

TOWN OF TIMNATH

RESOLUTION NO. 43, SERIES 2009

**A RESOLUTION APPROVING THE INTERGOVERNMENTAL
AGREEMENT CONCERNING A
COORDINATED ELECTION WITH LARIMER COUNTY**

WHEREAS, Section 1-7-116(2), C.R.S provides that a Town for which the county clerk and recorder will conduct a coordinated election shall enter into an agreement with the county clerk and recorder for the county in which the Town is located concerning the conduct of the coordinated election; and

WHEREAS, the Town of Timnath (the "Town") desired to participate in a coordinated election with Larimer County on November 3, 2009; and

WHEREAS, the Town has called an election for November 3, 2009; and

WHEREAS, the Town Council desire to approve an intergovernmental agreement between the Town and Larimer County concerning the conduct of a coordinated election to be held on November 3, 2009.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH AS FOLLOWS:

Section 1. The Town Council hereby approves an intergovernmental agreement between the Town and Larimer County concerning participation in a coordinated election on November 3, 2009, a true and correct copy of which is attached **Exhibit A** and fully incorporated herein by this reference.

Section 2. This Resolution shall be effective upon adoption.

PASSED, APPROVED AND ADOPTED THIS 19TH DAY OF AUGUST, 2009.

TOWN OF TIMNATH, COLORADO


Donna Benson, Mayor

ATTEST:



Milissa McGuire, Town Clerk



EXHIBIT A

Intergovernmental Agreement for Coordinated Election

[Attached]

AGREEMENT CONCERNING ELECTION SERVICES

THIS AGREEMENT is made effective this 4th day of August, 2009, between the Larimer County Clerk and Recorder ("Clerk") and Town of Timnath ("Public Entity"):

The Public Entity desires to conduct an election pursuant to its statutory authority. An election is required pursuant to C.R.S. §1-41-101 and C.R.S. §1-7-116(1); such election to occur on November 3, 2009; and

An agreement concerning the preparation, conduct and actual cost of a coordinated election is required pursuant to C.R.S. §1-7-116(2). This agreement shall be signed no later than August 25, 2009 [1-7-116(2) C.R.S.]. Larimer County Board of County Commissioners Resolution No. 03312009R001, signed on March 30, 2009, provides that the November 3, 2009, Coordinated Election ("Election") be conducted as mail ballot election; and

The Clerk has agreed to perform certain coordinated election services set forth herein in consideration of the performance by the Public Entity of its obligations and payment of a fee as set forth herein.

NOW, THEREFORE, in consideration of their mutual promises contained herein, the parties agree as follows:

I. Duties of the Clerk

The Clerk has designated Cynthia Coleman, whose telephone number is (970) 498-7941, as the "Contact Officer" to act as the primary liaison between the Clerk and the Public Entity for the purposes of the Election. The Contact Officer shall act under the authority of the Clerk.

The Clerk agrees to perform the following duties, or such other duties as may be mutually agreed upon by the parties in writing, in connection with the Election:

A. Preparation for the Election

1. Provide the Public Entity a street locator file, which lists the street addresses located in the Public Entity within the Clerk's voter registration system.
2. Assist and inform the Public Entity on any matter that should ensure the efficient preparation and conduct of the Election. The Clerk shall not provide legal advice.
3. Manage all voter records and correspondence in accordance with Title 1, Colorado Revised Statutes, Election Rules of the Colorado Secretary of State and policy directives of the Colorado Secretary of State.
4. Supply, deliver and set up all necessary items for the conduct and preparation of the Election.
5. Certify the election judges and determine their compensation. Provide a list of election judges if requested by the Public Entity. Train election judges prior to the election, including specific instruction in the secure operation of the election equipment.
6. Place the ballot content properly certified to the Clerk in accordance with law upon the ballot. Certify the ballot content to the printer. Contract for printed ballots and coordinate payment to printer(s). The Clerk reserves the right to print only the ballot issue identifying information on the ballot and the ballot title on a separate sheet of paper or any other form of ballot as directed by the Colorado Secretary of State. To avoid ballot space issues, the Clerk requests each issue and question are not more than 250 words.
7. Provide, no later than twenty days before the Election, notice by publication of a mail ballot election [1-5-205(1)(a) et seq., C.R.S.; 1-7.5-107(2.5) C.R.S.]. Such notice shall satisfy the publication requirement for all political subdivisions participating in the Election [1-5-205(1.4) C.R.S.].
8. Conduct all required tests and audits of the voting system prior to and after the Election [1-7-509(1) C.R.S., Secretary of State Election Rule 11.5].

9. Establish backup procedures and a backup site for the counting of the Election, should the counting equipment become unavailable during the count.

B. Conduct of the Election

1. Provide walk-in voting for voters with disabilities pursuant to Secretary of State Election Rule 12.5.6.
2. Provide that mail ballot packets be mailed to every eligible elector and that the Election shall be conducted in accordance with C.R.S. Title 1, Article 7.5.
3. Provide for the security and processing of all mail ballots. Provide for the verification of signatures on the self-affirmation on the return envelope.
4. Facilitate special accommodations for all military and overseas citizens as provided by the Uniformed and Overseas Citizens Absentee Voting Act.
5. Provide provisional ballots to electors who qualify under C.R.S. §1-8.5-101. Provide a telephone number that provisional voters may call to inquire if their provisional ballot counted.
6. Provide properly trained personnel for the preparation and conduct of the Election. Provide personnel at the tabulation center on Election Day/Night to certify unofficial results.
7. Preserve all Election records for at least twenty-five months after the election.
8. Conduct a recount of any contest where the final ballot tabulation results are close enough to require a recount or if requested by an interested party.

C. Election Costs

1. Keep an accurate account of all Election costs including, but not limited to, supplies, printing costs, legal notices, temporary labor and other expenses attributable to the Clerk's administration of the Election for the Public Entity.
2. The Clerk shall charge the Public Entity for its portion of the costs of the Election incurred by the Clerk for that Public Entity up to and including the date of cancellation of the Election.
3. The Clerk shall submit to the Public Entity an invoice for all expenses incurred under this Agreement.
4. The cost of any recount(s) will be charged to the Public Entity, or if more than one Public Entity is involved in the recount, the cost will be prorated among the participating Public Entities.

D. TABOR Notice

1. If the Clerk is responsible for preparing a TABOR notice, the Clerk shall do so in compliance with Article X Section 20 of the Colorado Constitution and any pertinent Rules.
2. Charge the Public Entity for all expenses for the preparation, printing, labeling and postage for the TABOR notice. Said expenses shall be prorated among all Public Entities participating in the TABOR notice. Such proration to be based, in part, upon the number of persons registered to vote within each Public Entity.
3. Mail to each registered voter in Larimer County the TABOR notice not less than thirty days prior to the election [Article X, Section 20(3)(b) Colorado Constitution]. The Clerk shall determine the least cost method for mailing the TABOR notice and address the TABOR notice to "All Registered Voters" at each address where one or more active registered voters of the Public Entity reside. Nothing herein shall preclude the Clerk from sending the TABOR Notice of the Public Entity to persons other than electors of the Public Entity if such sending arises from the Clerk's efforts to mail the TABOR Notice at least cost.

II. Duties of the Public Entity

The Public Entity has designated _____, whose phone number is _____, as its Designated Election Official ("DEO") [1-1-104(8) C.R.S.]. The DEO shall act as the primary liaison between the Public Entity and the Clerk.

If the Public Entity encompasses territory within other counties, this Agreement shall apply only to that portion of the Public Entity within Larimer County.

The Public Entity shall perform the following duties in connection with the Election:

A. Preparation for the Coordinated Election

1. Post and/or publish any other legal notices required pursuant to relevant provisions of the Uniform Election Code of 1992 (articles 1-13 of Title 1, C.R.S) or the Colorado Municipal Code of 1965, §31-10-101, *et seq.*, C.R.S., as amended, except as otherwise provided herein.
2. Be solely responsible for determining whether a ballot issue, question or candidate is properly placed before the voters.
3. Review the information contained in the street locator file and certify its accuracy, as well as any changes, additions or deletions to the file. The certification of the street locator file shall be made no later than August 7, 2009 at 5:00 p.m. to the Clerk. If the certification is not provided by the date specified herein, the Public Entity may not participate in the Election.
4. Any proposed Public Entity not already identified by a tax authority code in the County Assessor's records, shall provide the Clerk with a certified legal description, map and locator, identifying all "high/low" ranges for street addresses within the proposed Public Entity no later than August 7, 2009 at 5:00 p.m. Once the information has been entered in the Clerk's voter registration system, the DEO shall review the information contained in the street locator file and shall certify its accuracy, as well as any changes, additions or deletions to the file no later than August 21, 2009 at 5:00 p.m. to the Clerk. If the certification is not provided by the date specified herein, the Public Entity may not participate in the Election.
5. Provide the Clerk with a copy of the ordinance or resolution stating that the Public Entity will participate in the Election in accordance with the terms and conditions of this Agreement. The ordinance or resolution shall authorize the presiding officer of the Public Entity or other designated person to execute this Agreement.
6. Provide a certified copy as an email attachment to ymedina@larimer.org or on compact disc (650 MB or higher), in the format requested below, at the earliest possible time and in any event pursuant to C.R.S. §1-5-203(3)(a) no later than sixty days before the election at 5:00 p.m., of the ballot content (candidates, issues and questions) to the Clerk exactly as and in the order in which it is to appear and be printed on the ballot pages and sample ballots. The certified list of candidates, ballot issues and/or ballot questions shall be final and the Clerk will not be responsible for making any changes after the certification.
 - Microsoft Word '97 or a version of Microsoft Word able to be converted to Microsoft Word '97
 - Font Type: Arial
 - Font Size: 10 point
 - Justification: Left
 - All Margins: 0.5 inches
 - Provide audio pronunciation of all candidates, locations and words that might pose a pronunciation problem (see Exhibit B).
7. Proofread and approve the Public Entity's ballot content for printing within one business day of receipt from the Clerk. The Public Entity shall provide a fax number and designate a person to be available for

proofing and approving ballot content for printing. The Clerk agrees to keep all contact personnel apprised of ballot printing status for all contacts. The Public Entity has designated _____, whose phone is _____ and fax number is _____.

8. If requested by the Clerk, provide person(s) to participate in ballot counting, recount and testing/auditing of voting equipment used in the Election. The Public Entity personnel may participate in various boards with personnel from the Clerk's office to ensure Public Entity's participation in each of the electronic vote tabulating procedures that shall be used. The person(s) provided by the Public Entity must be registered to vote in Larimer County.
9. Notify the Clerk if it is a municipality which has provided by ordinance or resolution that it will utilize the requirements and procedures of the Uniform Election Code of 1992 in lieu of the Colorado Municipal Election Code of 1965 with respect to the Election and to forthwith provide a copy of said ordinance or resolution to the Clerk.
10. In the event that the Public Entity resolves not to participate in the Election, notice of such resolution shall be provided to the Clerk immediately. The Public Entity shall within thirty days promptly pay the Clerk the full costs of the activities of the Clerk relating to the notice, including without limitation production and mailing costs, incurred both before and after the Clerk's receipt of such notice. The Public Entity shall provide notice by publication of the cancellation of the Election and a copy of the notice shall be posted in the office of the Clerk, in the office of the Designated Election Official (as defined in the Code) and, if the Public Entity is a special district in the office of the Division of Local Government. The Public Entity shall not cancel the election after October 9, 2009 [1-5-208(2) C.R.S.].

B. Conduct of the Coordinated Election

1. The Public Entity shall immediately notify the Clerk of any Election contest that is initiated and shall keep the Clerk apprised of the need to retain Election records for use in such a contest.

C. Election Costs

The minimum fee for election services is \$650.00.

1. The Public Entity's proportional share of costs shall be based on County expenditures relative to the Election and the number of electors per entity.
2. The Public Entity avers that it has sufficient funds available in its approved budget to pay its prorated Election expenses.
3. If it is determined that counting must be moved to an established backup site, all related costs shall be paid by the Public Entity (shared with any other Public Entity whose ballots are being counted during the Election in the timeframe using the backup procedures and site).
4. Upon receipt of the invoice, pay to the Clerk within thirty days a fee which shall be an amount determined in accordance with the formula set forth on Exhibit A which is attached hereto and incorporated herein by reference. If Exhibit A cannot be completed at the time of the mailing of this Agreement, it will be provided as soon after July 27, 2009 as possible.
5. Pay any additional or unique election costs resulting from Public Entity delays and/or special preparations or cancellations relating to the Public Entity's participation in the Election.

D. TABOR Notice

1. If the Public Entity is required to prepare a TABOR notice for any ballot issue(s), the Public Entity shall be solely responsible for its preparation, accuracy and the language contained therein, and shall submit such notice, including pro and con summaries and fiscal information, to the Clerk no later than September 22, 2009 at 5:00 p.m. [1-7-904 C.R.S.]. Such notice shall be provided to the Clerk in both written form and on a computer disc.

2. Assign a DEO who shall be the official contact person for the Clerk and who shall perform such duties as are required by law including the obligation to receive and summarize written comments for and against proposals subject to Article X, Section 20 of the Colorado Constitution. The Clerk shall have no duty or obligation to receive or summarize such comments.
3. All Public Entities to be included on the Election ballot must use the following format to submit the text of TABOR comments as an email attachment to csteinhauer@larimer.org or on compact disc (650 MB or higher).
 - Microsoft Word '97 or a version of Microsoft Word able to be converted to Microsoft Word '97
 - Font Type: Arial
 - Font Size: 10 point
 - Justification: Left
 - All Margins: 0.5 inches
4. Proofread and approve the Public Entity's TABOR content for printing. The Public Entity shall provide a fax number and designate a person to be available for proofing and approving TABOR content for printing. Due to limited printing availability and time constraints, the Public Entity must provide contact information for someone who is available from 8:00 am. to 10:00 p.m. from September 22, 2009 until October 2, 2009, or until the TABOR notice is mailed. The Clerk agrees to keep all contact personnel informed of TABOR printing status. The Public Entity has designated _____, whose fax number is _____.
5. Incorporate a local election office address and telephone number into the TABOR notice. Such local election office and telephone shall be open during the Clerk's regular business hours. The Clerk shall respond to all correspondence and calls that the Clerk receives within its expertise relating to election procedures, but shall refer inquiries concerning the substance of the ballot issues and ballot questions or the operations of the Public Entity to the Designated Election Official.
6. Mail to all property owners within Public Entity's district, other than those property owners to whom the Clerk has mailed notice above, the notice required by Article X, Section 20 of the Colorado Constitution, such mailing to be in accordance with the requirements of the Colorado Constitution, statutes and rules and regulations.
7. The Public Entity shall pay a prorated amount for the costs to produce and mail the TABOR notice. Such proration to be based, in part, upon the number of persons registered to vote within each Public Entity.
8. The minimum fee for TABOR support is \$350.00.

III. Additional Agreements

1. In the event a court of competent jurisdiction finds the Election for the Public Entity was void or otherwise fatally defective as a result of the sole breach or failure of the Clerk to perform in accordance with this Agreement or laws applicable to the election, the Public Entity shall be entitled to recover expenses or losses caused by such breach or failure up to the maximum amount paid by the Public Entity to the Clerk under this Agreement. The Clerk shall in no event be liable for any expenses, damages or losses in excess of the amounts paid under this Agreement. This remedy shall be the sole and exclusive remedy for the breach available to the Public Entity under this Agreement.
2. No portion of this Agreement shall be deemed to create a cause of action with respect to anyone not a party to this Agreement, nor is this Agreement intended to waive any privileges, immunities to the parties, their officers or employees may possess, except as expressly stated in this Agreement.
3. Time is of the essence under this Agreement. The statutory time frames or requirements of the Code, TABOR, and the Rules shall apply to the completion of any duties or tasks required under this Agreement.

**LARIMER COUNTY
NOVEMBER 3, 2009 - COORDINATED ELECTION
COST PRORATION ESTIMATE**

PARTICIPATING JURISDICTION	ELECTION	TABOR	NUMBER OF HOUSEHOLD MAILED	GENERAL COST		BALANCE OF COSTS X % OF HOUSEHOLDS	ACTUAL NUMBER OF REG VOTERS	COST		COST DISTRICTS EXCEEDING \$650 MINIMUM	BALANCE OF COSTS X % OF REG VOTERS INCL. MIN & SOS	TOTAL ELECTION COST PER PARTICIPANT
				SUBJECT TO MINIMUM CHARGE \$350	\$10,500			SUBJECT TO MINIMUM CHARGE \$650	\$258,500			
State of Colorado (Active voters - \$.70)	NO	NA	NA	NA	NA	NA	0	NA	NA	0	\$0.00	\$0.00
Larimer County	NO	NO	0	\$0	\$0	\$0.00	0	\$0	\$0	0	\$0.00	\$0.00
Town of Estes Park	YES	NO	0	\$0	\$0.00	\$0.00	4,525	NA	NA	4,525	\$4,628.37	\$4,628.37
Town of Berthoud	YES	YES	1,850	NA	\$574.42	\$574.42	3,250	NA	NA	3,250	\$3,324.24	\$3,898.66
City of Loveland	YES	YES	22,000	NA	\$7,658.97	\$7,658.97	36,000	NA	NA	36,000	\$36,822.35	\$44,481.32
Town of Timnath	YES	YES	160	350	\$350.00	\$350.00	295	\$650	\$650	0	\$650.00	\$1,000.00
Poudre R-1 School District	YES	NO	0	0	\$0.00	\$0.00	123,300	NA	NA	123,300	\$126,116.55	\$126,116.55
Thompson R-2 J School District	YES	NO	0	0	\$0.00	\$0.00	67,800	NA	NA	67,800	\$69,348.76	\$69,348.76
Park School District	YES	NO	0	0	\$0.00	\$0.00	7,260	NA	NA	7,260	\$7,425.84	\$7,425.84
St Vrain School District	YES	NO	0	0	\$0.00	\$0.00	550	NA	NA	550	\$562.55	\$562.55
Weld School District RE-SJ	YES	NO	0	0	\$0.00	\$0.00	10	\$650	\$650	0	\$650.00	\$650.00
Alms Community College	YES	NO	0	0	\$0.00	\$0.00	10	\$650	\$650	0	\$650.00	\$650.00
Estes Valley Fire Prot District	YES	YES	4,500	NA	\$1,566.61	\$1,566.61	7,500	NA	NA	7,500	\$7,671.32	\$9,237.93
Bonnell Acres PID	YES	YES	70	350	\$350.00	\$350.00	90	\$650	\$650	0	\$650.00	\$1,000.00
The Bluffs PID	YES	YES	30	350	\$350.00	\$350.00	50	\$650	\$650	0	\$650.00	\$1,000.00
TOTAL			28,380	700	\$10,500.00	\$10,500.00	250,590	2,600	2,600	250,185	\$258,500.00	\$269,000.00

EXHIBIT B
AUDIO FOR ACCUVOTE TSX UNIT

Pursuant to Colorado Revised Statutes (C.R.S.) §1-5-704(1)"...each voting system certified by the secretary of state for use in local, state, and federal elections shall have the capability to accept accessible voter interface devices in the voting system configuration..."

To be in compliance with the above statute, the Larimer County Clerk and Recorder's office has set up a voice mail box at (970) 498-7946 that candidates will need to call to provide the correct pronunciation of their name. Upon calling the voice mail box, they will receive instructions on recording their information, as well as, options for listening, deleting, re-recording and saving their message. Please inform candidates within your jurisdiction of the necessity of recording the correct pronunciation of their name.

The Larimer County Clerk and Recorder's office will contact the entity if pronunciation guidelines on any ballot issues or ballot questions are needed.

Please contact our office at (970) 498-7820 if you have any questions or need additional information.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective upon the date first above written.

**LARIMER COUNTY, COLORADO
CLERK AND RECORDER**

Date: _____

Scott Doyle

Date: _____


**BOARD OF COMMISSIONERS OF
LARIMER COUNTY, COLORADO**

ATTEST:

Deputy Clerk of the Board

**Kathay C. Rennels
Chair, Board of County Commissioners**

Approved as to Form:



Senior Assistant County Attorney

PUBLIC ENTITY:

NAME OF PUBLIC ENTITY:

Date: _____

By: _____

Public Entity phone number

Title of Authorized Representative signing on
behalf of Public Entity

Approved as to Form:
