



Fort Collins City Council  
300 Laporte Ave.  
Fort Collins, CO 80521

April 28, 2023

To: Mayor Arndt, Mayor Pro Tem Francis, and Council Members Gutowsky, Pignataro, Canonico, Peel and Ohlson;

Madams Mayor, Mayor Pro Tem and Members of Council:

The Fort Collins Chamber has continued to monitor and participate in discussions regarding the City's intent to create more process for project development by creating a local adaptation of state 1041 regulations.

The Chamber remains gravely concerned by the ongoing effort to institute the far-reaching regulatory powers encompassed under proposed 1041 powers. The rulemaking process has surfaced multi-layered complexities that have ensnared the routine delivery of water and wastewater services across the region. Moreover, the evolving scope and scale of the proposed regulations threaten the economic well-being of business and the very residents of disproportionately impacted communities the regulations are intended to protect.

A summary of our over-arching concerns are as follows:

- **Too Complex.** City staff has made clear that administration and oversight of 1041 powers well exceeds internal technical and personnel capacity. Therefore, outside consultants will be necessary to evaluate projects deemed to be significant. Project applicants will be expected to cover such expense, in addition to their own consultants, in developing a project plan that meets all regulatory standards. Not only does this raise the cost and delay implementation of water projects, but the outcome will largely be determined through the consensus of consultants that have no vested interest in the prosperity of our community. Nor does this approach lend itself to uniform outcomes over time as consistency is lost to a revolving door of outside experts and their professional disposition.
- **Adversarial.** Applicants subject to 1041 are CDOT, Fort Collins Water Utility department, Northern Water, and the water and sanitation districts that serve over city residents and businesses – and all those located outside city limits, but within the growth management area (GMA). Each of these project sponsors hold a shared interest in providing a high-quality service that protects our natural resources while minimizing cost to the consumer. The proposed regulations cast these critical partners as adversaries in need of restraint.





- **Overreaching.** The enabling state statute limits the scope of 1041 powers to “developments of statewide significance”. However, at each stage of its evolution, the draft regulations establish thresholds that reflect the routine placement of water lines intended to serve land uses permitted by code. As well, the regulations are triggered by encroachment upon areas that are already subject to extensive approval and remediation requirements at the federal, state, and local levels.

Based upon the substance of these concerns, we respectfully request the **repeal of Ordinance No. 122, 2021**, which designated areas of statewide interest, and replace Resolution 2021-055 with a revised resolution directing the City Manager to pursue intergovernmental agreements (IGAs) with Northern Water and all water and sanitation districts operating within the Fort Collins GMA. The Chamber does not believe either tool is necessary relative to highway projects pursued by CDOT.

**Compelling reasons to pursue IGAs as a solution** to perceived lapses in our current regulatory and approval process are as follows:

- IGAs have been utilized extensively across our state to guide the design, siting, installation, monitoring, and remediation of utility and other projects that have potential to disturb our natural environment or adversely impact the health and wellbeing of residents.
- IGAs allow the City and stakeholders to establish common standards of conduct, specific requirements for projects of elevated scope or scale, expectations of desired outcomes, enforcement process, and dispute resolution.
- IGAs provide all parties of interest greater predictability with uniform standards that help contain costs and project timelines.
- IGAs dramatically lower the potential of litigation to resolve conflicts.
- IGAs better establish the collaborative nature of serving the needs of our community without adversely impacting the interests of surrounding jurisdictions.
- The work associated with constructing a well-designed IGA takes place upfront with the ability to refine the document as conditions evolve, rather than subjecting every utility project to special review and the potential for a protracted, arduous process that will deliver uneven outcomes.
- IGAs are not enforceable within the construct of 1041 powers and therefore, must be employed without that overhang.





Based on the reasons cited above, the Chamber encourages Council to pursue an IGA approach rather than 1041 to address perceived lapses in our current regulatory and approval process.

Sincerely,

**Fort Collins Area Chamber of Commerce**

Ann Hutchison, CAE  
President & CEO

cc: Kelly DiMartino

