

RESOLUTION NO. 12

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT FOR THE PROVISION OF ASSISTANCE FOR FLOOD-RELATED SERVICES WITH THE COUNTY OF BOULDER

WHEREAS, intergovernmental agreements (IGAs) to provide functions or services, including sharing the costs of such functions or services, or incurring debt, by political subdivisions of the State of Colorado, are specifically authorized by C.R.S. § 29-1-203, and other sections of the Colorado Revised Statutes; and

WHEREAS, there has been proposed between the Town and the County of Boulder an IGA to provide a framework for the County to continue to provide assistance in the Town in response to the flood within the Town and allocate the costs of such assistance provided by the County since the flood began;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF JAMESTOWN, COLORADO:

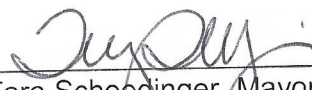
Section 1. The proposed Intergovernmental Agreement for the Provisions of Assistance for Flood-Related Services within the County of Boulder between the Town and the County of Boulder is hereby approved in essentially the same form as the copy of such Intergovernmental Agreement accompanying this Resolution.

Section 2. The Mayor is hereby authorized to execute the attached Intergovernmental Agreement on behalf of the Town. The Mayor is also hereby granted the authority to negotiate and approve such revisions to said Intergovernmental Agreement as the Mayor determines are necessary or desirable for the protection of the Town, so long as the essential terms and conditions of the Intergovernmental Agreement are not altered.

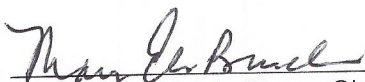
Section 3. The Mayor is further hereby authorized to make requests to the County of Boulder on behalf of the Town for services under the Intergovernmental Agreement, and to execute and deliver engagement letters and other documents necessary or appropriate to secure the provision of services under the Intergovernmental Agreement. The Mayor, Town Clerk and Town staff are authorized to do all things necessary and appropriate for performance of the Town's obligations under the Intergovernmental Agreement.

INTRODUCED, READ, and ADOPTED this 5 day of November, 2013.

TOWN OF JAMESTOWN, COLORADO


Tara Schoedinger, Mayor

ATTEST:


Mary Ellen Burch, Town Clerk

**INTERGOVERNMENTAL AGREEMENT FOR THE PROVISION OF ASSISTANCE FOR
FLOOD-RELATED SERVICES**

THIS INTERGOVERNMENTAL AGREEMENT (the "IGA") is effective as of the 11th day of September, 2013, between the COUNTY OF BOULDER, Colorado, a body corporate and politic (the "County"), and the TOWN OF JAMESTOWN, Colorado, a statutory town (the "Town") (each, a "Party" and, collectively, the "Parties").

RECITALS

- A. Intergovernmental agreements to provide functions or services, including sharing the costs of such functions or services, or incurring debt, by political subdivisions of the State of Colorado, are specifically authorized by C.R.S. § 29-1-203, and other sections of the Colorado Revised Statutes.
- B. Flooding of epic proportions (the "Flood") led to a Presidential Declaration of Disaster beginning on September 11, 2013, a State of Colorado Emergency Declaration declared on September 12, 2013, a Local Disaster Emergency declared by Boulder County on September 12, 2013, and a Local Disaster Emergency declared by the Town on September 12, 2013.
- C. The Town sustained particularly severe Flood damage which has hindered its ability to adequately respond. The County intends to assist the citizens within its boundaries, including those within the Town, especially during a time of response to and recovery from this unprecedented disaster. The Town may also assist with the response and recovery within the Town boundaries.
- D. The Parties desire to cooperate and work together to respond to and recover from Flood-related damage. The purpose of this IGA is to provide a framework for the County to continue to provide assistance in response to the Flood within Boulder County and to allocate the costs of such assistance provided by the County since the Flood began on September 11, 2013 and ongoing.

AGREEMENT

- 1. Agreement for the Provision of Flood-Related Services, Resources, and Other Aid. The Parties agree to the following terms for Flood-related services, resources, and other assistance directly related to the Presidentially-declared Disaster (the "Services") performed or provided by the County in the Town:
 - 1.1 The Parties agree that these terms apply to Services already provided or currently being provided by the County to the Town since the start of the incident period on September 11, 2013, as indicated by the Presidential Declaration of Disaster, as well as to any future Services that the Town requests and the County agrees to provide. A list of the Services provided to date is attached at Exhibit A.

- 1.2 The Town may request additional Services from the County. The County may provide additional Services, in its discretion. Additional Services will be subject to the terms of this IGA. The Town's request and the County's approval for such Services will be documented in writing.
- 1.3 The cost of the Services shall be the actual, reasonable costs to a Party of providing the Services, including but not limited to the Party's costs associated with contracting for work performed by third parties, the Party's staff time performing the Services, use of the Party's equipment, and the purchase or rental of materials or equipment (the "Costs"). A Party's employees that perform Services will continue to receive salary and benefits paid by their employer. Rates for equipment will be according to the applicable schedules of any agency providing reimbursement funds for those Services, including but not limited to the Federal Emergency Management Agency, the Federal Highway Administration, and the State of Colorado (each, an "Agency, and, collectively, the "Agencies").
- 1.4 Volunteer time will be tracked and allocated to the Party responsible for paying the local share of costs not otherwise reimbursed by an Agency. The value of and rates for donated labor or equipment shall be determined according to FEMA's Disaster Assistance Policy # 9525.25. Donated Resources, if applicable.
- 1.5 Unless otherwise required by an Agency, the Town shall be the official applicant for reimbursement from the applicable Agencies for the Costs of Services performed in the Town. The County shall serve as the Town's contractor for providing Services.
- 1.6 The Parties agree to cooperate and work diligently to ensure timely Agency funding for the Costs of Services. Such cooperation includes, without limitation, the Town allowing the County to assist in creating and managing or administering FEMA project worksheets, both Parties providing and signing reasonable documentation needed to process the reimbursement requests, and each Party allowing the other Party to review and audit the other Party's financial and administrative processes and documentation related to reimbursement of the County's Cost of Services. The Town only shall be the applicant and signor of the FEMA project worksheets, unless otherwise required by an Agency.
- 1.7 The Town shall, upon receipt of reimbursement from any Agency of funds attributable to the County's Services, immediately reimburse the County for the County's Costs of Services.
- 1.8 The County will still be an applicant with the Agencies in its own right and will be responsible for applying for and receiving reimbursement from the appropriate Agencies for its other work and costs. Under no circumstances will the County apply for reimbursement for Costs of Services for which the Town has applied for reimbursement under this Agreement, except at the express direction of an

Agency. The Town will still be an applicant with the Agencies in its own right and will be responsible for applying for and receiving reimbursement from the appropriate Agencies for its other work and costs.

2. EPA Hazardous Waste Removal Program. The Environmental Protection Agency ("EPA"), in conjunction with the Federal Emergency Management Administration ("FEMA"), is conducting hazardous materials response operations throughout Boulder County, including inside the Town to remove hazardous materials deposited by the flood. The EPA is documenting by use of GPS or similar technology the locations from which hazardous materials are recovered.

2.1 The County is the point of contact for the EPA's hazardous waste removal program. The County will be billed directly for any local share of costs of the program that are not reimbursed by FEMA or the State of Colorado, which will include the costs separately attributable to hazardous materials removal in unincorporated Boulder County, the Town of Lyons, the Town of Jamestown, and other communities.

3. Prior Agreements. Contracts or intergovernmental agreements for services between the Parties existing prior to the Flood will continue, to the extent possible in light of the Flood. Nothing contained in this IGA shall alter or modify any such pre-existing contracts or agreements. Services provided under such contracts or agreements shall be paid as usual, with no additional charges.
4. Employment Status of Responding Personnel. Nothing contained in this IGA, and no performance under this IGA by personnel of the County or of the Town, shall in any respect alter or modify the status of officers, agents, or employees of the County or of the Town.
5. Waiver. The Town waives all claims and causes of action against the County for compensation, damage, personal injury or death occurring as a consequence, direct or indirect, of the performance of this IGA, to the extent permitted by, and without waiving any protection or other provisions of, the Colorado Governmental Immunity Act. Nothing in this Agreement shall be construed as a waiver by the County of any protections granted by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et seq., or any protections that may be available under the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701 et seq.
6. Authority. This IGA is promulgated under C.R.S. § 29-1-201 and the relevant portions of Title 24, Article 33.5 of the Colorado Revised Statutes. Each and every term, provision, or condition herein in subject to and shall be construed in accordance with the provisions of Colorado law, the charters of the Parties (if applicable), and the ordinances and regulations enacted pursuant hereto.

7. Severability. The Parties understand and agree that if any part, term, or provision of this IGA is by the courts held to be illegal or in conflict with any law of the State of Colorado, or of the United States of America, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the IGA did not contain the particular part, term, or provision held to be invalid.
8. Waiver. No waiver of any breach or default under this Agreement shall be a waiver of any other or subsequent breach or default.
9. No Third-Party Beneficiary. The Parties, in their corporate and representative governmental capacities, are the only entities intended to be the beneficiaries of this IGA, and no other person or entity is so intended.
10. Amendments. Amendments to this IGA may be made with consent in writing by both Parties.
11. Governing Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. Venue for any action arising under this Agreement shall be in Boulder County, Colorado.
12. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same Agreement. Facsimile signatures shall be acceptable and binding upon all Parties.

[Signature page to follow]

EXECUTED this ____ day of November, 2013.

BOULDER COUNTY:

Cindy Domenico, Chair
Board of Boulder County
Commissioners

Attest: _____
Clerk to the Board

TOWN OF JAMESTOWN:

Tara Schoedinger, Mayor

Attest: _____
Mary Ellen Burch, Town Clerk

EXHIBIT A

Include Completed Project Worksheets

Category A

- Dumpsters
- Debris removal in the stream channel

Category B

- Toilets and hand washing stations
- Potable water trucks
- Emergency road repairs (CR 94, Main St)
- Office trailer
- Bridge protection (lower Main St bridge)