

ADDENDUM OF ITEM 12, ADDED JULY 16, 2012**LOVELAND CITY COUNCIL MEETING****TUESDAY, JULY 17, 2012****CITY COUNCIL CHAMBERS****500 EAST THIRD STREET****LOVELAND, COLORADO**

THE CITY OF LOVELAND DOES NOT DISCRIMINATE ON THE BASIS OF DISABILITY, RACE, CREED, COLOR, SEX, SEXUAL ORIENTATION, RELIGION, AGE, NATIONAL ORIGIN, OR ANCESTRY IN THE PROVISION OF SERVICES. FOR DISABLED PERSONS NEEDING REASONABLE ACCOMMODATION TO ATTEND OR PARTICIPATE IN A CITY SERVICE OR PROGRAM, CALL 962-2343 OR TDD # 962-2620 AS FAR IN ADVANCE AS POSSIBLE.

**5:30 P.M. DINNER - City Manager's Conference Room
6:30 P.M. REGULAR MEETING - City Council Chambers**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

PROCLAMATION DECLARING AUGUST 3-7, 2012 AS "LARIMER COUNTY FAIR AND PRCA RODEO DAYS" AND JULY 28, 2012 AS "LARIMER COUNTY FAIR AND PRCA RODEO PARADE DAY"

PROCLAMATION DECLARING KENNETH WEEDIN AS AN "HONORED CITIZEN" OF THE CITY OF LOVELAND

PRESENTATION OF THE DISTINGUISHED BUDGET PRESENTATION AWARD FOR 2012 BUDGET

Anyone in the audience will be given time to speak to any item on the Consent Agenda. Please ask for that item to be removed from the Consent Agenda. Items pulled will be heard at the beginning of the Regular Agenda. You will be given an opportunity to speak to the item before the Council acts upon it.

Public hearings remaining on the Consent Agenda are considered to have been opened and closed, with the information furnished in connection with these items considered as the only evidence presented. Adoption of the items remaining on the Consent Agenda is considered as adoption of the staff recommendation for those items.

Anyone making a comment during any portion of tonight's meeting should come forward to a microphone and identify yourself before being recognized by the Mayor. Please do not interrupt other speakers. Side conversations should be moved outside the Council Chambers. Please limit your comments to no more than three minutes.

CONSENT AGENDA**1. CITY CLERK****APPROVAL OF COUNCIL MINUTES****Consideration of a motion approving Council minutes**

This is an administrative action to approve Council minutes from the following meetings: June 26, 2012 study session, June 26, 2012 special meeting and July 3, 2012 regular meeting.

2. CITY MANAGER**APPOINTMENTS TO COMMUNITY MARKETING COMMISSION****Consideration of a motion reappointing members to the Community Marketing Commission for terms effective until June 30, 2015**

This is an administrative action recommending the reappointment of Kurt Albers and Tom Dwyer to the Community Marketing Commission. Recruiting has begun for the remaining partial term vacancy.

3. WATER & POWER**MUNICIPAL CODE AMENDMENT - CHAPTER 19.04 CONCERNING WATER RIGHTS IN ACCORDANCE WITH THE 2012 RAW WATER MASTER PLAN****Consideration on second reading of an ordinance amending the Loveland Municipal Code at Chapter 19.04 concerning water rights in accordance with the 2012 Raw Water Master Plan**

This is a legislative action to adopt an ordinance amending the Loveland Municipal Code at Chapter 19.04 concerning water rights in accordance with the 2012 Raw Water Master Plan. On June 5, 2012 the Loveland City Council unanimously approved Resolution #R-46-2012 adopting the 2012 Raw Water Master Plan. In order to implement portions of the plan, the Loveland Municipal Code at Chapter 19.04 concerning water rights must be amended. City Council unanimously adopted the ordinance on first reading on July 3, 2012.

4. CITY CLERK**CHANGE TO CITY OF LOVELAND WARD BOUNDARIES**

- A) Consideration on second reading of an ordinance amending Chapter 1.24 of the Loveland Municipal Code changing the boundaries of the City's four wards
- B) Consideration of Resolution #R-50-2012 changing the boundaries of the City of Loveland's four wards and establishing the City's voter precincts

This is an administrative action regarding redistricting the ward boundaries within the City of Loveland to meet certain requirements and approving the new ward and precinct map. On July 3, 2012, City Council unanimously approved the ordinance on first reading.

5. PUBLIC WORKS**SUPPLEMENTAL APPROPRIATION – GRANT FUNDS FOR TRAFFIC SIGNAL INTERCONNECT SYSTEM**

Consideration on second reading of an ordinance enacting a supplemental budget and appropriation to the 2012 City of Loveland budget for a federal grant to design and construct a reliable traffic signal/ITS devices interconnect system expansion along regionally significant corridors in Loveland.

This is an administrative action. The ordinance appropriates federal grant funds and the City's matching funds totaling \$1,084,000 for the construction of a traffic signal interconnect system. The grant brings a significant amount of unexpected federal funding. The City General Fund has undesignated fund balance that is available to match the grant, allowing for a significant improvement in the traffic signal system. The first reading of the ordinance was approved unanimously by City Council at the July 3, 2012 meeting.

6. FINANCE

SUPPLEMENTAL APPROPRIATION – NEW PEG FEE FUND TRANSFER

Consideration on second reading of an ordinance enacting a supplemental budget and appropriation to the 2012 City of Loveland budget to transfer fund balance to the new PEG Fee Fund

This is an administrative action. The ordinance transfers fund balance of \$139,470 that has been kept in the General Fund to a new PEG Fee fund (public, educational, and governmental access) established in the 2012 budget process. The first reading of the ordinance was approved unanimously by City Council at the July 3, 2012 meeting.

7. DEVELOPMENT SERVICES

PUBLIC HEARING

DESIGNATION OF RAY HOUSE/HAUSEMAN HOUSE AS HISTORIC LANDMARK

Consideration on first reading of an ordinance designating as a historic landmark the Ray House/Hauseman House located at 524 North Harrison Avenue in Loveland, Colorado

A public hearing to consider a legislative action to adopt an ordinance on first reading designating as a Historic Landmark the "Ray House/Hauseman House" at 524 North Harrison Avenue, per Section 15.56 of the Municipal Code dealing with Historic Preservation. The application is owner-initiated and staff reviewed the benefits and obligations of historic designation with the property owner.

8. DEVELOPMENT SERVICES

PUBLIC HEARING

REZONE PROPERTY – AGILENT OPEN SPACE

Consideration on first reading of an ordinance amending Section 18.04.040 of the Loveland Municipal Code, the same relating to zoning regulations for certain property located in the amended plat of: the amended plat of CMS Addition and the Fourth South Industrial Addition, Tract 1 Fourth South Industrial Addition; the amended plat of Tracts 1 and 2 Block 1, Loveland Technological Center First Subdivision, Tract 2, Block 1; the Big Thompson Industrial Park Second Subdivision, Lot 2, Block 1; the Big Thompson Industrial Park, Tract 3 and Tract 4; the Fairgrounds First Subdivision, Outlot A; the Hewlett - Packard Roosevelt Addition, Tract A; the Hewlett-Packard Big Thompson First Subdivision, Tracts 1 and 2; the Loveland Technological Center First Subdivision, Tract 3; the Second South Industrial Addition, Tract 1; the Third South Industrial Addition, Tract 2, City of Loveland, County of Larimer, State of Colorado

This is a public hearing and consideration of a quasi-judicial action to adopt an ordinance, on first reading, to rezone the property described in said ordinance, from I-Developing Industrial District and DR- Developing Resource District to PP- Public Park District. The property is to be known as the Agilent Open Space. The applicant is the City of Loveland Parks and Recreation Department.

END OF CONSENT AGENDA

CITY CLERK READS TITLES OF ORDINANCES ON THE CONSENT AGENDA

CITY COUNCIL

- a. **Citizens' Report** *Anyone who wishes to speak to an item NOT on the Agenda may address the Council at this time.*
- b. **Business from Council** *This is an opportunity for Council Members to report on recent activities or introduce new business for discussion at this time or on a future City Council agenda.*
- c. **City Manager Report**
- d. **City Attorney Report**

PROCEDURAL INFORMATION

Anyone who wishes to address the Council on any item on this part of the agenda may do so when the Mayor calls for public comment. All public hearings are conducted in accordance with Council Policy. When Council is considering adoption of an ordinance on first reading, Loveland's Charter only requires that a majority of the Council quorum present vote in favor of the ordinance for it to be adopted on first reading. However, when an ordinance is being considered on second or final reading, at least five of the nine members of Council must vote in favor of the ordinance for it to become law.

REGULAR AGENDA

CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA

9. ECONOMIC DEVELOPMENT

SALES TAX REFUND AGREEMENT FOR COFFEE TREE LLC

Consideration of Resolution #R-51-2012 approving a sales tax refund agreement for the Coffee Tree LLC

This is an administrative action. The resolution would approve a 33 percent sales tax (one penny out of three collected) refund for the Coffee Tree LLC. The agreement is for 36 months and shall not exceed \$15,942.25. The agreement is performance based and their ability to collect the refund is based entirely on store sales. The amount is to help offset the cost of a grease interceptor and HVAC improvements to the building to facilitate a restaurant use.

10. CITY MANAGER

PUBLIC HEARING

BAN ON CERTAIN FIRES AND SALE/USE OF FIREWORKS WITHIN CITY OF LOVELAND

- A) **Consideration on the first and only reading of an emergency ordinance temporarily banning certain outdoor fires within the City of Loveland until October 1, 2012**
- B) **Consideration on the first and only reading of an emergency ordinance temporarily prohibiting the sale and use of permissible fireworks in the City of Loveland until October 1, 2012**

This is a legislative action to consider two emergency ordinances or alternatively the same two ordinances as non-emergency ordinances, with one ordinance enacting a temporary ban in the City on certain types of outdoor fires until October 1, 2012, and the

other temporarily prohibiting in the City the sale and use of permissible fireworks until October 1, 2012. This action would be similar in many respects to Larimer County's bans on "open fires" and on the sale and use of all fireworks, which were enacted by the County Commissioners by resolution on June 19, 2012.

11. CITY ATTORNEY

SPECIAL MUNICIPAL ELECTION

Consideration of Resolution #R-52-2012 calling for a special municipal election to be held on November 6, 2012, for the purpose of filling a Council vacancy in Ward 4 and to authorize the Loveland City Clerk to notify the Larimer County Clerk and recorder of the City of Loveland's intention to conduct this special election as a coordinated election with Larimer County

This is an administrative action to adopt a resolution: (1) calling for a special election to be held on November 6, 2012, as a coordinated election with Larimer County; (2) allowing this special election to be governed by the Uniform Election Code, but only to the extent necessary to conduct the election as a coordinated election with Larimer County; and (3) directing the City Clerk to notify the Larimer County Clerk and Recorder of the City's intent to conduct its special election on November 6, 2012 as a coordinated election with Larimer County.

12. CITY MANAGER

ELECTION OF MAYOR PRO-TEM

ADJOURN

**CITY COUNCIL**

Civic Center • 500 East Third Street, Suite 330 • Loveland, CO 80537
(970) 962-2303 • Fax (970) 962-2900 • TDD (970) 962-2620
www.cityofloveland.org

PROCLAMATION

WHEREAS The City of Loveland has been a major part of the Larimer County Fair and PRCA Rodeo since its inception; and

WHEREAS The Loveland community supports the Family Concept as a way of life; and

WHEREAS The City of Loveland has been an integral part of the 4-H Community and their family oriented Activities; and

WHEREAS Agriculture and Livestock are a large part of the success of the Loveland Community; and

WHEREAS The Larimer County Fair and PRCA Rodeo has provided a fun, safe, and productive environment for the City of Loveland and also the visitors of the Fair.

Now Therefore, we the City Council of Loveland, Colorado do hereby proclaim August 3-7, 2012 as:

LARIMER COUNTY FAIR AND PRCA RODEO DAYS

and July 28, 2012 as:

**LARIMER COUNTY FAIR AND PRCA RODEO PARADE DAY
“RED WHITE AND BLUE THROUGH AND THROUGH”**

In Loveland, Colorado, and in doing so encourage all citizens to attend the Larimer County Fair and PRCA Rodeo.

Signed this 17th day of July, 2012

Cecil A. Gutierrez
Mayor



CITY COUNCIL

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PROCLAMATION

NAMING KENNETH WEEDIN, "HONORED CITIZEN"

WHEREAS Kenneth Weedin moved his family to Loveland in 1956 and became a partner in the oldest insurance agency in town, Chesebro and Patterson; and

WHEREAS Kenneth Weedin and his family's business, The Weedin Insurance Agency, has been successful in Loveland for 56 years; and

WHEREAS Kenneth Weedin has dedicated his life to service in the business community having served as Chamber of Commerce President in 1966, started TEEM, The East Eisenhower Merchants, in the 1970's, served as President of the Colorado Association of Realtors in 1974, been a member of the Loveland Rotary for 50 years, chaired the U-Care Project to fund planters and trees in Downtown Loveland; and

WHEREAS Kenneth Weedin was instrumental in fundraising the money and getting the volunteer labor necessary to build the Chamber of Commerce building on West 5th Street in Downtown Loveland; and

WHEREAS Kenneth Weedin's involvement in economic development brought Alco, the first major discount store, to Loveland; and

WHEREAS Kenneth Weedin served two terms on the Loveland City Council 1961 to 1962 and served as Mayor Pro-Tem 1970 to 1971, and was in the 1 vote majority that voted to extend utilities to Highway 402 in order to ensure that Hewlett Packard would locate their first facility outside California in Loveland; and

WHEREAS Kenneth Weedin's service and commitment to the citizens of Loveland has made the City of Loveland a better community.

NOW, THEREFORE, I, Cecil A. Gutierrez, Mayor of the City of Loveland, Colorado do hereby proclaim Kenneth Weedin as an "Honored Citizen" of the City of Loveland and express the City's appreciation and gratitude for his leadership and the contributions he has made toward making Loveland the "masterpiece" of Northern Colorado.

Signed this 17th day of July, 2012

Cecil A. Gutierrez, Mayor
 City of Loveland



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City Council Study Session

June 26, 2012

Page 1 of 2

Mayor Gutierrez called the Study Session of the Loveland City Council to order at 6:30 p.m. on the above date. Councilors present: Gutierrez, Farley, Fogle, Taylor, Trenary, Klassen, McEwen and Shaffer. Councilor McKean was absent. City Manager Bill Cahill was also present.

1. Finance

2011 Comprehensive Annual Financial Report (CAFR) and Audit Report

Acting Finance Director Bonnie Steele introduced this item to Council. Cheryl Wallace of Rubin Brown LLC was also present to review the findings in the Auditor's Report to Governance for the City and Airport. The Comprehensive Annual Financial Report for the year ended December 31, 2011 received an unqualified opinion from the external auditors indicating, in all material respects, the report fairly presents the financial position of the City and is in conformity with generally accepted accounting principles. Council thanked Ms. Wallace, Ms. Steele, Mr. Cahill and the Accounting staff for the terrific work done on the reports.

2. Economic Development

Artspace Inc. Project Update

City Planner Mike Scholl introduced this item to Council. Artspace Inc. is the non-profit developer that was hired by the City of Loveland to complete an artist's based affordable housing project in Downtown Loveland. Artspace Sr. Vice President, Greg Handberg and Architect Kevin Yoshida briefed Council on progress of the project to date by reviewing the current project budget and discussing the next steps. Sources of funds to complete the Artspace project will come from a variety of public and private sources. Artspace is resubmitting the application for CHFA low income housing tax credit in July. These tax credits will be the main source of financing for the project providing \$5.3 million toward the development. Funding applications have also been submitted to the: State Historical Fund for stabilization and life safety upgrades for the Feed and Grain Building; Larimer County Enterprise Zone donation project designation; and a Department of Local Affairs Energy Impact grant. A Community Development Block Grant of \$35,000 was also approved by City Council for Artspace. In conjunction with the local philanthropic community, Artspace has developed a fundraising strategy in support of the project and has already secured some financial commitments. City staff is currently working on a formal development agreement with Artspace and hopes to move forward for Council consideration within the next three months. Council thanked the group for the presentation.

Mayor Gutierrez recessed the Study Session to call the Special Meeting to order at 8:31 p.m. The Special Meeting was adjourned at 10:05 p.m. and the Study Session was reconvened.

3. City Manager

Highway 287 Corridor Briefing

City Manager Bill Cahill introduced this item to Council. This item is for information only, concerning recent discussions of the development of a voluntary association to promote transportation-related issues for communities along the Highway 287 corridor. Public Works Director, Keith Reester also addressed Council with the need for collaboration with the other communities in order move forward and become effective in developing resources for our transportation needs. Council expressed interest and support for the effort.

The study session was adjourned at 10:59 p.m.

City Council Study Session
June 26, 2012
Page 2 of 2

Respectfully Submitted,

Jeannie M. Weaver, Deputy City Clerk

Cecil A. Gutierrez, Mayor

CALL TO ORDER

Mayor Gutierrez called the special meeting of the Loveland City Council to order on the above date at 8:31 PM.

ROLL CALL

Roll was called and the following responded: Gutierrez, McEwen, Farley, Klassen, Shaffer, Trenary, Fogle and Taylor. Councilor McKean was absent.

SPECIAL MEETING AGENDA**1. City Manager****Sale and Use of Fireworks
Ordinance #**

Legislative Action: Councilor Taylor recused himself from this item, stating a perceived conflict could arise on this matter because he is renting space to a fireworks stand on his property. City Manager Bill Cahill introduced this item to Council. City Attorney, John Duval, Fire Chief Randy Mirowski and Fire Marshal, Merlin Green were also present. This is a legislative action to consider an emergency ordinance immediately enacting a temporary prohibition of the sale and use of fireworks within the corporate limits of the City. An alternative emergency ordinance is also included for Council's benefit that only temporarily suspends the use of fireworks. There must be at least six positive Council votes to pass this Ordinance as an emergency.

The Mayor opened the public hearing at 8:52 p.m. Steve Bradley, 330 W. 42nd St. Greeley, CO spoke in opposition to the ordinance. Linda Bidlake, 4011 Burr Oak Drive spoke in support of the ordinance and requested the City provide more enforcement. Aaron Caulkins, owner of Old Glory Fireworks spoke in opposition to the ordinance. Steve Dozier, 1913 Almagorda Dr. stated the sale and use of fireworks should be tied together. The Mayor closed the public hearing at 9:18 p.m. Mayor Pro-Tem McEwen moved to consider on one reading "An Emergency Ordinance of the Council of the City of Loveland temporarily prohibiting the sale and use of permissible fireworks in the City of Loveland." The motion was seconded by Councilor Shafer, and passed with all members present voting in favor thereof.

Staff will bring an emergency ordinance to Council on July 3, 2012 addressing the use of open flames, as defined by the Governor's Executive Order D 2012-015, dated June 14, 2012.

ADJOURNMENT

Having no further business to come before Council, the June 26, 2012 Special Meeting was adjourned at 10:05 p.m.

Respectfully Submitted,

Teresa G. Andrews, City Clerk

Cecil A. Gutierrez, Mayor

CALL TO ORDER

Mayor Gutierrez called the regular meeting of the Loveland City Council to order on the above date at 6:30 PM.

PLEDGE OF ALLEGIANCE**ROLL CALL**

Roll was called and the following responded: Gutierrez, Farley, Klassen, Shaffer, Trenary, Fogle and Taylor. Councilors McKean and McEwen were absent.

PROCLAMATION

Councilor Fogle read a proclamation declaring the month of July "Loveland Loves BBQ, Bands and Brews Month" and July 14, 2012 as "Loveland Loves BBQ, Bands and Brews Day". The proclamation was received by Kristine Koschke with Engaging Loveland.

PROCLAMATION

Councilor Taylor read a proclamation endorsing "Cruz-in Loveland" every Friday night of the summer. The proclamation was received by Event Coordinator, Gene Stires.

PROCEDURAL INFORMATION

Mayor Gutierrez made the following procedural announcement: Anyone in the audience will be given time to speak to any item on the Consent Agenda. Please ask for that item to be removed from the Consent Agenda. Items pulled will be heard at the beginning of the Regular Agenda. You will be given an opportunity to speak to the item before the Council acts upon it. Public hearings remaining on the Consent Agenda are considered to have been opened and closed, with the information furnished in connection with these items considered as the only evidence presented. Adoption of the items remaining on the Consent Agenda is considered as adoption of the staff recommendation for those items. Anyone making a comment during any portion of tonight's meeting should come forward to a microphone and identify yourself before being recognized by the Mayor. Please do not interrupt other speakers. Side conversations should be moved outside the Council Chambers. Please limit your comments to no more than three minutes.

CONSENT AGENDA

Mayor Gutierrez asked if anyone in the audience, Council or staff wished to speak on any of the items or public hearings listed on the Consent Agenda. Councilor Shaffer moved to approve the Consent Agenda. The motion was seconded by Councilor Fogle and a roll call vote was taken with all councilors present voting in favor thereof.

1. CITY CLERK

Approval of Council Minutes
Motion

Administrative Action: The minutes from the May 22 and June 12, 2012 study session and the June 5, 2012 regular meeting were approved.

2. CITY MANAGER

Appointments to the Youth Advisory Commission
Motion

Administrative Action: The following appointments and reappointments to the Youth Advisory Commission were approved by City Council:

Reappointed as YAC Commissioners: Hope Skeen, Natalie Howard, Erik Trenary, Alison Geroche, Logan Peiffer, Wesley Walton, Mallory Leach, Reid Maynard

Appointed as YAC Commissioners: Dylan Crescibene, Alvin Perry, Andrew Woodward, Michal Bower

Appointed as YAC Alternates: Briana Rousey, Emilee Mendoza, Gibb Charron, Mattea Wabeke

3. CITY MANAGER

Board & Commission Appointments

Motion

Administrative Action: The following appointments and reappointments were approved by City Council:

- Affordable Housing Commission: Marcy Hoerster, Pam McCrory, and Ted Schlagenhauf were appointed for terms effective until June 30, 2015.
- Construction Advisory Board: Gregg Meisinger was reappointed to a term effective until June 30, 2015.
- Historic Preservation Commission: Stacee Kersley was appointed Trudi Manuel reappointed each for a term effective until June 30, 2015.
- Loveland Utilities Commission: Gary Hausman, Dan Herlihey, and John Matis were reappointed for terms effective until June 30, 2015.
- Transportation Advisory Board: Gary Thomas was reappointed for a term effective until June 30, 2015.

4. DEVELOPMENT SERVICES

Rezone Lakes Place 5th Subdivision

Ordinance #5688

Quasi-judicial Action: "AN ORDINANCE AMENDING SECTION 18.04.040 OF THE LOVELAND MUNICIPAL CODE, THE SAME RELATING TO ZONING REGULATIONS FOR CERTAIN PROPERTY LOCATED IN THE LAKES PLACE 5TH SUBDIVISION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO" was approved and ordered published on second reading.

5. WATER & POWER

Municipal Code Amendment – Water Booster Pumps & Systems

Ordinance #5689

Legislative Action: "AN ORDINANCE AMENDING THE LOVELAND MUNICIPAL CODE AT CHAPTER 13.04 AND CHAPTER 19.06 CONCERNING WATER BOOSTER PUMPS AND SYSTEMS" was approved and ordered published on second reading.

6. WATER & POWER

Municipal Code Amendment – Chapter 19.04 concerning water rights in accordance with the 2012 Raw Water Master Plan

1st Rdg Ord & P.H.

Legislative Action: A public hearing was conducted and "AN ORDINANCE AMENDING THE LOVELAND MUNICIPAL CODE AT CHAPTER 19.04 CONCERNING WATER RIGHTS IN ACCORDANCE WITH THE 2012 RAW WATER MASTER PLAN" was approved and ordered published on first reading.

7. PUBLIC WORKS

Supplemental Appropriation – Grant Funds for Traffic Signal Interconnect System

1st Rdg Ord & P.H.

Administrative Action: A public hearing was held and "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 CITY OF LOVELAND BUDGET FOR A FEDERAL GRANT TO DESIGN AND CONSTRUCT A RELIABLE TRAFFIC SIGNAL/ITS DEVICES INTERCONNECT SYSTEM EXPANSION ALONG REGIONALLY SIGNIFICANT CORRIDORS IN LOVELAND" was approved and ordered published on first reading.

8. PUBLIC WORKS

Amend Colorado Department of Transportation Agreement for Traffic Operations Center Upgrades

Resolution #R-47-2012

Administrative Action: Resolution #R-47-2012 approving an amendment to an Intergovernmental Agreement between the City of Loveland Colorado and the State of Colorado, for the use and benefit of the Department of Transportation, for design and construction of building upgrades to the Loveland Traffic Operations Center was approved.

RESOLUTION #R-47-2012

A RESOLUTION APPROVING AN AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND THE STATE OF COLORADO, FOR THE USE AND BENEFIT OF THE DEPARTMENT OF TRANSPORTATION, FOR DESIGN AND CONSTRUCTION OF BUILDING UPGRADES TO THE LOVELAND TRAFFIC OPERATIONS CENTER

WHEREAS, on January 3, 2008, the City of Loveland, Colorado and the State of Colorado, for the use and benefit of the Department of Transportation ("CDOT"), entered into an intergovernmental agreement for design and construction of building upgrades to the Loveland Traffic Operations Center ("Contract"); and

WHEREAS, the Contract provided federal funds in the amount of \$120,000, and required a local match in the amount of \$24,945; and

WHEREAS, the City and CDOT desire to amend the Contract to increase the total project cost by addition of a local agency overmatch in the amount of \$155,000; and

WHEREAS, as governmental entities in Colorado, the City and CDOT are authorized, pursuant to C.R.S. § 29-1-203, to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the Contract Amendment, attached hereto as Exhibit A and incorporated herein by reference, is hereby approved.

Section 2. That the City Manager is hereby authorized, following consultation with the City Attorney, to modify the Contract Amendment in form or substance as deemed necessary to effectuate the purposes of this Resolution or to protect the interests of the City.

Section 3. That the City Manager and the City Clerk are hereby authorized and directed to execute the Contract Amendment on behalf of the City.

Section 4. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 3rd day of July, 2012.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

9. FINANCE

Supplemental Appropriation – New PEG Fee fund Transfer

1st Rdg Ord & P.H.

Administrative Action: A public hearing was held and "AN ORDINANCE ON FIRST READING ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 CITY OF LOVELAND BUDGET TO TRANSFER FUND BALANCE TO THE NEW PEG FEE FUND" was approved and ordered published on first reading.

10. DEVELOPMENT SERVICES

Reallocate Unspent 2011 Community Development Block Grant Funds

Resolution #R-48-2012

Administrative Action: Resolution #R-48-2012 of the City Council of the City of Loveland, Colorado approving the grant funding recommendation of the Loveland Affordable

Housing Commission for the reallocation of certain 2011 Community Development Block Grant funds was approved.

RESOLUTION #R-48-2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO APPROVING THE GRANT FUNDING RECOMMENDATION OF THE LOVELAND AFFORDABLE HOUSING COMMISSION FOR THE REALLOCATION OF CERTAIN 2011 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

WHEREAS, the City Council of the City of Loveland recognizes the need to provide opportunities for the well-being of less fortunate citizens; and

WHEREAS, the City receives federal Community Development Block Grant ("CDBG") funds through the U.S. Department of Housing and Urban Development to assist in meeting the housing needs for Loveland citizens with low incomes; and

WHEREAS, the City Council has charged the Affordable Housing Commission with the task of reviewing all "bricks and mortar" grant applications made to the City for CDBG funds related to housing and making a recommendation to the City Council regarding such grant funds distribution; and

WHEREAS, on June 21, 2011, the City Council adopted Resolution #R-43-2011 allocating \$60,000 in CDBG funds to Alternatives to Violence ("ATV") for the domestic violence shelter program (the "Project"); and

WHEREAS, ATV was unable to complete the Project, therefore the \$54,896.67 in unspent funding was returned to the City for reallocation under the City's CDBG fund distribution process; and

WHEREAS, the \$54,896.67 was not included in the 2012 CDBG fund allocation, which was approved on June 5, 2012 by Resolution #R-45-2012; and

WHEREAS, the Affordable Housing Commission has since reviewed the grant applications made to the City for 2011 CDBG funds, and has made a recommendation to the City Council regarding reallocation of the \$54,896.67 in CDBG funds; and

WHEREAS, the City Council desires to approve the grant funding recommendation of the Affordable Housing Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the recommendation of the Affordable Housing Commission for the reallocation of the remaining \$54,896.67 in 2011 Community Development Block Grant funds is hereby approved as follows, subject to Agency or Project Owner execution of a subrecipient contract with the City of Loveland on or before September 15, 2012:

Agency or Project Owner	Total Grant Amount
Alternatives to Violence	\$3,920
Habitat for Humanity	\$13,023
Housing Authority of the City of Loveland	\$12,938.67
Interfaith Hospitality Network	\$970
Neighbor to Neighbor	\$24,045
Total Amount of CDBG funds	\$54,896.67

Section 2. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 3rd day of July, 2012.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

11. DEVELOPMENT SERVICES

Findings & Conclusions from Kum & Go Appeal

Resolution #R-49-2012

Quasi-judicial Action: Resolution #R-49-2012 adopting findings and conclusions regarding appeal of the Planning Commission's decision approving a type 3 zoning permit for Special Review #896 for Kum & Go Gas Station #995 was approved.

RESOLUTION #R-49-2012

A RESOLUTION ADOPTING FINDINGS AND CONCLUSIONS REGARDING APPEAL OF THE PLANNING COMMISSION'S DECISION APPROVING A TYPE 3 ZONING PERMIT FOR SPECIAL REVIEW #896 FOR KUM & GO GAS STATION #995

WHEREAS, Kum and Go, LC ("Applicant") filed an application for a use by special review ("Application") pertaining to redevelopment of a 1.2 acre site at the southwest corner of Eisenhower Boulevard and Boise Avenue, legally described as Lots 10 and 11, Block 1 of Brown's Corner Addition, Loveland, Colorado and known as 1600 Eisenhower Boulevard, Loveland, Colorado ("Site") as a Kum and Go gas station and convenience store ("Kum and Go Use"); and

WHEREAS, the Site is zoned B-Developing Business and, pursuant to Loveland Municipal Code ("Code") Section 18.28.020.F, a gas station within 300 feet of a residential use or zone district is allowed only through special review; and

WHEREAS, the south boundary of the Site is adjacent to property zoned R-3 Developing High-density Residential and used as a mobile home park, thereby requiring a special review for the Kum and Go Use; and

WHEREAS, the Application for the Kum and Go Use was processed in an accordance with Code Section 18.40.030 as Special Review #896, and on January 31, 2012, the Final Statement of Findings and Proposed Determination ("Manager's Final Determination") was posted, pursuant to which the Current Planning Manager indicated an intent to approve a type 2 zoning permit for the Kum and Go Use, subject to the conditions and technical corrections set forth therein; and

WHEREAS, an appeal of the Manager's Final Determination to the Planning Commission ("Commission Appeal") was timely filed by the owner of the adjacent mobile home park and party-in-interest, Mr. Kevin Borchers, ("Appellant") in accordance with the provisions of Code Section 18.40.055.A and Code Chapter 18.80; and

WHEREAS, upon filing of the Commission Appeal and in accordance with Code Section 18.40.055.A, the Application was suspended pending conclusion of the appeals process and referred to the Planning Commission for its determination whether to deny the Application for use by special review or direct the Current Planning Division to issue a type 3 zoning permit approving the Kum and Go Use by special review; and

WHEREAS, pursuant to Code Sections 18.40.055.A and Code Chapter 18.80 and after due notice had been given, the Planning Commission held a de novo public hearing on March 12, 2012, continued to March 19, 2012 (the "Commission Hearing"); and

WHEREAS, at the Commission Hearing, the recommendations of the Current Planning Division, as set forth in Planning Commission Agenda Item No. 1 dated March 12, 20012 and Planning Commission Agenda Item No. 1 dated March 19, 2012 and all attachments thereto (collectively, the "Staff Commission Report"), were received and duly considered by the Commission, as was testimony and evidence from the Appellant, the Applicant, residents of the adjacent mobile home park, and other residents; and

WHEREAS, at the conclusion of the Commission Hearing, the Commission adopted a motion directing the Current Planning Division to issue a type 3 zoning permit for Special Review #896 for the Kum and Go Use on the Site, based on the findings in Section IX and subject to the conditions set forth in Section X of the Staff Commission Report, with Condition #9 modified as set forth in Motion A of the March 19, 2012 Staff Commission Report, a copy of which is attached hereto as Exhibit A and incorporated by this reference ("Commission Condition #9"); and

WHEREAS, the Appellant filed a timely notice of appeal of the Commission's decision to the City Council ("Council Appeal") pursuant to Code Sections 18.40.055B. and 18.80.050 ; and

WHEREAS, pursuant to Code Sections 18.40.055.B and Code Chapter 18.80 and after due notice had been given, City Council held a de novo public hearing regarding the Council Appeal on June 5, 2012 ("Council Hearing") at which the recommendations of the Current Planning Division as set forth in the Staff Commission Report, the Planning Staff Report to Council dated June 5, 2012 and all attachments thereto ("Staff Council Report"), and the full record of the Commission Hearing were received and duly considered by the Council, as was testimony and evidence from the Appellant, the Applicant, residents of the adjacent mobile home park, and other residents; and

WHEREAS, City Council considered the Application, the Commission Appeal, the Staff Commission Report, the Council Appeal, the Staff Council Report, the full record of the Commission Hearing, and all testimony and evidence presented at the Council Hearing in light of the standards set forth in Code Section 18.40.030K (compliance with Code and other regulations, compatibility with character of surrounding neighborhood, and possible adverse environmental influence)

and 18.40.005 (consistency with purposes of zoning set forth in Code Section 18.04 and compatibility with surrounding uses of property); and

WHEREAS, at the conclusion of the Council Hearing, City Council determined that, based on the findings in Section IX and subject to the conditions set forth in Section X of the Staff Commission Report, a type 3 zoning permit for Special Review #896 for the Kum & Go Use on the Site should be issued subject to further modification of Commission Condition #9.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the preceding recitals contained in this Resolution, including the findings set forth Section IX of the Staff Commission Report, are hereby adopted and incorporated by reference as findings of fact of the City Council.

Section 2. That, on the basis of the findings set forth herein, the Current Planning Division is hereby directed to issue a type 3 zoning permit for Special Review #896 for the Kum & Go Use on the Site, subject to the conditions set forth in Section X of the Staff Commission Report, with Commission Condition No. 9 further modified as follows:

- The introductory sentence of Commission Condition No. 9 shall be modified to read: "The proposed Sound Wall shall be ten (10) feet high on the south boundary line extending along the first ninety (90) feet of the driveway and an eight (8) foot wall thereafter westward along the remainder of the south boundary line."
- Subparagraph d. of Commission Condition No. 9 shall be modified to provide that the Wall Extension shall extend fifty (50) feet southward along Boise Avenue.
- Subparagraph g. of Commission Condition No. 9 shall be modified to read as follows: "Construction of the Wall Extension shall be completed and approved by the City prior to issuance of the Certificate of Occupancy for the Kum and Go project unless Kum and Go deposits with the City funds or a letter of credit acceptable to the City sufficient to ensure future construction of the Wall Extension."

Section 3. That as of the date set forth below and in accordance with Code Section 18.80.050.D, this Resolution shall constitute the written findings and conclusions and final decision of the City Council with respect to the Council Appeal for purposes of any appeal of the City Council's decision to the Larimer County District Court under Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

Section 4. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 3rd day of July, 2012.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

12. PUBLIC WORKS

Appointment of Steering Committee Members to the North Front Range Transit Vision Project

Motion

Administrative Action: A motion appointing Joan Shaffer and Dan Hill as Loveland's members on the steering committee for the North Front Range Transit Vision project for the duration of the one year project was approved.

CITY CLERK READ TITLES OF ORDINANCES ON THE CONSENT AGENDA.

CITY COUNCIL

a) Citizens' Reports

None

b) Business from Council

Klassen

Councilor Klassen had positive comments on the recent Tharp Cabinets tour. He mentioned the SNAG golf course opening next week at the Loveland's golf course.

Taylor

Councilor Taylor mentioned the 25th anniversary of Loveland Habitat for Humanity is this year. Habitat is holding a Build-a-thon on September 11-15, 2012 with the goal of building four homes. Business sponsors and teams for building are needed. If you are interested in participating please contact Habitat for Humanity.

Farley	Councilor Farley mentioned attending sessions at Rocky Mountain Innosphere. One of the sessions reviewed a crowd funding technique for new start-up businesses.
Shaffer	Councilor Shaffer mentioned the Loveland Downtown Team will be meeting July 10, 2012 at 8:30 a.m. in the Council Chambers. She noted a couple of meeting she attended: 1) the Loveland Housing Authority board meeting which discussed Mirasol Phase 2 is coming along well 2) the Loveland-Berthoud realtors meeting. She thanked Public Works Director Steve Adams for taking time to reviewing various Water & Power programs and activities with her. She acknowledged Public Works Director Keith Reester for his work in the community and his presentation on Global Economics and Construction Trends at the Transportation Advisory Board meeting. Several community events were mentioned: Dorothea Lange's "Previous Lives" and "Hobos to Street People" exhibits are at the Museum through most of August; the Cherry Pie celebration will be July 21 st downtown in Peters Park; and the Farmer's Market is at the Fairgrounds Park every Sunday.
Trenary	Councilor Trenary mentioned several upcoming summer activities: The Elders will be playing July 12 th at 7:00 p.m. at the Hammond Amphitheater at North Lake Park; on July 18 th a celebration at the Visitor's Center launches a new marketing campaign; July 4 th celebration at North Lake Park including a public display of fireworks, fundraiser for families of Veterans and Troup 186 Boy Scout raising the flag at Lone Tree School.
Fogle	Councilor Fogle talked about Some of the projects undertaken by the Historic Preservation Commission, including Loveland's Historic Preservation initiative. He thanked the Fire Department for their contribution in fighting the High Park fire in Larimer County. Division Chief Merlin Green gave Council an update on the fire.
Gutierrez	Mayor Gutierrez moderated an activity at the Museum in conjunction with the "Hobos to Street People" exhibit. Also mentioned was the Wings of Freedom tour at the Fort Collins-Loveland Airport on July 6-8, 2012. The Mayor announced CDOT received a significant grant for an I-25 corridor project. He attended the annual conference of the America Public Power Association in Seattle, Washington.

c) City Manager Report

Cahill City Manager Cahill introduced the new Finance Director Brent Worthington. He also discussed the public fireworks display scheduled for July 4th.

d) City Attorney Report None

PROCEDURAL INFORMATION

Anyone who wishes to address the Council on any item on this part of the agenda may do so when the Mayor calls for public comment. All public hearings are conducted in accordance with Council Policy. When Council is considering adoption of an ordinance on first reading, Loveland's Charter only requires that a majority of the Council present vote in favor of the ordinance for it to be adopted on first reading. However, when an ordinance is being considered on second or final reading, at least five of the nine members of Council must vote in favor of the ordinance for it to become law.

