

INTERGOVERNMENTAL AGREEMENT BETWEEN ADAMS COUNTY AND THE CITY OF BRIGHTON
REGARDING A STUDY OF A TRANSFER OF DEVELOPMENT RIGHTS PROGRAM

THIS AGREEMENT, made this _____ day of _____, 2020, by and between the CITY OF BRIGHTON, COLORADO (hereinafter called "CITY") and ADAMS COUNTY, COLORADO (hereinafter called "COUNTY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, COUNTY and CITY each approved the District Plan in March of 2016; and

WHEREAS, the District Plan outlined several implementation activities including the amendment of regulations concerning the transfer of development rights program; and

WHEREAS, COUNTY and CITY desire to undertake a study of the COUNTY's existing transfer of development rights program and the creation of receiving areas in the City of Brighton to ensure there is a strong incentive to purchase transfer of development rights and thus preserve valuable, at-risk farmland in the area named the Historic Splendid Valley (hereinafter called the 'Study'); and

WHEREAS, CITY and COUNTY now desire to proceed with a study to determine the feasibility of an expanded transfer of development rights program to include receiving areas in the City which would provide recommendations and market information in order to develop this program and calibrate the CITY and COUNTY programs; and

WHEREAS, the County Commissioners of COUNTY and the City Council of CITY have authorized, by resolution, this Intergovernmental Agreement to outline the roles and financial participation of the CITY and the COUNTY in the study.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. SCOPE OF AGREEMENT
This Agreement defines the responsibilities and financial commitments of PARTIES with respect to the Transfer of Development Rights Study (hereinafter the "Study").
2. SCOPE OF STUDY
The CITY will prepare and issue the request for proposals to engage a consultant (hereinafter the "Consultant") to conduct the Study, after review and concurrence with the scope by the COUNTY's Department of Community and Economic Development.
3. PUBLIC NECESSITY
PARTIES agree that the work performed pursuant to this Agreement is necessary for the health, safety, comfort, convenience, and welfare of all the people in the DISTRICT PLAN region and is of particular benefit to the inhabitants of CITY and COUNTY and the property therein.

4. FUNDING

Funds for the Study shall be provided by the CITY, and by a contribution of the COUNTY of not to exceed Twenty Thousand Dollars (\$20,000) (the "County Contribution"), which is expected to be half of the cost of the Study. In no event shall the COUNTY be responsible for payment of funds for the Study in any amount greater than the County Contribution. Any additional funds required for the Study over and above the County Contribution shall be the responsibility of the CITY.

The COUNTY shall provide half of the County Contribution, or \$10,000, upon execution of the Intergovernmental Agreement by both PARTIES. The remaining portion of the County's Contribution shall be provided upon receipt of the final invoice from the Consultant to the CITY, and issuance of an invoice by the CITY to the COUNTY. If the Study should cost less than the expected amount, then the County's Contribution shall be reduced accordingly.

5. REVIEW

The CITY shall manage all work performed by the Consultant for the Study. The COUNTY shall have the opportunity to review and comment upon all documents, drawings, exhibits, etc., produced by the Consultant as part of the Study, including without limitation, preliminary drafts. The COUNTY shall be entitled to receive copies of all reports, drawings, data, and other material produced or collected by the Consultant at no cost.

6. MEETINGS

The COUNTY shall have the right to attend and shall receive notice of all meetings with the Consultant not less than forty-eight (48) hours in advance. The COUNTY shall not give direction to the Consultant, but shall coordinate all comments through the CITY.

7. TERM OF AGREEMENT

The term of this Agreement shall commence upon final execution by all PARTIES and shall terminate upon completion of the Study.

8. LIABILITY

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

9. NON APPROPRIATION

Pursuant to C.R.S. § 29-1-110, the financial obligations of the parties, if any, after the current fiscal year are contingent upon funds for this agreement being appropriated, budgeted, and otherwise available. A party's participation in this agreement is automatically terminated without any termination fees due or other liability on the first day of January of the fiscal year for which funds are not appropriated. Nothing in this agreement shall be construed to create a multi-year fiscal obligation in violation of Colorado Constitution, Article 10 § 20.

10. NOTICES

A. Any notices, demands, or other communications required or permitted to be given by any provision of this Agreement shall be given in writing, delivered personally or sent by registered mail, postage prepaid and return receipt requested, addressed to

PARTIES at the addresses set forth below or at such other address as either party may hereafter or from time to time designate by written notice to the other party given when personally delivered or mailed, and shall be considered received in the earlier of either the day on which such notice is actually received by the part to whom it is addressed or the third day after such notice is mailed.

For Adams County:

Adams County Department of Community and Economic Development
4430 South Adams County Parkway, Suite W2000
Brighton, CO 80601-8212

Adams County Finance Department, Purchasing Section
4430 South Adams County Parkway, Suite C4000A
Brighton, CO 80601-8212

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

For the City of Brighton:

City of Brighton Community Development Department
500 South 4th Avenue
Brighton, CO 80601

City of Brighton Finance Department
500 South 4th Avenue
Brighton, CO 80601

City of Brighton City Attorney's Office
500 South 4th Avenue
Brighton, CO 80601

11. AMENDMENTS

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

12. SEVERABILITY

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

13. APPLICABLE LAWS

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

14. ASSIGNABILITY

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

15. BINDING EFFECT

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

16. TERMINATION OF AGREEMENT

This Agreement may be terminated upon thirty (30) days written notice by either of the PARTIES.

17. EFFECTIVE DATE

This Intergovernmental Agreement shall become effective upon the date of execution and will terminate upon completion and final acceptance of the Study.

18. EMPLOYMENT STATUS

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

19. NO DISCRIMINATION IN EMPLOYMENT

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

20. NO THIRD PARTY BENEFICIARIES

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to PARTIES, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of PARTIES that any person or party other than either one of PARTIES receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

21. ILLEGAL ALIENS

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

22. GOVERNMENTAL IMMUNITY

All activities performed under this Agreement are hereby declared to be governmental functions. The parties to this Agreement, and their personnel complying with or reasonably attempting to comply with this Agreement or any ordinance, order, rule, or regulation enacted or promulgated pursuant to the provisions of this Agreement shall

be deemed to be operating within the scope of their duties and responsibilities and in furtherance of said governmental functions.

The parties also acknowledge that each party, their officers and employees, are relying on, and do not waive or intend to waive, by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq. as it is from time to time amended, or otherwise available to the parties, their officers, or employees.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.

CITY OF BRIGHTON, COLORADO

Gregory Mills, Mayor

Date: _____

ATTEST:

Natalie Hoel, City Clerk

APPROVED AS TO FORM:

Jack D. Bajorek
Brighton City Attorney

BOARD OF COUNTY COMMISSIONERS
ADAMS COUNTY, COLORADO

Emma Pinter, Chair

Date: _____

ATTEST:

Adams County Clerk & Recorder's Office

Approved as to Form:

Adams County Attorney's Office

BOARD OF COUNTY COMMISSIONERS FOR
ADAMS COUNTY, STATE OF COLORADO

RESOLUTION APPROVING INTERGOVERNMENTAL AGREEMENT BETWEEN ADAMS
COUNTY AND THE CITY OF BRIGHTON REGARDING A STUDY OF A TRANSFER OF
DEVELOPMENT RIGHTS PROGRAM

Resolution 2020-###

WHEREAS, Adams County and the City of Brighton (“Parties”) desire to implement the jointly adopted District Plan’s community vision for local food production, conservation and agri-based land uses in the area south of Brighton; and,

WHEREAS, the jointly adopted District Plan calls for an expanded transfer of development rights program for the Splendid Valley; and,

WHEREAS, the Parties wish to enter into an intergovernmental agreement to define the funding commitments and responsibilities with respect to a study for the transfer of development rights program; and,

WHEREAS, the Intergovernmental Agreement is a cooperative effort between Parties and will benefit the citizens of Adams County.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners, County of Adams, State of Colorado, that the Intergovernmental Agreement between Adams County and the City of Brighton regarding a study of the transfer of development rights program, a copy of which is attached hereto and incorporated herein by this reference, be and hereby approved.

BE IT FURTHER RESOLVED that the Chair is authorized to execute said Intergovernmental Agreement on behalf of Adams County.