

RESOLUTION

RESOLUTION NO. 6

INTRODUCED BY COUNCILLORS

SERIES OF 2023

A RESOLUTION APPROVING THE OPEN SPACE GRANT AGREEMENT BETWEEN THE CITY OF WESTMINSTER AND THE COUNTY OF ADAMS

WHEREAS, on September 16, 2022, the City of Westminster applied for an Adams County Open Space Grant for management plan implementation for “McKay Lake Area” (the “Project”); and

WHEREAS on November 29, 2022, Adams County awarded the City of Westminster an Adams County Open Space Grant to complete the Project; and

WHEREAS, Adams County awarded the Project 68% of the total Project costs, not to exceed \$1,000,000.00, subject to the terms and conditions set forth in the opens space grant agreement attached hereto and incorporated herein as Exhibit A (the “Grant Agreement”).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER:

1. The City Council hereby approves the Grant Agreement and authorizes the City Manager to sign the Grant Agreement in substantially the same form as Exhibit A; and
2. The City Council hereby authorizes the expenditure of funds as necessary to meet the terms and obligations of the Grant Agreement; and
3. This resolution to be in full force and effect from and after its passage and approval.

PASSED AND ADOPTED this 13th day of February, 2023.

ATTEST:

City Clerk

Mayor

APPROVED AS TO LEGAL FORM:

City Attorney’s Office

EXHIBIT A

ADAMS COUNTY OPEN SPACE GRANT AGREEMENT

The Grant Agreement (“Agreement”) is made and entered into this day of _____, 202____, 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, in November 2020, the citizens of Adams County authorized the permanent extension of the existing county-wide sales tax of one-fourth of one percent for the continuing purpose of preserving open space and creating and maintaining parks and recreation facilities; and

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

WHEREAS, on September 16th 2022, Applicant applied for an Adams County Open Space Grant to complete the “Implementation of the McKay Lake Area Management Plan” (the “Project”); and

WHEREAS, on November 29th 2022, Adams County awarded Applicant an Adams County Open Space Grant to complete the Project; and

WHEREAS, Adams County awarded the Project 67.89% of the total Project costs, not to exceed \$1,000,000.00.

AGREEMENT

NOW, THEREFORE, the Parties hereto agree as follows:

1. Grant Award. Adams County hereby awards to Applicant a grant in the amount of 67.89% of the total Project costs, not to exceed \$1,000,000.00 (the “Grant”), subject to terms and conditions set forth in this Agreement.
2. Project Scope. Applicant shall complete the Project as described in the grant application, attached as Exhibit 1 (“Project Scope”), and incorporated herein by this reference. Exhibit 1 attachments include the grant application and 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 in the Open Space Policies and Procedures, attached as Exhibit 2 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.

3. Completion Date. Applicant shall complete the Project no later than November 29, 2024 (“Completion Date”), which is two years after the date of Adams County’s approval of the Project. 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 in the Open Space Policies and Procedures, exhibit 2, 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.
4. Compliance with Open Space Sales Tax Resolution and Open Space Policies and Procedures. Applicant shall use the Grant in accordance with Resolution 2020-480, and the Open Space Policies and Procedures, collectively attached hereto as Exhibit 2.
5. Audits and Accounting Records. Applicant shall maintain standard financial accounts, documents, and records relating to the completion of the Project. The accounts, documents and records related to the completion of this Project shall be subject to examination and audit by Adams County staff (the “Staff”) prior to receiving the Grant. All such accounts, documents, and records shall be kept in accordance with generally accepted accounting principles and be subject to an annual independent audit as set forth in Exhibit 2.
6. 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 reimbursements. Should the Project take two full years to complete, the Reimbursement Request for the final period of the project must be received by November 29th, 2024 to remain compliant with the Project Completion Date, as set forth above. Reimbursements disbursed from Adams County shall not exceed 67.89% of project costs incurred during the previous period with cumulative reimbursements totaling no more than \$1,000,000.00.
 - b. Acceptable Expenditures. Applicant can request payment for 67.89% of all project costs incurred within the previous period with cumulative reimbursements totaling no more than \$1,000,000.00 that: (1) have already been paid by the Applicant, and (2) are listed in the approved budget attached as Exhibit 1, 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, email, 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.
7. 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.
8. 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 originally passed by the Adams County voters in 1999, and reauthorized and permanently extended in November 2020.
9. 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. Venue for any dispute shall be in Adams County, Colorado.
 - 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:
CLERK AND RECORDER'S OFFICE

Deputy Clerk

APPROVED AS TO FORM:

County Attorney's Office

City of Westminster

By (signature)

Printed name

Title