

**2023 AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF BRIGHTON AND THE CITY OF COMMERCE CITY
ESTABLISHING A SHARED SPECIAL WEAPONS AND TACTICS TEAM**

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into by and between the City of Brighton, Colorado ("Brighton") and the City of Commerce City, Colorado ("Commerce City").

WHEREAS, intergovernmental agreements to provide functions or services, including the sharing of costs for such functions or services by political subdivisions of the State of Colorado, are specifically authorized by C.R.S. § 29-1-203; and

WHEREAS, the parties are organized pursuant to the provisions of Article XX of the Colorado Constitution. The parties are each authorized to provide, establish, maintain, and operate law enforcement agencies and to provide other emergency services; and

WHEREAS, each municipality maintains a police department, staffed with Colorado POST-certified law enforcement officers; and

WHEREAS, contiguous boundaries often result in more than one agency becoming involved in the response to certain emergencies; and

WHEREAS, emergencies may arise in either jurisdiction which are of such intensity and duration as to place greater demands on that jurisdiction's personnel and equipment than the jurisdiction can reasonably manage; and

WHEREAS, the parties wish to establish and implement a shared Special Weapons and Tactics team ("Shared SWAT team"); and

WHEREAS, establishment of the Shared SWAT team will promote the safety, security, and general welfare of the residents of the cities of Commerce City and Brighton.

NOW, THEREFORE, in consideration of the mutual covenants and commitments made herein, the parties agree as follows:

1. **Purpose and Scope.** The purpose of this Amended Agreement is to provide for the sharing of in-kind services, equipment, personnel and special asset costs by the parties for the establishment and implementation of a shared SWAT team. It is understood and agreed that this Amended Agreement is intended to facilitate that sharing and cooperation; this Amended Agreement is not intended to establish, and shall not be interpreted as establishing, a separate legal entity.

2. **Provision of Personnel and Equipment.** Each party agrees, subject to the limitations set forth herein, to aid and assist the other by causing and permitting its law enforcement personnel and its equipment to be used in responding to emergencies and exceptional instances that occur in the jurisdiction of the other, including barricaded armed individuals, hostage situations, execution of high risk warrant service, riotous crowd control, threat of potential sniper activities, terrorist incidents, VIP protection, and other exceptional circumstances when other than standard police procedures and weapons are needed in the jurisdiction serviced by one party, and which are beyond the control of a jurisdiction. Each party agrees to maintain appropriate personnel and funding in support of this Amended Agreement.

3. **Request for Service.** The Chief of Police, or his/her designee, of the jurisdiction where an incident is occurring shall have the authority to request the services of the Shared SWAT team. The parties agree that, upon such a request, the Shared SWAT team may respond as it deems appropriate.

4. **Policies and Procedures of the Shared SWAT team.** The parties' Chiefs of Police shall coordinate to establish and implement uniform policies and procedures concerning protocols, incident command, selection criteria, equipment, training, and personnel standards for officers assigned to the Shared SWAT team.

Each agency is responsible for submitting its own data contact cards as required by C.R.S. 24-31-903, as amended. Data contact card reports may be shared between the parties.

5. **Police Officers' Authority.** Police personnel assigned to the Shared SWAT team, and performing duties as provided herein, shall have the same power and police authority within Commerce City and Brighton as do police officers of the requesting jurisdiction.

Any member who witnesses another member using excessive force must intervene to stop the force being used and immediately report it to a supervisor as required by C.R.S. 18-8-802, as amended.

6. **Incident and SWAT Operation Command.** The party requesting the services of the Shared SWAT team shall command the incident and the assigned Shared SWAT team command officer shall command the tactical aspects of the operation. The requesting agency shall have a command representative on scene to act as the incident commander.

7. **Evidence and Property.** All evidence and property seized as a result of the operations of the Shared SWAT team shall be seized, identified, preserved, booked, and stored pursuant to the policies and procedures currently in effect for the jurisdiction in which the operation occurred.

8. **Assignment to and Removal from the Shared SWAT team.**
 - a. To be eligible for assignment to the Shared SWAT team, officers must pass and maintain pertinent and lawful performance standards, which have been approved by the parties' Chiefs of Police.

 - b. An officer from either agency who has satisfied the performance standards shall not be assigned to or participate in the Shared SWAT team unless the Chiefs of Police of each party agree to such assignment.

 - c. Any officer assigned to the Shared SWAT team may be removed at any time at the request of any party's Chief of Police.

9. **Supervision and Discipline.** Each party shall be responsible for disciplining the officers its jurisdiction assigns to the Shared SWAT team. Each municipality agrees to cooperate and coordinate in the investigations by the other municipality, including the sharing of information from the interviews conducted by each municipality during an internal investigation involving a SWAT Team incident. For purposes of coordinating and communicating regarding internal investigations arising out of incidents involving SWAT Team members, the point of contact is the Chief of Police for each party. Supervision may be provided by either party, based upon the makeup of, and the supervisory assignment within, the Shared SWAT team.

10. **Funding.**
 - a. Each party shall be responsible for the salary, including overtime, benefits, and all related employee costs of every kind for each of its employees assigned to the Shared SWAT team, including uniforms, equipment, personal weaponry, and other related equipment costs required for the execution of law enforcement duties incurred in the performance of this Agreement. The parties agree that in order for personnel-related costs to be equitable each agency shall endeavor to provide enough officers to maintain sixty percent (60%) Commerce City officers and forty percent (40%) Brighton officers on the team, subject to the availability of qualified officers.

