

19-1

INTERGOVERNMENTAL AGREEMENT
Southeast Boulder County Area
Comprehensive Development Plan

This Intergovernmental Agreement by, between and among the City of Broomfield, a Colorado home rule municipal corporation; City of Lafayette, a Colorado home rule municipal corporation (Lafayette); and the County of Boulder, a body politic and corporate of the State of Colorado (Boulder County); collectively the "Parties") is made to be effective on the 16th day of January, 1997.

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WITNESSETH:

WHEREAS, §29-20-101 et seq., C.R.S. as amended, enables 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 governments to cooperate and contract with each other for the purpose of planning and regulating the development of land by means of a "comprehensive development plan"; and

WHEREAS, in order to ensure that the unique and individual characters of Broomfield and Lafayette, respectively, are preserved, the Parties believe that a comprehensive development plan which recognizes the annexed areas and development approved by each community, accompanied by binding commitments by the responsible jurisdictions for the preservation of the rural character of surrounding lands within the Plan Area, is in the best interest of the citizens of each of the Parties; and

WHEREAS, the prohibition of rezoning or other discretionary land use approvals by Boulder County and of annexation or development by Broomfield or Lafayette, of certain lands within the Plan Area, is intended to preclude increased development and urban sprawl which would obliterate the boundaries of Broomfield and Lafayette and would, if permitted in the unincorporated area, require the provision of urban services by Boulder County, in contravention of provisions of the Boulder County Comprehensive Plan; and

WHEREAS, the Parties desire to enter into this Intergovernmental Agreement in order 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;
and

WHEREAS, the Parties find that designating a portion of the Plan Area to remain as rural development for the purpose of preserving a community buffer serves the economic and civic interest of their citizens and meets the goals of the Boulder County Comprehensive Plan; and

WHEREAS, the Parties anticipate the location of a multi-modal roadway to serve the transportation needs of the citizens, hereinafter referred to as the "Northwest Parkway"; and

WHEREAS, with respect to the annexation provisions herein, the City of Broomfield and the City of Lafayette declare that the rural preservation designations and land use regulations contained in this Agreement affect the future development of each municipality. Consistent with the municipal annexation, utility service, and land use laws of the State of Colorado, this Agreement, including specifically the annexation and utility service portions hereof, is intended to encourage the natural and well-ordered future development of each Party; to promote planned and orderly growth in the affected areas; to distribute fairly and equitably the costs of government services among those persons who benefit therefrom; to extend the government, services, and facilities to the affected areas in a logical fashion; to simplify providing utility services to the affected areas; to simplify the governmental structure of the affected areas; to reduce and avoid, where possible, friction between the Parties; and to promote the economic viability of the Parties;
and

WHEREAS, the functions described in this 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 Agreement and the adoption of a comprehensive development plan for the subject lands, hereinafter referred to as the "Plan Area"), as shown on the map portion of the Development Limitations attached hereto as Exhibit A; and

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

1. SOUTHEAST BOULDER COUNTY AREA COMPREHENSIVE DEVELOPMENT PLAN.

This Agreement, including Development Limitations (both text and map portions) attached hereto as Exhibit A, is adopted by the Parties as the Southeast Boulder County Area Comprehensive Development Plan (the "Plan") governing the Plan Area.

2. CONTROLLING REGULATIONS.

Restrictions on use and development of lands within the Plan Area as provided in Exhibit A shall control and supersede local regulations of the Regulatory Party to the extent they conflict. For purposes of this Plan, the "Regulatory Party" is that Party having regulatory jurisdiction over the subject property at the time, or seeking to acquire such jurisdiction through annexation. A Party shall be deemed to be "seeking" annexation as of the date when an annexation petition is filed. No Party shall agree with any landowner or other person or entity interested in any parcel within the Plan Area to allow any use or development which does not comply with the Plan without first obtaining a Plan Amendment as set forth herein.

The Parties each agree to undertake all steps to adopt procedures, plans, policies, and ordinances or other regulations as may be necessary to implement and enforce the provisions of this Plan. Any Party adopting such procedures, plans, policies, ordinances or regulations shall give each of the other Parties sufficient advance notice of such action as will enable such Parties, if they so desire, to comment upon the planned actions of that Party.

To the extent this Plan is silent as to a particular land

use matter, existing local land use regulations of the Regulatory Party having jurisdiction over the property as amended from time to time shall control.

