

**INTERGOVERNMENTAL AGREEMENT
FOR DISASTER MUTUAL AID
BETWEEN THE CITY OF COLORADO SPRINGS
AND DOUGLAS COUNTY, COLORADO**

This Intergovernmental Agreement (“Agreement”), dated for reference this 1st day of September 2015, is made by and between the City of Colorado Springs, a Colorado home rule city and municipal corporation (herein “City”) and Douglas County, Colorado (herein “County”). For purposes of this Agreement, each Party may be referred to as a “Party” or collectively as “Parties”.

The Parties hereby agree as follows:

Paragraph 1: PURPOSE: The purpose of this Agreement is to set the terms for the provision for Disaster mutual aid and assistance during declared emergencies or disasters.

Paragraph 2: AUTHORITY: The authority for this Agreement in Section 18 of Article XIV of the Colorado Constitution; Section 6 of Article XX of the Colorado Constitution; and C.R.S § 29-1-203.

Paragraph 3: TERM: The term of this Agreement shall be from September 1, 2015 through September 30, 2020, unless terminated earlier by the Parties pursuant to the provisions of Paragraph 5.

Paragraph 4: DISASTER ASSISTANCE MUTUAL AID:

- A. In the event of a Declared Emergency or Declared Disaster, as provided in the Colorado Springs City Charter; the organic law of the County, the Colorado Disaster Act of 1992, as amended, or a federal disaster declaration, either Party to this Agreement may request from the other Party that assistance be provided anywhere within the requesting Party’s jurisdiction. A request for assistance may be for any type of assistance or aid what so ever, which the requesting Party may deem necessary to respond to the requesting Party’s emergency or disaster situation. Upon receipt of a request for assistance from the requesting Party, the Party receiving the request (also known as “the Responding Organization”) may dispatch any personnel, equipment, or other assistance which the receiving Party deems, in the receiving Party’s sole determination and discretion, available for mutual aid assistance. Dispatch of equipment or personnel is voluntary and is not required. In the event assistance is provided, any provision of equipment and personnel pursuant to this mutual aid paragraph is subject to the conditions of sub paragraphs B through F below.
- B. Any request for aid hereunder shall include a statement of the amount and type of equipment and personnel requested, contact information, and shall specify the location to which the equipment and personnel are to be dispatched, but the amount and type of equipment and the number of personnel to be furnished shall be determined by a representative of the Responding Organization.

- C. The Responding Organization's commanding officer shall report to the National Incident Management System (NIMS) Incident Commander.
- D. The Responding Organization personnel and equipment shall be released by the requesting organization or NIMS incident commander when the assistance of the Responding Organization are no longer required or when the Responding Organization's equipment or personnel are needed by the Responding Organization.
- E. The Responding Organization's personnel and equipment shall be and remain under the command and control of the Responding Organization's company, battalion, or commanding officer in accord with NIMS procedures. In addition, the Responding Organization's personnel are responsible to continue to follow their own agency's policies and procedures. If the Responding Organization's policies and procedures conflict with orders from the Incident Commander, the Responding Organization must notify the Incident Commander and may not violate these policies. It will be the responsibility of the Incident Commander to resolve these discrepancies without asking the Responding Organization's personnel to violate these policies.
- F. Either Party may seek reimbursement or other cost recovery from state or federal sources as provided under the Colorado Disaster Emergency Act of 1992, as amended, the federal Stafford Act, as amended, and any other applicable state or federal laws, regulations, or policies for assistance. Equipment will be reimbursed based on a current FEMA Schedule of Equipment Rate or at a Cooperator Resource Rate (CRRF), whichever rate applies to the event. Personnel costs will be reimbursed based on the Responding Organization's actual costs.

Paragraph 5. **TERMINATION:** A Party to this Agreement may terminate its participation in this Agreement for convenience upon thirty (30) days prior written notice without compensation to the other Party. Any notice of the termination shall state the effective date of termination.

Paragraph 6. **NON-LIABILITY:** This Agreement shall not be construed to create a duty as a matter of law or contract for the provision of any service or assistance, the Parties recognizing and intending to exercise rights for mutual convenience which they may exercise independently, nor shall this Agreement be construed as creating a benefit or enforceable right for any person. This Agreement shall not be construed to create a duty as a matter of law or contract for any of the Parties to assume any liability for injury, property damage, or any other damage the may occur by any action or non-action taken, or service provided to the public or any person, as a result of this Agreement.

Paragraph 7. **AMENDMENTS:** The Parties agree that this Agreement may only be amended or altered by written Agreement signed by the Parties governing bodies.

Paragraph 8. **TRANSFER:** No Party shall assign or otherwise transfer this Agreement or any right or obligation hereunder without prior written consent of the other Party.

Paragraph 9. **NOTICES:** Any correspondence to each Party shall be addressed to the following persons:

For Colorado Springs:

Director of Emergency Management
Colorado Springs Office of Emergency Management
375 Printers Parkway
Colorado Springs, CO 80901

For the County:

Director of Emergency Management
Douglas County Sheriff's Office
4000 Justice Way
Castle Rock, CO 80109

The addresses and persons above may be changed from time to time by written notice to the other Party, and any written notice of change shall be attached to this Agreement.

Paragraph 10. COMPENSATION: Except as otherwise stated in this Agreement, no Party to this Agreement shall be required to pay any compensation to the other Party or the other Party's personnel for any services rendered hereunder. Other than the command structure contemplated in Paragraph 4, nothing in this Agreement shall be construed to place the personnel of any Party under the control or employment of another Party. Each Party remains responsible for all pay, entitlement, benefits, employment decisions, and worker's compensation liabilities, for its own personnel.

Paragraph 11. EXPENDITURES AND FEES OF EACH PARTY DEEMED EXPENDITURES OF THAT PARTY: The Parties to this Agreement agree that the purpose of this Agreement is to jointly accomplish pursuant to C.R.S. Section 29-1-203 activities which could be performed separately by each Party. Accordingly, it is agreed and understood for purposes of the Colorado Constitution, Article X, Section 20, and the Colorado Springs City Charter, that any fees contributed or paid, or otherwise provided by any Party to this Agreement to another Party to this Agreement are and remain an expenditure of the contributing, paying, or otherwise providing Party, and are not revenue or expenditures of the receiving Party. However, upon the conclusion of a disaster or emergency situation, the governing bodies of the Parties, by separate written Intergovernmental Agreement, may elect to agree to reimburse or otherwise compensate each other for various costs or expenses incurred, or to assume various liabilities, resulting from the performance of activities under this Agreement.

Paragraph 12. APPROPRIATION AND AVAILABILITY OF FUNDS – CITY: In accord with the Colorado Constitution, Article X., Section 20, and the City Charter, rules and regulations, performance of the City's obligations under this Agreement is expressly subject to the lawful appropriation of funds by the Colorado Springs City Council. Further, in the event that funds are not appropriated in whole or in part sufficient for performance of the City's obligations under this Agreement, or appropriated funds may not be expended due to Constitutional or City Charter spending limitations, then the City may terminate this Agreement without compensation to the County.

Paragraph 13. APPROPRIATION AND AVAILABILITY OF FUNDS – COUNTY: In accord with the Colorado Constitution, Article X., Section 20, performance of the County's obligations

under this Agreement is expressly subject to appropriation of funds by the County's Governing Body. Further, in the event that funds are not appropriated in whole or in part sufficient for performance of the County's obligations under this Agreement, or appropriated funds may not be expended due to Constitutional spending limitations, then the County may terminate this Agreement without compensation to the City.

Paragraph 14. LOCAL CONCERN: The Parties agree and acknowledge that the activities contained in this Agreement are matters of local concern only and for the benefit of each Party's inhabitants, 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 mixed concern or statewide concern.

Paragraph 15. ENTIRE AGREEMENT: This Agreement, together with all exhibits attached hereto, constitutes the entire Agreement between the parties hereto, and all other representations or statements heretofore made, verbal or written, are merged herein, and this agreement may be amended only in writing, and executed by duly authorized representative of the Parties hereto.

Paragraph 16. NO THIRD PARTY BENEFICIARY: It is expressly understood and agreed that 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 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. 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.

Paragraph 17. HEADINGS: The headings of the several articles and sections of this Agreement are inserted only as a matter of convenience and for reference and do not define or limit the scope or intent of any provisions of this Agreement and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

Paragraph 18. PARTNERS: The Parties to this Agreement are not partners or joint ventures as a result of this Agreement.

Paragraph 19. WAIVER: The provision of services under this Agreement is for the benefit of the City and the County in times of emergency or disaster. Accordingly, the County and the City do hereby waive, remise, and release any claim, right, or cause of action which either may have, or which may accrue in the future, against the other arising in whole or in part from this Agreement. No provision of this Agreement shall be deemed or construed to be a relinquishment or waiver of any kind of the applicable limitations of liability provided to each Party by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et. seq.* and Article XI of the Colorado.

IN WITNESS WHEREOF, Douglas County and the City of Colorado Springs have executed this Agreement.

**BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS**

ATTEST:

BY: _____
Jill E. Repella, Chair

**Melissa Pelletier
Deputy Clerk to the Board**

DATE: _____

APPROVED AS TO CONTENT:

**Tony Spurlock
Douglas County Sheriff**

APPROVED AS TO FISCAL CONTENT:

APPROVED AS TO LEGAL FORM:

**Andrew Copland
Director of Finance**

County Attorney

DATE: _____

DATE: _____

For the CITY OF COLORADO SPRINGS, COLORADO

John W. Suthers, Mayor

Date

ATTEST:

Sarah B. Johnson, City Clerk

APPROVED AS TO LEGAL FORM:

Frederick Stein, Senior Attorney
Office of the City Attorney

Date