

1 **INTERGOVERNMENTAL AGREEMENT BETWEEN AND AMONG**
2 **THE CITY OF LAKEWOOD, WEST METRO FIRE DISTRICT, PLEASANT VIEW**
3 **METROPOLITAN DISTRICT AND THE CITY OF LITTLETON, ACTING THROUGH**
4 **ITS FIRE DEPARTMENT, LITTLETON FIRE RESCUE**
5 **REGARDING HAZARDOUS MATERIALS INCIDENTS**
6

7 This INTERGOVERNMENTAL AGREEMENT BETWEEN AND AMONG THE CITY OF
8 LAKEWOOD, WEST METRO FIRE PROTECTION DISTRICT, PLEASANT VIEW
9 METROPOLITAN DISTRICT AND THE CITY OF LITTLETON, ACTING THROUGH ITS
10 FIRE DEPARTMENT, LITTLETON FIRE RESCUE REGARDING HAZARDOUS
11 MATERIALS INCIDENTS (Agreement) is entered into this ____ day of _____, 2017, by
12 and between the City of Lakewood (Lakewood), the West Metro Fire Protection District (West
13 Metro), the Pleasant View Metropolitan District (Pleasant View) and the City of Littleton, acting
14 through its fire department, Littleton Fire Rescue (Littleton Fire), (collectively, the Parties or the
15 Jurisdictions or, individually, a Party or Jurisdiction). Each of the Parties is a political
16 subdivision of the State of Colorado.

17 **WHEREAS**, West Metro, Pleasant View, and Littleton Fire all have the authority to operate
18 within the corporate boundaries of Lakewood; and

19 **WHEREAS**, C.R.S. 29-22-101, et seq., requires local units of government to designate an
20 "Emergency Response Authority," and provides statutory authority for cooperation among
21 various political subdivisions in order to establish and maintain a response to hazardous
22 substance incidents; and

23 **WHEREAS**, pursuant to Section 29-22-102(3)(a), C.R.S., the Emergency Manager for the City
24 of Lakewood has been designated as the emergency response authority (DERA) for hazardous
25 substance incidents occurring within the corporate boundaries of the City of Lakewood; and

26 **WHEREAS**, Lakewood, West Metro, Pleasant View and Littleton Fire all recognize that an
27 effective response to minimize the impacts of a hazardous substance incident on life, the
28 environment and property requires coordination of operational procedures, shared resources and
29 expertise.

30 **IT IS AGREED** by Lakewood, West Metro, Pleasant View and Littleton Fire that their
31 respective duties and responsibilities in the event of a hazardous materials incident occurring
32 within the city limits of Lakewood are as follows:

33 **I. GENERAL PROVISIONS**

34 This Agreement is promulgated under the provision of Article 1, the relevant portions of Articles
35 5 and 22, of Title 29, and Sections 24-32-2101, et seq., and 29-22-101, et seq., C.R.S. (Statutory
36 Provisions). The Statutory Provisions shall control in case of conflict between this Agreement
37 and the Statutory Provisions. Each and every term, provision, or condition herein is subject to
38 and shall be construed in accordance with the provisions of Colorado law, the charters and

1 articles of the various Jurisdictions, and the resolutions, ordinances and regulations enacted
2 pursuant thereto.

3 a. It is understood and agreed by the Jurisdictions hereto that if any part, term or
4 provision of this Agreement is held, by a court of competent jurisdiction, to be illegal or
5 in conflict with any law of the State of Colorado or of the United States of America, the
6 validity of the remaining portions or provisions shall not be affected, and the rights and
7 obligations of the Jurisdictions shall be construed and enforced as if the Agreement did
8 not contain the particular part, term, or provision held to be invalid.

9 b. All statutory references in this Agreement are intended to include any and all
10 future amendments or recodifications.

11 c. This Agreement is not intended, nor should it be construed, to modify preexisting
12 legal obligations and relationships, including service contracts, mutual aid or
13 intergovernmental agreements, or to waive any claims or legal rights which may arise as
14 a result of a hazardous substance incident (including claims for reimbursement from
15 persons responsible for a hazardous substance incident or from any emergency response
16 funds created under state or federal law).

17 d. As used in this Agreement:

18 “Hazardous substance” shall have the same meaning as defined at Section 29-22-101,
19 C.R.S., and shall also include microorganisms and toxins; and

20 “Hazardous substance incident” shall have the same meaning as defined at Section 29-22-
21 101, C.R.S., and shall also include “Bioterrorism” and “Disaster” as defined at Section
22 24-33.5-703, C.R.S.

23 e. Nothing in this Agreement, and no action taken under this Agreement, shall be
24 considered to abrogate or limit the sovereign immunity granted to public entities pursuant
25 to article 10 or title 24, C.R.S., the “Colorado Governmental Immunity Act.”

26 **II. INCIDENT COMMAND**

27 a. Incident Command of the initial emergency action necessary to minimize the
28 effects or threat of adverse effects of a hazardous substance incident on human health or
29 the environment to include chemical control and containment shall be the responsibility
30 of the fire district first arriving on the scene, which shall designate an incident
31 commander. Unified command shall be followed as other emergency response assets
32 arrive on the scene until the initial emergency response has concluded.

33 b. The DERA shall designate the incident commander to exercise the DERA’s
34 authority to determine whether the owner or operator of private property where a
35 hazardous substance incident has occurred has appropriately undertaken or is
36 coordinating an emergency response. If, in the judgment of the incident commander or
37 the DERA, there exists an imminent danger to the public human health and safety or the
38 environment beyond such property, the incident commander or DERA may undertake the

1 emergency response to such hazardous substance incident as allowed under Section 29-
2 22-102(2), C.R.S.

3 **III. RESPONSIBILITIES OF THE PARTIES**

4 **A. The DERA, acting through the Lakewood Police Department, shall:**

5 a. Notify response and support agencies, assist in obtaining additional equipment
6 and supplies, mobilize other City of Lakewood departments such as the Department of
7 Public Works, to provide supplies and assistance as appropriate, engage private
8 contractor for final cleanup and clearance samples, as needed.

9 b. Participate in and support unified command as appropriate; activate Lakewood's
10 Emergency Operations Center when appropriate.

11 c. Establish and control staging area; secure area and restrict access; provide
12 perimeter, traffic and crowd control.

13 d. Issue evacuation orders and participate in evacuation activities as required.

14 e. Coordinate all activities related to the news media.

15 f. Provide an investigation of the cause of the incident.

16 g. Provide a report on the incident and emergency response within one (1) week
17 following the incident, which shall include closure of the incident with appropriate
18 documentation of cleanup.

19 h. Coordinate the billing and reimbursement process for costs associated with the
20 hazardous substance incident in accordance with Section 29-22-104 and 29-22-105,
21 C.R.S.

22 i. Exercise the authority of Section 29-22-102(6), C.R.S., to supervise the cleanup
23 or removal of hazardous substances involved in the incident through the DERA.

24 j. Exercise the authority of Section 29-22-107, C.R.S., to request information on
25 hazardous substances stored in Lakewood upon the request of any Party.

26 **B. West Metro, Pleasant View and Littleton Fire shall perform the following**
27 **responsibilities if the incident occurs within their respective district and such actions are**
28 **deemed appropriate:**

29 a. Establish initial command; participate and support unified command as
30 appropriate.

31 b. Assist with the notification of response and support agencies.

32 c. Provide initial incident assessment by determining the type of hazardous
33 substance and its effects by utilizing available resources.

- d. Provide for safety of responders and citizens and protection of the environment to the best of their ability.
- e. Conduct search and rescue operations.
- f. Provide medical services, including the establishment of a triage area, on-duty treatment and transport to coordinated receiving facilities.
- g. Provide decontamination as required.
- h. Preserve all records regarding the response until resolution of reimbursement claims or other litigation.
- i. Forward to the DERA, within 30 days after the incident, an itemized listing of the costs associated with the respective district's/department's response to that incident. Immediately notify the DERA of the receipt of any notice of suit arising out of a hazardous materials incident.

IV. TERMINATION OF AGREEMENT

This Agreement shall become effective when fully executed by all Parties and shall remain operative and effective as between each and every Party until participation in this Agreement is terminated by a Party upon ninety (90) days written notice to all other Parties. Upon termination by one or more of the Parties, the majority of the remaining Parties shall determine whether this Agreement shall remain effective.

V. AMENDMENT OF AGREEMENT

This Agreement may be amended by the Parties from time to time. To be effective, any such amendment shall be in writing and executed by all Parties.

VI. LIMITATIONS

The obligations under this Agreement are subject to the sole judgment of the Parties regarding available equipment and manpower and whether adequate safety for personnel is present.

VII. EXECUTION AND AUTHORITY

- a. This Agreement shall be executed in such form as appropriate under the Ordinances, Charters or Bylaws of the Parties. Each of the Parties represents and warrants that they have taken all actions necessary to legally authorize the undersigned signatories to execute this Agreement on behalf of the Parties and to bind the Parties to its terms.
- b. This Agreement may be signed in counterparts, each of which shall be deemed to be an original and all such counterparts taken together shall be deemed to constitute one and the same instrument.
- c. The Parties acknowledge and agree that the original of this Agreement, including the signature page, may be scanned and stored in a computer database or similar device,

1 and that any printout or other output readable by sight, the reproduction of which is
2 shown to accurately reproduce the original of this Agreement, may be used for any
3 purpose as if it were the original, including proof of the content of the original writing.

4 **This Agreement has been executed and approved and is effective and operative as to each**
5 **of the Parties as herein provided.**

6 ATTEST:

CITY OF LAKEWOOD, COLORADO

7
8 By: _____

9 Margy Greer, City Clerk

By: _____

Kathleen E. Hodgson, City Manager

10
11 APPROVED AS TO FORM:

12
13 By: _____

14 Timothy P. Cox, City Attorney

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City of Littleton

By:_____

Mark Relph, Acting City Manager

Approved As To Form

By:_____

Kenneth S. Fellman

DRAFT