

**PLANNING & DEVELOPMENT MEMORANDUM**  
**#4-2021**

**DATE:** March 22, 2021

**TO:** Honorable Mayor Meredith Leighty and City Council Members

**THROUGH:** Heather Geyer, City Manager 

**FROM:** Brook Svoboda, Director of Planning and Development 

**SUBJECT:** CR-34 – Local Natural Hazard Mitigation Plan IGA

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**PURPOSE**

To consider CR-34, a resolution approving the Local Natural Hazard Mitigation Plan Intergovernmental Agreement (IGA) between the City of Northglenn, City of Federal Heights and City of Thornton.

**BACKGROUND**

This resolution would approve an IGA between the cities of Thornton, Northglenn, and Federal Heights to work cooperatively toward the development, drafting, and adoption of a Local Natural Hazard Mitigation Plan (the “Plan”). The Plan would be led by the City of Thornton, developed in 2021 and adopted in early 2022. It would replace the 2017 Plan that expires on April 20, 2022.

Having the Plan in place increases eligibility for Federal and/or State funding of natural hazard prevention measures and, in case of a natural disaster, recovery measures. An up-to-date Plan also provides each city with important information about threats to its population and physical assets, vulnerabilities to natural hazards, and recommendations to mitigate these concerns.

**BUDGET/TIME IMPLICATIONS**

The cost of the Plan is anticipated to be \$70,000. Thornton has \$70,000 allocated for this project in its 2021 budget. Also, Thornton has secured a Federal Emergency Management Agency Grant for the project. Administered by the State of Colorado, the grant would pay 75%, or \$52,500, of the cost. The remaining \$17,500 would be divided proportionally based on the population of each city. This IGA would obligate Federal Heights to reimburse Thornton a proportional share of \$1,225 and Northglenn to reimburse Thornton \$3,500. Northglenn’s share would be paid through the General Fund. Thornton’s financial obligation would be \$12,775.

**STAFF RECOMMENDATION**

Attached is CR-34, a resolution that, if approved, would authorize the Mayor to execute the Local Natural Hazard Mitigation Plan IGA between the City of Northglenn, City of Federal Heights, and the City of Thornton in an amount not to exceed \$3,500. Staff recommends approval of CR-34.

**STAFF REFERENCE**

If City Council members have any questions, please contact Brook Svoboda, Director of Planning and Development, at 303.450.8937 or [bsvoboda@northglenn.org](mailto:bsvoboda@northglenn.org).

CR-34 – Local Natural Hazard Mitigation Plan IGA

SPONSORED BY: MAYOR LEIGHTY

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-34  
Series of 2021

\_\_\_\_\_  
Series of 2021

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITIES OF THORNTON, FEDERAL HEIGHTS, AND NORTHGLENN FOR THE DRAFTING, FUNDING, AND ADOPTION OF A LOCAL NATURAL HAZARD MITIGATION PLAN

WHEREAS, under the Federal Disaster Mitigation Act of 2000, an adopted natural hazards plan is required as a condition of future funding for mitigation projects under Federal Emergency Management Agency (FEMA) pre- and post-disaster grant programs;

WHEREAS, the cities of Thornton, Federal Heights, and Northglenn (the "Cities") worked cooperatively to prepare the 2017 Local Natural Hazard Mitigation Plan, and the Cities now desire to enter into an Intergovernmental Agreement regarding the drafting, funding, and adoption of an updated Local Natural Hazard Mitigation Plan (the "Plan");

WHEREAS, the updated Plan will provide the Cities with critical information about threats to their population and physical assets, vulnerabilities to multiple kinds of natural hazards, and key recommendations by which such concerns may be mitigated; and

WHEREAS, costs associated with the updated Plan will be funded in part by a grant from the federal government with the remaining funding obligation shared proportionally based on the population of each of the Cities.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. The Intergovernmental Agreement between the cities of Thornton, Federal Heights, and Northglenn for the drafting, funding, and adoption of a Local Natural Hazard Mitigation Plan, attached hereto as Exhibit 1, is hereby approved and the Mayor is authorized to execute same on behalf of the City of Northglenn, Colorado.

DATED at Northglenn, Colorado, this \_\_\_\_ day of \_\_\_\_\_, 2021.

