

INTERGOVERNMENTAL FUNDING AGREEMENT

DETAILS SUMMARY	
Document Type	New Contract
OFS Number-Version	302755
County Contact Information	
Boulder County Legal Entity	Boulder County
Department	Office of Sustainability, Climate Action & Resilience
Division/Program	
Mailing Address	PO Box 471, Boulder CO 80306
IGA Contact – <i>Name, email</i>	Susie Strife, sstrife@bouldercounty.org
Invoice Contact – <i>Name, email</i>	Beth Bradford, ebradford@bouldercounty.org
Recipient Contact Information	
Recipient Name	Boulder County Housing Authority
Recipient Mailing Address	PO Box 471, Boulder CO 80306
Contact 1- <i>Name, title, email</i>	Norrie Boyd, Executive Director, nboyd@bouldercounty.org
Contact 2- <i>Name, title, email</i>	Julia Ozenberger, Finance Director, jozenberger@bouldercounty.org
IGA Term	
Start Date	April 11, 2023
Expiration Date	December 31, 2025
Amount	
Funding Amount	\$2,399,250
COVID-19	NO
Project #	
Brief Description of Project	
OSCAR has awarded sustainability funding to BCHA to be used for solar and geothermal-related development and construction costs at Willoughby Corner.	
IGA Documents	
Exhibit A – Scope of Project & Funding Details	
IGA Notes	
<i>Additional information not included above</i>	

THIS INTERGOVERNMENTAL FUNDING AGREEMENT ("IGA") is entered into by and between the Board of County Commissioners on behalf of the County of Boulder, State of Colorado, a body corporate and politic, for the benefit of the Office of Sustainability, Climate Action and Resilience ("County") and the Housing Authority of the County of Boulder, State of Colorado, a public body, corporate and politic ("Recipient"). County and Recipient are each a "Party," and collectively the "Parties."

In consideration of the mutual covenants contained in this IGA, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Incorporation into IGA: The Details Summary is incorporated into this IGA. The IGA Documents are incorporated into this IGA by reference.
2. Term of IGA: The IGA Term begins on the Start Date and expires on the Expiration Date, unless terminated sooner. The Funding Amount must be used during the IGA Term.
3. Funding: County will pay an amount not to exceed the Funding Amount to Recipient in accordance with the IGA Documents. Recipient must use the Funding Amount in connection with the Project as described in Exhibit A.
4. Liability: Each Party agrees to be responsible for its own actions or omissions, and those of its officers, agents and employees in the performance or failure to perform work under this IGA. By agreeing to this provision, neither Party waives or intends to waive, as to any person not a party to the IGA, the limitations on liability that are provided to the Parties under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq.
5. Information and Reports: Recipient will provide to authorized County, State, and Federal government representatives all information and reports that may be required for any purpose authorized by law. Recipient will permit access to such representatives to Recipient's facilities, books, records, accounts, and any other relevant sources of information. Where information required by a representative is in the exclusive possession of a person or entity other than Recipient, Recipient must so certify to the County and explain what efforts it has made to obtain the information.
6. **Independent Contractor: Recipient is an independent contractor for all purposes in performing its obligations under this IGA. None of Recipient, its agents, personnel or subcontractors are employees of the County for any purpose, including the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the Colorado Workers' Compensation Act, the Colorado Unemployment Insurance Act, and the Public Employees Retirement Association. Accordingly, County will not withhold or pay any income tax, payroll tax, or retirement contribution of any kind on behalf of Recipient or Recipient's employees. As an independent contractor, Recipient is responsible for employing and directing such personnel and agents as it requires to perform its obligations under this IGA. Recipient will exercise complete authority over its personnel and agents and will be fully responsible for their actions.**
7. Termination
 - a. Breach: Either Party's failure to perform any of its material obligations under this Contract, in whole or in part or in a timely or satisfactory manner, will be a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Recipient, or the appointment of a receiver or similar officer for Recipient or any of its property, which is not vacated or fully stayed within thirty (30) days after the institution of such proceeding, will also constitute a breach. In the event of a breach, the non-breaching Party may provide written notice of the breach to the other Party. If the breaching Party does not cure the breach, at its sole expense, as reasonably determined by the non-breaching Party in its sole discretion, within thirty (30) days after delivery of notice, the non-breaching Party may exercise any of its remedies provided under this Contract or at law, including immediate termination of this Contract.

b. Non-Appropriation: The other provisions of this Contract notwithstanding, County is prohibited by law from making commitments beyond the current fiscal year. Payment to Recipient beyond the current fiscal year is contingent on the appropriation and continuing availability of funding in any subsequent year. County has reason to believe that sufficient funds will be available for the full **Contract Term**. Where, however, funds are not allocated for any fiscal period beyond the current fiscal year, County may terminate this Contract without penalty by providing seven (7) days' written notice to Recipient.

