

**TOWN OF PONCHA SPRINGS
RESOLUTION 2010-3**

Providing for an Increase in the Emergency Telephone Charge and Approving Certain Amendments to the Intergovernmental Agreement Dated August 15, 2006 Concerning the Implementation of an E9-1-1 Emergency Telephone Service

WHEREAS, by Resolution No. 89-24, the Board of County Commissioners of Chaffee County, Colorado (the “BOCC”) imposed an emergency telephone charge on telephone users within Chaffee County’s (the “County”) jurisdiction in an amount not to exceed \$.50 per month per exchange access facility for the purpose of funding emergency telephone service in the County; and

WHEREAS, pursuant to an Intergovernmental Agreement dated September 22, 1989 (“1989 IGA”), concerning the implementation of an E9-1-1 emergency telephone service among Town of Poncha Springs, the County, and other governmental entities in the County, the Chaffee County Emergency Telephone Service Authority Board (the “Authority”) was authorized to receive from all telephone users within the County, an emergency telephone charge of up to \$.50 per month per user in order to fund emergency telephone service in the County; and

WHEREAS, by Resolution No. 95-16 the BOCC approved an amendment to the 1989 IGA to allow a uniform emergency telephone charge not to exceed \$.70 for each telephone exchange access facility in Chaffee County; and

WHEREAS, by Resolution No. 98-49 the BOCC approved an amendment to the 1989 IGA to allow a uniform emergency telephone charge not to exceed \$.70 for wireless access users in the County in accordance with C.R.S. § 29-11-103; and

WHEREAS, by Resolution No. 2010-3 Resolution # 2010-3, Town of Poncha Springs approved an increase to the E-9-1-1 surcharge rate to \$1.00 per month per exchange access facility or per wireless communications access and approved the execution of an “Amended Intergovernmental Agreement concerning the implementation of an E911 Emergency Telephone Service” (“2006 IGA”) which enabled the rate increase and other changes to the 1989 IGA; and

WHEREAS, statutory definitions and terms pertaining to the emergency telephone charge have changed, and the Authority recommends amending the formula for payment of operating costs and the return of any surplus operating revenue and providing a mechanism for the Authority to borrow money and therefore, the IGA should be amended accordingly; and

WHEREAS, pursuant to C.R.S. § 29-11-102(2), a charge in excess of \$.70 per month requires approval from the Colorado Public Utilities Commission (the “PUC”) before imposition; and

WHEREAS, the Town of Poncha Springs desires to pursue an application to the PUC to increase the emergency telephone service rate charge to \$1.25 per month per exchange access facility, per wireless communications access, and per interconnected voice-over-internet-protocol

service to address the Authority's increased costs of providing continued and adequate emergency telephone service in the County to be effective as soon as possible.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF PONCHA SPRINGS that:

1. Subject to approval of the PUC, the E-9-1-1 surcharge rate shall be increased to \$1.25 per month per exchange access facility, per wireless communications access, and per interconnected voice-over-internet-protocol service.
2. If approval is not obtained, the E-9-1-1 surcharge rate shall remain at \$1.00 per month per exchange access facility, per wireless communications access, and per interconnected voice-over-internet-protocol service.
3. The "First Amendment to Intergovernmental Agreement concerning the implementation of an E9-1-1 Emergency Telephone Service," attached as Exhibit A, is hereby approved and the Mayor or other authorized representative of the Town of Poncha Springs is authorized to execute such First Amendment.
4. This Resolution shall not be effective until all other governmental entities, or their successors, which executed the 2006 IGA, have adopted a resolution or ordinance that similarly amends such 2006 IGA.

ADOPTED AND UNANIMOUSLY APPROVED as of this 8th day of , **February 2010**.

TOWN OF PONCHA SPRINGS

By: /s/ _____
Mark F. Thonhoff, Mayor

ATTEST:

/s/ _____
Diana K. Heeney
Clerk/Treasurer

EXHIBIT A

FIRST AMENDMENT TO 2006 INTERGOVERNMENTAL AGREEMENT CONCERNING THE IMPLEMENTATION OF AN “E9-1-1” “EMERGENCY TELEPHONE SERVICE”

This First Amendment (“**Amendment**”) is made as of December 16, 2009 and is by and among the following parties: The Board of County Commissioners of the County of Chaffee (the “**County**”), the Town of Poncha Springs (“**Poncha Springs**”), the City of Salida (“**Salida**”); the Town of Buena Vista (“**Buena Vista**”); the Chaffee County Fire Protection District, the South Arkansas Fire Protection District/Salida Fire Department, and the Salida Hospital District.

BACKGROUND

A. The parties to this Amendment are parties to the Intergovernmental Agreement Concerning the Implementation of an “E9-1-1” “Emergency Telephone Service”, dated August 15, 2006 (the “**Agreement**”).

B. The parties have determined it is reasonable and desirable to amend the Agreement as set forth below.

AMENDMENT

1. **Section I. DEFINITIONS.** The term, “*tariff rates*” is changed to “*rates.*”

2. **Section V. POWERS OF THE CORPORATION.**

a. The term, “*CORPORATION*” in the heading of Section V is changed to “*AUTHORITY.*”

b. To increase efficiency, a specific reference to the dollar amount of the emergency telephone charge should be deleted. Accordingly, the second sentence of Paragraph 1 is amended to read: “*The Authority is hereby authorized to approve and collect an emergency telephone charge (“9-1-1 Rate”) as provided by Section 29-11-103(1), C.R.S., in excess of the charge provided by Section 29-11-102(2)(a), C.R.S., subject to approval by the Colorado Public Utilities Commission and approval by the governing body of each party to this Agreement. A governing body of a party to this Agreement shall be deemed to have approved of a change in the 9-1-1 Rate if such governing body fails to notify the Authority of any objection to such change within thirty (30) days from the date of approval by the Authority of the change.*”

c. If the Agreement is ever discontinued, the balance, if any, should be distributed only to those entities that made monetary contribution to the Authority. Accordingly, the last sentence of Paragraph 1 is amended to read: “*If this Agreement is ever discontinued by all parties hereto, any balance in the account shall be transferred to*

the general fund of the governmental entities of County, Salida, Poncha Springs, and Buena Vista (the "Entities") on a proportionate basis as to the contributions made by each respective Entity."

3. **Section VI. BASIS FOR CONTRIBUTION AND CHARGES TO BE IMPOSED BY THE AUTHORITY.** The first sentence of Paragraph 1 is amended to read: "*The parties hereto agree that the basis for contribution and charges to be imposed on "service users" shall be in accordance with the provisions governing the same in Sections 29-11-100.5, et seq., C.R.S.*"

4. **Section VII. BUDGET AND OPERATING COSTS.** Administrative costs (not to exceed \$5,000 annually), should be divided among the three governmental entities based on population rather than exchange access facilities. Accordingly, this Section is amended to state as follows:

Each year in which the Authority believes funds for administrative costs not paid by the emergency telephone charge are necessary, it shall prepare a budget and submit a budget request to the County by July 15 of each year that this Agreement is in effect. The County shall consider funding the budget request in the County's annual appropriation.

Should funding from the County not be forthcoming, or if any funding so provided shall be deemed insufficient by the Authority, the Authority shall divide the administrative costs among the Entities. These Entities shall be required to pay to the Authority, within ninety (90) days of notification, an equitable percentage of the total administrative costs, subject to appropriation and approval. Each Entity's percentage required to be paid for administrative costs shall be based upon the most recent population data available from the Department of Local Affairs ("DOLA")¹ for the following: unincorporated Chaffee County, Salida, Poncha Springs, and Buena Vista. The pro rata share of unincorporated Chaffee County shall be paid for by the County. The pro rata share required to be paid by the Entities taken together shall equal 100%. As of the date of this Amendment, the following pro rata shares for the Entities are based on the most recent population data available from DOLA, which is as of November 2008:

<i>Unincorporated Chaffee County</i>	<i>51.74%</i>
<i>Salida</i>	<i>31.12%</i>
<i>Poncha Springs</i>	<i>3.58%</i>
<i>Buena Vista</i>	<i>13.56%</i>

Population data shall be reviewed annually by the President of the Authority Board. Total administrative costs of the Authority may not exceed Five Thousand Dollars (\$5,000.00) per year, excluding costs for insurance and bonding.

The parties hereto recognize, acknowledge, and agree that Chaffee County Fire Protection District, South Arkansas Fire Protection District/Salida Fire Department, and

¹ See http://www.dola.colorado.gov/dlg/demog/pop_muni_estimates.html)

Salida Hospital District, while not required to pay for operating or administrative costs of the Authority, provide needed expertise to the Authority.

5. Section VIII. FUNDS AND OPERATIONS.

- a. In order to reflect that only the Entities that are parties to the Agreement contribute to the administrative costs of the Authority, references throughout this section to the “*parties hereto*” shall be changed to the “*Entities.*”

- b. The Authority occasionally borrows money, with approval from all of the parties to this Agreement. Accordingly, Paragraph 3 of this Section is amended to state, “*The Authority may approve the borrowing of money for operating and/or administrative costs and capital improvements as may be required in order for the Authority to administer the operation of the emergency telephone service program as set forth in this Agreement, subject to approval by the governing body of each party to this Agreement. A governing body of a party to this Agreement shall be deemed to have approved such borrowing of money if such governing body fails to notify the Authority of any objection to such borrowing within thirty (30) days from the date of approval by the Authority of the borrowing.*”

6. Section XI. TERMINATION OF AGREEMENT. The Section number is repetitive. Accordingly, the Section is renumbered as “*Section XII.*”

7. Section XII. AMENDMENT. The Section number is corrected to read “*Section XIII.*”

8. Section XIII. LIABILITY OF BOARD OF DIRECTORS, OFFICERS AND EMPLOYEES. The Section number is corrected to read “*Section XIV.*”

9. Section XIV. SEVERABILITY CLAUSE. The Section number is corrected to read “*Section XV.*”

10. Except as set out in this Amendment, the terms and conditions of the Agreement remain in full force and effect and all defined terms in the Agreement will have the same meaning in this Amendment. Where terms of this Amendment and the Agreement conflict, this Amendment will control.

11. This Amendment may be executed in two or more counterparts which together shall constitute one instrument.

The parties to this Amendment have caused their respective names to be affixed below, as of the date stated above.

BOARD OF COUNTY COMMISSIONERS
OF CHAFFEE COUNTY, COLORADO

By _____
Chairman

TOWN OF PONCHA SPRINGS

By _____

CITY OF SALIDA

By _____

TOWN OF BUENA VISTA

By _____

SOUTH ARKANSAS FIRE
PROTECTION DISTRICT/SALIDA FIRE
DEPARTMENT

By _____

SALIDA HOSPITAL DISTRICT

By _____

CHAFFEE COUNTY FIRE
PROTECTION DISTRICT

By _____