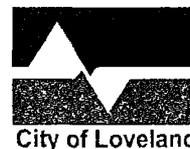


MEETING DATE: 4/18/2017
TO: City Council
FROM: Municipal Court
PRESENTER: Judge Geri Joneson

**TITLE:**

A Resolution Approving an Intergovernmental Agreement among the City of Loveland, the City of Greeley, and the City of Fort Collins for Sharing of Judicial Services.

RECOMMENDED CITY COUNCIL ACTION:

Adopt the resolution to approve the Intergovernmental Agreement (IGA)

OPTIONS:

1. Adopt the action as recommended. This will allow the sharing of judicial services.
2. Deny the action.
3. Adopt a modified action. Specify what would be modified in the motion.

SUMMARY:

The Cities of Loveland, Fort Collins and Greeley have been sharing judicial resources since 1994. There is an IGA approved by resolution, adopted March 15, 1994, that authorizes the sharing of judicial services. The current IGA is intended to update the 1994 Agreement and to establish the terms and conditions under which the exchange of services should occur. There is no change in employment status or compensation for the judges. The purpose is to allow for those situations where an appointed municipal judge is not available due to a conflict of interest, illness or other reason and the deputy judge is also not available.

BUDGET IMPACT:

- Positive
 Negative
 Neutral or negligible

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

Resolution with Exhibit A, Intergovernmental Agreement

RESOLUTION #R-35-2017

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT AMONG
THE CITY OF LOVELAND, CITY OF GREELEY, AND FORT COLLINS FOR
SHARING OF JUDICIAL SERVICES**

WHEREAS, the Municipal Court of Loveland is presided over by a Municipal Judge employed by the City of Loveland, and the City of Greeley and the City of Fort Collins have a Municipal Judge appointed and employed by each respective City; and

WHEREAS, governmental entities may cooperate and enter into agreements or contract with one another to provide any function, service, or facility lawfully authorized to each of the cooperating units of government pursuant to C.R.S. § 29-1-203; and

WHEREAS, on occasion, a Municipal Judge may be prevented from sitting on the bench or presiding over a case by reason a personal conflict of interest, vacation, illness or other reason, and the Assistant Municipal Judge may also be unavailable; and

WHEREAS, in order to provide cost-effective and efficient special judicial services to temporarily replace the services of the Municipal Judge in the event of a conflict of interest or other circumstance, the Municipalities desire to cooperatively exchange the services of their Municipal Judge with each other; and

WHEREAS, Section 9-2 of the Charter authorizes the Council to appoint by the affirmative vote of two-thirds of the entire Council deputy municipal judges; and

WHEREAS, Council desires to approve an intergovernmental agreement for the exchange of judicial services among the City of Loveland, the City of Greeley and the City of Fort Collins; and

WHEREAS, Council desires to appoint Judge Lane, Municipal Judge for the City of Fort Collins, and Judge Nieto, Municipal Judge for the City of Greeley, as deputy municipal judges for the City of Loveland.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO, THAT:

Section 1. The “Intergovernmental Agreement Between The City Of Loveland, City of Greeley, and City of Fort Collins and Larimer County for Judicial and Administrative Services” attached hereto as Exhibit A and incorporated herein by reference (“Intergovernmental Agreement”) is hereby approved.

Section 2. The Mayor is hereby authorized and directed to execute the Intergovernmental Agreement, in consultation with the City Attorney, and subject to any

modifications in form or substance as deemed necessary to effectuate the purposes of this Resolution or to protect the interests of the City.

Section 3. Judge Lane and Judge Nieto are hereby appointed as deputy municipal judges serving pursuant to the Intergovernmental Agreement herewith approved.

Section 4. This Resolution shall be effective as of the date of its adoption.

ADOPTED this 18th day of April, 2017.

Cecil A. Gutierrez, Mayor

ATTEST:

Acting City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

Exhibit A to Resolution #R-35-2017

**INTERGOVERNMENTAL AGREEMENT
FOR JUDICIAL AND ADMINISTRATIVE SERVICES**

THIS AGREEMENT is made and entered into as of _____, 2017, by and between THE CITY OF FORT COLLINS, COLORADO ("Fort Collins"), THE CITY OF LOVELAND, COLORADO ("Loveland") and THE CITY OF GREELEY, COLORADO ("Greeley") and each and all also will be collectively referred to as the "Municipality" or the "Municipalities."

