

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE TOWN OF FREDERICK AND THE CITY OF LONGMONT**

THIS AGREEMENT ("Agreement") is made and entered into this 12th day of April, 2011, by and between the Town of Frederick ("Frederick"), a municipal corporation in the State of Colorado, and the City of Longmont ("Longmont"), a municipal corporation in the State of Colorado. Frederick and Longmont, when referring to both, are also referred to herein as the "parties" or "municipalities." Either party hereto may also be referred to separately as a "municipality" or "party."

WHEREAS, units of local government are authorized by Article 14, Section 18 of the Colorado Constitution and C.R.S. § 29-1-203 to enter into intergovernmental agreements among themselves, and more specifically for the purpose of planning or regulating development of land by the Local Government Land Use Enabling Act, C.R.S, §29-20-105 ; and

WHEREAS, the corporate authorities of Frederick and Longmont have each adopted Comprehensive Plans; and

WHEREAS, certain unincorporated territory is located between Frederick and Longmont; and

WHEREAS, since 2002, Longmont's Coordinated Planning Area, an intergovernmental agreement with Weld County, has included a portion of this unincorporated territory located between Frederick and Longmont, and

WHEREAS, since 2006, there has been an overlap between Frederick's Planning Area and Longmont's Coordinated Planning Area; and

WHEREAS, Frederick and Longmont recognize that unincorporated land generally lying in the area between their present municipal boundaries along the St. Vrain River and along Boulder Creek has the potential to develop, and said development creates the potential for problems pertaining to such issues as adequate open space and community separators or buffers, trail connections, wildlife habitat, flood control, groundwater, ecological and environmental impacts, appearance, and other related issues; and

WHEREAS, Frederick and Longmont realize that growth and development activity will create increased needs and demands for municipal services, including, but not limited to, transportation and road infrastructure, government and police powers, provision of utilities, furnishing of public safety and health services, parks and recreational facilities and services, trails, site and subdivision planning, building inspection, and code enforcement services, and other social services; and

1 NOW, THEREFORE, THE COUNCIL OF THE CITY OF LONGMONT, COLORADO,
2 ORDAINS:

3 Section 1

4 The Council amends § 15.02.150. of the Longmont Municipal Code, by adding a new
5 section to read as follows:

6 15.02.150 Intergovernmental agreements.

7 . . .

8 *I. Intergovernmental Agreement between the City of Longmont and*
9 *the Town of Frederick. The city council consents to the Coordinated*
10 *Development Plan Intergovernmental Agreement between the City of Longmont*
11 *and the Town of Frederick, and authorizes the Mayor to execute and deliver the*
12 *same. The intergovernmental agreement, including a map, is available for public*
13 *inspection in the office of the City Clerk and appears as Appendix E-9 to this*
14 *code.*

15 Section 2

16 The Council consents to approval of the Coordinated Development Plan
17 Intergovernmental Agreement, included as Attachment 1, subject to the approval by the Town of
18 Frederick Board of Trustees of the agreement. This ordinance shall become effective upon
19 satisfaction of this requirement, as certified by the Planning Services Manager of the City of
20 Longmont.

21 Section 3

22 To the extent only that they conflict with this ordinance, the Council repeals any
23 conflicting ordinances or parts of ordinances. The provisions of this ordinance are severable, and
24 invalidity of any part shall not affect the validity or effectiveness of the rest of this ordinance.
25
26

1 Introduced this 22nd day of March, 2011.

3 Passed and adopted this 12th day of April, 2011.

[Handwritten signature]

MAYOR



10 ATTEST:

[Handwritten signature: Valeria H. Skato]

CITY CLERK

17 NOTICE: THE COUNCIL WILL HOLD A PUBLIC HEARING ON THIS ORDINANCE AT
18 7:00 P.M. ON THE 12th DAY OF April, 2011, IN THE
19 LONGMONT COUNCIL CHAMBERS.