3. RURAL PRESERVATION AREA.

(a) Broomfield and Lafayette each agree that they will immediately disclose to the other any and all instances in which they are approached by landowners in the Rural Preservation Area seeking annexation. Further, Broomfield and Lafayette each commit that they are not currently pursuing any annexations within the Rural Preservation Area.

(b) The Map portion of Exhibit A shows certain lands within the Plan Area which are designated "Rural Preservation Area". These lands are intended to remain within the unincorporated area of the County, subject to the County's land use regulatory jurisdiction as limited in the text portion of Exhibit A. Broomfield and Lafayette each agree that neither of them will initiate nor approve an annexation of any portion of any of the lands shown as "Rural Preservation Area" on the Map portion of Exhibit A without first obtaining approval of a Plan Amendment as provided for herein. By authorizing the execution of this Agreement, the City Councils of Broomfield and Lafayette each respectively finds and declares that there is no community of interest between the any of the lands designated Rural Preservation Area on the Map portion of this Plan with either Broomfield or Lafayette, that none of these lands is urban nor is likely to urbanize within the term of this Plan, and that none of these lands is currently integrated with, nor for the term of this Plan will any of them be capable of being integrated with, either Broomfield or Lafayette

4. NORTHWEST PARKWAY.

It is anticipated, but not required, by the Parties that they will enter into a subsequent intergovernmental agreement governing the proposed location and development standards for a roadway referred to here as the "Northwest Parkway." The continued validity and enforceability of this Agreement is in no way affected by the execution of or failure to execute such an agreement in the future.

Boulder County does not currently regulate the site selection of arterial or collector highways, pursuant to §24-65.1-101 et seq., C.R.S., or otherwise. Boulder County commits,

however, that if it does adopt such regulations, that for purposes of such regulations, the acquisition of right-of-way for the Northwest Parkway or a successor roadway, a maximum of 300 feet in width, across the parcels shown on Exhibit A to contain potential right-of-way, and along an alignment reasonably approximate to that shown on Exhibit A, will be considered to comply with all comprehensive planning requirements for the location of such roadway under any such regulation.

While the design of the roadway is to be determined at a later date, the Parties agree to the following:

1. The Parties will support an access point at Highway 287. All Parties agree to support a request to the Colorado Department of Transportation for such access. Access may be at-grade, but would, in any case, be designed to minimize the impact on adjacent property.
2. The roadway will be designed as a multi-modal facility and provide quality buffering between communities.
3. When determining the location of the roadway corridor west of Highway 287, the Parties agree to take into account environmental and economic factors, as well as any other appropriate issues.

5. REFERRALS.

Any application or other proposal for annexation or development on any parcel within that portion of the Plan Area designated Rural Preservation Area or on the Archdiocese Parcel as set forth in Exhibit A shall be immediately referred in writing to all Parties, and no action shall be taken thereon by the referring Party until such Parties have had the opportunity to respond concerning the proposal's conformity to this Plan and other land use concerns, all such responses to be received within 20 days of date of referral.

6. AMENDMENTS.

This Plan contains the entire agreement between the Parties. Any proposed amendment of the Plan affecting the jurisdiction over lands or the development regulation of lands must be referred to the Parties by the Regulatory Party, or by any Party seeking to become the Regulatory Party through annexation. Amendment of the Plan shall take place only upon approval by resolution or ordinance adopted by the governing body of each of the Parties, after notice and hearing as may be required by law.

The Regulatory Party shall not approve nor permit any development or change of use of any parcel in the Plan Area by any means in a manner inconsistent with this Agreement until and unless the Plan has been amended so that the proposed development or use of such parcel is consistent with the Plan.

7. SEVERABILITY.

If any portion of this Plan is held by a court in a final, non-appealable decision to be per se invalid or unenforceable as to any Party, the entire Agreement and the Plan shall be terminated, it being the understanding and intent of the Parties that every portion of the Agreement and Plan is essential to and not severable from the remainder; except that, if the prohibition on annexation set forth in paragraph 3(b) is held invalid or unenforceable, the Agreement and Plan shall otherwise remain in full force and effect.

8. BENEFICIARIES.

The Parties, in their corporate and representative governmental capacities, are the only entities intended to be the beneficiaries of the Plan, and no other person or entity is so intended.

9. ENFORCEMENT.

Any one or more 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. DEFENSE OF CLAIMS/INDEMNIFICATION.