REGULAR AGENDA

CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA

13. CITY CLERK

Change to City of Loveland Ward Boundaries

1st Rdg Ord & P.H.

Legislative Action: City Clerk Terry Andrews introduced this item to Council. This is an administrative action regarding redistricting the ward boundaries within the City of Loveland to meet certain requirements. The Mayor opened the public hearing at 7:43 p.m. and hearing no public comment closed the hearing at 7:43 p.m. Councilor Shaffer made a motion to approve and ordered published on first reading "AN ORDINANCE AMENDING CHAPTER 1.24 OF THE LOVELAND MUNICIPAL CODE CHANGING THE BOUNDARIES OF THE CITY'S FOUR WARDS". Councilor Farley seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

14. CITY MANAGER

Ban on certain outdoor fires within City of Loveland

Emergency Ordinance

#5690 & P.H.

Legislative Action: Fire Chief Randy Mirowski introduced this item to Council. This is a legislative action to consider an emergency ordinance to temporarily ban certain types of outdoor fires within the corporate limits of the City of Loveland. This action would be similar in many respects to the ban on "open burning" imposed by Governor Hickenlooper in his June 14, 2012, Executive Order and would be in alignment with many of the provisions that are currently in Larimer County's ban on "open fires" adopted by special resolution on June 19, 2012. The Mayor opened the public hearing at 7:54 p.m. and hearing no comments closed the public hearing at 7:54 p.m. Councilor McEwen moved to approve and ordered published on the first and only reading "AN EMERGENCY ORDINANCE TEMPORARILY BANNING CERTAIN OUTDOOR FIRES WITHIN THE CITY OF LOVELAND". Councilor Farley seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

15. FINANCE

May 2012 Financial Report

Information Only

Accounting Manager Bonnie Steele introduced this item to Council. The Snapshot Report includes the City's preliminary revenue and expenditures including detailed reports on tax revenue, health claims and cash reserves for the five months ending May 31, 2012. Councilor Fogle requested additional detail on the 143 businesses currently not reporting. The Mayor thanked Ms. Steele for her service as interim Finance Director.

16. CITY MANAGER

Investment Report for May 2012

Information Only

Executive Fiscal Advisor Alan Krcmarik introduced this item to Council. The budget estimate for investment earnings for 2012 is \$2,729,560. Through May 2012, the amount posted to the investment account is \$1,358,544 including realized gains. Actual year-to-date earnings are higher than the year-to-date projection by \$253,214. Based on the May monthly statement, the estimated annualized yield on the U.S. agencies and corporates inched up to 1.53%, still under the annual target rate of 1.7% for 2012. Reinvestment rates have trended to near record low levels and remain lower than the budget projection.

ADDITIONAL COUNCIL BUSINESS

Shaffer Councilor Shaffer welcomed Margaret Zierdt from the League of Women Voters. Councilor Shaffer is serving as vice chair on the committee searching for an executive director for the North Front Range Metropolitan Planning Organization.

Gutierrez Mayor Gutierrez is participating in the selection process for a general manager for Platte River Power Authority.

ADJOURNMENT Having no further business to come before Council, the July 3, 2012 Regular Meeting was adjourned at 8:55 p.m.

Respectfully Submitted,

Terese G. Andrews, City Clerk

Cecil A. Gutierrez, Mayor



CITY OF LOVELAND
CITY MANAGER'S OFFICE

Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2303 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM: 2
MEETING DATE: 7/17/2012
TO: City Council
FROM: City Manager's Office
PRESENTER: Bill Cahill

TITLE:
Appointments to Community Marketing Commission

RECOMMENDED CITY COUNCIL ACTION:

Motion to reappoint Kurt Albers and Tom Dwyer to the Community Marketing Commission, each for a term effective until June 30, 2015

OPTIONS:

1. Adopt the action as recommended
2. Deny the action

DESCRIPTION:

This is an administrative item recommending the reappointment of members to the Community Marketing Commission.

BUDGET IMPACT:

- Positive
- Negative
- Neutral or negligible

SUMMARY:

During the spring recruiting cycle, five applications were received for two term vacancies and one partial term vacancy on the **Community Marketing Commission** (one applicant withdrew the day of interviews.) Interviews were conducted with the remaining four applicants. The interview committee recommends the reappointment of Kurt Albers and Tom Dwyer to the Community Marketing Commission, each for a term effective until June 30, 2015. Recruiting has begun for the remaining partial term vacancy.

REVIEWED BY CITY MANAGER:

William D. Cahill

LIST OF ATTACHMENTS:

None



CITY OF LOVELAND
WATER & POWER DEPARTMENT
 200 North Wilson • Loveland, Colorado 80537
 (970) 962-3000 • FAX (970) 962-3400 • TDD (970) 962-2620

AGENDA ITEM:	3
MEETING DATE:	7/17/2012
TO:	City Council
FROM:	Steve Adams, Water & Power Department
PRESENTER:	Greg Dewey, Water & Power Department

TITLE:

An ordinance amending the Loveland Municipal Code at Chapter 19.04 concerning water rights in accordance with the 2012 Raw Water Master Plan

RECOMMENDED CITY COUNCIL ACTION:

Adopt the ordinance on second reading. The Loveland Utilities Commission (LUC) unanimously recommends adoption.

OPTIONS:

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adopt a motion continuing the item to a future Council meeting

DESCRIPTION:

This is a legislative action to adopt an ordinance amending the Loveland Municipal Code at Chapter 19.04 concerning water rights in accordance with the 2012 Raw Water Master Plan.

BUDGET IMPACT:

Positive
 Negative
 Neutral or negligible

SUMMARY:

The attached ordinance amends the Loveland Municipal Code in accordance with the 2012 Raw Water Master Plan. The City of Loveland has a long history of planning for the water supply needs of the community. In 2005, Loveland City Council adopted a Raw Water Master Plan. An element of this adopted plan called for the plan to be reviewed and updated periodically; about every 5 years or so. The 2012 Raw Water Master Plan reflects the work of that effort and recommends steps for the City to take in ensuring a reliable water supply for the future. The

LUC and CAB unanimously recommended adoption of the 2012 Raw Water Master Plan. On June 5, 2012 the Loveland City Council unanimously adopted Resolution #R46-2012, adopting the 2012 Raw Water Master Plan update.

In order to implement portions of the 2012 Raw Water Master Plan, the Loveland Municipal Code at Chapter 19.04 concerning water rights must be amended. The attached redline ordinance illustrates the proposed amendments. The City Council unanimously adopted the ordinance on first reading at its meeting on July 3, 2012.

REVIEWED BY CITY MANAGER:



LIST OF ATTACHMENTS:

Draft Ordinance (illustrating proposed amendments in redline)
Ordinance

FIRST READING

June 5, 2012

SECOND READING

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE LOVELAND MUNICIPAL CODE AT
CHAPTER 19.04 REGARDING WATER RIGHTS IN ACCORDANCE
WITH THE 2012 RAW WATER MASTER PLAN**

WHEREAS,

WHEREAS,

WHEREAS,

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

Section 1. That Section 19.04.018 of the Loveland Municipal Code is hereby amended to read as follows:

19.04.018 Value of water bank credit.

A. The value of water bank credit received in exchange for water rights transferred to the city shall be determined at the time such water bank credit is applied to satisfy the city's water rights requirements.

A. B. The current value of ditch water rights shall be as follows:

Ditch/Ditch Company	Value	
	<u>With Payment of the Native Raw Water Storage Fee</u>	<u>Without Payment of the Native Raw Water Storage Fee</u>
Barnes	<u>3.243.32</u> acre-feet of water per inch	<u>0.86</u> acre-feet of water per inch
Big Thompson Ditch & Manufacturing Company	<u>189.14186.57</u> acre-feet of water per share	<u>70.90</u> acre-feet of water per share
Buckingham Irrigation Company (George Rist Ditch)	<u>6.076.36</u> acre-feet of water per share	<u>0.38</u> acre-feet of water per share
Chubbuck Ditch	<u>2.972.94</u> acre-feet of water per inch	<u>0.41</u> acre-feet of water per inch
Louden Irrigating Canal and Reservoir Company	<u>11.0512.17</u> acre-feet of water per share	<u>2.43</u> acre-feet of water per share
South Side Ditch Company	<u>4.224.55</u> acre-feet of water	<u>1.46</u> acre-feet of water

	water per share	per share
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The values set forth in the table above represent the historical average yield of each ditch as stated in Spronk Water Engineers' Raw Water Supply Yield Analysis [Update](#) dated December 15, 2004. These values are subject to change at any time by ordinance of city council. The value of water bank credit received in exchange for transferring to the city ditch water rights not set forth in the table above shall be determined by city council by resolution on a case-by-case basis at the time such water bank credit is applied to satisfy the city's water rights requirements. [The native raw water storage fee applicable to each ditch or ditch company is set forth in Section 19.04.045.](#)

BC. The current value of Colorado-Big Thompson Project units shall be one (1) acre-foot per unit.

Section 2. That Section 19.04.040 of the Loveland Municipal Code is hereby amended to read as follows:

19.04.040 Methods of satisfying water rights requirements; restrictions.

A. ~~The~~ To satisfy the city's water rights requirements, ~~may be met by any one or combination of the following methods:~~ 1. The applicant ~~may~~ must apply water bank credit in an amount sufficient to satisfy the city's water rights requirements; ~~provided, however, that a~~ A minimum of forty-fifty percent (450%) of every transaction to satisfy such requirement must include water bank credits received in exchange for Colorado-Big Thompson Project units transferred to the city or water bank credits acquired from the City by cash purchase, ~~or by paying the cash-in-lieu price ("450% Rule")~~. If the acre-feet requirement resulting from the 450 Rule results in a fractional requirement of less than 0.50 acre-feet, it may be rounded down to the nearest acre-foot.

- ~~2. The applicant may pay the cash-in-lieu fee to satisfy the city's water rights requirements for up to a maximum of four (4) acre feet of water.~~
 - ~~a. For water rights requirements of four (4) acre feet or less, the applicant may pay the cash-in-lieu fee to satisfy all or part of the total water rights requirements. If each-in-lieu payment is made to satisfy only part of the total water rights requirements said payment may be used to satisfy all or part of the acre feet requirement resulting from the 40% rule set forth in subsection A. above.~~
 - ~~b. For water rights requirement of more than four (4) acre feet, the applicant may only pay the cash-in-lieu fee where such payment would not result in a reduction of the 40% rule set forth in subsection A. In other words, said payment may not be used to satisfy the acre feet requirement resulting from the 40% Rule set forth in subsection A. above.~~
 - ~~c. The cash-in-lieu fee shall be equal to: the market price of one (1) Colorado-Big Thompson Project unit as recognized by resolution of the Loveland utilities commission, divided by the yield (in acre feet) of one (1) Colorado-Big Thompson Unit as set forth in Section 19.04.018.B, with the resulting quotient multiplied by 1.03. Said fee shall be calculated in accordance with the resolution in effect at the time such payment is due.~~

Section 3. That Chapter 19.04 of the Loveland Municipal Code is hereby amended by addition of a new Section 19.04.041 to read as follows:

19.04.041 Cash-in-lieu price.

The cash-in-lieu price shall be equal to the market price of one (1) Colorado-Big Thompson Project unit as recognized by resolution of the Loveland utilities commission, divided by the yield (in acre-feet) of one (1) Colorado-Big Thompson Unit as set forth in Section 19.04.018.B, with the resulting quotient multiplied by 1.05. Said fee shall be calculated in accordance with the resolution in effect at the time such payment is due.

Section 4. That Section 19.04.045 of the Loveland Municipal Code is hereby amended to read as follows:

19.04.045 Native raw water storage fee.

A. When credit in the city's water bank received in exchange for the transfer of ditch water rights to the city is applied to satisfy the city's water rights requirements, it shall be subject to the native raw water storage fee unless exempted under subsection B. or C. below. Said fee shall be calculated and due at the time such water bank credit is applied to satisfy the city's water rights requirements as provided in Sections 13.04.245.C and 19.04.020. The current native raw water storage fees applicable to each ditch or ditch company shall be as follows:

Ditch / Ditch Company	Native Raw Water Storage Fee Per Acre-Foot
Barnes Ditch	\$5,750
Big Thompson Ditch & Manufacturing Company	\$3,530
Buckingham Irrigation Company (George Rist Ditch)	\$7,400
Chubbuck Ditch	\$7,400
Louden Irrigating Canal and Reservoir Company	\$6,850
South Side Ditch Company	\$6,770

The native raw water storage fees set forth in the table above are taken from the city's 2012 Raw Water Master Plan, adopted by city council by resolution on November 15, 2005June 5, 2012. These values are subject to change at any time by ordinance of city council. The native raw water storage fee applicable to water bank credit received in exchange for transferring to the city ditch water rights not set forth in the table above shall be determined by city council by resolution on a case-by-case basis at the time such water bank credit is applied to satisfy the city's water rights requirements. The native raw water storage fee shall not apply to water bank credits received in exchange for the transfer of Colorado-Big Thompson Project units to the city or water bank credits acquired from the city by cash payment or to payments of the cash-in-lieu feeprice.

B. When credit in the city's water bank received in exchange for the transfer of ditch water rights to the city on or before July 20, 1995 is applied to satisfy the city's water rights

requirements, it shall not be subject to the native raw water storage fee, notwithstanding the provisions of subsection A. above.

C. When water bank credit is applied to satisfy the city's water rights requirements, the person applying the credit may choose not to pay the native raw water storage fee set forth above, in which case the value of the credit shall be decreased in accordance with the table set forth in subsection B. of Section 19.04.018.

Section 5. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

ADOPTED this _____ day of July, 2012.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Shane L. Eltes
Assistant City Attorney

FIRST READING July 3, 2012

SECOND READING July 17, 2012

ORDINANCE #5691

**AN ORDINANCE AMENDING THE LOVELAND MUNICIPAL CODE AT
CHAPTER 19.04 CONCERNING WATER RIGHTS IN ACCORDANCE
WITH THE 2012 RAW WATER MASTER PLAN**

WHEREAS, on June 5, 2012, the City Council adopted Resolution #R-46-2012 adopting the 2012 Raw Water Master Plan of the City of Loveland; and

WHEREAS, the City Council desires to amend the Loveland Municipal Code at Chapter 19.04 in accordance with 2012 Raw Water Master Plan.

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

Section 1. That Section 19.04.018 of the Loveland Municipal Code is hereby amended to read as follows:

19.04.018 Value of water bank credit.

- A. The value of water bank credit received in exchange for water rights transferred to the city shall be determined at the time such water bank credit is applied to satisfy the city's water rights requirements.
- B. The current value of ditch water rights shall be as follows:

Ditch/Ditch Company	Value	
	With Payment of the Native Raw Water Storage Fee	Without Payment of the Native Raw Water Storage Fee
Barnes	3.32 acre-feet of water per inch	0.86 acre-feet of water per inch
Big Thompson Ditch & Manufacturing Company	186.57 acre-feet of water per share	70.90 acre-feet of water per share
Buckingham Irrigation Company (George Rist Ditch)	6.36 acre-feet of water per share	0.38 acre-feet of water per share
Chubbuck Ditch	2.94 acre-feet of water per inch	0.41 acre-feet of water per inch
Louden Irrigating Canal and Reservoir Company	12.17 acre-feet of water per share	2.43 acre-feet of water per share
South Side Ditch Company	4.55 acre-feet of water per share	1.46 acre-feet of water per share

The values set forth in the table above represent the historical average yield of each ditch as stated in Spronk Water Engineers' Raw Water Supply Yield Analysis Update dated January 2012. These values are subject to change at any time by ordinance of city council. The value of water bank credit received in exchange for transferring to the city ditch water rights not set forth in the table above shall be determined by city council by resolution on a case-by-case basis at the time such water bank credit is applied to satisfy the city's water rights requirements. The native raw water storage fee applicable to each ditch or ditch company is set forth in Section 19.04.045.

- C. The current value of Colorado-Big Thompson Project units shall be one (1) acre-foot per unit.

Section 2. That Section 19.04.040 of the Loveland Municipal Code is hereby amended to read as follows:

19.04.040 Satisfying water rights requirements.

To satisfy the city's water rights requirements, the applicant must apply water bank credit in an amount sufficient to satisfy the city's water rights requirements. A minimum of fifty percent (50%) of every transaction to satisfy such requirement must include water bank credits received in exchange for Colorado-Big Thompson Project units transferred to the city or water bank credits acquired from the City by cash purchase, or by paying the cash-in-lieu price ("50% Rule"). If the acre-feet requirement resulting from the 50% Rule results in a fractional requirement of less than 0.50 acre-feet, it may be rounded down to the nearest acre-foot.

Section 3. That Chapter 19.04 of the Loveland Municipal Code is hereby amended by addition of a new Section 19.04.041 to read as follows:

19.04.041 Cash-in-lieu price.

The cash-in-lieu price shall be equal to the market price of one (1) Colorado-Big Thompson Project unit as recognized by resolution of the Loveland utilities commission, divided by the yield (in acre-feet) of one (1) Colorado-Big Thompson Unit as set forth in Section 19.04.018.B, with the resulting quotient multiplied by 1.05. Said fee shall be calculated in accordance with the resolution in effect at the time such payment is due.

Section 4. That Section 19.04.045 of the Loveland Municipal Code is hereby amended to read as follows:

19.04.045 Native raw water storage fee.

- A. When credit in the city's water bank received in exchange for the transfer of ditch water rights to the city is applied to satisfy the city's water rights requirements, it shall be subject to the native raw water storage fee unless exempted under subsection B. or C. below. Said fee shall be calculated and due at the time such water bank credit is applied to satisfy the city's water rights requirements as provided in Sections 13.04.245.C and 19.04.020. The current native raw water storage fee applicable to each ditch or ditch company shall be as follows:

Ditch / Ditch Company	Native Raw Water Storage Fee Per Acre-Foot
Barnes Ditch	\$5,750
Big Thompson Ditch & Manufacturing Company	\$3,530
Buckingham Irrigation Company (George Rist Ditch)	\$7,400
Chubbuck Ditch	\$7,400
Louden Irrigating Canal and Reservoir Company	\$6,850
South Side Ditch Company	\$6,770

The native raw water storage fees set forth in the table above are taken from the city's 2012 Raw Water Master Plan, adopted by city council by resolution on June 5, 2012. These values are subject to change at any time by ordinance of city council. The native raw water storage fee applicable to water bank credit received in exchange for transferring to the city ditch water rights not set forth in the table above shall be determined by city council by resolution on a case-by-case basis at the time such water bank credit is applied to satisfy the city's water rights requirements. The native raw water storage fee shall not apply to water bank credits received in exchange for the transfer of Colorado-Big Thompson Project units to the city or water bank credits acquired from the city by cash payment or to payments of the cash-in-lieu price.

- B. When credit in the city's water bank received in exchange for the transfer of ditch water rights to the city on or before July 20, 1995 is applied to satisfy the city's water rights requirements, it shall not be subject to the native raw water storage fee, notwithstanding the provisions of subsection A. above.
- C. When water bank credit is applied to satisfy the city's water rights requirements, the person applying the credit may choose not to pay the native raw water storage fee set forth above, in which case the value of the credit shall be decreased in accordance with the table set forth in subsection B. of Section 19.04.018.

Section 5. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

ADOPTED this 17th day of July, 2012.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Shane L. Eltes
Assistant City Attorney



CITY OF LOVELAND

CITY CLERKS OFFICE

Civic Center • 500 East Third • Loveland, Colorado 80537

(970) 962-2322 • FAX (970) 962-2901 • TDD (970) 962-2620

AGENDA ITEM: 4
MEETING DATE: 7/17/2012
TO: City Council
FROM: Terry Andrews, City Clerk
PRESENTER: Terry Andrews

TITLE:

- a) An ordinance amending Chapter 1.24 of the Loveland Municipal Code to amend the Larimer County voter precinct designations for the City of Loveland's four wards
- b) A resolution changing the boundaries of the City of Loveland's four wards and establishing the City's voter precincts

RECOMMENDED CITY COUNCIL ACTION:

Approve the ordinance on second reading and approve the resolution

OPTIONS:

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adopt a motion continuing the item to a future Council meeting

DESCRIPTION:

This is an administrative action regarding redistricting the ward boundaries within the City of Loveland to meet certain requirements. On July 3, 2012, City Council unanimously approved the ordinance on first reading.

BUDGET IMPACT:

- Positive
- Negative
- Neutral or negligible

SUMMARY:

In January 2012, the City received redistricting information from Larimer County, including precinct boundaries and registered voter counts. In the redistricting process the County uses active and inactive voters to determine precinct boundaries. The City is required to use population counts to establish ward boundaries. The population numbers for all four wards must be within a 10% margin.

With the release of the 2010 Census data, current population numbers (Ward I: 18,229; Ward II: 14,622; Ward III: 16,817; Ward IV: 17,191) show the City to be outside that requirement, with a 21.96% margin. This requires the City to adjust ward boundaries.

Approval of the ordinance would shift Precinct# 2155135523 with a population of 1213 residents from Ward I to Ward II. This proposed change would bring the four wards within the 10% margin, and complies with all other criteria. With this recommendation the ward populations are as follows: Ward I: 17,016; Ward II: 15,835; Ward III: 16,817; Ward IV: 17,191. The ordinance further identifies all the precincts contained in each of the four wards.

Also for Council's consideration is the resolution approving the ward map. After the ordinance takes effect the resolution will be forwarded to Larimer County along with the map identifying the updated ward boundaries.

REVIEWED BY CITY MANAGER:



LIST OF ATTACHMENTS:

Ordinance
Resolution

FIRST READING: July 3, 2012

SECOND READING: July 17, 2012

ORDINANCE #5692

**AN ORDINANCE AMENDING CHAPTER 1.24 OF THE
LOVELAND MUNICIPAL CODE CHANGING THE
BOUNDARIES OF THE CITY'S FOUR WARDS**

WHEREAS, Loveland Charter Section 6-4(a) provides that the City shall be divided into four wards, the boundaries of which may be changed by resolution adopted by a majority of the entire City Council; and

WHEREAS, Loveland Charter Section 6-4(b) provides that the boundaries of the wards shall be changed as necessary to conform to constitutional apportionment requirements; and

WHEREAS, as a result of the Federal 2010 Census, it is necessary to change the boundaries of the wards to conform to the constitutional apportionment requirements; and

WHEREAS, Loveland Charter Section 6-4(b) also provides that territory added to the City shall become a part of such ward or wards as may be determined by ordinance; and

WHEREAS, on July 17, 2012, the City Council adopted Resolution No. _____ changing the boundaries of the City's four wards as provided in Loveland Charter Section 6-4(a); and

WHEREAS, as provided in Loveland Charter Section 6-4(b), it is also necessary by this Ordinance to determine within which ward new territory annexed into the City will be included; and

WHEREAS, in determining within which ward new territory annexed into the City will be included, it is necessary to consider the requirement of CRS Section 31-10-502 that each of the City's voter precincts shall not contain more than one ward; and

WHEREAS, traditionally the City's voter precincts have corresponded to the voter precincts established by Larimer County that are located in the City; and

WHEREAS, on January 10, 2012, the Board of County Commissioners of Larimer County adopted Resolution No. 01102012R010 establishing the boundaries of the new voter precincts for all of Larimer County based on Federal 2010 Census; and

WHEREAS, in Resolution No. _____ the City established the City's new voter precincts to correspond with those Larimer County voter precincts located in the City as recently established by the Board of County Commissioners of Larimer County; and

WHEREAS, this Ordinance amends Loveland Code Chapter 1.24 to establish within which ward each voter precinct will be included and thereby determines the ward within which subsequently annexed territory will be included.

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

Section 1. That Section 1.24.020 is hereby repealed in its entirety and reenacted to read as follows:

Section 1.24.020 - First Ward

The first ward shall be comprised of all the territory currently within or hereafter annexed into the City that is now or hereafter located in Larimer County's voter precinct Nos. 2154935408, 2155135501, 2155135502, 2155135507, 2155135508, 2155135509, 2155135510, 2155135511, 2155135512, 2155135513, 2155135514, 2155135520 and 2155135522 as such voter precincts were established by the Board of County Commissioners of Larimer County on January 10, 2012, by the adoption of the Board's Resolution No. 01102012R010.

Section 2. That Section 1.24.030 is hereby repealed in its entirety and reenacted to read as follows:

Section 1.24.030 - Second Ward

The second ward shall be comprised of all the territory currently within or hereafter annexed into the City that is now or hereafter located in Larimer County's voter precinct Nos. 2155135521, 2155135523, 2155135524, 2155135525, 2155135526, 2155135527, 2155135528, 2155135529, 215513536 and 2155135537, as such voter precincts were established by the Board of Commissioners of Larimer County on January 10, 2012, by the adoption of the Board's Resolution No. 01102012R010.

Section 3. That Section 1.24.040 is hereby repealed in its entirety and reenacted to read as follows:

Section 1.24.040 - Third Ward

The third ward shall be comprised of all the territory currently within or hereafter annexed into the City that is now or hereafter located in Larimer County's voter precinct Nos. 2155135532, 2155135533, 2155135534, 2155135535, 2155135539, 2155135540 and 2155135541, as such voter precincts were established by the Board of Commissioners of Larimer County on January 10, 2012, by the adoption of the Board's Resolution No. 01102012R010.

Section 4. That Section 1.24.050 is hereby repealed in its entirety and reenacted to read as follows:

Section 1.24.050 - Fourth Ward

The fourth ward shall be comprised of all the territory currently within or hereafter annexed into the City that is now or hereafter located in Larimer County's voter precinct Nos. 2155135503, 2155135504, 2155135505, 2155135506, 2155135515, 2155135516, 2155135517, 2155135518, 2155135519, 2155135530 and 2155135531, as such voter precincts were established by the Board of Commissioners of Larimer County on January 10, 2012, by the adoption of the Board's Resolution No. 01102012R010.

Section 5. That pursuant to City Charter Section 4-10(b), this Ordinance shall become effective immediately upon its adoption by the City Council.

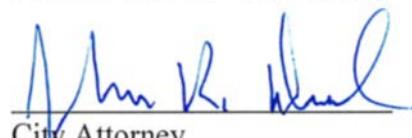
Signed this 17th day of July, 2012.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


John R. Neal
City Attorney

R E S O L U T I O N #R-50-2012

A RESOLUTION CHANGING THE BOUNDARIES OF THE CITY OF LOVELAND'S FOUR WARDS AND ESTABLISHING THE CITY'S VOTER PRECINCTS

WHEREAS, Loveland Charter Section 6-4(a) provides that the City shall be divided into four wards, the boundaries of which may be changed by resolution adopted by a vote of the majority of the entire City Council; and

WHEREAS, Loveland Charter Section 6-4(b) provides that the boundaries of the wards shall be changed as necessary to conform to constitutional apportionment requirements; and

WHEREAS, as a result of the Federal 2010 Census, it is necessary to change the boundaries of the wards to conform to the constitutional apportionment requirements; and

WHEREAS, CRS Section 31-10-502 provides that each of the City's voter precincts shall not contain more than one ward; and

WHEREAS, traditionally the City's voter precincts have corresponded to the voter precincts established by Larimer County as they are located within the City; and

WHEREAS, on January 10, 2012, the Board of County Commissioners of Larimer County adopted Resolution No. 01102012R010 establishing the boundaries of the new voter precincts for all of Larimer County based on the Federal 2010 Census; and

WHEREAS, the City of Loveland Ward and Voter Precinct Map attached hereto as **Exhibit “A”** and incorporated by reference, represents the new boundaries of the City's wards which meet constitutional and statutory requirements and that establishes the City's new voter precincts which correspond with the new voter precincts within the City established by the Board of County Commissioners of Larimer County in its Resolution No. 01102012R010 (“the Ward and Precinct Map”).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND as follows:

Section 1. That the Ward and Precinct Map is hereby approved changing and establishing the boundaries of the City's four wards as shown on the Map and establishing the City's voter precincts as shown on the Map. This Ward and Precinct Map shall supersede and replace in all respects all previous ward and precinct maps approved by the City Council including, without limitation, those maps approved in Council's Resolution No. R-41-2003 and Resolution No. R-69-2007.

Section 2. That this Resolution shall go into effect on the date that the City Council Ordinance No. _____ becomes law as provided in Loveland Charter Section 4-8(b).

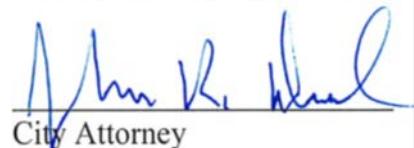
Dated this 17th day of July, 2012.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

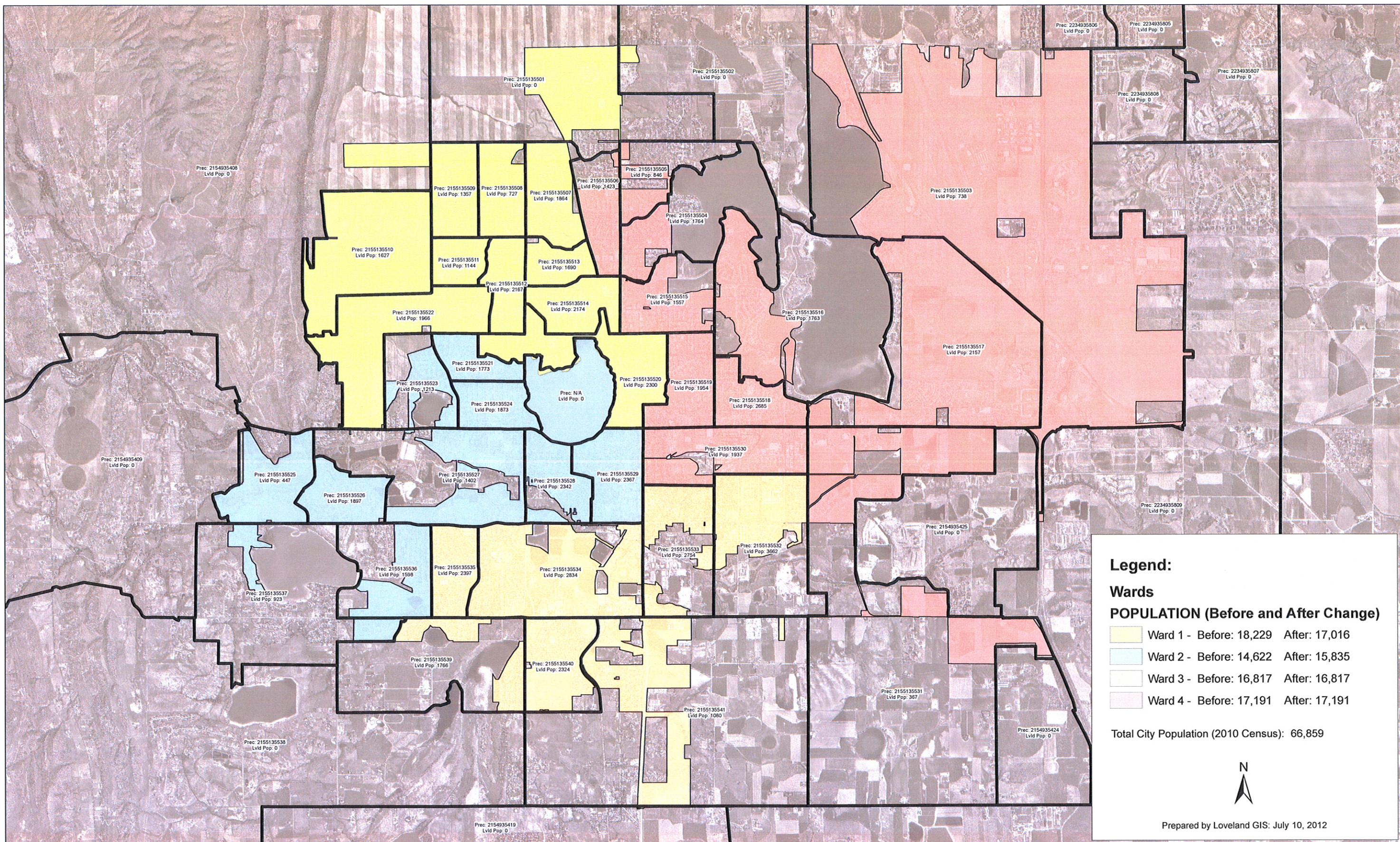
APPROVED AS TO FORM:



John R. Neal

City Attorney

2012 Ward Map Based on 2010 Census





CITY OF LOVELAND

PUBLIC WORKS DEPARTMENT

Administration Offices • 410 East Fifth Street • Loveland, Colorado 80537

(970) 962-2555 • FAX (970) 962-2908 • TDD (970) 962-2620

AGENDA ITEM:

5

MEETING DATE:

7/17/2012

TO:

City Council

FROM:

Keith Reester, Public Works Department

PRESENTER:

Dave Klockeman, PE, City Engineer

TITLE:

Consideration of an ordinance on second reading enacting a supplemental budget and appropriation to the 2012 City of Loveland budget for a federal grant to design and construct a reliable traffic signal/ITS devices interconnect system expansion along regionally significant corridors in Loveland

RECOMMENDED CITY COUNCIL ACTION:

Approve the ordinance on second reading

OPTIONS:

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adopt a motion continuing the item to a future Council meeting

DESCRIPTION:

This is an administrative action. The ordinance appropriates federal grant funds and the City's matching funds totaling \$1,084,000 for the construction of a traffic signal interconnect system. The first reading of the ordinance was approved unanimously by City Council at the July 3, 2012 meeting.

BUDGET IMPACT:

Positive
 Negative
 Neutral or negligible

The grant brings a significant amount of unexpected federal funding. The City General Fund has undesignated fund balance that is available to match the grant, allowing for a significant improvement in the traffic signal system.

SUMMARY:

This project would design and construct a reliable fiber optics traffic signal/ITS devices interconnect system expansion along regionally significant corridors in Loveland. The project would include fiber optics for portions of US 34, US 287, Colorado Highway 402, SW 14th Street (US 287 to Taft), Taft Avenue and Wilson Avenue and provide high-speed, reliable communications from field devices back to the Loveland Traffic Operations (TOC) at 105 W. 5th Street.

Over half of the City's 96 signals run on individual time base clocks that can get out of step periodically thereby hindering traffic signal progression. Reliable high speed communications from this project will almost eliminate this problem and allow communications to video cameras, weather stations, traffic count stations to the TOC for smoother flow.

Reduction in vehicle delays and air pollution will be accomplished in at least 3 ways:

1. Reliable high-speed communication for traffic signal coordination via interconnect will keep signals in coordination.
2. Signal timing plan changes can be implemented directly from the TOC for every day needs to be more responsive to changing traffic patterns.
3. Traffic accidents and other incidents including construction traffic control can be accommodated by signal timing changes from the TOC.
4. Reduction in corridor travel times should average at least 5-10% during the heavily congested times thereby reducing associated emissions.

This project is completely compatible with the City's updated signal system and signal controllers. Recently, some of these locations were updated with wireless radios as a temporary measure. These radios will be located to other locations off of the main system in order to further expand the system capabilities and expand our ability to manage the entire signal system remotely, including high traffic school flasher locations. In addition, the completed fiber network will allow opportunities for upgraded communication to the City's Fire Stations, parks, and golf courses, through the use of portions of the fiber cable bundle not being used for traffic (the fiber comes in bundles of 12).

The conceptual layout of the fiber network was determined as part of the Traffic Division's Intelligent Transportation System (ITS) 5 Year Plan, presented to City Council at the March 9, 2010 Study Session. At that meeting, City Council supported the efforts and Staff was encouraged to pursue funding opportunities within the existing Transportation Capital Improvement Program and from outside sources.

This project was submitted to the MPO for funding as part of the October 2010 Call for Projects request. The City was notified of the availability of this Federal funding in late February 2012 and that it will become available in June 2012. The Federal Highway Administration (FHWA) has requested that the additional funds be used as soon as possible. It is anticipated that a contract can be completed with CDOT by August 2012 and that the funding can be fully spent

within 12 months. (The completion of the design is minimal with the majority of the time placing conduit and pulling the actual fiber optic cable.)

Cost:	Federal:	\$ 884,000
	Local Match:	\$183,762
	Local Overmatch:	<u>\$ 16,238</u>
	Local Subtotal	\$200,000 <u>\$ 200,000</u>
	Project Total:	\$1,084,000

* Local Match Funds are defined as funding required to be provided by a local entity as part of the Federal grant process. For CMAQ Funds, a Local Agency Match is required (17.21 percent of the total of the Local Match Funds added to the Federal Funds).

** Local Overmatch Funds are defined as funding provided by a local entity above the required amount of Local Agency Match Funds in order to complete a project. FHWA requires that this amount be shown in the documents to identify all of the funding anticipated for a project, and Overmatch Funds are encouraged.

The 2012 Transportation Capital Improvement Program funding had been previously committed, creating an issue with providing the \$200,000 in necessary Local Match. This funding is required to be available prior to the completion of the contract with CDOT as a condition of that document.

REVIEWED BY CITY MANAGER:

William D. Cain

LIST OF ATTACHMENTS:

1. An ordinance enacting a supplemental budget and appropriation to the 2012 City of Loveland budget for a federal grant to design and construct a reliable traffic signal/its devices interconnect system expansion along regionally significant corridors in Loveland.

FIRST READING July 3, 2012

SECOND READING July 17, 2012

ORDINANCE #

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 CITY OF LOVELAND BUDGET FOR A FEDERAL GRANT TO DESIGN AND CONSTRUCT A RELIABLE TRAFFIC SIGNAL/ITS DEVICES INTERCONNECT SYSTEM EXPANSION ALONG REGIONALLY SIGNIFICANT CORRIDORS IN LOVELAND

WHEREAS, the City has received or has reserved funds not anticipated or appropriated at the time of the adoption of the City budget for 2012; and

WHEREAS, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2012, as authorized by Section 11-6(a) of the Loveland City Charter.

