

RESOLUTION 2017-053
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT
WITH LARIMER COUNTY FOR JAIL SERVICES

WHEREAS, in 2009 the City of Fort Collins and the City of Loveland entered into a new agreement with Larimer County whereby the County agreed to provide municipal jail services to both cities at a rate of \$50 per offender per day, plus a separate fee for video arraignments (the "2009 IGA"); and

WHEREAS, the 2009 IGA allows the County Sheriff to release municipal offenders if the Larimer County Jail ("Jail") is at capacity; and

WHEREAS, the 2009 IGA can be terminated by any party on 60 days' notice to the other parties; and

WHEREAS, since 2009 the Jail has had issues with overcrowding, and municipal defendants who are picked up on outstanding warrants or who report to the Jail to serve sentences for Municipal Court violations are frequently just booked and released again; and

WHEREAS, in 2016 the Jail expressed an interest in negotiating new, separate agreements with both Fort Collins and Loveland for jail services, in part to increase the rate charged per day for municipal offenders; and

WHEREAS, because of the problems Fort Collins has experienced with municipal offenders rarely being held by the Jail long enough to be brought to court or to serve their sentences, the Jail also offered Fort Collins the option of having three bed spaces that would be reserved for Fort Collins, meaning municipal offenders, whether being held as short-term, pre-trial detainees, or serving a municipal sentence, would not be released simply due to capacity issues at the Jail; and

WHEREAS, the Municipal Court would decide which defendants would be held in reserved spaces, and other municipal offenders would continue to be held at the jail on a space-available basis; and

WHEREAS, over the last six months City staff and Jail staff have negotiated a new agreement, a draft of which is attached and incorporated herein as Exhibit "A" (the "2017 IGA"); and

WHEREAS, under the 2017 IGA the City would pay a daily cost for each City offender housed at the jail, whether in a reserved bed space or not, based on the Jail's actual per inmate cost as of two years prior; and

WHEREAS, for the remainder of 2017 the County has agreed to a discounted rate of \$90 per full day, with this rate increasing to \$118 per day on January 1, 2018, and no additional charge for video arraignments; and

WHEREAS, upon execution of the 2017 IGA the City would pay for the three reserved beds spaces for the remainder of 2017, which, prorated for the remainder of the year and at the discounted rate, would total approximately \$58,000; and

WHEREAS, the Financial Officer has determined that there are funds appropriated in the General Fund and available to pay these costs for 2017; and

WHEREAS, the City Council is being asked to consider by separate ordinance an appropriation from prior year reserves in the General Fund to backfill appropriated funds used to pay for jail services in 2017; and

WHEREAS, in January the City would pay the fee for the three reserved bed spaces for 2018, which will be \$129,210; and

WHEREAS, most of the remaining terms and conditions in the 2017 IGA are the same or very similar to the terms and conditions of the 2009 IGA including the services the Jail will provide and the ability to terminate the agreement on 60 days' notice; and

WHEREAS, Article II, Section 16 of the City Charter of Fort Collins empowers the City Council, by ordinance or resolution, to enter into contracts with governmental bodies to furnish governmental services and make charges for such services, or enter into cooperative or joint activities with other governmental bodies; and

WHEREAS, under Section 1-22 of the City Code, intergovernmental agreements and other cooperative arrangements between the City and other governmental entities are to be submitted to the City Council for review, unless they fit within one of the exceptions that permit execution by the City Manager; and

WHEREAS, Section 29-1-203 of the Colorado Revised Statutes provides that governments may cooperate or contract with one another to provide certain services or facilities when such cooperation or contracts are authorized by each party thereto with the approval of its legislative body or other authority having the power to so approve; and

WHEREAS, the Council finds it is in the best interests of the City to furnish a jail facility for municipal offenders by contracting for such services with the Larimer County Jail.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

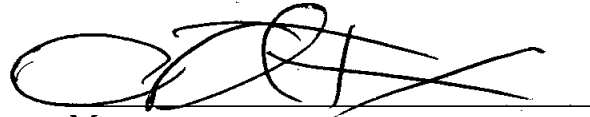
Section 1. That the City Council hereby makes any and all determinations and findings contained in the recitals set forth above.

