

Annexation



Facts to Know

RELATED FACTS TO KNOW:

Pre-Application Meeting, Neighborhood Meeting, Development Plan, General Improvement District, Land Use Plan Amendments, Planned Unit Development, and Zoning.

INTRODUCTION:

If the property to be developed is not incorporated into the City of Commerce City, the first step in the development process is annexation. Generally, an annexation occurs when the owner of an unincorporated parcel of land petitions to have that land incorporated into the city. The requirements and procedures for annexation are set forth in the Municipal Annexation Act, Colorado of 1965 (CRS 31-12-101, et. seq., as amended) and the requirements of the City of Commerce City Land Development Code.

In general, the proposed property must be within the Commerce City Urban Growth Boundary and comply with the Commerce City Comprehensive Plan. At least one-sixth of the perimeter of the area proposed to be annexed must be contiguous with the existing city limits.

GENERAL TIMEFRAME:

- ❑ The length of time to process an annexation request can vary depending on the complexity of the request, or if there are unique circumstances. However, annexations can generally be processed in the following timeframe:
 - ➔ Typical Annexations: 8 to 12 months
 - ➔ Annexations in Conjunction with large-scale PUDs: May take much longer, depending on the complexity of the project.
- ❑ In order to maximize or efficiently process an application, **it is in the applicant's best interest to ensure that a complete and thorough application has been submitted** and that any subsequent submittals adequately address all comments that were provided.
- ❑ In accordance with CRS 31-12-115, a property must be zoned within ninety (90) days of its annexation. Therefore, in conjunction with the annexation request, a zoning request also must be considered. The zoning application is a separate request, subject to additional requirements (see ***Facts to Know for Zone Changes*** and ***Facts to Know for Development Plans***). The request for zoning is first heard before the Planning Commission at a public hearing. Public notification also is required for the Planning Commission public hearing. The Planning Commission will review the proposed zoning and will make a recommendation to City Council, which will make the final decision on the zoning request.

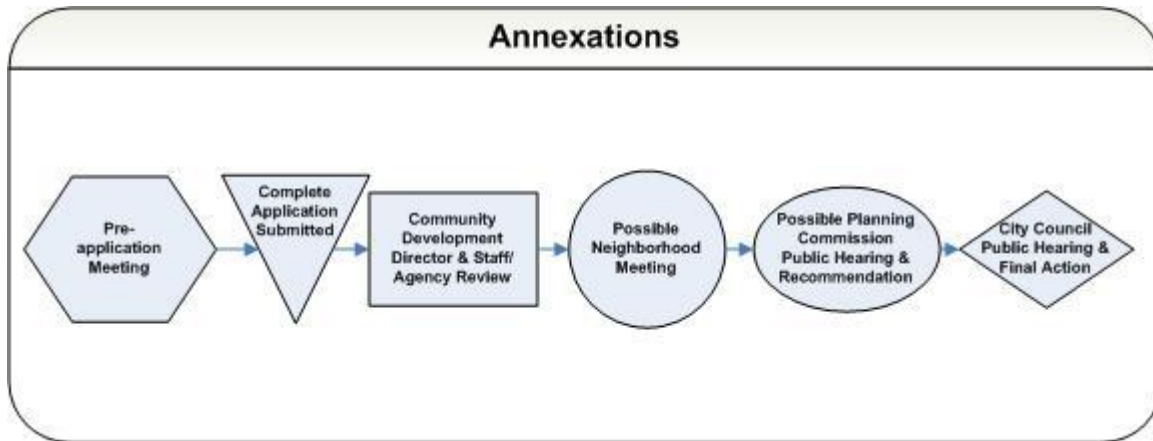
No building permit may be submitted for review until all land use applications have been approved.

GENERAL NOTES:

Prior to submitting an annexation for review, a Pre-Application meeting with staff should be scheduled to discuss the application and any additional requirements.

- If proceeding with annexation, please contact the Community Development Department and a planner will be assigned to the case when a complete submittal is made. The planner will verify the prepared submittal using the ***Annexation Submittal Checklist*** (see attached) and ensure that the application and fee requirements are met.
- The ***Annexation Petition*** and related application must proceed through the applicable review processes before City Council takes final action. City staff will review the application to determine if the proposed annexation and zoning are in conformance with statutory and city requirements. The City will determine if the petition substantially meets statutory requirements and will schedule a public hearing before City Council on the eligibility of the property for annexation will be scheduled within 30 to 60 days.
- There are notification requirements for the City Council public hearing for the annexation petition. The notice of the hearing must be published once a week for four consecutive weeks in a local newspaper, with the first publication of such notice occurring at least thirty (30) days prior to the public hearing date. These publication requirements are handled through the City Clerk's office.
- A written ***Annexation Agreement*** must be agreed to between the city and the landowner before the City Council will take action to annex the property. The agreement will contain all terms, conditions, and obligations of annexation, as well as any additional requirements determined by the city at the time of annexation. The applicant should execute and submit the city's standard ***Annexation Agreement***.
- Occasionally, the city may require a neighborhood meeting when it appears that an application may have impacts on the surrounding area.
- Depending on the size of the property, the city may be required to prepare and publish an annexation impact report prior to any public hearing.
- Depending on the location of the property, the applicant may also need to join one of the city's General Improvement Districts (GIDs). If applicable, city staff will help to explain the process and associated fees with this concurrent request.

