

RESOLUTION NO. 1882

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLDEN APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF GOLDEN AND THE CITY AND COUNTY OF DENVER FOR THE PROVISION OF SERVICES FOR THE DEMOCRATIC NATIONAL CONVENTION

WHEREAS, the parties, as political subdivisions of the State and constitutional home rule entities, are authorized to enter into intergovernmental agreements for the provision of or sharing of functions or services; and

WHEREAS, the City and County of Denver is requesting law enforcement personnel to perform functions in preparation for and during the Democratic National Convention in August 2008; and

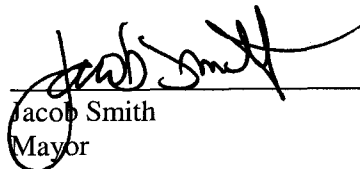
WHEREAS, Golden shall be compensated for all services provided; and

WHEREAS, City Council finds that the proposed intergovernmental agreement is of benefit to the general public.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

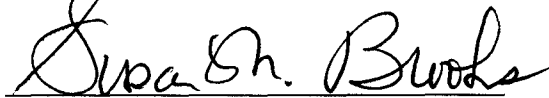
The Intergovernmental Agreement between the City of Golden and the City and County of Denver to supply law enforcement personnel to perform functions and services in preparation for and during the Democratic National Convention in August, 2008, is approved in substantially the same form as the copy attached hereto as Exhibit "A" and made a part of this resolution, and the Mayor is authorized to execute such agreement on behalf of the City.

Adopted this 10th day of July, 2008




Jacob Smith
Mayor

ATTEST:



Susan M. Brooks, MMC
City Clerk

APPROVED AS TO FORM:

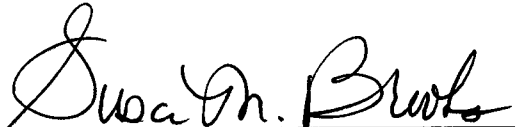


David S. Williamson
City Attorney

I, Susan M. Brooks, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing is a true copy of a certain Resolution adopted by the City Council of the City of Golden, Colorado at a regular business meeting thereof held on the 10th day of July, A.D., 2008.



ATTEST:


Susan M. Brooks, City Clerk of the City of
Golden, Colorado

08-770

**INTERGOVERNMENTAL AGREEMENT FOR THE PROVISION OF
SERVICES AND AID IN PREPARATION FOR AND DURING THE
DEMOCRATIC NATIONAL CONVENTION**

THIS INTERGOVERNMENTAL AGREEMENT (the Agreement") is made and entered into this 5th day of August, 2008, by and between the **CITY AND COUNTY OF DENVER** ("CITY"), a municipal corporation of the State of Colorado and the **CITY OF GOLDEN** ("AGENCY"), a Colorado home rule municipal corporation of the State of Colorado (each a "party" and collectively the "parties").

PURPOSE

This Agreement shall outline the responsibilities of the parties in preparation for and during the 2008 Democratic National Convention ("DNC"), relating to personnel deployment and rights and obligations for reimbursement. The parties form this Agreement under authority of C.R.S. § 29-1-203 and C.R.S. § 29-5-104. The Denver Police Department ("DPD") is responsible for the overall security planning and operations for this event.

1. SERVICES AND TERMS AND CONDITIONS OF OPERATIONS

A. AGENCY COMMITMENT OF PERSONNEL

The Agency agrees to supply personnel, and to perform functions and services in preparation for and during the 2008 DNC in the City and County of Denver. Such personnel so assigned and performing duties as provided herein shall have the same power within the City as do regular law enforcement officers of the City. The personnel to be provided by the Agency are set forth in Exhibit B attached to this Agreement and incorporated herein. Exhibit B also sets forth the hourly overtime rates at which the City will reimburse the Agency for all personnel hours provided pursuant hereto. The functions and duties to be performed by the Agency's personnel and reimbursed by City will conform to the City's 2008 DNC Operational Plan (the "Plan"), with specific assignments to be communicated to the Agency by the Commanding Officer (as defined below) or his designee. Except as otherwise provided herein, nothing in this Agreement shall affect the statutory or common law authority of an Agency or its personnel, nor shall this Agreement limit or enhance the respective liabilities and immunities of the parties.

