

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE TOWN OF MONUMENT AND THE TOWN OF
PALMER LAKE FOR EMERGENCY WATER
SYSTEM INTERCONNECTION AND MUTUAL AID**

This Intergovernmental Agreement ("IGA") is made by the Town of Monument, a municipal corporation of the State of Colorado, ("Monument") and the Town of Palmer Lake, a municipal corporation of the State of Colorado ("Palmer Lake"):

WHEREAS, Monument and Palmer Lake (collectively the "Parties") are authorized to enter into this IGA pursuant to C.R.S. §§ 29-1-203 and 32-1-1001(1)(d)(I); and

WHEREAS, within its service boundaries, Palmer Lake operates and maintains a water supply and distribution system for the purpose of supplying potable water from underground aquifers and other supplies available to Palmer Lake, to its residents, customers, businesses, and property owners (the "Palmer Lake Water System"); and

WHEREAS, within its service boundaries, Monument operates and maintains a water supply and distribution system for the purpose of supplying potable water from underground aquifers and other supplies available to Monument, to its residents, customers, businesses, and property owners (the "Monument Water System"); and

WHEREAS, it is mutually desirable to construct and operate a controlled emergency water system interconnection of the Monument Water System and the Palmer Lake Water System (the "Interconnection") to allow each Party to provide potable water to the other as needed in emergency situations; and

WHEREAS, Palmer Lake and Monument desire to cooperate in the construction and operation of the Interconnection, which shall be located in northern El Paso County, Colorado, as set forth more particularly and depicted in the Preliminary Design for the Interconnection attached hereto as **Exhibit A** (the "Interconnection Design"); and

WHEREAS, it is in the mutual best interests of Monument and Palmer Lake to enter into this IGA and set forth their respective obligations and responsibilities with regard to the construction and operation of the Interconnection.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual agreements, promises and covenants in this IGA and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each Party, Monument and Palmer Lake agree as follows:

Section 1. Recitals. The recitals set forth above are incorporated by reference into this Section 1 as material terms of this IGA.

Section 2. Definition of Emergency. For purposes of this IGA, the term "emergency" means any temporary and unexpected disruption of the designed and established manner of public water supply production and distribution within the water system of a Party, which as referenced herein shall mean either the Palmer Lake Water System or the Monument Water System, or both, including without limitation due to an act of God, a catastrophe, and/or other major system failures. "Emergency" does not include an outage, whether individual, repeated, or chronic, if the affected Party does not take prompt, reasonably aggressive efforts to correct the circumstances that created or creates the outage. Nor does "emergency" include the inability of the designed production capacity of a Party's System to meet peak water use demands. Notwithstanding the foregoing, the Parties may agree, on a case-by-case basis, whether a particular circumstance constitutes an emergency. Such case-by-case agreement by the Parties shall not create precedent for the determination of circumstances that constitute an Emergency but shall meet the requirements of this IGA that any and all water furnished under this IGA is deemed to have been used for emergency purposes only.

Section 3. Design and Construction: Installation Costs.

A. Meter Equipment. The design and construction of the Interconnect facilities will consist of the "Interconnecting Pipeline" connection to each respective water system which will include tees, tapping saddles, valves, and a 12-inch connective piping between the two systems. The Interconnect facilities will also include a metering and control vault. The component elements are shown in Exhibit A. The control and metering vault and associated piping and appurtenances will be constructed under a contract after the third-party developer has completed Exhibit A and after the flushing/testing/and filling water has been delivered.

B. The Interconnecting Pipeline, control and metering vault, pipeline appurtenances and other control piping in and around the vault as shown on Exhibit A will be constructed under a contract let by Monument and exclusively paid for by Palmer Lake. The Parties agree and acknowledge that all component designs are of a preliminary nature, and that modifications thereto resulting in the final Interconnection design to be implemented will be completed subsequent to the execution of this IGA. Each Party agrees to cooperate with the other in good faith to timely review, modify, and approve the final design before authorizing construction.

C. The Interconnect shall include a separate control valve (shown on Exhibit A) under the exclusive control of its respective Party located at the connection point to each Party's water system. Each party will own and operate as a part of its individual system the tees, tapping saddles and valves known as each Party's respective control valves. The Interconnect unless otherwise agreed in the Interconnect Design, as may be modified for final implementation, shall be defined as all infrastructure located in between said separately owned control valves ("Joint Infrastructure"). The Joint Infrastructure shall be jointly owned. All

costs of operation and maintenance of the Interconnect, however owned, shall be borne by Palmer Lake.

D. Installation Costs. Palmer Lake will install, at its own cost, all improvements required to effectuate the Interconnect. All engineering and legal costs associated with the design and implementation of the Joint Infrastructure portion of the Interconnect will be the responsibility of Palmer Lake.

Section 4. Metering and Measurement.

A. Meter Equipment. As part of the Interconnection, The Parties, through a third-party contractor, will furnish and install flow meters that meet the standards of the American Waterworks Association ("AWWA"), to be approved by Palmer Lake, for measuring properly the quantity of water delivered through the Interconnection (the "Delivery Meters"), The cost of the Interconnect will be apportioned equally between the Parties. Monument will provide general maintenance of the Delivery Meters as provided in Section 6 of this IGA. Monument will read, calibrate, adjust, and keep the official record of the readings taken from the Delivery Meters, and will provide Palmer Lake with a copy of all meter readings taken within 10 days of each such reading. Either party may at its own expense require an audit and calibration check of the meters after reasonable notice to the other party.

B. Unit of Measurement. The unit of measurement for water delivered under this IGA is 1,000 gallons of water, U.S. Standard Liquid Measure. If it becomes necessary or desirable to use other units of measurement, then the basis of conversion will be 7.48 gallons per cubic foot, and 325,851 gallons per acre foot. Water delivered to a Party shall be measured by comparing the reading on the water meter prior to opening the valves against the reading immediately after the emergency connection has been closed.

Section 5. Operation.

A. Permission to Draw Water. Prior to drawing water through the Interconnection, the Party in need of the water (the "Requesting Party") first must seek and receive permission for service from the Party Manager (or her or his designee) of the Party (the "Supplying Party"). The Supplying Party must grant permission to the Requesting Party for emergency service through the Interconnection ("Emergency Service"), and such permission shall not be unreasonably withheld, unless or except if providing Emergency Service would present a hazard, and not merely an inconvenience to the Supplying Party's provision of water service to its customers. Notwithstanding this provision, or any other provision of this IGA, neither Party will supply any amount of water that would jeopardize the integrity of its own respective water supply or water system. Further, neither Party shall have any obligation to provide water to the other if a Party determines, in its sole discretion, that such water supply would jeopardize its own water needs, or its ability to supply water to its own residents or other customers. Moreover, there is no guarantee made by Party that it will be able to deliver water to

the other Party in an emergency situation, nor that water available will be in the quantities requested. Unless expressly waived by the Supplying Party, a representative from each Party's operations staff or contractor shall be present when operating the valves for the emergency interconnection.

B. Duration of Emergency Service. Emergency Service will be provided during an emergency by the Supplying Party only for so long as is necessary to allow the Requesting Party to stabilize and restore its water supply and infrastructure, using all due diligence, to the normal operating pressures and supplies of the Requesting Party's System. The Supplying Party retains the right to terminate Emergency Service, on timely oral notice as far in advance as is reasonable under the circumstances, if the Supplying Party reasonably determines that a condition has developed or might develop in its System that makes continued Emergency Service hazardous for its customers. Unusual delay by the Requesting Party in the correction of the causes for the Emergency Service also may justify termination of Emergency Service by the Supplying Party, upon 24-hour's notice from the Supplying Party.

C. Notice During Emergency. As soon as reasonably convenient, the Manager or designated representative of the Requesting Party will provide the Manager or designated representative of the Supplying Party with all pertinent facts involved in the emergency and will, during the period of the emergency, keep the Supplying Party fully informed of the situation and the progress of corrective actions. During the period of emergency, Palmer Lake and Monument each will have a representative of its operations staff, contractor, or water department, as applicable, available on a 24-hour basis to monitor the Interconnection, as necessary.

Section 6. Maintenance.

A. Maintenance Obligations. Monument will be primarily responsible for performing all maintenance of the Interconnection, with the understanding that no routine maintenance will be made on the Interconnection except after five days' advance notice to Palmer Lake. Palmer Lake will reimburse Monument within 30 days after receipt of a request for reimbursement for the reasonable and verified expenses incurred by Monument related to maintenance of the interconnection including replacement of equipment and repairs as deemed necessary by Palmer Lake or Monument. The Parties agree that expenses for all repairs and maintenance to the Interconnection will be the responsibility of Palmer Lake. Monument and Palmer Lake each will bear its own costs relating to repair, replacement, and maintenance of its respective System and improvements thereto not directly related to the Interconnection. Unless a different time period is established, the Parties, working cooperatively, will annually exercise the valves and flush the water main as needed.

B. Initiation of Use. The Interconnection will require flushing prior to each use unless flushing has otherwise directly preceded initiation of such use. Such flushing shall require cooperative operational actions by Parties, and the Parties agree to coordinate with their respective engineering consultants,

operations staff, contractors and public works departments to ensure such flushing is properly completed prior to any use of the Interconnection, and both Parties' respective public water systems thereby secured from contamination. Upon completion of said pre-operation flushing of the Interconnection, the Parties' respective operators will document the meter reading on each of the separately owned meters prior to opening the separately owned control valves. Water delivered through the Interconnect will then be properly measured by documenting of similar meter readings at the end of the emergency upon closing of the Interconnect by each Parties' respective operators.

C. Meter Testing. Unless a different time period is established by the Parties in writing, Monument will cause to have all meters inspected, tested, and calibrated by a qualified party on an annual basis. Testing will be undertaken in accordance with the following provisions:

1. The cost of each inspection/calibration will be the responsibility of Palmer Lake. Monument will provide Palmer Lake written notice of each meter test at least one week in advance so that Palmer Lake may attend the test if it desires. Monument will provide Palmer Lake with a copy of the results of each meter test within 10 days after Palmer Lake receives those results.

2. No meter may be placed in service or allowed to remain in service if it has an error in registration in excess of allowable AWWA standards. Any such meter must be repaired or replaced as provided in Subsection 5.A. of this IGA. The cost of replacing the meter will be responsibility of Palmer Lake.

D. Security. The Parties shall cooperate in the design and implementation of the Interconnect to ensure the Interconnect remains secure from third party tampering, alteration or vandalism, including such vaults or lock-out facilities as recommended by the Parties' engineer in the design, construction and implementation of the Interconnect. Maintenance of such security measures shall be performed by Monument and paid for by Palmer Lake.

Section 7. Invoices: Payment of Fees. As soon as reasonably feasible, the Supplying Party will provide its invoice for water supplied to the Requesting Party during an emergency. Unless otherwise agreed to by the parties, such invoice shall bill for the water supply provided during the emergency at a rate to be calculated on a per gallon basis of what each Party, respectively, would charge a residential customer in the supplied area. The Requesting Party shall pay the invoice within 30 days after receipt. Upon mutual agreement of the Parties payment may be substituted by simple water exchange on a one to one basis.

Section 8. Term. Unless terminated, this IGA will remain in effect until December 31, 2036. The Parties may extend the term of this IGA for any length of time or on alternate terms for up to an additional 20 years by written renewal/amendment of this IGA made on or before November 1, 2036. If the IGA is not renewed before such time or terminated as provided herein, it will

automatically renew for an additional 20-year term. Notwithstanding any expiration or termination, each Party remains obligated to pay any costs due to the other Party under this IGA.

Section 9. Termination: Breach. This IGA may be terminated prior to the expiration of said term by mutual agreement of the Parties, or by either Party on 30 days' written notice to the other Party without any liability to the other if the Interconnection becomes obsolete or otherwise rendered unusable. Upon termination of this IGA, either Party will have the right, but not the obligation, to remove its portions of the Interconnection. This IGA also may be terminated by either Party on 30 days' written notice if the other Party fails substantially to perform in accordance with the terms of this IGA and then fails to cure such non-conformance within 30 days of receipt of notice of such default.

Section 10. Notices. Any notice, request, demand or other communication, provided for by this IGA, shall be in writing and shall be deemed to have been duly received upon: (a) actual receipt if personally delivered and upon written confirmation of personal delivery; (b) receipt as indicated by the written or electronic verification of delivery when delivered by overnight courier; (c) receipt as indicated by the electronic transmission confirmation when sent via telecopy, facsimile, or email transmission; or (d) three calendar days after the sender deposits the notice with the U.S. Post Office when sent by certified or registered mail, return receipt requested. Notice shall be sent to the addresses set forth below, or to such other address as either Party may specify in writing.

Any notice required under the terms of this IGA shall be given in writing and shall be effective upon delivery in person or the mailing thereof to the parties at the following addresses, or at such other addresses as a party may subsequently designate for itself by notice:

Town of Palmer Lake
c/o Town Administrator
42 Valley Crescent
PO Box 208
Palmer Lake, CO 80133

Town of Monument
c/o Town Manager
645 Beacon Lite Road
Monument, CO 80132

Section 11. Cooperation. The Parties agree to work in good faith to mutually resolve any disputes occurring or arising out of the performance of this IGA. The Parties agree to do all things reasonably necessary or appropriate to carry out the terms, provisions, and objectives of this IGA. It is the intent of the Parties, as reflected by the terms of this IGA, to ensure compliance and fulfillment with the terms and provisions of this IGA as may be necessary to give effect to the objectives of this IGA.

Section 12. Compliance. Each Party agrees to observe and comply with all applicable federal, State, and local laws, codes, regulations, and ordinances.

Section 13. Mutual Indemnification. To the fullest extent permitted by law, the Parties shall indemnify, protect, defend, and hold harmless each other and their respective past and present appointed and elected officials, trustees, directors, agents, officers, employees, representatives, attorneys, engineers, contractors, volunteers, and each Party's respective interest in any property, from and against any and all claims, obligations, liens, encumbrances, demands, liabilities, penalties, causes of action, and costs and expenses of any kind, including without limitation orders, damages, judgments, fines, forfeitures, amounts paid in settlement, and attorneys' fees and litigation costs relating to, arising out of, or alleged to have occurred in whole or in part in connection with the Interconnection or this IGA, sought by or brought by persons or other third parties against the Parties relative to this IGA. This Section shall be interpreted as broadly as possible under state and federal law. Nothing in this IGA shall be deemed in any way as a waiver of either Parties' protections provided under the Colorado Governmental Immunity Act.

Section 14. Entire Agreement. This IGA contains the entire agreement and understanding by and between the Parties as to the Interconnection. No representations, promises, agreements, or understandings, written or oral, not herein contained shall be of any force or effect as to the subject matter of this IGA. No change or modification hereof shall be valid or binding unless the same is in writing and signed by authorized representatives of each Party. The Parties agree and acknowledge that this IGA has been approved and authorized by each of the Parties.

IN WITNESS WHEREOF, the Parties have caused this IGA to be executed by their respective authorized representatives on the dates written below. The effective date of this IGA is the date upon which the final Party signs the agreement.

TOWN OF MONUMENT

TOWN OF PALMER LAKE

Don Wilson
Mayor

Bill Bass
Mayor

Date

Date

ATTEST:

Mike Foreman, Manager

Dawn A. Collins, Administrator/Clerk