

**INTERGOVERNMENTAL AGREEMENT  
WITH ADAMS COUNTY FOR THE CONDUCT OF THE  
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

THIS INTERGOVERNMENTAL AGREEMENT ("COUNTY") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021, between the BOARD OF COUNTY COMMISSIONERS, COUNTY OF ADAMS ("COUNTY"), a political subdivision of the STATE of COLORADO, located at 4430 South Adams County Parkway, Brighton, Colorado, 80601-8205, and the City of Brighton ("TOWN/CITY"), a home-rule municipality, located at 500 South 4<sup>th</sup> Avenue, Brighton, Colorado, 80601. The COUNTY and the TOWN/CITY may be referred to collectively as "PARTIES," and individually as "PARTY."

**RECITALS**

WHEREAS, in 1974 the U.S. Congress enacted the Housing and Community Development Act of 1974, as amended ("CDBG Program") thereby permitting and providing for the participation of the Federal government in a wide range of local housing and community development activities and programs, which activities and programs are administered by the U.S. Department of Housing and Urban Development ("HUD") and funded annually through the Community Development Block Grant (CDBG); and the HOME Investment Partnerships Program ("HOME") enacted under Title II (42 U.S.C. 12701-12839) of the Cranston-Gonzalez National Affordable Housing Act which activities and programs are administered by HUD, collectively referred to as "Programs"; and

WHEREAS, the primary objective of the Programs is the development of viable urban communities by providing decent housing and a suitable living environment and the expansion of economic opportunities, mainly for persons of low- and moderate-income. This objective is to be accomplished by providing financial assistance in the form of block grant funds to state and local governments for the conduct and administration of housing and community development activities and programs as contemplated under the Programs; and

WHEREAS, HUD rules and regulations governing the CDBG Program, as published in 24 C.F.R., Volume 3, Subtitle B, Chapter V, Part 570 ("CDBG Regulations"), provide that a county must qualify as an Urban County, and submit to HUD an annual request for funding in the form of a Five-Year Consolidated Plan ("Con Plan") or an Annual Action Plan ("AAP"); and

WHEREAS, Adams County has qualified as an Urban County since Federal fiscal year ("FY") 1986 and has requalified every three (3) years thereafter; and

WHEREAS, eligible cities and units of local government within Adams County must enter into an intergovernmental or cooperative agreement, and may thereby be included in the Urban County's CDBG Program. Eligible cities include the Cities of Brighton, Federal Heights, Northglenn, Town of Bennett, and Adams County (unincorporated areas) ("Urban County"); and

WHEREAS, participation in the Urban County automatically engages participation in the HOME program under the Adams County HOME Consortium; and

WHEREAS, it is recognized that the COUNTY does not have independent legal authority to conduct some kinds of community development and housing assistance activities within all the boundaries of the TOWN/CITY and, therefore, its ability to conduct the CDBG Program in the TOWN/CITY is limited. Accordingly, in order for the TOWN/CITY to be considered a part of the Urban County and be included in the County's annual requests to HUD for CDBG and HOME Program funds, CDBG regulations require that the TOWN/CITY and the COUNTY enter into a cooperation agreement wherein the TOWN/CITY authorizes and agrees to cooperate with the COUNTY to undertake or to assist in the undertaking of essential community development and housing assistance activities within the boundaries of the TOWN/CITY, as may be approved and authorized in the COUNTY's annual grant agreements with HUD; and

WHEREAS, HUD has determined that the COUNTY is authorized to undertake essential community development activities in its unincorporated areas that are necessary to qualify as an Urban County to receive funds from HUD by annual grant agreement. This determination is based on the authority granted the COUNTY pursuant to §§ 29-3-101 to 123, §§ 30-11-101 to 107; §§ 30-20-301 to 310; and §§ 30-20-401 to 422, Colorado Revised Statutes (C.R.S.), as amended; and

WHEREAS, pursuant to Colo. Const. art. XIV, § 18 and § 29-1-203, C.R.S., as amended, the COUNTY and the TOWN/CITY are expressly authorized to cooperate and contract with each other for any function, service, or facility lawfully authorized to each; and

WHEREAS, the COUNTY and TOWN/CITY have determined that it would be mutually beneficial and in the public interest to enter into this Agreement.

