

**INTERGOVERNMENTAL JOINT COOPERATION AGREEMENT
AND HOME CONSORTIUM AGREEMENT
BETWEEN
ARAPAHOE COUNTY, COLORADO
AND
CITY OF LITTLETON, COLORADO
RELATING TO THE CONDUCT OF
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
AND
HOME INVESTMENT PARTNERSHIPS PROGRAM
FOR GRANT YEARS 2016 THROUGH 2018**

THIS AGREEMENT is entered into and shall be effective as of September 19, 2015, by and between Arapahoe County, Colorado (the "County"), a body corporate and politic of the State of Colorado, and the City of Littleton (the "City"), a municipal corporation of the State of Colorado located in Arapahoe County.

RECITALS

- A. In 1974 the U.S. Congress enacted the Housing and Community Development Act of 1974, as since amended (42 U.S.C. 5301 et seq.) ("HCDA"), permitting and providing for the participation of the United States government in a wide range of local housing and community development activities and programs under Title I of HCDA which activities and programs are administered by the U.S. Department of Housing and Urban Development ("HUD"); and the Home Investment Partnerships Program ("HOME") was enacted under Title II (42 U.S.C. 12701-12839) of the Cranston-Gonzalez National Affordable Housing Act ("NAHA") which activities and programs are administered by HUD;
- B. The primary objective of Title I of HCDA is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income, and the primary objective of the HOME program is to expand the supply of decent, safe, sanitary and affordable housing for low and moderate income Americans. These objectives are to be accomplished by the federal government providing financial assistance pursuant to HCDA and NAHA in the form of Community Development Block Grant ("CDBG") funds and HOME funds to the state and local governments to be used in the conduct and administration of housing and community development activities and projects as contemplated by the primary objectives of the CDBG and HOME Programs;
- C. To implement the policies, objectives and other provision of HCDA and NAHA, HUD has issued rules and regulations governing the conduct of CDBG programs, published in 24 Code of Federal Regulations (CFR), Part 570 (the "Regulations"), which regulations provide that a county may qualify as an "urban county", as defined in Section 570.3 of the regulations, and thereby become eligible to receive entitlement grants from HUD for the conduct of CDBG and HOME Programs as an urban county and also in 24 CFR, Part 92, governing the HOME program, which regulations provide that an urban county may form a consortium with a metropolitan city within the county, as outlined in Section 92.101, and that a metropolitan city that qualifies for a separate entitlement grant may be included as a part of the urban county and HOME consortium by entering into a cooperation and consortium agreement with the urban county in accordance with the requirements of the Regulations;
- D. The County has heretofore qualified under the Regulations as an "urban county" and will receive CDBG and HOME funds from HUD by annual grant agreements, and the City of Littleton located in the County will receive a separate community development entitlement grant and will be included as a part of the County in its CDBG Programs and through the consortium will be able to participate in the HOME program;

- E. In 1981, and again since then, HUD amended the Regulations, pursuant to amendments of HCDA, revising the qualification period for urban counties by providing that the qualifications by HUD of an urban county and/or HOME consortium shall remain effective for three successive grant years regardless of changes in its population during that period, except for failure of an urban county to receive a grant during any year of that period, and also providing that during the three year period of qualification, no included city or other unit of general local government may withdraw or be removed from the urban county or HOME consortium for HUD's grant computation purposes, and no city or other unit of general local government covering an additional area may be added to the urban county during that three-year period except in the case where a city or other unit loses its designation as a metropolitan city; however, the HOME consortium may add members during the three year qualification period at the discretion of the lead entity through the execution of a consortium agreement;
- F. In 2015, the County is submitting to HUD the required documentation to qualify as an urban county, including the Consolidated Plan and the One Year Action Plan, pursuant to Section 570.307 of the regulations, so as to become eligible to receive annual CDBG and HOME funds for the next three Program Years from Grant Years 2016, 2017, and 2018 appropriations, and if the City approves and authorizes this agreement, an executed copy thereof will be included in the documentation for this ensuing period of qualification and, if the County qualifies, the City will thereby be included as a part of the urban county and HOME consortium and be eligible to participate in the County's CDBG and HOME Programs for the next three Program Years;
- G. The County recognizes and understands that it does not have independent legal authority to conduct community development and housing assistance activities within the boundaries of the City and therefore, its ability to conduct the CDBG and HOME Program in the City is limited by the requirement that it must obtain permission from the City to perform activities therein, and accordingly, in order for the City to be considered a part of the urban county and HOME consortium and be included in the County's annual request to HUD for CDBG and HOME funds, it is required by the Regulations that the City and the County enter into a cooperation agreement whereby the City authorizes the County to undertake or to assist in undertaking essential community development and housing assistance activities within the City as may be specified in the "Consolidated Plan" to be submitted to HUD annually by the County to receive its annual CDBG and HOME entitlement grant;
- H. Under general provisions of Colorado law governing contracting between governmental entities and by virtue of specific authority granted in Part 2 of Article I of Title 29, C.R.S., any two or more political subdivisions of the state may enter into agreements with one another for joint cooperative action and any one or more political subdivisions may contract with another or with a legal or administrative entity created pursuant to that act to perform any governmental service, activity or undertaking which each political subdivision entering into the contract is authorized by law to perform, and
- I. Accordingly, the parties hereto have determined that it will be mutually beneficial and in the public interest of both parties to enter into this intergovernmental agreement regarding the conduct of the County's CDBG and HOME Programs,

THEREFORE, in consideration of the premises and cooperative actions contemplated hereunder, the parties agree as follows:

1. By entering into this intergovernmental joint cooperation agreement with the County, the City shall be included as a part of urban Arapahoe County's HOME consortium for qualification and grant calculation purposes upon the qualification by HUD of the County to receive CDBG and HOME Program entitlements as an urban county and HOME consortium for the next three successive Program Years, May 1, 2016 through April 30, 2019.
2. As required by the Consolidated Plan final rule, 24 CRF part 91, the HOME consortium is on the same program year as the urban county CDBG program, May 1 through April 30. As provided in Section

570.307 of the Regulations, the qualification of the County as an urban county shall remain effective for the next three successive grant years, May 1, 2016 through April 30, 2019, regardless of changes in its population during that period of time and the parties agree that the City may not withdraw from nor be removed from inclusion in the urban county for HUD's grant computation purposes during the period of qualification. As provided in Section 92.101 of the Regulations, the qualification of the County as a HOME consortium shall remain effective for three successive grant years, regardless of changes in its population during that period of time and the Parties agree that the City may not withdraw from nor be removed from inclusion in the HOME consortium during the period of qualification.

3. A fully executed copy of this cooperation agreement, together with the approving resolutions of both the City and the County, shall be submitted to HUD by the County as part of its qualification documentation and the City does hereby give the County the authority to carry out CDBG and HOME Program activities and projects which will be funded from annual CDBG and HOME funds from grant years 2016, 2017, and 2018 appropriations and from any Program income generated from the expenditures of those funds.
4. The City and the County agree to, and shall cooperate in, the preparation of detailed CDBG and HOME Program activities and projects to be conducted or performed in the City during each of the three program years covered by the Agreement and these finalized activities and projects will be included in the County's Consolidated Plan and requests for funds for those program years. The city understands and agrees, however, that the County shall have final responsibility for selecting the program activities and projects to be included in each annual grant request and project grant request and for filing the Consolidated Plan with HUD on an annual basis.
5. The parties recognize and understand that the County, as a qualified HOME recipient and urban county, will be the lead entity required to execute all grant agreements received from HUD pursuant to the County's annual request for CDBG and HOME Program funds and that as the lead entity it assumes overall responsibility for ensuring that the consortium's CDBG and HOME Program is carried out in compliance with the requirements of the CDBG and HOME program, including requirements concerning the Consolidated Plan. Further, the County, as lead entity, will to the extent required by HUD, be the responsible entity under such grant agreements for the overall administration and performance of the CDBG and HOME programs, including the projects and activities conducted within the City. Accordingly, the City agrees that as to all projects and activities performed or conducted in the City under any HOME or CDBG grant agreement, which includes the City, that the County shall have the ultimate supervisory and administrative control.
6. The City shall cooperate fully with the County in all CDBG and HOME 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 City as may be approved and authorized in the County's agreements, including the Consolidated Plan. The City and the County also agree to cooperate to undertake, or assist in undertaking, community development housing assistance activities for the CDBG and HOME Program, as they may be planned and specified in the County's Consolidated Plan submitted annually to HUD for the three Program years specified herein and for such additional time as may be required for the expenditure of CDBG and HOME funds granted by the County for such activities.
7. The County, as the lead entity, is authorized to act in a representative capacity as the lead entity for all members of the consortium for the purposes of administering the HOME Program. The County will accept project recommendations from all HOME consortium members, but reserves the right to make final funding decisions. No project within the boundaries of the City of Littleton will be considered for inclusion in the Consolidated Plan unless first approved by the City of Littleton.
8. The HOME funds may be accessed by the City in two ways; the City may approve a project or activity, carried out by a third entity, as appropriate for the needs of the City, and endorse the application, or;

the City may originate a grant or loan request on its own behalf for an eligible project or activity. If the City applies for HOME funds itself, then the provisions in paragraph 9 apply. For example, if the City opts to create an eligible homeowners rehabilitation program, the City would be subject to the same requirements as a subrecipient, including a written agreement. If the City approves or endorses a third party application, then the City's continuing participation in the project or activity is not required.

9. Pursuant to 24 CFR 570.501(b) and 24 CFR 92.504, the City is subject to the same requirements applicable to subrecipients, including the requirement of a written agreement as set forth in 24 CFR 570.503 and 24 CFR 92.504.
10. The City understands that pursuant to Section 570.503 and Section 92.504 of the Regulations, it will be necessary for the City to enter into separate project agreements or sub-grants in writing with the County with respect to the actual conduct of the projects and activities approved for performance in the City for the three HOME and CDBG Program years covered by the cooperation agreement and that the funds designated in the County's Consolidated Plan for those projects and activities will also be funded to the City under those separate project agreements or sub-grants. Subject to the provisions of Paragraph 5 above, the City will administer and control the performance of the projects and activities specified in those separate project agreements, and will be responsible for the expenditure of the funds allocated for each such project or activity and will conduct and perform the projects and activities in compliance with the Regulations and all other applicable federal laws and requirements relating to the CDBG and/or HOME Programs. The City also understands and agrees that it shall also comply with the requirements of Section 570.503 prior to disbursing any CDBG funds to a subrecipient of the City.
11. All HOME and/or CDBG Program funds that are approved by HUD for expenditure under the County's grant agreements for the three Program years covered by this Agreement, including those that are identified for projects and activities in the City, will be budgeted and allocated to the specific projects and activities described and listed in the County's Consolidated Plan and One Year Action Plan to the Consolidated Plan submitted annually to HUD and those allocated funds shall be used and expended only for the projects or activities to which the funds are identified. No project or activity nor the amount allocated therefore may be changed, modified, substituted or deleted by the City with respect to any project or activity without the prior written approval of the County and the approval of HUD when that approval is required by the regulations.
12. Because the City will be included as part of the urban county and HOME consortium for the three Program Years covered by this Cooperation Agreement, it will do all things that are appropriate and required of it to comply with the applicable provisions of the grant agreements received by the County from HUD in which the City is included, and with the provisions of HCDA and NAHA and all Rules and Regulations, guidelines, circulars, and other requisites promulgated by the various federal departments, agencies, administrations and commissions relating to the CDBG and HOME Programs. In addition, the City and the County shall each take all actions necessary to assure compliance with the certification required of the County by Section 104(b) of Title I of HCDA including the National Environmental Policy Act of 1969, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, the Fair Housing Act, Section 109 of Title I of HCDA and other laws applicable to the conduct of the HOME and CDBG Programs. In addition, the parties hereto understand and agree that the County may not provide any HOME or CDBG funding for activities in, or in support of, the City if the City does not affirmatively further fair housing within its jurisdiction or impedes the County's actions to comply with its fair housing certification.
13. During the period of performance of this Agreement, as provided in Paragraph 18 below, the City shall:
 - (a) Inform the County of any income generated by the expenditure of CDBG and/or HOME Program funds received by the City;
 - (b) Pay over to the County any Program Income received by the City, or retain and use that Program Income subject to, and in accordance with, the requirements and

provisions of the separate HOME or CDBG project agreements that will be entered into between the City and the County for the actual conduct of the HOME and/or CDBG Programs;

- (c) Use any Program Income the City is authorized by the County to retain only for eligible activities in accordance with all HOME and CDBG Program requirements as may then apply and as will be specifically provided for in the separate project agreements between the City and the County;
 - (d) Keep appropriate records regarding the receipt of, use of, or disposition of all Program Income and make reports therein to the County as will be required under the separate project agreements between the City and the County, and
 - (e) Pay over to the County any Program Income that may be on hand in the event of close-out or change in status of the City of that may be received subsequent to the close-out or change in status as will be provided for in the separate project agreements mentioned above.
14. The separate project agreements or sub-grants that will be entered into between the County and the City for the conduct of the CDBG and HOME Programs, as mentioned and referred to elsewhere in this agreement, shall include provisions setting forth the standards which shall apply to any real property acquired or improved by the City, in whole or in part, using CDBG and HOME Program Funds. These standards will require the City to:
- (a) Notify the County in a timely manner of any modification or change in the use of that property from that which was planned at the time of acquisition or improvement and this notice requirement shall include any disposition of such property.
 - (b) Reimburse the County in an amount equal to the current fair market value of property acquired or improved with CDBG or HOME funds (less any portion thereof attributable to expenditures of non-CDBG or HOME funds) that is sold or transferred for a use which does not qualify under the Regulations, and
 - (c) Pay over to the County any Program Income that is generated from the disposition or transfer of property either prior to, or subsequent to, any close-out, change of status or termination of this cooperation agreement that is applicable.
15. The City, by execution of this agreement understands that it may not apply for grants under the small cities or state CDBG Programs for appropriations for fiscal years during the period in which it is participation in the urban county's CDBG Program; and may not participate in a HOME consortium except through the urban county, regardless of whether the urban county receives a HOME formula allocation. The City may, however, apply for State and other Cities HOME funds.
16. The County may, in accordance with the applicable requirements of 24 C.F.R. Part 570, collect an administrative fee for the performance of its duties administering the CDBG program, pursuant to this agreement. In no event shall the administrative fee exceed eighteen percent (18%) of the overall annual City CDBG allocation. In the event that the County's total actual administrative costs are less than 18% of the annual City CDBG allocation, the County shall notify the City of the amount of any unused administrative fee, and the City shall decide how to allocate or apply the unused administrative fees. The County may provide recommendations to the City regarding the use of such unused administrative fees.
17. The County may, in accordance with the applicable requirements of 24 CFR Part 92, collect an administrative fee for the performance of its duties administering the HOME program, pursuant to this agreement.

18. The period of performance of this Agreement shall cover three HOME and CDBG Program years consisting of the County's 1st, 2nd, and 3rd Program years from this Agreement, beginning May 1, 2016 and ending April 30, 2019. The HOME and CDBG program years are the same, as is required. As stated herein, however, the Agreement is intended to cover activities to be carried out with annual CDBG and HOME funds from grant year 2016, 2017, and 2018 appropriations and shall be and remain in full force and effect until all projects and activities approved and authorized to be performed and funded for those grant years have been completed and any program income earned has been remitted to the County or used by the City in accordance with the criteria described in paragraph 13.

19. The Agreement will be automatically renewed for participation for successive three-(3) year qualification periods, unless a party provides written notice to the other party that it elects not to participate in a new qualification period.

The County must notify the other party in writing of the election of its right not to participate. A copy of the notification must be sent to both the other party and the HUD Region 8 field office by the party electing not to participate. Notices and responses must be sent according to the schedule specified in HUD's HOME consortia qualification notice and the urban county qualification notice for the next qualification period.

Each party is required to adopt any amendment to the agreement incorporating changes necessary to meet the requirements for cooperation agreements set forth in the HOME consortia qualification notice and the urban county qualification notice applicable for a subsequent three-year HOME consortia and urban county qualification period, and to submit such amendment to HUD. Failure to comply will void the automatic renewal for such qualification period.

20. Pursuant to the provisions of 24 C.F.R. § 507 and/or 24 C.F.R. § 91.225 the County and the City shall take all actions necessary to assure compliance with the Urban County's Certification under Section 104(d) of Title 1 of the Housing and Community Development Act of 1974, as amended, regarding the National Environmental Policy Act of 1969, The Uniform Relocation Act, The American with Disabilities Act of 1990, Title VI of the Civil Rights Act of 1964, the Fair Housing Act, affirmatively furthering Fair Housing, Title VIII of the Civil Rights Act of 1968, Executive Order 11988, Section 109 of title I of the Housing and Community Development Act of 1974 (which incorporates Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975), and other applicable laws. Use of Urban County funds for activities in, or in support of, any cooperating City that does not affirmatively further fair housing within its own jurisdiction or that impedes the County's action to comply with the County's Fair Housing Certification shall be prohibited. Pursuant to 24 CFR 570.501(b), City is subject to the same requirements applicable to subrecipients, including the requirement of a written agreement as described in 24 CFR 570.503.

21. The County and the cooperating unit of general local government agree to cooperate to undertake, or assist in undertaking, community renewal and lower-income housing assistance activities and the grantee or unit of general local government that directly or indirectly receives CDBG or HOME funds may not sell, trade, or otherwise transfer all or any such portion of such funds to another 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 Housing and Community Development Act of 1974, as amended. .

22. Pursuant to the provisions of 24 C.F.R. § 507 and/or 24 C.F.R. § 91.225 the City has adopted and is enforcing the following policies:

- (a) Prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations, and;

- (b) Enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstration within its jurisdiction.

23. Any changes and modifications to this Agreement shall be made in writing and shall be executed by both parties prior to the performance of any work or activity involved in the change and be approved by HUD, if necessary, to comply with the Regulations.

23. (a) This Agreement shall be and remain in force and effect for the period of performance specified in Paragraph 18 hereof and, when the County has been qualified by HUD as a HOME consortium and urban county, neither the County nor the City may terminate this agreement or withdraw therefrom during that period of performance.

- (b) During the three Program Years for which the County has qualified, the parties agree not to veto or otherwise obstruct the implementation of the approved Consolidated Plan during that three year period and for such additional time as may be required for the expenditure of funds granted for that period.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly authorized and executed by each on the date specified as follows:

ARAPAHOE COUNTY, COLORADO

By: _____
Nancy Doty,
Chair of the Board of County Commissioners

ATTEST:

By: _____
Clerk to the Board of County Commissioners

CITY OF LITTLETON COLORADO

By: _____
Phil Cernanec, President of City Council

Reviewed: _____
City Attorney's Office

ATTEST: _____
City Clerk or Deputy City Clerk