Section 2. That the City Manager is hereby authorized to execute the Agreement for Jail Services in substantially the form attached hereto as Exhibit "A," with such modifications and additions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City or effectuate the purposes set forth

herein and not otherwise inconsistent with this Resolution.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 6th day of June, A.D. 2017.




Mayor

ATTEST:


City Clerk

AGREEMENT FOR JAIL SERVICES

THIS AGREEMENT is made this ____ day of _____, 2017 (“Effective Date”), by and between the City of Fort Collins, Colorado (“City”), and the County of Larimer, a political subdivision of the State of Colorado (“County”).

WHEREAS, the City currently contracts with the County for the use of jail facilities at the Larimer County Jail (the “Jail”) and the services of the Larimer County Sheriff (the “Sheriff”) pursuant to an Agreement for Jail Services between the City, County and the City of Loveland dated December 8, 2009 (the “2009 IGA”); and

WHEREAS, the joint use of the Jail provides increased efficiency for the City; and

WHEREAS, in accordance with Section 31-15-401 (1)(k), C.R.S., the City may, with the agreement of the Larimer County Commissioners, use the Jail for the incarceration of its Municipal Pretrial Offenders or Municipal Sentenced Offenders; and

WHEREAS, in accordance with Section 29-1-203, C.R.S., political subdivisions may cooperate or contract with one another to provide any function, service or facility lawfully authorized to each of the corporations or contracting entities; and

WHEREAS, in order to set forth clearly the responsibilities, obligations, powers and rights of the parties, the City and the County hereby enter into this Agreement; and

WHEREAS, this Agreement replaces any previous Agreements between the City and County for use of the Jail for Municipal Pretrial Offenders or Municipal Sentenced Offenders, including the 2009 IGA.

NOW, THEREFORE, for and in consideration of the mutual covenants, conditions, and promises contained herein, the parties hereto agree as follows:

1. DEFINITIONS

- A. “Municipal Court” shall mean the City’s duly designated judicial entity.
- B. “Municipal Court Clerk” shall mean the City’s Court Administrator and her staff.
- C. “Municipal Pretrial Offender(s)” shall mean persons placed in custody with the Sheriff to be held short term as pretrial detainee pursuant to this Agreement. A person held concurrently with another county or district court, probation, parole, or any federal or other state court charge, warrant, hold or detainer shall not be considered a Municipal Pretrial Offender for purposes of this Agreement.
- D. “Municipal Sentenced Offender(s)” shall mean persons placed in custody with the Sheriff sentenced to a term of incarceration by the Municipal Court pursuant to this Agreement. A person held concurrently with another county or district court, probation, parole, or any federal or other state court charge, warrant, hold or detainer shall not be considered a Municipal Sentenced Offender for purposes of this Agreement.

- E. "Reserved Bed Space" shall mean a fixed number of beds reserved for the City's use for Municipal Sentenced Offenders at the Jail. Available reserved bed space is determined annually and outlined in **Schedule C** attached to and made part of this Agreement.
- F. "Extraordinary Health Care" shall mean prescription medication for serious, chronic, infectious and/or uncommon illnesses such as diabetes and hepatitis; respiratory care including requirements for oxygen; rehabilitation therapy and equipment; care requiring a general or spinal anesthetic; care requiring the services of a surgeon and attending nursing care; X-rays incident to continuing off-site care; dental surgery excluding the repair of cavities, on-site tooth extraction or routine dental procedures; ambulance or Air Life transportation. Included are extraordinary health care expenses for prescribed prosthetics, hearing aids, prescribed eyeglasses, dentures or costs for any cosmetic, dental or elective medical procedure or treatment.

2. CONDITIONS FOR ACCEPTANCE OF MUNICIPAL PRETRIAL OFFENDERS OR MUNICIPAL SENTENCED OFFENDERS

The following conditions must be met before a Municipal Pretrial Offender or Municipal Sentenced Offender will be accepted for commitment or placement at the Jail:

- A. The Municipal Pretrial Offender or Municipal Sentenced Offender must be an adult, eighteen (18) years-of-age or older.
- B. The Municipal Pretrial Offender or Municipal Sentenced Offender must be medically cleared for incarceration as determined solely by the Jail health care provider and must not have a serious medical and/or mental health condition, and the Municipal Pretrial Offender or Municipal Sentenced Offender must not be under a 72 hour emergency mental health hold as set forth in Section 27-65-105, C.R.S.
- C. Pre-booking documentation required by the Jail is complete, which shall include, but is not limited to, the written exact description of the municipal ordinance violation; OR the written exact description of the original municipal ordinance when the booking results from a municipal arrest warrant for failure to appear, comply, or complete conditions; OR the municipal mittimus, jail order or warrant.
- D. One of the following forms of documentation for the municipal ordinance violation must either accompany the Municipal Pretrial Offender or Municipal Sentenced Offender OR have been provided to the Sheriff prior to the Municipal Pretrial Offender or Municipal Sentenced Offender being booked into the Jail:
 - I. Jail Order or Mittimus

A Jail order or mittimus shall be accepted only if the commitment is for consecutive days, with the consecutive days not consisting of weekend days only or with days of liberty interspersed with days of detention.

II. Arrest or Bench Warrant

Notice of the municipal arrest or bench warrant service shall be made to the Municipal Court Clerk by a mutually accepted method, no later than the following working day. The municipal law enforcement agency listed as the warrant originating agency on the Colorado Bureau of Investigation's Colorado Crime Information Center (CCIC) computer system will be notified that the Municipal Pretrial or Municipal Sentenced Offender has been located when the warrant is confirmed. The Jail shall not be responsible for notice to the City, Municipal Court, or Municipal Court Clerk other than by the means described in this Agreement.

3. DESCRIPTION OF SERVICES

- A. The Municipal Court shall designate and advise the Sheriff on which Municipal Sentenced Offenders are to be held in a Reserved Bed Space. All other Municipal Sentenced Offenders shall be held on a space-available basis.
- B. In accordance with the terms of this Agreement, it shall be the responsibility of the Sheriff to receive and safely keep every Municipal Pretrial Offenders or Municipal Sentenced Offenders duly committed or placed in the Jail for safekeeping, examination, or trial or duly sentenced to imprisonment in the Jail upon conviction for any contempt, or misconduct, or for any violation of municipal ordinances. The Sheriff shall provide Municipal Pretrial Offenders or Municipal Sentenced Offenders with the same services as any other inmate housed at the jail, and shall not release said Municipal Pretrial or Sentenced Offender from the Jail, on bail or otherwise, except by lawful authority and/or pursuant to the provisions of this Agreement.
- C. The Sheriff shall accurately prepare for and accept bonds and related cash or surety documents, set court appearances in accordance with Municipal Court schedules, complete jail orders, and complete or prepare other Municipal Court documents required to accept and release Municipal Pretrial Offenders or Municipal Sentenced Offenders into and from the Jail. The Sheriff shall make said documents available to the Municipal Court Clerk by faxing or emailing said documents to the Municipal Court Clerk.
- D. It shall be the responsibility of the Sheriff to determine a Municipal Sentenced Offender's eligibility and conditions for furlough consistent with sentenced County inmates. The Sheriff shall notify the Municipal Court of any Municipal

Sentenced Offender's furlough.

- E. The City shall provide an annual Municipal Court appearance schedule to the Sheriff or acceptable appearance dates and times are indicated on the warrant forms.

4. TERM AND TERMINATION

The term of this Agreement will be from the Effective Date until December 31, 2018. However, this Agreement may be terminated by either party, with or without cause, by sixty (60) days written notice from such party delivered to the other party in accordance with Section 11 "Notices". Upon such notice of termination from either party the City shall, within sixty (60) days after delivery of said notice, retake physical custody of Municipal Pretrial Offenders or Municipal Sentenced Offenders in the Sheriff's custody pursuant to this Agreement. On the sixty first (61st) day after delivery of said notice any Municipal Pretrial Offenders or Municipal Sentenced Offenders who remain in custody at the Jail shall be released. Upon termination, the City shall be entitled to a refund of a pro-rated portion of the amount paid to the County for services under this Agreement.

5. EMERGENCY RELEASE

The Sheriff shall have the authority to release Municipal Pretrial Offenders or Municipal Sentenced Offenders on an emergency basis when the Sheriff deems such release necessary due to exigent circumstances. The Sheriff shall notify the Municipal Court of the Municipal Pretrial Offender's or Municipal Sentenced Offender's name, date and time released, and the basis for release. Such notification shall be made via email, facsimile or other mutually accepted alternative within the next business day.

It is in the Sheriff's sole discretion to determine those exigent circumstances which necessitate such emergency release. The Jail may, without prior approval from the Municipal Court, release any Municipal Sentenced Offender who, in the Sheriff's discretion, requires extraordinary health care. Municipal Pretrial Offenders may be released on personal recognizance bonds as authorized by orders issued by the Municipal Court.

Exigent circumstances may also include inmate overcrowding of the Jail above the population cap, currently set at 493 prisoners (80% of capacity); however, Municipal Sentenced Offenders being held in Reserved Bed Spaces may not be released solely based on overcrowding.

6. AGREEMENT MONITOR

In order to administer this Contract effectively, the City shall designate an Agreement Monitor. Until further notice is received, the City's Agreement Monitor shall be the individual named in **Schedule A**, attached hereto and incorporated herein by reference. Any change in the Agreement Monitor shall be effective upon ten days advance written notice to the County's and Sheriff's Contact Person.

7. COUNTY'S CONTACT PERSON

The Sheriff or designee shall act as the Sheriff's and the County's Contact Person for purposes of this Agreement. Until further notice is received, the Sheriff's designee shall be the individual named in **Schedule A** attached hereto and incorporated herein by reference. Any change in the Sheriff's or the County's Contact Person shall be effective upon ten days advance written notice to the City's Agreement Monitor.

8. COST AND REIMBURSEMENT

- A. The daily cost of housing Municipal Pretrial Offenders shall be based on actual cost for housing inmates (the "Daily Rate"). **Schedule B** outlines the current Daily Rate. All parties acknowledge and agree that when the County is asked to receive and book any Municipal Pretrial Offender and holds said Municipal Pretrial Offender for less than 12 hours the rate shall be figured at fifty (50) percent of the Daily Rate as outlined in **Schedule B**. The full Daily Rate will be charged for each Municipal Pretrial Offender that is held for more than 12 hours. The cost of video arraignment is included in the Daily Rate for all Municipal Pretrial Offenders.
- B. The City shall be billed quarterly by the County for costs related to Municipal Pretrial Offenders. Such invoices shall contain itemized listings of Municipal Pretrial Offenders, with dates and times of arrest and release, and warrant or summons numbers. Payment shall be made by the City within 30 days of the receipt of County's Invoice.
- C. The City will pay the County at the beginning of each year for the Reserved Bed Spaces (prorated in 2017 from the Effective Date.) **Schedule C** outlines the rates.
- D. No less than ninety (90) days before the end of each calendar year the County shall notify the City in writing of the proposed calculated Daily Rate for the following year, and provide an updated **Schedule B** and **Schedule C** that will take effect on January 1 of the following year. If the parties are unable to reach agreement on the updated Daily Rate forty-five (45) days prior to the end of the then-current annual term, either party may terminate this Agreement effective as of the end of that year.
- E. The costs of providing Municipal Pretrial Offenders or Municipal Sentenced Offenders routine, on-site medical psychological/psychiatric, dental and medication services, customarily provided to persons sentenced to confinement in the Jail, shall be considered usual costs incident to the operation of the Jail. Municipal Pretrial Offenders or Municipal Sentenced Offenders receive treatment regardless of a Municipal Pretrial Offender's or Municipal Sentenced Offender's ability to pay for such services. However, the costs of any off-site services provided to Municipal Pretrial Offenders or Municipal Sentenced Offenders prior to their release shall be the responsibility of the Municipal Pretrial Offenders or Municipal Sentenced Offenders if services are required due to a pre-existing or self-inflicted condition, per Section 17-26-104.5, Colorado Revised Statutes. These usual costs include regularly scheduled sick call,

nursing coverage, regular on-site physical visits, routine X-rays for diagnostic purposes which may lead to off-site care, and the dispensing and the cost of common prescription medications for routine and minor illnesses.

9. TRANSPORTATION

Transportation of persons in custody for violation of a municipal ordinance shall be the sole responsibility of the City.

10. RESPONSIBILITY FOR LEGAL PROCEEDINGS

The City shall be responsible for defending itself and its officers and employees in any civil action brought against the city and its officers and employees by any Municipal Pretrial Offenders or Municipal Sentenced Offenders in the physical custody of the Sheriff. Likewise, the County shall be responsible for defending itself and its officers and employees in any civil action brought against the Sheriff and its officers and employees by any Municipal Pretrial Offenders or Municipal Sentenced Offenders in the physical custody of the Sheriff. Neither the City nor its officers or employees shall be deemed to assume any liability for intentional or negligent acts, errors or omissions of the County or the Sheriff, or any officer or employee thereof, arising out of the housing of any Municipal Pretrial Offenders or Municipal Sentenced Offenders pursuant to this Agreement. Likewise, neither the County or the Sheriff nor its officers or employees shall be deemed to assume any liability for intentional or negligent acts, errors or omissions of the City, or of its officers or employees, arising out of the housing of any Municipal Pretrial Offenders or Municipal Sentenced Offenders pursuant to this Agreement.

11. NOTICES

Unless otherwise specified elsewhere in the Agreement, any notice provided for in this Agreement shall be in writing and shall be served by personal delivery, by mail, postage prepaid, or other mutually accepted alternative at the addresses listed in **Schedule A**, until such time as written notice of a change is received from the other party. Any notice so mailed and any notice served by personal delivery or other mutually accepted alternative shall be deemed delivered and effective upon receipt or upon attempted delivery. Nothing in this section prohibits alternative methods of notification in emergency situations necessitating immediate notification to the Agreement Monitor or the Sheriff's or County's Contact Person.

12. NO THIRD-PARTY BENEFICIARY ENFORCEMENT

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City, County and the Sheriff, and nothing contained in this Agreement shall give or allow any claim or right of action whatsoever to any other person or entity.

13. MODIFICATION AND BREACH

No modification, amendment, renewal or other alteration of or to this Agreement and the attached schedules shall be deemed valid or of any force or effect whatsoever, unless mutually agreed upon in writing by the parties. No breach of any term, provision or clause of this

Agreement and the attached schedules shall be deemed waived or excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

14. SEVERABILITY

If any term or condition of this Agreement shall be held to be invalid, illegal or unenforceable, this Agreement shall be construed and enforced without such a provision, to the extent this Agreement is then capable of execution within the original intent of the parties.

15. GOVERNMENTAL IMMUNITY

Each party to this Agreement is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities or protections provided by §§24-10-101 et seq., C.R.S., as from time to time amended or by any other law, or otherwise available to each of the parties, and their respective officers or employees.

16. APPROPRIATIONS

All financial obligations of the parties to this Agreement are subject to budgeting and appropriation of such funds by the governing body of each party each year. This Agreement shall not be construed to create a multiple fiscal year debt or other financial obligation.

