

**THE STATE OF COLORADO
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

AND

THE CITY OF WESTMINSTER, COLORADO

INTERGOVERNMENTAL AGREEMENT

REGARDING

WESTMINSTER ORDINANCE NO. 4264

THIS INTERGOVERNMENTAL AGREEMENT ("IGA") is executed by the State of Colorado, acting through the Colorado Department of Public Health and Environment ("CDPHE"), whose address is 4300 Cherry Creek Drive South, Denver, CO 80246, and the City of Westminster, a Colorado home rule municipal corporation ("City"), whose address is 4800 West 92nd Avenue, Westminster, CO 80031.

RECITALS:

WHEREAS, the City has jurisdiction over an area where residual ground water contamination exists ("ground water contamination area") from the former Shaw Heights Dry Cleaners Site located at 3681 W 88th Avenue, Westminster, Colorado, EPA ID No. COD983793431 (the "Site"); and

WHEREAS, the current property owner of the Site has conducted corrective action to address contamination pursuant to the Colorado Hazardous Waste Act, C.R.S. § 25-15-101, *et seq.* ("CHWA"), and the Colorado Hazardous Waste Regulations, 6 C.C.R. 1007-3, with oversight by CDPHE; and

WHEREAS, the ground water contamination area within and outside of the Site is depicted in Attachment A and described in Attachment B of Westminster Ordinance No. 4264 (the “Ordinance”); and

WHEREAS, although the CHWA corrective action was conducted to protect human health and the environment, residual ground water contamination will remain in the ground water contamination area within and outside of the Site; and

WHEREAS, contact with residual ground water contamination could result in unacceptable human exposure to contaminants; and

WHEREAS, C.R.S. § 25-15-320(3)(b) authorizes CDPHE to waive the requirement for an environmental covenant for parcels of land where the owner does not grant an environmental covenant under C.R.S. § 25-15-320, and where the County, City, or municipality having jurisdiction over the affected land has enacted an ordinance or resolution imposing the relevant environmental use restrictions, and has entered into an intergovernmental agreement with CDPHE; and

WHEREAS, the City enacted the Ordinance on September 23, 2024 to control and regulate ground water use within the ground water contamination area where residual ground water contamination exists from the Site, pursuant to authority granted in C.R.S. § 29-20-104 and C.R.S. § 30-11-101, *et seq.*; and

WHEREAS, the Ordinance implements environmental use restrictions prohibiting ground water use that will protect human health and the environment within the ground water contamination area; and

WHEREAS, compliance with the Ordinance shall result in conditions within the ground water contamination area that are protective of human health and the environment; and

WHEREAS, CDPHE and the City enter into this IGA pursuant to the authority in C.R.S. § 29-1-203 and C.R.S. § 25-15-320 for the purpose of protecting human health and the environment within the ground water contamination area.

NOW THEREFORE, CDPHE and the City agree as follows:

1. The above recitals shall be incorporated into this IGA as if they were set forth below.
2. The term “ground water contamination area” is hereby defined as portions of real property beneath which ground water contamination from the former Shaw Heights Dry Cleaners Site is located, either partially or wholly. The ground water contamination area is more fully depicted in Attachment A and described in Attachment B to the Ordinance.

3. The City shall maintain the Ordinance, subject to its authority to repeal or amend, but then only in accordance with the following:
 - a. The City shall give at least thirty (30) days written notice to CDPHE of any proposed amendment to or repeal of the Ordinance; and
 - b. In the event of an Ordinance amendment, the City and CDPHE shall work together to ensure continued protection of human health and the environment within the ground water contamination area pursuant to C.R.S. § 25-15-320(3)(b)(III).
4. The City agrees to not approve any request to use ground water within the ground water contamination area.
5. As provided in C.R.S. § 25-15-320(3)(b)(III), this IGA authorizes the City and CDPHE to enforce the Ordinance within the ground water contamination area. Pursuant to C.R.S. § 25-15-322, CDPHE and the City shall have the authority to file an action in Adams County district court seeking injunctive relief to require compliance with the Ordinance. Pursuant to City of Westminster Home Rule Charter section 8.5, Westminster Municipal Code (W.M.C.) section 1-8-1, and Chapter 22 of Title I, W.M.C., the City shall also have the authority to enforce Ordinance violations in accordance with Section 4 of the Ordinance.
6. Nothing in this IGA shall require the City to perform remediation or create an environmental covenant or notice of environmental use restrictions on City-owned property.
7. This IGA does not prevent or limit the City from enforcing its regulations as it would in the normal course of business.
8. This IGA does not prevent or limit the City from enforcing the Ordinance in any manner.
9. If CDPHE seeks to enforce the Ordinance to obtain injunctive relief from Adams County district court, CDPHE shall inform the City in writing of its intended actions not less than fourteen (14) days in advance of any filing. CDPHE shall not seek any reimbursement of its costs from the City.
10. This IGA shall become effective on the date of execution by the last signatory party to this IGA.

11. This IGA may be amended by mutual consent of the parties at the same organizational level as those who sign this IGA, or terminated by either party providing the other fourteen (14) days written notice.

12. CDPHE shall file a written notice in the chain of title for each property within the ground water contamination area.

IN WITNESS WHEREOF, the parties have executed this IGA on the date indicated for each respective signatory:

CITY OF WESTMINSTER, COLORADO

Nancy McNally, Mayor

DATE

ATTEST:

Abby Fitch, Clerk

Approved as to legal form:

City Attorney's Office

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

By: _____
Tracie White, Director
Hazardous Materials Waste Management Division

DATE

APPRVED AS TO FORM

Jason E. King
Senior Assistant Attorney General
Colorado Attorney General's Office

DATE