ANNEXATION REVIEW FLOWCHART:



REVIEW PROCESS:

- A request for an annexation usually is initiated by the property owner or a qualified representative, subsequent to a pre-application meeting with staff.
- A complete application is submitted for city review.
 - ➔ At the time of submittal, staff will determine if the application is complete (**incomplete applications will not be accepted and will be returned without review**).
 - ➔ The city will refer the application out to various departments within the city and outside organizations for review and comment.
 - ➔ After a review period of approximately 6 to 8 weeks, the case will be discussed at the internal Development Review Team (DRT) meeting. After the DRT meeting, the application either will be approved, or the applicant will receive a comment letter identifying necessary revisions and questions to be answered.
 - ➔ The applicant will address these revisions and resubmit to the city for an additional review cycle of approximately 5-7 weeks. This process will continue until all comments are resolved and the application is ready for the public hearing process.
- The Planning Commission is an advisory body only and does not hear annexation cases. Annexation cases are forwarded directly to the City Council. Zoning cases will be heard by the Planning Commission and forwarded to the City Council for final approval or denial. Ideally, zoning of the property will occur concurrently with the annexation, but may occur up to ninety (90) days following the annexation.
- Annexation is a discretionary act and final approval of any annexation is at the judgment of the City Council.

FTK: Annexation

- ❑ The following are some of the criteria used by the city to determine if an area is eligible for annexation, as defined by Colorado law (C.R.S. 31-12-104 and 31-12-105):
 - ➔ Not less than one-sixth (1/6) of the perimeter of the area proposed to be annexed is “contiguous” with the current boundary of the City of Commerce City;
 - ➔ A community of interest exists between the area being proposed to be annexed and the City of Commerce City;
 - ➔ The area sought to be annexed is urban or will be urbanized in the near future;
 - ➔ The area sought to be annexed is integrated or is capable of being integrated into the City of Commerce City.
- ❑ The City Council considers land use cases on the 3rd Monday of every month in the City Council Chambers, 7887 East 60th Avenue. Meetings begin at 6 p.m.

ANNEXATION APPROVAL CRITERIA:

- ❑ The following are some of the criteria used by the city to determine if an annexation should be approved, as defined by the city’s Land Development Code (Sec. 21-3440):
 - ➔ The annexation is in compliance with applicable state laws and the city’s Land Development Code;
 - ➔ The annexation is consistent with the comprehensive plan, and the best interests of the city would be served by annexation of such property;
 - ➔ The property is within the Municipal Service Area (MSA) of the Commerce City Growth Boundary as stated in the comprehensive plan. No property outside of the MSA or Growth Boundary shall be considered for annexation unless the city council finds that, consistent with the comprehensive plan, the best interests of the city would be served by annexation of such property and provided a land use plan for the area proposed to be annexed is submitted together with the annexation application;
 - ➔ The property is capable of being integrated into the city in compliance with all applicable provisions of the city’s Land Development Code;
 - ➔ At the time any development of the area proposed to be annexed is completed, there is a reasonable likelihood that capacity will exist to adequately serve residents or users of such area with all necessary utilities, municipal services and facilities; and
 - ➔ The annexation boundaries are configured such that the annexation will not limit the city’s ability to integrate surrounding land into the city or cause variances or exceptions to be granted if the adjacent land is annexed or developed.

RECORDING REQUIREMENTS:

After annexation approval, but prior to the annexation map being recorded with the County, please contact the city to obtain the current electronic data format requirements.

Adams County Clerk and Recorder's Office

(To be filed by the city on behalf of the applicant.):

A. Annexation Map:

1. ONE, 4 MIL, ORIGINAL MYLAR (18" x 24") WITH ALL SIGNATURES IN PERMANENT BLACK INK (such as Sharpie brand, Extra Fine Point, Permanent Marker). MYLARS MUST CONTAIN ORIGINAL SIGNATURES. ADAMS COUNTY WILL REFUSE TO RECORD MYLARS THAT ARE NOT SIGNED IN PERMANENT BLACK INK. (Please note - the Mylar submitted to the city shall include the notarized signature of the property owner(s) only. The notary seal must be legible. The city will gather all necessary city signatures.)
2. A check, ***payable to Adams County Clerk & Recorder***, for \$15 per Mylar page, plus a recording fee of \$1 per *document*. (Example: the recording fee for a two-page document is \$31 -- \$15 per page, plus \$1 recording fee.)

B. Annexation Agreement:

A check, ***payable to Adams County Clerk & Recorder***, for \$5 per page, plus a recording fee of \$1 per *document*.

FTK: Annexation

SUBMITTAL REQUIREMENTS:

Please note that incomplete submittals will not be accepted for review. Any inaccurate or incomplete information provided by the applicant may cause the application to be returned to the applicant and/or delay review cycles which may impact the case completion time frame. Please visit c3gov.com/etrakit for complete information for submitting for this application type. The following items will need to be included in your submittal package.

Upon request, staff may provide examples of previously approved annexation applications to clarify the quality and type of submittals that are expected.

ANNEXATION SUBMITTAL CHECKLIST

Applicant Name: _____

Property Owner Name: _____

Approximate Location of Property: _____

SUBMITTED	REQUIREMENTS
<input type="checkbox"/>	Authorization from Owner and Required Fees
<input type="checkbox"/>	Petition for Annexation: The petition shall be signed by persons (or authorized representative of any entity) comprising more than fifty (50) percent of the landowners in the area to be annexed and owning more than fifty (50) percent of the land area (when applicable).
<input type="checkbox"/>	Affidavit of Circulator (if applicable for multiple ownership of property) . Signed and notarized affidavit.
<input type="checkbox"/>	Copy of General Warranty Deed , with a complete legal description for the property or properties comprising the area proposed to be annexed.
<input type="checkbox"/>	Exhibit A. Typed legal description (8 ½" x 11") and on a CD-ROM (Word or WordPerfect Format) or thumb drive of the area of annexation as it appears on the annexation map, including the identification of the person responsible for preparing it.
<input type="checkbox"/>	Annexation Information Sheet. This information sheet must be completed for staff use. Additional sheets may be attached.
<input type="checkbox"/>	Annexation Impact Report. For annexations greater than 10 acres, this report shall be submitted by the applicant (with city assistance) at the time of the 2 nd resubmittal. Please see the Annexation Impact Report Requirement Sheet for help in filling this out.