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MEREDITH LEIGHTY  
Mayor

ATTEST:

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JOHANNA SMALL, CMC  
City Clerk

APPROVED AS TO FORM:

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COREY Y. HOFFMANN  
City Attorney

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITIES OF THORNTON, FEDERAL HEIGHTS, AND NORTHGLENN FOR THE DRAFTING, FUNDING, AND ADOPTION OF A LOCAL NATURAL HAZARD MITIGATION PLAN

This Intergovernmental Agreement entered into this \_\_\_ day of \_\_\_\_, 2021 entered into by and between the City of Thornton located at 9500 Civic Center Drive, Thornton, CO 80229 (“Thornton”), the City of Federal Heights, located at 2380 W. 90th Ave. Federal Heights, CO 80260 (Federal Heights), and the City of Northglenn located at 11701 Community Center Drive, Northglenn, CO 80233 (“Northglenn”), or collectively the (“Cities”)

WITNESSETH

WHEREAS, the Cities desire to work cooperatively toward the development, drafting, and adoption of a Local Natural Hazard Mitigation Plan (the “Plan”); and

WHEREAS, Thornton has secured grant funding on behalf of the Cities for the purpose of funding the services of a consultant to conduct the Plan; and

WHEREAS, the grant will pay up to 75% of the total \$70,000 anticipated cost of the Plan, or \$52,500; and

WHEREAS, the Cities will be responsible to pay the remaining approximate \$17,500 in costs, which shall be shared roughly in proportion to the populations (2018) of the respective Cities, which is as follows:

<u>City</u>	<u>Population</u>	<u>Percent</u>	<u>Amount</u>
Thornton	139,430	73%	\$12,775
Northglenn	38,918	20%	\$3,500
Federal Heights	12,695	7%	\$1,225

WHEREAS, Thornton will invoice Northglenn and Federal Heights for their proportionate shares of the costs; and

WHEREAS, the Cities agree that Thornton will be the lead agency in coordinating the efforts associated with managing and developing the Plan, which will include the following responsibilities:

- managing the grant
- drafting and issuing a request for proposals (RFP)
- contracting with a consultant
- paying the consultant
- collecting grant funds
- collecting contributions from Northglenn and Federal Heights
- managing the planning process; and

WHEREAS, as the lead agency, Thornton will coordinate and cooperate with Northglenn and Federal Heights in regard to the development and drafting of the Plan, managing the consultant, scheduling and conducting all required meetings, and other necessary processes; and

WHEREAS, Northglenn and Federal Heights will do the following:

- Cooperate with Thornton in regard to scheduling meetings
- Assign appropriate staff members to participate in meetings
- Provide all appropriate and available background information in support of the Plan
- Provide meeting space as necessary for meetings
- Pay Thornton invoices within 30 days
- Work diligently, in good faith, and in a timely manner toward the completion of the Plan.

NOW THEREFORE in consideration of the terms and conditions contained herein, the Cities hereto agree as follows:

1. PROJECT MANAGEMENT

Thornton shall manage the Project. Northglenn and Federal Heights shall provide to Thornton or to the consultant all information related to the Project upon request. The Project shall be conducted and the Plan shall be drafted in accordance with the specifications provided by the Federal Emergency Management Agency (FEMA) and the State of Colorado, and in the best interests of the Cities.

C. Project Completion

The Cities agree and acknowledge that it is essential to each City that the entire Plan be completed, which shall include approval by FEMA, the State of Colorado, and each City. No City shall have the right to stop or significantly delay the development, drafting, or approval of the Plan without the written consent of the other Cities, except in the event of an emergency.

D. Contracts Documents

Upon completion of the Scope of Work, Thornton shall develop the contract documents for the Plan. The Cities acknowledge that within the Plan there are areas under the jurisdiction of each of the Cities. The Cities agree that the Plan shall be drafted in accordance with the standards and specifications provided by FEMA and the State of Colorado, and in the best interest of each of the Cities.

The contract documents shall include a Scope of Work for each of four categories:

1. work to be completed for the Cities,

2. work to be completed for Thornton,
3. work to be completed for Northglenn, and
4. work to be completed for Federal Heights.

Upon finalization of the contract documents, Thornton shall issue a Request for Proposals (RFP). Following receipt of the consultant Proposals in response to the RFP, Thornton shall assemble a team of individuals, including representatives of both Northglenn and Federal Heights, to serve on a selection committee. The selection committee will evaluate the proposals based on the criteria indicated in the RFP and recommend a consultant proposal for award. Thornton shall award, execute and administer the contract for the Plan in accordance with Thornton's policies and procedures. Northglenn and Federal Heights shall be specifically listed as a beneficiaries of all warranties and bonds provided for in the contract documents.

#### E. Project Funding and Invoices

The cost of the Plan is not anticipated to exceed \$70,000. Thornton will bill Northglenn and Federal Heights for their respective shares, with Northglenn's share and Federal Heights' share due within 30 days to Thornton.

Each city may choose to contract for additional services with the consultant at their own expense independent of the other two cities and with no impact on grant funding.

#### F. Project Manager and Staff Coordinators

Thornton shall designate a Project Manager who shall coordinate the Project on behalf of the Cities. Northglenn and Federal Heights shall each designate a Staff Coordinator who shall serve as the primary point of contact for both the Project Manager as well as the consultant.