If any person allegedly aggrieved by any provision of the Plan and who is not a Party to the Plan should sue any Party concerning such Plan provision, Boulder County shall, and any other Party may, defend such claim upon receiving timely and appropriate notice of pendency of such claim. Defense costs shall be paid by the Party providing such defense.

In the event that any person not a Party to the Plan should obtain a final money judgment against any Party who is the Regulatory Party for the diminution in value of any regulated parcel resulting from regulations in the Plan or regulations adopted by such Party implementing the Plan, Boulder County shall, to the extent permitted by law, indemnify such Party for the amount of said judgment.

11. 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.

12. TERM AND EFFECTIVE DATE.

This Agreement shall become effective upon signature of an authorized representative of the governing bodies of the Parties. Except as provided herein, this Agreement shall remain in effect for a period of twenty (20) years from the effective date, unless terminated prior thereto by agreement of all the Parties or pursuant to the terms of section 7 above.

12. PARTY REPRESENTATIVES.

Referrals made under the terms of this Agreement shall be sent to the Parties' (and Parties') representatives as follows:

ENTITY:	REPRESENTATIVE:
County of Boulder	Director, Land Use Department P.O. Box 471 Boulder, CO 80306
City of Broomfield	City Manager 1 DesCombes Dr. Broomfield, CO 80020
City of Lafayette	City Administrator 1290 S. Public Rd. Lafayette, CO 80026

Name and address changes for representatives shall be made in writing, mailed to the other representatives at the then current address.

THIS AGREEMENT made and entered into to be effective on the date as set forth above.

CITY OF BROOMFIELD

By: William M. Berens
William Berens, Mayor

1/31/97
Date

ATTEST:

APPROVED AS TO FORM:



Roy S. Howard
Roy S. Howard, City Attorney

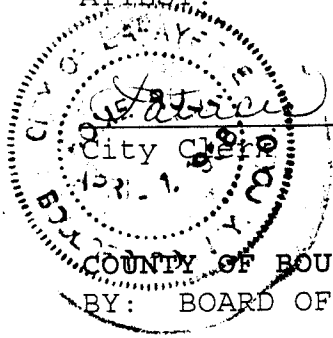
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By: Carolyn Buchholz
Carolyn Buchholz, Mayor

2-5-97
Date

ATTEST:

APPROVED AS TO FORM:



Patricia C. Tisdale
City Clerk
BY: BOARD OF COUNTY COMMISSIONERS

Patricia C. Tisdale
Patricia C. Tisdale, City Attorney

Ronald K. Stewart
Ronald K. Stewart, Chair

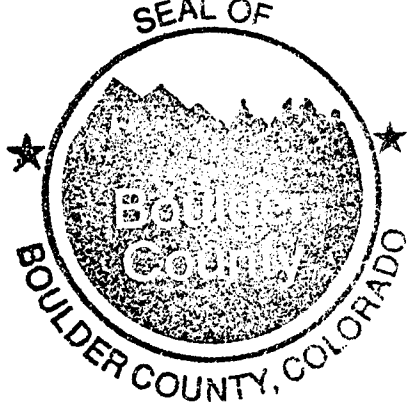
1-16-97
Date

ATTEST:

APPROVED AS TO FORM:

Busan Ashcraft
Clerk to the Board

H. Lawrence Hoyt
H. Lawrence Hoyt, County Attorney



SOUTHEAST BOULDER COUNTY AREA IGA
COMPREHENSIVE DEVELOPMENT PLAN

EXHIBIT A
(text portion)

1. INTRODUCTION:

This Comprehensive Development Plan (hereinafter "CDP") has been jointly developed and adopted by the Parties, and is entered into by Intergovernmental Agreement of said entities.

These Development Limitations are intended to provide specific land use and development restrictions governing the "Rural Preservation Area" parcels and the Archdiocese parcel located within the subject Plan Area, the boundaries of which are set forth on the attached Map.

2. DEFINITIONS:

DEVELOPMENT: Construction or establishment of structures, parking areas, and/or surfaced vehicular roadways (except expansion of existing roads and except construction of the "Northwest Parkway" or a successor thereto along the alignment shown on Exhibit A), or establishment of new land uses.

PLAN AREA: Lands included within the boundaries of the designated Plan Area as set forth on the Map, including right-of-way, setback areas, and parcels subject to the Plan's Development Limitations.

STRUCTURE: Any thing which is built or constructed, including but not limited to an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, but excluding fences, retaining walls not over 6 feet in height, and buried utility lines.

