

SEP 14 2007

REC'D BY \_\_\_\_\_

HOYLE PROPERTY AMENDMENT TO SOUTHEAST BOULDER COUNTY,  
SOUTH 96TH STREET, DILLON ROAD AND US 287 AREA COMPREHENSIVE  
DEVELOPMENT PLAN INTERGOVERNMENTAL AGREEMENT

This Hoyle Property Amendment to Southeast Boulder County, South 96th Street, Dillon Road and US 287 Area Comprehensive Development Plan Intergovernmental Agreement, by, between and among the City and County of Broomfield (Broomfield); the City of Lafayette, a Colorado home rule municipal corporation (Lafayette); the City of Louisville, a Colorado home rule municipal corporation ("Louisville") and the County of Boulder, a body corporate and politic of the State of Colorado ("Boulder County"); (collectively the "Parties") is made to be effective on the 4<sup>th</sup> day of September, 2007.

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, the Parties entered into the Southeast Boulder County, South 96th Street, Dillon Road and US 287 Area Comprehensive Development Plan Intergovernmental Agreement, as previously amended (hereinafter the "Plan" or "IGA") 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, pursuant to certain legal proceedings, a 33.78-acre tract of land owned by Virginia Hoyle and the Ira Hoyle Family Trust (hereinafter the "Hoyle Property") has been annexed to Louisville, and the landowners have filed an application for Louisville Industrial zoning for the Hoyle Property, which Property is currently designated as Rural Preservation under the IGA and which Property is designated as subject to the IGA with a preferred land use of industrial under the Framework Plan of Louisville's 2005 Citywide Comprehensive Plan (hereinafter "Louisville Comp Plan"); and

WHEREAS, the IGA, in Exhibit A, Section 3.6, states that an amendment to the IGA shall be required for any proposed use or development of a Rural Preservation Area parcel that does not conform to Plan, and the Louisville Comp Plan, at Policy LU-4.3, provides that an IGA amendment is necessary to effectuate the preferred land use for the Hoyle Property; and

WHEREAS, the landowners have acknowledged that a change in the land use of the Hoyle Property from its Rural Preservation designation to Industrial uses will allow for development that will likely increase traffic-generating uses in the Plan Area, and have agreed to mitigate the impact of such change through the establishment of a funding mechanism to finance the acquisition of

additional open space, acquired in fee or by perpetual conservation easement, in the vicinity of the Plan area; and

WHEREAS, the Parties have determined that it is in the best interests of the citizens of their respective jurisdictions to amend the IGA to permit consideration of the landowners' application for Louisville Industrial zoning of the Hoyle Property, and to permit approval of such request if the City Council of the City of Louisville, after completing the processing of the application and holding the requisite public hearings and in the exercise of its decision-making authority, finds that the application meets the standards of the Louisville Comp Plan and Louisville Municipal Code, understanding that approval of this amendment of the IGA (hereinafter the "Amendment") is not a determination by any Party hereto that the application meets such standards; and

WHEREAS, the Parties have each held hearings after proper public notice for the consideration of entering into this Amendment,

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

1. The Exhibit A (Map Portion) of the IGA is hereby amended to delete the "Rural Preservation Area" designation shown for the Hoyle Property (Parcel Number 157516000012).

2. Section 4 of Exhibit A (Text Portion) of the IGA is hereby amended by the addition of a new Subsection 4.19, to read as follows:

4.19 A parcel numbered Number 157516000012 (33.78 acres) on the attached map is currently annexed to Louisville. Said parcel may be zoned for industrial use under Louisville's zoning ordinance, provided that Louisville negotiates and executes an enforceable, voluntary agreement with the owners providing for the following: As the parcel develops, there shall be paid into an open space land acquisition fund the amount of \$14,000 per acre for each developable acre within the parcel. Payment shall be made on a pro-rata basis at the time of building permit issuance for each lot within the parcel, unless earlier paid for the entire parcel at the time of subdivision platting. The fee shall be increased at a rate of five percent (5%) per annum, commencing on the fifth anniversary date of the effective date of the Louisville ordinance zoning the parcel for industrial use. Fees shall be collected by Louisville, deposited into a Boulder County/Louisville managed fund and be used solely for the acquisition of additional open space, acquired in fee or by perpetual conservation easement, in the Plan area or in the vicinity of the Plan area. Only those portions of the parcel that are dedicated for Dillon Road right-of-way, for satisfaction of the Louisville's twelve percent (12%) public use dedication requirement, or for open space (by conveyance to one or more of the parties in fee or by perpetual conservation easement) shall be excluded from the determination of developable acreage.

3. This Amendment shall be recorded with the County Clerk and Recorder of Boulder County. The provisions hereof shall be covenants running with the Hoyle Property and shall be binding upon all persons or entities having an interest in the Hoyle Property, which Property is further described in Exhibit A, attached hereto and incorporated herein by reference.