B. FISCAL ADMINISTRATION

Costs incurred shall be reimbursed by the City in accordance with the fiscal administration requirements set forth in Exhibit A attached hereto and incorporated herein, to the extent such costs are allowable and reimbursable pursuant to the federal grant to the City for the 2008 DNC (the "DNC Grant"). The City will provide Agency sufficient information to allow the Agency to seek reimbursement within sufficient time to allow the Agency to apply for and receive such reimbursement within the requirements of the grant.

2. COORDINATION AND LIAISON: The Agency agrees that during the term of this

Agreement it shall fully coordinate all services hereunder with the City through the following:

A For fiscal issues, including reimbursement, the Deputy Manager of Safety or his designee.

B. For operational service issues, the Deputy Chief of Operations or the commanding officer of the Operations Planning Unit ("Commanding Officer").

The City agrees that during the term of this Agreement it shall fully coordinate all services hereunder with the Agency through the individuals identified in Exhibit B.

The City and the Agency may in writing designate alternate personnel for coordination and liaison.

3. **NOTICES:** Notices concerning the termination of this Agreement, alleged or actual violations of the terms or conditions of this Agreement, and other notices that may or should be given to either party under this Agreement will be made to each party as follows:

For Notice to the City:

Mayor John Hickenlooper
1437 Bannock Street, Room 350
Denver, Colorado 80202

With copies to:

City Attorney
1437 Bannock Street, Room 353
Denver, Colorado 80202

Deputy Manager of Safety
P.O. Box 40098
Denver, CO 80204

For Notice to the Agency:

City Manager Mike Bestor
911 10th Street
Golden, CO 80401

With a copy to:

City Attorney William P. Hayashi
Williamson & Hayashi, LLC
1650 38th Street, Suite 103W
Boulder, CO 80301

4. **TERM OF AGREEMENT:** The term of the Agreement shall commence as of January 1, 2008 and terminate on December 31, 2008, or the last date by which funds pursuant to the DNC Grant must be requested, whichever is later. The Agency shall provide personnel during mutually agreed upon times during the term of the agreement and will provide core services and resources for operations in preparation for and during the DNC, as described in Exhibit B. The period from August 23, 2008 through August 29, 2008 is referred to in the exhibits to this Agreement as the "Convention Core Period."

5. **MUTUAL BENEFITS TO PARTIES; CONSIDERATION:** Other than those payments made from appropriations by the Federal government pursuant to the DNC Grant, consideration for this Agreement shall be non-monetary and shall consist of enhanced public safety and improved law enforcement activity in the Denver metropolitan area in preparation for and during the DNC, and other mutual benefits through the cooperative efforts of the parties under this Agreement.

The maximum amount reimbursable to the Agency pursuant to this Agreement, based upon the parties' estimate of Agency personnel required for the DNC is **Ninety-Five Thousand Five Hundred Eighty-Seven and 52/100 U.S. Dollars (\$95,587.52)**, inclusive of all approved costs and maximum contract reimbursement, as set forth in Exhibit B. It is understood and agreed that any payment obligation of any of the parties hereunder, whether direct or contingent, and for any claimed purpose whatsoever, shall extend only to funds appropriated by the governing body of such party, encumbered for the purpose of the Agreement and paid into the treasury of the party.

