

96-321

INTERGOVERNMENTAL AGREEMENT
FOR
JOINT PROFESSIONAL FIREFIGHTER CERTIFICATION

This Agreement, dated for reference this 15th day of January, 1996, is made by and between the City of Colorado Springs, Colorado, The City of Aurora, Colorado, the West Metro Fire Protection District, and the City and County of Denver, Colorado (hereinafter the "Parties").

1. AUTHORITY:

This Agreement is made under authority of Section 29-1-203 (1) C.R.S.

2. PURPOSE:

The purpose of this Agreement is to provide a mechanism for joint professional certification of firefighters employed by the Parties by combining the resources of the Parties under Section 29-1-203(1) C.R.S. however, nothing herein is intended to create any separate entity as provided under Section 29-1-203(4) C.R.S.

3. COLORADO METROPOLITAN CERTIFICATION BOARD:

a) There is hereby created the Colorado Metropolitan Certification Board (CMCB). The Board shall consist one representative from each Party to this Agreement. The representative shall be the chief training officer of each Party's Fire Department, who shall be appointed by the Fire Chief of each Party. The CMCB quorum shall be two thirds of the members.

b) The CMCB shall manage the firefighter professional certification process for the member fire departments.

c) The CMCB shall establish written rules and regulations for implementation and operation of the professional certification process, including an appellate process. These written rules shall be effective after majority approval by the Fire Chiefs of the Parties, provided however, that CMCB rules and regulations shall not be applicable to the personnel of any Party until deemed approved by that Party under its organic law.

d) CMCB policies and documents are subject to legal review by each Party and shall not be applicable to the personnel of any Party until deemed approved by that Party under its organic law.

f) The CMCB shall establish and appoint an Advisory Committee. The purpose of the Advisory Committee is to provide oversight authority in the management of the certification policies for all certification policies. The Committee shall report to the CMCB. The Advisory Committee should consist of members with the following expertise, when possible:

the Fire Chief of one Party participating in this Agreement;
one member from each party with Civil Service Commission experience;
one member, with an expertise in AA/EEO, from one Party;
one member of the CMCB;
such other members as the CMCB may from time to time deem desirable.

e) The CMCB shall establish and appoint a Curriculum Review Committee. The purpose of the Curriculum Review Committee is to ensure that the curriculum, test bank, and evaluation process for each certification program has been properly validated. The Committee shall report to the CMCB. The Curriculum Review Committee may consist of the following members:

one adult educator with a Masters or Doctorate in Education;
one fire science degree program coordinator;
one Advisory Committee member who is not otherwise a member of the CMCB;
one member of the CMCB.
one member from the Colorado Fire Training Officer's Association, if available;
such other members as the CMCB may from time to time deem desirable.

4. TRAINING AND FACILITIES:

Each party shall conduct its certification training and testing using its own facilities and equipment, except that, for economy of resources, the CMCB may from time to time designate joint training facilities and joint training equipment, with the consent of the Fire Chiefs of the Parties owning or controlling those facilities or equipment.

5. OWNERSHIP OF MATERIALS AND EQUIPMENT:

All testing material developed or acquired under this Agreement shall be the joint property of the Parties to this Agreement. Any equipment acquired under this Agreement shall be determined by the CMCB prior to acquisition and payment for that equipment. Individual files on firefighters tested shall be the property of that firefighter's department only. Nothing in this Agreement is intended, or shall be construed, to modify, waive or amend any provision of the Colorado Open Records Act, the Colorado Governmental Immunity Act, or any other state or federal law.

6. LAW:

This Agreement is subject to and shall be interpreted under the law of the State of Colorado, and the Charter, City Code, Ordinances, Rules, and Regulations, as such may be applicable, of the City of Colorado Springs, the City of Aurora, the West Metro Fire Protection District, and the City and County of Denver.

7. APPROPRIATION OF FUNDS:

In accord with state and local law, performance of any Party's obligations under this Agreement is expressly subject to appropriation of funds by the Party's governing body and the availability of those funds under state and local spending limitations. Each Party may annually submit to the CMCB a letter stating the amount appropriated in that annual fiscal year, which letter shall be attached to this Agreement for reference. The obligations of each Party under this Agreement or any renewal for any financial obligation, whether direct or contingent, shall extend only to monies appropriated for the purpose of this Agreement by each Party's Board of Councilmen or other legislative body, paid into the Party's treasury, and encumbered for the purposes of this Agreement. The Parties acknowledge that (i) the Parties do not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years and (ii) this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of any Party.

8. WORKER'S COMPENSATION INSURANCE:

Each Party shall provide during the period of this Agreement, Colorado Worker's Compensation Insurance for all personnel of the Party.

9. INTELLECTUAL PROPERTY RIGHTS:

The Parties hereby agree, and acknowledge, that all products, items writings, designs, models, examples, or other work product of the produced or acquired pursuant to this Agreement, shall be jointly owned by the Parties to this Agreement, and each party shall have joint ownership of any intellectual property rights of such materials.

10. NON DISCLOSURE OF CONFIDENTIAL COMMERCIAL DATA:

The parties hereto recognize that the Parties are subject to the laws of Colorado, and as such, Confidential information provided under this Agreement to the Parties under this Agreement is subject to and shall be interpreted under the law of the State of Colorado, including nondisclosure of confidential commercial data under section 24-72-204(3)(a)(IV), Colorado Revised Statutes.

11. LIABILITY FOR FACILITIES, EQUIPMENT AND EMPLOYEES:

a) No employee of a Party shall participate in any activity under this Agreement unless the employee is on duty within the meaning of the federal Fair Labor Standards Act. When an employee of a party attends training or otherwise participates in activities under this Agreement, that employee shall at all times remain exclusively under the direction of that Party, and the Party shall be

responsible for all pay, benefits, and compensation, including workers compensation benefits, for that Party, and each Party shall handle all legal issues raised by or pertaining to its employees or personnel.

b) When a facility or the equipment of a Party is utilized under this Agreement, that Party shall remain responsible for the facility or equipment and shall be responsible for any claims or damages resulting from use of that facility or equipment, except that employees of any Party are deemed to be performing their duties for their own agency when utilizing another Party's facilities or equipment, and shall be covered by their own agency's benefits in the event of injury or other claims or damage.

In the event that a facility or equipment is damaged, the Party whose employee is responsible for the damage shall be responsible for the costs of that damage unless the damage is intentional, at which time the Party owning the facility or equipment may pursue all legal remedies against the person causing the damage.

c) Subject to the limitations of subparagraph 11(b) above, in the event that a legal action for damages is brought against a Party as a result of facility or equipment use under subparagraph 11(b) above, the owning Party may request reimbursement of any and all fees, costs or damages paid as a result of the legal action or settlement thereof, from the party whose employee was responsible for the damages, and the employee's Party may reimburse those expenses subject to subparagraph 11(d) herein below. In the event that Insurance payments under the Colorado Auto Accident Reparations Act, C.R.S. 10-4-701 et seq., or payments under the Colorado Financial Responsibility Act, C.R.S. 42-7-102 are made by a Party as a result of vehicle operation under subparagraph 11(b) above, the vehicle owner Party may request reimbursement of any and all fees, costs or damages paid as a result of the legal action or settlement thereof, and the operator employee Party may reimburse those expenses subject to subparagraph 11(d) herein below.

d) Reimbursements under this Agreement shall be subject to appropriation of funds by the Party's governing body for that purpose, and nothing herein shall be construed as requiring appropriation of funds by any governing body. In addition, the Parties hereto may, at their sole option, agree to pay any reimbursement, or any judgment of financial liability to a third party, resulting from operation of a facility or equipment, from special funds which the Parties may from time to time chose to appropriate for that purpose, on behalf of the liable Party.

e) Nothing in this Agreement shall be construed to place the officers of any Party under the control or employment of another Party. Each Party remains responsible for all pay, entitlements, employment decisions, and worker's compensation liabilities, for its own members. Nothing in this Agreement is intended to create or grant to any third party or person any right or claim for damages or the right to bring or maintain any action at law, nor does any Party waive its immunities at law, including immunity granted under the Colorado Governmental Immunity Act.

12. ASSIGNMENT:

The rights and responsibilities under this Agreement shall not be assigned or otherwise transferred without the prior written consent of all Parties to this agreement. No modification of this Agreement or any term herein shall be valid unless made in writing and signed by all Parties. Any Party to this Agreement may withdraw from this Agreement with or without cause upon written notice to the other Parties.

13. TERMINATION:

Any Party to this Agreement may terminate its participation in this Agreement upon sixty (60) days prior written notice to the other Parties. In the event of any termination under this paragraph, the termination shall not affect property rights then held under paragraphs 5 and 9 of this Agreement. The Parties further agree that in the event of a termination under this paragraph, all Parties will use their best efforts to reach an equitable division of any property acquired by the CMCB pursuant to this Agreement and not otherwise jointly owned under paragraphs 5 and 9 of this Agreement.

14. EXAMINATION OF RECORDS:

The Parties hereto agree that any duly authorized representative of any Party shall, until three years following a Party's withdrawal from this Agreement, or Termination of this Agreement, whichever shall occur first, have access to and the right to examine any directly pertinent books, documents, papers and records of each Party involving transactions related to this Agreement.

15. CONFLICT OF INTEREST:

The Parties agree that no employee of Denver shall have any personal or beneficial interest whatsoever in the services or property described herein and the other Parties further agree not to hire or contract for services any employee or officer of Denver which would be in violation of the Denver Revised Municipal Code Chapter 2, Article IV, Code of Ethics, or Denver City Charter provisions C5.13 and C5.14.

16. NO THIRD PARTY BENEFICIARY:

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and any rules, regulations or policies promulgated pursuant to this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties hereto, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person or entity on such Agreement, including but not limited to contractors, subcontractors, subconsultants, suppliers, and persons seeking certification. It is the express intention of the Parties hereto that any person or entity, other than the Parties to this Agreement, receiving services or benefits under this Agreement shall be deemed to be incidental beneficiaries only.

17. SEVERABILITY:

It is understood and agreed by the Parties hereto that if any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid. Further, the parties agree and acknowledge that the activities contained in this Agreement are matters of local concern only, and that the Parties have mutually joined together for the performance of the matters of local concern, and that nothing in this agreement shall or be construed as making any of the local concerns covered herein matters of statewide concern.

18. INTEGRATION:

This is a completely integrated Agreement and contains the entire agreement between the Parties. Any prior written or oral agreements or representations regarding this Agreement shall be of no effect and shall not be binding on any Party hereto. Further, the Parties acknowledge and agree that this is a negotiated text agreement, and that as such no term shall be construed against any Party as the author thereof.

19. EFFECTIVE DATE OF AGREEMENT:

This Agreement is deemed effective as of the 15th day of January, 1996 and shall continue in effect until otherwise determined by the Parties. Each Party shall become subject to and participant in this Agreement upon the date of signature by its Governing Body below.

IN WITNESS WHEREOF, the Governing Bodies of the Parties have executed this agreement on the dates indicated below:

FOR THE WEST METRO FIRE PROTECTION DISTRICT:

By: Sheryl A. Thompson this 17 day of April, 1996

ATTEST: [Signature]
Secretary

Approved as to Form: [Signature]
Board Attorney

FOR THE CITY OF AURORA:

By: [Signature] this 22 day of April, 1996
Paul E. Tauer, Mayor

ATTEST: [Signature]
Donna L. Young, City Clerk

Approved as to Form: [Signature]
Christine McKenney
Assistant City Attorney

Recommended And Approved for Aurora:

By: [Signature]
Nancy Freed, Deputy City Manager
for Community Services

By: [Signature]
Ray Barnes, Fire Chief

FOR THE CITY OF COLORADO SPRINGS:

By: [Signature] this 1 day of April, 1996
Robert M. Isaac, Mayor

ATTEST: [Signature]
Deputy City Clerk

Approved as to Form: [Signature]
City Attorney

FOR THE CITY AND COUNTY OF DENVER

By: Walter S. Hall this _____ day of _____, 1997
Mayor **DEPUTY CITY CLERK**

ATTEST: By Elbra Wedgeworth
Elbra Wedgeworth
Clerk and Recorder
Ex-officio Clerk of the City and
County of Denver

Approved as to Form:
Daniel E. Muse, Attorney for the City and
County of Denver
By [Signature]
Assistant City Attorney

RECOMMENDED AND APPROVED FOR DENVER

By: [Signature]
Manager of Safety

By: [Signature]
Fire Chief

REGISTERED AND COUNTERSIGNED FOR DENVER

By: [Signature]
Auditor Deputy Auditor

Contract Control No. XC 54066



September 14, 1995

Ross Marzolf, President
West Metro Civil Service Commission
9101 W. Belmont Avenue
Littleton, CO 80215

Dear Mr. Marzolf:

The West Metro Fire Department has established a partnership with the other metro-class departments in the state which include Denver, Aurora, and Colorado Springs. The partnership has been formalized with the establishment of the Colorado Metropolitan Certification Board. The purpose of the Board is to gain national accreditation for the management of professional certification programs.

As part of the policies for the Board, an Advisory Committee is being established with the following responsibilities (Chapter 2, Section 2.102):

- evaluate fairness and equality in the execution of the certification processes.
- ensure there is no adverse impact in the certification process to any specific group represented within the member departments.
- ensure local, state, and federal equal employment and non-discrimination guidelines are met.
- ensure policies and standards of the National Board of Fire Service Qualifications are maintained.

The Board feels that it is essential that a single representative from the Civil Service Commission be a member on the Advisory Committee. In fact, Chapter 2, Section 2.201 calls for a representative from a Civil Service Commission of the member departments. The Board extends an invitation to you to be that representative.

The members of the Board would like to meet with the Civil Service Commission representatives at the earliest possible opportunity to discuss the goals of the Colorado Metropolitan Certification Board, as well as the function of the Advisory Committee

Thank you for your consideration of this issue.


Mike Berg, Assistant Chief
West Metro Training Division

c: Colorado Metropolitan Certification Board Members

/ls

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RESOLUTION NO. 145-96

A RESOLUTION APPROVING AN AMENDMENT
TO THE INTERGOVERNMENTAL AGREEMENT
FOR JOINT PROFESSIONAL FIREFIGHTER
CERTIFICATION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

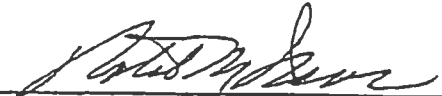
Section 1. The City Council approved City participation in the Fire Certification Intergovernmental Agreement February 13, 1996, as they found it to be advantageous to the public health, safety and welfare by providing a mechanism to facilitate professional certification for City firefighters.

Section 2. The City Council recognizes the value of adding the Colorado Community College Board to the Intergovernmental Agreement since they will provide a direct connection with the Fire Science Degree Programs and to a great deal of financial and human resources as well as partnering on training issues.

Section 3. The City Council approves the First Amendment to the Intergovernmental Agreement that adds the Colorado Community College Board as the last member of the Metropolitan Certification Board.

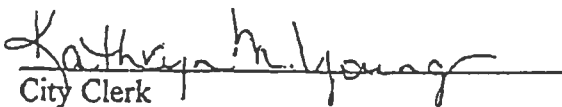
Section 4. The City Council authorizes the City Fire Chief to sign the Amended Intergovernmental Agreement attached hereto and made part of this resolution as Exhibit "A."

Dated at Colorado Springs, Colorado, this 22nd day of October, 1996.



Mayor

ATTEST:



City Clerk