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

Section 1. That reserves in the amount of \$200,000 from Undesignated Fund Balance in the General Fund 100 and revenues from a Federal Grant in the amount of \$884,000 in the Capital Projects Fund 120 are available for appropriation. Revenues in the total amount of \$1,084,000 are hereby appropriated for the construction of a traffic signal interconnect system and transferred to the funds as hereinafter set forth. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget
General Fund 100 - Fiber Optic Project**

Revenues

Fund Balance	200,000
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Total Revenue	200,000
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Appropriations

100-91-999-0000-47120-TS1201 Transfer to Capital Projects Fund	200,000
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Total Appropriations	200,000
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Supplemental Budget
Capital Projects Fund 120 - Fiber Optic Project

Revenues

120-00-000-0000-37100-TS1201 Transfer from General Fund	200,000
120-23-232-1701-32000-TS1201 Federal Grant	884,000

Total Revenue**1,084,000****Appropriations**

120-23-232-1701-49355-TS1201 Design	16,000
120-23-232-1701-49360-TS1201 Construction	1,068,000

Total Appropriations**1,084,000**

Section 2. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

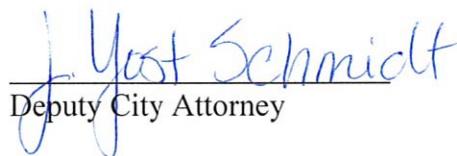
ADOPTED this 17th day of July, 2012.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


 J. Yost Schmidt
 Deputy City Attorney



CITY OF LOVELAND
FINANCE DEPARTMENT

Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2695 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM: 6
MEETING DATE: 7/17/2012
TO: City Council
FROM: Bonnie Steele, Acting Director, Finance Department
PRESENTER: Bonnie Steele

TITLE:

Consideration of an ordinance on second reading enacting a supplemental budget and appropriation to the 2012 City of Loveland budget to transfer fund balance to the new PEG Fee Fund

RECOMMENDED CITY COUNCIL ACTION:

Approve the ordinance on first reading

OPTIONS:

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adopt a motion continuing the item to a future Council meeting

DESCRIPTION:

This is an administrative action. The ordinance transfers fund balance of \$139,470 that has been kept in the General Fund to a new PEG Fee fund (public, educational, and governmental access) established in the 2012 budget process. On July 3, 2012 City Council unanimously approved the ordinance on first reading.

BUDGET IMPACT:

Positive
 Negative
 Neutral or negligible

The ordinance transfers existing fund balance between funds.

SUMMARY:

With the last Franchise Fee agreement with Comcast, a new fee was approved to provide funding for capital equipment necessary for the production and transmission of City meetings over the dedicated cable channel.

For several years this revenue and the expenses have been accounted for in the General Fund under the Library Department. To improve the transparency in the use of the funding a new fund was created to track the revenues and expenses for this specific purpose. Fund balance from the PEG fee has accumulated and is part of the 2011 General Fund ending balances. This ordinance is necessary to transfer the fund balance to the new fund in the Accounting System to meet recognized accounting methods and for audit purposes to clearly show the movement of the funds.

REVIEWED BY CITY MANAGER:



LIST OF ATTACHMENTS:

1. An ordinance enacting a supplemental budget and appropriation to the 2012 City of Loveland budget to transfer fund balance to the new PEG Fee Fund

FIRST READINGJuly 3, 2012**SECOND READING**July 17, 2012**ORDINANCE #****AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 CITY OF LOVELAND BUDGET TO TRANSFER FUND BALANCE TO THE NEW PEG FEE FUND**

WHEREAS, the City has received or has reserved funds not anticipated or appropriated at the time of the adoption of the City budget for 2012; and

WHEREAS, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2012, as authorized by Section 11-6(a) of the Loveland City Charter.

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

Section 1. That reserves in the amount of \$139,470 from fund balance on-hand in the General Fund 100 are available for appropriation. Revenues in the total amount of \$139,470 are hereby appropriated for a transfer to a new PEG (“public, educational, and governmental” access) Fee Fund 210 for fund balance accumulated for the purpose of the fund, and transferred to the funds as hereinafter set forth. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget
General Fund 100**

Revenues	
Fund Balance	139,470
Total Revenue	139,470
 Appropriations	
100-91-999-0000-47210 Transfer to PEG Fee Fund	139,470
Total Appropriations	139,470

**Supplemental Budget
PEG Fee Fund 210**

Revenues

210-00-000-0000-37100	Transfer From General Fund	139,470
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Total Revenue	139,470
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Section 2. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

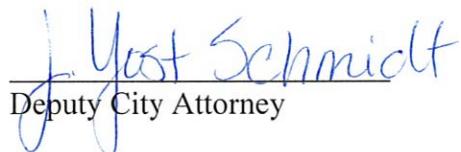
ADOPTED this 17th day of July, 2012.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


 J. Yost Schmidt
 Deputy City Attorney



CITY OF LOVELAND
DEVELOPMENT SERVICES DEPARTMENT
Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
(970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

AGENDA ITEM: 7
MEETING DATE: 7/17/2012
TO: City Council
FROM: Greg George, Development Services
PRESENTER: Greg George

TITLE:

An ordinance of the City Council designating as a Historic Landmark the Ray House/Hauseman House located at 524 North Harrison Avenue in Loveland, Colorado

RECOMMENDED CITY COUNCIL ACTION:

Conduct a public hearing and move to adopt the ordinance on first reading. The Historic Preservation Commission (HPC) recommends approval.

OPTIONS:

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adopt a motion continuing the item to a future Council meeting

DESCRIPTION:

A public hearing to consider a legislative action to adopt an ordinance on first reading designating as a Historic Landmark the “Ray House/Hauseman House” at 524 North Harrison Avenue, per Section 15.56 of the Municipal Code dealing with Historic Preservation. The application is owner-initiated and staff reviewed the benefits and obligations of historic designation with the property owner.

BUDGET IMPACT:

Positive
 Negative
 Neutral or negligible

SUMMARY:

On June 18, 2012, the Historic Preservation Commission found the Ray House/Hauseman House to be eligible for designation as detailed in the attached staff report, and is forwarding this recommendation to City Council. Draft minutes from the June 18th HPC meeting, attached, include the Commission's motion to recommend approval of the designation. It is anticipated that the minutes will be adopted at the July 16, 2012 meeting.

The Ray House/Hauseman House is architecturally significant for its English-Norman Cottage style of architecture, and for the fine craftsmanship shown in its brick masonry construction. The property is also historically significant for its association with Loveland's residential development, from the time of its construction through the mid-1950s.

To be considered eligible for designation as a historic landmark on the Loveland Historic Register, a property must be at least fifty (50) years old and must meet one (1) or more of the criteria for architectural, social/cultural, or geographic/environmental significance as identified in Loveland Municipal Code 15.56.100. The Ray House/Hauseman House meets the age requirement and additional criteria required for designation. Specific criteria for nomination are contained in the staff report.

REVIEWED BY CITY MANAGER:



LIST OF ATTACHMENTS:

- A. Ordinance
- B. Staff Report
- C. June 18, 2012 HPC draft minutes

FIRST READING: July 17, 2012

SECOND READING: _____

ORDINANCE NO. ____

**AN ORDINANCE DESIGNATING AS A HISTORIC LANDMARK THE RAY
HOUSE/HAUSEMAN HOUSE LOCATED AT 524 NORTH HARRISON AVENUE IN
LOVELAND, COLORADO**

WHEREAS, Chapter 15.56 of the Loveland Municipal Code (“Code”) provides that the City Council may designate as a historic landmark an individual structure, site, or other feature or an integrated group of structures and features on a single lot or site having a special historical or architectural value; and

WHEREAS, Code Section 15.56.100 further provides that landmarks must be at least fifty (50) years old and meet one (1) or more of the criteria for architectural, social/cultural, or geographic/environmental significance; and

WHEREAS, the owner of that real property described on **Exhibit A** attached hereto and incorporated herein by reference (“Property”), located at 524 North Harrison Avenue, Loveland, Colorado, filed an application for designation of the structures located thereon as historic landmarks under Code Chapter 15.56; and

WHEREAS, the structures to be designated hereunder include a house located on the Property and that portion of a shared garage situated on the Property, which structures are known historically, and are hereafter collectively referred to, as the “Ray House/Hauseman House”; and

WHEREAS, the remaining portion of the shared garage, which is located on adjacent property at 530 N Harrison Avenue and not on the Property, is not included in the application to designate the Ray House/Hauseman House as a historic landmark and is therefore not included in the designation under this Ordinance; and

WHEREAS, on June 18, 2012, the Historic Preservation Commission (“Commission”) held a duly noticed public hearing (“Commission Hearing”) at which it evaluated the application for designation of the Ray House/Hauseman House as a historic landmark, considered the criteria for designation required in Code Section 15.56.100, and received and duly considered any public comments and testimony; and

WHEREAS, at the conclusion of the Commission Hearing, the Commission recommended to the City Council approval of the designation of the Ray House/Hauseman House as a historic landmark; and

WHEREAS, as required by Code Section 15.56.030.D, the Commission has forwarded its written recommendation to City Council that the Ray House/Hauseman House be designated as a historic landmark; and

WHEREAS, City Council held a duly noticed public hearing on the designation application on July 3, 2012, at which it reviewed the application for conformance with the criteria for designation in and the with the purposes of Code Chapter 15.56, and considered the written view of owners of affected property, if any.

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

Section 1. That the preceding recitals contained in this Ordinance are hereby adopted and incorporated by reference as findings of fact of the City Council.

Section 2. That the City Council finds that the Ray House/Hauseman House, located at 524 North Harrison Street in Loveland, Colorado satisfies the age requirement and meets the following significant criteria for designation as a landmark to the Loveland Historic Register:

a.) Architectural

1. Exemplifies specific and significant elements of an English-Norman Cottage style of architecture significant for its association with Loveland's residential development, from the time of its construction through the mid-1950s.
2. Demonstrates superior craftsmanship in its brick masonry construction.

b.) Social/Cultural

1. Exemplifies the cultural, political, economic or social heritage of the community as it is historically significant for its association with Loveland's residential development, from the time of its construction through the mid-1950s.

c.) Geographic/Environmental

1. Enhances sense of identity of the community.

d.) Physical Integrity

1. Shows character, interest, or value as part of the development, heritage or cultural characteristics of the community, region, state or nation.
2. Retains original design features, materials, and/or character.
3. Retains its original location.

Section 3. The Ray House/Hauseman House is hereby designated as a historic landmark to the Loveland Historic Register.

Section 4. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

Section 5. That the City Clerk is hereby directed to record the Ordinance with the Larimer County Clerk and Recorder after its effective date in accordance with State Statutes.

Signed this _____ day of _____, 2012

Cecil A. Gutierrez, Mayor

Attest:

City Clerk

APPROVED AS TO FORM:

J. Yost Schmidt
Deputy City Attorney

Exhibit A

THE NORTH 50 FEET OF THE SOUTH 100 FEET OF LOT 1 AND THE NORTH 50 FEET OF THE SOUTH 100 FEET OF THE WEST 25 FEET OF LOT 2, BLOCK 3, KILBURN'S WEST SIDE ADDITION TO THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO



COMMUNITY & STRATEGIC PLANNING
Civic Center • 500 East Third Street • Loveland, Colorado 80537
(970) 962-2577 FAX (970) 962-2945 • TDD (970) 962-2620
www.cityofloveland.org

To: Loveland City Council
 From: Community and Strategic Planning
 Meeting Date: July 17, 2012
 Re: Application for Historic Landmark Property Designation, 524 N Harrison Ave.

SITE DATA

Address: 524 N Harrison Avenue
 Loveland, CO 80537

Request: Application for Historic Landmark Property Designation

Historic Name: Ray House; Hauseman House

Architectural Style: Late 19th and 20th Century Revivals / English-Norman Cottage

Current Building Sq. Ft.: 1,053 square feet

(Source: Larimer Co. Assessor Property Information)

Construction Date: 1932

Legal Description: The North 50 feet of the South 100 feet of Lot 1 and the North 50 feet of the South 100 feet of the West 25 feet of Lot 2, Block 3, Kilbrun's West Side Addition to the City of Loveland, County of Larimer, State of Colorado

Owner(s): Bruce W. and Elizabeth M. Willard

Applicant(s): Bruce W. Willard

Application Summary:

On March 14, 2012 staff received a nomination application for the landmark designation of the property at 524 N Harrison Avenue. Staff has had several discussions with the owner of this home regarding the designation process and the obligations and benefits for designating a property on the Loveland Historic Register. The owner and applicant of 524 N Harrison Avenue is also the owner of a designated Loveland Historic Landmark and is familiar with the requirements for designation and the responsibilities as a Loveland Historic Landmark.

At the April 16th Historic Preservation Commission meeting, staff presented a nomination application for this property. The Commission was favorable of making a recommendation to City Council to designate Item 7C Staff Report_524 N Harrison includes Exh A

the property as a historic landmark, but had some concerns about the shared garage and potential issues this may create in the future. The Commission directed staff to research this issue further and seek advice from the City Attorney's office.

After further discussions with the property owner, it was discovered that there is a Party Wall Agreement between the subject property and the property to the north, 530 North Harrison Avenue. The City Attorney reviewed the Party Wall Agreement and advised staff that the agreement allocates responsibility for maintenance and reconstruction in the event of damage or destruction of the shared garage. It does not put any constraints on the parties with respect to the appearance of their individual halves of the garage supported by the party wall. This essentially means that either party could make modifications that would change the appearance of their half without consent of the other party (for example, installing new garage doors). In other words, placing a historic designation on half of the garage does not put any constraints on the other half.

In terms of the potential demolition of the half of the garage that does not have Historic Landmark status; the City Attorney advised staff that the party wall agreement does have language that says the common law of party walls applies. This means that each side of the garage is entitled to support by the wall, so one side could not be torn down without providing support to the other. Neither property owner could do anything that would result in the other party's half of the garage being deprived of support. However, this support would not have to comply with any of the historic design standards.

Staff mailed a notification letter announcing the date of a second public hearing to the property owner of 524 N Harrison Avenue as required by ordinance. The Community and Strategic Planning Division also published notice of the public hearing for designation of the landmark property in the *Loveland Reporter-Herald*.

Larimer County Assessor records identify the property by the following address: 524 N Harrison Avenue, Loveland, Colorado.

History:

Source: Colorado Cultural Resource Survey Architectural Inventory Form prepared by Carl McWilliams of Cultural Resource Historians. 2008.

Built in 1932, this English-Norman Cottage style house was owned and occupied by several families through the early 1950s. William T. Ray (a meat cutter), and his wife Ida, were the home's first residents, according to Loveland city directories. The Rays, though, lived here for only a year or two, as by 1933 this was the residence of H. Dale and Willa V. Huston. Mr. Huston's occupation was listed as "clothier." The Hustons were followed as residents of this house by Clinton D. Alexander (1936), Albert M. Anderson (1938), and Phil R. and Helen Morgan (early 1940s). Phil Morgan worked as manager of the local J.C. Penney, Company store. The Morgan household also included Mrs. Effie Morgan (probably Phil Morgan's mother), who was retired. Harold C. and Beulah Ferguson, and their three daughters (Sandra Ann, Cynthia, and Beth), lived and owned here next, in the late 1940s and very early 1950s. Mr. Ferguson was employed as a teacher.

This dwelling's next residents were Reverend Francis K. Hauseman, and his wife Joyce, who lived and owned here from circa 1951 to 1963. Francis K. Hauseman was born on March 11, 1914, in Pottstown, Pennsylvania, the son of Tilghman and Fannie (Kulp) Hauseman. He successively graduated from Pottstown High School, Ursinus College in Collegeville, Pennsylvania, and from the Colgate-Rochester Divinity School, before moving to Spencerport, New York. Rev. and Mrs. Hauseman moved to Loveland in September of 1950, and moved into this house a short time later. In Loveland, Rev. Hauseman served as minister of the First Baptist Church for many years. Rev. Hauseman passed away suddenly, after suffering a heart attack, on May 15, 1978, at the age of 64. Joyce Hauseman, his widow, died in April 1999. They were survived by a son, D. Brent Hauseman, and a daughter, Barbara (Johnston).

More recent owners and residents of this house include: Horace C. Haight (mid-1960s); Jack and Sharon Wilson (late 1960s and early 1970s); and Vesta E. Dilts, a widow, who lived here during her retirement years, circa 1973-1994. Born in Shenandoah, Iowa, on December 19, 1903, Vesta was the daughter of Jasper Emery Holmes and Frances (Frances) Holmes. Vesta came west after graduating high school to teach elementary classes in a one-room schoolhouse in Wheatland, Wyoming. She taught there for a number of years, while in the summer she attended the University of Wyoming to obtain her teaching certificate. Vesta moved to Loveland in 1930 where she subsequently worked as a substitute teacher at Washington, Lincoln, Garfield, and Truscott elementary schools. In May 1933, Vesta married Guy Dilts in Fort Collins, and they subsequently reared a family of two sons - Larry Eugene and Roger Winston. At the age of 55, after her boys were raised, Vesta enrolled at the University of Northern Colorado and earned a bachelor's degree in Elementary Education. She then continued to teach until her retirement in 1970. Vesta passed away in November 1994, at the age of 90. Her husband, Guy Dilts, had passed away many years earlier, in October 1964. Residents and owners of this property in the late 1990s and early 2000s include S.L. Fisher, E.L. Oney, and Alyson Kinkade.

Architectural Description:

Source: Colorado Cultural Resource Survey Architectural Inventory Form prepared by Carl McWilliams of Cultural Resource Historians, 2008.

Built in the early 1930s, this single-story English-Norman Cottage style house measures 29' N-S (across) by 41' E-W (deep). It is supported by concrete foundation, hidden behind wire-cut red brick walls, laid in running bond, which extend to grade. Painted grey stucco, with false half-timbering, appears in the upper gable ends. The dwelling is covered by a steeply-pitched cross gable roof, covered with black asphalt shingles, and with closed eaves. The home's windows are primarily 1/1 double-hung sash, with painted white wood frames, and red brick rowlock sills. A stained natural brown 12-light glass-in-wood-frame door enters the façade (west elevation) from a 4-step concrete front porch, which is covered by the swept gable end of the house's intersecting front gable. The porch features a high brick wall and a short pillar which support the eave of the swept gable roof.

A garage, which measures 20' N-S by 20' E-W, is located northeast of the house. This garage straddles the north property line, and is shared with the house at 530 N. Harrison next door to the north. Supported by a concrete slab foundation, the garage has wire-cut red brick walls, laid in running bond, and a low-pitched front gable roof covered with asphalt composition shingles. Painted pale grey stucco appears in the upper gable ends. Two fiberglass roll-away garage doors open onto a concrete driveway on the west elevation. This driveway extends between the two houses to Harrison Avenue. A shed-roofed extension, built onto the north elevation, is accessed by a painted red wood-paneled door which enters the west elevation to the north of the garage doors.

Significance:

This house is architecturally significant for its English-Norman Cottage style of architecture, and for the fine craftsmanship shown in its brick masonry construction. The property is also historically significant for its association with Loveland's residential development, from the time of its construction through the mid-1950s. The property is considered eligible for local landmark designation by the City of Loveland.

Photographs:



Figure 1: Front (West) Elevation

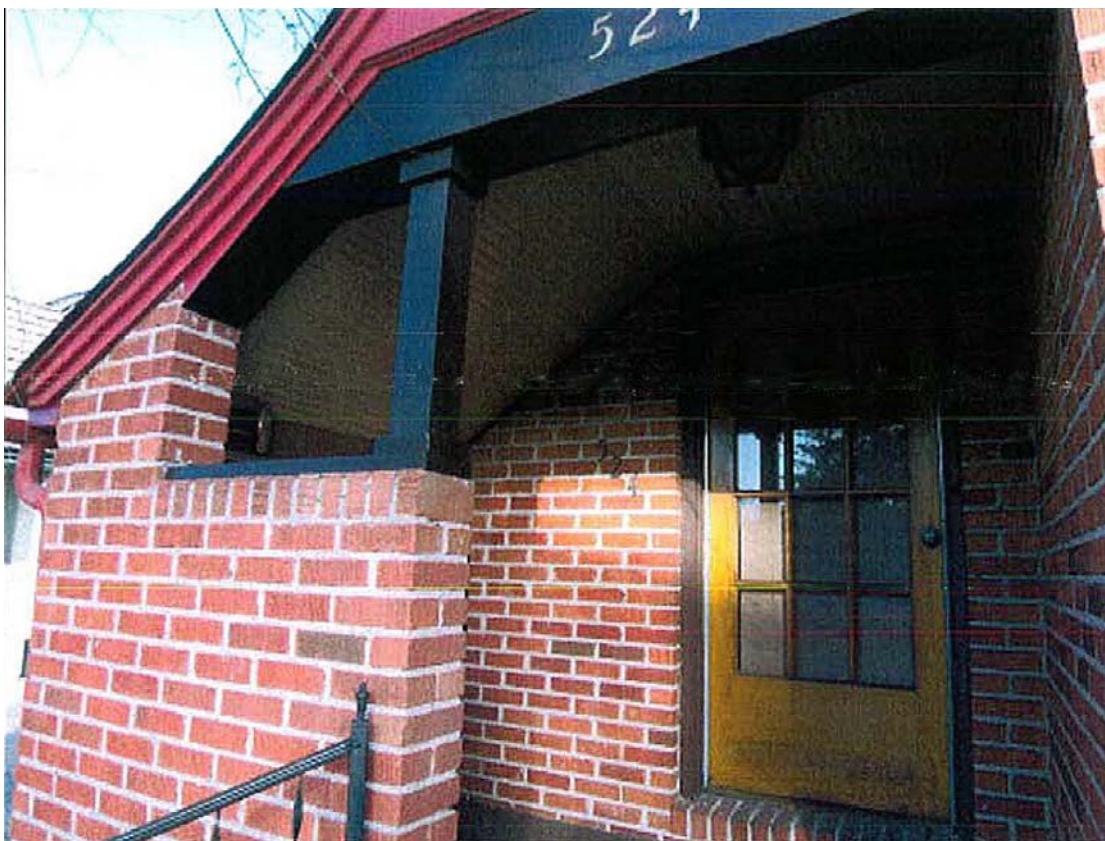


Figure 2: Front Entry Detail



Figure 3: Southwest Corner



Figure 4: Northwest Corner

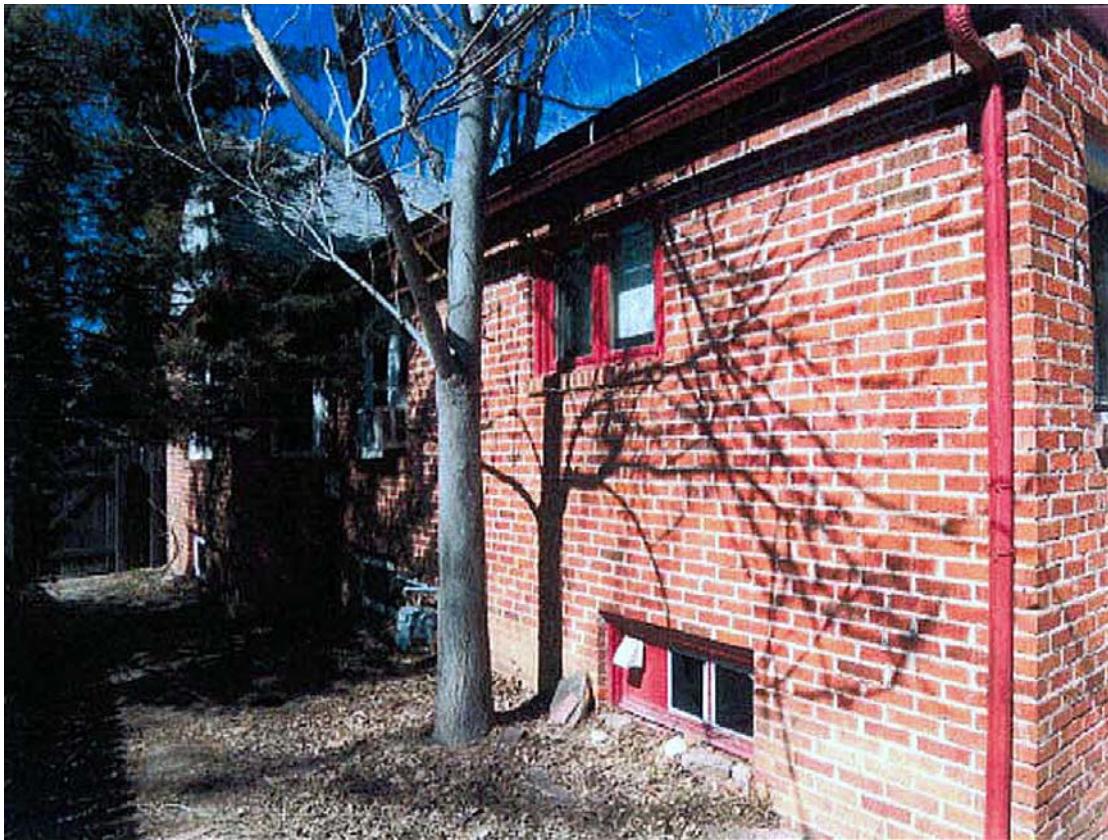


Figure 5: Southeast Corner



Figure 6: Garage

Determination of Significance and Integrity

Significance should be used as the starting point in determining eligibility for placement on a historic register. Significance has two distinct attributes – the “area of significance” which answers the question of context, or **what** is significant about a resource in terms of its association to agriculture, architecture, commerce and industry, education, politics and government, and transportation. The Ray House/Hauseman House is significant for exemplifying the English-Norman Cottage style of architecture and for demonstrating superior craftsmanship in the brick masonry. In addition, the Ray House/Hauseman House exemplifies the cultural and social heritage of Loveland as well as enhancing Loveland’s sense of identity.

The second attribute of the *significance* of a structure is its “period of significance” which places the resource on a historic timeline and answers the question of **when** a resource was significant. As noted, the Ray House/Hauseman House was built in 1932, making it greater than 50 years old.

Integrity refers to the ability of a structure to convey its original design or some later period of significance through the intactness of its historic form, original or historic use of materials, setting and site. Integrity has seven (7) particular aspects: location, setting, feeling, design, materials, workmanship, and association with some attribute of historic significance.

A historic building, for example, that retains its original or historically significant setting with little or no visible modifications that diminish the ability to relate its historic association demonstrates greater integrity than a building that has lost many of physical historical elements. A building with high physical integrity retains the following original or historically significant elements: massing; architectural detail; surface treatment; and windows and doors.

According to the Cultural Resource Survey prepared by Carl McWilliams, and which is verified by current photographs, the Ray House/Hauseman House has maintained a good amount of its integrity. There have been no additions and no notable exterior alterations to either the house or garage. The house also retains its original location and the surrounding neighborhood has maintained its historic character.

Staff Recommendation

To be considered eligible for designation as a historic landmark on the Loveland Historic Register, a property must be at least fifty (50) years old and must meet one (1) or more of the criteria for architectural, social cultural, or geographic/environmental significance as identified in Loveland Municipal Code 15.56.090. The Ray House/Hauseman House satisfies the age requirement and meets the following criteria for designation as a Loveland Historic Register landmark of property:

- a.) Architectural
 - 1. Exemplifies specific elements of an architectural style or period.
 - 2. Demonstrates superior craftsmanship or high artistic value.
- b.) Social/Cultural
 - 1. Exemplifies the cultural, political, economic or social heritage of the community.
- c.) Geographic/Environmental
 - 1. Enhances sense of identity of the community.
- d.) Physical Integrity
 - 1. Shows character, interest, or value as part of the development, heritage or cultural characteristics of the community, region, state or nation.
 - 2. Retains original design features, materials, and/or character.
 - 3. Retains its original location.

Given available information for the property at 524 N Harrison Avenue, staff has determined that the Ray House/Hauseman House exhibits both adequate *integrity* and *significance* to support its eligibility for designation as a Loveland historic landmark. This determination is based on the Colorado Historical Society's recommended framework for determining landmark eligibility. The presence of a Party Wall Agreement for the shared garage also provides sufficient protection for the garage into the future. Staff recommends the Historic Preservation Commission recommend approval of this request for designation of the Ray House/Hauseman House including the half of the garage associated with this property, located at 524 N Harrison Avenue, as a Loveland Historic Register landmark property.

Exhibits:

Exhibit A. Location Map

Exhibit B. Nomination Application submitted by applicant

W 6th St

428

553

539

540

533

445

529

431

427

411

524

343
341

502

530

536

355

W 5th St

440

432

424

439

437

435

438

350

346
352
348

340

334

N Harrison Ave

Legend

- Loveland Historic Landmarks
- Building Footprints

Location Map - 524 N Harrison Avenue

**FORM A****Application for Designation of a Historic Landmark**

Please Type or Print Legibly

*One property only per Application Form.
If more than one Applicant, please attach additional sheet.*

APPLICANT(S) INFORMATION	
Owner of Proposed Landmark Property:	Bruce W. & Elizabeth M. Willard
Applicant:	<input checked="" type="checkbox"/> Property Owner <input type="checkbox"/> City Council (attach meeting minutes initiating action) <input type="checkbox"/> Commission Designees (pursuant to 15.56.169) <input type="checkbox"/> Historic Preservation Commission (attach meeting minutes initiating action)
<i>Please check one.</i>	
Address:	4008 Cheyenne Dr., Greeley, CO 80634
Telephone:	970-353-0790

PROPOSED LANDMARK INFORMATION	
Property Name:	TBD, Hauseman House. Dilts House
Address:	524 Harrison Ave., Loveland CO 80537
Historic Use:	Single-family residence
Current and Proposed Use	Single-family residence
Legal Description	<i>Please attach copy of officially recorded document containing a legal description.</i> N50' S100' L1, N50' S100' W25' L2, B3, Kilburns W Side
Brief Description of Historical Qualities relating to Property	<i>Please attach additional sheets if necessary.</i> 1930's English-Norman Cottage in the West 5th Street Historic District; see attached



City of Loveland

Page 2- Historic Property Inventory

FORM A**Application for Designation of a Historic Landmark**

DETAILED PROPERTY INFORMATION	
See attached Inventory Form	
Historic Property Name:	
Current Property Name:	
Address:	524 Harrison Ave , Loveland CO 80537
Legal Description	<i>Please attach copy of officially recorded document containing a legal description.</i> See attached
Owner Name & Address:	Bruce W & Elizabeth M Willard
Style:	1930's English-Norman
Building Materials:	Brick on frame
Additions to main structure(s), and year(s) built.	None
Is the structure(s) on its original site?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If No, Date Moved _____
What is the historic use of the property?	Single-family residence
What is the present use of the property?	Single-family residence
What is the date of construction?	Estimated: 1932 Actual: _____ Original: _____ Source: Assessor



City of Loveland
FORM A
Application for Designation of a Historic Landmark

Page 3- Historic Property Inventory

DETAILED PROPERTY INFORMATION continued	
Describe the condition of the property.	See attached Average
Who was the original architect?	See attached Source:
Who was the original Builder/Contractor?	See attached Source:
Who was the original Owner(s)?	See attached Source:
Are there structures associated with the subject property not under the ownership of this applicant? Please describe.	No
Detailed description of the architectural characteristics of the property.	<i>Please attach additional sheets if necessary.</i> See attached



City of Loveland

Page 4 – Historical Significance

FORM A**Application for Designation of a Historic Landmark**

The Historic Preservation Commission and City Council will consider the following criteria when reviewing nominations of properties for designation.

Landmarks must be at least fifty (50) years old and meet one (1) or more of the following criteria for architectural, social/cultural, or geographic/environmental significance. A landmark may be less than fifty (50) years old if it is found to be exceptionally important in other criteria.

Age of Site is: 1883

1. Proposed Historic Landmarks. Please check all that apply:

For prehistoric or historic archaeological sites, please go to Form A Section 2, pg. 5.

A) Architectural:

- 1) Exemplifies specific elements of an architectural style or period.
- 2) Is an example of the work of an architect or builder who is recognized for expertise nationally, state-wide, or locally.
- 3) Demonstrates superior craftsmanship, or high artistic value.
- 4) Represents innovation in construction, materials, or design.
- 5) Represents a built environment of a group of people in an era of
- 6) Exhibits a pattern or grouping of elements representing at least one of the above
- 7) Is a significant historic remodel.

B) Social/Cultural

- 1) Is a site of an historic event that had an effect upon society.
- 2) Exemplifies the cultural, political, economic, or social heritage of the community.
- 3) Is associated with a notable person(s) or the work of notable person(s).

C) Geographical/Environmental

- 1) Enhances sense of identity of the community.
- 2) Is an established and familiar natural setting or visual feature of the community.

**FORM A****Application for Designation of a Historic Landmark**

2. Prehistoric and historic archaeological sites shall meet one (1) or more of the following. Please check all that apply.

***Complete this section only if the subject property is a prehistoric or historic archaeological site.*

A) Architectural

- 1) Exhibits distinctive characteristics of a type, period, or manner of construction.
- 2) Is a unique example of a structure.

B) Social/Cultural

- 1) Has the potential to make an important contribution to the knowledge of the area's history or
- 2) Is associated with an important event in the area's development.
- 3) Is associated with a notable person(s) or the work of notable person(s).
- 4) Is a typical example/association with a particular ethnic or other community group.
- 5) Is a unique example of an event in local history.

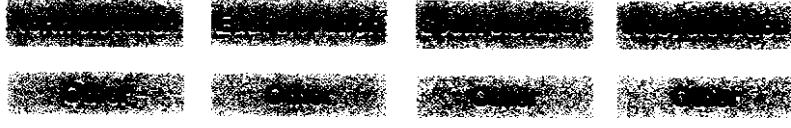
C) Geographical/Environmental

- 1) Is geographically or regionally important.

3. Each property or site will also be evaluated based on physical integrity using the following criteria (a property need not meet all the following criteria):

- a) Shows character, interest, or value as part of the development, heritage or cultural characteristics of the community, region, state, or nation;
- b) Retains original location or same historic context if it has been removed; or
- c) Has been accurately reconstructed or restored based on documentation.

**FORM A****Application for Designation of a Historic Landmark**

<p>Statement of Significance</p> <p>Please provide a brief statement summarizing the applicable criteria checked on previous pages.</p>	<p><i>Please attach additional sheets if necessary.</i></p> <p>See attached</p>
<p>Photographs of property as it appears today</p>	<p><i>Include photos from all angles: front, rear, and side elevations.</i></p> 
<p>Please identify all references used during the research of the property. Include titles, author, publisher, publication date, ISBN# (when applicable), and location of source such as public library, etc.</p>	<p><i>Please attach additional sheets if necessary.</i></p> <p>See attached</p>



City of Loveland

Page 7 – Signature Sheet

FORM A**Application for Designation of a Historic Landmark**

Please type or print legibly.

FORM A completed by: Bruce W Willard

Signature of Preparer:

A handwritten signature in black ink that reads "Bruce W Willard".

Date:

03/14/2012

Phone No.

970-353-0790

Address: 4008 Cheyenne Dr . Greeley CO 80634

Signature of Property/Site Owner(s) if different than Preparer:

Date:

A redacted area where a signature would be placed, represented by a solid black rectangle.

