

January 12, 2022



Keep it Clean Partnership Member Communities:

City of Boulder	Boulder County	City of Lafayette
City of Longmont	City of Louisville	Town of Superior

With a copy to:

Kevin Peterson
Keep it Clean Partnership, Coordinator
303.441.1439 | kpeterson@bouldercounty.org
Boulder County Office of Sustainability, Climate Action & Resiliency

Re: Letter of Intergovernmental Agreement Termination

Keep it Clean Partners,

Pursuant to the *2013 Intergovernmental Agreement for Implementation of the Keep it Clean Partnership Plan* section 6.04, the Town of Erie is formally notifying the Partnership of its termination from the Keep it Clean Partnership and its associated Intergovernmental Agreement. Erie initially joined to primarily assist Staff in preparing for upcoming MS4 permits. Now that the Town has these permits along with the appropriate specialized staff, resources have been decided to be spent internally at this time.

The Town of Erie applauds the important work that has been accomplished through the Partnership and remains committed to water quality in Erie and the region. Erie prefers to remain involved as a non-Party to the Intergovernmental Agreement and will continue supporting the water quality efforts of our neighboring communities and is open to participating in regional messaging and activities when possible.

Thank you for your efforts and enduring management of stormwater in the region.

Sincerely,

Tyler Kesler

Tyler Kesler | Sustainability Manager
Town of Erie | Public Works | Sustainability
645 Holbrook Street | P.O. Box 750 | Erie, CO 80516
Phone: 303-926-2880 | tkesler@erieco.gov

Intergovernmental Agreement for Implementation of the Keep it Clean Partnership Plan

This Intergovernmental Agreement (“Agreement”), is made and entered into this 9th day of March, 2013, by and between BOULDER COUNTY, a body politic and corporate, and the CITIES OF BOULDER, LAFAYETTE, LONGMONT, and LOUISVILLE; and the TOWNS OF ERIE AND SUPERIOR, each a municipal corporation, collectively known as the “KEEP IT CLEAN PARTNERSHIP” and referred to herein individually as a “PARTY” or collectively as the “PARTIES.”

RECITALS:

- A. WHEREAS, the Code of Federal Regulations (CFR) Section 40 CFR 122.26 requires that operators of small municipal storm sewer systems (“MS4s”) obtain permits for discharging stormwater from their systems. The PARTIES are all small MS4 operators, as defined in the Code of Federal Regulations. In Colorado, stormwater discharge permits are issued by the Water Quality Control Division (the “Division”) of the Colorado Department of Public Health and Environment (CDPHE) under Water Quality Control Regulation No. 61, “Colorado Discharge Permit System Regulations” (CDPS). Small MS4s are covered under the Division’s General Permit for stormwater discharges (“MS4 permit.”); and
- B. WHEREAS, the PARTIES have all been issued certifications to discharge stormwater under the general stormwater permit issued by the CDPHE; and
- C. WHEREAS, the PARTIES have agreed to collaborate as the KEEP IT CLEAN PARTNERSHIP (“KICP”), in jointly developing and implementing a plan to assist the PARTIES in complying with the requirements of their MS4 permits and protecting water quality in the Boulder Creek and St. Vrain Creek watersheds; and
- D. WHEREAS, on January 23, 2003, the initial Intergovernmental Agreement (“IGA”) for implementation of the WATERSHED APPROACH TO STREAM HEALTH (“WASH,” which subsequently became the KICP) Plan was entered into by and between Boulder County; the cities of Boulder, Longmont, and Louisville; and the towns of Erie and Superior (the “2003 WASH IGA”); and
- E. WHEREAS, on January 1, 2008, the second IGA became effective for a term of five years; and
- F. WHEREAS, on April 1, 2011, the third IGA became effective with the inclusion of the City of Lafayette; and
- G. WHEREAS, the PARTIES are individually responsible for ensuring compliance with the terms and conditions of their MS4 permits within their respective jurisdictions; and
- H. WHEREAS, the PARTIES are authorized to enter into this Agreement pursuant to Colorado Revised Statutes (C.R.S.) §29-1-201, *et seq.*

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1. The Keep it Clean Partnership and Keep it Clean Partnership Plan

- 1.01 The PARTIES will participate in the KICP to jointly identify and address stormwater quality requirements in each of their MS4 permits.
- 1.02 The PARTIES will participate in implementation of the KICP Plan (“the Plan”). The Plan is developed and maintained by the PARTIES and identifies the joint activities and programs that can help meet the minimum control measures (“MCM’s”) in the PARTIES’ respective MS4 permits and, if agreed upon by the PARTIES, may also address other stormwater-related water quality issues in the PARTIES’ jurisdictions. The Plan will be periodically revised by the PARTIES to reflect changes in MS4 permit requirements or new or modified strategies or programs agreed to by the PARTIES. Revisions to the Plan will be approved by all of the members of the Steering Committee as defined in Section 2 of this Agreement.
- 1.03 In implementing the Plan, the PARTIES will jointly develop annual work plans and budgets, identify funding needs and apportionment of funds, and define and maintain a management structure for the KICP.

SECTION 2. Steering Committee

- 2.01 The Steering Committee is the official management and oversight body for implementing the Plan. The Steering Committee shall consist of representatives from each of the PARTIES and shall direct and guide the shared components of the Plan and review and approve a collective budget for the shared portions of the Plan (“Plan Budget”). The Steering Committee shall consider permit compliance as a primary objective in approving Plan tasks and corresponding budgets.
- 2.02 The Steering Committee shall periodically re-evaluate the implementation of the Plan and determine the annual contributions of each PARTY in funding the Plan and related administrative costs.
- 2.03 The voting membership of the Steering Committee shall consist of one designated voting representative from each of the PARTIES. An alternate voting representative may be appointed by each of the PARTIES.
- 2.04 A quorum of the Steering Committee shall consist of more than fifty percent of the voting membership. Although it is anticipated that decisions will be made by group discussion to reach general agreement, any of the PARTIES may require that a formal vote be taken. A formal vote requires that a quorum must be present, and except for measures requiring a greater or lesser majority under this Agreement, the affirmative vote of at least two-thirds of all voting representatives present of the Steering Committee shall be required to approve any measure brought to a formal vote before the Steering Committee.
- 2.05 The Steering Committee shall have the authority to adopt and amend bylaws with a two-thirds vote of a quorum of all voting representatives present.
- 2.06 The Steering Committee shall be responsible for selecting any consultant(s) or contractor(s) to be paid from Plan funds (“Outside Contractor”), and for reviewing and approving contracts with Outside Contractors, including the scope(s) of work, schedules of performance, use of subcontractors, and compensation for such Outside Contractors. Award of contracts to Outside Contractors will be administered according to procedures outlined in Section 4.02 and 4.03 of this Agreement.
- 2.07 The Steering Committee shall select an employee of one of the PARTIES or an Outside Contractor to act as KICP Coordinator (“Coordinator”) for the Plan. An individual employee selected as the Coordinator shall at all times be managed by the employee policies of the respec-

tive PARTY. The Coordinator shall be responsible for Plan management and administration and technical project management in accordance with the Plan, this Agreement, the Steering Committee's bylaws, and as directed by the Steering Committee in the best interest of the PARTIES as a whole and individually. The Coordinator shall be paid from Plan funds in accordance with the adopted Plan Budget for providing the services described hereunder. The Coordinator shall not be responsible for providing program management services related to individual PARTY'S KICP Plan programs, but may provide such services under a separate contract with any one or more of the PARTIES if allowed by personnel policies of the PARTY employing the Coordinator.

- 2.08 The Steering Committee shall establish timelines and budgets for completion of Plan tasks. The Steering Committee shall periodically evaluate the Plan and the performance of the activities and programs in the Plan, including those performed by Outside Contractors, in meeting the goals and objectives of the KICP. The Plan and Plan Budget will be revised as necessary to meet the goals and objectives.
- 2.09 The Steering Committee shall annually rate the performance of the Coordinator in managing the Plan, including directing the activities defined in the Plan, coordinating the PARTIES' joint responsibilities and meeting the timelines and Plan Budget. If the Coordinator is an employee of one of the PARTIES, the Steering Committee's rating shall be submitted to that PARTY for consideration in the performance review of the Coordinator.
- 2.10 The Steering Committee, through its bylaws, shall establish procedures for tracking, accounting for, and auditing the Plan funds.

