

CITY OF WHEAT RIDGE CITY COUNCIL
RESOLUTION NO. 31
Series 2012

**TITLE: A RESOLUTION APPROVING AN INTERGOVERNMENTAL
JOINT COOPERATION AGREEMENT BETWEEN JEFFERSON
COUNTY AND THE CITY OF WHEAT RIDGE REGARDING THE
FORMATION OF A HOME CONSORTIUM BETWEEN
JEFFERSON COUNTY AND THE CITY OF LAKEWOOD**

WHEREAS, 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 1 of the Act; and

WHEREAS, the primary objective of Title 1 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 to moderate income; and

WHEREAS, to further this objective, HUD provides funds to local governments to conduct and administer housing activities and projects; and

WHEREAS, HUD has made a determination that Jefferson County is an Urban County and as such is eligible to qualify and receive funds from HUD by annual grant agreement; and

WHEREAS, the City of Wheat Ridge can participate in Jefferson County's HOME and Community Development Block Grant Programs by entering into an Intergovernmental Agreement between the County and other municipalities and towns within the County who wish to become Participating Jurisdictions; and

WHEREAS, the City of Wheat Ridge is a party to that certain Intergovernmental Agreement, dated on or about May 25, 2011, between the City and Jefferson County, Colorado, which agreement concerns the City's participation in the County-administered HOME and Community Development Block Grant Programs; and

WHEREAS, the Agreement sets out the purposes, powers, rights and obligations and the financial and other responsibilities of the Parties thereto; and

WHEREAS, HUD has made determination that the City of Lakewood is an entitlement community and as such is eligible to qualify and receive funds from HUD by annual agreement; and

WHEREAS. Jefferson County and the City of Lakewood desire to create a HOME Consortium to pool their HOME funds, thereby potentially making more funds available to the Urban County; and

WHEREAS. HUD requires the City of Wheat Ridge and Jefferson County to enter into an Intergovernmental Joint Cooperation Agreement concerning the allocation and expenditure of the funds through the HOME Consortium; and

WHEREAS. the Parties have collectively and separately determined that it will be mutually beneficial and in the public interest of the Parties to enter into the above-referenced Agreement regarding the administration of the HOME Consortium.

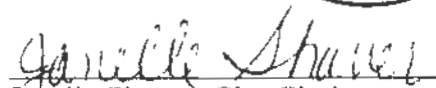
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Wheat Ridge, Colorado, as follows:


1. The Intergovernmental Joint Cooperation Agreement between the City of Wheat Ridge and Jefferson County concerning the creation of a HOME Consortium between Jefferson County and the City of Lakewood, a copy of which is attached hereto as Exhibit A is hereby approved by the City Council of the City of Wheat Ridge, Colorado.
2. The Mayor and City Clerk are hereby authorized to execute the Agreement on behalf of the City.
3. This Resolution shall take effect immediately.

DONE AND RESOLVED THIS 25th day of June 2012.



ATTEST:


Janelle Shaver, City Clerk


Jerry DiTullio, Mayor

**INTERGOVERNMENTAL JOINT COOPERATION AGREEMENT
AND HOME CONSORTIUM AGREEMENT
BETWEEN
JEFFERSON COUNTY, COLORADO
AND
CITY OF WHEAT RIDGE, COLORADO
RELATING TO THE CONDUCT OF
HOME INVESTMENT PARTNERSHIPS PROGRAM
FOR GRANT YEARS 2013 THROUGH 2015**

THIS AGREEMENT is entered into and shall be effective as of June 1, 2013, by and between Jefferson County, Colorado (the "County"), a body corporate and politic 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. 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 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 HOME Program;
- C. To implement the policies, objectives and other provisions of HCDA and NAHA, HUD has issued rules and regulations governing the conduct of Community Development Block Grant ("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 HOME funds from HUD by annual grant agreement, and the City of Wheat Ridge, the City of Golden, the City of Edgewater, the Town of Mountain View and the Town of Lakeside have entered into an Intergovernmental Cooperation Agreement (the "CDBG Cooperative Agreement") with the County making the cities and towns identified above eligible to participate in the HOME consortium. The City of Lakewood, as a HUD entitlement community, and a metropolitan city will be included as a participant in the HOME Consortium;

- 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 2012, 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 HOME funds for the next three Program Years from Grant Years 2013, 2014, and 2015 appropriations, and if the City approves and authorizes this Agreement for a HOME Consortium (the "HOME Consortium 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 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 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 HOME funds, it is required by the regulations for HOME consortiums 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 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 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 ("HOME Consortium Agreement"), the City shall be included as a part of Jefferson County's HOME consortium for qualification and grant calculation purposes upon the qualification by HUD of the County to receive HOME Program entitlements as a HOME consortium for the next three successive Program Years, June 1, 2013 through May 31, 2016.
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, June 1 through May 31. As provided in Section

92.101 of the Regulations, the qualification of the County as a HOME consortium shall remain effective for the next three successive grant years, June 1, 2013 through May 31, 2016, 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 HOME Consortium 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 HOME Program activities and projects which will be funded from annual HOME funds from grant years 2013, 2014, and 2015 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 HOME Program activities and projects to be conducted or performed in the City during each of the three program years covered by this HOME Consortium 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 HOME Program funds and that as the lead entity it assumes overall responsibility for ensuring that the consortium's HOME Program is carried out in compliance with the requirements of the 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 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 grant agreement, which includes the City, that the County shall have the ultimate supervisory and administrative control and compliance responsibility.
6. The City shall cooperate fully with the County in all 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 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 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 based upon the recommended projects.
8. The HOME funds will be disbursed so that no less than forty-seven percent (47%) of the annual HOME Consortium allocation be reserved for projects located within the boundaries of the Urban County ("Urban County Percentage") and no less than fifty-three percent (53%) of the annual HOME Consortium allocation be reserved for projects located within the boundaries of the City of Lakewood ("Lakewood Percentage"). Projects located outside of the City of Lakewood boundaries will not utilize any portion of the Lakewood Percentage unless first approved by the City of Lakewood or unless Lakewood has not designated projects as provided below. Projects located within the City of Lakewood boundaries will not utilize any portion of the Urban County Percentage unless first

approved by the County on behalf of all HOME consortium members. If Lakewood does not identify in writing the projects eligible for payment from the Lakewood Percentage within one (1) year from the date of an award, the County shall have the authority to reallocate any portion of the Lakewood Percentage not designated for a specific eligible project for use for any project within or without the Lakewood boundaries as deemed appropriate by the County. HOME Consortium members will revisit the disbursement percentages at the time of the automatic renewal of this HOME Consortium Agreement and reserve the right to amend the Agreement to include percentages reflecting updated and current demographic data.

9. For the City of Lakewood ("Lakewood") the HOME funds may be accessed by the Lakewood in two ways: Lakewood may approve a project or activity, carried out by a third entity, as appropriate for the needs of Lakewood, and endorse the application, or; Lakewood 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 paragraphs 10 and 11 apply and the City shall comply with all other provisions of this HOME Consortium Agreement. 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.
10. Pursuant to 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 92.504.
11. The City understands that pursuant to 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 by the City for the three HOME 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 HOME Program.
12. All HOME 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 of activity without the prior written approval of the County and the approval of HUD when that approval is required by the regulations.
13. Because the City will be included as part of the HOME consortium for the three Program Years covered by this Cooperation Agreement, the City 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 HOME Program. 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 Program. In addition, the parties hereto understand and agree that the County may not provide any HOME 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.

14. During the period of performance of this HOME Consortium Agreement, as provided in Paragraph 18 below, the City shall:
 - (a) Inform the County of any income generated by the expenditure of 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 project agreements that will be entered into between the City and the County for the actual conduct of the HOME Program;
 - (c) Use any Program Income the City is authorized by the County to retain only for eligible activities in accordance with all HOME 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 or 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.
15. The separate project agreements or sub-grant agreements that will be entered into between the County and the City for the conduct of the HOME Program, 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 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 HOME funds (less any portion thereof attributable to expenditures of non-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 HOME Consortium Agreement that is applicable.
16. The City, by execution of this HOME Consortium Agreement understands that it 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 HOME funds.
17. The County shall, in accordance with the applicable requirements of 24 C.F.R. Part 92, collect an administrative fee for the performance of its duties administering the HOME program, pursuant to this agreement. In no event shall the administrative fee exceed ten percent (10%) of the overall annual HOME allocation. The County can elect to enter into an annual agreement with the City if the City and County mutually agree the City will perform administrative functions relating to the HOME program.

In this occurrence the City would be subject to the same requirements as a subrecipient, including a written agreement and adherence to all HOME rules and regulations.

18. The period of performance of this HOME Consortium Agreement shall cover three HOME Program years consisting of the County's 1st, 2nd, and 3rd Program years from this HOME Consortium Agreement, beginning June 1, 2013 and ending May 31, 2016 (and subsequent 3 year terms for any renewal periods). The HOME and CDBG program years are the same, as is required. As stated herein, however, the HOME Consortium Agreement in its initial period of performance is intended to cover activities to be carried out with annual HOME Consortium funds from grant year 2013, 2014, and 2015 appropriations (and the following three grant years for each subsequent renewal period) 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 and the projects authorized in separate project agreements or sub-grant agreements shall have met all affordability requirements.
19. This HOME Consortium 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 written notice should be provided a minimum of 60 days prior to the deadline for automatic renewal.

The party terminating this HOME Consortium Agreement must notify the other party in writing of the election of its right not to participate and termination of this HOME Consortium Agreement. 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.

The County will notify the City in writing of the City's right to make an election to terminate this HOME Consortium Agreement. A copy of the County's notification must be sent to the HUD field office by the date specified in the HUD's HOME consortia qualification notice and the urban county qualification notice for the next qualification period.

Each party hereby agrees to adopt any amendment to this HOME Consortium 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 with this provision and to submit the amendment to the HUD field office will void the automatic renewal for such qualification period.

If a new member is added for the first year of a new qualification period, the automatic renewal clause for the next term shall not apply and a new consortium agreement, signed by all members, shall be required to continue the HOME Consortium with all the parties. The new consortium agreement may contain automatic renewal provisions for subsequent qualification periods.

20. Each HOME consortium member agrees to affirmatively further fair housing.
21. Pursuant to the provisions of 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.

22. Any changes and modifications to this Agreement shall be made in writing and shall be executed by both parties, except as provided in 23 c) below, 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 HOME Consortium 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 HOME Consortium Agreement or withdraw there from 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.
 - (c) The County is authorized to amend this HOME Consortium Agreement for the purpose of adding new members to the Consortium on behalf of the entire consortium. The County may enter into an agreement with a new member to add the new member and bind them to the same terms as set forth in this HOME Consortium Agreement. ,
24. The parties agree to maintain a complete set of books and records that account for the HOME monies and the supervision and administration of the HOME 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.
25. This HOME Consortium 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.
26. The courts of the State of Colorado shall have sole and exclusive jurisdiction of any disputes or litigation arising hereunder.
27. 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.
28. No member or employee of the City or County government, commissioners, city council persons or individual elected officers shall receive any share or part of this Agreement or any benefit that may arise therefrom.

ATTACHMENTS:

Jefferson County, Colorado 2010-2014 Five-Year Community Development Consolidated Plan Including the 2012 One Year Action Plan to the 2010-2014 Consolidated Plan

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

JEFFERSON COUNTY, COLORADO

By: _____
Donald Rosier, Board Chair
Board of County Commissioners

ATTEST:
By: _____
Clerk to the Board of County Commissioners

Approved as to form:
By _____
Assistant County Attorney

CITY OF WHEAT RIDGE, COLORADO

By: *Jerry D. Tullio*
Jerry D. Tullio, Mayor
City of Wheat Ridge

Reviewed: *[Signature]*
City Attorney's Office

ATTEST: *Janelle Shaver*
By: _____
City Clerk

