

INTERGOVERNMENTAL AGREEMENT FOR THE ASSESSMENT, COLLECTION, AND REMITTANCE OF EMERGENCY SERVICES IMPACT FEES

This INTERGOVERNMENTAL AGREEMENT FOR THE ASSESSMENT, COLLECTION, AND REMITTANCE OF EMERGENCY SERVICES IMPACT FEES ("**Agreement**") is entered into by and between Adams County ("**County**") and the Bennett Fire Protection District ("**District**"). The County and the District are referred to collectively as the "**Parties**" or individually as a "**Party**".

RECITALS

WHEREAS, the County is a political subdivision of the State of Colorado ("**State**"), and the District is a political subdivision of the State organized pursuant to the Special District Act, C.R.S. § 32-1-101, *et seq.*;

WHEREAS, the District was organized to provide fire protection, rescue, and emergency services (collectively, "**Emergency Services**"), as well as other services including fire suppression, public education, hazardous materials, emergency medical, and ambulance services, to the citizens and property within its jurisdiction, and to individuals passing through its jurisdiction, either directly or through third-party providers;

WHEREAS, pursuant to §32-1-1002(1)(d.5), the District has authority to receive and spend impact fees or other similar development charges imposed pursuant to the provisions described in §29-20-104.5, C.R.S.;

WHEREAS, the District obtained an Impact Fee Study dated September 4, 2015 to evaluate the nexus between new development within the District's jurisdictional boundaries and the projected impact that such development has on the District's Capital Facilities ("**Nexus Study**"). The Nexus Study recommended an Impact Fee schedule for both residential and non-residential development at a level no greater than necessary to defray the impacts of new development on the District's Capital Facilities ("**Impact Fee Schedule**");

WHEREAS, on _____, 20__, the District's Board of Directors ("**Board**") adopted a Resolution approving the Impact Fee Schedule recommended by the Nexus Study. A copy of the approved Impact Fee Schedule is attached as **Attachment 1**; and,

WHEREAS, in accordance with C.R.S. § 29-20-104.5(2)(c), the Parties desire to enter into this Agreement to define the District Impact Fee, and the details of assessment, collection, and remittance, all in accordance with the requirements of C.R.S. § 29-20-104.5 ("**Act**").

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, the Parties agree as follows:

AGREEMENT

1. Definitions. In addition to the definitions provided elsewhere in this Agreement, the terms "**Development Permit**" and "**Capital Facility(ies)**" shall be defined as provided in Sections 29-20-103(1) and 29-20-104.5(4), C.R.S., respectively, including any amendments thereto.

2. Establishment of District Impact Fee.

a. The County agrees to impose an impact fee on new development that currently is located within both the County and the District, or that in the future becomes located within the County and the District, in accordance with the Impact Fee Schedule attached as **Attachment 1**, subject to inflation as set forth herein ("**District Impact Fee**"). The District Impact Fee shall be imposed on all new development for which a Development Permit application is submitted to the County on or after January 1, 2018. On

December 31 of each year to be effective for any District Impact Fees collected beginning on January 1 of the following year, the fees set forth in the attached Impact Fee Schedule (or any Updated Impact Fee Schedule as defined below) shall automatically be adjusted by the increase, if any, in the Denver-Boulder-Greeley Consumer Price Index for All Urban Consumers (CPI-U) over the preceding year.

b. The District will update the Nexus Study no less frequently than every seven years ("**Updated Nexus Study**"). If the Updated Nexus Study recommends any changes to the Impact Fee Schedule, then by September 1 of the then-current calendar year, the District Board shall, after considering such recommendations, adopt a Resolution approving an updated Impact Fee Schedule at a level no greater than necessary to defray the impacts of new development on the District's Capital Facilities ("**Updated Impact Fee Schedule**"). On or before September 10 of the then-current calendar year, the District shall submit to the County a copy of: (i) the Updated Impact Fee Schedule; (ii) the Resolution approving the Updated Impact Fee Schedule; and, (iii) the Updated Nexus Study. Unless the County objects to the Updated Impact Fee Schedule in accordance with Section 5 below, a copy of the Updated Impact Fee Schedule shall be effective January 1 of the following calendar year.

3. Procedures for Assessment, Collection, and Remittance.

a. As part of its Development Permit application process, the County shall require the developer of any proposed new development within the District's jurisdictional boundaries to confer with the District regarding whether, under the Impact Fee Schedule (or any Updated Impact Fee Schedule), a District Impact Fee is owed and, if owed, the amount of the District Impact Fee. The developer and the District may mutually determine whether an in-kind contribution will be made by the developer to the District in lieu of paying all or any portion a District Impact Fee ("**In-Kind Contribution**"). The developer and the District shall sign an Impact Fee Form that is substantially the same as the form attached as **Attachment 2**, stating one of the following: (i) a District Impact Fee is not owed; (ii) a District Impact Fee is owed and the amount of the District Impact Fee; or, (iii) the developer will make an In-Kind Contribution as described in the Impact Fee Form.

b. The developer shall submit the signed Impact Fee Form with the other documentation required by the County as part of the Development Permit application process.

c. The County shall promptly notify the District of the County's final decision on whether to grant or deny the Development Permit application. If the County denies the Development Permit application, the developer shall not be required to pay a District Impact Fee or make an In-Kind Contribution to the District. If the County grants the application and issues a Development Permit, the Development Permit shall require the developer to pay the District Impact Fee or to make the In-Kind Contribution to the District.

d. The District shall be solely responsible for collecting any District Impact Fee owed by the developer, or receiving the In-Kind Contribution from the developer, if applicable. The County shall have no responsibility for collecting any District Impact Fee owed by any developer or ensuring a developer makes any In-Kind Contribution to the District. The District shall promptly notify the County when it has collected the District Impact Fee or accepted the In-Kind Contribution from the developer, and the County shall not issue any building permit in connection with the new development until it has received such notification from the District. For purposes of this paragraph 3(d), if an In-Kind Contribution to be made by the developer constitutes construction of improvements, or the conveyance of any apparatus, equipment, or real property, then "acceptance" shall mean a written agreement between the District and the developer for such construction or conveyance.

e. No developer shall be required to provide any site-specific dedication or improvement to meet the same need for Capital Facilities for which the District Impact Fee is imposed, and no District Impact Fee shall be imposed on a developer if the developer already is required to pay an impact fee or other similar

development charge for another Capital Facility used to provide similar Emergency Services, or if the developer has voluntarily contributed money for such other Capital Facility.

f. The District shall account for all District Impact Fees in accordance with Part 8 of Article 1 of Title 29, Colorado Revised Statutes.

g. Nothing contained in this Agreement shall invalidate any existing agreement for impact fees or development charges between the District and a developer to pay for Capital Facilities.

4. Effective Date and Term. This Agreement is effective as of the date the last Party signs this Agreement, and shall continue in effect until terminated in accordance with its terms.

5. Termination.

a. The Parties may at any time mutually agree in writing to terminate this Agreement.

b. The District may at any time terminate this Agreement upon 30 calendar days prior written notice to the County.

c. Within 30 calendar days of receiving an Updated Impact Fee Schedule and an Updated Nexus Study, the County may send the District written notice that it objects to the Updated Impact Fee Schedule. The Parties shall promptly meet to determine if they can agree upon a mutually acceptable Updated Impact Fee Schedule, or to continue the then-current Impact Fee Schedule. If the Parties are unable to agree upon a mutually acceptable Updated Impact Fee Schedule, or to continue the then-current Impact Fee Schedule, the County may terminate this Agreement upon 30 calendar days prior written notice to the District, and the County shall cease imposing the District Impact Fee as of the effective date this Agreement is terminated.

6. Default. If either Party defaults in its performance under this Agreement, the non-defaulting Party shall notify the defaulting Party of the default. The defaulting Party shall have the right to cure, or to make substantial efforts to cure, the default within 10 calendar days after the non-defaulting Party's notice of default is given. If the defaulting Party fails to cure, or to make substantial efforts to cure, the default within the 10 day period, the non-defaulting Party, at its option, may immediately terminate this Agreement or may elect to treat this Agreement as being in full force and effect. If the non-defaulting Party elects to treat this Agreement as being in full force and effect, then the non-defaulting Party shall have the right to bring an action for any remedy available to such Party in equity or at law.

7. Governmental Immunity. Nothing in this Agreement shall be construed as a waiver of the limitations on damages or any of the privileges, immunities, or defenses provided to, or enjoyed by, the Parties under common law or pursuant to statute, including but not limited to the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*

8. Entire Agreement. This Agreement is the entire agreement between the Parties with respect to the matters covered by it, and supersedes any prior understanding or agreements, oral or written, with respect thereto.

9. Notices and Requests. Any notice permitted or required by this Agreement shall be in writing and shall be hand-delivered or sent by certified or registered mail, postage prepaid, return receipt requested, to the following addresses. Notices are effective upon receipt.

Adams County
Attn: CEDD, Director

Bennett Fire Protection District
Attn: Fire Chief

10. Miscellaneous. Colorado law governs this Agreement. Jurisdiction and venue shall lie exclusively in the Adams County District Court. This Agreement may be amended only by a document signed by the Parties. Course of performance, no matter how long, shall not constitute an amendment to this Agreement. If any provision of this Agreement is held invalid or unenforceable, all other provisions shall continue in full force and effect. Waiver of a breach of this Agreement shall not operate or be construed as a waiver of any subsequent breach of this Agreement. This Agreement shall inure to the benefit of and be binding upon the Parties and their legal representatives and successors. Neither Party shall assign this Agreement. This Agreement is not intended to, and shall not, confer rights on any person or entity not named as a party to this Agreement. This Agreement may be executed in counterparts and by facsimile or electronic PDF, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement.

ADAMS COUNTY, a political
Subdivision of the State of Colorado

BENNETT FIRE PROTECTION DISTRICT, a
political
subdivision of the State of Colorado

By: _____
Chair, BoCC

By: _____
_____, Board President

Date: _____

Date: _____

ATTESTED:

_____, County Clerk

ATTESTED:

_____, Board Secretary

Attachment 1

BENNETT FIRE PROTECTION DISTRICT
EMERGENCY SERVICES IMPACT FEE SCHEDULE
Effective January 1, 2018

Residential	
Unit Type	Fee Per Dwelling Unit
Single Family	\$1500
Multifamily	\$1500

Nonresidential	
Type	Fee Per Square Foot
Nonresidential	\$0.72

No individual landowner is required to provide any site specific dedication or improvement to meet the same need for capital facilities for which an impact fee is imposed pursuant to this schedule.

Attachment 2

**BENNETT FIRE PROTECTION DISTRICT
IMPACT FEE FORM**

Developer Information			
Development Company		State of Incorporation	
Address			
Telephone		Fax	
Contact Person			
Name		Title	
Telephone		Cell Phone	
Email Address			
Development Information			
Name of Development		Location (Address or Cross Streets)	
Residential Units		Non-Residential Square Footage	
Single Units (\$___ per unit)		Commercial (\$___ per square foot)	
2+ Units (\$___ per unit)		Office/Industrial (\$___ per square foot)	
Manufactured Homes (\$___ per unit)		Industrial/Flex (\$___ per square foot)	
Impact Fee			
Check one: <input type="checkbox"/> No impact fee owed <u>or</u> <input type="checkbox"/> Impact fee owed in the amount of \$_____			
If applicable: <input type="checkbox"/> An in-kind contribution will be made in lieu of paying all or a portion of an impact fee. Description of the in-kind contribution (attach additional information if necessary) and amount of impact fee off-set:			

The developer must submit this signed Impact Fee Form with the other documentation required by Adams County as part of its development permit application process. If the County denies the application, the developer is not required to pay the Impact Fee or make an In-Kind Contribution to the District. If the County grants the application and issues a development permit, the developer must pay the Impact Fee and/or make the In-Kind Contribution or enter into a written agreement with the District before the County will issue a building permit in connection with the development.

DEVELOPER:

BENNETT FIRE PROTECTION DISTRICT:

By: _____
Date: _____

By: _____, Fire Chief
Date: _____