

Tri-County Health Department Board of Health Meeting

Date / Time: October 13, 2021 at 4:30 p.m.

Via Zoom Webinar

*Public access:

https://us06web.zoom.us/webinar/register/WN_Lvh7WkMtQgO-Bd1-kpTuqQ

Or join by phone: (669) 900-6833

Webinar ID: 833 6665 7532

**Panelists (i.e., Board members and TCHD executive staff) will receive their own unique link to the meeting via e-mail*

Agenda

PUBLIC MEETING

Call to Order	Dr. Kaia Gallagher	4:30 p.m.
Roll Call	Dr. Kaia Gallagher	4:30-4:35 p.m. (5 min)
Transition Planning Discussion: Otowi Final Report	Ms. Sara Miller Ms. Lisa VanRaemdonck	4:35-5:35 p.m. (60 min)
Executive Session with Legal Counsel to Discuss:	Dr. Kaia Gallagher	5:35-6:30 p.m. (55 min)
1. Recommended Bylaws Changes		
2. Intergovernmental Agreement to provide Public Health Services in Douglas County		
Adjourn	Dr. Gallagher	6:30 p.m.

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF
DOUGLAS AND TRI-COUNTY HEALTH DEPARTMENT FOR PROVISION OF LOCAL
HEALTH SERVICES**

This Intergovernmental Agreement (the "Agreement") is made and entered into this 28th day of September 2021, by and between the Board of County Commissioners of the County of Douglas, a political subdivision of the State of Colorado ("County"), and Tri-County Health Department, a political subdivision of the State of Colorado ("TCHD"), hereinafter jointly referred to as the "Parties."

RECITALS:

WHEREAS, pursuant to the provisions of Section 30-11-101(d), C.R.S., the County has authority to enter into contracts related to the concerns of the County; and

WHEREAS, pursuant to Colorado Constitution, Article XIV, Section 18(2)(a), and Section 29-1-203, C.R.S., the County and TCHD may cooperate or contract with each other to provide any function, service, or facility lawfully authorized to each, and any such contract may provide for the sharing of costs, or other matters; and

WHEREAS, the County has since 1966 been a full participating member of TCHD; and

WHEREAS, the County took formal action to withdraw from TCHD to form its own local health agency by resolution on September 7, 2021; and

WHEREAS, the County is still in the process of organizing the Douglas County Health Department (the "DCHD") and wishes to ensure that there is no gap in public health services for its residents during the formation of its own local health agency and while it explores alternative means for the delivery of its own public health services; and

WHEREAS, the County and TCHD mutually desire to work together in harmony to jointly provide for the public health needs of the County.

WHEREAS, TCHD and the other members of TCHD initially questioned whether the withdrawal action taken by the County complied with the one-year advance notice provision in C.R.S. Section 25-1-513(2); and

WHEREAS, in exchange for accepting and not further challenging the County's withdrawal, the Parties desire to set forth the terms and conditions in connection with the funding and implementation of local public health agency services for all County residents conducted in accordance with all applicable federal, state, and local laws, rules, and regulations (the "Services") through December 31, 2022 and possibly for future years; and

WHEREAS, the County has appropriated and allocated full funding for Fiscal Year 2021 to TCHD to provide Services to its residents through 2021, and intends to appropriate and allocate full

funding for Fiscal Year 2022 to provide Services to its residents through 2022 along with additional costs associated with the County's withdrawal from TCHD as stated herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other consideration, the receipt and sufficiency of which is expressly acknowledged, the Parties agree as follows:

1. Services. TCHD agrees to continue to provide all Services to the County and its residents that were provided prior to the County's withdrawal from TCHD through December 31, 2022 as though the County were still a member of TCHD (see Exhibit A for a non-exclusive listing of services). TCHD will continue to deliver Services throughout the duration of this agreement from the two (2) facilities provided by the County located at 410 S. Wilcox Street, Castle Rock and 9350 Heritage Hills Circle, Lone Tree, unless or until another arrangement is mutually agreed upon in writing.

