INTERGOVERNMENTAL AGREEMENT REGARDING
PROPOSITION 123 SHARED AFFORDABLE HOUSING CREDITS
PROJECT: BROTHERS PSH DEVELOPMENT

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2025, by and between the City of Aurora, a Colorado home rule municipality ("Aurora" or "the City"), and Arapahoe County, a political subdivision of the State of Colorado ("County") (together, the "Parties").

WHEREAS, pursuant to Article XIV, Section 18(2)(a) of the Colorado Constitution and C.R.S. § 29-1-203, governments may cooperate and contract with one another to provide any function, service, or facility each is authorized to perform; and

WHEREAS, in 2022, Colorado voters approved Proposition 123, codified at C.R.S. § 29-32-101, *et seq.*, to make additional state funding available to participating jurisdictions that commit to increasing their affordable housing stock by three percent (3%) annually over a three-year period; and

WHEREAS, both Aurora and the County have formally submitted their respective Proposition 123 Commitments to the Department of Local Affairs ("DOLA") Colorado Division of Housing ("Division"), agreeing to increase the number of affordable housing units within their respective jurisdictions by three percent (3%) annually from their established baselines; and

WHEREAS, the Parties recognize that Brother PSH Development, an affordable housing development located within Aurora's municipal boundaries, located at 1900 Chambers Road, Aurora, Colorado 80014 ("the Development") will contribute to meeting both Aurora's and the County's Proposition 123 unit growth targets; and

WHEREAS, the Parties desire to enter into this Agreement to formalize a shared unit crediting arrangement for the affordable units at the Development, in accordance with C.R.S. § 29-32-105, which encourages intergovernmental agreements to allocate affordable housing credits among participating jurisdictions; and

WHEREAS, the Parties further intend to coordinate and cooperate for the purpose of tracking, reporting, and documenting the shared affordable housing units at Brothers PSH Development to satisfy applicable compliance requirements under Proposition 123.

NOW, THEREFORE, in consideration of the foregoing, and the mutual promises and covenants contained herein, the Parties agree as follows:

1. The Parties enter into this Agreement to allocate and track affordable housing units from the Development for the purpose of Proposition 123 compliance. This Agreement is intended to support each Party's obligations under their respective commitments filed with the Division.

2. The Development is an affordable housing project located within the City of Aurora and includes a total of 60 dwelling units that meet the eligibility criteria for affordable housing under Proposition 123.

3. As of the Effective Date of this Agreement, the Parties agree that 60 of the eligible units shall be counted by Arapahoe toward its Proposition 123 three-year unit growth commitment.

4. The City may, at its sole discretion and without obligation, allocate additional affordable housing units located within its municipal boundaries to Arapahoe County in future years. Any such additional allocation shall be provided by written notice from Aurora to Arapahoe County and shall not require amendment of this Agreement. The Parties acknowledge that additional units potentially eligible for allocation may include certain mobile home placements anticipated as of October 2025.

5. Each Party shall be responsible for submitting its own reports and documentation to the Division in accordance with applicable state requirements. The Parties agree to reasonably cooperate and share relevant project data or

certifications, when required, to ensure accurate reporting and crediting of the Development units in accordance with the allocation described in this Agreement.

6. This Agreement shall take effect upon execution by both Parties and shall automatically renew on January 1st o each year thereafter for additional, consecutive one-year terms until terminated by mutual agreement of all Parties or by the unilateral termination by the City of Aurora via written notice.

7. Although nothing in this Agreement shall be construed to create a financial obligation on the part of either Party, any contribution of funds by either Party would be subject to the annual appropriations of such jurisdiction for such purpose. Any decision to contribute funds or resources in support of the Development shall be addressed separately and is not governed by this Agreement. No debt or fiscal year financial obligation is created by this Agreement.

8. The parties to this Agreement do not intend to benefit any person not a party to this Agreement. No other person or entity, other than the Parties to this Agreement, shall have any right, legal or equitable, to enforce any provision of this Agreement.

9. The Parties may not assign any rights or delegate any duties under this Agreement, whether by assignment, subcontract, or other means, unless mutually agreed upon in writing. Any such attempted assignment or delegation shall be void and shall constitute a breach of this Agreement.

10. Nothing in this Agreement shall be construed as a waiver of the rights, protections, or limitations of liability provided to either Party under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended. Each Party agrees to be responsible for its own acts and omissions and those of its officers, employees, and agents in the performance of this Agreement. This provision shall survive the termination of this Agreement.

11. Notice and Communications: Any notice to the parties required under this Agreement shall be in writing, delivered to the person designated below for the parties at the indicated address unless otherwise designated in writing. Only mailing by United States mail or hand delivery shall be utilized for notice required to be given under this Agreement. Facsimile and e-mail addresses are provided for convenience only. However, copies of mailed or hand-delivered notices may be sent to the Parties via e-mail or facsimile.

AURORA:	ARAPAHOE COUNTY:
City of Aurora 15151 E. Alameda Parkway, Suite 4500 Aurora, Colorado 80012 Attn: Jessica Prosser, Housing and Community Services Director Telephone: 303.739.7280 E-mail: jprosser@auroragov.org	Arapahoe County Community Resources Department 1690 W. Littleton Blvd., Suite 300 Littleton, CO 80120 Attn: Katherine Smith, Community Resources Director Telephone: 303-738-8041 E-mail: ksmith@arapahoegov.com

12. The waiver by either Party of any breach by the other of any term, covenant, or condition contained in this Agreement shall not be deemed to be a waiver of any subsequent breach of the same or other term, covenant, or condition.

13. This Agreement represents the entire understanding between the Parties with respect to the subject matter hereof and supersedes any prior or contemporaneous agreements or understandings, whether oral or written.

14. The invalidity or unenforceability of any particular term or provision of this Agreement shall not affect the validity or enforceability of any other term or provision and this Agreement shall be construed in all respects as if such invalid or unenforceable term or provision was omitted.

15. This Agreement may not be modified or amended unless mutually agreed upon, in writing, by the Parties. The Parties consent to the use of electronic signatures and agree that the transaction may be conducted electronically pursuant to the Uniform Electronic Transactions Act, C.R.S. § 24-71.3-101, *et seq.* The Agreement and any other documents requiring a signature may be signed electronically by either Party. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature on the grounds that it is an electronic record or an electronic signature or that it is not in its original form or is not an original.

16. Unless otherwise agreed in writing, the Agreement and the interpretation thereof shall be governed by the laws of the State of Colorado and venue for any civil action between the Parties arising out of or relating to this Agreement shall be in the State of Colorado District Court for Arapahoe County, Colorado.

City of Aurora

_____

Jessica Prosser, Director
Housing and Community Services

_____

Date:

Arapahoe County

_____

Katherine Smith
Director, Community Resources

_____

Date: