

RESOLUTION NO. 24
SERIES 2019

INTRODUCED BY: MIKE GALLAGHER
SECONDED BY: AL BLUM

**A
RESOLUTION
OF THE CITY COUNCIL
OF THE CITY OF CHERRY HILLS VILLAGE
APPROVING AN INTERGOVERNMENTAL AGREEMENT
WITH THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ARAPAHOE
REGARDING 2019 GRANT OF ARAPAHOE COUNTY OPEN SPACE PROGRAM FUNDS
FOR JOHN MEADE PARK REDEVELOPMENT**

WHEREAS, C.R.S. Section 29-1-203 authorizes governments to cooperate or contract with one another to provide any function, service, or facility; and

WHEREAS, Section 13.6 of the City of Cherry Hills Village Home Rule Charter authorizes the City Council, by resolution or by ordinance, to enter into contracts or agreements with other governmental units or special districts for receiving services; and

WHEREAS, the City of Cherry Hills Village ("City") applied for a competitive grant from Arapahoe County Open Space to provide a portion of the necessary funding for the redevelopment of John Meade Park ("Project") in the amount of Five Hundred Thousand Dollars and No Cents (\$500,000.00) ("Application"); and

WHEREAS, the Open Space, Trails, and Advisory Board and the Arapahoe County Board of Commissioners ("BOCC") approved the Application for the entire amount requested; and

WHEREAS, the BOCC approved the Application subject to the City executing an intergovernmental agreement ("IGA") to memorialize the terms of the grant and to facilitate the completion of the Project, a copy of which is attached hereto as **Attachment A**; and

WHEREAS, the City has committed One Million Eight Hundred and Ninety-One Thousand Three Hundred and Fifty-Three Dollars and No Cents (\$1,891,353.00) in matching funds for the Project; and

WHEREAS, the City Council desires to accept the grant, approve the IGA, and authorize the Mayor to execute the IGA on behalf of the City.

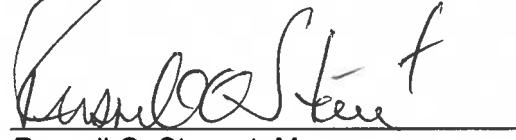
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cherry Hills Village, Colorado that:

Section 1. The City Council hereby: (a) accepts the grant and approves the IGA with the Board of Commissioners of the County of Arapahoe in substantially the same form as attached hereto as **Attachment A**; and (b) authorizes the Mayor or Mayor Pro Tem to execute the IGA on behalf of the City.

Section 2. This Resolution shall be effective immediately.

Introduced, passed and adopted at the regular meeting of City Council this 6th day of August, 2019, by a vote of 5 yes 0 no.

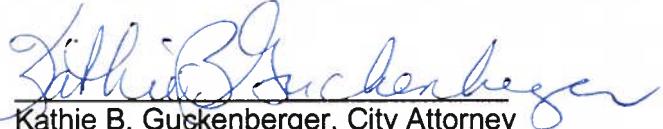
(SEAL)


Russell O. Stewart, Mayor

ATTEST:


Laura Gillespie, City Clerk

APPROVED AS TO FORM:


Kathie B. Guckenberger, City Attorney

Attachment A

Intergovernmental Agreement with the Board of County Commissioners of the County of
Arapahoe Regarding 2019 Grant of Arapahoe County Open Space Programs Funds for
John Meade Park Redevelopment

**INTERGOVERNMENTAL AGREEMENT REGARDING
2019 GRANT OF ARAPAHOE COUNTY OPEN SPACE PROGRAM FUNDS
PROJECT NAME: JOHN MEADE PARK REDEVELOPMENT**

This Intergovernmental Agreement ("Agreement"), is made and entered into by and between **THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ARAPAHOE, STATE OF COLORADO**, (the "County") and the **CITY OF CHERRY HILLS VILLAGE**, a municipality and political subdivision of the State of Colorado (the "Grantee") (collectively, "Parties" and individually a "Party").

WHEREAS, on November 4, 2003, and on November 1, 2011, the voters of Arapahoe County approved a county-wide sales and use tax to be deposited in the Arapahoe County Open Space Fund and used for specified open space purposes as set forth in County Resolution No. 030381, as amended by Resolution No. 110637 (Open Space Resolution); and

WHEREAS, the Open Space Resolution authorizes the County to award discretionary grants from its Open Space Fund to municipalities and special districts, as more fully set forth therein; and

WHEREAS, on July 23, 2019 the County approved the Grantee's Grant Proposal for the John Meade Park Redevelopment ("Grant Project"), which is attached hereto and incorporated by reference herein as Exhibit A, subject to the execution of an intergovernmental agreement and subject to the terms and conditions contained herein; and

WHEREAS, this intergovernmental agreement is authorized by Article XIV, Section 18 of the Colorado Constitution and COLO. REV. STAT. § 29-1-203.

