

THE CITY OF GREELEY, COLORADO
RESOLUTION 17, 2009

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GREELEY AUTHORIZING THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH AIMS COMMUNITY COLLEGE FOR RESPONSIBILITY AND ENFORCEMENT OF STORMWATER MANAGEMENT PROGRAMS.

WHEREAS, one of the regulations under the Federal Clean Water Act (40 CFR 122.26) (the Stormwater Regulation) requires that stormwater discharged from certain types of facilities be authorized under stormwater permits, and

WHEREAS, the goal of the Stormwater Regulation is to reduce the amount of pollutants entering streams, lakes, and rivers of runoff from residential, commercial, and industrial areas, and,

WHEREAS, in Colorado, stormwater discharge permits are issued by the Colorado Department of Public Health and Environment, Water Quality Division (the "Division") and such permits are part of the Colorado Discharge Permit System ("CDPS"), under "Regulation 61", with the Phase II municipal separate storm sewer system ("MS4") being covered under a general permit for discharges from MS4; and

WHEREAS, pursuant to the Division's regulations, the mandatory requirements of this general MS4 permit that will be implemented (or are already being implemented) for each of the CPDS Stormwater Management Program Areas include the following:

1. Public Education & Outreach
2. Public Participation/Involvement
3. Illicit Discharge Detection & Elimination
4. Construction Site Stormwater Runoff Control
5. Post-Construction Stormwater Management
6. Pollution Prevention/Good Housekeeping for Municipal Operations; and

WHEREAS, pursuant to the Division's regulations, a MS4 permitted entity may assume permitting responsibility for a regulated non-standard entity's program, as long as the non-standard entity agrees to assist the permitted city in meeting measures as outlined in Stormwater Management Plan and the non-standard entity agrees that the permitted city will have enforcement jurisdiction; and

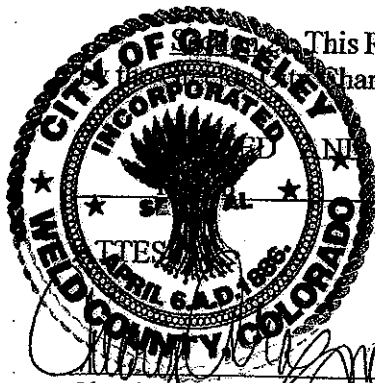
WHEREAS, City and Aims Community College agree that it would be beneficial to both jurisdictions and their citizens to enter into this Intergovernmental Agreement so that the City will be responsible for ensuring the implementation of the six (6) stormwater programs specified above in the Designated Area, and

WHEREAS, such Agreements are authorized by C.R.S. 29-1-203 and Colorado Constitution Article XIV, 18(2)(1); and

WHEREAS, Aims Community College and the City have agreed to the terms for responsibility and enforcement of the stormwater management programs pursuant to that Intergovernmental Agreement attached hereto and incorporated herein as Exhibit A;

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

Section 1. The City Council hereby authorizes the Mayor to enter into the Intergovernmental Agreement for Responsibility and Enforcement of the Stormwater Management Programs with AIMS Community College in form and substance stated in Exhibit A attached hereto and incorporated herein by reference.



City Clerk

This Resolution shall become effective immediately upon its passage, as provided in the Charter.

ADOPTED, SIGNED AND APPROVED THIS 3rd day of
2009.

THE CITY OF GREELEY, COLORADO

Ed Clark, Mayor

**INTERGOVERNMENTAL AGREEMENT FOR RESPONSIBILITY
AND ENFORCEMENT OF STORMWATER MANAGEMENT PROGRAMS**

THIS INTERGOVERNMENTAL AGREEMENT is made and entered into this 9th day of March, 2008/2009, by and between the City of Greeley, a municipal corporation of the state of Colorado, by and through its City Council, hereinafter referred to as "City", whose address is 1000 10th Street, Greeley, Colorado 80631 and the State of Colorado by and through the Board of Trustees of Aims Community College, hereinafter referred to as "Aims", whose address is 5401 W 20th Street, Greeley, Colorado 80634, for the purpose of granting the City the responsibility for and the enforcement of Stormwater Management Programs required by the Water Quality Division of the Colorado Department of Public Health and Environment.

