

Code of Ethics

The Code of Ethics applies to all employees and officials of Adams County, including the Open Space Advisory Board. The Code of Ethics can be found on the Adams County website: www.adcogov.org

Glossary of Terms

ACTIVE USE: Lands for park purposes and other recreational uses such as sports fields, golf courses and recreation centers. Park purposes shall be defined as the construction, equipping, acquisition and maintenance of park and recreational improvements and facilities for the use and benefit of the public. (Source: Resolution 2020-480, Section 7 (b)(iv)(2)(B), item iii)

PASSIVE USE: Passive uses shall include, but not be limited to the purchase, construction and maintenance of: horse, bike or running trails; natural areas with limited development for fishing, hiking, walking or biking; wildlife preserves; lakes for fishing with accessible walks, docks, picnic areas and restrooms; conservation easements on agricultural land; environmental education programs; lands and

waterways as community buffers; river and stream corridor land; unimproved flood plains; wetlands; preservation of cemeteries; and picnic facilities. (Source: Resolution 2020-480, Section 7 (b)(iv)(2)(A))

Deauthorization of Funds

In cases where funds are deauthorized (i.e., non-compliance, project completed under budget) remaining funds are returned to the grant fund for future allocation to projects. When funds have been paid, either for a completed project or for periodic reimbursements, and the BoCC requests those funds be returned to the grant fund, it is at the BoCC's discretion to also request payment of interest on those funds being returned.

In-kind Sources of Funds

In-kind sources of funds are donations of time, services, or goods. At no time is the applicant paying for this contribution to the project, whether directly from the project proceeds or indirectly from other funding. These sources must be documented through timesheets, invoices, or other means for project closeout purposes.

Qualified Appraisal

- Commissioned by the purchaser, another project partner that does not have an ownership interest in the property being acquired, or jointly by the seller and the purchaser;
- Prepared by an experienced independent appraiser and in accordance with the IRS definitions of a qualified appraisal and of highest and best use, as defined in Treas. Reg. 1.170A-13(c)(3); and
- Based upon the sales comparison method, which determines the value of the subject property by comparing sale prices of comparative properties. Adjustments are made to the sale price of each comparative property to reflect the differences between the comparison property and the subject property.
- Specific about the easement value of the property, and the value of the property before and after an easement is placed on it. Information about these values is necessary to determine ability to fund the project. (If funding is for a fee acquisition, only the full fee fair market value is needed; the before and after easement values are not required.)
- Effective within one year prior to closing, the grantee will be required to have an appraiser update the appraisal.

APPENDIX A

BOARD OF COUNTY COMMISSIONERS FOR ADAMS COUNTY, STATE OF COLORADO

A RESOLUTION CALLING AN ELECTION ON NOVEMBER 3, 2020 TO AUTHORIZE THE PERMANENT EXTENSION OF AN EXISTING COUNTYWIDE SALES TAX OF ONE-FOURTH OF ONE PERCENT (ONE-FOURTH PENNY PER DOLLAR) FOR THE CONTINUED PURPOSE OF PRESERVING OPEN SPACE AND CREATING AND MAINTAINING PARKS AND RECREATION FACILITIES; SETTING THE BALLOT TITLE AND TEXT FOR THE ELECTION; AND PROVIDING THE EFFECTIVE DATE OF SUCH RESOLUTION

Resolution 2020-480

WHEREAS, the Board of County Commissioners (the “Board”) of Adams County, Colorado (the “County”), has determined that it is in the public interest and a priority of the residents of Adams County to protect water quality, wildlife areas, and wetlands; preserve farmland; protect open space to limit sprawl; and to create, improve and maintain parks, trails, and recreational facilities in Adams County; and,

WHEREAS, the Board has determined that there is and will be a deficiency in available funds to protect water quality, wildlife areas, and wetlands; preserve farmland; protect open space to limit sprawl; and to create, improve, and maintain parks, trails, and recreational facilities in Adams County for the foreseeable future; and,

WHEREAS, the County is authorized by law to impose a sales tax on the sale of tangible personal property at retail and the furnishing of services, subject to the approval of the registered electors of the County; and,

WHEREAS, in 1999, the voters of Adams County approved a one-fifth of one percent (one-fifth penny per dollar) countywide sales tax to preserve open space in order to limit sprawl, to preserve farmland, to protect wildlife areas, wetlands, rivers and streams, and for creating, improving, and maintaining parks and recreational facilities through 2006; and,

WHEREAS, in 2004 the voters of Adams County voted to increase the tax to one-fourth of one percent (one-fourth penny per dollar) to preserve land that protects water quality; protect wildlife areas, wetlands, rivers, and streams; preserve farmland; protect open space to limit sprawl; and for creating, improving, and maintaining parks, trails, and recreation facilities; and to extend the tax through 2026; and,

WHEREAS, the Board has determined that, as a result of the increase in growth in the County, the need to preserve open space has become increasingly urgent; and,

WHEREAS, the Board has therefore concluded that it is in the best interest of the residents of, and quality of life in, Adams County to permanently extend the existing one-fourth of one percent countywide sales tax (the “Open Space Sales Tax”), the receipts from which shall be restricted in application to the Open Space Program, as enumerated herein and in Resolutions 99-1 and 2004-01; and,

WHEREAS, the Board has determined that a ballot issue regarding a permanent extension of the Open Space Sales Tax for the purposes enunciated herein and in Resolutions 99-1 and 2004-01 should be submitted to the eligible electors of the County at the November 3, 2020 general election; and,

WHEREAS, the Board has determined to set the ballot title and text for the ballot issue to be submitted at the election called by this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ADAMS, STATE OF COLORADO:

1. An election shall be held on Tuesday, November 3, 2020, at which there shall be submitted to the eligible electors of the County a ballot issue authorizing a permanent extension of the Open Space Sales Tax originally imposed pursuant to Resolution No. 99-

1, and increased and extended pursuant to Resolution No. 2004-01 (the “Open Space Sales Tax”), the title of which issue shall be in substantially the following form:

ISSUE 1A

WITH NO INCREASE IN ANY COUNTY TAX RATE, SHALL ADAMS COUNTY’S EXISTING OPEN SPACE SALES TAX OF ONE-FOURTH OF ONE PERCENT (ONE-FOURTH PENNY PER DOLLAR) BE PERMANENTLY EXTENDED WITH THE PROCEEDS TO CONTINUE TO BE USED SOLELY TO:

PRESERVE LAND THAT PROTECTS WATER QUALITY;

PROTECT WILDLIFE AREAS, WETLANDS, RIVERS, AND STREAMS;

PRESERVE FARMLAND;

PROTECT OPEN SPACE TO LIMIT SPRAWL; AND;

FOR CREATING, IMPROVING, AND MAINTAINING PARKS, TRAILS, AND RECREATION FACILITIES; AND

WITH ALL COUNTY EXPENDITURES TO BE ALLOCATED BETWEEN ACTIVE AND PASSIVE OPEN SPACE USES BASED ON THE RECOMMENDATIONS OF A CITIZEN ADVISORY COMMISSION AND SUBJECT TO AN ANNUAL AUDIT, WHICH TAX SHALL BE IMPOSED, COLLECTED, ADMINISTERED, AND ENFORCED AS PROVIDED IN RESOLUTION 2020-480 AND SHALL ALL REVENUES FROM SUCH TAX AND ANY EARNINGS THEREON, INCLUDING REVENUES SHARED WITH THE INCORPORATED CITIES AND TOWNS IN ADAMS COUNTY, FOR THE DURATION OF THE TAX, CONSTITUTE A VOTER-APPROVED REVENUE CHANGE FOR THE PURPOSES OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION AND ANY OTHER REVENUE LIMITS IMPOSED BY THE LAWS OF THE STATE OF COLORADO?

YES _____

NO _____

2. The election shall be conducted by the Adams County Clerk and Recorder (“Clerk and Recorder”) in accordance with the Uniform Election Code, C.R.S. § 1-1-101, *et seq.*, and other laws of the State of Colorado, including without limitation, the requirements of article X, section 20, of the Colorado Constitution (hereinafter “TABOR”).
3. All acts required or permitted by the Uniform Election Code relevant to conducting this election shall be performed by the Clerk and Recorder.
4. The Clerk and Recorder shall cause all notices of election to be provided in accordance the laws of the State of Colorado, including but not limited to, the Uniform Election Code and TABOR.
5. Pursuant to C.R.S. § 29-2-104 (5), the Clerk and Recorder shall publish the text of this Resolution four separate times, a week apart, in the official newspaper of the County and each city and incorporated town within the County.
6. If a majority of the votes cast on the ballot issue of permanently extending the imposition of the Open Space Sales Tax are in favor of such ballot issue, the Open Space Sales Tax shall be permanently extended and shall apply to all taxable transactions, unless exempt, occurring on or after January 1, 2021, and shall be collected and administered in accordance with County Resolutions 99-1, 2004-01, and this Resolution and the schedules set forth in the rules and regulations promulgated by the Colorado Department of Revenue.
 - (a) *Extension of the Imposition of the Sales Tax.* There is hereby permanently extended the imposition on all sales of tangible personal property at retail or the furnishing of services in the County, as provided in section 29-2-105, *et. seq.*, C.R.S., as amended, a tax equal to one-fourth of one percent of the gross receipts (the “Open Space Sales Tax”).