17. COUNTERPART SIGNATURES

The parties agree that counterpart signatures of this Agreement shall be acceptable and that execution of the Agreement in the same form by each and every party shall be deemed to constitute full and final execution of the Agreement.

18. PREVIOUS AGREEMENTS

This Agreement and the attached schedules contain the entire Agreement and understanding between the parties and shall supersede any other Agreements concerning the subject matter of this transaction, whether oral or written, including the 2009 IGA.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by each party's duly authorized representatives as set forth below.

Signed the _____ day of _____, 20____

BOARD OF COUNTY COMMISSIONERS
OF LARIMER COUNTY, COLORADO

By: _____
Chairman

ATTEST:

LARIMER COUNTY SHERIFF

By: _____
Justin Smith, Sheriff

APPROVED AS TO FORM:

Assistant County Attorney

Signed the _____ day of _____, 20__

CITY OF _____, COLORADO

By: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

Assistant City Attorney

**AGREEMENT FOR JAIL SERVICES
SCHEDULE A**

Until further notice is received, the City's Agreement Monitor shall be:

For City:
Patty Netherton, Court Administrator
Fort Collins Municipal Court
P.O. Box 580
Fort Collins, CO 80522 Telephone: 970-221-6801
Facsimile: 970-416-2162

Until further notice is received, the County and Sheriff's Contact Person shall be The Sheriff's designee below:

Staci Shaffer, Lieutenant
Larimer County Sheriff's Office 2405 Midpoint Drive
Fort Collins, CO 80525 Telephone: 970-407-9034
shaffesl@co.larimer.co.us

Any notice to the City provided for in the Agreement shall be sent to:

City of Fort Collins:
Judge Kathleen Lane
Fort Collins Municipal Court
P.O. Box 580
Fort Collins, CO 80522 Telephone: 970-221-6801
Facsimile: 970-416-2162

With copies to:

Court Administrator
Fort Collins Municipal Court
P.O. Box 580
Fort Collins, CO 80522
Telephone: 970-221-6801
Facsimile: 970-416-2162

City Attorney's Office
P.O. Box 580
Fort Collins, CO 80522 Telephone: 970-221-6520
Facsimile: 970-221-6327

Any notice to the County or to the Sheriff provided for in this Agreement shall be sent to:

Captain Timothy B. Palmer
Larimer County Sheriff's Office
2405 Midpoint Drive Fort Collins, CO 80525
Telephone: 970-498-5201

**AGREEMENT FOR JAIL SERVICES
SCHEDULE B**

MUNICIPAL PRETRIAL OFFENDER(S) DAILY RATE

Year	2017
Year of Most Recent Cost Per Day Per Inmate Calculation	2015
Total Jail Beds Available at Eighty (80) Percent Capacity	493
Cost Per Day Per Inmate (2017 Daily Rate)	\$118.00
Cost for Municipal Offender Full Day (2017 Discount)	\$90.00
Cost for Municipal Offender Half Day (2017 Discount)	\$45.00

All parties acknowledge and agree that due to budgetary constraints for the City the costs listed above for Municipal Offenders represent a discount for the 2017 calendar year. All parties acknowledge and agree that starting on January 1, 2018 the cost shall be adjusted to the Daily Rate and may no longer be discounted.

**AGREEMENT FOR JAIL SERVICES
SCHEDULE C**

MUNICIPAL SENTENCED OFFENDER(S) ANNUAL RATE

Year	2017
Number of Reserved Bed Spaces	3
Cost Per Day Per Inmate Per Bed	\$90.00
Total Estimated Annual Cost	\$98,550.00 (to be prorated based on actual Effective Date)

The parties agree that due to budgetary constraints for the City the cost listed above represents a twenty-four (24) percent discount for the 2017 calendar year off the Cost Per Day Per Inmate stated in Schedule B. The parties acknowledge and agree that starting on January 1, 2018 the daily reserved bed rate will no longer be discounted.