

## **INTERGOVERNMENTAL AGREEMENT**

### **Waste Hauler Licensing & Reporting**

This Intergovernmental Agreement (“Agreement”) by and between the **County of Boulder**, a body politic and corporate of the State of Colorado (hereinafter referred to as the “County”) and the **Town of Erie**, a Colorado statutory town (hereinafter referred to as the “Town”) (each a “Party” and together, the “Parties”) is made effective this 13<sup>th</sup> day of October, 2020 (“Effective Date”).

**WHEREAS**, on December 11, 2019, the Board of County Commissioners of Boulder County passed Boulder County Ordinance No. 2016-3 (“Ordinance No. 2016-3”) regarding the licensing of those providing collection and/or transportation of discarded materials within the unincorporated area of Boulder County; and

**WHEREAS**, in addition to licensing, Ordinance No. 2019-3 requires those providing collection and/or transportation of discarded materials within the unincorporated area of Boulder County to submit annual reports regarding the types and weight in tons of discarded materials collected within unincorporated area of Boulder County through the County-licensed ReTRAC software; and

**WHEREAS**, pursuant to Ordinance No. 2019-3, cities and towns within Boulder County may consent to have Ordinance No. 2019-3 apply within their corporate boundaries; and

**WHEREAS**, the Municipal Code Title 4 of the Town of Erie (the “Code”) already contains provisions regarding residential refuse and recycling collection, and thus the Town does not desire to adopt all provisions of Ordinance No. 2019-3; and

**WHEREAS**, the Town desires to contract with the County to utilize the County’s licensing and reporting program; and

**WHEREAS**, the Town of Erie Board of Trustees has recently amended the Code by Town of Erie Ordinance No. 15-2020 to require waste haulers to obtain licenses through, and require haulers to submit annual reports to, the Boulder County Resource Conservation Division; and

**WHEREAS**, the Parties desire to enter into this Agreement to set forth the terms of their agreement regarding licensing of and reporting by waste haulers operating within the Town of Erie;

**NOW THEREFORE**, the Parties agree as follows:

A. **LICENSING.**

1. The Town shall require all persons or entities providing collection and/or transportation of discarded materials within the Town of Erie (“Town Haulers”) to apply annually for a hauler license from the Boulder County Resource Conservation

Division (“Conservation Division”) by completing a Boulder County Hauler Licensing Program Application and Self-Certification Form, and shall require Town Haulers to pay the hauler license fee established pursuant to Boulder County Ordinance No. 2019-3.

2. The County shall receive and process applications from Town Haulers.

B. REPORTING.

1. The Town shall require all Town Haulers licensed through the Boulder County Hauler Licensing Program to submit to the Conservation Division annual reports for residential and commercial refuse, recycling, compostable, and construction and demolition materials collected within the Town of Erie.
2. The Town shall require each Town Hauler to submit such reports via County-licensed ReTRAC software (“ReTRAC”) by January 31 of each calendar year.
3. The Town shall require such reports to specify the weight in tons, and the name and final destination facility(ies), of the following materials collected by the Town Hauler:
  - i. Landfilled refuse;
  - ii. Recycling materials;
  - iii. Compostable materials;
  - iv. Total landfilled construction and demolition materials; and
  - v. Total recycled construction and demolition materials.
4. The County shall provide the Town with a method by which to access data regarding Town Haulers generated by ReTRAC.

C. TERM AND TERMINATION.

This Agreement shall commence on the Effective Date and shall continue until terminated by either Party upon thirty (30) days written notice to the other Party. In addition, this Agreement shall terminate upon notice by the County to the Town of the termination of the County’s Hauler Licensing Program or its ReTRAC software license. Upon termination of this Agreement for any reason, the County shall provide the Town with any data regarding Town Haulers generated by ReTRAC within thirty (30) days of termination.

D. ENTIRE AGREEMENT; AMENDMENTS.

This Agreement contains the entire agreement between the Parties. It may be amended only by written agreement approved by both Parties.

C. SEVERABILITY.

If any portion of this Agreement is held by a court in a final, non-appealable decision to be invalid or unenforceable as to any Party, the entire Agreement shall be terminated, it being the understanding and intent of the Parties that every portion of the Agreement is essential to and not severable from the remainder.

D. NO JOINT VENTURE OR PARTNERSHIP.

Nothing contained in this Agreement is intended to create a partnership or joint venture between the Town and the County with respect to the subject matter of this Agreement, and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not provide for the joint exercise by the parties of any activity, function or service, nor does it create a joint enterprise, nor does it authorize any party hereto to act as an agent of the other party hereto for any purpose whatsoever.

E. NO THIRD-PARTY BENEFICIARIES.

Nothing in this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the Town and the County and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Town and the County and not for the benefit of any other party.

F. ENFORCEMENT.

Any one or more of the Parties may enforce this Agreement by any legal or equitable means including specific performance, declaratory and injunctive relief. No other person or entity shall have any right to enforce the provisions of this Agreement.

G. GOVERNING LAW AND VENUE.

This Agreement shall be deemed entered into in Boulder County, Colorado, and shall be governed by and interpreted under the laws of the State of Colorado. Any action arising out of, in connection with, or relating to this Agreement shall be filed in the District Court of Boulder County of the State of Colorado, and in no other court.

H. PARTY REPRESENTATIVES; NOTICE.

Referrals made under the terms of this Agreement shall be sent to the Parties' representatives listed below. Any required notices or referrals shall be in writing and shall be hand delivered, sent by email to the email addresses set forth below, or sent United States mail, postage prepaid, to the mailing addresses of the parties set forth below. All notices by hand delivery or email shall be effective upon receipt. All notices by mail shall be considered effective seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below.

ENTITY:  
County of Boulder

REPRESENTATIVE:  
[Name]  
[Title]  
P.O. Box 471  
Boulder, CO 80306  
Email: \_\_\_\_\_

Town of Erie

Jennifer Carroll  
Town of Erie Mayor  
P.O. Box 750  
Erie, CO 805016  
Email: [jcarroll@erieco.gov](mailto:jcarroll@erieco.gov)

Name or address changes for representatives shall be made in writing, mailed to the other representatives at the then current address.

I. HEADINGS.

The paragraph headings in this Agreement shall not be used in the construction or interpretation hereof as they have no substantive effect and are for convenience only.

J. LIABILITY.

Each Party agrees to be responsible for its own actions or omissions, and those of its officers, agents and employees in the performance or failure to perform work under this Agreement. By agreeing to this provision, neither Party waives or intends to waive, as to any person not a party to this Agreement, the limitations on liability that are provided to the Parties under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq.

K. COLORADO OPEN RECORDS ACT.

Parties may disclose any records that are subject to public release under the Colorado Open Records Act, C.R.S. § 24-72-200.1, et seq.

L. GOVERNMENTAL IMMUNITY.

Nothing in this Agreement shall be construed in any way to be a waiver of either Party's immunity protection under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended.

M. DELEGATION OF AUTHORITY.

The Parties acknowledge that the Board of County Commissioners has delegated authority to the Department Head or Elected Official that leads the beneficiary Department and their designees to act on behalf of the County under the terms of this Agreement, including but not limited to the authority to terminate this Agreement.

N. INSURANCE.

Each Party is a “public entity” under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended, and shall always during the terms of this Agreement maintain such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Act. This insurance shall have minimum limits, which shall match or exceed the maximum governmental liability limits set forth in C.R.S. § 24-10-114, as amended.

**IN WITNESS WHEREOF**, the parties have entered into this Agreement, to be effective on the date provided above.

**BOULDER COUNTY, COLORADO**

\_\_\_\_\_  
Elise Jones, Chair

ATTEST:

\_\_\_\_\_  
Clerk to the Board

**TOWN OF ERIE, COLORADO**

\_\_\_\_\_  
Jennifer Carroll, Mayor

ATTEST:

\_\_\_\_\_  
Heather Leatherwood, Town Clerk