

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY
COUNCIL OF THE CITY OF WALSENBURG AND THE BOARD OF
HUERFANO COUNTY COMMISSIONERS FOR LAW
ENFORCEMENT SERVICES**

This document constitutes an agreement ("Agreement") by and between the City Council and the City of Walsenburg (the "City"), a Colorado municipal corporation, and the Board of County Commissioners of Huerfano County, Colorado, the governing body of Huerfano County (the "County"), a political subdivision of the state, collectively, (the "Parties").

WHEREAS, Colo. Const. art. 14 § 18, and C.R.S. § 29-1-201, 203 et. seq. permit and encourage political subdivisions to enter intergovernmental agreements to provide any function, service, or facility lawfully authorized to each of the cooperating or contracting units, including the sharing of costs for the mutual benefit of both;

WHEREAS, C.R.S. § 30-11-410(1) provides that the governing body of a municipality and the board of county commissioners may contract to provide law enforcement services, including enforcement of municipal ordinances, by the sheriff within the boundaries of the municipality;

WHEREAS, public safety within the jurisdictional limits of Walsenburg and Huerfano County is in the mutual interest of both entities;

WHEREAS, the Parties previously entered into an agreement for law enforcement services and that agreement expired at the end of 2022;

WHEREAS, the Parties wish to enter into a new agreement for law enforcement services under substantially similar terms as the prior agreement;

WHEREAS, Walsenburg desires to obtain all reasonable and necessary law enforcement services from the County and the County desires to provide all reasonable and necessary law enforcement services to the City; and

WHEREAS, the County and the City desire to enter into an agreement for the provision of law enforcement in accordance with the terms herein provided.

NOW, THEREFORE, the City and the County agree as follows:

1. General Purpose.
 - a. The Huerfano County Sheriff shall provide law enforcement services within the Walsenburg corporate limits including, but not limited to, patrolling, issuing summons and complaints, preparing and timely delivering to the District Attorney all reports and information necessary to prosecute matters, appearance by the appropriate law enforcement officials at all court proceedings as necessary to prosecute matters, gathering and retaining evidence so as to provide for proper chain of custody, responding timely to complaints or calls, transportation of

persons arrested to jail, investigation, traffic control, emergency response, civil document service, training, developing and maintaining all records and written law enforcement policies ordinarily required by law enforcement agencies, and all other tasks typically associated with and performed by a municipal police department.

- b. The law enforcement services described below will be implemented by the Huerfano County Sheriff (the "Sheriff"). It is the intent of the parties that implementation of this Agreement will not adversely impact law enforcement services provided to unincorporated portions of Huerfano County.
- c. As part of the implementation process, the Sheriff will make all determinations regarding scheduling and designating the patrol area of deputies delivering services to Walsenburg under this Agreement. Standards of performance, employee discipline, control of personnel providing such services and other matters incident to the performance of the services to be provided hereunder shall be in accordance with Huerfano County Sheriff's policies and procedures a copy of which will be provided to Walsenburg upon execution of this Agreement. The written policies and procedures will remain the property of the Huerfano County Sheriff's Department and the Sheriff will remain the legal custodian of the written policies and procedures. Any request for the documents under the Colorado Open Records Act or by subpoena shall be given to the Sheriff who will timely respond to the request or subpoena.

2. Municipal Authority.

- a. At the effective date and time of this Agreement and for the duration of this Agreement, Walsenburg grants the Huerfano County Sheriff and all sworn sheriff's deputies that are Colorado peace officers the law enforcement authority granted to any Walsenburg police officer by statute or by Walsenburg municipal ordinance to engage in law enforcement pursuant to this Agreement to enforce State law and Walsenburg ordinances within the City of Walsenburg's jurisdiction.
- b. Immediately upon proper transfer of evidence and records in a case from the Walsenburg Police Department to the Huerfano County Sheriff's Department, the Huerfano County Sheriff's Department shall be the legal custodian of the evidence and records for all purposes under Colorado law through the duration of this Agreement.
- c. The Huerfano County Sheriff's Department shall be the legal custodian or all evidence and law enforcement records developed in any case within the Walsenburg municipal limits commencing with the effective date of this Agreement and continuing until the termination of this Agreement and

the proper transfer of such evidence and records to the Walsenburg Police Department