(b) *Transactions Subject to the Sales Tax.* The transaction subject to the Open Space Sales Tax shall be as set forth below and as required by Colorado state law.

- (i) The tangible personal property and services taxable hereunder shall be the same as the tangible personal property and services taxable pursuant to section 39-26-104, C.R.S., except as provided herein, and shall be subject to the same exemptions as those specified in part 7 of article 26 of title 39, C.R.S., expressly including the exemption allowed by section 39-26-709 (1), C.R.S., for purchases of machinery or machine tools, the exemption for sales of electricity, coal, wood, gas, fuel oil, or coke specified in section 39-26-715 (1)(a)(II), C.R.S., the exemption for sales of food specified in section 39-26-707 (1)(e), C.R.S., the exemption for vending machine sales of food set forth in section 39-26-714 (2), C.R.S., the exemption for occasional sales by a charitable organization set forth in section 39-26-718 (1)(b), C.R.S., the exemption for sales and purchases of farm equipment and farm equipment under lease or contract specified in section 39-26-716 (1)(d), (2)(b) and (2)(c), C.R.S., and the exemption for sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in section 39-26-719 (1), C.R.S. Also expressly exempted are pesticides that are registered by the commissioner of agriculture for use in the production of agricultural and livestock products pursuant to the provisions of the “Pesticide Act,” article 9 of title 35, C.R.S., and offered for sale by dealers licensed to sell such pesticides pursuant to section 35-9-115, C.R.S., all sales and purchases of parts used in the repair or maintenance of farm equipment, all shipping pallets or aids paid for by a farm operation, and aircraft designed or adapted to undertake agricultural applications, and all sales and purchases of dairy equipment. Also expressly exempted are the exemption for sales of machinery or machine tools specified in section 39-26-709 (1), C.R.S., used in the processing of recovered materials by a business listed in the inventory prepared by the department of public health and environment pursuant to section 30-20-122 (1)(a)(V), C.R.S.; the exemption for sales of wood from salvaged trees killed or infested in Colorado by mountain pine beetles or spruce beetles as specified in section 39-26-723, C.R.S.; the exemption for sales of components used in the production of energy, including but not limited to alternating current electricity, from a renewable energy source specified in section 39-26-724, C.R.S.; the exemption for sales that benefit a Colorado school specified in section 39-26-725, C.R.S.; the exemption for sales by an association or organization of parents and teachers of public school students that is a charitable organization as specified in section 39-26-718 (1)(c), C.R.S.; the exemption for sales of property for use in space flight specified in section 39-26-728, C.R.S.; and the exemption for manufactured homes set forth in section 39-26-721 (3).
- (ii) The Sales Tax shall not be imposed on the sale of construction and building materials, as the term is used in section 29-2-109, C.R.S., if the purchaser of such materials presents to the retailer a building permit or other acceptable documentation that a local use tax has been paid or is required to be paid on the value thereof.
- (iii) The Sales Tax shall not be imposed on the sale of personal property on which a specific ownership tax has been paid or is

payable if: (I) the purchaser is a nonresident of or has its principal place of business outside the County, and (II) such personal property is registered or required to be registered outside the limits of the County under the laws of the State of Colorado.

- (iv) The Sales Tax shall not be imposed on the sale of tangible personal property at retail or the furnishing of services if the transaction has been previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule county equal to or in excess of the amount imposed by Section 6 (a) hereof. A credit shall be granted against the Sales Tax payable with respect to such transaction equal in amount to the lawfully imposed sales or use tax previously paid by the purchaser or user to such other statutory or home rule county, provided that such credit shall not exceed the amount of the Sales Tax imposed by Section 6 (a) hereof.

- (c) *Determination of Place at Which Sales are Consummated.* For the purpose of this Resolution, all retail sales are sourced as specified in section 39-26-104 (3), C.R.S. The amount subject to the Sales Tax shall not include the amount of any state sales and use tax imposed by article 26 of title 39, C.R.S.

