

AGREEMENT FOR MUTUAL AID AMONG THE POUDRE FIRE AUTHORITY, THE
LOVELAND FIRE RESCUE AUTHORITY, THE COLORADO STATE PATROL, AND
THE LARIMER COUNTY SHERIFF'S OFFICE FOR HAZARDOUS SUBSTANCE
INCIDENTS

THIS AGREEMENT FOR MUTUAL AID ("Agreement") is entered into by and between the Poudre Fire Authority, the Loveland Fire Rescue Authority, Colorado State Patrol, and the Board of County Commissioners of Larimer County, Colorado, by and through the Larimer County Sheriff's Office, is for the purpose of securing the benefits of mutual aid for the protection of life and property from the sudden discharge of hazardous substances. The foregoing entities are referred to collectively in this Agreement as the "parties" or individually as a "party".

I. Recitals

WHEREAS, section 29-22-102, C.R.S., as amended, requires the Board of County Commissioners of Larimer County, Colorado ("BOCC") to designate an emergency response authority for hazardous substance incidents occurring in unincorporated areas of Larimer County, and the BOCC has designated the Larimer County Sheriff's Office ("LCSO") as that authority, and has designated the LCSO to negotiate mutual aid agreements among the parties to this Agreement; and

WHEREAS, hazardous substance incidents may arise in one or another of the jurisdictions of the parties, resulting in greater demands than the personnel, equipment, and expertise of that party can handle, or incidents of such intensity may occur that they cannot be handled solely by the equipment of the party in whose jurisdiction the incident occurs; and

WHEREAS, it is to the interest of each of the parties that they may have service of and from the other parties to aid and assist them in responding to hazardous substance incidents; and

WHEREAS, it is necessary and desirable that a mutual aid agreement be executed to facilitate the provision of such mutual aid among the parties in responding to hazardous substance incidents; and

WHEREAS, section 29-22-103(3), C.R.S., as amended, section 29-1-203, C.R.S., as amended, and sections 29-5-105 through 29-5-110, C.R.S., as amended, provide statutory authority for such mutual aid and this Agreement.

THEREFORE, in consideration of the mutual covenants set forth herein, the parties agree that:

II. Agreement

1. Each party is the designated emergency response authority ("DERA") within the following jurisdictions in Larimer County, Colorado for the purpose of responding to hazardous substance incidents:

- a) Pursuant to section 29-22-102(3), unless the governing body of the City of Fort Collins designates otherwise by ordinance or resolution, the Poudre Fire Authority ("PFA") is the DERA for the City of Fort Collins. In accordance with section 29-22-102(1), PFA shall be responsible for providing and maintaining the capability for emergency response to, and taking the initial action necessary to minimize the effects of, a hazardous substance incident occurring within the City of Fort Collins and/or PFA's boundaries. PFA will respond, at its discretion pursuant to paragraphs 3 and 4 below, to all requests for assistance from other parties that may request aid through this or other existing mutual aid agreements. PFA further agrees to notify the LCSO of all responses it provides to a party pursuant to a request for assistance through this or another existing mutual aid agreement outside the City of Fort Collins or PFA's boundaries.
- b) Pursuant to section 29-22-102(3), unless the governing body of the City of Loveland designates otherwise by ordinance or resolution, the Loveland Fire Rescue Authority ("LFRA") is the DERA for the City of Loveland. In accordance with section 29-22-102(1), LFRA shall be responsible for providing and maintaining the capability for emergency response to, and taking initial action necessary to minimize the effects of, a hazardous substance incident occurring within the City of Loveland and/or LFRA's boundaries. LFRA will respond, at its discretion pursuant to paragraphs 3 and 4 below, to all requests for assistance from other parties that may request aid through this or other existing mutual aid agreements. LFRA further agrees to notify the LCSO of all responses it provides to a party pursuant to a request for assistance through this or other mutual aid agreements outside of the City of Loveland or LFRA's boundaries.
- c) Pursuant to section 29-22-102(5), the Colorado State Patrol ("CSP") is the DERA for any federal, state, or county highway located outside of municipal boundaries. In accordance with section 29-22-102(1), CSP shall be responsible for providing and maintaining the capability for emergency response to, and taking initial action necessary to minimize the effects of, a hazardous substance incident occurring on those highways outside of any municipal boundaries in Larimer County. CSP will respond, at its discretion pursuant to paragraphs 3 and 4 below, to all requests for assistance from other parties that may request aid through this or other existing mutual aid agreements. CSP further agrees to notify the LCSO of all responses it provides to a party pursuant to a request for assistance through this or other mutual aid agreements within Larimer County.
- d) Pursuant to section 29-22-102(3), unless the BOCC designates otherwise by ordinance or resolution, LSCO is the DERA for all unincorporated areas of Larimer County outside the jurisdiction of any fire protection authority or district; and except for any federal, state, or county highway located outside of municipal boundaries/city limits. LSCO shall be responsible for providing and maintaining the capability for emergency response to, and taking the

initial action necessary to minimize the effects of, a hazardous substance incident occurring within the unincorporated areas of Larimer County outside of the jurisdiction of any fire protection authority or district. LSCO will respond, at its discretion pursuant to paragraphs 3 and 4 below, to all requests for assistance from other parties that may request aid through this or other existing mutual aid agreements. Additionally, LSCO has agreed to respond, at its discretion, to requests for assistance from other fire departments, authorities, and/or districts that are not parties to this Agreement.

- e) The parties agree to respond anywhere in Larimer County to assist another party in taking the initial action necessary to minimize the effects of a hazardous substance incident, to the extent the responding party is available to assist, in its discretion pursuant to paragraphs 3 and 4 below.
2. All requests for assistance falling within the scope of this Agreement are “non-automatic”, and will be addressed in accordance with the procedures outlined in the Hazardous Materials Operating Plan (“*Operating Plan*”), which has been developed jointly by PFA, LFRA, CSP and LCSO, and which is attached to this Agreement as an Addendum. The Parties may, at any time, modify Operating Plan by attaching to this Agreement a new Operating Plan signed and dated by all Parties.
 3. Subject to paragraph 4 below, upon request for mutual aid, the responding party will dispatch available and appropriate hazardous substance response equipment, firefighting equipment, and/or rescue equipment and personnel to any point within the requesting party’s jurisdiction specified by the requesting party. The responding party shall have discretion to determine the equipment and personnel that will be dispatched.
 4. No party is under any obligation to respond to a request for mutual aid when, in the responding party's discretion, its equipment and/or personnel are needed to meet existing or anticipated circumstances in the responding party's jurisdiction, and no party shall be required to deplete unreasonably its own resources, facilities and/or services in furnishing such mutual aid.
 5. Any dispatch of equipment and personnel pursuant to this Agreement is subject to the following conditions:
 - a) Any request for mutual aid shall include a statement of the amount and type of equipment and personnel requested, and shall specify the staging area to which the equipment and personnel are to be dispatched, but the actual amount and type of equipment and number of personnel that are furnished shall be determined by a representative of the responding party pursuant to paragraphs 3 and 4 above.
 - b) The requesting party will have command and control of the hazardous substance incident unless otherwise agreed upon by the requesting party and all responding parties. Each responding party shall provide a person in charge (superior officer) that shall be under the direct supervision and command of

the requesting party's fire chief, CSP trooper or the sheriff, or the person exercising the functions thereof. The responding party shall report to the incident command of the requesting party at the location to which the equipment is dispatched.

- c) The responding party shall be released by the requesting party at the earlier of (i) when the responding party's equipment and/or personnel are no longer required; or (ii) when the responding party's equipment and/or personnel are needed within the responding party's jurisdiction.
6. Notwithstanding anything in this Agreement to the contrary, neither this Agreement nor any performance under this Agreement is intended to be, and shall not be construed as, a "temporary duty or assignment" of the responding party's personnel and equipment to the requesting party. Accordingly, the provisions of C.R.S. § 29-5-108 and conflicting provisions of C.R.S. § 29-5-107 do not apply to this Agreement.
7. 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 the other parties unless agreed otherwise in writing. The parties may claim reimbursement from the person(s) responsible for a hazardous substance incident in accordance with section 29-22-104, C.R.S., as amended. In addition, this Agreement is not applicable to any mutual aid provided for any incident other than a hazardous substance incident and therefore shall not be construed as to limit or waive a party's right to reasonable compensation or reimbursement for costs incurred in response to emergency, fire, or other incidents.
8. This Agreement provides for the parties' joint exercise of their emergency services functions; however, it does not establish a separate legal entity to do so. Further, no party is an agent of any other party for any purpose whatsoever.
9. This Agreement shall become effective upon approval and signature by authorized representatives of the Poudre Fire Authority, Loveland Fire Rescue Authority, Colorado State Patrol, and Larimer County ("Effective Date"). The term of this Agreement shall be one year from the Effective Date. This Agreement shall automatically renew for successive one year terms; provided, however, that any party may terminate its participation in this Agreement at any time upon sixty days prior written notice to the other parties.
10. This Agreement may be updated, modified, revised, or renegotiated at any time by unanimous written agreement of all parties, and will be reviewed by each party every five years from the Effective Date. Proposals for changes shall be submitted to the LCSO for coordination among the parties.
11. The parties are not required to purchase additional equipment or hire additional personnel for the purpose of furnishing the support described in this Agreement. No resources are to be legally transferred among parties under the terms of this Agreement.

12. Each party shall exercise continuing supervisory authority for the cleanup, removal, and disposition of the hazardous substance involved in any incident occurring within its jurisdiction per C.R.S. § 29-22-102(4), C.R.S.
13. Enforcement of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the parties, and nothing contained in this Agreement shall give or allow any such claim or right of action to any other third party. It is the express intention of the parties that any third party receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.
14. This Agreement is not intended, and shall not be construed, as a waiver of the limitations on damages or any of the privileges, immunities, or defenses provided to, or enjoyed by, the parties and their directors, officers, employees, and volunteers under common law or pursuant to statute, including but not limited to the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*
15. All direct and indirect financial obligations of a party under this Agreement are subject to annual appropriation of the funds necessary to meet such obligations. If either party's governing body fails to appropriate funds necessary to meet that party's obligations under this Agreement for the ensuing fiscal year, this Agreement shall terminate as to that party at the end of the year in which the non-appropriation occurred, with no further financial liability to the other parties.
16. Colorado law governs this Agreement. This Agreement is the entire agreement between the parties and there are no oral or collateral agreements or understandings; provided, however, this Agreement does not supersede or replace any agreement for fire or emergency services between the parties, or any of them, which remain in full force and effect. This Agreement may only be amended by a document signed by the parties. Course of conduct, no matter how long, shall not constitute an amendment to this Agreement. If any provision is held invalid or unenforceable, all other provisions shall continue in full force and effect. Waiver of a breach of this Agreement shall not operate or be construed as a waiver of any subsequent breach of this Agreement. No party may assign any of its rights or obligations hereunder without the prior written consent of the other parties. In any dispute arising from or relating to this Agreement, the prevailing party shall be awarded its reasonable attorneys' fees, costs, and expenses, including any attorneys' fees, costs, and expenses incurred in collecting upon any judgment, order, or award. This Agreement may be executed in several counterparts and by facsimile or electronic pdf, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

POUDRE FIRE AUTHORITY

LOVELAND FIRE RESCUE AUTHORITY

By: [Signature], Board Chair

By: [Signature], ~~President~~ CHAIRMAN

ATTEST:

ATTEST:

[Signature]
Secretary

[Signature]
Secretary

APPROVED:

APPROVED:

[Signature]
Tom DeMint, Fire Chief
Poudre Fire Authority

[Signature]
Mark Miller, Fire Chief
Loveland Fire Rescue Authority



BOARD OF COMMISSIONERS OF LARIMER COUNTY, COLORADO

By: [Signature] 7/11/17
Lew Gaiter, Chairperson Date

ATTEST:

ATTEST:

Secretary

[Signature]
Deputy County Clerk

APPROVED:

APPROVED:

[Signature]
Mark Savage, March 28, 2017
Deputy Chief Colorado State Patrol

[Signature] 7-5-17
Justin Smith, Sheriff Date

DATE: 6-29-17
APPROVED AS TO FORM:
[Signature]
DEPUTY COUNTY ATTORNEY

HAZARDOUS MATERIALS

OPERATING PLAN

Addendum

to

AGREEMENT FOR MUTUAL AID AMONG THE POUUDRE FIRE AUTHORITY, THE LOVELAND FIRE RESCUE AUTHORITY, THE COLORADO STATE PATROL, AND THE LARIMER COUNTY SHERIFF'S OFFICE FOR HAZARDOUS SUBSTANCE INCIDENTS

PURPOSE:

The intent of this Hazardous Materials Operating Plan is to provide direction and details to how each party to the above described Agreement for Mutual Aid ("Agreement") will work together to mitigate a hazardous substance incident in Larimer County while working within the scope of the Agreement. This Hazardous Materials Operating Plan shall take effect on the Effective Date set forth in the Agreement and shall continue until the Agreement is terminated.

AUTHORITY FOR RESPONSE

Colorado Revised Statutes title 29, article 22 states that a designated emergency response authority (DERA) shall be designated by (a) every town, city and city and county; and (b) the board of county commissioners for unincorporated areas of the county. The Colorado State Patrol is designated as the DERA for all federal, state and county highways outside of municipal city limits. C.R.S. title 29, article 22 further states that any DERA may request assistance if in their judgment they do not have the equipment, personnel or expertise to handle a particular hazardous substance incident. The parties have executed the Agreement for this purpose.

The Code of Federal Regulations, 29 part 1910.120 (OSHA) and 40 part 311 (EPA), and National Fire Protection Association (NFPA) standard 472 sets training and competency standards for personnel responding to hazardous substance incidents.

INCIDENT LEVELS:

Minor - An incident (spills, leaks, ruptures and fire involving hazardous materials) that can be handled by standard response assignment. No specialized PPE or equipment is required to mitigate the incident.

Major - An incident of confirmed hazardous materials released or potentially released, that can be controlled by resources available to a hazardous materials response team. Limited outside agencies assistance needed.

Catastrophic - An incident involving hazardous materials of such magnitude that it cannot be controlled by local resources and is considered a local disaster. A very large multi-agency incident involving county, state, federal, relief agencies, private industry, etc.

REQUESTS FOR AID:

Requests for aid will be typically triggered by the local DERA's determination that the incident is a Major or Catastrophic incident. Upon request for aid from the local DERA, the mutual aid HAZMAT team(s) will respond pursuant to the Agreement with specialized personnel and equipment to provide emergency actions necessary to minimize the effects of the hazardous substance incident. The Agency Having Jurisdiction (AHJ) will provide necessary support personnel and equipment.

It is agreed that all requests for aid will be made to the appropriate agencies' communications centers and that the communications center will then make the necessary notifications. All requests for aid will have as a minimum the following information:

- Incident description
- Number and type of personnel and equipment needed
- Location of staging or meeting point for responding agency
- Safe route to incident
- Communications frequencies or phone numbers to incident

COMMAND:

The AHJ shall insure that the Incident Command System (ICS) is implemented in all incidents as complexity dictates. The AHJ shall provide an Incident Commander (IC) and the appropriate command structure within ICS to handle the incident. The AHJ shall maintain a person as IC or as part of a Unified Command throughout the incident. A Safety Officer(s) (SO) shall be assigned to all incidents. The AHJ shall establish the Incident Command Post (ICP) as soon as possible and communicate to all involved its location. It is highly recommended that the AHJ also establish a Staging Area, with manager, as soon as possible.

Responding mutual aid HAZMAT team(s) shall operate under the established ICS.

Agencies Providing Aid (APA) will provide a person in charge (superior officer) of all responding personnel and equipment. The APA person in charge (superior officer) shall check in with the appropriate person/unit upon arrival at the incident. If as/her signed to a staging area, he/she will check in with the staging area manager and maintain his personnel and equipment in ready status at staging until assigned or released. The person in charge (superior officer) or a designated person from the APA, in most cases, may fill a position of Strike Team/Task Force Leader within the Operations Section of the ICS. The AHJ may at times wish to assign the person in charge (superior officer) of the APA as the Operations Section Chief (OSC) for the incident as the complexity of the incident increases. The person in charge (superior officer) of the APA at any time can decide not to participate in the tactics of the incident when it is felt that the tactics are unsafe. The person in charge (superior officer) shall notify the IC or OSC of his/her decision and details of what safety issues there are. If the APA person in charge (superior officer) arrives at a staging area and finds that no Staging Area Manager has been assigned the person in charge (superior officer) shall assume the role of Staging Area Manager until one is assigned.

COMMUNICATIONS:

Due to many factors, communications in Larimer County is a complex issue. It is important for all agencies involved to understand that setting up a clear communication link early on in the incident may reduce many of these problems.

The AHJ shall establish the necessary radio frequencies/talk groups for each incident and communicate which frequencies/talk groups shall be used by all APA's. With the high potential that each agency has non-compatible radio frequencies/talk groups, the IC/AHJ must establish means for APA to communicate with the incident.

In most cases this will mean that the IC/AHJ must setup a radio which will have the APA's radio frequencies in it and monitor it or establish talk group patches. A list of agency radio frequencies, talk groups and cell phone numbers will be attached and referred to as Attachment "A". APA's should attempt to communicate regarding the incident on designated frequencies or phone numbers but in the event that they are unable to do so, they must meet face to face with the appropriate person to check-in and establish a communication link.

The Larimer County Sheriff has available caches of portable VHS programmable radios and 800 MHz radios. These radios may be requested and used for incidents as needed. A request of the LCSO should be made by contacting the LCSO Communications Center, if not involved with the incident, by phone numbers listed on Attachment "A".

TERMINATION:

Termination/Demobilization activities shall be under the direct supervision of the IC/AHJ or the DERA designate.

In clean up and disposal, the mutual aid HAZMAT team(s) may act in an advisory and/or support role if requested by AHJ in conjunction with other agencies involved.

Responding mutual aid HAZMAT team(s) shall claim reimbursement through their normal accounting procedures or coordinate with the Larimer County DERA as needed.

The responding mutual aid HAZMAT team(s) shall submit a written report of activities to the IC. A copy of the final incident report will be forwarded to the mutual aid HAZMAT team(s).