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## **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual covenants and promises herein set forth, the sufficiency of which is hereby acknowledged, the COUNTY and the TOWN/CITY agree as follows:

### **I. TERM OF THE AGREEMENT**

This Agreement covers the CDBG and HOME programs. The three (3) FYs covered by this Agreement and by the Urban County qualification period is for FY 2022, 2023, and 2024. Funding for this Agreement is based on the FY, which begins October 1 and ends September 30 of the following year.

Further, funds allocated from HUD to the COUNTY are expended and granted based the COUNTY'S defined program year, or October 1-September 30. The initial term of this Agreement shall be for three (3) program years, beginning **October 1, 2022**, and ending **September 30, 2025**. Program years may be adjusted at any time by the COUNTY with written notice provided to the TOWN/CITY.

The TOWN/CITY understands it may receive a formula allocation under the HOME Program only through the Urban County. Thus, even if the Urban County does not receive a HOME formula allocation, the TOWN/CITY cannot form a HOME Consortium with other local governments. Additionally, the TOWN/CITY may receive a formula allocation under the Emergency Shelter Grant (ESG) Program only through the Urban County.

This Agreement shall automatically be renewed for additional three (3) year terms unless either PARTY provides written notice that it elects not to participate in a new, or next, qualification period. By the date specified in HUD's Urban County qualification notice for the next qualification period, the COUNTY shall provide notice to the TOWN/CITY of its right not to participate in the additional term, pursuant to applicable HUD regulations. Any changes to this Agreement required pursuant to HUD's Urban County Qualification Notice shall be made by written amendment to this Agreement, which shall be mutually agreed upon and executed by both PARTIES hereto and submitted to HUD.

The PARTIES agree that they will adopt any amendment to the Agreement incorporating changes necessary to meet the requirement for cooperation agreements set forth in an Urban County Qualification Notice applicable for a subsequent three (3)-year Urban County qualification period, and to submit such amendment to HUD as provided in the Urban County Qualification Notice.

This Agreement shall remain in effect until the CDBG funds and Program Income ("PI") received with respect to activities carried out during the three-year qualification period and any applicable successive qualification periods pursuant to renewals of the Agreement are expended and the funded activities completed, and the COUNTY and the TOWN/CITY cannot terminate or withdraw from the Agreement while it remains in effect. Rules and regulations to qualify or re-

qualify as an Urban County are published annually by HUD through an official Urban County Qualification Notice.

## **II. RESPONSIBILITIES OF THE TOWN/CITY**

- A. **Town/City and County Cooperation.** The TOWN/CITY will cooperate and work with the COUNTY in the preparation of detailed projects and other activities to be conducted or performed within the TOWN/CITY during the FYs in which this Agreement is in effect. The TOWN/CITY will also cooperate with the COUNTY, and the COUNTY will cooperate with the TOWN/CITY, to undertake or assist in undertaking community renewal and lower income housing assistance activities, specifically urban renewal and publicly assisted housing. The finalized projects and activities will be included in the COUNTY's Con Plan or AAP. The TOWN/CITY understands and agrees, however, that the COUNTY shall have final responsibility for the selection of all projects and activities to be included in the grant requests and the submission of requests. The TOWN/CITY shall cooperate fully with the COUNTY in all CDBG Program efforts planned and performed hereunder and does hereby allow and permit the COUNTY to undertake or assist in undertaking essential community development and housing assistance activities within the TOWN/CITY as may be approved and authorized in the COUNTY's CDBG Plans, Agreements and/or Contracts, including the AAP and/or Con Plan.
- B. **Delegation of Administrative and Supervisory Control.** The TOWN/CITY acknowledges that the COUNTY is ultimately responsible to HUD for the supervision and administration of any funds received by the Urban County or Participating Jurisdiction under the CDBG Program. However, to the extent authorized by law, the COUNTY hereby delegates to the TOWN/CITY responsibility for the supervision, administration, and expenditure of any funds it is allocated pursuant to this Agreement. The TOWN/CITY hereby expressly agrees to independently supervise, administer, and spend such funds in compliance with this Agreement, project specific Agreements and/or Contracts, and the AAP and/or Con Plan.
- C. **Project Applications and Timelines.** The TOWN/CITY shall submit to the COUNTY, no less frequent than annually, a formal application or proposal, including a timeline and budget for each project or activity. The application will be due pursuant to the COUNTY's established application timeline. The project or activity shall commence when the COUNTY provides written notification to the TOWN/CITY of proposal/project/activity approval and authorization by the COUNTY and/or HUD and a fully executed Subgrantee or Subrecipient Agreement.