- (d) *Collection, Administration and Enforcement.* The collection, administration and enforcement of the Sales Tax shall be performed by the Executive Director of the Colorado Department of Revenue (the "Executive Director") in the same manner as the collection, administration and enforcement of the Colorado state sales tax. The provisions of article 26 of title 39, C.R.S. and all rules and regulations promulgated thereunder by the Executive Director shall govern the collection, administration, and enforcement of the Sales Tax.

- (e) *Vendor Fee.* No vendor fee shall be permitted or withheld with respect to the collection and remittance of the Sales Tax.

7. **Distribution of Sales Tax Revenue.** The proceeds from the collection of the Open Space Sales Tax shall be administered and distributed in the following manner:

- (a) *Open Space Advisory Board.* The Open Space Advisory Board shall continue to be appointed by the Board of County Commissioners.

- (i) The Open Space Advisory Board shall consist of seven members, four of whom shall be residents of unincorporated Adams County and three of whom shall be residents of cities or towns located in Adams County.
- (ii) Members shall serve four-year terms of office, except the initial term of two members from the unincorporated area of Adams County and two members from cities and towns were six years. Members may be re-appointed to successive terms.
- (iii) Members shall serve at the pleasure of the Board.
- (iv) The Board of County Commissioners shall develop a system to rotate the jurisdictions represented on the Open Space Advisory Board in a systematic fashion.
- (v) Members shall not be compensated for their services, but they may be reimbursed for reasonable expenses actually incurred in the performance of their duties in accordance with this Resolution and County policy.
- (vi) Members shall act in accordance with law, including Colorado conflict of interest law applicable to public bodies. No member

shall vote or participate in the application process regarding an acquisition or expenditure in which he or she has a financial or ownership interest, or where he or she has an ownership interest in adjacent property.

- (vii) The Open Space Advisory Board will meet quarterly, or as necessary to review proposed projects. All meetings shall be held in accordance with Colorado Open Meetings Law.
- (viii) The Open Space Advisory Board will make recommendations to the Board of County Commissioners regarding the distribution of proceeds from the collection of the Open Space Sales Tax, substantially in accordance with the guidelines set forth in this Resolution.

(b) Deposit and Expenditure of Revenue.

- (i) The County has established an Open Space Fund within which all revenues and expenditures from the Open Space Sales Tax are accounted for.
- (ii) Two percent (2%) of the Open Space Sales Tax collected shall continue to be used by the Open Space Advisory Board for administrative purposes, i.e. consultants, studies, site reviews, etc.
- (iii) After payment of the administrative fee, thirty percent (30%) of the remaining Open Space Sales Tax collected shall continue to be automatically returned to the cities, towns and unincorporated area of Adams County in the same proportion as is the ratio of Open Space Sales Tax collected within the city, town or unincorporated area to the total County sales tax collections, as computed from information provided by the Colorado Department of Revenue. This money may be used by the jurisdiction for either active or passive uses but shall not be used to augment existing parks and open space budgets.
- (iv) After payment of the administrative expenses and distribution of the thirty percent described above, the moneys remaining in the Open Space Fund shall be used as directed by the Board of County Commissioners, substantially in accordance with the following guidelines:
 - (1) Grant applications may be submitted to the Open Space Advisory Board by those jurisdictions having an approved open space and/or recreation plan.
 - (2) The Open Space Advisory Board shall review the application and make recommendations to the Board of County Commissioners regarding approval or denial of the application. Fund distributions may be attributable to both active and passive open space uses, defined as:
 - (A) Passive open space uses include the purchase, construction and maintenance of: horse, bike or running trails; natural areas with limited development for fishing, hiking, walking or biking; wildlife preserves; lakes for fishing with accessible walks, docks, picnic areas and restrooms; conservation easements on agricultural land; environmental education programs; lands and

waterways as community buffers; river and stream corridor land; unimproved flood plains; wetlands; preservation of cemeteries; and picnic facilities.

- (B) Active uses include the purchase, construction, equipping and maintenance of: sports fields, golf courses, and recreation centers.

- (v) Any funds received from the disposition of assets acquired or constructed with revenues of the Open Space Sales Tax shall be used in accordance with the above guidelines.

(c) Authorized Projects and Uses of Funds.