PHOTOGRAPH ADDENDUM

Borrower/Client	Bruce & Elizabeth Willard		
Property Address	524 Harrison Ave.		
City	Loveland	County	Larimer
Lender	City of Loveland	State	CO
		Zip Code	80527



Front



Back

Exhibit B**PHOTOGRAPH ADDENDUM**

Borrower/Client	Bruce & Elizabeth Willard		
Property Address	524 Harrison Ave.		
City	Loveland	County	Larimer
Lender	City of Loveland	State	CO
		Zip Code	80527



North Side



South Side

PHOTOGRAPH ADDENDUM

Borrower/Client	Bruce & Elizabeth Willard		
Property Address	524 Harrison Ave.		
City	Loveland	County	Larimer
Lender	City of Loveland	State	CO
		Zip Code	80527



Entry Detail



Garage

524 N Harrison Avenue

SLR.6395

COLORADO CULTURAL RESOURCE SURVEY

Architectural Inventory Form

Page 1 of 8

Official Eligibility Determination
(OAHHP use only)

Date _____ Initials _____

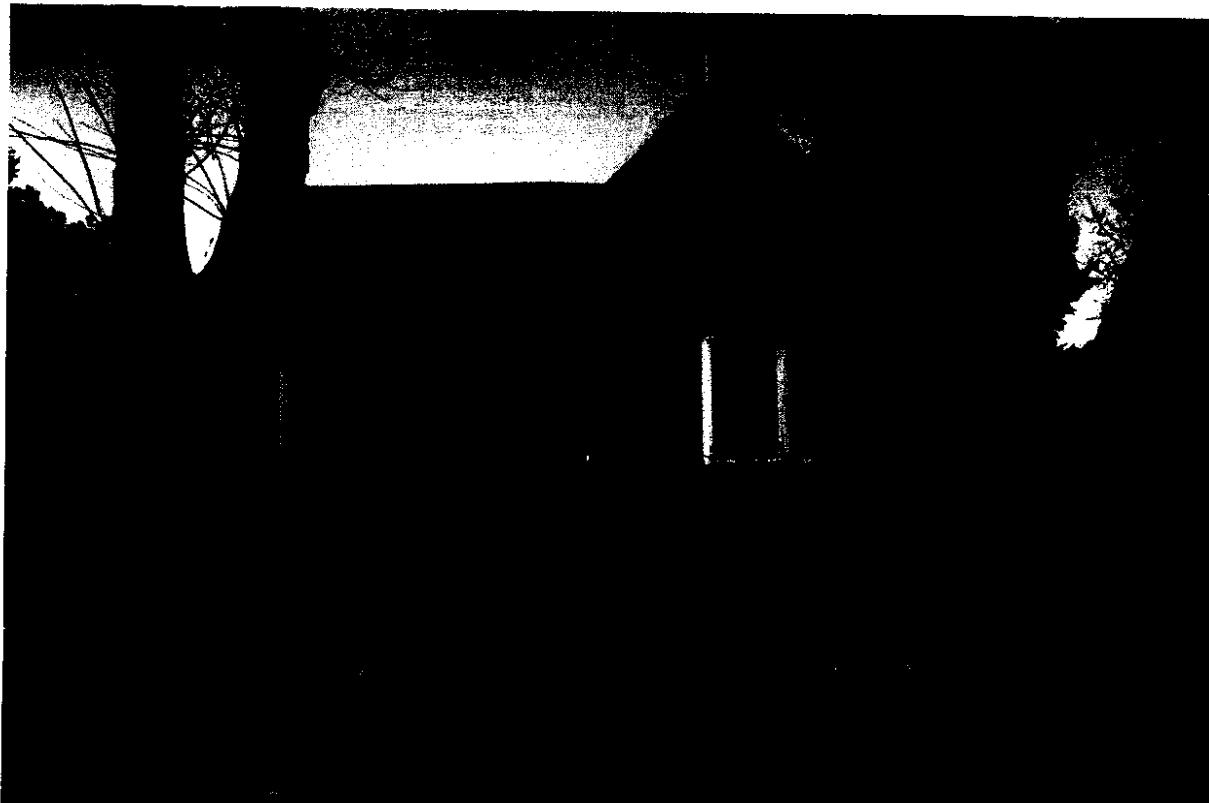
OAHHP1403

Rev. 9/98

 Determined Eligible – National Register Determined Not Eligible – National Register Determined Eligible – State Register Determined Not Eligible – State Register Need Data Contributes to eligible National Register District Noncontributing to eligible National Register District

I. IDENTIFICATION

1. Resource number: **SLR.6395** Parcel number(s): **9514431012**
 2. Temporary resource number: **N/A**
 3. County: **Larimer**
 4. City: **Loveland**
 5. Historic Building Name: **Ray House; Hauseman House**
 6. Current Building Name: **Kinkade House**
 7. Building Address: **524 N Harrison Avenue**
 8. Owner Name: **Alyson Kinkade**
 Owner Organization:
 Owner Address: **524 Harrison Ave
Loveland, CO 80537**



44. National Register eligibility field assessment:
 Local landmark eligibility field assessment:

Not Eligible
Eligible

Architectural Inventory Form

Page 2 of 8

II. GEOGRAPHIC INFORMATION

9. P.M.: 6th Township: 5N Range: 69W
SE ¼ of SW ¼ of NE ¼ of SE ¼ of Section 14

10. UTM reference (Datum: NAD27)
 Zone: 13 493182 mE 4471587 mN

11. USGS quad name: Loveland, Colorado
 Year: 1962; Photorevised 1984 Map scale: 7.5'

12. Lot(s): North 50 FT. of South 100 FT. of Lot 1, and North 50 Ft. of South 100 FT. of West 25 FT. of Lot 2, Block 3
 Addition: Kilburns West Side Addition Year of addition: 1883

13. Boundary description and justification:
This legally defined parcel encompasses, but does not exceed, the land historically associated with this property.
 Metes and bounds?: Describe:

III. ARCHITECTURAL DESCRIPTION

14. Building plan (footprint, shape): Rectangular Plan

15. Dimensions in feet: Length: 41 feet x Width: 29 feet

16. Number of stories: 1

17. Primary external wall material(s): Brick

18. Roof configuration: Gabled Roof/Cross Gabled Roof

19. Primary external roof material: Asphalt Roof/Composition Roof

20. Special features: Porch

21. General architectural description:
Built in the early 1930s, this single-story English-Norman Cottage style house measures 29' N-S (across) by 41' E-W (deep) It is supported by concrete foundation, hidden behind wire-cut red brick walls, laid in running bond, which extend to grade. Painted grey stucco, with false half-timbering, appears in the upper gable ends. The dwelling is covered by a steeply-pitched cross gable roof, covered with black asphalt shingles, and with closed eaves. The home's windows are primarily 1/1 double-hung sash, with painted white wood frames, and red brick rowlock sills. A stained natural brown 12-light glass-in-wood-frame door enters the façade (west elevation) from a 4-step concrete front porch, which is covered by the swept gable end of the house's intersecting front gable. The porch features a high brick wall and a short pillar which support the eave of the swept gable roof.

22. Architectural style: Late 19th And 20th Century Revivals/English-Norman Cottage
 Building type:

23. Landscape or special setting features: **This well-maintained property is located on the east side of Harrison Avenue in the block between W. 5th and W. 6th Streets. The house is surrounded by a planted grass lawn, with well-cared for mature landscaping. A planted grass strip is located between the front sidewalk and the street.**

Architectural Inventory Form

Page 3 of 8

24. Associated buildings, features or objects:

Garage

A garage, which measures 20' N-S by 20' E-W, is located northeast of the house. This garage straddles the north property line, and is shared with the house at 530 N. Harrison next door to the north. Supported by a concrete slab foundation, the garage has wire-cut red brick walls, laid in running bond, and a low-pitched front gable roof covered with asphalt composition shingles. Painted pale grey stucco appears in the upper gable ends. Two fiberglass roll-away garage doors open onto a concrete driveway on the west elevation. This driveway extends between the two houses to Harrison Avenue. A shed-roofed extension, built onto the north elevation, is accessed by a painted red wood-paneled door which enters the west elevation to the north of the garage doors.

IV. ARCHITECTURAL HISTORY

25. Date of construction: Estimate: Actual: 1932
Source of information: Loveland city directories; Larimer County Residential Property Record Card; Sanborn Insurance maps.

26. Architect: Unknown
Source of information: N/A

27. Builder: Unknown
Source of information: N/A

28. Original owner: William T. and Ida Ray (possibly)
Source of information: Loveland city directories

29. Construction history:
Larimer County Assessor files, Sanborn Insurance maps, and Loveland city directories all provide corroborating evidence that this house, and accompanying garage, were built in 1932. William T. and Ida Ray are listed as the original owners, in the directories; however whether or not they actually owned the property has not been determined. There have been no additions to the original dwelling.

30. Original location: Moved: Date of move(s):

V. HISTORICAL ASSOCIATIONS

31. Original use(s): **Domestic/Single Dwelling**
32. Intermediate use(s): **Domestic/Single Dwelling**
33. Current use(s): **Domestic/Single Dwelling**
34. Site type(s): **Single family residence**

Architectural Inventory Form

Page 4 of 8

35. Historical background:

Built in 1932, this English-Norman Cottage style house was owned and occupied by several families through the early 1950s. William T. Ray (a meat cutter), and his wife Ida, were the home's first residents, according to Loveland city directories. The Rays, though, lived here for only a year or two, as by 1933 this was the residence of H. Dale and Willa V. Huston. Mr. Huston's occupation was listed as "clothier." The Hustons were followed as residents of this house by Clinton D. Alexander (1936), Albert M. Anderson (1938), and Phil R. and Helen Morgan (early 1940s). Phil Morgan worked as manager of the local J.C. Penney, Company store. The Morgan household also included Mrs. Effie Morgan (probably Phil Morgan's mother), who was retired. Harold C. and Beulah Ferguson, and their three daughters (Sandra Ann, Cynthia, and Beth), lived and owned here next, in the late 1940s and very early 1950s. Mr. Ferguson was employed as a teacher.

This dwelling's next residents were Reverend Francis K. Hauseman, and his wife Joyce, who lived and owned here from circa 1951 to 1963. Francis K. Hauseman was born on March 11, 1914, in Pottstown, Pennsylvania, the son of Tilghman and Fannie (Kulp) Hauseman. He successively graduated from Pottstown High School, Ursinus College in Collegeville, Pennsylvania, and from the Colgate-Rochester Divinity School, before moving to Spencerport, New York. Rev. and Mrs. Hauseman moved to Loveland in September of 1950, and moved into this house a short time later. In Loveland, Rev. Hauseman served as minister of the First Baptist Church for many years. Rev. Hauseman passed away suddenly, after suffering a heart attack, on May 15, 1978, at the age of 64. Joyce Hauseman, his widow, died in April 1999. They were survived by a son, D. Brent Hauseman, and a daughter, Barbara (Johnston).

More recent owners and residents of this house include: Horace C. Haight (mid-1960s); Jack and Sharon Wilson (late 1960s and early 1970s); and Vesta E. Dilts, a widow, who lived here during her retirement years, circa 1973-1994. Born in Shenandoah, Iowa, on December 19, 1903, Vesta was the daughter of Jasper Emery Holmes and Frances (Frances) Holmes. Vesta came west after graduating high school to teach elementary classes in a one-room schoolhouse in Wheatland, Wyoming. She taught there for a number of years, while in the summer she attended the University of Wyoming to obtain her teaching certificate. Vesta moved to Loveland in 1930 where she subsequently worked as a substitute teacher at Washington, Lincoln, Garfield, and Truscott elementary schools. In May 1933, Vesta married Guy Dilts in Fort Collins, and they subsequently reared a family of two sons - Larry Eugene and Roger Winston. At the age of 55, after her boys were raised, Vesta enrolled at the University of Northern Colorado and earned a bachelor's degree in Elementary Education. She then continued to teach until her retirement in 1970. Vesta passed away in November 1994, at the age of 90. Her husband, Guy Dilts, had passed away many years earlier, in October 1964. Residents and owners of this property in the late 1990s and early 2000s include S.L. Fisher, E.L. Oney, and Alyson Kinkade

36. Sources of information:

Building permit files, on file with the City of Loveland Building Division.

Larimer County Assessor records.

Larimer County Assessor: Residential Property Appraisal Card.

Loveland city directories.

Sanborn Insurance Maps, August 1927, July 1937.

"Hauseman Dies at 64." (Francis K. Hauseman obituary) *Loveland Daily Reporter Herald*, May 16, 1978, p. 1.

"Hauseman." (Joyce Hauseman obituary) *Loveland Daily Reporter Herald*, April 7, 1999, p. A-8.

"Vesta E. Dilts." (obituary) *Loveland Daily Reporter Herald*, November 11, 1994, p. A-12.

Architectural Inventory Form

Page 5 of 8

VI. SIGNIFICANCE

37. Local landmark designation: Yes No Date of designation:
 Designating authority:

38. Applicable National Register criteria:

- Associated with events that have made a significant contribution to the broad pattern of our history;
- Associated with the lives of persons significant in our past;
- Embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or that possesses high artistic values, or represents a significant and distinguished entity whose components may lack individual distinction;
- Has yielded, or may be likely to yield, information important in history or prehistory.

Qualifies under Criteria Considerations A through G (see Manual).

Does not meet any of the above National Register criteria.

Loveland Standards for Designation:

<input checked="" type="checkbox"/> Architectural	Exemplifies specific elements of an architectural style or period
Architectural	Is an example of the work of an architect or builder who is recognized for expertise nationally, statewide, regionally, or locally
<input checked="" type="checkbox"/> Architectural	Demonstrates superior craftsmanship or high artistic value
Architectural	Represents an innovation in construction, materials, or design
Architectural	Represents a built environment of a group of people in an era of history
Architectural	Exhibits a pattern or grouping of elements representing at least one of the above criteria
Architectural	Is a significant historic remodel
Social/cultural	Is a site of an historic event that had an effect upon society
<input checked="" type="checkbox"/> Social/cultural	Exemplifies the cultural, political, economic, or social heritage of the community
Social/cultural	Is associated with a notable person(s) or the work of a notable person(s)
<input checked="" type="checkbox"/> Geographic/environmental	Enhances sense of identity of the community
Geographic/environmental	Is an established and familiar natural setting or visual feature of the community

39. Area(s) of significance: **Not Applicable**

40. Period of significance: **Not Applicable**

41. Level of significance: National: State: Local:

Architectural Inventory Form

Page 6 of 8

42. Statement of significance:

This house is architecturally significant for its English-Norman Cottage style of architecture, and for the fine craftsmanship shown in its brick masonry construction. The property is also historically significant for its association with Loveland's residential development, from the time of its construction through the mid-1950s. The property's level of significance in these regards is probably not to the extent that it would qualify for individual listing in the National Register of Historic Places or in the State Register of Historic Properties. The property, though, should be considered eligible for local landmark designation by the City of Loveland.

43. Assessment of historic physical integrity related to significance:

This property displays a high level of integrity relative to the seven aspects of integrity as identified by the National Park Service and Colorado Historical Society - location, setting, design, materials, workmanship, feeling and association. There have been no additions, and no notable exterior alterations, to either the house or garage.

VII. NATIONAL REGISTER ELIGIBILITY ASSESSMENT

44. National Register eligibility field assessment: **Not Eligible**

Local landmark eligibility field assessment: **Eligible**

45. Is there National Register district potential? Yes No

Discuss: **Historic residential properties in the neighborhood west of downtown Loveland may collectively possess the historical and/or architectural significance, and display sufficient physical integrity, to comprise one or more State or National Register historic districts.**

If there is National Register district potential, is this building: Contributing Noncontributing **N/A:**

46. If the building is in existing National Register district, is it: Contributing **Noncontributing N/A:**

VIII. RECORDING INFORMATION

47. Photograph number(s):	CD #4, Images 62-65	CDs filed at:	City of Loveland
48. Report title:	City of Loveland Fifth Street Historic Survey		
49. Date(s):	01/14/08		
50. Recorder(s):	Carl McWilliams		
	Timothy Wilder		
51. Organization:	Cultural Resource Historians		
52. Address:	1607 Dogwood Court		
	Fort Collins, CO 80525		
53. Phone number(s):	(970) 493-5270		

524 N Harrison Avenue

5LR.6395

Architectural Inventory Form

Page 7 of 8

Sketch Map

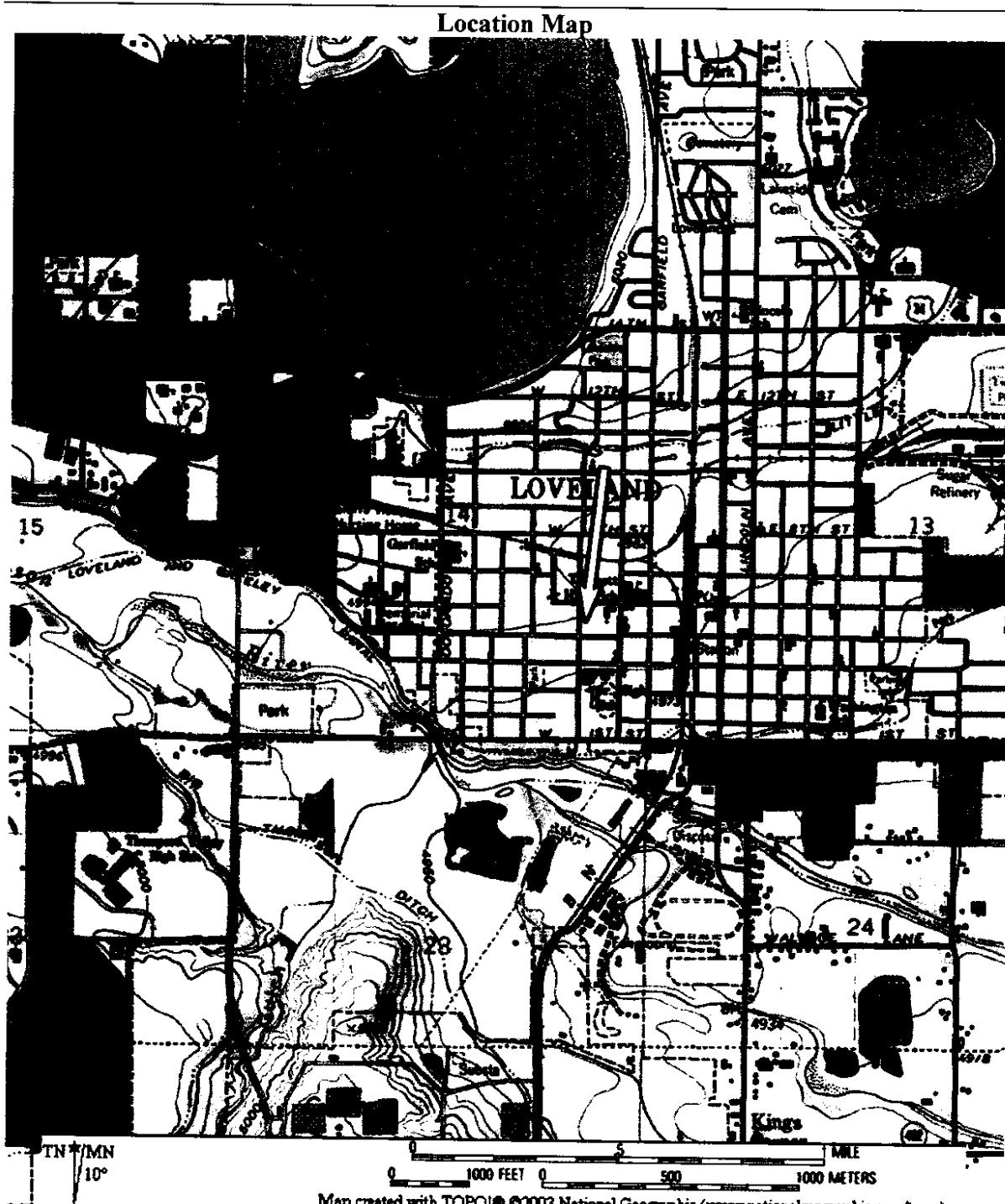


524 N Harrison Avenue

5LR.6395

Architectural Inventory Form

Page 8 of 8





1 **City of Loveland**
2 **Historic Preservation Commission**
3 **Meeting Summary**
4 **June 18, 2012**

5 A meeting of the Loveland Historic Preservation Commission was held Monday, June 18, 2012 at 6:00 P.M. in the
6 City Council Chambers of the Civic Center at 500 East Third Street, Loveland, CO. Historic Preservation
7 Commissioners in attendance were: Jim Cox, David Berglund, Trudi Manuel and Matt Newman. John Fogle, City
8 Council Liaison and staff members, Bethany Clark and Nikki Garshelis were also present. Commissioners Robin
9 Ericson and Laura McGinley were absent.

10 **Guests:** Mike Perry, President of the Loveland Historical Society; Bruce Willard, owner of 524 Harrison Ave
11 property arrived at 6:14p.m.

13 **CALL TO ORDER**

14 *Commission Chair Cox called the meeting to order at 6:00 p.m.*

17 **APPROVAL OF AGENDA**

18 *Commission Chair Cox asked for approval of the agenda. Commissioner Manuel requested moving the Public
19 Hearing earlier on the agenda because she had to leave early, she then motioned to approve the agenda with
20 this change. Commissioner Newman seconded and the motion passed unanimously.*

21 **APPROVAL OF MINUTES**

23 *Commissioner Newman motioned for approval of the minutes. The motion was seconded by Commissioner
24 Berglund and the motion passed unanimously.*

26 **PUBLIC HEARING-Nomination of 524 N. Harrison Ave**

27 *Bethany Clark reviewed that at the last HPC meeting the Commissioners directed her to research the shared
28 garage issue on two properties and how it would affect the historic designation of 524 N. Harrison. There is a
29 Party Wall Agreement between the two properties, she said. The City Attorney reviewed the agreement and
30 advised that it allocates responsibility for maintenance and reconstruction in the event of damage or destruction
31 of the shared garage. Either party could make modifications that would change the appearance of their half
32 without consent of the other party, she explained. Neither party could do anything that would deprive the other
33 one of a support wall. Bethany said she mailed a notification letter to the other property owner but has not
34 received a response. An historic designation on half of the garage would not put any constraints on the other
35 half, she said. The Commissioners agreed they were satisfied with the information and in favor of nomination of
36 the property. At 6:06p.m. the Public Hearing was opened and when no one asked to make a public comment, it
37 was subsequently closed.*

38 *Commissioner Newman made the motion to recommend approval of the nomination of 524 N. Harrison Ave as
39 an historic landmark property to City Council. The motion was seconded by Commissioner Manuel and it passed
40 unanimously.*

41 **CITIZEN REPORTS**

43 **None**

44

45 **CITY COUNCIL UPDATE**

46 *John Fogle asked if the HPC had any questions about Council business. Commissioner Manuel asked about the
47 HPC getting a budget approved by Council. Councilor Fogle said the City Council requested that the HPC do
48 regular outreach mailings so that would need funding. Past costs have been paid by taking money from other
49 budgets so it makes sense for the HPC to have their own budget, he said. It needs to be clear where the money*

50 is coming from, he added. Bethany Clark created a budget request of \$8,900 for the HPC. Commissioner
51 Berglund said this is a step in the right direction.

52 **STAFF UPDATE**

53

- 54 • Two postcard variations notifying owners that their property is on the Loveland Historic Preservation
55 Survey are being mailed this week. She distributed copies of the postcards.
- 56 • There are \$1,896 of funds left of the \$2,700 donation.
- 57 • July 10 is the City Council Study Session featuring the HPC's presentation. Greg George needs the
58 presentation sent to him by June 26th in order to meet the packet deadline. Commissioners Berglund
59 and Manuel said they met once but would like to meet again soon to prepare the presentation.

60 **CONSIDERATION OF NEW BUSINESS**

61 **HISTORIC PRESERVATION MONTH REVIEW**

62 *Bethany Clark* reported that 1,202 people attended Historic Preservation Month events. She directed the HPC
63 to the packet item, *Evaluation of Historic Preservation Month*. Councilor Fogle requested the numbers be
64 reported to City Council.

65 **LOVELAND HISTORICAL SOCIETY-SWARTZ FARMSTEAD PROPOSAL**

66 *Mike Perry*, President of the Loveland Historical Society, asked for feedback from the HPC on the proposal on the
67 Swartz Farmstead to the Open Lands Advisory Commission. Some of the suggestions/questions were:

68

- 69 • Is this a standard City of Loveland proposal?
- 70 • Commissioner Newman suggested attempting to estimate operating costs and where the funds would
71 come from. Mike Perry said costs are difficult to estimate because there is no assessment yet.
72 Operating costs would come from events and activities held on the farmstead but until an assessment is
73 complete they did not know which buildings were usable, he explained. Commissioner Newman
74 suggested adding phases of the project, focusing on one or two of the buildings at a time.
75 Commissioner Manuel agreed that the proposal should prioritize what would be done first.
- 76 • Commissioner Berglund and Newman suggested softening the language on page 11, particularly #7,
77 changing "expect" to "request."
- 78 • Councilor Fogle suggested researching the City Code to determine if the OLAC can even use those funds
79 for the items identified in the proposal.
- 80 • Commissioner Manuel suggested changing #7 on page 11 from "grants Received" to "grants applied
81 for."
- 82 • Commissioner Newman suggested softening the language in #5 on page 11 regarding updating utilities.

83 *Mike Perry* said he will update the proposal with the suggestions and send it back to Commission Chair Cox.

84 *Commission Chair Cox* asked Mike Perry if the LHS would be interested in having a more coordinated
85 relationship with the HPC, perhaps having a member from LHS and HPC sit on each other's board. Or, he said,
86 perhaps share minutes and reports, or both? Other Commissioners said they liked the idea and Mike Perry said
87 he would take it to the LHS to get their feedback.

88 **DOWNTOWN HISTORIC DISTRICT DISCUSSION**

89 *Bethany Clark* reported that during a presentation she gave to Economic Development Department staff the
90 idea of nominating the Loveland Downtown as a National Historic District came up for discussion. She did some
91 research and found that staff had previously made efforts in this direction but had stopped when concerns were
92 expressed over the possibility of restrictions on an impending streetscape project. City staff recently met with
93 Historic Preservation staff from Fort Collins and Greeley to find out if they had any problems between

99 streetscape improvements and having National Historic District status. Staff in Fort Collins and Greeley said that
100 there have not been any conflicts at all with executing downtown improvements. The Commissioners all agreed
101 that they wanted to move forward with this plan and said it would be beneficial to Loveland.

102
103 **NEXT MEETING AGENDA**

104 • Swartz Farmstead Update
105 • Viestenz-Smith Mountain Park Historic Designation
106 • City Council Study Session Report

107
108 **COMMISSIONER COMMENTS**

109 • *Commissioner Newman* said there is a meeting scheduled for July 20 on the Realtor's Workshop. He will
110 take the picture/plaque to that meeting to present to Robin Ericson for her service on the HPC. He said
111 they could make it a surprise party for her. Commissioner Ericson resigned June 13.
112 • *Bethany Clark* reported that Stacee Kersley has been appointed as a new Commissioner and Trudi
113 Manuel has been reappointed for another term.

114
115
116 **Meeting adjourned at 7:13p.m.**



CITY OF LOVELAND
DEVELOPMENT SERVICES DEPARTMENT
 Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
 (970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

AGENDA ITEM:	8
MEETING DATE:	7/17/2012
TO:	City Council
FROM:	Greg George, Development Services Department
PRESENTER:	Brian Burson, Current Planning Division

TITLE:

An ordinance amending Section 18.04.040 of the Loveland Municipal Code, the same relating to zoning regulations for certain property located in the amended plat of: the amended plat of CMS Addition and the Fourth South Industrial Addition, Tract 1 Fourth South Industrial Addition; the amended plat of Tracts 1 and 2 Block 1, Loveland Technological Center First Subdivision, Tract 2, Block 1; the Big Thompson Industrial Park Second Subdivision, Lot 2, Block 1; the Big Thompson Industrial Park, Tract 3 and Tract 4; the Fairgrounds First Subdivision, Outlot A; the Hewlett-Packard Roosevelt Addition, Tract A; the Hewlett-Packard Big Thompson First Subdivision, Tracts 1 and 2; the Loveland Technological Center First Subdivision, Tract 3; the Second South Industrial Addition, Tract 1; the Third South Industrial Addition, Tract 2, City of Loveland, County of Larimer, State of Colorado.

RECOMMENDED CITY COUNCIL ACTION:

Move to make the findings in Section IX, of the June 11, 2012 Planning Commission staff report and adopt, on first reading, the ordinance amending Section 18.04.040 of the Loveland Municipal Code, the same relating to zoning regulations for property described in said ordinance, and to be known as the Agilent Open Space, City of Loveland, Larimer County, Colorado. The Planning Commission unanimously recommends approval.

OPTIONS:

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adopt a motion continuing the item to a future Council meeting

DESCRIPTION:

This is a public hearing and consideration of a quasi-judicial action to adopt an ordinance, on first reading, to rezone the property described in said ordinance, from I- Developing Industrial District and DR- Developing Resource District to PP- Public Park District. The property is to be known as the Agilent Open Space. The applicant is the City of Loveland Parks and Recreation Department.

BUDGET IMPACT:

- Positive
- Negative
- Neutral or negligible

SUMMARY:

The property is a portion of the former Agilent campus, but now owned by the City. It is generally located south of West 1st Street, west of South Railroad Avenue and east of South Taft Avenue. The proposed uses of the property are low impact/passive recreation and natural area, including enhancement of certain areas of the site and semi-passive recreational uses of the existing gravel ponds. Some limited uses of the historic farmstead may be determined in the future, but are not known at this time.

Recent acquisition of the property by the City offered an opportunity for the City to retain and preserve the river corridor and other portions of the site that were more appropriate for public parks and open space, and convey the southern portion of the property to the new owner/developer of the Rocky Mountain Center for Innovation and Technology. In light of the intended uses of the retained property, it is appropriate to rezone it to the Public Park District. The land now owned by the developer of the Rocky Mountain Center for Innovation and Technology will remain zoned I-Developing Industrial.

Upon approval of the rezoning, the Parks and Recreation Department intends to submit a development plan for internal City review; and commence site improvements for the public park uses yet this year. The current draft of the conceptual plan is included in this memorandum as part of the June 11, 2012 Planning Commission staff report (see Attachment #5 of Exhibit B).

On June 11, 2012, the Planning Commission conducted a public hearing for the application and recommended approval, by unanimous vote on the Consent Agenda. Since the Planning Commission hearing, there have been no revisions to the application and no inquiries or concerns have been received from the applicant, neighborhood or general public.

REVIEWED BY CITY MANAGER:

LIST OF ATTACHMENTS:

- A. Ordinance
- B. City Council staff Memorandum, dated July 17, 2012.

FIRST READING: July 17, 2012

SECOND READING: _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 18.04.040 OF THE LOVELAND MUNICIPAL CODE, THE SAME RELATING TO ZONING REGULATIONS FOR CERTAIN PROPERTY LOCATED IN THE AMENDED PLAT OF: THE AMENDED PLAT OF CMS ADDITION AND THE FOURTH SOUTH INDUSTRIAL ADDITION, TRACT 1 FOURTH SOUTH INDUSTRIAL ADDITION; THE AMENDED PLAT OF TRACTS 1 AND 2 BLOCK 1, LOVELAND TECHNOLOGICAL CENTER FIRST SUBDIVISION, TRACT 2, BLOCK 1; THE BIG THOMPSON INDUSTRIAL PARK SECOND SUBDIVISION, LOT 2, BLOCK 1; THE BIG THOMPSON INDUSTRIAL PARK, TRACT 3 AND TRACT 4; THE FAIRGROUNDS FIRST SUBDIVISION, OUTLOT A; THE HEWLETT - PACKARD ROOSEVELT ADDITION, TRACT A; THE HEWLETT-PACKARD BIG THOMPSON FIRST SUBDIVISION, TRACTS 1 AND 2; THE LOVELAND TECHNOLOGICAL CENTER FIRST SUBDIVISION, TRACT 3; THE SECOND SOUTH INDUSTRIAL ADDITION, TRACT 1; THE THIRD SOUTH INDUSTRIAL ADDITION, TRACT 2, CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That Section 18.04.040 of the Loveland Municipal Code and the map referred to therein, said map being part of said Municipal Code and showing the boundaries of the district specified, shall be and the same is hereby amended in the following particulars, to wit:

That the following two parcels of real property located within the City of Loveland, Larimer County, Colorado, more particularly described as:

LEGAL DESCRIPTION for OUTLOTS C and D
Rezone from I to PP

“Outlot C, and Outlot D, Block 2, of the Amended Plat of: the Amended Plat of CMS Addition and The Fourth South Industrial Addition, Tract 1 Fourth South Industrial Addition; the Amended Plat of Tracts 1 and 2 Block 1, Loveland Technological Center First Subdivision, Tract 2, Block 1; the Big Thompson Industrial Park Second Subdivision, Lot 2, Block 1; the Big Thompson Industrial Park, Tract 3 and Tract 4; the Fairgrounds First Subdivision, Outlot A; the

Hewlett - Packard Roosevelt Addition, Tract A; the Hewlett-Packard Big Thompson First Subdivision, Tracts 1 and 2; the Loveland Technological Center First Subdivision, Tract 3; the Second South Industrial Addition, Tract 1; the Third South Industrial Addition, Tract 2, City of Loveland, County of Larimer, State of Colorado; all located within Section 23, T 5N, R 69W, of the 6th principal meridian and consisting of approximately 9.08 acres"

LEGAL DESCRIPTION for LOT 4 and OUTLOT B
Rezone from DR to PP

"Lot 4, and Outlot B, Block 2, of the Amended Plat of: the Amended Plat of CMS Addition and The Fourth South Industrial Addition, Tract 1 Fourth South Industrial Addition; the Amended Plat of Tracts 1 and 2 Block 1, Loveland Technological Center First Subdivision, Tract 2, Block 1; the Big Thompson Industrial Park Second Subdivision, Lot 2, Block 1; the Big Thompson Industrial Park, Tract 3 and Tract 4; the Fairgrounds First Subdivision, Outlot A; the Hewlett - Packard Roosevelt Addition, Tract A; the Hewlett-Packard Big Thompson First Subdivision, Tracts 1 and 2; the Loveland Technological Center First Subdivision, Tract 3; the Second South Industrial Addition, Tract 1; the Third South Industrial Addition, Tract 2, City of Loveland, County of Larimer, State of Colorado; all located within Section 23, T 5N, R 69W, of the 6th principal meridian and consisting of approximately 112.32 acres"

are now included within the boundaries designated as I-Industrial for the parcel described as Outlots C & D, and DR-Developing Resource for the parcel described as Lot 4 and Outlot B, and both parcels shall hereafter be included within the boundaries of the districted designated as follows:

PP-PUBLIC PARK

Section 2. That the development of the two described parcels of property shall be subject to all applicable provisions of the **PP – PUBLIC PARK DISTRICT**.

Section 3. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full.

Section 4. That this Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

Section 5. That the City Clerk is hereby directed to record this Ordinance with the Larimer County Clerk and Recorder after its effective date in accordance with State Statutes.

Dated this ____ day of _____, 2012.

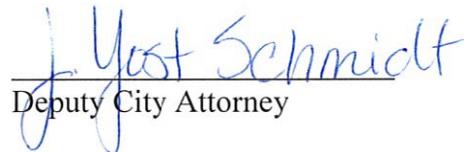
ATTEST:

CITY OF LOVELAND, COLORADO:

City Clerk

Mayor

APPROVED AS TO FORM:


J. Yost Schmidt
Deputy City Attorney



**DEVELOPMENT SERVICES
Current Planning**

500 East Third Street, Suite 310 • Loveland, CO 80537
(970) 962-2523 • Fax (970) 962-2945 • TDD (970) 962-2620
www.cityofloveland.org

MEMORANDUM

TO: City Council
FROM: Brian Burson, Senior City Planner
DATE: July 17, 2012
SUBJECT: Rezoning of Agilent Open Space

I. EXHIBITS

A. June 11, 2012 Planning Commission hearing agenda
B. June 11, 2012 Planning Commission staff report including:

1. Rezoning Assessment Report
2. Rezoning legal description for Agilent Open Space
3. Definitions of uses in the Public Park District
4. Context map
5. Conceptual site plan
6. Environmental Covenant Map
7. Rezoning map
8. Amended plat of CMS Addition, et. al. (for information only)

II. EXECUTIVE SUMMARY

A. Project Description

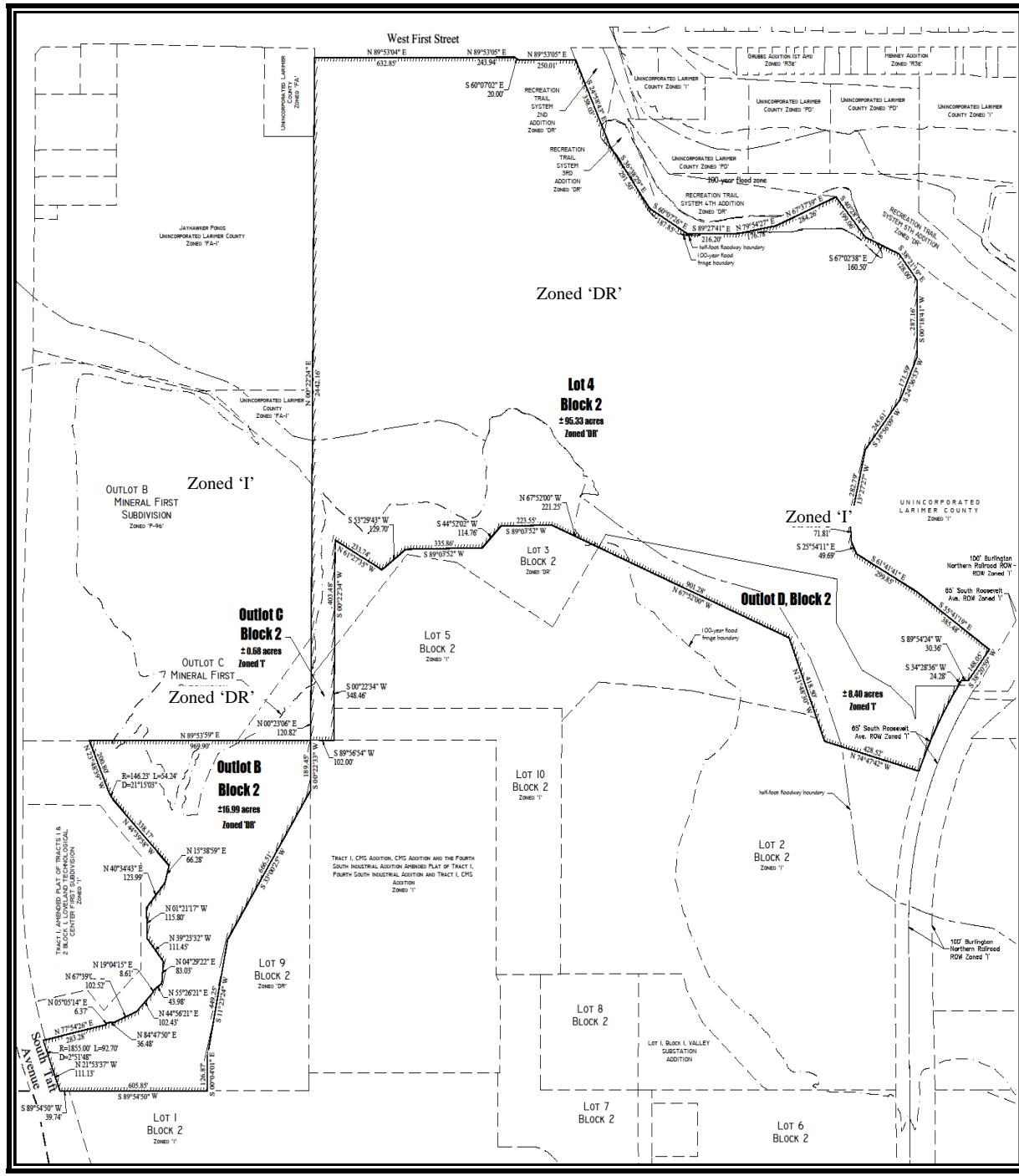
The City Council public hearing is to consider a rezoning of the Agilent Open Space from I-Developing Industrial District and DR - Developing Resource District to PP-Public Park District. The parcels are now part of an amended plat recently approved by the City for the entire former HP/Agilent campus, and known as "The amended plat of the Amended Plat of CMS Addition and The Fourth South Industrial Addition, Tract 1 Fourth South Industrial Addition; the Amended Plat of Tracts 1 and 2 Block 1, Loveland Technological Center First Subdivision, Tract 2, Block 1; the Big Thompson Industrial Park Second Subdivision, Lot 2, Block 1; the Big Thompson Industrial Park, Tract 3 and Tract 4; the Fairgrounds First Subdivision, Outlot A; the Hewlett - Packard Roosevelt Addition, Tract A; the Hewlett-Packard Big Thompson First Subdivision, Tracts 1 and 2; the Loveland Technological Center First Subdivision, Tract 3; the Second South Industrial Addition, Tract 1; the Third South Industrial Addition, Tract 2, City of Loveland, County of Larimer, State of Colorado; all located

within Section 23, T 5N, R 69W, of the 6th principal meridian and consisting of approximately 121.40 acres." (The complete name of this amended plat was lengthy because it was a Lot Merger and Boundary Line Adjustment of portions of numerous previous annexations and subdivisions.) The land area to be rezoned is depicted below by the bold black line on both the Vicinity Map/Context Map and the Rezoning Exhibit shown below.

B. Vicinity Map/Context Map



C. Rezoning Exhibit



The total area to be rezoned consists of approximately 121.4 acres and is also depicted more fully on the full size version of these maps included with this staff memorandum as **Attachments #4 and #7 of Exhibit B**.

D. Findings

City staff has reviewed the application and believes that all required findings can be made, with emphasis on the following:

- The purposes set forth in Section 18.04.010 of the Loveland Municipal Code would be met if any of the uses permitted by right in the zone district were developed on the subject property.
- Development of the subject property pursuant to any of the uses permitted by right under the zoning district would result in development that is compatible with existing land uses adjacent to and in close enough proximity to the subject property to be effected by development of it.
- Development of the subject property pursuant to any of the uses permitted by right under the zoning district would result in impacts on City infrastructure and services that are consistent with current infrastructure and services master plans.
- Development of the subject property pursuant to any of the uses permitted by right under the zoning district would result in development that is consistent with relevant philosophies contained in the 2005 Loveland Comprehensive Plan, as amended, particularly those philosophies included in Section 4.0 Land Use.
- Development of the subject property pursuant to any of the uses permitted by right under the zoning district would result in development that would not be detrimental to the health, safety, or welfare of the neighborhood or general public.
- The proposed location and the use of the land, and the conditions under which it will be developed, will not interfere with the present or future extraction of a commercial mineral deposit underlying the surface of the land, as defined by CRS 34-1-3021 (1) as amended.

Special consideration and focus was given to the analysis of proposed uses and zoning due to:

- Some uses allowed under the proposed zoning are not allowed within 500 feet of a residential area. These areas are depicted by the solid red lines on the exhibits included as **Attachments #4 and #7 of Exhibit B**.
- Much of the site is also subject to the 100 year floodplain of the Big Thompson River. These areas are depicted by dotted yellow and black lines on the exhibits included as **Attachments #4 and #7 of Exhibit B**.
- Some portions of the site are affected by the existing Environmental Covenant, which were in place when the City acquisition the site. Both the City and owner/developer of the Rocky Mountain Center for Innovation and Technology are fully aware of these covenants. The areas subject to the covenants are depicted on **Attachment #6 of Exhibit B**.

(For further analysis, please see the June 11, 2012 Planning Commission staff report included with this staff memorandum as **Exhibit B**.)

E. Key Issues

Staff believes that all key issues have been resolved based on the City Comprehensive Plan, codes, and standards.

F. Planning Commission Recommendation

The Planning Commission held a public hearing for the application on June 11, 2012. No one from the neighborhood or general public attended the meeting. This prompted the Planning Commission to move the matter to their Consent Agenda for the meeting. Planning Commission voted to recommend approval of the rezoning by unanimous vote on the Consent Agenda. The June 11, 2012 Planning Commission agenda is included with this staff memorandum as **Exhibit A**.

G. Subsequent to Planning Commission

Since the Planning Commission hearing, staff has received no further information, questions or concerns from the Applicant, the neighborhood or the general public.

III. RECOMMENDED CONDITIONS

Since this is a rezoning and is not a PUD, there are no recommended conditions of approval.



LOVELAND PLANNING COMMISSION MEETING

AGENDA

Monday, June 11, 2012

500 E. 3rd Street – Council Chambers

Loveland, CO 80537

THE CITY OF LOVELAND DOES NOT DISCRIMINATE ON THE BASIS OF DISABILITY, RACE, CREED, COLOR, GENDER, SEXUAL ORIENTATION, RELIGION, AGE, NATIONAL ORIGIN OR ANCESTRY IN THE PROVISION OF SERVICES. FOR DISABLED PERSONS NEEDING REASONABLE ACCOMODATIONS TO ATTEND OR PARTICIPATE IN A CITY SERVICE OR PROGRAM, CALL 962-2523 OR TDD 962-2620 AS FAR IN ADVANCE AS POSSIBLE.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. REPORTS:

a. Citizen Reports

This is time for citizens to address the Commission on matters not on the published agenda.

b. Staff Matters

c. Committee Reports

d. Commission Comments

Policy matters, directions to staff, etc.

IV. CONSENT AGENDA:

The consent agenda includes items for which no discussion is anticipated. However, any Commissioner, staff member or citizen may request and effect removal of an item from the consent agenda for discussion. Items removed from the consent agenda will be heard at the beginning of the regular agenda.

Public hearings remaining on the Consent Agenda are considered to have been opened and closed, with the information furnished in connection with these items considered as the only evidence presented.

Adoption of the items remaining on the Consent Agenda is considered as adoption by the Planning Commission and acceptance by the Applicant of the staff recommendation for those items.

V. REGULAR AGENDA:**1. Agilent Open Space Rezoning**

This is a public hearing item to consider a rezoning of the HP/Agilent Open Space from DR - Developing Resource District and I-Developing Industrial District to PP-Public Parks District. The property consists of approximately 121 acres, and is a portion of the former HP-Agilent campus, but is now owned by the City. It is generally located south of West 1st Street, west of South Railroad Avenue and east of South Taft Avenue. The proposed uses of the property are low impact/passive recreation and natural area, including enhancement of certain areas of the site and semi-passive recreational uses of the existing gravel ponds. Planning Commission action is quasi-judicial.

VI. ADJOURNMENT



Planning Commission Staff Report
June 11, 2012

Agenda #: **Regular Agenda - 1**

Title: Agilent Open Space Rezoning

Applicant: City of Loveland Parks and
Recreation Department

Request: Rezoning

Location: South of West 1st Street, west of
South Railroad Avenue and east of
South Taft Avenue

Existing Zoning: DR - Developing Resource
District and I-Developing
Industrial District

Proposed Zoning: PP - Public Parks District

Staff Planner: Brian Burson

Staff Recommendation:

Subject to additional evidence presented at the
public hearing, City staff recommends the
following motion:

Recommended Motion:

*"Move to make the findings listed in Section VI.
of this report dated June 11, 2012; and, based on
those findings, recommend approval of the
rezoning of the HP/Agilent Open Space, as
described and depicted in Attachments #2 and #7
of this staff report from DR-Developing Resource
District and I-Developing Industrial to PP-Public
Parks District."*

Summary of Analysis

This is a public hearing item to consider a rezoning of the Agilent Open Space from DR - Developing Resource District and I-Developing Industrial District to PP-Public Parks District. The property consists of approximately 121 acres, and is a portion of the former Agilent campus, but is now owned by the City. It is generally located south of West 1st Street, west of South Railroad Avenue and east of South Taft Avenue. The proposed uses of the property are low impact/passive recreation and natural area, including enhancement of certain areas of the site and semi-passive recreational uses of the existing gravel ponds. Some limited uses of the historic farm house and site may be determined in the future, but are not known at this time.

If the rezoning is approved by the City, the Parks and Recreation Department plans to submit a development plan to the City for review, and upon approval, commence site improvements yet this year. The current draft of the conceptual plan is included in this report.

Staff believes that all key issues have been resolved based on the City Comprehensive Plan, codes, and standards. Since this is a rezoning and is not a PUD, there are no recommended conditions of approval.

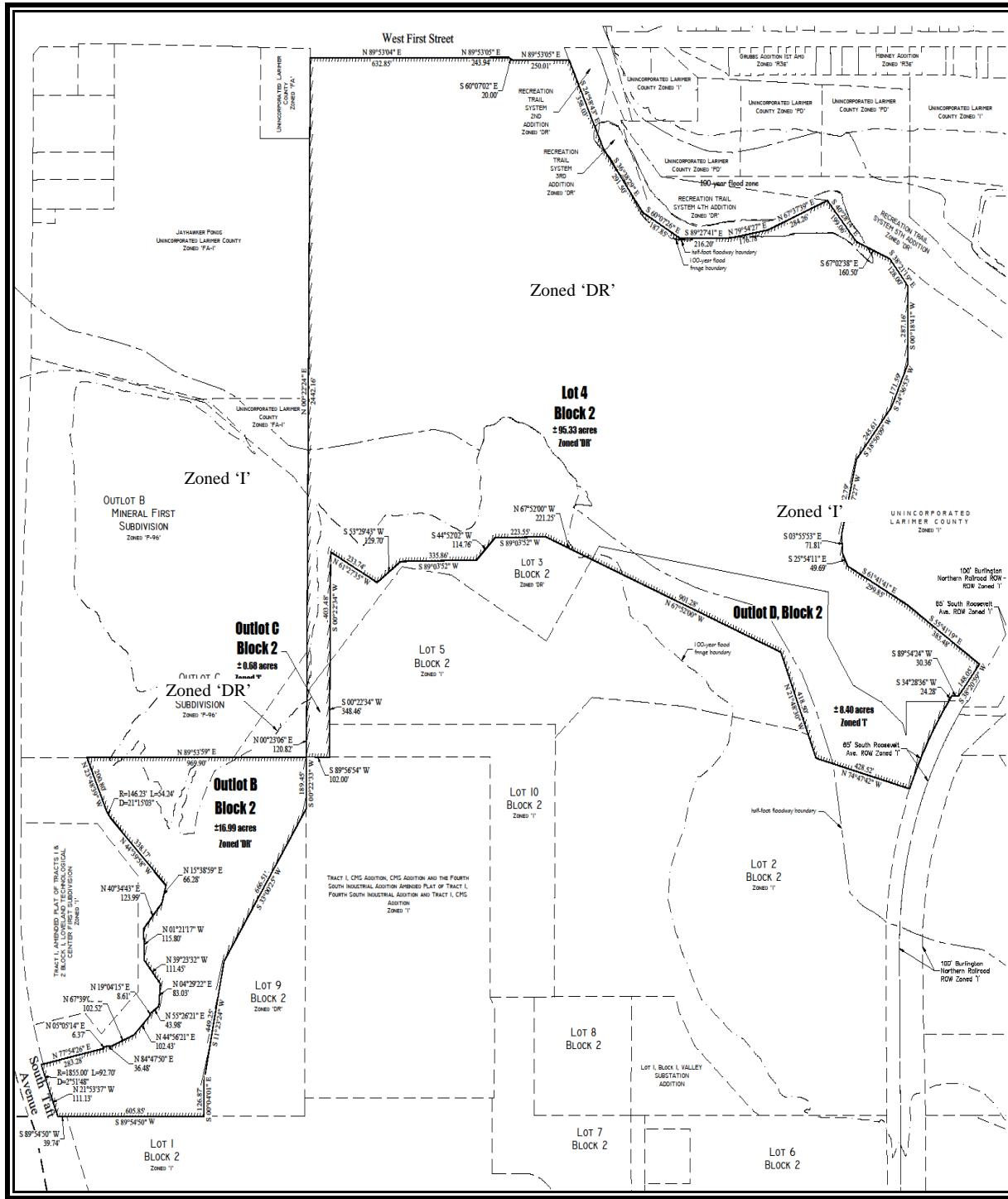
I. ATTACHMENTS:

1. Rezoning Assessment Report
2. Rezoning legal description for Agilent Open Space
3. Definitions of uses in the Public Park District
4. Context map
5. Conceptual site plan
6. Environmental Covenant Map
7. Rezoning map
8. Amended plat of CMS Addition, et. al. (for information only)

II. VICINITY MAP:



III. REZONING EXHIBIT:



The total area to be rezoned consists of approximately 121 acres. As always, a larger version of the rezoning map is included with the attachments to this report. (See **Attachment # 7**).

IV. PROJECT DESCRIPTION:

Summary

This is a public hearing item to consider a rezoning of the Agilent Open Space, as described in **Attachment # 2** and depicted in **Attachment # 7** of this staff report, from the DR - Developing Resource District and the I-Developing Industrial District to PP-Public Parks District. The property is a portion of the former Agilent campus, but is now owned by the City. It is generally located south of West 1st Street, west of South Railroad Avenue and east of South Taft Avenue. The proposed uses of the property are low impact/passive recreation and natural area, including enhancement of certain areas of the site and semi-passive recreational uses of the existing gravel ponds. Some limited uses of the historic farm house and site may be determined in the future, but are not known at this time.

Recently, most of the land that had been historically occupied by the Agilent campus became available for purchase by the City. Acquisition offered an opportunity for redevelopment of much of the campus, as well as City ownership and preservation of the river corridor and other portions of the site that were more appropriate for public parks and open space. When the final decision was made about what portion of the land would be conveyed for the new Rocky Mountain Center for Innovation and Technology, the boundary could not follow the existing zoning or subdivision boundaries that divide the property. This prompted a replat of the property, with the commitment by the City that a rezoning would also be immediately pursued to assure that zoning boundaries would match the new property lines. Since the land to be retained by the City was intended for public open space and park, it was appropriate to rezone the City property to the PP district. The land now owned by the developer of the Rocky Mountain Center for Innovation and Technology will remain zoned I-Developing Industrial.

If the rezoning is approved by the City, the Parks and Recreation Department plans to submit a development plan to the City for review, and upon approval, commence site improvements yet this year. The current draft of the conceptual plan is included in this report. (See **Attachment # 5.**) The Parks and Recreation Department receives citizen input and guidance by both the Parks and Recreation Commission and the Open Lands Advisory Commission. These advisory groups are also taking their designated role in the planning and review of the proposed development plan for the site. The Planning Commission plays no role in the review or approval of the Site Development Plan for the site.

Action to be taken by the Planning Commission

Planning Commission must conduct a public hearing on the application. Planning Commission's consideration is quasi-judicial, meaning that their consideration and recommendation is to be made on the basis of adopted policies, codes and standards as they apply to this property. Since this is a rezoning to a standard zone, not a PUD, conditions of approval are not appropriate, and none are recommended in this staff report. Planning Commission's recommendation will be forwarded to the City Council, to be considered as part of their subsequent public hearing, currently scheduled for July 17, 2012. If the rezoning is approved, the property would automatically be subject to all applicable City codes and standards.

V. KEY ISSUES:

City staff have reviewed the application on the basis of all applicable City policies, codes and standards, including the findings necessary for approval of a rezoning. Staff believes that all key issues have been resolved through the review process. No issues or concerns were raised at the neighborhood meeting that have not been resolved through the staff review process.

VI. SITE DATA:

ACREAGE OF SITE (GROSS ACRES).....	121.4 ACRES
EXISTING ZONING	DR-DEVELOPING RESOURCE/ I- DEVELOPING INDUSTRIAL
PROPOSED ZONING.....	PP-PUBLIC PARKS DISTRICT
MASTER PLAN DESIGNATION	OPEN SPACE/FLOODPLAIN
EXISTING USE	VACANT (FORMERLY PRIVATE PARK)
PROPOSED USE.....	PUBLIC PARK
NUMBER OF DWELLING UNITS PROPOSED	NA
GROSS DENSITY (DU/A)	NA
NET DENSITY (DU/A)	NA
EXISTING ADJACENT ZONING AND USE - NORTH	DR/PD & I (LARCO)/R-3E/; PUBLIC PARK/ SF RES/ COMMERCIAL
EXISTING ADJACENT ZONING AND USE - EAST	I (LARCO)/I (CITY); GRAVEL POND/CITY PARK
EXISTING ADJACENT ZONING AND USE - SOUTH	I; VACANT/AG/INDUSTRIAL
EXISTING ADJACENT ZONING AND USE - WEST	I/P-38/P-96/FA/FA-1; OFFICE/ SF/GRAVEL PONDS/OUTDOOR STORAGE
UTILITY SERVICE PROVIDER - SEWER	CITY OF LOVELAND
UTILITY SERVICE PROVIDER - ELECTRIC.....	CITY OF LOVELAND
UTILITY SERVICE PROVIDER - WATER.....	CITY OF LOVELAND

VII. BACKGROUND:

Annexations of the former Agilent campus began in April 1961, with the annexation of South Industrial 2nd Addition, and was complete in November 1999 with the annexation of Hewlett Packard Big Thompson Addition. Over time, various subsequent subdivisions and amended plats of portions of the land took place until approval of the Hewlett Packard Big Thompson 1st Subdivision in February 2000. Most of the site to be rezoned was once part of the Hewlett Packard Big Thompson 1st Subdivision and the Loveland Technological Center 1st Subdivision. The approximate southern two-thirds of the land has been zoned I-Developing Industrial, but the northern portion has remained zoned DR-Developing Resource.

VIII. STAFF, APPLICANT, AND NEIGHBORHOOD INTERACTION:

A. Notification: An affidavit was received from Parks and Recreation staff, certifying that written notice was mailed to all owners of property within 1,000 feet of the site, on April 27, 2012; and notices were posted in prominent locations on the perimeter of the project site at least 15 days prior to the date of the Planning Commission hearing. (The letters were mailed early to provide notice for both the neighborhood meeting and all of the scheduled public hearings for the Planning Commission and City Council.) As required by City code, the mailing radius was determined irrespective of intervening rights-of-way and bodies of water, which provided written notice to many more property owners than normal. In addition, a notice was published in the Reporter Herald on May 26, 2012. All notices stated that the Planning Commission would hold a public hearing on June 11, 2012. This type of application does not constitute a development plan, as it relates to written notice requirements to mineral rights owners; therefore, no notice to mineral rights owners was required.

B. Neighborhood Response: A neighborhood meeting was held at 6:30 pm on May 17, 2012 in the City Council Hearing Room of the Civic Center. The attendance sheet for the meeting indicates that 4 persons attended the meeting, along with City staff and the Applicants' representatives. No concerns or objections were raised at the neighborhood meeting, however great interest was expressed at the meeting. All of the questions and viewpoints voiced were concerning the design, function and uses that were expected in the open space park, rather than the matters strictly related to the proposed zoning. Some of these questions and viewpoints are as follows:

Will the ponds be stocked with fish?
 Will part of the site be set aside as a wildlife sanctuary, allowing only passive observation of wildlife?
 Will non-motorized boats be allowed on the ponds?
 Where will vehicular and bike/ped access points be located?
 Will trails be paved or non-paved, and will they be looped?
 What hours will the park be open to the public?
 What security measures are anticipated?
 Will any areas of the pond shorelines be enhanced?
 Will dogs be allowed - on leash or off-leash?
 Where will vehicular parking be located?
 What is the source of the water in the gravel ponds?
 Has there been any input or guidance sought/received from the Division of Wildlife?
 Will there be further opportunities and venues for more public input?

Responses and information were offered by P&R staff for each of these issues. No further revisions were made or required to the application as result of the meeting. These matters relate to the design and function of the site, but none affect the proposed rezoning.

VI. FINDINGS AND ANALYSIS

Finding 1. *The purposes set forth in Section 18.04.010 of the Loveland Municipal Code would be met if any use permitted by right in the zone district being requested was developed on the subject property.*

Current Planning: The purposes set forth in Section 18.04.010 of the Loveland Municipal Code include lessening of congestion on public streets, secure safety from fire and panic, promote general health and welfare, provide adequate light and air, prevent overcrowding of land, avoid undue concentration of population, and facilitate adequate provision of public facilities and infrastructure. The application has been reviewed in light of these purposes by City staff and all utility providers. At this time, there is no site-specific development plan for the potential uses on this land. When site specific development is determined, a Site Development Plan would be required by the City for review. Any proposed structures on the land will require submittal, review and approval of a Building permit. Such reviews will be performed on the basis of all applicable City codes and standards. This will assure that the purposes of Section 18.04.010 will be met.

Finding 2. *Development of the subject property pursuant to any of the uses permitted by right under the zoning district would result in development that is compatible with existing land uses adjacent to and in close enough proximity to the subject property to be effected by development of it.*

I. Summary of Nearby Properties and Uses

The following existing land uses are adjacent, or in close proximity, to the land proposed for the rezoning:

North:

1. A stretch of West 1st Street and portions of the existing Centennial Park;
2. A stretch of the Big Thompson River, located within the City;
3. A row of interspersed residential and industrial lots located immediately along the bluff above the river, between the river and the Chubbuck Ditch. These lots lie in unincorporated Larimer County, and are zoned by the county as either PD-Planned Development or I-Industrial;
4. A second row of residential lots along the south side of W. 1st Street which abut the county lots. Most of the lots are within the City are zoned R3e - Established High-density Residential;
5. An abandoned gravel pit/pond adjacent to South Railroad Avenue, located in unincorporated Larimer County and zoned I-Industrial.
6. Industrial site north of the gravel pit/pond, also located in unincorporated Larimer County and zoned I-Industrial.

East:

1. A short stretch of S. Railroad Avenue. Along the east side of S. Railroad Avenue lies a portion of the City's Fairgrounds Park which is currently zoned I-Developing Industrial. A parcel of land further south is in unincorporated Larimer County, and is also zoned I-Industrial under county zoning.

South:

1. A large area of land which is now part of the Rocky Mountain Center for Innovation and Technology, formerly the Agilent campus. This site is zoned I-Industrial, with small interior areas zoned DR-Developing Resources. The historic and anticipated land uses are a combination of industrial and commercial buildings with parking areas and formal landscape; as well as both cultivated and uncultivated farmland and open space.

West:

1. Administrative office building of the Thompson School District, with parking areas and some formal landscape.

2. Abandoned gravel pit known as Mineral Lake, and now owned and used for private recreation by the HOA of Mineral Estates PUD.

3. Jayhawker Ponds, consisting of 2 abandoned gravel pits, now owned by the City of Loveland and used for public recreation. However, these are still in unincorporated Larimer County, and are zoned FA-1(Farming) under county zoning.

4. Beyond the Jayhawker Ponds lies a small strip commercial area along the east side of S. Taft Ave. This land lies within the City and is zoned B-Developing Business. It is currently developed as a combined use with a convenience store, small retail professional services shops, and a detached car wash.

5. A small parcel of land approximately 1.6 acres in size lies along the south side of W. 1st Street and immediately adjacent to the land proposed for rezoning. This parcel is also still within unincorporated Larimer County, currently zoned FA (Farming), and is used for screened outdoor storage.

II. Allowed Uses in the PP zone district:

A. The proposed zoning of PP-Public Park District would normally allow the following uses-by-right (see definitions in **Attachment # 3** of this report):

1. Community Parks, Regional Parks, and Recreational Facilities, provided they are not within 500 feet of a residential area and do not include sport lighting greater than 40 feet in height;
2. Neighborhood Parks;

3. School Recreation Areas;
4. Special Use Areas;
5. Open Lands/Natural Areas;
6. Recreational Trails;
7. Accessory buildings or uses which are reasonably required to provide maintenance or security for the principal uses; and,
8. Antennas for Personal Wireless Service Facilities, provided they are located on an existing tower and in compliance with the provisions of Chapter 18.55. (Note: There are currently no existing towers in the land area proposed for rezoning, therefore this is currently not a potential use-by-right.)

B. Restriction of uses in the floodway:

In the floodway, uses-by-right are restricted to the following, subject to the additional restrictions of the floodway areas, further described below:

1. Agricultural uses;
2. Recreational uses;
3. Wildlife and nature preserves, game farms and fish hatcheries.

The applicable special restrictions for uses in the flood-way are:

- No use shall limit or restrict or create an obstruction of the flow capacity of the floodway or channel or a main stream or a tributary to a main stream;
- No permitted use shall include structures, fill or storage of materials or equipment;
- Any proposed well, solid waste disposal site or sewage disposal system shall be protected from inundation by floodwater;
- No use shall increase flood heights during the base flood discharge;

C. Restriction of uses in the flood fringe:

A much smaller portion of the north and northeast portions of the site lie within the flood fringe. In the flood fringe areas, uses-by-right would be:

1. All those allowed by the underlying zoning of PP with the following, subject to the additional restrictions of the flood fringe areas, further described below:

The applicable special restrictions for uses in the flood-fringe are:

- All structures shall be placed on fill so that the lowest floor (including basement) of such structures is at, or above, the regulatory flood protection elevation. Nonresidential structures may be permitted without being placed on fill, provided the floodproofing requirements of Section 15.14.080 of this code are met

- No use shall be commenced nor structure built which may limit or restrict the flow capacity of the channel of a tributary or drainway, or retard drainage of flood waters from the area in which a structure is built
- Fill or deposition of materials shall be permitted only to the extent required for placement of structures and their accessory uses
- All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems
- All new and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters, and on-site waste disposal systems shall be located so as to avoid impairment to them or contamination from them during flooding.

D. True allowable uses for this site:

1. Under these restrictions, potential PP uses in the floodway would be limited to such uses as the following:

- Natural areas,
- pedestrian and bicycle trails,
- picnic areas without shelters,
- off-street parking,
- wildlife habitat,
- fishing in the ponds,
- Environmental Education Facilities with no structures or impeding objects,
- Historical/Cultural Interpretive Facilities with no structures or impeding objects.

Extensive lighting could not be installed other than minimally necessary for security purposes.

2. Under these restrictions, potential PP uses in the flood fringe would be limited to all of the uses allowed in the zone, provided they complied with the requirements and restrictions that apply.

III. Analysis of Impacts:

As shown on the Rezoning Map accompanying this application, the land area proposed for this rezoning is configured in two distinct sub-areas, referred to in this staff report as "Sub-area #1" and "Sub-area #2". A proper analysis of the potential impact to nearby properties must consider the unique character and form of these sub-areas. Therefore a specific analysis of impacts is made for each sub-area.

A. Sub-Area # 1:

The largest proportion of the land to be rezoned lies within Lot 4 and Outlot D, having a combined area of approximately 104 acres. The extreme north and northeast portions of this sub-area, lie within 500 feet of the residential and industrial lots within unincorporated Larimer County. Within this north perimeter portion of the site, Community Parks, Regional Parks, and Recreational Facilities, and sport lighting greater than 40 feet in height would not be permitted as a use-by-right. Beyond the 500 foot setback from the residential lots, all of the uses by right in the PP district would normally be allowed.

Nearly all of sub-area #1 is also within the 100 year floodplain for the Big Thompson River. The floodplain is a combination of the "floodway" and "flood fringe", each implemented as overlay zones to the underlying PP zone, and with unique allowances and restrictions. In these areas, additional specific limitations are imposed due to the impacts of the floodplain and the great importance of allowing the floodplain to function as an unimpeded major drainage way for major run-off events. The overall land area of sub-area #1 is sufficient to accommodate many of the uses allowed in the PP zone; but the improvements necessary to allow any normal function of those uses would not be allowed, thus precluding their development. The remaining area of sub-area #1 that is not restricted by either the 500 foot proximity to residences or the floodplain, is very limited in size, precluding development of the larger, higher impact uses could be developed. The uses that are truly viable are the types of uses currently proposed by the Parks and Recreation Department. The site is highly suitable for those uses, and they would be a great benefit to the community.

Conclusion:

Staff believes that, under these extensive restrictions and requirements, and based on the currently projected uses on this parcel, the uses-by-right that could be allowed would have minimal or no negative effect on the adjacent uses.

B. Sub-area #2:

The area in the west-central portion of the overall site is very different in character from sub-area #1. The area is dominated by the lower stretch of Ryan's Gulch, with steep side slopes and intermittent heavy run-off through the channel. As the gulch continues easterly, the bottom widens and flattens and the side slopes moderate until it joins the river valley below. The side slopes and bottom are dominated by trees and various kinds and degrees of wetlands. The land has the character of an alluvial fan of a drainage system. This area is designated as Natural Area # 38 in the City's Natural Area Inventory, and its existing character and values are to be preserved and enhanced.

Development of any uses-by-right in this sub-area would be highly constrained by the existing conditions and landform. The only potential uses would be for limited walking trails, nature observation, and possible small primitive picnic areas. The City has been in contact with Thompson School District to seek a limited shared parking for trail access at this sub-area.

Conclusion:

Staff believes that, under these extensive restrictions and requirements, and based on the currently projected uses on this parcel, the uses-by-right that could be allowed would have minimal or no negative effect on the adjacent uses.

Finding 3. *Development of the subject property pursuant to any of the uses permitted by right under the zoning district would result in impacts on City infrastructure and services that are consistent with current infrastructure and services master plans.*

No site specific development plan has been developed to date. When site specific development is determined, a Site Development Plan will be required for review by the City. Such review will be performed on the basis of all applicable City codes and standards. This will assure that the proposed uses would result in impacts on City infrastructure and services that are consistent with current infrastructure and service master plans.

Finding 4. *Development of the subject property pursuant to any of the uses permitted by right under the zoning district being requested would result in development that is consistent with relevant policies contained in Section 4.0 of the 2005 Loveland Comprehensive Plan, as amended.*

1. *Loveland Comprehensive Master Plan, Section 4.2*

ANX1.A: *Whether the development of land minimizes the length of vehicle trips generated.*

ANX1.B: *Whether the development will minimize the short and long term costs of providing community facilities and services for the benefit of the area.*

ANX3.A: *Whether the development would comply with the recommendations contained in the adopted Open Lands Plan and preserves open space or natural areas.*

ANX4.A and C.: *Whether the planning staff and/or the City have determined that significant negative impacts on the environment may occur from the development allowed under the zoning, and whether an Environmental Impact Report, including a Wetlands Reconnaissance Report, has been prepared by a qualified specialist.*

ANX4.B: *Whether the rezoning application includes a Phase I Environmental Report, prepared by a qualified specialist, ensuring that the land to be developed does not contain hazardous or toxic substances that may pose a danger to the City or that reasonable mitigation measures can be taken in the event that such contamination exists.*

RES9: *Whether applicable elements of the Open Space and Natural Areas Plan and Parks Master Plan have been considered in evaluating residential development proposals. High value habitat that allows wildlife movements shall be protected and mitigation measures, such as buffer standards, shall be designated in areas such as the Big Thompson River Corridor, designated wetlands, and identified natural areas to offset or accommodate the impacts of development.*

CLU7: Whether transitional land areas (linear greenbelts or other urban design elements) have been provided between residential neighborhoods and commercial areas.

2. Loveland Comprehensive Master Plan, Section 4.7

a. Land Use Plan: *Whether the zoning is consistent with the Loveland Comprehensive Master Plan Land Use Plan or a "major plan amendment" request is being processed concurrently with the annexation and PDP application.*

Current Planning Division:

Compatibility with existing and future land uses is broadly considered at the time of promulgation of the Comprehensive Plan, and more specifically at the time of a proposed zoning/rezoning. The 2005 Comprehensive Plan, as amended, recommends that all of the land between S. Taft Avenue and S. Roosevelt Avenue and between the Big Thompson River and 14th St SE this land be developed for E-Employment Center uses. However, much of the north and northeast portions of the site are also shown as being in the floodplain for the Big Thompson River. In these areas, specific limitations are imposed due to the impacts of the floodplain. The area to be rezoned is highly constrained for future development of Employment uses, and the natural and open space values far outweigh the value of developing employment uses in these areas. When the properties were annexed, the City included provisions in the annexation agreements that required these areas to be preserved and enhanced for natural areas and open space purposes. The proposed rezoning and uses by the City will simply implement that original intent under the full control of the City, and make the value of the area available to the entire community rather than only to limited private parties.

By providing a large natural area park in this sector of the City, vehicle trips to large natural areas further from the City will be reduced, will also reduce the costs for maintenance and security of parks in more remote areas outside, or no the perimeter of the City. Preservation and enhancement of the area will be under the full control of the City, increasing the likelihood that the City's adopted goals and policies are fulfilled. As part of the City's negotiation on acquisition of the site, a Phase I Environmental Report had been previously prepared. The conclusions of that report have been carefully reviewed by both the Risk Management and legal staff, and integrated into the City's decisions for acquisition and use. (See further comments below.)

Finding 5. Development of the subject property pursuant to any of the uses permitted by right under the zoning district being requested would result in development that would not be detrimental to the health, safety, or welfare of the neighborhood or general public.

Current Planning: Due to historic uses and activities on the site, determinations had been made that there are Recognized Environmental Conditions (RECs) on the overall site. In order to resolve these matters with the federal and state authorities, the previous owner had reached agreement with those agencies, and signed an Environmental Covenant which runs with the land. This Environmental Covenant maps the remaining RECs, and places specific restrictions and requirements for land uses in those mapped areas. The elements of those RECs that affect the

City's site are ground water that flows northward from the existing buildings on the overall historic campus. (See **Attachment # 6**) The groundwater concerns are the lower category of RECs remaining on the site, and affect a portion of sub-area #2, and lie very close to the southern perimeter of sub-area #1.

A very thorough evaluation of these issues has been made by the City's Risk Management and legal staff. The City is confident that any minimal work that must be accomplished on the site for the proposed uses can be done in full compliance with the requirements and restrictions of the Environmental Covenant; and that no detrimental to the health, safety, or welfare of the neighborhood or general public would result from development or use of the site for the proposed uses.

Finding 6. Colorado Revised Statute 34-1-305 and Municipal Code Section 18.52.040:
The proposed location and the use of the land, and the conditions under which it would be developed, will not interfere with the present or future extraction of a commercial mineral deposit underlying the surface of the land, as defined by CRS 34-1-302 (1), as amended. Owners of all severed mineral estates have been notified of the public hearing at least 30 days prior to the hearing date.

Current Planning: A Mineral Extraction Report was prepared by CTL Thompson Inc. The report indicates that based on information available and the bore logs of the preliminary geo-tech report, there are no commercially extractable sand and gravel resources underlying the site.

All other requirements of state statute for consideration of mineral estates on the property proposed for development has recently shifted from annexation to the time of subdivision and development plan. The rezoning action of the City does not constitute a "development plan" under these provisions. Therefore no written notice to any holders of severed mineral interests was required or provided.

VII. RECOMMENDED CONDITIONS

Since this is a proposed rezoning to a standard zone district, and not a PUD, there are no recommended conditions. All development and use of the property would automatically be governed by all applicable City policies, codes and standards.

**REZONING ASSESSMENT REPORT
AGILENT OPEN SPACE
2012**

Finding 1. *The purposes set forth in Section 18.04.010 of the Loveland Municipal Code would be met if any use permitted by right in the zone district being requested was developed on the subject property.*

The uses currently planned for the site are limited to low impact/passive recreation activities such as walking/bicycling trails, picnic areas, nature observation, fishing and possibly limited non-motorized boating, with limited off-street parking, information kiosks, restrooms and limited security lighting. All uses on the site will be reviewed and approved through the City process for uses by right. The plans submitted and the subsequent review process will be based on the City's adopted standards and codes. These will assure consistency with the purposes of Section 18.04.010 of the zoning code, as well as the intent of all other adopted City codes and standards.

Finding 2. *Development of the subject property pursuant to any of the uses permitted by right under the zoning district would result in development that is compatible with existing land uses adjacent to and in close enough proximity to the subject property to be affected by development of it.*

The area to be rezoned lies entirely within the north and west central portions of the former Agilent campus. Ownership of this property was retained by the City for the express purpose of use as a public open space. The northern portion of the site, along and near the river corridor and gravel ponds, is mostly flat and interspersed by the existing gravel pit ponds. It is accessible from the existing City Trail, from W. 1st Street as well as from the parking lot associated with Centennial Park. The west central portion of the site is fairly steep, leveling out to a small area which is more moderate sloped and small flat area. It is dominated by a portion of the Ryan's Gulch and an adjacent agricultural detention pond. Access to this portion of the site will be from Taft Avenue and possibly from shared parking with the school district site.

1. Northern portion of the site:

The northern portion of the site consists of Lot 4, Outlot D, and Outlot C, of the amended plat. This area lies south of West 1st Street/ the Big Thompson River and west of the Burlington Northern railroad tracks/South Railroad Avenue, and consists of approximately 104 total acres. The extreme north/northeast portion of this area lies within 500 feet of the residential lots to the north - making it unavailable for Community Parks, Regional Parks, and Recreational Facilities, or for sport lighting taller than 40 feet. Approximately 34 acres of this area are occupied by the existing gravel pit ponds, making it unavailable for any uses not related to the water. Only approximately 8 acres lie entirely outside of the 100 year floodplain and outside of the 500 foot restricted area near residential properties.

Most of this area lies in the 100 year floodplain of the Big Thompson River. Approximately 87 acres lie within the 100 year flood-way, and approximately 9 acres lie within the 100 year flood-fringe area. Since most of this portion of the site lies within the 100 floodplain, it is also subject

to the limitation on uses and special restrictions on development in the floodplain, as set forth in Chapter 18.45 of the Municipal Code.

The limited uses allowed in the flood-way zone are:

1. Agricultural uses, including general farming, grazing of horses and livestock, forestry, sod farming, crop harvesting, raising of plants and flowers, and open-air nurseries;
2. Recreational uses, but not limited to, golf courses, golf driving ranges, swimming pools, parks and recreation areas, picnic grounds, horseback riding and hiking trails;
3. Wildlife and nature preserves, game farms and fish hatcheries.

The applicable special restrictions for uses in the flood-way are:

1. No use shall limit or restrict or create an obstruction of the flow capacity of the floodway or channel or a main stream or a tributary to a main stream;
2. No permitted use shall include structures, fill or storage of materials or equipment;
3. Any proposed well, solid waste disposal site or sewage disposal system shall be protected from inundation by floodwater;
4. No use shall increase flood heights during the base flood discharge;

The limited uses allowed in the flood-fringe zone are:

1. All uses permitted by right in the underlying zoning district but excluding outside storage.

The applicable special restrictions for uses in the flood-fringe are:

1. All structures shall be placed on fill so that the lowest floor (including basement) of such structures is at, or above, the regulatory flood protection elevation. Nonresidential structures may be permitted without being placed on fill, provided the floodproofing requirements of Section 15.14.080 of this code are met
2. No use shall be commenced, nor structure built, which may limit or restrict the flow capacity of the channel of a tributary or drainway, or retard drainage of flood waters from the area in which a structure is built
3. Fill or deposition of materials shall be permitted only to the extent required for placement of structures and their accessory uses
4. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems

5. All new and replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters, and on-site waste disposal systems shall be located so as to avoid impairment to them or contamination from them during flooding.

Under these substantial constraints, the most appropriate uses of the site are as useable open space with limited and semi-passive recreation activities. These types of activities are not expected to have any substantial or noticeable negative impact on nearby properties. It is likely that residents of nearby properties will use the area and enjoy the area and activities that are allowed.

2. West-central portion of the site:

The other portion of the site is located in the southwestern portion of the land proposed for rezoning consisting of Lot 9 and Outlot B of the amended plat. This area lies between the developed portion of the former Agilent campus and the administrative offices for Thompson School District R2-J. This area is dominated by a steep drainage channel, flanked by steep to moderate slopes, and a detention pond constructed within the outlet of that channel. This area is part of the overall Ryan's Gulch, and designated as Natural Area # 38 in the City's Natural Area Inventory.

North:

The existing land use north of Sub-area #2 is a residential development known as Mineral Lake PUD, including the abandoned gravel pit/pond known as Mineral Lake, owned and used for private recreation by the HOA. The PUD is approved for single-family detached, single-family attached and a small area of neighborhood commercial.

The steep slopes of this portion of the site prohibit any active recreation uses such as parks or athletic fields of any kind. This area will be limited to a walking trail with limited nature observation opportunities. The area to be rezoned does not directly abut this residential area, and the intervening space and the existing landform will buffer these very limited activities. There should be no negative impacts to this area by the proposed uses.

East:

The existing land use east of this portion of the site is the large area of land which was formerly the Agilent campus. The most immediate property is still owned and used by Agilent, which is still considered as part of that overall campus, even though not owned by the new developer of the Rocky Mountain Center for Innovation and Technology. This area is zoned I-Industrial, and is actively used by Agilent. The historic and anticipated land uses are a combination of industrial and commercial buildings with parking areas and formal landscape; as well as cultivated and uncultivated farmland and open space.

South:

The existing land use south of this portion of the site is an older portion of the former Agilent campus, now part of the Rocky Mountain Center for Innovation and Technology. This site is zoned I-Industrial. The historic and anticipated land uses are a combination of industrial and commercial buildings with parking areas and formal landscape.

The limited character and scope of activities that will take place in this portion of the site should not result in any negative impacts to the Agilent property. Since the trailhead from Taft will be reasonable nearby, the open space and trails may be used by employees of the industrial campus.

West:

The existing land use west of this portion of the site is the administrative offices of the Thompson School District, with parking areas and formal landscape; a stretch of South Taft Avenue, and a multi-family area directly west of Taft Avenue. Continued use of this site by the school district is anticipated, and may provide some shared access and parking to the public open space functions of Sub-area #2.

The limited character and scope of activities that will take place in this portion of the site should not result in any negative impacts to these properties. Since the trailhead from Taft will be reasonable nearby, the open space and trails may be used by school district employees and by those residing in the residential and commercial areas to the west of Taft.

Finding 3. *Development of the subject property pursuant to any of the uses permitted by right under the zoning district would result in impacts on City infrastructure and services that are consistent with current infrastructure and services master plans.*

Only a draft concept plan for development and use of the open space has been developed to date. When site specific development is determined, a Site Development Plan will be required for review by the City. Such review will be performed on the basis of all applicable City codes and standards. This will assure that the proposed uses would result in impacts on City infrastructure and services that are consistent with current infrastructure and service master plans.

Finding 4. *Development of the subject property pursuant to any of the uses permitted by right under the zoning district being requested would result in development that is consistent with relevant policies contained in Section 4.0 of the 2005 Loveland Comprehensive Plan, as amended.*

The City of Loveland Comprehensive Plan indicates the land along and near the river corridor as open space, subject to the floodplain. It does not recommend any more specific land uses. The Plan recommends the west-central portion of the site for Employment Center land uses. The Plan also references the Natural Area Inventory and accompanying policies for preservation and enhancement. The area is recognized as Natural Area # 38 - the lowest portion of the Ryan's Gulch corridor. The steep slopes and related drainage channel, as well as the lack of any reasonable access from streets, makes it completely unusable for development of Employment

uses. The only appropriate uses are those that are in keeping with the purposes for natural areas. The limited character and scope of the intended uses are in keeping with these Comprehensive Plan policies.

AGILENT OPEN SPACE REZONING**Legal Description**

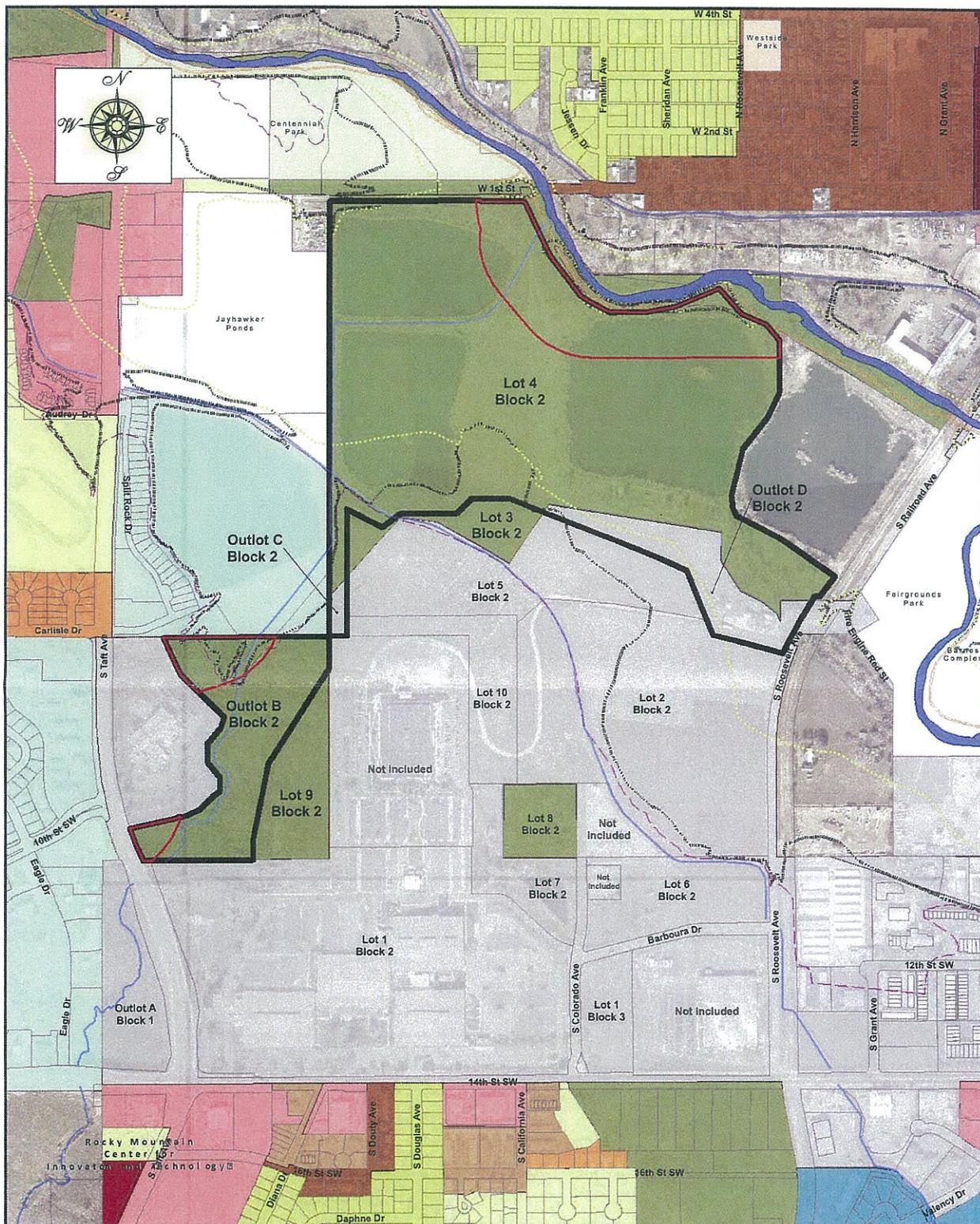
"Lot 4, and Outlots B, C, and D, all of Block 2 of the Amended Plat of: the Amended Plat of CMS Addition and The Fourth South Industrial Addition, Tract 1 Fourth South Industrial Addition; the Amended Plat of Tracts 1 and 2 Block 1, Loveland Technological Center First Subdivision, Tract 2, Block 1; the Big Thompson Industrial Park Second Subdivision, Lot 2, Block 1; the Big Thompson Industrial Park, Tract 3 and Tract 4; the Fairgrounds First Subdivision, Outlot A; the Hewlett - Packard Roosevelt Addition, Tract A; the Hewlett-Packard Big Thompson First Subdivision, Tracts 1 and 2; the Loveland Technological Center First Subdivision, Tract 3; the Second South Industrial Addition, Tract 1; the Third South Industrial Addition, Tract 2, City of Loveland, County of Larimer, State of Colorado; all located within Section 23, T 5N, R 69W, of the 6th principal meridian and consisting of approximately 121.40 acres."

Definitions for uses by right in the PP zone district

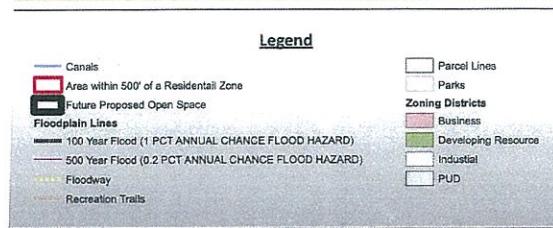
- A. Neighborhood Park - Shall mean a publicly owned park as defined and described in the Parks and Recreation Master Plan. Neighborhood Parks are centrally located, accessible to surrounding neighborhoods and should be equally distributed throughout the City. A Neighborhood Park should be a minimum of eight (8) acres in size and serve approximately a 1- mile service area with a $\frac{1}{2}$ mile radius surrounding the park. Typical facilities include informal softball and soccer/football fields, volleyball, basketball, playground, horseshoe, tennis, shelter/pavilion with tables, pathways and free play areas.
- B. Community Park - Shall mean a publicly owned park as defined and described in the Parks and Recreation Master Plan, as adopted and amended. Community Parks serve as focal points within the community. Community Parks usually have parking, increased traffic due to active programmed sports, lighting and increased noise. Community Parks are greater than thirty (30) acres and usually serve approximately a 4-mile service area with a 1-mile radius surrounding the park. Typical facilities include those allowed in Neighborhood Parks plus all listed in the Park and Recreation Master Plan.
- C. School Recreation Areas – Shall mean a publicly owned park or recreation area as defined and described in the Parks and Recreation Master Plan. These areas are located adjacent to schools or are cooperatively developed as recreation areas on school properties. These sites should be developed where practical and beneficial to serve neighborhoods, which lack a park or have access barriers. Facilities may include youth baseball/softball fields, volleyball, basketball, soccer/football, playground, and multi-use turf areas.
- D. Regional Park – A Regional Park shall mean a publicly owned park which offers leisure value beyond the neighborhood or Community Park as defined and described in the Parks and Recreation Master Plan. Often there is an environmental or scenic quality, such as a river or mountain terrain within a Regional Park. Regional Parks are usually larger than two hundred (200) acres. Viestenz-Smith Mountain Park is categorized as a Regional Park.
- E. Special Use Areas - Shall mean a publicly owned park or recreation area as defined and described in the Parks and Recreation Master Plan, and may include unique or special uses such as Sculpture Parks.
- F. Recreational Trail - Shall mean a publicly owned or maintained trail system, including trailheads as identified or described in the Parks and Recreation Master Plan. Trails are typically located along drainage ways, irrigation canals, within acquired open space/natural areas or easements or land purchased. The Recreational Trail shall encircle the City of Loveland in a connecting loop. Trails are predominately off-road, non-motorized recreational routes constructed as 10-foot wide concrete paths. Soft path trails may parallel the concrete surface where practical. Where feasible, trailheads will be located and may include parking, drinking water, restrooms, and information on the trail system.
- G. Recreational Facilities – Shall mean any publicly owned recreation facility or area as defined and described in the Parks and Recreation Master Plan, and may include both indoor and outdoor uses.

- H. Open Lands/ Natural Area – Shall mean all areas as described in the City of Loveland Open Lands Plan or as further described in the Parks and Recreation Master Plan, as these plans are adopted and may be amended.
- I. Golf Courses - Shall mean any publicly owned facility or area as defined and described in the Parks and Recreation Master Plan, and may include both indoor and outdoor facilities, buildings, and accessory uses.
- J. Cemeteries or Memorial Gardens - Any publicly owned land used for burial or memorials.

AGILENT OPEN SPACE



ATTACHMENT 4



This map is designed for informational purposes only
and is not intended for legal, engineering, or survey purposes.



1 inch = 250 feet

0 0.125 0.25 Miles

Author: H. Lassner
Date: 5/12/2012

ATTACHMENT 4



DRAFT PREFERRED ALTERNATIVE

OPEN SPACE

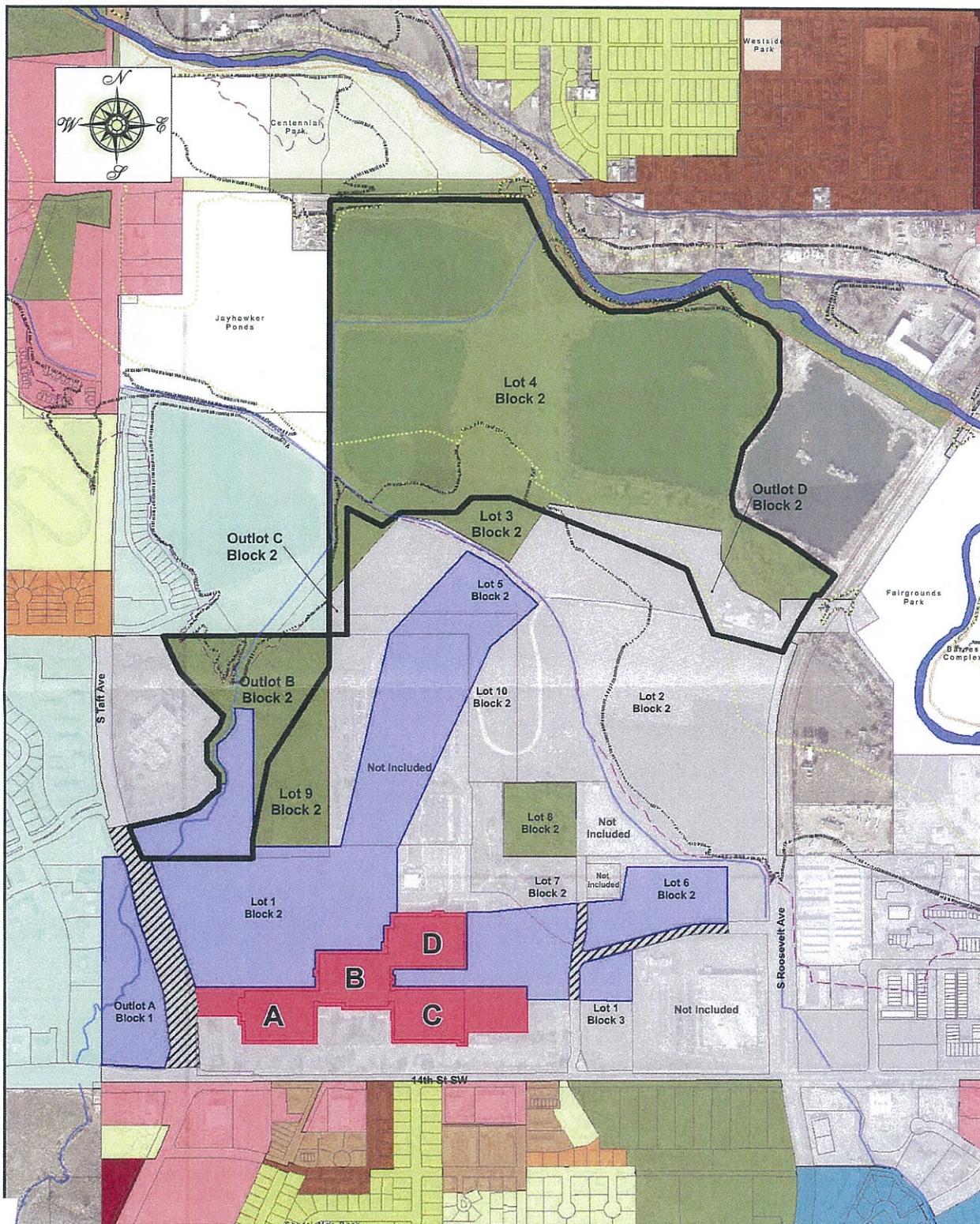
4/26/2012

ATTACHMENT E



AECOM

AGILENT OPEN SPACE



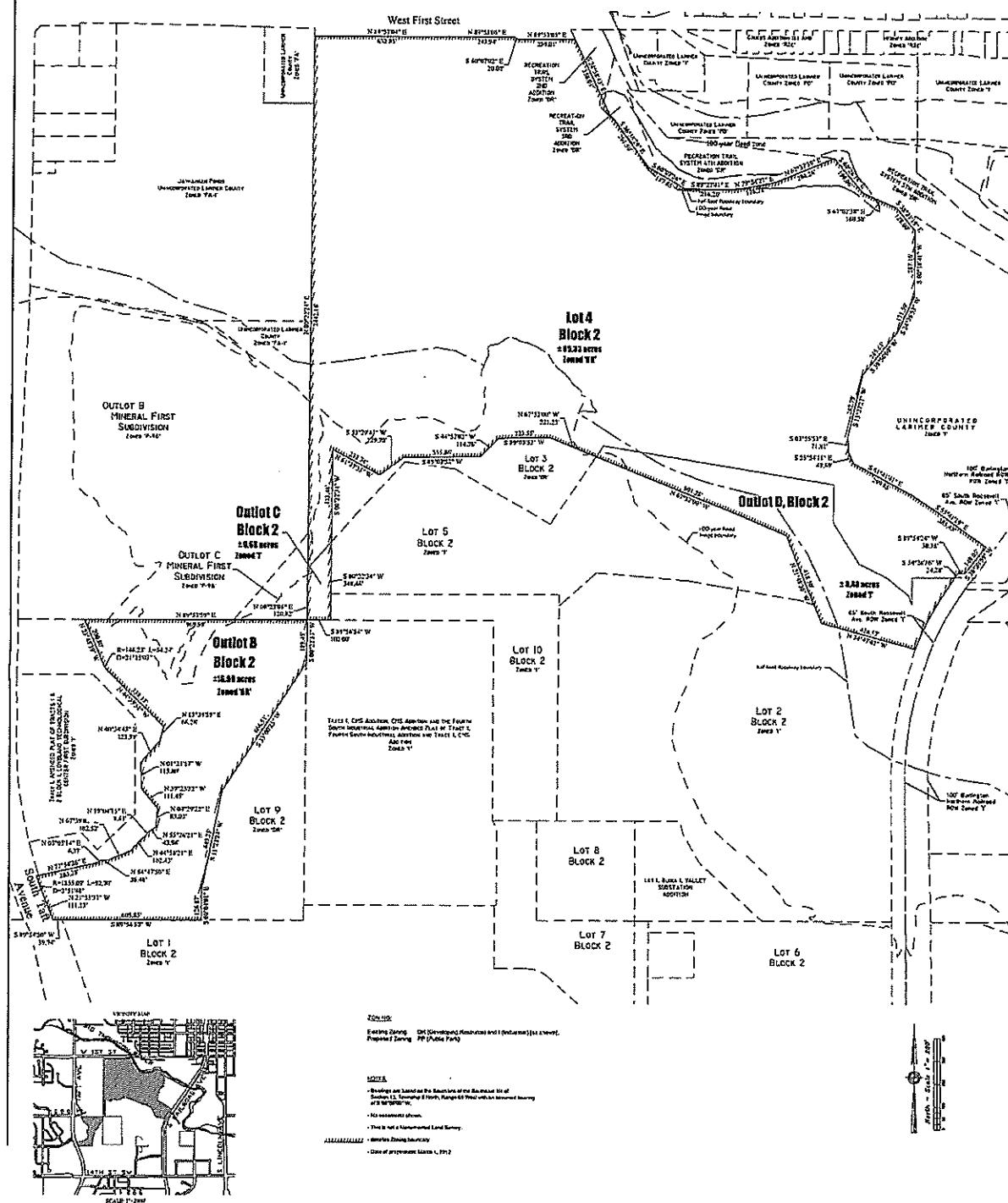
ATTACHMENT 6

Author: H. Lassner
Date: 3/12/2012

ATTACHMENT 6

AGILENT OPEN SPACE REZONING MAP

Rezoning #312



NOTE: According to Colorado law you must communicate any bidirectional audio data in this manner within three years after you first receive such bidirectional data. In no event, may any bidirectional audio data be transmitted for more than three years from the date of the notification above herein.

CONTINUING EDUCATION CREDIT: This course is approved for 1.5 hours of continuing education credit by the Colorado Bar Association. The course is also approved for 1.5 hours of CLE credit by the Colorado Judicial Branch. The course is also approved for 1.5 hours of CLE credit by the Colorado Bar Association.

SURVEYOR'S CERTIFICATE

I, **John B. Sawyer**, a registered Land Surveyor in the State of Colorado, do hereby certify that the following Legal Survey is a reasonable representation of the area to be measured. The map is composed using bearing, plan, area, legal descriptions, and other documents and facts based on a Title Survey or Record Deeds as available at the time of survey.

Rezoning Map
HP / Agilent Open Space
Section 23, Township 5 North, Range 69 West, Elus P.M., Larimer County, Colorado

CLIENT	City of Loveland	TITLE	Rating Map				
REVISIONS	1	HP / Ag/irrigated Open Space	Section 23, Township 5 North, Range 65 West, 100 P.M., Larimer County, Colorado				
Rev.	By _____	Rev.	By _____				
Rev.	By _____	Rev.	By _____				
Rev.	By _____	Rev.	By _____				
Rev.	By _____	Rev.	By _____				
PLS Group, LLC		First Date	1/1/04	1/1/04	PROJECT NO.	MEETING	NO OF SHEETS
4453 North Franklin Avenue, Loveland, Colorado 80538		Permit Card	W/A	M/S	14120.003	1	1
Phone: 970.662.2109 Fax: 970.662.2652		Seal	1/20/04	PLM	M/S		

Amended Plat of CMS Addition and The Fourth South Industrial Addition, Tract 1 Fourth South Industrial Addition; Amended Plat of Tracts 1 and 2 Block 1, Loveland Technological Center First Subdivision, Tract 2, Block 1; Big Thompson Industrial Park Second Subdivision, Lot 2, Block 1; Big Thompson Industrial Park, Tract 3 and Tract 4; Fairgrounds First Subdivision, Outlot A; Hewlett - Packard Roosevelt Addition, Tract A; Hewlett-Packard Big Thompson First Subdivision, Tracts 1 and 2; Loveland Technological Center First Subdivision, Tract 3; Second South Industrial Addition, Tract 1; Third South Industrial Addition, Tract 2

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KNOW ALL PERSONS BY THESE PRESENTS that (the undersigned), being at the owners and
members of the following described property, except any existing public streets, roads or highways,
which property is located in Section 23, Township 05, Range 68 West of the 6th P.M., being
more particularly described as follows:

Considering the North right of way line of 14th Street S.W. as bearing S 80°56'35" W, an assumed
meridian, as the Basis of Bearings with all bearing herein referenced thereto.

BEGIN at the southeast corner of Tract 2, 3RD SOUTH INDUSTRIAL ADDITION (R#00972);
Thence S88°56'36" along the south line of said Tract 2 for a distance of 770.33 feet to the east right
of way line of 14th Street S.W.;

Thence along said right of way line the following courses and distances:

Thence N17°20'59" W for a distance of 174.76 feet;

Thence N0°15'32" W for a distance of 93.32 feet;

Thence N8°49'40" E for a distance of 123.11 feet;

Thence N8°21'17" W for a distance of 103.30 feet;

Thence N8°21'17" W for a distance of 93.88 feet;

Thence N15°22'39" W for a distance of 785.82 feet to the south line of Tract 2, AMENDED PLAT OF
TRACTS 1 AND 2 BLOCK 1, LOVELAND TECHNOLOGICAL CENTER 1ST SUBDIVISION
(R#203300008030);

Thence along the east, south, west and north lines of said Tract 2 the following courses and distances:

Thence N8°54'52" W for a distance of 111.13 feet to the beginning of a tangent curve concave to the
northeast and having a radius of 1856.00 feet;

Thence run northerly along the arc of said curve for a distance of 92.70 feet through a central angle of
2°51'48" to the end of said curve;

Thence N7°54'26" E for a distance of 385.54 feet;

Thence N8°14'16" E for a distance of 27.37 feet;

Thence N8°14'16" E for a distance of 26.48 feet;

Thence N8°37'02" E for a distance of 102.52 feet;

Thence N44°56'21" E for a distance of 102.43 feet;

Thence N15°04'19" E for a distance of 8.61 feet;

Thence N85°26'21" E for a distance of 43.98 feet;

Thence N85°26'21" E for a distance of 10.50 feet;

Thence N40°37'32" E for a distance of 111.45 feet;

Thence N12°21'17" W for a distance of 115.80 feet;

Thence N40°34'42" E for a distance of 123.99 feet;

Thence N44°38'58" W for a distance of 65.28 feet;

Thence run northerly along the arc of said curve for a distance of 331.17 feet to the beginning of a non-tangent curve concave to the west and having a radius of 145.23 feet, a chord of 53.02 feet and a chord bearing of
N42°41'48" W;

Thence run northerly along the arc of said curve for a distance of 54.24 feet through a central
angle of 21°19'03" to the end of said curve;

Thence N22°48'39" W for a distance of 200.80 feet;

Thence N88°58'50" E along the east, south, west and north lines of Tract 3, Block 1, LOVELAND
TECHNOLOGICAL CENTER 1ST SUBDIVISION (R#00001424) for a distance of 869.90 feet to the
west line of Tract 1, FOURTH SOUTH INDUSTRIAL ADDITION;

Thence N0°23'06" E along said west line for a distance of 122.82 feet to the west line of Tract 2,
HEWLETT-PACKARD BIG THOMPSON FIRST SUBDIVISION (R#000001433);

Thence N0°22'34" E along said west line of Tract 1, HEWLETT-PACKARD BIG
THOMPSON FIRST SUBDIVISION (R#000001432) for a distance of 242.18 feet;

Thence N85°45'04" E for a distance of 832.85 feet;

Thence N85°45'04" E for a distance of 343.94 feet;

Thence N85°45'04" E for a distance of 10.50 feet;

Thence N40°37'32" E for a distance of 111.45 feet;

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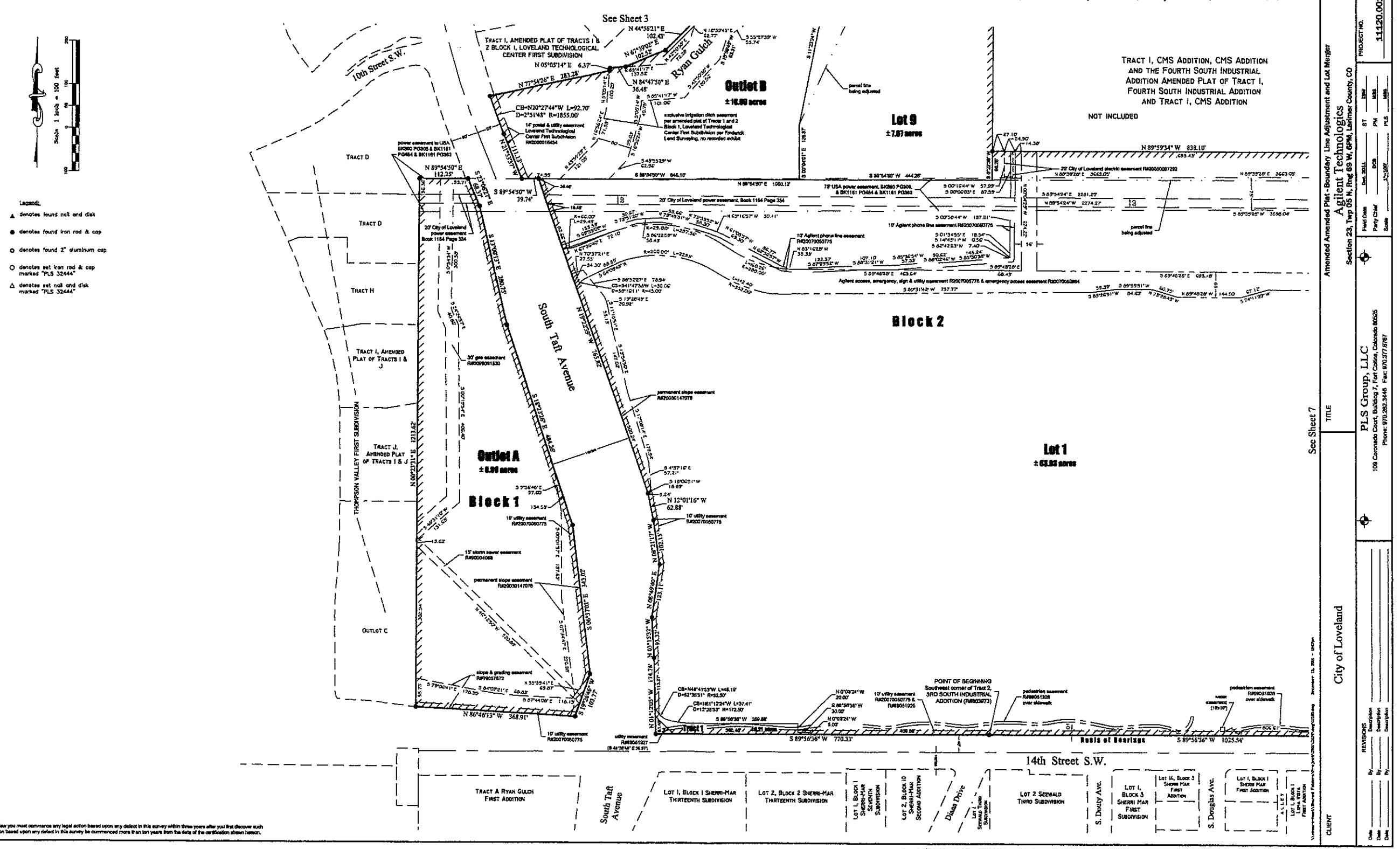
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being a Boundary Line Adjustment and Lot Merger of:
Amended Plat of CMS Addition and The Fourth South Industrial Addition, Tract 1 Fourth South Industrial Addition; Amended Plat of Tracts 1 and 2 Block 1, Loveland Technological Center First Subdivision, Tract 2, Block 1; Big Thompson Industrial Park Second Subdivision, Lot 2, Block 1; Big Thompson Industrial Park, Tract 3 and Tract 4; Fairgrounds First Subdivision, Outlot A; Hewlett - Packard Roosevelt Addition, Tract A; Hewlett-Packard Big Thompson First Subdivision, Tracts 1 and 2; Loveland Technological Center First Subdivision, Tract 3; Second South Industrial Addition, Tract 1; Third South Industrial Addition, Tract 2 to the City of Loveland, County of Larimer, State of Colorado

Scale: 1 inch = 100 feet

Legend:
 ▲ denotes found nail and disk
 ● denotes found iron rod & cap
 ○ denotes found 2" aluminum cap
 □ denotes set iron rod & cap marked "PLS 32444"
 △ denotes set nail and disk marked "PLS 32444"



CLIENT

City of Loveland

REVISIONS
By _____
Division _____
Description _____

See Sheet 7
TITLE

PLS Group, LLC

109 Colorado Court, Building 7, Fort Collins, Colorado 80526
Phone: 970.282.3445 Fax: 970.287.5787

Amended Plat - Boundary Line Adjustment and Lot Merger
Section 23, Tract 05 N, Range 99 W, 6PM, Larimer County, CO
Project No. 114120.0001
Sheet No. 2
No. of Sheets 7

Amended Plat of CMS Addition and The Fourth South Industrial Addition, Tract 1 Fourth South Industrial Addition; Amended Plat of Tracts 1 and 2 Block 1, Loveland Technological Center First Subdivision, Tract 2, Block 2; Big Thompson Industrial Park Second Subdivision, Lot 2, Block 1; Big Thompson Industrial Park, Tract 3 and Tract 4; Fairgrounds First Subdivision, Outlot A; Hewlett - Packard Roosevelt Addition, Tract A; Hewlett-Packard Big Thompson First Subdivision, Tracts 1 and 2; Loveland Technological Center First Subdivision, Tract 3; Second South Industrial Addition, Tract 1; Third South Industrial Addition, Tract 2

NOTICE: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown herein.

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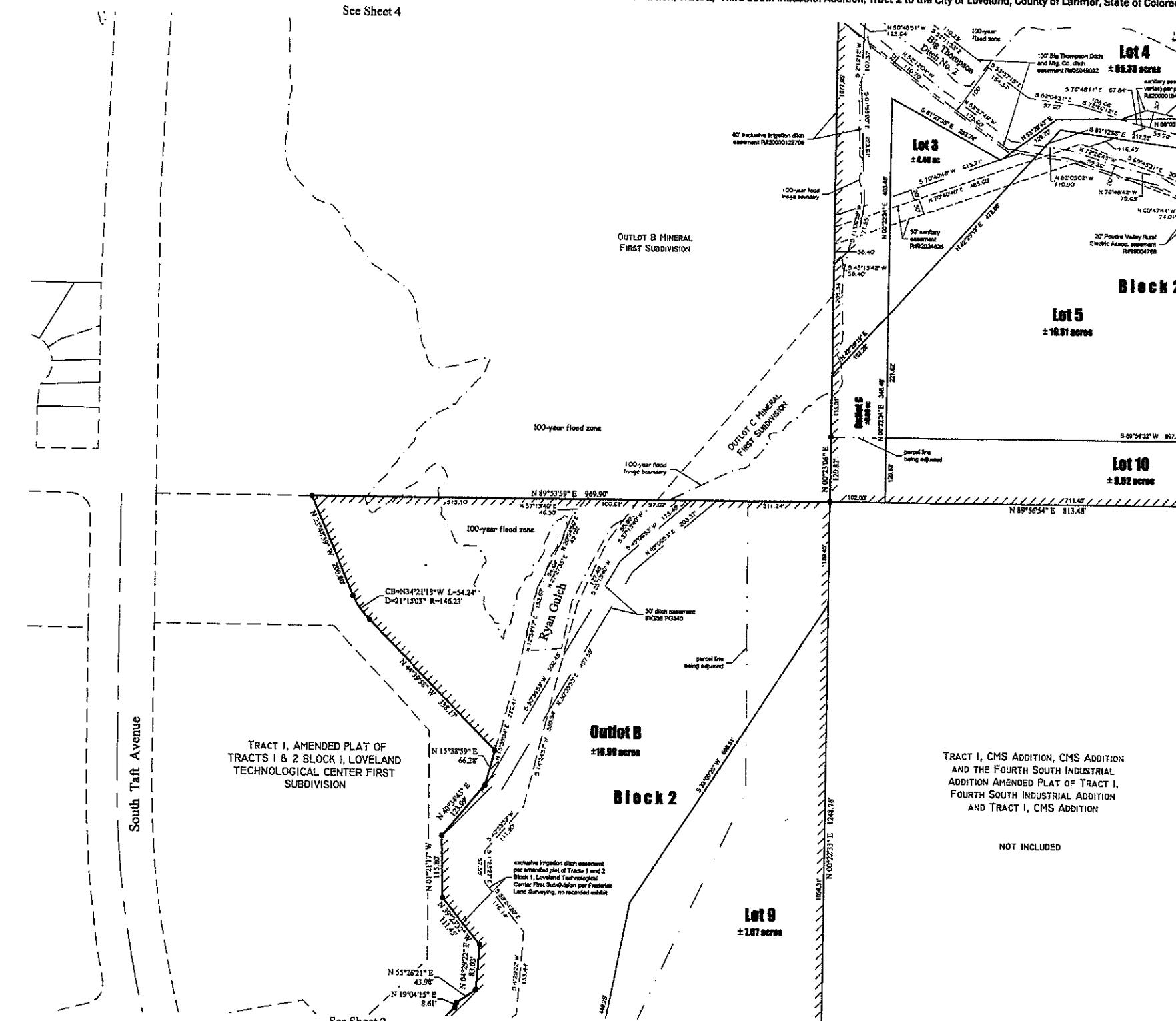
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being a Boundary Line Adjustment and Lot Merger of:
First Subdivision, Outlot A; Hewlett - Packard Roosevelt Addition, Tract A; Hewlett-Packard Big Thompson First Subdivision, Tracts 1 and 2; Loveland Technological Center First Subdivision, Tract 3; Second South Industrial Addition, Tract 1; Third South Industrial Addition, Tract 2 to the City of Loveland, County of Larimer, State of Colorado

See Sheet 4



Legend:
 ▲ denotes found nail and disk
 ● denotes found iron rod & cap
 ○ denotes found 2" aluminum cap
 □ denotes set iron rod & cap marked "PLS 32444"
 △ denotes set nail and disk marked "PLS 32444"



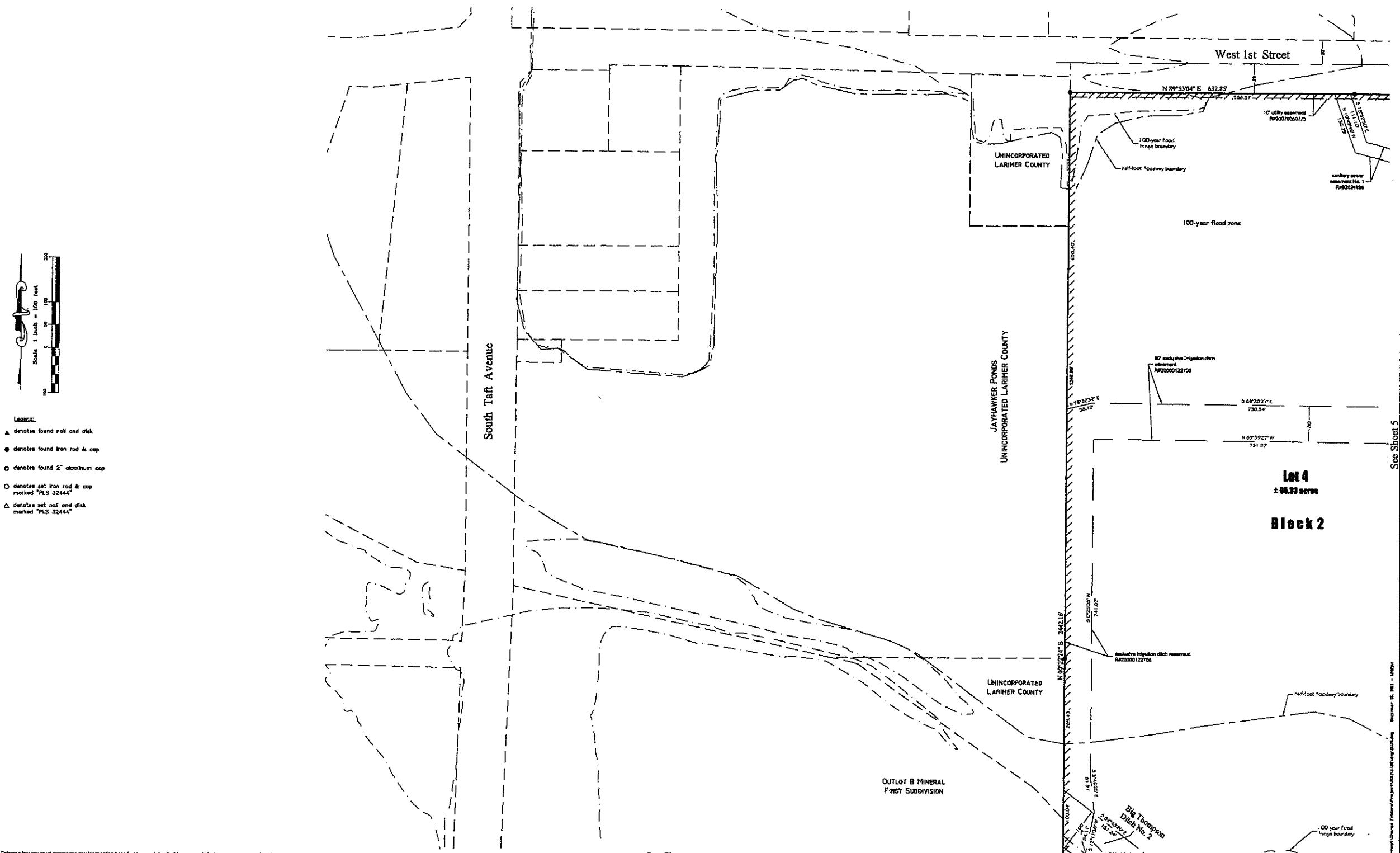
Amended Plat of Amended Plat of CMS Addition and The Fourth South Industrial Addition, Tract 1 Fourth South Industrial Addition; Amended Plat of Tracts 1 and 2 Block 1, Loveland Technological Center First Subdivision, Tract 2, Block 2; Big Thompson Industrial Park Second Subdivision, Lot 2, Block 1; Big Thompson Industrial Park, Tract 3 and Tract 4; Fairgrounds First Subdivision, Outlot A; Hewlett - Packard Roosevelt Addition, Tract A; Hewlett-Packard Big Thompson First Subdivision, Tracts 1 and 2; Loveland Technological Center First Subdivision, Tract 3; Second South Industrial Addition, Tract 1; Third South Industrial Addition, Tract 2

CLIENT	REVISIONS	NOT INCLUDED	NOT INCLUDED	NOT INCLUDED
City of Loveland	By _____ By _____ By _____ By _____	By _____ By _____ By _____ By _____	By _____ By _____ By _____ By _____	By _____ By _____ By _____ By _____
PLS Group, LLC	109 Colorado Court, Building 7, Fort Collins, Colorado 80525 Phone: 970.282.3448 Fax: 970.377.6767	Amended Plat - Boundary Line Adjustment and Lot Merger Agilent Technologies Section 23, Two N. Ring Rd., Loveland, CO 80538	Amended Plat - Boundary Line Adjustment and Lot Merger Agilent Technologies Section 23, Two N. Ring Rd., Loveland, CO 80538	Amended Plat - Boundary Line Adjustment and Lot Merger Agilent Technologies Section 23, Two N. Ring Rd., Loveland, CO 80538
109 Colorado Court, Building 7, Fort Collins, Colorado 80525 Phone: 970.282.3448 Fax: 970.377.6767	PLS Group, LLC	PLS Group, LLC	PLS Group, LLC	PLS Group, LLC
109 Colorado Court, Building 7, Fort Collins, Colorado 80525 Phone: 970.282.3448 Fax: 970.377.6767	109 Colorado Court, Building 7, Fort Collins, Colorado 80525 Phone: 970.282.3448 Fax: 970.377.6767	109 Colorado Court, Building 7, Fort Collins, Colorado 80525 Phone: 970.282.3448 Fax: 970.377.6767	109 Colorado Court, Building 7, Fort Collins, Colorado 80525 Phone: 970.282.3448 Fax: 970.377.6767	109 Colorado Court, Building 7, Fort Collins, Colorado 80525 Phone: 970.282.3448 Fax: 970.377.6767

Amended Plat of Amended Plat of CMS Addition and The Fourth South Industrial Addition, Tract 1, Fourth South Industrial Addition; Amended Plat of Tracts 1, 2 and 2 Block 1, Landwest Technological Center First Subdivision, Tract 2, Block 2, Big Thompson Industrial Park Second Subdivision, Lot 2, Block 2, Big Thompson Industrial Park, Tract 3 and Tract 4; Fagerborg First Subdivision, Duffer A; Hawley - Fagerborg Residential Addition, Tract A; Hawley - Fagerborg Residential Addition, Tract B; Landwest Technological Center First Subdivision, Tract 3; Fourth South Industrial 1 addition; Tract A; The Fourth South Industrial 1 addition; Tract B; The Fourth South Industrial 1 addition; Tract C.

Amended Plat of
Amended Plat of CMS Addition and The Fourth South Industrial Addition, Tract 1 Fourth South Industrial Addition; Amended Plat of Tracts 1 and 2 Block 1, Loveland Technological Center First Subdivision, Tract 2, Block 1; Big Thompson Industrial Park Second Subdivision, Lot 2, Block 1; Big Thompson Industrial Park, Tract 3 and Tract 4; Fairgrounds First Subdivision, Outlot A; Hewlett - Packard Roosevelt Addition, Tract A; Hewlett-Packard Big Thompson First Subdivision, Tracts 1 and 2; Loveland Technological Center First Subdivision, Tract 3; Second South Industrial Addition, Tract 1; Third South Industrial Addition, Tract 2

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NOTICE: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover a defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown here.

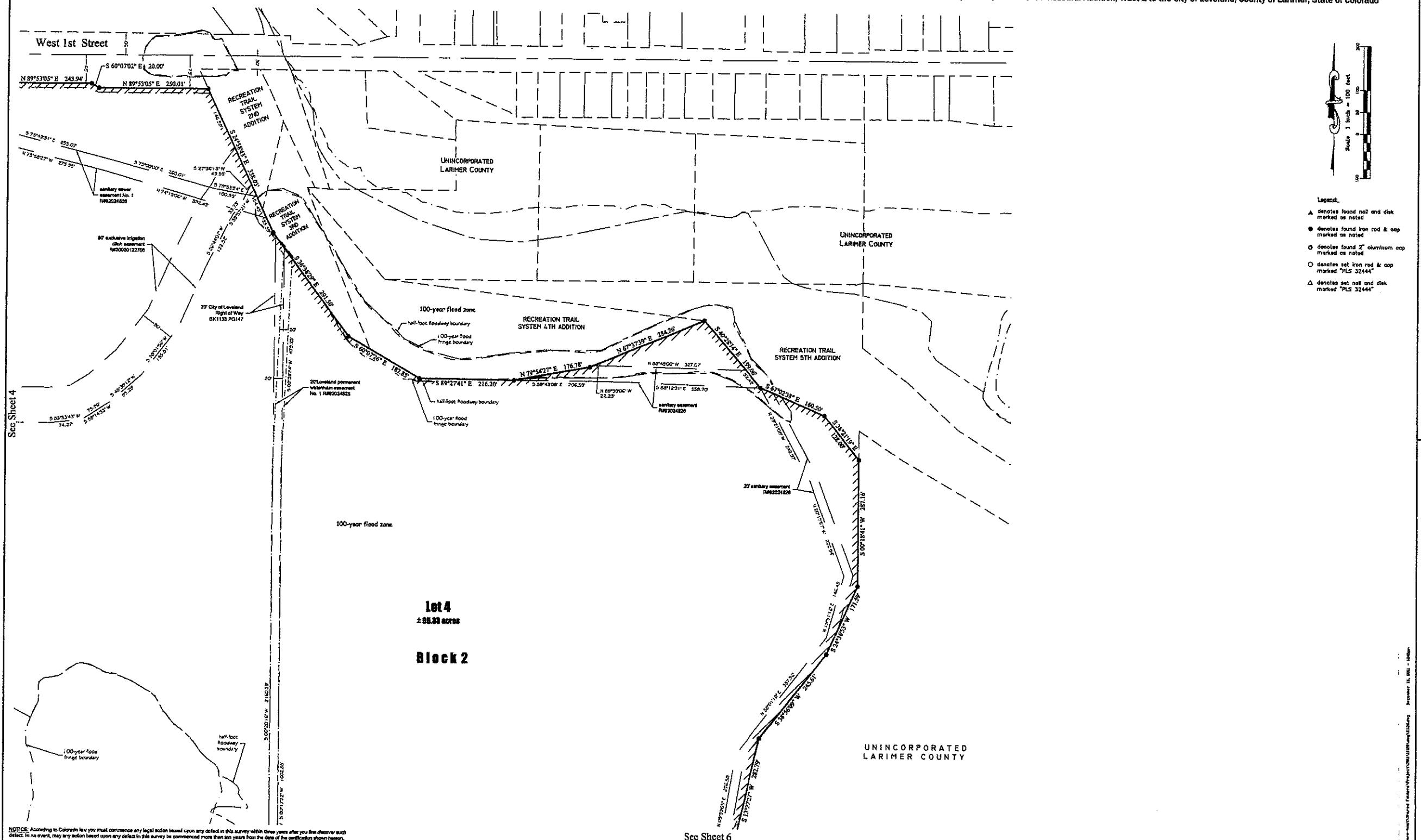
Amended Plat of Amended Plat of CIMS Addition and The Forest South Industrial Addition, Tract 3 Forest South Industrial Addition; Amended Plat of Tracts 1 and 2 Block 3, Lvland Technological Center First Subdivision, Tract 2, Block 3; Lvland Thompson Industrial Park Second Subdivision, Lot 2, Block 3; Lvland Thompson Industrial Park, Tract 3 and Tract 4; Fairground Plat Subdivision, Outlot A; Newell's Packard Research Addition, Tract 3; Second Forest Industrial Addition, Tract 3; Third South Industrial Addition, Tract 4; Hewlett-Packard Lv Thompson First Subdivision, Tract 3; Lvland Technological Center First Subdivision, Tract 3; Second Forest Industrial Addition, Tract 3; Third South Industrial Addition, Tract 3.

CLIENT	TITLE	Amended Plat - Boundary Line Adjustment and Lot Merger					
		Agilent Technologies					
City of Loveland	Section 23, Twp 05 N, Rng 69 W, SPM, Larimer County, CO.	PLS Group, LLC	108 Coronado Court, Building 7, Fort Collins, Colorado 80525	Proj. No.	Sheet No.	No. of Pages	
		PLS Group, LLC	108 Coronado Court, Building 7, Fort Collins, Colorado 80525	ST 250	4	7	
		PLS Group, LLC	108 Coronado Court, Building 7, Fort Collins, Colorado 80525	Proj. Chief DGM	PM MHS		
		PLS Group, LLC	108 Coronado Court, Building 7, Fort Collins, Colorado 80525	Field Date 08/24/2014			
		PLS Group, LLC	108 Coronado Court, Building 7, Fort Collins, Colorado 80525	Party Chief DGM			
		PLS Group, LLC	108 Coronado Court, Building 7, Fort Collins, Colorado 80525	PM MHS			

Amended Plat of CMS Addition and The Fourth South Industrial Addition, Tract 1 Fourth South Industrial Addition; Amended Plat of Tracts 1 and 2 Block 1, Loveland Technological Center First Subdivision, Tract 2, Block 1; Big Thompson Industrial Park Second Subdivision, Lot 2, Block 1; Big Thompson Industrial Park, Tract 3 and Tract 4; Fairgrounds First Subdivision, Outlot A; Hewlett - Packard Roosevelt Addition, Tract A; Hewlett-Packard Big Thompson First Subdivision, Tracts 1 and 2; Loveland Technological Center First Subdivision, Tract 3; Second South Industrial Addition, Tract 1; Third South Industrial Addition, Tract 2

Amended Plat of CMS Addition and The Fourth South Industrial Addition, Tract 1 Fourth South Industrial Addition; Amended Plat of Tracts 1 and 2 Block 1, Loveland Technological Center First Subdivision, Tract 2, Block 1; Big Thompson Industrial Park Second Subdivision, Lot 2, Block 1; Big Thompson Industrial Park, Tract 3 and Tract 4; Fairgrounds First Subdivision, Outlot A; Hewlett - Packard Roosevelt Addition, Tract A; Hewlett-Packard Big Thompson First Subdivision, Tracts 1 and 2; Loveland Technological Center First Subdivision, Tract 3; Second South Industrial Addition, Tract 1; Third South Industrial Addition, Tract 2 to the City of Loveland, County of Larimer, State of Colorado being a Boundary Line Adjustment and Lot Merger of:

being a Boundary Line Adjustment and Lot Merger



NOTICE: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover a defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

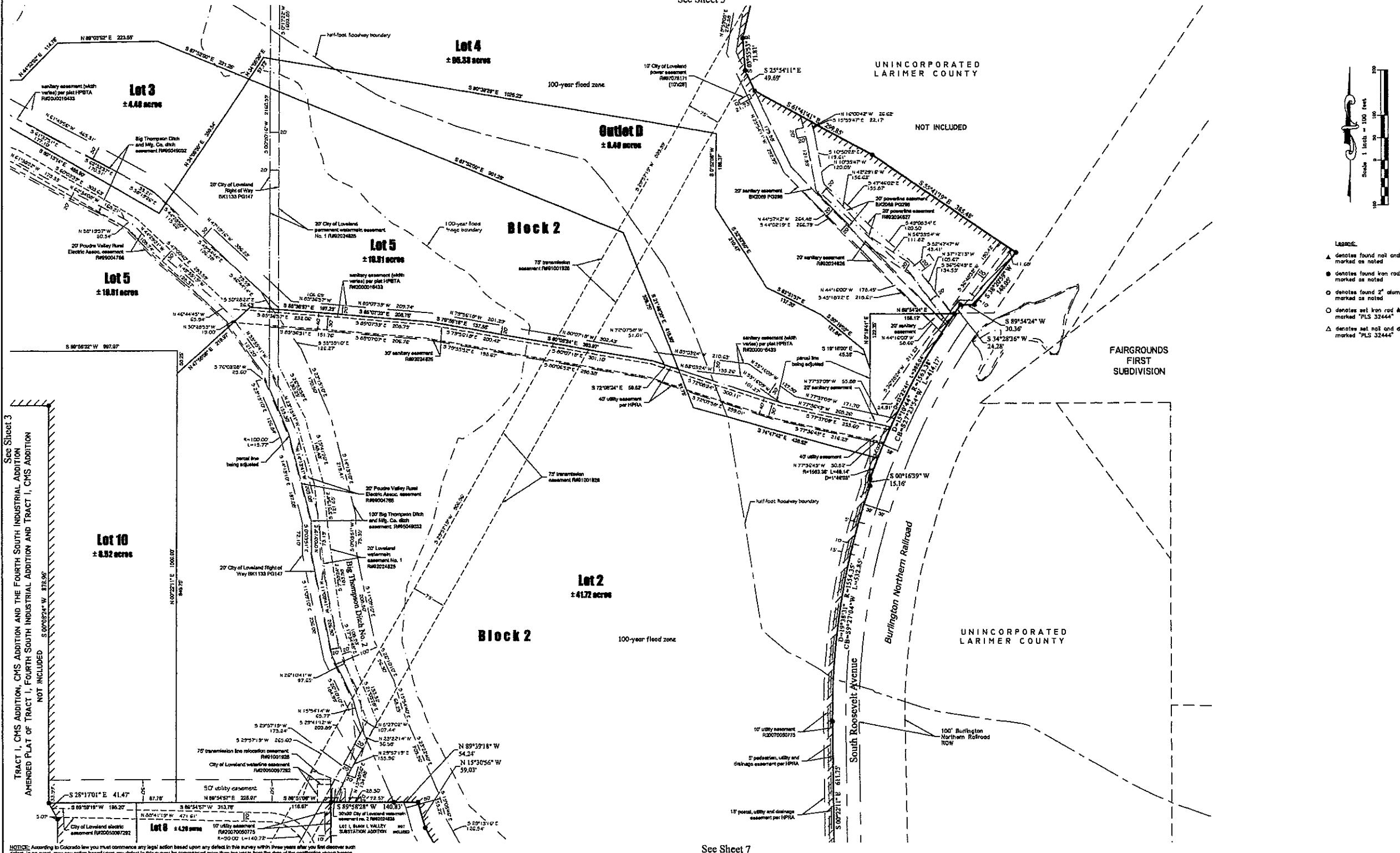
Amended Plat of Amended Plat of CMIS Addition and The Fourth South Industrial Addition, Tract 1 Fourth South Industrial Addition; Amended Plat of Tracts 1 and 2 Block 1, Loveland Technological Center First Subdivision, Tract 2, Block 1; M/L Thompson Industrial Park Second Subdivision, Lot 2, Block 2; M/L Thompson Industrial Park, Tracts 3 and 302; 4/Forgegreen First Subdivision, Outside A; Hewlett-Packard Big Thompson First Subdivision, Tract 1 and 2 Loveland Technological Center First Subdivision, Tract 1; Second South Industrial Addition; Tract 1; The 35th South Industrial Addition; Tract 2

Amended Plat of CMS Addition and The Fourth South Industrial Addition, Tract 1 Fourth South Industrial Addition; Amended Plat of Tracts 1 and 2 Block 1, Loveland Technological Center First Subdivision, Tract 2, Block 1; Big Thompson Industrial Park Second Subdivision, Lot 2, Block 1; Big Thompson Industrial Park, Tract 3 and Tract 4; Fairgrounds First Subdivision, Outlot A; Hewlett - Packard Roosevelt Addition, Tract A; Hewlett-Packard Big Thompson First Subdivision, Tracts 1 and 2; Loveland Technological Center First Subdivision, Tract 3; Second South Industrial Addition, Tract 1; Third South Industrial Addition, Tract 2

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being a Boundary Line Adjustment and Lot Merger

See She



NOTICE: According to Colorado law, you must commence any legal action based upon any claim in this survey within three years after you first discover, or reasonably should have known, your claim. Letters, emails, and other electronic communications, including the three days after you receive this notice, do not start the three-year period.

See Shee

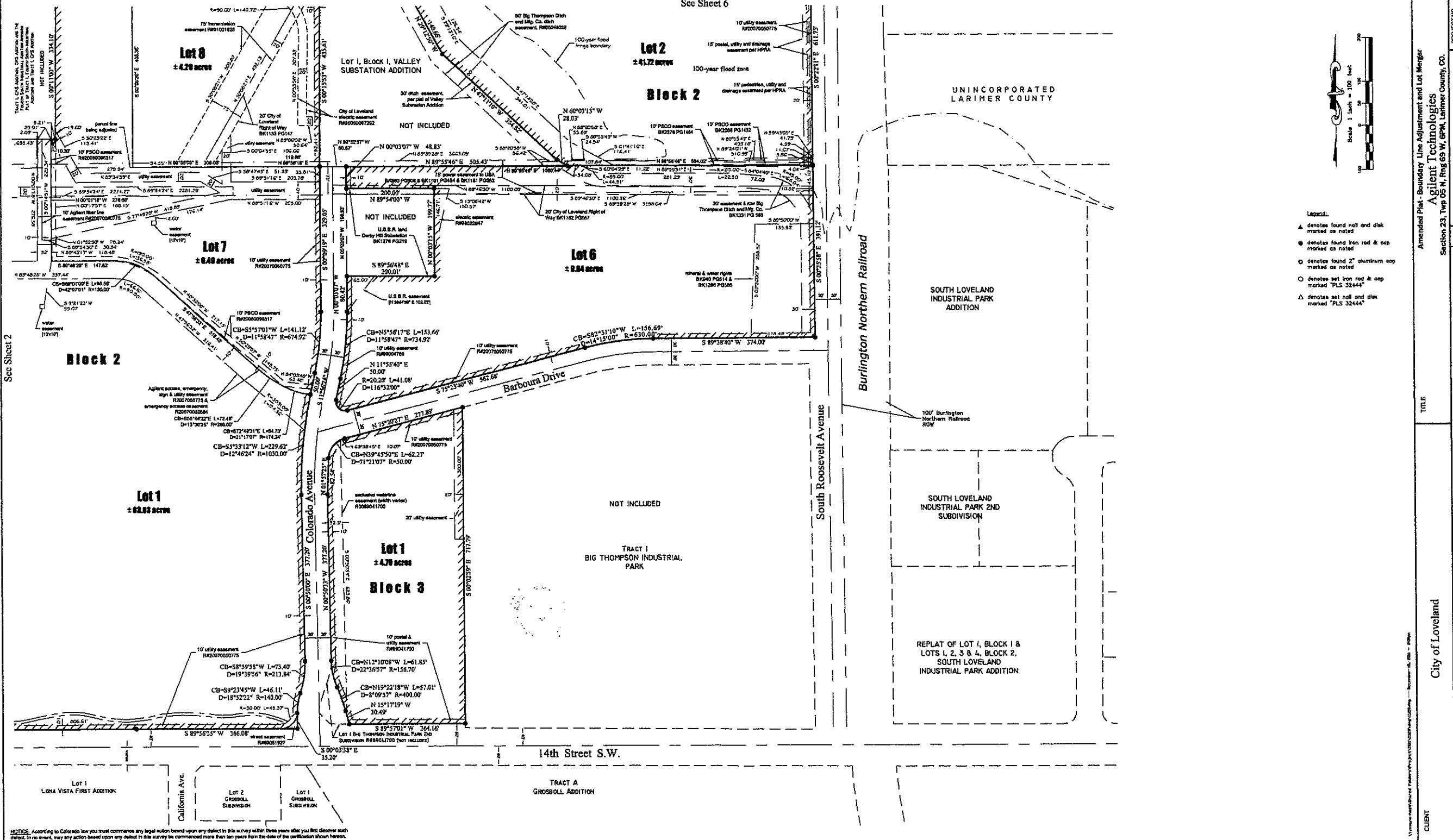
Amended Plat of Amended Plat of CMS Addition and The Fourth South Industrial Addition, Tract 1, Fourth South Industrial Addition; Amended Plat of Tracts 1 and 2 Block 3, Lowland Technological Center First Subdivision, Tract 2, Block 3; Big Thompson Industrial Park, Tract 3, Block 2; Big Thompson First Subdivision, Offutt A. Hewitt - Packard Research Addition, Tract A; Hewitt Packard Big Thompson First Subdivision, Tracts 3 and 2; Lowland Technological Center First Subdivision, Tract 3; George South Industrial Addition, Tract 2; George South Industrial Addition, Tract 2

Amended Plat of Amended Plat of C48 Addition and The Fourth South Industrial Addition, Tract 1 Fourth South Industrial Addition; Amended Plat of Tracts 1 and 2 Block 1, Leveland Technological Center First Subdivision, Tract 2, Block 2; Big Thompson Industrial Park Second Subdivision, Lot 1; Big Thompson Industrial Park, Tract 3 and Tract 4; Big Thompson Park Subdivision, Outer Lot; Big - Foothills - Foothills Research Addition, Tract 1; Newell - Packard Big Thompson First Subdivision, Tracts 1 and 2; Leveland Technological Center First Subdivision, Tract 3; Second South Industrial Addition, Tract 1; The South Industrial Addition, Tract 2

Amended Plat

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Amended Plat of Avondale Plat of CMS Addition and The Fourth South Industrial Addition, Tract 1, Fourth South Industrial Addition, Tract 1, Fourth South Industrial Addition, Amended Plat of Tracts 1 and 2 Block 1, Loveland Technological Center First Subdivision, Tract 2, Block 1; Big Thompson Industrial Park Second Subdivision, Tract 2, Block 2; Big Thompson Industrial Park, Tract 3 and Tract 4; Fairgrounds First Subdivision, Offset At: Hawkeye - Pleasant Ridge Addition, Tract 1, Pleasant Ridge Park and The Thirteenth Plat Subdivision, Tracts 1 and 2; Loveland Technological Center First Subdivision, Tract 3; Second South Industrial Addition, Tract 2; Third South Industrial Addition, Tract 3.

CLIENT	City of Loveland	
	Amended Plat - Boundary Line Adjustment and Lot Merger Agilent Technologies Section 23, Twp 05 N, Rng 69 W, BFM, Larimer County, CO.	
TITLE	Section 23, Twp 05 N, Rng 69 W, BFM, Larimer County, CO.	
	Amended Plat - Boundary Line Adjustment and Lot Merger Agilent Technologies	
DATE	Date: 2013	
	Field Date Perf. Chief _____ Scale _____	
SCALE	Scale: 1" = 100'	
	PLS _____ MMS _____	
PROJECT NO.	Project No.: 11120.0001	
	SHEET NO. 7 of 7	
NO. OF SHEETS	7	
	7	



CITY OF LOVELAND
ECONOMIC DEVELOPMENT OFFICE
 Civic Center • 500 East Third • Loveland, Colorado 80537
 (970) 962-2304 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM: **9**
MEETING DATE: 7/17/2012
TO: City Council
FROM: Mike Scholl, Economic Development Department
PRESENTER: Mike Scholl

TITLE:

A resolution approving a sales tax refund agreement for the Coffee Tree LLC

RECOMMENDED CITY COUNCIL ACTION: Adopt the resolution as recommended

OPTIONS:

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adopt a motion continuing the item to a future Council meeting

DESCRIPTION:

The resolution would approve a 33 percent sales tax (one penny out of three collected) refund for the Coffee Tree LLC. The agreement is for 36 months and shall not to exceed \$15,942.25. The agreement is performance based and their ability to collect the refund is based entirely on store sales. The amount is to help offset the cost of a grease interceptor and HVAC improvements to the building to facilitate a restaurant use.

BUDGET IMPACT:

Positive
 Negative
 Neutral or negligible

The incentive agreement will not impact the current general fund. The sales tax refund is based entirely on the Coffee Tree's sales and represents new revenue the City would not have received otherwise.

SUMMARY:

Coffee Tree, a locally owned coffee shop in Downtown Loveland is expanding into 210 E. Fourth Street, from their current location inside Anthology Book Store at 421 E. Fourth Street. The new location will offer an expanded take out lunch menu and baked goods along with their

signature coffee drinks and whole bean coffee. Their whole bean coffee sales have increased to the point where they are leasing a small industrial space in Berthoud just to keep up with demand.

The owners, Michael and Heidi Thrash are requesting a performance based incentive not to exceed, \$15,942.25 to help offset the cost of an internal grease trap and electrical service upgrades. The incentive would rebate 33 percent (one cent of every three collected) of sales tax revenue over three years, not to exceed \$15,942.25.

The electrical service upgrades have limited the use of the building as a full service restaurant. In addition, due to site limitations, the building will require an internal grease recovery system as opposed to a subgrade grease trap. The internal systems are attractive because it allows for restaurant use without having to dig up the alley behind the building for a large trap. The total development cost for the expansion is approximately \$105,000.

Staff is recommending the incentive agreement be approved by Council because it helps to achieve the City's strategic goals. In addition, because it is a performance based agreement, the Coffee Tree will only receive the refund based on their sales; there is no risk to the City in the event of non-performance.

The incentive request is consistent with our Economic Development Strategic Plan:

"Partner with the private sector on the recruitment and retention of retail businesses throughout the City **especially downtown**, West Eisenhower and US 287."

Given that the improvements will significantly improve the functionality of a historic building, it is also consistent with the Downtown Strategic Plan:

"Identify funding gaps to project development and structure tools to fill the gaps and achieve development."

REVIEWED BY CITY MANAGER:



LIST OF ATTACHMENTS:

1. Resolution
2. Sales tax refund agreement

RESOLUTION #R-51-2012**A RESOLUTION APPROVING A SALES TAX REFUND AGREEMENT
FOR THE COFFEE TREE LLC**

WHEREAS, the Coffee Tree LLC, a Colorado limited liability company (“Coffee Tree”), is a locally owned company specializing in fresh roasted coffee, coffee drinks, and baked goods; and

WHEREAS, the Coffee Tree operated a retail store in Anthology Book Store in Downtown Loveland at 422 E. Fourth Street for six years; and

WHEREAS, the Coffee Tree recently entered into a lease agreement for 210 E. Fourth Street in Downtown Loveland and completed substantial renovations at a cost of \$105,000 including a new internal grease collector and improvements to the HVAC system to make the building more functional; and

WHEREAS, the Coffee Tree intends to expand its offerings of baked goods, sandwiches, salads along with its signature fresh roasted coffee and coffee drinks in its new larger 3,500 square-foot location at 210 E. Fourth Street (the “Store”) and plans to hire three new full time staff; and

WHEREAS, before leasing and renovating the Store, the Coffee Tree asked the City to assist with redevelopment costs for the Store by providing a refund of sales taxes in an amount equal to one-third (1/3) of all City sales taxes collected by the Coffee Tree and received by the City with respect to transactions in or from the Store during a thirty-six (36) month period, in accordance with the terms and conditions of the Sales Tax Refund Agreement attached hereto as “**Exhibit A**” and incorporated by this reference (the “Agreement”); and

WHEREAS, the City Council believes that granting the Coffee Tree a refund of sales taxes as provided in the Agreement, will provide significant social and economic benefits to the citizens of Loveland, primarily in the form of jobs, economic development, and increased sales and property tax revenues to the City, and, therefore, the Agreement is in the best interests of the public and the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the City Council hereby finds that granting the Coffee Tree a refund of sales taxes collected by Coffee Tree and received by the City with respect to transactions in or from the Store as set forth in the Agreement, will serve a public purpose because the Coffee Tree’s expansion, renovation, and operation of the Store in Downtown Loveland will provide significant social and economic benefits to the citizens of Loveland, primarily in the form of jobs, economic development, and increased sales and property tax revenues to the City,

Section 2. That the Agreement attached hereto as **Exhibit A** and incorporated by reference is hereby approved.

Section 3. That the City Manager is authorized, following consultation with the City Attorney, to modify the Agreement in form or substance as deemed necessary to effectuate the purposes of this Resolution or to protect the interests of the City.

Section 4. That the City Manager and the City Clerk are hereby authorized and directed to execute the Agreement on behalf of the City of Loveland.

Section 5. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 17th day of July 2012.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

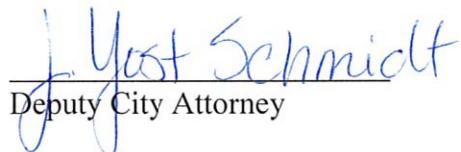

J. Yost Schmidt
Deputy City Attorney

Exhibit A

THE COFFEE TREE LLC SALES TAX REFUND AGREEMENT

This **SALES TAX REFUND AGREEMENT** is made and entered into this ____ day of ___, 2012, by and between the **CITY OF LOVELAND, COLORADO**, a home rule municipality (the "City"), and **THE COFFEE TREE LLC**, a Colorado limited liability corporation (the "Coffee Tree").

WHEREAS, the Coffee Tree operated a retail store in Anthology Book Store in Downtown Loveland at 422 E. Fourth Street for six years specializing in fresh roasted coffee, coffee drinks and baked goods; and

WHEREAS, the Coffee Tree recently entered into a lease agreement for 210 E. Fourth Street in Downtown Loveland and completed substantial renovations at a cost of \$105,000 including a new internal grease collector and improvements to the HVAC system to make the building more functional; and

WHEREAS, the Coffee Tree intends to expand its offerings of baked goods, sandwiches, salads along with its signature fresh roasted coffee and coffee drinks in its new larger 3,500 square-foot location at 210 E. Fourth Street (the "Store") and plans to hire three new full time staff; and

WHEREAS, before leasing and renovating the Store, the Coffee Tree asked the City to assist with redeveloping the Store by providing a refund of sales taxes in an amount equal to one-third (1/3) of all City sales taxes collected by the Coffee Tree and received by the City with respect to transactions in or from the Store during a thirty-six (36) month period; and

WHEREAS, by the adoption of Resolution #R-____-2012, the City Council has made a finding that the terms of the this Agreement and the assistance in the form of a sales tax refund to Coffee Tree are in the best interests of the City and serve the public purposes of redeveloping a vacant downtown property and establishing the operation of the Store, thereby producing significant economic benefits to the citizens of Loveland, primarily in the form of increased assessed values for property tax purposes, and sales tax revenues to the City; and

WHEREAS, by the adoption of Resolution #R-____-2012, the City Council has approved this Agreement to provide Coffee Tree with a refund of City sales taxes to the extent and on the terms and conditions provided herein.

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

1. Refund of City Sales Taxes Collected and Paid

Subject to the provisions of Section 2 below the Coffee Tree shall receive a refund of sales taxes in an amount equal to one-third (1/3) of all City sales taxes collected by the The Coffee Tree and received by the City with respect to transactions in or from the Store during the

thirty-six (36) month period commencing on the first day of the month following the approval of this Agreement, up to a maximum refund amount of fifteen thousand nine hundred forty two dollars and twenty five cents (\$15,942.25). Said refund shall be paid monthly, in arrears, by the City to the Coffee Tree. In no event shall the City have any obligation to refund a total

2. Multi-Year Fiscal Obligation

The City's obligations to reimburse the Company as provided in Section 1 above will extend beyond December 31, 2012 and is therefore considered a multi-year fiscal obligation under Article X, Section 20 of the Colorado Constitution and the City's Charter Section 11-6. As such, it is a multi-year fiscal obligation subject to annual appropriation by the Loveland City Council. The City shall have no obligation for the refund of sales taxes as provided in Section 1 above if the refund is being sought or is to be paid on or after December 31, 2012 if the necessary appropriation has not been made by the City Council to authorize such payment. However, the City agrees that the Economic Development Director shall include in the proposed annual budget and appropriation ordinances for 2013 and subsequent years when needed for the City Council's consideration the necessary appropriation to pay up to a total of fifteen thousand nine hundred forty two dollars and twenty five cents (\$15,942.25) for the refund as provided in Section 1 above.

3. Applicable Law and Venue

This Agreement shall be governed by and enforced in accordance with the laws of the State of Colorado. In addition, the hereto acknowledge that there are legal constraints imposed upon the City by the constitutions, statutes, and rules and regulations of the State of Colorado and of the United States, and imposed upon the City by its Charter and Code, and that, subject to such constraints, the parties intend to carry out the terms and conditions of this Agreement. Notwithstanding any other provisions of this Agreement to the contrary, in no event shall any of the parties hereto exercise any power or take any action which shall be prohibited by applicable law. Whenever possible, each provision of this Agreement shall be interpreted in such a manner so as to be effective and valid under applicable law. Venue for any judicial proceeding concerning this Agreement shall be in the District Court for Larimer County, Colorado.

4. Waiver of Confidentiality

Under C.R.S. § 24-72-204 of the Colorado Open Records Act and under City Code Section 3.16.230, the City is required to maintain as confidential documents that are not subject to public inspection the Coffee Tree's sales tax information and records that are submitted to and on file with the City. However, notwithstanding these provisions of law or any other applicable provisions of the law, the Coffee Tree hereby authorizes the City to provide information as to gross receipts, sales tax collections, and amount of sales tax refunded under this Agreement to members of the Loveland City Council, and acknowledges that information provided to Council is subject to public inspection.

5. Time is of the Essence

Time shall be of the essence for the performance of all obligations under this Agreement.

Either party hereto may at any time designate a different address or person receiving notice by so informing the other parties in writing.

10. Binding Effect

This Agreement shall be binding upon and, except as otherwise provided in this Agreement, shall inure to the benefit of the successors and assigns of the respective parties hereto.

11. Severability

If any provision of this Agreement, or the application of such provision to any person, entity, or circumstance, shall be held invalid, the remainder of this Agreement, or the application of such provision to persons, entities, or circumstances other than those in which it was held invalid, shall not be affected.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

The Coffee Tree LLC, a Colorado limited liability company

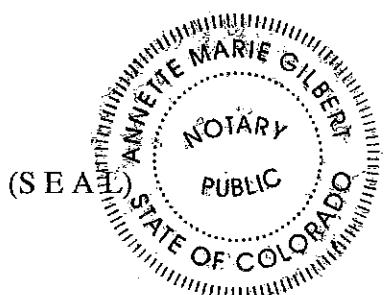
By: HT May LLC
Heidi Thrash, Manager

By: Michael Thrash, Manager

**STATE OF COLORADO)
COUNTY OF LARIMER) ss.**

The foregoing instrument was acknowledged before me this 9th day of July, 2012, by Heidi Thrash and Michael Thrash as managers of The Coffee Tree LLC, a Colorado limited liability corporation.

Witness my hand and official seal. My commission expires: 9-23-2012



Annette Marie Gilbert
Notary Public

Notary Public

CITY OF LOVELAND, COLORADO

6. Assignment

The Coffee Tree shall not assign or transfer any or all of its interests, rights, or obligations under this Agreement without the prior written consent of the City.

7. Construction

This Agreement shall be construed according to its fair meaning and as if it was prepared by both of the parties hereto and shall be deemed to be and contain the entire Agreement between the parties hereto. There shall be deemed to be no other terms, conditions, promises, understandings, statements, or representations expressed or implied, concerning this Agreement, unless set forth in writing and signed by the City and the Coffee Tree.

8. Headings

Section headings used in this Agreement are used for convenience of reference only and shall in no way define, control, or affect the meaning or interpretation of any provision of this Agreement.

