

RESOLUTION 10-97

A RESOLUTION OF THE TOWN OF BERTHOUD FOR APPROVAL AND ADOPTION
OF THE TERMS AND CONDITIONS OF THE ATTACHED
INTERGOVERNMENTAL AGREEMENT (IGA) DESIGNED TO ASSIST THE
COMMUNITIES OF NORTHERN COLORADO IN MANAGING AND PLANNING
URBAN GROWTH PATTERNS

WHEREAS, the Cities of Fort Collins, Loveland, Evans, Greeley, and the Towns of Berthoud, Windsor, Wellington, Milliken, Johnstown, and Larimer and Weld Counties, have participated in the Northern Colorado Regional Planning Study (the "Study") completed in June 1995 in cooperation with the State of Colorado Department of Local Affairs; and

WHEREAS, the City Councils, Town Boards and County Commissioners also appropriated funds for the purposes of cooperating in the completion of the Study, and in furthering the priorities and recommendations; and

WHEREAS, the above jurisdictions have indicated their desire to continue cooperative efforts related to regional growth management, and have directed staff to develop the attached Intergovernmental Agreement (the "Agreement") designed to manage and address growth within the region; and

WHEREAS, the Agreement stipulates the understanding of the various jurisdictions with regard to the following regional concerns:

1. Community Growth Management Areas
2. City/Town/County Cooperative Planning Areas
3. Annexation
4. Planning and Planning Coordination

WHEREAS, by adopting the Agreement, the jurisdictions accept the terms and conditions stated therein, and concur that issues of planning, land use, transportation and natural resources often have broader regional ramifications requiring regional solutions or approaches; and

WHEREAS, the jurisdictions also agree that they shall notify and conduct training for newly-elected officials and appointed managers/administrators as to the terms of the Agreement, and the broader objectives of the Northern Colorado Regional Cities, Towns and Counties Group; and

WHEREAS, the jurisdictions further agree to engage a trained mediator to assist in resolving disputes regarding the concepts of Community Growth Management Areas, Cooperative Planning Areas, and/or Community Influence Areas, or other points contained within the Agreement prior to pursuing legal action.

NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD approves and adopts the terms and conditions as stated in the attached Intergovernmental Agreement (IGA) regarding the Northern Colorado Regional Planning Study, and desires to continue to cooperate with the other jurisdictions of the region in implementing the regional framework of the Study.

Passed and adopted at a regular meeting of the Board of Trustees held this 25th day of November, 1997.

Brian D. Wadsworth
Mayor

ATTEST:

Mary K. Cauden
Town Clerk

Approved as to Form:

R. B. Fischel
Town Attorney

INTERGOVERNMENTAL AGREEMENT FOR COOPERATION ON MANAGING URBAN DEVELOPMENT

THIS AGREEMENT, entered into this 10th day of December, 1997, by and between, Town of Berthoud, City of Evans, City of Fort Collins, City of Greeley, City of Loveland, Town of Milliken, COLORADO, WITNESSETH:

WHEREAS, the Parties have determined that it is in their mutual best interests to preserve the unique identities of communities in the Region, as described in the Northern Colorado Regional Planning Study (NCRPS), by maintaining physical separation among these communities; and

WHEREAS, maintaining and enhancing separation between areas of urban development in a thoughtful and deliberate way involves cooperation in land use and transportation planning, implementation of growth management policies, and the identification and preservation of open space and natural areas; and

WHEREAS, concentrating urban development in areas designated for such development affords greater efficiency in the delivery of such services as water, stormwater, and sanitary sewer, transportation, fire and police protection and other services and also affords a measure of predictability to landowners and residents concerning where services will, in the future, be provided and urban development will be permitted; and

WHEREAS, communication among local jurisdictions and property owners and other interested parties is essential to accomplishing these ends; and

WHEREAS, an analysis was completed and recommendations were developed to achieve the above stated objectives, as outlined in a report entitled Northern Colorado Regional Planning Study, dated May, 1995; and

WHEREAS, the Parties have accepted this report as providing guidelines and recommended action steps as a basis for future cooperation and now desire to proceed with implementation through Intergovernmental Agreements among the affected local jurisdictions; and

WHEREAS, pursuant to various statutes of the State of Colorado (including but not limited to those indicated in Appendix A), local jurisdictions are authorized to regulate the location of activities and developments, phase development of services and facilities, regulate development on the basis of its impact on the community or surrounding areas, plan for and regulate the use of

land so as to provide planned and orderly use of land and protection of the environment; to cooperate or contract with other units of government for the purpose of planning and regulating the development of land, including but not limited to the joint exercise of planning, zoning, subdivision, building, and related regulations and annexation of property, all in a manner consistent with constitutional rights and statutory procedures; and

WHEREAS, planning and regulation of land use within the Region is the responsibility of individual local jurisdictions; and

WHEREAS, any provisions in this Agreement may be implemented only to the extent permitted by law,

NOW, THEREFORE, in consideration of the covenants and obligations expressed herein, it is agreed by and between the Parties as follows:

Section 1.0 Definitions

City/Town/County Cooperative Planning Area. A defined area that could in the future (beyond the development of the Community Urban Growth Management Area) be annexed and used for urban development. In the area, development is designed so as not to preclude future urbanization.

Cluster Development. A development design technique that concentrates buildings on a part of the site to allow the remaining land to be used for agriculture, recreation, common open space, preservation of environmentally sensitive features, and other open land uses. Specific use and definition of cluster development will be determined by the individual jurisdictions based on site specific considerations including the impact on adjacent jurisdictions.

Community Growth Management Area. That area into which urban development shall be directed (where appropriate) and within which urban services to support such urban development are needed and are expected to be provided by the municipality either currently or in the future.

Community Influence Area. An area beyond the Community Growth Management Area for which development proposals will be referred to adjacent municipalities.

Development. The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance; and any use or extension of the use of land.

Jurisdiction. Refers here to the Parties to this Agreement.

Minor Annexations. Annexations of ten or fewer acres or of enclaves within municipalities.

Mitigation. Appropriate measures to offset adverse impacts of a proposed development.

Northern Colorado Regional Planning Study (NCRPS). Study dated May 1995, and all subsequent amendments thereto.

Open Lands. Land area not occupied by any structure or impervious surfaces.

Open Space. Any parcel or area of land or water essentially unimproved, which is set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space.

Regional Corridors, Regional Gateways, Regional Linkages, Regional Resource Areas, and Regional Separators. Those areas identified in concept in the Northern Colorado Regional Planning Study dated May 1995.

Rural Areas. Areas which are outside municipal boundaries and Community Growth Management Areas, and typified by land uses such as agriculture, range lands, natural areas, and low-density residential, and where residents may not expect to have the full range of urban services such as central water, storm water, and sanitary sewer systems, quick-response fire and police protection, urban level street construction and maintenance, parks and recreation programs, or other similar services (although rural areas may have some of these services), and which are generally considered to be rural. These areas include development which is characterized by densities lower than those typical of urban services areas as well as cluster development in combination with adjacent dedicated open space.

Urban Development. Development which is characterized by the density of the development, which is typical to urbanized areas, and by the types of services that are generally required to support that development such as central water, storm water, and sanitary sewer systems, quick-response fire and police protection, urban level street construction and maintenance, parks and recreation programs, and/or other similar services that are typically provided by cities and towns.

Section 2. Topics of Agreement

2.1. Community Growth Management Areas

2.1.1. The Parties agree that by January 1, 2001 they will jointly establish Community

Growth Management Area boundaries, identifying the area within which urban development may be located within the next 20 years. These boundaries shall be based upon population projections, estimated residential and nonresidential development, and acreage requirements and assessment of the ability to provide municipal facilities and services.

2.1.2 The affected jurisdictions agree to jointly designate the Community Growth Management Area based upon projected land requirements as indicated in a Growth Management Plan, hereafter the "Plan", which shall provide projected growth statistics for a 20-year period (which shall be reevaluated every five years as indicated below). The plan shall include all of the following items:

(a) Plan Elements:

- (1) Estimates of population and employment growth and land requirements for such growth.
- (2) A map specifically designating the Community Growth Management Area.
- (3) A plan, including an estimated timetable, for facility and service extension to support the anticipated development.
- (4) A map of the areas to remain free of urban development so as to achieve the recommendations of the Northern Colorado Regional Planning Study and the municipalities' and counties' comprehensive plans.
- (5) Identification of sensitive environmental lands that are to be excluded from the boundaries or to be protected from development and the impacts of development.

(b) Planning Process

- (1) The respective municipality and county or counties (and any other affected municipalities, where appropriate) will jointly prepare or have prepared a draft Growth Management Plan containing at a minimum, all of the elements shown above in Section 2.1.2 (a).
- (2) The planning process will include informing and providing the opportunity for input from the property owners and residents within the Community Growth Management Area and other residents of the municipality.
- (3) Once the Plan is prepared, it will be incorporated into the Comprehensive Plans of the municipalities and county or counties and the boundaries of the Community Growth Management Area shall thereafter be established.

2.1.3 The Parties agree that urban services over which they have jurisdiction will not be extended beyond the boundaries of the respective Community Growth Management Area.

2.1.4 The Municipalities have neither actual nor implied legal obligations to provide urban level services throughout the Community Growth Management Area and therefore may adopt policies of phased, concurrent service extensions based upon the availability of the respective municipality's adequate services and its own and other service providers'

capability to extend public services.

2.1.5 The Parties agree that urban development within the boundaries of the Community Growth Management Area, whether occurring before or after annexation, will be required to meet development standards for water, storm water, and sanitary sewer systems, roads, streets, and bridges, parks, landscape criteria, urban street design, or other standards as agreed upon by the municipality and county or counties having jurisdiction.

2.1.6 The County agrees to encourage the location of urban development only in areas designated for urban growth.

2.1.7 The County agrees to submit proposals for development within the Community Growth Management Area, which is not eligible for annexation or has been rejected for annexation by the municipality, to the municipality for review and comment at least 30 days before any public hearing or decision. If the municipality recommends against approval and the County subsequently grants approval, the County agrees to provide a written statement to the municipality outlining the reasons for approval.

2.1.8 The Parties agree that no new urban development will occur within the Community Growth Management Area unless urban services can be provided by the respective municipality or designated service providers.

2.1.9 The County agrees to solicit a recommendation from the municipality prior to the establishment of any improvement district within the Community Growth Management Area.

2.1.10 As a condition of service extension or connection, the parties agree to require from the owner of parcels within the Community Growth Management Area a binding agreement or commitment that said area will be voluntarily annexed at such time as the area becomes eligible for annexation according to state annexation laws. Such agreement will be provided by the owner to the property buyers and will be a binding condition of development permit approval and shall run with the land and be placed of record in the office of the Clerk and Recorder in county having jurisdiction.

2.1.11 The Parties agree that every five years, or sooner if conditions so indicate, they will jointly reassess the population projections and land requirements to accommodate these growth projections and, if necessary, adjust the boundaries of the Community Growth Management Area.

2.1.12 The parties agree to adjust the Community Growth Management Area boundaries either concurrently with or prior to annexation.

2.2. City/Town/County Cooperative Planning Area

2.2.1 On or before January 1, 2001 the Parties agree jointly to establish the following:

- (a) The boundaries of a City/Town/County Cooperative Planning Area, beyond the 20-year Community Growth Management Area, creating a planning area within which urban development may be accommodated in the future.
- (b) The boundary beyond which the municipalities agree not to annex.
- (c) A land use plan and implementation procedures for the Cooperative Planning Area.

2.2.2 The Parties agree that, prior to adoption, property owners and residents in the Cooperative Planning Area will be informed of and have the opportunity for input to the Cooperative Planning Area Plan and the implementing Intergovernmental Agreement.

2.2.3 The County agrees to require that development within the Cooperative Planning Area be designed so as to allow for future urbanization.

2.3. Annexation

2.3.1 The Parties agree to require the location of urban development within municipal boundaries or annexable areas through planning, zoning, adequate facilities ordinances, and/or incentives or other means that the jurisdictions may consider to be appropriate.

2.3.2 The municipalities agree to annex property only within their Community Growth Management Area boundaries.

2.3.3 The municipalities agree to consider the annexation of only those parcels of land that are contiguous with the municipal boundary or are needed for the extension of municipal services and that are in accordance with the Land Use Plan and the municipality's development standards.

2.3.4 Counties agree to submit development proposals to municipalities prior to action on any rezoning, special review, planned unit development, special exception or subdivision for property that is eligible for voluntary annexation to a municipality.

2.3.5 The Counties agree to withhold action on any request for urban development on property that is eligible for voluntary annexation unless the petition conforms to the Municipality's standard annexation conditions and is subsequently denied by that Municipality. If such a petition is denied by the Municipality, the County may accept a rezoning or development proposal on the property and, if appropriate, approve it in

accordance with the development criteria agreed upon by the two jurisdictions in their Intergovernmental Agreement.

2.3.6 Except for Minor Annexations, a municipality considering annexation agrees to conduct or obtain an annexation analysis that includes fiscal and other impacts on services provided by the town, city, county, special districts, and any other jurisdictions and service providers that may be affected by the annexation. The analysis shall also address such services as water, storm drainage, and sanitary sewer systems, streets, roads and highways, parks, schools and human services, and fire and police protection. As required by State statute, the municipality will submit the proposal and the impact analysis for review and comment to the county or counties in which the municipality is located and to all other adjacent jurisdictions and affected service districts, including school districts, that will be affected by the annexation. The municipality will consider the comments ascertained from the above review before making a decision concerning annexation. If the proposed annexation is shown to create negative impacts on another jurisdiction, the annexing municipality will collaborate with the affected jurisdictions to reach agreement on how those impacts can best be mitigated.

2.3.7 The municipality agrees to assess the availability of service capacity to meet the demands of new urban development and require that essential public facilities, including water, stormwater, and sanitary sewer systems, roads and/or other transportation means or facilities, parks, and fire and police protection services, are available or will be available to accommodate the impacts and needs of the development.

2.3.8 The municipality agrees to require that urban development on annexed land conform to the municipality's development standards, as agreed upon by the municipality and county appropriate for the area.

2.3.9 The County agrees to require a binding annexation agreement as a condition of approval for any urban development requiring approval by the County and located within the Community Growth Management Area but not yet eligible for voluntary annexation to the municipality.

2.4. Planning Coordination

2.4.1 The Parties agree to include in local comprehensive plans the ten recommendations of the Northern Colorado Regional Planning Study as applicable to their jurisdictions and to develop regulations, incentives, and/or other implementation measures in conformance with such plans. As shown in the Study, the recommendations include:

1. Establish Regional Resource Areas.

2. Establish Regional Corridors
3. Establish Community Separators
4. Establish Community and Regional Gateways
5. Place Special Emphasis on Critical Regional Linkages
6. Establish Urban Growth Boundaries, Based Upon Appropriate Criteria
7. Establish Uniform Intergovernmental Agreements for growth management
8. Incorporate Key Elements Into Community Plans and Policies
9. Consider Regional Transportation and Infrastructure Linkages
10. Adopt a Community-based, Comprehensive Approach to Implementing the Framework.

2.4.2 The Parties agree jointly to designate a Community Influence Area for the Municipality. Such Areas could overlap those of other municipalities.

2.4.3 Within the Community Influence Area, the parties agree to submit Urban Development proposals that have the potential to significantly impact other jurisdictions for review to those impacted jurisdictions and, in the case of negative impacts, to require the implementation of mutually-acceptable ways to mitigate the impacts.

2.4.4 Outside Community Growth Management Areas and Cooperative Planning Areas or other areas specifically designated for urban growth, the County agrees to encourage the maintenance of rural land uses and to discourage proposals for urban development.

2.4.5 The Parties agree to include in their land use development documents standards for development which they consider appropriate for their respective jurisdictions.

2.4.6 The Parties agree to encourage the efficient use of land and to maintain sufficient land area for community separators.

2.4.7 The Parties agree to develop a process for collaborative planning among local jurisdictions throughout the Region so as to assist each other to achieve the recommendations of the Northern Colorado Regional Planning Study and also their respective local goals, including, but not limited to, economic development, growth management, and the protection of important regional natural and cultural resources.

2.5. Notice and Training

2.5.1 The Parties to this Agreement shall annually notify newly-elected officials and new managers of Parties to this Agreement of the existence of the Northern Colorado Regional Study and this Intergovernmental Agreement.

2.5.2 The Parties shall conduct an annual training session for elected officials and

managers of the Northern Colorado Region regarding the Northern Colorado Regional Study and its implementation.

Section 3. Other

3.1.1 If the Parties fail to reach agreement regarding Community Growth Management Areas, Cooperative Planning Areas, and/or Community Influence Areas or other elements in this Intergovernmental Agreement, the Parties agree to engage a trained mediator to help them resolve the issue. This Agreement will not serve as the basis for initiation of litigation between or among the Parties but shall not preclude the Parties' use of their statutory remedies.

3.1.2 This Agreement shall not confer on any Party standing to contest a land use decision or action of the other.

3.1.3 This Agreement is between the Municipality and the County and no third party rights or beneficiaries exist or are created hereby.

3.1.4 This Agreement may be amended in writing, subject to approval of all Parties.

3.1.5 This Agreement shall remain in force and effect for a period of six years from the date of its execution.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first above written.

TOWN OF BERTHOUD

Bertoud Borthoud
Mayor

R.B. Zwick
City Attorney

Mary K. Corrigan
City Clerk

Seal

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first above written.

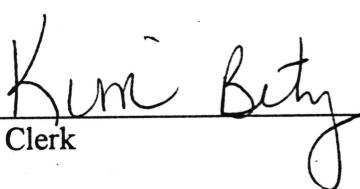
CITY OF EVANS



Mayor



City Attorney

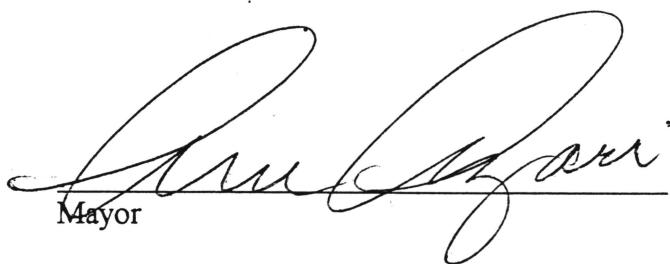


City Clerk

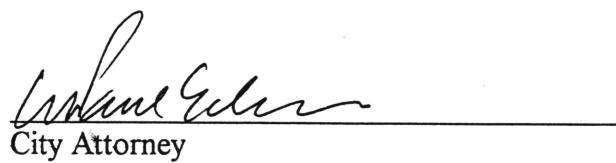
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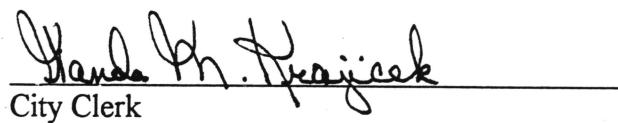
CITY OF FORT COLLINS



Paul S. Anton
Mayor



Daniel Eder
City Attorney



Wanda M. Krupick
City Clerk

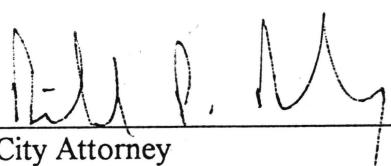
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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first above written.

CITY OF GREELEY



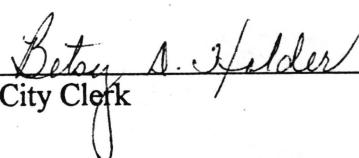
Lynn Nelson
Mayor



Bill P. M.
City Attorney



Paul W. Hattis
City Manager



Betsy A. Yoder
City Clerk



IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first above written.

CITY OF LOVELAND

Kathleen R. Gilliland
Mayor

APPROVED AS TO FORM:

Jane S. Brautigam
City Attorney

Victoria L. Shinneman
City Clerk



IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first above written.

TOWN OF MILLIKEN

Ted Hayes
Mayor

R. B. Fickell
City Attorney

Waltis Lund
City Clerk

Seal

APPENDIX A

COLORADO STATUTES APPLICABLE TO INTERGOVERNMENTAL AGREEMENT

Pursuant to Title 29, Article 20, Colorado Revised Statutes, as amended, the General Assembly of the State of Colorado has found and declared that in order to provide for planned and orderly development within Colorado and a balancing of the basic human needs of a changing population with legitimate environmental concerns, the policy of the State of Colorado is to clarify and provide broad authority to local governments to plan for and regulate the use of land within their respective jurisdictions; and

Pursuant to Title 29, Article 20, Colorado Revised Statutes, as amended, the General Assembly of the State of Colorado has designated certain powers to local governments, among them the power to regulate the location of activities and developments which may result in significant changes in population density, the power to provide for phased developments of services and facilities, the power to regulate the use of land on the basis of the impact thereof on the community or surrounding areas, and the power to otherwise plan for and regulate the use of land so as to provide planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights; and

Pursuant to Title 29, Article 20, Colorado Revised Statutes, as amended, the General Assembly of the State of Colorado has authorized and encouraged local governments to cooperate or contract with other units of government for the purpose of planning and regulating the development of land, including but not limited to the joint exercise of planning, zoning, subdivision, building, and related regulations; and

Pursuant to the Municipal Annexation Act of 1965, municipalities have the authority to annex property; and

Municipalities are permitted to annex land only if a majority of landowners owning at least 50% of the land petition for annexation, the area is entirely surrounded or owned by the municipality seeking to annex, or voters in the area approve of the annexation as provided by Article II, Section 30, Colorado Constitution.