3. DEVELOPMENT LIMITATIONS ON RURAL PRESERVATION AREA PARCELS.

For parcels designated Rural Preservation Area on the Map, those existing uses of such parcels which conform to Boulder

County's regulations, or which are legally nonconforming, shall be permitted to continue, either as legal or legal nonconforming uses. No density increase beyond the limits currently permissible under the Boulder County Land Use Code shall be approved for any such parcel, nor shall any such parcel be annexed to any municipal Party, unless the same is approved through the Plan amendment procedure set forth in Section 5 of the Agreement above.

Pursuant to regulations in the Boulder County Land Use Code as it may exist from time to time, parcels within the Rural Preservation Area may be "sending parcels" for purposes of transferring development rights (TDRs). However, such parcels shall not serve as "receiving parcels" without amendment of this Agreement. TDR units shall not be "sent" from parcels designated in this Agreement as Rural Preservation Area to be located upon a receiving site within the adopted comprehensive plan area of a municipal Party without the consent of the interested Party or Parties.

Development on parcels for which "vested rights" for further development have been acquired through an estoppel against Boulder County precluding the prohibition of such development established by a final, non-appealable court judgment in a proceeding of which the other Parties have been given timely notice and the opportunity to join or intervene shall be permitted to the extent such development is in conformance with the rights so acquired and occurs within the vested period.

Establishment of uses and development in conformance with the zoning (including approved PUD plans) and other land use and development regulations applicable to the property on the effective date of this Plan shall be permitted, where such uses or development continue to be permitted under the provisions of the Boulder County Land Use Code at the time at which they are sought to be established. Permission for such development shall be processed through the normal procedures otherwise established by Boulder County.

Approval of an NUPUD with residential density no greater than 2 units per 35 acres by Boulder County upon such lands is permitted pursuant to the regulations generally

applicable therefor at the time of application submittal, and such approval is not for purposes of these Development Limitations an increase in density.

Any proposed use or development of any portion of the parcels designated Rural Preservation Area shall conform to the provisions of this Agreement, or, if nonconforming, shall require amendment of the Plan in the manner provided in the Agreement. Any proposed rezoning, subdivision, special use or other regulatory process, or amendment or modification of any existing zoning, PUD, special or conditional use, or subdivision plat, or issuance of a building permit, or proposed annexation, whether or not coupled with any such regulatory process, entered into for any lands designated Rural Preservation Area shall conform to the Plan, or with an approved amendment thereof, in order to be approved by the Regulatory Party.

4. SPECIFIC PARCEL PROVISION:

A parcel specifically noted on the attached Map is the property currently owned by the Archdiocese of Denver ("the Archdiocese Parcel"). This 320 acre parcel is currently subject to an annexation petition which has been filed by its owner with the City of Broomfield. Irrespective of whether the annexation is approved by the City, the County hereby agrees to purchase approximately 200 acres for open space purposes and the City agrees to acquire approximately 25.5 acres for Northwest Parkway right-of-way purposes, and acquire approximately 61.7 acres for open space purposes, totaling approximately 287.2 acres of this parcel as shown on the map attached and incorporated as Exhibit B, and will negotiate in good faith to that end. Upon acquisition of said parcel, said parcel shall be governed by the provisions of section 5 below.

The portions of this property purchased for open space purposes by the County shall not be annexed by either Broomfield or Lafayette. Should the annexation of the balance of the property to Broomfield occur prior to the purchase for open space purposes, any portion of the property which is purchased for open space purposes by the County but which had been annexed to Broomfield shall be deemed eligible and appropriate for disconnection upon

application for same.

5. OPEN SPACE PROVISIONS:

Any properties within the Plan Area designated as Rural Preservation Area which are acquired as "open space" shall be acquired in fee or by conservation easement (as defined in §38-30.5-102, C.R.S.) for open space purposes by any one or more of the Parties, to the extent funds are appropriated and made available for such purpose. The method by which such acquisition will take place, and the terms and conditions of purchase, together with the determination of whether fee title or a conservation easement will be acquired, shall be at the sole discretion of the acquiring Party(ies).

The area necessary for construction of the Northwest Parkway or a successor roadway may be obtained at the same time that any Rural Preservation Area property which is sought to be acquired for open space through which the proposed "Northwest Parkway" alignment runs as shown on Exhibit A is acquired; or any Party may acquire the area necessary for construction of the Northwest Parkway at any other time. Any Party seeking to obtain the proposed right-of-way shall commit to the acquiring Party to purchase upon the same terms and at the same time as the open space acquisition. For this purpose, at the time any Party(ies) contracts to purchase such Rural Preservation Area parcel for open space purposes, such Party(ies) shall provide to each other Party(ies) an option for purchase of the right-of-way.

Except as limited below, with respect to properties within the Plan Area which Boulder County owns in fee for open space purposes on the date of execution of this Agreement, Boulder County agrees to sell, at such time as the roadway's organization, control and financing have been established, such portion of said properties as is necessary for the right-of-way for the Northwest Parkway or a successor roadway along the alignment shown on Exhibit A, with a maximum right-of-way width of 300 feet. This commitment is wholly dependent upon Boulder County Board of County Commissioners' written statement of its satisfaction with the finally established alignment of said roadway upon or adjacent to its open space properties west of US 287. For

purposes of this limitation, Boulder County's satisfaction shall be conclusively presumed where the final alignment is established outside of its properties in Sections 22, 27 & 28, T1S, R69W, 6th PM, or where said alignment is located upon no portion of said properties other than the most northerly 50 feet of its properties, measured from the existing southerly right-of-way line of Dillon Road, in Section 22, T1S, R69W, 6th PM. When determining the location of the roadway's corridor west of Highway 287, the Parties agree to take into account environmental and economic factors, as well as any other appropriate issues. At the time of the decision-making for the roadway location, which considers the economic, environmental and other appropriate factors, Boulder County will consider the use of more than 50 feet for roadway purposes.

In addition, Boulder County hereby commits to offer to purchase within 6 months of the effective date of this Plan each of the Rural Preservation Area parcels at a price and upon terms determined by Boulder County to be comparable to its purchases of other open space properties in the area.

Upon acquisition of Rural Preservation parcels shown on Exhibit A, the acquiring Party shall provide to each of the other Parties an undivided interest in a conservation easement upon said lands, providing for restrictions on development and use in accordance with the terms of this Plan and the site-specific management plan.

Open space shall serve one or more of the following functions:

- (a) urban shaping between or around municipalities or community service areas and buffer zones between residential and non-residential development;
- (b) preservation of critical ecosystems, natural areas, scenic vistas and areas, fish and wildlife habitat, natural resources and landmarks, and cultural, historical and archeological areas,;
- (c) linkages and trails, access to public lakes, streams and other usable open space lands, stream corridors and scenic corridors along highways;
- (d) areas of environmental preservation, designated as areas of concern, generally in multiple ownership,

where several different preservation methods (including other governmental bodies' participation or private ownership) may need to be utilized;

- (e) conservation of natural resources, including but not limited to forest lands, range lands, agricultural land, aquifer recharge areas, and surface water;
- (f) preservation of land for outdoor recreation areas limited to passive recreational use, including but not limited to hiking, photography or nature studies, and, if specifically designated, bicycling, horseback riding, or fishing;
- (g) underground public facilities, public utility mains, lines; other public facilities may be located thereon where approved by the governing bodies of each of the Parties.

Once acquired, open space may be used only for the above purposes, and shall be used in accordance with a site-specific management plan approved by the governing body of the acquiring Party(ies) after consultation with the other Parties. Until acquisition, such parcels or portions of parcels shall be subject to the Development Limitations set forth in Section 3 of this Plan.

Residents of the Cities of Broomfield and Lafayette shall be entitled to use the open space properties acquired pursuant to this Agreement and other open space shown on Exhibit C to the same extent and upon the same terms and conditions as all Boulder County residents, irrespective of the county in which such city residents live.

6. COUNTY LINE BUFFER PROVISIONS:

[COUNTY LINE BUFFER AREA: Parcels in Section 1 and the northeast 1/4 of Section 12, Township 1 South, Range 69 West, 6th P.M., adjacent to the Adams County Line, and a parcel east of said county line in the City of Broomfield.] Strips of land each 600 feet wide on the east and west sides of the Boulder/Adams County line extending from Highway 7 south to the property currently owned by the Archdiocese, will be designated as community buffer areas. These lands and the adjacent properties are intended to be studied for their appropriate development configuration and use as open

space community buffers. The cities of Broomfield and Lafayette may mutually agree to adjust the boundaries of this 1200 foot wide community buffer area to accommodate development, so long as the total area of the community buffer is not reduced and remains equally divided between the Boulder and Adams County portions, the community buffer along the county line is continuous from State Highway 7 south, and the minimum east-west width of the community buffer is 200 feet at any point. No development shall be permitted within the open space community buffers once determined by the Cities, or as modified by their mutual agreement from time to time.

EXHIBIT A

SOUTHEAST BOULDER COUNTY INTERGOVERNMENT AGREEMENT

 Northwest Parkway Alignment (approximate)

 Archdiocese Property

 Plan Area Boundary

 Boulder County Open Space

 Rural Preservation Area



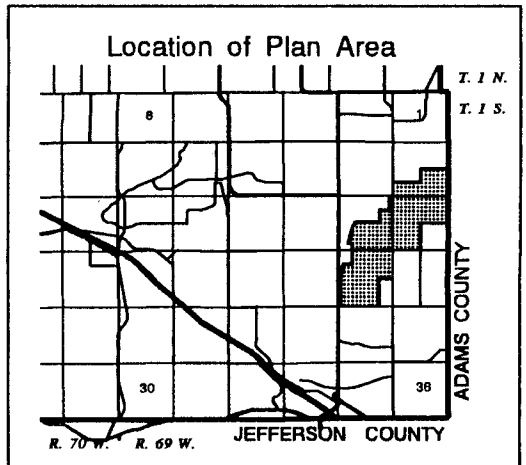
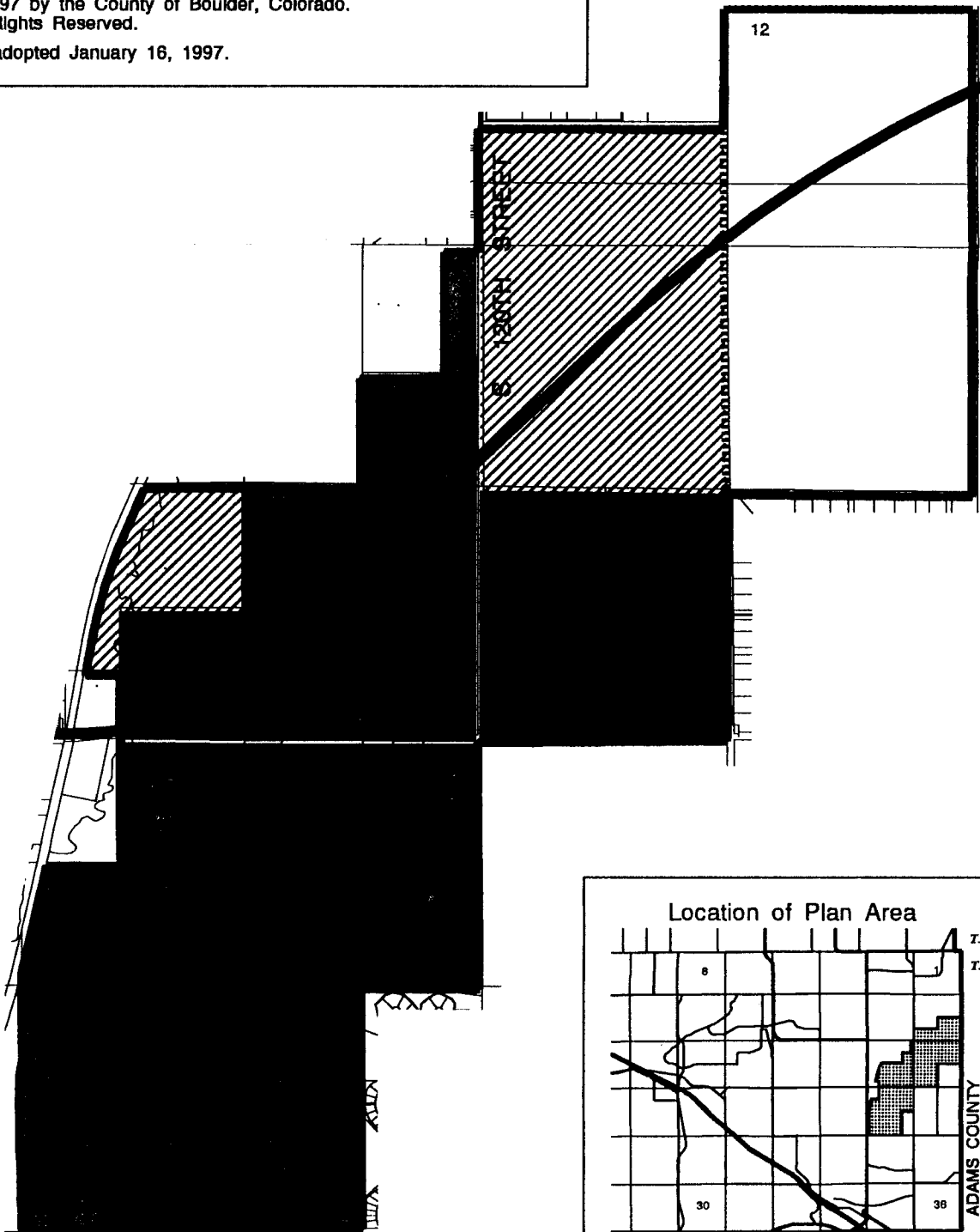
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Plan area is within sections 12, 13, 14, & 23 of
Township 1 South, Range 69 West

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As adopted January 16, 1997.





**Exhibit B
VICINITY MAP**

DECEMBER 17, 1996

**SOUTHEAST BOULDER COUNTY
INTERGOVERNMENT AGREEMENT**

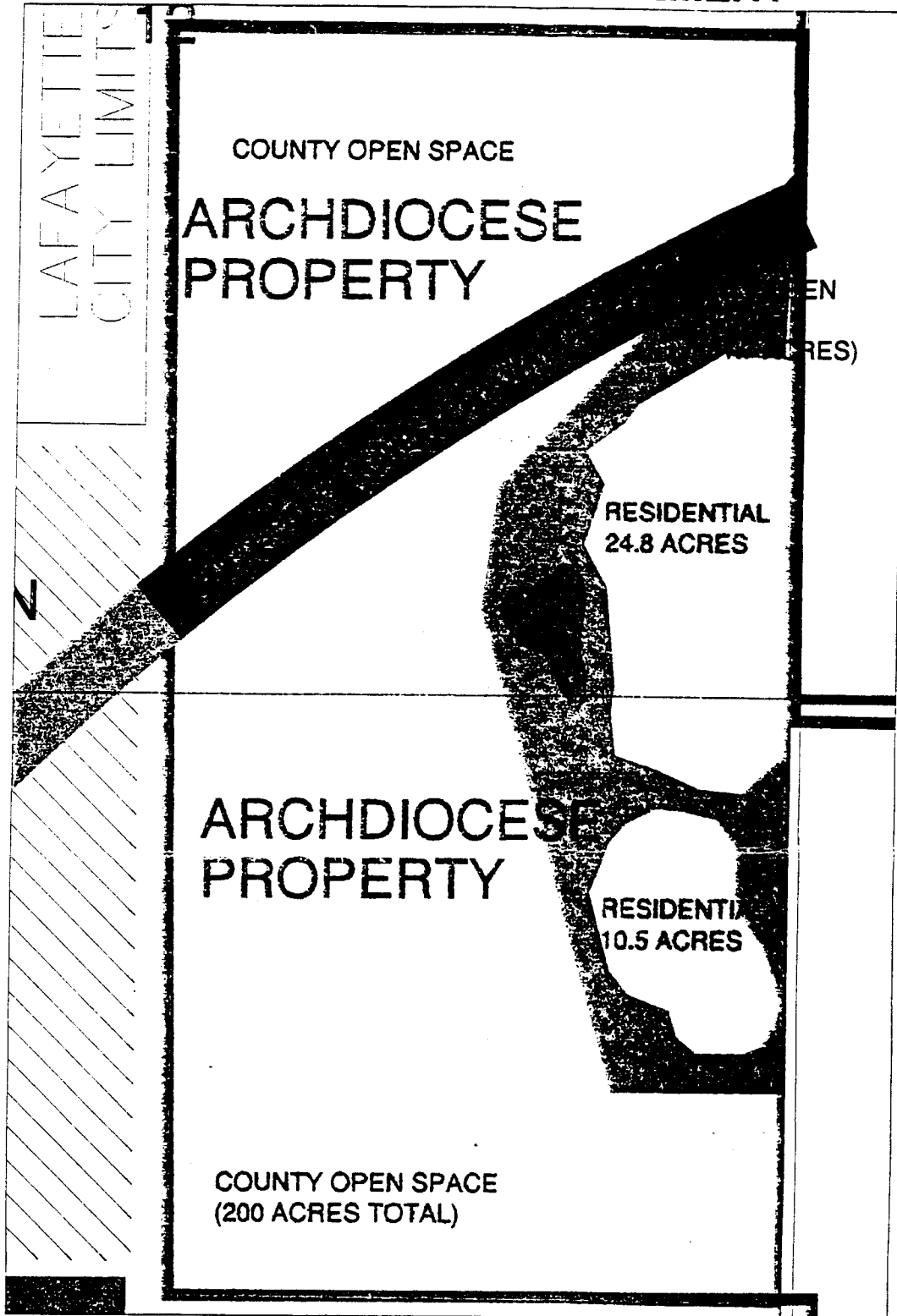