3. Duties and Levels of Service.

- a. The Sheriff will have at least one on-duty deputy responding to calls within the municipal limits of Walsenburg at all times.
- b. Deputies. The number of on-duty deputies available to respond to calls will be adjusted accordingly during peak times except in extraordinary circumstances. For the purposes of this paragraph, "peak times" and "extraordinary circumstances" shall be determined in the sole discretion of the Sheriff or his designee. "Peak times" will be defined in reports presented to City Council. Any changes to these definitions shall be noted in the written reports to City Council as they occur.
- c. Municipal Court. The appropriate Sheriff's deputy or other Sheriff's Department representative(s) will appear in Walsenburg Municipal Court as needed to aid in the prosecution of individuals accused of ordinance violations.
- d. County and District Court. The appropriate Sheriff's deputy or other Sheriff's Department representative(s) will appear in the County and District Courts of Huerfano County, as necessary.
- e. Ordinance Criminal and Administrative Enforcement.
 - (i) The County and City acknowledge that all municipal ordinances have a criminal law component over which the municipal court has authority. The County and City also acknowledge that a limited set of Walsenburg ordinances also provide a procedure for administrative enforcement.
 - (ii) The Sheriff's Department shall enforce all ordinances where the only enforcement provided by the ordinance is criminal in nature and the ordinance does not provide authority to the City to enforce the ordinance administratively and the Model Traffic Code adopted by the City.
 - (iii) The City shall enforce all ordinances where the ordinance provides an administrative enforcement procedure. Except as set forth below.
 1. In any case where an administrative procedure is available and human safety is at issue, the sheriff will provide enforcement under the ordinance's criminal enforcement provision or, at the option of the city administrative

enforcement to the extent necessary to assure the safety of all involved.

2. The Sheriff will also enforce the criminal component of any ordinance in a particular case upon request by the City administrative enforcement representative where the administrative enforcement has proven ineffective.
 3. Examples of ordinances that provide administrative enforcement are the city weed ordinance, dogs at large, licensing ordinances and zoning ordinances.
 4. Animal Control. The Sheriff's Department will respond to dangerous animal and human safety calls related to animals within City limits. The City will enforce ordinances related to animal control where human safety is not an issue.
 5. Land Use Ordinances. The City will continue to enforce all land use and associated ordinances. The Sheriff should cite all traffic violations contained in the Model Traffic Code under the Model Traffic Code into municipal court and not under Title 42 of the Colorado Revised Statutes.
- f. Marijuana and Liquor. The Sheriff will provide the City with reports as necessary regarding enforcement of marijuana and liquor licensing.
 - g. Walsenburg will provide three (3) copies of their ordinances to the Sheriff and shall work with the Sheriff providing information required to assist Sheriff's employees in enforcing the ordinances.
4. Independent Contractor.
 - a. The parties agree that Huerfano County is acting as an independent contractor. All Sheriff's Department personnel shall be employees of the Sheriff's Department for all purposes and controlled by the Sheriff, including standards of performance and discipline.
 - b. The County shall be solely responsible for Sheriff's Department employees' wages, benefits, tax withholdings of all types, timely filing of all employment tax reports and payment of all employment tax deposits, filing of all Workers Compensation and Unemployment forms and payment of all Workers Compensation and Unemployment premiums.
 - c. The County is solely responsible for meeting all state and federal criteria to maintain its independent contractor status and holds Walsenburg harmless for any claim resulting from a determination that County is not an independent contractor.

5. Contract Administration. The parties will comply with the Colorado Criminal Justice act.
6. Conform Laws. The County and Walsenburg shall, to the extent reasonable and feasible and with all due consideration for local circumstances, make diligent efforts to conform ordinances, rules and regulations to provide for consistent effective and efficient delivery of law enforcement. This shall not be interpreted to require the approval of either party of the other party's ordinances, rules and regulations.
7. Reporting.
 - a. The Sheriff or designee shall attend the first regularly scheduled City Council meeting of each quarter and provide the city council with an oral and a written report of its activities within Walsenburg. The written report will include but not be limited to:
 - (i) definition of "peak times";
 - (ii) any information the Sheriff deems relevant, appropriate, and necessary to illustrate regular and ongoing law enforcement activities and issues; and
 - (iii) addressing any questions presented in writing by the Mayor or the City Council;
 - b. The Sheriff will submit the written reports by noon on the Friday prior to the meeting.
 - c. The Sheriff or designee may meet with the Mayor or the City Council from time to time to foster communication and enhance community policing and partnerships.
8. Fee for Services.