WITNESSETH:

WHEREAS, one of the regulations under the Federal Clean Water Act (40 CFR 122.26) ("the Stormwater Regulation") requires that stormwater discharged from certain types of facilities be authorized pursuant to stormwater permits; and

WHEREAS, the goal of the Stormwater Regulation is to reduce the amount of pollutants entering streams, lakes, and rivers of runoff from residential, commercial, and industrial areas, and,

WHEREAS, Phase I of the Stormwater Regulations covers urbanized areas over 100,000 population, and Phase II covers smaller urbanized areas; and

WHEREAS, in Colorado, stormwater discharge permits are issued by the Colorado Department of Public Health and Environment, Water Quality Division (the "Division") and such permits are part of the Colorado Discharge Permit System ("CDPS"), under "Regulation 61", with the Phase II municipal separate storm sewer system ("MS4") being covered under a general permit for discharges from MS4; and

WHEREAS, pursuant to the Division's regulations, the mandatory requirements of this general MS4 permit that will be implemented (or are already being implemented) for each of the CPDS Stormwater Management Program Areas include the following:

1. Public Education & Outreach
2. Public Participation/Involvement
3. Illicit Discharge Detection & Elimination
4. Construction Site Stormwater Runoff Control
5. Post-Construction Stormwater Management
6. Pollution Prevention/Good Housekeeping for Municipal Operations; and

WHEREAS, pursuant to the Division's regulations, a MS4 permitted entity may assume permitting responsibility for a regulated non-standard entity's program, as long as the non-standard entity agrees to assist the permitted city in meeting measures as outlined in Stormwater Management Plan and the non-standard entity agrees that the permitted city will have enforcement jurisdiction; and

WHEREAS, City and Aims agree that it would be beneficial to both jurisdictions and the citizens to enter into this Intergovernmental Agreement ("Agreement") so that the City will be responsible for ensuring the implementation of the six (6) stormwater programs specified above for the Stormwater Management Program Description plan; and

WHEREAS, such Agreements are authorized by C.R.S. § 29-1-203.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS CONTAINED HEREIN, THE ADEQUACY OF WHICH IS ACKNOWLEDGED AND AGREED BY AND BETWEEN THE PARTIES, THE PARTIES HERETO AGREE AS FOLLOWS:

1. **TERM**

The term of this Agreement shall be from the date first written above to and until a date one (1) year thereafter, and shall automatically renew for successive one (1) year periods thereafter, unless sooner terminated by either party. A party may terminate this Agreement by providing written notice to the other party of its desire to terminate this Agreement one-hundred eighty (180) days prior to its termination. In the event the Division requires this Agreement to be in effect until a certain expiration date of the permit, then that date shall supercede this above agreed upon expiration date between the two entities.

2. **CITY AGREES**

- a. To be responsible for the submittal of the Annual report to the Division.
- b. To enact and enforce those stormwater regulations necessary to effectuate the six (6) stormwater management programs specified in the Stormwater Program Description Plan within City's boundaries.
- c. To prepare and submit a modified Stormwater Program Description Plan adopting the program elements committed to by Aims in its June 10, 2008 program submittal to the Division, as appropriate. Work on the modified Stormwater Program Description submittal shall commence upon signing of this Agreement, and the City shall be responsible for meeting all required Division deadlines.
- d. To ensure that employees performing the duties of the City, as detailed herein, shall be considered employees of the City only and shall not be entitled to any salary or benefits from Aims. City agrees to provide Unemployment Insurance and Worker's Compensation Insurance for City employees while performing such duties. Said Unemployment Insurance and Worker's Compensation Insurance shall be in the amount of and of the type made necessary by statutory requirements pursuant to Colorado Revised Statutes.
- e. To allow that all documents created as a result of the duties performed pursuant to this Agreement shall be open for inspection in accordance with the requirements of the Colorado Open Records Act, C.R.S 24-72-201, *et seq.*

