

INTERGOVERNMENTAL AGREEMENT

This Agreement is made and entered into, and becomes effective as provided in paragraph 12, between the City of Louisville, Colorado ("Louisville"), and the Town of Superior, Colorado ("Superior"), each a municipal corporation of the State of Colorado.

I. Findings

WHEREAS, The City Council of Louisville and the Board of Trustees of Superior find that:

A. Pursuant to Colorado Constitution Article XIV, Section 18(2)(a) and C.R.S. §29-1-201, et seq., Louisville and Superior may cooperate or contract with each other to provide any function, service or facility lawfully authorized to each, and any such contract may provide for the sharing of costs, the imposition of taxes, and the incurring of debt; and

B. Pursuant to C.R.S. §29-20-101, et seq., Louisville and Superior are authorized and encouraged to cooperate or contract with each other for the purposes of planning or regulating the development of land; and

C. Louisville and Superior may, pursuant to state law and an intergovernmental agreement, provide for revenue sharing; and

D. Louisville finds that it has the authority to make the promises, enter into the agreements, and perform the functions, set forth herein, and Superior finds that it has the authority to make the promises, enter into the agreements, and perform the functions, set forth herein; and

E. This Agreement resolves, in a mutually satisfactory and cooperative manner, issues which have been of concern between Louisville and Superior for several years; and

F. Because of the proximity of Louisville and Superior, the nature and quality of development within the properties affected by this Agreement will affect each party and their revenues; and

G. Resolution of the long-standing issues between Louisville and Superior would be hindered without the revenue-sharing provisions of this Agreement; and

H. Louisville finds that it, and Superior finds that it, has a commitment to planned and orderly growth; to regulating the location of activities and development which may result in increased demands for its services; to reducing and avoiding, where possible, friction between the two parties; to promoting the economic viability of their respective communities; and to raising revenue sufficient to meet the needs of their citizens; and

I. U.S. 36 provides a logical boundary between Louisville and Superior; and

J. It is in the best interest of each municipality to jointly plan improvements to the Superior/Louisville interchange of U.S. 36 at McCaslin Boulevard (the "Interchange") and its capacity to handle traffic generated by existing and anticipated development within each municipality.

II. Rights and Obligations

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, Louisville and Superior agree as follows:

1. Disconnection of South Property by Louisville. Louisville agrees to disconnect from Louisville, pursuant to the provisions of state law, the property described on Exhibit A, consisting of approximately eighty (80) acres located east of McCaslin Boulevard and south of U.S. 36 (the "South Property"). Louisville shall request that the existing owners of the South Property sign an application, in a form acceptable to both parties, to have the South Property disconnected from Louisville, and Louisville shall proceed to implement the disconnection after approval of this Agreement pursuant to Paragraph 12. If any owner of the South Property fails to properly execute the disconnection application prior to August 16, 1997, either party may decide not to place this Agreement before its voters as provided in Paragraph 12. The South Property has been zoned by Louisville for commercial retail use and Louisville would derive substantial revenue and other benefits if the South Property was developed for commercial retail uses within the boundaries of Louisville. However, the City Council of Louisville finds that disconnection of the South Property is appropriate given the revenue sharing and land use provisions of this Agreement.

2. Disconnection of North Property by Superior. Superior agrees to disconnect from Superior, pursuant to the provisions of state law, the property on the north side of U.S. 36 of approximately five acres which is within the boundaries of the Town of Superior and is described in Exhibit B (the "North Property"). Superior shall request that the existing owner(s) of the North Property sign an application, in a form acceptable to both parties,

to have the North Property disconnected from Superior after approval of this Agreement pursuant to Paragraph 12. If the existing owner(s) fail to take such action, Superior's obligation to disconnect will continue and will apply to any subsequent owners. If any owner of the North Property fails to sign the disconnection application prior to August 16, 1997, either party may decide not to place this Agreement before its voters as provided in Paragraph 12.

3. Annexation of South Property. If the South Property is annexed to Superior, then the following shall apply:

a. Superior shall not allow any residential use on the South Property, except that up to eight acres of the South Property may be developed for residential retirement/senior housing in one or more buildings not exceeding the height limitation applicable to commercial buildings on the South Property.

b. Superior shall not permit development of other than retail uses on thirty-four (34) acres of the South Property.

c. Superior shall share with Louisville, fifty (50) percent of the amount of revenues received by Superior from application of a 2.7 percent sales tax rate to retail sales made by businesses located within the South Property. Such amount shall be paid to Louisville quarterly pursuant to a process to be agreed upon by the Louisville City Administrator and the Superior Town Manager. To the extent allowed by Colorado law, Louisville shall have the right to inspect the applicable records of Superior to verify the amount of any payment made or due; and Superior and Louisville shall cooperate and take such actions as may be necessary to allow such inspection.

d. Upon annexation of the South Property, Superior will have jurisdiction over the South Property. This Agreement shall continue to apply to the South Property after annexation by Superior. To the extent this Agreement conflicts with any future Superior ordinance, resolution, motion, or contract, this Agreement controls.

4. Annexation of North Property by Louisville. After disconnection of the North Property from Superior, Louisville may, but is not required to, annex the North Property, except that Louisville may not proceed to annex the North Property until after the parties determine that the North Property is not necessary for U.S. 36 right-of-way or other improvements related thereto. If the North Property is annexed to Louisville, then the following shall apply:

a. Louisville shall not permit any residential use on the North Property.

b. If Louisville zones the North Property for sales tax generating uses, then Louisville shall share with Superior, fifty (50) percent of the amount of revenues received by Louisville from application of a 2.7 percent sales tax rate to retail sales made by businesses located within the North Property. Such amount shall be paid to Superior quarterly pursuant to a process to be agreed upon by the Louisville City Administrator and the Superior Town Manager. To the extent allowed by Colorado law, Superior shall have the right to inspect the applicable records of Louisville to verify the amount of any payment made or due; and Superior and Louisville shall cooperate and take such actions as may be necessary to allow such inspection.

c. Upon annexation of the North Property, Louisville will have jurisdiction over the North Property. This Agreement shall continue to apply to the North Property after annexation by Louisville. To the extent this Agreement conflicts with any future Louisville ordinance, resolution, motion, or contract, this Agreement shall control.

5. Changes in Sales Tax Rates. An increase in the Louisville or Superior sales tax rates shall not affect the payments to be made pursuant to paragraph 3 or 4 in these Rights and Obligations; those payments will continue to be based upon the sales tax rates described in paragraphs 3 and 4. If Louisville reduces (by means other than pledging or earmarking revenues) its generally applicable 2.7 percent sales tax rate or Superior reduces (by means other than pledging or earmarking revenues) its generally applicable 2.7 percent sales tax rate, the payments to be made to the other party pursuant to paragraph 3 or 4, as applicable, shall be calculated based upon revenues received from fifty percent of the reduced rate.

6. Other Obligations of Superior. Superior acknowledges that certain obligations of Superior existing prior to this Agreement may affect the future sales tax revenue to be retained by Superior. However, Superior warrants that no such pre-existing obligations (whether related to Superior Metropolitan Districts No. 1, 2, or 3, or the Superior Urban Renewal Authority, or any other entity or person), nor any future obligations that Superior may enter into, will reduce or affect in any manner the payments due Louisville pursuant to paragraph 3.c. of these Rights and Obligations.

7. Other Obligations of Louisville. Louisville acknowledges that certain bond obligations of Louisville existing prior to this Agreement may affect the future sales tax revenue to be retained by Louisville. This Agreement is a subordinate obligation for the purposes of these pre-existing bond obligation ordinances. However, Louisville warrants that no such pre-existing obligations,

nor any future obligations that Louisville may enter into, will reduce or affect in any manner the payments due Superior pursuant to paragraph 4.b. of these Rights and Obligations.

8. U.S. 36 as Annexation Boundary. Louisville agrees not to annex property located south or west of U.S. 36, and Superior agrees not to annex property located north or east of U.S. 36.

9. No Impairment. Neither Louisville nor Superior shall impair the rights of the other, without the other's consent, to share in the revenues to be collected and shared as described in this Agreement.

10. Cooperation. Louisville and Superior agree to devote their best efforts, to cooperate as necessary, and to exercise good faith in implementing the provisions of this Agreement.

11. No Third-Party Rights. This Agreement is made solely for the benefit of the parties hereto, and is not intended to nor shall it be deemed to confer rights to any persons or entities not named as parties hereto.

12. Election. The parties agree that both Louisville and Superior will place this Agreement on the municipal ballot for November of 1997 requesting voters of the respective municipalities to ratify this Agreement.

Should the voters in either municipality fail to approve this Agreement, then this agreement shall be null and void and the parties are under no obligation under this Agreement to effectuate the disconnections pursuant to Paragraphs 1 and 2. This Agreement shall become effective upon approval by the voters in both municipalities.

