

# **AGENDA ITEM SUMMARY**

## **FORT COLLINS CITY COUNCIL**

**ITEM NUMBER: 20**

**DATE: October 20, 2009**

**STAFF: Darin Atteberry**

### **SUBJECT**

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Resolution 2009-097 Authorizing the City Manager to Enter into an Intergovernmental Agreement for Emergency Management of Disasters Related to Broad Ranging Public Health Emergency Incidents.

### **RECOMMENDATION**

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Staff recommends adoption of the Resolution.

### **EXECUTIVE SUMMARY**

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The City has a number of intergovernmental agreements with surrounding jurisdictions in order to enable effective response to and recovery from a wide range of disaster emergencies. This Resolution authorizes the City Manager to enter into an intergovernmental agreement between the City, Larimer County, and City of Loveland to provide for a joint response to a large scale public health emergency.

### **BACKGROUND**

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The City of Fort Collins Emergency Operations Plan covers procedures for preparing for, responding to and recovering from a wide range of disaster emergencies. These plans address large-scale flooding, fires, hazardous materials release, terrorism and other such incidents. In order to carry out these plans, the City has a number of intergovernmental agreements between the City, the County, local agencies and surrounding cities. These agreements set the framework whereby each party responds beyond its boundaries when an incident occurs that is beyond any single jurisdiction's capacity.

Over the past two years, the City has partnered with a number of local agencies and jurisdictions to develop detailed plans to prepare for and respond to a pandemic influenza outbreak. Those plans include the establishment of a Unified Area Command Group, with the Larimer County Department of Health and Environment serving as incident commander. This agreement provides for a joint response not only to a pandemic influenza episode, but for any large-scale public health emergency where multiple agencies and jurisdictions need to coordinate in order meet the greater demands of the incident.

RESOLUTION 2009-097  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROVING THE EXECUTION OF AN AGREEMENT FOR EMERGENCY  
MANAGEMENT OF BROAD-RANGING PUBLIC HEALTH INCIDENTS

WHEREAS, disaster emergencies involving public health incidents may affect persons in multiple jurisdictions, resulting in the need for coordination between Larimer County and one or more municipalities in the County to meet the greater demands that such an incident may place on the personnel and equipment of each party; and

WHEREAS, efficient response to broad-ranging public health emergency incidents requires the establishment of a unified command structure and protocols governing the operation of the unified command; and

WHEREAS, approval of an intergovernmental agreement establishing such a unified command structure and protocols will promote the safety, security, and general welfare of the inhabitants of the City and Larimer County with respect to each party's response to a broad-ranging public health emergency incident; and

WHEREAS, Section 29-1-203, C.R.S., authorizes governmental entities to cooperate and contract with one another in order to provide any function, service, or facility lawfully permitted to each if such a contract is properly authorized by each party thereto; and

WHEREAS, the City is authorized to enter into intergovernmental agreements to provide any function, service or facility, pursuant to Article II, Section 16 of the City Charter and City Code Section 1-22; and

WHEREAS, it is in the best interests of each of the parties to have access to emergency resources and assistance from each other and the state of Colorado and other assisting agencies to supplement their own resources during a broad-ranging public health emergency incident.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that the Agreement for Emergency Management of Broad-Ranging Public Health Incidents, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference, is hereby approved by the City Council, and the City Manager is hereby authorized to execute such Agreement, subject to such changes in form or substance as the City Manager may, in consultation with the City Attorney, consider to be necessary to effectuate the purposes of this Resolution.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 20th day of October, A.D. 2009.

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Mayor

ATTEST:

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City Clerk

**INTERGOVERNMENTAL AGREEMENT FOR EMERGENCY  
MANAGEMENT OF DISASTERS RELATED TO BROAD RANGING PUBLIC  
HEALTH EMERGENCY INCIDENTS**

This Agreement is made by and between the CITY OF LOVELAND, COLORADO, a home rule municipality (“Loveland”); the CITY OF FORT COLLINS, COLORADO, a home rule municipality (“Fort Collins”); and the BOARD OF COMMISSIONERS OF THE COUNTY OF LARIMER, COLORADO, a political subdivision of the State of Colorado (the “County”).

**WITNESSETH:**

**WHEREAS**, intergovernmental agreements between and among political subdivisions of the State of Colorado to cooperate or contract with one another to provide functions, services or facilities lawfully authorized to each, including the sharing of costs of such services or functions, are specifically authorized by Section 29-1-203 of the Colorado Revised Statutes and other Colorado law; and

**WHEREAS**, establishment of this Intergovernmental Agreement will serve the public purposes of promoting the health, safety, security, and general welfare of the inhabitants of Loveland, Fort Collins and the County (collectively “the Parties”) with respect to each party’s response to any broad-ranging public health emergency incident; and

**WHEREAS**, the Parties are each lawfully authorized to provide, establish, and maintain disaster emergency services as defined by each party; and

**WHEREAS**, disaster emergencies with respect to public health incidents may arise in one or more of the Parties’ jurisdictions, resulting in the need for coordination to meet the greater demands that such an incident may place on the personnel and equipment of each party and to protect the health of the citizens of each party; and

**WHEREAS**, efficient response to a broad-ranging public health emergency incident requires the establishment of a unified command structure and protocols governing the operation of the unified command; and

**WHEREAS**, the Governor of the State of Colorado has issued Executive Orders and an Emergency Operations Plan to use in a public health emergency, such as a serious pandemic influenza incident, that may be implemented by local health departments, including the Larimer County Department of Health and Environment; and

**WHEREAS**, it is in the best interests of each of the parties to have access to emergency resources and assistance from each other and the State of Colorado and other assisting agencies to supplement their own resources during a broad-ranging public health emergency incident; and

**WHEREAS**, it is efficient and cost effective for each of the Parties to participate in a unified command structure patterned after the Colorado State Emergency Operations Plan- Public Health and Medical Services

Emergency Support Function #8 to coordinate the use of each party's resources to respond to a broad-ranging public health emergency incident.

**NOW THEREFORE, in consideration of the mutual promises contained here, the Parties mutually agree as follows:**

1. Authority, Severability and Definitions.

- a. This Intergovernmental Agreement is promulgated under the provisions of Part 2 of Article 1 of Title 29, and Article 5 of Title 29, and applicable provisions of Part 21 of Article 32 of Title 24 of the Colorado Revised Statutes. These statutes shall control in case of conflict between this Agreement and the statutes. Each and every term, provision, or condition herein is subject to and shall be construed in accordance with the provisions of Colorado law, the Parties' respective charters and the Parties' respective ordinances and regulations enacted pursuant hereto.
- b. It is understood and agreed by the parties hereto that if any part, term or provision of this Agreement 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 provisions of the Agreement shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.
- c. All terms and words herein shall have the same definition as provided in Titles 24 and 29 of the Colorado Revised Statutes except as herein otherwise indicated. Where terms and words herein are not so defined, they shall have the commonly accepted and understood meaning.

2. Purpose.

This Agreement provides for the joint response by the parties to a disaster emergency related to a broad-ranging public health emergency incident, but does not establish a separate legal entity to do so, nor does it designate any party as an agent of any other party or create an agency relationship between or among any of the Parties for any purpose whatsoever. This Agreement shall provide only for the command structure and for other sharing of personnel, equipment and in-kind resources by the Parties as set forth herein. For purposes of this Agreement, a broad-ranging public health emergency is a health emergency declared by the State of Colorado, one or more of the parties to this Agreement or the Northern Colorado Department of Health that affects a significant number of people in more than one jurisdiction.

3. Command Structure.

The Parties agree that in the event there is a disaster emergency related to a broad-ranging public health emergency incident in the jurisdiction of one or more of the Parties which is beyond the capability of the affected party or Parties and one or more of the affected Parties requests assistance under this Agreement, each of the Parties agrees, subject to the limitations set

forth herein, to assist by participating in the Larimer County Unified Area Command Group (hereinafter "UACG") in order to best manage a major local incident by causing and permitting the Parties' combined resources to be used in responding to any such disaster emergency. The framework for the UACG is set forth in Appendix A, attached hereto and incorporated herein by this reference. The need for activating the UACG and the need for assistance shall be determined by the party requesting assistance.

- a. Assistance by any responding party beyond the jurisdictional limits of that party is hereby deemed to be authorized by the respective governing body of such party. Individual officers and employees of the responding party providing such assistance shall be considered to be performing duties that are within the scope of their employment with the responding party within the meaning of C.R.S. §24-10-110. No further approval for such participation or response shall be required from the responding party's governing body.
- b. Any decision about making resources or continuing to make resources available shall be made by the responding party, and such decision shall be conclusive and in the responding party's sole discretion.

4. Reimbursement of Costs.

Each party shall at all times be responsible for its own costs incurred in the performance of this Agreement, and shall not receive any reimbursement from any other party, except for any third-party reimbursement under Paragraph 7, and except as may be negotiated and agreed to separately in writing by both the requesting and responding Parties.

5. Waiver of Claims.

Each party, to the extent permitted by law, waives any and all claims and causes of action against all of the other Parties for compensation, damage, personal injury or death occurring as a consequence, direct or indirect, in the performance of this Agreement. In addition, nothing herein shall be deemed a waiver of any notice requirements, defenses, or limitations to liability available to any of the Parties under the Colorado Governmental Immunity Act or under any other law.

6. Joinder of Other Political Subdivisions.

Each party agrees to allow any other Colorado political subdivision, as defined in C.R.S. §29-1-202(2), to join as a party to this Agreement after formal approval of this Agreement by the political subdivisions and written notification of such action to each of the other Parties to the Agreement. Loveland and Fort Collins delegate to their respective City Managers and the County delegates to the County Manager the authority to execute such amendments as may be necessary in the future to accommodate the joinder of new parties to this Agreement, without a change to any of the other terms or conditions of the Agreement. Any new party joining this Agreement agrees that its chief administrative officer shall also have the authority to execute such amendments for the joinder of other parties. In addition, any new party joining this

Agreement agrees to be subject to the unified command structure established in paragraph 3 above, under which only Loveland, Fort Collins and County officials will have leadership roles in that command structure.

7. Third Party Reimbursement.

Each party agrees that it will reasonably pursue any monetary reimbursement available under state and federal law for any public health emergency incident subject to this Agreement. Upon receiving any such reimbursement and after subtracting the reasonable costs of pursuing and collecting the reimbursement, the receiving party shall distribute the received funds in a fair and equitable manner to the other assisting parties, based upon a pro rata share of their documented expenses for the public health emergency incident.

8. Workers Compensation and Benefits.

Nothing contained in this Agreement, and no performance under this Agreement by personnel of the Parties, shall in any respect alter or modify the status of officers, agents, or employees of the respective parties for purposes of worker's compensation or their benefits or entitlements, pension, levels or types of training, internal discipline, certification, or rank procedures, methods, or categories, or for any other purpose, or any condition or requirement of employment. Worker's compensation coverage shall be as structured in C.R.S. §29-5-109 for any requests for assistance under this Agreement. The providing party shall remain responsible for processing any worker's compensation claims filed by its own officers, agents and employees.

9. No Third-Party Beneficiaries.

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

10. Amendments.

Except as provided in paragraph 6. above, amendments to this Agreement may be made only in writing and upon unanimous consent by all then current signatory Parties. Such consent shall become effective upon its receipt in writing by the Larimer County Department of Health and Environment.

11. Termination.

Any party hereto may terminate this Agreement, with or without cause, upon thirty (30) days prior written notice to all of the other Parties to this Agreement.

12. Assignment.

This Agreement shall not be assigned by any of the Parties without the prior consent of all of the other Parties.

13. Headings.

Paragraph headings in this Agreement are for convenience of reference only and shall in no way define, limit or prescribe the scope or intent of any provision of this Agreement.

14. Construction of Agreement.

This Agreement shall be construed according to its fair meaning and as if it was prepared by all of the Parties and shall be deemed to be and contain the entire Agreement between the Parties. There shall be deemed to be no other terms, conditions, promises, understandings, statements or representations, expressed or implied, concerning this Agreement, unless set forth in writing and signed by all of the Parties.

15. Relationship of the Parties.

The Parties enter into this Agreement as separate and independent governmental entities and each shall maintain such status throughout the term of this Agreement.

16. Binding Effect.

This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

17. Governing Law and Enforceability.

This Agreement shall be construed in accordance with the laws of the State of Colorado. Venue for any action arising out of this Agreement shall be in Larimer County, Colorado District Court. In addition, the Parties recognize that there are legal constraints imposed upon Loveland, Fort Collins and the County by the constitutions, statutes, and rules and regulations of the State of Colorado and of the United States, and imposed upon Loveland and Fort Collins by their respective charters, codes and ordinances and on the County by its Code and ordinances, and that, subject to such constraints, the Parties intend to carry out the terms and conditions of this Agreement. Such constraints include, without limitation, the constraints of Article X, Section 20 of the Colorado Constitution relating to governmental entities including multi-year fiscal obligations. Therefore, notwithstanding any other provision of this Agreement to the contrary, in no event shall any of the Parties be required to exercise any power or take any action which is prohibited by applicable law. Whenever possible, each provision of this Agreement shall be interpreted in such a manner so as to be effective and valid under applicable law.



18. Counterpart Signature.

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

19. Notices.

The County shall provide timely notice to all parties of all additions to and withdrawals of parties to the Agreement, as well as timely notice of the effective date of any amendments to this Agreement.

20. Effective Date.

This Agreement shall take effect upon execution of the Agreement by all Parties.

**CITY OF FORT COLLINS,  
A Municipal Corporation**

By: \_\_\_\_\_ Date: \_\_\_\_\_

**Doug Hutchinson, Mayor**  
**ATTEST**

\_\_\_\_\_  
City Clerk

**Approved as to Form:**

By: \_\_\_\_\_  
Teresa Ablao, Assistant City Attorney

**Larimer County Department of Health and Environment**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Board of Commissioners

Attest:  
\_\_\_\_\_

Approved As To Form:  
\_\_\_\_\_  
Assistant County Attorney

**CITY OF LOVELAND,  
A Municipal Corporation**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Don F. Williams, City Manager

Attest

\_\_\_\_\_  
City Clerk

**Approved as to Form:**

By: \_\_\_\_\_  
Assistant City Attorney

# APPENDIX A

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# UNIFIED AREA COMMAND STRUCTURE for Pandemic Flu Incident