6. **STATUS OF AGENCIES:** It is understood and agreed by and between the parties that the status of the Agency shall be that of an independent political subdivision and it is not intended, nor shall it be construed, that any party or any officer, employee, or agent of the Agency is an officer, employee, loaned employee, or agent of the City for purposes of unemployment compensation, workers' compensation, governmental immunity or for any purpose whatsoever unless otherwise provided herein. Except to the extent covered by the insurance policy acquired by the City as referenced in Section 12 herein, each party acknowledges that it remains fully responsible for any and all obligations as the employer of its officers or other personnel assigned to the DNC, including, among other things, responsibility for the payment of the earnings, overtime earnings, withholdings, insurance coverage, workers compensation, medical and legal indemnity where appropriate, and all other requirements by law, regulations, ordinance, or contract. For purposes of workers' compensation, the Agency's employees will remain employees of the Agency and that, in the event the City is deemed a "statutory employer" of the Agency's employees under C.R.S § 8-41-401(1), the City will maintain immunity from tort lawsuits pursuant to the exclusive remedy provisions of the Worker's Compensation Act of Colorado. Notwithstanding the above, Agency officers performing services pursuant to this Agreement (i) will abide by the DPD's use of force and crowd management policies, a copy of which has been provided to Agency if performing crowd management functions, and (ii) may be removed from duty at the DNC by order of the Commanding Officer.

7. **TERMINATION OF AGREEMENT:** Either party may withdraw and terminate their involvement in this Agreement with cause, upon sixty (60) days' prior written notice to the other party, provided that Agency shall be able to terminate this Agreement in the case of a catastrophic event or unforeseen emergency which requires such a commitment of Agency's resources that

would preclude it from performing its obligations under the Agreement.

8. **WHEN RIGHTS AND REMEDIES NOT WAIVED:** Acceptance of partial performance or continued performance after breach shall not be construed to be a waiver of any such breach.

9. **EXAMINATION OF RECORDS:** The Agency agrees that any duly authorized representative of the City, including the City's auditor or other financial representative, or a federal grant auditor, will have access to, and the right to, examine any directly pertinent books, documents, papers, records and data of the Agency, involving financial matters related to this Agreement until the expiration of seven (7) years after the final termination of this Agreement.

10. **GOVERNING LAW:** Each and every term, condition, or covenant herein is subject to and shall be construed in accordance with the provisions of Colorado law and any applicable federal law. Any action arising from this Agreement shall be brought and maintained in a State or federal court in Colorado which shall have exclusive jurisdiction of such action. No legal or equitable rights of the parties shall be limited by this Section.

11. **ASSIGNMENT AND SUBCONTRACTING:** Neither party is obligated or liable under this Agreement to any party other than the other party to the Agreement. Each party understands and agrees that it shall not assign or subcontract with respect to any of its rights, benefits, obligations or duties under this Agreement except upon prior written consent and approval of the other party, and in the event any such assignment or subcontracting shall occur, such action shall not be construed to create any contractual relationship between the parties and such assignee or subcontractor, and each party herein named shall remain fully responsible to the other party according to the terms of this Agreement.

12. **INSURANCE:** The City agrees to procure law enforcement liability and workers compensation insurance (DNC Security Policy) to cover the acts of each party during the provision of DNC security services, subject to any policy limits and deductibles applicable. The parties hereto agree that the City's liability under this Agreement is limited by the coverage provided by and the limits of the DNC Security Policy. The parties hereto understand and agree that each party is relying upon, and has not waived, the monetary limitations (presently \$150,000 per person, \$600,000 per occurrence) and all other rights, immunities and protection provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.* The City shall give the Agency a credit of \$10,000.00 for use in those situations where the Agency would otherwise be responsible for any deductible under the DNC Security Policy. Once such credit is expended, the Agency shall be responsible for any deductible payments attributable to it. City shall provide Agency with notice whenever the credit is applied to the deductible. The deductible credit is an obligation of the City and is not dependent upon the DNC Grant. For any and all acts and omissions which may fall outside the scope of the DNC Security Policy, or any liability which may exceed the policy limits of the DNC Security Policy, the parties will be self-insured as required by Colorado law, or will maintain adequate insurance to insure the types of activities undertaken in this Agreement. Further, each party will, at all times, maintain auto insurance, equipment and/or equipment insurance for its own automobiles, equipment and other property, and in the event that damage to such automobiles and/or equipment is not covered by the DNC Security Policy, neither party will be responsible for damage to the other party's automobiles, equipment or other property.

Reimbursement rates for the use of equipment and vehicles are specified in Exhibit B.

13. **NO THIRD PARTY BENEFICIARY:** It is expressly understood and agreed 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 to the Agreement, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person or entity on such Agreement, including but not limited to members of the general public. It is the express intention of the parties that any person or entity, other than the parties to this Agreement, receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

14. **CONFIDENTIAL INFORMATION; OPEN RECORDS:** The parties shall not at any time or in any manner, either directly or indirectly, divulge, disclose or communicate to any person, firm or corporation in any manner whatsoever any information concerning any matters which are not subject to public disclosure, including without limitation police records or medical records of or pertaining to persons dealt with under this Agreement and other privileged or confidential information. The parties shall comply with all applicable local, state or federal laws and requirements pertaining to maintenance and disclosure of personal, criminal justice, medical or health records or data, including but not limited to the Colorado Open Records Act, the Colorado Criminal Justice Records Act, the federal Freedom of Information Act (FOIA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and those methods, procedures and otherwise set forth as privileged by the Secret Service or other governmental entity. Such records or data may be in hardcopy, printed, digital or electronic format. If either party has custody of a record provided by the other party, that contains specialized details of security arrangements or investigations, the party shall refer any request to inspect that record to the other party, as provided at section 24-72-204(2)(a)(VIII)(C), CRS.

15. **PARAGRAPH HEADINGS:** The captions and headings set forth in this Agreement are for convenience of reference only, and shall not be construed as defining or limiting the terms and provisions in this Agreement.

16. **SEVERABILITY:** If any part, term, or provision of this Agreement, except for the provisions of the Agreement requiring prior appropriation of funds, is by the courts held to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Agency shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

17. **AGREEMENT AS COMPLETE INTEGRATION - AMENDMENTS:** This Agreement is intended as the complete integration of all understandings between the parties as to the subject matter of this Agreement. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written amendatory or other Agreement properly executed by the parties. No oral representation by any officer or employee of the Agency at variance with the terms and conditions of this Agreement, or any written amendment to this Agreement, shall have any force

or effect or bind the Agency. Amendments to this Agreement will become effective when approved by all parties and executed in the same manner as this Agreement. This Agreement and any amendments will be binding upon the parties, their successors and assigns.

18. **SURVIVAL OF CERTAIN PROVISIONS:** The terms of the Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of the Agreement survive the Agreement and will continue to be enforceable. Without limiting the generality of this provision, the City's obligations to provide insurance as set forth in Section 12 will survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

19. **LEGAL AUTHORITY:**

A. Each party represents that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement.

B. The person or persons signing and executing this Agreement on behalf of each party hereby represents and guarantees that he/she or they have been fully authorized by such party to execute this Agreement on behalf of the party and to validly and legally bind the party to all the terms, performances and provisions herein.

C. The City will have the right, at its option, to either temporarily suspend or permanently terminate this Agreement, if there is a dispute as to the legal authority of either the Agency or the person signing the Agreement on behalf of such Agency to enter into this Agreement.

20. **COUNTERPARTS OF THIS AGREEMENT:** This Agreement will be executed in two (2) counterparts, each of which shall be deemed to be an original of this Agreement.

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**EXHIBIT A
CITY & COUNTY OF DENVER
INTER-GOVERNMENTAL AGREEMENT
2008 DEMOCRATIC NATIONAL CONVENTION**

FISCAL ADMINISTRATION REQUIREMENTS

I. BASIC REIMBURSEMENT REQUIRMENTS

A. SECURITY WORK REQUIREMENT: Only activities and costs directly incurred for approved security work, approved administrative support work or core services as defined in Exhibit B in preparation or training for or during the DNC, will be reimbursed.

B. APPROVAL PROCESS: All requests for reimbursement shall be completed on the required forms and contain written certification of the costs signed by the Agency Financial Officer noted in Exhibit B. Reimbursement requests shall be sent to the Deputy Manager of Safety, or designee, of the City.

II. RECORDS AND REIMBURSEMENT FORM REQUIREMENTS

A. REIMBURSEMENT FORM: The form for requesting reimbursement for personnel costs is attached hereto and incorporated hereto as Attachment 1. The City may modify and update these required forms as it reasonably determines necessary, in order to meet its internal or external auditing needs or the requirements of the City, DPD, Plan and/or DNC Grant.

B. AGENCY REQUIRED DOCUMENTATION FOR PERSONNEL COSTS: The Agency will be required to maintain individual payroll records as supporting documentation for reimbursement requests submitted to the City. These records may be in hard copy or electronic time and effort systems and must back up any and all payroll costs incurred and billed. Records must include staff name, date and time worked in support of the Plan.

C. SUBMISSION OF REIMBURSEMENT REQUESTS: The Agency may submit reimbursement requests on a monthly basis or in accordance with the following calendar:

<u>Activity/Cost Time Period</u>	<u>Deadline for submission</u>
Costs for the period 10/1/07 – 5/31/08	July 15, 2008
Costs for the period 6/1/08 – 7/31/08	August 31, 2008
Costs for the period 8/1/08 – 9/30/08	October 15, 2008

In no event will the Agency be allowed to submit a reimbursement request past the time allowable under the DNC Grant.

D. REIMBURSEMENT FORM(S) ADEQUACY: The Agency must submit a complete form, including proper signatures verifying and certifying the accuracy of the request for reimbursement. If forms are incomplete, lack appropriate documentation, or if requests for reimbursement are submitted on an unauthorized form, the Deputy Manager of Safety, or designee, may reject the request. The Deputy Manager of Safety, or designee, will communicate the reason for the rejection in writing. The Agency will have twenty (20) days to correct the error and resubmit the claim for reimbursement.

E. REIMBURSEMENT FORM PROCESS: The Deputy Manager of Safety, or designee, shall review and approve each reimbursement request for payment. Once the approval is obtained, the request for reimbursement will be forwarded to DPD Finance Bureau for processing. The Agency shall receive reimbursement for said request within thirty (30) days of receipt in DPD Finance Bureau.

F. SUPPORTING DOCUMENTATION RECORD RETENTION REQUIREMENTS: All supporting records, including time sheets, activity logs, equipment invoices, must be retained by the Agency for seven years after the end of the Grant period.

III. ADDITIONAL FINANCIAL INFORMATION

A. The City, subject to the terms of this Agreement, will reimburse Agency for personnel costs at the applicable hourly rate(s) stated in Exhibit B, for hours worked in planning for, training and during the DNC on security for the DNC. Training must be pre-approved by the Denver Commanding Officer. Time will be rounded to the nearest ¼ hour (rounding up to the next 15 minutes increment for seven (7) minutes of work or more and down for anything less than seven minutes).

B. Administrative personnel hours will be reimbursed at the rate provided in Exhibit B. Backfill will not be reimbursed for administrative personnel.

C. In addition to any requirements contained in this Agreement, all records must be maintained for future DNC Grant audits, and the Agency will be fiscally responsible for the result of any Agency error in connection with such audit.

EXHIBIT B

Exhibit B contains specialized details of security arrangements and is on file with the City and County of Denver Police Department.

Agency

Event

Event Location

Event Commander

Event Date

	Employee Name	Rank	Employee ID	Rate	Hours Worked	Total Cost
1						
2						
3						
4						
5						
6						
7						
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25						
26						
27						
28						
29						
30						
					Grand Total	\$

Person submitting report

Date

OPU

List of Ranks
Clerical Administration

Pay Schedule
Clerical Administration \$ 29.97