13. Transportation Issues. The parties recognize that it is in the best interest of each municipality to jointly plan to reconstruct the interchange. Louisville and Superior shall cooperate to jointly design, construct, and finance a one time reconstruction of the interchange which may be completed in phases. Such cooperation shall include formation of a Committee consisting of at least two members of the Louisville City Council, two members of the Superior Board of Trustees, and one staff member of each municipality, to recommend the design, construction process, and financing of interchange reconstruction. The parties shall determine the "Louisville portion" and the "Superior portion" of the total costs of the interchange reconstruction after consideration of all sources of revenue available including, but not limited to, federal, state, private, and other local sources. The Louisville portion shall be credited five million dollars as a result of previous interchange improvements. To calculate the respective parties' portions of the cost of the interchange reconstruction, the following formula shall be used: the total

cost of the reconstruction less all other non-party sources of revenue less an initial Superior portion of \$5 Million dollars with the remainder split equally between the parties (as an example: assume a \$20 Million total cost less \$6 Million non-party sources and less an initial Superior portion of \$5 Million (representing Louisville's previous payments toward the interchange) with the remainder (\$9 Million) split equally between the parties at \$4.5 Million each. Under this example, Louisville's portion is \$4.5 Million and Superior's portion is \$9.5 Million.) Other discussion items for the committee shall include, but not be limited to, McCaslin Boulevard, U.S. 36, and 88th Street. This committee shall be convened consistent with this Agreement for the purpose of discussing the issues as they apply to both entities.

14. Commitment of sales tax revenue. As additional consideration for the sharing of sales tax revenue by Superior, Louisville agrees that the portion of the sales tax paid to it pursuant to Paragraph 3(c) shall be used first towards Louisville's portion of the interchange reconstruction.

15. Non-Compliance. If either party fails to comply with the provisions of this Agreement, the other party, after providing written notification to the noncomplying party and upon the failure of the noncomplying party to achieve compliance within ninety (90) days after said notice, may at its option either terminate this Agreement or maintain an action in a court of competent jurisdiction in Boulder County for specific performance, injunctive, or other relief.

16. Term and Termination. This Agreement shall remain in effect until amended or terminated by agreement of the parties. It is the intent of the parties that this Agreement shall remain in effect for the longest period of time permitted by law because any adverse revenue effects to Louisville resulting from disconnection of the South Property, and any adverse revenue effects to Superior resulting from disconnection of the North Property, shall continue indefinitely after the disconnections.

17. Colorado Laws. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

18. Governmental Authority. Louisville and Superior shall comply with any and all otherwise applicable and valid state, federal or local laws or regulations in relation to this Agreement.

19. Waiver. A waiver of a breach of any of the provisions of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or another provisions of this Agreement.

20. Notices. All notices or other communications hereunder shall be sufficient given and shall be deemed given when personally delivered, or after the lapse of ten business days following mailing by certified mail, postage prepaid, addressed as follows:

To Louisville: City of Louisville
749 Main Street
Louisville, Colorado 80027
Attn: City Administrator

To Superior: Town of Superior
124 E. Coal Creek Drive
Superior, CO 80027
Attn: Town Manager

21. Effect of Invalidity. If any portion of paragraph 3.c. or 4.b. of these Rights and Obligations is finally held invalid or unenforceable by a court of competent jurisdiction as to either party or as to both parties, the parties agree to take such action(s) as may be necessary to achieve to the greatest degree possible the intent of the affected paragraph(s). If no such action is possible, the adversely affected party may provide notice to the other party that the adversely affected party has determined to cause the entire agreement to be terminated as of the date of such notice. In such event, upon receipt of such notice, neither party shall be required to perform as provided herein and this agreement shall be terminated. Such termination shall apply prospectively only, and each party shall retain any benefits received pursuant to this Agreement prior to termination. If any portion of any other paragraph of this Agreement is finally held invalid or unenforceable by a court of competent jurisdiction as to either party or as to both parties, such invalidity or unenforceability shall not affect the other paragraphs of this Agreement, except that any similar right or obligation of the other party shall be deemed invalid.

22. Amendments. This Agreement may be amended in writing only by the mutual agreement of the governing bodies of the parties hereto.

23. Reliance by the Parties. Louisville and Superior understand that each is relying upon all of the promises made by the other in this Agreement, and each agrees (i) not to assert to any court or other body the invalidity or unenforceability of any portion of this Agreement unless such challenge is based upon a change in the law occurring after the effective date of this Agreement; (ii) to promptly notify the other party of any legal action which might affect this Agreement; (iii) to allow the other party to participate in such legal action as the other party deems appropriate, consistent with court rules; and (iv) to defend the Agreement in such legal action to the maximum extent consistent

with law and court rules.

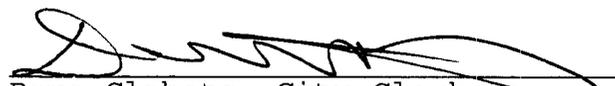
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed.

CITY OF LOUISVILLE, COLORADO

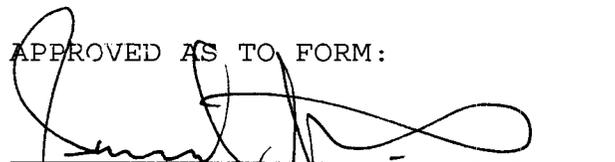

Tom Davidson, Mayor

Approved by the Louisville City Council, July 17, 1997

ATTEST:


Dave Clabots, City Clerk

APPROVED AS TO FORM:

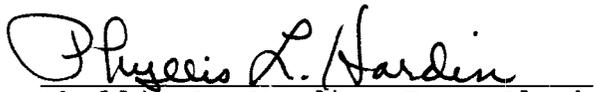

Susan K. Griffiths, Esq.
Griffiths & Tanoue, P.C.
Louisville City Attorney

TOWN OF SUPERIOR, COLORADO


Ted T. Asti, Mayor

Approved by the Superior Board of Trustees, July 21, 1997

ATTEST:


Phyllis L. Hardin, Town Clerk

APPROVED AS TO FORM:


Kathleen E. Haddock, Esq.

Dietze and Davis, P.C.
Superior Town Attorney

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PARCEL A:

A TRACT OF LAND LOCATED IN THE W1/2 OF THE NW 1/4, SECTION 19, TOWNSHIP 1 SOUTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Commencing at the W1/4 corner of said Section 19;
thence North 01°02'38" West, along the West line of the W1/2 of the NW1/4 of said Section 19, a distance of 1317.08 feet to the Southwest corner of the W1/2 of the NW1/4 of said Section 19, said corner also being the Southwest corner of that tract of land conveyed from Mrs. Martha Minks to John B. Williams, et al., by deed recorded January 16, 1895, in Book 163 at Page 500; thence continuing along the boundaries of said tract conveyed in Book 163 at Page 500 the following courses and distances:
thence North 88°56'37" East, 164.55 feet to the Easterly line of that tract of land described on Film 545 as Reception No. 794230 (McCaslin Boulevard), the TRUE POINT OF BEGINNING,
thence continuing North 88°56'37" East, 231.45 feet to the Southeast corner of said tract;
thence North 00°12'54" West, 330.00 feet to the Northeast corner of said tract;
thence South 88°56'37" West, 169.80 feet to the Easterly line of that tract of land conveyed from Andrew Malczyk to the County of Boulder by deed recorded August 19, 1970 on Film 707 as Reception No. 951934;
thence North 00°10'22" East, along the Easterly line of said tract conveyed as Reception No. 951934 and along the Easterly line of that tract of land conveyed from Rosalinda Ruffenach and Chris C. Rosenbaum to Mrs. Valandin Pankaski by deed recorded June 9, 1908 in Book 327 at Page 435, a distance of 330.72 feet to the South line of Ruffenach and Rosenbaum's Addition to Superior as shown by the recorded plat of said subdivision;
thence North 88°54'00" East along the South line of said subdivision 830.38 feet to the Westerly line of that tract of land conveyed from Andrew Malczyk to the State Highway Department of the State of Colorado by deeds recorded November 21, 1950 in Book 878 at Page 274 and at Page 275;
thence Southeasterly, along the Westerly line of said tract conveyed in Book 878 at Page 274 and Page 275 and along the arc of a curve to the right 303.21 feet, said curve having a radius of 5630.00 feet and a chord that bears South 53°26'43" East, 303.18 feet to the East line of said W1/2 of NW1/4 of Section 19;
thence South 00°03'04" West along the East line of said W1/2 of the NW1/4 of Section 19, a distance of 1696.38 feet to the most Northerly corner of that tract of land described on Film 1249 as Reception No. 545559;

thence South $72^{\circ}24'06''$ West, 351.46 feet along the
Northwesterly line of said tract of land described on Film
1249 as Reception No. 545559 to the most Easterly corner of
that tract of land described on Film 1249 as Reception No.
545209;

thence South $74^{\circ}02'20''$ West, 579.88 feet to the most
Southerly corner of said tract of land described on Film
1249 as Reception No. 545209;

thence North $09^{\circ}36'00''$ West, along the Westerly line of said
tract of land described on Film 1249 as Reception No. 545209
and along the Westerly line of a tract of land described on
Film 1249 as Reception No. 206 to the Northwest corner of
said tract of land described on Film 1249 as Reception No.
545206;

thence North $09^{\circ}20'18''$ West, 1331.84 feet along the Easterly
line of that tract of land described on Film 545 as
Reception No. 794230 (McCaslin Boulevard) to the TRUE POINT
OF BEGINNING.

PARCEL B:

Those parts of the East one-half of the Northwest one-quarter of Section 19, Township 1 South, Range 69 West of the 6th P.M., County of Boulder, State of Colorado, located South and West of the right-of-way for U.S. Highway 36, excepting for Coal Creek Cemetery, being more particularly described as follows:

That part of the East One-Half of the Northwest One-Quarter of Section 19 lying South of U.S. Highway 36, being more particularly described as follows: Commencing at the North One-Quarter Corner of Section 19, T. 1 S., R. 69 W. of the 6th P.M., as monumented by a found, unmarked aluminum cap from which the Northwest Corner of said Section 19, as monumented by a found 2-inch diameter pipe with aluminum cap marked L.S. 2149, bears South $89^{\circ}07'56''$ West; Thence South along the center line of said Section 19 South $00^{\circ}24'29''$ West a distance of 2647.50 feet to the Center One-Quarter Corner of said Section 19 as monumented by a pin and cap marked L.S. 12046, the POINT OF BEGINNING;

Thence South $89^{\circ}20'42''$ West along the center line of said Section 19 a distance of 1297.62 feet;

Thence North $00^{\circ}00'41''$ East along the West line of the East One-Half of the Northwest One-Quarter of said Section 19 a distance of 1797.26 feet to a point on the Southerly right-of-way of U.S. Highway 36 said point lying 2.61 feet Southeasterly of a Colorado Department of Highways right-of-way monument;

Thence departing said West line and along the said Southerly right-of-way line on a curve to the right, having a radius of 5630.00 feet, a chord which bears South $48^{\circ}13'59''$ East and an arc length of 703.06 feet to a point of tangency;

Thence continuing along said right-of-way South $44^{\circ}39'20''$ East a distance of 1105.37 feet to a point on the north-south center line of said Section 19;

Thence departing said right-of-way and along said north-south center line South $00^{\circ}24'29''$ West a distance of 72.73 feet to the Northeast corner of the Coal Creek Cemetery;

Thence departing said center line the following courses around said cemetery:

South $89^{\circ}56'01''$ West a distance of 247.50 feet;
Thence South $00^{\circ}24'29''$ West a distance of 264.00 feet;
Thence North $89^{\circ}56'01''$ East a distance of 247.50 feet to a point lying on the said north-south center line;
Thence South $00^{\circ}24'29''$ West a distance of 191.40 feet to the POINT OF BEGINNING.



A tract or parcel of land No. 29X of the Department of Transportation, State of Colorado, Project No. T 170-1(0) containing 5.089 acres, more or less in the SW 1/4 of Section 18 & the NW 1/4 of Section 19, Township 1 South, Range 69 West, of the Sixth Principal Meridian, in Boulder County, Colorado, said tract or parcel of land being more particularly described as follows:

Beginning at the NW corner of Section 19, T. 1 S., R. 69 W., of the 6th PM: Thence N. 88° 39' 10" E., along the North line of Section 19, a distance of 1300.02 feet along the North line of said Section to the True Point of Beginning:

1. Thence N. 88° 39' 10" E., along the north line of Section 19, a distance of 6.00 feet to the northeasterly right of way line of State Highway 36 (November 1990);
2. Thence S. 0° 11' 30" E., along said right of way line, a distance of 583.76 feet to an angle point in the northeasterly right of way line, said point being marked by a rebar with cap LS #9329;
3. Thence N. 45° 58' 01" W., a distance of 1122.11 feet to the northeasterly right of way line of said State Highway 36;
4. Thence S. 67° 46' 35" E., along said right of way line, a distance of 400.32 feet to a point being marked by a rebar with cap LS #9329;
5. Thence N. 88° 39' 30" E., continuing along said right of way line, a distance of 426.97 feet to a point being marked by a rebar with cap LS #9329;
6. Thence S. 1° 23' 20" E., continuing along said right of way line, a distance of 54.94 feet, more or less, to the True Point of Beginning.

The above described parcel contains 5.089 acres/221,694 square feet, more or less.

Subject to all streets and alleys as platted on Map of Ruffenach and Rosenbaum's addition to Superior. As filed in Plat Book #3 on page 28, in Boulder County.

All bearings are based on a line connecting the NW corner of Section 19, T. 1 S., R. 69 W., 6th PM (Alum. Cap LS #2152) and the N. 1/4 corner of Section 19 (Alum. Cap LS # illegible) as Bearing N. 88°39' 10" E.