

Colorado Heritage Report

BEST PRACTICES

IN

INTERGOVERNMENTAL AGREEMENTS

December 1999
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PREFACE

In December, 1996, a report was released from the Smart Growth and Development Initiative entitled “Report of the Panel on Property Rights, Vested Rights and Intergovernmental Growth Issues.” That report, based on the work of a broad-based and diverse panel (see Appendix A) focused on “Best Practices” relating to a number of issues associated with growth and development. A major focus of the report concerned “Intergovernmental Boundary and Development Issues.” Cooperative planning efforts, often incorporating intergovernmental agreements (IGAs) were identified as critical tools for achieving “Smart Growth” (see Appendix B).

Since publication of that report, interest in the use of IGAs to guide cooperative planning efforts has increased substantially. The Department of Local Affairs (DOLA) has received increasing numbers of requests for model IGAs. This report updates and expands the IGA section of the original report.

The IGAs summarized here by no means represent all or even a majority of the development-related IGAs in current use among Colorado local governments. They are presented as illustrative examples of current “best practices” by local governments that DOLA staff have identified in recent years. Some of these IGAs may have been updated or otherwise changed but we hope the information will nevertheless be of relevance to others dealing with similar circumstances.

DOLA will periodically update this document. Anyone with information regarding IGAs that might be added or models for other jurisdictions are encouraged to contact Charlie Unseld of DOLA at (303) 866-2353.

Contact people have been identified for each IGA listed, so that those desiring more information or practical advice can receive it from those who have created and are using the IGAs.

DOLA staff who participated in the preparation of the original and the updated reports are Charlie Unseld, Andy Hill, John Plakorus, and Lillie Fuller with assistance of interns Lucy Naujock, Emmy Pollock, Laura Allen-Hatcher and Amy Cromwell.

INTRODUCTION

This report is one of a series of three Colorado Heritage Reports on Best Practices, developed as part of Governor Bill Owens' Smart Growth: Colorado's Future Initiative. The companion volumes to this report are:

Best Practices: Land Use Planning and Growth Management

Best Practices: Preservation of Open Space, Ranches and Farms

The Department of Local Affairs (DOLA) compiled these reports based on input from several sources. Nominees and winners from the 1995 through 1998 Smart Growth and Development Awards Program were the initial source. DOLA also solicited input from the memberships of the Colorado Chapter, American Planning Association, Colorado Counties, Inc., and the Colorado Municipal League. The summaries are presented as submitted by local jurisdictions or as summarized by DOLA staff.

DOLA will update these reports periodically. Those wanting to submit additional information for inclusion in these reports are encouraged to contact DOLA.

These reports are available on the Internet at www.dlg.oem2.state.co.us/fs/field.htm or the State of Colorado's homepage at www.state.co.us/smartgrowth/.

We are hopeful that these reports will assist Colorado communities in their efforts to achieve Smart Growth by learning from other communities of their efforts to manage growth while retaining their quality of life.

As Governor Owens said in announcing Smart Growth: Colorado's Future's:

We are the stewards of Colorado's future. For the sake of our children and grandchildren, we must preserve Colorado's natural beauty and provide opportunities for future generations to pursue their own dreams. Our task is nothing less than to protect that special Colorado way of life..

IGA MATRIX KEY

Basic IGA: essentially an “agreement to agree” or an interim policy IGA that can serve as a building block for more comprehensive agreement.

Comprehensive IGA: an IGA that goes beyond a basic, or interim, agreement. This type of IGA will generally provide for specific services, create a body, or establish joint functions.

Expiration Date: to avoid concerns associated with attempts to bind successive governing bodies, the IGA may include an expiration date.

Exemptions or Variances: the right or means to amend the function, scope, or specific duties of the IGA by mutual consent.

Resolve Disputes: a method of arbitration or mediation for resolving *contract interpretation* disputes. This is different from simply amending the IGA through mutual consent because it addresses issues where the parties disagree and cannot come to resolution by compromise.

Plan Updating: a method of review, evaluation and updating of the agreement. Updating is related to the amendment right, by specifically spells out a time-frame and structure for updating the IGA (or, when an IGA calls for the development of a comprehensive plan, it may also create a schedule for updating this plan).

IGA MATRIX

INTERGOVERNMENTAL AGREEMENT

Best Practices

Last updated 12/15/98

File Number	Signatories	Date	Subject(s)	Basic or Comprehensive?	Expiration date?	Exemptions or variances?	Resolve Disputes?	Plan Updating?
1	Adams County, Town of Bennett	1997	Municipal Growth Boundaries, Comp. Plan	C	Y	Y	N	N
2	City of Arvada, City of Golden	08/07/89	Urban Growth Boundaries	C	N	Y	N	N
3	Towns of Berthoud, Evans, Milliken, Cities of Ft. Collins, Greeley, Loveland,	12/10/97	Managing Urban Development	C	Y	Y	N	N
4	Boulder County, City of Lafayette, Town of Erie	12/21/94	Urban Growth Boundaries	C	Y	Y	N	N
5	Boulder County, City of Longmont	02/05/96	Transferrable Development Rights	C	Y	Y	N	N
6	Chaffee County, City of Salida, Town of Poncha Springs	07/19/96	Municipal Growth Boundaries, Annexation, Development Standards	B	Y	Y	Y	N
7	Eagle County, Town of Eagle	03/21/95	Eagle Area Community Plan	C	C	N	N	N

8	Eagle, Garfield, Summit, Lake, Pitkin Counties	11/01/96	Rural Resort Region Action Plan	C	Y	N	N	Y
9	El Paso County, Cities of Colorado Springs, Fountain	08/13/85	Joint Planning	C	N	N	N	N
10	Cities of Golden and Lakewood	1/97	Mutual Planning Area, Joint Transportation Projects	C - Planning B - Transportation Projects	N	N	N	N
11	Grand County, Town of Fraser, Town of Winter Park	04/07/87	Shared Land Use and Road Planning	C	Y	Y	N	Y
12	Grand County, Towns of Winter Park, Fraser, Granby, Grand Lake, Kremmling, Hot Sulphur Springs	11/20/95	Growth Management -Memorandum of Understanding	B	N	N	N	N
13	Jefferson County, City of Westminster	07/23/96	Northeast Comprehensive Development Plan	C	Y	Y	N	Y
14	La Plata County, City of Durango	03/02/93	Exchange of GIS	C	N	Y	N	N
15	Larimer County, Cities of Loveland, Fort Collins	08/02/89	Urban Growth Areas	C	Y	Y	N	Y
16	Larimer County, Town of Berthoud	07/01/94	Growth Management and Control	C	Y	Y	N	Y

17	Larimer County, Towns of Berthoud, Evans, Fort Collins, Greeley, Johnston, Loveland, Milliken, Windsor, Wellington	10/96	Managing Urban Growth	C	Y	Y	N	Y
18	Larimer County, Town of Estes Park	09/16/97	Adoption of Estes Valley Comp Plan	C	Y	Y	N	Y
19	City of Louisville, Town of Superior	07/21/97	Joint Transportation Planning, Revenue Sharing, Annexation	C	N	Y	N	N
20	Mesa County, Cities of Fruita and Grand Junction	10/96	Joint Planning, Buffers and Transition Areas	B	Y	Y	Y	N
21	Mesa County, City of Grand Junction	10/13/98	Joint Policy Direction for Sewer System, City Growth	C	N	Y	Y	N
22	Montrose County, City of Montrose	09/08/98	Administration of Development Proposals, Conformity of Road Plans, Coordination of Dev. Regs. in "Interface Areas"	C - Admin of Dev. Props. B - Road Plans and Dev. Regs.	N	Y	N	Y
23	Pitkin County, Town of Basalt	12/05/96	Land Use Planning	B	N	Y	N	N
24	Routt County, City of Steamboat Springs	10/15/98	Joint Planning, Urban Growth Boundary	B	N	Y	N	N

25	Summit County, Summit County Housing Authority, Town of Breckenridge, Town of Dillon, Town of Frisco, Town of Silverthorne	12/20/96	Joint Funding of Housing Authority	C	Y	Y	N	N
25a	Summit County, Summit County Housing Authority, Town of Breckenridge, Town of Dillon, Town of Frisco, Town of Silverthorne	Amendment to original IGA, 12/20/96, for FY 1998	Joint Funding of Housing Authority	C	N	N	N	N
25b	Summit County Housing Authority, Intrawest U.S. Resorts, Inc. / Copper Mountain Resort	1998	Third Party Funding of Housing Authority	C	Y	N	N	N
25c	Summit County Housing Authority, Ralston Resorts, Inc. / Keystone Resort	1998	Third Party Funding of Housing Authority	C	Y	N	N	N
25d	Summit County Housing Authority, Ralston Resorts, Inc. / Breckenridge Ski Area	1998	Third Party Funding of Housing Authority	C	Y	N	N	N
26	Weld County, Town of Platteville	03/12/96	Coordinating Land Use Planning	C	Y	Y	N	Y

27	Weld County, City of Dacono, Town of Firestone, Town of Frederick	03/24/97	Land Use Coordination, Urban Growth Area Comp. Plan	C - Land Use Coordination B - Comp. Plan	Y	N	N	Y
28	Weld County, City of Dacono, Town of Erie	1998	Coordinated Planning	C	Y	Y	N	N

INTERGOVERNMENTAL AGREEMENTS
(Alphabetical by County or Municipality)

JURISDICTION(S): Adams County, Town of Bennett
DATE: 1997
TOPIC(S): Municipal Growth Areas; Comprehensive Plans
CONTACT: Town of Bennett, Jim Calvery (303)644-3249

SUMMARY:

Lists the criteria for determining three municipal growth boundaries, or tiers, over several periods of time (5, 20 and 20+ years). Calls for the joint creation and adoption of a Comprehensive Development Plan that will designate land uses, service providers, policies for annexation, and coordination of public improvements within these development tiers. The county will not object to town annexations within the growth areas; the town will annex in accordance with the joint comprehensive plan; The town and county agree to refer for review and comment all development plans submitted within the growth areas to one another; a joint review process will be established for development in the growth areas; the parties agree to evaluate and adopt minimum development standards which will apply to all developments approved within the growth areas. Terms of agreement - 20 years - with automatic 20 year renewal if neither party objects.

JURISDICTION(S): Cities of Arvada and Golden
DATE: 1989
TOPIC(S): Urban Growth Boundaries
CONTACT: City of Arvada, Mike Elms (303) 421-2550; City of Golden, Steve Glueck, (303) 384-8097

SUMMARY:

Establishes urban growth boundaries for both cities. Calls for cities to comply with the Jefferson County North Plains Community Plan. The cities agree not to annex lands within each other's urban growth areas. Provides procedures for referral of development proposals to the other jurisdiction.

JURISDICTION(S): Towns of Berthoud, Evans and Milliken, Cities of Ft. Collins, Greeley and Loveland
DATE: 1997
TOPIC(S): Managing Urban Development
CONTACT: Town of Berthoud, Donald Burchett (970) 532-2643

SUMMARY:

Parties want to retain unique identities by maintaining physical separation between communities. Each party will incorporate, into a comprehensive plan, land use and transportation planning, implementation of growth management policies and preservation of open space. Parties will jointly deliver services such as water, stormwater, sanitary sewer, transportation, fire and police protection in future urbanized areas. This agreement was based on recommendations outlined in the May 1995 Northern Colorado Regional Planning Study. This is a six year contract.

JURISDICTION(S): Cities of Black Hawk and Central City, Gilpin County and Black Hawk-Central City Sanitation District
DATE: 1999
TOPIC(S): Growth Areas
CONTACT: City of Black Hawk, Roger Baker (303) 582-5221 or rogerb@yahoo.com

SUMMARY:

The Cities of Central City and Black Hawk desire to establish growth areas for their respective cities for the purpose of planning for and regulating the use of land within described growth areas, so as to provide orderly use of the land which includes, but is not limited to, the establishment of roads, phased development of services and facilities, regulating the location of activities and developments which may result in significant changes in population density and protecting the environment in a manner consistent with constitutional rights. Central City desires to annex certain real property within the growth area. Black Hawk supports Central City in its desire to annex within the growth area. Gilpin County supports the proposed annexations and growth areas described by both Central City and Black Hawk so long as both cities agree to the density, joint planning, open space and school impact mitigation requirements. The Black Hawk-Central City Sanitation District agrees to expand its service area. The agreement will be for twenty-five (25) years.

JURISDICTION(S): City of Boulder
DATE: 1999
TOPIC(S): Urban Growth Boundary & Annexation Policy
CONTACT: City of Boulder, Planning Department, Margaret Doherty (303) 441-3270

SUMMARY: (See: Best Practices in Land Use Planning and Growth Management)

JURISDICTION(S): Boulder County, City of Lafayette and Town of Erie
DATE: 1994
TOPIC(S): Urban Growth Boundaries
CONTACT: Town of Erie, Gary West (303) 926-2700; City of Lafayette, Bonnie Starr (303) 665-5588

SUMMARY:

Calls for joint adoption of a mutually binding and enforceable East Central Boulder County Comprehensive Development Plan, with focus on urban growth boundaries and transportation corridors. Establishes regulations for specific parcels of land, as well as general regulations which supersede and control local regulations in the designated areas. Development applications in conformance with the plan receive special treatment. The county agrees to defend against and indemnify all claims brought by outsiders against the plan. IGA term is 20 years.

JURISDICTION(S): Boulder County, City of Longmont
DATE: 1996
TOPIC(S): Transferrable Development Rights
CONTACT: Boulder County, Graham Billingsley (303) 441-3930

SUMMARY:

Agreement to channel potential density into areas adjacent to the City of Longmont. Designates sending and receiving sites; parties agree to abide by process outlined in IGA for transferring development rights between sending sites and receiving sites. Obligates Boulder County to obtain conservation easements for continued agricultural production from participating sending sites on behalf of the county and the city. Agreement continues for 10 years; termination upon one year written notice.

JURISDICTION(S): Cities of Broomfield and Erie
DATE:
TOPIC(S): Broomfield-Erie Sub-area Plan and Development Standards
CONTACT: Kevin Stanbridge (303) 438-6300

SUMMARY:

The two municipalities have signed an intergovernmental agreement to develop a comprehensive sub-area plan and development standards for the area between and inside their city limits along I-25 and Colorado Highway 7.

JURISDICTION(S): Chaffee County, City of Salida, Town of Buena Vista, Town of Poncha Springs
DATE: 1996
TOPIC(S): Municipal Growth Boundaries; Annexation; Development Standards
CONTACT: Chaffee County, Tom Hale (719) 539-2218

SUMMARY:

Calls for the creation and joint adoption of a City/County Comprehensive Development Plan (“CCCDP”), which defines and plans town growth boundaries. The CCCDP will be binding and mutually enforceable. Provides for referral of plat submissions and rezoning applications to the other jurisdictions for comment and joint review. The county agrees not to challenge annexations within respective growth boundaries; municipalities agree to conduct all annexation in conformance with the CCCDP; county waives right to municipal annexation impact report in exchange for zoning referrals. Parties agree to scrutinize service plans within town growth boundaries to minimize duplication of services. Intent is to adopt uniform development code within municipal growth boundaries. The county agrees to adopt the Comprehensive Development Plans of the municipalities (three mile plans).

JURISDICTION(S): Eagle County, Town of Eagle
DATE: 1995
TOPIC(S): Eagle Area Community Plan
CONTACT: Eagle County, Keith Montag Eagle County (970) 328-8600; Town of Eagle, William Powell (970) 328-6354

SUMMARY:

The county and town agree to jointly hire and fund a consultant to develop an Eagle Area Community Plan. The plan will guide growth and future land use patterns in the unincorporated areas near the Town of Eagle. Elected officials from both Eagle County and the Town of Eagle will establish a Citizen’s Advisory Committee with membership comprised of local citizens.

JURISDICTION(S): Counties of Eagle, Garfield, Lake, Pitkin and Summit

DATE: 1999
TOPIC(S): Regional Child Care Project
CONTACT: Eagle County, Keith Montag, (970) 328-8600

SUMMARY:

The counties propose to jointly plan and develop regional child care programs which increase the licensed child care capacity, enhance the quality of child care, improve the access to care and provide information on available care for parents and employers. The plan will provide incentives and technical assistance to providers of quality child care.

The strategies employed to implement the project include operating and managing family day care home licensing programs in the five counties, engaging employers, parents, providers, and communities in addressing issues of funding, quality care and availability of care, coordinating access to state and federal funding sources and effectively leveraging local funding in combination with those other resources.

The counties agree to adopt resolutions approving the Intergovernmental Agreement. Garfield County agrees to be the fiscal agent for the project, and to be responsible for programs operating in Eagle Garfield and Pitkin Counties. Summit County will be responsible for program operations in Lake and Summit Counties.

JURISDICTION(S): Counties of Eagle, Garfield, Lake, Pitkin and Summit
DATE: 1996
TOPIC(S): Rural Resort Region Plan
CONTACT: Eagle County, Keith Montag, Director CO (970) 328-8600

SUMMARY:

Counties agree to jointly create and implement a Rural Resort Region Action Plan; and to jointly fund and hire a Rural Resort Region Coordinator to build private/public partnership to support Action Plan projects. Establishes a Rural Resort Area Steering Committee and several subcommittees to address common needs and design work plans on topics such as health and human services, housing and transportation, and resource restructuring. The agreement remains in force for one year.

JURISDICTION(S): El Paso County, Cities of Colorado Springs and Fountain
DATE: 1985
TOPIC(S): Joint Planning (Comprehensive Planning)
CONTACT: El Paso County, Ken Rowberg (719) 520-6400

SUMMARY:

Establishes a cooperative planning area for the preparation of policies and comprehensive planning elements. Creates a Planning Task Force (TF) - composed of relevant administrative personnel from each jurisdiction to provide technical expertise and draft plan(s). Agreement spells out the form of the comprehensive plan, how the TF shall inventory current conditions within the planning area and then formulate policy statements. IGA specifies staffing and fiscal responsibilities of each party, and allows for termination of the agreement with 30 days written notice.

JURISDICTION(S): Cities of Evans, Fort Collins, Greeley, Loveland, Towns of Berthoud, Johnstown, Milliken, Windsor, Wellington, Larimer and Weld Counties
DATE: 1995
TOPIC(S): Northern Colorado Regional Plans
CONTACT: City of Fort Collins, Joe Frank (970) 221-6376
Web Address: http://www.ci.fort-collins.co.us/COMMUNITY_PLANNING/ADVANCE_PLANNING/DocDown.htm

SUMMARY:

1. Northern Colorado Regional Planning Study

This multi-jurisdictional effort, completed in 1995, provides a framework for cooperation among the participating jurisdictions in regard to growth management. The study led to the preparation and adoption of an intergovernmental agreement whose purpose was to develop common understanding and terminology with regard to Community Growth Management Areas, Cooperative Planning Areas, annexation and planning coordination.

2. Northern Colorado Community Separator Study

This study was prepared through the joint efforts of several Northern Colorado jurisdictions. The study provides a framework for achieving each of the jurisdiction's goal of maintaining physical separations between communities. The report answers the questions of how big and what kinds of land uses can occur in the separator areas, as well as proposing a framework of separator areas in the region and outlining actions which are needed to maintain long-term community separation.

3. Northern Colorado Communities I-25 Corridor Plan

Eight Northern Colorado jurisdictions are participating in the preparation of a vision plan for a 32 mile stretch of I-25 between Berthoud and Fort Collins. The plan will address appearance, local transportation needs, and open space/natural areas protection. Among the products of the plan will be design guidelines and standards for new development that can be readily adopted by the affected communities. The plan is expected to be completed in Spring, 2001.

JURISDICTION(S): City of Lakewood and City of Golden
DATE: 1998
TOPIC(S): Lakewood-Golden Mutual Planning Area Boundary
CONTACT: City of Lakewood, John Beauparlant (303) 987-7737

SUMMARY:

The creation of a mutual planning area boundary between the cities of Lakewood and Golden was implemented by means of an intergovernmental agreement approved by both city councils. The boundary provides "the structures so that we can effectively make decisions... within each community [and] region..." The two cities now have a mutual guide to any future annexations of currently unincorporated territory between them, agreeing not to annex in each other's defined planning areas. By heading off potential annexation disputes, and by preventing developers from playing the two cities against each other, the agreement allows energies to be devoted to sound planning procedures that "enhance the quality of our place." Just as importantly, the agreement draws Golden and Lakewood into an "inclusive and cooperative process" that includes Jefferson County, special districts and landowners in "better coordinate[d] growth planning" for future growth in the area. The agreement specifically identifies sharing of development plans, as well as joint funding of regional transportation facilities by both cities.

JURISDICTION(S): Cities of Golden and Lakewood
DATE: 1997
TOPIC(S): Mutual Planning Boundary; Joint Transportation Projects
CONTACT: City of Golden, Steve Glueck (303) 384-8011

SUMMARY:

Delineates the planning areas of each municipality. Parties agree to deny any annexation request within the planning area that does not require an annexation election, unless first authorized by the other party. Each party will submit copies of any development plans that lie within 1,000 feet of the planning area of the other. Parties agree not to propose transportation improvement projects that will substantially alter or restrict existing community access without prior consultation with the other party. IGA has no expiration date, and can only be terminated upon written mutual consent.

JURISDICTION(S): Grand County, Towns of Fraser and Winter Park
DATE: 1987
TOPIC(S): Shared Land Use and Road (Transportation) Planning
CONTACT: Grand County, Lurline Curran (970) 725-3347

SUMMARY:

This mutual agreement joins the forces of all parties to get the best benefits from available resources and reduce duplicate efforts. Each party will inform the other parties of future plans that will affect the other parties' road network. All parties will know the others' road locations, road designs, road uses, and construction and maintenance financing. The Towns will follow through with the local planning to implement the Fraser-Winter Park Road Network (This enforces connection points between areas, design standards, and minimizes rights-of-way). This is a year long contract that is renegotiable on a yearly basis.

JURISDICTION(S): City of Grand Junction, U.S. Bureau of Land Management, Mesa County
DATE:
TOPIC(S): Involvement in Management Plans
CONTACT: City of Grand Junction, Mark Achen (970) 244-1501,
Mesa County, Les Cahill (970) 244-1602

SUMMARY:

The purpose of the agreement is to establish a mechanism for consultation in land actions and appropriate involvement by each jurisdiction in the development, implementation, and revision of respective management plans. In recognizing this, the entities agree to coordinate their respective planning and decision making activities in a manner consistent with the respective responsibilities and authorities assigned to each entity. The jurisdictions agree to work together to achieve maximum benefits from available resources, to reduce duplication of effort, and to attain better overall coordination of land use and ecosystem management throughout the county.

JURISDICTION(S): Grand County, Towns of Fraser, Granby, Grand Lake, Hot Sulphur Springs, Kremmling and Winter Park
DATE: 1995
TOPIC(S): Growth Management Memorandum of Understanding
CONTACT: Grand County, Lurline Curran (970) 725-3347

SUMMARY:

Drafted to create growth management plans for the county and municipalities. Establishes a Coordinating Committee, comprised of representatives of all parties, to monitor planning processes. Parties agree to jointly fund the hiring of a consultant to prepare a comprehensive plan for the county and growth management plans for the towns (plans to be jointly adopted where possible.)

JURISDICTION(S): Gunnison County, City of Gunnison, Towns of Crested Butte and Mt. Crested Butte
DATE: 1996
TOPIC(S): Housing Coordinator
CONTACT: Gunnison County, Donna Martin (970) 582-5214; City of Gunnison, Mark Collins (970) 641-8006; Town of Crested Butte, William Crank (970) 349-5338; Mt. Crested Butte, Chuck Stearns (970) 349-6632

SUMMARY:

The issue of affordable, attainable employee or community housing is considered to be one of the most important and pressing issues that each of the jurisdiction's face. Each entity is desirous of jointly funding a professional housing coordinator to recommend and administer affordable housing policy, and for administration, development, and monitoring work. The IGA will be of mutual advantage and benefit to each entity to cooperate among them for the policy direction, employment and funding of a housing coordinator. Terms of the agreement will be automatically renewed unless terminated in writing.

JURISDICTION(S): Gunnison County, Towns of Crested Butte and Mt. Crested Butte, East River Regional Sanitation District, Mt. Crested Butte Water & Sanitation District, and Crested Butte South Metropolitan District
DATE: 1995
TOPIC(S): Upper East River Valley Areawide 201 Facilities Plan
CONTACT: Gunnison County, Donna Martin (970) 582-5214; City of Gunnison, Mark Collins (970) 641-8006; Town of Crested Butte, William Crank (970) 349-5338; Mt. Crested Butte, Chuck Stearns (970) 349-6632

SUMMARY:

The agreement will accomplish regional wastewater treatment facilities planning and wastewater treatment, where the jurisdictions developed an East River Valley Area wide 201 Facilities Plan and phasing of the capital expenditures for regional wastewater facilities. Existing user charges continue to pay for the debt service costs of existing facilities and growth can be used to fund regional improvements. Fees from growth may be appropriate for regional improvements.

JURISDICTION(S): Jefferson County, City of Westminster
DATE: 1996
TOPIC(S): Northeast Comprehensive (Plan) Development
CONTACT: Jefferson County, Kevin Nichols or Janet Bell (303) 271-8700

SUMMARY:

Both parties adopted the Northeast Comprehensive Development Plan to be binding and mutually enforceable, superseding other ordinances and regulations. The county agrees not to challenge annexations in conformance with the plan. The county also waives the right to receive an annexation impact report where formal referral procedure was followed. This agreement has a ten year term with an automatic extension.

JURISDICTION(S): La Plata County, City of Durango
DATE: 1993
TOPIC(S): Exchange of Geographic Information System (GIS) Data
CONTACT: La Plata County, Joe Crain (970) 382-6200

SUMMARY:

Through this mutual agreement La Plata County and the City of Durango will be able to swap information. They will share through compatible media each others' GIS entities. They will give regular updates and neither city nor county will unilaterally sell each other's GIS data. Neither party will be responsible to the other for inaccurate data. This agreement is in effect until they mutually agree to end it.

JURISDICTION(S): Lake County, City of Leadville
DATE: 1999
TOPIC(S): Cooperative Planning Activities - (Land Use Planning)
CONTACT: Lake County, (719) 486-3338; City of Leadville (719) 486-0349

SUMMARY:

Lake County and the City of Leadville agree to establish a mutually harmonious, cooperative and productive planning relationship with joint involvement in and responsibility for inter-governmental matters related to land use planning and the future physical development of the city and the county for the benefit of the residents in the city and unincorporated portions of the county. The city and the county mutually desire to implement the provisions of their respective comprehensive plans, to assist the other in plan implementation efforts and to discuss undertaking additional joint planning and natural resource development and conservation activities. The city and the county agree to appoint a task force with equal city and county representation to discuss and develop a jointly designated urban growth boundary.

JURISDICTION(S): Lake County, USDA Forest Service
DATE: 1999
TOPIC(S): Cooperative Planning Activities (Preservation)
CONTACT: Lake County (719) 486-3338; Leadville District Range Office, Kathryn Hardy (719) 486-0749

SUMMARY:

It is the purpose of the Memorandum of Understanding (MOU) to enable the Forest Service and the county to plan cooperatively and in accordance with the procedures and provisions of the MOU to help manage the orderly, rational and harmonious future development of unincorporated territory within Lake County in concert with the protection, preservation and enhancement of the natural resources and man-made improvements of unincorporated county land and land in Lake County under the management of the Forest Service.

The Forest Service benefits and interests that are expected to result from the agreement include, but are not necessarily limited to, a) participation in draft stage review of all county proposed comprehensive plan amendments and updates, b) advance notification by the county and review and comment rights on all proposed developments of land adjacent to National Forest System land in Lake County and c) protection and improvement of existing public access to National Forest System lands.

The county benefits and interests that are expected to result from the agreement include, but are not necessarily limited to a) participation in draft stage review of Forest Service updates of and revisions to the appropriate portions of the Forest Service *Land and Resource Management Plan*, b) county review and comment rights on Forest Service land ownership and adjustment analysis updates and amendments, c) county review and comment rights on proposed changes affecting existing public access to National Forest System lands and d) county review and comment rights regarding applications for the construction of telecommunication towers and antennae on National Forest System lands.

JURISDICTION(S): Larimer County, Cities of Fort Collins and Loveland
DATE: 1989
TOPIC(S): Urban Growth Areas
CONTACT: Larimer County, Larry Timm (970) 498-7698

SUMMARY:

This IGA designates urban growth areas for each city and establishes land use policies for those areas. Cities agree not to annex outside the growth areas without amending the boundary. Agreement formalizes a referral process, establishes a combined City and County Urban Growth Area Review Board, common design standards, criteria for annexation, phasing criteria, supplemental zoning regulations for the urban growth areas, and a park fee collection system within urban growth areas. This contract has six and ten year terms with automatic renewal.

JURISDICTION(S): Larimer County, Town of Berthoud
DATE: 1994
TOPIC(S): Growth Management
CONTACT: Larimer County, Larry Timm (970) 498-7000; Town of Berthoud, Donald Burchett (970) 532-2643

SUMMARY:

Larimer County and the Town of Berthoud are intent on reaching agreements as to interim development goals and policies within the Berthoud Planning Area, which includes portions of unincorporated Larimer County. Both the county and town will mutually agree to locations of development and areas of growth management for the next 10 years. Both Larimer County and the Town of Berthoud will modify or amend their land use regulations to conform to the land use plan for Berthoud Planning Area. This contract can be amended as needed on a yearly basis.

JURISDICTION(S): Counties of Larimer and Weld; Towns of Berthoud, Evans, Johnstown, Milliken, Windsor and Wellington; Cities of Fort Collins, Greeley and Loveland

DATE: 1996

TOPIC(S): Implementation of the Northern Colorado Regional Planning Study

CONTACT: City of Greeley, Rebecca Safarik (970) 350-9740; Barbara Coe, Regional Planning Coordinator, (970) 350-9824

SUMMARY:

Encourages the location of new development within designated urban areas to preserve unique identities of the communities. Sets standards for annexation to facilitate efficient provision of services. Establishes a process for coordinated long range planning and implementation of the Northern Colorado Regional Planning Study. Agreement remains in force for five years.

JURISDICTION(S): Larimer County, Town of Estes Park
DATE: 1997
TOPIC(S): Estes Valley Comprehensive Plan
CONTACT: Town of Estes Park, Stephen Stamey (970) 586-5331;
Larimer County, Larry Timm (970) 498-7000

SUMMARY:

The Estes Valley Comprehensive Plan encompasses both Estes Park and Larimer County and provides a vision for the future of the valley. A joint planning commission will be formed and seven members appointed to oversee the enforcement of the comprehensive plan and development in the valley. Each member will serve a four-year term and must live within the respective boundaries.

JURISDICTION(S): City of Louisville, Town of Superior
DATE: 1997
TOPIC(S): Annexation; Revenue Sharing; Joint Transportation Planning
CONTACT: City of Louisville, Paul Wood (303) 666-6565

SUMMARY:

Both entities agree to “disconnect” from certain areas along U.S. Highway 36 and McCaslin Boulevard. Both may then annex land in this area according to boundaries established by this agreement. Conditions drawn for these annexations limit the amount of residential development and encourage commercial growth; the towns will share 50 percent of a 2.7 percent sales tax to be imposed on businesses in the annexation areas. The towns agree to place IGA on municipal ballots to be ratified or rejected by voters. Parties agree to jointly design, finance and reconstruct the U.S. 36 / McCaslin interchange. This IGA is in affect until amended or terminated by mutual consent.

JURISDICTION(S): Mesa County, City of Grand Junction, Town of Palisade, City of Fruita, Mesa County Land Conservancy, Bureau of Land Management, etc.)
DATE: 1999
TOPIC(S): Mesa County Community Separator Demonstration Project
CONTACT: Keith Fife, Mesa County Long Range Planning Division
(970) 244-1650

SUMMARY:

This project is a direct result of two intergovernmental agreements between Mesa County and the three Grand Valley municipalities (Fruita, Grand Junction, Palisade). These IGAs created Cooperative Planning Areas as community separators between the municipalities in order to maintain the rural character of the transition areas between the incorporated communities of Fruita, Grand Junction, and Palisade. The IGAs also were adopted to:

- i Maintain the community character of each urban area (keep from growing together)
- i Allow no municipal annexation without three way approval
- i Allow no urban services (sewer) without three way approval
- i Preserve existing zoning
- i Implement the Mesa Countywide Land Use Plan.

The parties to the IGAs agreed to “explore, develop, and support options and seek funding mechanisms available for preserving open lands and enhancing the rural character of the cooperative planning area(s).” This inventory and demonstration project was the logical next step in implementing the IGAs.

JURISDICTION(S): Mesa County, Cities of Fruita and Grand Junction.
DATE: 1996
TOPIC(S): Joint Planning; Maintenance of Adequate Buffers and Transition Areas
CONTACT: Mesa County, Keith Fife (970) 244-1650

SUMMARY:

This 18 month interim IGA will govern actions in the cooperative planning area of the jurisdictions involved until a final agreement can be reached. Within the cooperative planning areas, no annexations or service extensions will take place, and the county will provide an opportunity for review of proposed developments.

JURISDICTION(S): Mesa County, City of Grand Junction
DATE: 1998
TOPIC(S): Joint Policy Direction for Sewer System; City Growth
CONTACT: Mesa County, Keith Fife (970) 244-1650

SUMMARY:

This IGA resolves a lawsuit between the parties regarding annexation and sewer service within the Pergiso 201 sewer system service boundary. The city and county will jointly establish policy direction for the area. Sewer service will be accessible to all new development within the area, and annexation by the city is not required. However, both parties agree to encourage and assist growth of the city through annexation of all development within the area, unless prohibited by law. Parties agree to align the area and Urban Growth Area boundaries so that they are the same. Within one year, the parties will jointly agree upon infrastructure standards within the area. Any disagreements with regard to this IGA that cannot be settled by mutual consultation, subject to the rules of construction spelled out in the IGA, shall be resolved by binding arbitration.

JURISDICTION(S): Mesa County, U.S. Bureau of Land Management
DATE: 1979
TOPIC(S): Land Use Planning and Decision Making Process

CONTACT: Mesa County, Les Cahill (970) 244-1602

SUMMARY:

Both the county and BLM desire to coordinate their respective planning and decision processes in order to achieve maximum benefits from available resources, to reduce duplication of effort and to attain better overall coordination of land management throughout Mesa County. Each entity will:

- A. Cooperate in land use decision-making, including consultation in land use decisions and in preparation of land use plans, including county master plans and BLM Resource Management plans, including any amendments to or revision of the plans.
- B. Inform each other as far in advance as possible of anticipated plans and proposed activities that might affect either entity, but in no case shall such information be provided less than thirty (30) days prior to the adoption of such plans or the taking place of such activities.
- C. Cooperate in development and implementation of specific agreements supplemental to this agreement, including, but not limited to, agreements regarding zoning, subdivision of lands, road construction, maintenance, and use, and right-of-way.

JURISDICTION(S): Montrose County, City of Montrose
DATE: 1998
TOPIC(S): Administration of Development Proposals; Conformity of Road (Transportation) Plans; Coordination of Development Regulations
CONTACT: Montrose County, Richard Gibbons (970) 249-3362

SUMMARY:

All development requests in the city's growth boundary, also known as the "Interface Area" with the county, shall be submitted to the city before formal consideration by the county. The city will review applications and advise the county on annexation feasibility; city agrees to participate in county's planning process in order to bring the city and county road plans into substantial conformity. The city will consider amendments to its plan toward this end; parties agree to bring administrative representatives together to review development proposals in the Interface Area, explore ways to align city and county development regulations, and to consider amendments to this IGA or additional agreements. No expiration date, but either party may terminate agreement with 90 days notice.

JURISDICTION(S): Pitkin County, Town of Basalt
DATE: 1996
TOPIC(S): Guidelines for Coordinated Land Use Planning
CONTACT: Town of Basalt, Glenn Hartman (970) 927-4701

SUMMARY:

Pitkin County adopted, or otherwise incorporate into its Comprehensive Plan, the Town of Basalt's Three Mile Plan. Both parties will designate liaisons for coordinating planning. IGA formalizes referral process, indicates intent to cooperate on, and establishes time frame for executing, future IGAs, including an agreement on transferrable development rights.

JURISDICTION(S): Pitkin, Eagle, Garfield Counties, Cities of Glenwood Springs and Aspen, Towns of Carbondale, Basalt and Snowmass Village, Colorado Transportation Commission

DATE: 1994

TOPIC(S): Purchase and Public Ownership of the Aspen Branch of the Denver Rio Grande Western Railroad Right-Of-Way Public Transportation Corridor

CONTACT: Pitkin County, Susanne Konchan (970) 920-5200

SUMMARY:

The governments are desirous of cooperating in the purchase and ownership of a portion of what is known as the Aspen Branch of the Denver and Rio Grande Western Railroad right-of-way. The purchase will satisfy the mutual, immediate goal of retaining the property for the good of the general public, and will allow for the development of a comprehensive plan for the highest and best public use of the property. The primary use for the property under the future plan shall be as a public transportation corridor. Secondary use can include recreational opportunities and access to adjacent public lands, provided that the secondary uses do not preclude the primary use as a public transportation corridor. The purpose of the agreement is to establish an entity known as the Roaring Fork Railroad Holding Authority which will develop a comprehensive plan that list and describe possible uses for the property, including but not limited to such improvements necessary to place and operate a public transportation system, public trail, and/or access to public lands; and a detailed improvements and operations plan for the ultimate preferred use(s) on the property, including recommended management and funding strategy.

JURISDICTION(S): Routt County, City of Steamboat Springs
DATE: 1996
TOPIC(S): Joint Planning; Urban Growth Boundary
CONTACT: Routt County, Ellen Crain (970) 879-2704

SUMMARY:

Calls for review and revision of the urban growth boundary in the event of specified triggers; establishes an interim policy for review of proposed development applications within the urban growth boundary, effective until a permanent process has been adopted by both parties. All development proposals will comply with the IGA. Parties agree to cooperate in the development of a master plan for a designated area west of the city. Automatic yearly extensions, unless one party terminates with written notice.

JURISDICTION(S): Summit County, Summit County Housing Authority, and the Towns of Breckenridge, Dillon, Frisco, and Silverthorne
DATE: 1996
TOPIC(S): Joint Funding of Housing Authority
CONTACT: Summit County, Steve Hill (970) 453-2561

SUMMARY:

Parties agree to general funding requirements for the housing authority for FYs 1997 through 1999. A base amount will be contributed by each party every year. This base amount is understood to not completely cover the operating expenses of the housing authority, so an additional contribution based on sales taxes will be made as well. The Housing Authority will provide basic services to contributors at no further expense. Additional services will be offered either by the hour or a lump sum at a discounted rate. Third parties may contribute the base amount and receive these additional services at the discounted rate as well. The governing body of the housing authority will be appointed by the county with right of recommendations given to the towns and any contributing third party. Agreement ends December 31, 1999 subject to earlier termination by non-appropriation.

JURISDICTION(S): Summit County, Summit County Housing Authority, Towns of Breckenridge, Dillon, Frisco, and Silverthorne
DATE: 1998
TOPIC(S): Amendment to original IGA, Joint Funding of Housing Authority
CONTACT: Summit County, Steve Hill (970) 453-2561

SUMMARY:

This amendment to the original IGA (from December 20, 1996) adds two paragraphs to specify the fiscal responsibilities of the parties for fiscal year 1998. The first paragraph addresses the baseline and additional monetary contributions to the housing authority. The second paragraph deals with the contributions to be expected from each party should the housing authority find itself short of funds in FY98. Each party will pay a certain percentage of the shortfall.

JURISDICTION(S): Summit County Housing Authority, Intrawest U.S. Resorts, Inc./Copper Mountain Resort
DATE: 1998
TOPIC(S): Third Party Funding of Housing Authority
CONTACT: Summit County, Steve Hill (970) 453-2561; Summit County Housing Authority, Marc Hogan (970)

SUMMARY:

Establishes that Copper Mountain Ski Resort will provide in FY98 a specific amount of funding for the housing authority and in return will receive services at a reduced rate. The ski resort will also make an additional contribution toward meeting any budgetary shortfall in FY98.

JURISDICTION(S): Summit County Housing Authority, Ralston Resorts, Inc./Keystone Resort
DATE: 1998
TOPIC(S): Third Party Funding of Housing Authority
CONTACT: Summit County, Steve Hill (970) 453-2561; Summit County Housing Authority, Marc Hogan

SUMMARY:

Establishes that Keystone Ski Resort will provide in FY98 a specific amount of funding for the housing authority and in return will receive services at a reduced rate. The ski resort will also make an additional contribution toward meeting any budgetary shortfall in FY98.

JURISDICTION(S): Summit County Housing Authority, Ralston Resorts, Inc./Breckenridge Ski Area
DATE: 1998
TOPIC(S): Third Party Funding of Housing Authority
CONTACT: Summit County, Steve Hill (970) 453-2561;

Summit County Housing Authority, Marc Hogan

SUMMARY:

Establishes that Breckenridge Ski Area will provide in FY98 a specific amount of funding for the housing authority and in return will receive services at a reduced rate. The ski resort will also make an additional contribution toward meeting any budgetary shortfall in FY98.

JURISDICTION(S): Weld County, Town of Platteville
DATE: 1996
TOPIC(S): Land Use and Growth Management
CONTACT: Weld County, Monica Mika-Daniels (970) 356-4000;
Town of Platteville, Lane Danielzuk (970) 785-2245

SUMMARY:

Both the county and the town are joining forces to coordinate exercise of planning, zoning, subdivisions, building, and related regulatory powers. Together they are anticipating growth and development in areas surrounding the town. Both parties will work towards the development of the Platteville Area Land Use Plan. The plan will address the issues of phasing of development, zoning, subdivision regulations, environmental and landscaping controls, development impact fees, public improvements, street extension, storm drainage, and town water and sewer utility systems. This agreement is in effect until the plan is implemented by both parties.

JURISDICTION(S): Weld County, City of Dacono, Towns of Firestone and Frederick
DATE: 1997
TOPIC(S): Coordinated Land Use and Interim Comprehensive Plan
CONTACT: Weld County, Monica Mika-Daniels (970) 356-4000

SUMMARY:

The purpose of this agreement is to establish procedures and standards by which parties will move toward greater coordination of their land use and related regulatory powers within unincorporated areas surrounding each municipality. Good faith negotiations will commence in order to develop a Comprehensive Plan governing land use issues in the Urban Growth Areas (UGAs) of Southern Weld County. Plan will include land use standards for each municipality's UGA, procedures for county/ municipality coordination of development approval, and procedures and guidelines relating to annexation in UGAs. Calls for updating of Plan every five (5) years. IGA is in effect until the adoption of final Plan. Any party may terminate this agreement with 12 months notice.

JURISDICTION(S): Weld County, City of Dacono, Towns of Firestone and Frederick
DATE: 1997
TOPIC(S): Weld County Ordinance 201 Development Standards (I-25 Corridor)

CONTACT: Weld County Monica Daniels-Mika (970) 356-4000 x4200,
or (970) 353-6100

SUMMARY:

This ordinance put into law an intergovernmental agreement on development standards in the area around the I-25 corridor in southwest Weld County.

JURISDICTION(S): Weld County, City of Dacono, Town of Erie

DATE: 1998

TOPIC(S): Coordinated Planning

CONTACT: Weld County, Monica Mika-Daniels (970) 356-4000

SUMMARY:

The IGA intended to act as a Comprehensive Development Plan for urban growth along the Dacono-Erie I-25 Corridor Growth Area (DEITCGA) and in Municipal Referral Areas (MRAs) within a three mile radius of each municipality. In the event of irreconcilable conflicts between the IGA and the parties' own land use regulations or comprehensive plans, the existing parties' regulations or plans shall prevail. The county will refer all development proposals in the DEITCGA or MRAs to the relevant municipality for review. The essential purpose of the IGA is to ensure that urban development occurs only within the limits of the applicable municipality or in areas eligible for annexation to such municipality. Weld County will deny proposals rejected by applicable municipality if based on incompatible land use or zoning, unless applicant can meet specific requirements spelled out in the IGA. IGA is in effect for 5 years unless terminated earlier by mutual written consent of all parties. IGA is automatically renewed for another 5 years unless a party offers 30 days' written notice of intent not to renew.

APPENDIX A

PANEL PARTICIPANTS

PANEL PARTICIPANTS

American Planning Association

Mr. Don Elliott

Mr. Charles Unseld

Colorado Association of Home Builders

Mr. Jerry Percy

Ms. Diane Reimer

Colorado Farm Bureau

Mr. Ray Christensen

Colorado Municipal League

Mr. David Broadwell

Colorado Association of Realtors

Ms. Sarah Hoyt

Mr. Robert Most

Ms. Carol Richmond

Colorado Oil & Gas Association

Mr. Howard Boigon

Ms. Molly Sommerville

Colorado Bar Association

Mr. Michael Valdez

Mr. Peter Ziemke

Evans Environmental Services

Ms. Jo Evans

Colorado Cattlemen's Association

Mr. Reeves Brown

League of Women Voters

Ms. Jeannette Hillery

Colorado Counties, Inc.

Ms. Micki Hackenberger

Mr. Peter King

Private Citizens

Ms. Bonny Lee Michaelson

Colorado Department of Local Affairs

Ms. Andy Hill

Ms. Lucy Naujock, Intern

Ms. Emy Pollock, Intern

Sierra Club

Ms. Sandra Eid

Special District Association

Mr. Evan Goulding

APPENDIX B

INTERGOVERNMENTAL BOUNDARY AND DEVELOPMENT ISSUES

INTERGOVERNMENTAL BOUNDARY AND DEVELOPMENT ISSUES

Issue Statement

Population growth fuels conflicts over land use. In Colorado, many local governments are competing to determine future development on unincorporated county lands, and many communities are experiencing direct impacts from growth and development activities in neighboring jurisdictions and adjacent regions. We believe that cooperative planning efforts, often incorporating intergovernmental agreements (IGAs), can offer a better model for accommodating population growth and its associated impacts, and can often result in a more efficient and desirable pattern of development, than might normally result absent cooperation and IGAs.

A provision for intergovernmental cooperation was added to the Colorado Constitution in 1970 amendments (Colo. Const. Art. XIV Sec. 18.) Colorado law expressly authorizes governments to cooperate and contract with respect to any function lawfully authorized to that body, including the joint exercise of the function. (CRS 29-1-203.) Further, local governments are encouraged and authorized to cooperate and contract with other units of government for the purpose of planning or regulating the development of land. (CRS 29-20-105.)

There are many successful examples of such cooperative planning efforts. Often what is required is a shift in attitudes on the part of local officials, a willingness to recognize interdependencies, and the political will to commit to a process that, while often difficult and time-consuming, can result in minimizing future conflicts and achieving mutually beneficial development patterns.

Under Colorado law, a municipality has little authority to regulate or influence development outside its municipal boundaries. To influence extraterritorial land uses, a municipality's options are to purchase lands, annex contiguous areas, seek judicial review of county land use decisions, or to seek intergovernmental cooperation. From a municipal perspective, annexation often emerges as the preferred way to plan and prepare for anticipated growth, because without annexation, growth occurring close to municipal boundaries may not meet municipal standards or may leave incompatible infrastructures in place. Or, the land may be annexed by another municipality.

In turn, counties have very limited formal authority to influence municipal annexation decisions. Under Colorado's annexation statute, a county's sole method of challenging a municipal annexation is to file a motion for reconsideration within ten days of the annexation, then to seek limited judicial review within sixty days of the annexation. (CRS 31-12-116.) While a county can raise technical objections, any land already annexed remains connected during the challenge. Required public hearings do provide a forum for local governments and citizens to express their concerns.

Municipal three-mile plans required prior to annexation are required to be updated annually [CRS 31-12-105 (1)(e)]. For annexations encompassing greater than 10 acres, the municipality must prepare and submit to county commissioners (unless waived) an annexation impact report

(CRS 31-12-108.5.) This process provides an opportunity for jurisdictions to review and compare master plans, development policies, and regulations; such reviews could lead to identification of potential cooperative planning efforts.

Recommended Procedures and Policies

In an effort to reduce litigation and foster cooperative planning efforts while working within the existing statutory scheme, many local governments should consider negotiating intergovernmental agreements (IGAs) covering perceived or impending land use conflicts with their neighboring jurisdictions. Commitments between government entities to negotiate could result in a binding contract or policy directive providing a basis for cooperation between local governments on land use planning, growth management, and the provision of services. IGAs allow communities to present a unified and cooperative approach to population growth pressures. Examples include binding and enforceable IGAs to designate urban growth boundaries and rural preservation areas, to set up cooperative planning and permitting procedures, including joint master plans, and to cooperate in managing transportation corridors. At least one county has used the IGA process to settle lawsuits launched over competing municipal annexation petitions. IGAs can allow local governments to maximize their planning dollars, prevent needless duplication of services, and allow the private sector to make long term investments with increased certainty (see Appendix D for examples of IGAs).

BEST PRACTICES -- INTERGOVERNMENTAL AGREEMENTS

- _ After defining the problem, determine the subject area(s) where the potential for mutual agreement exists. Some IGAs obligate the parties simply to jointly fund the hiring of a planning consultant; others exact binding waivers of the right to challenge annexations.

- _ Determine the relevant governmental units and seek broad participation. Elected officials must be included because their cooperation is needed to adopt and enforce the IGA.

- _ Design and implement a process for public participation, including the media. Lack of public support can undermine an agreement at the implementation stage.

- _ Seek preliminary consensus first. A basic “agreement to agree,” or an interim policy IGA, can serve as a building block for a more comprehensive IGA.

- _ To avoid concerns associated with attempts to bind successive governing bodies, consider including an expiration or termination date, or the option to make exemptions or create variances (see *Geralnes B.V. v. City of Greenwood Village, Colo.*, 583 F. Supp. 830, (1984)).

- _ Keep it moving. Once the parties come to the table, select and agree to some baseline matters. If negotiations are allowed to drag on, interim on-the-ground changes may defeat any consensus previously gained.

- _ IGAs must be voluntary and consensual to be effective. Regional powerhouses should be wary of exercising political muscle to force an agreement.
- _ Key components of an IGA should include (1) the defined function of the IGA and the policy rationale supporting it; (2) the implementation and fiscal obligations, and administrative responsibilities, assumed by each jurisdiction; (3) a method of review, evaluation, update, and arbitration or mediation for resolving contract interpretation disputes. The agreement must “set forth fully the purposes, powers, rights, obligations, and the responsibilities, financial and otherwise, of the contracting parties.” (CRS 29-1-203.)

- _ Municipalities and counties should view master (comprehensive) plans as key visions and policy guidelines for future growth and development. Frequent updating of plans provides a process and forum to explore potential cooperative planning efforts.

TRANSFER OF DEVELOPMENT RIGHTS

Issue Statement

Transfer of Development Rights (TDR) programs are an innovative way to guide new development towards certain areas and away from other areas through the use of market purchases and sales of development rights. Although the local municipal or county government must enact regulations to help create the private market and to set limits on its operation, the government is acting primarily as a facilitator rather than a regulator in encouraging changes in development patterns.

To set up a TDR program, a local government follows a six step process:

1. It defines some “sending areas,” or areas where the government would like to see less development than current zoning would allow. These are generally prime agricultural areas, environmentally sensitive areas, or very scenic areas.
2. It defines some “receiving areas,” or areas where it would like to see more development than current zoning will allow. Generally, these are vacant infill parcels or parcels near towns and cities that are already served with utilities and roads.
3. It sets up a mechanism so that owners of land in sending areas can sell their rights to develop houses or commercial buildings to the owners of land in receiving areas. Often, a development right is defined as the right to build a single family house, and the mechanism for the transfer will be a paper certificate given by the seller to the buyer to evidence the sale of the right. A seller can sell all of the unused development rights associated with its land, or just some of them.
4. It decides whether the transfer of development rights is voluntary or mandatory for the owners of land in sending areas, and whether it is voluntary or mandatory the owners of land in receiving areas.
5. It requires that the seller record an easement or a deed restriction notifying the public that the seller’s property has limited development rights, and restricting the owner or a future buyer from developing the portions of the land from which the rights were sold.
6. It allows the owners of land in receiving areas to use their purchased development rights to increase the amount of development that they can build on their land. Usually, TDRs allow the owner of land in the receiving area to exceed the currently zoned density of the land without the need for a formal rezoning, and the government limits the amount by which the zoned density can be exceeded in order to protect neighbors from overly dense development.

Generally, the local government lets the market set the price at which development agreements are bought and sold. While the government can stay out of these transactions altogether, it can also enter the market and buy TDRs either to “retire” them (in order to reduce

outstanding development rights in the area) or resell them to private owners in receiving areas in order to promote their growth goals.

Authority

We believe that Colorado's statutory and home rule municipalities and counties already have the authority to create TDR programs without the need for additional enabling legislation from the Colorado General Assembly. Recent ordinances adopted by Boulder County are an example of how those standard land use powers can be used to create a TDR system. The county uses its statutory Planned Unit Development (PUD) powers to create two new types of zoning approvals (see Appendix E-1). One allows an owner to draft a single PUD covering two non-contiguous parcels and to transfer density from one parcel to the other as part of the PUD plan. The second mechanism authorizes sending and receiving areas, and allows owners in a receiving area to apply for a PUD with increased density once they have purchased development rights from the sending areas.

Many Colorado land use lawyers also believe that an enforceable TDR system could be developed simply by drafting new zoning districts for sending and receiving areas. These new districts would treat TDRs as another form of development incentive offered by the government -- instead of earning additional density by paying to build a public plaza, for example, the receiving area owner would earn that density by paying to buy TDRs from a sending area. The sending area district would authorize voluntary reductions in development density, to be evidenced by certificates usable in the receiving areas, and would require that any such reduction be documented through a restrictive easement on the land.

Recommended Procedures and Policies

TDR programs are not perfect, but they are an important land use tool that Colorado's municipalities and counties should consider using. At their best, TDR programs in Maryland, Pennsylvania, New Jersey and California have helped preserve tens of thousands of acres of agricultural and resource lands and have put money into the hands of the owners of those protected lands without raising taxes to pay compensation. At their worst, TDR programs lay dormant and unused because the past overzoning of the land and the current economics of development make them valueless.

We recommend that those Colorado communities that want to direct growth toward some areas and away from others consider using their statutory or home rule land use powers to design and adopt TDR programs. We also recommend that every effort be made to design a workable system that is voluntary on both the sellers and buyers. In many cases, the creation of an effective voluntary system will require the local government to offer incentives to the use of TDRs -- for example, by allowing a single purchased TDR to be "worth" more than one additional house in the receiving area. Incentives can increase the amount that TDRs are worth to the buyer, and can therefore increase the amount that the buyer is willing to pay the seller for the development right.

In some cases, however, the current overzoning of the land in either the sending or the receiving area will make a voluntary TDR program unworkable, because all landowners have the ability to develop at their desired densities without buying any development rights. In those circumstances, we recommend that local governments consider designing a TDR system that is mandatory on the buyer, but voluntary on the seller, with enough incentives to be fair to both. If that cannot be done, we recommend that local governments use tools other than TDR systems to achieve their growth goals, since TDR systems are unlikely to work in the face of significant overzoning (see Appendix E for sample ordinances and resolutions).

BEST PRACTICES FOR TRANSFERS OF DEVELOPMENT RIGHTS (TDRs)

- _ Clearly identify the specific goals and objectives of the program (i.e., to promote infill development, to provide indirect compensation for preservation of sensitive lands, etc.)
- _ Clearly state whether the use of TDRs is voluntary or mandatory on the owners of land in the sending and receiving areas.
- _ Try to design a system that is voluntary for the sellers, unless the underlying zoning or development pressures would make them ineffective.
- _ Make the use of TDRs more economically beneficial than current zoning to the owners in both the sending and receiving areas. This may require the creation of incentives or bonuses for additional development densities if TDRs are used. TDR programs often involve a tradeoff of allowing more total development in return for having that development in more appropriate locations.
- _ Clearly identify defined “sending” and “receiving” areas for development rights on a map available to the public.
- _ Involve the public in the identification of potential sending and receiving areas -- since some may object to the creation of higher densities near their homes.
- _ Try to balance the potential development rights in the sending and receiving areas. Identify enough receiving areas to accommodate potential transfers.
- _ Limit the amount of TDRs that can be transferred to a single receiving site without a rezoning, since a big increase in density may create negative impacts on the neighbors.
- _ Review the existing zoning in the sending and receiving areas, since TDRs will often be ignored if either area is overzoned relative to demand. Landowners will generally not use TDRs if they can accommodate all foreseeable demand under existing zoning.
- _ Do not upzone land in receiving areas if the owner has not acquired TDRs, since this undercuts the incentive to use TDRs.
- _ After TDRs have been transferred away from a parcel, require a recorded easement or notice in the real property records to protect the land from future development and to inform the potential buyers about how many development rights (if any) remain on the parcel.
- _ Consider creating a TDR bank, so that the government can buy development rights if landowners are ready to sell development rights but no immediate buyer for those rights has been identified.

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