SECTION 3. Plan Budget

- 3.01 The PARTIES will jointly develop and fund a Plan Budget to implement the Plan. The Plan Budget may be based upon a projection of two consecutive calendar year cycles, but shall be adopted for only one calendar year cycle.
- 3.02 Subject to annual appropriation, the PARTIES shall each pay a yearly assessment into a fund established for the Plan operations for their assigned portion of the then current year Plan Budget. The share of the Plan Budget that each PARTY shall pay is the prorated share of the costs proportional to the population within each PARTY'S permitted area based on the most current U.S. Census Bureau Population Estimates.
- 3.03 In addition to the Plan Budget, individual PARTIES may also contract for additional services through the KICP if the additional administrative fees are also allocated from the requesting PARTY.
- 3.04 Except as provided in Section 6.03 of this Agreement, after all program expenses have been accrued for each calendar year, the actual costs will be reconciled with the funds already provided by each PARTY. Any differences will be reflected in assessments for the next calendar year.
- 3.05 Nothing in this Agreement is intended to create a multiple year fiscal obligation of any PARTY, or a pledge or lien on any source of funds or accounts of any PARTY.

SECTION 4. Contracting/Fiscal Agent

- 4.01 The Contracting/Fiscal Agent shall be the treasurer of Plan funds. The Contracting/Fiscal Agent, in accordance with generally accepted accounting procedures, shall keep the Plan funds segregated from any other funds administered by the Contracting/Fiscal Agent; shall credit the Plan with appropriate interest income earned on Plan funds in each calendar year; and shall not expend any funds except in accordance with the annual Plan Budget approved by the Steering Committee or as otherwise directed by the Steering Committee.

- 4.02 Unless otherwise decided by a majority vote of the Steering Committee, or as otherwise outlined in this Agreement, BOULDER COUNTY PUBLIC HEALTH (“BCPH”) shall serve as the Contracting/Fiscal Agent for the Plan.
- 4.03 In the event that the Contracting/Fiscal Agent withdraws from providing Contracting/Fiscal services to the Plan or the Steering Committee chooses to discontinue the services of the Contracting/Fiscal Agent, another PARTY may serve as a successor Contracting/Fiscal Agent. One hundred and twenty (120) days written notice shall be provided to the PARTIES in the event of withdrawal or discontinuation of the services of the Contracting/Fiscal Agent. Selection of a Contracting/Fiscal Agent must be by majority vote of the Steering Committee.
- 4.04 The Contracting/Fiscal Agent shall execute contracts which have been requested and approved by the Steering Committee.
- 4.05 The governing body of the Contracting/Fiscal Agent, at its discretion, may delegate the authority to execute agreements and contracts approved by the Steering Committee to a designated employee. Notice of any such delegation of authority shall be provided to the Steering Committee.
- 4.06 The Contracting/Fiscal Agent may request, as part of the annual Plan Budget, reimbursement for administrative costs incurred in providing the services described in this section and in the bylaws.

SECTION 5. Ancillary Rights and Duties of the PARTIES

- 5.01 In addition to participation in the Steering Committee, each PARTY accepts and agrees to perform the operational and administrative tasks specific to the PARTY identified in the Plan.

SECTION 6. Effective Date and Term of Agreement

- 6.01 This Agreement shall take effect and commence on **March 9, 2013**, provided it has been executed by a duly authorized representative of each of the PARTIES. This Agreement supersedes and replaces any prior KICP agreements between the PARTIES.
- 6.02 The initial term of this Agreement shall be for five years from the date of its execution. After the initial term, this Agreement shall be automatically renewed for an additional five-year term, unless terminated as provided in Section 6.04.
- 6.03 A new PARTY may initiate its participation in this Agreement by giving the Steering Committee at least ninety (90) days’ written notice and upon a formal vote of the Steering Committee accepting their participation. Any PARTY to this Agreement must be a governmental agency with authority to enter into this Agreement under C.R.S. §29-1-201, *et seq.* and must execute this Agreement prior to commencing participation. A new PARTY shall be admitted to participation only upon approval of the Steering Committee, under such conditions as the Steering Committee in each case or from time-to-time establishes in furtherance of the purposes and provisions of this Agreement.
- 6.04 Any PARTY may terminate its participation in this Agreement by giving the Steering Committee at least thirty (30) days’ written notice. Termination shall constitute forfeiture of the terminating PARTY’S entire share of the Plan Budget for the fiscal year in which the termination occurred (including both paid and obligated but unpaid amounts) and of the terminating PARTY’S share of any unexpended, unencumbered funds remaining from all previous fiscal years. The cost allocations for the remaining PARTIES shall be recalculated for the following fiscal year by the remaining PARTIES without the withdrawing PARTY’S participation.

SECTION 7. General Legal Provisions

- 7.01 This Agreement may be amended or terminated by unanimous written agreement of the PARTIES. All PARTIES agree to submit to their Council or Board for approval of any proposed amendments to this Agreement, as applicable, within three (3) months following acceptance by the Steering Committee. No Plan Budget amendment which increases the Plan Budget will be effective unless approved by a unanimous vote of a quorum of the Steering Committee.
- 7.02 No PARTY shall, by entering into this Agreement, participating in the Steering Committee, or agreeing to serve as Fiscal/Contracting Agent or Coordinator, be deemed to assume responsibility for any other PARTY'S obligations to comply with the requirements of the that PARTY'S MS4 permit. This Agreement is intended solely for the convenience and benefit of the PARTIES hereto and shall not be deemed to be for the benefit of any third party and may not be enforced by any third party, including, but not limited to, the U.S. Environmental Protection Agency, the Division, or any person acting on their behalf or in their stead.
- 7.03 Nothing in this Agreement shall be construed to waive or cede any jurisdiction that any of the PARTIES may possess.
- 7.04 Nothing in this Agreement shall create any joint or several liability or joint and several exposure to any participating PARTY for statutory or administrative violations associated with illicit discharges or compliance responsibilities. Joint action under this Agreement is strictly limited to the permitting, planning, and other related processes as described herein, unless otherwise agreed.
- 7.05 By entering into this Agreement, no PARTY waives or intends to waive, as to any person not a party to this Agreement, the monetary limitations or any other rights, immunities, and protections which are provided to the PARTY under the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S.
- 7.06 This Agreement may be executed in any number of counterparts each of which, when taken together, shall constitute one agreement. This Agreement shall only be effective when counterparts are signed by all the PARTIES.

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement as of the dates shown below.

BOULDER COUNTY

Cindy Domenico

Cindy Domenico

Chair, Board of
County Commissioners

Title

02/07/13

Date

ATTEST:

Cecilia G. Lacey - Clerk to the Board

CITY OF BOULDER

Jane S Brautigam Signature

Jane S. Brautigam Name

City Manager Title

3/7/2013 Date

ATTEST:

Alisa D Lewis

TOWN OF ERIE

William
Mayo

Title

January 22 2013

Date

ATTEST:

Nancy Parker



CITY OF LAFAYETTE

Carolyn D. Cutler

Carolyn D. Cutler, Mayor

February 19, 2013

ATTEST:

Susan Koster

Susan Koster, CMC
City Clerk



CITY OF LONGMONT

Dennis L. Coombs

Mayor, City of Longmont Title

January 23, 2013 Date

ATTEST:

Valeria H. Skitt



Dennis L. Coombs
MAYOR

ATTEST:

Valerie H. Skitt
CITY CLERK



APPROVED AS TO FORM:

[Signature]
ASSISTANT CITY ATTORNEY

1/8/13
DATE

Kawita Marnone
PROOFREAD

1-8-13
DATE

APPROVED AS TO FORM AND SUBSTANCE:

Dale F. Rademacher
ORIGINATING DEPARTMENT

1/10/2013
DATE

CA File: 9023



CITY OF LOUISVILLE

Robert P. Smith

Mayor

Title

January 22, 2013

Date

ATTEST:

Nancy Carra

TOWN OF SUPERIOR

Archie Muehl

Mayor

Title

January 14, 2013

Date

ATTEST

Phyllis L. Hardin

Phyllis L. Hardin, Town Clerk