FTK: Annexation

SUBMITTED	REQUIREMENTS
<input type="checkbox"/>	<p>Narrative. Statement addressing the following:</p> <ol style="list-style-type: none"> 1. Conformance with the city’s Comprehensive Plan; 2. Information on ecological or land use conditions which may be hazardous including oil and gas operations, dumps and landfills, underground storage tanks, steep slopes, wetlands, irrigation ditches, bodies of water, and flood areas. 3. Identification of the following districts for the property to be annexed: Water, wastewater, fire, sanitation, school, etc.
<input type="checkbox"/>	<p>Public Agreements. Copies of all existing agreements, between the applicant and governmental entities, quasi-public entities and special districts that may affect the applicant’s property, addressing such things as irrigation, fire protection, and sanitation.</p>
<input type="checkbox"/>	<p>Water Resource Agreement. If applicable, this document shall be negotiated between the applicant, the city, and South Adams County Water and Sanitation District.</p>
<input type="checkbox"/>	<p>Private Agreements. Private agreements addressing topics subject to governmental approval such as signage, oil and gas operations, licenses, pipelines, other easements, and building permits.</p>
<input type="checkbox"/>	<p>Annexation Map. 18” x 24” size, including the information found on the <i>Annexation Map Checklist</i>. (Note: These copies are subject to revisions; corrected copies for hearings and recording purposes will be required at the appropriate times. <u>Oversized plans must be folded to a standard size.</u>)</p>
<input type="checkbox"/>	<p>Annexation Agreement. Subject to revisions as negotiated between the city and the applicant. (Note: <i>The City Council may not annex any property without an annexation agreement.</i>)</p>

Be sure to include all of the requested information with your application. An incomplete application may not be reviewed or scheduled for a public hearing until all information has been submitted. An annexation may not proceed until all information has been submitted.

FTK: Annexation

Case #: _____

CITY OF COMMERCE CITY ANNEXATION MAP CHECKLIST					
	DESCRIPTION	COMPLIES		COMMENTS	
		YES	NO		
1.	The precise case number of the annexation (to be assigned by city), township, section, range, city, county, state, & page numbers	<input type="checkbox"/>	<input type="checkbox"/>		P
2.	Suitable scale (written and graphic)	<input type="checkbox"/>	<input type="checkbox"/>		P
3.	North arrow	<input type="checkbox"/>	<input type="checkbox"/>		P
4.	Annexed area shaded and annexed area marked "SITE" add bold arrow if needed	<input type="checkbox"/>	<input type="checkbox"/>		E
5.	Location and width dimensions of all recorded and apparent rights-of-ways	<input type="checkbox"/>	<input type="checkbox"/>		E
6.	Former City of Commerce City annexations with letters and numbers, which are contiguous with new annexations	<input type="checkbox"/>	<input type="checkbox"/>		E
7.	City limit lines of abutting cities, and name(s) of cities	<input type="checkbox"/>	<input type="checkbox"/>		E
8.	Basis of bearings statement and labeled line on plat. State the basis of bearing and label on the drawing. Bearings shall be based on Commerce City Control Diagram.	<input type="checkbox"/>	<input type="checkbox"/>		E
9.	Description of all monuments both found and set.	<input type="checkbox"/>	<input type="checkbox"/>		E
10.	18" x 24" sheet with 1/2" top, bottom and right-hand border, and 2" border on the left-hand side.	<input type="checkbox"/>	<input type="checkbox"/>		P
11.	Significant man-made and natural features such as interstate highways, lakes, drainageways, railroads, etc.	<input type="checkbox"/>	<input type="checkbox"/>		E
12..	All boundary lines shall have lengths to 100 th of a foot. Surveyor to provide error of closure check (within 1:20,000).	<input type="checkbox"/>	<input type="checkbox"/>		E
13.	All section, range, and township lines that are within annexation boundary or border the property within 100 feet.	<input type="checkbox"/>	<input type="checkbox"/>		E
14.	All curve data shown in chart form on the face of the plat. Radii, internal angles, points of curvature, and lengths of all arcs shown.	<input type="checkbox"/>	<input type="checkbox"/>		E
15.	Vicinity map on the cover sheet, scale of 1"=2000'. All roadways (by name) which are adjacent and within one mile from the peripheral boundaries of the platted land.	<input type="checkbox"/>	<input type="checkbox"/>		E
16.	Total area in square feet and acres.	<input type="checkbox"/>	<input type="checkbox"/>		E
17.	Dedication shall be worded as follows: ANNEXATION DESCRIPTION: (INSERT LEGAL DESCRIPTION) Executed this ___ day of _____, AD 20____ _____ Owner(s) Signature and Printed Name _____ Mortgagee or Lien Holder(s) Signature and Printed Name	<input type="checkbox"/>	<input type="checkbox"/>	Legal Description. When existing annexed boundary of city is reached, so state; at each subsequent call, so indicate; and when departing existing boundary of city, so state.	P E
18.	Show the outline of area to be annexed with boldest line.	<input type="checkbox"/>	<input type="checkbox"/>		E
19.	For all references show book, page, map number, etc., and place where publicly recorded for all references.	<input type="checkbox"/>	<input type="checkbox"/>		E

