

AFFORDABLE HOUSING FINANCING FUND LAND BANKING PROGRAM

GRANT AGREEMENT

THIS GRANT AGREEMENT (“Agreement”) is made and dated as of _____, 2025 (the “Effective Date”), by and between the COLORADO HOUSING AND FINANCE AUTHORITY, a body corporate and political subdivision of the State of Colorado, solely in its capacity as the Program Administrator for the AFFORDABLE HOUSING FINANCING FUND, managed by the Colorado Office of Economic Development and International Trade, a Colorado state agency (the “Grantor”) and Town of Frisco, a Colorado home rule municipality whose address is PO Box 4100, Frisco, CO 80443 (the “Grantee”).

RECITALS

WHEREAS, Colorado Housing and Finance Authority (the “Authority”) has been retained by the Colorado Office of Economic Development and International Trade (“OEDIT”) as the program administrator of the Affordable Housing Financing Fund (“Fund”). The Fund was created by the Affordable Housing Statute (CRS 29-32-101 et seq) (“Statute”) which was voted on and approved by Colorado voters in a November 2022 ballot measure commonly known as Proposition 123 (“Proposition 123”). The Land Banking Program (the “Program”), as part of Proposition 123, provides funding for the acquisition and preservation of land for the development of affordable rental housing, affordable homeownership, and/or mixed commercial use (if the predominate use is affordable housing).

WHEREAS, Grantee wishes to receive grant funds to acquire and preserve for affordable housing that certain property located at 101 W. Main St., Frisco, CO 80443 (the “Project”).

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, Grantee and Grantor agree as follows:

1. Grant and Purpose. Grantor agrees to grant and Grantee agrees to receive an amount up to Five Million Dollars (\$5,000,000.00) pursuant to the terms provided herein (the “Grant”) for the Project. The Grant will be disbursed to the Grantee subject to all of the terms, provisions, conditions, covenants, and agreements contained in this Agreement. This Agreement, and any other document evidencing or executed in connection with the Grant are hereinafter collectively referred to as the “Grant Documents.”

2. Milestones. As a condition of the Grant, Grantee must meet the following milestones:

a. Initial Milestones. Within five (5) years of the Grant closing (the “Initial Deadline”), the Project must be properly zoned for the proposed Project use, and a development

plan for the Project must be submitted to and approved by the Authority (collectively, the “Initial Milestones”); and

b. Final Milestones. Within ten (10) years of the Grant closing (the “Final Deadline”), the Project must obtain all necessary permits, and the Grantee must close and receive funding on, or cause the Project to close and receive funding on, one or more construction loans, grant funds, or other financing sources in an amount needed to complete the Project (collectively, the “Final Milestones”). The Initial Milestones and Final Milestones are collectively referred to herein as the “Milestones.”

Grantee acknowledges that failure to meet the Initial Milestones or Final Milestones could impact future award(s) under the Program.

3. Grant Repayment. Grantee must repay the Grant in full if the Grantor determines that Grantee failed to timely and properly meet each of the Milestones. If the Initial Milestones are not timely or properly met, then repayment is due within six (6) months of the Initial Deadline. If the Final Milestones are not timely or properly met, then repayment is due within six (6) months of the Final Deadline. If the Grant is repaid in full prior to the Final Deadline, the Restrictive Covenant (defined below) will be released and the Program’s restrictions on Project use will terminate.

4. Grant Fees. The Grantee shall pay any and all of the Authority’s and OEDIT’s third-party costs, including but not limited to title insurance premiums, appraisal fees, attorneys’ fees and costs, title company closing fees, environmental search charges, recording costs, and UCC/entity search charges, as applicable (the “Closing Costs”).

5. Program Requirements. Grantee must meet all Program requirements including, but not limited to the following.

a. Reporting. Grantee must comply with the Program reporting requirements described on Exhibit A.

b. Grantee Eligibility. Grantee must be either a local or tribal government.

c. Project Eligibility. The Project must be developed as affordable rental housing, affordable for sale housing, or commercial mixed-use with a residential component. If the Project is commercial mixed-use, then the Predominate Use (as hereinafter defined) must be affordable housing. Market-rate housing or rent-restricted housing above 80% area median income (“AMI”) may be included in that portion of the Project that does not consist of the Predominate Use. “Predominate Use” as used herein means at least 70% of the Project’s improved square footage, unless otherwise agreed to in writing by the Grantor. The commercial use of a mixed-use project must be compatible with the affordable housing use and must be approved by the Grantor in advance in the Grantor’s sole discretion.