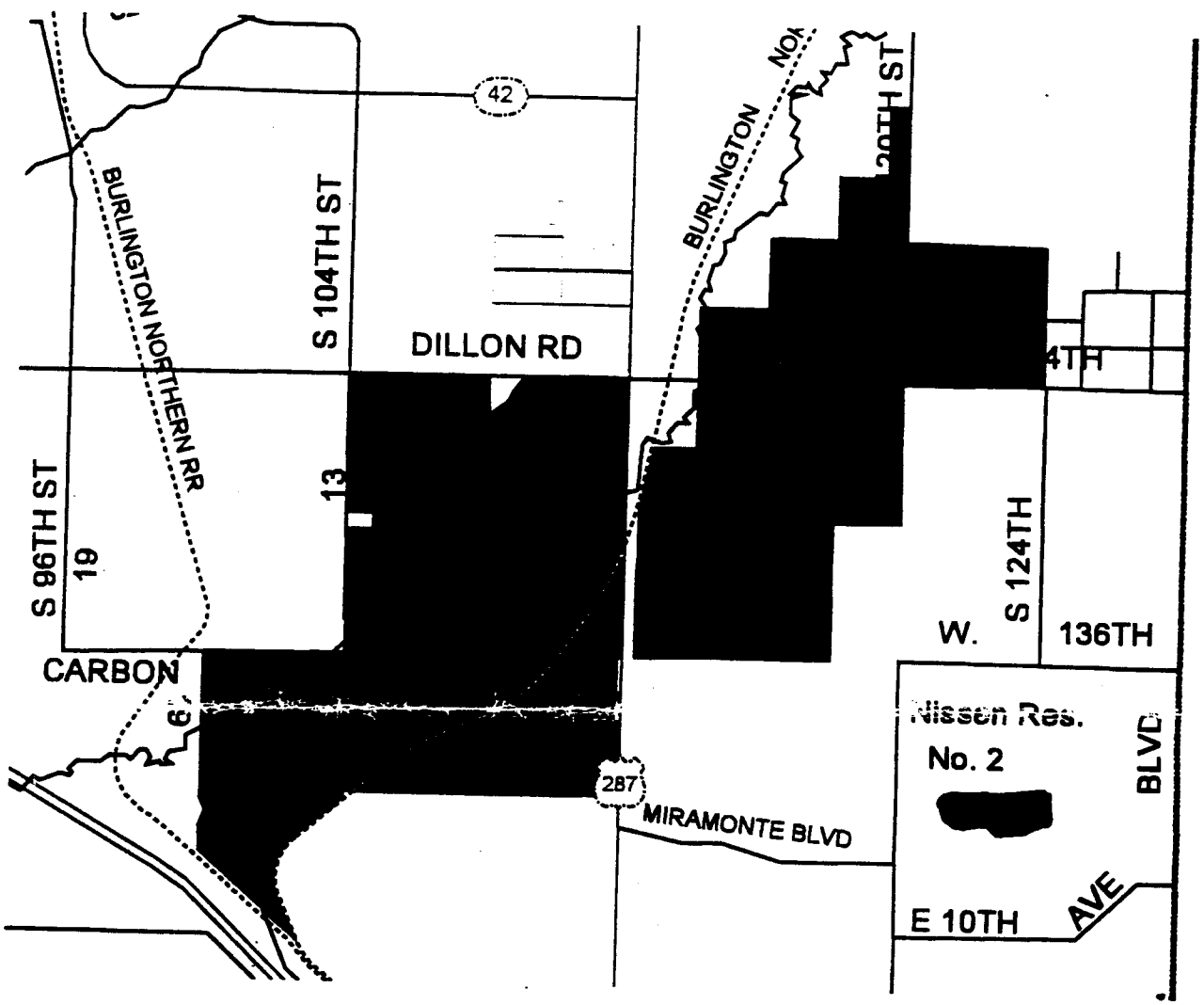


Exhibit C
for the
Southeast Boulder County
Comprehensive Development Plan
Intergovernmental Agreement,
adopted January 16, 1997.



 County fee-owned open space