FTK: Annexation

CITY OF COMMERCE CITY ANNEXATION MAP CHECKLIST				
	DESCRIPTION	COMPLIES		COMMENTS
		YES	NO	
20.	Show contiguous and coincident boundary by the following symbol: //////////////	<input type="checkbox"/>	<input type="checkbox"/>	E
21.	<p>Include this statement within the Surveyor's Certification for the annexation map:</p> <p>The above described land is contiguous to the City of Commerce City and meets the requirements set forth in CRS 31-12-104-(1)(a) that one-sixth or more of the perimeter to be annexed is contiguous with the annexing municipality.</p> <p>Contiguity Statement:</p> <ul style="list-style-type: none"> Total perimeter of area considered for annexation = _____ <input type="checkbox"/> One-sixth of total perimeter of area = _____ <input type="checkbox"/> Perimeter of the area contiguous with existing city limits = _____ <p>The total contiguous perimeter is _____ %, which meets or exceeds the 1/6 area required.</p> <p>Signature and printed name _____</p> <p>PLS No. ____ (seal and date) _____</p> <p>Address _____</p>			P
22.	<p>The following certificate of City Council shall be added and worded as follows:</p> <p>CITY COUNCIL CERTIFICATE:</p> <p>Approval by City of Commerce City, City Council this __ day of __, A.D. __.</p> <p>Attest:</p> <p>_____</p> <p>City Clerk</p> <p>_____</p> <p>Mayor</p>	<input type="checkbox"/>	<input type="checkbox"/>	P

FTK: Annexation

CITY OF COMMERCE CITY ANNEXATION MAP CHECKLIST					
	DESCRIPTION	COMPLIES		COMMENTS	
		YES	NO		
23.	Certificate of the Clerk and Recorder shall be worded as follows: ADAMS COUNTY CLERK AND RECORDER'S CERTIFICATE: This map was filed for record in the office of Adams County Clerk and Recorder, in the State of Colorado, at __M. on the ___ day of _____, A.D.____. BY: _____ Deputy County Clerk and Recorder	<input type="checkbox"/>	<input type="checkbox"/>		P
24.	In the lower right-hand corner of the cover sheet the following shall appear: Reception No. _____	<input type="checkbox"/>	<input type="checkbox"/>		P
25.	Show at top of each sheet, "AN-XX-XX, ANNEXATION MAP, to the City of Commerce City, Colorado. SHEET _____ of _____" (Obtain XX-XX number from Community Development Department).	<input type="checkbox"/>	<input type="checkbox"/>		P
26.	Additional Planning Comments:				P
27.	Additional Engineering Comments Upon final approval, in addition to the Mylars, AutoCAD files must be submitted to the city.				P



ANNEXATION INFORMATION SHEET

TO BE COMPLETED BY STAFF:

Annexation Name *(if applicable)*: _____

Annexation Number: _____

- Check One: Land Owner Initiated
 Municipally Owned (CRS 31-12-106)
 Enclave (CRS 31-12-106)

TO BE COMPLETED BY APPLICANT

Date: _____

Property Owner(s) Name *(attach separate sheet if necessary)*:

1. Street or road addresses of all properties to be annexed *(attach separate sheet if necessary)*:

2. Parcel Identification Number (PIN) of all properties to be annexed *(attach separate sheet if necessary)*:

3. Person to Contact: _____
First Name *Last Name* *Daytime Telephone #*

Street Number *Street Name* *City* *State* *Zip Code*

4. Size (in acres) of property to be annexed: _____

5. Attach a list of all special districts (including school, fire protection, water and sanitation, etc.) of which the territory proposed for annexation is part.

6. Attach a list of all residents, and their addresses of the territory proposed for annexation, who are not landowners (See CRS 31-12-106 for applicability).

7. Attach a description of the intended use and development of the territory proposed for annexation. Description should be as complete as possible and include:

- The location of existing streets and utility lines.
- Existing and proposed land use patterns and existing zoning.
- Size of commercial or industrial facilities.
- Estimated number of school students generated.
- Number of dwelling units.



ANNEXATION PETITION

PETITION FOR ANNEXATION OF UNINCORPORATED TERRITORY IN THE COUNTY OF ADAMS, STATE OF COLORADO, TO THE CITY OF COMMERCE CITY, STATE OF COLORADO

ANNEXATION

TO THE MAYOR AND THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO:

The undersigned, in accordance with the Municipal Annexation Act of 1965, Chapter 31, Article 12, of the Colorado Revised Statutes, 1973, as amended, hereby petition the City Council of the City of Commerce City for annexation to the City of Commerce City of the following described unincorporated territory located in the County of Adams, State of Colorado, to wit:

LEGAL DESCRIPTION - SEE EXHIBIT A

And in support of the said Petition, your Petitioner(s) allege(s) that:

1. It is desirable and necessary that the above-described territory be annexed to the City of Commerce City.
2. Not less than one-sixth (1/6) of the perimeter of the area proposed to be annexed is contiguous with the City of Commerce City.
3. A community of interest exists between the territory proposed to be annexed and the City of Commerce City.
4. The territory to be annexed is urban or will be urbanized in the near future.
5. The territory proposed to be annexed is integrated or is capable of being integrated with the City of Commerce City.
6. No land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate - check whichever statement is applicable:
 - Is divided into separate parts or parcels without the written consent of the landowner(s) thereof, except and unless where such tracts or parcels are already separated by a dedicated street, road or other public way.
 - Comprises 20 acres or more, which together with the buildings and improvements situated thereon, has an assessed value in excess of two-hundred thousand dollars for an ad valorem tax purpose for the year preceding the annexation is included within the territory proposed to be annexed, without the written consent of the landowner or landowner thereof. (CRS 31-12-105).



