

**LOVELAND CITY COUNCIL MEETING
TUESDAY, FEBRUARY 19, 2013
CITY COUNCIL CHAMBERS
500 EAST THIRD STREET
LOVELAND, COLORADO**

The City of Loveland is committed to providing an equal opportunity for citizens and does not discriminate on the basis of disability, race, color, national origin, religion, sexual orientation or gender. The City will make reasonable accommodations for citizens in accordance with the Americans with Disabilities Act. For more information, please contact the City's ADA Coordinator at bettie.greenberg@cityofloveland.org or 970-962-3319.

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 FEBRUARY 17 THROUGH 23, 2013, AS “NATIONAL ENGINEERS WEEK”

PROCLAMATION DECLARING FEBRUARY 24 THROUGH MARCH 2, 2013, “PEACE CORPS WEEK”

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** (presenter: Terry Andrews)
APPROVAL OF COUNCIL MINUTES
Motion to approve Council minutes from the February 5, 2013 regular meeting
This is an administrative action to approve the Council minutes.
- 2. CITY MANAGER** (presenter: Bill Cahill)

BOARD & COMMISSION APPOINTMENTS

Motion to approve the following appointments:

- Appoint Richard Zlamany as a regular member of the Senior Advisory Board for a partial term effective until December 31, 2012
- Appoint Anne Brown to the Senior Advisory Board as the representative for Senior Singles for a two-year term effective until February 19, 2015
- Appoint Bob Massaro to the Planning Commission for a partial term effective until December 31, 2013

This is an administrative action recommending the appointment of members to the Senior Advisory Board and Planning Commission.

3. DEVELOPMENT SERVICES (presenter: Bethany Clark)

HISTORIC DESIGNATION – ELKS LODGE/LOVELANDER HOTEL

Motion to approve and order published on second reading an ordinance designating as a Historic Landmark the Elks Lodge/Loveland Hotel located at 103 East 4th Street in Loveland, CO.

This is a legislative action to adopt an ordinance on second reading designating as a Historic Landmark the “Elks Lodge/Loveland Hotel” at 103 East 4th Street, per Chapter 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. The first reading of the ordinance was approved unanimously by City Council at the February 5, 2013 meeting.

4. PUBLIC WORKS (presenter: John Hartman)

TRAFFIC SIGNAL REPLACEMENT – U.S. 34 & BOYD LAKE AVENUE

Motion to approve and order published on second reading an ordinance enacting a supplemental budget and appropriation to the 2013 City of Loveland Budget for signal replacement and other improvements at the intersection of U.S. 34 and Boyd Lake Avenue

This is an administrative action. The City has received a federal grant with state matching funds through the Federal Hazard Elimination program for the signal replacement and other improvements at the US 34 and Boyd Lake Avenue intersection. This item consists of consideration of the second reading of an ordinance to appropriate the federal and state funds for the project. The first reading of the Ordinance was approved unanimously by City Council at the February 5, 2013 meeting.

5. PUBLIC WORKS (presenter: Dave Klockeman)

RAILROAD CROSSING REPAIR – U.S. HWY 287

Motion to approve and order published on second reading an ordinance enacting a supplemental budget and appropriation to the 2013 City of Loveland Budget for railroad crossing repairs on U.S. 287

This is an administrative action. The ordinance appropriates the grant funds. Council approved the first reading unanimously on February 5, 2013.

6. PARKS & RECREATION (presenter: Rob Burdine)

AWARD OF CONSTRUCTION CONTRACT – RIVER’S EDGE NATURAL AREA

Motion to approve and award a services contract to Taylor Kohrs, LLC for a lump sum cost of \$1,373,834, and authorize the City Manager authority to sign the contract. The lump sum cost is the base bid amount of \$1,343,241.58 along with an addition of \$30,592.42 for an increase in the amount of rock/boulder work not included in the request for bids

This is an administrative action for authorization to enter into a contract to retain the

services of Taylor Kohrs, LLC as the general contractor to complete the construction of the River's Edge Natural Area Project.

7. **DEVELOPMENT SERVICES** (presenter: Kerri Burchett)
PUBLIC HEARING
VACATING PORTION OF DRAINAGE EASEMENTS- MINERAL FIRST SUBDIVISION
Motion to make the finding in Section V of the staff memorandum dated February 19, 2013 and based on those findings, approve and order published on first reading an ordinance vacating a portion of drainage easements on Lots 5 and 6, Block 1, Mineral First Subdivision, City of Loveland
 This is a public hearing and legislative action to adopt an ordinance on first reading vacating portions of two drainage easements on Lots 5 and 6, Block 1, Mineral First Subdivision. The applicant is Boulder Creek Builders.

8. **FINANCE** (presenter: John Hartman)
PUBLIC HEARING
SUPPLEMENTAL BUDGET AND APPROPRIATION-FLEET AND POLICE FUNDS
Motion to approve and order published on first reading an ordinance enacting a supplemental budget and appropriation to the 2012 City of Loveland budget for expenses related to the cost of fuel and parts for the operation of the city fleet and for police overtime expenses for special investigations
 This is an administrative action. The ordinance appropriates revenues received in 2012 and fund balance to the 2012 budget for vehicle maintenance expenses and police overtime costs. The appropriation is necessary so that 2012 expenses do not exceed the appropriated amount in the Vehicle Maintenance Fund and the Police Seizure and Forfeiture Fund.

9. **PUBLIC WORKS AND FINANCE** (presenter: Dave Klockeman)
AWARD CONSTRUCTION CONTRACT – COULSON EXCAVATING COMPANY
Motion to award a construction contract for the 2013 Street Resurfacing Program, Asphalt Paving Contract (Schedule AP) to Coulson Excavating Company of Loveland, CO in the amount of \$1,550,000 and authorize the City Manager to execute the contract
 This is an administrative action to award the 2013 Street Resurfacing Program, Asphalt Paving Contract (Schedule AP) to Coulson Excavating Company of Loveland, CO in the amount of \$1,550,000 and Authorization for City Manager to execute the contract.

10. **PUBLIC WORKS AND FINANCE** (presenter: Dave Klockeman)
AWARD CONSTRUCTION CONTRACT- JAG'S ENTERPRISES, INC.
Motion to approve the extension of the 2013 Street Resurfacing Program-Concrete Rehabilitation Project Schedule TA to JAG's Enterprises, Inc. of Greeley, CO in the amount of \$650,000 and to authorize the City Manager to execute the contract
 This is an administrative action to approve extending the existing 2011 Street Resurfacing Program-Concrete Rehabilitation Project to JAG's Enterprises, Inc. of Greeley.

11. **PUBLIC WORKS** (presenter: Ken Cooper)
PUBLIC HEARING
SALE OF CITY PROPERTY – 905, 915, 925, 933 AND 935 N. TAFT AVENUE.
Motion to approve and order published on first reading an ordinance authorizing the sale of 905, 915, 925, 933 and 935 Taft Avenue

This is an administrative action approving the sale of approximately 5.2 acres of City-owned property located at 905, 915, 925, 933 and 935 N. Taft Avenue, which were parcels acquired for the Taft Avenue widening project.

12. DEVELOPMENT SERVICES (presenter: Greg George)
PUBLIC HEARING

CONVEYANCE OF PROPERTY – BUCK FOURTH SUBDIVISION

Motion to approve and order published on first reading an ordinance authorizing the conveyance of real property located in Lots 1 and 2, Block 1 and Tract C, Buck Fourth Subdivision, City of Loveland, Larimer County, Colorado

This is an administrative action to approve an ordinance on first reading authorizing the conveyance of a parcel of real property owned by the City and used as a part of an existing regional detention pond to the current owner of Lots 1 and 2, Block 1 and Tract C, Buck Fourth Subdivision in return for a permanent exclusive easement over such property to permit continued operation of the regional detention pond and a new utility easement. The conveyance and the new easement are intended to clean up title defects resulting from modifications made in the Buck 4th Subdivision plat for a development that has never occurred and preserve the City's right to maintain the detention pond and sewer line in their existing locations.

13. WATER & POWER (presenter: Steve Adams)
INTERGOVERNMENTAL AGREEMENT – JOINT COMPENSATION STUDY

Motion to approve Resolution #R-17-2013, of the Loveland City Council approving an intergovernmental agreement between the City of Loveland, Colorado, Platte River Power Authority, the Town of Estes Park, the City of Fort Collins, and the City of Longmont for participation in a Joint Compensation Study

This is an administrative action to approve an intergovernmental agreement with Platte River Power Authority, Estes Park, Fort Collins and Longmont for participation in a joint compensation study for certain power utility positions.

14. CITY MANAGER (presenter: Bill Cahill)
PUBLIC HEARING

AMENDMENT TO MUNICIPAL CODE PERTAINING TO SENIOR ADVISORY BOARD

Motion to approve and order published on first reading an ordinance amending Section 2.60.240 of the Loveland Municipal Code pertaining to the Senior Advisory Board

This is a legislative action to adopt an ordinance on first reading amending Section 2.60.240 relating to the Senior Advisory Board membership.

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

15. **CITY CLERK** (presenter: Terry Andrews)
APPROVAL OF COUNCIL MINUTES
Motion to approve Council minutes from the January 22, 2013 study session
 This is an administrative action. This item is on the regular agenda as not all Councilors were present at the meeting.

16. **WATER & POWER** (presenter: Jim Lees)
PUBLIC HEARING
WATER ENTERPRISE FUNDING
Motion to approve on first reading Resolution #R-16-2013, concerning funding for the Water Enterprise to improve the Water Treatment Plant and undertake a comprehensive water line replacement program
 This is an administrative action to adopt a resolution on first reading that provides funding mechanisms for the Water Enterprise through external and internal loans, a series of rate increases, and an annual transfer of funds from the General Fund to the Water Enterprise. This funding will be used to improve the Water Treatment Plant and undertake a comprehensive water line replacement program.

17. **CITY MANAGER** (presenter: Rod Wensing)
EXTENSION OF COMCAST FRANCHISE AGREEMENT
Motion to approve and order published on second reading and ordinance amending the Cable Franchise Agreement between the City of Loveland, Colorado and Comcast of Colorado II, LLC to extend the term of the existing Franchise Agreement
 This is an administrative action. The ordinance moves the expiration of the current cable franchise from April 30, 2013 to December 31, 2013. Council approved this ordinance on February 5, 2013 with eight voting in favor and one against.

18. **FINANCE** (presenter: Brent Worthington)
DECEMBER 2012 PRELIMINARY FINANCIAL REPORT
 This is an information only item. No Council action is required. The Snapshot Report includes the City's preliminary revenue and expenditures including detailed reports on tax revenue and health claims year to date, ending December 31, 2012.

19. **CITY MANAGER** (presenter: Alan Krcmarik)
INVESTMENT REPORT FOR DECEMBER 2012
 This is an information only item. No Council action is required. The budget estimate for investment earnings for 2012 was \$2,729,560. Through December 2012, the amount

posted to the investment account is \$2,520,033 including realized gains. Actual year-to-date earnings are lower than the budget projection by \$209,525. Based on the monthly statement, the estimated annualized 1.22% yield on the securities held by USBank was down from last month and under the annual target rate of 1.70% for 2012. Reinvestment rates are near record low levels, much lower than the budget projection.

20. **CITY MANAGER**
Proposed Executive Session concerning *Bierwaltes v. City of Loveland litigation*

21. **CITY MANAGER**
SETTLEMENT OF THE *KLEN V. CITY OF LOVELAND* LAWSUIT
Motion to adopt Resolution #R-18-2013, approving the settlement of the *Klen v. City of Loveland* lawsuit

This is an administrative matter to consider a resolution approving the Material Terms of Settlement Agreement ("Agreement") pertaining to the Klen Lawsuit against the City and several City employees, on the condition that the settlement payment under the Agreement will be made by the City's insurer, the Colorado Intergovernmental Risk Sharing Agency ("CIRSA"). The resolution also authorizes the City Manager, in consultation with legal counsel appointed by CIRSA, to enter into a formal "Final Settlement Agreement" on the City's behalf.

ADJOURN



CITY COUNCIL

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www.cityofloveland.org

PROCLAMATION

- WHEREAS,** National Engineers Week, founded in 1951 by the National Society of Professional Engineers, is always celebrated at the time of George Washington's birthday in February because he was our first president and a military engineer, and
- WHEREAS,** the purpose of National Engineers Week is to increase public awareness and appreciation of the engineering profession; and
- WHEREAS,** engineers are encouraging our young math and science students to realize the practical power of their knowledge; and
- WHEREAS,** the Engineers of the State of Colorado will actively help to maintain and sustain the vital infrastructure of our civilized and national environments; and
- WHEREAS,** engineers help America remain at the forefront of technological development and contribute to countless breakthroughs that improve the quality of life for people throughout the world.

NOW, THEREFORE, we, the Loveland City Council of the City of Loveland, do hereby proclaim February 17 through 23, 2013 as

NATIONAL ENGINEERS WEEK

in the City of Loveland.

Signed this 19th day of February, 2013

Cecil A. Gutierrez, Mayor



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CITY COUNCIL

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PROCLAMATION

- WHEREAS,** the Peace Corps has become an enduring symbol of the United States' commitment to encourage progress, create opportunity and expand development at the grass-roots level in the developing world; and
- WHEREAS,** since 1961, more than 210,00 Americans have served as Peace Corps volunteers in 139 countries and, during the course of the past 52 years, 79 men and women from Loveland have responded to the United States' call to join the Peace Corps; and,
- WHEREAS,** Peace Corps volunteers have made significant and lasting contributions around the world in agriculture, business development, information technology, education, the environment as well as health and HIV/AIDS, and have improved the lives of individuals and communities worldwide; and,
- WHEREAS,** Peace Corps volunteers have strengthened the ties of friendship and understanding between the people of the United States and those of other countries; and,
- WHEREAS,** Peace Corps volunteers, enriched by their experiences overseas, have brought their communities throughout the United States a deeper understanding of other cultures and traditions, thereby bringing a domestic dividend to our nation; and,
- WHEREAS,** the City of Loveland recognizes the achievements of the Peace Corps and honors its volunteers – past and present – and reaffirms the United States' commitment to helping people help themselves throughout the world,

NOW THEREFORE we, the Loveland City Council, do hereby proclaim February 24 – March 2, 2013, as

PEACE CORPS WEEK

In the City of Loveland

Signed this 19th day of February, 2013

Cecil A. Gutierrez, Mayor



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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, Trenary, Fogle, McKean, Shaffer, Taylor and Clark.

PRESENTATION

Miss Loveland Valentine 2013, Madison Polansky, gave a brief presentation to Council.

PRESENTATION

Commissioner Grayson Robinson from the Commission on Accreditation for Law Enforcement Agencies (CALEA) presented an accreditation plaque to Chief Hecker who accepted it on behalf of the Loveland Police Department.

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 remove any of the items or public hearings listed on the Consent Agenda. Troy Krenning, 2908 Bent Drive, Loveland, asked for item 9 to be removed. Councilor Shaffer moved to approve the Consent Agenda, with the exception of item 9. The motion was seconded by Councilor Trenary and a roll call vote was taken with all councilors present voting in favor thereof.

1. CITY MANAGER**Approval of Council Minutes
Motion**

Administrative Action: The minutes from the January 15, 2013 regular meeting were approved.

2. CITY CLERK**Board & Commission Appointments
Motion**

Administrative Action: The following appointments to the Creative Sector Development Advisory Commission, the Golf Advisory Board and the Senior Advisory Board were approved:

Curtis Rowland was appointed to the Creative Sector Development Advisory Commission for a partial term effective until December 31, 2013.

Julie Nelson was reappointed and Tom O'Gorman and Jan Wall were appointed to the Golf Advisory Board each for terms effective until December 31, 2013. Jerry Witzel was appointed as an Alternate member for a term effective until December 31, 2013.

The following members were appointed to the Senior Advisory Board:

Anne Brown, Betty Herder and Marigail Jury were reappointed to the Senior Advisory Board each for terms effective until December 31, 2015. Jacqueline Gresham was appointed to the Senior Advisory Board for a partial term effective until December 31, 2014. Richard Zlamany was reappointed as an Alternate member on the Senior Advisory Board for a term effective until December 31, 2013. Bobbi Sutton was reappointed as the representative from McKee Medical Center to the Senior Advisory Board for a term effective until February 5, 2014. Doug East was reappointed as the representative from the Chilson Senior Advisory Committee to the Senior Advisory Board for a term effective until February 5, 2014.

3. ECONOMIC DEVELOPMENT

Supplemental Appropriation – Pro Cycle Challenge

Ordinance #5739

Administrative Action: "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 CITY OF LOVELAND BUDGET FOR COSTS ASSOCIATED WITH HOSTING THE US PRO CYCLING CHALLENGE EVENT" was approved and ordered published on second reading.

4. AIRPORT & FINANCE

Supplemental Appropriations – Ft Collins-Loveland Municipal Airport

1. Ordinance #5740

Administrative Action: "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 CITY OF LOVELAND BUDGET TO INCREASE THE CITY'S CONTRIBUTION TO THE FT. COLLINS-LOVELAND MUNICIPAL AIRPORT DUE TO THE LOSS OF COMMERCIAL SERVICE" was approved and ordered published on second reading.

2. Ordinance #5741

Administrative Action: "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 FT. COLLINS-LOVELAND MUNICIPAL AIRPORT BUDGET TO REALIGN THE BUDGET DUE TO THE LOSS OF COMMERCIAL SERVICE" was approved and ordered published on second reading.

5. FINANCE

Supplemental Appropriation – Loveland Fire Rescue Authority 2013 Budget

Ordinance #5742

Administrative Action: "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 CITY OF LOVELAND BUDGET FOR THE CITY SHARE OF THE COSTS FOR AN ADDITIONAL POSITION IN THE LOVELAND FIRE RESCUE AUTHORITY" was approved and ordered published on second reading.

6. FINANCE

Amendment to Centerra Collection Agreement

Resolution #R-6-2013

Administrative Action: Resolution #R-6-2013 approving the Second Amended and Restated Collection Agreement for the City of Loveland to collect Public Improvement Fee Revenues and Retail Sales Fee Revenues in the Centerra Retail Development was approved.

RESOLUTION #R-6-2013

A RESOLUTION APPROVING THE SECOND AMENDED AND RESTATED COLLECTION AGREEMENT FOR THE CITY OF LOVELAND TO COLLECT PUBLIC IMPROVEMENT FEE REVENUES AND RETAIL SALES FEE REVENUES IN THE CENTERRA RETAIL DEVELOPMENT

City Council
February 5, 2013
Page 3 of 15

WHEREAS, on January 20, 2004, the City Council approved the Centerra Master Financing and Intergovernmental Agreement (the "MFA"); and

WHEREAS, the MFA authorized a public improvement fee ("PIF") to be charged on retail sales made in the Centerra Development; and

WHEREAS, subsequently, covenants imposing and implementing the PIF, as well as a Centerra retail sales fee (the "Centerra RSF") and a Lifestyle Center retail sales fee ("Lifestyle RSF") were finalized and recorded; and

WHEREAS, pursuant to the respective covenants, the Centerra Public Improvement Collection Corporation (with respect to the PIF), the Centerra RSF Corporation (with respect to the Centerra RSF) and G&I VI Retail Prom, LLC (as the owner of the Lifestyle Center and successor in interest with respect to the Lifestyle RSF) are entitled to receipt of these respective revenues; and

WHEREAS, on September 7, 2004, the Loveland City Council adopted Resolution #R-79-2004 to approve a Collection Agreement, dated September 1, 2004 (the "Collection Agreement"), pursuant to which the City collects the Lifestyle RSF, Centerra RSF, and PIF, remits the revenues to the respective recipients, and is compensated for this service; and

WHEREAS, the Collection Agreement was previously amended by that certain First Amendment approved by the City Council's adoption of Resolution #R-27-2008 on March 18, 2008 and amended and restated in its entirety by the First Amended and Restated Collection Agreement approved by City Council's adoption of Resolution #R75-2011 (the Collection Agreement, the First Amendment, and the First Amended and Restated Collection Agreement are referred to collectively as the "Collection Agreement"); and

WHEREAS, the parties desire to further amend and restate the Collection Agreement in its entirety as more fully set forth in that certain Second Amended and Restated Collection Agreement attached hereto as Exhibit A and incorporated herein by reference (the "Second Amended and Restated Collection Agreement").

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

Section 1: That the Second Amended and Restated Collection Agreement attached hereto as Exhibit A is hereby approved and shall supersede and replace the Collection Agreement in its entirety as of January 1, 2013.

Section 2. That the City Manager is authorized, following consultation with the City Attorney, to modify the Second Amended and Restated Collection Agreement 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 Second Amended and Restated Collection Agreement on behalf of the City of Loveland.

Section 4. That this Resolution shall take effect as of the date and time of its adoption.

ADOPTED this 5th day of February, 2013.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office.

7. LOVELAND FIRE RESCUE AUTHORITY

Purchase of Heavy Rescue Truck

Motion

Administrative Action: A motion to approve the purchase of a heavy rescue truck for the new Fire Station 2 from SVI Trucks, Inc. for an amount not to exceed \$635,000 and authorize the City Manager to sign the purchase order on behalf of the City was approved.

8. FINANCE

Supplemental Appropriation- Loveland Fire Rescue Authority, Command Vehicle

Resolution #R-7-2013

Administrative Action: Resolution #R-7-2013 of the Loveland City council approving a supplemental budget and appropriation by the Loveland Fire Rescue Authority to its 2013 budget was approved.

RESOLUTION #R-7-2013

A RESOLUTION OF THE LOVELAND CITY COUNCIL APPROVING A SUPPLEMENTAL BUDGET AND APPROPRIATION BY THE LOVELAND FIRE RESCUE AUTHORITY TO ITS 2013 BUDGET

WHEREAS, the Loveland Fire Rescue Authority ("Fire Authority") is established pursuant to that certain Intergovernmental Agreement for the Establishment and Operation of the Loveland Fire Rescue Authority as a Separate Governmental Entity dated August 18, 2011 (the "Authority IGA") between the City of Loveland, a Colorado home rule municipality ("City") and the Loveland Rural Fire Protection District, a Colorado Special District ("District"); and

WHEREAS, the Fire Authority is authorized under Section 4.1 of the Authority IGA to adopt an annual budget and to supplement such budget from time to time, provided that the annual budget and any supplemental appropriations shall become effective upon the approval of the governing bodies of the City and the District; and

WHEREAS, the Fire Authority adopted Resolution #R-015, which is attached hereto as Exhibit A and incorporated herein by reference, enacting a supplemental appropriation to its 2013 Budget; and

WHEREAS, the Fire Authority has also submitted Resolution #R-015 to the City and the District for approval as required by Section 4.1 of the Authority IGA; and

WHEREAS, the City Council desires to approve the Fire Authority's 2013 Supplemental Budget and Appropriation reflected in Resolution #R-015.

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

Section 1. That Resolution #R-015 of the Loveland Fire Rescue Authority attached hereto as Exhibit A enacting a Supplemental Budget and Appropriation for the fiscal year beginning January 1, 2013 and ending December 31, 2013, with revenues in the amount of \$75,000, and expenditures of \$75,000 for operations, is hereby approved.

Section 3. That this Resolution shall take effect as of the date of its adoption.

ADOPTED this 5th day of February, 2013.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office.

9. HUMAN RESOURCES

Resolution #R-8-2013

This item was removed from the Consent Agenda and considered on the Regular Agenda.

10. PUBLIC WORKS

Traffic Signal Replacement – U.S. 34 & Boyd Lake Avenue

1. Resolution #R-9-2013

Administrative Action: Resolution #R-9-2013 of the Loveland City Council Approving An Intergovernmental Agreement Between The City Of Loveland, Colorado And The State Of Colorado, Acting By And Through The Colorado Department Of Transportation, For Design And Construction Of A Traffic Signal Replacement At The Intersection Of U.S. 34 And Boyd Lake Avenue In Loveland, Colorado was approved.

RESOLUTION #R-9-2013

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION, FOR DESIGN AND CONSTRUCTION OF A TRAFFIC SIGNAL REPLACEMENT AT THE INTERSECTION OF U.S. 34 AND BOYD LAKE AVENUE IN LOVELAND, COLORADO

WHEREAS, the City of Loveland desires to design and construct a traffic signal replacement and other improvements at the intersection of U.S. 34 and Boyd Lake Avenue within the City of Loveland (the "Project"), which is to be funded by federal funds and state matching funds administered and made available through the State of Colorado, acting by and through the Colorado Department of Transportation ("CDOT"); and

WHEREAS, federal funds are available for the Project in the amount of Four Hundred Forty-five Thousand and Five Hundred Dollars (\$445,500), and state funds are available for the Project in the amount of Forty-nine Thousand and Five Hundred Dollars (\$49,500), for a total of Four Hundred Ninety-five Thousand Dollars (\$495,000); and

WHEREAS, the City and CDOT desire to enter into an intergovernmental agreement to define the division of responsibilities with regard to the Project; 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 "State of Colorado Department of Transportation Agreement with City of Loveland," attached hereto as Exhibit A and incorporated herein by reference ("Intergovernmental Agreement"), is hereby approved.

Section 2. That the City Manager is hereby authorized, following consultation with the City Attorney, to modify the Intergovernmental Agreement 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 Intergovernmental Agreement on behalf of the City.

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

ADOPTED this 5th day of February, 2013.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office.

2. 1st Rdg Ord. & P.H.

Administrative Action: A public hearing was held and "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 CITY OF LOVELAND BUDGET FOR SIGNAL REPLACEMENT AND OTHER IMPROVEMENTS AT THE INTERSECTION OF US 34 AND BOYD LAKE AVENUE" was approved and ordered published on first reading.

11. PUBLIC WORKS

Railroad Crossing Repairs – U.S. Hwy 287

1. Resolution #R-10-2013

Administrative Action: Resolution #R-10-2013 approving an Intergovernmental Agreement between the City of Loveland, Colorado and the State of Colorado, acting by and through the Colorado Department of Transportation, for repair of the Burlington Northern Santa Fe Railroad crossing at U.S. 287 in Loveland, Colorado was approved.

RESOLUTION #R-10-2013

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION, FOR REPAIR OF THE BURLINGTON NORTHERN SANTA FE RAILROAD CROSSING AT U.S. 287 IN LOVELAND, COLORADO

WHEREAS, the City of Loveland desires to participate with the State of Colorado, acting by and through the Colorado Department of Transportation ("CDOT"), in the repair of the Burlington Northern Santa Fe ("BNSF") railroad crossing at U.S. 287 in Loveland, Colorado (the "Project"), which is to be funded by federal funds administered and made available through CDOT and state matching funds administered and made available through CDOT; and

WHEREAS, federal funds are available to fund 82.79% of the participating costs of the Project in the amount of Sixty-nine Thousand, Nine Hundred and Twenty-two Dollars (\$69,922); and

WHEREAS, state matching funds are available to fund 17.21% of the participating costs of the Project in the amount of Fourteen Thousand, Five Hundred and Thirty-five Dollars (\$14,535); and

WHEREAS, the City and CDOT desire to enter into an intergovernmental agreement to define the division of responsibilities with regard to the Project; 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.

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

Section 1. That the "State of Colorado Department of Transportation Agreement with City of Loveland," attached hereto as Exhibit A and incorporated herein by reference ("Intergovernmental Agreement"), is hereby approved.

Section 2. That the City Manager is hereby authorized, following consultation with the City Attorney, to modify the Intergovernmental Agreement 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 Intergovernmental Agreement on behalf of the City.

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

ADOPTED this 5th day of February, 2013.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office.

2. 1st Rdg & P.H.

Administrative Action: A public hearing was held and "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 CITY OF LOVELAND BUDGET FOR RAILROAD CROSSING REPAIRS ON U.S. 287" was approved and ordered published on first reading.

12. WATER & POWER

Resolution #R-11-2013

Administrative Action: Resolution #r-11-2013 approving an Intergovernmental Agreement between the City of Loveland, Colorado and Larimer County, Colorado for efficiency audits and training provided through the Larimer County Conservation Corps Water and Energy Program was approved.

RESOLUTION #R-11-2013

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND LARIMER COUNTY, COLORADO FOR EFFICIENCY AUDITS AND TRAINING PROVIDED THROUGH THE LARIMER COUNTY CONSERVATION CORPS WATER AND ENERGY PROGRAM

WHEREAS, the City of Loveland desires to promote the development of job skills in the utility industry for young adults in Larimer County while increasing the availability of water and energy efficiency measures and education to the City's low-income water and/or electric customers; and

WHEREAS, Larimer County desires to expand its established Conservation Corps program to provide job skills and opportunities in the utility industry for young adults in Larimer County through the Larimer County Conservation Corps ("LCCC") Water and Energy Program; and

WHEREAS, the City and Larimer County desire to work with one another to achieve the above-stated goals in an efficient and cost-effective manner that minimizes overhead expenditures for administration and program creation; and

WHEREAS, as governmental entities in Colorado, the City and Larimer County 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 "Agreement for Services, LCCC Water & Energy Program – Efficiency Audits and Training," attached hereto as Exhibit A and incorporated herein by reference ("Intergovernmental Agreement"), is hereby approved.

Section 2. That the City Manager is hereby authorized, following consultation with the City Attorney, to modify the Intergovernmental Agreement 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 Intergovernmental Agreement on behalf of the City.

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Section 4. That this Resolution shall be effective as of the date of its adoption.
ADOPTED this 5th day of February, 2013.
Cecil A. Gutierrez, Mayor
Attest: Teresa G. Andrews, City Clerk
Exhibit A is available in the City Clerk's Office.

13. WATER & POWER

Resolution #R-12-2013

Administrative Action: Resolution #R-12-2013 of the Loveland City Council authorizing an application to, and contract with, the northern Colorado Water Conservancy district for beneficial use of 282 acre-feet of Colorado-Big Thompson Project Water was approved.

RESOLUTION #R-12-2013

A RESOLUTION OF THE LOVELAND CITY COUNCIL AUTHORIZING AN APPLICATION TO, AND CONTRACT WITH, THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT FOR BENEFICIAL USE OF 282 ACRE-FEET OF COLORADO-BIG THOMPSON PROJECT WATER

WHEREAS, pursuant to the Water Conservancy Act of Colorado, Title 37, Article 45, C.R.S., the City Council of the City of Loveland, a Colorado municipal corporation, must apply to the Board of Directors of the Northern Colorado Water Conservancy District ("District") for a contract for the beneficial use of Colorado-Big Thompson Project water within the boundaries of the District on an annually-renewable basis under C.R.S. § 37-45-131 in order to obtain the perpetual right to use said water.

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

Section 1. That the City of Loveland has determined to apply for a contract providing for the beneficial use of two hundred eighty-two (282) acre-feet of Colorado-Big Thompson Project water from the District within the boundaries of the District.

Section 2. That the Director of the Department of Water and Power is hereby authorized and directed to apply to the Board of Directors of the District for a contract providing to the City the beneficial use of said water upon the terms prescribed by said Board in the manner and form attached hereto as Exhibit A and incorporated herein by reference ("Application").

Section 3. That the Director of the Department of Water and Power is hereby authorized to execute the Application and any other documents required by the District to effectuate the contract.

Section 4. That this Resolution shall be effective as of the date of its adoption.
ADOPTED this 5th day of February, 2013.

Cecil A. Gutierrez, Mayor
Attest: Teresa G. Andrews, City Clerk
Exhibit A is available in the City Clerk's Office.

14. WATER & POWER

IGA with Northern Colorado Water Conservancy District – Transmission and Treatment Study

Resolution #R-13-2013

Administrative Action: Resolution #R-13-2013 approving an Intergovernmental agreement between the City of Loveland, Colorado and the northern Colorado Water Conservancy District for participation in the 2012-2013 Regional Transmission and Treatment Study was approved.

RESOLUTION #R-13-2013

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT FOR PARTICIPATION IN THE 2012-2013 REGIONAL TRANSMISSION AND TREATMENT STUDY

WHEREAS, the Northern Colorado Water Conservancy District ("Northern Water") is coordinating a study to explore the feasibility of a future joint water transmission and water treatment system to serve northern Colorado municipalities; and

WHEREAS, the City of Loveland desires to participate in the study and share in the cost of the study equally with the other participating municipalities; and

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WHEREAS, as governmental entities in Colorado, the City and Northern Water 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 "Agreement with the Northern Colorado Water Conservancy District for Participation in the 2012-2013 Regional Transmission and Treatment Study," attached hereto as Exhibit A and incorporated herein by reference ("Intergovernmental Agreement"), is hereby approved.

Section 2. That the City Manager is hereby authorized, following consultation with the City Attorney, to modify the Intergovernmental Agreement 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 Intergovernmental Agreement on behalf of the City.

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

ADOPTED this 5th day of February, 2013.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office.

15. DEVELOPMENT SERVICES

PUBLIC HEARING

Amend Comprehensive Master Plan (Land Use Plan)

Resolution #R-14-2013

Legislative Action: A Public Hearing was held and Resolution #R-14-2013 amending the City of Loveland Future Land Use Plan was approved.

RESOLUTION #R-14-2013

A RESOLUTION OF THE LOVELAND CITY COUNCIL AMENDING THE FUTURE LAND USE PLAN SET FORTH IN SECTION 4.7 OF THE CITY OF LOVELAND 2005 COMPREHENSIVE MASTER PLAN

WHEREAS, the City of Loveland "2005 Comprehensive Plan" was recommended by the Loveland Planning Commission for approval in February, 2007 and approved by Resolution #R-21-2007 on March, 6, 2007 by the Loveland City Council ("Council"); and

WHEREAS, pursuant to §6.0(A) of the 2005 Comprehensive Plan, the Plan may be amended by City Council, after a recommendation is received from the Planning Commission and a duly noted public hearing is held; and

WHEREAS, the City of Loveland has, through the Planning Commission and citizens of Loveland, considered a staff initiated application to amend Section 4.7, Land Use Plan Map in the 2005 Comprehensive Plan, to change the land use designation for property located on the west side of I-25, extending west to County Road 7 and extending north from State Highway 60 approximately one and one half (1.5) miles from DR – Development Reserve as follows:

- Approximately 314 acres to be designated E - Employment; and
- Approximately 501 acres to be designated RAC – Regional Activity Center

WHEREAS, the Planning Commission held a duly noticed public hearing on January 14, 2013 and adopted Commission Resolution No. 13-01 attached hereto as Exhibit A recommending the proposed amendment; and

WHEREAS, Council has reviewed the proposed amendment to determine whether it is an appropriate amendment in accordance with the criteria set forth in §6 of the 2005 Comprehensive Plan; and

WHEREAS, Council finds that this amendment implements, furthers or is otherwise consistent with one or more of the philosophies, goals, policies and strategies of the 2005 Comprehensive Plan, including emphasizing flexibility, developing regional employment and multi-use activity centers along I-25, providing for sufficient industrial lands along I-25, providing appropriate areas within the GMA for a full range of urban level services, and enhancing areas of urban development through cooperation with surrounding municipalities; and

WHEREAS, Council finds that this amendment will not interfere with existing, emerging, proposed or future land use patterns and densities of the surrounding neighborhood as depicted on the Land Use Plan Map contained within the 2005 Comprehensive Plan. The Development Reserve land use designation was intended to be a "holding" designation to be used until further definition could be given to the land use plan. This amendment provides that further definition; and

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WHEREAS, Council finds that this amendment will not interfere with or prevent, the provision of the area's existing planned, or previously committed services or proposals for community facilities or other specific public or private actions contemplated within the 2005 Comprehensive Plan; and

WHEREAS, Council finds that this amendment will not interfere with or prevent the provision of any existing or planned transportation system services in the area as contemplated by the 2035 Transportation Plan. The transportation demand model used in the creation of the 2035 Transportation Plan accounted for development in this area. Future development will be required to fund any expansions to the area's existing or planned transportation system; and

WHEREAS, Council held a duly noticed public hearing on this amendment to the 2005 Comprehensive Master Plan on February 5, 2013.

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

Section 1. That the Loveland City Council hereby makes the findings set forth in this Resolution.

Section 2. That the Loveland City Council hereby approves amendment of the 2005 Loveland Comprehensive Master Plan by the substitution of the Section 4.7 Future Land Use Plan Map, attached hereto and incorporated herein as Exhibit B, in lieu of the prior Land Use Map.

Section 3. That this Resolution shall take effect as of the date of its adoption.

Signed this 5th day of February, 2013.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A & B are available in the City Clerk's Office.

16. PARKS & RECREATION

Contract Amendment – Mehaffey Park Design and Engineering Fee

Motion

Administrative Action: A motion to approve an amendment to the service contract with Logan Simpson Design, Inc., to increase the fees for Mehaffey Park design and engineering services from a not to exceed amount of \$489,859 to a not to exceed amount of \$714,000 and to authorize the City Manager to execute the contract amendment on behalf of the City was approved.

CITY CLERK READ TITLES OF ORDINANCES ON THE CONSENT AGENDA.

CITY COUNCIL

a) Citizens' Reports

Troy Krenning, 2908 Bent Drive, requested Council look at the "failure to show proof of insurance" administrative fee identified in the Fee Resolution approved annually by City Council.

Andrea Hall, 2107 Grays Peak #101, supported Council reviewing the fee.

b) Business from Council

Shaffer

Councilor Shaffer attended Congressman Polis' public forum. Councilor Shaffer attended the opening at the Denver's Dos Chappell Bathhouse in Washington Park for Loveland resident artist, Jeannie Edwards.

Farley

Councilor Farley promoted Friday night on the town events: Love + Light at the Feed – Grain Building, and the Sculpture and Painting dedication at the Library. Councilor Farley also announced that the Loveland High Plains Council donated 4 more sculptures to the Benson Park Collection. Councilor Farley also attended the "Community Conversation on Homelessness" held at the Museum on Jan. 31, 2013.

Klassen

Councilor Klassen expressed concern regarding the Sound system at the Police Training Institute.

Clark

The Chamber of Commerce "Valentine Remaining Program" is underway.

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- Trenary Councilor Trenary attended the following events: Community Disrupter Training on Tuesday; Waterfront Homeowners Association meeting; Weight of the Nation Screening event in Loveland on January 30th; and, the 2012 Loveland Fire and Rescue Authority awards on Saturday, February 2, 2013.
- Gutierrez Snow Sculpture Event going on Downtown starting February 5, 2013. The Sculpture Invitational donated \$10,000 to Thompson School District to be used to further the arts in public schools. Mayor Gutierrez will be attending the Governor's Pits and Peeves, "Progress in Motion" roundtable discussion which is associated with the Omnibus report "Cutting Red Tape in Colorado State Government", Wednesday, February 13, 2013 in Ft. Collins, as well as the Boys and Girls Club "Youth of the Year" breakfast on February 13, 2013 to be held at the Embassy Suites.
- c) City Manager Report
- Cahill The Loveland Fire and Rescue Authority have certified all of their firefighters and are fully staffed at this time. Staff is working to upgrade the Sound System at the Police and Courts Municipal Building, Training Institute.
- 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

9. HUMAN RESOURCES

Resolution #R-8-2013

Administrative Action: Julia Holland, Human Resources Director introduced this item to Council. This is an administrative action regarding compensation and reappointment of the Municipal Judge. At the direction of City Council, the 2013 annual base salary for the Municipal Judge shall receive a three and one half percent (3.5%) merit increase beginning on the initial pay period in 2013. City Council also determined to reappoint Williams Starks as the Municipal Judge to a new two-year term beginning February 15, 2013. The following people, expressed concern with the Municipal Judge's compensation, and spoke in opposition to the Resolution: Troy Krenning, 2908 Bent Drive; Andrea Hall, 2107 Grays Peak, #101; Richard Ball, 1801 N. Garfield. Trish Murtha asked Council to review the size of the docket, when making decisions regarding the compensation of the Municipal Judge. Councilor Shaffer moved to approve Resolution #R-8-2013 of the Loveland City Council regarding the compensation of the Municipal Judge and reappointing William E. Starks as the Municipal Judge for a new two-year term beginning February 15, 2013. The motion seconded by Councilor Trenary and carried with six voting in favor and Councilors Clark, Taylor and Shaffer voting against.

RESOLUTION #R-8-2013

A RESOLUTION OF THE LOVELAND CITY COUNCIL REGARDING THE COMPENSATION OF THE MUNICIPAL JUDGE AND REAPPOINTING WILLIAM E. STARKS AS THE MUNICIPAL JUDGE FOR A NEW TWO-YEAR TERM BEGINNING FEBRUARY 15, 2013

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WHEREAS, on February 2, 1999, the City of Loveland (the "City") and William E. Starks ("Starks") entered into an agreement appointing Starks as Loveland's Municipal Judge for a two-year term effective February 15, 1999; and

WHEREAS, on February 20, 2001, the City and Starks entered into a second agreement reappointing Starks as Loveland's Municipal Judge for a second two-year term effective February 15, 2001 (the "Agreement"); and

WHEREAS, on February 4, 2003, the City and Starks entered into that certain "Addendum to Employment Agreement" (the "First Addendum") amending the Agreement to reflect Starks' reappointment for a third two-year term effective February 15, 2003; and

WHEREAS, in January of 2005, the City and Starks entered into that certain "Second Addendum to Employment Agreement" (the "Second Addendum") amending the Agreement to reflect Starks' reappointment for a fourth two-year term effective February 15, 2005; and

WHEREAS, on February 6, 2007, the City Council adopted Resolution #R-7-2007 reappointing Starks to a fifth two-year term effective February 15, 2007, as reflected in the "Third Addendum to Employment Agreement" which the City and Starks have entered into (the "Third Addendum"); and

WHEREAS, on February 17, 2009, City Council adopted Resolution #R-13-2009 reappointing Starks to a sixth two-year term effective February 15, 2009, as reflected in the "Fourth Addendum to Employment Agreement" which the City and Starks have entered into (the "Fourth Addendum"); and

WHEREAS, on March 3, 2009, City Council adopted Resolution #R-19-2009 that increased the compensation of Starks based on its annual evaluation of Starks in his capacity as Municipal Judge; and

WHEREAS, on November 3, 2009, City Council adopted Resolution #R-106-2009 that decreased the compensation of Starks through the use of four furlough days based on the economic downturn and to be consistent with the 2010 budget which reduced pay to most city employees through the implementation of four furlough days; and

WHEREAS, on December 7, 2010, City Council adopted Resolution #R-68-2010 reappointing Starks to a seventh two-year term effective February 15, 2011, as reflected in the "Fifth Addendum to Employment Agreement" (the "Fifth Addendum") and excluded furlough days from Starks' compensation; and

WHEREAS, on May 17, 2011, City Council adopted Resolution #R-36-2011 that increased Starks compensation for 2011 with a one-time, merit-based payment of 1.75% of Starks' then current annual based salary as reflected in the "Sixth Addendum to Employment Agreement" (the "Sixth Addendum"); and

WHEREAS, it is City Council's custom to evaluate the Municipal Judge's job performance annually; and

WHEREAS, on January 8, 2013, City Council conducted its annual evaluation of Starks as the Municipal Judge for 2012; and

WHEREAS, City Council finds that Starks' compensation for 2013 should be increased by three and one half percent (3.5%) of Starks' current base salary; and

WHEREAS, City Council further finds that it is in the best interest of the citizens of Loveland to reappoint Starks for an eighth two-year term effective February 15, 2013; and

WHEREAS, the City and Starks desire to amend the Agreement as previously amended by the First Addendum, Second Addendum, Third Addendum, Fourth Addendum, Fifth Addendum and Six Addendum to reappoint Starks for an eighth two-year term effective February 15, 2013, as reflected in the "Seventh Addendum to Employment Agreement" attached hereto as Exhibit "A" and incorporated herein by reference (the "Seventh Addendum")

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

Section 1. The Seventh Addendum is hereby approved and the Mayor is authorized to enter into the Seventh Addendum on behalf of the City to appoint Starks to a new two-year term as the City's Municipal Judge beginning February 15, 2013.

Section 2. That the Agreement, as amended by the First Addendum, Second Addendum, Third Addendum, Fourth Addendum, Fifth Addendum, Sixth Addendum and Seventh Addendum is hereby reaffirmed and ratified.

Section 3. Starks' annual salary shall be increased by three and one half percent (3.5%) of Starks' current annual base salary and shall be retroactive to the first pay period of 2013.

Section 4. Except as amended by this Resolution, Starks' compensation and benefits as set forth in the Agreement shall remain unchanged and in full force and effect.

Section 5. This Resolution shall take effect on the date and at the time of its adoption

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ADOPTED this 5th day of February, 2013.
Cecil A. Gutierrez, Mayor
Attest: Teresa G. Andrews, City Clerk
Exhibit A is available in the City Clerk's Office.

17. DEVELOPMENT SERVICES

Historic Designation – Elks Lodge / Lovelander Hotel

1st Rdg Ord & P.H.

Legislative Action: City Planner Bethany Clark introduced this item. This ordinance would designate as a Historic Landmark the "Elks Lodge/Loveland Hotel" at 103 East 4th Street, per Chapter 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. The Historic Preservation Commission on January 21, 2013, found the Elks Lodge/Loveland Hotel to be eligible for designation and is forwarding this recommendation to City Council. Debbie Davis, member of the Elks Club Board of Directors, answered Council questions.

The Mayor opened the public hearing at 7:24 pm. Hearing no comments, the Mayor closed the public hearing at 7:24 pm. Councilor Shaffer moved to approve and ordered published on first reading "AN ORDINANCE DESIGNATING AS A HISTORIC LANDMARK THE LOVELAND ELKS LODGE/LOVELANDER HOTEL LOCATED AT 103 EAST 4TH STREET IN LOVELAND, COLORADO". Councilor Taylor seconded the motion and a roll call vote was held with all Councilors present voting in favor thereof.

18. CITY CLERK

Approval of Council Minutes

Motion

This is an administrative action. City Clerk Terry Andrews introduced this item to Council. Councilor Shaffer moved to approve the minutes from the January 8, 2013 study session. Councilor Klassen seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof with Councilor Taylor abstaining as he was not the January 8th meeting.

19. CITY MANAGER

Appointment to Senior Advisory Board

Motion

Administrative Action: Councilor Clark recused himself, based on his relationship with Ms. Clark. City Manager Bill Cahill introduced this item. Councilor Shaffer moved to approve the appointment of Paula Clark to the Senior Advisory Board for a term for a term effective until December 31, 2015. Councilor Klassen seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof with the exception of Councilor Clark who recused himself from the vote due to a conflict of interest.

20. CITY MANAGER

Extension of Comcast Franchise Agreement

1st Rdg Ord & P.H.

Administrative Action: Assistant City Manager Rod Wensing introduced this item to Council. The ordinance moves the expiration of the current cable franchise from April 30, 2013 to December 31, 2013. The Mayor opened the public hearing at 8:04 pm. Hearing no comments, the Mayor closed the hearing at 8:04 pm. Councilor Klassen asked Comcast representative John Lehman to be prepared to discuss Customer service and high pressure sales during the negotiations. Councilor Shaffer moved to approve and ordered published on first reading "AN ORDINANCE AMENDING THE

CABLE FRANCHISE AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND COMCAST OF COLORADO II, LLC TO EXTEND THE TERM OF THE FRANCHISE AGREEMENT". Councilor Farley seconded the motion and a roll call vote was taken with eight Councilors present voting in favor and Councilor Klassen voting against.

21. ECONOMIC DEVELOPMENT

Artspace Project

Resolution #R-15-2013

Administrative Action: City Planner Mike Scholl introduced this item. Greg Handberg, from Artspace and Sam Betters director to the Loveland Housing Authority also gave presentations to Council. The resolution approves and authorizes the City Manager to sign a commitment letter based on the term sheet negotiated by staff and Artspace. The commitment letter awards a loan of \$300,000 in support of the project. The loan would fill the gap in funding and complete the financing package for the CHFA tax credit application due on March 1. The commitment letter also includes a waiver of Construction Materials Use Tax estimated to be \$71,000. These commitments (the loan and use tax waiver) are expressly subject to satisfaction of the following conditions by December 31, 2013: (a) award of the tax credits by CHFA; (b) appropriation of loan amount and final approval of the use tax waiver by Council; and (c) approval and execution of a final loan agreement, note, and deed of trust based on the term sheet attached to the letter. The City is not formally committing any funds at this time. The loan and materials use tax waiver are contingent upon Artspace being awarded the tax credits from the Colorado Housing and Finance Authority (CHFA). If Artspace is awarded the tax credits by December 31, 2013, full consideration by Council of an appropriation ordinance, the use tax waiver, and a loan agreement (including a note and deed of trust) would occur with no guarantee of approval. Consensus of Council was to hear public comment. The following people spoke in support of the resolution: Meagan Tracy, 620 E. 6th Street; Bob Campana, 2216 Flora Ct; Jan "Rosetta"-Schockner; 1145 N. Harrison; and Lori Wells, 817 4th St. Councilor asked Mr. Handberg to state definitively that Artspace would not be coming back to request additional funds from the City Council to support the project as presented to Council this evening. Mr. Handberg stated that was correct.

Councilor Shaffer moved to approve Resolution #R-15-2013 approving a Conditional Loan and Materials Use Tax Waiver for the Artspace Project. Councilor Trenary seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

RESOLUTION #R-15-2013

A RESOLUTION APPROVING A CONDITIONAL LOAN AND MATERIALS USE TAX WAIVER FOR THE ARTSPACE PROJECT

WHEREAS, in October, 2010, the Loveland City Council ("Council") approved a contract with ArtSpace, Inc. ("ArtSpace") to provide pre-development services for a mixed use live/work artist space in Downtown Loveland; and

WHEREAS, since 2010 ArtSpace has been engaged in pre-development and planning activities and now has the Feed and Grain Building located on North Railroad Avenue under contract, with plans to build a new 30 unit affordable housing project to the west of the Building and to renovate the Building for gallery and studio space to complement the housing (the "Project"); and

WHEREAS, Artspace has estimated the total Project cost at approximately \$8.8 million, a significant portion of which is anticipated to be funded by Low Income Housing Tax Credits (the "Tax Credits"); and

WHEREAS, ArtSpace has identified a funding gap in the financing of the Project based on current estimates and has requested that the City provide a commitment to make a loan in the amount of \$300,000 (the "Loan") and approve a

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construction materials use tax waiver to demonstrate to the Colorado Housing and Finance Authority ("CHFA") that ArtSpace has completed its financing package for and is ready to proceed with the Project; and

WHEREAS, Council desires to provide a conditional commitment to make the Loan and provide a materials use tax waiver in an amount not to exceed \$71,000 (the "Use Tax Waiver") as set forth herein.

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

Section 1. That Council hereby approves the Loan Commitment Letter attached hereto as Exhibit A and incorporated herein by reference (the "Commitment Letter"), which includes a commitment to make the Loan and provide the Use Tax Waiver conditioned upon satisfaction of all of the following on or before December 31, 2013: (a) award of the Tax Credits by CHFA; (b) appropriation of the Loan amount and final approval of the Use Tax Waiver by City Council; and (c) approval and execution of a final loan agreement, note, and deed of trust securing the Loan, which shall include, but not be limited to, the terms and conditions set forth in the Term Sheet attached to the Commitment Letter.

Section 2. That the City Manager is authorized, following consultation with the City Attorney, to modify the Commitment Letter in form or substance as deemed necessary to effectuate the purposes of this resolution or to protect the interests of the City; provided, however, that the Commitment Letter shall remain subject to the conditions set forth in Section 1 above.

Section 3. That the City Manager is hereby authorized and directed to execute the Commitment Letter on behalf of the City of Loveland and deliver the same to ArtSpace.

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

ADOPTED this 5th day of February, 2013.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office.

Councilor Taylor left the meeting at 10:38 p.m.

22. WATER & POWER

Water Enterprise Funding

Resolution #R-16-2013

(1st Reading)

Administrative Action: Councilor Klassen moved to continue this item to February 19, 2013 due to the lateness of the hour. The motion seconded by Councilor Fogle was approve with all Councilors voting in favor thereof.

23. CITY MANAGER

Executive Session concerning Klen v. City of Loveland lawsuit

At 10:40 p.m. Councilor Shaffer moved that the City Council go into executive session, as authorized in CRS Sections 24-6-402(4)(b), (4)(e) and (4)(g) and in City Charter Sections 4-4(c)(1), (c)(3) and (c)(6). This executive session will address a lawsuit currently pending in Colorado Federal District Court; *Klen v. City of Loveland*, together with such other matters as may relate to or affect this lawsuit. The purposes of the executive session will be to receive legal advice from the City's legal counsel, including from attorney Tom Lyons; and since this lawsuit is a matter that may become subject to negotiations: to receive reports concerning any negotiation discussions; to develop the City's negotiation positions and strategies; and to instruct the City's negotiators concerning those positions and strategies. In addition, documents and records related to this lawsuit may be considered that are protected by the mandatory non-disclosure provision of the Colorado Open Records Act, including, without limitation, work product documents. The motion was seconded by Councilor Trenary and carried with all Councilors present voting in favor thereof.

Council reconvened at 11:26 p.m.

City Council
February 5, 2013
Page 15 of 15

ADJOURNMENT

Having no further business to come before Council, the February 5, 2013 Regular Meeting was adjourned at 11:26 p.m.

Respectfully Submitted,

Teresa 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: 2/19/2013
TO: City Council
FROM: City Manager's Office
PRESENTER: Bill Cahill

TITLE:

Appointments to Planning Commission and Senior Advisory Board

RECOMMENDED CITY COUNCIL ACTION:

Motion to appoint Richard Zlamany as a regular member of the Senior Advisory Board for a partial term effective until December 31, 2012.

Motion to appoint Anne Brown to the Senior Advisory Board as the representative for Senior Singles for a two-year term effective until February 19, 2015

Motion to appoint Bob Massaro to the Planning Commission for a partial term effective until December 31, 2013.

OPTIONS:

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

DESCRIPTION:

This is an Administrative Item recommending the appointment of members to the Senior Advisory Board and Planning Commission.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible
-

SUMMARY:

Doris Helwig resigned from membership on the Senior Advisory Board ("SAB") as representative of Senior Singles. The Senior Singles recommend that Anne Brown be appointed as the representative. SAB unanimously approved this recommendation at its February 6, 2013 meeting. Ms. Brown had been serving as a regular member of SAB. With her appointment as the representative for Senior Singles, SAB recommends the appointment of Richard Zlamany, currently serving as an alternate member, as a regular member of the Senior Advisory Board for

a partial term effective until December 31, 2012. This was also approved by SAB at its February 6, 2013 meeting.

Stephanie Fancher resigned from her Planning Commission membership in October, 2012. The Fall, 2012 recruiting for members included this partial term as well as three full term vacancies. On December 18, 2012 City Council approved appointments to the three full term vacancies. Recruiting continued for the partial term vacancy. Two applications were received. One candidate withdrew his application. An interview was conducted with Bob Massaro. Mr. Massaro also currently serves on the Transportation Advisory Board in a term effective until June 30, 2014. Per Section 2.60.020(C):

"A person shall not serve on more than one city board or commission at a time; provided, however, that a board or commission member may apply for and be appointed to another board or commission if: (i) said member is the only qualified applicant for the position; or (ii) said member resigns his or her position on the first board or commission prior to or upon appointment to the second board or commission."

Mr. Massaro is the only qualified applicant for the Planning Commission membership. Therefore, he is eligible to serve on both the Planning Commission and the Transportation Advisory Board until his term of the Transportation Advisory Board expires or he resigns, whichever first occurs.

REVIEWED BY CITY MANAGER:

William D. Cahill

LIST OF ATTACHMENTS:

None

**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: 3
MEETING DATE: 2/19/2013
TO: City Council
FROM: Greg George, Development Services
PRESENTER: Bethany Clark, Community & Strategic Planning

TITLE:

An Ordinance Designating as a Historic Landmark the Elks Lodge/Loveland Hotel Located at 103 East 4th Street in Loveland, Colorado

RECOMMENDED CITY COUNCIL ACTION:

Move to adopt on second reading an Ordinance Designating as a Historic Landmark the Elks Lodge/Loveland Hotel Located at 103 East 4th Street in Loveland, Colorado. The first reading of the ordinance was approved unanimously by City Council at the February 5, 2013 meeting.

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 item is a legislative action to adopt an ordinance on second reading designating as a Historic Landmark the “Elks Lodge/Loveland” at 103 East 4th Street, per Chapter 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:

The Historic Preservation Commission on January 21, 2013, found the Elks Lodge/Loveland Hotel to be eligible for designation as detailed in the attached staff report. The ordinance was unanimously passed on first reading by City Council on February 5th, 2013.

The Elks Lodge/Loveland Hotel is primarily significant for its long historical association with the fraternal organization, the Loveland BPO Elks, and its contribution to the social history of Loveland. It is also architecturally significant as an example of Early Twentieth Century Commercial Architecture, a Special Use Property Type defined by the Colorado Historical Society's Office of Archaeology and Historic Preservation.

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 Elks Lodge/Loveland Hotel 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. January 21, 2013 HPC Minutes

FIRST READING: February 5, 2013

SECOND READING: February 19, 2013

ORDINANCE NO.

AN ORDINANCE DESIGNATING AS A HISTORIC LANDMARK THE LOVELAND ELKS LODGE/LOVELANDER HOTEL LOCATED AT 103 EAST 4TH STREET 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 known as the Loveland Elks Lodge/Loveland Hotel more particularly described on **Exhibit A** attached hereto and incorporated herein by reference (“Property”), located at 103 East 4th Street, Loveland, Colorado, filed an application for designation of the structures located thereon as historic landmarks under Code Chapter 15.56; and

WHEREAS, upon designation of the site and the structure on the Property as a historic landmark, the Property shall be subject to the provisions of Chapter 15.56 of the Loveland Municipal Code, as it may be amended from time to time by action of the City Council, which currently include, among other provisions, requirements for maintenance, requirements for prior approval of alteration, relocation, or demolition, and remedies for violation which are binding upon the owner and subsequent purchasers of the Property; and

WHEREAS, on January 21, 2013, the Historic Preservation Commission (“Commission”) held a duly noticed public hearing (“Commission Hearing”) at which it evaluated the application for designation of the Property 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 Loveland Elks Lodge/Loveland Hotel located on the Property 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 Loveland Elks Lodge/Loveland Hotel be designated as a historic landmark; and

WHEREAS, City Council held a duly noticed public hearing on the designation application on February 5, 2013, 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 Loveland Elks Lodge/Loveland Hotel, located on the Property at 103 East 4th 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 elements of an architectural style or period.
 - 2. Represents a built environment of a group of people in an era of history.
- 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.

Section 3. The Loveland Elks Lodge/Loveland Hotel located on the Property 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 19th day of February, 2013

Cecil A. Gutierrez, Mayor

Attest:

City Clerk

APPROVED AS TO FORM:



Deputy City Attorney

Exhibit A

LOTS THIRTEEN (13) AND FOURTEEN (14), BLOCK FOURTEEN (14), ORIGINAL TOWN (NOW CITY) OF LOVELAND, WITH ALL RIGHTS AND PRIVILEGES UNDER PARTY-WALL AGREEMENT; TOGETHER WITH EASEMENT ON WEST THREE FEET OF LOT FIFTEEN (15); ALL ACCORDING TO SUBDIVISION PLAT FILED SEPTEMBER 18, 1878, 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: Bethany Clark, Development Services
 Meeting Date: February 5, 2013
 Re: Application for Historic Landmark Property Designation, 103 E 4th Street.

SITE DATA

Address: 103 E 4th Street
 Loveland, CO 80537

Request: Application for Historic Landmark Property Designation

Historic Name: Lovelander Hotel / BPO Elks Lodge

Architectural Style: Early 20th Century Commercial

Current Building Sq. Ft.: 16,610 square feet
 (Source: Larimer Co. Assessor Property Information)

Construction Date: 1912-1913

Legal Description: Lots Thirteen (13) and Fourteen (14), Block Fourteen (14), Original Town (now City) of Loveland, with all rights and privileges under party-wall agreement; together with easement on West three feet of Lot Fifteen (15); all according to Subdivision plat filed September 18, 1878.

Owner(s): Benevolent and Protective Order of Elks Loveland Lodge #1051

Applicant(s): Benevolent and Protective Order of Elks Loveland Lodge #1051

Application Summary:

On October 23, 2012 staff attended an Elks Lodge meeting with A-E Design Associates to serve on a panel answering questions about the recently completed Historic Structural Assessment completed through a SHF grant, the obligations and benefits of historic landmark designation, as well as the process for applying for landmark designation. On November 26th, 2012, Loveland Elks Lodge members voted unanimously to move forward with obtaining the local Historic Landmark Designation from the City of Loveland and on December 28th staff received a nomination application for landmark designation of the property at 103 E 4th Street. The owner and applicant of 103 E 4th Street is familiar with the requirements for designation and the responsibilities as a Loveland Historic Landmark.

On January 21, 2013, the Historic Preservation Commission held a Public Hearing and unanimously recommended that the nomination of the Elks Lodge/Loveland Hotel be approved by City Council. Staff mailed a notification letter announcing the date of the public hearing to the property owner of 103 E 4th Street as required by ordinance. The Community and Strategic Planning Division also published notice of the public hearing for consideration of designation as a landmark property in the *Loveland Reporter-Herald*.

Larimer County Assessor records identify the property by the following address: 103 E 4th Street, Loveland, Colorado.

History:

Excerpt from the Historic Structural Assessment prepared by A-E Design Associates through a State Historic Fund Grant, 2012.

In 1878, Harriett Hopkins, a widower from “back east,” constructed an inn located across Railroad Avenue from the Colorado Central Railroad (CCRR) passenger depot on East Fourth Street. The Loveland House was a two-story wood frame building that had thirty-five guest rooms and two parlors, providing convenient accommodations to the passengers on the new rail line. Hopkins operated the hotel for a decade before Oscar Riker assumed ownership in 1888. Riker’s son, J.D., took over management of the hotel in 1904.

The construction of a sugar factory in 1901 profoundly affected Loveland’s socioeconomic development. In the latter half of the nineteenth century, wheat and other cereal grains were the main crops produced by farmers in the Big Thompson Valley. Sugar beet cultivation was introduced into the plains of Colorado in the 1870s and by 1890 this root crop was included among the agricultural products grown in the region. In the 1890s, a tariff on imported sugar gave rise to a large scale development of the domestic sugar beet processing industry and the first factory in the state was built at Grand Junction in 1899. Built two years later, the Great Western Sugar Company facility in Loveland provided a reliable market for farmers in the region as well as employment for Loveland residents. Over the next several years the sugar company's subsidiary, the Great Western Railway, built branch lines from the Loveland sugar plant to Longmont and Windsor. The sugar beet industry was partially responsible for a more than 300 percent increase in Loveland's population between 1900 and 1910. By 1910, Loveland boasted 3,651 residents and the city had been transformed by a building boom that included both the downtown business district as well as residential areas on either side of the railroad tracks.¹

In 1912, a group of Loveland businessmen raised \$40,000 to replace the thirty-four year old Loveland House. The frame building was leveled and a new, three story brick hotel was opened on July 10, 1913. Re-named the Lovelander Hotel, the impressive building had commercial space available for rent on the

¹ Carl and Karen McWilliams, “Loveland Residences Cultural Resource Survey,” (Loveland, CO: City of Loveland Strategic Planning Department, 2010), p. 14.

first floor and forty-two guest rooms on the upper levels.² Approximately half of the rooms had private baths and all had a hot and cold water sink.

Overall, Loveland's growth slowed during the 1920s. Post World War I, the rise of automobiles and the establishment of tourist camps, courts, and cottages along U.S. Highway 34 (the route leading to Rocky Mountain National Park, established in 1915) resulted in a decline in those seeking lodging at the Lovelander Hotel. Sanborn maps indicate that sometime between 1918 and 1927, the building was doubled in size by a three-story addition to the east on lots 15 and 16. However in 1927, financial pressures led the hotel's owners to sell the original portion of the building to Loveland Lodge #1051 of the Benevolent and Protective Order of Elks. The building addition was never owned by the Elks, but rather continued in use as a hotel and later as residential apartments (Plaza Apartments). Although the buildings were once physically connected on the interior, ownership of the two sections remained separate.

The Benevolent and Protective Order of Elks was established in 1868 as a fraternal organization dedicated to promoting charitable causes. Like most fraternal organizations, the Elks were also a social group with the lodge building functioning as a social center. In 1906, a group of prominent Loveland businessmen applied for an Elks charter. After the charter was granted in July 1907, Elks Lodge #1051's seventy-two charter members began renting space on the second floor of the Association Building on Cleveland Avenue. By 1914, there were 279 members. As membership grew and finances increased correspondingly, the Elks began to search for new lodge headquarters.

In 1927, the Elks purchased the original Lovelander Hotel building. They soon began a remodeling program to suit their needs, including the conversion of a large portion of the second floor into a grand lodge room (see Construction History section for more information). The Lodge's charitable work focused on causes supporting veterans and children. In 1950, they donated \$50,000 to fund construction of the Loveland Memorial Hospital. In 1951 the Elks Lodge hosted the ceremony to lay the cornerstone of the new building. By the 1970s, membership in the Loveland Elks Lodge peaked at 1,700.

The Elks Lodge/Lovelander Hotel building contributes to the significance of Loveland's downtown, initially for its use as a hotel and commercial building, and later for its association with Loveland's major fraternal organization, Loveland Lodge #1051 of the Benevolent and Protective Order of Elks. The building has been in continual use since its construction almost a century ago and has remained a center of social activity in the city. In 1999, the building (along with the adjacent Plaza Apartment Building) was deemed eligible for inclusion in the National and State Registers, both individually and as a contributing anchor to a proposed Loveland Downtown Commercial Historic District.

Architectural Description:

Excerpt from the Historic Structural Assessment prepared by A-E Design Associates through a State Historic Fund Grant, 2012.

The Elks Lodge/Lovelander Hotel is a three-story, rectangular plan building located on the northeast corner of East Fourth Street and Railroad Avenue in downtown Loveland. Constructed of buff-colored brick in a running bond, the building has a flat roof with parapets on the south and west sides highlighted by a projecting sheet metal box cornice with integral gutter system.

The original south, or main, storefront elevation was altered in the 1950 and exhibits Art Moderne design elements. Clad with light brown and marbled black glass tile and brown tone tile mosaic, the recessed entry to the Elks Lodge is framed by a wide, glass tile surround and contains a double leaf, glazed door flanked by frosted, corrugated glass sidelights and transom. Glass tiles with Moderne style lettering (BPOE) are located above the lodge entry. On either side of the main entrance, fixed aluminum frame

² Jeffrey and Cindy Feneis, *Exploring Loveland's Hidden Past: The People and Places of Early Loveland, Colorado* (Loveland, CO: Loveland Historical Society, 2007).

windows are topped by a fluted aluminum cornice with fixed transom windows above. Black glass tile bands are located above the transoms. Brown tone mosaic tile is located beneath the windows.

The second and third stories of the south elevation each have seven wood-frame, double hung, one-over-one windows in the original 1913 fenestration pattern. Windows have dressed sandstone lugsills. The five central windows on each story are framed by a decorative border of projecting brick, with window openings separated by brick pilasters.

Facing Railroad Avenue, the west elevation was the original main entrance to the Lovelander Hotel and featured three distinct three-story sections separated by recessed bay light wells.

This elevation was modified after the Elks purchased the building in 1927. The southern third of the west elevation retains its original fenestration pattern on the first and second stories. Each story has five wood-frame, double hung, one-over-one windows with dressed sandstone lugsills. The windows are framed by a decorative border of projecting brick, with window openings separated by brick pilasters. The original storefront windows on this elevation have been infilled with brick and contain two glass block windows. Original decorative brickwork border remains. Just north of this section, the remaining original recessed bay has wood-frame, double hung windows on the second and third stories. A metal fire escape ladder with balcony extends from a west-facing window. Windows openings on all three stories of the west elevation immediately north of the recessed area are glass block.

Shortly after the Elks purchased the building in 1927, exact date unknown, the northerly light well was removed and the space separating the north two sections of the building was infilled with brick. Also at this time, the fenestration of the second and third floors on the west elevation was significantly altered due to the creation of a large lodge meeting room on the second floor, and four tall window openings were created to replace the second and third floor windows. These openings contain paired, mullied windows, each with two wood-frame, double hung, one-over-one windows with transom above. The window openings on the west elevation at the central stair were filled with glass block. Above the upper windows and beneath the box cornice are five decorative, rectangular terra cotta plaques. Each plaque depicts a clock dial, set at 11:00, flanked by the letters "BP" and "OE." The clock references the fraternal organization's traditional 11 O'Clock Toast given in honor of departed Elks: "...It is the golden hour of recollection, the homecoming of those who wander, the mystic roll call of those who will come no more..."³ The entrance to the lodge on this west elevation has a canvas canopy over a single leaf door with sidelights.

Circa 1950, a major remodeling project included many significant alterations to the structure. As part of that remodeling, a 55' x 10', four-story addition (three above grade and a basement) was added to the rear of the building. The remaining first floor west windows were infilled with glass block, and the first floor of the primary elevation facing 3rd Street received its Art Moderne architrave and "storefront" finishes. The west entry was also similarly altered, receiving the aluminum surround that exists to today. There were many alterations on the interior of the first and second floor, mostly removing walls to create larger spaces to better accommodate its use as a meeting place for a large fraternal organization, along with offices, coat rooms, and other ancillary spaces. Many of the ceilings had acoustical tile applied over the existing plaster, and this project also included installing a new electrical system, complete with replacement distribution wiring, outlets, and lighting. Please refer to copies of the 1950 drawings and specifications by Roland L. Linder in the appendices.

Walls of the north elevation of the addition are an orange-colored, common bond brick. Three metal downspouts extend from the gutter at roofline to the alley behind the building. Two single leaf metal doors access the interior. Originally, the west wall of this room had six arched openings leading to under-sidewalk light well vaults. There were also glass kicks in the walls above to bathe the basement in natural light. The structural glass was replaced with concrete and the arches and glass kicks infilled sometime after 1937. The arches in the west basement wall were infilled and carpet wainscoting installed in the mid

³ Loveland Lodge #1051, "The First 100 Years, 1906-2006, A Historical Review" (Loveland, CO: Lodge #1051, 2006).
Item 3C CCStaff Report_103 E 4th_Elks Lodge.docx

1980's. One of the openings beneath the sidewalk still exists in the form of a storage closet near the south end of the west wall, and the arch infill includes a door at that location.

Another partial interior remodeling of the first floor spaces of the northern half of the building occurred in 1963, revamping what are now the club room and range room, with the first floor kitchen running along the north end, and moving the now diagonal bar to the northeast corner between the kitchen and range room. This configuration was altered again in 1981, moving the bar to the north end of the club room and incorporating the prior bar space into the kitchen, serving, and dishwashing area. The first floor conference room received new finishes later in the 1980's. The evaporative cooling system was reportedly taken offline just prior to the new millennium. Please refer to copies of the 1963 and 1981 plans, specifications, and building permit application in the appendices.

The three-story Plaza Apartment building abuts the east wall of the Elks Lodge building.

Significance:

The 1913 Elks Lodge/Loveland Hotel Building is an example of Early Twentieth Century Commercial Architecture, a Special Use Property Type defined by the Colorado Historical Society's Office of Archaeology and Historic Preservation. Common elements of this type that are present on the Elks Lodge/Loveland Hotel Building include: a slightly pitched roof with parapet, box cornice, decorative brickwork, and scant additional ornamentation.⁴

Although the building was altered substantially between 1927 and 1951, all changes occurred as a result of the Elks' acquisition of the property. The building's primary significance is its association with the fraternal organization and its contribution to the social history of Loveland. Therefore, the alterations do not diminish the building's overall significance. The property is considered eligible for local landmark designation by the City of Loveland.

⁴ Colorado Historical Society, *Field Guide to Colorado's Historic Architecture and Engineering* (Denver: Colorado Historical Society, 2008).
Item 3C CCStaff Report_103 E 4th_Elks Lodge.docx

Photographs:



Figure 1: Southwest Corner



Figure 2: Northwest Corner



Figure 3: South (Front) Elevation



Figure 4: Storefront as Viewed from Southwest Corner



Figure 5: North (Rear) Elevation



Figure 6: Historic Photo, prior to 1927 Elks Purchase

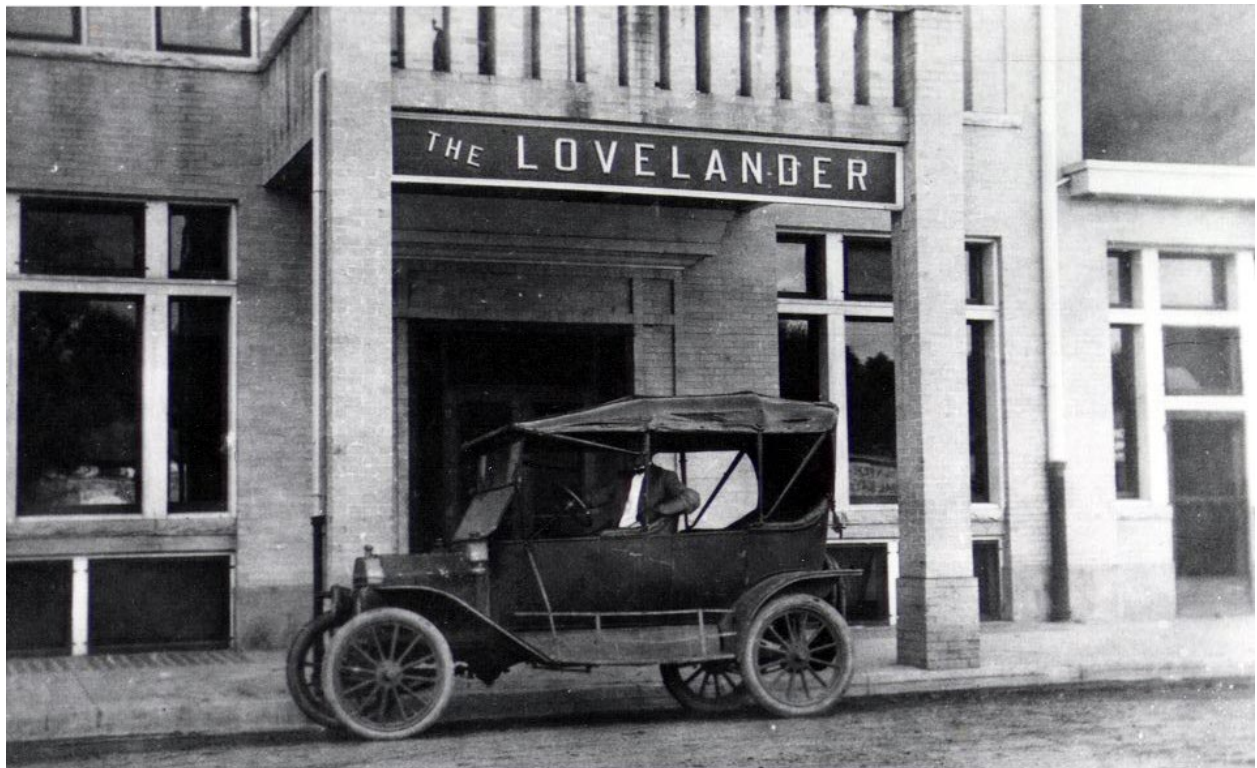


Figure 7: The Lovelander Hotel

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 Elks Lodge/Loveland Hotel is significant for its association with the fraternal organization of the BPO Elks and its contribution to the social history of Loveland. The building is also a good example of Early Twentieth Century Commercial Architecture.

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 Elks Lodge/Loveland Hotel was built in 1912-1913, 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 Historic Structural Assessment prepared by A-E Design Associates in 2012, the Elks Lodge/Loveland Hotel has maintained a good amount of its integrity. Although there has been an addition and several modifications, these were all made as a result of the Elks Lodge acquisition of the property and were made more than 50 years ago. Therefore, the alterations themselves do not diminish the integrity of the property. The building 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 Elks Lodge/Loveland Hotel 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. Represents a built environment of a group of people in an era of history.
- 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.

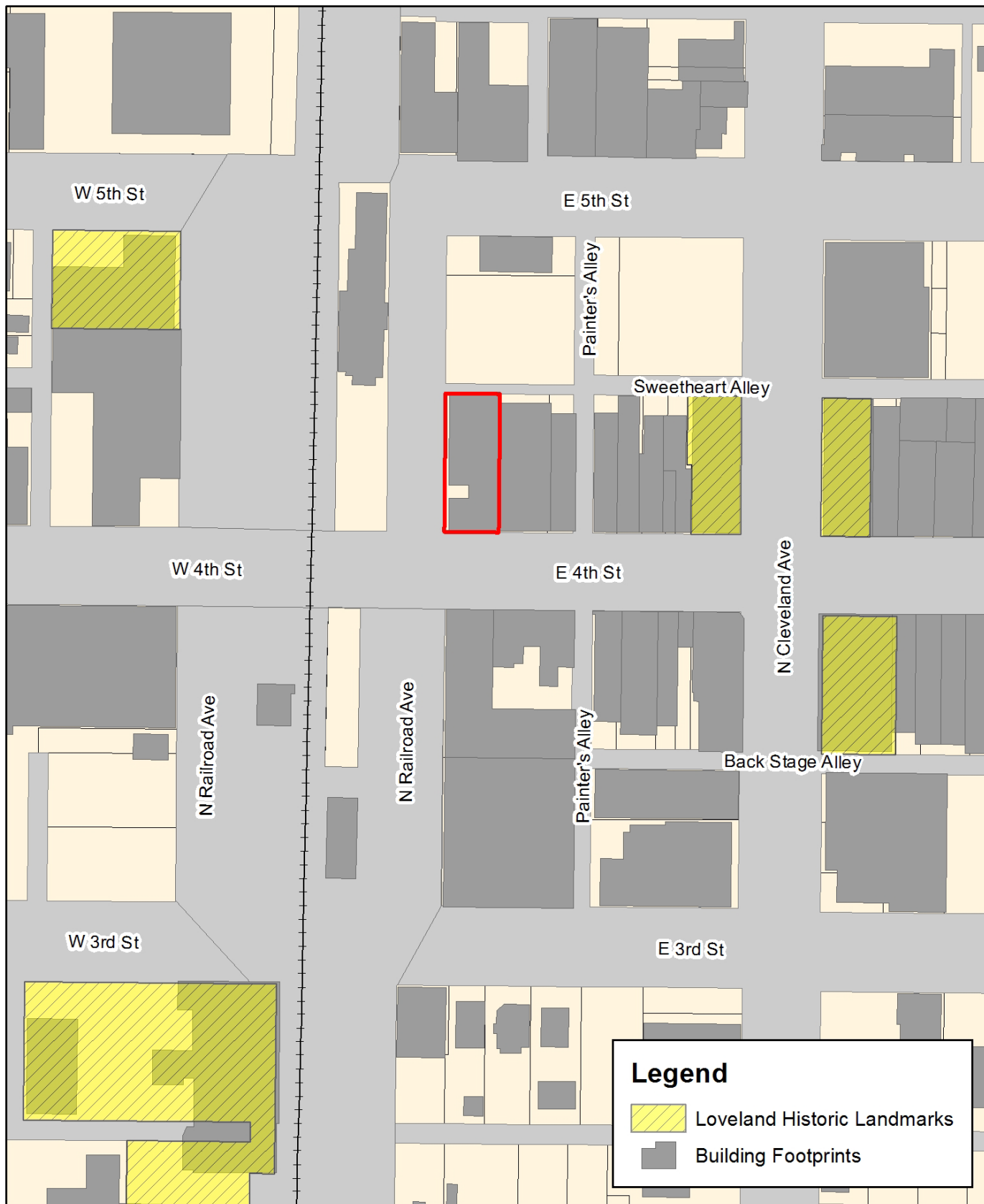
Given available information for the property at 103 E 4th Street, staff has determined that the Elks Lodge/Loveland Hotel exhibits both adequate *integrity* and *significance* to support its eligibility for designation as a Loveland historic landmark. This determination is based on the Colorado Historical Society's recommended framework for determining landmark eligibility.

Staff proposes the Loveland City Council approve this request for designation of the Elks Lodge/Loveland Hotel, located at 103 E 4th Street, as a Loveland Historic Register Landmark property.

Attachments:

- A. Location Map
- B. Nomination Application submitted by applicant

Attachment A

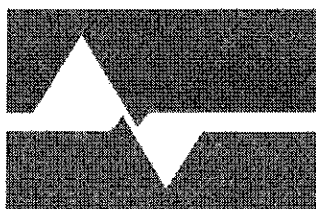


Legend

Loveland Historic Landmarks
 Building Footprints

Loveland Historic Register


Nomination Packet



City of Loveland

*500 E. Third Street
Loveland, CO 80537
Tel. 970-962-2745*



This packet includes the instructions and forms necessary to nominate a building, site, or district to the Loveland Historic Register.


 City of Loveland FORM A Application for Designation of a Historic Landmark	Page 1- Applicant and General Property Information
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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:	Loveland Elks Home Inc NKA Loveland Elks Lodge BPOE 1051
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:	103 E 4th St, Loveland, CO 80537
Telephone:	970 669 6330

PROPOSED LANDMARK INFORMATION	
Property Name:	Loveland Elks Lodge BPOE 1051 FKA The Loveland Hotel Co 
Address:	103 E 4th St, Loveland, CO 80537
Historic Use:	As a hotel until 1927 when purchased by the Loveland Elks which has been used as their Fraternal Service Club Lodge 
Current and Proposed Use	Loveland Elks Lodge Fraternal Club
Legal Description	<i>Please attach copy of officially recorded document containing a legal description.</i> Lots 13 & 14, Block 14, City of Loveland, Larimer County
Brief Description of Historical Qualities relating to Property	<i>Please attach additional sheets if necessary.</i> The Elks Lodge/Loveland Hotel building contributes to the significance of Loveland's downtown, initially for its use as a hotel and commercial building, and later for its association with Loveland's major fraternal organization. (con't)

 City of Loveland	Page 2 - Historic Property Inventory
FORM A Application for Designation of a Historic Landmark	

DETAILED PROPERTY INFORMATION	
Historic Property Name:	Loveland Elks Lodge BPOE 1051 fka The Loveland Hotel Co
Current Property Name:	Loveland Elks Lodge BPOE 1051
Address:	103 E 4th St, Loveland, CO 80537
Legal Description	<i>Please attach copy of officially recorded document containing a legal description.</i> Lots 13 & 14, Block 14, City of Loveland, Larimer County
Owner Name & Address:	Loveland Elks Lodge BPOE 1051
Style:	Early 20th Century commercial / circa 1950 Art Moderne
Building Materials:	Brick / Steel
Additions to main structure(s), and year(s) built.	Year built 1913. The Elks added on to the North of building in approx 1945-1950, also remodeled to add the 'ball room' in the North section at that time as well.
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?	As a hotel until 1927 when purchased by the Loveland Elks which has been used as their Fraternal Service Club Lodge.
What is the present use of the property?	Loveland Elks Lodge / Fraternal Community Service Organization
What is the date of construction?	Estimated: _____ Actual: 7/1913 Original: 1913 Source: _____

 City of Loveland FORM A Application for Designation of a Historic Landmark	Page 5: Historic Property Inventory
--	-------------------------------------

DETAILED PROPERTY INFORMATION continued	
Describe the condition of the property.	Overall condition of the property is average to below average in some areas as deferred maintenance is now necessary.
Who was the original architect?	Unknown at this time. Source:
Who was the original Builder/Contractor?	Unknown at this time. Source:
Who was the original Owner(s)?	The Loveland Hotel Company / Lovelander Hotel Source: Original vesting deed / Loveland Museum
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> Please see 'historic significance section' as this is detailed in that section as well. Additionally, upon request, you may review the 200 page structural assessment report that was conducted by AE Designs, Inc for the Loveland Elks over the past two years. This is available in electronic format and Bethany Clark has a hard copy of the report. There are also 60 photos of the interior and exterior of the building in it's current condition with explanations of the existing historical characteristics of certain elements of the building, such as the original mahogany wood trim on the original hotel rooms on the third floor of the Lodge.

 City of Loveland FORM A Application for Designation of a Historic Landmark	Page 4 – Historical Significance
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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: 99 yrs

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.

 City of Cleveland	Page 5 - Historical Significance (cont.)
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.

 <p>City of Loveland</p> <p>FORM A</p> <p>Application for Designation of a Historic Landmark</p>	<p>Page 6 – Historical Significance (cont.)</p>
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<p style="text-align: center;">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>The 1913 Elks Lodge/Loveland Hotel Building is an example of Early Twentieth Century Commercial Architecture, a Special Use Property Type defined by the Colorado Historical Society's Office of Archaeology and Historic Preservation. Common elements of this type that are present on the Elks Lodge/Loveland Hotel Building include: a slightly pitched roof with parapet, box cornice, decorative brickwork, and scant additional ornamentation. Although the building was altered substantially between 1927 and 1951, all changes occurred as a result of the Elks' acquisition of the property. The building's primary significance is its association with the fraternal organization and its contribution to the social history of Loveland. Therefore, the alterations do not diminish the building's overall significance.</p>								
<p>Photographs of property as it appears today</p>	<p><i>Include photos from all angles: front, rear, and side elevations.</i></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center;">North elevation</td> <td style="border: 1px solid black; padding: 2px; text-align: center;">East elevation</td> <td style="border: 1px solid black; padding: 2px; text-align: center;">South elevation</td> <td style="border: 1px solid black; padding: 2px; text-align: center;">West elevation</td> </tr> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center;">Other</td> <td style="border: 1px solid black; padding: 2px; text-align: center;">Other</td> <td style="border: 1px solid black; padding: 2px; text-align: center;">Other</td> <td style="border: 1px solid black; padding: 2px; text-align: center;">Other</td> </tr> </table>	North elevation	East elevation	South elevation	West elevation	Other	Other	Other	Other
North elevation	East elevation	South elevation	West elevation						
Other	Other	Other	Other						
<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>Please see attached pages, which are from the original HSA report prepared from AE Designs, Inc.</p>								

 City of Loveland FORM A Application for Designation of a Historic Landmark	Page 7 - Signature Sheet
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The Property Owner, by signature below and submittal of this application, acknowledges and agrees that if the Property is designated as a historic landmark, the Property will be subject to the provisions of Chapter 15.56 of the Loveland Municipal Code, as they may be amended from time to time by action of the Loveland City Council. The provisions of Chapter 15.56 of the Loveland Municipal Code are available to the Property Owner at <http://www.cityofloveland.org/index.aspx?page=68> and currently include, among other provisions:

- Requirements for maintenance of a historic landmark as set forth in Code Section 15.56.150; and
- Requirements that any proposed alteration, relocation or demolition of a designated historic landmark is subject to approval, which may include application, public notice and hearing, and decision by the Historic Preservation Commission and/or City Council, prior to undertaking such actions, as more fully set forth in Code Sections 15.56.60-.80, 15.56.110-.140 and 15.56.170; and
- Remedies for violation as set forth in Code Section 15.56.090, including but not limited to provisions that moving or demolishing a designated landmark or a structure without an approved landmark alteration certificate will result in a five-year moratorium on all moving, demolition, or building permits for the structure and for the property at the structure's original location, and that altering a designated landmark without and approved landmark alteration certificate will result in a one year moratorium on all building permits for the property.

Further, the Property Owner authorizes the recording of any Ordinance designating the Property as a historic landmark in the real property records of the Larimer County Clerk and Recorder and agrees to disclose to any purchaser of the Property the designation of the Property as a historic landmark subject to the benefits and obligations of Chapter 15.56 of the Loveland Municipal Code.

Signature of Property/Site Owner(s):

Craig Knight LEADING KNIGHT


Larry Tucker EXALTED RUCER Date: 12-27-12

The Property Owner has read and agrees with all that is contained in Section 15.56.090 of the Loveland Municipal Code and understands all the benefits and obligations of said code. The Property owner specifically understands and agrees that the once the property is a designated landmark any proposed alterations must receive an approved alterations certificate prior to construction. The Property owner also understands and agrees that moving or demolishing a designated landmark or a structure without an approved landmark alteration certificate will result in a five-year moratorium on all moving, demolition, or building permits for the structure and for the property at the structure's original location. Additionally, the Property owner will disclose to future owners of the property all the benefits and obligations of Section 15.56.090 of the Loveland Municipal Code.

Craig Knight LEADING KNIGHT

Signature of Property/Site Owner(s):

Larry Tucker EXALTED RUCER Date: 12-27-12

 City of Loveland	Page 8 - Signature Sheet (cont.)
FORM A	
Application for Designation of a Historic Landmark	

Please type or print legibly.

FORM A completed by:

Debbie Hague Davis

Signature of Preparer:

Debbie Davis, BOARD CHAIR

Date:

12/27/12

Phone No.

970 669 6330

Address:

103 E 4th St, Loveland, CO 80537

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

Larry Turner SYALTED RULES
Craig Davis - LEADING KNIGHT

Date:

12-27-12

E-Mail Form

Historical Qualities (continued)

Loveland Lodge #1051 of the Benevolent and Protective Order of Elks. The building has been in continual use since its construction almost a century ago and has remained a center of social activity in the city. In 1999, the building (along with the adjacent Plaza Apartment Building) was deemed eligible for inclusion in the National and State Registers, both individually and as a contributing anchor to a proposed Loveland Downtown Commercial Historic District.

The 1913 Elks Lodge/Loveland Hotel Building is an example of Early Twentieth Century Commercial Architecture, a Special Use Property Type defined by the Colorado Historical Society's Office of Archaeology and Historic Preservation. Common elements of this type that are present on the Elks Lodge/Loveland Hotel Building include: a slightly pitched roof with parapet, box cornice, decorative brickwork, and scant additional ornamentation.⁴ The building is a contributing commercial structure to a proposed Loveland Downtown Commercial Historic District.

The Elks Lodge/Loveland Hotel is a three-story, rectangular plan building located on the northeast corner of East Fourth Street and Railroad Avenue in downtown Loveland. Constructed of buff-colored brick in a running bond, the building has a flat roof with parapets on the south and west sides highlighted by a projecting sheet metal box cornice with integral gutter system.

Architectural Characteristic (continued)

Please see information above.

Loveland Municipal Code and understands all the benefits and obligations of said code. The Property owner specifically understands and agrees that the once the property is a designated landmark any proposed alterations must receive an approved alterations certificate prior to construction. The Property owner also understands and agrees that moving or demolishing a designated landmark or a structure without an approved landmark alteration certificate will result in a five-year moratorium on all moving, demolition, or building permits for the structure and for the property at the structure's original location. Additionally, the Property owner will disclose to future owners of the property all the benefits and obligations of Section 15.56.090 of the Loveland Municipal Code.

Signature of Property/Site Owner(s) : _____ **Date:** _____

Please type or print legibly.

FORM A completed by:

Signature of Preparer:

Date: Phone No.

Address:

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

Date:

E-Mail Form

Historical Qualities (continued)

Architectural Characteristic (continued)

Loveland Lodge #1051 of the Benevolent and Protective Order of Elks. The building has been in continual use since its construction almost a century ago and has remained a center of social activity in the city. In 1999, the building (along with the adjacent Plaza Apartment Building) was deemed eligible for inclusion in the National and State Registers, both individually and as a contributing anchor to a proposed Loveland Downtown Commercial Historic District.

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The original south, or main, storefront elevation was altered in the 1950 and exhibits Art Moderne design elements. Clad with light brown and marbled black glass tile and brown tone tile mosaic, the recessed entry to the Elks Lodge is framed by a wide, glass tile surround and contains a double leaf, glazed door flanked by frosted, corrugated glass sidelights and transom. Glass tiles with Moderne style lettering (BPOE) are located above the lodge entry. On either side of the main entrance, fixed aluminum frame windows are topped by a fluted aluminum

⁴ Colorado Historical Society, Field Guide to Colorado's Historic Architecture and Engineering (Denver: Colorado Historical Society, 2008).

Comprehensive Historic Assessment Report with Prioritized Recommendations
October 2012

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Loveland Hotel-Elks Lodge

Loveland, Colorado

Historic Structure Assessment

cornice with fixed transom windows above. Black glass tile bands are located above the transoms. Brown tone mosaic tile is located beneath the windows. The second and third stories of the south elevation each have seven wood-frame, double hung, one-over-one windows in the original 1913 fenestration pattern. Windows have dressed sandstone lugsills. The five central windows on each story are framed by a decorative border of projecting brick, with window openings separated by brick pilasters.

Facing Railroad Avenue, the west elevation was the original main entrance to the Loveland Hotel and featured three distinct three-story sections separated by recessed bay light wells (see historic photograph below).

This elevation was modified after the Elks purchased the building in 1927. The southern third of the west elevation retains its original fenestration pattern on the first and second stories. Each story has five wood-frame, double hung, one-over-one windows with dressed sandstone lugsills. The windows are framed
Please see information above.

Grant Administration (by City, as Cash Match)	\$ 500
Select Project Management Assistance, Grant Management Assistance (6%) (Provided by Preservation Engineer)	\$ 1,030
Contingency (12% of Construction Cost)	\$ 2,060
<i>Grant Project Total</i>	<i>\$ 20,750</i>
<hr/>	
Grant Request (67%)	\$ 13,900
Cash Match (33%)	\$ 6,850

7.0 BIBLIOGRAPHY *(An asterisk next to a bibliographical entry indicates that the consulted resource contained pertinent information.)*

Belle, John, FAIA, RIBA; Hoke, John Ray, Jr., AIA; and Kliment, Stephen A., FAIA. *Traditional Details for Building Restoration, Renovation, and Rehabilitation*. John Wiley and Sons, Inc.; New York, 1991.*

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Circle Redmont.com. "Historic Restoration: Preserving the Legacy of Structural Glass". http://www.ciecleredmont.com/Architect_Builder_Resources/Historic_Restoration.aspx. December 4, 2011.*

Colorado Historical Society. *Field Guide to Colorado's Historic Architecture and Engineering*. Denver: Colorado Historic Society, 2008.*

Feneis, Jeffrey and Cindy. *Exploring Loveland's Hidden Past: The People and Places of Early Loveland, Colorado*. Loveland, CO: Loveland Historical Society, 2007.*

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Ringuette, Janis and Norm. Islandnet.com. "Walking Over History: Victoria's Historic Sidewalk Prisms". <http://www.islandnet.com/~jar/streetscapes/prisms.htm>. December 4, 2011.*

Weeks, Kay D. and Anne E. Grimmer. *The Secretary of the Interior's Standards for the Treatment of Historic Properties: With Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings*; Washington, DC: U.S. Department of the Interior, 1995.*

8.0 APPENDICES (SEE SUBSEQUENT SECTION)

⌘ ⌘ ⌘

**Loveland Elks Lodge #1051
November 26, 2012
Meeting Minutes**

Loveland Lodge #1051 met in regular session at 7:00 PM with PER Ron Schlatter presiding. There were 42 members present.

After opening, Craig Davis was installed as Esteemed Leading Knight by PER Ron Schlatter acting as Grand Exalted Ruler, Janet Limbeck as Grand Esquire and Monica Turner as installing Officer.

Roll Call of Officers: All officers were present except for Larry Turner, Exalted Ruler

Minutes of Previous Session: Approved as read.

Sickness & Distress:

- Vern Schultz has been diagnosed with gallstones
- Dee Long fell and broke her arm.
- Pam Hauschild's father had a stroke
- Mary Pizzuti fell while decorating the Lodge Room. She was taken to the ER to see if she had a concussion but she just has a bad bump and black eyes.
- Zelda Johnson's granddaughter has been having seizures.

Social & Community Welfare:

- No report

Reports of Committees:

EXALTED RULER:

- Ron reminded everyone about the Memorial Service to be held on Sunday, December 2 and invited everyone to come and pay homage to our members who have passed away this year.
- Ron also reminded everyone about the Tom and Jerry Party to be held at the Lodge on Saturday, December 15. It is free to all members and there will be a band playing from 7-10PM.

LEADING KNIGHT:

- No Report

LOYAL KNIGHT:

- Larry Depperschmidt thanked everyone who had filled in for him during his recent absences.
- Larry also said that there will be no Wednesday night meals during December. They are possibly looking to the cook to take over Wednesdays.

LECTURING KNIGHT:

- Deborah reminded everyone of the Hoop Shoot which will be on December 15, starting at 8:30 AM

SECRETARY:

- No Report

ESQUIRE:

- No Report

TILER:

- No Report

CHAPLAIN:

- No Report

INNER GUARD:

- No Report

BOARD OF DIRECTORS / TRUSTEES:

- Debbie Davis gave a short budget report and said that from the 4 cost centers, Lodge, Bingo, Dining Room and Bar, the net income was \$24,227.80. See attached for full report
- Debbie said the contract for VJC Catering, our chef had been reviewed and extended another 6 months until May 2013. The Cotter contract was also reviewed and extended for 3 months.
- Debbie asked for not more than \$500 from Blood Drive Acct. 390-22 to help with the expenses of the Tom and Jerry party. Motion seconded and passed.
- Rod Johnson thanked everyone who supported the Steak Committee and said there would not be steaks in December. He said they would be back in January and he was not raising prices. He thanked Deborah Furney, Bill Kinney, Binky Geisler, Bryce Johnson and Blair Johnson for all their help.

BINGO:

- Binky proudly reported that Bingo had made a profit last week.

PER'S:

- No Report

LITTLE BRITCHES:

- No Report

OTHERS:

- Jerry Brown made a motion to take \$900 from Mess Hall Acct. 390-17 for Thompson Valley Pre-School. \$500 is to go to playground equipment and \$400 for new cupboards. Motion seconded and passed.
- Jerry also made a motion to take \$3000 from Mess Hall Acct. 390-17 for bar improvements. Motion seconded and passed.
- Binky Geisler made a motion to take \$1100 from the Ladies Auxiliary Bar Bingo Acct. 780-11 to give \$300 to Girls State, \$100 to Santa Cops, \$100 to Larimer County Food Bank, \$100 to House of Neighborly Service and \$500 to Thompson Valley Pre-School Scholarship Fund. Motion seconded and passed.

COMMUNICATIONS:

- Thank you card from Corporal Zachary Wolaver of the US Marines

APPLICATIONS FOR MEMBERSHIP:

Robert Porzycki, proposed by Carin Barrett
Dianne Heider, proposed by N Polly Sigmund.

INVESTIGATION COMMITTEE:

- Will meet January 2, 2012

OLD BUSINESS:

- Motion was made by Debbie Davis to accept the Historic Structure Designation project proposal to rehabilitate our building. Motion seconded and passed
- Motion made by Debbie Davis to move forward with obtaining the local Historic Structure Designation from the City of Loveland. Motion seconded and passed.
- Debbie Davis made a motion to move forward with obtaining the State Historic Structure Designation from the State of Colorado.
- Debbie Davis made a motion to apply for the Façade Enhancement Improvement Grant with the City of Loveland. Motion seconded and passed.
- Debbie Davis made a motion to apply for the State Historical Grants that are available through the State of Colorado. Motion seconded and passed.
- Debbie Davis made a motion to rename and redesignate the title of our current Building Fund to another title, which is proposed to be "Capital Improvement Fund." Motion seconded and passed.
- Debbie stated that since these all passed, we are here to stay.

NEW BUSINESS:

- None

GOOD OF THE ORDER:

- Discussion was held about donating food to the Food Bank rather than giving out individual food baskets for Christmas. Shirley was going to investigate how people were screened at the Food Bank to make sure the needy were really the recipients.

CHARITY/ ENF DRAWING:

- \$116 was collected for Charity Drawing. \$46 went to ENF, \$20 to Sad Elk and there were 5 drawings for \$10.00. Greg Welch donated his to Hoop Shoot and Larry Reisdorff and Jerry Brown donated theirs to Troop Support.

SAD ELK DRAWING:

- Bryce Giesey was not present to win \$300. Next meeting the pot will be \$310.

BILLS APPROVED TO BE PAID: Motion made, seconded and approved:

- LODGE: \$11,453.02 See attachment
- BINGO: \$3269.26 See attachment

TREASURER'S REPORT:**RECEIPTS OF THE SESSION:****LODGE: \$****BINGO: \$****BUILDING FUND: \$****CHARITY/ EDUCATION TRUST FUND: \$****BALANCE ON HAND:****LODGE: \$****BINGO: \$****BUILDING FUND: \$****CHARITY / EDUCATION FUND TOTAL: \$**

Lodge closed in regular form in 1 hour and 10 minutes.

Respectfully Submitted,

Monica J. Turner, Secretary

Loveland Hotel

(Known as Elks Lodge and Plaza Apartments)

103 East 4th Street

4

The Loveland Hotel was erected in 1912-13, replacing an aging wood frame hotel—The Loveland House—which had been in this location since 1878. After a \$40,000 remodel in the summer of 1913, the hotel reopened to feature such modern conveniences as steam heat, telephone service, and hot and cold water piped to each of its forty-two guest rooms. Soon after World War I, the business suffered a decline and by 1926 was up for sale. Elks Lodge No. 1051 purchased the building in 1927 and remodeled the interior. Around the same time, a three-story, east side addition was constructed to continue housing the residential hotel. The name changed to the Plaza Apartments in the 1970s.



This picture is courtesy of 'Walk Historic Loveland' by the Tenfold Collective.

<http://www.tenfoldcollective.com/blog/walk-historic-loveland>

Banner Health

McKee Medical Center

About McKee Medical Center

History of McKee Medical Center

The first hospital in Loveland was Sutherland Hospital established in 1896 by W. P. Sutherland, MD, in his home on 6th and Grant. His screened-in porch was turned into an operating room. The First United Methodist Church now stands on this site. In 1917, Dr. Sutherland passed away and a group of physicians leased and maintained the hospital until 1929.

In 1929, William Gasser, MD, established a 10 to 14-bed hospital known as Loveland Hospital. This hospital was in existence until 1947. From 1947 to 1951 Loveland had no local hospital.

In 1945, the Loveland Elks Lodge contributed \$50,000 to start a drive to raise funds to build a new hospital in Loveland. The people of Loveland approved new bonds to build a hospital. However, the Colorado State Hospital Advisory Board said a hospital in Loveland was not a high enough priority to receive funds through the Hill Burton Act, a federal program to help build hospitals in rural areas. A Loveland group, including attorney Conrad Ball, gained the support of Gov. William Lee Knaus for a hearing before the State Board of Health. That hearing led to the approval of federal funds.

Discussion occurred as to who and how the hospital would be operated. Elks Lodge representatives met with the city council and proposed that the city lead efforts to develop, manage and operate the hospital as city-owned property.

After considerable discussion, the city decided against it, saying a hospital's operations should not be affected by changes in city personnel due to elections, etc. The city therefore declined the \$50,000 offered by the Elks.

A committee was organized to work with the Elks Lodge and the city council to obtain a hospital. The committee called chambers of commerce in towns where other Lutheran Hospitals and Homes Society hospitals were located. Upon completion of their research, Lutheran Hospitals and Homes Society of Fargo, N.D. was selected to participate in building a new facility in Loveland. The 42-bed, 35,300-square-foot hospital was a lease arrangement, and was completed and opened Nov. 25, 1951. The location was Douglas and 8th Street. Over the next several decades, the hospital provided services to an ever-expanding population. In 1968 the Loveland Memorial Hospital District was formed to take the responsibility of the hospital from the city of Loveland and shift it to the district.

During this time, local farmer Thomas McKee was a patient in the aging, crowded hospital. He recognized a need and donated 29.5 acres of his farm for a new health care facility. In 1973, Lutheran Hospitals and Homes Society agreed to build a new facility on the property donated by Tom McKee.

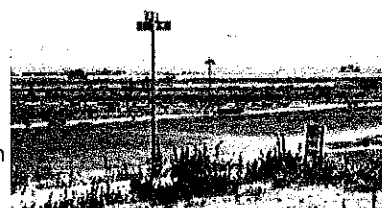
In 1976, McKee Medical Center opened for business. McKee opened with 80 beds at 94,355 square feet, and began operations shortly before the Big Thompson Flood. During the aftermath of the flood, McKee received hundreds of patients and the new facility faced its first disaster. The new building proved to be the town's greatest asset.

McKee has experienced a number of expansions through the years:

- 1981 - Expansion of the Boiler Room/Addition of second and third floor - C Wing
- 1982 - Expansion of Medical Imaging
- 1990 - McKee Conference and Wellness Center/Medical Imaging expansion
- 1991 - Emergency Department
- 1993 - Medical Office Building - first and second floors
- 1994 - Surgery expansion
- 1995 - MRI building
- 1998 - Surgery expansion
- 2001 - Medical Office Building - third and fourth floors
- 2002 - Cancer Center
- 2003 - Records storage
- 2005 - Legacy Phase I - OB/Telemetry/Materials Management/Surgery
- 2007 - Emergency Department/Lab/Pharmacy



Thomas McKee



Site of the new hospital, circa 1973



Groundbreaking, 1973

In 1999, Lutheran Health Systems and Samaritan Health System merged, and created Banner Health, the largest nonprofit, non-religious affiliated, multistate health system. Based in Phoenix, Ariz., Banner Health has 23 hospitals and other facilities that offer an array of services including hospital care, home care, hospice care, nursing registries, surgery centers, laboratories, and rehabilitation centers. These facilities are located in six Western states and one Midwestern state.

As of 2011, McKee Medical Center has 132 licensed beds at 421,972 square feet, and boasts a variety of services including Cardiovascular, Level III Trauma, Emergency Services, Surgical, Robotic Surgery, Clinical Laboratory, Nutrition Services, Medical Imaging, Digital Mammography, Care Coordination, Wellness Services, Women's Services, Transitional Care, and a comprehensive Cancer Center.



Hospital begins to take shape



Legacy Project wing, circa 2005



McKee today

McKee Medical Center
2000 Boise Ave.
Loveland, CO 80538
(970) 669-4640

[Look for a Banner Health facility](#)

Follow Us:   

Loveland Elks Lodge 1051**September 10, 2012****Blood Drive Report**

The 911 Community Blood Drive for 2012 was Co-Chaired by Mary Thomason, John Giroux and Debbie Davis. The following members and volunteers were also on the committee: Peggie McGuire, Marge Shafer, Deborah Furney, Denise Richter, Bill and Elizabeth Markham, Craig Davis, Bill Thomason, Connie Giroux, Briand and Emily Westphal, Pam Hauschild, Rob Wright, Scott and Monica Graham and a few others.

The concept of this event is to help fill the critical need of the local blood banks, and promote the community's awareness of the Lodge, while commemorating 9/11, which is Patriot's Day. The goal of this event is to eventually raise 911+ pints of blood and make this an event that the entire community can participate in on an annual basis.

Year to date the Blood Drive has committee raised approx \$3,000.00 in funds and approx \$1,500 in-kind donations from various fund raisers and sponsorships. The event was facilitated on September 7, 8 and 10th with approx 200 attendees, of which approximately 150 pints of blood were drawn.

Tomorrow, September 11th, we will hold the 9/11 Celebration event which will host Major Diggs Brown as our Keynote speaker, speaking on his deployment to Afghanistan shortly after the 9/11/01 terrorist attack, as well as his work with establishing the Veteran's Plaza of Northern Colorado. This event is open to the public.

Additionally, this event will include the Lodge's Loveland Chamber 'Ribbon Cutting', which is a special greeting ceremony from the Chamber into their business membership organization. By combining these events, we hope to attract additional business members into the Loveland Elks membership base and further deepen the reach in which the Elks touch and impact lives of those around us.

The event has been covered in the local newspapers, on the radio, on various websites, and on Facebook, as well as advertised with posters, flyers and word of mouth. They also received a proclamation from Loveland Mayor Cecil Gutierrez, that September 11th is the 911 Community Blood Drive Day in Loveland Colorado, which was proclaimed at City Council on 9/4/2012.

The committee's funds were applied toward paying for the expenses and supplies of hosting the entire event, which includes a free meal, cash bar, silent auction, and drawings. The funds were also used to purchase a membership with the Chamber of Commerce, purchase name tags for committee members to use while attending Chamber and Blood Drive events, and they also purchased three banners displaying the Loveland Elks – one for parades, one for beer garden and one for the Blood Drive.

Respectfully,

Debbie Davis, 911 Community Blood Drive Co-Chair

Assessor Exempt Property Information

Property Tax Year 2012

Parcel Number: 95133-33-913

Tax District: 2221

Schedule Number: R1582371

Current Mill Levy: 0.000

General Information

<u>Owner Name & Address</u>	<u>Property Address</u>
BPO ELKS LOVELAND LODGE 1051	103 E 4TH ST
103 E 4TH ST	LOVELAND 80537-0000
PO BOX 36	
LOVELAND, CO 80537	

Subdivision #: //20014 - LOV BLK 14

Neighborhood #: Exempt

Legal Description

LOTS 13 & 14, BLK 14, LOVELAND

Current use may not reflect current zoning. Not all parcels are buildable lots.

For questions about this information or to make corrections contact the Assessor's office:

200 W. Oak Street

Suite 2000

Fort Collins, CO 80521

Mailing address:

PO BOX 1190

Fort Collins, CO 80522

(970) 498-7050

or e-mail assessor@co.larimer.co.us

City of Loveland
Historic Preservation Commission
Meeting Summary
January 21, 2013

A meeting of the Loveland Historic Preservation Commission was held Monday, January 21, 2013 at 6:00 P.M. in the City Council Chambers in the Civic Center at 500 East Third Street, Loveland, CO. Historic Preservation Commissioners in attendance were: Janelle Armentrout, David Berglund, Jim Cox, Stacey Kersley, Trudi Manuel, Matt Newman and Mike Perry. Staff members, Bethany Clark of Community & Strategic Planning and Nikki Garshelis of Development Services were also present. John Fogle, City Council Liaison, was absent.

Guests: Debbie Davis, Larry Turner, Craig Davis, Deborah Furney, Ron Schlatter, Peggie McGuire, Harlan McGuire, Janet Limbeck, Debbie Reisdorff, Bill Markham, Bob Lucy, Frank Bustos, Fran Bustos and Aaron Freimark of the Elks Lodge BPOE 1051.

CALL TO ORDER

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

APPROVAL OF AGENDA

Commissioner Manuel made the motion to approve the agenda as is. Commissioner Armentrout seconded the motion and it passed unanimously.

APPROVAL OF MINUTES

*Commissioner Kersley made the motion to approve the minutes with a change to line 72 which says, "The intention is to **increase** review time...." The corrected line should read, "The intention is to **decrease** review time..." The motion was seconded by Commissioner Armentrout it passed unanimously.*

CITIZEN REPORTS

None

CITY COUNCIL UPDATE

With Councilor Fogle absent, *Nikki Garshelis* reported that the Council Advance was scheduled for Saturday, January 26. More details will be emailed if any of the Commissioners would like to attend, she said.

STAFF UPDATE

Bethany Clark reported that everyone had registered for the *Saving Places Conference* which is scheduled from February 6th through February 8th 2013.

Nikki Garshelis reported that the Bishop House will most likely be moved this summer since the property agreement is being finalized through the City Attorney's office. Nikki received this information from Ken Cooper, Facilities Manager, she said.

CONSIDERATION OF NEW BUSINESS

PUBLIC HEARING-NOMINATION OF 103 EAST 4TH STREET

Bethany Clark provided the HPC with an overview of the application for the Historic Landmark property designation of the Lovelander Hotel/BPO Elks Lodge. Commissioner Cox asked if the applicant would like to provide additional information. Debbie Davis, Board Chair of the ELKs Lodge BPOE 1051, provided background information on the process:

- A-E Design Associates recently completed the historic structural assessment through a SHF grant.
- The lodge members voted to move forward with obtaining landmark designation from the City of Loveland and then to apply for state historic structure designation from the State of Colorado.

- Apply for a grant to rehabilitate the structure. The lodge would match the grant funding.

Debbie also provided some historical background on the Elks Lodge organization and the building. The Commissioners asked questions about the rehabilitation plans and discussed the historical period of the 1950s. Debbie reported that the work would most likely begin in September or October of 2013 and continue over a ten year period.

The Public Hearing process was opened at 6:28p.m., there was no other public comment and the hearing was closed at 6:32p.m.

Commissioner Newman made the motion to recommend to City Council to approve the Historic Landmark property designation of the Lovelander Hotel/BPO Elks Lodge. The motion was seconded by Commissioner Armentrout and it passed unanimously.

COMP PLAN STATUS UPDATE

Bethany Clark reported that the Boards & Commissions Summit is scheduled for March 14 and prior to the Summit, Commissions are providing a status update to their respective objectives in the 2005 Comprehensive Plan-2011 Implementation Plan. She also asked for the HPC to consider who will attend the Summit. She reviewed the updated HPC Comprehensive Plan objectives and answered questions from the Commissioners. Commissioner Newman suggested a change to the plan to move the start date of *Objective 4.1IP1: Prepare and adopt an updated Historic Preservation plan and Historic inventory Survey* from 2014 to 2013/Ongoing. Since the historic downtown district designation process has begun, the buildings in the district may have to be updated and, therefore, the survey would also begin this year. The Commissioners agreed to this change.

A motion was made by Commissioner Manuel to approve the updated HPC Comp Plan with the change suggested by Commissioner Newman to change the start date of Objective 4.1IP1 to 2013/Ongoing. The motion was seconded by Commissioner Armentrout and it passed unanimously.

2013 GOAL SETTING/WORK PLAN

Commissioners chose the projects they would like to take the lead on during 2013. Results were as follows:

- Milner-Schwarz National Register Designation: Armentrout & Manuel (Assist: Perry & Cox)
- Downtown Historic District Designation: Cox, Berglund & Kersley (Assist: Newman, Manuel & Perry)
- Swartz Farmstead: Perry & Newman (Assist: Cox)
- Realtors Workshop: Armentrout & Kersley
- Historic Preservation Month Workshop /Guest Speaker: Armentrout & Manuel
- Historic Preservation Month Outreach: Berglund & Kersley
- Viestenz Smith Mountain Park State and National Designation: Newman & Berglund

CHAIR AND VICE-CHAIR ELECTIONS

Commission Chair Cox reviewed the previously agreed upon plan to elect a Chair and Vice Chair for a year's term. The idea, he explained, was to allow for new commissioners to be able to experience leading the commission. They would gain that experience by acting first as Vice Chair, similar to a Chair-elect position, he said. Other Commissioners acknowledged that they had a similar understanding of this plan.

Commission Chair Cox moved to elect Matt Newman as the new Chair of the HPC and David Berglund as Vice Chair for a term of one year. The motion was seconded by Commissioner Armentrout and it passed unanimously. The terms will begin February 2013.

COMMISSIONER COMMENTS

- *Commission Chair Cox* reported that Louise Huxtable recently passed away. Huxtable was an architecture critic and writer on architecture, he explained. She won a *Pulitzer Prize for Criticism* and is credited as a main force behind the founding of the first Landmark Commission (in New York City).
- *Commission Chair Cox* thanked the Commission as well as Councilor Fogle and Director Greg George for all their work and support while he was Chair of the HPC. The Commissioners, in turn, thanked Commission Chair Cox for his fine work on the commission.
- *Commissioner Perry* reported that the Loveland Historical Society (LHS) is weeks away from signing a 20 year lease with Great Western Railroad to allow the LHS to restore and preserve the Depot at Monroe and East 10th Street. There was a discussion about the Depot not being located in the City and, therefore, not eligible for local designation. Commissioner Perry said they believe the City is open to allowing use of the parking lot adjacent to the Depot.

Meeting adjourned at 7:38p.m.



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: 4
MEETING DATE: 2/19/2013
TO: City Council
FROM: Keith Reester, Public Works Department
PRESENTER: David Klockeman, PE, City Engineer

TITLE:

An ordinance on second reading Enacting a Supplemental Budget and Appropriation to the 2013 City of Loveland Budget for signal replacement and other improvements at the intersection of US 34 and Boyd Lake Avenue

RECOMMENDED CITY COUNCIL ACTION:

Approve the Ordinance on second reading. The first reading of the Ordinance was approved unanimously by City Council at the February 5, 2013 meeting.

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 City has received a federal grant with state matching funds through the Federal Hazard Elimination program for the signal replacement and other improvements at the US 34 and Boyd Lake Avenue intersection. This item consists of consideration of the second reading of an ordinance to appropriate the federal and state funds for the project. The first reading of the Ordinance was approved unanimously by City Council at the February 5, 2013 meeting.

BUDGET IMPACT:

- ☒ Positive
☐ Negative
☐ Neutral or negligible

The project is funded from federal funds and state match funds. The City of Loveland will provide in-kind services for the oversight of the project from within the approved 2013 budget for the Public Works Department, Traffic Division.

SUMMARY:

CDOT will provide federal funds and state match funds to the City of Loveland to reimburse it for the costs, up to \$495,000, of replacing the existing traffic signal and constructing other enhancements to improve the function of the intersection of U.S. 34 and Boyd Lake Avenue. This intersection is on the State Highway system, and the traffic signal is owned by CDOT. The City of Loveland maintains this traffic signal through a maintenance agreement with CDOT.

This project is currently in planning stage with design to be completed by the end of 2013. Construction is planned for the spring/summer of 2014 and is anticipated to take 2 to 3 months.

Funding Summary:

Federal Funds		\$445,500
Local Agency Match Funds*	\$ 0	
Local Over-Matching Funds**	<u>\$ 0</u>	
Subtotal Local Funds	\$ 0	\$ 0
State Match Funds*		<u>\$ 49,500</u>
Total Project Funds:		\$495,000

* Local Agency Match Funds are defined as funding required to be provided by a local entity as part of the Federal grant process. For Federal Hazard Elimination Program Funds, the Local Agency Match is covered by CDOT (shown above as "State Match Funds").

** Local Over-Matching 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 City of Loveland will provide in-kind services for the oversight of the project from within the operating budget for the Public Works Department, Traffic Division.

An ordinance is required to appropriate the Federal and State Funds as the award of this project occurred after the 2013 budget was adopted. The first reading of the Ordinance was approved unanimously by City Council at the February 5, 2013 meeting.

REVIEWED BY CITY MANAGER:


LIST OF ATTACHMENTS:

1. Ordinance

FIRST READING February 5, 2013

SECOND READING February 19, 2013

ORDINANCE NO.

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 CITY OF LOVELAND BUDGET FOR SIGNAL REPLACEMENT AND OTHER IMPROVEMENTS AT THE INTERSECTION OF US 34 AND BOYD LAKE AVENUE

WHEREAS, the City has received funds not anticipated or appropriated at the time of the adoption of the City budget for 2013; 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 2013, 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 revenues in the amount of \$445,500 from a Federal grant and \$49,500 in a State grant in the Transportation Fund 211 are available for appropriation. Revenues in the total amount of \$495,000 are hereby appropriated for signal replacement and other improvements at the Boyd Lake Avenue and U.S. 34 intersection 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
Transportation Fund 211**

Revenues

211-23-232-1701-32000-EN1302	Federal Grant	445,500
211-23-232-1701-32100-EN1302	State Grant	49,500

Total Revenue	495,000
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Appropriations	495,000
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211-23-232-1701-49360-EN1302	Construction
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Total Appropriations	495,000
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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.

Section 3. That this Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

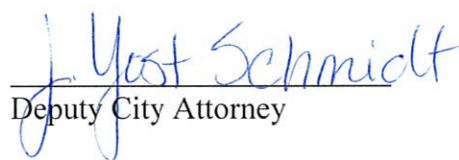
ADOPTED this 19th day of February, 2013.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Deputy City Attorney



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: 2/19/2013
TO: City Council
FROM: Keith Reester, Public Works Department
PRESENTER: Dave Klockeman, City Engineer

TITLE:

An Ordinance on second reading enacting a supplemental budget and appropriation to the 2013 City of Loveland Budget for railroad crossing repairs on U.S. 287

RECOMMENDED CITY COUNCIL ACTION:

Approve the Ordinance on Second Reading. Council approved the first reading unanimously on February 5, 2013.

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 the grant funds.

BUDGET IMPACT:

- ☒ Positive
☐ Negative
☐ Neutral or negligible

The ordinance is funded by Federal and State grant funds that do not require any City matching funds.

SUMMARY:

CDOT will provide federal and state funds to the City of Loveland to reimburse it for the costs, up to \$84,457, for the installation of railway crossing material at locations on US 287 (Lincoln & Cleveland Avenues) . The reimbursement will be federal funds in the amount of Sixty-nine Thousand, Nine Hundred and Twenty-two Dollars (\$69,922); and state funds in the amount of

Fourteen Thousand, Five Hundred and Thirty-five Dollars (\$14,535). Construction is planned for mid-2013.

REVIEWED BY CITY MANAGER: *William D. Cahill*

LIST OF ATTACHMENTS:

Ordinance

FIRST READING February 5, 2013

SECOND READING February 19, 2013

ORDINANCE NO.

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2013 CITY OF LOVELAND BUDGET FOR RAILROAD CROSSING REPAIRS ON U.S. 287

WHEREAS, the City has received funds not anticipated or appropriated at the time of the adoption of the City budget for 2013; 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 2013, 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 revenues and/or reserves in the amount of \$69,920 from Federal grants and \$14,540 from State grants in the Transportation Fund 211 are available for appropriation. Revenues in the total amount of \$84,460 are hereby appropriated for railroad crossing repairs on U.S. 287 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
Transportation Fund 211**

Revenues

211-23-232-1700-32000-ENSR015 Federal Grant	69,920
211-23-232-1700-32100-ENSR015 State Grant	14,540

Total Revenue	84,460
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Appropriations

211-23-232-1700-49360-ENSR015 Construction	84,460
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Total Appropriations	84,460
-----------------------------	---------------

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.

Section 3. That this Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

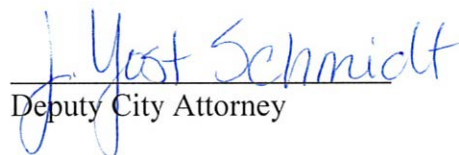
ADOPTED this 19th day of February, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


Deputy City Attorney

**CITY OF LOVELAND****PARKS & RECREATION DEPARTMENT**

Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2303 • FAX (970) 962-2903 • TDD (970) 962-2620

AGENDA ITEM: 6
MEETING DATE: 2/19/2013
TO: City Council
FROM: Gary Havener, Parks & Recreation
PRESENTER: Rob Burdine, Natural Area Manager

TITLE:

Award of construction contract to apparent low bidder Taylor Kohrs, LLC for the River's Edge Natural Area Development Project

RECOMMENDED CITY COUNCIL ACTION:

Approval of a motion to award a services contract to Taylor Kohrs, LLC for a lump sum cost of \$1,373,834, and authorize the City Manager authority to sign the contract. The lump sum cost is the base bid amount of \$1,343,241.58 along with an addition of \$30,592.42 for an increase in the amount of rock/boulder work not included in the request for bids.

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:

Administrative action for authorization to enter into a contract to retain the services of Taylor Kohrs, LLC as the general contractor to complete the construction of the River's Edge Natural Area Project.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible

Funding for the construction was approved in the 2012 Open Lands Fund 202 budget. This appropriation will roll forward to 2013. The total project budget including design, testing, demolition and site amenities is \$2,014,700.

SUMMARY:

Using the City's standard bidding process, eight bids were received on January 31, 2013. The bids ranged from the high end of \$1,499,439.21 to the low end of \$1,343,241.58. Summary of the eight bids:

Company	Base Bid	Location
Symmetry Builders	\$1,382,508.29	Lafayette, CO
American Civil Constructors	\$1,499,439.21	Littleton, CO
Mountain Constructors	\$1,452,916.88	Platteville, CO
Habitat Construction	\$1,542,452.47	Rocky Ford, CO
Calahan Construction	\$1,451,595.00	Denver, CO
Walsh Construction	\$1,353,344.94	Loveland, CO
Taylor Kohrs	\$1,343,241.58	Denver, CO
ECI	\$1,491,611.89	Loveland, CO

Staff evaluated the bids based on the contractors' unit pricing and overall base bid amount. The construction bids are on file with the City Clerk for review.

The additional boulder allowance of \$30,592.42 is to cover a design change that was done within the last two weeks prior to the bid date. The design change was not accounted for on the bid sheet. All bids were reviewed to confirm that the low bidder did not change with the addition of the boulder allowance using each bidder's unit cost for boulders.

The design firm's estimate for construction was \$1,363,957. The project will also carry an additional \$137,000, approximately 10%, City controlled contingency that is not part of this award.

REVIEWED BY CITY MANAGER:


LIST OF ATTACHMENTS:

NONE



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: 2/19/2013
TO: City Council
FROM: Greg George, Development Services
PRESENTER: Kerri Burchett

TITLE:

An Ordinance vacating a portion of drainage easements on Lots 5 & 6, Block 1, Mineral First Subdivision, City of Loveland

RECOMMENDED CITY COUNCIL ACTION:

Conduct a public hearing and move to make the findings in Section V of the staff memorandum dated February 19, 2013 and, based on those findings, adopt on first reading an ordinance vacating a portion of drainage easements on Lots 5 and 6, Block 1, Mineral First Subdivision, City of Loveland.

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 vacating portions of two drainage easements on Lots 5 and 6, Block 1, Mineral First Subdivision. The applicant is Boulder Creek Builders.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible
-

SUMMARY:

The application proposes to vacate a 14 square foot and a 15 square foot portion of two drainage easements on Lots 5 and 6, Block 1 in the Mineral First Subdivision. The Subdivision is located south of West 1st Street and east of Taft Avenue and was platted as a single family

attached development. Both lots are currently vacant and the applicant is proposing to construct a duplex that would encroach into the easement by approximately 1 foot. The easement is in place to accommodate an existing storm sewer pipe. The Stormwater Division has reviewed the vacation proposal and is supportive of the request.

REVIEWED BY CITY MANAGER:



LIST OF ATTACHMENTS:

- A. Vacation ordinance
- B. Staff memorandum

FIRST READING: February 19, 2013

SECOND READING: _____

ORDINANCE NO.

AN ORDINANCE VACATING A PORTION OF DRAINAGE EASEMENTS ON LOTS 5 & 6, BLOCK 1, MINERAL FIRST SUBDIVISION, CITY OF LOVELAND

WHEREAS, the City Council, at a regularly scheduled meeting, considered the vacation of a portion of the drainage easement described on **Exhibit A** attached hereto and incorporated herein by this reference, located in Lot 5, Block 1, Mineral First Subdivision, City of Loveland, County of Larimer, State of Colorado (the “Lot 5 Vacated Drainage Easement”) and a portion of the drainage easement described on **Exhibit B** attached hereto and incorporated herein by this reference, located in Lot 6, Block 1, Mineral First Subdivision, City of Loveland, County of Larimer, State of Colorado (the “Lot 6 Vacated Drainage Easement”);

WHEREAS, the City Council finds and determines that no land adjoining the portions of the easements to be vacated is left without an established public or private easement connecting said land with another established public or private easement; and

WHEREAS, the City Council finds and determines that the portions of the drainage easements to be vacated are no longer necessary for the public use and convenience; and

WHEREAS, the City Council further finds and determines that the application filed with the Current Planning Division was signed by the owners of more than 50% of property abutting the easements to be vacated.

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

Section 1. That the City Council hereby adopts and makes the findings set forth above.

Section 2. That based on the City Council’s findings described above, the following portions of the drainage easements be and the same are hereby vacated:

- A. That portion of a drainage easement located on **Lot 5, Block 1, A, Mineral Addition First Subdivision, City of Loveland, County of Larimer, State of Colorado described on Exhibit A attached hereto and incorporated herein by this reference**, containing 15 square feet more or less; and
- B. That portion of a drainage easement located on **Lot 6, Block 1, A, Mineral Addition First Subdivision, City of Loveland, County of Larimer, State of Colorado described on Exhibit B attached hereto and incorporated herein by this reference**, containing 14 square feet more or less.

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. 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 March, 2013.

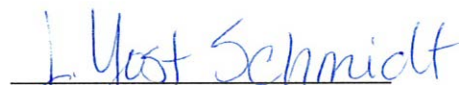
ATTEST:

CITY OF LOVELAND, COLORADO:

City Clerk

Cecil A. Gutierrez, Mayor

APPROVED AS TO FORM:



Deputy City Attorney

EXHIBIT A**VACATION OF DRAINAGE EASEMENT – LOT 5**

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN LOT 5, BLOCK 1, MINERAL FIRST SUBDIVISION RECORDED WITH THE CLERK AND RECORDER OF LARIMER COUNTY ON JULY 17, 2006 AS RECEPTION NO. 2006-0053541 AND SITUATE IN THE NORTHWEST ONE-QUARTER (NW1/4) OF SECTION 23, TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN AND LOCATED IN THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF AN EXISTING DRAINAGE EASEMENT LOCATED ALONG THE NORTHERLY LINE OF SAID LOT 5, FROM WHENCE THE SOUTHWEST CORNER OF SAID LOT 5 BEARS S65°24'32"W 68.83 FEET;

THENCE ALONG SAID EASEMENT LINE PARALLEL WITH AND 7.50' SOUTH DISTANT FROM THE NORTH LINE OF SAID LOT 5 S84°48'00"E 31.62 FEET;

THENCE S05°12'00"W 0.95 FEET;

THENCE N83°04'23"W 31.64 FEET TO THE POINT OF BEGINNING.

CONTAINING 15 SQUARE FEET.

BEARINGS USED HEREIN ARE BASED UPON THE NORTH LINE OF LOT 6, BLOCK 1, MINERAL FIRST SUBDIVISION ACCORDING TO THE PLAT THEREOF RECORDED JULY 17, 2006 AS RECEPTION NO. 2006-0053541, CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO.

DOUGLAS H. ORT III, PLS
ACCURATE ENGISURV LLC
10155 WESTMOOR DRIVE SUITE 120
WESTMINSTER, CO 80021

Note: The legal description shown hereon was prepared as a convenience only and is not intended for division and/or conveyance of land in violation of C.R.S. 30-28-101.

Prepared by: Accurate EngiSurv LLC December 5, 2012 Page 2 of 2 1BOU1307
10155 Westmoor Drive, Suite 120
Westminster, CO 80021
303-665-5505

EXHIBIT B**VACATION OF DRAINAGE EASEMENT LOT 6**

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN LOT 6, BLOCK 1, MINERAL FIRST SUBDIVISION RECORDED WITH THE CLERK AND RECORDER OF LARIMER COUNTY ON JULY 17, 2006 AS RECEPTION NO. 2006-0053541 AND SITUATE IN THE NORTHWEST ONE-QUARTER (NW1/4) OF SECTION 23, TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN AND LOCATED IN THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF AN EXISTING DRAINAGE EASEMENT LOCATED ON THE SOUTHERLY PORTION OF SAID LOT 6, FROM WHENCE THE NORTHWEST CORNER OF SAID LOT 6 BEARS N58°36'55"W 77.51 FEET;

THENCE ALONG SAID EASEMENT LINE S88°08'45"E 21.85 FEET;

THENCE S05°12'00"W 1.28 FEET;

THENCE N84°48'00"W 21.81 FEET TO THE POINT OF BEGINNING.

CONTAINING 14 SQUARE FEET.

BEARINGS USED HEREIN ARE BASED UPON THE NORTH LINE OF LOT 6, BLOCK 1, MINERAL FIRST SUBDIVISION ACCORDING TO THE PLAT THEREOF RECORDED JULY 17, 2006 AS RECEPTION NO. 2006-0053541, CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO.

DOUGLAS H. ORT III, PLS
ACCURATE ENGISURV LLC
10155 WESTMOOR DRIVE SUITE 120
WESTMINSTER, CO 80021

Note: The legal description shown hereon was prepared as a convenience only and is not intended for division and/or conveyance of land in violation of C.R.S. 30-28-101.

Prepared by: Accurate EngiSurv LLC January 21, 2012 Page 4 of 2 1BOU1307
10155 Westmoor Drive, Suite 120
Westminster, CO 80021
303-665-5505

**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: Kerri Burchett, Current Planning Division

DATE: February 19, 2013

SUBJECT: Vacation of a portion of two drainage easements on Lots 5 and 6, Block 1, Mineral First Subdivision

I. ATTACHMENTS

1. Applicant's request letter
2. Vacation Exhibit

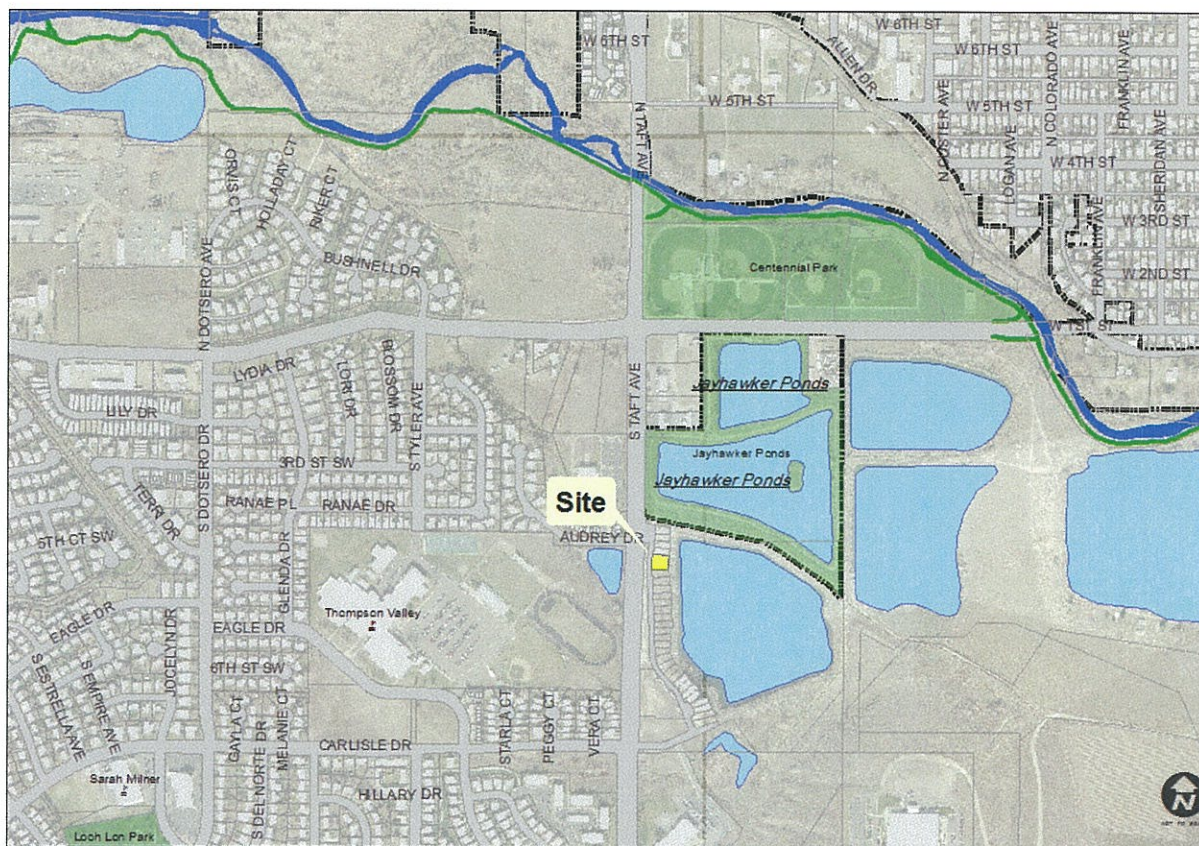
II. KEY ISSUES

Staff believes that there are no outstanding issues regarding this requested easement vacation.

III. PROJECT DESCRIPTION

The application proposes to vacate a portion of two drainage easements platted on Lots 5 and 6, Block 1 of the Mineral First Subdivision. The Subdivision is located south of West 1st Street and east of Taft Avenue and was platted as a single family attached development (see the vicinity map on page 2). Both lots are vacant and contain drainage easements that accommodate existing storm sewer pipes. The applicant is proposing to construct a duplex on these lots that would encroach into portions of the easements. The applicant is requesting to vacate 15 square feet of the drainage easement on Lot 5 and 14 square feet of the drainage easement on Lot 6. The Stormwater Division has reviewed the vacation and is supportive of the request.

IV. VICINITY MAP



V. FINDINGS and ANALYSIS

The following two findings must be met in order for the City Council to vacate the utility easement. These findings are included in section 16.36.010.B of the Loveland City Code.

1. *That no land adjoining any right-of-way to be vacated is left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way or easement.*

Current Planning: Staff believes that this finding can be met based on the following facts:

- The easement proposed for vacation is for drainage purposes and does not involve the vacation of any existing public or private street rights-of-way.
- No land will be left without an established public or private right-of-way.

2. *That the easement to be vacated is no longer necessary for the public use and convenience.*

Stormwater: Staff believes that this finding can be met due to the following fact:

- The existing drainage easements, of which 14 square feet and 15 square feet are proposed to be vacated, will not inhibit the repair and maintenance of the storm sewer pipes within them.

VI. RECOMMENDATION

Staff recommends, subject to any further information that may be presented at the public hearing, that City Council approve the vacation ordinance on first reading.

VII. CONDITIONS

There are no recommended conditions for this application.



BOULDER CREEK
life and home

05 December, 2012

Kerri Burchett
C/O City of Loveland
500 E Third Street
Loveland, CO 80537

RE: Vacation of Easement
Letter of Request – Lots 5 and 6 – Mineral First subdivision

Dear Ms. Burchett:

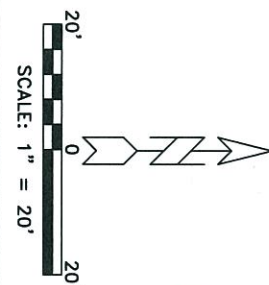
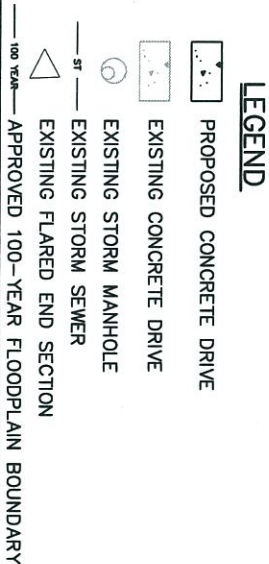
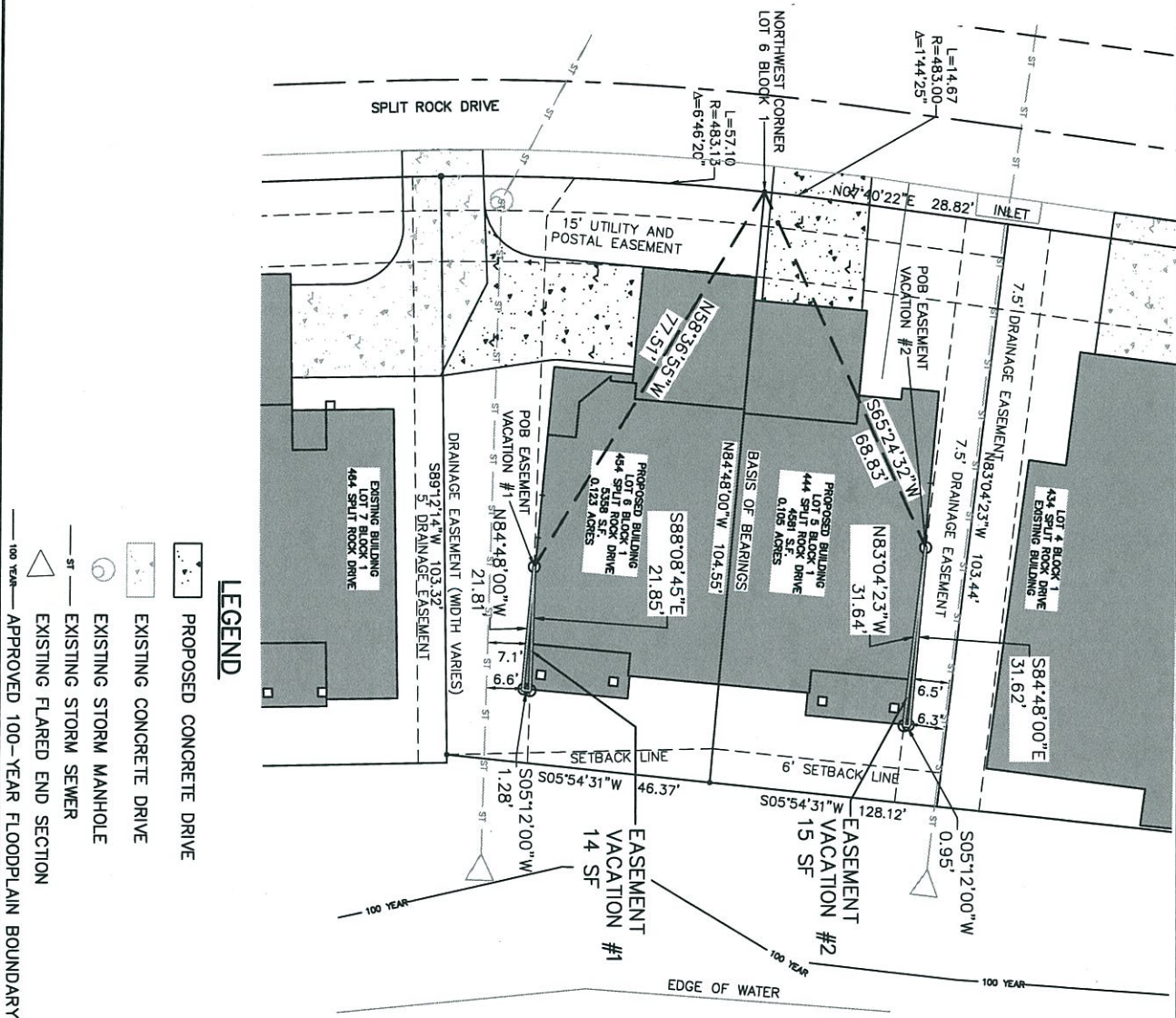
Please accept our application for a variance request on behalf of the owners of lots 5 and 6 - Mineral First subdivision, Advantage Bank – Loveland Branch.