d. Environmental Sustainability Requirements. Each of the following is required to meet the Environmental Sustainability Standards for the Project and the Project shall be designed to meet the requirements as follows:

- i. Certification from one of the following*:
 - 1. 2020 Enterprise Green Communities (EGC)
 - 2. Leadership in Energy and Environmental Design LEED v.4.1 (LEED)
 - 3. National Green Building Standards NGBS ICC-700-2020 (NGBS)
 - 4. Zero Energy Ready Homes standard (US DOE)
- ii. All-electric building using high efficiency electric appliances such as heat pumps and heat pump water heaters, or a mixed-fuel building that includes pre-wiring for efficient electric heating and appliances and includes pre-wiring to enable future installation of EV charging station(s) for at least 10% of parking spots or greater if required under local codes.
 *Developments that achieve all-electric construction with high-efficiency electric appliances may opt-out of a formal green building certification.
- iii. Utilize water-efficient design inside and outside. Full guidance can be found at coloradowaterwise.org.
- iv. Developments must be located within a half-mile of existing or planned transit corridors.

e. Restrictive Covenant. A restrictive covenant as set forth in Paragraph 6 (the “Restrictive Covenant”) shall be recorded against the Project at the closing of the Grant.

6. Restrictive Covenant. A Restrictive Covenant shall be recorded against the Project in the official records of the county where the Project is located at the closing of the Grant. All covenants and payment liens shall be subordinate to the Grantor’s Restrictive Covenant. The Restrictive Covenant shall include, but not be limited to, the following provisions:

- a. Affordability Term.
 - i. The Restrictive Covenant will be required to remain of record so long as the Grant remains outstanding. The Restrictive Covenant may be released if the Grant is repaid.
 - ii. If the Project as developed includes rental units, the Restrictive Covenant shall restrict the affordability of such rental housing units as

set forth in paragraph 6.b below for at least 40 years after the final improvements are constructed and occupied, unless otherwise agreed to by the Grantor.

- iii. If the Project as developed includes homeowner units, the Restrictive Covenant will restrict the homeowner units to remain affordable as set forth in paragraph 6.b below for at least 40 years after the final improvements are constructed and occupied, through a ground lease or similar structure each as approved by the Grantor, unless otherwise agreed to by the Grantor.
- iv. If the Project site has pre-existing improvements, then it must comply with each of the foregoing affordability requirements as more fully set forth in the Restrictive Covenant.
- v. The Project may request a reduction to the term of the Covenant as stated in paragraph 6.a.(2) and/or paragraph 6.a.(3) to twenty (20) years by providing the Grantor a market analysis that supports such reduction. The Grantor may grant or deny this request in the Grantor's sole discretion.

b. AMI. Except as permitted under Section 5.c. hereof regarding that portion of the Project that does not consist of the Predominate Use, if the Project includes rental units, then the annual income of such households may not exceed 80% AMI. If the Project includes homeowner units, then the annual income of such households may not exceed 100% AMI.

c. Other Conditions. If the Project will be a commercial/mixed-use project, the Predominate Use must be compatible with affordable housing, and the commercial use must be approved in advance of development by the Grantor in its sole discretion.

7. Conditions Precedent to Funding Grant. Prior to the advance of any Grant proceeds to Grantee, all of the following conditions shall have been satisfied, which satisfaction shall be determined by the Authority, in its sole discretion, on behalf of Grantor:

a. The conditions established by Grantor in the Grant Commitment for the funding of the Grant shall be satisfied, including the Grantee's satisfactory compliance with the terms and conditions of this Agreement.

b. Grantee shall have submitted, and the Authority on Grantor's behalf shall have approved of, all of the reports required under this Agreement.

c. All leases, including but not limited to any ground lease between Grantee and any third party, shall be in form and substance satisfactory to the Grantor.

d. Grantee shall have provided a satisfactory appraisal of the Project to the Grantor (in accordance with the Grantor's appraisal guidelines).

e. Grantee shall have provided evidence satisfactory to the Grantor that the Grantee and the Project are and will be in compliance with applicable environmental laws, regulations, permits, orders or other environmental requirements and that the real and personal property, if any, comprising the Project do not contain hazardous wastes or other adverse environmental conditions.

f. All representations made by or on behalf of the Grantee to the Authority in connection with its application for the Grant and in connection with the closing shall be true and correct as of the date of funding of the Grant.

g. As of the date of funding of the Grant, no change shall have occurred in the financial condition of the Grantee or in any other aspect of the financing proposal of which the Grant is a part which, in the judgment of the Grantor, materially adversely affects the ability of the Grantee to repay the Grant in the event of a default or makes unreasonable or unreliable any of the financing assumptions upon which such repayment is predicated.

h. No litigation shall be pending or threatened calling into question or which, if adversely determined, would affect (i) the creation, organization or existence of the Grantee; (ii) the validity of the Grant documents; or (iii) the authority of the Grantee to enter into the Restrictive Covenant against the Project's real property or to otherwise make or perform the Grant documents. No proceedings shall be pending or threatened against or affecting the Grantee which involve the possibility of materially and adversely affecting the properties, business, prospects, profits or condition (financial or otherwise) of the Grantee, nor shall the Grantee be in default with respect to any order of any court, governmental authority or arbitration board or tribunal or any prior grant or loan made to it by the Grantor.

8. Agreements of Grantee. Grantee covenants and agrees with Grantor as follows:

a. Grantee shall only have the right to use the Grant proceeds if Grantee is not in default under any of the terms of this Agreement.

b. Upon request, Grantee shall provide the Authority on Grantor's behalf with evidence of expenditure of the Grant funds for purposes permitted under this Agreement.

c. Grantee shall not discriminate against any person on the basis of race, color, religion or creed, sex, marital status, national origin, familial status, disability, age, veteran status, sexual or gender preference, political opinion or affiliation, or any other basis prohibited by law in the operation of the Project or in connection with the employment or application for employment of any person performing any work related to the Project or related to the management of the Project.

d. Grantee shall not assign or attempt to assign, directly or indirectly, any of its rights under this Agreement or under any instrument referred to herein without the prior written consent of Grantor. Grantee shall not permit any transfer, conveyance, sale, assignment, or lease, whether voluntary or involuntary or by action of law, of all or any portion of the Project without the prior written consent of the Authority on Grantor's behalf.

e. Grantee shall use the proceeds of the Grant in compliance with all applicable U.S. anti-terrorist financing and asset control laws, regulations, rules, and executive orders, including, but not limited to, the USA Patriot Act of 2001 and Executive Order No. 13224.

f. Except as otherwise set forth herein, any reports required under this Agreement shall be provided within ninety (90) days after the end of Grantee's fiscal year. Grantee shall provide Grantor with impact statements reporting on the requirements as set forth in Exhibit A in a form acceptable to Grantor.

g. Grantee has not defaulted on any monetary obligation.

h. Grantee shall provide Grantor with notice of any default or event of default under the Ground Lease within 10 business days after obtaining actual knowledge thereof.

9. Representations and Warranties of Grantee. Grantee represents and warrants to the Grantor as follows:

a. Grantee is a local or tribal government located in Colorado and has the necessary power, authority, and licenses to operate its properties and transact business including in Colorado.

b. There is no default on the part of Grantee under any agreement or document pertaining to the Project to which it is a party, and no event has occurred that with notice or the passage of time or both would constitute a default under any such document.

c. Grantee has the full power and authority to accept the Grant, enter into and perform its obligations under this Agreement and the Grant Documents, and execute and deliver this Agreement and the Grant Documents. The execution and delivery of this Agreement and the Grant Documents and the performance and observance of their terms, conditions and obligations have been duly authorized by all necessary action on the part of Grantee. This Agreement and the Grant Documents constitute, and any other agreement required hereby will constitute, when executed and delivered by the Grantee to the Grantor, valid and binding obligations of the Grantee enforceable in accordance with their terms.

d. There is no action, suit or proceeding at law or in equity, or by or before any governmental instrumentality or agency, or to the knowledge of Grantee, threatened against or affecting it, which, if adversely determined, would materially impair its right or ability to carry on business substantially as now conducted, or as contemplated to be conducted under this

Agreement and the Grant Documents, or that would materially adversely affect Grantee's financial condition.

e. To the best of Grantee's current knowledge, the transactions contemplated herein will not cause a default under any other agreement and will not conflict with or violate any organizational document or agreement to which Grantee is a party or by which Grantee is bound.

