

**LAFAYETTE UTILITIES
COMPREHENSIVE DEVELOPMENT PLAN
INTERGOVERNMENTAL AGREEMENT**

THIS INTERGOVERNMENTAL AGREEMENT ("Intergovernmental Agreement") by and between the City of Lafayette, a Colorado home rule municipal corporation ("Lafayette" or "City of Lafayette" or "City"), and the County of Boulder, a body politic and corporate of the State of Colorado ("County" or "Boulder County") is made to be effective on the Effective Date as defined on the signature page of this Intergovernmental Agreement. The City and the County are collectively referred to in this Intergovernmental Agreement as the "Parties."

WITNESSETH

WHEREAS, § 29-20-101 *et seq.*, C.R.S. as amended, authorizes the Parties to enter into intergovernmental agreements to plan for and regulate land uses in order to minimize the negative impacts on the surrounding areas and protect the environment, and specifically authorizes local (i.e., town and county) governments to cooperate and contract with each other for the purposes of planning and regulating the development of land by means of a "comprehensive development plan;" and

WHEREAS, the County and the City have pursued negotiations concerning the authorization of the Boulder County Countywide Coordinated Comprehensive Development Plan Intergovernmental Agreement (hereinafter "Super IGA"); and

WHEREAS, in connection with the Super IGA, in order to provide assurances to the City that its prerogatives concerning the future development, maintenance, and rehabilitation of its water and sewer treatment facilities and related pipelines and other structures and equipment in the Unincorporated Rural Land Area and the various Rural Preservation Areas, as those areas are determined under the terms of the Super IGA, will not be frustrated by discretionary actions of the County under the criteria of its HB1041 regulations related to growth limitation, the County desires to limit the criteria that will be applied to future City HB1041 applications to those which relate to the on-site environmental impacts and the air and water quality impacts of the projects; and

WHEREAS, regarding the current plans of Lafayette to locate additional water storage reservoirs in the area generally south and west of the current Goose Haven water storage reservoir, as well as the plan for expansion of the wastewater treatment plant and its buffer area along the east County line, the County commits to its support of an amendment to the East Central Boulder County Comprehensive Development Plan Intergovernmental Agreement (hereinafter "East Central IGA") providing for a change in designation of these lands under such IGA from Rural Preservation Area to Lafayette Municipal Influence Area, permitting Lafayette's annexation of such lands where acquired by the City to be used solely for such uses, and the City commits to providing the County, upon acquisition of fee title to such lands, with conservation easements covering the entirety of such lands, permitting the water storage or wastewater treatment

plant and plant buffer area uses, as applicable, but prohibiting other development of such lands; and

WHEREAS, the functions described in this Intergovernmental Agreement are lawfully authorized to each of the Parties which perform such functions hereunder, as provided in Article 20 of Title 29; Part 1 of Article 28 of Title 30; Part 1 of Article 12 of Title 31; and Parts 2 and 3 of Article 23 of Title 31, C.R.S., as amended; and

WHEREAS, § 29-1-201, *et seq.*, C.R.S., as amended, authorizes the Parties to cooperate and contract with one another with respect to functions lawfully authorized to each of the Parties and the people of the State of Colorado have encouraged such cooperation and contracting through the adoption of Colorado Constitution, Article XIV, § 18(2); and

WHEREAS, the Parties have each held hearings after proper public notice for the consideration of entering into this Intergovernmental Agreement and the adoption of a comprehensive development plan for unincorporated lands; and

WHEREAS, the Parties desire to enter into this Intergovernmental Agreement in order to plan for the use of unincorporated lands through joint adoption of a mutually binding and enforceable comprehensive development plan.

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

1. **CITY OF LAFAYETTE UTILITIES.**

A. County HB1041 Review.

It will be necessary for the City of Lafayette to seek additional water supplies, water storage, and water and sewer transportation and treatment facilities, both within and without the incorporated limits of the City. The areas designated in the Map portion of Exhibit A of the East Central Boulder County Comprehensive Development Plan Intergovernmental Agreement as the City of Lafayette and the City of Lafayette Influence Area, as from time to time amended, shall be deemed to be Lafayette's "Service Area" for all purposes, including, but not limited to, Boulder County's Regulation of Areas and Activities of State Interest in Article 8 of the Boulder County Land Use Code. In addition, those lands located within the prospective Lafayette Comprehensive Plan area as provided in Section 3.5 of the Super IGA which are included in the Lafayette Municipal Influence Area through compliance by Lafayette with the provisions of that section of the Super IGA, shall also be deemed to be Lafayette's "Service Area."

To the extent such supplies and facilities are necessary to serve development within said Service Area, the County agrees to use its best efforts in good faith to take action under any permitting requirements without undue delay, recognizing applications for such permits as being in conformance with this comprehensive development plan. To this end, the County agrees that the City of Lafayette, in applying for such permits under the provisions of the Regulation of Areas and Activities of State Interest in Article 8 of the Boulder County Land Use Code for projects in the unincorporated area of Boulder

County, shall not be required to demonstrate compliance with the following provisions of said Regulation: Sections 8-511(B)(3), (10), (13), & (14), (C) (1) & (2)(a), (D) & (E).

Section 8-511(B)(5)(c) & (5)(d) shall only be applicable to sanitary sewerage facilities. Section 8-511(B)(5)(a), (5)(b), (5)(e) – (5)(h), (6), & (7) shall apply to site location, construction and operation of facilities within areas designated on the Boulder County Comprehensive Plan as Natural Communities, Rare Plant Areas, Riparian Corridors, Critical Wildlife Habitats, Environmental Conservation Areas, Natural Areas, Natural Landmarks, Geologic Hazard and Constraint Areas, and Archeologically Sensitive Areas; and with respect to other areas shall be limited in its application to construction and operation of such facilities. The application of Section 8-511(B)(7) concerning archeological resources shall be limited to a determination whether archeologically-significant resources will be negatively impacted by the proposed project, and if so, provide for mitigation of those impacts. The application of Section 8-511(7) as it applies to geologic natural hazards shall be limited to resolution of floodplain issues.

The County through the Board of County Commissioners finds, pursuant to Section 8-504 of the Boulder County Land Use Code, that this intergovernmental agreement shall serve in lieu of review of permit applications under those regulations of Article 8, Section 5 of the County Land Use Code which are limited herein, to the extent of such limitations.

B. Goose Haven Area Water Storage and East County Line Wastewater Treatment

Lafayette currently plans to develop up to three water storage reservoirs in the area generally south and west of its current Goose Haven water storage reservoir, and desires to be able to annex the lands upon which such reservoirs are located. Lafayette also intends to expand its wastewater treatment plant facilities and the buffer area surrounding the plant, located along the east County line, and would prefer to annex the lands necessary to accomplish this. The lands under consideration for these purposes are set forth on the Exhibit A map, attached hereto and incorporated herein by this reference. Boulder County agrees that it will not purchase any additional property interest in any of these lands so long as Lafayette desires to pursue their acquisition and development for water storage purposes. In order for Lafayette to accomplish the annexation of these lands, an amendment to the East Central IGA will be required to include the Exhibit A lands located within the East Central IGA Plan Area as Lafayette Municipal Influence Area.

Any Exhibit A lands located within the prospective Lafayette Comprehensive Plan area as provided in Section 3.5 of the Super IGA shall be included in the Lafayette Municipal Influence Area upon compliance by Lafayette with the provisions of that section of the Super IGA. Lafayette agrees that it will only annex and use the Exhibit A lands covered by Section 3.5 of the Super IGA for a third water storage reservoir after it has developed the other Exhibit A lands with the two water storage reservoirs proposed to be created first. The City agrees that the configuration of this westernmost reservoir shall be of a more “natural” lake-style form than the “bathtub” configuration of the existing Goose Haven reservoirs. The City and the County shall mutually agree on a natural-type landscaping plan for the areas surrounding the reservoirs, and the agreement of a Party

shall not be unreasonably withheld. Boulder County would not purchase any additional property interest in any of the parcels Lafayette desires to pursue for water storage.

Boulder County agrees to support the amendment of the East Central IGA for these purposes, permitting annexation of the lands upon which these facilities will be located, where acquired in fee by Lafayette and where Lafayette, upon acquisition, grants to Boulder County conservation easements limiting the use of the lands to water storage reservoirs, or wastewater treatment plant facilities and plant buffer area, as applicable. Lafayette also agrees to grant such a conservation easement upon acquisition of the westernmost reservoir parcel covered by section 3.5 of the Super IGA. If, consistent with the terms of this Agreement, Lafayette seeks amendment of the East Central IGA to permit inclusion in the Lafayette Municipal Influence Area of the area of the two potential reservoir sites currently located in that IGA's designated "Rural Preservation Area" but such amendment is not approved, or if Boulder County does not approve a HB 1041 permit for one of the potential reservoirs to be located within this area, Lafayette can proceed to undertake the annexation or permitting, and development after permitting, of the third reservoir site without first developing either or both of the first two potential reservoirs for which annexation and/or HB 1041 permitting has(ve) not been approved.

2. **TERM OF THE AGREEMENT:**

This Agreement and Comprehensive Development Plan shall be and remain in effect so long as Lafayette remains a Party to the Super IGA.

THIS AGREEMENT is made and entered into to be effective on the later of the dates of approval by the City of Lafayette or Boulder County (the "Effective Date").

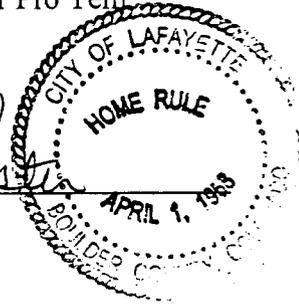
CITY OF LAFAYETTE

By: *Mark H. Berry*
Mayor or Mayor Pro Tem

Date: 9/16/03, 2003

ATTEST:

Susan Koster
City Clerk



APPROVED AS TO FORM:

Patricia C. Fisher
City Attorney

COUNTY OF BOULDER
Board of County Commissioners

Paul D. Danish
Paul D. Danish, Chair

Date: 9/16/03, 2003

ATTEST:

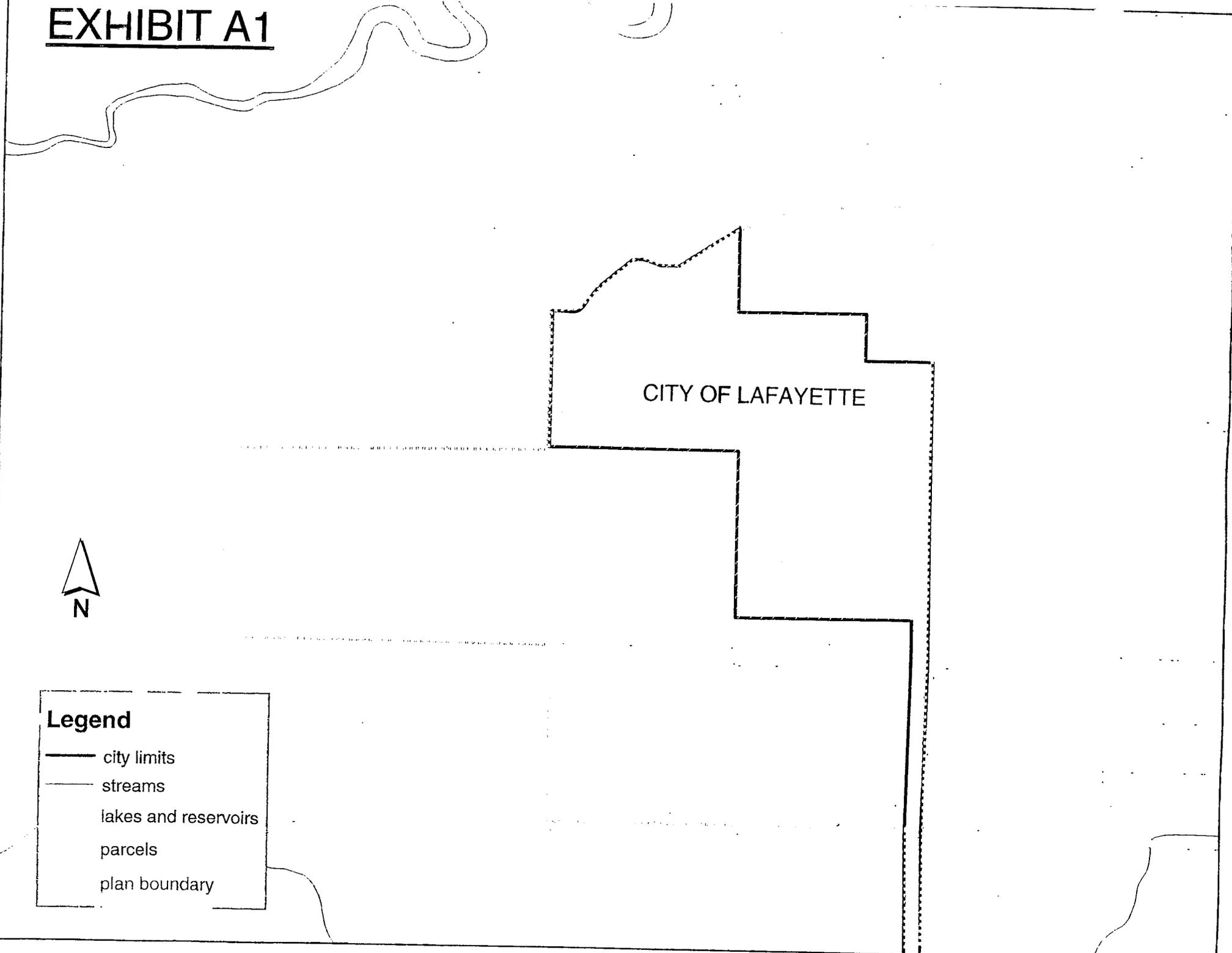
APPROVED AS TO FORM:

Mike Pydes
Deputy Clerk to the Board



Lauren
County Attorney

EXHIBIT A1



CITY OF LAFAYETTE



Legend

- city limits
- streams
- lakes and reservoirs
- parcels
- plan boundary

EXHIBIT A2

Legend

- streams
- city limits
- lakes and reservoirs
- parcels
- plan boundary

