



INTERGOVERNMENTAL AGREEMENT
U.S. 36 CORRIDOR COMPREHENSIVE DEVELOPMENT PLAN

This Intergovernmental Agreement by, between and among the city of Boulder, a Colorado home rule city (Boulder), the City of Louisville, a Colorado statutory city (Louisville); the Town of Superior, a Colorado statutory town (Superior)(hereinafter, collectively, the "Municipal Parties"); 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 20th day of June, 2000.

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 of development 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 character of Boulder, Louisville, and Superior, 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 as identified 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 Boulder, Louisville, or Superior, of certain lands within the Plan Area, is intended to preclude increased development and urban sprawl which would obliterate the boundaries of Boulder, Louisville, or Superior, 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 parcels designated Rural Preservation do not currently have City utility services, and the Municipal Parties are not currently capable of providing such services to development on such parcels; 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 Preservation 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 meets the goals and furthers the purposes of the comprehensive and master plans of the Municipal Parties, as stated in such plans and applicable laws; and

WHEREAS, with respect to the rezoning and other land use regulatory actions required pursuant to this Agreement, the Parties find that U.S. 36 serves as a major throughway in Boulder County; that, due to the level of development activity in the corridor in recent years, U.S. 36 has become more congested, and is projected to become more congested in the next few years, to the point where such highway will not provide the transportation accessibility required, and may not then be functioning at an acceptable level of service; and

WHEREAS, it is essential that further development in the U.S. 36 corridor be limited, so that traffic-generating uses in the valley do not further exacerbate the congestion of the highway and surrounding transportation infrastructure, and so that future transportation improvements can return the highway to an acceptable level of service; and

WHEREAS, with respect to the annexation provisions herein, the Parties declare that the Rural Preservation and City Influence Area 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 .

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

1. **U.S. 36 CORRIDOR COMPREHENSIVE DEVELOPMENT PLAN.** T h i s

Agreement, including Development Limitations (both text and map portions) attached hereto as Exhibit A, is adopted by the Parties as the U.S. 36 Corridor 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 relevant time. 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.

2.1 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.

2.2 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. Boulder, Louisville, and Superior each agree that they will immediately disclose to the other any and all instances in which they have received an annexation petition from landowners in the Rural Preservation Area seeking annexation. Further, Boulder, Louisville, and Superior each commit that they are not currently pursuing any annexations within the Rural Preservation Area.

3.1 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 Boulder County, subject to Boulder County's land use regulatory jurisdiction as limited in the text portion of Exhibit A. Boulder, Louisville, and Superior each agree that none 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.

3.2 By authorizing the execution of this Agreement, the City Councils of Boulder and Louisville, and the Town Board of Superior, each respectively finds and declares that there is no community of interest between the lands designated "Rural Preservation Area" on the Map portion of this Plan with their respective jurisdictions, 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 their respective jurisdictions.

4. CITY INFLUENCE AREA PARCELS.

4.1 The Map portion of this Plan identifies areas currently located within unincorporated Boulder County which may in the future be annexed to the one of the city or town

Parties, as denoted by the "Influence Area" designation. Nothing in this section or the Plan is intended to require such city or town to annex such area. However, the Municipal Parties agree that, if such area is to be annexed to or is to be provided water or sewer service by a municipality during the term of this Agreement, such area will be annexed to and/or will be so served by the city or town whose Influence Area the map indicates for such parcel, and not by any of the other city or town Parties. By authorizing the execution of this Agreement, each city council and town board finds and declares that the community of interest in the Influence Areas so designated on the Map portion of this Plan is, or for the term of this Plan, will be, with the city or town whose Influence Area the map indicates for such parcels, and not with any other city or town.

4.2 Until and unless annexed, Boulder County shall enforce its "Areas and Activities of State Interest" regulations upon any parcels identified as within the Influence Area of any city or town Party, and shall not grant a permit for development pursuant to such regulations unless such permit has been approved by the city or town whose Influence Area the map indicates for such parcel(s).

4.3 Boulder County agrees that, for purposes of the Municipal Annexation Act, there is, or for the term of this Plan, will be, a community of interest in the parcels designated as city or town influence areas on the Map portion of this Plan with the respectively designated city or town, and Boulder County will not object to annexation of such areas by such city or town.

4.4 No Party shall purchase any parcel of land either within the incorporated limits of another Party, nor within the influence area of another Party as designated on the Map portion of this Plan, without the express consent of such other Party.

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 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. To be considered, such responses shall 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, and no Party shall approve any annexation which is inconsistent with this Agreement and Plan until and unless the Plan has been amended so that the proposed development or use of such parcel or its annexation 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.

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, such Party 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.

Notwithstanding the foregoing, if the claim concerns the designation of property as "Rural Preservation Area," Boulder County shall provide a defense in such action. If the claim concerns the designation of property as "Influence Area," the responsible city or town Party shall provide 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 not the Regulatory Party for the diminution in value of any regulated parcel resulting from regulations in the Plan, or regulations adopted by the Regulatory Party implementing the Plan, the Regulatory Party 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 thirty (30) years from the effective date, unless terminated prior thereto by agreement of all the Parties or pursuant to the terms of section 7 above.

13. PARTY REPRESENTATIVES. Referrals made under the terms of this Agreement shall be sent to the Parties' representatives as follows:

ENTITY:

City of Boulder

REPRESENTATIVES:

City Manager
P.O. Box 791
Boulder, CO 80306

City of Louisville

City Administrator

749 Main St.

Louisville, CO 80027

Town of Superior

Town Manager

124 E. Coal Creek Dr.

Superior, CO 80027

County of Boulder

Director, Land Use Department

P.O. Box 471

Boulder, CO 80306

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 BOULDER

By: *Will Toor*
Will Toor, Mayor

7/20/00
Date

ATTEST:

APPROVED AS TO FORM:

Deputy
S. Oster
City Clerk

J. N. deKaismes, III
Joseph N. deKaismes, III, City Attorney

CITY OF LOUISVILLE

By: *Tom Davidson*
Thomas Davidson, Mayor

8/28/00
Date

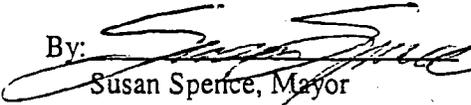
ATTEST:

APPROVED AS TO FORM:

Lance Carral
City Clerk

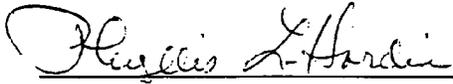
Samuel J. Light
Samuel J. Light, City Attorney

TOWN OF SUPERIOR

By:  8/21/00
Susan Spence, Mayor Date

ATTEST:

APPROVED AS TO FORM


Town Clerk


Kathleen Haddock, Town Attorney

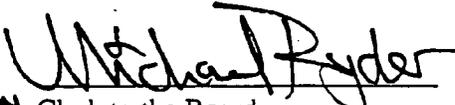
COUNTY OF BOULDER

BY: BOARD OF COUNTY COMMISSIONERS

By:  5/30/00
Ronald K. Stewart, Chair Date

ATTEST:

APPROVED AS TO FORM:


Deputy Clerk to the Board

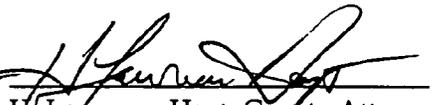

H. Lawrence Hoyt, County Attorney

EXHIBIT A

(text portion)

**U.S. 36 CORRIDOR IGA
COMPREHENSIVE DEVELOPMENT PLAN**

- 1. INTRODUCTION.**
 - 1.1 **ADOPTION:** 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.
 - 1.2 **PARCEL DEVELOPMENT RESTRICTIONS:** These Development Limitations are intended to provide specific land use and development restrictions governing the "Rural Preservation Area" parcels located within the Plan Area, the boundaries of which are set forth on the attached Map.

- 2. DEFINITIONS.**
 - 2.1 **DEVELOPMENT:** Construction or establishment of structures, parking areas, and/or surfaced vehicular roadways, or establishment of new land uses.
 - 2.2 **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.
 - 2.3 **STRUCTURE:** Anything 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.**
 - 3.1 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 6 of the Intergovernmental Agreement adopting this Plan.
 - 3.2 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.

- 3.3 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. Boulder County certifies that it is not aware of any such vested rights currently existing for Rural Preservation parcels within the Plan Area.
- 3.4 Establishment of uses and development in conformance with the zoning (including but not limited to 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.
- 3.5 Approval by Boulder County of an NUPUD with residential density no greater than 2 units per 35 acres upon such lands is permitted pursuant to the regulations generally applicable therefor, and such approval is not for purposes of these Development Limitations an increase in density.
- 3.6 Any proposed use or development of any portion of the parcels designated Rural Preservation Area shall conform to the provisions of this Plan, or, if nonconforming, shall require amendment of the Plan in the manner provided in the Intergovernmental Agreement adopting this Plan. The Regulatory Party shall not approve any proposed rezoning, subdivision, special use or other regulatory process, or amendment of 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, for any lands designated Rural Preservation Area unless such action conforms with the Plan, or with an approved amendment thereof.
- 3.7 Specific Parcel Provision: The Rural Preservation parcels located west of S. 88th St., and north of US 36, adjacent to the City of Louisville's boundaries, currently owned by Carlson and Scriffany, shall be treated as Louisville Influence Area upon the occurrence of the following event: the fee dedication of land for open space purposes equivalent in size the combined acreage of the parcels and located within ½ mile of the parcels and within the City of Louisville in the US 36 view corridor.

4. GENERAL PARCELS PROVISIONS.

- 4.1 It is a goal of the Parties to maximize the setback of structures from the nearest U.S. 36 right-of-way line, and to this end, the Regulatory Party shall, to the extent possible, negotiate to maximize such setbacks.

5. OPEN SPACE ACQUIRED IN RURAL PRESERVATION AREA.

- 5.1 Any properties within the Plan Area designated as Rural Preservation Area which are

intended to be acquired as "open space" shall be acquired in fee or by perpetual 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. Whether and 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 perpetual conservation easement will be acquired, shall be at the sole discretion of the acquiring Party(ies).

- 5.2 Upon acquisition of any Rural Preservation parcels shown on Exhibit A, the acquiring Party shall present to its governing body, pursuant to its charter, ordinance or other provisions of law, a request to provide to each of the other Parties an undivided interest in a perpetual conservation easement upon said lands, providing for restrictions on development and the use in accordance with the terms of this Plan and the site-specific management plan.
- 5.3 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 area, fish and wildlife habitat, natural resources and landmarks, and cultural, historical and archaeological 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.
- 5.4 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.
- 5.5 Boulder County shall use its best efforts in good faith to acquire the parcel designated Rural Preservation located west of the U.S. 36 and Marshall Road right-of-way area adjacent to the Superior town limits in Section 13, T1S, R70W, 6th PM.

Poor Quality Source Document

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Center at (303) 312-6473.

