

CITY OF WHEAT RIDGE, COLORADO
RESOLUTION NO. 02
Series of 2011

TITLE: A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH JEFFERSON COUNTY REGARDING ANNEXATION OF REAL PROPERTY

WHEREAS, the City of Wheat Ridge wishes to annex certain unincorporated real property (the "Property"), which area has been surrounded by the municipal boundaries of the City in excess of three years; and

WHEREAS, the City has entered into an intergovernmental agreement with Jefferson County, Colorado regarding the Property, attached hereto as **Exhibit A** which agreement provides that, the City shall not finalize its annexation of the Property unless and until certain conditions detailed in the intergovernmental agreement have been satisfied; and

WHEREAS, Charter Section 14.2 requires intergovernmental agreements to be approved by resolution, and

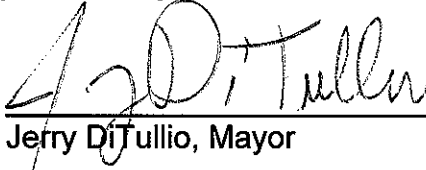
WHEREAS, the City Council finds that approval of this agreement is in the interest of the City.

NOW, THEREFORE, BE IT RESOLVED by the Wheat Ridge City Council:

Section 1. Annexation Approved. The Intergovernmental Agreement with Jefferson County, attached as **Exhibit A** is hereby approved.

Section 2. This Resolution shall be effective upon adoption.

DONE AND RESOLVED this 10th day of January, 2011.



Jerry DiTullio, Mayor

ATTEST:



Michael Snow, City Clerk

Published in the Wheat Ridge Transcript.

EXHIBIT A

Intergovernmental Agreement

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT is made and entered into by and between the CITY OF WHEAT RIDGE, COLORADO, a Colorado municipal corporation, (hereinafter referenced as "City"), and the COUNTY OF JEFFERSON, STATE OF COLORADO, a body politic and corporate (hereinafter referenced as "County"), together sometimes referred to herein as the "Parties."

RECITALS

A. The County acting by and through its Board of County Commissioners, is the owner of certain real property located in the unincorporated portion of Jefferson County and more particularly described on **Exhibit A**, attached hereto and fully incorporated herein by this reference, with an approximate area of 32 acres (the "Property").

B. The Property has been fully surrounded by the municipal boundaries of the City of Wheat Ridge for more than three years, rendering it eligible for annexation as an enclave pursuant to C.R.S. 31-12-106(1).

C. The City wishes to annex the property pursuant to C.R.S. 31-12-106(1), and the County wishes to consent to such annexation, on the terms and conditions contained herein.

AGREEMENT

NOW THEREFORE, in consideration of the recitals, covenants, and promises herein set forth and other good and valuable consideration herein received, the Parties agree as follows:

1. City Annexation of the Property.

The City will initiate annexation of the Property by adoption of an ordinance pursuant to C.R.S. § 31-12-106(1). The City shall give notice of such annexation pursuant to C.R.S. § 31-12-108(2). The City agrees not to finalize annexation of the Property by final adoption of the ordinance until the Property is simultaneously rezoned substantially similar to either (a) the Table Mountain Gateway ODP recorded November 15, 2007, at Reception No. 2007127527, the zoning presently applicable to the Property, or (b) the Clear Creek Crossing Outline Development Plan with respect to Parcel 1 as submitted to the City in January 2011 by Cabela's Wholesale, Inc. or another Cabela's entity and/or Longs Peak Metropolitan District.

2. Annexation Impact Report

Pursuant to C.R.S. § 31-12-108.5(1) an annexation impact report shall not be required for annexations when the municipality and the board of county commissioners governing the area proposed to be annexed agree that the report may be waived. Pursuant to the authority granted by C.R.S. § 31-12-108.5(1)

the City and the County hereby waive the requirement of the preparation and delivery of an annexation impact report.

3. Waiver of Right to Challenge

So long as the City shall be in compliance with its obligations pursuant to this Agreement, the County agrees that it shall not commence any action pursuant to C.R.S. § 31-12-116 for review of the final annexation by the City of the Property.

4. Renegotiation

a. In the event that:

(i) the County is unable to reach an acceptable agreement with Cabela's Wholesale, Inc., another Cabela's entity and/or Longs Peak Metropolitan District with respect to the purchase of the Property; or

(ii) the purchase agreement between the County and Cabela's Wholesale, Inc., another Cabela's entity and/or Longs Peak Metropolitan District is terminated for any reason,

then the City agrees to renegotiate this Agreement with the County and to continue the annexation process without final action on the annexation ordinance until permitted under the terms of such renegotiated Agreement.

b. In the event that the Property has already been annexed into the City pursuant to Section 1 above, and Cabela's Wholesale, Inc., another Cabela's entity or Longs Peak Metropolitan District do not purchase the Property, then the City agrees to disconnect the Property from the City upon receipt of such a request from the County.

5. Compliance with Colorado Constitution Article X Section 20

The obligations of the Parties hereunder are expressly subject to annual appropriation of amounts necessary in the sole and exclusive discretion of their respective governing bodies. Nothing in this Agreement constitutes or is intended to create a multi-year fiscal obligation or debt of either Party within the meaning Article X, Section 20 of the Colorado Constitution.

6. Notices

Any notice required or permitted under this Agreement shall be sufficient if personally delivered, delivered by facsimile or electronic mail, or United States mail, first class postage prepaid, addressed as follows:

If to the City:

City Manager
City of Wheat Ridge
7500 W. 29th Avenue

Wheat Ridge, CO 80033

If to the County: County Administrator
100 Jefferson County Parkway, Suite
Golden, CO 80419
Attn: Kate Newman

With a copy to: Jefferson County Attorney
100 Jefferson County Parkway, Suite 5500
Golden, CO 80419

Notices personally delivered shall be effective upon delivery. Mailed notices shall be effective three (3) business days after mailing. The parties shall give written notice of any change of address.

7. Waiver

Failure to insist upon strict compliance with any of the terms, covenants and/or conditions hereof shall not be deemed a waiver of such terms, covenants and/or conditions, nor shall any waiver or relinquishment of any right or power hereunder at any one time or more times be deemed a waiver or relinquishment of such right or power at any other time or times.

8. Entire Agreement

This Agreement shall constitute the entire agreement between the Parties and shall supersede all prior contracts, agreements, proposals, representations, negotiations and letters of intent, whether written or oral, pertaining to the subject matter of this Agreement. No changes, alterations or modifications to any of the provisions hereof shall be effective unless contained in a written agreement signed by both Parties.

9. Governing Law; Severability

The laws of the State of Colorado shall govern the interpretation, validity, performance and enforcement of this Agreement. For the resolution of any dispute arising hereunder, jurisdiction and venue shall be proper and exclusive in the District Court of the County of Jefferson, Colorado.

10. Effective Date

This Agreement shall take effect upon execution of this Agreement by both Parties, whichever event occurs last.

11. Term of Agreement, Renewal

This Agreement shall terminate on the earlier of: (i) one (1) year from the Effective Date, or (ii) upon the sale of the Property by the County to Cabela's Wholesale, Inc., another Cabela's entity and/or Longs Peak Metropolitan District.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates below.



CITY OF WHEAT RIDGE, COLORADO

By: Jerry DiTullio
Jerry DiTullio, Mayor

Date: 1/10/11

ATTEST:

Michael Snow
Michael Snow, City Clerk

APPROVED AS TO FORM:

Gerald E. Dahl
Gerald E. Dahl, City Attorney

COUNTY OF JEFFERSON
STATE OF COLORADO

By: Kathy Hartman
Kathy Hartman, Chairman
Board of County Commissioners

Date: 1/4/11

ATTEST:

By: Lue Schmaedake
Deputy Clerk

APPROVED AS TO FORM:

By: Kourtney Hartmann
Kourtney Hartmann
Assistant County Attorney



Exhibit A

Legal Description of Annexation Area

THE NORTH 3/8 OF LOTS 1 THROUGH 4, THE NORTH 1/4 OF LOTS 21 THROUGH 24, ALL OF LOTS 25 THROUGH 27, ROXBURY GARDENS BOOK 2, PAGE 33, AS RECORDED AT RECEPTION NO. 37790, LESS AND EXCEPT ANY PORTION OF THE ABOVE LYING WITHIN PARCEL DESCRIBED IN DEED RECORDED IN BOOK 1992, PAGE 752, AND THOSE STATE HIGHWAY PARCELS DESCRIBED IN BOOK 1875, PAGE 159, BOOK 1895, PAGE 55, AND RECEPTION NO. 2006018786, ALSO THAT PARCEL DEDICATED TO THE CITY OF WHEAT RIDGE AT RECEPTION NO. 2007098955, OF THE JEFFERSON COUNTY CLERK AND RECORDER'S OFFICE, BEING A PORTION OF SECTIONS 19 AND 20, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO.

SAID PARCEL CONTAINS 32.8 ACRES MORE OR LESS.

PREPARED FOR AND ON BEHALF OF JEFFERSON COUNTY BY
VAUGHN A. SARGENT. PROFESSIONAL LAND SURVEYOR NUMBER
30121.