#### G. Change Orders

The Project Manager and Staff Coordinators shall meet in person or electronically and communicate via telephone conference, video conference, and electronic mail as necessary to review all Project change orders. The Thornton City Manager may approve change orders up to \$10,000 for work done exclusively for Thornton and paid for by Thornton, with no impact on grant funding or the financial obligations of the other two cities.

The Parties agree that Northglenn and Federal Heights have the right to challenge or dispute any change order that solely affects work provided to their respective cities. The Project Manager shall use all best efforts to resolve the disputed change order to avoid any delay in the work. In the event the Project Manager and Staff Coordinators are unable to resolve the disputed change order, the issue will be resolved in accordance with the dispute resolution provisions provided in Paragraph (3D) herein.

### 3. GENERAL TERMS

#### A. Several Liability

The Cities acknowledge that pursuant to this Agreement each is separately and severally liable for that portion of the work performed for each City.

#### B. Maintenance

Maintenance of the Plan shall be performed in accordance with the Agreement as defined in the third recital herein.

#### C. Term

This Agreement shall terminate upon approval of the Plan by FEMA, the State of Colorado, and by each City. Each City retains the right to terminate its participation in the Plan prior to completion at any time by written notification to the other two cities.

#### D. Dispute Resolution

In the event of any disagreement associated with the Project and prior to the commencement of any formal proceedings, the Parties shall continue performance as set forth in this Agreement and the Project Manager and Staff Coordinators in good faith shall attempt to resolve the dispute. In the event the Project Manager and Staff Coordinators are unable to reach agreement and one of the individuals serving as Project Manager or Staff Coordinator concludes that a good faith amicable resolution through continued negotiation of the matter at issue does not appear likely, such individual shall notify the others in writing.

In the event the Parties reach such an impasse relating to a decision or issue that threatens to significantly delay the Project, within five (5) business days following such notice, the appropriate department heads from each City shall make an interim decision and/or determination that will allow the Project to proceed according to the Project's schedule. If an interim decision cannot be mutually agreed upon, the City Manager's of each city shall meet within five business days to resolve such decisions or issues.

While each City agrees to abide by said interim decision until the Project has been substantially completed, it shall do so under a complete reservation of its rights and without prejudice to any claims it may have against the other City or others.

#### E. LITIGATION

Each City which is a party hereto shall be responsible for any suits, demands, costs or actions at law resulting from its own acts or omissions.

#### F. NOTICE

Any notice required by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is to be given at the address set forth below, or at such other address as has been previously furnished in writing, to the other Party. Such notice shall be deemed to have been given when deposited in the United States mail.

City of Thornton  
City Manager  
9500 Civic Center Drive  
Thornton, CO 80229

City of Northglenn  
City Manager  
11701 Community Center Drive  
Northglenn, CO 80233

City of Federal Heights  
City Manager  
2380 W. 90th Ave.  
Federal Heights, CO 80260

#### G. INTEGRATION AND AMENDMENT

This Agreement represents the entire Agreement between the Cities and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the Cities.

#### H. TERMINATION OF AGREEMENT

This Agreement may be terminated in writing by any of the Cities, but only if (1) there are no contingent, outstanding contracts and (2) the competitive proposal process results in a project cost that exceeds the amount of funds set forth in Section 2(E) of this agreement. All costs associated with the cancellation, of any Project contracts, or portion thereof, shall be paid equally by the Parties.

#### I. VENUE

This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in the County of Adams, State of Colorado.

#### J. SEVERABILITY

If any article, section, paragraph, sentence, clause or phrase of this Agreement is held to be unconstitutional or invalid for any reason, such holding shall not affect the validity, enforceability or constitutionality of the remaining provisions of this Agreement.

K. WAIVER

A waiver by any Party of a 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.

L. PARAGRAPH CAPTIONS

The captions of the paragraphs are set forth only for the convenience and reference of the Cities and are not intended in any way to define, limit or describe the scope or intent of this Agreement.

M. GOVERNMENTAL IMMUNITY

The Parties acknowledge that each Party, their officers and employees, are relying on, and do not waive or intend to waive, by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as it is from time to time amended, or otherwise available to the Cities, their officers, or employees.

IN WITNESS WHEREOF, the Cities here have executed this Agreement to be effective as of the date first above written.

CITY OF THORNTON

\_\_\_\_\_  
Jan Kulmann, Mayor

ATTEST:

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Kristen Rosenbaum, City Clerk

APPROVED AS TO FORM:

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City Attorney

CITY OF NORTHGLENN

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Meredith Leighty, Mayor

ATTEST:

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Johanna Small, City Clerk

APPROVED AS TO FORM:

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Corey Y. Hoffmann, City Attorney

CITY OF FEDERAL HEIGHTS

\_\_\_\_\_  
Mayor

ATTEST:

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City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney