



**THIRD AMENDMENT TO INTERGOVERNMENTAL AGREEMENT:
BOULDER COUNTY AND THE TOWN OF NEDERLAND
FOR THE MUD LAKE PROPERTY**

THIS THIRD AMENDMENT to Intergovernmental Agreement between the Town of Nederland, a Colorado municipal corporation ("the Town") and the County of Boulder, State of Colorado, a body politic and corporate ("the County") (collectively hereinafter referred to as the "Parties") is executed to be effective the 6th day of July, 2004.

RECITALS

A. The Town and the County previously entered into that certain Intergovernmental Agreement: Boulder County and the Town of Nederland For the Mud Lake Property, effective December 17, 1999, recorded December 21, 1999, at Reception No. 2008471") ("the Agreement"), as amended by that certain Amendment to Intergovernmental Agreement: Boulder County and the Town of Nederland for the Mud Lake Property, effective July 24, 2001 and recorded August 30, 2001 at Reception No. 2180976 ("the Amendment"), as further amended by the Second Amendment to Intergovernmental Agreement: Boulder County and the Town of Nederland for the Mud Lake Property effective the 1st day of December, 2002 ("the Second Amendment") (collectively, the "IGA").

B. The functions described in this Third Amendment 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

C. Section 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

D. The Parties have each held hearings after proper public notice for the consideration of entering into this Third Amendment.

E. The Town and the County desire to amend the IGA to provide for the exchange by the County of an approximately five (5) acre parcel of the Mud Lake Open Space (hereinafter "Parcel A," as described on Exhibit A) with Wild Bear Center for Nature Discovery, formerly known as Wild Bear School ("Wild Bear"), for an approximately four (4) acre parcel of land which Wild Bear now owns in the area of Mud Lake and which is encumbered by a conservation easement owned by the County (hereinafter "Parcel B," as described on Exhibit A.)

F. The Parties also desire to amend the IGA to provide for certain law enforcement services to be provided by the Nederland Town Marshal by way of a mutual aid agreement with the Boulder County Sheriff, which is attached hereto and incorporated herein by this reference as Exhibit B.



G. The Parties further desire to amend the IGA to provide for snow removal from, and routine maintenance and repair of, the access road and parking lot serving Mud Lake Open Space.

H. The Parties desire to amend the IGA whereby the County would provide an easement on the Mud Lake Open Space lands at no cost to Nederland at such time that Nederland desires to extend water and sewer lines underground to Wild Bear.

I. The Parties also desire to amend the IGA pursuant to the provisions of §29-20-105, C.R.S., as amended, to plan for and regulate the use of the lands within the Plan Area through joint adoption of a mutually binding and enforceable comprehensive development plan to plan for and regulate land uses, in order to minimize the negative impacts of development on the surrounding areas and protect the environment.

J. Finally, the Parties desire to amend the IGA to reflect the changes in the time and manner in which the Boulder County Housing Authority units will be constructed on the lands of the Nederland Fire Department and/or other parcels agreed to by the Parties.

NOW, THEREFORE, in consideration of the recitals and the mutual promises, covenants and undertakings hereinafter set forth, and other good and valuable consideration, which is hereby acknowledged and receipted for, the Parties hereby agree that the IGA shall be and hereby is amended in accordance with the following agreed provisions:

1. Exchange of Parcels: County Open Space and Wild Bear

The County currently owns an approximately 225 acre parcel for open space purposes known as Mud Lake Open Space, which includes Parcel A. Wild Bear currently owns Parcel B, which is a private inholding within Mud Lake Open Space. The County and Wild Bear desire to exchange Parcel A for Parcel B, and for Wild Bear to locate its educational facilities and programs on Parcel A, instead of Parcel B.

The County has undertaken such appraisals as it believes necessary, and finds that Parcel A and Parcel B have roughly equivalent market values and, therefore, the exchange of Parcel A and Parcel B between the County and Wild Bear can be undertaken without additional payment of consideration. The Parties therefore agree that Boulder County can exchange Parcel A for Parcel B. Upon the exchange of Parcel A for Parcel B, all access easements held by Wild Bear in connection with its ownership of Parcel B will be extinguished and Parcel B will become part of Mud Lake Open Space (Parcel D, as described on Exhibit A.) Upon the exchange, the County's conservation easement interest in Parcel B will merge with, and be extinguished by, the County's fee simple interest in Parcel B. Upon the closing of the conveyance of Parcel A to Wild Bear, the County will convey to Wild Bear such access and utility easements as are necessary for efficient use of Parcel A as an environmental education center. The County's conveyance of Parcel A to Wild Bear will be subject to a retained conservation easement upon terms and conditions substantially similar to the conservation easement that encumbers Parcel B.



2. Law Enforcement Services – Mutual Aid Agreement

The Boulder County Sheriff and the Nederland Town Marshal have agreed to a mutual aid agreement for provision of law enforcement services for Mud Lake Open Space. Nothing in said agreement should be construed to limit or otherwise affect the concurrent law enforcement authority of Boulder County Parks and Open Space rangers or the Boulder County Sheriff. The mutual aid agreement, attached hereto as Exhibit B, is hereby approved by the County and the Town.

3. Maintenance of Open Space Access Road and Parking Lot

The County will construct the Mud Lake trailhead, parking lot and access road in accordance with plans submitted to, and approved by, the Nederland Town Board. The County shall be responsible for major repairs and reconstruction of such improvements in the future.

The Town agrees to perform routine maintenance work on the access road and parking lot, including but not limited to filling potholes, re-grading and removing snow.

4. Water/Sewer Line Easement to Wild Bear

The County agrees that, should the Town and Wild Bear agree on the provision of water and/or sewer services by the Town to Wild Bear's facilities on Mud Lake Open Space, the County will at the appropriate time provide to the Town at no cost an easement for the underground location of said line(s), and such temporary construction easements as may reasonably be necessary for mobilization for the construction project, subject to the County's approval of the locations of said easements. If the construction is to occur, the Town agrees to submit plans for the location of said line(s) and for its construction and for the rehabilitation of the areas disturbed by the construction.

5. Housing Authority Units, Fire Department Land

The Town has decided that a maximum of six (6) units of affordable housing may be located on the Existing Fire Station Parcel. However, at this time the Town is unable to convey the Existing Fire Station Parcel to the County. In the event that the Existing Fire Station Parcel is not conveyed to and accepted by the County no later than July 31, 2006, the Town shall be required to either: (i) provide lots to build 6 dwelling units within the Town for affordable housing at a location or locations reasonably acceptable to the County; or (ii) pay the County from the escrow described herein \$12,000 for each dwelling unit which the Town does not provide up to 6 dwelling units (\$72,000); or (iii) any combination as determined by the Town of lots, reasonably acceptable to the County, and cash. If the escrowed funds are insufficient to pay all or a portion of the sums due the County under this paragraph, the Town shall pay the County from Town funds. If the County unreasonably refuses to accept the Existing Fire Station Parcel, (objections to environmental, title or other conditions which make the intended use of the parcel for affordable housing impracticable shall be deemed reasonable objections) the County shall not be entitled to any lots or the cash identified in this paragraph.



Because the Town has decided that a maximum of six (6) units of affordable housing may be located on the Existing Fire Station Parcel, the Town has also committed to conveyance of the six (6) remaining units of affordable housing on an additional parcel or parcels on or before July 31, 2006. In the event that an additional parcel or parcels at a location or locations reasonably acceptable to the County and upon which six (6) units of affordable housing may be constructed is/are not conveyed to and accepted by the County on or before July 31, 2006, the Town shall be required to pay the County from the escrow described herein \$12,000 for each dwelling unit which the Town does not provide up to 6 dwelling units (\$72,000) or any combination as determined by the Town of lots, reasonably acceptable to the County, and cash. If the escrowed funds are insufficient to pay all or a portion of the sums due the County under this paragraph, the Town shall pay the County from Town funds. If the County unreasonably refuses to accept a parcel or parcels offered, (objections to environmental, title or other conditions which make the intended use of the parcel for affordable housing impracticable shall be deemed reasonable objections), the County shall not be entitled to any lots or the cash identified in this paragraph;

6. Mud Lake Open Space Comprehensive Development Plan

The Mud Lake Open Space Comprehensive Development Plan (hereinafter the "Plan") is hereby adopted containing master plans, zoning plans, subdivision regulations, and building code, permit, and other land use standards, which shall be in lieu of such regulations and ordinances of the local governments. The Plan is set forth in Exhibit C. To the extent that the Plan is silent as to a specific land use matter, existing local land use regulations shall control.

7. Except as specifically amended by this Amendment, the Agreement remains in full force and effect.

8. Counterparts. This Amendment may be executed in counterparts, which when combined shall be deemed a complete original, and all of which shall constitute one and the same agreement. Facsimile signatures shall be acceptable to and binding upon all parties.

9. Recording. This Amendment shall be recorded in the office of the Clerk and Recorder of Boulder County, Colorado.

10. Severability. If any part of this Amendment is found, decreed or held to be void or unenforceable such finding, decree or holding shall not affect the other remaining provisions of this Agreement which shall remain in full force and effect.

11. Survival. The parties agree that, except for such of the terms, conditions, covenants and agreements included herein which are, by their very nature fully and completely performed upon the closing of the purchase-sale transactions provided for in this Amendment, all of the terms, conditions, representations, warranties, and covenants of this Amendment shall survive the closing of any purchase-sale transactions and shall continue after said closings to be binding upon and inure to the benefit of the parties, their successors and assigns.



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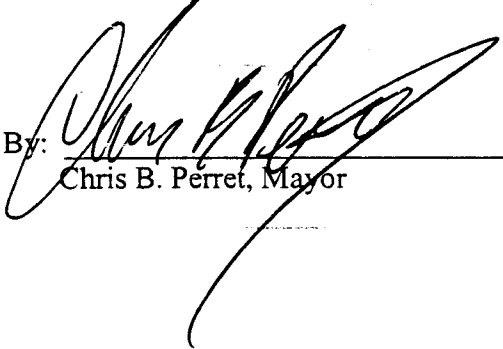
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Boulder County Clerk, CO AMEND AGREE R 0.00

[SEAL]



Town of Nederland, State of Colorado

By: 
Chris B. Perret, Mayor

ATTEST:

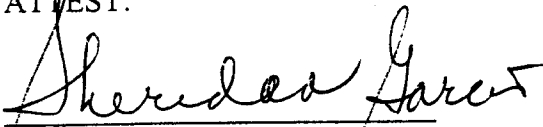

Sheridan Garcia, Town Clerk



EXHIBIT A

Legal Description of Parcel A (new 5 acre parcel)

A parcel substantially similar to the following legally described parcel:

A parcel of land located in the Northeast quarter (NE 1/4) of Section 12, Township 1 South, Range 73 West of the 6th P.M., being a portion of Tract 1, THE HIGHLANDS, the plat of which is recorded as Plan File P-35, F-1 Nos. 24 and 25, Boulder County Records, more particularly described as follows:

Commencing at the Southeast corner of the North 1/2 of the North 1/2 of said Section 12;

thence North 89°00'33" West, along the South line of the North 1/2 of the North 1/2 of said Section 12, a distance of 2650.81 feet to the center North 1/16th corner of said Section 12;

thence North 88°54'15" West, along the South line of the North 1/2 of the North 1/2 of said Section 12, a distance of 219.48 feet to a point on the South line of the 60 foot wide right-of-way line for County Road No. 126 as shown on survey plat "LS-03-0042" of the Boulder County Land Use records;

thence the following two (2) courses and distances along the said South line of the 60 foot wide right-of-way for County Road No. 126, to wit:

- 1 - South 73°47'43" West, a distance of 96.68 feet;
- 2 - South 75°12'05" West, a distance of 13.62 feet to the **Point of Beginning**;

thence South 26°00'00 East, a distance of 123.04 feet to the beginning of a non-tangent curve to the right;

thence 508.45 feet along the arc of said curve to the right, said curve having a radius of 930.00 feet, a central angle of 31°19'29" and being subtended by a chord that bears South 81°33'07" East, a distance of 502.14 feet to the beginning of a compound curve to the right;

thence 122.31 feet along the arc of said compound curve to the right, said curve having a radius of 288.00 feet, a central angle of 24°19'56" and being subtended by a chord that bears South 53°43'25" East, a distance of 121.39 feet;

thence North 90°00'00" East, a distance of 32.42 feet to the beginning of a non-tangent curve to the right;



thence 101.87 feet along the arc of said curve to the right,
said curve having a radius of 313.00 feet, a central angle of 18°38'52"
and being subtended by a chord that bears South 28°17'22" East,
a distance of 101.42 feet;

thence South 90°00'00" West, a distance of 81.01 feet
to the beginning of a non-tangent curve to the left;

thence 118.19 feet along the arc of said curve to the left,
said curve having a radius of 95.00 feet, a central angle of 71°16'45"
and being subtended by a chord that bears South 67°24'10" West,
a distance of 110.71 feet;

thence South 83°00'00" West, a distance of 166.00 feet;

thence South 47°00'00" West, a distance of 181.00 feet;

thence South 78°00'00" West, a distance of 162.00 feet;

thence North 02°00'00" East, a distance of 200.00 feet;

thence North 39°00'00" West, a distance of 406.89 feet
to a point on the South right-of-way line of said County Road No. 126;

thence the following three (3) courses and distances along
the Southerly right-of-way of said County Road No. 126, to wit:

- 1 - North 69°51'47" East, a distance of 46.10 feet
to the beginning of a tangent curve to the right;
- 2 - a distance of 59.63 feet along the arc of said curve to the right,
said curve having a radius of 640.00 feet, a central angle of 05°20'19"
and being subtended by a chord that bears North 72°31'56" East,
a distance of 59.61 feet to a tangent line;
- 3 - North 75°12'05" East, a distance of 60.80 feet to the **Point of Beginning**.



Legal Description of Parcel B (existing Wild Bear 4 acre parcel):

A tract of land being a portion of Tracts 4 and 5 of the Highlands Subdivision located in the Southwest ¼ of Section 12, Township 1 South, Range 73 West of the 6th P.M., described as follows:

Beginning at a point from which the South ¼ corner of said Section 12 bears S 17°47'54" E, 2088.26 feet; Thence N 90°00'00" W, 27.84 feet;
Thence N 24°10'58" W, 50.89 feet;
Thence N 34°16'29" W, 131.23 feet;
Thence N 37°46'03" W, 138.27 feet;
Thence N 19°34'23" W, 87.90 feet;
Thence N 26°50'39" W, 48.63 feet;
Thence N 36°55'27" W, 78.87 feet;
Thence N 23°49'04" W, 49.32 feet;
Thence N 11°27'58" W, 60.60 feet;
Thence N 90°00'00" E, 534.98 feet;
Thence S 00°00'00" E, 129.39 feet;
Thence S 24°40'58" W, 471.65 feet to the Point of Beginning.

County of Boulder
State of Colorado.

Legal Description of Parcel C (Mud Lake Open Space, less Parcel A)

Legal Description of Parcel D (conjoined Parcels B & C – resulting Mud Lake Open Space)



EXHIBIT B

**MUTUAL AID AGREEMENT CONCERNING LAW ENFORCEMENT
COVERAGE FOR MUD LAKE OPEN SPACE PROPERTY**

THIS AGREEMENT, dated this _____ day of _____, 2004, is by and between the following:

Boulder County Sheriff's Office

Town of Nederland Town Marshal

WHEREAS, Sections 29-1-203 and 30-11-410, C.R.S. permit municipal and county governments to enter into cooperative agreements for the provision of services by the other agency; and

WHEREAS, each of the parties provides law enforcement services within its area of geographic responsibility; and

WHEREAS, the Mud Lake Open Space Property is close to the Town limits of the Town of Nederland; and

WHEREAS, each of the parties has on staff law enforcement officers trained to respond to incidents; and

WHEREAS, each party also recognizes the utility and advantage of mutual aid agreements addressing certain law enforcement functions.

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual promises hereinbelow contained and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Terms and Conditions:

It is understood and agreed that this Agreement is intended to facilitate cooperation between the Parties in the provision of the services provided herein, but does not establish a separate legal entity to do so, and, except as set forth herein, this Agreement does not authorize any Party (or the employee of any Party) to act for any purpose whatsoever. This Agreement shall provide only for sharing of in-kind services and costs by the Parties toward the establishment of a common mutual goal, said goal being to provide sufficient coverage for



certain law enforcement services for the Mud Lake Open Space Property in the County of Boulder.

This Agreement will operate as follows:

a. The Nederland Town Marshal is responsible for responding to incidents in the Town of Nederland. The Boulder County Sheriff's Office is responsible for responding to incidents in the unincorporated areas of Boulder County.

b. The Nederland Town Marshal is authorized to provide law enforcement services, including enforcement of Boulder County Parks and Open Space regulations, for the Mud Lake Open Space property. Nothing in this agreement should be construed to limit or otherwise affect the law enforcement authority of the Boulder County Sheriff and/or the Boulder County Parks and Open Space Rangers.

c. No individual employee of another law enforcement agency is authorized to perform the functions of the Nederland Town Marshal, the Sheriff and/or the Boulder County Sheriff's Office absent a specific request to do so.

2. Term and Termination.

This Agreement shall be effective as of the date first-above written and shall continue in effect indefinitely. Any party to this Agreement may terminate its involvement at any time after serving fifteen (15) days advance written notice to the other party.

3. Relationship of Parties.

The parties enter into this Agreement as separate, independent governmental entities and shall maintain such status throughout. Officers assigned under this mutual aid agreement shall be considered and shall remain employees of their respective law enforcement agencies at all times and for all purposes under this Agreement.

4. Colorado Governmental Immunity Act.

No party shall be liable under this Agreement for the actions of the other's employees and agents. By agreeing to this provision, the Parties do not waive or intend to waive the limitations on liability which are provided to Parties under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq. The provisions of § 29-5-108, C.R.S., shall not apply to activities conducted pursuant to this Agreement.

5. No Third Party Beneficiaries.

It is expressly understood and agreed that enforcement of the terms and conditions 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 by any other third party on such Agreement. It is the express intention of Parties that any person other than Parties receiving services or benefits under the Agreement shall be deemed an incidental beneficiary only.

6. No Assignment.

Each party covenants and agrees that it will not assign this Agreement or any interest or part thereof or any right or privilege pertinent thereto without the prior written consent of all other parties first having been obtained.

7. Fund Availability.

Financial obligations of the Parties after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

8. Governing Law.

The law of the State of Colorado shall be applied in the interpretation, execution and enforcement of this Agreement.

9. 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. Entire Agreement.

This Agreement embodies the entire agreement of the parties. The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein. No changes, amendments or modifications of any of the terms or conditions of this Agreement shall be valid unless reduced to writing and signed by all parties.

IN WITNESS WHEREOF the parties hereto have executed this Agreement, which shall be effective upon the date first above written.

AUTHORIZATION:

Sheriff
Boulder County Sheriff's Office



Town Marshal
Town of Nederland



APPROVAL:

Chair
Board of County Commissioners
Boulder County

APPROVAL:



Mayor, Town of Nederland

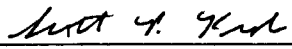
Attest:



Town of Nederland Clerk



APPROVED AS TO FORM:



Scott P. Krob, Town Attorney



EXHIBIT C

MUD LAKE OPEN SPACE COMPREHENSIVE DEVELOPMENT PLAN

This Comprehensive Development Plan shall govern the development of the land described below (hereinafter the "Plan Area.") This Plan contains master plans, zoning plans, subdivision regulations, and building code, permit, and other land use standards, which shall be in lieu of such regulations and ordinances of the local governments. To the event that this Plan is silent as to a specific land use matter, existing local land use regulations shall control.

Permitted Development and Use of Mud Lake Open Space Plan Area:

During the term of this Plan, educational uses shall be permitted as a use of right within the Plan Area and Special Use Review shall not be required for structures that support educational uses and are less than 150 square feet.

Term of Plan:

This Plan shall remain in effect for eighteen (18) months from its effective date. After this eighteen-month period, the Plan shall expire and the applicable zoning and land use regulations of the County shall control.

Plan Area: The Plan Area is described as follows:

[Insert legal description of Parcels A and D]

Open Space Division of Land:

Parcels A & C, described as set forth in Exhibit A above, are hereby divided so that Parcel A can be conveyed to Wild Bear in exchange for Parcel B, also described as set forth in Exhibit A above. Upon receiving fee title to Parcel B, Parcels B and C shall be joined as one parcel, Parcel D, also described on Exhibit A above. This Division of Land shall operate in perpetuity and is not limited to the term of this Plan.