

ORDINANCE NUMBER: 86-202 + 203		DATE: 4-10-87	ANNEXOR: Boy Elder Investment Co.
NUMBER: 2681.20	LEGAL DESCRIPTION: Pt of Sec 1, 2, 11, 12, 13, 14, 15 + 23, T 35, R 65W / Sec 36, T 35, R 65W	(LOCATION)	(UNITS/COSTS)
(IMPROVEMENTS)			
STREETS:			
BRIDGES:			
WATER:			
SEWER:			
STORM DRAINAGE:			
PARKS & OPEN SPACES:			
MISCELLANEOUS:			
COMMENTS:			

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COUNTY RECORDER
ADAMS COUNTY, COLO.

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ANNEXATION AGREEMENT

THIS AGREEMENT made and entered into this ninth day of March, A.D. 1987, by and between, BOX ELDER INVESTMENT COMPANY, hereinafter referred to as "ANNEXOR", and the CITY OF AURORA, a municipal corporation of the Counties of Adams and Arapahoe, State of Colorado, hereinafter referred to as "CITY."

W I T N E S S E T H:

WHEREAS, ANNEXOR is the owner of the property described in Exhibit "A" hereto (the "Property"), and

WHEREAS, ANNEXOR has filed petitions for annexation with CITY of the unincorporated lands comprising the Property, and

WHEREAS, the parties mutually agree and recognize that it is desirable for the development of the Property by ANNEXOR that ANNEXOR obtain certain municipal services from CITY, including but not limited to those described herein; and

WHEREAS, CITY has determined that it is in the best interests of CITY to annex the Property and to provide municipal services and receive revenues from the development to occur on the Property;

NOW, THEREFORE, in consideration of the foregoing premises and the covenants, promises and agreements of each of the parties hereto, to be kept and performed by each of them,

IT IS AGREED:

I

DEFINITIONS

"Annexor" as used in this Agreement shall mean and refer to ANNEXOR, its successors, assigns and designees, including but not limited to one or more designee Districts as hereafter defined.

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"Crossings" shall mean and refer to all bridges, culverts, arches and other types of facilities and structures utilized to cross certain roadways and storm drainage areas within and on the exterior boundary of the Property, including but not limited to those shown on the Master Land Use Plan.

"District" when used herein shall mean and refer to any general, special and/or metropolitan district organized to provide facilities and/or services to the Property pursuant to Title 32, Colorado Revised Statutes, 1973.

"Master Land Use Plan" shall mean and refer to the Planned Development ("P.D.") Land Use and Zoning Plan(s) (including the associated use and development standards, and restrictions) submitted herewith as Exhibit "B" and as approved by the Aurora City Council on March 9, 1987, by Ordinance No. 87-19.

"Streets" shall mean and refer to residential, commercial, collector, minor and principal arterial streets and roadways.

"Sewer Interceptor Lines" shall mean and refer to sewer lines larger than twelve inches (12") in diameter.

"Water Transmission Lines" shall mean and refer to water lines larger than twelve inches (12") in diameter.

"Extraordinary Public Improvements" shall generally mean those improvements which have Citywide or regional benefits or are in excess of ANNEXOR's responsibilities under this Agreement. Examples of such extraordinary improvements shall include but not be limited to; the oversizing of streets, bridges, crossings and street improvements, signage and signalization, connecting roads, interchanges and associated facilities, regional parks and recreation facilities, studies and improvements as required.

"Public Land Credit" shall be comprised of all tracts of land dedicated to City for Public Use, excepting streets, schools and utility rights-of-way. Public Land shall be exempt from annexation fees provided for herein.

II

STREETS

- A. ANNEXOR agrees to dedicate, at the time of each platting, all necessary street rights-of-way for the full width thereof as provided by the Master Land Use Plan, or if not specified thereon, then as established by CITY for streets lying within the Property. ANNEXOR also agrees to dedicate principal arterials and highways within the Property to CITY earlier than platting, if such dedications are reasonably

required by CITY for commencement of construction of such roadways. Further, within the earlier of forty-eight (48) months from the date of CITY approval of this Agreement or when reasonably determined by CITY to be required for commencement of construction of such streets in accordance with the phased development of the Property, ANNEXOR agrees to convey to CITY one-half the width of all streets lying on the exterior boundaries of the Property as shown on the Master Land Use Plan, without cost to CITY. ANNEXOR further agrees to fully improve said streets, as required by CITY standards, for the full width thereof lying within the Property, and one-half of said streets abutting on and contiguous to or on the exterior of the Property, in accordance with ANNEXOR's development schedule; provided, however, that (i) ANNEXOR agrees to dedicate a two hundred foot (200') right-of-way for 56th Avenue within the Property and one-half of a two hundred foot (200') right-of-way for 56th Avenue, where such roadway is on the perimeter of the Property. ANNEXOR shall be responsible only to pay for and improve, when needed for ANNEXOR's development, two thirty-nine foot (39') roadways, a twenty four foot (24') center island and two ten foot (10') bicycle paths for the expressway within the Property and to pay for and improve a thirty-nine foot (39') roadway, one-half of a twenty-four foot (24') center island and a ten foot (10') bicycle path on one side where such expressways are on the perimeter of the Property, and (ii) any additional roadway improvements (except acceleration-deceleration lanes at access points as needed, for development of the Property) shall be the responsibility of CITY or other landowners. The alignment of 56th Avenue shall be located generally as shown on the Master Land Use Plan, but with consent of CITY and ANNEXOR may differ from the alignment shown on the Master Land Use Plan.

- B. All improvements to be installed by ANNEXOR shall be phased by ANNEXOR as needed for development of the Property. Except as expressly noted in Article II-A above: (i) streets shall be located in conformance with the street alignments established in the Master Land Use Plan, or if not so specified, then in accordance with CITY roadway alignments unless otherwise agreed to by CITY and ANNEXOR; and (ii) streets shall be installed in accordance with the construction standards of CITY and if applicable, the construction standards of the Colorado Department of Highways. ANNEXOR also agrees to include the Property in Districts, or other mechanisms reasonably established by CITY for improvement of expressways and highways.
- C. ANNEXOR shall grant to CITY an easement in gross adjoining minor and principal arterial streets sufficient to provide necessary cut and fill to establish the grade of said

arterials on a one foot incline for every three feet of distance. Said easement in gross shall be released to ANNEXOR at such time as the adjacent property is filled and maintained at grade of said minor and principal arterial streets.

- D. If, in connection with development, in accordance with ANNEXOR's phased development schedule, CITY reasonably determines that it is necessary for access purposes for the ANNEXOR to construct streets through the land of others, or for CITY to utilize its powers of condemnation for such purposes, then, pursuant to separate agreement with CITY to be entered into prior to undertaking such street improvements, and except to the extent that ANNEXOR is reimbursed pursuant to Article X hereof, ANNEXOR will advance the funds required for such purposes and be reimbursed for the cost thereof. Additionally, ANNEXOR agrees that if CITY or another landowner constructs streets adjacent to or through the Property, which construction is the obligation of ANNEXOR pursuant to this Agreement, then ANNEXOR agrees to reimburse CITY or such other landowner on an equitable basis as development of the Property progresses. Such reimbursement shall be pursuant to separate agreement between ANNEXOR and CITY.
- E. ANNEXOR agrees to warrant streets and roadway improvements for a period of twelve (12) months from the date of completion of such improvements and to correct any material defects thereto as further described in Article XI, B & C. Upon correction of such defects, CITY shall be responsible for repair and maintenance thereof, including maintenance of medians and rights-of-way as approved pursuant to the Master Land Use Plan; provided, however, that ANNEXOR will be responsible for correction and repair of any damage to streets and roadways within the Property caused by ANNEXOR's construction traffic or ANNEXOR's construction activities on the Property. CITY will cooperate with ANNEXOR in implementation of an enforcement program to minimize street damage by construction related traffic.
- F. ANNEXOR shall pay for installation of signage and signalization for all streets within the Property as required at the time of platting of such streets at ANNEXOR's expense pursuant to the Uniform Manual of Traffic Devices of the State of Colorado. ANNEXOR will advance the funds required for full signalization of perimeter streets, when needed, subject to reimbursement on an equitable pro-rata basis by other landowners contributing to the warranting of such signals, such reimbursement to be administered by CITY by separate agreement between ANNEXOR and CITY.

- G. ANNEXOR agrees to pay an Offsite Traffic Impact Fee, as established by City Council Ordinance for the engineering, improvement and extension of certain arterial streets, including, but not limited to improvement of 56th Avenue. The fee shall be based upon the Property's fair and equitable share of such roadway improvements reasonably attributable to development impacts of the Property within CITY. Such fee shall initially be Five Hundred Dollars (\$500.00) per acre, less the Public Land Credit as defined in Article I herein. Such fee shall be due and payable pro-rata at the time of each plat approval based upon the acreage of each plat, but may be paid earlier by ANNEXOR at ANNEXOR's option. CITY commits that such Fee will only be used for off-site traffic improvements.

III

WATER AND SEWER

- A. It is agreed that subject to the provisions of Article III-K hereof, CITY will provide water and water taps adequate to serve the Property as fully zoned and developed in accordance with the Master Land Use Plan. ANNEXOR will pay water tap fees as are required by CITY at the time said taps are needed, so long as such fees are uniformly applied through CITY.
- B. CITY agrees to install all water transmission lines to, on the boundary of, and within the Property and to deliver water to the Property in phases as required for development of the Property. It is understood that CITY intends to utilize the existing Box Elder Water and Sanitation District to provide water service to the Property, if it is determined that the District provides the most cost efficient method of providing service to the Property. Such water transmission lines shall have sufficient capacity to serve the demands of the Property in accordance with the maximum zoning and development requirements as provided in the Master Land Use Plan. CITY agrees to provide such water service in a timely manner when required by ANNEXOR for development of the Property with sufficient capacity to provide adequate fire protection to serve the Property as developed. In no event shall CITY be required to provide such water service prior to 180 days after notification in writing by ANNEXOR of the need for such service. CITY agrees to work diligently to provide service within a reasonable time period. If CITY determines that water service cannot be economically extended to Property within a reasonable time period, CITY and ANNEXOR agree to explore other options for timely provision of water service including but not limited to an intergovernmental agreement with

the Box Elder Water and Sanitation District. In all cases, the cost of alternative measures, including utilization of the Box Elder Water and Sanitation District, shall be the sole responsibility of ANNEXOR with a right to receive a credit against the Water Transmission Development Fee then owing, if any. ANNEXOR agrees to install water distribution lines within the Property in accordance with CITY's standards and specifications.

- C. ANNEXOR agrees to pay to CITY a Water Transmission Development Fee of One Thousand, One Hundred Dollars (\$1,100.00) per acre for the acreage within the Property, less any Public Land Credit, as defined in Article I herein. Unless paid as described in Article III-D, the balance of such fee shall be paid pro-rata at the time of each plat approval, but may be paid earlier by ANNEXOR at ANNEXOR's option.
- D. ANNEXOR further agrees to pay to CITY such additional funds as may be required from time to time to extend water transmission lines to serve the Property in phases as required for development subject to the following:
 - 1. If the lines are oversized to serve other landowners, ANNEXOR and CITY shall enter into a payback agreement as described in Article III-N hereof;
 - 2. To the extent such lines only serve the Property, then such funds so paid will be credited toward the balance of the Water Transmission Development Fee then owing, if any.
- E. The parties mutually agree that ANNEXOR shall design and install water distribution lines and fire hydrants within the Property, at ANNEXOR's expense, in accordance with CITY's standards and specifications, subject to approval of the City Engineer, the Department of Utilities and the Fire Department.
- F. It is agreed that subject to the provisions of Article III-K hereof, CITY will provide sewer taps adequate to serve the Property as fully zoned and developed in accordance with the Master Land Use Plan. ANNEXOR will pay sewer tap fees required by CITY and Metro Denver Sewage Disposal District No. 1 at the time such taps are needed, so long as such fees are uniformly applied through CITY. In the event that sewer service is provided by a system outside of the Metro Denver Sewage Disposal District No. 1 service area, ANNEXOR and CITY shall cooperate to petition the Metro Denver Sewage Disposal District No. 1 for exclusion from the District and the District tap fee.

- G. CITY agrees to install all sewer interceptor lines to, on the boundary of and within the Property and to provide such sewer service in phases as required for development of the Property. It is understood that CITY intends to utilize the existing Box Elder Water and Sanitation District to provide sanitary sewer service to the Property, if it is determined that the District will provide the most cost efficient method of providing adequate service to the Property. CITY shall install such sewer interceptor lines with sufficient capacity to serve the requirements of the Property in accordance with the maximum zoning and development requirements as provided in the Master Land Use Plan. CITY agrees to provide such sewer service in a timely manner when required by ANNEXOR for development of the Property. In no event shall CITY be required to provide such sewer service prior to 180 days after notification in writing by the ANNEXOR of the need for such service. CITY agrees to work diligently to provide service within a reasonable time period. If CITY determines that sewer service cannot be economically extended to Property within a reasonable time period, CITY and ANNEXOR agree to explore other options for timely provision of sewer service including but not limited to an intergovernmental agreement with the Box Elder Water and Sanitation District. In all cases, the cost of alternative measures, including utilization of the Box Elder Water and Sanitation District, shall be the sole responsibility of ANNEXOR with a right to receive a credit against the Sewer Interceptor Development Fee then owing, if any. ANNEXOR agrees to install sanitary sewer collection lines within the Property in accordance with CITY's standards and specifications.
- H. ANNEXOR agrees to pay to CITY a Sewer Interceptor Development Fee of Five Hundred Dollars (\$500.00) per acre for the acreage within the Property, less the Public Land Credit as defined in Article I. Unless paid as described in Article III-I, the balance of such fee shall be due and payable pro-rata at the time of each plat approval but may be paid earlier by ANNEXOR at ANNEXOR's option.
- I. ANNEXOR agrees to pay to CITY such additional funds as may be required from time to time to extend sewer interceptor lines to serve the Property in phases as required for development subject to the following:
1. If the sewer interceptor lines are oversized to serve other landowners, ANNEXOR and CITY shall enter into a payback agreement as described in Article III-N hereof;
 2. To the extent such lines only serve the Property, then such funds so paid will be credited toward the balance of the Sewer Interceptor Fees then owing, if any.

- J. ANNEXOR agrees to dedicate all necessary unobstructed rights-of-way for utility easements needed for water and sewer lines to serve the area described herein, in accordance with CITY's uniformly applied standards. ANNEXOR shall grant additional temporary construction easements for installation of water and sewer mains where required by CITY. "Unobstructed" shall mean freely accessible for all required maintenance equipment.
- K. ANNEXOR hereby agrees that all promises of water and sanitary sewer service made by this Agreement are subject to any uniformly applied water and sewer tap allocation program of CITY, and are subject to any other uniformly applied general restrictions of CITY, relating to the provision of water and sanitary sewer service.
- L. Except as expressly set forth herein, water and sewer tap fees and all other utility charges for the Property will not exceed those charged generally at any given time within CITY. Other than water and sewer usage charges uniformly charged by CITY, no other fees or charges except as expressly set forth herein may be made for water or sewer services or facilities.
- M. CITY agrees to install Water Transmission Lines and Sewer Interceptor Lines to serve the Property in the most direct and feasible manner, using public rights-of-way whenever possible. However, to the extent that any easements are required for water transmission lines or for sanitary sewer interceptor lines through the property of others, CITY will provide or obtain necessary easements as required, including utilization of its powers of condemnation as permitted by law, in order to acquire the same and ANNEXOR agrees to advance the funds required to obtain such easements if the fees paid by ANNEXOR per Article III-C & H at the time were insufficient, subject to a reimbursement agreement or credit against the Article III-C & H fees. Further, to the extent that cuts in excess of twenty-five (25) feet are required for sewer lines, CITY will not unreasonably withhold its consent to permit ANNEXOR to utilize lift stations.
- N. To the extent the water and sewer lines are oversized for the benefit of landowners and parties other than ANNEXOR, CITY, for a period of fifteen (15) years from installation of such facilities, will require such other landowners to reimburse ANNEXOR in cash at the time other properties are capable of receiving service for the cost of oversizing pursuant to a pay-back agreement providing for repayment to ANNEXOR in similar manner to payment of such fees hereunder, but with the entire balance due no later than time of platting of other landowners property.

- O. ANNEXOR shall transfer to CITY by quit claim deed its rights to all deep well water aquifers underlying the Property. The deep well aquifers to be transferred to CITY include any Denver, Dawson-Arkose, Arapahoe and Laramie-Fox Hills.

IV

STORM DRAINAGE

- A. Storm drainage improvements shall be constructed by ANNEXOR in full conformity with the storm drainage regulations and ordinances of the CITY and the applicable drainage masterplan of CITY in effect at the time of construction, if any. Subject to the provisions of Article IV-D below, ANNEXOR agrees to pay the storm drainage development fee as established by City Council for improvements to major drainageways within the Box Elder Creek Basin in accordance with the provisions of the City Code.
- B. All required storm drainage improvements shall be designed and constructed in phases prior to or concurrently with development of the Property and in a manner that will prevent flooding in said developed area and to provide the appropriate transitions to undeveloped areas. The rights-of-way and easements for storm drainage within Box Elder Creek shall be of sufficient width to pass drainage from all tributary areas in a 100-year developed state and be able to provide for a 12-foot maintenance road. The storm drainage plan shall be in compliance with the applicable masterplan, as adopted by City Council, unless otherwise planned by a registered engineer and approved by City Council as a revision to the masterplan. The ANNEXOR accepts full responsibility for the cost for the passage of all drainage flows resulting from the development of the Property to accommodate the 100-year storm within portions of the Property that are not designated as a major drainageway by the masterplan.
- C. In the event ANNEXOR desires to complete the development of any portion of the Property prior to completion of the storm drainage improvements to major drainageways (Box Elder Creek) by CITY, ANNEXOR may make those improvements by advancing the required funds and ANNEXOR shall receive a credit toward any unpaid storm drainage development fees if such improvements will be consistent with and financed within the CITY Master Drainage Plan for Box Elder Creek once completed. If the cost of such improvements exceeds the unpaid storm drainage development fees, ANNEXOR may apply for reimbursement from CITY as funds become available from other developers within the Box Elder Creek Basin, on a

first-come, first-serve basis, together with ANNEXOR's cost of financing thereof, but in no event later than twenty-five (25) years after such funds are advanced. CITY and ANNEXOR agree that upon request of ANNEXOR, CITY shall delegate construction of storm drainage improvements to Box Elder Creek within the Property to ANNEXOR, to be installed in accordance with CITY standards. In such event, ANNEXOR shall receive a credit for amounts so expended against the fees and shall receive reimbursement from other landowners within the basin as provided herein.

- D. It is agreed that ANNEXOR shall have the right to review and participate in the preparation of CITY's masterplan(s). In all events, it is agreed that the CITY's masterplan(s) will utilize a reasonably cost efficient methodology and that the masterplan(s) will prorate drainage basin costs amongst all of the landowners on major drainageways on a fair and equitable basis. CITY also agrees that insofar as it relates to the Property or the basin affecting the Property, the masterplan(s) shall be completed within twenty-four (24) months from the date of annexation of the Property.
- E. ANNEXOR agrees to petition for inclusion in the Urban Drainage and Flood Control District.

V

CROSSINGS POLICY

- A. CITY's Engineer shall review with ANNEXOR design criteria for all Crossings, including but not limited to those shown on the Master Land Use Plan and otherwise required within the Property. ANNEXOR shall pay the total cost of the design and construction of the Crossings of Box Elder Creek within the Property, when needed for development in accordance ANNEXOR's phased development schedule, including all transitions of any drainageway under or through the crossing.
- B. If a Crossing is required on the exterior boundary of the Property, ANNEXOR shall be responsible for its proportionate share of the cost of design and construction, as reasonably determined by CITY.
- C. The Crossings required for all minor and principal arterials, expressways and collector streets on the exterior boundaries and all minor and principal arterials and expressways within the Property shall be constructed in conformity with the then existing CITY standards and shall be installed as required by ANNEXOR's phased development schedule.

- D. ANNEXOR and CITY, prior to construction of each Crossing, shall agree upon a reasonable procedure for designing said Crossings, and for competitive bidding to assure cost efficiency, all in accordance with CITY's contract administration procedures.

VI

PUBLIC LAND DEDICATION

- A. ANNEXOR, as consideration for receiving municipal services, agrees to convey to CITY, at the time of platting, areas to be dedicated for public purposes of six percent (6%) of the area of the Property zoned for residential uses. ANNEXOR also agrees to dedicate, in connection with nonresidential areas, two percent (2%) of the total area of the Property zoned for non-residential uses to be used for municipal purposes, including fire and police facilities. All lands dedicated hereunder shall be platted by ANNEXOR in accordance with CITY's subdivision regulations. The external boundaries of the donated lands shall be monumented on the ground as described by the City Code of CITY. ANNEXOR agrees that if, between the time of annexation and subdividing, any of the Property is rezoned from a nonresidential to a residential classification, CITY may require additional land dedications at the time of subdivision platting, in accordance with the percentages described above. CITY, upon agreement with ANNEXOR, may accept cash in lieu of any required land donation. Cash in lieu of land shall be based on the appraised value of the land as zoned, but not improved.
- B. In addition to the dedication of land, ANNEXOR agrees to pay to CITY at the time of each residential building permit application, \$300.00 per dwelling unit for park development of land dedicated to CITY. Such \$300.00 per dwelling unit fee shall be utilized within the Property for park improvements in accordance with a schedule agreed to between CITY and ANNEXOR consistent with requirements for park land associated with platting. CITY and ANNEXOR agree that upon request of ANNEXOR, CITY shall delegate construction of such park improvements to ANNEXOR to be installed to CITY standards and in such event, ANNEXOR will receive a credit toward such fees for amounts so expended. In the event ANNEXOR needs to complete park facilities earlier than the time that sufficient funds are available from the \$300.00 per dwelling unit fee, ANNEXOR may advance funds to complete such park and shall receive a credit at the time of later plats for such fees so advanced, together with ANNEXOR's reasonable cost of financing thereof, subject to a separate

agreement between ANNEXOR and CITY. CITY will grant ANNEXOR the right of first refusal to repurchase any dedicated public lands not used for public purposes.

- C. To the extent any portion of the Property is to be zoned and used for residential purposes, ANNEXOR agrees to enter into an agreement with the appropriate School District to provide for dedication to the District of an amount of land equal to at least four percent (4%) of the residential property, and a financial contribution to the School District to help offset the cost of completing a long range facility plan. Such dedication shall occur concurrent to the platting of the Property for residential uses. In the event ANNEXOR and School District are unable to reach agreement, at the time of platting, CITY shall require the four percent (4%) dedication or cash in lieu of land in addition to any other dedication provided herein.
- D. ANNEXOR agrees that lands to be dedicated for public purposes shall include all site and public improvements, including but not limited to water and sewer facilities to the perimeter of such site, curb, gutter, streets and sidewalks adjacent to the site, as applicable. If such improvements are not in place, appropriate assurance of completion shall be provided to CITY at the time of conveyance.
- E. Conveyance of land by ANNEXOR to CITY shall be in parcels of not less than two (2) acres. Land for public purposes shall be conveyed to CITY by ANNEXOR by plat or warranty deed at the sole option of CITY. At the sole option of CITY, ANNEXOR may donate public use sites to CITY in parcels of less than two (2) acres.
- F. Public lands that may be within the 50-year floodplain, once delineated, shall not receive public land donation credit. Public land donations located outside of the 50-year floodplain but within a 100-year floodplain, once delineated, will be accepted by CITY and given a fifty percent (50%) credit toward satisfying the public land dedication requirement if such lands also meet the following criteria:
 - 1. Lands within the 100-year floodplain but outside the 50-year floodplain must be identified as such on topographic maps acceptable for floodplain identification by the CITY storm drainage engineers.
 - 2. Lands must be reasonably usable and accessible for recreation purposes.

In addition to the foregoing, 78.9 acres of the public land donation required pursuant to this Article VI shall be

located outside of any future designated floodplain for Box Elder Creek. Should it be determined that any fire stations or other municipal facility locations are required within the Property, the sites shall be included in the dedication described above. Location of such lands shall be at sites mutually and reasonably agreed upon by the CITY and ANNEXOR. Any sites dedicated for public purposes but disturbed due to grading of adjacent sites must be successfully planted or seeded by ANNEXOR with native grasses acceptable to CITY to prevent erosion. ANNEXOR agrees that all lands donated to CITY shall not be used as a borrow or as a fill area unless part of an overall cut and fill plan approved by ANNEXOR and CITY.

- G. Upon agreement between CITY and ANNEXOR, CITY may grant the right to ANNEXOR on those lands designated for park and recreational facilities to further improve the same with facilities in addition to standard park development, provided that the amount and cost of said additional improvements shall be subject to further negotiation and agreement between the parties; and provided, further, that CITY shall repay ANNEXOR the costs of said agreed upon additional improvements over a fifteen (15) year period in equal annual installments without interest.
- H. Except as set forth above, no additional dedications nor additional fees shall be required by CITY in connection with development of public lands or facilities.
- I. ANNEXOR agrees that in the event Special Districts are created for whatever reason, the Districts will not apply for nor request a portion of the Colorado Conservation Trust Funds as supplemented by the State Lottery.

VII

SOIL EROSION

All lands, except those indicated on the Master Land Use Plan for public purposes, disturbed by ANNEXOR during construction, or not left in a natural state, must be treated by ANNEXOR to prevent erosion. ANNEXOR further agrees to submit an erosion control plan prior to grading. No lands for public purposes shall be disturbed by ANNEXOR in any manner to disrupt the natural landscape, unless part of a cut and fill plan approved by ANNEXOR and CITY.

VIII

ZONING, DESIGN AND INFRASTRUCTURE PHASING

- A. CITY recognizes that it is the intent of ANNEXOR to develop the Property in a manner generally consistent with the Master Land Use Plan, which plan is Exhibit "B", attached hereto and incorporated herein by this reference; Exhibit B includes legal descriptions and maps showing approximately 2681 acres zoned Planned Development District ("P.D.") (Box Elder 2523 and Box Elder 158).
- B. The Master Land Use Plan includes a number of design intent statements. ANNEXOR agrees that CITY may take into account the design intent statements and the ANNEXOR's commitments therein at the time of site plan submittal.
- C. The parties mutually agree that the zoning of the lands described herein as shown on Exhibit "B" upon annexation to CITY is a condition precedent to final annexation of the Property.
- D. It is anticipated that development of the Property will occur over a period of at least thirty-five (35) years from the date of this Annexation Agreement. In light of such time period for development and because ANNEXOR is responsible under this Agreement for substantial offsite improvements and the payment of significant fees which will require certain long term financial commitments, any time limitation on the zoning of the Property in any ordinance, rule or regulation of CITY shall not be applicable to this Agreement. Any rezoning, termination, change, amendment or modification of the land uses, densities, building heights, setbacks, open space requirements or other matters provided for in the Master Land Use Plan or associated development standards may be made by CITY only in accordance with the charters, city codes and ordinances of the City of Aurora and the laws of the State of Colorado. Except as expressly provided in this Annexation Agreement, all CITY ordinances, regulations and rules uniformly applicable and in effect at the time of site plan and/or plat approval shall be applicable to the development of the Property.
- E. ANNEXOR acknowledges that development of the Property as zoned will occur in phases as infrastructure (utilities, drainage and transportation facilities) is installed.
- F. ANNEXOR agrees to be bound by all reasonable noise ordinances passed by CITY including the proposed 60 Ldn Ordinance. ANNEXOR and CITY agree that ANNEXOR may rezone all or a portion of the Property, originally affected by a 60 Ldn

contour generated by the proposed new international airport and/or Front Range Airport, from non-residential to residential classifications upon demonstrating to the satisfaction of CITY that said Property is no longer within the 60 Ldn Contour. Further, ANNEXOR and CITY agree that if the proposed new international airport is not under substantial construction by January 1, 1992 then ANNEXOR may initiate a rezoning of all or a portion of Property without regard to the proposed 60 Ldn Contour for the proposed international airport.

- G. In the event that the physical location of the new international airport changes so as to materially affect the land uses and development concepts embodied in the Master Land Use Plan and the associated development standards, ANNEXOR and/or CITY agree to amend, if necessary, those portions of the Property so affected.
- H. ANNEXOR and CITY agree that the property lying within the western one-half of Section 2 containing proposed land uses of Industrial, shall be annexed to CITY but be designated as "Open/Industrial" for a period of one year from the date of Ordinance No. 87-19. If at the end of the one year period, the City and County of Denver has not purchased the property designated as "Open/Industrial" from ANNEXOR for Airport purposes, the designation of "Open" shall be removed and the Property shall be developed in conformance with the land use designations contemplated by the approved Master Land Use Plan.

IX

SPECIAL DISTRICTS

- A. CITY acknowledges that ANNEXOR has organized the Box Elder Water and Sanitation District in accordance with the provisions of Part 1 of Article I, Title 32, Colorado Revised Statutes, 1973, as amended, and has obtained the approval of the service plan therefor from the Board of County Commissioners of Adams County, for the purpose of providing facilities and/or services to the Property. CITY hereby consents to the organization of the District and confirms all prior actions and/or approvals taken or obtained with respect to such District. CITY agrees that such District may exercise any and all powers and functions permitted by law in accordance with their service plans, including the provision of facilities and/or services to the Property, either independently or as ANNEXOR's designee. CITY shall not seek to exclude the District from its boundaries. At the time CITY extends water and sewer lines

to the Property the District Board of Directors shall resign and allow CITY to assume control of said District.

- B. By the provisions of this Annexation Agreement, ANNEXOR has a right or duty to engineer, furnish material for, install, construct, warrant, maintain, repair or otherwise provide for or maintain certain improvements and facilities (public and private) as defined in this Agreement or as otherwise required or desired by ANNEXOR in connection with development of the Property. The duty may be delegated by ANNEXOR to the District so long as such responsibilities are within the scope of authority of said District.
- C. Subject to CITY's rights of review and approval or denial under the laws of the State of Colorado, CITY shall consider and may approve the creation of one or more districts, including but not limited to special districts, general improvement districts and metropolitan districts, authorized pursuant to Title 31 and Title 32, C.R.S. 1973 ("District(s)"), from time to time as requested by ANNEXOR, for the purpose of the acquisition, construction, installation, financing and/or maintenance of certain capital improvements and facilities, and for the provision of certain services which may be required to develop the Property. Any approval of such districts, when requested by ANNEXOR, shall provide that no District shall levy, charge or collect a sales tax except that the District may enter into an intergovernmental agreement with CITY to fund Extraordinary Public Improvements as described in Article X hereof.

X

EXTRAORDINARY PUBLIC IMPROVEMENTS

- A. Subject to the conditions hereafter provided, and the exercise of CITY's sole discretion, CITY agrees to utilize or allow to be utilized, for the purposes described hereafter, an amount not to exceed and measured by Twenty-five Percent (25%) of CITY's share of the three and one-half percent (3-1/2%) CITY sales taxes generated and collected within the Property. Such amount shall hereinafter be referred to as the "Extraordinary Public Improvements Monies." Subject to the limitations described in this Article X, the Extraordinary Public Improvements Monies shall be utilized by CITY, ANNEXOR, or a District or Districts created by ANNEXOR to the extent such Monies are generated and sales taxes collected within the Property, for payment of bonded indebtedness or other financing of Extraordinary Public Improvements, as defined in Article I of this Agreement. Payments of the Extraordinary Public Improvement Monies shall be made to CITY, ANNEXOR, or such

District(s) as have undertaken responsibility for the improvement upon approval by CITY of the specific improvements to be financed, the method of financing and the amount to be expended. Upon CITY granting such approval, CITY's obligation hereunder shall continue until all debt instruments issued to fund such facilities have been retired, but not later than thirty-five (35) years from the date of annexation. The provisions of this Article X may be implemented pursuant to an intergovernmental agreement between CITY and the District or District's contemplated by Article IX of this Agreement.

- B. If in any year ANNEXOR advances monies for Extraordinary Public Improvements approved by CITY to pay bond principal and/or interest payments for the improvements described in Article X, such funds will be treated as a loan to be repaid no later than thirty-five (35) years from the date such funds are advanced (with ANNEXOR's cost of financing) when monies are available from such sales tax proceeds, and not needed to repay the bonded indebtedness.
- C. It is agreed that all funds to be used for the purposes described herein shall be based upon the prior year's actual sales tax collections and shall be utilized for the purposes described herein only when monies are actually collected by CITY to be used hereunder.

XI

GENERAL RESPONSIBILITIES OF CITY OF AURORA

- A. Except as otherwise provided herein: (i) to furnish water and sewer service to users of such services within the Property and charge such rates and connection charges as are then applicable generally within CITY; and (ii) to subject the Property only to ordinances, rules and regulations generally applicable throughout the CITY on a non-discriminatory basis. Nothing contained herein shall restrict the right of CITY to reasonably impose different fees and charges where reasonable distinctions and classifications exist.
- B. To accept public facilities and all appurtenant structures as soon as these are completed to CITY's specifications, subject to a one year warranty by ANNEXOR or assigns against defective materials and/or workmanship. Notwithstanding the foregoing, ANNEXOR will be responsible for repair of its construction-related damage as described in Article II-E.
- C. To assume the repair and maintenance, including but not limited to, street sweeping, snow removal, etc., of any

public improvements upon acceptance by CITY. After expiration of the one year warranty period, subject to any sidewalk fee or ordinance of general applicability adopted by CITY, ANNEXOR shall thereafter be relieved of all further obligation or liability in connection therewith.

- D. At any time ANNEXOR is required to submit to CITY any plans, specifications, drawings, details or other pertinent data required in connection with any water line, sanitary sewer line, storm drainage, or other utility serving the Property, or any improvements within any dedicated right-of-way on the Property, CITY agrees that so long as such submittal is complete, it shall act expeditiously to approve or disapprove such written submittal in writing, setting forth the items disapproved together with the reasons for such disapproval, within a reasonable time of delivery of notice or receipt thereof to CITY. Any resubmittal shall be likewise acted on within a reasonable time after receipt thereof by CITY. This section shall not apply to site plan review or other actions of CITY requiring Planning Commission or City Council approval.
- E. To use its best efforts in securing construction and maintenance easements from governmental or private entities in order to allow ANNEXOR to fulfill its obligations under this Agreement and to proceed with development of the Property.
- F. To cooperate with ANNEXOR in any filings, applications, inspections or other administrative procedures necessary to allow ANNEXOR to fulfill its obligations under this Agreement and to develop its property in accordance with the Master Land Use Plan.
- G. Except as to these services and utilities expressly provided for herein, to provide police, fire and other municipal services to the Property as needed and on a phased basis as development progresses to the same extent as those services are provided by CITY throughout CITY; provided, however, that CITY reserves the right to charge an Urban Services Extension Fee pursuant to City Code if development occurs within the Property prior to the time that urban services are extended to the Property. The extension of urban services is intended to occur at yearly increments of one-half (1/2) mile from existing limits of CITY. Due to the location of Property in relation to the proposed new international airport, CITY may, at its discretion, choose not to require payment of the Urban Services Extension Fee, if payment of the fee would be detrimental to the timely development of the Property. It is agreed that CITY reserves the right to contract with other municipalities or quasimunicipal districts for provision of fire services, so

long as (i) there is no additional cost to ANNEXOR and (ii) such contract requires provision of services and facilities comparable to those of CITY.

- H. Unless otherwise expressly provided herein, not to unreasonably withhold its consent or approval when such consent or approval is required hereunder.

XII

GENERAL PROVISIONS

- A. This Agreement shall be recorded with the Clerk and Recorder in Adams County, Colorado and shall run with the land, and shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto. Any and all of the rights, duties and obligations of ANNEXOR hereunder may be assigned by ANNEXOR to any person or entity when portions of the Property are leased or conveyed to such persons or entities. In such event, the assignee will assume all of the rights, duties and obligations of ANNEXOR hereunder as to the portion of the Property so assigned and ANNEXOR shall be relieved from all further liabilities, obligations and duties as to the portion of the Property so leased or conveyed. Further, certain rights and duties of ANNEXOR hereunder may be assigned to the Districts so long as such responsibilities are within the scope of authority of such Districts as approved by CITY. ANNEXOR shall notify CITY not less than annually of such assignments and the name and address of its assignees. It is also agreed that when portions of the Property are dedicated or conveyed to CITY pursuant to this Agreement, the relative responsibilities of CITY and ANNEXOR will be agreed upon as part of the documents of dedication or conveyance.
- B. The parties are entering into this Agreement upon the understanding that zoning of the Property as described in Article VIII hereof is a condition to annexation of the Property and that CITY is concurrently approving certain documents submitted with this Agreement including the Master Land Use Plan. If such zoning and documents are not approved by appropriate ordinance in substantial conformance with their submission, ANNEXOR may withdraw their annexation petitions and/or declare this Agreement null and void. If CITY fails to approve the above documents or the zoning of the Property, by appropriate ordinance or resolution, CITY covenants that it will not object to ANNEXOR disconnecting a portion or all of the Property from CITY under any applicable provisions of Colorado law, or otherwise, and upon such disconnection, CITY shall have no further obligations or responsibilities under this Agreement, and this Agreement

shall be void and of no further force or effect to such disconnected portion of the Property. This remedy of disconnection shall be limited to the circumstances specified in this Article XII-B and those provided to ANNEXOR pursuant to Section 31-12-119, Colorado Revised Statutes, 1973. In the event of any successful disconnection of all or any portion of the Property from CITY which was initiated by ANNEXOR, CITY shall have no further obligations or responsibilities under this Agreement as to such disconnected Property and this Agreement shall be void and of no further force and effect as to such disconnected portion of the Property.

- C. The parties are entering into this Annexation Agreement upon the understanding that CITY, by separate agreement with ANNEXOR will purchase 1875.636 acre feet of Box Elder Creek alluvial water from ANNEXOR at the price of six million six hundred thousand dollars (\$6,600,000.00). CITY also agrees to purchase, by the same agreement 496 acre feet of Box Elder Creek alluvial water from the KJS Partnership at a price of one million one hundred dollars (\$1,100,000). The purchased alluvial water will be utilized by CITY to serve the Box Elder Creek Basin, including, but not limited to ANNEXOR's Property. If CITY fails to enter into a satisfactory agreement with ANNEXOR regarding the purchase of said alluvial water, ANNEXOR may withdraw their annexation petitions and zoning documents from CITY and/or declare this Annexation Agreement null and void. In such event CITY covenants that it will not object to ANNEXOR disconnecting a portion or all of the Property from CITY under any applicable provisions of Colorado law, or otherwise.
- D. If the annexation of the Property or any portion thereof is voided by referendum, or by initiative or by final action of any court, the following provisions shall apply:

(1) Referendum

If the annexation of the Property or any portion thereof is challenged by a referendum, all provisions of this Agreement, together with the duties and obligations of each party shall be suspended pending the outcome of the referendum election. If the referendum challenge to the annexation results in disconnection of the Property from CITY, then this Annexation Agreement, and all provisions contained herein shall be null and void and of no further effect. If the referendum challenge fails, then ANNEXOR and CITY shall continue to be bound by all the terms and provisions of this Annexation Agreement.

(2) Initiative

In consideration of the various dedications, payment of fees and conveyances of all water rights provided for herein, if the Annexation of the Property or any portion thereof is voided by initiative, CITY agrees to cooperate with ANNEXOR to continue providing water and sewer service to the Property disconnected. CITY and ANNEXOR agree to jointly pursue all reasonable methods to continue such service, including but not limited to, extra-territorial water and sewer contracts. Such agreement to cooperate shall not constitute a legal obligation on part of CITY to continue service.

(3) Court Action

In the event that the Annexation of the Property or any portion thereof is voided by final action of any court, such action not being associated with a referendum or initiative action, all provisions of this Agreement shall remain in full force and effect. CITY and ANNEXOR shall cooperate to cure the legal defect which resulted in disconnection of the Property, and upon such cure this Annexation Agreement shall be deemed to be an agreement to annex the Property to CITY pursuant to Section 31-12-121 of the Colorado Revised Statutes, 1973, and ANNEXOR shall reapply for Annexation as and when the Property becomes eligible for Annexation.

The provisions of this Paragraph shall not apply to any ANNEXOR initiated disconnection from CITY. Further, if the Property is subsequently annexed to any municipality other than CITY this Agreement shall be null and void.

- E. Because it is anticipated by CITY and ANNEXOR that development of the Property will require at least thirty-five (35) years from the date of execution hereof, ANNEXOR shall be allowed that time period to develop the Property pursuant to this Agreement. At the end of such thirty-five (35) year period, this Agreement shall terminate and expire. Thereafter, so long as the Property is located within the municipal boundaries of CITY, it shall be subject to the uniform ordinances, rules and regulations of CITY generally applicable throughout CITY on a non-discriminatory basis and shall remain zoned in accordance with the Master Land Use Plan, subject to amendments then in effect, if any.
- F. Nothing contained in this Agreement shall constitute or be interpreted as a waiver or abnegation of CITY's legislative, governmental or police powers to promote and protect the health, safety, or general welfare of the municipality or its inhabitants. Except with reference to those fees

expressly limited or fixed herein, this Agreement shall not prohibit the enactment by CITY of any fee which is of uniform or general application.

- G. It is understood and agreed by the parties hereto that the remedies provided in Article XII-B of this Agreement are not exclusive and that the parties hereto shall have all available remedies for breach hereof in law or in equity including, but not limited to, specific performance and damages.
- H. It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is by the Courts held to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular part, term, or provision held to be invalid.
- I. This instrument embodies the whole agreement of parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto. Except with consent of ANNEXOR and CITY, there shall be no modification of this Agreement except in writing, executed with the same formalities as this instrument and recorded as required in Article XII-A above. Subject to the conditions precedent herein, this Agreement may be enforced in any court of competent jurisdiction.
- J. In the event either party alleges that the other is in default hereunder, the non-defaulting party shall first notify the defaulting party in writing of such default. The defaulting party shall have twenty (20) working days from receipt of such notice within which to cure such default before the non-defaulting party may exercise any of its remedies hereunder. If such default is not of a nature that can be cured in such twenty (20) day period, corrective action must be commenced within said period by the defaulting party and be thereafter diligently pursued.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officials to place their hands and seals upon this Agreement the day and year first above written.

BOX ELDER INVESTMENT COMPANY, a
Colorado limited partnership

By: _____

Ralph D. Kaufman,
General Partner

HORTON-CAVEY a Colorado general
partnership, general partner

By: _____

Ralph D. Kaufman,
General Partner

By: _____

Terryl K. Jensen,
General Partner

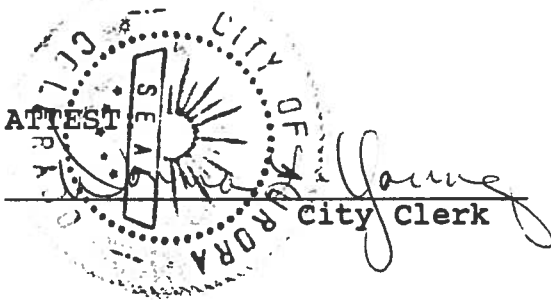
By: _____

Stephen K. Small,
General Partner

CITY OF AURORA, COLORADO
A Municipal Corporation

By _____

DENNIS CHAMPINE, Mayor



STATE OF COLORADO)
COUNTY OF Arapahoe) ss.

The foregoing instrument was acknowledged before me this 30th day of April, 1987, by Ralph D. Kaufman as General Partner on behalf of Box Elder Investment Company, a Colorado limited partnership.

Witness my hand and official seal.

My commission expires: 2-12-90.



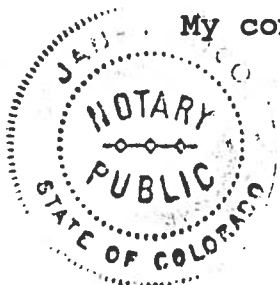
Ruth Riso
Notary Public
9600 E. Arapahoe Rd #260
Englewood, CO 80112

STATE OF COLORADO)
COUNTY OF Arapahoe) ss.

The foregoing instrument was acknowledged before me this 30th day of April, 1987, by Ralph D. Kaufman, Terryl K. Jensen and Stephen K. Small as General Partners on behalf of Horton-Cavey, a Colorado general partnership, general partner.

Witness my hand and official seal.

My commission expires: 2-12-90.



Ruth Riso
Notary Public
9600 E. Arapahoe Rd #260
Englewood, CO 80112

**MERRICK**

PATH: SURVEY>ANNEX

FILE: R PP9

JOB#: 464-6094A2

DATE: 11-26-86

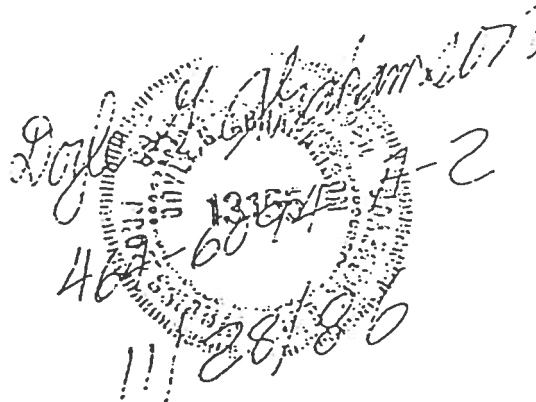
BOOK 3345 PAGE 110

PROPERTY DESCRIPTION

The Northwest Quarter of Section 36, except the West 30.00 feet, Township 3 South, Range 65 West of the Sixth Principal Meridian, Adams County, Colorado, being additionally described as follows:

BEGINNING at the center quarter corner of said Section 36; THENCE N89°45'08"W along the southerly line of said Northwest Quarter of Section 36 a distance of 2611.72 feet; THENCE N00°22'47"E along the easterly line of County Road 23N being parallel with and 30.00 feet easterly of the westerly line of said Northwest Quarter of Section 36 a distance of 2640.33 feet; THENCE S89°41'06"E along the northerly line of said Northwest Quarter of Section 36 a distance of 2612.81 feet; THENCE S00°24'13"W along the easterly line of said Northwest Quarter of Section 36 a distance of 2637.27 feet to the POINT OF BEGINNING;

Containing 158.247 acres, more or less.



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**MERRICK**

PATH: SURVEY>ANNEX
FILE: R PP10
JOB#: 464-6094A2
DATE: 2-18-87

BOOK 3345 PAGE 111

PROPERTY DESCRIPTION

All of Section 2, Section 11, the West 30.00 feet of Section 1, the West 30.00 feet of Section 12, the North Half of the Northeast Quarter of Section 14, the West 30.00 feet of the Northwest Quarter of the Northwest Quarter of Section 13, the Northeast Quarter of the Northwest Quarter of Section 14, the Northwest Quarter of the Northwest Quarter of Section 14, the Southwest Quarter of the Northwest Quarter of Section 14, the West Half of the Southwest Quarter of Section 14, the Northeast Quarter of Section 15, and Section 23, a portion of the Northwest Quarter and Southwest Quarter of Section 24, all in Township 3 South, Range 65 West of the Sixth Principal Meridian, and the South 30.00 feet of the West 30.00 feet of Section 36, the South 30.00 feet of Section 35, all in Township 2 South, Range 65 West of the Sixth Principal Meridian, Adams County, Colorado, being more particularly described as follows:

BEGINNING at the southwest corner of said Section 23;
THENCE N00°27'06"E along the westerly line of the Southwest Quarter of said Section 23 a distance of 2652.36 feet;
THENCE N00°28'45"E along the westerly line of the Northwest Quarter of said Section 23 a distance of 2651.52 feet;
THENCE N00°18'50"E along the westerly line of the Southwest Quarter of said Section 14 a distance of 2651.97 feet;
THENCE N89°54'09"W along the southerly line of said Northeast Quarter of Section 15 a distance of 2657.11 feet;
THENCE N00°19'33"E along the westerly line of said Northeast Quarter of Section 15 a distance of 2649.71 feet;
THENCE S89°57'04"E along the northerly line of said Northeast Quarter of Section 15 a distance of 2656.56 feet;
THENCE N00°05'17"E along the westerly line of the Southwest Quarter of said Section 11 a distance of 2651.93 feet;
THENCE N00°06'18"E along the westerly line of the Northwest Quarter of said Section 11 a distance of 2651.86 feet;
THENCE N00°01'04"E along the westerly line of Section 2 a distance of 5177.74 feet;
THENCE N00°00'00"E along the westerly line of said Section 35 a distance of 30.00 feet;
THENCE S89°34'15"E along the northerly line of County Road 72 being parallel with and 30.00 feet northerly of the southerly line of said Section 35 a distance of 5286.12 feet;
THENCE S89°31'23"E continuing along said northerly line of County Road 72 being parallel with and 30.00 feet northerly of the southerly line of said Section 36 a distance of 30.01 feet;
THENCE S00°00'00"W along the easterly line of County Road 23N being parallel with and 30.00 feet easterly of the westerly line of said Section 36 a distance of 30.00 feet;
THENCE S00°00'08"E continuing along said easterly line of County Road

23N being parallel with and 30.00 feet easterly of the westerly line of the Northwest Quarter of said Section 1 a distance of 2634.83 feet;

THENCE S00°00'06"W continuing along said easterly line of County Road 23N being parallel with and 30.00 feet easterly of the westerly line of the Southwest Quarter of said Section 1 a distance of 2661.27 feet;

THENCE S00°10'47"W continuing along said easterly line of County Road 23N being parallel with and 30.00 feet easterly of the westerly line of the Northwest Quarter of said Section 12 a distance of 2644.35 feet;

THENCE S00°06'25"W continuing along said easterly line of County Road 23N being parallel with and 30.00 feet easterly of the westerly line of the Southwest Quarter of said Section 12 a distance of 2642.35 feet;

THENCE S00°18'17"W continuing along said easterly line of County Road 23N being parallel with and 30.00 feet easterly of the westerly line of the Northwest Quarter of said Section 13 a distance of 1320.55 feet;

THENCE N88°34'18"W along the southerly line of the North Half of the Northeast Quarter of said Section 14 and prolongation thereof a distance of 2668.62 feet;

THENCE N88°30'10"W along the southerly line of said Northeast Quarter of the Northwest Quarter of Section 14 a distance of 1323.33 feet;

THENCE S00°20'25"W along the easterly line of said Southwest Quarter of the Northwest Quarter of Section 14 a distance of 126.85 feet;

THENCE the following three (3) courses along an existing fence:

1. S01°03'47"W a distance of 1197.21 feet;
2. THENCE S01°12'41"W a distance of 2736.31 feet;
3. THENCE S89°56'19"E a distance of 3420.40 feet to the easterly end of said existing fence;

THENCE N00°41'03"E a distance of 13.04 feet;

THENCE S88°41'35"E along the northerly line of the Northeast Quarter of said Section 23 a distance of 600.00 feet;

THENCE S89°47'00"E along the northerly line of the Northwest Quarter of said Section 24 a distance of 2642.15 feet;

THENCE S00°16'51"W along the easterly line of the Northwest Quarter of said Section 24 a distance of 2496.01 feet;

THENCE N89°51'51"W a distance of 2610.84 feet;

THENCE S00°15'03"W along the easterly line of County Road 23N being parallel with and 30.00 feet easterly of the westerly line of the Northwest Quarter of said Section 24 a distance of 142.64 feet;

THENCE S00°19'24"W along the easterly line of County Road 23N being parallel with and 30.00 feet easterly of the westerly line of said Southwest Quarter of Section 24 a distance of 2634.40 feet;

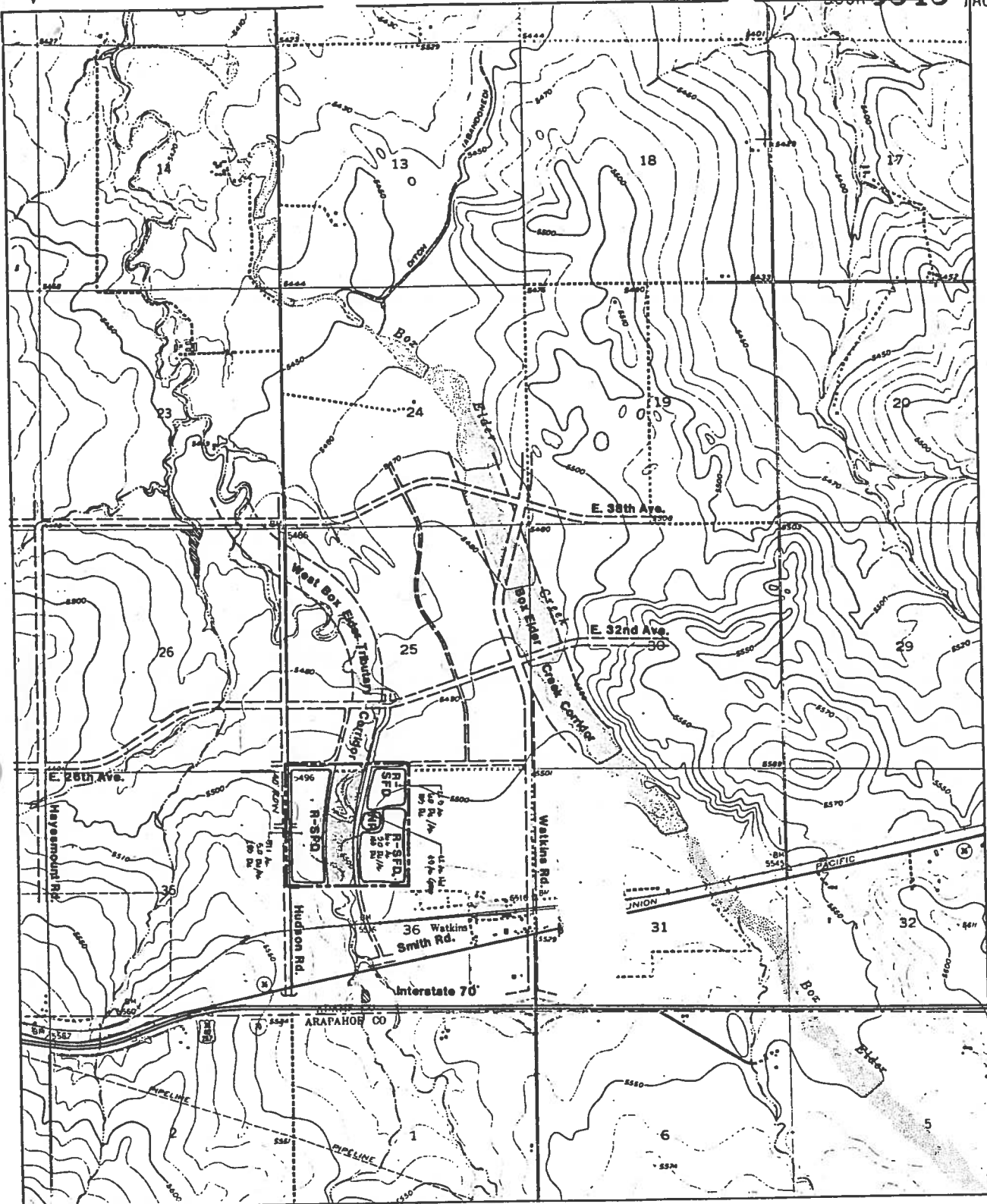
THENCE N89°51'51"W along the southerly line of the Southwest Quarter of said Section 24 a distance of 30.00 feet;

THENCE N88°59'22"W along the southerly line of the Southeast Quarter of said Section 23 a distance of 2653.17 feet;

THENCE N88°59'19"W along the southerly line of the Southwest Quarter of said Section 23 a distance of 2648.58 feet to the POINT OF BEGINNING.

Containing 2522.957 acres, more or less.





General Development Plan
Sheet 2 of 5

Sheet 2 of 5

Legend

- R** Residential
NP Neighborhood Park

Land Use Summary

	2006	2005	2004	2003
Net				
Residential	62.5	61.7	46	4.3
FTD	17.1	14.7	15	0.3
FTV				
Residential	114.5	112.9	80	5.8
Nonresidential				
Regulation Port	4.5	3.9		
Residential	144.5	147.6	85	5.8
Overseas				
Overseas	71.2	51.7		
Residential	71.2	51.7		
Nonresidential				
TOTAL	164.2	160.9	85	5.8

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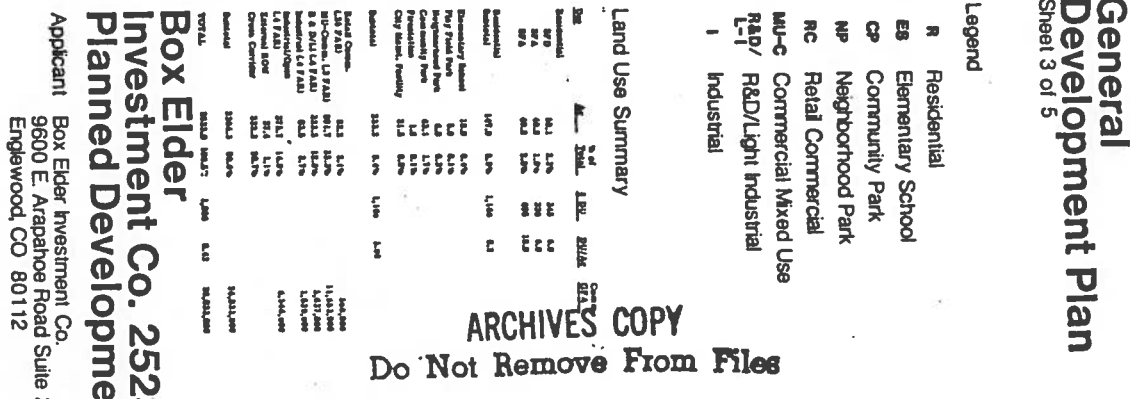
**Box Elder
Investment Co. 158
Planned Development**

Applicant **Box Elder Investment Co.**
9600 E. Arapahoe Road Suite 200
Englewood, CO 80112

EDAW

January 30, 19





January 30,

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City of Aurora
COUNCIL MEETING
AGENDA ITEM-HISTORY/COMMENTARY

Item Title		Consideration to Approve Annexation Agreement and Final Annexation Ordinances for Box Elder Investment (SE of E. 26th Ave. and Hudson Rd.)	Agenda No. <u>12p</u> Agenda Date <u>2-23-87</u>
Item Initiator		Planning Department	Signature <u>Frank Mizner</u>
Staff Source		Frank Mizner, Chief Planner	
Recommended for Council Action ☒		City Manager	

ITEM HISTORY (Previous City Council reviews, actions related to this item, other pertinent history)

Discussed by City Council in study session on November 17, 1986; January 26, 1987 and February 23, 1987.

Annexation petitions accepted and ordinances introduced on December 8, 1986.

Initial zoning approved on introduction January 26, 1986.

ITEM COMMENTARY (Background, discussion, key points, recommendations, etc.)

Size: 2681.204 acres

Owners: Amcor Investment Corp.

Please see attached agreement summary.

Action Proposed

Approval of Annexation Agreement
Finalization of Annexation Ordinance

City of Aurora
COUNCIL MEETING
AGENDA ITEM-MINUTES/LEGAL/IMPACTS

Item Title: Consideration to Approve Annexation Agreement and
Final Annexation Ordinances for Box Elder Investment
(SE of E. 26th Ave. and Hudson Rd.)

Agenda No. 12p
Agenda Date
2-23-87

Staff Source:

Frank Mizner, Chief Planner

MINUTES SUMMARY (Summary of any minutes pertinent to this item)

Not applicable.

LEGAL COMMENTS

The proposed annexation is petitioned by 100% of the owners of the land. Council may annex without notice or hearings. The land has not less than one-sixth contiguity with the City's boundaries, and is eligible for annexation.

The petitions have been reviewed and are in substantial compliance with state annexation law requirements. The proposed annexation is conditioned upon zoning and an annexation agreement.

Legal considerations in Making Motion:

Signature: Charles Richardson

PUBLIC FISCAL IMPACT

Please see initial zoning report.

Signatures: Frank Mizner (Dept.) Not applicable (Budget)

PRIVATE FISCAL IMPACT (Provide explanation if box other than "not applicable" checked)

☒ Not Applicable ☐ Insignificant ☐ Material

Signature: Frank Mizner

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NORTHERN QUADRANT
ANNEXATION AGREEMENT SUMMARY

NOTE: This summary addresses annexation agreements for the LDS, AMCOR, Williams, Box Elder Investments and KJS properties. Individual differences are explained in the notes following this summary.

Model Agreement

Northern Quadrant Agreements

Streets

Dedicate, design and improve all streets to City standards.

Included in Article II

Off-site traffic impact fee (set by City ordinance)

Included in Article II

E-470 dedication and financing.

Included in Article II

Water and Sewer

Water transmission development fee (set by City ordinance) - no 10% option.

Included in Article III

Sewer interceptor development fee (set by City ordinance) - no 10% option.

Included in Article III

Water and internal distribution lines installed by developer.

Included in Article III

Transfer of deep well aquifer rights.

Included in Article III

Subject to uniform water and sewer tap allocation program

Included in Article III

Service extensions by developer.

Included in Article III

Storm Drainage

Comply with all City storm drainage regulations; participate in Drainage Plan; payment of per-acre fee (set by City ordinance).

Included in Article IV

Design and construct all internal facilities.

Included in Article IV

Option for early construction.

Included in Article IV

Petition for inclusion in Urban Drainage and Flood Control District.

Included in Article IV

Model Agreement

Crossings

Annexor responsible for all design and construction costs for interior facilities and proportionate share of perimeter facilities.

Northern Quadrant Agreements

Included in Article V

Public Land Dedication

6% of residential and 2% of non-residential for City public land.

Included in Article VI

4% of residential to appropriate school district.

Included in Article VI

Park development fee
(set by City ordinance).

Included in Article VI

Annexor option for early construction of park facilities.

Included in Article VI

Zoning and Design

Zoning condition precedent to annexation.

Included in Article VIII

Special Districts

Districts may be considered.

Included in Article IX

Extraordinary Public Improvements

Option at City's sole discretion.

Included in Article X

Urban Service Extension Fee

Set by City ordinance.

Included in Article XI

General Provisions

Involuntary disconnection.

No legal obligation to continue services -
Article XII

Application of City ordinances.

Included in Article XII

Fees subject to change by ordinance.

Included in Article XII

Term of agreement is 35 years.

Included in Article XII

NOTES:

1. Article III provides that the Annexor will pay City and Metro Sewer tap fees upon development, as required by our model agreement. However, if sewer is provided by agency or district other than Metro, the City will cooperate with the Annexor in petitioning Metro for exclusion.
2. Article V provides that the City and Annexor will cooperate in establishing mechanisms for financing design and construction costs for crossings within the AMCOR annexation. This is a useful option because of the large expense resulting from several major crossings within a relatively small geographic area.
3. Article VII provides several variations from our model agreement:
 - a) All Annexors agree to be bound by all City noise ordinances, including the 60 Ldn residential restriction. The Annexor has the option of rezoning ground to residential uses should the noise contour officially be shifted.
 - b) The Box Elder agreement provides for special consideration of the west 1/2 of Section 2, basically providing for possible City of Denver purchase for expansion of planned airport facilities.
 - c) Both the City and the Annexors have the right to initiate land use plan amendments given significant changes in the physical location of the planned new airport.
4. Article XI provides that the City, at its sole discretion, may choose to not levy the Urban Service Extension Fee should this fee be detrimental to desirable development near the new airport.
5. Article XII discusses in general terms the proposed City purchase of certain Box Elder Creek alluvial water rights. This purchase is the subject of a specific contractual agreement between the Annexors and City, scheduled as a distinct Council agenda item.

ANNEXATION AGREEMENT

THIS AGREEMENT made and entered into this _____ day of _____, A.D. 1987, by and between, BOX ELDER INVESTMENT COMPANY, hereinafter referred to as "ANNEXOR", and the CITY OF AURORA, a municipal corporation of the Counties of Adams and Arapahoe, State of Colorado, hereinafter referred to as "CITY."

W I T N E S S E T H:

WHEREAS, ANNEXOR is the owner of the property described in Exhibit "A" hereto (the "Property"), and

WHEREAS, ANNEXOR has filed petitions for annexation with CITY of the unincorporated lands comprising the Property, and

WHEREAS, the parties mutually agree and recognize that it is desirable for the development of the Property by ANNEXOR that ANNEXOR obtain certain municipal services from CITY, including but not limited to those described herein; and

WHEREAS, CITY has determined that it is in the best interests of CITY to annex the Property and to provide municipal services and receive revenues from the development to occur on the Property;

NOW, THEREFORE, in consideration of the foregoing premises and the covenants, promises and agreements of each of the parties hereto, to be kept and performed by each of them,

IT IS AGREED:

I

DEFINITIONS

"Annexor" as used in this Agreement shall mean and refer to ANNEXOR, its successors, assigns and designees, including but not limited to one or more designee Districts as hereafter defined.

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WILLIAM SOKOL
COUNTY RECORDER
ADAMS COUNTY, COLO.

ORDINANCE NO. 86-202

BOOK 3305 PAGE 611

APR 21 1 30 PM '87

A BILL

FOR AN ORDINANCE ANNEXING CERTAIN UNINCORPORATED
LANDS SITUATE IN SECTION 36, TOWNSHIP
3 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL
MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, TO
THE CITY OF AURORA. 158.247 ACRES
(SOUTHEAST CORNER OF E. 26TH AVENUE AND HUDSON ROAD)
(BOX ELDER INVESTMENTS-KJS)

WHEREAS, a petition has been filed with the City Clerk of the City of Aurora, Colorado, requesting that the annexation of the hereinafter described territory be made to the City of Aurora, Colorado; and

WHEREAS, the City Council hereby finds and determines that said Petition was signed by one hundred per cent (100%) of the owners of the property proposed to be annexed, exclusive of streets and alleys, and that by virtue thereof, such territory may be annexed to the City of Aurora without notice or hearing or election; and

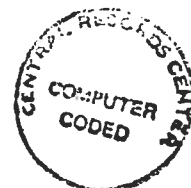
WHEREAS, the City Council hereby finds and determines that not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the existing boundaries of the City of Aurora, Colorado; and therefore, because of such contiguity, a community of interest exists between the territory proposed to be annexed and the City of Aurora, Colorado; the territory proposed to be annexed is urban or will be urbanized in the near future, and that the territory proposed to be annexed is integrated or is capable of being integrated with City of Aurora, Colorado; and

WHEREAS, all matters and things required by law to be done prior to the annexation of said property to the City of Aurora have been duly performed.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. That the annexation of the territory situate in the County of Adams, State of Colorado, Described in Exhibit "A" attached hereto and incorporated herein, to the City of Aurora, Colorado, be and the same is hereby ordained and approved, and said territory is hereby incorporated in and made a part of the City of Aurora, Colorado.

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Section 2. That the annexation of such territory to the City of Aurora, Colorado, shall be complete and effective on the effective date of this Ordinance, except for the purpose of General Property Taxes, and shall be effective as to General Property Taxes on and after the first day of January, A.D., 1988.

Section 3. That the Petition for Annexation contained a request for zoning concurrent with annexation, and that this Ordinance annexing said territory is expressly made subject to the granting of said zoning, as requested.

Section 4. That within thirty (30) days after the effective date of this Ordinance, the City Clerk be and she is hereby authorized and directed to:

- A. File one copy of the annexation map with the original of the annexation Ordinance in the office of the City Clerk of the City of Aurora, Colorado.
- B. File two certified copies of the annexation Ordinance and map of the area annexed containing a legal description of such area with the County Clerk and Recorder.

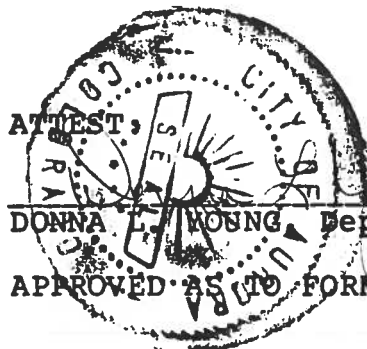
Section 5. That this ordinance is conditioned upon the approval and effectiveness of Ordinance No. 86-199.

Section 6. That pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this ordinance shall be by reference, utilizing the ordinance title.

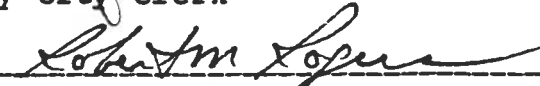
INTRODUCED, READ AND ORDERED PUBLISHED this 8th day of December, A.D. 1986.

PASSED AND ORDERED PUBLISHED BY REFERENCE this 9th day of March, A.D. 1987.


DENNIS CHAMPINE, Mayor



ATTEST: 
DONNA L. YOUNG, Deputy City Clerk

APPROVED AS TO FORM: 

First Publication:	<u>12-77-86</u>
Final Publication:	<u>3-11-87</u>
Effective Date:	<u>4-10-87</u>

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PATH: SURVEY>ANNEX

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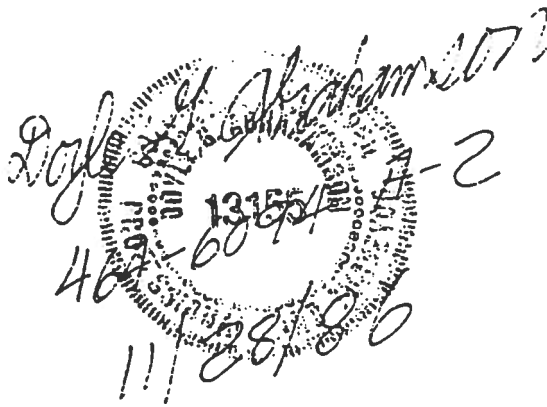
DATE: 11-26-86

PROPERTY DESCRIPTION

The Northwest Quarter of Section 36, except the West 30.00 feet, Township 3 South, Range 65 West of the Sixth Principal Meridian, Adams County, Colorado, being additionally described as follows:

BEGINNING at the center quarter corner of said Section 36; THENCE N89°45'08"W along the southerly line of said Northwest Quarter of Section 36 a distance of 2611.72 feet; THENCE N00°22'47"E along the easterly line of County Road 23N being parallel with and 30.00 feet easterly of the westerly line of said Northwest Quarter of Section 36 a distance of 2640.33 feet; THENCE S89°41'06"E along the northerly line of said Northwest Quarter of Section 36 a distance of 2612.81 feet; THENCE S00°24'13"W along the easterly line of said Northwest Quarter of Section 36 a distance of 2637.27 feet to the POINT OF BEGINNING;

Containing 158.247 acres, more or less.



