

EXHIBIT A TO RESOLUTION 2024-110

INTERGOVERNMENTAL AGREEMENT
CONCERNING THE PRAIRIE RIDGE ADDITION

This Intergovernmental Agreement (Agreement) is made this ___ day of _____, 2024, by and between LARIMER COUNTY, COLORADO (the "County"), the CITY OF FORT COLLINS, COLORADO ("Fort Collins"), and the CITY OF LOVELAND, COLORADO ("Loveland").

WHEREAS, part 2 of Article 1 of Title 29, C.R.S. authorizes governments to cooperate and contract with one another to provide any function, service or facility lawfully authorized to each, including the sharing of costs; and

WHEREAS, the County has imposed a sales and use tax via the "Help Preserve Open Spaces Initiative" for the purchase and maintenance of open space, natural areas, wildlife habitat, parks and trails and a portion of the funds generated by said sales tax are distributed to municipalities located within Larimer County, including Fort Collins and Loveland; and

WHEREAS, Fort Collins has imposed a dedicated 0.25% sales and use tax known as "Open Space Yes!", portions of the revenues from which are intended and available for the purchase and maintenance of open space, natural areas, and trails ("County Revenues"); and

WHEREAS, Loveland has an Open Lands and Trails Program that uses portions of the revenues from the Help Preserve Open Spaces Initiative sales tax to purchase and maintain open space, natural areas and trails; and

WHEREAS, the County, Fort Collins, and Loveland have worked cooperatively to prepare and adopt in 1995 the "Plan for the Region between Fort Collins and Loveland," which strives to conserve open lands in the community separator between the two cities and has resulted in a network of more than 3,500 acres of conserved short-grass prairie, agricultural lands, and foothills connected by a regional trail system; and

WHEREAS, the parties recognize through the Larimer County Open Lands Master Plan, Fort Collins Natural Areas Master Plans, and the City of Loveland Parks & Recreation Master Plan that the region between the cities of Fort Collins and Loveland (the "Conservation Area") is important to be conserved through various means such as fee acquisition, conservation easements, and regulatory measures; and

WHEREAS, in 2000, Loveland, Fort Collins, and the County along with their partners, purchased 785 acres from the local Sauer family, which became Prairie Ridge Natural Area, and they now have the opportunity to conserve an additional area in the Conservation Area, the final key piece of the Sauer family's property, representing a 141.861-acre expansion to the existing 785-acre Prairie Ridge Natural Area and a significant buffer to rapidly encroaching development; and

EXHIBIT A TO RESOLUTION 2024-110

WHEREAS, the Sauer family’s property represents one of the last remaining parcels available between the rapidly growing communities of the City and Fort Collins and the conservation of the property will protect valuable wildlife corridors, scenic views, open space, recreation, and agricultural values; and

WHEREAS, the Larimer County Natural Resources Department, the City of Fort Collins Natural Areas Department, and the City of Loveland Parks & Recreation Department share common goals in conserving land in the Conservation Area, and by this IGA intend to form a partnership to carry out a land conservation project conserve approximately 141.861 acres in fee and conservation easement (“Project”); and

WHEREAS, the Project is estimated to cost \$6,809,328; and

WHEREAS, the Great Outdoors Colorado Trust Fund, created by Article XXVII of the Colorado Constitution, adopted at the November 1992 General Election, designates a portion of the net proceeds of the Colorado Lottery for investment in the State's parks, wildlife, open space and recreational resources; and

WHEREAS, the State Board of the Great Outdoors Colorado Trust Fund has awarded a grant to Loveland to be contributed toward the acquisition of property and a conservation easement in the Conservation Area (“GOCO Funds”); and

WHEREAS, Loveland has acted as the Lead Entity in negotiating the acquisition of the real property within the Project; and

WHEREAS, Loveland and Fort Collins anticipate acquiring fee simple title to an approximately 141.861-acre parcel, described in Exhibit “A” attached hereto and incorporated herein by reference (hereinafter the “Property”), with 75% of the Property owned by Loveland and 25% owned by Fort Collins;

WHEREAS, Loveland and Fort Collins intend to grant the County a conservation easement on the Property (hereinafter the “Conservation Easement”); and

WHEREAS, as an additional part of the Project, Loveland intends to acquire a right of first refusal to purchase an approximately 40-acre parcel adjacent to the Property; a recreational trail easement on that adjacent parcel; and covenants, conditions, and restrictions on an additional approximately 11-acre parcel adjacent to the Property; and

WHEREAS, the parties desire to cooperate and contract with one another concerning the sharing of acquisition costs associated with the Project.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

A. Cost Sharing

EXHIBIT A TO RESOLUTION 2024-110

1. The cost of acquiring the Property is Six Million Eight Hundred and Nine Thousand Three Hundred Twenty Eight and 00/100 Dollars (\$6,809,328.00) not including closing costs, other direct costs of acquisition, such as title insurance, survey of the Property, or appraisal fees, and adjustments at closing.

2. The parties agree to provide funds as set forth below toward the purchase price of the Property:

<u>Entity</u>	<u>Contribution Amount</u>
City of Loveland	\$3,506,996.00
Larimer County	\$400,000.00
City of Fort Collins	\$1,702,332.00
GOCO Funds	\$1,100,000.00
Private Donor	\$40,000.00
High Plains Foundation	<u>\$60,000.00</u>
Total	\$6,809,328.00

3. Loveland agrees to pay for all additional closing costs, other direct costs of acquisition, such as title insurance, survey of the Property, or appraisal fees, and adjustments at closing. Loveland agrees to bear financial responsibility for the contributions of the Private Donor and the High Plains Foundation in the total amount of \$100,000.00 and, should those parties fail to produce their funds at closing, Loveland shall provide \$100,000.00 of its own funds at closing instead.

4. Loveland will make reasonable efforts to acquire fee title to the Property. The parties agree to cooperate in the making of preparations for the closing on the acquisition of the Property and shall have available at the time of closing their respective funds as set forth above.

5. Until such time as the closing and conveyance of the Property, Loveland shall remain the primary negotiator with the landowner. Additionally, Loveland shall have the discretion to make decisions related to the negotiations including choice of surveyor, title company, and other administrative matters, consistent with this Agreement. The parties shall promptly communicate with each other on any new developments in the negotiations and new material information related to the Property.

B. Ownership of Property

1. Subsequent to closing, the parties agree that fee title to the Property shall be held by Loveland and Fort Collins (the "Owners") as follows:

a. Loveland will have an undivided 75% interest in the Property; and

EXHIBIT A TO RESOLUTION 2024-110

b. Fort Collins will have an undivided 25% interest in the Property.

2. In the event that the Property, or any portion of it (including easements or rights of way) is sold, exchanged, transferred, or otherwise disposed of, the proceeds from such disposition shall be divided between the Owners in the same proportion as their ownership interests in the Property. If all or any portion of the Property is taken by eminent domain, the compensation received for the taking shall be divided between the parties as described in the Conservation Easement.

3. Because the Property shall be acquired using the County Revenues and the GOCO Funds, the parties agree that any sale, exchange, transfer or disposition of all or any portion of the Property shall be in accordance with any requirements imposed as a result of the use of such funds.

4. Subject to legally required approvals by the governing body of both Loveland and Fort Collins, at closing, the Owners shall convey a Conservation Easement on the Property to the County in a form to be approved by the parties and the Executive Director of the Great Outdoors Colorado Trust Fund, as required in connection with the GOCO Funds. The Conservation Easement shall contain provisions acknowledging that a portion of the Property may be used as a trail corridor. The County will prepare the Conservation Easement instrument covering the entire Property in collaboration with Fort Collins and Loveland. Concurrent with the closing of the fee transaction Loveland shall submit the Conservation Easement to the Larimer County Clerk and Recorder for recording in the real property records of the County and shall provide a copy of the recorded Conservation Easement to Fort Collins and the County upon completion of recording.

5. If one of the Owners desires to sell the Property and the other Owner does not, the Owners agree to negotiate in good faith to resolve the issue prior to undertaking any litigation. In addition, in the event one of the Owners desires to sell its interest in the Property and the other Owner does not, the Owner desiring to sell hereby grants to the other Owner the option to purchase such interest in the Property for the proportional share of the fair market value of the entire Property, as determined by an appraiser selected by the Owners. Unless exercised, said option shall expire two (2) years after receipt of written notice of the selling Owner's determination to sell its interest in the Property.

C. Management of the Property

1. On or before December 31, 2025, the parties shall develop a written plan for the Property, (the "Management Plan"), which Management Plan shall provide a resource inventory for the Property and establish a common plan to address issues including, but not limited to: facilities for appropriate public access, weed control, necessary improvements and restoration needs. The Management Plan shall designate the location for the construction of a public pedestrian and bicycle trail along the eastern boundary of the Property. The Management Plan shall also provide a process for modifications by mutual agreement of the parties. The parties agree that an amendment to an existing management plan to include

EXHIBIT A TO RESOLUTION 2024-110

management of the Property as required herein would satisfy the requirements of this paragraph.

2. Loveland shall be the Managing Entity and shall be responsible for management of the Property in accordance with the Management Plan developed by the parties.

3. In the event of emergency or unusual circumstances requiring immediate response, the Managing Entity shall be entitled to use reasonable discretion in responding to such circumstances, regardless of the expressed terms of the Management Plan, provided that reasonable efforts are made to consult with the non-managing entity regarding the proper course of action.

4. The Managing Entity shall be responsible for the management costs associated with the Property. "Management costs" shall be defined to include normal and customary expenses associated with day-to-day use and operation of the Property. Any liabilities or extraordinary costs related to the use, possession or ownership of the Property shall be shared by the Entities in proportion to their ownership percentage of the Property, as set forth in Section B(1) of this Agreement; provided, however, that in the event such liability or extraordinary cost arises solely from the negligent acts or omissions of one party, the negligent party shall be solely responsible for such liability or extraordinary cost. Except as provided in Section B(2) and B(5), any revenues generated by the Property shall be retained by Loveland to apply toward management costs of the Property for the current or future years.

5. The parties acknowledge that the prior owners of the Property have retained the right to harvest the wheat crop that has been planted and cultivated on the Property for harvest in 2024. The parties further acknowledge that they have agreed to use their best efforts to negotiate a farm lease for the farming of the Property for a period not exceeding ten (10) years, subject to legally required approval by the governing body of both Loveland and Fort Collins. To the extent all or any portions of the Property are subject to leases or other legal restrictions, such portions shall be managed in accordance with the Management Plan.

D. General Provisions.

1. Each party agrees to execute all additional instruments and documents necessary to effectuate the transactions and purposes described herein, subject to any necessary approvals.

2. This Agreement shall be binding upon and inure to the benefit of the parties' respective successors and permitted assigns.

3. Financial obligations of the parties payable after the current fiscal year are contingent upon the governing bodies of the parties, in their discretion, appropriating funds sufficient and intended for such purposes.

4. Each party is responsible for its own negligence and that of its officers, employees, and volunteers. Nothing in this Agreement waives the immunities, limits of liability, or other

EXHIBIT A TO RESOLUTION 2024-110

terms and conditions of the Colorado Governmental Immunity Act as now in force or hereafter amended.

5. Any notices required or permitted to be given shall be in writing and personally delivered to the office of the parties hereof, or sent by first class mail, postage prepaid, or by overnight commercial courier, addressed as follows:

Katie Donahue	Marilyn Hilgenberg	Daylan Figgs
Natural Areas Director	Open Lands & Trails Manager	Natural Resources Director
City of Fort Collins – Natural Areas Department	City of Loveland Parks & Recreation Department	Larimer County Natural Resources Department
PO Box 580 Fort Collins, CO 80522	500 E Third St, Suite 200 Loveland, CO 80537	1800 S County Rd 31 Loveland, CO 80537
kdonahue@fcgov.com	Marilyn.hilgenberg@cityofloveland.org	dfiggs@larimer.org

Any such notice shall be effective (i) in the case of personal delivery or by overnight commercial courier, when the notice is received, or (ii) in the case of first-class mail, the third day following deposit in the United States mail, postage prepaid, addressed as set forth above. Any party may change these persons or addresses by giving notice as required above.

6. If either party should fail or refuse to perform according to the terms of this Agreement, such party may be declared in default thereof. If a party has been declared in default, such defaulting party shall be allowed a period of ten (10) days within which to cure said default. In the event the default remains uncorrected, the party declaring default may elect to (a) terminate the Agreement and seek damages; (b) treat the Agreement as continuing and require specific performance; or (c) avail itself of any other remedy at law or equity. If the non-defaulting party commences legal or equitable actions against the defaulting party, the defaulting party shall be liable to the non-defaulting party for the non-defaulting party’s reasonable attorney fees and costs incurred because of the default.

7. Nothing in this Agreement shall imply any partnership, joint venture, or other association between the County, Fort Collins, and Loveland. Each party shall have sole responsibility for the content and the conduct of its activities. Neither party shall use the other’s name or logo to suggest co-sponsorship or endorsement of any activity without the other’s prior written approval.

IN WITNESS WHEREOF, the parties hereto have executed this Intergovernmental Agreement concerning the Prairie Ridge Addition, on the day and year first above written.

EXHIBIT A TO RESOLUTION 2024-110

THE CITY OF FORT COLLINS, COLORADO,
A Municipal Corporation

By: _____
Jeni Arndt, Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk

Assistant City Attorney

(print name)

(print name)

EXHIBIT A TO RESOLUTION 2024-110

THE CITY OF LOVELAND, COLORADO,
A Municipal Corporation

By: _____
Rod Wensing, Acting City Manager

ATTEST:

APPROVED AS TO FORM:

City Clerk

Assistant City Attorney

EXHIBIT A TO RESOLUTION 2024-110

BOARD OF COUNTY COMMISSIONERS
LARIMER COUNTY, COLORADO

By: _____
Chair

ATTEST:

APPROVED AS TO FORM:

Deputy Clerk

County Attorney

EXHIBIT A TO RESOLUTION 2024-110

Exhibit A

Property Legal Description

THE S 1/2 OF SECTION 28, TOWNSHIP 6 NORTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF LARIMER, STATE OF COLORADO.

EXCEPT THOSE PARCELS DESCRIBED IN DEEDS RECORDED: MAY 31, 2000, AT RECEPTION NO. 2000035785 AND OCTOBER 19, 2016, AT RECEPTION NO. 20160071291, AND EXCEPT ANY PORTION LYING WITHIN COUNTY ROAD 19.