

APPENDIX D

SIXTH AMENDMENT TO THE ESTABLISHING CONTRACT
FOR THE
E-470 PUBLIC HIGHWAY AUTHORITY

This SIXTH AMENDMENT TO THE ESTABLISHING CONTRACT FOR THE E-470 PUBLIC HIGHWAY AUTHORITY ("the Sixth Amendment") is made and entered into as of this 10th day of January, 1995, pursuant to Colo. Const. Art. XIV, Sec. 18(2), title 30, C.R.S., title 31, C.R.S., appropriate municipal charter provisions, and part 5 of article 4, title 43, C.R.S., by and between ADAMS COUNTY, a body politic and corporate and a political subdivision of the State of Colorado, ARAPAHOE COUNTY, a body politic and corporate and political subdivision of the State of Colorado, DOUGLAS COUNTY, a body politic and corporate and a political subdivision of the State of Colorado, the CITY OF AURORA, a municipal corporation and political subdivision of the State of Colorado, the TOWN OF PARKER, a municipal corporation and political subdivision of the State of Colorado, the CITY OF THORNTON, a municipal corporation and political subdivision of the State of Colorado, the CITY OF BRIGHTON, a municipal corporation and political subdivision of the State of Colorado, and the CITY OF COMMERCE CITY, a municipal corporation and political subdivision of the State of Colorado (singularly or collectively "the Governmental Unit(s)").

RECITALS:

WHEREAS, the large population and population growth within the Denver metropolitan region, the significant and growing demand for construction of beltways within the Denver metropolitan region to facilitate traffic movement and the inadequacy of current transportation facilities to meet that demand, the division of the Denver metropolitan region into a variety of incorporated and unincorporated areas, the need to coordinate planning and construction of beltways or other transportation improvements to serve regional needs, and the limited availability of state and federal funds for such purposes, have caused the Colorado General Assembly to enact the Public Highway Authority Law in part 5 of article 4, title 43, C.R.S. ("the Act"); and

WHEREAS, it is the stated intention of the Colorado General Assembly that public highway authorities be formed to finance, construct, operate, or maintain all or a portion of a beltway or other transportation improvements in, inter alia, the Denver metropolitan region which, because of the cost or the location thereof in the jurisdiction of more than one municipality or county, cannot feasibly be financed, constructed, operated, or maintained by a municipality or county acting alone; and

WHEREAS, it is also the intention of the Colorado General Assembly that public highway authorities not be formed to assume, directly or indirectly, the traditional role of counties or municipalities to finance, construct, operate, or maintain local arterial or collector streets; and

WHEREAS, a public highway authority denominated the "E-470 Public Highway Authority" ("the Authority") was created by contract dated as of January 13, 1988, as amended ("the Establishing Contract"), by and between Adams County, Arapahoe County and Douglas County, and, by amendments to the Establishing Contract, the City of Aurora, the Town of Parker, the City of Thornton, and the City of Brighton, to finance, construct, operate or maintain E-470; and

WHEREAS, pursuant to paragraph 13 of the Establishing Contract, the Board of Directors of the Authority may include additional parties to the Establishing Contract upon such terms and conditions as the board deems appropriate, subject to appropriate amendment of the Establishing Contract by all the Governmental Units; and

WHEREAS, the City of Commerce City has requested that it become a party to the Establishing Contract and a member of the Authority; and

WHEREAS, the Board of Directors of the Authority has approved the addition of the City of Commerce City as a party to the Establishing Contract and a member of the Authority, subject to the amendment of the Establishing Contract for the Authority permitting the addition of such member by all the current members of the Authority; and

WHEREAS, the execution of this Sixth Amendment by the Governmental Units is permitted by Colo. Const. Art. XIV, Sec. 18(2), and is essential to the continued economic growth of the Denver metropolitan region, is in the public interest, and will promote the health, safety, and welfare of the citizens of this state by securing for them more adequate transportation;

NOW, THEREFORE, in consideration of the mutual promises and benefits herein expressed, and for other good and valuable consideration, the receipt and sufficiency of which is hereby freely acknowledged, the Governmental Units hereby covenant and agree as follows:

COVENANTS AND AGREEMENTS

1. Addition of the City of Commerce City. In accordance with the provisions of paragraphs 10 and 13 thereof, the Establishing Contract is hereby amended in the following particulars: The City of Commerce City is admitted as a

Governmental Unit and Party to the Establishing Contract and the E-470 Public Highway Authority, with all the rights, privileges, and duties associated therewith, and the initial paragraph, the recitals, the body and the signature pages of the Establishing Contract shall be deemed amended to reflect this action.

2. Amendment to Dedication Requirements. Paragraph 2 of the Third Amendment to the Establishing Contract and Paragraph 2 of the Fifth Amendment to the Establishing Contract are hereby superseded and replaced as follows:

"2. Right-of-Way Dedication. By virtue of this Contract all Governmental Units agree to require right-of-way dedication for the E-470 highway. Land acquired by the Governmental Unit shall be dedicated to the Authority after the Governmental Unit is satisfied with the design, configuration, construction plans and construction timing of E-470 and the right-of-way has been acquired by the Governmental Unit. In requiring right-of-way dedication for the E-470 highway in the context of their zoning and/or land use regulations, the Governmental Units shall not be required to commit an unconstitutional taking of property without just compensation, and are not required by this Contract to compensate a property owner for E-470 right-of-way. In the context of annexations of land into their respective boundaries, the municipal Governmental Units shall require E-470 right-of-way dedication as a condition to annexation."

3. Dedication Requirements.

a. Pursuant to Paragraph 2 of the Third Amendment to the Establishing Contract, as superseded and replaced, the City of Commerce City will require the dedication of E-470 right-of-way for the 300 foot-wide mainline and right-of-way for interchanges from the following parcels, identified by owner and Adams County Tax I.D. number:

REQUIRED DEDICATION

<u>Property Owner</u>	<u>Parcel I.D. Number</u>
City and County of Denver	1723-00-0-00-258
Fulenwider/L.C., Inc., et al	1723-00-0-00-265
VanSchaack Holdings	1723-00-0-00-266
Custy, Kenneth J. & Rita R.	1723-00-0-00-246
Fulenwider/L.C. Inc., et al	1723-00-0-00-264
Fulenwider/L.C. Inc., et al	1723-00-0-00-263
Ryel, Albert L. & Stanley P.	1723-00-0-00-048

b. The right-of-way dedication requirements contained in Paragraph 2 of the Third Amendment to the Establishing Contract

as superseded and replaced, shall apply to the City of Commerce City except as follows: The City of Commerce City shall not be required to exact dedication, as a condition to annexation, approval of zoning, development or otherwise, of E-470 right-of-way in the following parcels, identified by owner and Adams County Tax I.D. number:

NO DEDICATION REQUIRED

<u>Property Owner</u>	<u>Parcel I.D. Number</u>
Public Service Co.	1723-00-0-00-60
Goalstone, Marc L. & Janet T.	1723-04-0-09-004
Ryan, Richard J. & Mary Jane	1723-00-0-09-003
Ryan, Richard J. & Mary Jane	1723-00-0-09-001
Dahlinger, James E.	1723-00-0-09-002
Farner, Joe P., Jr. & Marjorie	1569-32-0-00-011
The Wellington Reservoir Co.	1569-32-0-00-004
Beeler, Robert Y. Jr. & Amy W.	1569-32-0-00-016
Kondur, Mary Frances	1569-32-0-00-017
Kondur, Mary Frances	1569-32-0-00-018

c. The City of Commerce City shall require dedication as a condition to zoning, subdivision, development or otherwise, of E-470 right-of-way for the 300 foot-wide mainline and right-of-way for interchanges from the following parcels, identified by owner and Adams County Tax I.D. number, to the extent possible under the terms of annexation agreements which were made previous to the effective date of this agreement:

<u>Property Owner</u>	<u>Parcel I.D. Number</u>
Tower 88 Company, et al	1723-00-0-00-181
Tower 88 Company, et al	1723-00-0-00-089
Tower 88 Company, et al	1723-00-0-00-090
The 455 Company	1723-00-0-00-245
T.R. Ranch Co.	1723-00-0-00-020
Cersonsky, H. Sol, et al	1723-00-0-00-121
Cutler, Dan V.	1569-33-0-00-008
Cutler, Dan V.	1569-33-0-00-003

d. Notwithstanding the above provisions regarding right-of-way acquisition, the City of Commerce City shall obtain on behalf of the E-470 Public Highway Authority those properties required by the E-470 Public Highway Authority in accord with and subject to the provisions of the Intergovernmental Agreement to be executed dated November 19, 1992, by and between the City of Commerce City and E-470 Public Highway Authority regarding Coordination of Road Improvements and Operations ("IGA").

Notwithstanding the provisions of Paragraph 4.b. of the IGA, the City of Commerce City shall be entitled to be reimbursed only for the costs of those rights-of-way located in Segment II and identified in Paragraph 3.c. above.

4. Membership Fee. The City Commerce City shall pay the Twenty-Five Thousand Dollar (\$25,000) fee for membership in the Authority with payment due on or before the date the City of Commerce City is seated on the E-470 Board.

5. Prior Provisions Effective. Except as specifically amended hereby, all the terms and provisions of the Establishing Contract as amended shall remain in full force and effect.

6. Counterpart Execution. This Sixth Amendment may be executed in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

ADAMS COUNTY

By: *Harold E. Kite*
Title: Chairman
Board of County Commissioners

ATTEST:

By: *Vienna Thatcher*
Title: Deputy Clerk of the Board

STATE OF COLORADO)
) ss.
COUNTY OF Adams)

The foregoing instrument was acknowledged before me this 3rd
day of February, 1993 by Harold E.
Kite as Chairman
of Board of County Commissioners.

Witness my hand and official seal.

My commission expires: May 24, 1993

Sandra L. Oti
Notary Public

STATE OF COLORADO)
)
COUNTY OF _____) ss.

The foregoing instrument was acknowledged before me this ____
day of _____, 199__ by _____
as _____
of _____.

Witness my hand and official seal.

My commission expires: _____

Notary Public

ARAPAHOE COUNTY

By: Thomas R. Eggert
Title: Chairman, Board of County Commissioners

ATTEST: Donetta Davidson

By: Donetta Davidson
Title: Clerk to the Board

STATE OF COLORADO)
)
COUNTY OF ARAPAHOE) ss.

The foregoing instrument was acknowledged before me this 25th
day of April, 1995 by _____
Thomas R. Eggert as Chairman
of the Board of County Commissioners of Arapahoe County, Colorado and
Donetta Davidson as Clerk to the Board

Witness my hand and official seal.

My commission expires: April 30, 1998.

Linda D. Herrick
Notary Public

DRAFT

STATE OF COLORADO)
COUNTY OF _____) ss.

The foregoing instrument was acknowledged before me this ____ day of _____, 199__ by _____ as _____ of _____.

Witness my hand and official seal.

My commission expires: _____

Notary Public

DOUGLAS COUNTY

By: _____

Title: _____

ATTEST:

By: _____

Title: _____ Clerk and Recorder

STATE OF COLORADO)
COUNTY OF Douglas) ss.

The foregoing instrument was acknowledged before me this 12th day of January, 1993 by _____ as Chairman of The Board of County Commissioners of the County of Douglas, Colorado

Witness my hand and official seal.

My commission expires: _____
My Commission Expires 12-6-94

Notary Public

Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this 19th
day of January _____, 1993 by _____
_____ as Clerk and Recorder
of Douglas County, Colorado _____.

Witness my hand and official seal.

My commission expires: My Commission Expires
12-6-94

Carol A. Weber

Notary Public

CITY OF AURORA

By: Paul E. Tauer
Title: Mayor

ATTEST:

By: Danna L. Young
Title: City Clerk

STATE OF COLORADO)
) ss.
COUNTY OF Arapahoe)

The foregoing instrument was acknowledged before me this 9th
day of January _____, 1995 by _____
Paul E. Tauer as Mayor
of Aurora, Colorado _____.

Witness my hand and official seal.

My commission expires: June 25, 1997

Joanne M. Hakester

Notary Public

STATE OF COLORADO)
COUNTY OF DOUGLAS) ss.

The foregoing instrument was acknowledged before me this 12
day of JANUARY, 1993 by GREG LOPEZ
of TOWN OF PARKER as MAYOR.

Witness my hand and official seal.

My commission expires: 4-2-95

Kathleen Morse
Notary Public

TOWN OF PARKER

By: [Signature]
Title: MAYOR

ATTEST:

By: [Signature]
Title: TOWN CLERK

STATE OF COLORADO)
COUNTY OF DOUGLAS) ss.

The foregoing instrument was acknowledged before me this 12
day of JANUARY, 1993 by CAROL BAUMGARTNER
of TOWN OF PARKER as TOWN CLERK.

Witness my hand and official seal.

My commission expires: 4-2-95

Kathleen Morse
Notary Public

STATE OF COLORADO)
COUNTY OF _____) ss.

The foregoing instrument was acknowledged before me this ____
day of _____, 199__ by _____
of _____ as _____.

Witness my hand and official seal.

My commission expires: _____

Notary Public

CITY OF THORNTON

By: Margaret W. Carpenter
Title: Mayor

ATTEST:

By: Dorothy A. Wexcent
Title: City Clerk

STATE OF COLORADO)
COUNTY OF Adams) ss.

The foregoing instrument was acknowledged before me this 12th
day of January, 1993 by Margaret
W. Carpenter as Mayor
of City of Thornton.

Witness my hand and official seal.

My commission expires: 10/24/94

Karen Wurst
Notary Public

STATE OF COLORADO)
COUNTY OF Adams) ss.

The foregoing instrument was acknowledged before me this 2
day of February, 1993 by _____
Donald Handstra as Mayor
of City of Brighton.

Witness my hand and official seal.

My commission expires: 5/25/93

[Signature]
Notary Public

CITY OF BRIGHTON

By: [Signature]
Title: Mayor

ATTEST:

By: Marianne Thomas
Title: City Clerk

STATE OF COLORADO)
COUNTY OF Adams) ss.

The foregoing instrument was acknowledged before me this 2nd
day of February, 1993 by _____
Marianne Thomas as City Clerk
of City of Brighton.

Witness my hand and official seal.

My commission expires: 5/25/93

[Signature]
Notary Public

STATE OF COLORADO)
COUNTY OF _____) ss.

The foregoing instrument was acknowledged before me this ____ day of _____, 199__ by _____ as _____ of _____.

Witness my hand and official seal.

My commission expires: _____

Notary Public

CITY OF COMMERCE CITY

By: Nave R. Busby
Title: Mayor

ATTEST:

By: Betty J. Martin
Title: City Clerk

STATE OF COLORADO)
COUNTY OF Adams) ss.

The foregoing instrument was acknowledged before me this 13th day of August, 1993 by _____ as Mayor of City of Commerce City.

Witness my hand and official seal.

My commission expires: May 3, 1995

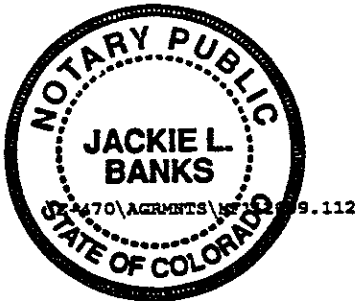
Bonnie Greene
Notary Public

STATE OF COLORADO)
COUNTY OF ADAMS) ss.

The foregoing instrument was acknowledged before me this 13th
day of January, 1993 by _____
Betty J. Martin as City Clerk
of the City of Commerce City, Colorado.

Witness my hand and official seal.

My commission expires: 3/16/94



Jackie L. Banks
Notary Public