

**INTERGOVERNMENTAL AGREEMENT
REGARDING ANNEXATION BOUNDARY AND PLANNING COOPERATION**

This INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into as of the Effective Date by and between CITY OF BRIGHTON, COLORADO, a Colorado home rule municipality (“Brighton”) and CITY OF COMMERCE CITY, COLORADO, a Colorado home rule municipality (“Commerce City”) (together, the “Parties”).

WHEREAS, Brighton and Commerce City are parties to an Intergovernmental Agreement dated February 7, 1989 (“1989 IGA”) that was intended to address the impact of the new international airport, especially as it related to annexation, revenue sharing, planning and development between the two cities; and

WHEREAS, circumstances have changed since the execution of the 1989 IGA and it is in the best interests of both Parties to terminate and replace the 1989 IGA but to continue to provide for the orderly annexation of properties along the Parties’ boundaries.

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

1. **DEFINITIONS.** For the purpose of this Agreement, the following terms shall be defined as follows:

“Annexation Boundary” means the dividing line between the Brighton Annexation Area and the Commerce City Annexation Area, as shown in Exhibit 1 and modified by Section 2.e, below, and shown on Exhibit 3, and generally described as follows (all references being to 2018 alignments): Extending east from the east right of way line of Brighton Road along the north side 120th Avenue right-of-way to Peoria Street; south along the centerline of the Peoria Street right-of-way to 112th Avenue; east along the south side 112th Avenue right-of-way to the north right-of-way line of I-76; northeast along the northeast right-of-way line of I-76 to the east right-of-way line of State Highway 2 at the south curve approximately 325 feet south of the center of the intersection of 120th and Sable Boulevard, northeast along the east right of way line of Sable Boulevard to the north right of way line of 120th Avenue to the southeast I-76 right of way, north of 120th Avenue; northeast along the northeast right-of-way line of I-76 to the approximate alignment of 128th Avenue; east along the approximate alignment of 128th Avenue to Buckley Road; south along the west side of Buckley Road right-of-way to the approximate alignment of 124th Avenue; east along the approximate alignment of 124th Avenue to Tower Road; south along the east side Tower Road right-of-way to 120th Avenue; east along 120th Avenue to Picadilly Road; north along Picadilly Road to the approximate alignment of 136th Avenue; east along the approximate alignment of 136th Avenue to Adams-Washington County line.

“Effective Date” means January 1, 2019.

“Brighton Annexation Area” shall mean that area generally north of the Annexation Boundary marked as such on Exhibit 1, except as modified by Sections 2.e and 2.f, below, and reflected on Exhibit 3.

“Commerce City Annexation Area” shall mean that area generally south of the Annexation Boundary marked as such on Exhibit 1, except as modified by Section 2.e, below, and reflected on Exhibit 3.

2. ANNEXATION.

a. Brighton is free to accept and act upon any petition for annexation of lands lying north of the Annexation Boundary. Brighton shall not annex lands lying south of the Annexation Boundary.

b. Commerce City is free to accept and act upon any petition for annexation of lands lying south of the Annexation Boundary. Commerce City shall not annex lands lying north of the Annexation Boundary.

c. As shown in Exhibit 2, property at 12511 East 112th Avenue is currently annexed into Brighton and will remain in Brighton; property at 12150 East 112th Avenue is currently within and shall remain in the Commerce City annexation area as shown on Exhibit 2.

d. To the extent permitted by law and with the consent of the land owner, but without compelling the exercise of the legislative authority of Brighton City Council, Brighton will de-annex the property generally bounded by 120th Avenue, Chambers Road, and I-76 (as shown in Exhibit 3), to the extent annexed to Brighton, and Commerce City may accept and act upon any petition for annexation of such property or otherwise seek to annex such property as provided by law.

e. If the intersection of 120th Avenue and US 85 is re-aligned resulting in a change to the Annexation Boundary along 120th Avenue, then, in keeping with the intent of this Agreement, the boundary for the City of Brighton shall remain to the north of the 120th Avenue Right-of-Way as re-aligned and Commerce City shall remain to the South.

3. JOINT PLANNING. Brighton and Commerce City agree to work in good faith to coordinate planning efforts for public improvements in the areas located near the Annexation Boundary, including roadways, trails, landscaping, and stormwater drainage improvements.

4. EFFECT ON 1989 IGA. The 1989 IGA is superseded and replaced by this Agreement as of the Effective Date. Each Party releases the other Party from the obligations established by Section 3 of the 1989 IGA regarding revenue sharing and acknowledge that no further performance is due or owing from one Party to the other Party under those obligations.

5. GENERAL PROVISIONS.

a. Incorporation of Exhibits. Exhibits 1-3 are attached and incorporated into this Agreement.

b. Good Faith. The Parties agree to devote their best efforts and to exercise good faith in implementing the provisions of this Agreement.

c. Intent of Agreement. This Agreement is intended to describe rights and responsibilities only as between the Parties and is not intended to and shall not be deemed to confer rights to any persons or entities not named as Parties nor to require Parties to annex any property or to provide any services to any land or development. This Agreement is not intended to limit in any way the powers or responsibilities of Adams County or of any other political subdivision of the State of Colorado not a Party.

d. Remedies for Default. Should any Party fail to comply with the provisions of this Agreement, the other Party, after providing written notification and upon failure of said Party to

achieve compliance within ninety (90) days, may at its option either terminate this Agreement or maintain an action in a court of competent jurisdiction for specific performance, injunctive, or other appropriate relief but not for a remedy in the form of damages. In the event of such litigation, each Party shall be responsible for its own costs, including attorney fees.

e. Effect of Invalidity. The Parties will renegotiate this Agreement if any portion of this Agreement is held invalid or unenforceable by a court of competent jurisdiction.

f. Term & Termination. This Agreement shall be in full force and effect for a period of thirty (30) years after the Effective Date unless terminated in accordance with its terms.

g. Execution. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one Agreement. The Parties consent to the use of electronic signatures for the execution of this Agreement. The Parties agree not to object to the admissibility of this Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

h. Integration. This Agreement is intended as the complete integration of all understandings on the subjects herein between the Parties. No prior or contemporaneous addition, deletion, or other amendment hereto will have any force or effect. Any oral representation by any officer or employee of a Party at variance with terms and conditions of this Agreement or any written amendment to this Agreement will not have any force or effect nor bind the Parties.

(Signature pages follow.)

IN WITNESS WHEREOF, the Parties have caused this Intergovernmental Agreement to be duly approved by their governing bodies and executed as follows:

CITY OF BRIGHTON

Kenneth J. Kreutzer, Mayor

ATTEST:

Natalie Hoel, City Clerk

APPROVED AS TO FORM:

Jack D. Bajorek, City Attorney

CITY OF COMMERCE CITY

Sean Ford, Mayor

ATTEST:

Laura J. Bauer, MMC, City Clerk

APPROVED AS TO FORM:

Robert D. Sheesley, City Attorney