

DATE: April 16, 2013
STAFF: Tom DeMint
Ann Turnquist

AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL

18

SUBJECT

Resolution 2013-035 Authorizing the Mayor to Enter into a Third Addendum to the Intergovernmental Agreement Between the City of Fort Collins and Poudre Valley Fire Protection District to Amend the Fire Chief's Spending Limit from \$20,000 to \$75,000 per Expenditure and Ratifying the First and Second Addenda to Such Agreement.

EXECUTIVE SUMMARY

The City and the Poudre Valley Fire Protection District (PVFPD) entered into an Intergovernmental Agreement (IGA) in 1981 to establish the Poudre Fire Authority (PFA) to provide fire and emergency services to Fort Collins and surrounding areas. The IGA has been amended several times over the years and currently includes a spending limit for the Fire Chief, over which the Chief must seek Board approval. The proposed amendment (Addendum 3) will change the Fire Chief's spending limit from \$20,000 to \$75,000. In addition to allowing the increased spending limit, the Resolution also ratifies two previous Amendments to the IGA (Addenda 1 and 2) which were previously approved in inconsistent manners.

BACKGROUND / DISCUSSION

Any amendment to the IGA requires approval by the two parties to the agreement, the City of Fort Collins and the Poudre Valley Fire Protection District. This Resolution makes a change to the IGA and ratifies two previous addenda to the IGA.

Chief's Spending Limit

Article II, Sections 2.2 B and G of the City and PVFPD's Intergovernmental Agreement (IGA) currently give the Fire Chief the power to execute any contract for capital costs, costs of special services, equipment, materials, supplies, maintenance or repair that involves expenditures by the Authority for amounts less than \$20,000, and to approve payroll payments and other demands for payments by the Authority, provided an individual payment does not exceed \$20,000. PFA Board approval is required for any expenditure over \$20,000, even if funds are appropriated in the current year budget. These amounts have not been adjusted since 1987, despite significant inflationary cost increases on materials, supplies and services.

At the September 25, 2012, PFA Board meeting, the Board directed staff to work with the City and the District to propose a Third Addendum to the Agreement to increase the dollar amounts in Section 2.2 to \$75,000. This dollar amount was developed based on the spending limits of other benchmark Fire Authorities in the state, all of which had significantly higher spending limits. For the City of Fort Collins, the City Manager may expend any appropriated amount, so long as the expenditures are in compliance with establishing purchasing policies. PFA, which receives accounting and purchasing services from the City of Fort Collins, also complies with the Purchasing Department's rules and processes.

The PFA Board and staff believe that increasing the Chief's spending authority to \$75,000 is appropriate, given the costs of firefighter tools and equipment and would enable the Chief to act in a timely fashion to address needs when cost-effective opportunities arise. Occasionally, PFA makes relatively minor purchases which total over \$20,000. Items such as firefighting equipment, tools, hardware, software, maintenance or minor construction are all examples of routine expenditures which have occurred and require Board approval. This requirement slows down the process because the PFA Board meets once per month (or less), creating a very long lead time for purchase approval.

Typical purchases which will continue to be brought to the Board for approval will include items such as major equipment purchases (fire trucks), major construction or renovation projects, new facilities, and other contracts.

The Board of the Poudre Valley Fire Protection District will be asked to adopt the proposed resolution at its April 22, 2013 Board Meeting.

Previous Addenda

In addition to changing the Chief's spending limit, the proposed Resolution ratifies two previous addenda, one of which was executed by the City Manager rather than the City Council, and the second of which may not have been executed by the parties. It would be in the best interests of the respective parties to the Agreement to ratify all actions previously taken by the parties under the previous addenda and ensure that they are entirely valid and documented in a consistent manner. The previous addenda include:

1. On May 17, 1988, the City Council also approved Resolution 1988-070, which authorized the Mayor to enter into an addendum to the Agreement for the purpose of providing services outside the Authority's boundaries in exchange for payment or reciprocal services (Addendum 1).
2. On September 27, 2004, the City and PVFPD entered into an addendum to the IGA which allowed for the fifth member of the PFA Board of Directors to be appointed annually at the first regular meeting of the Board in August of each year (Addendum 2).