- (i) Revenues collected from the Open Space Sales Tax may be used in the following manner:

- (A) To acquire fee title interest in real property for open space, natural areas, wildlife habitat, agricultural and ranch lands, historical amenities, parks and trails;
- (B) To acquire less than fee interests in real property such as easements (including conservation and agricultural), leases, options, future interests, covenants, development rights, subsurface rights and contractual rights, either on an exclusive or nonexclusive basis, for open space, natural areas, wildlife habitat, agricultural and ranch lands, historical amenities, parks and trails purposes;
- (C) To acquire water rights and water storage rights for use in connection with the aforementioned purposes;
- (D) To acquire rights-of-way and easements for trails and access to public lands, and to build and improve such trails and accessways;
- (E) To allow expenditure of funds for joint projects between counties and municipalities, recreation districts, or other governmental entities in the County;
- (F) To improve and protect open space, natural areas, wildlife habitats, agricultural and ranch lands, historical amenities, parks and trails;
- (G) To manage, patrol and maintain open space, natural areas, wildlife habitats, agricultural and ranch lands, historical amenities, parks and trails;
- (H) To pay for related acquisition, construction, equipment, operation and maintenance costs;
- (I) To implement and effectuate the purposes of the Open Space Program.

- (ii) Passive open space lands may be acquired and maintained and may include:

- (A) Lands with significant natural resource, scenic and wildlife habitat values;
- (B) Lands that are buffers maintaining community identity;

- (C) Lands that are to be used for trails and/or wildlife migration routes;
 - (D) Lands that will be preserved for agricultural or ranch purposes;
 - (E) Lands for outdoor recreation purposes limited to passive recreational use, including but not limited to hiking, hunting, fishing, photography, nature studies, and if specifically designated, bicycling or horseback riding;
 - (F) Lands with other important values such as scenic and historic sites that contribute to the County's and County municipalities' natural and cultural heritage.
 - (iii) Active open space lands may include lands for park purposes and other recreational uses such as sports fields, golf courses and recreation centers. Park purposes shall be defined as the construction, equipping, acquisition and maintenance of park and recreational improvements and facilities for the use and benefit of the public.
 - (iv) No land or interests acquired with the revenues of the Open Space Sales Tax may be sold, leased, traded, or otherwise conveyed, nor may an exclusive license or permit on such land or interests be given, without the approval of such action by the Board.
8. If a majority of the votes cast on the ballot issue of permanently extending the Open Space Sales Tax are in favor of such issue, the Clerk and Recorder shall provide a notice of adoption of this Resolution, together with a certified copy of this Resolution, to the Executive Director of the Colorado Department of Revenue at least forty-five (45) days prior to January 1, 2021.
 9. For the purpose of C.R.S. § 1-11-203.5, this Resolution shall serve to set the ballot title for the ballot question set forth herein, and the ballot title for such ballot question shall be the text of the ballot question itself.
 10. The officers and employees of the County are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.
 11. The rate of the Sales Tax and the deposit of revenues collected from the Open Space Sales Tax as set forth in this Resolution shall not be amended, altered, or otherwise changed unless first submitted to a vote of the registered electors of the County for their approval or rejection. Other provisions of this Resolution may be amended as necessary to effectuate the purposes of this Resolution by resolution adopted by the Board of County Commissioners in accordance with law.
 12. All actions not inconsistent with the provisions of this Resolution heretofore taken by the Board and the officers and employees of the County and directed toward holding the election for the purposes stated herein are hereby ratified, approved, and confirmed.
 13. All prior acts, orders or resolutions, or parts thereof, by the County inconsistent or in conflict with this Resolution are hereby repealed to the extent only of such inconsistency or conflict.
 14. If any section, paragraph, clause, or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining sections, paragraphs, clauses, or provisions of this Resolution, it being the intention that the various parts hereof are severable.

15. The cost of the election shall be paid from the County's general fund.
16. This Resolution shall take effect immediately upon its passage.

Upon motion duly made and seconded the foregoing resolution was adopted by the following vote:

Henry	_____	Aye
Tedesco	_____	Aye
Pinter	_____	Aye
O'Dorisio	_____	Aye
Hodge	_____	Aye
Commissioners		

STATE OF COLORADO)
County of Adams)

I, Josh Zygielbaum, County Clerk and ex-officio Clerk of the Board of County Commissioners in and for the County and State aforesaid do hereby certify that the annexed and foregoing Order is truly copied from the Records of the Proceedings of the Board of County Commissioners for said Adams County, now in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Brighton, Colorado this 1st day of September A.D. 2020.

County Clerk and ex-officio Clerk of the Board of County Commissioners

Josh Zygielbaum:



By:



Deputy