

**CITY OF LEADVILLE, COLORADO
RESOLUTION NO. 18
SERIES OF 2023**

**A RESOLUTION AUTHORIZING THE FILING OF AN AFFORDABLE HOUSING
COMMITMENT WITH THE COLORADO DEPARTMENT OF LOCAL AFFAIRS
PURSUANT TO PROPOSITION 123 AND STATE LAW AND APPROVING AN
INTERGOVERNMENTAL AGREEMENT WITH THE BOARD OF COUNTY
COMMISSIONERS OF LAKE COUNTY RELATED TO AFFORDABLE HOUSING
COMMITMENTS**

WHEREAS, the provisions of Section 18 of Article XIV of the Colorado Constitution and Section 29-1-203 of the Colorado Revised Statutes (“C.R.S.”) allow Colorado governments to cooperate and to contract with one another to provide any function, service, or facility lawfully authorized to each local government; and

WHEREAS, intergovernmental agreements that provide functions or services, including the sharing of costs of such services or functions, by political subdivisions of the State of Colorado, are specifically authorized by C.R.S. Section 29-1-203 and encouraged in order that the inhabitants of such political subdivisions may thereby secure high quality governmental services; and

WHEREAS, the City of Leadville, Colorado (“City”) is a statutory municipality, authorized to enter into contracts and intergovernmental agreements; and

WHEREAS, the City has adopted goals and strategies through its 2015 Comprehensive Plan to promote and facilitate affordable housing in the City; and

WHEREAS, at the Colorado general election in 2022, voters approved Proposition 123 through enactment of a new article 32 to title 29 of the Colorado Revised Statutes, which created new affordable housing programs and funding sources, such as grants and loans to local governments and nonprofit affordable housing developers through the creation of the State Affordable Housing Fund using 0.1% of state income tax revenue (“Prop 123”); and

WHEREAS, C.R.S. Section 29-32-105, C.R.S., requires a governing body of a local government that desires funding available under Prop 123 to make and file with the Colorado Department of Local Affairs, no later than November 1, 2023, a commitment specifying how the combined number of newly constructed affordable housing units and existing units converted to affordable housing within its boundaries will be increased by three percent each year over the baseline number of affordable housing units within its boundaries by December 31, 2026 (“Prop 123 Commitment”); and

WHEREAS, the City Council desires to authorize the City Administrator or her designee (which may include Lake County employees) to prepare and file a Prop 123 Commitment on behalf of the City; and

WHEREAS, the City Council and the Board of County Commissioners of Lake County recognize the benefits of establishing a collaborative partnership for purposes of committing to affordable housing growth objectives in furtherance of Prop 123; and

WHEREAS, C.R.S. Section 29-32-105(3)(d)(II) encourages regional partnerships among local governments by allowing local governments to enter into written agreements that allow each jurisdiction to receive partial credit towards the local government's affordable housing growth requirements for the purpose of calculating whether the local government has met the requirements of C.R.S. 29-32-105(1); and

WHEREAS, the City Council desires to enter into an intergovernmental agreement with the Board of County Commissioners of Lake County ("County") to memorialize their understanding of their obligations and affordable housing efforts pursuant to Proposition 123.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LEADVILLE, COLORADO, AS FOLLOWS:

Section 1. The foregoing recitals are incorporated herein as findings and determinations of City Council.

Section 2. The City Council hereby: (a) authorizes the City Administrator or her designee to prepare and file a Prop 123 Commitment on behalf of the City by November 1, 2023, and to take all such steps that are consistent with the direction of City Council and necessary to become eligible for and access Prop 123 funding; and (b) authorizes the Mayor to execute an intergovernmental agreement with the Board of County Commissioners of Lake County in substantially the same form as attached to this Resolution as **Exhibit 1**, subject to modifications made and approved by the City Attorney and City Administrator that do not materially alter the obligations of the City.

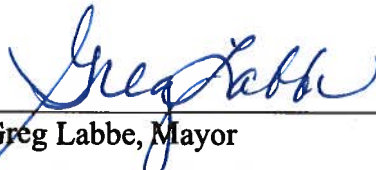
Section 3. **Severability.** If any section, paragraph, clause or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining issues of this resolution.

Section 4. Effective Date. This Resolution shall be effective immediately upon approval of the City Council of the City of Leadville.

ADOPTED this 15 day of August 2023 by a vote of
6 in favor, 0 against, 2 absent.

CITY OF LEADVILLE, COLORADO:



By: 
Greg Labbe, Mayor

ATTEST:


Deputy City Clerk

EXHIBIT 1

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LEADVILLE
AND THE BOARD OF COUNTY COMMISSIONERS OF LAKE COUNTY RELATED
TO AFFORDABLE HOUSING COMMITMENTS**

(see attached document)

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF LEADVILLE
AND
THE BOARD OF COUNTY COMMISSIONERS OF LAKE COUNTY
RELATED TO AFFORDABLE HOUSING COMMITMENTS UNDER PROPOSITION 123**

THIS AGREEMENT ("Agreement") is entered into effective this 15 day of August, 2023, by and between: the City of Leadville, Colorado ("City"); a statutory city within Lake County, Colorado; and Lake County, Colorado ("County"), a statutory county in the State of Colorado, (collectively the "Parties" or individually the "Party").

Recitals:

- A. Article XIV, Section 18(2)(A) of the Colorado Constitution, and C.R.S. 29-20-101 C.R.S., et seq. enable the Parties to enter into Intergovernmental Agreements (IGA) and authorizes each of the Parties to perform the functions described in this Agreement, as provided in C.R.S. 29-20-105.
- B. Intergovernmental Agreements that provide functions or services, including the sharing of costs of such services or functions, by political subdivisions of the State of Colorado, are specifically authorized by C.R.S. 29-1-203 and encouraged in order that the inhabitants of such political subdivisions may secure high quality governmental services.
- C. Proposition 123, which was approved by the Colorado voters in 2022, created new affordable housing programs and funding sources, such as grants and loans to local governments and nonprofit affordable housing developers through the creation of the State Affordable Housing Fund using 0.1% of state income tax revenue.
- D. Local governments that seek additional affordable housing funding from these programs must commit, by November 1, 2023, to increasing the number of affordable housing units within the local government's jurisdictional boundaries by 3% annually, and expedite development approvals for affordable housing projects, as conditions for funding pursuant to House Bill 23-1304, codified at C.R.S. 29-32-101 *et seq.*
- E. C.R.S. 29-32-105(1) specifically requires the governing body of a local government (municipality or county) to first determine its own baseline number of affordable housing units, by referencing the 2017-2021 American Community Survey (ACS) published by the U.S. Census Bureau, or the current version of the Comprehensive Housing Affordability Strategies (CHAS) estimates published by the U.S. Department of Housing and Urban Development. Funding is then available for the combined number of newly constructed affordable housing units and existing units converted to affordable housing, within any territorial boundaries of the local government, that are increased by three percent each year over the baseline number of affordable housing units. These requirements only apply to the unincorporated area of a county, or the territorial boundaries of an individual municipality, unless otherwise agreed through collaboration among local governments pursuant to C.R.S. 29-32-105(3)(d)(II).
- F. C.R.S. 29-32-105(3)(d)(II) encourages regional partnerships among local governments by allowing local governments to enter into written agreements that allow each jurisdiction to receive partial credit towards the local government's affordable

housing growth requirements for the purpose of calculating whether the local government has met the requirements of C.R.S. 29-32-105(1).

- G. The Parties recognize the fiscal, policy, legal, and administrative benefits of establishing a collaborative partnership for purposes of committing to affordable housing growth objectives in furtherance of House Bill 23-1304 and Proposition 123; and
- H. The Parties desire to enter into this Agreement to memorialize their understanding of their obligations and affordable housing efforts pursuant to Proposition 123 and hereby want to memorialize such understanding herein, due to: (1) the limited initial supply of affordable housing within their jurisdictions; (2) the need to pool total initial baseline and housing increase numbers among all Parties with the potential for upcoming affordable housing projects that may occur sporadically as specific projects come online; (3) increasing development pressures coupled with a severe lack of affordable housing for the local workforce and local community; and (4) the benefits of collaborative pooling of any available fiscal, legal, policy, and administrative expertise and resources among the Parties in furtherance of mutually beneficial affordable housing objectives.
- I.

AGREEMENT:

In consideration of the covenants and conditions contained in this Agreement, the Parties agree as follows.


1. **Affordable Housing Commitments.** The Parties have already filed (or will file) a commitment for annual increases in affordable housing ("Commitment") with the Department of Local Affairs pursuant to C.R.S. 29-32-105, specifying how each Party will increase a combination of its newly constructed affordable housing units and its existing units converted to affordable housing over its determined baseline number of affordable housing units by 3% each year within their respective territorial boundaries. The County agrees to file the City's commitment on behalf of the City. The Parties acknowledge that the Department of Local Affairs is currently interpreting this requirement to mean a total increase of 9% for the initial 3-year compliance tracking period, per <https://engagedola.org/prop-123>. The County will file a fully executed copy of this Agreement in conjunction with the Commitment with the Department of Local Affairs.
2. **Calculation of Affordable Housing Baseline and Increases.** If each Party files a Commitment pursuant to Section 1, the Parties agree to use the sum of the total area of the unincorporated County and of the boundaries of the incorporated City of Leadville in order to calculate increases in affordable housing units above each Party's baseline. Credits for increases in affordable housing above the baseline and subsequent years, for purposes of eligibility for funding under Proposition 123, shall be shared proportionally based on the baseline among all Parties, pursuant to C.R.S. 29-32-105(3)(d)(II).
3. **Financial Responsibilities.** The financial responsibilities for the Parties shall be as follows:
 - a. The Parties agree to collaborate in good faith, for purposes of affordable housing financing and grant funding opportunities, pursuant to Proposition 123 and House Bill 23-1304.

- b. Within each Party's sole discretion, any Party may individually seek grants for affordable housing opportunities, and each Party individually support financing opportunities for qualifying developers, or the Parties may partner on such efforts.
 - c. Fiscal reporting, budgeting, and the filing of Commitments shall be committed to the individual discretion of each Party. No provision of this Agreement shall be construed as a fiscal obligation of any Party beyond the current fiscal year.
- 4. **Fast-Track Approval.** In accordance with C.R.S. § 29-32-105(2), each Party shall be responsible for the implementation of a "fast-track" approval process for development projects for which fifty percent or more of the residential units constitute affordable housing.
- 5. **Term; Termination.** The term and termination provisions applicable to this Agreement are as follows:
 - a. The initial effective date shall be the date when the last Party signs this Agreement ("Effective Date").
 - b. This Agreement shall be for an initial term through and including December 31, 2026.
 - c. The Parties may renew this Agreement for additional three year terms, subject to the appropriation and availability of funding, and subject to the agreement of the Parties to additional annual renewal(s). The County Manager shall provide notice of requested annual renewal(s) to the City Administrator on or before December 15, 2026, and subsequent periods if additional renewals are desired. The approval, including any terms and conditions of any such renewal(s) by both all Parties, shall be secured in writing, and authorized on behalf of the Parties by the County Manager and City Administrator. As part of any annual renewal, the Parties shall specify any mutually-agreed upon modifications to this Agreement necessary to accomplish the Services identified, including any updated financial requirements. At their discretion, the County Manager and City Administrator may also submit an annual renewal to that Parties' governing body for approval.
 - d. Any Party may terminate this Agreement at any time by providing written notice to the other Party, at least thirty (30) days prior to the date of termination.
- 6. **Governmental Immunity and Insurance.** The Parties retain governmental immunity to the maximum extent permissible under the Colorado Governmental Immunity Act, 24-10-101, et seq., C.R.S., and other applicable law. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes and other applicable law.
- 7. **Amendments.** This Agreement shall not be modified or amended in any manner except by written instrument executed by the Parties.

8. **Waiver.** The waiver of any breach of any of the provisions of this Agreement, by either Party, shall not constitute a continuing waiver of any subsequent breach by that Party, either of the same, or of another provision of this Agreement.
9. **Severability.** Invalidation of any of the provisions of this Agreement, or of any paragraph, sentence, clause, phrase, or word, or the application of it, in any given circumstance, shall not affect the validity of the remainder of this Agreement.
10. **No Third-Party Beneficiaries.** Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give any person other than the Parties hereto, any right, remedy or claim, under or by reason of this Agreement.
11. **Entire Agreement.** This Agreement contains the entire and only agreement between the Parties, regarding the Proposition 123 Affordable Housing Commitments and no oral statements or representations regarding this matter that are not contained in this Agreement shall be of any force or effect between the Parties.
12. **Governing Law.** This Agreement shall be governed by the laws of the State of Colorado, both as to interpretation and performance. The courts of the State of Colorado shall have exclusive jurisdiction to resolve any disputes arising out of this agreement and venue shall be in Lake County, Colorado.
13. **Dispute Resolution.** In the event a disagreement or dispute arises between the Parties, the Parties shall attempt to confer and resolve the matter informally in good faith, and then the matter shall be submitted to mediation. The mediation shall be conducted by one mediator selected by the Parties who will share the costs equally. **Assignment.** No Party shall assign any responsibilities nor delegate any duties arising under this Agreement without the prior written consent of all the Parties.
14. **Approval and Ratification.** This Agreement may be executed in counterparts, electronically or otherwise, which shall be fully binding upon the Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective the date first above written.

CITY OF LEADVILLE:



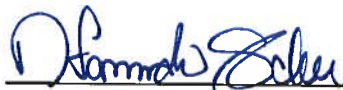
 Greg Labbe, Mayor
 Date Signed: 8/22/23

Attest:

BOARD OF COUNTY COMMISSIONERS OF
LAKE COUNTY:

 Sarah Mudge, Chairperson
 Date Signed: _____

Attest as to the Commissioners signature:



Hannah Scheer, Deputy City Clerk

Tracey Lauritzen, County Clerk