f. To the best of Grantee's current knowledge, Grantee has not executed and will not execute any agreement(s) with provisions contradictory or in opposition to, the provisions of this Agreement and the Grant Documents.

g. The Project is located in a jurisdiction that has filed a commitment to increase affordable housing and opted into Proposition 123 funding.

h. Grantee acknowledges and agrees that the following uses and activities shall not be conducted in or on the Project: (i) activities which are illegal under federal, state or local laws; (ii) selling, producing, or displaying sexually oriented material (e.g., adult book stores, adult video stores, adult theaters, etc.); (iii) non-medical massage services; (iv) a business generating greater than twenty-five percent (25%) of its revenues from the sale of alcoholic beverages not manufactured on-site or from selling alcoholic beverages for consumption off premises; (v) a business or organization that discriminates in its membership or facility usage on the basis of race, color, national origin, religion, gender, age, disability, citizenship status, marital status, sexual orientation, or any other status protected by law; (vi) gambling activities (not including sale of state sanctioned lottery tickets); (vii) selling or dispensing products illegal under federal, state or local laws; (ix) religious services, instruction or overtly sectarian activities; (x) pawn brokering; (xi) making "payday" or short term loans by an entity that is not a bank, credit union, savings and loan or other banking institution; (xii) escort services; and (xiv) department stores that specialize in many different types of goods of which groceries are but one department, restaurants, cafes, businesses with alcohol or tobacco retail sales as the primary source of revenue, or convenience stores.

10. Events of Default. The occurrence of any one or more of the following events or existence of one or more of the following conditions, with respect to the Grantee, shall constitute an "Event of Default" under this Agreement:

a. Grantee shall fail to perform any term, covenant, or condition to be performed hereunder and such failure is not remedied within thirty (30) days, unless a longer period of time is reasonably required to cure such failure, from and after written notice from the Grantor to Grantee, specifying said failure.

b. Any representation or warranty made in writing to Grantor or Authority in connection with the making of the Grant, or any certificate, statement, or report made pursuant to this Agreement by Grantee shall prove at any time to have been incorrect in any material respect when made.

c. This Agreement or any Grant Document shall at any time for any reason cease to be in full force and effect or shall be declared to be null and void, or the validity or the enforceability thereof shall be contested by Grantee, or Grantee shall deny that it has any or further liability or obligation hereunder or thereunder.

d. The Project fails to be located at Closing in a committed area that has opted into Proposition 123.

e. The occurrence of any default or event of default by Grantee under the Ground Lease or the cancellation, relinquishment, surrender, or termination of the Ground Lease.

f. Any transfer, sale, encumbrance, or other disposition of all or any portion of the Project, without the prior written approval of Grantor.

g. Grantee shall default or fail to perform any obligation under any document recorded in the real property records of Summit County, Colorado against the Project.

11. Remedies.

a. Upon the occurrence of an Event of Default, the Authority may on Grantor's behalf recover the amount of the Grant from Grantee and pursue all other rights and remedies provided by law or in equity.

b. No delay or failure of Grantor in the exercise of any right or remedy provided for hereunder shall be deemed a waiver of the right by Grantor and no exercise or partial exercise or waiver of any right or remedy shall be deemed a waiver of any further exercise of such right or remedy or of any other right or remedy that Grantor may have. The enforcement of any rights of Grantor as to the Grant shall not affect the rights of Grantor to enforce repayment of the Grant and to recover judgment for any portion thereof remaining unpaid. The rights and remedies herein expressed are cumulative and not exclusive of any right or remedy that the Grantor shall otherwise have.

12. Rights of the Grantor. Grantor may assign, negotiate, pledge, or otherwise hypothecate this Agreement and the other documents executed by Grantee in connection therewith or any of its rights and security hereunder or thereunder, in whole or in part. In case of such assignment, Grantee will accord full recognition thereto and hereby agrees that all rights and remedies of the Grantor in connection with the interests so assigned shall be enforceable against Grantee by the assignee thereof.

13. Miscellaneous Provisions.

a. This Agreement contains the entire agreement between the parties and supersedes all prior discussions, understandings and agreements whatsoever. Neither this

Agreement nor any provision hereof may be changed, waived, discharged, or terminated orally and may only be modified or amended by an instrument in writing, signed by the parties hereto.

b. Inspections and approval of the Project impose no responsibility or liability of any nature or kind whatsoever on Grantor to Grantee and/or any third parties. The parties hereby expressly agree and acknowledge that their relationship is that of Grantor and Grantee and that no other relationship, including that of joint venture, partnership, or other common enterprise is created by this Agreement or the other Grant Documents.

c. All rights, powers, and remedies herein given to Grantor or the Authority on Grantor's behalf are cumulative and not alternative, and are in addition to all other statutes or rules of law. Any forbearance or delay by Grantor in exercising the same shall not be deemed to be a waiver thereof and the exercise of any right or partial exercise thereof shall not preclude the further exercise thereof and the same shall continue in full force and effect until specifically waived by an instrument in writing executed by Grantor or the Authority on Grantor's behalf. All representations, warranties and covenants by Grantee shall survive the making of the advances of the Grant and the provisions hereof shall be binding upon Grantee, and its successors and assigns and inure to the benefit of the Grantor, and its successors and assigns.

d. All notices shall be in writing and shall be deemed to have been sufficiently given or served when presented personally or when deposited in the United States mail, by registered or certified mail, addressed to the parties at the addresses set forth below. Such addresses may be changed by notice to the other party given in the same manner.

If to Grantor at:

Affordable Housing Financing Fund
c/o Colorado Housing and Finance Authority
Program Administrator
1981 Blake Street
Denver, Colorado 80202
Attention: Legal Operations

If to Grantee at:

Town of Frisco
PO Box 4100
Frisco, CO 80443
Attention: Leslie Edwards

e. This Agreement and all covenants, agreements, representations, and warranties made herein shall survive the execution of this Agreement and shall continue in full force and effect so long as the Grant is outstanding and unpaid.

f. If any provision of this Agreement is held invalid, such invalidity shall not affect other provisions of this Agreement which can be given effect without the invalid provisions and, to this end, the provisions of this Agreement are hereby declared severable.

g. Grantee hereby authorizes Grantor and the Authority to use information regarding or relating to the Project to publicize and/or report on their financing activities in any manner of communication or media including, but not limited to, in press releases, websites, social media, flyers, advertisements, community reports, etc. without further authorization or consent of the Grantee, *provided* that confidential or other proprietary information is not shared. Grantee agrees to obtain prior written approval from Grantor and the Authority before using the name or logo of Grantor or the Authority in any press release, media events, website, social media, or any other public communication.

h. This Agreement and all matters of performance relating thereto shall be governed by and construed and interpreted in accordance with the laws of the State of Colorado.

i. This Agreement may be executed in several counterparts.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

GRANTOR:

COLORADO HOUSING AND FINANCE
AUTHORITY, a body corporate and political
subdivision of the State of Colorado, solely in its
capacity as the Program Administrator for the
AFFORDABLE HOUSING FINANCING FUND,
managed by the Colorado Office of Economic
Development and International Trade, a Colorado state
agency

By: _____
[Name/Title]
Colorado Housing and Finance Authority

1981 Blake Street
Denver, CO 80202

GRANTEE:

TOWN OF FRISCO,
a Colorado home rule municipality

By: _____
Frederick J. Ihnken, Mayor

101 W. Main Street
Frisco, CO 80443

ATTEST:

Stacey Nell, Town Clerk

EXHIBIT A

PROGRAM REPORTING REQUIREMENTS

Quarterly Reports are due the end of the first month after the end of each quarter, with the first report due on or before July 31, 2025.

The quarterly report will include:

1. Project Level Details for each funding award:

a. Grantee/Recipient Name

b. The following Property Information, to the extent applicable:

- i. Project Name (At the time of application & upon completion, if changed)
- ii. Project Street Address
- iii. City and county location
- iv. Housing type (homeownership and/or rental)
- v. Unit count and bedroom count for deed-restricted units. Unit count will be used to determine anticipated or actual households served.
- vi. Unit count and bedroom count for market-rate units.
- vii. Proposed units in each AMI Level and average AMI of the project.
Land Banking projects - indicate the proposed percentage of mixed-use.
- viii. Mixed-use properties provide a category of non-residential uses.
- ix. Environmental Sustainability Certification
- x. Electrification Level
- xi. Meets the transit-oriented development (TOD) definition. *[Definition to be provided by OEDIT.]*
- xii. Meets the walkable neighborhood definition. *[Definition to be provided by OEDIT.]*

2. Project Funding Details: Statutory priorities satisfied by the project - high density, mixed-income, and/or environmentally sustainable.