

INTERGOVERNMENTAL AGREEMENT

DETAILS SUMMARY	
Document Type	New Contract
OFS Number-Version	
County Contact Information	
Boulder County Legal Entity	Boulder County
Department	Boulder County Sheriff's Office
Division/Program	Fire Management
Mailing Address	5600 Flatiron Parkway Boulder, CO 80301
Contact 1- <i>Name, title, email</i>	Seth McKinney, Fire Management Officer, smckinney@bouldercounty.gov
Contact 1- <i>Name, title, email</i>	
City Contact Information	
Department	External Services
Mailing Address	350 Kimbark St. Longmont, CO 80501
Contact 1- <i>Name, title, email</i>	Pryce Hadley, Sr. Watershed Ranger, pryce.hadley@longmontcolorado.gov
Contact 2- <i>Name, title, email</i>	David Bell, Parks & Natural Resources Director, david.bell@longmontcolorado.gov
IGA Term	
Start Date	November 1, 2023
Expiration Date	March 1, 2028
IGA Amount	
IGA Amount	\$15,000/year
Fixed Price or Not-to-Exceed?	Not-to-Exceed
Brief Description of Services	
IGA Documents	
a. Scope of Work, attached as Exhibit A	
b. Fee Schedule, attached as Exhibit B	
IGA Notes	
<i>Additional information not included above</i>	

THIS INTERGOVERNMENTAL AGREEMENT ("IGA") is entered into by and between the Board of County Commissioners on behalf of the County of Boulder, State of Colorado, a body corporate and politic, for the benefit of the Boulder County Sheriff's Office ("County" or "BCSO") and the City of Longmont, a municipal corporation of the State of Colorado ("City"). County and City are each a "Party," and collectively the "Parties."

RECITALS

- A. Colorado Revised Statute § 29-1-203 permits governments to enter into cooperative agreements for the provision of services; and
- B. The Boulder County Sheriff's Office (BCSO) maintains a fire management program that is responsible for planning and performing fire mitigation activities on Boulder County properties; and;
- C. The City of Longmont is in need of fire mitigation services for its public properties that are similar and adjacent to Boulder County properties in terms of topography, fuel, and weather patterns; and
- D. The Parties agree that the BCSO is especially qualified to provide fire mitigation services to the City of Longmont.

AGREEMENT

In consideration of the mutual covenants contained in this IGA, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Incorporation into IGA: The **Details Summary** is incorporated into this IGA. The **IGA Documents** are incorporated into this IGA by reference.
2. Services to be Performed: The County will perform the fire mitigation activities described in the **Details Summary** and **IGA Documents** (the "Services"). The County will perform the Services in accordance with recognized industry standards of care, skill and diligence for the type of Services being performed.
3. Term of IGA: The **IGA Term** begins on the November 1, 2023 (Start Date) and expires on **March 1, 2028** (Expiration Date), unless terminated sooner pursuant to section 7 of this Agreement.
4. Payment for Services Performed: In consideration of the Services performed by County, City will pay to County an amount not to exceed the **IGA Amount** in accordance with the **IGA Documents**.
5. Liability: Each Party agrees to be responsible for its own actions or omissions, and those of its officers, agents and employees in the performance or failure to perform Services under this IGA. By agreeing to this provision, neither Party waives or intends to waive the limitations on liability under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq.
6. Independent Contractor: **Boulder County is an independent contractor for all purposes in performing the Services. Neither the County nor its personnel are employees of the City for any purpose, including the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the Colorado Serviceses' Compensation Act, the Colorado Unemployment Insurance Act, and the Public Employees Retirement Association. Accordingly, City will not withhold or pay any income tax, payroll tax, or retirement contribution of any kind on behalf of County or County's employees. As an independent contractor, County is responsible for employing and directing such personnel and agents as it requires to**

perform the Services. County will exercise complete authority over its personnel and agents and will be fully responsible for their actions.

7. Termination

a. Breach: Either Party's failure to perform any of its material obligations under this IGA, in whole or in part or in a timely or satisfactory manner, will be a breach. If the breaching Party does not cure the breach within thirty (30) days after delivery of notice, the non-breaching Party may exercise any of its remedies provided under this IGA or at law, including immediate termination of this IGA.

b. Non-Appropriation: The other provisions of this IGA notwithstanding, each Party is prohibited by law from making commitments beyond the current fiscal year. Performance of the Parties' obligations beyond the current fiscal year is contingent on the appropriation and continuing availability of funding in any subsequent year. Any payment obligation of the Parties is expressly dependent and conditioned upon appropriation, budgeting, and availability of specific funds to discharge such obligations. Where, however, funds are not allocated for any fiscal period beyond the current fiscal year, either Party may terminate this IGA without penalty by providing seven (7) days' written notice to the other party.

c. Convenience: In addition to any other right to terminate under this Section 7, either Party may terminate this IGA, in whole or in part, for any or no reason, upon thirty (30) days' advance written notice to the other Party.

8. Payable Costs in Event of Early Termination: If this IGA is terminated early, City shall compensate County for Services performed prior to delivery of the notice to terminate.

9. Notices: All notices provided under this IGA must be in writing and sent by Certified U.S. Mail (Return Receipt Requested), electronic mail, or hand-delivery to the other Party's **Contact** at the address specified in the **Details Summary**. For certified mailings, notice periods will begin to run on the day after the postmarked date of mailing. For electronic mail or hand-delivery, notice periods will begin to run on the date of delivery.

10. Entire Agreement/Binding Effect/Amendments: This IGA represents the complete agreement between the Parties and is fully binding upon them and their successors, heirs, and assigns, if any. This IGA terminates any prior agreements, whether written or oral in whole or in part, between the Parties relating to the Services. This IGA may be amended only by a written agreement signed by both Parties.

11. Assignment: This IGA may not be assigned or subcontracted by either Party without the prior written consent of the other Party.

12. Governing Law/Venue: The laws of the State of Colorado govern the construction, interpretation, performance, and enforcement of this IGA. Any claim relating to this IGA or breach thereof may only be brought exclusively in the Courts of the 20th Judicial District of the State of Colorado and the applicable Colorado Appellate Courts.

13. Breach: The failure of either Party to exercise any of its rights under this IGA will not be deemed to be a waiver of such rights or a waiver of any breach of the IGA. All remedies available to a Party in this IGA are cumulative and in addition to every other remedy provided by law.

14. Severability: If any provision of this IGA becomes inoperable for any reason but the fundamental terms and conditions continue to be legal and enforceable, then the remainder of the IGA will continue to be operative and binding on the Parties.

15. Third-Party Beneficiary: Enforcement of the terms and conditions and all rights and obligations of this IGA are reserved to the Parties. Any other person receiving services or benefits under this IGA is an incidental beneficiary only and has no rights under this IGA. Notwithstanding, where the beneficiary **Department** is led by an Elected Official, such Elected Official shall be considered a third-party beneficiary.

16. Conflict of Provisions: If there is any conflict between the terms of the main body of this IGA and the terms of any **IGA Documents**, the terms of the main body of the IGA will control.

17. Governmental Immunity: Nothing in this IGA shall be construed in any way to be a waiver of either Party's immunity protection under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended.

18. Delegation of Authority: The Parties acknowledge that the Board of County Commissioners has delegated authority to the Department Head or Elected Official that leads the beneficiary **Department** and their designees to act on behalf of the County under the terms of this IGA, including but not limited to the authority to terminate this IGA.

19. Execution by Counterparts; Electronic Signatures: This IGA may be executed in multiple counterparts, each of which will be deemed an original, but all of which will constitute one agreement. The Parties approve the use of electronic signatures, governed by the Uniform Electronic Transactions Act, C.R.S. §§ 24 71.3 101 to 121. The Parties will not deny the legal effect or enforceability of this IGA solely because it is in electronic form or because an electronic record was used in its creation. The Parties will not object to the admissibility of this IGA in the form of electronic record, or paper copy of an electronic document, or paper copy of a document bearing an electronic signature, because it is not in its original form or is not an original.

20. Legal Interpretation. Each Party recognizes that this IGA is legally binding and acknowledges that it has had the opportunity to consult with legal counsel of its choice about this IGA. The rule of construction providing that any ambiguities are resolved against the drafting Party will not apply in interpreting the terms of this IGA.

21. Insurance: Each Party is a "public entity" under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended, and shall always during the terms of this IGA maintain such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Act. This insurance shall have minimum limits, which shall match or exceed the maximum governmental liability limits set forth in C.R.S. § 24-10-114, as amended.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties have executed and entered into this IGA as of the latter day and year indicated below.

SIGNED for and on behalf of Boulder County		SIGNED for and on behalf of City of Longmont
Signature:		Signature: See attached
Name:		Name:
Title:		Title:
Date:		Date:
↓↓ <i>For Board-signed documents only</i> ↓↓		
Attest Signature:	Initial	
Attestor Name:		
Attestor Title:		

CITY OF LONGMONT:

MAYOR

ATTEST:

CITY CLERK

DATE

APPROVED AS TO FORM:

ASSISTANT CITY ATTORNEY

DATE

PROOFREAD

DATE

APPROVED AS TO INSURANCE PROVISIONS:

RISK MANAGER

DATE

APPROVED AS TO FORM AND SUBSTANCE:

ORIGINATING DEPARTMENT

DATE

CA File: 23-002505

EXHIBIT A – SCOPE OF WORK

The shared goal of the Parties is to utilize available funding to maximize fire mitigation activities on the Button Rock Preserve to protect against the destructive effects of potential wildfires.

Boulder County Sheriff's Office Responsibilities:

- The BCSO is responsible for determining the date, time, duration, and staffing of pile burns, in coordination with the City. The goal is to consolidate fire mitigation activities in the fewest number of days as applicable laws, weather conditions, safety considerations, and other relevant circumstances allow. All of the responsibilities below will be in coordination with the City.
- Provide oversight, planning, and management of fire mitigation activities at City's Button Rock Preserve, excluding broadcast burning, which is not authorized under this IGA. Determine the date, time, location, frequency, staffing requirements, and quantity of pile burning based on applicable laws and standards (including any limitations that exist for drought conditions), weather, air quality, site conditions, available staffing, and other relevant factors, and the required emergency fire suppression plan. This information will be contained in a burn plan for a particular project.
- Coordinate fire management operations with the City Parks & Natural Resources and Water & Waste Operations staff.
- Provide staffing, equipment, and supplies necessary for the responsible implementation of prescribed fire activities.
- Coordinate with the City in securing required air quality and burn permits, or any other permits, necessary for prescribed fire projects, and submit necessary notifications.
- Provide staff for monitoring during and after prescribed fire project areas in line with state law and regulations, and industry best practices, unless a different staffing arrangement is otherwise agreed to by the Parties in writing.
- All staff time and supplies used towards work will be tracked and submitted to the City for reimbursement of actual time spent and supplies used to complete agreed-upon work in accordance with this IGA.
- Coordinate with any external agencies for additional resources in support of fire management activities as the County finds necessary.
- Support the development of a wildfire Emergency Action Plan for the Button Rock Preserve to help identify escape routes, safety zones, designated landing zones, and an evacuation protocol.
- Both Parties shall comply with the requirements of C.R.S. § 24-33.5-1217.5, and its implementing regulations (8 CCR 1507-32), regarding minimum prescribed burning standards, Colorado Air Pollution Prevention and Control Act, part 1 of article 7 of title 25, C.R.S., and its implementing regulations, and any other related federal, state, local, or other regulations, orders, or standards, as relevant.
- Coordinate with City to provide public notification to adjacent property owners, local authorities, and other affected residents (where practicable), two weeks prior to the weather-dependent burn window.
- Coordinate with City to install temporary road signs posted on arterial roads leading into a burn operation area, if relevant, as required by prescribed burn regulations.

City of Longmont Responsibilities:

- As the landowner and natural resource manager, City will review and approve fire mitigation operations proposed by BCSO.
- Provide a designated Resource Advisor to serve as an on-site liaison with BCSO on issues related to potential impacts on water utility infrastructure, recreational amenities, natural and cultural resources, and any other relevant surroundings.
- Ensure all pile burning is conducted in compliance with the City's Prescribed Fire Management and Coordination Standard Operating Procedure as it pertains to Button Rock Preserve, which City will provide to BCSO prior to or upon signature of this IGA.
- Build slash piles for burning in accordance with state and federal standards, including those issued by the Colorado State Forest Service (CSFS), and County instructions.
- Provide red card-qualified Parks & Natural Resources staff to assist BCSO, as agreed during the coordination process for a particular project, in the implementation of prescribed fire activities, site access, and post-fire monitoring, equipped with Nomex, drip torches, and fire skids on potential burn days.
- Provide internal notification to designated staff, working groups, and the Longmont Wildfire Team Manager two weeks prior to weather-dependent burn window in line with the City's Prescribed Fire Management and Coordination Standard Operating Procedure.
- Coordinate with BSCO to provide public notification to adjacent property owners, local authorities, and other affected residents (where practicable), two weeks prior to the weather-dependent burn window.
- Coordinate with BSCO to install temporary road signs posted on arterial roads leading into a burn operation area, if relevant, as required by prescribed burn regulations.

EXHIBIT B – FEE SCHEDULE

Services provided are not to exceed \$15,000 per year without additional, specific written authorization of both Parties by their respective Department Directors (Boulder County Sheriff and Longmont City Manager or designee).

The BCSO agrees not to charge more than \$2,500 for a single day of prescribed burning without prior approval of the City.

Staff Hourly Rates:

The BCSO will invoice the City for staff time to provide the fire mitigation services contemplated hereunder, including include travel time, admin/permit/rehab time, and onsite-work time.

Fully-burdened rates of County staff which are working on project implementation will be tracked and reimbursed by City at actual costs on an hourly-basis according to the attached spreadsheet.

For example:

Senior Firefighter John Doe: 4 hours @ \$[RATE] per hour on 3/15/23
Term Firefighter Bob Smith: 4 hours @ \$[RATE] per hour on 3/15/23

Supply Costs:

Supply type and quantity which is used towards project implementation will be tracked and reimbursed at actual costs, and the County will provide receipts for such costs to City upon request. The County will only charge the City for consumable supplies and will not otherwise charge the City for use of County equipment.

For example:

Drip torch fuel: 15 gallons of unleaded gasoline @ \$3.75 per gallon on 3/15/23
5 gallons of diesel fuel @ 4.50 per gallon on 3/15/23