

**INTERGOVERNMENTAL AGREEMENT FOR PULSE COMMUNICATION  
SERVICES PROVISION TO THE TOWN OF MEAD’S  
MUNICIPAL PUBLIC WORKS BUILDING**

THIS INTERGOVERNMENTAL AGREEMENT FOR PULSE COMMUNICATION SERVICES PROVISION IN THE TOWN OF MEAD (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of Loveland (“Loveland”) and the Town of Mead (“Mead”) (collectively the “Parties”).

**WHEREAS**, voters of Loveland and Mead, respectively, approved legally required ballot measures at general elections, authorizing each entity to provide services contemplated in Colorado Revised Statutes, Title 29, Article 27, including cable television service, telecommunications service, and advanced service (collectively, “Communications Services”); and

**WHEREAS**, Loveland is a home-rule municipality which has undertaken the financing, construction, and all further operations to establish a municipal utility for the provision of Communications Services (“Pulse”); and

**WHEREAS**, Mead is a statutory town that wishes to have access to high-quality Communications Services; and

**WHEREAS**, to provide or acquire reliable, competitive, and cost-effective Communications Services, the Parties each desire to collaborate with neighboring governments or communications enterprises, to leverage resources and efficiencies for the benefit of each party; and

**WHEREAS**, Pulse has the means to provide robust Communications Services to Mead; and

**WHEREAS**, Mead wishes to acquire Communications Services for use at its municipal Public Works building; and

**WHEREAS**, to permit Pulse to provide Communications Services to Mead and establish the manner and means by which the provision occurs, the Parties wish to enter this Agreement; and

**WHEREAS**, as Colorado governmental entities, Loveland and Mead are authorized, pursuant to Colo. Const. art. XIV, § 18(2)(a) and C.R.S. § 29-1-203, to cooperate or contract with one another to acquire or provide any government function, service, or facility lawfully authorized to each.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

- 1. Grant of Access.** Mead grants Loveland the authority to enter such parts of Mead as necessary to provide Communications Services to Mead’s municipal Public Works building. By this grant of access, Mead does not purport to convey, nor does Loveland

purport to receive, the right to enter private property that would require permission from private entities, including natural persons or corporate entities, for access to provide Communications Services.

2. **Term.** This Agreement shall be effective from the date first written above and shall not terminate unless a party defaults under the terms of the Agreement, the non-defaulting party provides notice of such default, and default is not cured within thirty (30) days of receipt of notice, if the breach is not capable of being cured within thirty (30) days, the Party must make substantive process on curing such breach. The total time to cure such breach shall not exceed ninety (90) days without consent of the non-defaulting Party.
3. **Costs and Revenues.** Pulse shall be solely responsible for all costs related to providing the Communications Services. Pulse shall provide those Communications Services defined in **Exhibit A** below and Mead shall pay the rate defined in Exhibit A for such Communication Services.
4. **Ownership and Management of Communications Services Facilities.** Pulse shall retain control and ownership of the facilities it uses to provide Communications Services in Mead to the Public Works building. Any issues that may arise in the construction and management of the physical fiber network shall remain entirely within Pulse's control and discretion and are outside the scope of this Agreement.
5. **Permitting and Franchise Requirements.** Pulse's installation and maintenance activities remain subject to all applicable permitting requirements, including Mead right-of-way rules. Any cable television service, as defined by C.R.S. § 29-27-102(2), that Pulse may eventually offer shall be subject to any applicable franchise requirement that may exist under Mead laws.
6. **Notices.** Written notices required under this 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 or as updated in Exhibit A:

If to Loveland: Brieana Reed-Harmel, Municipal Fiber Manager  
City of Loveland, Water and Power  
200 Wilson Avenue  
Loveland, CO 80537  
Brieana.Reed-Harmel@cityofloveland.org  
970-962-3592

With copies to: Loveland City Attorney's Office  
Broadband Matters  
500 East 3<sup>rd</sup> Street, Suite 330  
Loveland, CO 80537

If to Mead:

With copies to: Mead Town Attorney's Office

7. **Amendment.** Except as provided below, approval of amendments to this Agreement will be managed according to the respective approval policies of each party. To the extent that Loveland desires to provide service to other properties in Town, the Parties shall enter into a separate agreement for such additional properties.

8. **General Terms**

- a. **Subject to Appropriation; No Multiple Year Obligation.** It is understood and agreed by the Parties that any obligation of Loveland or Mead hereunder, whether direct or contingent, shall extend only to funds appropriated by the Parties' respective governing bodies and encumbered for the purpose of this Agreement. The Parties do not by this Agreement, irrevocably pledge present cash reserves for payments in future fiscal years. Likewise, this Agreement shall not create a multiple-fiscal year direct or indirect debt or financial obligation of either Loveland or Mead.
- b. **Employee Status.** All employees of each governmental entity who perform any services in relation to this Agreement shall remain the employees solely of the governmental entity employing them to perform such services and not of any other party hereto. No party shall obtain, by virtue of paying or being reimbursed for or paying for costs under this Agreement, any direct control over the management, scheduling or facilities of the other party.
- c. **Governmental Immunity Act.** No term or condition of this Agreement shall be construed or interpreted as a waiver, by any party, 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. **Entire Agreement.** This 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.
- e. **No Third Party Beneficiary.** The Parties understand and expressly agree that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties. Nothing contained in this Agreement shall give or allow any such claim or right of action by any third person. It is the express intention of the Parties that any person other than the signatory hereto receiving benefits under this Agreement shall be deemed to be an incidental beneficiary only.
- f. **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 Agreement.

- g.* Headings. Paragraph headings used in this Agreement are for convenience of reference and shall in no way control or affect the meaning or interpretation of any provision of this Agreement.
- h.* Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and venue shall be in the County of Larimer, State of Colorado.
- i.* Legal Constraints. The Parties recognize the legal constraints imposed upon them by the constitutions, statutes, and regulations of the State of Colorado and of the United States and imposed upon the Parties by their respective local laws, including, charters and local codes. Subject to such constraints, the Parties intend to carry out the terms and conditions of this Agreement. Notwithstanding any other provision in this Agreement to the contrary, in no event shall either of the Parties exercise any power or take any action which shall be prohibited by applicable law.
- j.* Counterparts. This Agreement may be executed in separate counterparts, and the counterparts taken together shall constitute the whole of this Agreement.
- k.* Electronic Signature. This Agreement may be executed by electronic signature.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the date first above written.

**CITY OF LOVELAND**

By: \_\_\_\_\_  
City Manager

**ATTEST:**

By: \_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Assistant City Attorney

**CITY OF MEAD**

By: \_\_\_\_\_  
Town Manager

**ATTEST:**

By: \_\_\_\_\_  
TownClerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
City Attorney

**EXHIBIT A**  
*Scope of Pulse Services and Payment Terms*