8. Remedies for Non-Performance: If Recipient fails to perform any of its obligations under this Agreement, County may, at its sole discretion, and in addition to any remedies available at law or in equity, require Recipient to repay all or any part of the Funding Amount to County.

9. Binding Arbitration Prohibited: Neither party agrees to binding arbitration by any extra-judicial body or person.

10. Notices: All notices provided under this IGA must be in writing and sent by Certified U.S. Mail (Return Receipt Requested), electronic mail, or hand-delivery to the other Party's **Contact** at the address specified in the **Details Summary**. For certified mailings, notice periods will begin to run on the day after the postmarked date of mailing. For electronic mail or hand-delivery, notice periods will begin to run on the date of delivery.

11. Statutory Requirements: This IGA is subject to all statutory requirements that are or may become applicable to counties or political subdivisions of the State of Colorado generally, including but not limited to: C.R.S. § 38-26-107, which requires withholding funds where the County receives a claim for payment from a supplier or subcontractor of Recipient upon notice of final settlement; C.R.S. § 8-17-101 et seq.; C.R.S. § 18-8-301, et seq.; and C.R.S. § 18-8-401, et seq.

12. Entire Agreement/Binding Effect/Amendments: This IGA represents the complete agreement between the Parties and is fully binding upon them and their successors, heirs, and assigns, if any. This IGA terminates any prior agreements, whether written or oral in whole or in part, between the Parties relating to the Work. This IGA may be amended only by a written agreement signed by both Parties.

13. Assignment/Subcontractors: This IGA may not be assigned or subcontracted by Recipient without the prior written consent of the County. If Recipient subcontracts any of its obligations under this IGA, Recipient will remain liable to the County for those obligations and will also be responsible for subcontractor's performance under, and compliance with, this IGA.

14. Governing Law/Venue: The laws of the State of Colorado govern the construction, interpretation, performance, and enforcement of this IGA. Any claim relating to this IGA or breach thereof may only be brought exclusively in the Courts of the 20th Judicial District of the State of Colorado and the applicable Colorado Appellate Courts.

15. Breach: The failure of either Party to exercise any of its rights under this IGA will not be deemed to be a waiver of such rights or a waiver of any breach of the IGA. All remedies available to a Party in this IGA are cumulative and in addition to every other remedy provided by law.

16. Severability: If any provision of this IGA becomes inoperable for any reason but the fundamental terms and conditions continue to be legal and enforceable, then the remainder of the IGA will continue to be operative and binding on the Parties.

17. Third-Party Beneficiary: Enforcement of the terms and conditions and all rights and obligations of this IGA are reserved to the Parties. Any other person receiving services or benefits under this IGA is an incidental beneficiary only and has no rights under this IGA. Notwithstanding, where the beneficiary **Department** is led by an Elected Official, such Elected Official shall be considered a third-party beneficiary.
18. Colorado Open Records Act: Either Party may disclose any records that are subject to public release under the Colorado Open Records Act, C.R.S. § 24-72-200.1, et seq.
19. Conflict of Provisions: If there is any conflict between the terms of the main body of this IGA and the terms of any of the **IGA Documents**, the terms of the main body of the IGA will control.
20. Governmental Immunity: Nothing in this IGA shall be construed in any way to be a waiver of either party's immunity protection under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended.
21. Legal Compliance: Recipient assumes full responsibility for obtaining and maintaining any permits and licenses required to carry out its obligations hereunder. Recipient is solely responsible for ensuring that its performance under this IGA will comply with all Federal, State, and local laws, regulations, ordinances and codes.
22. Execution by Counterparts; Electronic Signatures: This IGA may be executed in multiple counterparts, each of which will be deemed an original, but all of which will constitute one agreement. The Parties approve the use of electronic signatures, governed by the Uniform Electronic Transactions Act, C.R.S. §§ 24 71.3 101 to 121. The Parties will not deny the legal effect or enforceability of this IGA solely because it is in electronic form or because an electronic record was used in its creation. The Parties will not object to the admissibility of this IGA in the form of electronic record, or paper copy of an electronic document, or paper copy of a document bearing an electronic signature, because it is not in its original form or is not an original.
23. Limitation of Liability: NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES ARISING FROM OR RELATING TO THIS CONTRACT, REGARDLESS OF ANY NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. COUNTY'S AGGREGATE LIABILITY, IF ANY, ARISING FROM OR RELATED TO THIS CONTRACT, WHETHER IN CONTRACT, OR IN TORT, OR OTHERWISE, IS LIMITED TO, AND SHALL NOT EXCEED, THE AMOUNTS PAID OR PAYABLE HEREUNDER BY COUNTY TO RECIPIENT.
24. Legal Interpretation. Each Party recognizes that this Contract is legally binding and acknowledges that it has had the opportunity to consult with legal counsel of its choice about this Contract. The rule of construction providing that any ambiguities are resolved against the drafting Party will not apply in interpreting the terms of this Contract.
25. Insurance: Each Party is a "public entity" under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended, and shall always during the terms of this IGA maintain such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Act. This insurance shall have minimum limits, which shall match or exceed the maximum governmental liability limits set forth in C.R.S. § 24-10-114, as amended.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties have executed and entered into this IGA as of the latter day and year indicated below.

SIGNED for and on behalf of Boulder County		SIGNED for and on behalf of Recipient	
Signature:		Signature: <i>Norrie Boyd</i>	
Name: Claire Levy		Name: Norrie Boyd	
Title:		Title: BCHA Executive Director	
Date:		Date: April 5, 2023	
↓↓ <i>For Board-signed documents only</i> ↓↓			
Attest Signature:		<i>Initial</i>	
Attestor Name: Cecilia Lacey			
Attestor Title:			

EXHIBIT A
Scope of Project &
Funding Details

Project - Willoughby Corner is a new construction project that will create a neighborhood of diverse affordable housing options in the City of Lafayette. It will serve generations of families and individuals, seniors, and the area's workforce, who need safe, stable, high-quality affordable homes. BCHA is developing the project in phases. When finished, it will include 400 permanently affordable homes in a variety of building types, including duplexes, townhomes, apartments, and community amenity spaces. The housing site is a 24-acre parcel located southwest of 120th Street and East Emma Street in Lafayette.

Use of Funds – BCHA will use the Funding Amount for solar and geothermal-related Project development and construction costs. BCHA plans to allocate the Funding Amount between the phases and for the purposes set forth in the table below and will provide to County a cost certification regarding the actual cost expenditures by phase and scope after Phase 1A and 1B are complete.

	Phase 1A	Phase 1B	Total
Solar	\$438,500	\$1,012,200	\$1,450,700
Geothermal	\$316,526	\$632,024	\$948,550
Total Funding	\$755,026	\$1,644,224	\$2,399,250

Payment Schedule – County will issue the Funding Amount to BCHA no later than April 14, 2023.


Certificate Of Completion

Envelope Id: E2D63DE8C36E45FEACC91A8BA15C4D95	Status: Sent
Subject: Signature requested: IGA for Willoughby Corner (BCHA as recipient, \$2.4M)	
Type of Document:	
BOCC Signed Contract	
Department/Office: Oracle	
Source Envelope:	
Document Pages: 6	Signatures: 1
Certificate Pages: 2	Initials: 0
AutoNav: Enabled	
Enveloped Stamping: Enabled	
Time Zone: (UTC-07:00) Mountain Time (US & Canada)	
	Envelope Originator: Genevieve Lazure-Custeau 2025 14th St Boulder, CO 80302 glazure-custeau@bouldercounty.org IP Address: 147.154.25.18

Record Tracking

Status: Original 4/5/2023 4:47:32 PM	Holder: Genevieve Lazure-Custeau glazure-custeau@bouldercounty.org	Location: DocuSign
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Signer Events

Signer Events	Signature	Timestamp
Norrie Boyd nboyd@bouldercounty.org BCHA Executive Director Boulder County Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 75.166.202.202 Signed using mobile	Sent: 4/5/2023 5:11:56 PM Viewed: 4/5/2023 6:00:54 PM Signed: 4/5/2023 6:01:03 PM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Cecilia Lacey clacey@bouldercounty.org Clerk to the Board Boulder County Security Level: Email, Account Authentication (None)	Sent: 4/5/2023 6:01:04 PM
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Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Claire Levy
clevy@bouldercounty.org
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Cecilia Lacey
clacey@bouldercounty.org
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
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Editor Delivery Events	Status	Timestamp
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Agent Delivery Events	Status	Timestamp
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Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Cecilia Lacey

clacey@bouldercounty.org

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Elizabeth Bradford

ebradford@bouldercounty.org

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Julia Ozenberger

jozenberger@bouldercounty.org

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent

Hashed/Encrypted

4/5/2023 5:11:56 PM

Payment Events	Status	Timestamps
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