NOW, THEREFORE, the County and the Grantee agree as follows:

1. **Amount of Grant.** The County hereby awards Grantee an amount not to exceed **\$500,000** ("Grant Funds") for the Grant Project from the Arapahoe County Open Space Fund.
2. **Use of Grant Funds.** The Grantee agrees that it shall only use the Grant Funds for the Grant Project, as described in Exhibit A.
3. **Disbursement of Grant Funds.** Subsequent to execution of this Agreement, the Grant Funds shall be paid via ACH transfer on a reimbursement basis upon receipt of the approved status report and documentation of expenditures as outlined in Paragraph 10 below and no more often than bi-annually. No more than 75% of the grant funds will be reimbursed prior to the Final Report approval. The final 25% of grant funds will be reimbursed following the project inspection and review and approval of the Final Report and project deliverables.
4. **Time for Use of Grant Funds.** The Grantee agrees that the Grant Project must begin within 60 days of the award notification. The Grantee agrees that the Grant Project will be completed and the Grant Funds will be expended by no later than

two years from the date of this fully executed Agreement, unless a longer period of time is otherwise agreed to by the County in writing. The Grantee understands and agrees that if the Grant Project cannot be completed by the end of the agreed upon time period the County may require that the Grant Funds be refunded to the County Open Space Grant Fund, be re-distributed to another agency and/or be used for another viable and timely grant project.

5. **Interest on Grant Funds.** The Grantee further agrees that, after receipt of the Grant Funds, the Grantee will use any interest earned on the Grant Funds only for the Grant Project as set forth in Exhibit A.
6. **Administration of Grant Project.** The Grantee shall be responsible for the direct supervision and administration of the Grant Project. The County shall not be liable or responsible for any cost overruns on the Grant Project, nor shall the County have any duty or obligation to provide any additional funding for the Grant Project if the Grant Project cannot be completed with the awarded Grant Funds. Grantee also agrees to comply with all local, state and federal requirements while completing the Project unless specifically waived.
7. **Grant Project Site Visits.** Upon 24 hours written notice to the Grantee, the Grantee agrees to allow the County to make site visits before, during, at the completion of and/or after the Grant Project.
8. **Acknowledgement of County by Grantee.** The Grantee agrees to acknowledge the County as a contributor to the Grant Project in all publications, on-site construction signage, news releases and other publicity issued by the Grantee related to the Grant Project and agrees to allow the County to do the same. If any events are planned in regards to the Grant Project, the County shall be acknowledged as a contributor in the invitation to such events. Grantee shall cooperate with the County in preparing public information pieces, providing photos of the Grant Project from time to time, and providing access to the Grant Project for publicity purposes. Event information, event materials and press release information related to the Grant Project must be sent to the County Grants Program Administrator for review and filing.
9. **Required Sign at Project Site.** The County agrees to provide a standard sign for each grant project. Grantee agrees to erect and permanently maintain at least one sign in a publicly visible area in recognition of the Grant from the Arapahoe County Open Space Program. If the Grantee wishes to use their own sign and design, the Grantee must submit the sign location, design, and wording to the County Grants Program Administrator for approval prior to manufacture and/or installation of such sign. Such sign shall be erected prior to the completion of the Grant Project or its public opening, whichever is earlier.
10. **Report Requirements.** On or before **January 31st and July 31st annually**, the Grantee agrees to provide the County with Grant Project Progress Reports that conform to the format provided by the County. Each Grant Project Progress Report shall include supporting financial documentation as requested in the form

provided. Upon completion of the Grant Project, the Grantee also agrees to submit to the County a Final Report that conforms to the format provided by the County; a final spreadsheet comparing the original budget to actual expenses that certifies Grant Funds used in compliance with the Open Space Resolution; supporting financial documentation as requested in the County report form; and high resolution photographs of the progress and finished results of the Grant Project. The Grantee further agrees to provide the County with digital copies of said photographs, delivered as separate high resolution jpeg images. The Final Report shall be submitted within three (3) months of Grant Project completion unless a longer period of time has been agreed to by the County in writing. The County shall be allowed to use information and images from these reports in publications, public information updates, and on the County's web site.

11. **Failure to Submit Required Reports.** Upon written notice from the County's Open Space Grants Program Administrator, informing the Grantee that it has failed to submit any required status report and/or final report, the Grantee shall submit such reports to the County through the County's Open Space Grants Program Administrator within thirty (30) days, and, if it fails to do so, the Grantee shall be deemed to be in violation this Agreement *pursuant to Paragraph 15, below.*
12. **Record Keeping Requirements.** The Grantee shall maintain a complete set of books and records documenting its use of the Grant Funds and its supervision and administration of the Grant Project. The County or any of its duly authorized representatives shall have reasonable access to any books, documents, papers, and records of the Grantee which are pertinent to the Grant Project for the purpose of making an audit, examination, or excerpts. The Grantee shall keep all books, documents, papers, and records, which are pertinent to the Grant Project, for a minimum of three years from the project completion date.
13. **Changes to Grant Project.** The Grantee agrees and understands that its Grant Project, once it has been approved by the County, may not be changed without the County's prior approval. Proposed changes must be formally requested using the applicable Grant Project Modification Form provided by the County. Changes may not begin until the County has issued an approval, which may also require the execution of an amendment to this Agreement.
14. **Maintenance.** Grantee agrees to assume responsibility for continuous long-term maintenance and public safety of open space lands, trails, recreation facilities, amenities, signage or other projects funded by the Grant Funds.
15. **Failure to Comply and Reimbursement of Grant Funds.** The Grantee understands and agrees that the County may require the Grantee to reimburse the County if any portion of the Grant Funds are not used in accordance with its approved Grant Proposal and this Agreement. Failure to comply with the terms of this Agreement shall result in default and the Grantee shall be ineligible for any future Grant Funds until the violation is remedied or after such other time period as determined by the County.

16. Remedies. The rights and remedies of the County as set forth in this Agreement shall not be exclusive and are in addition to any other rights or remedies provided by law.
17. No Waiver of Rights. A waiver by either Party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either Party.
18. Relationship of the Parties. The Grantee shall perform all duties and obligations under this Agreement as an independent contractor and shall not be deemed by virtue of this Agreement to have entered into any partnership, joint venture, employer/employee, or other relationship with the County.
19. No Third Party Beneficiaries. Nothing in this Agreement shall give or allow any claim or right of action whatsoever by any third party, including, but not limited to, any agents or contractors of the Grantee.
20. 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 provision that will achieve the original intent of the Parties hereunder.
21. Written Amendment Required. This Agreement may be amended, modified, or changed, in whole or in part, only by written agreement duly authorized and executed by the County and the Grantee.
22. Venue. Venue for the trial of any action arising out of any dispute hereunder shall be in Arapahoe County District Court, pursuant to the appropriate rules of civil procedure.
23. Notices. Notices, as referred to in this Agreement, shall be sent to:

COUNTY: Board of County Commissioners of Arapahoe County
5334 South Prince Street
Littleton, Colorado 80120-1136

and

Arapahoe County Attorney
5334 South Prince Street
Littleton, Colorado 80120-1136

and

Arapahoe County Open Space Grants Program Administrator
6934 S Lima St, Unit A
Centennial, Colorado 80112

and

GRANTEE:

City of Cherry Hills Village
2450 Quincy Avenue
Cherry Hills Village, CO 80113

24. **Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado.
25. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which will be deemed to be an original and all of which taken together will constitute one and the same agreement.
26. **Incorporation of Exhibits.** Unless otherwise stated in this Agreement, any exhibits, applications, resolutions, or other documents referenced in this Agreement shall be incorporated by reference into this Agreement for all purposes.
27. **Section Headings.** The headings for any section of this Agreement are only for the convenience and reference of the Parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.
28. **Assignment.** The rights, or any parts thereof, granted to the Parties herein may be assigned only with the prior written consent of the non-assigning party.
29. **Extent of Agreement.** This Agreement constitutes the entire agreement of the Parties hereto. The Parties agree that there have been no representations made regarding the subject matter hereof other than those, if any, contained herein, that this Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof, and further agree that the various promises and covenants contained herein are mutually agreed upon and are in consideration of one another.
30. **Signatures.** The signatories to this Agreement represent that they are fully authorized to execute this Agreement and bind their respective entities.

IN WITNESS WHEREOF, the County and the Grantee have executed this Agreement as of the date set forth below.

DATED this 6th day of August, 2019.

ATTEST:

By: Laura Gillespie

Name Laura Gillespie

Title City Clerk, Cherry Hills Village

GRANTEE:

By: Russell Stewart

Name Russell O. Stewart

Title Mayor, Cherry Hills Village

ATTEST:

COUNTY OF ARAPAHOE
STATE OF COLORADO

By: _____

Name _____

Title _____

By: _____

Shannon Carter, Director, Intergovernmental
Relations and Open Spaces

Pursuant to Resolution No. 190049