3. **AIMS AGREES**

- a. To continue to implement the activities stated in the Aims' June 2008 Non-standard Program Description submittal to the Division for Public Education and Public Participation/Involvement and which are also contained in City of Greeley's Revised Stormwater Program Description.
- b. To continue to implement the Illicit Discharge Detection and Elimination Program as detailed in the Aims' June 2008 Non-standard Program Description to the Division and which is also contained in the City of Greeley's Revised Stormwater Program Description.
- c. To obtain the required Division Stormwater Construction Permits as necessary and to submit soil and erosion control detail sheets to the City of Greeley Stormwater Division for review and comment.
- d. To follow the City of Greeley's Design Criteria and Construction Specifications for Storm Drainage, Volume II, as amended from time to time.
- e. To inspect Post-Construction permanent Best Management Practices on Aims property at least annually and to submit completed inspection form to the City of Greeley Stormwater Division.
- f. To continue to implement the requirements for Pollution Prevention/Good Housekeeping for Municipal operations as follows:
 - i. Develop written procedures for operation and maintenance program to prevent or reduce pollutants in runoff from the Aims facility and provide the City of Greeley with the one time inventory list of these procedures for the March 10, 2010 annual report; and,
 - ii. To continue with employee training program for this control measure.
- g. To cooperate in any way required to assist the City in meeting the required six (6) control measures as described in the City of Greeley Revised Stormwater Management Program Descriptions.
- h. To assist in the management and enforcement of the six (6) control measures as described in the City of Greeley Revised Stormwater Management Program Descriptions so as to ensure that the City is not in violation of State and Federal laws or regulations.
- i. To assist the City, to the extent provided by Colorado law, in the enforcement and management of the City adopted stormwater regulations for public right-of-ways in order to execute and implement the six (6) stormwater management programs within Aims property.
- j. To annually provide the City of Greeley Stormwater Division with required information needed to complete the Division's annual report.

4. **GOVERNING LAW**

No provision of this Agreement shall be construed or interpreted: i) to directly or indirectly obligate Aims to make any payment in any year in excess of amounts appropriated for such year; ii) as creating a debt or multiple fiscal year direct or indirect debt or other financial obligation whatsoever within the meaning of Article X, Section 20 of the Colorado Constitution or any other constitutional or statutory limitation or provision; iii) as a donation or grant by the other party to, or in aid of, any person, company or corporation within the meaning of Article XI, Section 2 of the Colorado Constitution. Notwithstanding any other section of this agreement to the contrary, no term or condition of this agreement shall be construed or interpreted as a waiver, either direct or implied, of any of the immunities, rights or benefits provided to Aims under the Colorado Governmental Immunity Act ("CGIA"), C.R.S. § 24-10-101 et seq. The parties agree that liability for claims for injuries to persons or property arising out of negligence is controlled and limited by the provisions of CGIA. Any provision of this agreement, whether or not incorporated herein by reference, shall be controlled, limited, and otherwise modified so as to limit any liability of the parties to the above cited law.

5. **NOTICE**

The Public Works Director of the City of Greeley and the President/CEO of Aims Community College shall be the party's contact for all notices given and required by this Agreement.

6. **SEVERABILITY**

If any term or condition of this Agreement shall be held to be invalid, illegal, or unenforceable, this Agreement shall be construed and enforced without such provisions to the extent that this Agreement is then capable of execution within the original intent of the parties hereto.

7. **NO THIRD PARTY BENEFICIARY ENFORCEMENT**

It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the undersigned parties and nothing in this Agreement shall give or allow any claim or right of action whatsoever by any other person not included in this Agreement. It is the express intention of the undersigned parties that any entity other than the undersigned parties receiving services or benefits under this Agreement shall be an incidental beneficiary only.

8. **MODIFICATION AND BREACH**

This Agreement contains the entire agreement and understanding between the parties to this Agreement and supersedes any other agreements concerning the subject matter of this transaction, whether oral or written. No modification, amendment, novation, renewal, or other alteration of or to this Agreement shall be deemed valid or of any force or effect whatsoever, unless mutually agreed upon in writing by the undersigned parties. No

breach of any term, provision, or clause of this Agreement shall be deemed waived or consented. Any consent by any party hereto, or waiver of a breach by any party, whether expressed or implied, shall not constitute a consent to, waiver of, or excuse for any other different or subsequent breach.

IN WITNESS WHEREOF, the parties have executed this contract on the day and year first written above.

THE CITY OF GREELEY, COLORADO

By: _____



Attest:

By: _____

City Clerk

AIMS COMMUNITY COLLEGE

By: _____

Title: _____

ATTEST:

By: _____

APPROVED AS TO SUBSTANCE:

By: _____

City Attorney

AVAILABILITY OF FUNDS:

By: _____

Director of Finance

RECOMMENDED BY:

By: _____

Director of Public Works