

ATTACHMENT A

NOTE: = **REQUIRED BY STATUTE (MOST SECTIONS ARE VERBATIM FROM STATUTE, ARTICLE V CAN BE AMENDED).**

 = **REQUESTED BY DCHP**

**AMENDED AND RESTATED
ESTABLISHING INTERGOVERNMENTAL AGREEMENT
FOR THE
DOUGLAS COUNTY HOUSING AUTHORITY, A MULTIJURISDICTIONAL
HOUSING AUTHORITY**

W I T N E S S E T H :

WHEREAS, Douglas County, Colorado has experienced rapid growth, and, consequently, the demand for attainable housing has grown to exceed the available supply; and

WHEREAS, there has been a concern expressed by the business community, public officials, and others that there is insufficient workforce housing for workers in Douglas County, Colorado, for example teachers, firefighters, retail, and daycare workers; and

WHEREAS, the majority of counties and many cities within Colorado have addressed such housing issues through the creation of housing authorities, whose purpose it is to effect the planning, financing, acquisition, construction, reconstruction or repair, maintenance, management, and operation of housing projects or programs; and

WHEREAS, Colorado Revised Statute (“C.R.S.”) 29-1-204.5, as amended (the “Act”), provides for the establishment of a separate governmental entity to be known as a multijurisdictional housing authority; and

WHEREAS, the City of Lone Tree, the Town of Castle Rock, the Town of Parker, and Douglas County, Colorado (collectively, the “Original Members”) previously entered into the Establishing Intergovernmental Agreement for the Douglas County Multijurisdictional Housing Authority (the “Original IGA”), by and among the Original Members, recorded in Douglas County, Colorado on April 2, 2003 at reception number 20030437554, establishing the Douglas County Housing Partnership, a Multijurisdictional Housing Authority (the “Authority”) pursuant to the Act, amended by the First Amendment to Establishing Intergovernmental Agreement for the Douglas County Multijurisdictional Housing Authority (the “Amendment to IGA,” together with the Original IGA, the “IGA”), by and among the Original Members, recorded in Douglas County, Colorado on December 17, 2013 at reception number 2013096700; and

WHEREAS, the Original Members desire to amend and restate the IGA to add the City of Castle Pines, Colorado and other changes thereto (this “Agreement”);

NOW THEREFORE, the undersigned local government members, the City of Lone Tree, the Town of Castle Rock, the Town of Parker, the City of Castle Pines and Douglas County,

Colorado (including any future members of the Authority, the “Members” and each a “Member”), pursuant to the Act, hereby agree as follows:

ARTICLE I

AGREEMENT

The undersigned Members hereby agree to join the Authority as local government members pursuant to this Agreement.

ARTICLE II

NAME

The name of the entity hereby established shall be the “Douglas County Housing Partnership, a Multijurisdictional Housing Authority” (the “Authority”).

ARTICLE III

PURPOSE

It is the purpose of the Authority to effect the planning, financing, acquisition, construction, reconstruction or repair, maintenance, management, and operation of housing projects or programs pursuant to a multijurisdictional plan in order to provide dwelling accommodations at rental prices or purchase prices within the means of families of low or moderate income, to provide affordable housing projects or programs for employees of employers located within the jurisdiction of the Authority; and any other purpose permitted by law.

ARTICLE IV

BOUNDARIES

The boundaries of the Authority shall be coterminous with the boundaries of the separate governmental entities that comprise the Authority, unless said boundaries are modified by the Authority.

ARTICLE V

ESTABLISHMENT AND ORGANIZATION OF GOVERNANCE

Section 5.01. Governance. The Authority shall be governed by the Board of Directors of the Authority (the “Board”). All power is vested in the Board.

Section 5.02. Board Memberships.

