

TOWN OF SUPERIOR
RESOLUTION NO. R-43
SERIES 2017

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH BOULDER COUNTY REGARDING MAIL BALLOT DROP-OFF BOXES AND VIDEO SECURITY SURVEILLANCE RECORDING SYSTEMS

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, as follows:

Section 1. The Intergovernmental Agreement between the Town of Superior and Boulder County regarding mail ballot drop-off boxes and video security surveillance recording systems is hereby approved in substantially the same form as attached hereto, subject to final approval by the Town Attorney.

ADOPTED this 11th day of September, 2017.



Clint Folsom, Mayor

 ATTEST


Phyllis B. Harden, Town Clerk-Treasurer

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT (the "Agreement") is entered into this 11th day of September, 2017, by and between the CLERK AND RECORDER FOR BOULDER COUNTY (the "Clerk") and THE TOWN OF SUPERIOR, a Colorado municipal corporation (the "Town") (each a "Party" and collectively the "Parties"). This Agreement fully replaces and supersedes any previous Intergovernmental Agreement between the Parties addressing mail ballot drop-off boxes and video security surveillance recording systems.

WHEREAS, the Clerk conducts elections in Boulder County and provides election services to Boulder County voters;

WHEREAS, to better serve its citizens, the Clerk desires to install stand-alone mail ballot drop-off boxes throughout Boulder County for receipt of mail ballots;

WHEREAS, the Clerk and the Town agreed that the Clerk may install a mail ballot drop-off box and video security surveillance recording system at the Superior Town Hall ("Town Hall") at 124 East Coal Creek Drive, Superior, CO 80027 ("Property"), which Property is owned by the Town;

WHEREAS, the Clerk installed a mail ballot drop-off box and video security surveillance recording system on the Property in September of 2015;

WHEREAS, pursuant to the Colorado Election Code (COLO. REV. STAT. § 1-1-101, et seq.) and Colorado Secretary of State's Election Rules (8 Colorado Code of Regulations 1505-1), mail ballot drop-off locations must meet certain requirements, including monitoring by an election official or video security surveillance recording system during all times when mail ballot drop-off boxes are open to receive ballots;

WHEREAS, this Agreement is designed to serve the citizens of Boulder County during elections by providing convenient locations for voters to drop off their completed mail ballots; and

WHEREAS, intergovernmental agreements are authorized and encouraged by Article XIV, Section 18 of the Colorado Constitution and COLO. REV. STAT. § 29-1-203.

NOW, THEREFORE, in consideration of the recitals, promises, covenants and understandings set forth herein, the Parties agree as follows:

1. Site Location. The Town permitted the Clerk to install and maintain a mail ballot drop-off box and video security surveillance recording system at the Property. The mail ballot drop-off box is located in the Town Hall parking lot, as detailed on the map of the Property included as Exhibit A. The mail ballot drop-off box and area immediately around and below the mail ballot drop-off box, approximately a 4.5-foot by 3.5-foot square, are referred to as the "Premises."

2. Description of Improvements. The mail ballot drop-off box and the video security surveillance recording system are collectively referred to as “the Improvements.” The mail ballot drop-off box is a secure location for the deposit of mail ballots. The video security surveillance recording system includes a video camera and recording system that allows for continuous recording of the mail ballot drop-off box when the mail ballot drop-off box is being used to receive ballots, which recording is required by Colorado law.

3. Funding of Improvements. The Clerk will fund the entire cost for obtaining, installing, and maintaining the Improvements.

4. Use of and Access to Improvements.

a. Duration of Use of Mail Ballot Drop-Off Box. The mail ballot drop-off box is permanently installed on the Premises. However, the mail ballot drop-off box will only be open to receive mail ballots from the time ballots are mailed by the Clerk until Election Day during a general election, a primary election, and any special election. During the period in which mail ballots may be dropped off, the mail ballot drop-off box will be available to voters 24 hours a day. The Clerk and the Clerk’s agents are responsible for securing and collecting ballots from the mail ballot drop-off box.

b. Video Security Surveillance Recording System. The Clerk is responsible for obtaining and retaining the video data from the video security surveillance recording system. The Clerk is solely responsible for ensuring compliance with all applicable laws and regulations governing video surveillance of mail ballot drop-off boxes and any costs associated with making the video security surveillance recording system compliant with such laws and regulations.

c. Duration of Use of Video Security Surveillance Recording System. The video security surveillance recording system is permanently installed on the Property, subject to termination of this Agreement. However, the video security surveillance recording system will only be in active use from the time ballots are mailed by the Clerk until Election Day during a general election, a primary election, and any special election.

d. Access to Improvements. The Clerk, as well as the Clerk’s agents and contractors, shall have the right of ingress and egress in, to, through, over, and across the Property for purposes of installing, replacing, repairing and maintaining the Improvements; for collecting ballots from the mail ballot drop-off box during an election; and for retrieving recorded video from the video security surveillance recording system during an election.

e. Schedule for Access. The Parties may establish a schedule before each election setting forth the dates and times that the Clerk’s staff will access the mail

ballot drop-off box to collect ballots and access the video security surveillance recording system to retrieve recorded data.

5. Maintenance.

a. During all times that the mail ballot drop-off box is installed on the Premises, the Clerk shall maintain the Premises in good repair at the Clerk's expense.

b. During all times that the mail ballot drop-off box is installed on the Premises, the Town shall ensure that the Premises are adequately lit.

c. During all times at which the video security surveillance recording system is installed on the Property, the Clerk shall maintain the video security surveillance recording system in good repair.

6. Use of Internet Network. The Town shall permit the Clerk to utilize the Town's internet network for the sole purposes of accessing recorded surveillance footage and storing it on a Boulder County-maintained server. Boulder County's data transmission needs shall be no more than 1.5 MB.

7. Damage to Premises. The Clerk shall be responsible for repair/replacement of the Town's property damaged by the Clerk or the Clerk's agents pursuant to this Agreement. The Clerk will be responsible for any damages to persons or property caused by the negligence of the Clerk, the Clerk's employees, agents, representatives, or other persons acting under the direction or control of the Clerk while at the Property. Notwithstanding any provision to the contrary, nothing in this Agreement will be construed in any way to be a waiver by the Clerk, Boulder County or the Town of the protections that are granted to the County, the Town and their agents, representatives and employees under the Colorado Governmental Immunity Act, C.R.S. 24-10-101, et. seq.

8. Electioneering. No electioneering, including posting signs or communicating with voters related to an issue or candidate in the election, is permitted within 100 feet of the mail ballot drop-off location when it is open to receive ballots during an election. The Town agrees that the Clerk and Clerk's staff may take steps they deem reasonably necessary to stop or prevent such electioneering. The Town will use its best efforts to prevent the installation of any sign, display, or other demonstration that may, in the judgment of the Clerk, have the effect of influencing or intimidating voters during an election. The Clerk and the Clerk's staff may take the steps they deem reasonably necessary to obscure or remove any such sign, display or other demonstration.

9. Term and Termination. This Agreement shall be for ten (10) years or until the Clerk or the Town notifies the other in writing of their wish to terminate this Agreement. The Town must notify the Clerk of its intent to terminate this Agreement at least 120 days prior to any election in order to provide the Clerk sufficient time to establish a new mail ballot drop-box location. Upon termination, the Clerk shall remove the mail ballot drop-box within 90 days and

restore the Premises to the condition as near to original condition prior to installation. The Clerk shall also remove the video security surveillance recording system within such 90 days.

10. Notices. Any notices to be provided under this Agreement shall be given in writing and either delivered by hand or deposited in the United States mail with sufficient postage to the addresses set forth below:

To the Clerk: Boulder County Clerk and Recorder
Division of Elections
1750 33rd Street
Boulder, CO 80020

To the Town: Town of Superior
Attn: Town Clerk
124 East Coal Creek Drive
Superior, CO 80027

11. Assignment. No Party may assign any of the obligations, benefits, or provisions of this Agreement in whole or in part without the expressed written authorization of the other party, which consent shall not be unreasonably withheld. Any purported assignment, transfer, pledge or encumbrance made without such prior written authorization shall be void.

12. Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, and all of which shall constitute one and the same agreement.

13. Governing Law. The terms, covenants and provisions of this Agreement shall be governed by and construed under the applicable laws of the State of Colorado. For the resolution of any dispute arising hereunder, venue shall be in the courts of Boulder County, State of Colorado.

14. Headings. All section headings are for convenience or reference only and are not intended to define or limit the scope of any provision of this Agreement.

15. Entire Agreement. This Agreement represents the entire and integrated agreement between the Clerk and the Town and supersedes all prior negotiations, representations, or agreements, either written or verbal. Any amendments to this Agreement must be in writing and be signed by both Parties.

[Signatures follow on next page]

IN WITNESS WHEREOF, the Parties have signed this Agreement.

CLERK AND RECORDER OF THE
COUNTY OF BOULDER

By: 
Clerk and Recorder, Boulder County

TOWN OF SUPERIOR

By: 
Clint Folsom, Mayor





Phyllis L. Hardin, Town Clerk

Exhibit A

Map of Location:

