

**DRAFT INTERGOVERNMENTAL AGREEMENT
BETWEEN THE UNIVERSITY OF COLORADO COLORADO SPRINGS
AND THE CITY OF COLORADO SPRINGS
CONCERNING MOUNTAIN LION BASEBALL FIELD**

This Intergovernmental Agreement (“Agreement”) is entered into as of this _____ day of _____, 2016, by and between The Regents of the University of Colorado, a body corporate for and on the behalf of the University of Colorado Colorado Springs (“the University”) and the City of Colorado Springs, a Colorado entity (“City” or “Licensee”) (“Parties” collectively or “Party” individually).

A. RECITALS

1. The City is an eligible applicant for a Great Outdoors Colorado (GOCO) grant as defined by GOCO as an incorporated municipality or special district that receives Conservation Trust Funds from the Department of Local Affairs.
2. The University owns approximately 35 acres of land on 400 Eagle Rock Road, Colorado Springs, Colorado, and desires to add Mountain Lion Baseball Field on the North Campus of the University (“Property”), but they are not eligible recipients for a GOCO grant in support of the project.
3. The City agrees to provide sponsorship as an eligible applicant in support of the grant application to GOCO; whereas the City will be the submitting entity through which the University will receive the benefit of the grant.
4. The University understands and acknowledges that they shall be bound to the obligations of the grant agreement and shall be responsible for performance of all obligations required for performance of the grant agreement of funds are awarded for this project.
5. The Parties are authorized under C.R.S. § 29-1-203 to cooperate and contract with one another to provide the functions, services and facilities for herein.

NOW THEREFORE, in consideration of the mutual promises stated below and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

The term of this IGA shall commence when the grant is awarded on _____, 2017 and shall terminate when the District no longer owns and maintains the property as required in the Grant Agreement.

B. INTERGOVERNMENTAL AGREEMENT TERM

The term of this IGA shall commence when the grant is awarded on _____, 2017 and shall terminate when the District no longer owns and maintains the property as required in the Grant Agreement.

C. AGREEMENT

1. **Party Responsibilities.** District agrees that it is responsible for design, construction, maintenance, liability and development of the play yard. The City does not assume any obligation to the District to construct, operate or maintain the improvements contemplated by the grant for the play yard.

2. **Maintenance.** The University shall operate and maintain the facility as mandated by the Grant Agreement.
3. **GOCO Grant Administration.** City agrees to act as the GOCO grant administrator. The City further agrees to provide payment of grant monies to the University on a reimbursement basis in accordance with the terms and conditions of the Grant Agreement. The University is responsible for providing updates to GOCO to maintain grant compliance, maintaining invoicing and closeout documentation a required by GOCO.
4. **Grant Project Terms.** The University intends to bind itself to the City for all obligations stated in the Grant Agreement.
5. **Approval of City Council.** The Parties understand and agree that the terms, conditions and provisions of this IGA are subject to the approval of the City Council of the City of Colorado Springs, which approval shall be evidenced by a City Council Resolution and the signature of the Mayor on the Grant Agreement.
6. **License.** The University agrees to allow the City a non-exclusive and non-delegable license to access the Property and permission to use the Property as a baseball/soccer/football/ultimate frisbee facility ("Sports Facility"), subject to the following conditions:
 - a. Use. The City agrees to use the Property as a Sports Facility and in a careful, safe, and proper manner consistent with the Sports Facility's intended athletic purpose. The City agrees to pay for any damage to the Property related to misuse caused by it, its guests, invitees, agents, or employees. The City shall not use the Property, nor allow the Property to be used, for any purpose that is prohibited by federal or state law or regulations. The City shall not make any structural or non-structural changes to the Property without the prior written approval of the University.
 - b. Hours. The University will allow the City to use the Property, 7 days per week, from mid-May through mid-August, between the hours of 8:00am and 10:00pm. UCCS Baseball may use the facility for camps for two weeks during the summer, and UCCS will coordinate with the City to schedule the facility. The University will make time available to the City from mid-August through mid-May on Saturday and Sundays in coordination with the UCCS baseball program. Although the City agrees that its use of the Property will primarily be for youth baseball, soccer, football, and Ultimate Frisbee, the City may use its allocated allotted hours for other athletic purposes.
 - c. Services Provided. In addition to the License to access and permission to use the Property, the University will provide the following services to the City: a) use of the UCCS scoreboards; b) seating for spectators; and c) field lighting.
 - d. Personal Property. The City agrees that all of its personal property and the personal property of its guests, invitees, agents, and employees shall be kept or stored on the Property in a storage area in the Sports Facility's press box at the sole risk of the City. The University is not liable for any damage or loss to any of the City's property of any kind or description whatsoever, or for damage or loss suffered by the City's use of the Property. If the City fails to remove all of its property or property belonging to its guests, invitees, agents, and employees from the Property upon abandonment or upon the termination of this Agreement, the University may, after 60 days and at its option, remove the property in any manner that it chooses. The University may then store the effects without any liability

to the City for loss or damage. the City agrees to pay the University any and all expenses incurred in such removal of property, including but not limited to court costs, attorneys' fees, and storage charges.

7. **Term.** The term of this Agreement is from July 1, 2017, through June 30, 2027.
8. **Payment.** The City will work with the UCCS Intercollegiate Athletics Department to establish a leasing agreement to include a discounted hourly rate based upon the number of planned usage hours. The City and the University will establish a leasing agreement upon an affirmative notification of the Great Outdoors Colorado grant in spring of 2017. The leasing agreement will be signed before completion of the UCCS Baseball in January of 2018.
9. **Additional Obligations.**
 - a. Designation of Intermediary. The University designates the Intercollegiate Athletics Department as the intermediary between the Parties for all purposes, including: 1) between the City and other University entities, including theatre, sports medicine, media programs, food services, etc.; and 2) between the City for use of University facilities for athletic camps.
 - b. Event Charges. The City may charge admission to all events that it sponsors, provided that it schedules the events through the University Intercollegiate Athletics Department. The City may not charge for parking in any University parking area, including the North Campus parking lot connected with the Property, unless approved by the University's Department of Public Safety, Parking Services ("Parking Services"). To receive approval for charging for parking, the City must make advance arrangements with Parking Services, and such arrangements will include payment of additional fees from the City to the University.
 - c. Locker Room Facility. The City may request permission to construct, at its sole cost and expense, a locker room facility on the Property. If the City makes such a request, it must include blue prints, construction schedule, contractor insurance certificates and any other design or planning documents that the University requests. The University Office of Property, Space & Leases, the University Department of Public Safety, and the University Department of Facilities will collectively review and either approve or deny any such request. If the University approves such a request and the City constructs a locker room facility, at the expiration or termination of this Agreement, the University will assume property rights and ownership of the locker room facility as-is with no warranty as to its condition and with no remuneration to the City. The University will assume responsibility for the repair of any damages to it that have been caused by a University student, faculty, or staff member.
 - d. Event Security. The City acknowledges that the University Department of Public Safety ("DPS") has full law enforcement jurisdiction over University property, including the Property. To host any spectator event on the Property, the City must contract with DPS for the provision of police services and may not use either a private security company or volunteers. In consultation with the City, DPS will determine the appropriate security requirements, including the number of officers required for a particular event, although every event will require at least two officers. The City must contract with DPS in good faith, including informing DPS of known circumstances that may warrant additional security. The University will charge the City an hourly rate for each University police officer assigned to work a City event. The rate will be the same rate that DPS charges

other University departments for similar services, and will be for at least three hours per officer, even if the event is less than three hours.

10. **REVOCABLE LICENSE.** The University may revoke and terminate this Agreement at any time at its sole discretion. Should the University decide to revoke and terminate the Agreement, it shall provide the City ninety (90) days' written notice prior to the end of the academic year of its intent to revoke as of the end of that year of the term. In the event of revocation and termination, the University shall provide the City with reasonable access to the Property to remove any equipment or installations to which it retains ownership and to perform any necessary remediation to return the Property to its original state. Likewise, the City may terminate this Agreement as of the end of any year of the term by providing the University ninety (90) days' written notice.
11. **LAND NOT TRANSFERRED.** Nothing herein shall be construed as conveying title to, nor creating a permanent easement or any other interest, in the Property.
12. **RESPONSIBILITY.** Each Party shall remain responsible for the acts and omissions of its own officials, employees and agents and shall not be responsible for the acts or omissions of the officials, employees or agents of the other Party.
13. **MISCELLANEOUS.**
 - e. It is specifically understood and agreed that nothing contained in this Agreement shall be construed as an express or implied waiver by the University of its governmental immunity or of the governmental immunity of the State of Colorado or as an express or implied acceptance by the University of liabilities arising as a result of actions which lie in tort or could lie in tort in excess of the liabilities allowable under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as may be amended from time to time, or any other rights or protections otherwise provided by law.
 - f. This Agreement may be executed by Parties with separate signature pages, each of which shall constitute an original and together which shall constitute one and the same agreement.
 - g. This Agreement is effective as of the last date signed by the Parties below.
14. **NOTICE.** When notice is required by this Agreement, notice shall be deemed validly given at the time the notice is delivered in person, *received* by first class or registered mail, or transmitted by facsimile (with confirmation of receipt) to the following addresses:

City of Colorado Springs

Regents of the University of Colorado

ATTN:

ATTN:

City of Colorado Springs
30 S. Nevada Ave
Colorado Springs, CO 80903

Intercollegiate Athletics Department
1420 Austin Bluffs Parkway
Colorado Springs, CO 80918

- A. **PARAGRAPH CAPTIONS.** The captions of the paragraphs are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.
- B. **INTEGRATION AND AMENDMENT.** This Agreement represents the entire understanding between the Parties with regards to the subject matter of this agreement and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the Parties. If any provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.
- C. **GOVERNING LAW.** This Agreement shall be governed by the laws of the State of Colorado without regard to its conflicts of law principles.
- D. **RELATIONSHIP OF THE PARTIES.** Each Party is an independent contractor, and this Agreement and the transactions contemplated hereunder shall not create between the Parties a relationship of agency, joint venture, partnership or employment. Each Party acknowledges that the performance of its obligations under this Agreement shall not result in any change in the employment status of such Party's employees, and such Party's employees shall remain solely the employees of such Party.
- E. **NO ASSIGNMENT AND NO THIRD PARTY BENEFICIARIES.** Neither party may assign its rights or obligations under this Agreement except upon the prior written consent of the other party. Enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the Parties, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other person or entity not a party to this Agreement.
- F. **FURTHER ASSURANCES.** The Parties shall execute any other documents and take any other action necessary to carry out the intent of this Agreement.

IN WITNESS WHEREOF, the Parties have caused the Agreement to be duly executed as of the date first written above.

The City of Colorado Springs:

By: _____

Print: _____

Its: _____

Date: _____

**THE REGENTS OF THE UNIVERSITY OF
COLORADO, a body corporate**

By: _____

Print: _____

Its: _____

Date: _____

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