(a) **Selection of Directors.** The Board shall initially be comprised of ten directors (including any future directors, each a “Director” and together, the “Directors”). The governing body of each Member of the Authority (the “Member Jurisdiction”) shall

appoint two Directors to the Board, each Director of whom shall be an elected official of the Member or other designated representative. Two persons shall equally represent each Member Jurisdiction. If new members join the Authority in the future, they shall be represented on the Board by two persons for each Member Jurisdiction, and if a Member Jurisdiction withdraws from the Authority, then said jurisdiction will lose its representation, such that the total number of Directors shall correspondingly increase or decrease upon the addition or deletion of Member Jurisdictions. Each Member Jurisdiction shall be responsible for identifying its Director(s) to the Board and deciding if it shall be an elected official or designated representative.

(b) ***Selection of Alternate Directors.*** Each Member Jurisdiction may designate in writing two alternate directors (each an “Alternate Director” and together, the “Alternate Directors”) that will be allowed to vote by proxy in the event a Director appointed from the same Member Jurisdiction is unable to attend a meeting. An Alternate Director may only sit as a voting member of the Board when a Director from the same Member Jurisdiction is absent, and such absent Director may, but is not required to, designate in writing, including electronic communication, the Alternate Director as their proxy for such meeting. In the absence of direction from the absent Director, the Chair of the Board may select an Alternate Director from the same Member Jurisdiction as the absent Director as the proxy for the absent Director. At all other times, Alternate Directors may sit on the Board but only as non-voting Alternate Directors.

(c) ***Term of Office, Compensation and Filling Vacancies.*** The following criteria apply to each Director:

(i) Directors shall serve for a maximum of three, two-year terms.

(ii) Directors may not receive compensation for performing their Board duties. Directors, however, may be reimbursed for documented, actual and reasonable expenses incurred in connection with performing their duties.

(iii) Vacancies on the Board shall be filled by the Member Jurisdiction from which the vacancy arises.

(d) ***Quorum.*** A quorum for the transaction of business at any meeting or adjourned meeting of the Board will consist of a majority of the Directors then in office and at least one representative from each Member Jurisdiction. Action may be taken only if a quorum has been maintained. In the absence of a quorum, a majority of the Directors present may adjourn or recess the meeting from time to time until a quorum can be reached. Directors may participate in meetings electronically or telephonically by conference call and such participation shall count for purposes of establishing and maintaining a quorum so long as such participation meets the requirements of the Colorado Open Meetings Law, Article 6, Title 24, Part 4, C.R.S., as amended.

(e) ***Voting.*** The Board shall have the sole voting power on all matters relating to the Authority. Each Director shall have one vote. Except as otherwise required herein, the Bylaws of the Authority or as otherwise determined by the Board, any

matter submitted to a meeting of the Board will be resolved by a majority of the vote of the Directors present. Proxy voting shall be allowed by Alternate Directors as provided in Section 5.02(b) above. No other proxy voting shall be permitted. In case of an equality of votes, the Chair will have a second or deciding vote.

(f) **Duties of the Board.** It shall be the duty of the Board to govern the affairs of the Authority and to establish policies of the Authority; to comply with Parts 1, 5, and 6 of Title 29, Article 1 of the C.R.S, as amended; to exercise with due diligence and prudence the purpose and powers set forth herein; and to exercise any other duties established in the Bylaws of the Authority or a resolution of the Board.

(g) **Officers.** The Board shall be comprised of at least four officers, namely the Chair, Vice-Chair, Secretary, and Treasurer.

(i) The Chair shall be the principal elected officer of the Authority and shall preside at all meetings of the Board and fulfill any other duties as may be established by the Board.

(ii) The Vice-Chair shall serve as Chair in the event the Chair is absent or unable to fulfill the duties of the Chair and fulfill any other duties as may be established by the Board.

(iii) The Secretary will oversee, or cause to be overseen, that the Authority takes and keeps the minutes of meetings of the Board and any committee and fulfill any other duties as may be established by the Board.

(iv) The Treasurer will oversee, or cause to be overseen, that the Authority keeps full and accurate accounts of receipts and disbursements in books belonging to the Authority and fulfill any other duties as may be established by the Board.

The Board shall elect these officers by a two-thirds (2/3) vote of the Directors present at a meeting at which a quorum has been formed.

(h) **New Members.** New Member local governments must be admitted by a vote of a majority of the Directors present at a meeting at which a quorum is formed and subject to approval by the Member Jurisdictions. The Board may establish criteria for new Members, including fees for joining the Authority. New Members shall be granted the same number of Directors on the Board as described above in Section 5.02(a).

ARTICLE VI
REVENUES

(a) Initially revenues received by the Members will be determined as follows: The Authority’s primary source of revenue will be the general funds of the Member Jurisdictions. The budget from the Members is proposed to be two hundred thousand dollars (\$200,000.00) per year (the “Total Annual Budget”). The Board may amend the budgeted amount in order to account for operational and programmatic changes unforeseen at the time this Agreement is executed. The funding shall be provided as follows:

Member	Total Annual Budget
Douglas County Government	\$60,000
Town of Castle Rock	\$35,000
Town of Parker	\$35,000
City of Lone Tree	\$35,000
City of Castle Pines	\$35,000
Total Annual Budget	\$200,000

(b) Funding from each Member Jurisdiction shall be subject to annual availability and appropriation by the governing body of each Member Jurisdiction. In the event that additional Member Jurisdictions join the Authority, said new Member Jurisdiction shall pay an equal percentage of the Total Annual Budget as the other municipalities, and the percentage provided by the remaining Member Jurisdictions shall be reduced proportionally, such that the municipalities pay 70.0% of the Total Annual Budget and 100% of the Total Annual Budget is maintained.

(c) This Article VI may be changed at any time without an amendment to this Agreement through resolution by a vote of the majority of the Directors present at a meeting at which a quorum is formed and subject to approval by the Member Jurisdictions.

ARTICLE VII
POWERS AND FUNCTIONS OR SERVICES

Section 7.01. Powers. The general powers of the Authority include the following (the use of any power and responsibility listed below shall be at the discretion of the Board):

(a) to plan, finance, acquire, construct, reconstruct or repair, maintain, manage and operate projects and programs pursuant to a multijurisdictional plan within the means of families of low or moderate income;

(b) to plan, finance, acquire, construct, reconstruct or repair, maintain, manage and operate affordable housing projects or programs for employees of employers located within the jurisdiction of the Authority;

(c) to make and enter into contracts with any person, including, without limitation, contracts with state or federal agencies, private enterprises, and nonprofit organizations also involved in providing such housing projects or programs or the financing for such housing projects or programs, irrespective of whether such agencies are parties to this Agreement establishing the Authority;

(d) to employ agents and employees;

(e) to cooperate with state and federal governments in all respects concerning the financing of housing projects and programs;

(f) to acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of any real or personal property, commodity, or service;

(g) to condemn property for public use, if such property is not owned by any governmental entity or any public utility and devoted to public use pursuant to state authority; provided, however, that the use of condemnation by the Authority shall occur only with the concurrence of the participating local government jurisdiction where the proposed condemnation action is located;

(h) levy, in all of the area within the boundaries of the Authority, a sales or use tax, or both, according to State law; provided, however, that the use of taxing authority by the Authority shall occur only with the concurrence of all of the participating local government jurisdictions prior to submission for voter approval;

(i) levy, in all the area within the boundaries of the Authority, an ad valorem tax, according to State law; provided, however, that the use of taxing authority by the Authority shall occur only with the concurrence of all of the participating local government jurisdictions prior to submission for voter approval;

(j) to incur debts, liabilities or obligations;

(k) to sue and be sued in its own name;

(l) to have and use a corporate seal;

(m) to fix, maintain and revise fees, rents, security deposits, and charges for functions, services or facilities provided by the Authority;

(n) to adopt, by resolution, regulations respecting the exercise of its powers and the carrying out of its purposes;

(o) to exercise any other powers that are essential to the provision of functions, services, or facilities by the Authority and that are specified in this Agreement;

(p) to do and perform any acts and things authorized by the Act under, through, or by means of an agent or by contracts with any person, firm or corporation;

(q) to issue revenue or general obligation bonds according to State law and may pledge its revenues and revenue raising powers for the payment of such bonds;

(r) no action by the Authority to establish or increase any tax or development impact fee shall take effect unless first submitted to a vote of the registered electors of the authority in which the tax or development impact fee is proposed to be collected; provided, however, that the use of taxing authority or the imposition of development impact fees by the Authority shall occur only with the concurrence of all of the participating local government jurisdictions prior to submission for voter approval;

(s) to establish enterprises for the ownership, planning, financing, acquisition, construction, reconstruction or repair, maintenance, management, or operation, or any combination of the foregoing, of housing projects or programs authorized by this section on the same terms as and subject to the same conditions provided in C.R.S. 43-4-605;

(t) to issue conduit revenue bonds and enter into financing agreements, as defined in C.R.S. 29-3-103, with others for the purpose of providing revenues to pay the bonds issued to provide residential facilities within the means of families of low or moderate income (the "Projects"); to lease, sell, or otherwise dispose of any or all of its Projects to others for such revenues and upon such terms and conditions as the Authority may deem advisable; and to grant options to renew any lease or other agreement with respect to a Project and to grant options to buy any Project at such price as the Authority deems desirable; and

(u) to act as an issuing authority, as defined in C.R.S. 24-32-1703, for the purpose of being an assignee or delegate of private activity bond volume cap allocation under the Private Activity Bond Ceiling Allocation Act C.R.S. 24-32-1701, et seq., and take all such actions as are necessary in connection with the management and preservation of any private activity bond volume cap allocations assigned or delegated to the Authority, including the execution of any Internal Revenue Service ("IRS") form without further action of the Members.

Section 7.02. Functions or Services. The functions or services of the Authority will include any of the powers and responsibilities listed in Section 7.01 above. The list is not intended to suggest that all the functions or services should be a part of the work program for the Authority. The type and number of functions will depend upon the direction of the Board, and the capacity of the Authority to engage in particular areas of work.

Section 7.03. Coordination of Fees and Application Processing. The Board may make recommendations for Members and other political subdivisions within the County to establish certain incentives for the development of affordable housing projects that qualify under criteria established by the Board under this Agreement. These incentives may be reviewed annually by the Board and may include, but are not limited to, reductions in applicable fees, expedited approval and permitting, and alternative development regulations. The Members may choose to, and may encourage other political subdivisions within the County to, implement the incentives recommended by the Board.

ARTICLE VIII

STATUS AS POLITICAL SUBDIVISION

The Authority shall be a political subdivision and a public corporation of the State, separate from the parties to this Agreement, and shall be a validly created and existing political subdivision and public corporation of the State, irrespective of whether a contracting Member government withdraws (whether voluntarily, by operation of law, or otherwise) from the Authority subsequent to its creation under circumstances not resulting in the rescission or termination of this Agreement establishing the Authority pursuant to its terms. The Authority has the duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate. The Authority may deposit and invest its moneys in the manner provided in Article 4, Title 43, Part 6, C.R.S., as amended.

ARTICLE IX

OBLIGATIONS OF AUTHORITY

The bonds, notes, and other obligations of such Authority shall not be the debts, liabilities or obligations of the contracting Member governments.

ARTICLE X

INSURANCE

The Authority shall procure and maintain all insurance as required by State law.

ARTICLE XI

PROVISIONS

Section 11.01. Term. This Agreement shall continue in full force and effect until terminated in accordance with the provisions of Section 12.03, below.

Section 11.02. Amendment. This Agreement may be modified or amended only by action of the respective governing bodies of all Member Jurisdictions.

Section 11.03. Termination. This Agreement may be rescinded or terminated by action of the governing bodies of all the Members; provided, however, this Agreement may not be rescinded or terminated so long as the Authority has bonds, notes, or other obligations outstanding, unless provision for full payment of such obligations, by escrow or otherwise, has been made pursuant to the terms of such obligations. In the event of the rescission or termination of this Agreement and the dissolution of the Authority, all right, title, and interest of the Authority in General Assets (as hereinafter defined) of the Authority shall be conveyed to a governmental entity, nonprofit entity or the Members as determined by the Board, subject to any outstanding liens, mortgages, or other pledges of such General Assets. The term "General Assets" as used herein shall include all legal and equitable interests in real or personal property, tangible or intangible, of the Authority.

Section 11.04. Withdrawal. Any Member may withdraw from the Authority as of the end of any calendar year by giving written notice to the Authority at least ninety (90) days prior to the end of such calendar year; provided that such withdrawing Member shall pay all of its obligations hereunder to the effective date of its withdrawal.

Section 11.05. Funding Appropriated. Notwithstanding any other term or condition of this Agreement, it is expressly understood and agreed that the obligation of any party for all or any part of the payment obligations herein, whether direct or contingent, shall only extend to payment of moneys duly and lawfully appropriated for the purpose of this Agreement by each party's respective governing body. Each party hereby represents to the other that all moneys necessary to pay that party's obligations set out herein for the project as of the date of execution of this Agreement have been legally appropriated for the purpose of this Agreement.

Section 11.06. Applicable Law. This Agreement shall be interpreted pursuant to the laws of the State. The parties agree to comply with all applicable federal, state and local statutes, charter provisions, ordinances, rules, regulations and standards as are in effect at the time this Agreement is executed.

Section 11.07. Severability. Should any one or more provisions of this Agreement be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective; provided, however, the parties shall forthwith enter into good faith negotiations and proceed with due diligence to draft a term that will achieve the original intent of the parties hereunder.

Section 11.08. Venue. Venue for any litigation arising out of any dispute hereunder shall be in the Douglas County District Court, State of Colorado.

Section 11.09. Headings for Convenience. Headings and titles contained herein are intended for the convenience and reference of the parties only and are not intended to combine, limit, or describe the scope or intent of any provision of this Agreement.

Section 11.10. No Waiver of Governmental Immunity Act. The parties hereto understand and agree that all parties, their commissioners, mayors, city councils, town councils, agents and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101 to 120, C.R.S., as amended, or otherwise available to that party.

Section 11.11. Entire Agreement. This Agreement constitutes the entire Agreement of the parties hereto. The parties agree there have been no representations made other than those contained herein; that this Agreement constitutes their entire Agreement; and further agree that the various promises and covenants contained herein are mutually agreed upon and are in consideration for one another.

[Remainder of page intentionally left blank]

THEREFORE, IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

THE BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, COLORADO

[S E A L]

By: _____
Roger A. Partridge, Chair

APPROVED AS TO CONTENT:

ATTEST:

Douglas J. DeBord, County Manager

Kris Randlett, Clerk to the Board

APPROVED AS TO FORM:

APPROVED AS TO FISCAL CONTENT:

Christopher Pratt,

Andrew Copland, Director of Finance
Asst. County Attorney

CITY OF LONE TREE

By _____
Jackie Millet, Mayor

Attest:

Jay Robb, City Clerk

TOWN OF CASTLE ROCK, COLORADO, as
Assignor

By _____
Its: Mayor Jason Gray

[SEAL]

ATTEST:

Its: Town Clerk Lisa Anderson

Approved as to form:

Robert J. Slentz, Town Attorney

TOWN OF PARKER, COLORADO

By _____
Mike Waid, Mayor

[SEAL]

ATTEST:

Carol Baumgartner, Town Clerk

CITY OF CASTLE PINES

By _____
Tera Radloff, Mayor

Attest:

Tobi Basile, City Clerk