2. Costs. The County shall pay for the Services and costs associated with its withdrawal by:

a. Continuing to pay its proportional share of the overall cost of maintaining TCHD pursuant to the population-based formula set forth in C.R.S. Section 25-1-511(5)(a). Payment shall be made in advance on a quarterly basis, in the same manner as prior to the withdrawal of the County from TCHD.

b. If TCHD is dissolved in 2022 or 2023, paying for its proportional share of any expenses incurred as a result of the dissolution based upon the population formula set forth in C.R.S. Section 25-1-511(5)(a). Such costs may include, but are not limited, costs associated with terminating contracts, laying off employees, unemployment, employment of attorneys and consultants, temporary employees and independent contractors, and the payment of any debt or penalties imposed by Colorado PERA.

c. Paying for any reasonable costs, not to exceed \$360,000, that are specifically associated with the County withdrawing from TCHD. Such costs may include, but are not limited to, employee retention, attorneys and consultants, moving, and storage. Such costs shall exclusively be paid by the County, and not based upon the population based (proportional) formula. Should the costs exceed the estimated amount above, the parties will discuss the matter proactively prior to entering into a written modification of this Agreement, so as to fairly and equitably arrive at an appropriate amount.

3. Term. The term of this Agreement shall be from the effective date of September 7, 2021, through December 31, 2022.

4. DCHD Board of Health/Public Health Director and Independent Governance. The County agrees that the County, the DCHD, its board of health and its public health director shall not have any control over the decision-making or management of TCHD or the provision of the Services rendered by TCHD pursuant to this Agreement, or the issuance of public health orders that are not countywide and which relate to the Services. Similarly, TCHD, its board of health and its public health director shall not have any authority over the decisions or health orders of DCHD. As a result of

the County's withdrawal from TCHD, the County shall no longer have any appointees on the Tri-County Health Department Board of Health.

5. Future Services and Additional Terms. This Agreement shall not cover Services beyond December 31, 2022 unless the Parties agree by separate written contract regarding such future Services.

6. No Third Party Beneficiaries. 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 County and TCHD, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement, except as set forth below.

Notwithstanding the foregoing, the Parties acknowledge and agree that Arapahoe County and Adams County shall be express third-party beneficiaries of this Agreement for purposes of enforcing the provisions related to payment of the costs set forth in paragraph 2 of this Agreement.

7. Notices. All notices, bills or other communication hereunder required as permitted to be sent pursuant to this Agreement will be in writing and will be deemed served, given, delivered and received upon the earlier of: (a) when personally received by the Party to whom it is addressed, by hand delivery or email; or (b) one business day after being deposited with a commercial overnight courier for overnight delivery with all required charges prepaid; or (c) when confirmed if sent by telephone facsimile with duplicate copy by U.S. Mail; and addressed to Tri-County Health Department and the County at the appropriate address as set forth below. Each Party hereto may change its address for the purpose of this section by giving written notice of such change to the other Party in the manner provided for in this section.

If to Tri-County: Tri-County Health Department
6162 S. Willow Drive, Suite 100
Greenwood Village, CO 80111
Telecopy: 303-220-9208
Attention: Jennifer L. Ludwig, Deputy Director
Email: jludwig@tchd.org

If to the County: Douglas County
100 Third Street
Castle Rock, CO 80104
Telecopy: 303-688-6596
Attention: Doug DeBord, County Manager
Email: ddebord@douglas.co.us

8. Default. If any Party is in default of this Agreement, and said default is not cured within five (5) days after delivery of written notice of said default to defaulting Party, then the other Party may seek right or remedy it may have at law or equity, including specific performance, termination of this Agreement, or termination of a particular service or services that are the subject of the default. Provided, however, that the 5-day right to cure a default shall not apply in the event of an imminent health hazard as such an event requires immediate action on the part of TCHD.

9. Appropriation. Pursuant to § 29-1-110, C.R.S., the financial obligations of TCHD and the County contained herein, which are payable after the current fiscal year, are contingent upon funds for the Services being annually appropriated, budgeted, and otherwise made available. Notwithstanding the foregoing, the County certifies that it has appropriated funds sufficient to pay for all of the anticipated 2021 costs for the categories of costs set forth in paragraph 2 of this Agreement, and, further, the County agrees that it will include in its proposed budget for 2022, and will appropriate by no later than December 15, 2021, funds sufficient to pay for all of the categories of costs set forth in paragraph 2 of this Agreement anticipated to be incurred in 2022 and 2023. To assist the County with its budgeting and appropriation, TCHD will use its best efforts to provide an estimate of the amount of costs for 2022 and beyond by no later than November 15, 2021. Upon adoption of an appropriation resolution sufficient to cover the categories of costs set forth in paragraph 2 of this Agreement for year 2022 and beyond, the County shall promptly provide a written certification of such appropriation to TCHD and such certification shall automatically become an exhibit to this Agreement. In the event that the County fails to provide a certification that TCHD deems, in its sole discretion, to be adequate, then TCHD may immediately cease to provide the Services set forth in paragraph 1 of this Agreement until such time as an adequate certification is provided.

10. Assignment. This Agreement may not be assigned or delegated in whole or in part without the prior written consent of the other Party. Any purported attempt to assign or delegate this Agreement shall be void and of no force or effect. Consent to one assignment or delegation shall not be consent to any subsequent assignment or delegation.

11. Additional Documents. The Parties agree to execute any additional documents or take any additional action that is necessary to carry out the intent of this Agreement.

12. Governing Law/Legal Actions. This Agreement shall be governed and enforced in accordance with the laws of the State of Colorado. Venue for any legal action hereunder shall be in the District Court, County of Douglas, State of Colorado. In any legal action brought by any Party to this Agreement to enforce the terms hereof, the Court may award reasonable attorney fees and costs to the prevailing party.

13. Mediation. If a dispute arises relating to this Agreement and is not resolved by mutual and proactive discussions between the parties within 15 days of the initiation of such discussions, the parties must then proceed, in good faith, to mediation through the Judicial Arbitrator Group prior to and as a condition precedent to the filing of a legal action concerning the dispute. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The parties must each have a representative present at the mediation who is authorized to resolve the dispute and enter into a binding agreement if a resolution is reached.

14. Modification. This Agreement may not be modified, amended, changed or terminated, in whole or in part, except by an agreement in writing duly authorized and executed by each of the Parties.

15. Waiver. The waiver of any right or the breach of any provision, of this Agreement by any Party shall not constitute a continuing waiver or a waiver of any subsequent breach of the same of any other provision of this Agreement.

16. Severability. Invalidation of any of the provisions of this Agreement or of any paragraph, sentence, clause, phrase, or word herein, or the application thereof in any given circumstances, shall not affect the validity of any other provision of this Agreement.

17. Telecopies. A telecopied facsimile of a duly executed counterpart of this Agreement will be sufficient to evidence the binding agreement of each Party to the terms herein, and delivery of this Agreement will be deemed to occur upon transmission of a facsimile counterpart to this Agreement to the intended recipient. However, each Party agrees to promptly return an original executed counterpart of this Agreement following the delivery of a telecopied facsimile hereof.

18. Recitals. The recitals to this Agreement are incorporated herein by this reference.

19. Counterparts. This Agreement may be signed in counterparts. Execution by facsimile signature shall constitute the binding execution hereof.

20. Governmental Immunity. All activities performed under this Agreement are hereby declared to be governmental functions. The parties to this Agreement, and their personnel complying with or reasonably attempting to comply with this Agreement or any ordinance, order, rule, or regulation enacted or promulgated pursuant to the provisions of this Agreement shall be deemed to be operating within the scope of their duties and responsibilities and in furtherance of said governmental functions.

The parties also acknowledge that each party, their officers and employees, are relying on, and do not waive or intend to waive, by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq. as it is from time to time amended, or otherwise available to the parties, their officers, or employees.

21. Termination of Specific Services. In the event that the County or TCHD determines that some specific portion of the Services should or can no longer be provided at reasonable levels or cost, the Parties agree to mutually and proactively discuss the removal of any such specific portion of Services from the Services to be provided pursuant to Paragraph 1 of this Agreement, and adjust the compensation payable under Paragraph 2 of this Agreement, if appropriate, through an amendment to this Agreement.

TRI-COUNTY HEALTH DEPARTMENT

By: John M. Douglas, Jr., M.D.
John M. Douglas, Jr., M.D.
Executive Director

Date: 9/28/2021

**THE BOARD OF COUNTY
COMMISSIONERS
OF THE COUNTY OF DOUGLAS,
COLORADO**

By: Doug DeBord
Doug DeBord
County Manager

Date: 9/28/21

EXHIBIT A

Non-Exclusive Listing of Services

TCHD agrees to provide public health services at its discretion, including but not limited to:

- Environmental Health: consumer protection, water, hazardous material, inspections
- WIC
- Vital Records
- Clinical Services
- Nurse Home Visit Programs
- Mental Health Promotion & Suicide Prevention
- Tobacco & Vaping Prevention & Control
- Substance Abuse Prevention
- Maternal & Child Health
- Disease Control & Investigation
- Emergency Preparedness & Response
- Public Health Communication, Outreach, & Education
- Data & Informatics
- Public Health Orders (except countywide orders)