The City and County shall share the cost of law enforcement through the payment of fees by Walsenburg to the County to offset the cost of law enforcement services within Walsenburg as set forth below. The fees do not constitute tax revenues to the County or the imposition of debt on Walsenburg.

- a. 2023 Fee. Walsenburg shall pay County seven-hundred-thirteen thousand eight hundred and fifty-seven dollars (713,857.00) for the twelve-month period commencing upon the date of execution in twelve (12) equal monthly payments of \$59,488 due on or before the 20th day of each calendar month. Failure to pay will be considered a contract breach by Walsenburg at the option of the County. The monthly fee during the six-month renewal period shall be \$59,488 due on or before the 20th day of each calendar month.

b. Successive Years of Agreement.

- (i) Negotiations. Walsenburg and County shall negotiate amendments to the fee annually with negotiations to commence September 15 and conclude prior to November 15 each year to allow the parties to appropriately budget. If the parties fail to agree by October 20, they shall enter mediation as provided in this Agreement.
- (ii) Basis. The basis for any modification to the fee shall be the actual cost of services provided by County to Walsenburg.
- (iii) Maximum Increase. The annual fee amount shall not increase by more than the rate of "Inflation" as defined in Colo. Const. art. X § XX(Z)(f) unless Walsenburg requests additional services in which case the cost of providing the additional services shall increase the maximum annual increase by that cost in addition to the increase in the Denver-Boulder-Greeley CPI referenced in Colo. Const. art. X § XX(2)(f).
- (iv) Amendment. Any decrease or increase In the annual fee shall be in writing executed by the parties as provided by law and shall constitute an amendment to this Agreement.

c. Civil Service Fees

- (i) Legal documents, including, but not limited to, subpoenas, summons and legal paperwork not generated by the Huerfano County Sheriff's Office, that require service shall be handled as follows.
 - 1. Walsenburg will provide legal documents that require service to the Huerfano County Sheriff's Office.
 - 2. Huerfano County Sherriff will serve only legal documents required to be served in Huerfano County.
 - 3. Walsenburg will pay for civil service in addition to the fees set forth above. Fees will be charged to Walsenburg pursuant to the Huerfano County Sheriff's Office fee schedule that is based upon the Colorado Revised Statutes.

9. Property-Ownership and contribution.

- b. All radios, communication equipment, and other equipment shall remain property of the City and the County shall maintain possession and be responsible for all maintenance and repairs for the duration of this Agreement.

- (i) "Equipment" means any personal property item acquired by the Walsenburg police department, and not by any individual, purchased for fifty dollars (\$50.00) or more; "equipment" also includes belts, long guns, shotguns, and tasers regardless of acquisition cost.
- (ii) The Sheriff's Department shall maintain records of all equipment, including capital expenses, purchased during the term of this Agreement. The records shall include date of acquisition, description, serial numbers and purchase price.

- c. The Sheriff shall maintain a record of equipment purchased to replace existing equipment. The record shall include information on the equipment purchased and the equipment replaced.
- d. Surplus equipment belonging to either party at the time this contract is executed shall be kept or returned to the party owning it before this agreement was executed.
- e. Upon termination of this Agreement, all original equipment and all equipment purchased to replace original equipment will be returned to the party that owned the original equipment on the effective date of this Agreement.

f.

10. Vehicles.

- a. Vehicles owned by each party shall remain in the possession of and the property of the party that owned the vehicle on the effective date of this Agreement.
- b. The County shall retain ownership of all vehicles purchased during the duration of this, or any subsequent agreement.

11. Duration.

- a. This agreement shall be in effect for a period of one (1) year from the date of execution of the agreement unless terminated as provided below.
- b. Termination. Either party may terminate this Agreement or any extension of this Agreement by giving the other party written notice 30 days prior to the requested termination date unless both parties waive this notice provision in which case the County will return to the City all equipment.
- c. Renewal and Modification. This agreement shall renew for a period of six (6) months without affirmative action of the parties unless termination notice is given as set forth in paragraph 11(b) above.

