

**INTERGOVERNMENTAL AGREEMENT
FOR WATER USE AND HYDRANT FACILITIES**

This Intergovernmental Agreement for Water Use and Hydrant Facilities (“Agreement”) is made and entered into as of this ____ day of _____, 2023 between the City of Boulder, Colorado, a Colorado home rule municipality (“City”) and the Nederland Fire Protection District, a Colorado fire protection district existing pursuant to Article 1, Title 32, C.R.S. (“District”). These agencies are referred to jointly as the “Parties” and individually as a “Party.”

RECITALS

- A. The Parties are neighboring political subdivisions of the State of Colorado that maintain and operate fire departments and are authorized to provide, among other services, fire suppression, and fire prevention (collectively, “Services”) to their respective citizens and their property;
- B. The Parties are authorized by the Colorado Constitution, Article XIV, Section 18, and C.R.S. § 29-1-203 to enter into cooperative agreements to provide to each other any function, service, or facility lawfully authorized to each Party;
- C. The City owns land and facilities located within the District but outside the City’s municipal boundaries. The District provides its Services to those City lands and facilities; and
- D. The Parties desire to enter into this Agreement to address the provision of water service to the District for firefighting purposes and related maintenance responsibilities of the hydrant facilities.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

AGREEMENT

1. Water Use and Hydrants.

- a. The City constructed three fire hydrants along the Lakewood Pipeline. One of the hydrants is presently located within the boundaries of the District in the Cold Springs Road area (“In-District Hydrant”).
- b. The District shall have access to the water from the In-District Hydrant, or from other City facilities at the City’s discretion, provided that the District shall utilize such water for public firefighting purposes only and in accordance with all rules, regulations and requirements of the Boulder City Charter and Boulder Revised Code.

- c. The District acknowledges that from time-to-time water may not be available to the District within the District boundaries or elsewhere and the District shall not hold the City liable for water availability.
- d. At the City's discretion, the City may assess water use charges to the District for such water use pursuant to the Boulder Revised Code and the District agrees to pay for such water use within 30 days of receipt of an invoice from the City.

2. Ownership and Maintenance.

- a. The City shall be the owner of all equipment from the Lakewood Pipeline up to and including the fire hydrant that comprises the In-District Hydrant, as generally depicted on Exhibit A attached hereto and incorporated herein by this reference. This shall include without limitation, the tie-in supply line from the Lakewood Pipeline; all isolation valves; the meter and meter vault; the altitude valve and vault; fire rated strainers; the fiber glass reinforced tank and appurtenances; the pipeline from the tank to the fire hydrant; the fire hydrant and the protective bollards surrounding the hydrant. The specifications of all equipment shall be set forth in the 2005 O&M Manual, attached hereto and incorporated herein by this reference as Exhibit B.
- b. The City shall be responsible for all major repair and replacement of City owned equipment described in Paragraph 2.a. above when necessary due to normal wear and tear or an Act of God.
- c. The City shall be responsible for maintenance of the equipment from the pipeline through the water meter vault for the In-District Hydrant, as shown in Exhibit A.
- d. The District shall be responsible for maintenance of the equipment from the upstream isolation valve in the altitude valve vault to and including the fire hydrant for the In-District Hydrant, as shown in Exhibit A, as well as maintenance of the external access to the In-District Hydrant. Any structural or piping changes or modifications must be approved by the City in advance.
- e. For purposes of this Agreement, District maintenance shall follow guidance in Exhibit B and include at a minimum:
 - i. Inspections and minor repairs related to maintenance.
 - ii. Regular preventative maintenance activities such as lubrication of operational parts and paint for protective coating and aesthetics.
 - iii. Manual operation of valves every six months to ensure functional operation.
 - iv. Maintenance of facility airways, vents and discharge pipes to ensure they are not plugged.

- v. Vegetation, debris and snow removal as needed to maintain access to all vaults associated with hydrant system.

3. Payment to the District.

- a. As compensation for the District's maintenance obligations as required by Paragraph 2 hereinabove, the City agrees to pay to the District the sum of \$2,000 per year for each year of this Agreement, with the first payment due in calendar year 2023 and the last payment due in 2042.
- b. The District shall submit an invoice to the City by April 30th of each year to: Water Resources Manager, City of Boulder, P.O. Box 791, Boulder, Colorado 80306. Subject to the provisions of Paragraph 7. below, the annual payment for each service year shall be paid on, or before, June 30 of that year. The last payment shall be June 30, 2042, for the calendar year 2042.

4. Insurance and Waiver.

- a. The District shall waive and release any and all claims against the City associated with the provision of water for public fire-fighting purposes.
- b. The District shall maintain an insurance policy covering the potential for damage to or pollution of the City water supply facilities. The City shall be named as an additional insured party on this insurance policy, which shall have general liability coverage limits of not less than \$1,000,000 (one million) each occurrence.
- c. Nothing in this Agreement shall be construed: (i) as a waiver by either Party of immunity provided by common law or by statute, specifically including the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et. seq., as it may be amended from time to time; (ii) as creating an assumption of any duty or obligation with respect to any third party where no such duty previously existed; or (iii) as creating any rights enforceable by such third parties.

5. Term.

- a. This Agreement shall commence upon execution by the authorized officers of each Party, and shall continue thereafter until December 31, 2042, unless terminated sooner by mutual agreement of the Parties.
- b. This Agreement may also be terminated by either Party for material breach by the other. Such termination may only occur after the terminating Party has given the other Party notice of termination 90 days in advance of the termination date specifying the material breach. If the other Party cures the breach before the termination date, then the termination shall not occur.

6. No Third-Party Rights.

This Agreement is for the benefit of the City and its water utility and the District only and does not create rights in third parties. Neither Party shall be deemed to be the agent or partner of the other, but rather shall be deemed to be independent contractors.

7. Appropriations Required.

The City's obligation to remit payments under this Agreement shall be subject to the annual appropriation of sufficient funds therefor by the City of Boulder City Council. Any financial obligations of the District under this Agreement are similarly expressly made subject to annual appropriation and budgeting of specific funds to discharge such financial obligations.

8. Entire Agreement.

This Agreement constitutes the entire agreement between the City and the District and incorporates all prior verbal and written communications between the Parties and supersedes any such agreement concerning the subject matter included herein. Neither Party shall assign or transfer its interest in this Agreement without the written consent of the other. No amendment or modification shall be made to this Agreement unless it is in writing and signed by both Parties.

9. Reporting.

- a. The District shall submit an annual report to the City, on or before April 30 of each year, which shall contain, at a minimum, the following:
 - i. Certificate of Insurance; and
 - ii. Evidence of compliance with the Maintenance Plan.
- b. The City shall not be required to pay the annual payment to the District until such time as the annual report is submitted verifying compliance with the insurance and maintenance requirements of this Agreement.

10. Notices.

Where notice is required under this Agreement it shall be in writing and addressed to:

For the City:
Director of Utilities
P.O. Box 791
Boulder, Colorado 80306

For the District:
Chief, Nederland Fire Protection District
650 Lower West 4th Street
Nederland, Colorado 80466

WHEREFORE, the Parties have entered into this Agreement as of the date first written above.

CITY OF BOULDER, COLORADO

NEDERLAND FIRE PROTECTION DISTRICT

By: _____
City Manager

By: _____

Attest:

Attest:

By: _____
City Clerk

Approved as to Form:

By: _____
Office of the City Attorney

Exhibit A: Hydrant system, in plan and section view. NFPD maintenance responsibility area shown within red boxes.



