

INTERGOVERNMENTAL AGREEMENT FOR THE
PIKES PEAK REGIONAL DEVELOPMENT REVIEW CENTER

THIS AGREEMENT is made and entered into this 15th day of 2003, 2003, by and among the City of Colorado Springs, (the "City"), for itself and for Colorado Springs Utilities (the "Utilities"), a part of the City and an enterprise as defined by the City Charter and the Colorado Constitution, and the Board of County Commissioners of the County of El Paso County, Colorado, (the "County"), and the Regional Building Department (also known as the Pikes Peak Regional Building Department; hereinafter the "Department" or the "PPRBD", both of which shall have the same meaning). This Intergovernmental Agreement (the "Agreement" or "IGA") provides for the construction and operation of a jointly occupied facility for regional land development review services under the authorization of Article XIV, Section 18 of the Colorado Constitution, Section 29-1-201, et seq. Colorado Revised Statutes, as amended, and the agreement forming the Department dated January 1, 2002. The facility constructed and operated pursuant to this authority shall be known and referred to as the Pikes Peak Regional Development Review Center (the "DRC"). The City, the County, and the Department shall hereinafter be referred to as the Parties.

WITNESSETH:

WHEREAS, the City, the County and the Department desire to provide enhanced levels of service to the construction and development communities and the residents of the Pikes Peak Region that are involved in land development and building construction; and

WHEREAS, since 1966, the City and the County have jointly operated a Building Department that is based upon a uniform regulatory code containing uniform enforcement procedures effective in the City, the zoned areas of the County and, which in recent years has also included other communities located within El Paso County that have joined together with the City and County to make the Regional Building Department a central agency for enforcement of uniform building codes within their communities; and.

WHEREAS, the consistent application of uniform building codes and uniform procedures has created an economical agency of benefit to the communities being served by it; and

WHEREAS, the communities that are being served by the Department have multiplied in number and in population, and it is likely that they will continue to grow; and

WHEREAS, because the actual and anticipated growth has become a reality, these communities can reasonably anticipate that, unless otherwise located in one facility as provided for herein, the governmental services for all property development will be required to be located in different parts of the City and County, particularly in light of the fact that all of the space in the present building occupied by the Department and some of the affiliated governmental agencies is now overcrowded; and

WHEREAS, in order to increase efficiency in the land development and building permit processes for the benefit of the Parties and the land development and building construction communities, the Parties mutually desire to provide for one centralized facility in which to locate the various local governmental agencies that conduct the land development and building permit processes; and

WHEREAS, in order to provide for a centralized facility, the Parties mutually desire to provide herein for the construction, financing, ownership and operation of the Regional Development Review Center; and

WHEREAS, this Agreement is intended to authorize the construction, financing, ownership and operation by the Parties, with specific details to be set forth in other agreements that will be developed for the use of space in the Pikes Peak Regional Development Review Center; and

WHEREAS, it is anticipated that approximately eighty percent (80%) of the rents that will be paid for the use of space is anticipated to come from fees collected by the Parties hereto.

IT IS THEREFORE AGREED:

I ORGANIZATION

That a joint facility for service shall be constructed and jointly occupied and operated as permitted under the authorization of Article XIV, Section 18 of the Colorado Constitution, Section 29-1-201, et seq., Colorado Revised Statutes, as amended, and the agreement which formed the Regional Building Department which shall be known as the Pikes Peak Regional Development Review Center or DRC.

The function of the DRC shall be to house personnel employed by the parties to this agreement essential to their respective development review processes and/or the administration and enforcement of the building and construction codes, thereby enhancing service levels to the public.

The responsibility for planning, design, constructing and operating the DRC shall be that of the Department, which shall also make final decisions regarding space and cost allocation, subject to the consent of the other Parties.

In order to accomplish the construction and operation of the DRC the Department's responsibilities, functions and powers shall include:

- a. Acquire suitable land and other property as may be required for the facility.
- b. Contract with architectural and construction firms and others as may be necessary to design, construct and operate the DRC.
- c. Acquire suitable funding as may be required for the project and as set forth herein.
- d. Act as sublessor as relating to issues such as maintenance, leasing, space allocation and all other functions related to the operating of the DRC.

II FUNDING

Funding for the land and the construction of the DRC shall be by means of Certificates of Participation, hereinafter referred to as the Certificates. The County shall approve the Lease Purchase Agreement identified below in connection with said Certificates; however, the execution and delivery of the Certificates shall be by the Trustee, as identified below. The terms and conditions of the Certificates of Participation shall be as set forth in those certain instruments as follows.

a. **MORTGAGE AND INDENTURE OF TRUST**, by and between **EL PASO COUNTY FACILITIES CORPORATION**, as Lessor, and **U.S. BANK NATIONAL ASSOCIATION** as Trustee, Securing approximately \$18,000,000.00 of Certificates of Participation, Series 2003A, Evidencing Assignments of Interests in Payments to be made by El Paso County, Colorado as Lessee Under a Lease Purchase Agreement, hereinafter referred to as the Trust.

b. **LEASE PURCHASE AGREEMENT**, by and **EL PASO COUNTY FACILITIES CORPORATION**, as Lessor, and **EL PASO COUNTY, COLORADO**, As Lessee, hereinafter referred to as the Lease Purchase Agreement.

c. **SUBLEASE PURCHASE AGREEMENT**, by and between **EL PASO COUNTY, COLORADO**, as Sublessor, and **PIKES PEAK REGIONAL BUILDING DEPARTMENT**, as Sublessee, hereinafter referred to as the Sublease Purchase Agreement.

The foregoing may be collectively referred to in this Agreement as the Instruments.

The rights, duties, and obligations of the City are only as set forth in this Agreement and in any lease documents entered into pursuant to this Agreement, and under no circumstances shall this provision express or imply any right, duty, or obligation of the City under the Trust, Lease Purchase Agreement, and Sublease Purchase Agreement. Unless otherwise agreed to by the Parties in further leases, this Agreement and such leases shall be subject to and subordinate to the above-referenced Instruments. Therefore, in the event that the Parties desire all or part of other leases to become binding upon and attorn to the above-referenced Trustee under the above-described Trust, or upon

the Trustee's heirs, successors, or assigns, the Parties must obtain the Trustee's written agreement thereto.

As shall be set forth with more particularity below, this Agreement and any subsequent leases entered into between any of the Parties are closely linked. Accordingly, it is important that certain words have consistent definitions. The above-referenced Trust, Lease Purchase Agreement, and Sublease Purchase Agreement define certain words and phrases. Therefore, unless otherwise expressly identified as intended to have a different meaning in this Agreement or any subsequent lease entered into pursuant to this Agreement, any of the same or substantially similar such words or phrases used in this Agreement or any subsequent leases entered into by any of the Parties pursuant to this Agreement shall have the identical definitions as any of the same or substantially similar words or phrases in the above-referenced Trust, Lease Purchase Agreement, and Sublease Purchase Agreement.

III LEASING

As soon as practicable after the execution of this Agreement by the Parties, the Parties shall mutually cooperate with each other in the development in the form of further leases as may be necessary, which should substantially incorporate the terms and conditions of this Agreement. In all other respects the Parties shall mutually cooperate with each other in the development of subleases that is similar to a standard commercial lease suitable for public entities.

IV CONSTRUCTION OF BUILDING

The Pikes Peak Regional Building Department will manage the construction of the DRC as well as manage the construction expenses, architectural services, engineering, and all associated costs, as well as licenses and permits. The PPRBD's more specific obligations to construct and equip the DRC are set forth with more particularity in the above-referenced Sublease Purchase Agreement and in the plans and specifications for the DRC. The costs of constructing and equipping the DRC shall not exceed the amount mutually agreed upon by the PPRBD, the City and the County.

V
LEASE TERM, NON-APPROPRIATION FOR LEASE, RIGHT TO REDEEM UPON
EVENT OF DEFAULT

The final term of any and all subsequent subleases shall include the term that should be equal to the term of the above-referenced Lease Purchase Agreement, provided that any Party to the subleases shall have the right and authority to terminate those subleases without penalty or without payment of damages to any other Party by not appropriating for those subleases in any subsequent fiscal year, regardless whether any Party's participation in the subleases is classified as or determined to be a governmental or proprietary activity. Therefore, the subleases shall provide that the City and County's obligation to lease space in the DRC shall be from year to year only from current budgeted expenditures of the City and the County, and which obligation shall not constitute a mandatory charge or requirement in any ensuing budget year, and shall not constitute a general obligation or a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of any Party hereto within the meaning of any constitutional or statutory limitation or requirement concerning the creation of indebtedness, nor a mandatory obligation of the City or the County in any ensuing fiscal year beyond any fiscal year during which the subleases shall be in effect.

The subleases or other agreements shall consider the rights and obligations of the Parties in the event that one or more parties defaults or otherwise terminates a sublease or other agreement or other interest in the DRC.

VI
OWNERSHIP UPON PPRBD'S EXERCISE OF PURCHASE OPTION

In the event that the PPRBD successfully exercises its option to purchase the DRC pursuant to the terms and conditions of the above-referenced Sublease Purchase Agreement, the PPRBD shall become the owner in fee simple absolute of the Leased Property. Unless otherwise agreed to in other subleases, and upon the successful exercise of this option, the Base Rent component of the subleases which is the amount required to satisfy the proportionate share of the Certificates issued under the above-referenced Instruments, shall terminate by operation of law and without the need for any action on the part of any of the parties to any and all subleases. At that time, or within six (6) months thereafter, permanent legal ownership to the DRC shall be determined as among the City (including its Utilities), the County and the PPRBD, based, at least in part, on space occupied and/or fees or sums paid during the period the certificates are outstanding. If either the City or County does not agree to a percentage legal ownership within this six (6) month period, the City or the County shall retain their respective leasehold estates. Unless otherwise agreed to in writing, these leasehold estates shall be tenancies for a fixed term commencing on January 1 of the relevant fiscal year and terminating on December 31 of the same fiscal year. The City or the County may renew any of such one (1) year leasehold estates by the legislative act of appropriating funds for the lease, which appropriation shall occur on or before the expiration of the relevant fiscal year. The rent for any such period shall be each entity's pro-rata share for the CAM charges as identified below. The City and the County shall annually have the right thereafter to agree with PPRBD and finalize a permanent legal ownership percentage.

VII

SPACE ALLOCATION

All space allocation in the DRC shall be for development review activities of the Parties. Construction of the DRC is planned to commence in Spring 2003, and substantial completion of the DRC is planned for on or about May 2004. Occupancy of the DRC shall be as substantially set forth in subsequent agreements.

VIII

ESTABLISHMENT OF RENTAL RATE AND PRO-RATA ALLOCATION OF RENTAL RATE

The sublease agreements shall provide for the rental rate, the base rent and the common area maintenance charge, hereinafter referred to as the CAM charge, the latter of which shall be additional rent.

IX

RENTAL PAYMENT DATES, OTHER COSTS, ALTERATIONS, REPAIRS, ASSIGNMENT, SUBLEASE, CASUALTY LOSS, CONDEMNATION, INSURANCE, LIABILITY, PARKING FACILITIES, ADDITIONAL TAX CONSIDERATIONS

Subsequent sublease agreements shall structure the commencement of the obligation to pay rent and the dates that installments of rents are to be paid so that the County and the PPRBD are able to meet their initial and all subsequent installments of rent according to the requirements of the above-referenced Instruments. Provisions for other costs, alterations, repairs, assignment, sublease, casualty loss, condemnation, insurance, liability, parking facilities, additional tax considerations shall be included in subsequent sublease agreements.

X

GOVERNMENTAL RULES, REGULATIONS AND LAWS

This Agreement, and all subsequent agreements, shall be subject to all valid rules, regulations and laws applicable thereto, including the Constitution of the State of Colorado, the Colorado Revised Statutes, as applicable, the City Charter of the City of Colorado Springs and the City Code of the City of Colorado Springs, 2001 as amended.

XI

NOTICES

Any notice, request, demand or statement provided for in this Agreement and related subsequent agreements shall be in writing and shall be considered to have been duly delivered when sent by registered or certified mail (provided that bills may be sent

by first class mail), addressed as follows, unless another address has been designated, in writing, by the party entitled to receive the same:

City of Colorado Springs:

City Manager
City Hall
P.O. Box 1575/MC 1547
Colorado Springs
Colorado 80901-1575

With copies to:

Chief Executive Officer
Colorado Springs Utilities
121 South Tejon Street
Colorado Springs
Colorado 80903

City Attorney
P.O. Box 1575/MC 510
Colorado Springs
Colorado 80901-1575

El Paso County:

County Administrator
27 East Vermijo Street
Colorado Springs, CO 80903

County Attorney
27 East Vermijo Street
Colorado Springs, CO 80903

Pikes Peak Regional Building Department:

Regional Building Official
101 W. Costilla Street
Colorado Springs, CO 80903

XII

SEVERABILITY

The parties hereto agree that if any provision of this Agreement should contravene or be held invalid under the laws of the State of Colorado, such contravention or invalidity shall not invalidate the whole Agreement or its subsequent agreements, but it shall be construed as though not containing that particular provision and the right and obligations of the parties shall be construed and in force accordingly.

XIII

GOVERNING LAW; JURISDICTION

This Agreement shall be governed and construed in accordance with the laws of the State of Colorado and the City Charter for the City of Colorado Springs and the City Code of the City of Colorado Springs, as amended from time to time. Each party hereby expressly and irrevocably agrees and consents that any suit, action or proceeding arising out of or relating to this Agreement and the transactions contemplated hereby may be instated by any party hereto in any State court sitting in El Paso County, Colorado or, if federal jurisdiction exists, in the Federal Court sitting in the City and County of Denver, Colorado, and by the execution and delivery of this Agreement, expressly waives any objection which it may have now or hereafter to the laying of the venue of any suit, action or proceeding.

XIV

COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be considered an original, but all of which together constitute one and the same instrument.

XV

INTENT OF AGREEMENT

This Agreement is intended to describe the rights and responsibilities of and among the parties and is not intended to, and shall not be deemed to confer any rights upon any persons or entities not named as parties, nor to limit in any ways the powers and responsibilities of the parties or any other entity not a party hereto.

XVI

AMENDMENTS

This Agreement may be amended, modified, changed, or terminated in whole or in part only by a written agreement duly authorized and executed by the parties.

XVII

ASSIGNABILITY

The parties agree that no party shall have the right to assign or transfer any of the rights or obligations of this Agreement, or any ownership share eventually determined, without the prior written consent of the other parties. In the event that such consent is granted, this Agreement and the rights and obligations created hereby shall be binding upon and inure to the benefit of the assigning party's respective successors and assigns.

XVIII

ENTIRE AGREEMENT

The parties agree that this Agreement and related agreements relative to the subject matter hereof constitute the entire agreement of the parties with respect to the DRC.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their names and their seals affixed, all by the proper officers duly authorized, as of the date first written above, but actual execution having been completed on the 15th day of April, 2003.

CITY OF COLORADO SPRINGS

By: Maryloue Wakepeace
Mayor

Dated: 4-15-03

(SEAL)

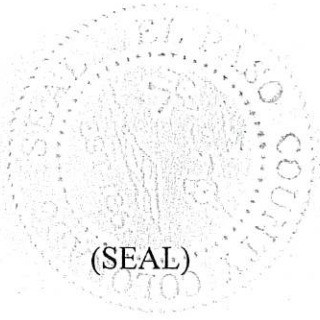
ATTEST:

Kathryn M. Young
City Clerk

APPROVED AS TO FORM:

Salvina K. Kelly
City Attorney

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF EL PASO, COLORADO



By: Chuck Bruner
Chairman

Dated: 4/15/03

ATTEST:

[Signature]
Deputy County Clerk

APPROVED AS TO FORM:

M. A. Lucas
County Attorney

REGIONAL BUILDING DEPARTMENT OF THE
PIKES PEAK REGIONAL BUILDING
DEPARTMENT

By: [Signature]
Chairman

ATTEST:

APPROVED AS TO FORM:

[Signature]
Otto K. Hilbert
Attorney for Regional Building Department