

ADAMS COUNTY OPEN SPACE GRANT AGREEMENT #OSG2013-00027-A2

The Grant Agreement ("Agreement") is made and entered into this ____ day of _____, 201____, between the City of Westminster ("Applicant") and the County of Adams, acting through the Board of County Commissioners ("Adams County").

RECITALS

WHEREAS, in November 1999, the citizens of Adams County passed a county-wide one-fifth of one percent Open Space Sales Tax (the "Tax"); and

WHEREAS, in November 2004, the citizens of Adams County reauthorized the Tax and increased it to one-fourth of one percent; and

WHEREAS, the majority of the revenues collected are distributed to qualifying jurisdictions through a competitive grant process; and

WHEREAS, on August 1, 2013, Applicant applied for an Adams County Open Space Grant to complete the Ranch Creek Underpass & Trails Project project (the "Project"); and

WHEREAS, on December 2, 2013, Adams County awarded Applicant an Adams County Open Space Grant to complete the Project; and

WHEREAS, on February 2, 2015, Applicant applied for additional funds to complete the Ranch Creek Underpass & Trails Project project; and

WHEREAS, on May 12, 2015, Adams County awarded Applicant additional funds to complete the Project; and

WHEREAS, the total Adams County Open Space Grant award for the Project is equal to 43% of the total Project costs, not to exceed \$761,000.00.

AGREEMENT

NOW, THEREFORE, the Parties hereto agree as follows:

1. Rescission of Parties' Previous Grant Agreement. Adams County and the Applicant mutually agree that this Agreement replaces and supersedes the Adams County Opens Space Grant Agreement for the Project, dated June 4, 2015. The aforesaid June 4, 2015 Grant Agreement is hereby rescinded by the parties.
2. Grant Award. Adams County hereby awards to Applicant a grant in the amount of 43% of the total Project costs, not to exceed \$761,000.00 (the "Grant"), subject to terms and conditions set forth in this Agreement.

3. Project Scope. Applicant shall complete the Project as described in the grant applications, attached as Exhibits A and B (“Project Scope”) and incorporated herein by this reference. Exhibits A and B attachments include the grant applications all application attachments. Applicant shall not materially modify the Project Scope without the approval of Adams County. Applicant may request a modification to the Project Scope in compliance with the Modification Policy stated on page 13 of the Open Space Policies and Procedures, attached as Exhibit C and incorporated herein by this reference, as may be amended from time to time by Adams County in its sole discretion. Adams County may elect to terminate this Agreement and deauthorize its funding for the Project in the event it determines that the Project Scope has been materially modified without its approval and/or if Applicant fails to comply with the Modification Policy.
4. Completion Date. Applicant shall complete the Project no later than May 12, 2018, which is the current due date of the Project (“Completion Date”). Project completion requires all necessary documentation be submitted to Open Space staff on or before the Completion Date. Applicant may request an extension of the Completion Date in compliance with the Extension Policy stated on page 12 of the Open Space Policies and Procedures, Exhibit C, as may be amended from time to time by the Board of County Commissioners in its sole discretion. Adams County may elect to terminate this Agreement and deauthorize its funding for the Project in the event that this Completion Date is not met and/or if Applicant fails to comply with the Extension Policy.
5. Open Space Sales Tax. Applicant shall use the Grant in accordance with Resolution 99-1, attached hereto on page 22 of the Open Space Policies and Procedures, Exhibit C.
6. Policies and Procedures. Applicant shall comply with the Open Space Policies and Procedures, attached hereto as Exhibit C and incorporated herein by this reference.
7. Payment of Grant. Adams County agrees to make payments to the Applicant in the following manner:
 - a. Payments. Adams County agrees to disburse grant funds to Applicant to provide reimbursement for the payment of project costs upon successful completion of the Project, or on a quarterly basis. Itemized Reimbursement Requests, as set forth below, are required for quarterly basis. Should the Project take two full years to complete, the Reimbursement Request for the final period of the project must be received by May 12, 2018 to remain compliant with the Project Completion Date, as set forth above. Reimbursements disbursed from Adams County shall not exceed 43% of project costs incurred during the previous period with cumulative reimbursements totaling no more than \$761,000.00.
 - b. Acceptable Expenditures. Applicant can request payment for 43% of all project costs incurred within the previous period with cumulative reimbursements totaling no more

than \$761,000.00 that: (1) have already been paid by the Applicant, and (2) are listed in the approved budget attached as Exhibit A, under Application Attachment A – Project Budget. Applicant may request disbursement of grant funds for costs that have been incurred, but not paid by Applicant. However, Adams County will consider such requests on a case-by-case basis and distribution of grant funds for these purposes is not guaranteed.

- c. Reimbursement Request. Applicant shall submit via hand delivery, facsimile, or regular mail, to Adams County an itemized Reimbursement Request for project costs that have been incurred as of the date of the request. Each Reimbursement Request shall contain the following: (1) copies of invoices and/or employee time sheets complete with a spreadsheet indicating hours worked, wages earned, and taxes and benefits paid for work related specifically to the Project; (2) documentation substantiating that the Applicant has paid for the costs for which it is requesting reimbursement, including but not limited to cancelled checks or proof of a wire transfer; and (3) a brief summary of the work completed to date.
 - d. Approval of Payment of Reimbursement Requests. The Adams County Open Space Program Manager shall approve or disapprove the amount of each Reimbursement Request within fifteen (15) days of receipt of a legible Reimbursement Request. Payment shall be made to Applicant by check or electronic fund transfer.
 - e. Disapproval of Reimbursement Request. If Adams County disapproves any amount or amounts in a Reimbursement Request, Adams County shall promptly notify Applicant of the reason therefore. Upon receipt of disapproval, Applicant and Adams County shall meet within one week to discuss what, if anything, the Applicant can do to obtain payment of the requested amount that was denied.
8. Signage. Applicant shall erect and maintain an Adams County Open Space Sign, which shall be provided by Adams County, in a prominent place on the Project site, unless the Project will not be open to the public.
9. Publicity. In all press releases regarding this Project, Applicant shall include the following statement: “This Project was funded in part with proceeds from the Adams County Open Space Sales Tax. The Adams County Open Space Sales Tax was passed by the Adams County voters in 1999, and reauthorized in November 2004, to be extended until December 31, 2026.”
10. Miscellaneous Provisions.
- A. Good Faith. Both Parties have an obligation to act in good faith, including the obligation to make timely communication of information that may reasonably be believed to be of interest to the other party.

- B. Applicable Law. Colorado law applies to the interpretation and enforcement of this Agreement.
- C. Time is of the essence. Time is of the essence in this Agreement.
- D. Authority. The undersigned represents and warrants that he or she is duly authorized and has legal capacity to execute this agreement on behalf of the Applicant, that the Applicant's obligations in this Grant Agreement have been authorized, and that the Grant Agreement is a valid and legal agreement binding on the Applicant in accordance with its terms.
- E. Survival. The terms and provisions of this Agreement and Applicant's obligations hereunder shall survive the funding of the Grant.
- F. Entire Agreement. Except as expressly provided herein, this Agreement constitutes the entire agreement of the parties. No changes to this Agreement shall be valid unless made in writing and signed by the parties to this Agreement.

The remainder of this page is left blank intentionally.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

BOARD OF COUNTY COMMISSIONERS
COUNTY OF ADAMS, STATE OF COLORADO

Chair

ATTEST:
STAN MARTIN, CLERK

Deputy Clerk

APPROVED AS TO FORM:

County Attorney's Office

CITY OF WESTMINSTER, APPLICANT

By (signature)

Printed name

Title