-
7. No annexation proceedings have been commenced by another municipality and are currently pending for the annexation of part or all of the area proposed herein to be annexed to the City of Commerce City.
 8. The proposed annexation will not have the effect of extending a municipal boundary more than three miles in any direction from any point of the City boundary in any one year.
 9. The entire width of any street or alley to be annexed is included within the annexation.
 10. All requirements of CRS 31-12-104, as amended, and CRS 31-12-105, as amended, exist or have been met.
 11. Petitioner should insert one of the following - check whichever statement is applicable:
 - The signer(s) of the Petition comprise(s) one-hundred percent (100%) of the landowners in the area and own one-hundred percent (100%) of the territory included in the area proposed to be annexed, exclusive of streets and alleys, and of any land owned by the annexing municipality; or
 - The signers of the Petition comprise more than fifty percent (50%) of the landowners in the area to be annexed and are the landowners of more than fifty percent (50%) of the territory included in the area proposed to be annexed, excluding public streets and alleys and any land owned by the annexing municipality.
 12. The mailing address of each signer, the legal description of the land owned by each signer and the date of signing of each signature are all shown on this Petition.
 13. Attached to this Petition is the Affidavit of the Circulator of this Petition affirming that each signature hereon is the signature of the person whose name it represents.
 14. Accompanying this Petition is a minimum of four annexation maps.



Petitioner(s) hereby request(s) that the City of Commerce City approve the annexation of the area proposed to be annexed. *If any Petitioner is a legal entity (e.g., corporation, LLC, LLP, etc.), this Petition must be signed by person(s) authorized to execute this Petition on behalf of the Petitioner. Petitioner may be required to submit evidence of authority.*

Legal Owner's Printed Name: _____

Legal Owner's Signature: _____

Title (if Owner is an entity): _____

Legal Owner's Address: _____
Street Number Street Name City State Zip Code

Date Signed: _____

If necessary, attach a separate sheet that contains the names, addresses, and signatures of additional property owners.

NOTARY CERTIFICATE

STATE OF)
) ss.
COUNTY OF)

Subscribed and sworn to before me this _____ day of _____, 20____, by

(Insert Owners' Name)

Witness my hand and official seal. Notary Public: _____

Address: _____
(SEAL) Street Number Street Name City State Zip Code

My Commission Expires: _____



ANNEXATION AGREEMENT

ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT (“Agreement”) is made and entered into as of the Effective Date, as defined below, by and between _____, a _____ (“Owner”) [City Staff: Identify all owners.] and the City of Commerce City, Colorado, a municipal corporation organized and existing under and by virtue of the laws of the state of Colorado (“City”).

WITNESSETH:

WHEREAS, the Owner is the owner of the property described in Exhibit “A,” to this Agreement (“Property”), and has filed a petition to annex the Property into the City;

WHEREAS, the Owner desires, for the future development of the Property, that the City provide municipal services to the Property and that the Property be annexed to the City;

WHEREAS, the City desires that the Property be developed within the City’s boundaries and that the City provide municipal services and receive revenues from development occurring on the Property;

WHEREAS, the Owner acknowledges that the need for conveyance and dedication of public rights-of-way and other land as contemplated in this Agreement are directly related to and generated by development intended to occur within the Property and that no taking or damage to the remainder of the Property thereby will occur requiring any compensation;

WHEREAS, the Owner acknowledges that the development of the Property may require the design and construction of, or contribution to the design and construction of certain public improvements, by the Owner related both in nature and extent to the impact of the development of the Property; and

WHEREAS, the Owner and the City are entering into this Agreement in furtherance of the annexation of the Property.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. DEFINITIONS

As used in this Agreement, the following terms shall have the meanings set forth below.

“Agreement” means this Agreement.

“Effective Date” means the effective date of action by the City Council approving the ordinance annexing the Property except as expressly specified in this Agreement.

“GID” means any General Improvement District organized within the boundaries of the City.

“Property” means the real property described and depicted on Exhibit “A”.

“SACFPD” means South Adams County Fire Protection District.

“SACWSD” means South Adams County Water and Sanitation District.

ARTICLE 2. RIGHTS-OF-WAY, PUBLIC LAND CONVEYANCE AND PUBLIC IMPROVEMENTS

Conveyance of rights-of-way, easements and public land. At the request of the City, the Owner will convey from the Property at no cost to the City all rights-of-way, easements and public land reasonably required by the City, any GID, or any combination of those. All such conveyances shall be free and clear of liens and encumbrances, unless otherwise accepted by the City, and in such form as acceptable to the City. The City may require dedication of rights-of-way, easements and public land at any time construction thereof or thereon is deemed necessary in the public interest even if the Property is not being platted or developed at the time the City deems dedication of the rights-of-way, easements and/or public land is necessary.

Without limitation, the Owner specifically shall dedicate, upon request, *[City Staff: Identify all known or anticipated dedications required from this property; if none, delete this sentence, beginning with “Without limitation.”]*

Public improvements. The Owner shall be responsible for the design and construction of off-site and on-site public improvements for the development of the Property, including without limitation transportation, water, sanitary sewer, storm sewer, and drainage improvements. Additional transportation improvements, and the acquisition of real property, may be required of the Owner for the development of the Property, including without limitation, off-site transitions, turn lanes, raised landscape medians, traffic signals, pedestrian crossings and underpasses, intersection improvements, roadway connections, or any other improvements required by the City for development of the Property. If any of the improvements are constructed by the City, which improvements the Owner otherwise would have been responsible for in whole or in part, at any time including prior to the development of the Property, the Owner will reimburse the City for the actual cost of the design and construction of such improvements brought to present day value at the time of payment (using the Construction Cost Index) and never less than the actual cost of the design and construction. Such reimbursement shall be payable at the time of development of the Property, unless deferred by separate agreement, or within one (1) year of the City’s demand for payment, whichever is earlier. The cost of designing and constructing all of the aforementioned public improvements shall be borne by the Owner, and the construction thereof shall be at the sole cost, risk and expense of the Owner. All such public improvements must be built or completed in accordance with the public way permit requirements, City of Commerce City Engineering Construction Standards and Specifications and such other adopted standards, as applicable and as may be amended from time to time.

Without limitation, the Owner specifically is responsible for: *[City Staff: Identify all known or anticipated improvements, contributions to prior improvements or other work required from this property; if none, delete this sentence, beginning with “Without limitation.”]*

Maintenance of rights-of-way, easements and dedicated public land in accordance with City ordinances. For the period during which any such rights-of-way, easements and/or public land has been conveyed but has not been improved, the Owner will maintain any such unimproved rights-of-way, easements and/or public land pursuant to maintenance requirements of the City.

Reimbursement. *[City Staff: Identify all known improvements by the City or third parties, or costs of land acquisition, for which this Owner may be responsible in whole or in part. If any, reimbursement terms should be determined. Otherwise, delete this section.]*

ARTICLE 3. REIMBURSEMENT AGREEMENTS

To the extent public improvements (such as storm drainage facilities, street lighting or other public improvements) are oversized or extended onto adjacent property by the Owner for a benefit accruing to other parties, said improvements may be eligible for reimbursement. If said improvements qualify for reimbursement through the City, the Owner shall be required to enter into a Reimbursement Agreement with the City in accordance with the requirements of the City. In the case of water or sewer, eligibility for reimbursement, if any, must be coordinated and approved by SACWSD.

ARTICLE 4. PUBLIC IMPROVEMENT AGREEMENT

At the time the Property is developed, the Owner shall execute a public improvement agreement with the City Owner defining roadway construction, storm drainage facilities, landscaping requirements and any other dedicated public improvements. Those streets, storm drainage, landscaping, and other dedicated public improvements constructed by the Owner, by any district, or party under contract with the Owner, shall initially be accepted by the City upon completion of construction in accordance with City standards or other adopted standards, or after correction pursuant to those standards of any defects in said streets, storm drainage, landscaping, or other public improvements, whichever date shall last occur. The Owner shall warrant construction of said streets, storm drainage, landscaping and other public improvements for one year after initial acceptance by the City at which time the City will commence maintenance of said streets, storm drainage, and other public improvements. The Owner shall maintain all landscaping improvements.

ARTICLE 5. STATUTORY DISTRICTS

Creation of Districts. Subject to the City's rights of review and approval or denial under the laws of the State of Colorado, which approval shall not be unreasonably withheld, the City shall approve the creation of one or more districts including, but not limited to, special districts, general improvements districts and metropolitan districts, authorized pursuant to Title 31 and Title 32 of the Colorado Revised Statutes as the same may be amended from time to time ("District" or "Districts"), as requested by the Owner for 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. Such capital improvements and facilities may include all improvements permitted by said Titles 31 and 32 including, but not limited to: water and sanitary sewer lines; storm drainage and detention improvements; traffic and transportation facilities, including streets, bridges, roads, interchanges, signalization, street lights, safety protection improvements and other transportation facilities; and parks, trails and recreation facilities. Any approval of such Districts, when required by the Owner, may include the following conditions, unless waived by the City, which waiver shall not be unreasonably withheld.

No District created as a consequence of this Agreement shall levy, charge, or collect a sales or use tax.

Districts shall obtain all necessary permits and pay all prescribed fees associated with any and all improvements to be made.

All improvements constructed by any District shall be designed, constructed, and warranted in accordance with the standards and specifications of the City.

The City shall be the sole provider of municipal services to the Property, including police protection, street maintenance, zoning and code enforcement, and all other services as the City may customarily provide to the residents of the City; provided however, that the District may, at their option, provide supplemental street, median, landscape (including irrigation) and other facility maintenance services.

The City shall not incur any expense in the formation or operation of the District or in the retirement of capital obligations related thereto.

The Districts, when organized, shall not exceed the boundaries of the Property, nor have its powers altered in any way, without the prior approval of the City.

Maintenance Fee and Charges of District. Except as otherwise provided, nothing in this Agreement shall be construed to prohibit or preclude the Districts from establishing, fixing, levying, charging or collecting any rate, fee or charge, in addition to the rates, fees and charges to be collected by the City.

ARTICLE 6. IMPACT FEES AND OTHER CITY FEES

The Owner will pay City impact fees and other City fees adopted by the City and as may be amended from time to time, and uniformly charged for other property located in the general area for transportation, drainage, parks, trails and recreation facilities, water acquisition and other purposes authorized by law. All impact fees will be assessed in accordance with applicable law.

Road Impact Fee. The Owner will pay the City road impact fee in accordance with the requirements of the City, if the Property is located within the road impact fee area.

Drainage Impact Fee. The Owner will pay the City a drainage impact fee in the amount specified by City ordinance as applicable to the Property.

Parks, Trails and Recreation Facilities Impact Fee. The Owner will pay the City impact fee for parks, trails and recreation facilities or dedicate land for parks, trail, and recreation facilities in agreement with the City and in accordance with the requirements of the City.

Water Impact Fee. The Owner will pay the City impact fee for water in accordance with the requirements of the City.

School Capacity Fee. In accordance with the specifications of the School Capacity Fee, as established by School District 27J Capital Facilities Fee Foundation, the Owner will pay said fee for purposes of school capital construction. The Owner will execute a Participation Agreement providing for the payment of Capital Facility Fees. As said fees are adopted or amended by School District 27J Capital Facilities Fee Foundation or, as applicable, by the City of Commerce City, the Owner will pay the fee that is consistent with the adopted fee schedule.

Fees in Lieu of Land Dedication for Schools. In lieu of land dedication required by City ordinance for school purposes, the City may require the Owner to pay the fees in lieu of land dedication for schools according to the City's adopted schedule. As fees in lieu of land dedication for schools are adopted or amended by the City, the Owner will pay the fee that is consistent with the adopted fee schedule.

ARTICLE 7. CITY OBLIGATIONS

The City shall provide police and other municipal services to the Property to the same extent as those services are provided by the City elsewhere in the City, pursuant to the City's general and uniformly applied policies.

ARTICLE 8. WATER AND SEWER

Water and sewer services shall be provided by SACWSD and shall be agreed upon with SACWSD prior to development of the Property as a condition of development. The Owner must secure adequate water and sewer services and may be required to enter into a Water Resources Agreement with SACWSD to meet the contemplated requirements of the applicant's development prior to City approval of any development application. No development application shall receive approval from the City until such requirements have been met. Adequacy of water and sewer services shall be determined by the City and SACWSD. Future changes to the proposed development may require an amendment to the Water Resources Agreement in which event adequate water resources must be secured by the Owner prior to City approval of any permits for development.

Water and sewer services must be obtained in accordance with the rules and regulations of SACWSD as the same exist at the time application is made to SACWSD for water and sewer services.

ARTICLE 9. URBAN GROWTH BOUNDARY

By allowing annexation of the Property, the City does not guarantee that the Property is located within the Urban Growth Boundary/Area, as defined by the Denver Regional Council of Governments, or other boundaries legislatively determined.

ARTICLE 10. FIRE PROTECTION

The Owner agrees to cooperate with the City and SACFPD to incorporate the Property into the service area of the SACFPD within one hundred and eighty days (180 days) of the Effective Date. If the Property is included in another fire district (other than the Greater Brighton Fire Protection District), the Owner shall also seek exclusion from such district.

ARTICLE 11. ZONING

Zoning of the Property shall be accomplished in accordance with the City's Codes, regulations, and standards and in accordance with Colorado Revised Statutes, as may be amended from time to time. The Property shall be subject to all applicable master plans adopted by the City at the time of subdivision or any future subdivision of the Property.

ARTICLE 12. GENERAL IMPROVEMENT DISTRICT

At the time of petition for annexation of the Property, if required by the City and if the Property is located within an applicable GID service area, the Owner must join the GID and pay the joinder fees associated with joining the GID.

ARTICLE 13. CHALLENGES

If the Property's annexation or any portion thereof is challenged by a third party, all provisions of this Agreement, together with the duties and obligations of each party, shall be suspended pending the Final Outcome of the challenge except as specified herein. "Final Action" means an action from which no appeal can be made or the time to appeal has

expired. If the challenge results in the disconnection of the Property from the City, then this Agreement shall be null and void and of no further effect except as specified herein. The Owner and the City shall cooperate to cure any legal defects that resulted in any challenge, including any challenge that results in disconnection of the Property.

ARTICLE 14. MISCELLANEOUS

Recordation; Covenants; Assignment. This Agreement shall be recorded with the Clerk and Recorder of Adams County. The provisions of this Agreement shall constitute covenants and servitudes which shall touch, attach to and run with the land comprising the Property, and the burdens and benefits of this Agreement shall bind and inure to the benefit of the Property, the Owner, its heirs, successors and assigns (including subsequent owners of the Property or any portion thereof). Except as provided in this Agreement, Owner shall have the right to assign or transfer all or any portion of its interests, rights or obligations under this Agreement to third parties acquiring an interest or estate in the Property including, but not limited to, purchasers or long-term ground lessees of individual lots, parcels, or of any improvements now or hereafter located upon or within the Property. Owner

Costs. The Owner will bear all costs necessary for the annexation, zoning, inclusion in any district, and any development approval in connection with the Property, including without limitation the annexation petition, legal descriptions, maps, publication, notice, presentations, and recordation. The City shall not, in any event, be liable to the Owner for any costs associated with the annexation or the failure of the annexation. This provision shall be effective upon the execution of this Agreement, notwithstanding the Effective Date of this Agreement, the failure of or challenge to the annexation, or the disconnection of the Property from the City.

No Reliance. The Owner acknowledges that the annexation and zoning of the Property are subject to the plenary legislative discretion of the City Council of the City of Commerce City and the rights of initiative and referendum reserved to its citizens. No assurances of annexation or zoning, or any development approval, incentive, or other condition, have been made to or relied upon by the Owner. If, in the exercise of its legislative discretion, and prior to the second reading of the annexation ordinance, the City fails to approve any proposed zoning, the sole and exclusive remedy of the Owner shall be the withdrawal of the annexation petition. This provision shall be effective upon the execution of this Agreement, notwithstanding the Effective Date of this Agreement, the failure of or challenge to the annexation, or the disconnection of the Property from the City.

Police Power. The Owner acknowledges that upon annexation the Property shall be subject to the same ordinances, rules, regulations, and policies as applicable to all other property presently situated within the boundaries of the City. Nothing in this Agreement shall constitute or be interpreted as a repeal of existing codes or ordinances or as a waiver or release of the City's legislative, governmental, or police powers to promote and protect the health, safety, morals, or general welfare of the City or its residents. This Agreement shall not prohibit the enactment by the City of any fee, charter provision, ordinance, resolution, rule, or regulation which is of uniform and general application.

Incorporation. Exhibit A to this Agreement is attached and incorporated in this Agreement by reference.

Amendment of Agreement. This Agreement may be amended or terminated only by mutual consent in writing by the City and the Owner, its heirs, successors or assigns following the public notice and public hearing procedures required for the original approval and execution of this Agreement.

Remedies. In the event of a breach of default in performance of this Agreement, the parties shall have all remedies in law or in equity including specific performance. In no event shall the City be deemed to waive any rights existing or accruing to the City under the Colorado Governmental Immunity Act, nor shall the City be required to exercise its discretion to annex or zone the Property except as provided by law. In addition to any other remedies, the Owner

acknowledges that the City may withhold or revoke any permits, approvals, or certificates for the Property or any structure or improvement within the Property as provided by law or in the event of a breach of this Agreement by the Owner.

Costs & Attorney's Fees. If the Owner breaches this Agreement, the Owner shall pay the City's reasonable costs and attorneys' fees incurred in the enforcement of the terms, conditions, and obligations of this Agreement. In the event of a challenge as defined in Article 13 of this Agreement, the Owner shall pay its own and the City's reasonable costs and attorneys' fees incurred in defending the challenge.

Titles of Sections. The titles of the several articles and sections of this Agreement are inserted for convenience or reference only and shall be disregarded in construing or interpreting any of its provisions.

Waiver. The waiver of any breach of a term of this Agreement, including the failure to insist on strict compliance or to enforce any right or remedy, shall not be construed or deemed as a waiver of any subsequent breach of such term; any right to insist on strict compliance with any term; or any right to enforce any right or remedy with respect to that breach or any other prior, contemporaneous, or subsequent breach.

No Third-Party Beneficiary. No third-party beneficiary rights are created in favor of any person not party to this Agreement. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the parties hereto, their heirs, successors and assigns, including successor owners of any lot(s) or any other portion(s) of the Property, and nothing contained in this Agreement shall give rise to or allow any claim or right of action under this Agreement by any other person or party. Notwithstanding the foregoing, it is expressly understood and agreed by the parties that the right of the Owner to receive, and the obligation of the City to pay, any credits or reimbursements hereunder shall accrue exclusively to the original parties to this Agreement, and shall not be assignable without the City's express written consent, and to any statutorily empowered districts created by the Owner pursuant to this Agreement, but to no others.

Jurisdiction and Venue. Jurisdiction and venue for any action to enforce or interpret the terms of this agreement shall be in the District Court of Adams County, Colorado.

Applicable Law. The laws of the State of Colorado shall govern the interpretation and enforcement of this Agreement.

Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall, unless amended or modified by mutual consent of the parties, continue in full force and effect so long as enforcement of the remaining provisions would not be inequitable to the party against whom they are being enforced under the facts and circumstances then pertaining.

Counterparts. This Agreement may be executed in counterparts, each of which shall constitute one and the same instrument.

(Signatures contained on next page(s).)

IN WITNESS WHEREOF, the City and the Owner have caused this Agreement to be duly executed as of the day first above written.

CITY OF COMMERCE CITY, COLORADO

By: _____
Brian K. McBroom, City Manager

Date: _____

ATTEST:

Laura J. Bauer, MMC, City Clerk

Approved as to form:

City Attorney

[City Staff: Require separate signature of all owners, from persons with legal authority.]

OWNER:

Signature: _____

Printed Name: _____

Title: _____

STATE OF)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by

[Insert name of signer]

as _____
[Insert title/authority of signer and name of Owner]

Witness my hand and official seal. Notary Public: _____

Address: _____

(SEAL)

Street Number/Name City State Zip Code

My Commission Expires: _____

ANNEXATION IMPACT REPORT REQUIREMENTS

ANNEXATION IMPACT REPORT REQUIREMENTS (Required for Annexations Greater than 10 Acres in Size)

Per state statute C.R.S. 31-12-108.5, the annexation report shall include:	Provide the information noted " <u>Annexor</u> " below:
<p>(a) A map or maps of the municipality and adjacent territory to show the following information:</p> <ul style="list-style-type: none"> (i.) The present and proposed boundaries of the municipality in the vicinity of the proposed annexation; (ii.) The present streets, major trunk water mains, sewer interceptors and outfalls, other utility lines and ditches, and the proposed extension of such streets and utility lines in the vicinity of the proposed annexation; and (iii.) The existing and proposed land use pattern in the areas to be annexed; 	<p>Annexor: Provide maps as described, in a scale to fit 8-1/2" x 11" format:</p> <ul style="list-style-type: none"> (i.) Information is available from the Community Development Department (ii.) Information to be provided by Annexor
<p>(b) A copy of any draft or final pre-annexation agreement if available;</p>	<p>City will include the draft pre-annexation agreement, if available.</p>
<p>(c) A statement setting forth the plans of the municipality for extending to or otherwise providing for, within the area to be annexed, municipal services performed by or on behalf of the municipality at the time of annexation;</p>	<p><i>City will include appropriate language (e.g., "The extension and provision of municipal services to the annexed property will be accomplished in accordance with the terms found in the annexation agreement. The extension of services include: roadways and bridge crossings, water and sewer line, storm drainage construction, park and recreation services, and open space provision.")</i></p>
<p>(d) A statement setting forth the method under which the municipality plans to finance the extension of the municipal services into the area to be annexed.</p>	<p><i>City will include appropriate language (e.g., "The additional infrastructure necessary to provide municipal services within the area to be annexed will be the responsibility of the annexor in accordance with the terms found in the annexation agreement and will be accommodated through compliance with standards and payment of fees adopted by the City Council. Annexor shall pay all development fees, if applicable.</i></p>
<p>(e) A statement identifying existing districts within the area to be annexed.</p>	<p>Annexor: List all districts shown on the annual tax statement for the property.</p>
<p>(f) A statement on the effect of annexation upon local public school district systems, including the estimated number of students generated and the capital construction required to educate such students.</p>	<p>Annexor: Include a letter, from the school district, documenting:</p> <ul style="list-style-type: none"> (i.) The effect of annexation on the school district; and (ii.) Per the city's Land Development Code, any agreement with the school district for dedication of land or cash-in-lieu of land, as applicable.