The COUNTY will review all proposed CDBG projects and activities to determine whether they are being carried out in a timely manner as required by CDBG Regulations, 24 C.F.R. Volume 3, Subtitle B, Chapter V, Part 570.902.

- D. **Subrecipient Agreements.** Pursuant to CDBG Regulations, as published in 24 C.F.R. Volume 3, Subtitle B, Chapter V, Part 570.501(b), the TOWN/CITY is subject to the same

requirements applicable to “subrecipients or subgrantees,” including the requirement of a written agreement as set forth in 24 C.F.R. Volume 3, Subtitle B, Chapter V, Part 570.503. Additionally, the COUNTY shall use Subrecipient or Subgrantee Agreements for all projects administered on behalf of the TOWN/CITY and shall notify the TOWN/CITY of individual project and/or activity COUNTY approvals.

- E. Non-Appropriation Clauses.** The TOWN/CITY agrees that every contract to which it is a party involving the use of CDBG funds allocated hereunder shall include a non-appropriation clause. Such clause shall state that the funding therefore is contingent upon the continuing allocation and availability of CDBG funding and not upon the availability of COUNTY General funds.
- F. Accounting Standards.** The TOWN/CITY's financial management system shall comply with the standards specified in 2 CFR 200 or superseded regulations. In addition, the TOWN/CITY agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.
- G. Small Cities or State CDBG Program.** The TOWN/CITY understands that while this Agreement is in effect it may not apply for grants under the “Small Cities” or State CDBG Programs for the Federal fiscal years during which it is participating in the Urban County’s CDBG Program.
- H. Requests for Additional Funding.** Pursuant to CDBG Regulations, 24 C.F.R. Volume 3, Subtitle B, Chapter V, Part 570.504, the TOWN/CITY shall fully expend all CDBG funds prior to requesting any additional funding from the COUNTY. If the TOWN/CITY terminates its participation in the Urban County, any CDBG Program funds received by the TOWN/CITY thereafter shall be returned to the COUNTY, unless the TOWN/CITY has become an “Entitlement Grantee” and the COUNTY agrees to permit the use of the funds by the TOWN/CITY solely for the purposes permitted under the CDBG Regulations governing Entitlement Grantee programs.
- I. Compliance With Local Laws.** All responsibilities of the TOWN/CITY enumerated herein shall be subject to applicable State statutes and regulations and TOWN/CITY ordinances, resolutions, and rules and regulations insofar as they apply to projects or activities located within the TOWN/CITY.
- J. Additional Stipulations.** The TOWN/CITY may not sell, trade, or otherwise transfer all or any portion of funds to another such metropolitan city, urban county, unit of general local government, or Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under Title I of the Act.

### III. 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 funds allocated to the TOWN/CITY hereunder. As such, it is responsible for ensuring that all funds allocated to the TOWN/CITY are expended in accordance with the AAP and Con Plan, all Agreements and/or Contracts, and all applicable Federal, State, and local laws, ordinances, resolutions, regulations, and laws pertaining to this Agreement. It is the intent of the COUNTY to exercise only that degree of administrative and supervisory control concerning TOWN/CITY projects and activities as necessary to comply with such requirements and in accordance with the provisions of this Agreement.
- B. **Distribution of Funds.** The distribution of CDBG funds between the COUNTY and the TOWN/CITY shall be determined as follows:
1. **Administrative Allocation.** The COUNTY shall retain up to twenty percent (20%) of the total CDBG Program funds allocated to the COUNTY for the purpose of general oversight, management, coordination and related costs. The expenditure of these funds shall be within the sole discretion of the COUNTY for the purposes of carrying out the CDBG Program.
  2. **Allocations to Jurisdictions.** The funds remaining after the subtraction of the administrative allowance outlined above shall be made available to the respective jurisdictions based on an analysis of the percentage that each jurisdiction's population and low-income population represents in comparison to the total population of the Urban County. This formula will reflect the information provided in the most recent decennial United States Census and will be updated periodically as Census data is updated.
  3. **National Objective.** CDBG National Objectives require that at least seventy percent (70%) of CDBG funds utilized must principally benefit low- and moderate-income residents. The COUNTY and the TOWN/CITY agree to utilize their CDBG Program allocations each year in accordance with CDBG Program National Objective requirements by allocating at least seventy percent (70%) of their funds toward projects or activities that principally benefit low- and moderate-income residents. In preparing applications for funding, the TOWN/CITY shall also take into consideration provisions for the elimination of slums or blight and provisions to meet urgent community development needs that are a threat to public health and safety and have become known or serious within the last eighteen (18) months, which are also part of the CDBG Program National Objectives.
  4. **Community Service Activities Spending Cap.** The TOWN/CITY agrees that no more than fifteen percent (15%) of its annual allocation hereunder may be spent on community service activities, pursuant to CDBG Regulations, 24 C.F.R. Chapter 3, Subtitle B, Chapter V, Part 570.201(e). No carry-over of community service activities

will be allowed. Community service activities funds not fully expended within the specified timeframe must be recaptured and reprogrammed as part of the next annual funding cycle.

- 6. Reallocation of Funds.** If, for any reason, the participating TOWN/CITY cannot comply with any applicable Federal laws and regulations, the funds for which the participating TOWN/CITY was eligible under this Agreement shall not be paid to that TOWN/CITY and shall be reallocated to the County to appropriate reallocation.

Unobligated or unexpended funds not used by the TOWN/CITY shall be transferred to the allocation formula for redistribution after two (2) consecutive years of no identified projects.

- 7. Non-Use of Funds.** PARTIES agree the TOWN/CITY may elect not to apply for the funds for which it is eligible, in which case such funds shall be reallocated to the Urban County to reallocate as it deems appropriate.

#### **IV. MUTUAL RESPONSIBILITIES**

- A. Compliance With Federal Laws and Regulations.** The PARTIES shall take all actions to do all things that are appropriate and required to comply with the applicable provisions of the grant agreements received from HUD by the COUNTY in which the TOWN/CITY is included. These include but are not limited to: the Act, as most recently amended, including all associated regulations, rules, guidelines, and circulars promulgated by the Federal departments, agencies, and commissions relating to the CDBG Program; the Davis-Bacon Act, as applicable; Section 3, as applicable; Minority-Owned Businesses/Women-Owned Businesses, as applicable; the 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; the Housing and Community Development Act of 1974; The Fair Housing Act; the Uniform Federal Accessibility Standards (UFAS); the Americans With Disabilities Act (ADA); and the Residential Lead-Based Paint Hazard Reduction Act of 1992, as amended, and any associated regulations and rules. Additionally, in accordance with 24 C.F.R. Volume 3, Subtitle B, Chapter V, Part 570, no employee, official, agent or consultant of the TOWN/CITY shall exercise any function or responsibility in which a conflict of interest, real or apparent, would arise. The PARTIES shall take all actions necessary to assure compliance with the COUNTY's Urban County certification required by section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, including Title VI of the Civil Rights Act of 1964, and the implementing regulations at 24 CFR part 1, the Fair Housing Act, and the implementing regulations at 24 CFR part 100, and will affirmatively further fair housing. The PARTIES must also comply with section 109 of Title I of the Housing and Community Development Act of 1974, and the implementing regulations at 24 CFR part 6, which incorporates Section 504 of the Rehabilitation Act of 1973, and the implementing regulations at 24 CFR part 8, Title II of the Americans with Disabilities Act, and the implementing regulations at 28 CFR part 35, the Age

Discrimination Act of 1975, and the implementing regulation at 24 CFR part 146, and Section 3 of the Housing and Urban Development Act of 1968, and other applicable laws.

- B. **Governmental Immunity.** The COUNTY and the TOWN/CITY are “Public Entities” as defined under the Colorado Governmental Immunity Act, § 24-10-101, *et seq.*, C.R.S., as amended. Nothing in this Agreement shall be construed to waive or in any manner limit any of the protections or immunities afforded thereunder.
- C. **Fair Housing.** The COUNTY is prohibited from funding activities that do not comply with HUD’s policies and regulations concerning fair housing. The TOWN/CITY agrees not to take any actions pursuant to funding it receives under this Agreement that would result in the COUNTY being in noncompliance with its Fair Housing Certification. The TOWN/CITY acknowledges that noncompliance by the TOWN/CITY may constitute noncompliance by the COUNTY, which may provide cause for funding sanctions or other remedial actions by HUD. Urban County funding shall not be used for activities in, or in support of, any locality that does not affirmatively further fair housing within its own jurisdiction or that impedes the COUNTY’s actions to comply with the County’s Fair Housing Certification.
- D. **Reporting.** The TOWN/CITY will file all reports and other information necessary to comply with applicable Federal laws and regulations as required by the COUNTY and HUD. This includes providing to the COUNTY information necessary to complete the Consolidated Annual Performance and Evaluation Report (CAPER) in a timely fashion. Requirements will be specified in individual Agreements and/or Contracts. The COUNTY shall be responsible for confirming the compliance of TOWN/CITY projects with applicable Federal laws and regulations. The COUNTY shall further be responsible for maintaining proper documentation of the COUNTY’s administrative expenses and for determining that all necessary reports and information are filed with HUD and other applicable Federal agencies in a timely fashion.
- E. **Support of Nonprofit Organizations.** The COUNTY recognizes nonprofit organizations as being valuable partners in addressing the needs of low- and moderate-income citizens. The TOWN/CITY is encouraged to provide financial support utilizing its General funds, CDBG funds, and other available funds to support nonprofit organizations that serve low-income residents within the Urban County and/or the TOWN/CITY. CDBG funds are limited to fifteen percent (15%) annually for community service activities. CDBG funds should supplement activities above and beyond what local TOWN funds normally support; they are not meant to displace use of local support.
- F. **Termination.** This Agreement may only be terminated as provided herein or as otherwise provided by Federal, State, or local law, ordinance, resolution, regulation, or rule.
- G. **Citizen Participation Plan.** The PARTIES agree to follow the COUNTY’s Citizen Participation Plan regarding public engagement for projects carried out under the CDBG Program.



IN WITNESS WHEREOF, the COUNTY and the TOWN/CITY have duly executed this Agreement, which shall become effective as of the latest date written below.

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

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Date

ATTEST:

CLERK AND RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
Adams County Attorney's Office

**CITY OF BRIGHTON  
ADAMS COUNTY, COLORADO**

\_\_\_\_\_  
Jane Bais DiSessa, City Manager

\_\_\_\_\_  
Date

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Natalie Hoel, City Clerk

\_\_\_\_\_  
Lena McClelland, Acting City Attorney

## EXHIBIT 1

### CERTIFICATIONS

**The TOWN/CITY certifies that:**

- a. TOWN/CITY possesses legal authority to make a grant request, and to execute a community development and housing program, and to contract with Adams County for such assistance.
- b. The TOWN/CITY governing body will duly adopt or pass as an official act, a resolution, motion or similar action authorizing the person identified as the Official Representative of the TOWN/CITY to submit TOWN/CITY funding proposals and all understandings and assurances contained therein, and directing and authorizing the person identified as the Official Representative of the TOWN/CITY to act in connection with the submission of proposals and to provide such additional information as may be required.
- c. CDBG funds/projects/programs will be conducted and administered in compliance with:
  - 1. Title VI of the Civil Rights Act of 1964 (Pub.L. 88-352; 2 U.S.C. § 2000d *et seq.*);
  - 2. Title VIII of the Civil Rights Act of 1968 (Pub.L. 90-284; 42 U.S.C. § 3601 *et seq.*); and
  - 3. Federal Fair Housing Requirements.
- d. The cooperating unit of general local government has adopted and is enforcing:
  - 1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
  - 2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within jurisdictions.
- e. The TOWN/CITY will develop proposals of projected use of funds in which at least seventy percent (70%) of the funds are utilized on activities or projects that principally benefit low- and moderate-income families. Remaining funds may be used on activities or projects that address other National Objectives, in compliance with HUD requirements, including activities or projects that eliminate slum or blight, as identified in a HUD-approved Slum/Blight Plan, or projects that meet an urgent need, as defined by HUD.
- f. The TOWN/CITY will not attempt to recover any capital costs of public improvements assisted in whole or in part with funds provided under Section 206 of the Act or with amounts resulting from guarantee under Section 108 of the Act by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:
  - 1. Funds received under Section 108 of the Act are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under Title I of the Act; or

2. For purposes of assessing any amount against properties owned and occupied by persons of moderate-income, the TOWN/CITY certifies to the Secretary that it lacks sufficient funds received under Section 108 of the Act to comply with the requirements of subparagraph (1) above.
- g. When appropriate for TOWN/CITY projects, notifications, inspections, testing, and abatement procedures concerning lead-based paint will comply with Section 570.608.
  - h. The TOWN/CITY will comply with the other provisions of the Act and with other applicable laws.
  - i. The TOWN/CITY agrees to administer, in good faith, a policy designed to ensure that the activities and facilities are free from illegal use, possession, or distribution of drugs and alcohol by its beneficiaries and follows drug-free workplace policies.