INTERGOVERNMENTAL AGREEMENT FOR FIRE MARSHAL SERVICES

THIS INTERGOVERNMENTAL AGREEMENT FOR FIRE MARSHAL SERVICES ("Agreement"), effective as of January 1, 2020 ("Effective Date"), is made and entered into by and between the City of Lafayette ("Lafayette"), a Colorado home rule municipality, and the Louisville Fire Protection District, a political subdivision of the State of Colorado ("District"), organized and operated in accordance with C.R.S.§ 32-1-101, et seq.

RECITALS

WHEREAS, in accordance with Article XIV, Section 18 of the Colorado Constitution and C.R.S. § 29-1-203, and for Lafayette by its home rule charter, Lafayette and District (collectively the "Parties" or individually a "Party") may contract with one another for the provision of services that each Party is authorized by law to provide; and

WHEREAS, Lafayette is in need of Fire Marshal services for its Fire Department and District has and is willing to provide such services to Lafayette.

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

Section 1. Scope of Services: District hereby agrees to provide Lafayette the Fire Marshal services set forth in the Scope of Services attached as "Exhibit A" ("Fire Marshal Services"), which is made a part of this Agreement.

Section 2. Location and Materials: Lafayette shall provide District with access to all data, documents, information and use of the Lafayette Fire Department Station, to the extent necessary for District to perform the Fire Marshal Services. District shall provide all other labor, equipment, supplies or other goods necessary to perform the Fire Marshal Services.

Section 3. Term: The term of this Agreement shall commence on the Effective Date and shall terminate on June 30, 2020, unless sooner terminated in accordance with this Agreement.

Section 4. Independent Contractor: District shall at all times control the means and manner by which it performs the Fire Marshal Services, subject to Lafayette’s right to monitor and evaluate such work. District shall at all times be and act as an independent contractor and not as an employee of Lafayette. District understands that as an independent contractor it is not entitled to any employee benefits from Lafayette including but not limited to medical or disability insurance or unemployment insurance or workers compensation insurance. District shall be responsible for payment of all taxes, including federal, state and local taxes, arising out of District’s work under this Agreement, including, by way of illustration, but not limitation, federal and state income tax, social security tax, unemployment insurance taxes, and any other taxes or business license fees as required.

Section 5. Compensation/Payment:

A. In consideration of performance of the Fire Marshal Services, Lafayette shall pay District an hourly amount of $52.89 for a total not to exceed $25,000 during the Term of this Agreement.

B. Lafayette will make payment due to District for compensation for completed work within thirty (30) days after invoices submitted by District, which invoice(s) may not be submitted more frequently than monthly. Invoices shall include the basis upon which payment is requested, such as percentage of the duties
completed, or actual time, materials and expenses. Lafayette shall within thirty (30) calendar days submit invoice disputes, if any, to District for resolution by mutual consent of the Parties.

C. Nothing herein shall constitute a multiple fiscal year obligation pursuant to Colorado Constitution, Article X, Section 20. Notwithstanding any other provision of this Agreement, Lafayette's obligations under this Agreement are subject to the annual appropriation of funds by the City Council of Lafayette. Any failure of a City Council to annually appropriate adequate monies to finance Lafayette's obligations under this Agreement shall terminate this Agreement at such time as such then-existing appropriations are to be depleted. Notice shall be given promptly to District of any failure to appropriate such adequate monies.

Section 6. Breach; Termination:

A. In the event of a breach by either Party of the terms and conditions of this Agreement, the non-breaching Party may give written notice to the other stating such breach has occurred and give the Party twenty-one (21) calendar days to cure such breach. If the breach is not cured to the reasonable satisfaction of the non-breaching Party, within the stated timeframe, the Party providing the notice may terminate this Agreement. In the event of termination, each Party shall have any remedy or right available at law or equity.

B. Either Party may also terminate this Agreement without cause upon twenty one (21) calendar days written notice to the other Party.

C. Lafayette shall pay the proportionate part of compensation as District shall actually have earned through the date of termination.

Section 7. Insurance: District understands and agrees that it shall have no right of coverage under any and all existing or future Lafayette comprehensive, liability or personal injury insurance policies. District shall provide workers’ compensation insurance to cover obligations imposed by applicable laws for any of District’s employees engaged in the performance of work under this Agreement, and comprehensive automobile liability insurance and general liability insurance with minimum combined single limits of One Million Dollars and No Cents ($1,000,000.00).

