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**INTERGOVERNMENTAL AGREEMENT**  
**CITY OF BROOMFIELD AND BOULDER COUNTY**  
**CONCERNING THE PROPOSED CITY AND COUNTY OF BROOMFIELD**

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INTERGOVERNMENTAL AGREEMENT  
CITY OF BROOMFIELD AND BOULDER COUNTY  
CONCERNING THE PROPOSED CITY AND COUNTY OF BROOMFIELD

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**EXHIBITS**

- Exhibit A      Map Showing Boulder County Open Space Properties in the Broomfield Area Funded by Boulder County's Open Space Sales and Use Tax Revenue Bonds and Showing Parcel to be Disconnected from Broomfield**
- Exhibit B      Map Showing Boulder County Open Space Parcels for Which Boulder County Will Give Broomfield Conservation Easements**
- Exhibit C      Map Showing Small Parcel of Boulder County Land to be Conveyed to Broomfield**
- Exhibit D      Map Showing Anderson Property Conservation Easement**



**INTERGOVERNMENTAL AGREEMENT  
CITY OF BROOMFIELD AND BOULDER COUNTY  
CONCERNING THE PROPOSED CITY AND COUNTY OF BROOMFIELD**

This Intergovernmental Agreement ("Agreement") is made and entered into by and between the City of Broomfield, a Colorado home rule municipal corporation ("Broomfield") and the County of Boulder, a body politic and corporate of the State of Colorado ("Boulder County"), individually a "Party" and collectively the "Parties."

**WITNESSETH:**

WHEREAS, Senate Concurrent Resolution 98-13 (hereinafter "SCR-13") has placed on the November 3, 1998 statewide general election ballot a question for the formation of a combined City and County of Broomfield; and

WHEREAS, if the question is approved by the state's voters, the City and County of Broomfield will become effective on November 15, 2001; and

WHEREAS, SCR 13, among other things, provides that the City and County of Broomfield may, by intergovernmental agreement, pay the City of Broomfield's proportionate share of outstanding revenue bonds of counties in which the City of Broomfield was situated; and

WHEREAS, in 1993, Boulder County adopted an Open Space Sales and Use Tax of 0.25% which applies to all of Boulder County, including Broomfield; and

WHEREAS, Boulder County currently has three revenue bond issues outstanding for open space, to-wit: (1) the 1994 Open Space Sales and Use Tax Revenue bonds issued in the original total principal amount of \$36,025,000; (2) the 1996 Open Space Capital Improvement Trust Fund Bonds issued in the original total principal amount of \$35,000,000; and (3) the 1998 Open Space Capital Improvement Trust Fund Bonds, issued in the original total principal amount of \$35,000,000 (collectively the "County's open space revenue bonds"); and

WHEREAS, Boulder County currently owns an 80 acre parcel in fee for open space purposes located within the corporate boundary of the City of Broomfield and the Parties desire to have said property disconnected, upon terms provided herein, from the City of Broomfield should the City and County of Broomfield proposal be adopted by the voters of the state; and



WHEREAS, Boulder County owns a 40 acre conservation easement for open space purposes located within the corporate boundary of the City of Broomfield and Broomfield desires to provide in this Agreement for recognition of its long-term preservation for said purposes by the City and County of Broomfield; and

WHEREAS, the Parties find that protecting open space lands preserves community buffers and the economic and civic interest of their citizens and meets the goals of the Boulder County Comprehensive Plan and the City of Broomfield Master Plan; and

WHEREAS, the functions described in this Agreement are lawfully authorized to each of the Parties which perform such functions hereunder, as provided in part 2 of article 1 of title 29, C.R.S., as amended; and

WHEREAS, the people of the State of Colorado have encouraged such cooperation and contracting between local governmental units of the state through the adoption of the Colorado Constitution, Article XIV, Section 18 (2); and

NOW, THEREFORE, in consideration of the above premises and the mutual covenants and commitments made herein, the Parties agree as follows:

1. **EFFECTIVE DATE.** The effective date of this Agreement is October 15, 1998. The City Council of the City of Broomfield and the Board of Commissioners of Boulder County have, by appropriate motions and votes, approved this Agreement before said effective date.
2. **CONTINGENCY.** This Agreement and each provision hereof is contingent upon the approval by a majority of voters voting on the constitutional amendment referred to the November 3, 1998 statewide general election ballot by SCR 98-13. If said amendment is not adopted, this Agreement shall be null and void.
3. **BOULDER COUNTY OPEN SPACE LANDS IN BROOMFIELD AREA.** Lands acquired by Boulder County in the Broomfield area and funded by a portion of the County's open space revenue bonds are shown on Exhibit A and listed below.



Property	Number Of Acres	Acquisition Expenditures Through 1998	Anticipated Future Acquisition Expenditures	Anticipated Total Acquisition Expenditures
Archdiocese	200.00	\$ 1,200,000	\$ -	\$ 1,200,000
Broomfield North	80.13	\$ 581,903	\$ -	\$ 581,903
Butler	39.59	\$ 249,527	\$ -	\$ 249,527
Eberl	10.05	\$ 201,040	\$ -	\$ 201,040
Liley	210.37	\$ 983,028	\$ 461,858	\$ 1,444,886
Roberts, Simi	66.76	\$ 406,800	\$ -	\$ 406,800
Roberts, Ruth	374.00	\$ 1,905,877	\$ 1,266,724	\$ 3,172,601
Roberts, Ruth	36.94	\$ 738,800	\$ -	\$ 738,800
Thompson (1)	40.00	\$ 233,200	\$ -	\$ 233,200
Thompson (2)	140.01	\$ 979,060	\$ -	\$ 979,060
Thompson (3)	13.00	\$ 220,000	\$ -	\$ 220,000
Valley Investment	117.11	\$ 702,636	\$ -	\$ 702,636
<b>Totals</b>	<b>1,327.96</b>	<b>\$ 8,401,871</b>	<b>\$ 1,728,582</b>	<b>\$ 10,130,453</b>

**4. BROOMFIELD'S PROPORTIONATE SHARE OF COUNTY'S OPEN SPACE ACQUISITION COSTS AND OPEN SPACE REVENUE BONDS.** Taking into consideration that the above open space properties benefit Boulder County and the city of Lafayette as well as Broomfield and that Boulder County is and will be paying a portion of the interest on its open space bonds, the Parties agree that Broomfield's proportionate share of the above acquisition cost of Boulder County's open space lands in the Broomfield area and of the County's open space revenue bonds is \$7,475,741, plus Broomfield's share of bond interest, determined as follows:



Property	County's Acquisition Cost	Broomfield's Proportionate Share	Broomfield's Proportionate Dollar Share
Archdiocese	\$ 1,200,000	95%	\$ 1,140,000
Broomfield North	\$ 581,903	90%	\$ 523,713
Butler	\$ 249,527	35%	\$ 87,334
Eberl	\$ 201,040	40%	\$ 80,416
Liley	\$ 1,444,886	81%	\$ 1,170,358
Roberts, Simi	\$ 406,800	44%	\$ 178,992
Roberts, Ruth	\$ 3,172,601	90%	\$ 2,855,341
Roberts, Ruth	\$ 738,800	67%	\$ 494,996
Thompson (1)	\$ 233,200	36%	\$ 83,952
Thompson (2)	\$ 979,060	32%	\$ 313,299
Thompson (3)	\$ 220,000	38%	\$ 83,600
Valley Investment	\$ 702,636	66%	\$ 463,740
<b>Totals</b>	<b>\$ 10,130,453</b>	<b>74%</b>	<b>\$ 7,475,741</b>
PLUS BROOMFIELD'S SHARE OF BOND INTEREST COSTS: FACTOR			0.20
INTEREST AMOUNT			\$ 1,495,148
TOTAL AMOUNT			\$ 8,970,889

**5. BROOMFIELD'S OBLIGATIONS.**

**5.1 Payment to Boulder County – Total Amount.** In consideration of Boulder County's promises set forth hereinbelow, Broomfield agrees to pay to Boulder County Broomfield's proportionate share of the County's open space revenue bonds in the manner provided for in Section 5.2 below. The total amount Broomfield shall pay to Boulder County shall be determined by subtracting the amount of sales and use tax revenue and property tax revenue for open space Boulder County has collected from Broomfield taxpayers for the years 1994 through 2001 from Broomfield's proportionate share of \$8,970,889 as follows:



Boulder County Clerk, CO AG

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D 0.00

Agreed on Broomfield's proportionate share.....	\$ 8,970,889
Less sales and use tax revenue collected by Boulder County from Broomfield through 1997.....	\$ (1,883,749)
Less property tax revenue for open space collected by Boulder County from Broomfield through 1997.....	\$ (981,782)
Amount remaining to be paid by Broomfield at the end of 1997.....	\$ 6,105,358
Less sales and use tax revenue collected by Boulder County from Broomfield for the years 1998 through 2001.....	\$**
Less property tax revenue for open space collected by Boulder County from Broomfield for the years 1998 through 2001.....	\$**
Amount remaining to be paid by Broomfield at the end of 2001.....	\$**
**These amounts will be determined in the same manner as the amounts above were determined.	

**5.2 Schedule of Payments.** Broomfield's remaining proportionate share of the County's open space bonds, as determined by the provisions of Section 5.1 above, shall be paid by Broomfield to Boulder County over time as follows: an amount of \$250,000 by July 1 beginning in the year 2002 and in each year thereafter until the total amount determined by the provisions of Section 5.1 has been paid in full. For example, if \$3,000,000 remains to be paid at the end of the year 2001, Broomfield would, beginning in the year 2002, make 12 annual payments of \$250,000 to Boulder County. In the event Broomfield, in its discretion, desires to pay more than \$250,000 in any one year or otherwise desires to pay the amount owing to Boulder County at an earlier date, Broomfield may do so.

**5.3 Disconnection of Broomfield North Parcel.** Within 60 days of a written request by Boulder County for disconnection of the "Broomfield North" open space property shown on Exhibit A and described as the E1/2 of the NE1/4 of Section 23, T1S, R69W of the 6<sup>th</sup> P.M., Boulder County, State of Colorado, Broomfield agrees to approve such disconnection conditioned only upon the grant of a conservation easement upon said property for open space purposes from Boulder County to Broomfield.

**5.4 Obligations Apply to the City and County of Broomfield.** Broomfield's obligations set forth in this Agreement shall survive its conversion from the City of Broomfield to the City and County of Broomfield, and the City and County of Broomfield shall perform all remaining obligations as successor to the City of Broomfield.





## **6. BOULDER COUNTY'S OBLIGATIONS.**

**6.1 County's Use of Funds Received from Broomfield.** Boulder County shall deposit funds paid to the County by Broomfield pursuant to this Agreement in the County Open Space Sales and Use Tax Fund, and use of said monies shall be subject to all of the restrictions imposed pursuant to the original Open Space Sales and Use Tax resolution approved by voters in 1993, Board of County Commissioners' Resolution No. 93-174.

**6.2 Conservation Easement and Use of County Open Space by City and County of Broomfield Citizens.** In consideration of Broomfield's payments made pursuant to this Agreement and of the payments by Boulder County's Broomfield residents of the Boulder County Open Space Sales and Use Tax from January 1, 1994 through December 31, 2001, Boulder County agrees that:

**6.2 (a) Conservation Easement.** Prior to December 31, 1998, Boulder County shall convey to Broomfield, for the use and benefit of its citizens, a conservation easement for all Boulder County open space properties, currently acquired or to be acquired in the future, located south of 40.00 degrees North Latitude and east of State Highway 93. Said open space properties that have been acquired by Boulder County, as of the date of this Agreement, are shown on Exhibit B. The conservation easement shall remain revocable until such time as Broomfield has paid to Boulder County the entire sum provided for in Section 5.1 above and may be revoked by Boulder County only if Broomfield shall fail to make the annual payments to the County as provided for in Section 5.2 above. After Broomfield has paid the entire amount provided for in Sections 5.1 and 5.2 above, the conservation easement shall become a perpetual conservation easement for said open space properties. With respect to those open space properties which Boulder County owns in fee jointly with another entity, Boulder County shall in good faith endeavor to convey the conservation easement on such property jointly with the other joint owner. If Boulder County determines that, after such good faith effort, the other joint owner will not jointly convey a conservation easement, Boulder County shall nevertheless convey a conservation easement effective as to its interest in the property to Broomfield.

**6.2 (b) Policies for Use of Open Space Properties.** Broomfield shall have the right to recommend to the Boulder County Commissioners policies and plans for the use of the open space lands described in Section 6.2 (a) above and the Commissioners shall give serious consideration to such recommendations. Regarding policies and plans proposed by Boulder County, the County shall notify in writing and confer with Broomfield prior to adopting such policies and plans for the open space lands described in Section 6.2 (a). Boulder County and Broomfield agree that, when future trails or other recreational facilities are planned for these open space lands, the two entities shall consider joint funding of said facilities.



**6.2 (c) Use of Open Space Properties by Broomfield Citizens.**

With respect to all Boulder County open space properties, currently acquired or to be acquired in the future, Boulder County shall permit access to said properties to all City and County of Broomfield residents upon the same terms and conditions to which Boulder County residents are subject. This obligation shall terminate immediately if Broomfield has not made the payments required under Section 5.2 above.

**6.3 Rights-Of-Way for Northwest Parkway.**

The Parties, along with the city of Lafayette, have previously entered into an Option to Purchase Agreement, dated December 17, 1996, which, among other things, provides for the acquisition by Broomfield, or by the city of Lafayette, or by both cities of rights-of-way for the Northwest Parkway through some of the County open space properties listed in Section 3 hereinabove. As long as Broomfield makes payments to Boulder County in accordance with the provisions of Section 5.2 above, Boulder County agrees that payment for such rights-of-way through such open space properties for which Broomfield is making financial contributions shall be reduced by the percentage of Broomfield's agreed on financial contribution. For example, if the cost of right-of-way through a certain open space property were to be \$10,000 and the percentage of Broomfield's agreed on financial contribution for said open space property is 50%, then the right-of-way acquisition cost shall be reduced by 50%, or by \$5,000. In the event Broomfield ceases to make the payments to Boulder County provided for in Section 5.2 above, then the right-of-way acquisition costs shall be as set forth in said Option Agreement less the funds contributed by Broomfield up to the point in time Broomfield ceased making such payments. For example, if Broomfield contributed only 30% of the cost of a certain open space property through which right-of-way for the Northwest Parkway is to be acquired, then the right-of-way acquisition cost would be reduced by 30% for right-of-way to be acquired and, if right-of-way had already been acquired based on an anticipated 50% financial contribution by Broomfield for the involved open space property, then an additional 20% of the right-of-way cost shall be paid to Boulder County.

**6.4 Conveyance of Boulder County Owned Parcel to Broomfield.**

Boulder County owns a small parcel of land located north of 120<sup>th</sup> Avenue and west of Sheridan Boulevard containing .28 of an acre, the location of said parcel being as shown on Exhibit C. Said parcel is not being used by Boulder County and Broomfield desires to have said parcel be a part of and owned by the City and County of Broomfield. Boulder County concurs with Broomfield's desire and shall convey said parcel to Broomfield by special warranty deed prior to December 31, 1998.

**6.5 Petition for Disconnection of Broomfield North Parcel.**

Boulder County agrees to petition the City Council of the City of Broomfield for disconnection of the Broomfield North open space property, referred to in Section 5.3 above, on or before December 31, 1998.



**6.6 No Opposition to Proposed City and County of Broomfield State Constitutional Amendment.** In consideration of Broomfield's promise to pay its proportionate share of the County's open space revenue bonds, as set forth in Section 5 above, the Board of County Commissioners agrees to forebear from opposition to the proposed City and County of Broomfield constitutional amendment on the November 3, 1998 general election ballot, and therefore the Board will not adopt a resolution in opposition nor undertake other actions in opposition as may be permitted by the Colorado Campaign Reform Act, part 1 of article 45 of title 1, C.R.S., as amended.

**7. PARTIES' AGREEMENT CONCERNING ANDERSON CONSERVATION EASEMENT.** The Parties agree that the area of the conservation easement on the 39.3 acre property, located in the SE1/4 of Section 21, T1S, R69W of the 6<sup>th</sup> P.M., County of Boulder, State of Colorado, (recorded at Reception No. 01437957 in the real estate records of the Boulder County Clerk and Recorder) and shown on Exhibit D shall remain preserved for open space purposes in accordance with the limitations upon use set forth in the conservation easement for a term of 99 years from the date hereof, unless otherwise agreed upon, in writing, by both Broomfield and Boulder County.

**8. FUTURE COOPERATION.** There may be opportunities in the future for the parties to cooperate with one another regarding the acquisition of lands for open space purposes. When such opportunities benefit both parties and Broomfield uses its funds to acquire all or a portion of such lands for open space purposes, Broomfield's payment obligation to Boulder County may be reduced by an amount determined fair and appropriate by the Boulder County Commissioners. It is understood that any such decision shall be at the sole and exclusive discretion of the Boulder County Commissioners.

**9. PARTIES AGREEMENT CONCERNING BROOMFIELD'S MASTER PLAN.** The Parties agree that Broomfield shall have the right to include the open space properties enumerated in Section 6.2(a) above on Broomfield's Master Plan and to include such open space properties in the open space calculations for Broomfield's Master Plan. This right shall terminate if Broomfield does not make the open space tax payments to Boulder County as set forth in Section 5.2 above. After Broomfield has paid the full amount set forth in Section 5.1 above, Broomfield shall have the on-going right to include the said open space properties in Broomfield's Master Plan. In any event, Broomfield agrees not to annex any such open space properties without the approval of Boulder County.

**10. OTHER AGREEMENT PROVISIONS.**

**10.1 Additional Documents or Action.** The Parties agree to execute any additional documents or take any additional action that is necessary to carry out this Agreement.



**10.2 Amendments.** This Agreement contains the entire agreement between the Parties and there are no oral or collateral agreements or understandings. Any proposed amendments shall take place only upon each Party's approval by resolution adopted by the governing body of each Party, after notice and hearing as may be required by law.

**10.3 Assignment.** This Agreement shall not be assigned by either Party without the prior written consent of the other Party; provided, however, that the Parties agree that the City and County of Broomfield will be the assignee of the City of Broomfield.

**10.4 Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the Parties and their respective legal representatives, successors, heirs, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this Agreement except as otherwise expressly authorized herein.

**10.5 City Not a Partner.** Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, the City shall not be deemed a partner or joint venturer with Boulder County, and the City shall not be responsible for any debt or liability of Boulder County.

**10.6 County Not a Partner.** Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, Boulder County shall not be deemed a partner or joint venturer with the City, and Boulder County shall not be responsible for any debt or liability of the City.

**10.7 Enforcement.** Either of the Parties may enforce this Agreement by any legal or equitable means, including specific performance, declaratory and injunctive relief. No other person or entity shall have any right to enforce the provisions of this Agreement.

**10.8 Execution in Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

**10.9 Execution Required.** This Agreement shall not be binding upon any Party hereto unless and until the Parties have executed this Agreement.

**10.10 Exhibits.** All exhibits referred to in this Agreement are by reference incorporated herein and made an integral part hereof for all purposes.

**10.11 Financial Obligations of the City.** All financial obligations of the City under this Agreement are subject to appropriation, budgeting, and availability of funds to discharge such obligations. Nothing in this Agreement



shall be deemed to pledge the City's credit or faith, directly or indirectly, to the other Party.

**10.12 Financial Obligations of the County.** All financial obligations of Boulder County under this Agreement are subject to appropriation, budgeting, and availability of funds to discharge such obligations. Nothing in this Agreement shall be deemed to pledge Boulder County's credit or faith, directly or indirectly, to the other Party.

**10.13 Governing Law and Venue.** This Agreement shall be governed by the laws of the State of Colorado and venue shall lie in the County of Boulder.

**10.14 No Presumption.** The Parties to this Agreement and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.

**10.15 No Third Party Beneficiaries.** This Agreement is intended to describe the rights and responsibilities only as to the Parties hereto. This Agreement is not intended and shall not be deemed to confer any rights on any person or entity not named as a party hereto.

**10.16 Notices and Referrals.** Any notice required or permitted by and any referrals regarding this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if personally served or if sent by certified mail or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is to be given at the address set forth immediately below, or at such other address as has been previously furnished in writing, by one Party to the other Party. Such notice shall be deemed to have been given when deposited in the mail of the United States Postal Service.

Entity	Representative
City of Broomfield	City Manager 1 DesCombes Drive Broomfield, CO 80020
Boulder County	Board of County Commissioners Post Office Box 471 Boulder, CO 80306

**10.17 Paragraph Captions.** The captions of the paragraphs are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

**10.18 Severability.** If any provision of this Agreement as applied to either Party or to any circumstance shall be adjudged by a court to be void or



unenforceable, the same shall in no way affect any other provision of this Agreement, the application of any such provision in any other circumstances or the validity, or enforceability of the Agreement as a whole.

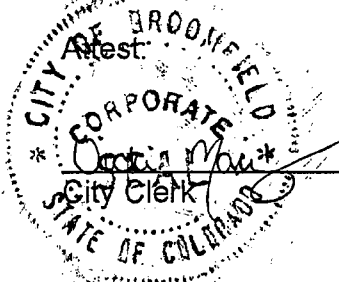
**10.19 Waiver of Breach.** A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either Party.

IN WITNESS WHEREOF, this Agreement is executed by the Parties hereto in their respective names.

**CITY OF BROOMFIELD, A COLORADO HOME RULE MUNICIPAL CORPORATION**

By: William M. Berens  
William M. Berens, Mayor

October 17, 1998  
Date



Approved As To Form:

Roy S. Howard  
Roy S. Howard, City Attorney

**COUNTY OF BOULDER - BY: BOARD OF COUNTY COMMISSIONERS**

By: Ronald K. Stewart  
Ronald K. Stewart, Chair

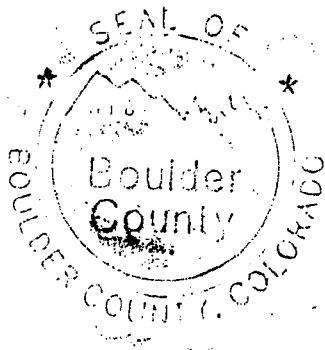
10-20-98  
Date

Attest:

Approved As To Form:

James M. Schubert  
Clerk to the Board

H. Lawrence Hoyt  
H. Lawrence Hoyt, County Attorney

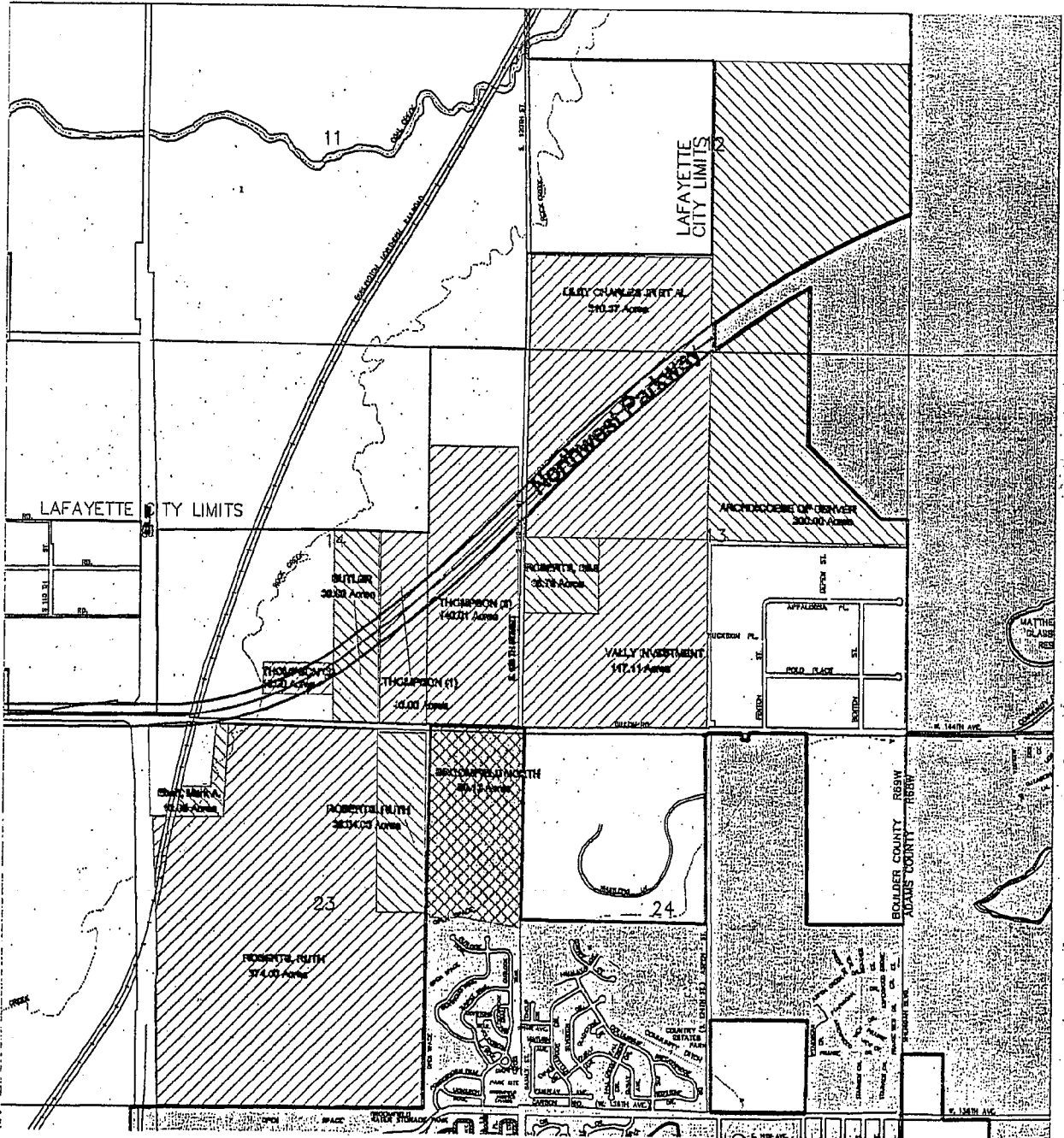





# Exhibit A VICINITY MAP

SEPTEMBER 10, 1998

## BOULDER COUNTY OPEN SPACE LANDS



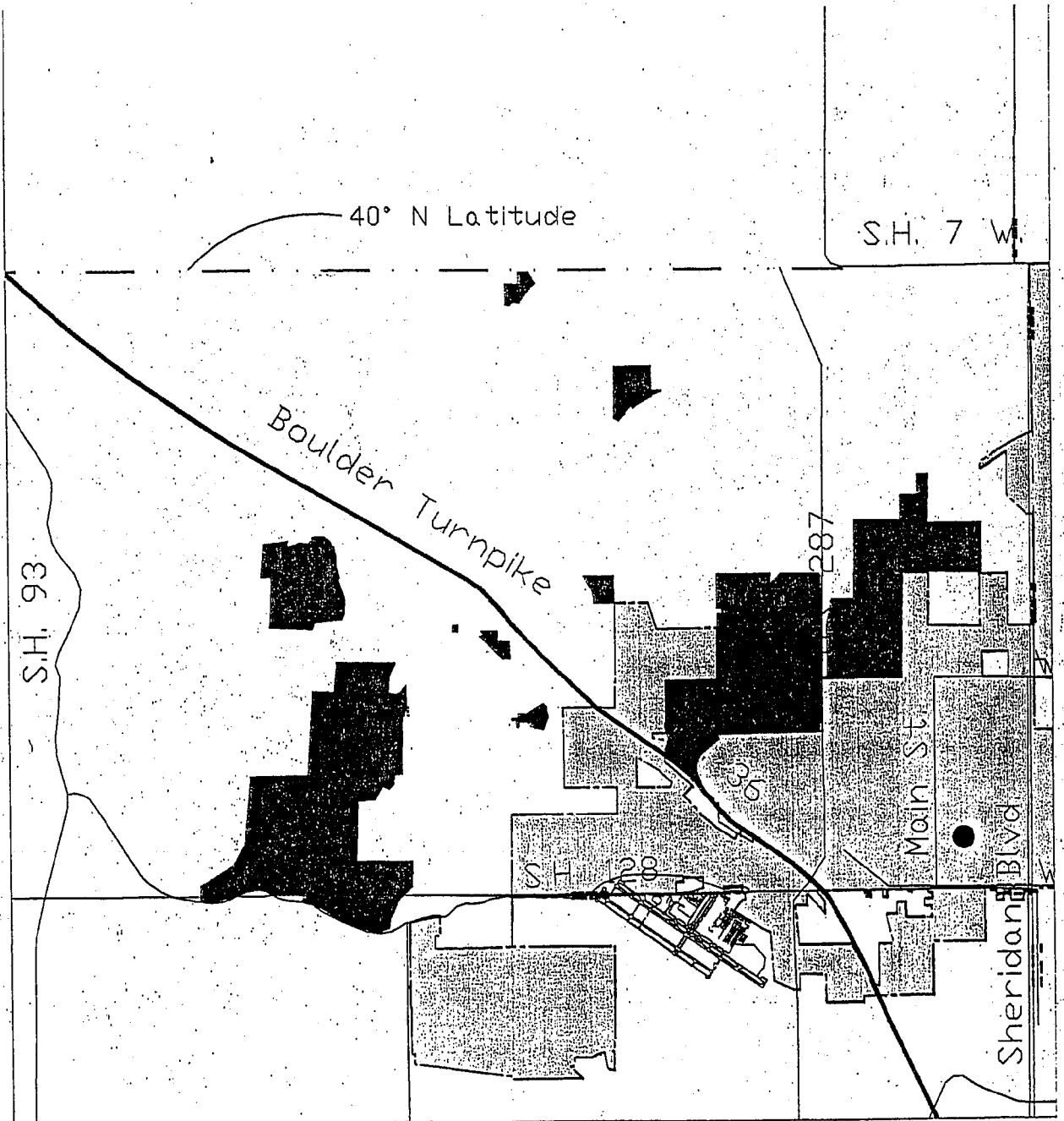
 PROPERTY TO BE DISCONNECTED



# Exhibit B VICINITY MAP

SEPTEMBER 11, 1998

## BOULDER COUNTY OPEN SPACE PROPERTY



 BOULDER COUNTY OPEN SPACE