- b. The parties agree that special assets that are expensive and that require routine maintenance may be required for the Shared SWAT team's use in the future. Special Assets include the Lenco Bear Cat purchased in 2023.. Special assets may include, by way of example only, vehicles, specialized communication equipment, weapons and munitions. The cost of such special assets may include, but is not limited to, the costs of purchase, operation, and maintenance. The parties agree that such costs will be incurred and such special assets will be acquired only with the prior written approval of the parties. Commerce City shall be responsible for percent (60%) of these costs and Brighton shall be responsible for forty percent (40%) of these costs, subject to the appropriation of said funds by the applicable jurisdiction.
 - c. The parties agree that all payment obligations under this Agreement are current expenditures of the parties, payable in the fiscal year for which funds are appropriated for the payment thereof. The parties' obligations under this Agreement shall be from year to year only and shall not constitute a multiple-fiscal year obligation within the meaning of Article X, Section 20 of the Colorado Constitution.
11. **Worker's Compensation.** Each party shall provide Worker's Compensation coverage for the officers from its jurisdiction assigned to the Shared SWAT team.

Nothing contained in this Agreement, and no performance under this Agreement by personnel of any municipality shall in any respect alter or modify the status of officers agents, or employees of the respective municipalities for purposes of workers' compensation or their benefits or entitlements, pension, levels or types of training, internal discipline, certification, or rank procedures, methods, or categories, or for any purpose, or condition or requirement of employment. Workers' compensation coverage shall apply as required by C.R.S. 29-5-109.

12. **Insurance and Liability.**

- a. Each party shall, at its own expense, keep in full force and effect during the term of this Agreement, or an extension of or amendment thereto, insurance in such amount as necessary to comply with the limitation set forth in the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq. as well as Law Enforcement Professional Liability insurance with a \$1,000,000 general aggregate limit, to insure against any liability assumed by the parties when acting within the scope of and pursuant to the provisions of this Amended Agreement

- b. Each party shall be responsible for the acts and omissions of its own officers assigned to the Shared SWAT team and shall not be responsible for the acts and omissions of other Shared SWAT team members except as set forth herein. Any liability that accrues under the provisions of Article 10 of Title 24, C.R.S., on account of the negligent or tortious act of a police officer while performing his/her duties under this Amended Agreement shall be imposed upon the requesting party in compliance with the terms of C.R.S. § 29-5-108 and not upon the assigning party.

13. **Term.** The term of this Amended Agreement shall be for two years, commencing on the date that the Agreement is executed by all parties. The Amended Agreement shall automatically renew unless any party provides notice of termination, subject to the appropriation of funds by each jurisdiction.

14. **Termination.** Either party may terminate this Amended Agreement for any reason with 90-day written notice to the other party.

15. **Notices.** Written notices required under this Amended Agreement and all other correspondence between the parties shall be directed to the following and shall be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested:

Commerce City:
Chief of Police
City of Commerce City
7887 E. 60th Avenue
Commerce City, CO 80022

Brighton:
Chief of Police
Brighton Police
Department
3401 E. Bromley Lane
Brighton, CO 80601

16. **General Provisions.**

a. **Severability.** In the event a court of competent jurisdiction holds any provision of this Agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Amended Agreement.

b. **Counterparts.** This Amended Agreement may be executed in any number of 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. **Governmental Immunity.** No term or condition of this Amended Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq.
- d. **Assignment.** This Agreement shall not be assigned.
- e. **No Third-Party Beneficiaries.** It is expressly understood and agreed that enforcement of the terms and conditions of this Amended Agreement and all rights of action relating to such enforcement shall be strictly reserved to the parties.
- f. **Independent Parties.** The parties enter into this Amended Agreement as separate, independent governmental entities and shall maintain such status throughout the term of this Amended Agreement.
- g. **Governing Law and Venue.** This Amended Agreement shall be governed by the laws of the State of Colorado. Venue for state court actions shall be in the 17th Judicial District in Adams County, Colorado, and venue for federal court actions shall be in the United States District Court for the District of Colorado.
- h. **Entire Agreement; Binding Effect.** This Amended Agreement contains the entire agreement of the parties relating to the subject matter hereof and, except as provided herein, may not be modified or amended except by written agreement of the parties. This Amended Agreement shall be binding upon, and shall inure to the benefit of, the parties and their respective heirs, personal representatives, successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Amended Agreement as of the dates written below.

[Intentionally blank. Signature page to follow.]

CITY OF COMMERCE CITY

Benjamin Huseman, Mayor

Date

ATTEST:

Dylan Gibson, City Clerk

Approved as to form:

Ashley Lacher, Senior Assistant City
Attorney

Date

CITY OF BRIGHTON

DocuSigned by:

Michael Martinez

Michael Martinez, City Manager

10/6/2023

Date

ATTEST:

DocuSigned by:

Natalie Hoel

Natalie Hoel, City Clerk

Approved as to form:

DocuSigned by:

Alicia Calderon

Alicia Calderon, City Attorney

10/6/2023

Date