20 APPROVED AS TO FORM:

[Handwritten signature: James W. Rourke]
25 DEPUTY CITY ATTORNEY

3/17/11
DATE

[Handwritten signature: Laura Mamore]
30 PROOF READ

3-17-2011
DATE

34 APPROVED AS TO FORM AND SUBSTANCE:

[Handwritten signature: Leni Marsh]
39 ORIGINATING DEPARTMENT

3-17-11
DATE

41 Ca File: 8472

WHEREAS, Frederick and Longmont and their respective citizens are vitally affected by said problems, needs and demands, and any attempt to solve them and provide for the welfare and prosperity of the residents and property owners in said municipalities will be benefitted by mutual action and intergovernmental cooperation with respect thereto; and

WHEREAS, Frederick and Longmont realize the benefit of intergovernmental cooperation and the need to provide for logical corporate boundaries and areas of municipal authority between their respective municipalities, to continue to establish open space community separators or buffers between the two municipalities, and to continue to buffer this open space from future development; and

WHEREAS, Frederick and Longmont intend to protect the St. Vrain River/Boulder Creek corridors from growth and development; and

WHEREAS, Frederick and Longmont intend to preserve the St. Vrain River/Boulder Creek corridors in their natural state and protect their water quality; and

WHEREAS, Frederick and Longmont intend to preserve and buffer wildlife habitat along the St. Vrain River/Boulder Creek corridors; and

WHEREAS, Frederick and Longmont intend to implement regional trail corridors and local trail connectors to them; and

WHEREAS, it is the intent of both parties, that by entering into this Agreement, cooperation will be promoted between the municipalities as it may relate to exchanging information as each municipality considers land development proposals on their respective sides of the boundary line and/or revisions to their respective comprehensive plans, open space plans, trail plans, and recreation plans; and

WHEREAS, increased coordination and cooperation between municipalities, including planning for and managing growth and development of land, recognition of appropriate growth patterns, communication of development policies and regulations, and consultation on provision of services will enhance the ability of the two municipalities to achieve their respective individual and common community goals; and

WHEREAS, Frederick and Longmont have authorized the execution of this Agreement as an exercise of their intergovernmental cooperation authority under C.R.S.29-20-105;

NOW, THEREFORE, in consideration of the mutual promises, covenants, and obligations contained herein and the recitals herein above set forth, the sufficiency of which are hereby acknowledged, it is hereby mutually agreed by and between Frederick and Longmont as follows:



Section 1. Boundary Line

The boundary line which marks the jurisdictional boundaries between Frederick and Longmont within the City of Longmont and Weld County Coordinated Planning Area (also known as urban growth area) is depicted on the map labeled Exhibit A attached hereto and made a part hereof. The textual description of the boundary line is as follows:

Commencing at the crossing of SH119 over the St. Vrain River, and traveling southward along the St. Vrain River to its confluence with Boulder Creek, then traveling southward along Boulder Creek to WCR 20 extended.

In the case of any discrepancy, Exhibit A is intended to more accurately reflect the intended boundary line.

Section 2. Annexation Policy Relative to Boundary Line

Frederick agrees to not annex, solicit the annexation of, enter into any agreement to annex, commence proceedings to annex, or entertain a petition to annex any territory which lies west of the boundary line depicted in Exhibit A.

Longmont agrees to not annex, solicit the annexation of, enter into any agreement to annex, commence proceedings to annex, nor entertain a petition to annex any territory, excepting property owned by the City in fee, which lies east of the boundary line depicted in Exhibit A. Notice shall be provided pursuant to Section 6 of this Agreement.

The parties further agree that they shall not, in any manner, become directly or indirectly involved with the annexation of the aforesaid jurisdictional territory of the other municipality, or oppose the other municipality's annexation of property within its jurisdictional territory, except as provided herein.