9. Notices

Any written notice given under this Agreement and all other correspondence between the parties shall be directed to the following and shall be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested, to the following addresses:

If to the City:

Bill Cahill
City Manager
City of Loveland
500 East Third Street, Suite 330
Loveland, CO 80537

With Copy to:

John R. Duval
City Attorney
City of Loveland
500 East Third Street, Suite 330
Loveland, CO 80537

If to the Coffee Tree:

Michael and Heidi Thrash
Coffee Tree LLC
210 E. Fourth Street
Loveland, CO 80537

With a copy to:

By: _____
Cecil Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

**STATE OF COLORADO)
COUNTY OF LARIMER)**

The foregoing instrument was acknowledged before me this ____ day of ____, 2012, by Cecil Gutierrez as Mayor of the City of Loveland, Colorado, and by Teresa Andrews as City Clerk of the City of Loveland, Colorado.

Witness my hand and official seal. My commission expires:

(S E A L) Private Label



CITY OF LOVELAND
CITY MANAGER'S OFFICE

Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2303 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM: 10
MEETING DATE: 7/17/2012
TO: Mayor and City Council
FROM: William D. Cahill, City Manager
PRESENTER: John R. Duval, City Attorney
 William D. Cahill
 John R. Duval
 Randy Mirowski, Fire Chief, Loveland Fire Rescue Authority (LFRA)

TITLE:

- A) Two Emergency Ordinances with one temporarily banning certain types of outdoor fires within the City of Loveland until October 1, 2012, and the other temporarily prohibiting the sale and use of permissible fireworks in the City of Loveland until October 1, 2012.
- B) Two Non-Emergency Ordinances with one temporarily banning certain types of outdoor fires within the City of Loveland until October 1, 2012, and the other temporarily prohibiting the sale and use of permissible fireworks in the City of Loveland until October 1, 2012.

RECOMMENDED CITY COUNCIL ACTION:

Conduct a public hearing. Adopt the two emergency ordinances as attached.

OPTIONS:

1. Adopt the action as recommended
2. Adopt the two alternate non-emergency ordinances as submitted
3. Deny the action
4. Adopt a modified action (specify in the motion)
5. Refer back to staff for further development and consideration
6. Adopt a motion continuing the item to a future Council meeting

DESCRIPTION:

This is a legislative action to consider two emergency ordinances or alternatively the same two ordinances as non-emergency ordinances, with one ordinance enacting a temporary ban in the City on certain types of outdoor fires until October 1, 2012, and the other temporarily prohibiting in the City the sale and use of permissible fireworks until October 1, 2012. This action would be similar in many respects to Larimer County's bans on "open fires" and on the sale and use of all fireworks, which were enacted by the County Commissioners by resolution on June 19, 2012.

BUDGET IMPACT:

- Positive
- Negative
- Neutral or negligible

SUMMARY:

On June 14, 2012, Colorado Governor John Hickenlooper issued Executive Order D 2012-015 imposing a statewide ban on "open burning" in Colorado, which included a ban on the private use of all fireworks. The Order was issued to address the high fire danger that currently exists throughout much of Colorado and has resulted in numerous serious fires in the state. However, on July 8, 2012, Governor Hickenlooper issued Executive Order D2012-029 rescinding his June Executive Order. This resulted in the automatic repeals of the emergency ordinance the Council adopted on June 26, 2012 to ban the sale and use of permissible fireworks and of the emergency ordinance Council adopted on July 3, 2012 to ban certain outdoor fires.

Also, on June 19, 2012, the Larimer County Commissioners adopted Resolution No. 06192012R004 which enacted within the unincorporated areas of Larimer County a temporary ban on the sale and use of all fireworks and on "open fires" and "contained open fires" as defined in the Resolution effective through September 30, 2012.

The City's current Fire Code prohibits the possession, manufacture, storage, sale, handling and use of all fireworks except "permissible fireworks," as this term is defined in State statute. The Fire Code also regulates the use of "bonfires," "open burning," "recreational fires," and "portable outdoor fireplaces," as defined in the Fire Code. Yet, some of these listed types of fires are not necessarily prohibited from use within the City of Loveland.

It is the view of many fire service authorities, including the LFRA Fire Chief that certain outdoor fires and the sale and use of fireworks continue to represent an unacceptable risk to the public's health and safety during these times of extreme high fire danger and should require greater restrictions or a prohibition of their use during such times. Considering the hot, dry and windy weather conditions that have existed in the City of Loveland and Larimer County for the past several weeks, and forecasts for more of the same for the near future, an ordinance establishing a temporary ban on certain outdoor fires and the prohibition of the sale and use of permissible fireworks within the city of Loveland is prudent and appropriate. Recent rains have reduced some of the high fire danger, at least temporarily, and were likely the catalyst for the Governor rescinding his previous ban by executive order. Forecasts are still calling for higher than normal temperatures and only slight chances of measurable precipitation. It is likely that within a few days, or weeks, the northern Colorado area will return to high fire danger and red-flag warnings.

The proposed emergency ordinance prohibiting certain outdoor fires does not extend as far, or is as restrictive as, the current county resolution in the prohibition of the use of certain outdoor fires or cooking appliances such as: gas or liquid fueled grills or camp stoves, charcoal or wood-fueled grills designed for cooking being used in private residences, stationary and permanent

masonry or metal gas-fueled fireplaces or fire pits. These and other actions, such as smoking of tobacco products, use of highway flares, railroad fuses, boat and distress signals, smoke candles and other emergency signal devices have been exempted from the outdoor fire ban in the City of Loveland.

The temporary emergency ordinances include an expiration date of October 1, which is the same expiration date for Larimer County's ban. This action could take place earlier if the Council determines through its own action that an earlier rescinding would be in order.

REVIEWED BY CITY MANAGER:



LIST OF ATTACHMENTS:

1. An Emergency Ordinance temporarily banning certain outdoor fires within the City of Loveland until October 1, 2012
2. An Emergency Ordinance temporarily prohibiting the sale and use of permissible fireworks in the City of Loveland until October 1, 2012
3. An Ordinance temporarily banning certain outdoor fires within the City of Loveland until October 1, 2012
4. An Ordinance temporarily prohibiting the sale and use of permissible fireworks in the City of Loveland until October 1, 2012

FIRST AND ONLY READING: July 17, 2012

ORDINANCE #

**AN EMERGENCY ORDINANCE TEMPORARILY BANNING CERTAIN
OUTDOOR FIRES WITHIN THE CITY OF LOVELAND UNTIL
OCTOBER 1, 2012**

WHEREAS, on June 14, 2012, Governor John W. Hickenlooper issued Executive Order D 2012-015 pursuant to C.R.S. § 23-31-308 imposing a statewide ban on "open burning" in Colorado (the "June Executive Order"); and

WHEREAS, Governor Hickenlooper states in his June Executive Order that he issued it to address the high fire danger that currently exists throughout much of Colorado, citing in particular the High Park Fire here in Larimer County; and

WHEREAS, on June 19, 2012, the Larimer County Commissioners adopted Resolution No. 06192012R004 (the "County Resolution") which, among other things, enacted for unincorporated Larimer County a temporary ban on "open fires" and "contained open fires," as these terms are defined in the County Resolution, effective through September 30, 2012; and

WHEREAS, "open fires" are defined in the County Resolution to include, among other things, "any open burning," such as camp and cooking fires, welding, and operating an acetylene or other torch with open flame, but not to include fires in camp stoves or grills fueled by bottled gas or pressurized liquid that are designed for cooking or heating or fires in commercially operated wood and/or charcoal fueled grills designed for cooking; and

WHEREAS, "contained open fires" are defined in the County Resolution to include, among other things, fires in permanently constructed stationary masonry or metal fireplaces located outdoors, but not to include fireplaces or wood stoves located inside permanent structures; and

WHEREAS, in consideration of the June Executive Order and the County's Resolution banning open fires and contained open fires, on July 3, 2012, the City Council adopted Ordinance No. 5690 as an emergency ordinance to temporarily ban certain open fires within the City of Loveland; and

WHEREAS, the temporary ban on certain open fires in the City imposed by Ordinance No. 5690 provided by its own terms in Section 3 of the Ordinance that it would expire when the Governor rescinded the June Executive Order or earlier as so determined by the City Council by ordinance; and

WHEREAS, on July 8, 2012, Governor Hickenlooper issued Executive Order D2012-029 (the "July Executive Order") rescinding the June Executive Order thereby rescinding the statewide ban imposed on "open burning" which also resulted in the repeal of the City's Ordinance banning certain outdoor fires within the City as imposed by Ordinance No. 5690; and

WHEREAS, despite the Governor's rescission of the June Executive Order in the July Executive Order, the local weather conditions, as now existing and currently forecasted, do not preclude worsening conditions resulting in continued high fire danger hereafter within the City and surrounding areas; and

WHEREAS, the City's Fire Code, as adopted in City Code Chapter 15.28, ("Fire Code") regulates in Fire Code Chapter 3 "bonfires," "open burning," "recreational fires" and "portable outdoor fireplaces," as these terms are defined in the Fire Code, but some of these outdoor fires are not necessarily prohibited in the City; and

WHEREAS, certain outdoor fires continue to represent an unacceptable risk to the public's health, safety and welfare; and; and

WHEREAS, the City is authorized under its home rule powers and C.R.S. §§ 31-15-401(q) and 31-15-601 to regulate and ban outdoor fires; and

WHEREAS, the Council has determined that it is necessary for the public's health, safety and welfare that this Emergency Ordinance be adopted to continue a temporary ban on certain types of outdoor fires as hereafter provided, with this ban to expire on October 1, 2012, or earlier if the Council hereafter determines by ordinance that the fire danger in the City has subsided.

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

Section 1. That the preceding recitals contained in this Ordinance are hereby adopted and incorporated by reference as findings of fact of the City Council.

Section 2. That allowing certain outdoor fires within the City during the current and forecasted weather conditions continues to represent a high risk of fire danger within the City and areas surrounding the City, as clearly evidenced by the High Park Fire and other fires within Colorado and the Rocky Mountain region and, therefore, an emergency continues to exist requiring the immediate passage of this Ordinance for the preservation of the health, safety and welfare of the citizens of Loveland.

Section 3. That notwithstanding any provision to the contrary in Chapter 3 of the Fire Code or any other provision of the Fire Code and the City Code, until October 1, 2012, or such earlier date as may hereafter be established by ordinance of the City Council, it shall be unlawful and a violation of this Ordinance for any person to start or maintain any outdoor fire within the City that creates an unreasonable risk to the public's health, safety or welfare which shall be deemed to include, without limitation, any of the following:

- (A) Bonfire, open burning, or recreational fire, as all are defined in Fire Code § 302.1;
- (B) Fire in a portable outdoor fireplace, as defined in Fire Code § 302.1, also commonly known as a portable fire pit;

- (C) Fire in a stationary and permanent masonry or metal solid-fuel-burning fireplace or fire pit; or
- (D) Welding or operating an acetylene or other torch with open flame.

However, the following outdoor fires shall not be considered a violation of this Ordinance unless any of these outdoor fires is being conducted in such a manner so as to create an unreasonable risk to the public's health, safety or welfare under the weather conditions then existing in the City and surrounding areas:

- (a) Fire in a gas- or liquid-fueled grill or camp stove;
- (b) Fire in a charcoal- or wood-fueled grill designed for cooking being operated at a private residence or being commercially operated;
- (c) Fire in a stationary and permanent masonry or metal gas-fueled fireplace or fire pit;
- (d) Smoking of a tobacco product provided any unsmoked portion of the product is completely extinguished and safely disposed of in a trash receptacle; or
- (e) Highway flares, railroad fuses, boat distress signals, smoke candles, and other emergency signal devices.

Section 4. Violations of Section 3. of this Ordinance shall be enforced, cited, prosecuted and punished as misdemeanor offenses in accordance with City Code Section 15.28.030B. This Ordinance may be enforced by both the City's fire and police officials.

Section 5. That if any section, paragraph, sentence, clause or phrase of this Ordinance is held by the courts to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of and shall be severable from the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each part or parts thereof irrespective of the fact that any one part or parts may hereafter be declared unconstitutional or invalid.

Section 6. That all other City ordinances and City and Fire Code provisions, or portions thereof, which are inconsistent or in conflict with this Ordinance, or any portion hereof, are hereby superseded by this Ordinance and their legal effect shall be held in abeyance until October 1, 2012, or earlier as so determined by the City Council by ordinance.

Section 7. That pursuant to City Charter Section 4-10(b), this Ordinance shall become effective immediately upon its adoption by the City Council.

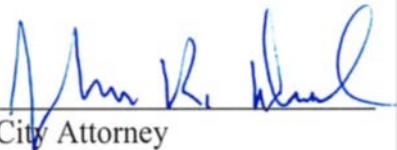
ADOPTED this 17th day of July, 2012.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Mr. R. Neal

City Attorney

FIRST AND ONLY READING: July 17, 2012

ORDINANCE NO. _____

**AN EMERGENCY ORDINANCE TEMPORARILY PROHIBITING THE
SALE AND USE OF PERMISSIBLE FIREWORKS IN THE CITY OF
LOVELAND UNTIL OCTOBER 1, 2012**

WHEREAS, on June 14, 2012, Governor John W. Hickenlooper issued Executive Order D 2012-015 pursuant to C.R.S. § 23-31-308 imposing a statewide ban on "open burning" in Colorado, which includes a total ban on the private use of fireworks (the "June Executive Order"); and

WHEREAS, Governor Hickenlooper states in his June Executive Order that he issued it to address the high fire danger that existed throughout much of Colorado, citing in particular Larimer County's High Park Fire; and

WHEREAS, on June 19, 2012, the Larimer County Commissioners adopted Resolution No. 06192012R004 which, among other things, enacted a temporary ban on the sale and use of all fireworks within the unincorporated areas of Larimer County effective through September 30, 2012; and

WHEREAS, after considering the June Executive Order, the County's ban on the sale and use of all fireworks and the then existing weather conditions, the City Council adopted on June 26, 2012, Ordinance No. 5687 as an emergency ordinance to temporarily ban within the City the sale and use of "permissible fireworks," as this term is defined in C.R.S. § 12-28-101(8) ("Permissible Fireworks"); and

WHEREAS, the temporary ban on the sale and use of Permissible Fireworks in the City imposed by Ordinance No. 5687 provided in Section 3 of the Ordinance that it would expire when the Governor rescinded the June Executive Order or earlier as so determined by the City Council by ordinance; and

WHEREAS, on July 8, 2012, Governor Hickenlooper issued Executive Order D2012-029 (the "July Executive Order") rescinding the June Executive Order thereby rescinding the statewide ban imposed on the private use of all fireworks, which also resulted in the repeal of the City's temporary ban on the sale and use of all Permissible Fireworks imposed by Ordinance No. 5687; and

WHEREAS, despite the Governor's rescission of the June Executive Order in the July Executive Order, the local weather conditions, as now existing and currently forecasted, do not preclude worsening conditions resulting in continued high fire danger hereafter within the City and surrounding areas; and

WHEREAS, the City's Fire Code, as adopted in City Code Chapter 15.28, ("Fire Code") prohibits the possession, manufacture, storage, sale, handling and use of all fireworks except Permissible Fireworks are permitted to be possessed, stored, sold and used within the City; and

WHEREAS, the sale and use of Permissible Fireworks therefore continues to currently represent an unacceptable risk to the public's health, safety and welfare; and

WHEREAS, the City is authorized under its home rule powers and C.R.S. §§ 12-28-107 and 31-15-601(1)(j) to regulate the sale and use of fireworks including Permissible Fireworks; and

WHEREAS, the Council has determined that it is necessary for the public's health, safety and welfare that this Emergency Ordinance be adopted to continue a temporary ban on the sale and use of Permissible Fireworks in the City, with this ban to expire on October 1, 2012, or earlier if the Council hereafter determines by ordinance that the fire danger in the City has sufficiently subsided.

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

Section 1. That the preceding recitals contained in this Ordinance are hereby adopted and incorporated by reference as findings of fact of the City Council.

Section 2. That the sale and use of Permissible Fireworks within the City during the current and forecasted weather conditions continue to represent a high risk of fire danger within the City and areas surrounding the City, as clearly evidenced by the High Park Fire and other fires within Colorado and the Rocky Mountain region and, therefore, an emergency continues to exist requiring the immediate passage of this Ordinance for the preservation of the health, safety and welfare of the citizens of Loveland.

Section 3. That notwithstanding any provision to the contrary in Section 105 of the Fire Code and in paragraphs DD., EE., FF. and GG. of City Code Section 15.28.020, until October 1, 2012, or such earlier date as may hereafter be established by ordinance of the City Council, it shall be unlawful and a violation of this Ordinance for any person or legal entity to sell or use Permissible Fireworks within the City. This prohibition shall not, however, apply to the possession or storage of Permissible Fireworks, which activities shall continue to be legal as currently authorized in accordance with the applicable provisions of the Fire Code and City Code Chapter 15.28. However, any existing and current permits issued by the City to vendors for the sale of Permissible Fireworks under Section 105 of the Fire Code shall be deemed immediately suspended and such suspension shall remain in effect so long as this Ordinance remains in effect. Accordingly, these suspensions shall be deemed to have expired when this Ordinance is no longer in effect. Any vendor whose permit is suspended under this Ordinance may request and receive from the City a full reimbursement of the permit fee paid by the vendor. However, once the suspension imposed herein is lifted and before the suspended permit goes back into effect, the vendor must pay the City the required fee in an amount prorated for the remaining duration of the permit.

Section 4. Violations of Section 3. of this Ordinance shall be enforced, cited, prosecuted and punished as misdemeanor offenses in accordance with City Code Section 15.28.030B. This Ordinance may be enforced by both City fire and police officials. In addition, the remaining and undischarged Permissible Fireworks in possession of a person cited for a violation under this

Ordinance may be seized, subject to any Fourth Amendment requirements, by the City's fire and police officials as evidence and, if the person cited is convicted of the violation, the Loveland Municipal Court may order the seized Permissible Fireworks to be destroyed as contraband by the Loveland Police Department.

Section 5. That if any section, paragraph, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of and shall be severable from the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each part or parts thereof irrespective of the fact that any one part or parts may hereafter be declared unconstitutional or invalid.

Section 6. That all other ordinances and City Code provisions, or portions thereof, which are inconsistent or conflicting with this Ordinance, or any portion hereof, are hereby temporarily superseded by this Ordinance and their legal effect shall be held in abeyance until October 1, 2012, or earlier as so determined by the City Council by ordinance.

Section 7. That pursuant to City Charter Section 4-10(b), this Ordinance shall become effective immediately upon its adoption by the City Council.

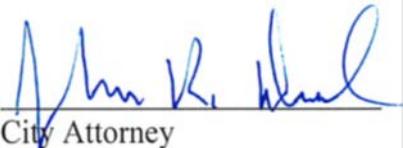
ADOPTED this 17th day of July, 2012.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

FIRST READING: July 17, 2012

SECOND READING: _____

ORDINANCE NO. _____

AN ORDINANCE TEMPORARILY BANNING CERTAIN OUTDOOR FIRES WITHIN THE CITY OF LOVELAND UNTIL OCTOBER 1, 2012

WHEREAS, on June 14, 2012, Governor John W. Hickenlooper issued Executive Order D 2012-015 pursuant to C.R.S. § 23-31-308 imposing a statewide ban on "open burning" in Colorado (the "June Executive Order"); and

WHEREAS, Governor Hickenlooper states in his June Executive Order that he issued it to address the high fire danger that currently exists throughout much of Colorado, citing in particular the High Park Fire here in Larimer County; and

WHEREAS, on June 19, 2012, the Larimer County Commissioners adopted Resolution No. 06192012R004 (the "County Resolution") which, among other things, enacted for unincorporated Larimer County a temporary ban on "open fires" and "contained open fires," as these terms are defined in the County Resolution, effective through September 30, 2012; and

WHEREAS, "open fires" are defined in the County Resolution to include, among other things, "any open burning," such as camp and cooking fires, welding, and operating an acetylene or other torch with open flame, but not to include fires in camp stoves or grills fueled by bottled gas or pressurized liquid that are designed for cooking or heating or fires in commercially operated wood and/or charcoal fueled grills designed for cooking; and

WHEREAS, "contained open fires" are defined in the County Resolution to include, among other things, fires in permanently constructed stationary masonry or metal fireplaces located outdoors, but not to include fireplaces or wood stoves located inside permanent structures; and

WHEREAS, in consideration of the June Executive Order and the County's Resolution banning open fires and contained open fires, on July 3, 2012, the City Council adopted Ordinance No. 5690 as an emergency ordinance to temporarily ban certain open fires within the City of Loveland; and

WHEREAS, the temporary ban on certain open fires in the City imposed by Ordinance No. 5690 provided by its own terms in Section 2. of the Ordinance that it would expire when the Governor rescinded the June Executive Order or earlier as so determined by the City Council by ordinance; and

WHEREAS, on July 8, 2012, Governor Hickenlooper issued Executive Order D2012-029 (the "July Executive Order") rescinding the June Executive Order thereby rescinding the statewide ban imposed on "open burning" which also resulted in the repeal of the City's Ordinance banning certain outdoor fires within the City as imposed by Ordinance No. 5690; and

WHEREAS, despite the Governor's rescission of the June Executive Order in the July Executive Order, the local weather conditions, as now existing and currently forecasted, do not preclude worsening conditions resulting in continued high fire danger hereafter within the City and surrounding areas; and

WHEREAS, the City's Fire Code, as adopted in City Code Chapter 15.28, ("Fire Code") regulates in Fire Code Chapter 3 "bonfires," "open burning," "recreational fires" and "portable outdoor fireplaces," as these terms are defined in the Fire Code, but some of these outdoor fires are not necessarily prohibited in the City; and

WHEREAS, certain outdoor fires continue to represent an unacceptable risk to the public's health, safety and welfare; and; and

WHEREAS, the City is authorized under its home rule powers and C.R.S. §§ 31-15-401(q) and 31-15-601 to regulate and ban outdoor fires; and

WHEREAS, the Council has determined that it is necessary for the public's health, safety and welfare that this Ordinance be adopted to continue a temporary ban on certain types of outdoor fires as hereafter provided, with this ban to expire on October 1, 2012, or earlier if the Council hereafter determines by ordinance that the fire danger in the City has subsided.

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

Section 1. That the preceding recitals contained in this Ordinance are hereby adopted and incorporated by reference as findings of fact of the City Council.

Section 2. That notwithstanding any provision to the contrary in Chapter 3 of the Fire Code or any other provision of the Fire Code and the City Code, until October 1, 2012, or such earlier date as may hereafter be established by ordinance of the City Council, it shall be unlawful and a violation of this Ordinance for any person to start or maintain any outdoor fire within the City that creates an unreasonable risk to the public's health, safety or welfare which shall be deemed to include, without limitation, any of the following:

- (A) Bonfire, open burning, or recreational fire, as all are defined in Fire Code § 302.1;
- (B) Fire in a portable outdoor fireplace, as defined in Fire Code § 302.1, also commonly known as a portable fire pit;
- (C) Fire in a stationary and permanent masonry or metal solid-fuel-burning fireplace or fire pit; or
- (D) Welding or operating an acetylene or other torch with open flame.

However, the following outdoor fires shall not be considered a violation of this Ordinance unless any of these outdoor fires is being conducted in such a manner so as to create an unreasonable

risk to the public's health, safety or welfare under the weather conditions then existing in the City and surrounding areas:

- (a) Fire in a gas- or liquid-fueled grill or camp stove;
- (b) Fire in a charcoal- or wood-fueled grill designed for cooking being operated at a private residence or being commercially operated;
- (c) Fire in a stationary and permanent masonry or metal gas-fueled fireplace or fire pit;
- (d) Smoking of a tobacco product provided any unsmoked portion of the product is completely extinguished and safely disposed of in a trash receptacle; or
- (e) Highway flares, railroad fuses, boat distress signals, smoke candles, and other emergency signal devices.

Section 3. Violations of Section 2. of this Ordinance shall be enforced, cited, prosecuted and punished as misdemeanor offenses in accordance with City Code Section 15.28.030B. This Ordinance may be enforced by both the City's fire and police officials.

Section 4. That if any section, paragraph, sentence, clause or phrase of this Ordinance is held by the courts to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of and shall be severable from the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each part or parts thereof irrespective of the fact that any one part or parts may hereafter be declared unconstitutional or invalid.

Section 5. That all other City ordinances and City and Fire Code provisions, or portions thereof, which are inconsistent or in conflict with this Ordinance, or any portion hereof, are hereby superseded by this Ordinance and their legal effect shall be held in abeyance until October 1, 2012, or earlier as so determined by the City Council by ordinance.

Section 6. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

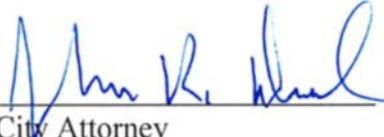
ADOPTED this _____ day of _____, 2012.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

FIRST READING: July 17, 2012

SECOND READING: _____

ORDINANCE NO. _____

**AN ORDINANCE TEMPORARILY PROHIBITING THE SALE AND USE
OF PERMISSIBLE FIREWORKS IN THE CITY OF LOVELAND UNTIL
OCTOBER 1, 2012**

WHEREAS, on June 14, 2012, Governor John W. Hickenlooper issued Executive Order D 2012-015 pursuant to C.R.S. § 23-31-308 imposing a statewide ban on "open burning" in Colorado, which includes a total ban on the private use of fireworks (the "June Executive Order"); and

WHEREAS, Governor Hickenlooper states in his June Executive Order that he issued it to address the high fire danger that existed throughout much of Colorado, citing in particular Larimer County's High Park Fire; and

WHEREAS, on June 19, 2012, the Larimer County Commissioners adopted Resolution No. 06192012R004 which, among other things, enacted a temporary ban on the sale and use of all fireworks within the unincorporated areas of Larimer County effective through September 30, 2012; and

WHEREAS, after considering the June Executive Order, the County's ban on the sale and use of all fireworks and the then existing weather conditions, the City Council adopted on June 26, 2012, Ordinance No. 5687 as an emergency ordinance to temporarily ban within the City the sale and use of "permissible fireworks," as this term is defined in C.R.S. § 12-28-101(8) ("Permissible Fireworks"); and

WHEREAS, the temporary ban on the sale and use of Permissible Fireworks in the City imposed by Ordinance No. 5687 provided in Section 2. of the Ordinance that it would expire when the Governor rescinded the June Executive Order or earlier as so determined by the City Council by ordinance; and

WHEREAS, on July 8, 2012, Governor Hickenlooper issued Executive Order D2012-029 (the "July Executive Order") rescinding the June Executive Order thereby rescinding the statewide ban imposed on the private use of all fireworks, which also resulted in the repeal of the City's temporary ban on the sale and use of all Permissible Fireworks imposed by Ordinance No. 5687; and

WHEREAS, despite the Governor's rescission of the June Executive Order in the July Executive Order, the local weather conditions, as now existing and currently forecasted, do not preclude worsening conditions resulting in continued high fire danger hereafter within the City and surrounding areas; and

WHEREAS, the City's Fire Code, as adopted in City Code Chapter 15.28, ("Fire Code") prohibits the possession, manufacture, storage, sale, handling and use of all fireworks except

Permissible Fireworks are permitted to be possessed, stored, sold and used within the City; and

WHEREAS, the sale and use of Permissible Fireworks therefore continues to currently represent an unacceptable risk to the public's health, safety and welfare; and

WHEREAS, the City is authorized under its home rule powers and C.R.S. §§ 12-28-107 and 31-15-601(1)(j) to regulate the sale and use of fireworks including Permissible Fireworks; and

WHEREAS, the Council has determined that it is necessary for the public's health, safety and welfare that this Ordinance be adopted to continue a temporary ban on the sale and use of Permissible Fireworks in the City, with this ban to expire on October 1, 2012, or earlier if the Council hereafter determines by ordinance that the fire danger in the City has sufficiently subsided.

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

Section 1. That the preceding recitals contained in this Ordinance are hereby adopted and incorporated by reference as findings of fact of the City Council.

Section 2. That notwithstanding any provision to the contrary in Section 105 of the Fire Code and in paragraphs DD., EE., FF. and GG. of City Code Section 15.28.020, until October 1, 2012, or such earlier date as may hereafter be established by ordinance of the City Council, it shall be unlawful and a violation of this Ordinance for any person or legal entity to sell or use Permissible Fireworks within the City. This prohibition shall not, however, apply to the possession or storage of Permissible Fireworks, which activities shall continue to be legal as currently authorized in accordance with the applicable provisions of the Fire Code and City Code Chapter 15.28. However, any existing and current permits issued by the City to vendors for the sale of Permissible Fireworks under Section 105 of the Fire Code shall be deemed immediately suspended and such suspension shall remain in effect so long as this Ordinance remains in effect. Accordingly, these suspensions shall be deemed to have expired when this Ordinance is no longer in effect. Any vendor whose permit is suspended under this Ordinance may request and receive from the City a full reimbursement of the permit fee paid by the vendor. However, once the suspension imposed herein is lifted and before the suspended permit goes back into effect, the vendor must pay the City the required fee in an amount prorated for the remaining duration of the permit.

Section 3. Violations of Section 2. of this Ordinance shall be enforced, cited, prosecuted and punished as misdemeanor offenses in accordance with City Code Section 15.28.030B. This Ordinance may be enforced by both City fire and police officials. In addition, the remaining and undischarged Permissible Fireworks in possession of a person cited for a violation under this Ordinance may be seized, subject to any Fourth Amendment requirements, by the City's fire and police officials as evidence and, if the person cited is convicted of the violation, the Loveland Municipal Court may order the seized Permissible Fireworks to be destroyed as contraband by the Loveland Police Department.

Section 4. That if any section, paragraph, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of and shall be severable from the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each part or parts thereof irrespective of the fact that any one part or parts may hereafter be declared unconstitutional or invalid.

Section 5. That all other ordinances and City Code provisions, or portions thereof, which are inconsistent or conflicting with this Ordinance, or any portion hereof, are hereby temporarily superseded by this Ordinance and their legal effect shall be held in abeyance until October 1, 2012, or earlier as so determined by the City Council by ordinance.

Section 6. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

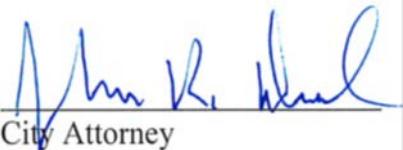
ADOPTED this _____ day of _____, 2012.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney



CITY OF LOVELAND
CITY ATTORNEY'S OFFICE
 Civic Center • 500 East Third • Loveland, Colorado 80537
 (970) 962-2540 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM:	11
MEETING DATE:	7/17/2012
TO:	City Council
FROM:	John R. Duval, City Attorney
PRESENTER:	John R. Duval

TITLE:

A resolution calling for a special municipal election to be held on November 6, 2012, for the purpose of filling a Council vacancy in Ward 4 and to authorize the Loveland City Clerk to notify the Larimer County Clerk and Recorder of the City of Loveland's intention to conduct this special election as a coordinated election with Larimer County

RECOMMENDED CITY COUNCIL ACTION:

Move to approve the resolution

OPTIONS:

1. Adopt the action as recommended
2. Deny the action
3. Adopt a modified action (specify in the motion)
4. Refer back to staff for further development and consideration
5. Adopt a motion continuing the item to a future Council meeting

DESCRIPTION:

This is an administrative action to adopt a resolution: (1) calling for a special election to be held on November 6, 2012, as a coordinated election with Larimer County; (2) allowing this special election to be governed by the Uniform Election Code, but only to the extent necessary to conduct the election as a coordinated election with Larimer County; and (3) directing the City Clerk to notify the Larimer County Clerk and Recorder of the City's intent to conduct its special election on November 6, 2012 as a coordinated election with Larimer County.

BUDGET IMPACT:

Positive
 Negative
 Neutral or negligible

The City's costs for this coordinated election are estimated to probably be not more than \$11,000.

SUMMARY:

On July 10, 2012, Cathleen A. McEwen, a Ward 4 councilmember and Mayor Pro Tem, submitted her written resignation as a councilmember, thus creating a vacancy on the City Council. Loveland Charter Section 3-7(d) provides that when a vacancy occurs in the office of a councilmember, it shall be filled for the remainder of the term at a special election to be scheduled and held as provided in Charter Section 6-3. In addition, Charter Section 3-7(f) provides that if a general statewide election will be held within one hundred eighty (180) days of when a Council vacancy occurs, the vacancy must be filled at a special election held on the date of that upcoming statewide general election. A general statewide election is currently scheduled to occur on November 6, 2012, which is within one hundred eighty (180) days of Councilmember McEwen's resignation on July 10, 2012. Therefore, the Council is required by Charter Section 3-7(f) to call a City special election to be held on November 6, 2012. Further, Charter Section 6-3 provides that this special election must be called by a resolution adopted by Council at least thirty (30) days prior to the election and that the resolution shall set forth the purpose of the election.

In order for the City's special election to be conducted as a coordinated election with Larimer County at the upcoming November 6, 2012 general statewide election, C.R.S. § 1-7-116(5) requires the City to notify the Larimer County Clerk and Recorder at least one hundred (100) days before the upcoming general statewide election of the City's intention to so participate with Larimer County in that election. Also, in order to participate in that election with the County as a coordinated election, C.R.S. § 31-10-102.7 of the Colorado Municipal Election Code provides that any municipality may provide by resolution that it will utilize the requirements and procedures of the Uniform Election Code of 1992 in lieu of the requirements and procedures of the Municipal Election Code for any such coordinated election. Therefore, the proposed resolution provides that the City's November 6, 2012 special election will be governed by the Uniform Election Code, but only to the extent necessary to conduct this election as a coordinated election with Larimer County and, in all other respects, the City's special election on November 6, 2012 will be governed by the applicable provisions of the Municipal Election Code, the City Charter and City Ordinances.

In addition to scheduling a special election, Section 3-7(g) provides that the City Council may, by a majority vote of the remaining members of Council, appoint a person who meets the qualifications of Charter Section 3-3 to hold the vacated office until it is filled by the election. This Charter provision does not require the Council to fill this vacancy by an interim appointment, rather it is left to the Council's discretion. It should also be noted that Councilmember McEwen's resignation raises for the Council the question of whether to appoint a new Mayor Pro Tem before the special election. This too does not appear to be required by the Charter, but it is certainly within the Council's discretion to do so before the election. However, if someone is appointed before the election, Charter Section 3-2(c) provides that the appointed councilmember would not just serve as Mayor Pro Tem until the special election, but would continue to serve as Mayor Pro Tem until the City's next mayoral election in November of 2013.

REVIEWED BY CITY MANAGER:



LIST OF ATTACHMENTS:

Resolution

R E S O L U T I O N #R-52-2012**A RESOLUTION CALLING FOR A SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 6, 2012, FOR THE PURPOSE OF FILLING A COUNCIL VACANCY IN WARD 4 AND TO AUTHORIZE THE LOVELAND CITY CLERK TO NOTIFY THE LARIMER COUNTY CLERK AND RECORDER OF THE CITY OF LOVELAND'S INTENTION TO CONDUCT THIS SPECIAL ELECTION AS A COORDINATED ELECTION WITH LARIMER COUNTY**

WHEREAS, on July 10, 2012, Cathleen A. McEwen, a Ward 4 councilmember and Mayor Pro Tem, submitted her written resignation as a councilmember, thus creating a vacancy on the City Council; and

WHEREAS, Loveland Charter Section 3-7(d) provides that when a vacancy occurs in the office of a councilmember, it shall be filled for the remainder of the term at a special election to be scheduled and held as provided in Charter Section 6-3; and

WHEREAS, Charter Section 3-7(f) provides that if a general statewide election will be held within one hundred eighty (180) days of when a Council vacancy occurs, the vacancy must be filled at a special election held on the date of that upcoming statewide election; and

WHEREAS, a general statewide election is currently scheduled to occur on November 6, 2012, which is within one hundred eighty (180) days of Councilmember McEwen's resignation on July 10, 2012 and, therefore, the Council is required by Charter Section 3-7(f) to call a City special election to be held on November 6, 2012; and

WHEREAS, Charter Section 6-3 provides that this special election must be called by resolution adopted by Council at least thirty (30) days prior to the election and that the resolution shall set forth the purpose of the election; and

WHEREAS, C.R.S. § 1-7-116(5) requires the City to notify the Larimer County Clerk and Recorder at least one hundred (100) days before the upcoming general statewide election of the City's intention to so participate with Larimer County in that election; and

WHEREAS, Charter Section 6-1 provides that City elections are to be governed by the provisions of the Colorado Municipal Election Code of 1965 (C.R.S. Section 31-10-101, *et seq*) ("the Municipal Election Code"), except as otherwise provided by the City Charter or by City ordinance; and

WHEREAS, C.R.S. §31-10-102.7 of the Municipal Election Code provides that any municipality may provide by ordinance or by resolution that it will utilize the requirements and procedures of the Uniform Election Code of 1992, Articles 1 to 13 of Title 1 of the Colorado Revised Statutes, ("the Uniform Election Code") in lieu of the requirements and procedures of the Municipal Election Code for any election; and

WHEREAS, it is the intent of the City Council that a City special election shall be held on November 6, 2012, to fill this vacancy in Ward 4 and that it be conducted as a coordinated election with Larimer County in accordance with the applicable provisions of the Uniform Election Code, but only to the extent necessary to conduct the election as a coordinated election and, in all other respects, the City's special election on March 2, 2010, shall be governed by applicable provisions of the Municipal Election Code, the City Charter, and City ordinances.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO, as follows:

Section 1. That pursuant to Charter Sections 3-7(d) and 6-3, a special election of the City of Loveland, Colorado is hereby called and shall be held on November 6, 2012 as a coordinated election with Larimer County.

Section 2. That the purpose of this special election shall be to fill the council vacancy in Ward 4 for the remainder of former Councilmember McEwen's unexpired term.

Section 3. That the City's November 6, 2012, special election shall be governed by the Uniform Election Code, but only to the extent necessary to conduct this election as a coordinated election with Larimer County and, in all other respects, the City's special election on November 6, 2012, shall be governed by the applicable provisions of the Municipal Election Code, the City Charter, and City ordinances.

Section 4. That pursuant to C.R.S. §1-7-116(5), the City Clerk is hereby directed to notify the Larimer County Clerk and Recorder of the City's intent to conduct its special election on November 6, 2012, as a coordinated election with Larimer County.

Section 5. That this Resolution shall become effective on the date and at the time of its adoption.

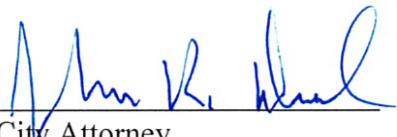
DATED and ADOPTED this 17th day of July, 2012.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney