

Option C - Patterned After Current IGA

**AN INTERGOVERNMENTAL AGREEMENT
Regarding Land Use Planning and Related Issues for the Estes Valley**

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and effective this 1st day of April, 2020 (“Effective Date”) by and between LARIMER COUNTY, COLORADO (“County”), a body politic organized under and existing by virtue of the laws of the State of Colorado and THE TOWN OF ESTES PARK, COLORADO (“Town”) and jointly referred to as the “Parties.”

RECITALS

- A. **WHEREAS**, the Parties have worked together cooperatively on land use planning since the mid-1990s, with an initial intergovernmental agreement (IGA) effective February 1, 2000, with five subsequent amendments, and which expires in February 2020;
- B. **WHEREAS**, in 1996, the Town and County prepared and jointly adopted the Estes Valley Comprehensive Plan for the land area in the Estes Valley Planning Area which includes lands within Town limits and in unincorporated Larimer County, which plan is effective until updated or superseded;
- C. **WHEREAS**, the Parties agree that maintaining and enhancing areas of Town development in a thoughtful and deliberate way, managing growth in the Estes Valley, and protecting open space and conserving rural character are enhanced by cooperation in land use planning and development review services;
- D. **WHEREAS**, concentrating Town Level Development in areas planned and designated for such development affords greater efficiency in the delivery of services such as water, streets and transportation, fire and police protection and other services, and affords a measure of predictability to landowners and residents concerning where services will be provided in the future;
- E. **WHEREAS**, maintaining the parts of the Estes Valley Planning Area that are designated for rural uses as rural promotes the purposes of providing a community buffer between the Town and the adjacent national park and federal lands, serves economic and community interests, and meets the goals of the community as set forth through the Estes Valley Comprehensive Plan;
- F. **WHEREAS**, the purposes of this Intergovernmental Agreement (Agreement) are to:
 - 1. Implement the Estes Valley Comprehensive Plan as it currently exists or may hereafter be amended or replaced;
 - 2. Provide for administration of the Estes Valley Development Code (EVDC) within the Planning Area;
 - 3. Allocating Town and County resources including necessary funding for administration of the EVDC and related functions within the Planning Area;
 - 4. Assure that land eligible for annexation to the Town are considered for annexation prior to or concurrently with development;

5. Provide effective means for the appropriate design, construction, and maintenance of public improvements;
 6. Encourage the efficient use of land and open space conservation in appropriate locations, including those in the unincorporated areas of the Estes Valley;
 7. Provide a mechanism for property owners, residents, stakeholders, and others to have input on and be informed as to where development will occur in the future; and
 8. Assure that development in the vicinity of the Town does not negatively impact roads or other infrastructure improvements in unincorporated Larimer County, and provide that when there are negative impacts, those impacts will be appropriately mitigated.
- G. **WHEREAS**, pursuant to State of Colorado law, local jurisdictions are authorized to regulate the location of activities and developments; phase development of services and facilities; regulate development on the basis of its impact on the community or surrounding areas; plan for and regulate the use of land so as to provide for planned and orderly use of land and protection of the environment; cooperate or contract with other units of government for the purpose of planning and regulating the development of land, including, but not limited to, the joint exercise of planning, zoning, subdivision, building, and related regulations and annexation of property, all in a manner consistent with constitutional rights and statutory procedures;
- H. **WHEREAS**, coordination among the County and Town planning staff and communication among local jurisdictions, special districts, property owners and other interested parties is essential to accomplishing this Agreement;
- I. **WHEREAS**, any provisions in this Agreement may be implemented only to the extent legally permitted by State and Federal Law;
- J. **WHEREAS**, the Parties have sought community input and held hearings after proper public notice for the consideration of entering into this Agreement; and
- K. **WHEREAS**, in order to provide for an orderly transition to this Intergovernmental Agreement and to allow for appropriate allocation of resources by all parties to support it, it is desirable to extend the February 1, 2010 Intergovernmental Agreement and its subsequent amendments for an additional two (2) months, to terminate on March 31, 2020, with this new Intergovernmental Agreement to become effective on April 1, 2020. The extension is being accomplished by an amendment contemporaneous with this Agreement.

AGREEMENT

NOW, THEREFORE in consideration of the covenants and obligations expressed herein, it is hereby agreed by and between the Parties as follows:

1. DEFINITIONS

The following terms shall have the meanings set forth below.

- 1.1. **Annexation.** Annexation means the incorporation of land area into an existing municipality with a resulting change in the boundaries of that municipality.

- 1.2. **Estes Valley Comprehensive Plan.** The Comprehensive Plan for the Estes Valley Planning Area, adopted by the Estes Park Planning Commission and the Larimer County Planning Commission in December 1996. The Plan addresses land use, transportation, natural resources, and other elements and guides through maps and text and generally indicates the types, densities and intensities of land use that are acceptable for any given parcel of land or area in the Estes Valley Planning Area. It also establishes the Estes Valley Planning Area boundary.
- 1.3. **Estes Valley Development Code (EVDC).** The adopted land use, zoning, and development standards for the Estes Valley Planning Area adopted by the Town and County effective in 1999 and as subsequently amended.
- 1.4. **Estes Valley Planning Area (EVPA).** The Estes Valley Planning Area is that geographical area including all of the Town of Estes Park and certain designated areas beyond Town limits established in the Estes Valley Comprehensive Plan and as depicted in Exhibit 1. In such area, Town level development is currently not considered appropriate or desired except where it annexes to the Town. This Agreement anticipates that land within the EVPA immediately adjacent to Town limits may be annexed into the Town when Town Level Development is proposed.
- 1.5. **Open Space.** Land that is not occupied by any structure or artificial impervious surfaces and that is intended for long-term conservation purposes.
- 1.6. **Rural Areas.** Areas which are outside the Town's corporate limits and which are planned or zoned for rural estate or other rural residential uses or which are designated to remain as conserved areas. These lands are not intended to be annexed and will generally remain rural in character.
- 1.7. **Town Level Development.** Any development which uses Town level facilities and services provided either by the Town or special districts and which is at higher intensities than rural areas.
- 1.8. **Town Level Facilities and Services.** Services such as central water, sewer, responsive fire protection, urban level street construction and maintenance, and/or similar services that are typically provided by the Town or an appropriate district and are necessary to serve Town Level Development as defined in this Agreement.

2. ADOPTION OF NEW PLANS AND REGULATIONS

This section identifies the plans and boundary maps which are referenced in this Agreement.

- 2.1. **Estes Valley Comprehensive Plan,** The Parties agree to communicate and coordinate to prepare a Comprehensive Plan for the Estes Valley Planning Area that will encompass the Town and the unincorporated area of Larimer County, which upon adoption, shall replace and supersede the current Estes Valley Comprehensive Plan.
- 2.2. **Estes Valley Planning Area Boundary.** The Estes Valley Planning Area boundary is identified in "Exhibit 1", and attached hereto and incorporated herein, including and subsequent amendments thereto.

2.3. Estes Valley Development Code. The Parties agree to continue to jointly administer the Estes Valley Development Code as subsequently amended, and update it as needed to reflect changes and updates to the Estes Valley Comprehensive Plan.

3. LAND USE REGULATIONS AND FEES

This section addresses the relevant development standards, procedures, and fees that apply to proposed development in the Estes Valley Planning Area.

3.1. Town Limits. Within the municipal boundaries of the Town of Estes Park as they exist or may be changed through annexation, the Town shall maintain and exercise the right to review and approve development subject to the Estes Valley Development Code, as existing or hereafter amended. The Parties agree that land-use applications, appeals, interpretations, and variances, including those applied for at the building permit stage, shall be processed and decided by the Town as provided for in the Estes Valley Development Code, as existing or hereafter amended.

3.2. Unincorporated Estes Valley Planning Area. Within the unincorporated area of the Estes Valley Planning Area, Larimer County shall maintain and exercise the right to review and approve development subject to the Estes Valley Development Code. The Parties agree that land use applications, appeals, interpretations, and variances shall be processed and decided by the County as provided for in the Estes Valley Development Code.

3.4. Modifications to Regulations. The Parties agree that the Town or County may allow reasonable modifications from adopted standards within their respective jurisdictions in accordance with the EVDC.

3.5. Fees for Development.

3.5.1. The Parties agree to maintain and administer separate fees with their respective jurisdictions in the Estes Valley Planning Area.

3.5.2. The County's Capital Expansion fees for roads, community parks, and drainage shall apply within the unincorporated areas of the Estes Valley Planning Area.

3.5.3. The County's regional park fee shall not apply within the unincorporated portion of the Estes Valley Planning Area.

4. PARTIES' ROLES IN DEVELOPMENT REVIEW, COMPLIANCE

4.1. Establishment of Improvement Districts. The County agrees to notify and allow the Town to comment prior to establishing any improvement district within the unincorporated Estes Valley Planning Area.

4.2. Utilities and Services. In areas where the Town has jurisdiction and oversight over the delivery of utility services and other services relative to public improvements, the Town agrees to provide a mechanism for the performance of inspections of any utility or other public improvements provided by developers. In areas where special districts have jurisdiction and oversight over the

delivery of utility services and other services relative to public improvements, the Town agrees to propose that the Town and the respective special district include terms in the intergovernmental agreement with the special district that stipulate that the special district will perform these inspections. The County, Town, or special district may charge developers an appropriate fee for this inspection service.

4.3. Improvement Guarantees. Improvement guarantees shall be required as set forth in the EVDC. The respective jurisdictions shall administer and maintain all improvement guarantees. Appropriate jurisdictional agencies, such as the Town Engineer and County Engineer, the Town Utilities Department, and the Sanitation District(s) with jurisdiction, shall verify the estimate of construction costs, depending on the geographic location of the improvements. Releases of security from an Improvement Guarantee shall be authorized by the respective jurisdictional authority and released by the authorized Community Development Department. To the extent that development in the Town requires the construction of off-site public improvements in the unincorporated Estes Valley Planning Area that are typically not associated with development in the County, the Town agrees to provide a mechanism for maintenance of those off-site public improvements by adjacent property owner. Such improvements include, but are not limited to, curbs and gutters, bicycle and pedestrian facilities, transit facilities, traffic signals, traffic control and traffic calming devices, drainage facilitates, streetscapes, and medians.

4.4. Maintenance of Required Public Facilities. Maintenance of public facilities, if any, shall be the responsibility of the Town or County, depending upon the respective geographic location of the public improvement and subject to other applicable regulations. Each public facility shall be subject to the policies and procedures of the respective jurisdiction.

4.5. Development Review Staffing Roles.

4.5.1. Duties of the Town and County Staff. Town and County staff shall coordinate closely in the review, approval, and monitoring of land use development within the Estes Valley Planning Area.

4.5.1.1. Duties of the Town Community Development Department. Town staff shall serve as the primary administrator of the Estes Valley Development Code within town limits.

4.5.1.2. Duties of the County Community Development Department. County staff shall serve as the primary administrator of the Estes Valley Development Code within the unincorporated Estes Valley Planning Area.

4.5.2. Referrals and Coordination on Recommendations.

4.5.2.1. County Referral to Town. Within the unincorporated Estes Valley Planning Area, the County agrees to submit all proposed development applications to the Town staff for review and comment so that Town and County staff can achieve agreement on a recommendation.

4.5.2.2. Town Referral to County. Within the town limits, the Town agrees to submit all proposed development applications to the County staff for review and comment so that Town

and County staff can achieve agreement on a recommendation and input on development within the Town that may affect the County’s interests and public improvements, including, but not limited to, road improvements and annexations.

4.6. Additional Review Roles. The Town and the County have additional operating rules, regulations, ordinances and requirements which may apply to development and use of property within the Estes Valley Planning Area. These include but are not limited to the areas of regulation noted in Table 1 below.

Table 1: Review Roles of Town of Estes Park and Larimer County

Type of Process or Regulation	Within Town of Estes Park (Who Administers)	Within Unincorporated Estes Valley – Larimer County (Who Administers)
Development Review for Planning Cases	Estes Valley Development Code (Town Planning)	Estes Valley Development Code (County Planning)
Floodplain Regulations	Town floodplain regulations (Town Community Development)	County floodplain regulations (County Engineering)
Sign Regulations	Town sign regulations (Town Community Development)	County sign regulations (LC Community Development)
Building Permits	Town Building Code (Town Building Official)	County Building Code, permit, and inspection programs (County Building Official)
Streets and Roads Standards	Street standards (Town Engineer)	Larimer County Rural Area Street Standards. County road construction, safety, and maintenance (County Engineer)
Drainage	Drainage standards (Town Engineer)	Drainage standards (County Engineer)
Public Health and Safety	County Health Department	County Health Department
Wildfire Construction	Wildfire Construction standards in Larimer County’s building code (Town Building Official)	Wildfire Construction standards in Larimer County’s building code (County Building Official)
Code Compliance	Town Code Compliance	County Code Compliance
Legal Counsel	Primary legal advisory to Town Staff and the EVPC for items in town limits and to institute and maintain all necessary legal actions for matters within the town limits. Also, primary legal advisor to the EVBOA for all matters within the Planning Area (Town Attorney)	Primary legal advisory to County Staff and the EVPC for unincorporated area and to institute and maintain all necessary legal actions for matters therein (County Attorney)
Vacation Rentals	EVDC (Approved by Town)	EVDC (New units approved by County)

5. DEVELOPMENT REVIEW APPROVALS (PLANNING COMMISSION AND BOARD OF ADJUSTMENT)

- 5.1. Estes Valley Planning Commission.** The Estes Valley Planning Commission (EVPC) shall be a recommending body and have the duties, responsibilities, and obligations of the County Planning Commission for the area of the unincorporated Estes Valley Planning Area, with all final approvals by the Board of County Commissioners. The EVPC shall also have authority and be responsible for approving the Estes Valley Comprehensive Plan. The authority, membership, residency requirements, officer duties, and attendance and other requirements are spelled out in the bylaws for the EVPC as amended from time to time by the Town Trustees and Board of County Commissioners.
- 5.2. Estes Valley Board of Adjustment.** The Estes Valley Board of Adjustment shall hear all variance requests pursuant to the terms of conditions of state statute. The authority, membership, residency requirements, officer duties, and attendance and other requirements are spelled out in the bylaws for the EVBOA as amended from time to time by the Town Trustees and Board of County Commissioners. The Town attorney shall advise the Board of Adjustment as to applications within the Town. The County Attorney shall advise the Board of Adjustment as to applications within the unincorporated area of the Estes Valley.

6. ANNEXATION

- 6.1. Eligibility for Annexation.** The Parties agree that the term “eligibility for annexation” shall mean any land that is contiguous to the corporate town limits via one or more points of connection, and that it is anticipated that the Town would annex lands eligible for annexation in the Estes Valley Planning Area at such time that a development proposal and annexation petition, including all required fees and supplemental information, is received from the property owner(s). The Town represents that it will give due consideration to the desirability of annexing lands at such time that they become eligible for annexation based upon State annexation statutes. When a town growth boundary is defined, lands within that area shall be considered for annexation at such time that a development proposal is presented.
- 6.2. Town Limits Annexation Area.** The Estes Valley Comprehensive Plan will define the area appropriate for future annexation adjacent to the Town of Estes Park.
- 6.3. Future Annexations.** The County agrees that, in the case of lands within the unincorporated Estes Valley Planning Area that are not eligible for annexation but that are proposing Town Level Development, the County shall require applicants that apply for Subdivision of five (5) or more lots; Rezoning; Concept Plan; Development Plan for Commercial Accommodation, Commercial, Industrial, or Multi-Family Development of 10 or more units.
- 6.4. Annexation Petition.** The County agrees that it will not accept any application for any property that is eligible for voluntary annexation to the Town unless a written annexation request which conforms to the Town’s standard annexation conditions is submitted to the Town and is subsequently denied by the Town. If such an annexation petition is denied by the Town, the County may accept said application on the property.

6.5. Annexation Agreement. The County agrees to require a binding agreement to annex as a condition of approval on any development application for uses approved and located within the unincorporated portion of the Planning Area but not eligible for annexation to the Town at the time of development application, excluding subdivisions of 4 or less lots for residential use.