In the event that either municipality is contacted by any person in connection with any matter involving the annexation of land which lies within the aforesaid jurisdictional territory of the other municipality, the contacted municipality shall immediately refer such person to the other municipality for disposition thereof.

Section 3. Planning Coordination

It is the intent of the parties that this agreement is not a "development plan" as defined by C.R.S. §24-32-3209, but is limited to those mutual planning issues specifically addressed herein. The parties agree to coordinate on joint planning within the area located within one-half mile east and west of the boundary line established by this Agreement. If agreement on more specific topics is reached, the parties agree to formalize such by amending this Agreement, their respective plans, and/or applicable regulations as warranted. (Note: Coordinated planning does not necessarily imply a commitment by either party to budget dollars for open space in this area.) The specific



topics for coordinated planning include the following:

1. Identifying critical areas worthy of preservation. Areas to be evaluated for preservation include stream corridors, riparian areas, unique landforms, sensitive wildlife habitat, prime agricultural lands, historical and/or archeological resources, etc. Wildlife habitat can include riparian areas, open water and nesting sites, cliffs and buffers to nesting sites, migration corridors, etc.
2. Defining priority open space areas the parties would work together to preserve including, but not limited to, community separators or open space buffers between the municipalities and areas that include the Colorado Front Range Trail and its associated corridor.
3. Locating recreation facilities including, but not limited to, parks, greenways and trails (regional trails, the local connector trails to them, and grade-separations such as the underpass for the Colorado Front Range Trail at SH119), etc.
4. Employing techniques for buffering the St. Vrain/Boulder Creek corridors and public open space from development and its associated impacts.
5. Cooperating on issues related to transportation planning and construction to assure a high quality functioning transportation system both now and in the future.

Section 4. Open Space Acquisition

Longmont has recently executed an option to purchase for open space the 174 acre +/- properties owned by Cooley Gravel Co and Aggregate Industries (also known as the Tull property) (Parcels #131316000031 & #131309000004). Longmont also is negotiating for the option to purchase for open space the 120 acre+ property owned by Temperature Processing Co Inc (Parcel #131309000003). In addition, Longmont is negotiating with the LaFarge Corporation for purchase of 50 acres +/- known as the Heaton Property (Parcel #131309100082) for open space. These properties are located on the east or Frederick side of the boundary line.

With the exceptions of the Tull, Temperature Processing and Heaton properties, Longmont agrees that it will not purchase for open space (fee simple or conservation easement) any property east of the boundary line without first notifying Frederick. Frederick agrees that it will not purchase for open space (fee simple or conservation easement) any property west of the boundary line without first notifying Longmont.

Longmont will not oppose Frederick's purchase of property east of the boundary line for open space, and Frederick will not oppose Longmont's purchase of property west of the boundary line for open space.



Section 5. Minimum Development Standards

Within one-half mile of the boundary line, the parties agree that at a minimum they will require, to the extent allowed by law, the following:

1. That development on any parcel shall be clustered away from the St. Vrain River/Boulder Creek corridors and away from any open space; and
2. That development will be a minimum of 150 ft. from the riparian area along Boulder Creek and a minimum of one-quarter mile from the confluence of the St. Vrain River and Boulder Creek (the largest eagle roost in Colorado) except where supported by Colorado Division of Wildlife; and
3. That development will be served by central water, central sewer; and
4. That development will meet local state and federal storm drainage regulations, as applicable; and
5. That development of 9 dwelling units or less may be served with septic or other approved private sewerage systems if:
 - a. The development of that portion of the property includes an agreement to encumber the rest of the property for open space (fee simple or conservation easement); and
 - b. The gross density of the entire property (both development and open space portions) does not exceed one dwelling unit per five acres; and
6. That development will incorporate a variety of techniques to buffer

Section 6. Notice of Development Proposals and Comprehensive Plan, Open Space Plan, Trails Plan, and Recreation Plan Revisions

1. Notice of proposed Comprehensive Plan amendments are to be given in conformance with the requirements of C.R.S. § 24-32-3209 (2) (a). Such notice shall be sent to the other party at least 15 days before the public hearings at which the Comprehensive Plan amendment is to be considered. The other party may review the comprehensive plan amendment and submit comments before the first public hearing on the comprehensive plan amendment.

A party may file a written objection to the proposed comprehensive plan amendment of the other in accordance with C.R.S. §24-32-3209 (2) (b). In the event mediation is requested as part of the objection, such mediation shall be conducted in accordance with C.R.S. §24-32-3209 (2) (b) and (c).

2. It is the intent of the parties that open space plans, trails plans, and recreation plans may be developed by the parties independent of the municipality's master plan as defined by C.R.S. §31-23-206 and comprehensive plan as defined by C.R.S. §24-32-3209, and such plans are not subject to mediation as provided by C.R.S. §24-32-3209.
3. Each party agrees to furnish the other with a referral notice of all formal petitions and/or applications for annexation, zoning, platting, subdividing,

and/or development of a parcel of land located within one-half mile of the boundary line. Such referral notice is to be made in the same manner as the party refers petitions and/or applications to governmental referral agencies for review and comment prior to public hearings and/or administrative decisions. Such notice shall not confer any additional privileges or rights to the parties under C.R.S. §24-32-3209.

Section 7. Statutory Rights Preserved

This Agreement shall not be construed so as to limit or adversely affect the right of either municipality to file a statutory objection to any proposed County zoning or to limit or adversely affect any other extraterritorial right granted to each party by Colorado law.

Section 8. Divided Parcels

The parties acknowledge that there may now be, or in the future may be lots, parcels, or tracts of land under single ownership that lie on both sides of the boundary line. In the event such property divided by the boundary line is proposed for development, the parties agree to cooperate in the development of such property as may be required. Nothing that may be accomplished by such cooperation shall be construed as, or have the effect of, changing or abrogating the boundary line. It is the intention of the parties to avoid duplication of municipal services wherever possible.

Section 9. Effect on Other Parties or Boundary Agreements

This Agreement is intended to describe rights and responsibilities only as between the named parties hereto. It is not intended to and shall not be deemed to confer rights to any persons or entities not named as parties hereto. Nothing contained in this Agreement shall be used or construed to affect, support, bind, or invalidate the boundary claims of either party insofar as they shall affect any municipality not a party to this Agreement. Nothing contained in this Agreement shall be construed to require Frederick or Longmont to annex any property or to provide any services to any land. Nothing contained in this Agreement shall be construed to entitle either party, or any person, firm, partnership, or corporation claiming protection under or by virtue of the existence of this Agreement, to a judgment for monetary damages against the other for violation of the terms of this Agreement.

Section 10. Complete Agreement

This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions, rights conferred, or obligations made other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto. Except as provided herein there shall be no modifications of this Agreement except in writing, executed with the same formalities as this instrument. Subject to the conditions precedent herein, this Agreement may be enforced in any court of competent

jurisdiction.

Section 11. Severability

If any provision of this Agreement shall be declared invalid or unenforceable for any reason by a court of competent jurisdiction as to either party or as to both parties, such invalidation shall not affect any other provision of this Agreement which shall remain in effect without the invalid provision (except that if a requirement or limitation in such provision is declared invalid as to one party, any corresponding requirement or limitation shall be deemed invalid as to the other party), and to this end, the provisions of this Agreement are to be severable.

Section 12. Term

This Agreement shall be valid and binding and in full force from the effective date of this agreement for a five (5) year term. The agreement shall automatically extend after the first term of 5 years for a successive period of 5 years unless either party notifies the other party of its intent to terminate or substantially revise this agreement 180 days prior to the 5 year anniversary of the effective date of this agreement. If the agreement automatically renews for a second five (5) year term, subsequent renewals of one (1) year terms with similar provisions for termination or substantial amendment shall further extend this agreement.

Section 13. Governing Law

This Agreement shall be construed in accordance with the laws of the State of Colorado.

Section 14. Notices

Notices shall be provided to the respective party by first-class mail, postage prepaid as follows:

Town of Frederick
Attn: Town Administrator
P. O. Box 435
Frederick, CO 80530

City of Longmont
Attn: City Manager
Civic Center Complex
350 Kimbark St
Longmont, CO 80501

Section 15. Effective Date of this Agreement

The effective date of this Agreement shall be after the approval by each party and upon its recording with the Weld County Clerk and Recorder's Office.

Section 16. Recording and Availability of Agreement



The parties shall each record a certified copy of this Agreement with the Weld County Clerk & Recorder's Office. Each party shall make available for public inspection, copies of this Agreement in their respective offices as provided by statute.

Section 17. Definitions


The following terms as used in this agreement shall be defined as follows:

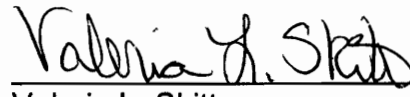
1. Greenway - means a corridor encompassing a trail for bicycles and pedestrians. The path of a greenway should lead through rural as well as urban areas, connecting the countryside to urban parks. The landscaping pattern should be appropriate to the location: naturalistic within the countryside and formal within the neighborhoods. A Greenway should follow a natural path which is transformed to its purposes. Typically, these are river fronts (riverwalk) or disused tracks (the rails-to-trails)
2. Riparian area - means an area of land directly influenced by the nearby presence of water. It is an ecosystem that is transitional between land and water ecosystems. Riparian areas usually have visible vegetative or physical characteristics reflecting the influence of water. River sides, lake borders, and marshes are typical riparian areas. From a buffering standpoint, the edge of riparian area shall be defined as the edge or drip line of riparian vegetation along the water body or corridor. Buffering of 150 feet from this riparian edge is considered a best practice standard for development as described in Section 5.6 of this Agreement.
3. Social trail - is an unofficial trail that diverges from an existing trail or road, as a shortcut to a destination. A social trail usually cuts through a vegetative barrier, such as woods, scrubs, and grass fields. It is called a "social" trail because one often leads to a social gathering place.
4. St. Vrain River/Boulder Creek corridor - a riparian corridor a minimum of 150 feet upland from both the east and west sides along Boulder Creek and 1,320 feet (1/4 mile) from the confluence of the St. Vrain River and Boulder Creek.



IN WITNESS WHEREOF, the above parties hereto have caused this Agreement to be executed the day and year first above written.

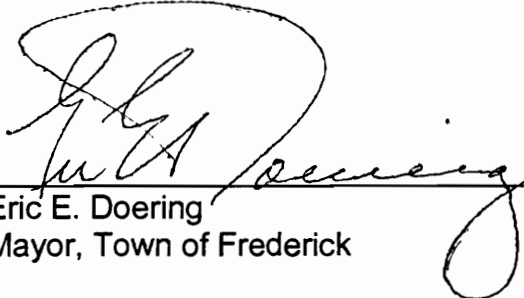
Attest:



Gabe Santos
Mayor Pro Tem, City of Longmont


Valeria L. Skitt
City Clerk, City of Longmont



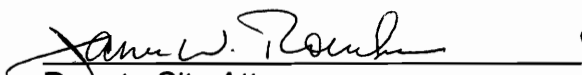
Attest:


Eric E. Doering
Mayor, Town of Frederick

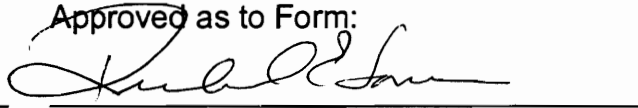

Nanette S. Fornot
Town Clerk, Town of Frederick



Approved as to Form:


Deputy City Attorney

Approved as to Form:


Town Attorney