Section 8. Colorado Governmental Immunity Act: The Parties are relying on, and neither waives or intends to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities and protections afforded them by the Colorado Governmental Immunity Act, Section 24-10-101 et seq., C.R.S., as from time to time amended, or those otherwise available to the Parties, their officers, officials, employees and volunteers.

Section 9. Colorado Law; Jurisdiction and Venue: This Agreement shall be governed by the laws of the State of Colorado. Jurisdiction and venue for any litigation shall lie exclusively in the District Court for Boulder County.

Section 10. Binding Effect/Non-Assignability: Lafayette and District each binds itself, its successors and assigns, to the other Party to this Agreement with respect to all rights and obligations under this Agreement. Neither Lafayette nor District shall assign or transfer its interest in, or obligations under, this Agreement without the written consent of the other.

Section 11. Severability: If any term, covenant, or condition of this Agreement is deemed by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect and be binding upon the Parties.
Section 12. **Entire Agreement:** This Agreement constitutes the entire agreement between the Parties and supersedes all other prior and contemporaneous agreements, representations, and understandings of the Parties regarding the subject matter of this Agreement. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by the Parties. No representations or warranties whatever are made by any Party to this Agreement except as specifically set forth in this Agreement or in any instrument executed by the Parties pursuant to this Agreement.

Section 13. **Attorney’s Fees, Costs and Expenses:** In any litigation arising from or relating to this Agreement, the prevailing Party shall be awarded its reasonable attorney fees, costs and expenses, including the reasonable attorneys’ fees, costs and expenses incurred in collecting or executing upon any judgment, order or award.

Section 14. **No Waiver:** Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by either Party shall not constitute a waiver of any of the other terms or obligations of this Agreement.

Section 15. **Non-Applicability:** As this Agreement does not provide for the temporary assignment of firefighters, and does not involve services necessitated by any conflagration, fire, or other emergency, the Parties agree that C.R.S. §§ 29-5-105 and 107-110 are not applicable to this Agreement.

Section 16. **Notice and Communications:** Any notice to the Parties required under this Agreement shall be in writing and delivered to the person designated below for the Parties at the indicated address unless otherwise designated in writing. A notice required to be given under this Agreement shall only be delivered by United States certified mail, return receipt requested, or by hand delivery. Facsimile and e-mail addresses are provided for convenience only. However, copies of mailed or hand-delivered notices may be sent to the Parties via e-mail or facsimile.

**Lafayette:**
City of Lafayette Fire Department  
401 North 111 Street  
Lafayette, Colorado 80026  
Attn: Dan Garrett  
Tel: 303-665-9661  
Fax: 303-604-3862  
Email: dang@CityofLafayette.com

**District:**  
Louisville Fire Protection District  
895 Via Appia Way  
Louisville Colorado 80027  
Attn: John Willson  
Tel: 303-666-6595, Ext. 201  
Fax: 303-666-7659  
Email: jwillson@louisvillefire.com

Section 17. **Execution:** This Agreement may be executed in several counterparts and by facsimile or electronically by PDF, each of which shall be deemed an original and all of which shall constitute one in the same instrument.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the Effective Date.

**CITY OF LAFAYETTE:**

<table>
<thead>
<tr>
<th>Name:</th>
<th>Jamie Harkins</th>
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<tbody>
<tr>
<td>Title:</td>
<td>Mayor</td>
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<td>Date:</td>
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**LOUISIVILL FIRE PROTECTION DISTRICT:**

<table>
<thead>
<tr>
<th>Name:</th>
<th>Chris Schmidt</th>
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<tbody>
<tr>
<td>Title:</td>
<td>Board President</td>
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<tr>
<td>Date:</td>
<td>1/9/2020</td>
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ATTEST:

Susan Koster, CMC, City Clerk

APPROVED AS TO FORM:

Mary Lynn Macsalka, City Attorney
“Exhibit A”
Scope of Services for Fire Marshal

1. Review plans for structural, electrical, plumbing, and mechanical compliance with fire codes, applicable national standards, and fire code related ordinances; review quality of materials and methods of construction used.

2. Review and approve permits, inspect buildings and other structures to determine compliance with fire codes, applicable national standards, and fire code related ordinances; answer inquiries and technical questions.

3. Inspect work in progress to ensure that construction is progressing in accordance with approved plans and specifications and in compliance with fire codes, applicable national standards, and fire code related ordinances; investigate complaints regarding construction; maintain records of inspections.

4. Maintain records and make reports as required. All records and reports generated pursuant to the Intergovernmental Agreement for Fire Marshal Services shall be the property of Lafayette.