Staff is recommending that the Council approve the Third Addendum to the agreement, and ratify the First and Second Addenda to ensure that all addenda are approved in the same manner.

FINANCIAL / ECONOMIC IMPACTS

The changes to the Chief's spending limit will not have a financial impact to the organization because all expenditures are already subject to appropriation by the PFA Board, prior to making purchases. This addendum to the IGA only changes the requirement to seek Board approval for some purchases—previously those over \$20,000, now over \$75,000 per purchase.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BOARD / COMMISSION RECOMMENDATION

On September 25, 2012, the Poudre Fire Authority Board unanimously voted to ask the City of Fort Collins and the Poudre Valley Fire Protection District to amend the Intergovernmental Agreement to raise the Fire Chief's spending limit from \$20,000 to \$75,000.

RESOLUTION 2013-035
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE MAYOR TO ENTER INTO A THIRD
ADDENDUM TO THE INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF FORT COLLINS AND POUDDRE VALLEY
FIRE PROTECTION DISTRICT TO AMEND THE FIRE CHIEF'S SPENDING
LIMIT FROM \$20,000 TO \$75,000 PER EXPENDITURE AND
RATIFYING THE FIRST AND SECOND ADDENDA TO SUCH AGREEMENT

WHEREAS, on November 3, 1987, the City and the Poudre Valley Fire Protection District ("PVFPD"), entered into an intergovernmental agreement (the "Agreement") providing for the continuation of an independent governmental entity known as the Poudre Fire Authority ("PFA") for the purpose of providing fire protection services; and

WHEREAS, on May 17, 1988, the City Council approved Resolution 1988-070, which authorized the Mayor to enter into an addendum to the Agreement for the purpose of providing services outside the Authority's boundaries in exchange for payment or reciprocal services (the "First Addendum"); and

WHEREAS, a copy of the proposed First Addendum is attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, it does not appear that the First Addendum was ever executed by the parties; and

WHEREAS, on September 27, 2004, the City and PVFPD entered into another addendum to the Agreement (the "Second Addendum"), which allowed for the fifth member of the PFA Board of Directors to be appointed annually at the first regular meeting of the Board in August of each year; and

WHEREAS, a copy of the second Addendum is attached hereto and incorporated herein as Exhibit "B"; and

WHEREAS, the Second Addendum was presented to, and executed by, the City Manager, rather than the City Council; and

WHEREAS, Article II, Section 2.2 B and G of the Agreement currently sets forth the power of the Administrative Chief to execute any contract for capital costs, costs of special services, equipment, materials, supplies, maintenance or repair that involves expenditures by the Authority of less than Twenty Thousand Dollars (\$20,000), and to approve payroll payments and other demands for payments by the Authority, provided an individual payment does not exceed Twenty Thousand Dollars (\$20,000); and

WHEREAS, these amounts have not been adjusted since 1987; and

WHEREAS, at its September 25, 2012 meeting, the Board of the PFA directed PFA staff to work with the City and the District to propose a Third Addendum to the Agreement to increase the dollar amounts in Section 2.2 to \$75,000; and

WHEREAS, the proposed Third Addendum, a copy of which is attached hereto and incorporated herein as Exhibit "C", would increase the dollar amounts as described above and would also incorporate the terms of the First Addendum and Second Addendum; and

WHEREAS, staff is recommending that the City Council authorize the execution of the Third Addendum, thereby also ratifying the First Addendum and Second Addendum, as well as all actions heretofore taken by the parties under the First and Second Addenda.

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

Section 1. That the Mayor is hereby authorized to enter into a Third Addendum to the Agreement between the City of Fort Collins and the PVFPD in substantially the form attached hereto as Exhibit "C" and incorporated herein by this reference, with such modifications or additional terms and conditions as the City Manager, in consultation with the City Attorney, determines to be necessary or appropriate to protect the interests of the City and effectuate the purposes of this Resolution.

Section 2. That the City Council hereby ratifies and affirms the authorization and execution of the First and Second Addenda attached hereto as Exhibits "A" and "B", and all actions taken by the officers, employees, and agents of the City under such addenda.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 16th day of April A.D. 2013.

Mayor

ATTEST:

City Clerk

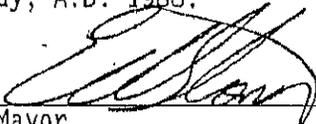
RESOLUTION 88-70
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE MAYOR TO ENTER INTO AN
ADDENDUM TO THE INTERGOVERNMENTAL AGREEMENT
CONTINUING THE EXISTENCE OF THE
POUDRE FIRE AUTHORITY

WHEREAS, the City of Fort Collins and the Poudre Valley Fire Protection District entered into an Intergovernmental Agreement on November 3, 1987, providing for the continued existence of an independent governmental entity known as the Poudre Fire Authority for the purpose of providing fire and rescue services within the respective territorial limits of the parties thereto; and

WHEREAS, the parties to that Agreement desire to amend certain provisions of the Intergovernmental Agreement for the mutual benefit of the parties thereto.

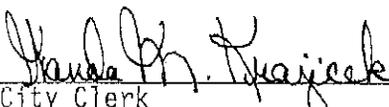
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that the Mayor be, and he hereby is, authorized to enter into an Addendum to the Intergovernmental Agreement with the Poudre Valley Fire Protection District for the purpose of amending certain provisions of that Intergovernmental Agreement.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins held this 17th day of May, A.D. 1988.



Mayor

ATTEST:



City Clerk

POUDRE VALLEY FIRE PROTECTION DISTRICT


President of the Board

ATTEST:


Secretary

APPROVED AS TO FORM:

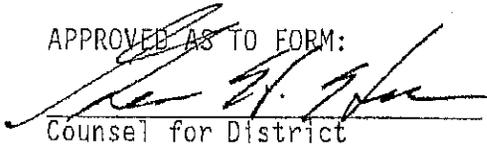

Counsel for District

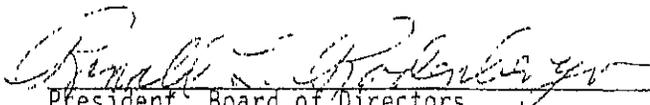
EXHIBIT "A"

PROPOSED AMENDMENT TO THE INTERGOVERNMENTAL
AGREEMENT BETWEEN THE CITY OF FORT COLLINS AND
THE POUFRE VALLEY FIRE PROTECTION DISTRICT

Section 4.1 of the Intergovernmental Agreement between the City of Fort Collins, Colorado and the Poudre Valley Fire Protection District, dated November 3, 1987, is hereby amended to read as follows:

4.1 Delegation of Powers, Duties, and Responsibilities

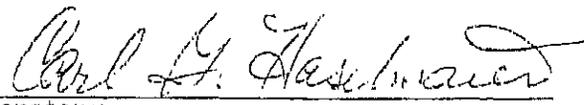
Each of the parties hereto delegates to the Authority the power, duty and responsibility to maintain, operate, manage and control all of the fire protection facilities, equipment, resources and property of the Authority, including without limitation, all fire stations, land, buildings and firefighting equipment, and to employ the necessary personnel and do any and all things necessary or desirable to provide continued, efficient and economical fire protection services to all persons and property within the respective territorial limits of the parties hereto, which area shall be considered the jurisdiction of the Authority. FURTHER, THE AUTHORITY IS HEREBY EMPOWERED TO PROVIDE FIRE PROTECTION SERVICES TO PERSONS AND PROPERTY OUTSIDE THE JURISDICTION OF THE AUTHORITY BY AGREEMENT IN EXCHANGE FOR PAYMENT OR RECIPROCAL SERVICES; PROVIDED, HOWEVER, THAT SUCH ADDITIONAL SERVICES CAN BE PERFORMED WITH THE USE OF EXISTING FACILITIES, EQUIPMENT, RESOURCES AND PERSONNEL.



President; Board of Directors

Date May 17, 1988

Attest:



Secretary

**ADDENDUM
TO
THE INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF FORT COLLINS
AND
POUDRE VALLEY FIRE PROTECTION DISTRICT**

THIS ADDENDUM, made and entered into this 27th day of September, 2004, by and between POUDRE VALLEY FIRE PROTECTION DISTRICT (hereinafter called the "District") and THE CITY OF FORT COLLINS, COLORADO, a municipal corporation duly organized and existing under the law of the State of Colorado (hereinafter called the "City").

WITNESSETH:

WHEREAS, the parties hereto on November 3, 1987, entered into an Intergovernmental Agreement (hereinafter called "the Agreement") providing for the continuation of an independent governmental entity known as the POUDRE FIRE AUTHORITY for the purpose of providing fire protection services; and

WHEREAS, Article I of the Agreement sets forth the procedure for a governing Board consisting of five members; and

WHEREAS, Section 1.3 of Article I of the Agreement provides, in part, that the fifth member of the governing Board (hereinafter, the "Board") is to be "appointed by the other four members as appointed by the City and the District" . . . and that all appointees and terms of appointment shall be at the discretion of the appointing entity; and

WHEREAS, the Board Bylaws, Section 2 of Article IV requires that a Chairman and Vice-Chairman shall be elected annually by a majority vote of the Board at the first regular meeting in August of each year; and

WHEREAS, at the August 24, 2004 Board meeting, the Board discussed amending the Agreement to allow for the fifth Board member to be appointed annually at the first regular meeting of the Board in August of each year; and

WHEREAS, the parties have therefore agreed to hereafter amend portions of Article I of the Agreement to provide for this.

NOW, THEREFORE, for and in consideration of the promises by the parties made herein and the benefits to be derived there from, the Intergovernmental Agreement is hereby further modified as follows:

1. The following is hereby added to section 1.3 of Article I of the Agreement, to read as follows:

Governing Board. The Authority shall be administered by a governing Board of five (5) members. The City shall appoint two (two members) and the District shall appoint two (2) members. The fifth member shall be appointed annually at the first regular meeting of the Board in August of each year by majority vote of the four other members as appointed by the City and District.

A. All appointees and terms of appointment shall be at the discretion of the appointing entity.

B. All vacancies on the Board shall be filled by the appointing entity.

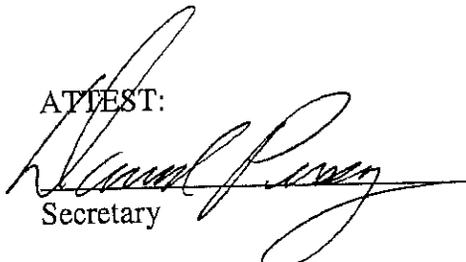
2. The parties hereto approve, ratify and affirm the terms of the Agreement, amended by this Addendum.

IN WITNESS WHEREOF, the parties here to have executed this Addendum the day and year first above written.

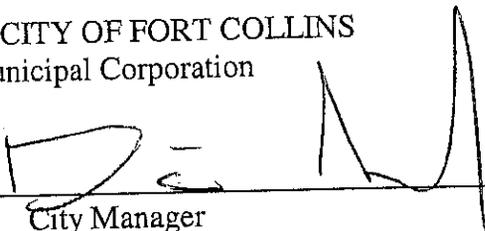
POUDRE VALLEY FIRE PROTECTION DISTRICT

By: 
Board Vice Chairman

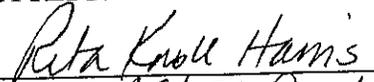
ATTEST:


Secretary

THE CITY OF FORT COLLINS
A Municipal Corporation

By: 
City Manager

ATTEST:


City Clerk / Chief Deputy

APPROVED AS TO FORM:


Assistant City Attorney

THIRD ADDENDUM
TO
THE INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF FORT COLLINS
AND
POUDRE VALLEY FIRE PROTECTION DISTRICT

THIS THIRD ADDENDUM is made and entered into this ____ day of _____, 2013, by and between POUDRE VALLEY FIRE PROTECTION DISTRICT (hereinafter called the “District”) and THE CITY OF FORT COLLINS, COLORADO, a municipal corporation duly organized and existing under the State of Colorado (hereinafter called the “City”).

WITNESSETH:

WHEREAS, the City and the Poudre Valley Fire Protection District (“PVFPD”), on November 3, 1987, entered into an Intergovernmental Agreement (“the Agreement”) providing for the continuation of an independent governmental entity known as the Poudre Fire Authority (“PFA”) for the purpose of providing fire protection services; and

WHEREAS, on May 17, 1988, the Fort Collins City Council approved Resolution 88-70, which authorized the Mayor to enter into an addendum to the Agreement for the purpose of providing services outside the Authority’s boundaries by agreement in exchange for payment or reciprocal services; and

WHEREAS, such addendum (the “First Addendum”) does not appear to have been executed by the parties; and

WHEREAS, on September 27, 2004, the City and PVFPD entered into another addendum to the Agreement (the “Second Addendum”), which amended the Agreement to allow for the fifth Board member to be appointed annually at the first regular meeting of the Board in August of each year; and

WHEREAS, the Second Addendum was presented to and executed by the City Manager, rather than the City Council; and

WHEREAS, Article II, Section 2.2 B and G of the Agreement currently sets forth the power of the Administrative Chief to execute any contract for capital costs, costs of special services, equipment, materials, supplies, maintenance or repair that involves expenditures by the Authority of less than Twenty Thousand Dollars (\$20,000), and to approve payroll payments and other demands for payments by the Authority, provided an individual payment does not exceed Twenty Thousand Dollars (\$20,000); and

WHEREAS, at its September 25, 2012 meeting, the Board of the PFA directed PFA Staff to work with the City and the District to present to their respective governing bodies a third amendment to the Agreement to allow for the dollar amount in said sections to be increased to Seventy-Five Thousand Dollars (\$75,000); and

WHEREAS, on April 16, 2013, the Fort Collins City Council adopted Resolution 2013-____, authorizing the execution of this Addendum to the Agreement and ratifying the authorization and execution of the First and Second Addenda and all actions taken by the officers, employees, and agents of the City under such addenda; and

WHEREAS, the parties wish to include the provisions of the First and Second Addenda in this Third Addendum.

NOW, THEREFORE, for and in consideration of the promises by the parties made herein and the benefits to be derived therefrom, the Intergovernmental Agreement is hereby further modified as follows:

1. Article II, Section 2.2 B and G is hereby amended to read as follows:

B. To execute any contract for capital costs, costs of special services, equipment, materials, supplies, maintenance or repair that involves expenditures by the Authority of less than ~~Twenty Thousand Dollars (\$20,000)~~ Seventy-Five Thousand Dollars (\$75,000).

G. To approve payroll payments and other demands for payments by the Authority, provided an individual payment does not exceed ~~Twenty Thousand Dollars (\$20,000)~~ Seventy-Five Thousand Dollars (\$75,000).

2. Article IV, Section 4.1 is hereby amended to read as follows:

4.1 Delegation of Powers, Duties, and Responsibilities

Each of the parties hereto delegates to the Authority the power, duty and responsibility to maintain, operate, manage and control all of the fire protection facilities, equipment, resources and property of the Authority, including without limitation, all fire stations, land, buildings and firefighting equipment, and to employ the necessary personnel and do any and all things necessary or desirable to provide continued, efficient and economical fire protection services to all persons and property within the respective territorial limits of the parties hereto, which area shall be considered the jurisdiction of the Authority. Further, the Authority is hereby empowered to provide fire protection services to persons and property outside the jurisdiction of the Authority by Agreement in exchange for payment or reciprocal services: provided, however, that such additional services can be performed with the use of existing facilities, equipment, resources and personnel.

3. Article I, Section 1.3 is hereby amended to read as follows:

1.3 Governing Board. The Authority shall be administered by a governing Board of five (5) members. The City shall appoint two (2) members and the District shall appoint two (2) members. The fifth member shall be appointed ~~by the four other members as appointed by the City and District~~ annually at the first regular meeting of the Board in August of each year by majority vote of the four other members as appointed by the City and District.

IN WITNESS WHEREOF, the parties hereto have executed this Third Addendum, to be effective as of the day and year first above written.

POUDRE VALLEY FIRE PROTECTION DISTRICT

BY: _____
Board Chairman

ATTEST:

Secretary

THE CITY OF FORT COLLINS
A Municipal Corporation

By: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Assistant City Attorney