

RESOLUTION NO. 08-12

INTRODUCED BY:

Councilperson Dooley
Councilperson Hoffman

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF CASTLE PINES NORTH
APPROVING AN INTERGOVERNMENTAL AGREEMENT REGARDING THE
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

WHEREAS, pursuant to Section 31-15-101, C.R.S., the governing body of a municipality has the authority to enter into contracts; and

WHEREAS, the City Council wishes to hereby approve an intergovernmental agreement with Douglas County, Colorado, regarding the community development block grant program; and

WHEREAS, the City shall cooperate with Douglas County in all CDBG Program efforts pursuant to the intergovernmental agreement; and

WHEREAS, the City finds that such approval promotes the public health and welfare.

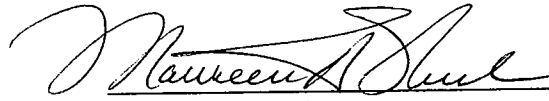
THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CASTLE PINES NORTH, COLORADO:

Section 1. The City Council hereby approves the Intergovernmental Agreement regarding the Community Development Block Grant Program substantially in the form attached hereto as Exhibit A and authorizes the Mayor to execute said intergovernmental agreement on behalf of the City.

Section 2. The City Council hereby adopts a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations.

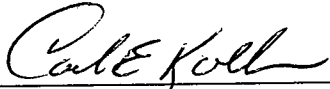
Section 3. The City Council hereby adopts a policy that it will, through its law enforcement agents, enforce applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdictions.

INTRODUCED, READ AND ADOPTED AT A REGULAR MEETING OF THE CITY
COUNCIL OF THE CITY OF CASTLE PINES NORTH THE 17TH DAY OF JUNE, 2008.



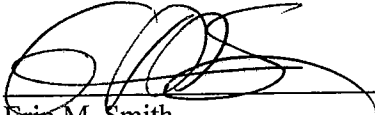
Maureen A. Shul, Mayor

ATTEST:



Carl E. Kollmar, City Clerk

APPROVED AS TO FORM:



Erin M. Smith
City Attorney

Exhibit A

Intergovernmental Agreement regarding the Community Development Block Grant Program for
the Fiscal Year of 2008 Administered by the U.S. Department of Housing and Urban
Development

INTERGOVERNMENTAL AGREEMENT REGARDING
THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
FOR FISCAL YEAR OF 2007 ADMINISTERED BY THE U.S. DEPARTMENT
OF HOUSING AND URBAN DEVELOPMENT

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and executed this ____ day of June, 2008, by and between the Board of County Commissioners of the County of Douglas, State of Colorado ("County"), and the City of Castle Pines North ("City"), located in Douglas County, State of Colorado.

RECITALS

WHEREAS, the parties hereto desire to enter into an Intergovernmental Agreement in order to set forth more fully the rights, obligations, and duties and responsibilities of the parties hereto; and

WHEREAS, in 1974 the U.S. Congress enacted the Housing and Community Development Act of 1974 ("Act") (as last amended and supplemented), permitting and providing for the participation of the federal government in a wide range of local housing and community development activities and programs, which activities and programs are administered by the U.S. Department of Housing and Urban Development ("HUD"); and

WHEREAS, the primary objective of Title I of the Act is the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, mainly for persons of low and moderate income, this objective to be accomplished by providing financial assistance in the form of block grant funds to state and local governments for the conduct and administration of housing and community development activities and programs as contemplated under the Act (the Community Development Block Grant ("CDBG") Program); and

WHEREAS, the rules and regulations governing the CDBG Program issued by HUD to implement the Act and published in 24 C.F.R. Part 570 ("Regulations") provide that a county must qualify as an "Urban County", as defined therein, and submit a request for funding now known as the Annual Action Plan or a five (5) year Consolidated Plan with an Annual Action Plan component, when required, on the projected use of the funds to HUD each year in order to be eligible to receive CDBG funds and that cities and units of local government within an Urban County may join an Urban County by cooperation agreement and thereby be considered a part of the Urban County and be included in the Urban County's CDBG Program; and

WHEREAS, the County has qualified as an Urban County; and

WHEREAS, the rules and regulations to qualify or requalify as an Urban County are published annually and the notice for the federal fiscal years 2007-2009 are published in HUD CPD Notice 03-04, Instructions for Urban County Qualification for Participation in the Community Development Block Grant Program for Fiscal Years 2007-2009; and

WHEREAS, a determination has been made by HUD that the County is authorized to undertake essential community development activities in its unincorporated areas that are necessary to qualify as an Urban County to receive funds from HUD by annual grant agreement. This determination is based on the authority granted to the County pursuant to C.R.S. §§ 29-3-101 to 123; §§ 30-11-101 and 107; §§ 30-20-301 to 310; and §§ 30-20-401 to 422; and

WHEREAS, a determination has been made by HUD that the County, through the Douglas County Multijurisdictional Housing Authority, is authorized to undertake essential housing activities in its unincorporated areas that are necessary to qualify as an Urban County to receive funds from HUD by annual grant agreement. This determination is based on the authority granted the County pursuant to C.R.S. § 29-1-204.5; and

WHEREAS, it is recognized that the County does not have independent legal authority to conduct some kinds of community development and housing assistance activities within the boundaries of the City and, therefore, its ability to conduct the CDBG Program in the City is limited by the requirement that it must obtain permission from the City to perform certain kinds of activities therein, and accordingly, in order for the City to be considered a part of the Urban County and be included in the County's annual requests to HUD for CDBG funds, it is required by the Regulations that the City and the County enter into a cooperation agreement wherein the City authorizes and agrees to cooperate with the County to undertake or to assist in the undertaking of essential community development and housing assistance activities, specifically including urban renewal and publicly assisted housing, within the boundaries of the City as may be approved and authorized in the County's annual grant agreements with HUD; and

WHEREAS, the participating City understands that by executing this Agreement it may not apply for grants under the Small Cities or State CDBG Programs for appropriations for federal fiscal years during the period it is participating in the Urban County's CDBG Program; and

WHEREAS, under general provisions of Colorado law governing contracting between governmental entities and by virtue of specific authority granted by C.R.S. § 29-1-203, any two or more political subdivisions of the state may enter into agreements with one another for joint or cooperative action and anyone or more political subdivisions entering into the contract is authorized by law to perform; and

WHEREAS, accordingly, the parties hereto have determined that it will be mutually beneficial and in the general public interest to enter into this Agreement regarding the conduct of the CDBG Program.

NOW, THEREFORE, in consideration of the premises and other provisions hereof, the parties agree as follows:

I. RESPONSIBILITIES OF THE CITY

A. City and County Cooperation

The City will cooperate and work with the County in the preparation of detailed projects and other activities to be conducted or performed within the City during the federal program years this Agreement is in effect. The City will also cooperate with the County to undertake, or assist in undertaking, community renewal and lower income housing assistance activities, specifically urban renewal and publicly assisted housing. The finalized projects and activities will be included in the County's Annual Action Plan or five (5) year Consolidated Plan with an Annual Action Plan component, when required, for said year. The City understands and agrees, however, that the County shall have final responsibility for the selection of all projects and activities to be included in the grant request and for submission of the request. The City shall cooperate fully with the County in all CDBG 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, specifically including urban renewal and publicly assisted housing, within the City as may be approved and authorized in: (1) the County's CDBG agreements, including the Annual Action Plan or five (5) year Consolidated Plan with an Annual Action Plan component, when required; and (2) SubGrantee Agreements.

B. SubGrantee Agreements

The City understands and agrees that pursuant to 24 C.F.R. § 570.501(b), it is subject to the same requirements applicable to subrecipients, including the requirement for a written agreement ("SubGrantee Agreement") as set forth in 24 C.F.R. § 570.503. This Agreement shall govern the SubGrantee Agreement and each of the individual projects approved during the time this Agreement is in effect.

Upon the execution of this Agreement, the residents of the City shall be allowed to avail themselves of CDBG funded programs in the County.