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WILLIAM SOKOL
COUNTY RECORDER
ADAMS COUNTY, COLO.

RECEIVED
MAR 25 7 34 AM '87

ARCHIVIST

ORDINANCE NO. 86-203

BOOK **3305** PAGE **614**

APR 21 1 30 PM '87

A BILL

FOR AN ORDINANCE ANNEXING CERTAIN UNINCORPORATED
LANDS SITUATE IN SECTIONS 1, 2, 11, 12, 13, 14, 15
AND 23, TOWNSHIP 3 SOUTH, AND SECTIONS 35 AND 36,
TOWNSHIP 2 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL
MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO,
TO THE CITY OF AURORA. 2,522.957 ACRES
(NORTH OF E. 38TH AVENUE BETWEEN MONAGHAN
AND WATKINS ROADS) (BOX ELDER INVESTMENTS)

WHEREAS, a petition has been filed with the City Clerk of the
City of Aurora, Colorado, requesting that the annexation of the
hereinafter described territory be made to the City of Aurora,
Colorado; and

WHEREAS, the City Council hereby finds and determines that
said Petition was signed by one hundred per cent (100%) of the
owners of the property proposed to be annexed, exclusive of
streets and alleys, and that by virtue thereof, such territory
may be annexed to the City of Aurora without notice or hearing or
election; and

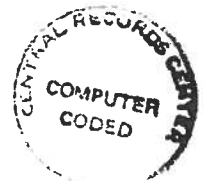
WHEREAS, the City Council hereby finds and determines that
not less than one-sixth of the perimeter of the area proposed to
be annexed is contiguous with the existing boundaries of the City
of Aurora, Colorado; and therefore, because of such contiguity, a
community of interest exists between the territory proposed to be
annexed and the City of Aurora, Colorado; the territory proposed
to be annexed is urban or will be urbanized in the near future,
and that the territory proposed to be annexed is integrated or is
capable of being integrated with City of Aurora, Colorado; and

WHEREAS, all matters and things required by law to be done
prior to the annexation of said property to the City of Aurora
have been duly performed.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF AURORA, COLORADO:

Section 1. That the annexation of the territory situate in
the County of Adams, State of Colorado, Described in Exhibit "A"
attached hereto and incorporated herein, to the City of Aurora,
Colorado, be and the same is hereby ordained and approved, and
said territory is hereby incorporated in and made a part of the
City of Aurora, Colorado.

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Section 2. That the annexation of such territory to the City of Aurora, Colorado, shall be complete and effective on the effective date of this Ordinance, except for the purpose of General Property Taxes, and shall be effective as to General Property Taxes on and after the first day of January, A.D., 1988.

Section 3. That the Petition for Annexation contained a request for zoning concurrent with annexation, and that this Ordinance annexing said territory is expressly made subject to the granting of said zoning, as requested.

Section 4. That within thirty (30) days after the effective date of this Ordinance, the City Clerk be and she is hereby authorized and directed to:

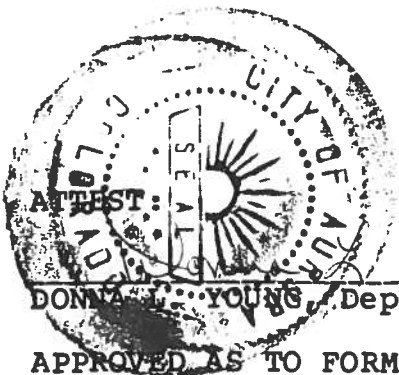
- A. File one copy of the annexation map with the original of the annexation Ordinance in the office of the City Clerk of the City of Aurora, Colorado.
- B. File two certified copies of the annexation Ordinance and map of the area annexed containing a legal description of such area with the County Clerk and Recorder.

Section 5. That this ordinance is conditioned upon the approval and effectiveness of Ordinance No. 86-199.

Section 6. That pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this ordinance shall be by reference, utilizing the ordinance title.

INTRODUCED, READ AND ORDERED PUBLISHED this 8th day of December, A.D. 1986.

PASSED AND ORDERED PUBLISHED BY REFERENCE this 9th day of March, A.D. 1987.



Dennis Champine
DENNIS CHAMPINE, Mayor

ATTEST: Donna L. Young
DONNA L. YOUNG, Deputy City Clerk

APPROVED AS TO FORM: Robert M. Rogers

First Publication:	<u>12-17-86</u>
Final Publication:	<u>3-11-87</u>
Effective Date:	<u>4-10-87</u>

PROPERTY DESCRIPTION

All of Section 2, Section 11, the West 30.00 feet of Section 1, the West 30.00 feet of Section 12, the North Half of the Northeast Quarter of Section 14, the West 30.00 feet of the Northwest Quarter of the Northwest Quarter of Section 13, the Northeast Quarter of the Northwest Quarter of Section 14, the Northwest Quarter of the Northwest Quarter of Section 14, the Southwest Quarter of the Northwest Quarter of Section 14, the West Half of the Southwest Quarter of Section 14, the Northeast Quarter of Section 15, and Section 23, a portion of the Northwest Quarter and Southwest Quarter of Section 24, all in Township 3 South, Range 65 West of the Sixth Principal Meridian, and the South 30.00 feet of the West 30.00 feet of Section 36, the South 30.00 feet of Section 35, all in Township 2 South, Range 65 West of the Sixth Principal Meridian, Adams County, Colorado, being more particularly described as follows:

BEGINNING at the southwest corner of said Section 23;
 THENCE N00°27'06"E along the westerly line of the Southwest Quarter of said Section 23 a distance of 2652.36 feet;
 THENCE N00°28'45"E along the westerly line of the Northwest Quarter of said Section 23 a distance of 2651.52 feet;
 THENCE N00°18'50"E along the westerly line of the Southwest Quarter of said Section 14 a distance of 2651.97 feet;
 THENCE N89°54'09"W along the southerly line of said Northeast Quarter of Section 15 a distance of 2657.11 feet;
 THENCE N00°19'33"E along the westerly line of said Northeast Quarter of Section 15 a distance of 2649.71 feet;
 THENCE S89°57'04"E along the northerly line of said Northeast Quarter of Section 15 a distance of 2656.56 feet;
 THENCE N00°05'17"E along the westerly line of the Southwest Quarter of said Section 11 a distance of 2651.93 feet;
 THENCE N00°06'18"E along the westerly line of the Northwest Quarter of said Section 11 a distance of 2651.86 feet;
 THENCE N00°01'04"E along the westerly line of Section 2 a distance of 5177.74 feet;
 THENCE N00°00'00"E along the westerly line of said Section 35 a distance of 30.00 feet;
 THENCE S89°34'15"E along the northerly line of County Road 72 being parallel with and 30.00 feet northerly of the southerly line of said Section 35 a distance of 5286.12 feet;
 THENCE S89°31'23"E continuing along said northerly line of County Road 72 being parallel with and 30.00 feet northerly of the southerly line of said Section 36 a distance of 30.01 feet;
 THENCE S00°00'00"W along the easterly line of County Road 23N being parallel with and 30.00 feet easterly of the westerly line of said Section 36 a distance of 30.00 feet;
 THENCE S00°00'08"E continuing along said easterly line of County Road

23N being parallel with and 30.00 feet easterly of the westerly line of the Northwest Quarter of said Section 1 a distance of 2634.83 feet;

THENCE S00°00'06"W continuing along said easterly line of County Road 23N being parallel with and 30.00 feet easterly of the westerly line of the Southwest Quarter of said Section 1 a distance of 2661.27 feet;

THENCE S00°10'47"W continuing along said easterly line of County Road 23N being parallel with and 30.00 feet easterly of the westerly line of the Northwest Quarter of said Section 12 a distance of 2644.35 feet;

THENCE S00°06'25"W continuing along said easterly line of County Road 23N being parallel with and 30.00 feet easterly of the westerly line of the Southwest Quarter of said Section 12 a distance of 2642.35 feet;

THENCE S00°18'17"W continuing along said easterly line of County Road 23N being parallel with and 30.00 feet easterly of the westerly line of the Northwest Quarter of said Section 13 a distance of 1320.55 feet;

THENCE N88°34'18"W along the southerly line of the North Half of the Northeast Quarter of said Section 14 and prolongation thereof a distance of 2668.62 feet;

THENCE N88°30'10"W along the southerly line of said Northeast Quarter of the Northwest Quarter of Section 14 a distance of 1323.33 feet;

THENCE S00°20'25"W along the easterly line of said Southwest Quarter of the Northwest Quarter of Section 14 a distance of 126.85 feet;

THENCE the following three (3) courses along an existing fence:

1. S01°03'47"W a distance of 1197.21 feet;
2. THENCE S01°12'41"W a distance of 2736.31 feet;
3. THENCE S89°56'19"E a distance of 3420.40 feet to the easterly end of said existing fence;

THENCE N00°41'03"E a distance of 13.04 feet;

THENCE S88°41'35"E along the northerly line of the Northeast Quarter of said Section 23 a distance of 600.00 feet;

THENCE S89°47'00"E along the northerly line of the Northwest Quarter of said Section 24 a distance of 2642.15 feet;

THENCE S00°16'51"W along the easterly line of the Northwest Quarter of said Section 24 a distance of 2496.01 feet;

THENCE N89°51'51"W a distance of 2610.84 feet;

THENCE S00°15'03"W along the easterly line of County Road 23N being parallel with and 30.00 feet easterly of the westerly line of the Northwest Quarter of said Section 24 a distance of 142.64 feet;

THENCE S00°19'24"W along the easterly line of County Road 23N being parallel with and 30.00 feet easterly of the westerly line of said Southwest Quarter of Section 24 a distance of 2634.40 feet;

THENCE N89°51'51"W along the southerly line of the Southwest Quarter of said Section 24 a distance of 30.00 feet;

THENCE N88°59'22"W along the southerly line of the Southeast Quarter of said Section 23 a distance of 2653.17 feet;

THENCE N88°59'19"W along the southerly line of the Southwest Quarter of said Section 23 a distance of 2648.58 feet to the POINT OF BEGINNING.

Containing 2522.957 acres, more or less.

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