4. The other terms and conditions of the IGA shall remain in force and effect.

IN WITNESS WHEREOF, the Parties have executed this Amendment to be effective as of the date first set forth above.

CITY AND COUNTY OF BROOMFIELD

By: Karen Stuart  
Karen Stuart, Mayor

Date July 24, 2007

ATTEST:  
By: Judith A. Reiser  
Deputy City Clerk, Acting

APPROVED AS TO FORM:

William A. Tuthill III  
William A. Tuthill III  
City and County Attorney

CITY OF LAFAYETTE

By: Chris Berry  
Chris Berry, Mayor

Date September 4, 2007

ATTEST:

By: Susan Baker  
City Clerk



APPROVED AS TO FORM:

James A. Windholz  
James A. Windholz  
City Attorney

CITY OF LOUISVILLE

By: Charles L. Sisk  
Charles L. Sisk, Mayor

Date 8/23/07

CITY OF LOUISVILLE

By: [Signature]  
Don Brown, Mayor Pro Tem

Date: 7/27/07



ATTEST:

By: [Signature]  
City Clerk

APPROVED AS TO FORM:

[Signature]  
Samuel J. Light  
City Attorney

COUNTY OF BOULDER

BY: BOARD OF COUNTY COMMISSIONERS

By: [Signature]  
Ben Pearlman, Chair

Date: 8/14/07

By: [Signature]  
Will Toor, Vice Chair

By: [Signature]  
Cindy Domenico, Commissioner



ATTEST:

By: [Signature]  
Clerk to the Board

APPROVED AS TO FORM:

[Signature]  
H. Lawrence Hoyt  
County Attorney

**EXHIBIT A**  
**LEGAL DESCRIPTION - HOYLE PROPERTY**

A PARCEL OF LAND SITUATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 16, TOWNSHIP 1 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH-SOUTH CENTER SECTION LINE OF SAID SECTION 16 AND THE NORTHERLY RIGHT-OF-WAY LINE OF DILLON ROAD THE SOUTH ONE-QUARTER CORNER OF SAID SECTION 16 BEARS SOUTH 00° 40' 10" WEST OF 30 FEET, SAID POINT OF BEGINNING ALSO LYING ON THE EAST LINE OF THE PARCEL DESCRIBED IN DEED, FILM 2173 RECEPTION NO. 01663052, BOULDER COUNTY CLERK AND RECORDER AND SAID POINT OF BEGINNING LYING ON THE PROLONGATION OF THE EASTERLY LINE THE COLORADO TECHNOLOGICAL CENTER, FIRST FILING AS RECORDED AS P-9, F-1, #38, 39 & 40 IN THE OFFICE OF THE CLERK AND RECORDER, BOULDER COUNTY.

THENCE NORTH 00 40' 10" EAST 1340.01 FEET ALONG THE NORTH-SOUTH CENTER SECTION OF SAID SECTION 16, THE EAST LINE OF SAID DEED, FILM 2173 RECEPTION NO. 01663052 AND THE EAST LINE OF SAID COLORADO TECHNOLOGICAL CENTER FIRST FILING TO THE SOUTHWEST CORNER, LOT 10, BLOCK 4 OF SAID COLORADO TECHNOLOGICAL CENTER, FIRST FILING; THENCE NORTH 80 17' 00" EAST, 880.96 FEET ALONG THE SOUTH LINE OF BLOCK 4 OF SAID COLORADO TECHNOLOGICAL CENTER, FIRST FILING; THENCE NORTH 89 57' 00" EAST 282.50 FEET ALONG THE SOUTH LINE OF BLOCK 4 OF SAID COLORADO TECHNOLOGICAL CENTER, FIRST FILING TO A POINT ON THE EAST LINE OF THAT PARCEL (B) DESCRIBED IN THE DEED LISTED UNDER RECEPTION #1877881 AS FILED IN THE CLERK AND RECORDERS OFFICE, BOULDER, COLORADO;

THENCE SOUTH 00 40' 10" WEST 616.69 FEET ALONG THE EAST LINE OF SAID PARCEL (B);

THENCE SOUTH 89 56' 51" WEST 200.00 FEET ALONG THE NORTH LINE OF THE EXCEPTION TO SAID PARCEL (B);

THENCE SOUTH 00 40' 10" WEST 871.20 FEET ALONG THE WEST LINE OF THE EXCEPTION TO SAID PARCEL (B) TO THE NORTH RIGHT-OF-WAY LINE OF DILLON ROAD;

THENCE SOUTH 89 56' 51" WEST 949.09 FEET ALONG THE NORTH RIGHT-OF-WAY OF SAID DILLON ROAD TO THE POINT OF BEGINNING.