In order for the City to receive and continue receiving CDBG Funds, the following must occur:

1. The City must execute this Agreement.
2. The City must apply to the County for CDBG Funds for each specific project or activity.
3. The City must sign a SubGrantee Agreement with the County for the specific project or activity. The SubGrantee Agreement is governed by 24 C.F.R. § 503. As part of the SubGrantee Agreement, the City must submit to the County, and the County must approve, the project name, the project purpose, a scope of service, project description, proposed Scope of Work

for the specific project or activity, performance measures, staffing, a description of system delivery, project budget, time of performance, reporting requirements, labor standards requirements (if applicable), environmental review requirements, and other financial information. This Agreement shall govern program income, reversion of assets, records, and asset management.

4. The City must complete and submit the forms and reports that are exhibits to the SubGrantee Agreement in a complete and timely manner.
5. The City must be in full compliance with the terms and conditions of all SubGrantee Agreements it has signed and with all Intergovernmental Agreements Regarding the Community Development Block Grant Program Administered by the U.S. Department of Housing and Urban Development it has signed.

C. Assurances and Certifications

The City agrees to comply with HUD Assurances and Certifications contained in the document attached hereto labeled as Exhibit 1 and incorporated herein by reference.

D. Administrative Control

As to any proposed projects funded under this Agreement, the City agrees that the County shall have the ultimate supervisory and administrative control of the CDBG Program, but that the City shall be responsible for the expenditures of the funds allocated for each project or activity and for the construction or performance of the projects and activities in compliance with all applicable federal laws and requirements relating to the CDBG Program or the implementation of the Annual Action Plan or five (5) year Consolidated Plan with an Annual Action Plan component, when required, during the period covered by this Agreement.

E. Non-Appropriation Clause

The City agrees that it will include in every contract it enters, where it relies upon CDBG monies for funding, a non-appropriation clause that will protect itself and the County from any liability or responsibility on any suit which might result from the discontinuance of CDBG funding for any reason.

F. Excessive Force

The City has adopted and is enforcing:

1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and

2. A policy enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdictions.

G. Expenditure Restrictions

All CDBG funds that are approved by HUD for expenditure under the County's grant agreement, including those that are identified for City projects and activities, shall be allocated to the specific projects and activities described and listed in the City's proposal for funding and approved SubGrantee Agreement, and the allocated funds shall be used and expended only for the projects and activities to which the funds are identified. No project, activity, or the amount allocated may be changed without concurrence by the County and acceptance of the revised Annual Action Plan or five (5) year Consolidated Plan with an Annual Action Plan component, when required by HUD, and an approved SubGrantee Agreement that authorizes such project, activity, or amount.

H. Day- To-Day Supervision

The City will be responsible for the direct, day-to-day supervision and administration of its respective projects or activities and will accomplish this task through the use of its own staff, agents, and employees. The City will be responsible for any injury to persons or damage to property resulting from negligent acts or error and omissions of its staff, agents, and employees. However, nothing herein shall be construed as a waiver of the rights and privileges of the County and the City pursuant to the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*

I. Cost Overruns

Since the City is responsible for the direct supervision and administration of its respective projects or activities, the County shall not be liable or responsible for cost overruns by the City on any project or activity. The County shall have no duty or obligation to provide any additional funding to the City if its projects or activities cannot be completed with the funds allocated by the County to the City. Any cost overruns shall be the sole responsibility of the City.

J. Project Changes

No approved project or activity, nor the amount allocated therefore, may be changed without the concurrence of the County and acceptance of the revised Annual Action Plan or five (5) year Consolidated Plan with an Annual Action Plan component by HUD, if required, and acceptance of the revised SubGrantee Agreement. Changes must be requested in writing.

K. Bonds

The City will include with construction contracts with estimated costs of \$100,000 or more, which requires bid guarantees (5% of the bid), performance (100% of the contract price) and payment bonds (100% of the contract price).

L. Insurance

The City shall require any contractor it uses on any project or activity where it relies upon CDBG funds to provide and maintain, until final acceptance by the City of all work by such contractor, the types of insurance listed hereinafter with insurers with an A- or better rating as determined by Best's Key Rating Guide. The contractor will be required to procure and maintain, at his/her own expense and without cost to the County, the kinds of minimum amounts of insurance as follows:

1. Workers' Compensation insurance to cover obligations imposed by applicable laws for any employee engaged in the performance of work under this Agreement, and Employers' Liability insurance with the following limits:

Workers' Compensation:	Statutory
Employers' Liability:	\$1,000,000

2. Commercial General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000.00) each occurrence and ONE MILLION DOLLARS (\$1,000,000.00) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall include coverage for explosion, collapse, and underground hazards. The policy shall contain a severability of interests provision.

3. Commercial Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000.00) each occurrence with respect to each of the contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision.

4. Professional Liability Insurance coverage in an amount not less than One Million Dollars (\$1,000,000.00), and the contractor shall maintain such coverage for at least two (2) years from the termination of the project.

5. The required Commercial General Liability and Commercial Automobile Liability policies shall be endorsed to include the County and the City as certificate holders and name the County and the City, their officers and employees as additional insureds. The County and the City will be certificate holders in respect to the required

Workers' Compensation and Professional Liability insurance policies. The County reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

6. The certificates of insurance will be provided to the County by the contractor's insurance agent or carrier and approved by the County prior to commencing any work as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect. The completed certificates of insurance and any notices, within twenty (20) days of cancellation or termination, shall be sent to:

Sheryl D. Monroe
Douglas County
Risk Management
100 Third Street
Castle Rock, Colorado 80104

7. The contractor will not be relieved of any liability, claims, demands, or other obligations assumed by its failure to procure or maintain insurance, or its failure to procure or maintain insurance in sufficient amounts, durations, or types.

M. Records

The City shall maintain a complete set of books and records documenting its use of the CDBG funds and its supervision and administration of its respective projects and activities in accordance with the Regulations. The City shall provide full access to these books and records to the County, the Secretary of HUD or his designee, the HUD Office of Inspector General, and the General Accounting Office so that compliance with federal laws and regulations may be confirmed. The City further agrees to provide to the County, upon request, a copy of any audit records pertaining to the City's financial operations during the term of this Agreement. Records shall be maintained for five (5) years after closing out the CDBG project.

N. Timelines

The City shall submit to the County, along with its proposal, a timetable for each project delineating the length of time needed for each phase through the completion of the project. The timetable will be contained in the SubGrantee Agreement and the exhibits thereto. The City shall comply with the timetable submitted and legally obligate and expend funds accordingly through the end of the project. The City understands that failure to comply with the timetable may lead to a cancellation of the project and loss of CDBG funding, unless the County determines that there are extenuating circumstances beyond the City's control and that the project will proceed and will be completed within a reasonable length of time. The timetable's implementation will begin when the County provides written notification to the City that the proposal(s) has been accepted by HUD. Unobligated or unexpended funds that are lost by the City will be transferred to the County for distribution to other SubGrantees. The County will review the City's progress

to ensure that the activities are being carried out in a timely manner in accordance with 24 C.F.R. § 570.902.

O. Limitations

The City agrees that no more than two and one-half percent (2.5%) of the funds the City actually receives will be used for eligible planning, urban, environmental design, and policy-planning-management-capacity building activities, as defined in 24 C.F.R. § 570.205 of the Regulations.

The City understands that by executing this Agreement, it may not apply for grants under the Small Cities or State CDBG Programs for appropriations for federal fiscal years during the period it is participating in the Urban County's CDBG program. Also, even though the County does not qualify to receive HOME funds, the City cannot form a HOME consortium with other local governments.

P. Financial Management

1. The City's financial management system shall comply with the standards specified in OMB Circular No. A-87.

2. The City shall comply with Attachment F of OMB Circular No. A-110 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

3. The City agrees that before the County can distribute any CDBG funds, the City must submit to the County's Office of Community Development documentation in the form required by such Office which states the amount of funding the City is requesting. Upon approval of the request, the County will distribute the requested funds to the City or directly to the appropriate contractor.

Q. Program Income

The City agrees that, pursuant 24 C.F.R. § 570.504, all Program Income received under the CDBG Program will be retained by the City and will be disbursed for its CDBG project activities before additional CDBG funds are requested from the County. If the City terminates participation in the County's CDBG Program, Program Income received subsequent to the City's termination shall be remitted to the County.

R. Asset Management

If the City terminates participation in the County's CDBG Program, assets acquired through the CDBG Program shall be managed or disposed of in accordance with 24 C.F.R. Part 85.31 (Real Property), Part 85.32 (Equipment), and Part 85.50 (Close Out), and in accordance with the SubGrantee Agreements.