6.6. Amendment to Implement Annexation Policy. The Town is deliberating regarding the appropriate policy to coordinate annexation with the County. The Parties agree to cooperate diligently on the creation of such a policy to be completed within 6-months of adoption of the comprehensive plan and intend to incorporate it herein as an amendment once it is determined. Until such time, while the Town undertakes no specific obligations with regard to annexation, the Parties agree to cooperate regarding Town Level Development in the unincorporated Estes Valley Planning Area and on annexation petitions.

7. IMPLEMENTATION OF AGREEMENT

7.1. Commencement and Transition Period. Staff processes of applications for development submitted after the effective date of this IGA shall be conducted according to this Agreement. The County shall on April 1, 2020 resume maintaining all unincorporated-area project files and Town staff shall have access to files. Town staff will be available to support County staff access to historic case files for at least one year from the time of this Agreement or such time when files may be transitioned from the Town to County.

7.2. Training Regarding this Agreement. The Parties agree to (a) notify newly elected officials, new managers and key staff of the existence of this Agreement, and (b) on an as-needed basis, conduct training sessions on the procedures which are necessary to implement this Agreement.

7.3. Mediation. If the Parties fail to reach agreement on any provisions contained in this Agreement, the Parties agree to engage a trained mediator to help them resolve the issue.

8. PERFORMANCE OF AGREEMENT

Either party may seek specific performance or enforcement of this Agreement in a Court of competent jurisdiction, but neither party shall have any claim or remedy for damages arising from an alleged breach hereof against the other, nor shall this Agreement confer on either Party standing to contest a land use decision or action of the other except as a breach of this Agreement.

9. THIRD-PARTY RIGHTS

This Agreement is not intended to modify the standing the Parties may possess independent of this Agreement. This Agreement is between the Town of Estes Park and Larimer County and no third-party rights or beneficiaries exist or are created hereby.

10. AGREEMENT AMENDMENTS

The procedures for amending this Agreement shall be as follows:

10.1. Amendments to the text of this Agreement. The text of this Agreement may be amended only by written agreement of both Parties. Either Party may initiate an amendment, but any such initiation must be in writing.

10.2. Amendments to the Estes Valley Planning Area boundary. The Estes Valley Planning Area Boundary may be amended by written agreement of both Parties.

10.3. Amendments to Elements of the Estes Valley Comprehensive Plan. It is acknowledged that the adoption of amendments to the Estes Valley Comprehensive Plan may necessitate amendments to this agreement regarding.

11. SEVERABILITY

Invalidation of any specific provisions of this Agreement shall not affect the validity of any other provision of this Agreement.

12. TERM AND TERMINATION OF AGREEMENT

This Agreement shall remain in full force and effect for a period of five (5) years from the date of its execution. Thereafter, it shall be automatically renewed for successive five-year terms unless at least six (6) months prior to its scheduled expiration, either Party should notify the other Party in writing of its decision that the Agreement not be renewed. Either party may terminate this Agreement upon at least six (6) months' notice.

13. COSTS

The County will participate in the Estes Valley Comprehensive Plan by providing staffing to co-lead and support the plan effort, and participating in costs of hiring a shared consultant, contributing to the cost of the consultant. Beginning on April 1, 2020, the County shall provide the necessary personnel or resources to provide professional staffing to support development review within the unincorporated area using the Estes Valley Development Code and working with the Estes Valley Planning Commission and Board of Adjustment when relevant. The Parties agree to share the costs of subsequent updates to the EVDC, including any major code updates.

14. EFFECTIVE DATE

In Witness thereof, the Parties hereto have executed this Agreement to be effective on the Effective Date first written above:

Town of Estes Park:

By: _____

Todd Jirsa, Mayor

ATTEST:

Town Clerk

The County of Larimer:

Tom Donnelly, Chair
Board of Commissioners

ATTEST:

Angela Myers, Clerk and Recorder

Approved as to Legal Form:

County Attorney

Approved as to Content:

County Manager

Exhibit 1: Estes Valley Planning Area Map

Exhibit 1: Estes Valley Planning Area Boundary

