

INTERGOVERNMENTAL AGREEMENT

DETAILS SUMMARY	
Document Type	New Contract
OFS Number-Version	
County Contact Information	
Boulder County Legal Entity	Boulder County
Department	Community Services
Division/Program	Community Services
Mailing Address	
IGA Contact – Name, email	Jennine Hall, jhall@bouldercounty.org
Town of Erie Contact Information	
Legal Entity	Town of Erie
Department	Police Department
Mailing Address	1000 Telleen Ave., PO Box 510 Erie, CO 80516
IGA Contact – Name, email	Kim Stewart, Police Chief, kstewart@erieco.gov
Invoice Contact – Name, email	
IGA Term	
Start Date	May 16, 2021
Expiration Date	December 31, 2021
IGA Amount	
IGA Amount	\$60,375.00
Fixed Price or Not-to-Exceed?	Fixed Price
COVID-19	No
Project #	
Brief Description of Work	
County will provide dedicated co-responder services to the Town of Erie Police Department.	
IGA Documents	
a. Project Details, including project-specific terms and a Scope of Work, attached as Exhibit A (the “Scope of Work”)	
b. Fee Schedule, attached as Exhibit B (the “Fee Schedule”)	
IGA Notes	
<i>Additional information not included above</i>	

THIS INTERGOVERNMENTAL AGREEMENT ("IGA") is entered into by and between the Town of Erie ("Town of Erie"), and the Board of County Commissioners, Boulder County Community Services Department ("County") . Town of Erie and County are each a "Party," and collectively the "Parties."

In consideration of the mutual covenants contained in this IGA, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Incorporation into IGA: The **Details Summary** is incorporated into this IGA. The **IGA Documents** are incorporated into this IGA by reference, except to the extent that the Proposal, if any is incorporated, contains any obligations placed upon the Town of Erie and not otherwise contained in this IGA.
2. Work to be Performed: The County will provide all labor and equipment and do all tasks necessary and incidental to performing the work as described in the **Details Summary** and **IGA Documents** (the "Work"). County will perform the Work (a) in a good and workmanlike manner, (b) at its own cost and expense, (c) in accordance with recognized industry standards of care, skill and diligence for the type of work being performed, and (d) in strict accordance with the IGA.
3. Term of IGA: The **IGA Term** begins on the **Start Date** and expires on the **Expiration Date**, unless terminated sooner. All the Work must be performed during the **IGA Term**.
4. Payment for Work Performed: In consideration of the Work performed by County, and subject to conditions contained in this IGA, Town of Erie will pay an amount not to exceed the **IGA Amount** to Boulder County in accordance with the **IGA Documents**.
5. Invoicing: County will promptly provide a copy of its Form W-9 and invoice template to Town of Erie upon request. County must submit an invoice to the Town of Erie by the fifteenth (15th) day of the month for completion of any Work performed in the prior calendar month. All invoices submitted require the following components: County's name and address (submitted W-9 address must match remit address), detailed description of services, dates of services, itemization of labor and materials costs, "Bill to: Town of Erie" language, payment remittance address, payer, name and address, date of invoice, unique invoice number, and total amount due. County must send all completed invoices to the **Invoice Contact** in the **Details Summary**. Town of Erie may require delivery of invoices by email. Failure to submit invoices in a timely manner and in accordance with the terms of this IGA may cause a delay in payment. Town of Erie may recoup any damages incurred because of County's failure to submit invoices pursuant to the terms of this paragraph. Town of Erie's acceptance or payment of an invoice will not constitute acceptance of any Work performed under this IGA.
6. Extra Time to Complete the Work (Additional Time only): If County cannot complete the Work by the **Expiration Date**, County may request extra time to complete the Work. Town of Erie, in its sole discretion, may grant County additional time to complete the Work by sending a written notice of extension to County. An extension of time to complete the Work will not entitle County to additional compensation from Town of Erie.
7. Extension of Contract Term (Additional Time and Work): Upon mutual agreement of the Parties, this IGA may be extended. During any extended **IGATerm**, the terms of this IGA will remain in full force and effect, unless otherwise amended in writing by the Parties. Where the County will provide additional services for additional compensation beyond the initial **IGA Amount**, the Parties must execute a written amendment before the then-current **Expiration Date**. If necessary, the written amendment will incorporate an updated Scope of Work and updated Fee Schedule as exhibits.
8. Schedule of Work: County will set its own work schedule.
9. 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 IGA. By agreeing to this provision, neither Party waives or intends to waive, as to any person not a party to the IGA, the limitations on liability that are provided to the Parties under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq.

10. Nondiscrimination: County will comply with the Colorado Anti-Discrimination Act, C.R.S. § 24-34-401, et seq., as amended, and all applicable local, State and Federal laws concerning discrimination and unfair employment practices. The Parties prohibit unlawful discrimination on the basis of race, color, religion, gender, gender identity, national origin, age 40 and over, disability, socio-economic status, sexual orientation, genetic information, or any other status protected by applicable Federal, State or local law. County must require that its subcontractors, if any, similarly comply with all applicable laws concerning discrimination and unfair employment practices.

11. Information and Reports: The Parties will provide to authorized Town, State, and Federal government representatives all information and reports that may be required for any purpose authorized by law. County will permit access to such representatives to County's facilities, books, records, accounts, and any other relevant sources of information related to the Contract. Where information required by a representative is in the exclusive possession of a person or entity other than County, County must so certify to the Town of Erie and explain what efforts it has made to obtain the information.

12. Independent Contractor: County is an independent Contractor for all purposes in performing the Work. None of County's agents, personnel or subcontractors are employees of the Town of Erie for any purpose, including the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the Colorado Workers' Compensation Act, the Colorado Unemployment Insurance Act, and the Public Employees Retirement Association. Accordingly, Town of Erie will not withhold or pay any income tax, payroll tax, or retirement contribution of any kind on behalf of County or County's employees. As an independent contractor, County is responsible for employing and directing such personnel and agents as it requires to perform the Work. County will exercise complete authority over its personnel and agents and will be fully responsible for their actions.

13. Termination:

a. Breach: Either Party's failure to perform any of its material obligations under this Contract, in whole or in part or in a timely or satisfactory manner, will be a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against either Party, or the appointment of a receiver or similar officer for either Party or any of its property, which is not vacated or fully stayed within thirty (30) days after the institution of such proceeding, will also constitute a breach. In the event of a breach, the non-breaching Party may provide written notice of the breach to the other Party. If the breaching Party does not cure the breach, at its sole expense, as reasonably determined by the non-breaching Party in its sole discretion, within thirty (30) days after delivery of notice, the non-breaching Party may exercise any of its remedies provided under this Contract or at law, including immediate termination of this Contract.

b. Non-Appropriation: The other provisions of this Contract notwithstanding, Town of Erie is prohibited by law from making commitments beyond the current fiscal year. Payment to County beyond the current fiscal year is contingent on the appropriation and continuing availability of funding in any subsequent year. Town of Erie has reason to believe that sufficient funds will be

available for the full **Contract Term**. Where, however, funds are not allocated for any fiscal period beyond the current fiscal year, Town of Erie may terminate this Contract without penalty by providing seven (7) days' written notice to County.

c. Convenience: In addition to any other right to terminate under this Section 13, either Party may terminate this Contract, in whole or in part, for any or no reason, upon seven (7) days' advance written notice.

14. County Obligations upon Termination or Expiration: By the **Expiration Date** or effective date of termination, if earlier, County must protect any serviceable materials belonging to the Town of Erie.

15. Payable Costs in Event of Early Termination: If Town of Erie terminates this Contract before the **Expiration Date**, County's payments are limited to payment for Work satisfactorily executed and fully and finally completed prior to delivery of the notice to terminate, and the reasonable and actual costs County incurred in connection with performing the Work prior to delivery of the notice to terminate.

16. Remedies for Non-Performance: If County fails to perform any of its obligations under this IGA, Town of Erie may exercise one or more of the following remedies (in addition to any other remedies provided by law or in this Contract), which shall survive expiration or termination of this IGA:

a. Suspend Performance: Town of Erie may require that County suspend performance of all or any portion of the Work pending necessary corrective action specified by the Town of Erie. County must promptly stop performance and incurring costs upon delivery of a notice of suspension by the Town of Erie.

c. Deny Payment: Town of Erie may deny payment for any Work that does not comply with the requirements of the IGA or that County otherwise fails to provide or fully and finally complete.

17. Binding Arbitration Prohibited: The Parties do not agree to binding arbitration by any extra-judicial body or person.

18. Conflicts of Interest: County may not engage in any business or personal activities or practices or maintain any relationships that conflict in any way with the full performance of County's obligations.

19. Notices: All notices provided under this IGA must be in writing and sent by Certified U.S. Mail (Return Receipt Requested), electronic mail, or hand-delivery to the other Party's **Contact** at the address specified in the **Details Summary**. For certified mailings, notice periods will begin to run on the day after the postmarked date of mailing. For electronic mail or hand-delivery, notice periods will begin to run on the date of delivery.

20. Statutory Requirements: This IGA is subject to all statutory requirements that are or may become applicable to counties or political subdivisions of the State of Colorado generally, including but not limited to: C.R.S. § 38-26-107, which requires withholding funds where the Town of Erie receives a claim for payment from a supplier or subcontractor of County upon notice of

final settlement (required for public works IGAs that exceed \$150,000); C.R.S. § 8-17-101, et seq.; C.R.S. § 18-8-301, et seq.; and C.R.S. § 18-8-401, et seq.

21. Public IGAs for Services (C.R.S. §§ 8-17.5-101, et seq.). RESERVED.

22. Entire Agreement/Binding Effect/Amendments: This IGA represents the complete agreement between the Parties and is fully binding upon them and their successors, heirs, and assigns, if any. This IGA terminates any prior agreements, whether written or oral in whole or in part, between the Parties relating to the Work. This IGA may be amended only by a written agreement signed by both Parties.

23. Assignment/Subcontractors: This IGA may not be assigned or subcontracted by County without the prior written consent of the Town of Erie. If County subcontracts any of its obligations under this IGA, County will remain liable to the Town of Erie for those obligations and will also be responsible for subcontractor's performance under, and compliance with, this IGA.

24. Governing Law/Venue: The laws of the State of Colorado govern the construction, interpretation, performance, and enforcement of this IGA. Any claim relating to this IGA or breach thereof may only be brought exclusively in the Courts of the 20th Judicial District of the State of Colorado and the applicable Colorado Appellate Courts.

25. Breach: The failure of either Party to exercise any of its rights under this IGA will not be deemed to be a waiver of such rights or a waiver of any breach of the IGA. All remedies available to a Party in this IGA are cumulative and in addition to every other remedy provided by law.

26. Severability: If any provision of this IGA becomes inoperable for any reason but the fundamental terms and conditions continue to be legal and enforceable, then the remainder of the IGA will continue to be operative and binding on the Parties.

27. Third-Party Beneficiary: Enforcement of the terms and conditions and all rights and obligations of this IGA are reserved to the Parties. Any other person receiving services or benefits under this IGA is an incidental beneficiary only and has no rights under this IGA. Notwithstanding, where the beneficiary **Department** is led by an Elected Official, such Elected Official shall be considered a third-party beneficiary.

28. Colorado Open Records Act: The 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.

29. Conflict of Provisions: If there is any conflict between the terms of the main body of this IGA and the terms of any of the **IGA Documents**, the terms of the main body of the IGA will control.

30. Governmental Immunity: Nothing in this IGA 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.

31. Representations and Warranties: County represents and warrants the following:

- a. Execution of this IGA and performance thereof is within County's duly authorized powers;
- b. The individual executing this IGA is authorized to do so by County;

c. County is authorized to do business in the State of Colorado and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over the Work; and

d. County and its subcontractors, if any, are financially solvent, able to pay all debts as they mature, and have sufficient working capital to complete the Work and perform all obligations under the IGA.

32. Legal Compliance: County assumes full responsibility for obtaining and maintaining any permits and licenses required to perform the Work. County is solely responsible for ensuring that its performance under this Contract and the Work itself will comply with all Federal, State, and local laws, regulations, ordinances and codes.

33. Litigation Reporting: County is not currently involved in any action before a court or other administrative decision-making body that could affect County's ability to perform the Work. County will promptly notify the Town of Erie if County is served with a pleading or other document in connection with any such action.

34. Tax Exemption: The Parties are exempt from payment of Federal, State, and local government taxes.

35. 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 performing **Department** and their designees to act on behalf of the County under the terms of this IGA, including but not limited to the authority to terminate this IGA.

36. Ownership of Work Product: All work product, property, data, documentation, information or materials conceived, discovered, developed or created by County pursuant to this IGA ("Work Product") will be mutually owned by the Town of Erie.

37. Publicity Releases: [Reserved]

38. Execution by Counterparts; Electronic Signatures: This IGA may be executed in multiple counterparts, each of which will be deemed an original, but all of which will constitute one agreement. The Parties approve the use of electronic signatures, governed by the Uniform Electronic Transactions Act, C.R.S. §§ 24-71.3-101 to 121. The Parties will not deny the legal effect or enforceability of this IGA solely because it is in electronic form or because an electronic record was used in its creation. The Parties will not object to the admissibility of this IGA in the form of electronic record, or paper copy of an electronic document, or paper copy of a document bearing an electronic signature, because it is not in its original form or is not an original.

39. Limitation on Public Statements. During the term of this IGA, Contractor may receive from the Town of Erie its confidential data, work product, or other privileged or confidential information that is protected by law. Notwithstanding, County may make disclosures as required by law, and to law enforcement officials in connection with any criminal justice investigation.

40. Limitation of Liability: THE PARTIES SHALL NOT BE LIABLE TO ONE ANOTHER FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES ARISING FROM OR RELATING TO THIS CONTRACT, REGARDLESS OF ANY NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. THE PARTIES' AGGREGATE LIABILITY, IF ANY, ARISING FROM OR RELATED TO THIS CONTRACT, WHETHER IN CONTRACT, OR IN

TORT, OR OTHERWISE, IS LIMITED TO, AND SHALL NOT EXCEED, THE AMOUNTS PAID OR PAYABLE HEREUNDER.

41. Legal Interpretation. Each Party recognizes that this Contract is legally binding and acknowledges that it has had the opportunity to consult with legal counsel of its choice about this Contract. The rule of construction providing that any ambiguities are resolved against the drafting Party will not apply in interpreting the terms of this Contract.

42. No Suspension or Debarment: County certifies, and warrants for the Contract Term, that neither it nor its principals nor any of its subcontractors are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract by any Federal or State department or agency. County shall comply, and shall require its subcontractors to comply, with subpart C of 2 C.F.R. § 180.

43. 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 IGA 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.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties have executed and entered into this IGA as of the latter day and year indicated below.

SIGNED for and on behalf of Boulder County		SIGNED for and on behalf of Town of Erie
Signature:		Signature:
Name:		Name:
Title:		Title:
Date:		Date:
↓↓ <i>For Board-signed documents only</i> ↓↓		
Attest Signature:	<i>Initial</i>	
Attestor Name:		
Attestor Title:		