WITNESSETH:

WHEREAS, pursuant to Section 29-1-203, C.R.S., governments may cooperate or contract with one another to provide any function, service or facility lawfully authorized to each of the cooperating or contracting units of government; and

WHEREAS, the Municipal Courts of Cities and Towns are generally held and presided over by Municipal Judges employed by the Municipalities; and

WHEREAS, on occasion, the Municipal Judges may be prevented from sitting on the bench or presiding over a case by reason of personal conflict of interest, vacation, illness or other reason, and in some cases the Assistant Municipal Judge (also known as the temporary judge) may also be unavailable; and

WHEREAS, in order to provide cost-effective and efficient special judicial services to temporarily replace the services of the Municipal Judge in the event of a conflict of interest or other circumstance, the Municipalities desire to cooperatively exchange the services of their Municipal Judge with each other; and

WHEREAS, Section 1 of Article VII of the Fort Collins City Charter sets forth the requirements for the appointment of the Municipal Judge and temporary judge, including that the temporary judge be a reputable and qualified attorney; and

WHEREAS, Section 9-2 of the City of Loveland Charter sets forth the requirements for appointment of the Municipal Judge and deputy municipal judges, including that such judges shall be an attorney at law admitted to practice in Colorado; and

WHEREAS, Section 7-1 of the Charter of the City of Greeley sets forth the requirements for appointment of the Judge or Judges of the Municipal Court and states that in the Judge or Judges' absence the Council shall designate an attorney to serve as Judge; and

WHEREAS, the City Councils of all three Municipalities have the authority to designate an attorney to serve as a deputy or temporary judge; and

WHEREAS, by Resolution 2017-___ the Fort Collins City Council recognized that the Loveland Municipal Judge, the Honorable Geri Joneson, and the Greeley Municipal Judge, the Honorable Brandi Nieto are reputable and qualified attorneys; and

WHEREAS, by _____, the Loveland City Council recognized that the Fort Collins Municipal Judge, the Honorable Kathleen M. Lane, and the Greeley Municipal Judge are attorneys at law licensed to practice in Colorado; and

WHEREAS, by Resolution 2017- , the Greeley City Council recognized the Fort Collins Municipal Judge and the Loveland Municipal Judge as attorneys qualified to serve as assistant judges in accordance with Section 2.08.050 of the Greeley Municipal Code; and

WHEREAS, the Fort Collins City Council authorized the Mayor of Fort Collins to execute an intergovernmental agreement between Fort Collins, Loveland and Greeley for the purpose of appointing Judge Joneson and Judge Nieto as temporary judges, through December 31, 2018, with such language in an intergovernmental agreement as the Municipalities determine is appropriate to provide for the exchange of judicial services when needed; and

WHEREAS, the Loveland City Council has authorized the Mayor of Loveland to execute an intergovernmental agreement between Fort Collins, Loveland and Greeley, for the purpose of appointing Judge Lane and Judge Nieto as deputy judges through December 31, 2018, with such language in an intergovernmental agreement as the Municipalities determine is appropriate to provide for the exchange of judicial services when needed; and

WHEREAS, the Greeley City Council has authorized the Mayor of Greeley to execute an intergovernmental agreement between Fort Collins, Loveland and Greeley, for the purpose of appointing Judge Joneson and Judge Lane to serve as assistant judges through December 31, 2018, with such language in an intergovernmental agreement as the Municipalities determine is appropriate to provide for the exchange of judicial services when needed; and

WHEREAS, the Municipalities' City Councils have determined it would be in the best interests of their respective Municipalities to enter into an Intergovernmental Agreement to authorize the exchange of such judicial services under appropriate circumstances and to establish the terms and conditions upon which such exchange of services should occur.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Exchange of Judicial Services. If the presiding Municipal Judge of Fort Collins, Loveland or Greeley, in her discretion, determines that a conflict of interest exists, or that any assistant or backup judges are unavailable to perform the normal duties of her position, the lead presiding Municipal Judge ("the Requesting Municipal Judge") shall determine whether it would

be appropriate to exchange judicial services under this Agreement. In making such determination, the Requesting Municipal Judge shall consider the unique circumstances which give rise to the need for a secondary assistant or backup Municipal Judge as well as any other factors which the Requesting Municipal Judge may consider to be relevant. If the City Council or the Municipal Judge for a Municipality determines that an exchange of judicial services would be appropriate under this Agreement, the Requesting Municipal Judge shall notify the Municipal Judge for either of the other Municipalities. ("the Responding Municipal Judge") and request that she provide such services.

Upon receipt of such request, the Responding Municipal Judge shall determine whether such services may be provided without unduly interfering with the Responding Municipality's ability to perform the normal duties of its own court. The Responding Municipal Judge shall notify the Requesting Municipal Judge within three (3) working days as to whether the request for judicial services can be accommodated. If so, the Responding Municipal Judge will provide such services. If no response is received from the Responding Municipal Judge within three (3) working days, the request shall be deemed denied.

2. Reimbursement of Costs. The party for whom judicial services are rendered under this Agreement ("the Requesting Municipality") shall provide a replacement judge for judicial services for the other party ("the Responding Municipality") if requested by the Responding Municipality, and shall reimburse the Responding Municipality for all out-of-pocket expenses incurred in rendering the requested judicial services. Such expenses shall include, without limitation, cost of reproducing documents, mileage, and long distance telephone calls, and shall exclude any reimbursement for compensation paid by the Responding Municipality to its Municipal Judge, its Temporary or Assistant or Deputy Judge, or to its support staff. Payment of such expenses shall be made within thirty (30) days of the date of receipt of any billing therefor. The Requesting Municipality shall endeavor to limit the costs to the Responding Municipality by providing staff support as needed, copies of documents and the use of equipment such as telephones or computers.

3. Employment Status. Throughout the delivery of the requested secondary judicial services, the Responding Municipal Judge and/or her personnel shall discharge the responsibilities of the Requesting Municipality in accordance with the Requesting Municipality's Charter and Code and other laws applicable to Requesting Municipality but shall continue to be employed solely by the Responding Municipality, and the delivery of such judicial services for the Requesting Municipality by the Responding Municipal Judge and/or her personnel shall be considered to be within the scope of the performance of the Responding Municipal Judge's duties for and employment by the Responding Municipality.

4. Workers' Compensation Insurance and Other Benefits. If the Responding Municipal Judge or other personnel of the Responding Municipality is injured, disabled or dies while providing services to the Requesting Municipality under this Agreement, said individual

shall remain covered by, and eligible for, the workers compensation and other benefits to which said individual would otherwise be entitled if the injury, disability or death had occurred while acting solely as an employee of the Responding Municipality and not providing services to the Requesting Municipality under this Agreement. Nothing herein shall be deemed to create an employment relationship between the Requesting Municipality and the Responding Municipal Judge.

5. Governing Law. This Agreement shall be governed by and enforced in accordance with the laws of the State of Colorado. In addition, the Municipalities acknowledge that there are legal constraints imposed upon them by the constitutions, statutes, rules and regulations of the State of Colorado and of the United States, and by their respective charters and codes and that, subject to such constraints, the Municipalities intend to carry out the terms and conditions of this Agreement. Whenever possible, each provision of this Agreement shall be interpreted in such a manner so as to be effective and valid under applicable law. Venue for any judicial proceeding concerning this Agreement shall only be in the District Court for Larimer or Weld County, Colorado.

6. Liability and Governmental Immunity. Each party is responsible for its own negligence and that of its officers, employees and agents. However, the parties agree that all liabilities, claims and demands shall be subject to any notice requirements, defenses, immunities or limitations to liability under the Colorado Governmental Immunity Act (Section 24-10-101, C.R.S., et seq.) and to any other defenses, immunities or limitations to liability available to the Requesting Municipality under state and federal law.

7. Obligations Subject to Appropriation. The financial obligations of the parties under this Agreement in subsequent fiscal years are subject to the appropriation of funds sufficient and intended for such purposes by each party's City Council in its discretion.

8. Term. The term of this Agreement shall continue through December 31, 2018. Any party may withdraw from this Agreement at any time by giving written notice of termination to the each of the other parties not less than thirty (30) days prior to the date of withdrawal.

9. Prior Agreement. This Agreement replaces and supersedes the Intergovernmental Agreement for Judicial and Administrative Services between the parties dated January 18, 1994, which shall be of no further force or effect.

IN WITNESS WHEREOF, the Municipalities have executed this Agreement the day and year first above written.

[Signature pages follow.]

CITY OF FORT COLLINS, COLORADO
a municipal corporation

Date: _____

By: _____
Wade Troxell, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Senior Assistant City Attorney

CITY OF LOVELAND, COLORADO

Date: _____

By: _____
Cecil Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Assistant City Attorney

CITY OF GREELEY, COLORADO

Date: _____

By: _____
Thomas E. Norton, Mayor

ATTEST:

City Clerk

Approved as to Substance:

Roy Otto

Approved as to Availability of Funds:

Victoria Runkle

APPROVED AS TO FORM:

Doug Marek