

CITY OF WHEAT RIDGE, COLORADO
RESOLUTION NO. 33
Series of 2011

TITLE: A RESOLUTION APPROVING THE FIRST AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT DATED MAY 25, 2011 BETWEEN JEFFERSON COUNTY AND THE CITY OF WHEAT RIDGE, COLORADO CONCERNING COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMS

WHEREAS, on June 13, 2011, by Resolution No. 17, Series 2011, the City Council ("Council") for the City of Wheat Ridge, Colorado ("City") approved an Intergovernmental Agreement between the City and Jefferson County ("County") concerning Community Development Block Grant programs (the "IGA"); and

WHEREAS, the County has requested a First Amendment to the IGA to address Emergency Shelter Grant Program funds; and

WHEREAS, the Council wishes to approve said First Amendment and to approve and ratify the Mayor's execution of the same; and

WHEREAS, pursuant to Section 14.2 of the City's Home Rule Charter, the Council must approve intergovernmental agreements and amendments thereto by resolution or ordinance.

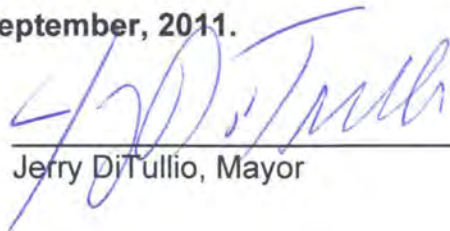
NOW THEREFORE, BE IT RESOLVED by the Wheat Ridge City Council that:

Section 1. The First Amendment to the Intergovernmental Cooperation Agreement between Jefferson County and the City of Wheat Ridge concerning Community Development Block Grant Programs, dated for reference purposes only the 29th day of August, 2011, attached to this Resolution and incorporated herein by reference, is hereby approved.

Section 2. The Mayor of the City of Wheat Ridge is authorized to execute the First Amendment approved hereby. The City Council expressly approves and ratifies any execution of the First Amendment by the Mayor prior to the effective date of this Resolution.


Section 3. This Resolution shall take effect immediately.

DONE AND RESOLVED THIS 26th day of September, 2011.



Jerry DiTullio, Mayor

ATTEST:



Michael Snow, City Clerk

FIRST AMENDMENT TO INTERGOVERNMENTAL COOPERATION AGREEMENT
Between **JEFFERSON COUNTY**
and the **CITY OF WHEAT RIDGE**

THIS FIRSTAMENDMENT TO INTERGOVERNMENTAL COOPERATION AGREEMENT, dated for reference purposes only this 29th day of August 2011, is made and entered into by and between County of Jefferson, **STATE OF COLORADO**, a body politic and corporate ("the County") and **THE CITY OF WHEAT RIDGE** ("the City").

WITNESSETH:

WHEREAS, the County and the City entered into an Intergovernmental Cooperation Agreement dated for reference purposes only the 25 day of May, 2011; and

WHEREAS, the County and the City have agreed that entering into an Intergovernmental Cooperation Agreement qualifies the County as an Urban County entitling the County and the Cities to receive Community Development Block Grant (CDBG) funds to conduct and administer housing and community development activities and projects.

WHEREAS, the parties have agreed to amend the Intergovernmental Cooperation Agreement as set forth herein

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein, the parties hereby agree to amend the Intergovernmental Cooperation Agreement as follows:

1. A new Section 1 c. of the Intergovernmental Cooperation Agreement shall be added which states: The City understands that it might receive a formula allocation under the Emergency Shelter Grant (ESG) Program only through the urban county. This does not preclude the urban county or a unit of government participating with the urban county from applying to the State for ESG funds, if the state allows.

2. All other terms and conditions of the Intergovernmental Cooperation Agreement shall remain in effect.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to the Intergovernmental Cooperation Agreement to be executed.

COUNTY OF JEFFERSON
STATE OF COLORADO

By: _____
Faye Griffin, Chairman
Board of County Commissioners

Date: _____

STATE OF COLORADO
COUNTY OF JEFFERSON

This **First** Amendment to Contract was acknowledged before me this ____ day of _____ 2011, by Faye Griffin, Board of County Commissioners of the County of Jefferson, State of Colorado.

Notary's official signature

Commission expiration date

APPROVED AS TO FORM:

Gay B. Ummel
Assistant County Attorney

CITY OF WHEAT RIDGE

By: _____

Jerry DiTullio, Mayor

Date: _____

8/25/11

STATE OF COLORADO
COUNTY OF JEFFERSON

This First Amendment to Contract was acknowledged before me this 25th day of August 2011, by Jerry DiTullio as Mayor of the City of Wheat Ridge.

Bruce A. Roome

Notary's official signature

8/8/2014

Commission expiration date

BRUCE A. ROOME
Notary Public
State of Colorado

My Commission Expires August 08, 2014

INTERGOVERNMENTAL COOPERATION AGREEMENT

Between JEFFERSON COUNTY

and the CITY OF WHEAT RIDGE

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMS

(Federal Fiscal Years 2012 through 2014)

THIS AGREEMENT, dated for reference purposes only this 25 day of May, 2011, is between Jefferson County, Colorado (the "County"), a body politic and corporate of the State of Colorado, and the City of Wheat Ridge (the "City"), a municipal corporation of the State of Colorado located in Jefferson County.

RECITALS

- A. Pursuant to The Housing and Community Development Act of 1974, as amended, 42 U.S.C. 5301 et seq., (the "Act"), the U.S. Department of Housing and Urban Development ("HUD") administers a wide range of local housing and community development activities and programs under Title I of the Act.
- B. The primary objective of Title I of the Act is the development of viable urban communities, by providing decent housing, a suitable living environment, and expanding economic opportunities principally for persons of low and moderate income. To further this objective, the Federal government provides Community Development Block Grant ("CDBG") funds to local governments to conduct and administer housing and community development activities and projects (the "CDBG Programs"). The CDBG Programs are governed by regulations contained in 24 C.F. R. Part 570 (the "CDBG Regulations").
- C. A determination has been made by HUD that the County is eligible to qualify as an urban county to receive funds from HUD by annual grant agreement.
- D. To become entitled on an annual basis to receive CDBG funds, a county must qualify as an "urban county." The City and other units of local governments may be included as part of the urban county, by entering into cooperation agreements. A city that has entered into an intergovernmental cooperation agreement with the County shall be considered to be a "Participating Jurisdiction."
- E. The qualification by HUD of an urban county remains effective for the next three successive fiscal years, September 1, 2011 through August 31, 2014, (the "Program Years") regardless of changes in the County's population during that period, except for failure of an urban county to receive CDBG entitlement funds during any year of that period. This Agreement shall remain in effect through the Program Years and such additional time as may be required for the expenditure of funds granted and income received during the Program Years and the completion of the funded activities (the "Period of Performance"). Neither the County nor the City may terminate, withdraw, or be removed from the cooperation agreement while it remains in effect.
- F. The County is submitting to HUD the required documentation to qualify as an urban county so as to become eligible to receive annual CDBG funds for the Program Years (as "Entitlement County"). The City wishes to be included as part of the urban county and to be eligible to participate in the County's CDBG Programs for the Program Years.

- G. Pursuant to C.R.S. Section 29-1-201, et seq., the City and the County may enter into agreements for joint or cooperative action and may contract with each other to perform any governmental service, activity, or undertaking that each is authorized by law to perform.
- H. This Agreement sets forth fully the purposes, powers, rights, obligations, and the financial and other responsibilities of the parties.
- I. Accordingly, the parties have determined that it will be mutually beneficial and in the public interest of the parties to enter into this Agreement regarding the conduct of the CDBG Programs.

AGREEMENT

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

1. **Inclusion of the City.** The City shall be included as a part of the County for CDBG qualification and grant calculation purposes for the Program Years. The parties recognize their mutual benefit to seeking entitlement status so that there may be local control over CDBG monies and so that the parties may receive the benefits of yearly allocations of CDBG monies. The City understands that participation in the CDBG Cooperation Agreement covers the CDBG Programs and, where applicable, the HOME Investment Partnership ("HOME") Program. By executing the CDBG Cooperation Agreement, the City understands that it:

a. May not apply for grants from appropriations under the State CDBG Programs for fiscal years during the period in which the City participates in the urban county's CDBG Programs.

b. 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 City cannot form or participate in a HOME consortium with other local governments. This does not preclude the urban county or the City participating with the urban county from applying for HOME funds from the State, if the State allows.

2. **Period of Performance.** This Agreement shall remain in effect through the Program Years and such additional time as may be required for the expenditure of funds granted and income received during the Program Years and the completion of the funded activities (the "Period of Performance"). Neither the County nor the City may terminate, withdraw, or be removed from the Program during the Period of Performance.

3. **Renewals.** This Agreement will renew automatically for participation by the parties in successive three-year (3-year) qualification periods, unless the City or the County provide written notice to the other party that it selects not to participate in a new qualification period. The terminating party shall send a copy of the notice of termination to the HUD field office by the date specified in HUD's urban county qualification period. The County will notify the City in writing of the City's right to make this election. A copy of the County's notification must be sent to the HUD field office by the date specified in the urban county qualification notice. Failure by either party to adopt an amendment to the Agreement incorporating all changes necessary to meet the requirements for cooperation agreements set forth in the urban county qualification notice applicable for a subsequent three-year urban county qualification period and to submit the amendment to HUD as provided in the urban county qualification notice will void the

automatic renewal of such qualification period. If the Agreement is renewed, the subsequent three-year (3-year) period will constitute the new Program Years.

4. **Mutual Cooperation.** The City and the County agree to cooperate as follows:

a. To cooperate to undertake, or assist in undertaking, community renewal and lower-income housing assistance activities, as approved and authorized between the parties in the CDBG Agreements, including the Consolidated Plan.

b. To plan and prepare the CDBG Programs, the Comprehensive Housing Affordability Strategy and Community Development Plan (the "Consolidated Plan"), and detailed descriptions of CDBG Programs to be conducted or performed during each of the Program Years. The finalized activities and projects will be included in the Consolidated Plan and in the requests for CDBG funds for the Program Years. The parties acknowledge, however, the County has responsibility, as mandated by HUD for selection of the CDBG Programs to be included in the grant request and for submission of that request. The parties recognize that HUD requires the County to execute all grant agreements and holds the County legally liable and responsible for the overall administration and performance of the CDBG Programs. Accordingly, the parties agree that the County shall have the administrative responsibility necessary to meet the requirements of HUD for the CDBG Programs to be performed or conducted by the City.

c. As required by HUD, pursuant to 24 C.F.R. § 570.501 (b), the unit of local government is subject to the same requirements applicable to subrecipients, including the requirement of a written agreement as described in 24 CFR 570.503 which asserts that the City may enter into separate CDBG agreements (the "CDBG Agreements") with the County for the actual conduct of the CDBG, as approved and authorized by the Board of County Commissioners and the Consolidated Plan. The agreement shall remain in effect during any period that the subrecipient has control over CDBG funds, including program income. At a minimum, the written agreement with the subrecipient shall include provisions concerning the following items: statement of work; records and reports; program income; uniform administrative requirements; suspension and termination; reversion of assets. As required by HUD, the parties agree to include standards relating to the management and disposition of assets and real property acquired through the CDBG Programs, in accordance with 24 C.F.R.570.

d. As required by HUD, to affirmatively further fair housing within their own jurisdictions. The County may not provide any CDBG funding for activities in or in support of the City if the City does not affirmatively further fair housing within their own jurisdiction or if the City impedes the County's actions to comply with the County's fair housing certification. This provision is required because non-compliance by the City included in an urban county may constitute non-compliance by the urban county, which may provide cause for funding sanctions or other remedial action by HUD.

5. **Distribution of Funds.**

a. **Administrative Allocation.** The County may retain no more than twenty percent (20%) of the total CDBG funds allocated to the County for purposes of general oversight, management, coordination, and related costs ("Administrative Allocation").

6. **Project Application and Approval Process**

a. Project applications from the County, the City and other eligible applicants will be reviewed by the Community Development Advisory Board (CD Advisory Board) using evaluation criteria set forth in the applicable Consolidated Plan and the goals of the Jefferson County Board of

County Commissioners. Higher priority shall be given to eligible proposals submitted by the County and the City so long as proposals are consistent with the applicable Consolidated Plan.

b. The decision for determining what funds receive block grant funding is the responsibility of the Jefferson County Board of County Commissioners.

7. **Advisory Board.** In furtherance of the cooperative process of developing the CDBG Programs, and in order to ensure coordination while respecting the role of the City, Jefferson County has established a Community Development (CD) Advisory Board.

a. **Membership.** The CD Advisory Board shall be appointed by the Jefferson County Board of County Commissioners and shall include one member from each participating jurisdiction. The Participating Jurisdictions shall advise the Jefferson County Board of County Commissioners of its nominee for the Advisory Board.

b. **Duties.** The CD Advisory Board shall recommend the allocation of funds to the County, the City and other eligible applicants. Although HUD requires the County to maintain legal liability and responsibility for the overall administration and performance of the CDBG Programs, the County will give strong consideration to the recommendations of the CD Advisory Board.

8. **Mutual Agreements.** The parties agree as follows:

a. **Books and Records.** To maintain a complete set of books and records that account for the CDBG monies and the supervision and administration of the CDBG Programs. The parties agree that they will provide access to these books and records to each other and to HUD, as necessary or requested, to confirm compliance with Federal laws and regulations.

b. **Compliance with Laws.** To take all actions necessary to comply with the following laws and to assure compliance with County certifications required by:

i. **Federal Laws and Regulations.** The Housing and Community Development Act of 1974, as amended; Title VI of the Civil Rights Act of 1964; sections 104(b) and 109 of Title I of the Housing and Community Development Act of 1974; the Fair Housing Act, 42 U.S.C. 5301, et seq., 24 C.F. R. Part 570, and especially 24 C.F. R. 570.501(b) applicable to subrecipients and 24 C.F. R. 570.503 applicable to the minimum standards for a written agreement prior to disbursing any CDBG funds; 24 C.F. R. Part 570, et seq., relating to requirements governing any income generated from CDBG funds, ("Program Income"); all rules, regulations, guidelines, circulars, and other requirements promulgated by the various Federal departments, agencies, administrations, and commissions relating to the CDBG Programs.

ii. **State and Local Law Compliance.** The responsibilities of the parties shall be subject to applicable state laws, city and county ordinances, resolutions, rules and regulations, and city charter provisions.

iii. **Nonviolent Civil Rights Policies.** Pursuant to 42 U.S.C. 5304(b) (2), the County and the City each have adopted and are enforcing and, if requested, will provide copies to each other of 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 nonviolent civil rights demonstrations within its jurisdiction.

c. Expenditure of Funds. All CDBG funds that are approved by HUD for expenditure under the grant agreements will be budgeted and allocated (i) to the County, no more than twenty percent (20%) of the total CDBG funds allocated to the County for administrative, general oversight, management, coordination, and related costs, as allowed by HUD, and (ii) to the specific CDBG Programs described in the Consolidated Plan, which shall be expended only for the CDBG Programs for which the funds are provided.

d. Lobbying Requirement. To the best of the knowledge and belief of each of the City and County:

i. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

ii. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, each party agrees that it will complete and submit a Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

iii. Each party agrees that it will require the language of this paragraph be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

9. Amendments. This Agreement constitutes the entire agreement of the parties. 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.

10. Miscellaneous Provisions.

a. Choice of Law. This Agreement and the rights and duties of the parties shall be interpreted in accordance with the laws of the State of Colorado applicable to contracts made and to be performed entirely within the state.

b. Forum. The courts of the State of Colorado shall have sole and exclusive jurisdiction of any disputes or litigation arising hereunder.

c. Venue. Venue for any and all legal actions arising hereunder shall lie in the District Court in and for the County of Jefferson, State of Colorado.

d. Officials Not to Benefit. No member of the City or County government, commissioners or individual elected officers shall receive any share or part of this Agreement or any benefit that may arise therefrom.

e. Indemnification. To the extent allowed by law, the City and the County agree to indemnify and hold each other harmless from and against any and all claims, losses, expenses, and attorney fees, including but not limited to damages for personal injury, theft or damage to property, both public and private, resulting from or arising out of an act or omission resulting directly or indirectly from the performance or failure to perform under this Agreement, provided, however, that the indemnification shall not cause a waiver of the Governmental Immunity Act for either the City or the County.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly authorized and executed.

ATTEST:

By: [Signature]
City/Town Clerk



JURISDICTION:

By: [Signature]
Name: Jerry DiTullio
Title: Mayor
Date: 6/13/11

ATTEST:

By: [Signature]
County Clerk



STATE OF COLORADO
COUNTY OF JEFFERSON

By: [Signature]
Faye Griffin, Chairman
Board of County Commissioners

Date: 7-19-11

APPROVED AS TO FORM:

By: [Signature]
Gay B. Ummel
Assistant County Attorney