12. Indemnification.

- a. In executing this agreement, Huerfano County does not assume liability or responsibility for or in any way release Walsenburg from any liability or responsibility, which arises in whole or in part from the existence, validity or effect of Walsenburg ordinances, rules or regulations. If any such cause or claim, suit, action or administrative proceeding is commenced, Walsenburg shall defend the same at its sole expense, and if judgment is entered or damages are awarded against Huerfano County, Walsenburg, or both, Walsenburg shall satisfy the same. This paragraph shall not apply where Walsenburg modifies or drafts an ordinance to conform Its ordinance to a Huerfano County ordinance, rule or regulation.
- b. In executing this agreement, Walsenburg does not assume liability or responsibility for or in any way release Huerfano County from any liability or responsibility, which arises in whole or in part from the existence, validity or effect of Huerfano County ordinances, rules or regulations. If any such cause, claim, suit, action or administrative proceeding is commenced, Huerfano County shall defend the same at its sore expense, and if Judgment is entered or damages are awarded against Walsenburg, Huerfano County, or both, Huerfano County shall satisfy the same.
- c. Huerfano County will maintain general liability insurance to cover any act or failure to act of the County or any of its elected or appointed officers, agents or employees while providing law enforcement under this Agreement and naming the City of Walsenburg as an additional insured. Huerfano County shall indemnify and hold harmless Walsenburg and its elected and appointed officers, agents and employees, or any of them, from and against any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, which are caused by or result from a negligent act or omission of Huerfano County, its elected or appointed officers, agents and employees in performing services pursuant to this agreement.

- (i) In the event that any suit based upon such a claim, actions, loss or damage is brought against Walsenburg, or Walsenburg and Huerfano County, Huerfano County shall defend the same at Its sole cost and expense; and If final judgment be rendered against Walsenburg and its officers, agents and employees, Huerfano County shall satisfy same.
 - d. Walsenburg shall indemnify and hold harmless Huerfano County and its officers, agents and employees, or any of them, from and against any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, which are caused by or result from a negligent act or omission of Walsenburg, its officers, agents and employees in performing services pursuant to this agreement.
 - (i) In the event that any suit based upon such a claim, actions, loss or damage Is brought against Huerfano County, or Huerfano County and Walsenburg, Walsenburg shall defend the same at its sole cost and expense; and if final judgment be rendered against Huerfano County and Its officers, agents and employees Walsenburg shall satisfy same.
- 13. Disputes. In the event of a dispute arising from or related to this agreement, in good faith the parties shall submit the dispute for resolution to a mutually agreeable mediator and shall equally share the mediator's fee. In the event the parties cannot resolve the dispute in mediation, and either party initiates a lawsuit, the prevailing party shall be entitled to court costs and reasonable attorney's fees, including those costs incurred in anticipation of litigation and fees and costs incurred in appeal of any final determination. If either party chooses to seek injunctive relief to enforce the provisions of this agreement, the parties waive any requirements of bond. Venue shall be Huerfano County, Colorado.
- 14. Survival Clause. In the event one or more of the provisions of this agreement are held to be illegal or unenforceable, it shall not result in the invalidation of any other portion of this agreement.
- 15. State Auditor's Office. The City Clerk of Walsenburg and the County Clerk shall each forward a copy of this agreement to the State Auditor's Office for the State Auditor's information and concurrence with regard to the financial arrangements set forth in this agreement and shall take any other actions deemed necessary to comply with Colorado State Statutes.
- 16. Cost of Service and Revenues. The parties hereto have considered the anticipated cost of services and the anticipated and potential revenues to fund those services In negotiating this agreement.

17. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the City not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

Approved by the Walsenburg City Council on the ____ day of _____, 2023.

Rick Jennings, Acting Mayor

APPROVED by the Huerfano County Commissioners this ____ day of _____ 2023.

, Chair

, Commissioner

, Commissioner

APPROVED by the Huerfano County Sheriff this ____ day of _____, 2023.

Huerfano County Sheriff