As we have discussed with Kevin Gingery, the storm sewer easements that are in place on both sides of this duplex squeeze the available footprint. To be able to fit our standard duplex, we encroach into the easement. The encroachment is less than 1' in both cases. We appreciate your consideration of this request as it assists our efforts to get the owners through this troubled project.

I am happy to address any questions or concerns. Thank you for your time in reviewing this application.

Sincerely,

David Gregg
Architect / Owner
Boulder Creek Builders
(303) 544-5857 x 103




REVISED:
01/21/2012



LEGAL DESCRIPTION
LOTS 5 AND 6, BLOCK 1, MINERAL FIRST SUBDIVISION ACCORDING TO THE PLAT THEREOF RECORDED JULY 17, 2008 AS RECEPTION NO. 2008-0053541, CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO

EASEMENTS
EASEMENTS SHOWN ARE TAKEN FROM THE RECORDED SUBDIVISION PLAT UNLESS OTHERWISE NOTED.

BASIS OF BEARINGS
BEARINGS ARE BASED UPON THE NORTH LINE OF LOT 6, BLOCK 1, MINERAL FIRST SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED JULY 17, 2008 AS RECEPTION NO. 2008-0053541, CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO

JOB No. 180U1307	EASEMENT VACATION EXHIBIT LOTS 5 AND 6, BLOCK 1 MINERAL FIRST SUBDIVISION LOVELAND, COLORADO	BOULDER CREEK BUILDERS 841 FRONT STREET LOUISVILLE, CO 80027 (303) 544-5857	 COPYRIGHT © 2012
DRAWN BY: DAC			
DESIGNED BY: DHO			
DATE: 12/05/2012			

**CITY OF LOVELAND****BUDGET OFFICE**

Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2329 • FAX (970) 962-2901 • TDD (970) 962-2620

AGENDA ITEM: 8
MEETING DATE: 2/19/2013
TO: City Council
FROM: Brent Worthington, Finance Department
PRESENTER: John Hartman

TITLE:

Public Hearing and consideration of an ordinance on first reading enacting a supplemental budget and appropriation to the 2012 City of Loveland budget for expenses related to the cost of fuel and parts for the operation of the city fleet and for police overtime expenses for special investigations.

RECOMMENDED CITY COUNCIL ACTION:

Conduct a Public Hearing and 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 appropriates revenues received in 2012 and fund balance to the 2012 budget for vehicle maintenance expenses and police overtime costs. The appropriation is necessary so that 2012 expenses do not exceed the appropriated amount in the Vehicle Maintenance Fund and the Police Seizure and Forfeiture Fund.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible

The revenue in the ordinance has been received to cover the expenses. Fund balance is used for parts and fuel purchases which will be billed to user agencies as they occur in 2013.

SUMMARY:

In the Vehicle Maintenance Funds actual expenses for fuel and parts exceeded budgeted amounts projections done in early fall in preparation for the annual wrap-up ordinance due to higher than projected usage.

The City received funds from police seizure revenue as part of the Joint Task Force late in December of 2012. These funds are available to fund the overtime costs incurred in these investigations. Federal reporting requirements require these revenues and costs be segregated in a special fund.

In both cases the appropriation is needed to ensure that expenses do not exceed the appropriated amount in the funds at the close of the 2012 fiscal year as required by State Law.

REVIEWED BY CITY MANAGER:



LIST OF ATTACHMENTS:

1. An ordinance on first reading enacting a supplemental budget and appropriation to the 2012 City of Loveland budget for expenses related to the cost of fuel and parts for the operation of the city fleet and for police overtime expenses for special investigations.

FIRST READING February 19, 2013

SECOND READING _____

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 CITY OF LOVELAND BUDGET FOR EXPENSES RELATED TO THE COST OF FUEL AND PARTS FOR THE OPERATION OF THE CITY FLEET AND FOR POLICE OVERTIME EXPENSES FOR SPECIAL INVESTIGATIONS

WHEREAS, the City has revenues from labor and maintenance charges and fund balance available in Vehicle Maintenance Fund 81 and Police Seizure revenues in the Police Seizure and Forfeiture Fund 207 that were not appropriated at the time the City 2012 budget was adopted; and

WHEREAS, the City has experienced costs for fuel and vehicle parts in excess of that anticipated and included in the City 2012 budget; and

WHEREAS, the City has received revenue from seized property as the result of joint investigations with other police agencies to fund overtime costs incurred in the joint investigations; and

WHEREAS, Section 11-6 of the City of Loveland Charter permits the City Council to ratify a commitment or contract in excess of appropriated amounts if it adopts an ordinance making the necessary appropriation and determines that ratification would be in the best interest of the City and/or permits the transfer of monies from one fund to another by ordinance amending the budget as adopted; and

WHEREAS, the City Council desires to authorize the expenditure of these funds *nunc pro tunc* by enacting a supplemental budget and appropriation to the City 2012 budget and ratify the commitment of such funds, 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 revenues in the amount of \$63,450 from department charges related to vehicle maintenance and fund balance in the Vehicle Maintenance Fund 81 and \$34,190 in revenues in the Police Seizure and Forfeiture Fund 207 are available for appropriation. These revenues are appropriated *nunc pro tunc* for 2012 for purchases of fuel and vehicle parts and for police overtime, respectively. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Fiscal 2012 Supplemental Budget
Fleet Maintenance Fund 502**

Revenues

Fund Balance		109,480
501-00-000-0000-326452	Fleet Charges	63,450

Total Revenue		172,930
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Appropriations

501-23-261-1902-42030	Motor Fuel	84,930
501-23-261-1902-42032	Parts & Supplies	88,000

Total Appropriations		172,930
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**Fiscal 2012 Supplemental Budget
Police Seizure and Forfeiture Funds 207**

Revenues

207-00-000-0000-32300	Other Government Agency	34,190
-----------------------	-------------------------	--------

Total Revenue		34,190
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Appropriations

207-21-204-2112-41021	Overtime	34,190
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Total Appropriations		34,190
-----------------------------	--	---------------

Section 2. That Council hereby finds that ratification of the expenditure of the revenues set forth above and/or transfer of such revenues to fund purchases of fuel and vehicle parts and for police overtime, respectively, is in the best interest of the City and ratifies such expenditures.

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. This Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

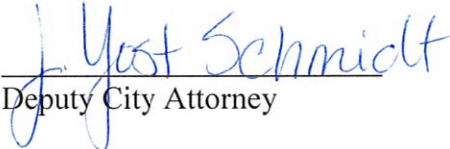
ADOPTED this ____ day of March, 2013.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


Deputy City Attorney



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: 9
MEETING DATE: 2/19/2013
TO: City Council
FROM: Public Works (Engineering Division) and Finance
PRESENTER: David Klockeman, City Engineer

TITLE:

Motion to award the construction contract for the 2013 Street Resurfacing Program, Asphalt Paving Schedule AP (Project ENSR005-AP) to Coulson Excavating Company

RECOMMENDED CITY COUNCIL ACTION:

Adopt a motion to award construction contract for the 2013 Street Resurfacing Program, Asphalt Paving Contract (Schedule AP) to Coulson Excavating Company of Loveland, Colorado in the amount of \$1,550,000.00 and authorize the City Manager to execute the contract.

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 award the 2013 Street Resurfacing Program, Asphalt Paving Contract (Schedule AP) to Coulson Excavating Company of Loveland, Colorado in the amount of \$1,550,000.00 and Authorization for City Manager to execute the contract.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible

Funding is available in the adopted 2013 Budget within the annual Street Rehabilitation Program.

SUMMARY: Approval of this item extends the 2010 Street Resurfacing Program, Asphalt Paving Schedule AP contract to Coulson Excavating Company of Loveland, Colorado for work

to be completed in 2013. The funding for Schedule AP shown below is budgeted in the annual Street Resurfacing Program.

<u>Contractor</u>	<u>Item</u>	<u>Extension Amount</u>
Coulson Excavating Co.	Schedule AP	\$1,550,000.00

The contract documents for the 2010 Street Resurfacing Program included a clause to allow the extension of the contract for three additional years in one-year periods, if beneficial to both parties. 2013 is the third extension year for the AP contract which covers our asphalt paving and maintenance of City streets, cul-de-sacs and parking areas. In order to accept price increases, the Contractor is required to provide specific information to the City detailing changes in fixed costs associated with the required work. Cost increases are allowed for items that are out of the control of the contractor (i.e. increases in the costs of raw materials and fuel for equipment). These contracts are especially sensitive to petroleum related price increases. Using the provisions of the contract, the City was able to reach acceptable terms with Coulson Excavating Company with a \$1.50/ton increase to the 2013 program prices.

Schedule AP: The work under the Schedule AP consists of the following: structural overlays to improve the durability of existing streets; reconstruction of failed pavement sections, either patching or replacement; and construction of new pavement sections such as turn lanes or completing partial roads to improve the traffic operation. With a structural overlay, a two-inch asphalt lift is applied to the street surface. A structural overlay, with periodic minor maintenance, normally adds 9 to 12 years of life to a street. The project will also include reconstruction work on streets that have deteriorated beyond maintenance or for utility repair work. The existing pavement section is removed to a depth of four to eight inches and replaced with five to nine inches of asphalt. Reconstructed streets will normally last 15 to 20 years with only periodic minor maintenance (e.g. chip sealing).

Highlights of the Schedule AP include: resurfacing an estimated 219,408 square yards of existing City roadways.

REVIEWED BY CITY MANAGER:



LIST OF ATTACHMENTS:

None

**CITY OF LOVELAND****CITY COUNCIL**

Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2329 • FAX (970) 962-2901 • TDD (970) 962-2620

AGENDA ITEM: 10
MEETING DATE: 2/19/2013
TO: City Council
FROM: Public Works (Engineering Division) and Finance
PRESENTER: Dave Klockeman, City Engineer

TITLE:

Motion to award the construction contract for the 2013 Street Resurfacing Program-Concrete Rehabilitation Project Schedule TA to JAG's Enterprises, Inc.

RECOMMENDED CITY COUNCIL ACTION:

Motion to approve the extension of the 2013 Street Resurfacing Program - Concrete Rehabilitation Project Schedule TA to JAG's Enterprises, Inc. of Greeley, Colorado in the amount of \$650,000.00 and to authorize the City Manager to execute the contract.

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 approve extending the existing 2011 Street Resurfacing Program-Concrete Rehabilitation Project to JAG's Enterprises, Inc. of Greeley.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible

Funding is available in the adopted 2013 Budget within the annual Street Rehabilitation Program.

SUMMARY:

The contract documents for the 2011 Street Resurfacing Program - Concrete Rehabilitation Project Schedule TA include a clause to allow the extension of the contracts for three additional

years in one year periods, if beneficial to both parties. 2013 is the second extension year for the Target Area (Schedule TA) contract which covers our Concrete Rehabilitation Project. The Concrete Rehabilitation Project includes our concrete repairs in advance of our paving operations for the Street Resurfacing Program. In order to accept price increases, the contractor is required to provide specific information to the City detailing changes in fixed costs associated with the required work. Cost increases are allowed for items that are out of the control of the contractor, such as fuel and raw materials. This contract is particularly sensitive to price increases for concrete materials. The contractor has supplied information to us which justifies an 8.4% increase for asphalt patching, and a 9.95% increase to their concrete prices. Both of these are reasonable increases based on their raw material costs.

Schedule TA: The work under the schedule TA (Target Area) consists of the following: repairs of curbs and gutters, crossspans, storm inlets, and some sidewalks that adversely affect the efficient drainage on the streets scheduled for paving as part of the street resurfacing program. In addition, this concrete program includes bringing these areas into compliance with the Americans with Disabilities Act (ADA) rules and regulations, which is mandated by the Federal Government, and enforced by the Department of Justice.

REVIEWED BY CITY MANAGER:



LIST OF ATTACHMENTS:

None



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: 11
MEETING DATE: 2/19/2013
TO: City Council
FROM: Ken Cooper, Public Works - Facilities Management
PRESENTER: Ken Cooper

TITLE:

A public hearing and an Ordinance Authorizing the Sale of City Property Located At 905, 915, 925, 933, and 935 N. Taft Avenue.

RECOMMENDED CITY COUNCIL ACTION:

Conduct a Public Hearing and adopt an ordinance on first reading 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:

This is an administrative matter approving the sale of approximately 5.2 acres of City-owned property located at 905, 915, 925, 933, and 935 N. Taft Avenue, which were parcels acquired for the Taft Avenue widening project.

BUDGET IMPACT:

- ☒ Positive
☐ Negative
☐ Neutral or negligible

If approved by Council, the monies collected from the real estate sale will be used to reimburse Public Works Capital Expansion Fees originally used to purchase the properties for the Taft Ave. widening project.

SUMMARY:

Between 2003 and 2004, the City purchased five parcels along the west side of N. Taft Avenue to allow the expansion of Taft just north of 8th Street. The addresses for the properties purchased were 905, 915, 925, 933, and 935 N. Taft Avenue. Together, they comprise about 5.2 acres. As part of the project, the properties were annexed into the City of Loveland and the houses there were razed. Also included in the annexation was a 1.3 acre parcel directly north of the 5.2 acres purchased. The City already owned the 1.3 acre parcel, which runs along the old Arkins Branch railroad right-of-way. During annexation, the 6.5 acre property was zoned R2 – Developing Two Family Residential.

The road expansion project was completed in late 2005 and the 6.5 acre tract was appraised in April, 2007. The appraised value was \$847,000. The tract was then put up for sale by the City late in 2007. However, the real estate market plunged during and after the property was appraised and marketed. This resulted in almost no serious interest in the property by prospective buyers.

Late in 2009, City Council approved the sale of the 5.2 acres to local developer Joe Shrader for \$473,846. That offer had stipulations related to development and density, which ultimately created financial challenges in the project and Mr. Shrader was unable to close on the property. By early 2012, following extensions by the City and Mr. Shrader, the original purchase contract expired.

The City hired Loveland Commercial, LLC to market the property in 2012. Based on the most recent market information, an asking price of \$300,000 was established and helped generate mild public interest. Joe Shrader never lost interest in the property, and he has again extended an offer to the City for the 5.2 acres, though this offer is a cash offer for \$275,000 and will close quickly. The purchase price does still include 5 residential water taps. Mr. Shrader's plans are now to develop lower density single-family housing on the site.

REVIEWED BY CITY MANAGER:

William D. Cabell

LIST OF ATTACHMENTS:

Ordinance
Exhibit A – Legal Description of Property
Exhibit B – Contract

FIRST READING February 19, 2013

SECOND READING _____

ORDINANCE NO. _____

**AN ORDINANCE AUTHORIZING THE SALE OF 905, 915, 925, 933, AND
935 NORTH TAFT AVENUE PURSUANT SECTION 4-7 OF THE CITY
OF LOVELAND MUNICIPAL CHARTER**

WHEREAS, the City is the owner of certain real property legally described as set forth in Exhibit A, attached hereto and incorporated herein by reference, also known by the mailing addresses of 905, 915, 925, 933, and 935 North Taft Avenue, Loveland, CO 80537 (together, the “Property”); and

WHEREAS, the City acquired the Property as part of the Taft Avenue widening project, which was completed in late 2005; and

WHEREAS, the Property is not used for parks purposes and is not needed for any governmental purpose, and has been on the real estate market since 2008; and

WHEREAS, Loveland Investments, LLC has offered to purchase the Property from the City for Two Hundred Seventy-five Thousand Dollars (\$275,000); and

WHEREAS, the City desires to sell the Property to Loveland Investments, LLC for Two Hundred Seventy-five Thousand Dollars (\$275,000) on the terms and conditions set forth in the “Contract to Buy and Sell Real Estate,” attached hereto as Exhibit B and incorporated herein by reference (“Contract”); and

WHEREAS, pursuant to Section 4-7 of the City of Loveland Municipal Charter, the City Council must act by ordinance to approve the transfer of fee ownership in real property owned by the City.

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

Section 1. That the City Council hereby finds and determines that the Property is not needed for any governmental purpose, and that the sale of the Property is in the best interest of the City of Loveland.

Section 2. That the City Manager is authorized to enter into the Contract and to execute all documents, the form of which shall be approved by the City Attorney, necessary to consummate the sale of the Property for the purchase price of Two Hundred Seventy-five Thousand Dollars (\$275,000) and to transfer the City’s interest in the Property to Loveland Investments, LLC.

Section 3. That the City Manager is authorized, following consultation with the City Attorney, to approve changes to the form or substance of the Contract as deemed necessary to effectuate the purposes of this Ordinance or to protect the interests of the City.

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).

ADOPTED this ____ day of March, 2013.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

Description:

A portion of the Northeast 1/4 of Section 15, Township 5 North, Range 69 West of the 6th Principal Meridian, Larimer County, Colorado being more particularly described as follows:

Considering the East line of the Northeast 1/4 of Section 15, Township 5 North, Range 69 West of the 6th Principal Meridian, Larimer County, Colorado as bearing N 00°56'37" W with all bearing contained herein relative thereto.

COMMENCE at the Southeast Corner of the Northeast 1/4 of Section 15, Township 5 North, Range 69 West of the 6th Principal Meridian, Larimer County, Colorado; thence N 00°56'37" W, on the East line of the Northeast 1/4 of Section 15, a distance of 371.19 feet; thence S 89°03'23" W a distance of 103.91 feet to the POINT OF BEGINNING, said point being on the West right-of-way of North Taft Avenue and on the South line of that parcel described at Reception No. 2004-0050232, Larimer County, Colorado; thence S 89°02'13" W, on said South line, a distance of 556.09 feet to the East line of Romar Addition, City of Loveland, Colorado; thence on said East line of Romar Addition the following two (2) courses and distances:

- 1.) thence N 00°57'22" W a distance of 132.00 feet;
- 2.) thence N 00°54'57" W a distance of 336.10 feet to the South right-of-way line of the Atkins Branch of the Colorado and Southern Railroad;

thence S 78°39'32" E, on said South right-of-way line, a distance of 565.06 feet to the aforesaid West right-of-way of North Taft Avenue; thence S 01°34'28" E, on said West right-of-way, a distance of 347.71 feet to the Point of Beginning.

Containing 5.19 acres, more or less, and being subject to all easements and rights of way of record.



Loveland Commercial, LLC
 1043 Eagle Drive Loveland, CO 80537
 Nathan Klein Partner/Broker Associate
 Ph: 970-667-7000 Fax: 970-635-2514

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission (CP40-9-12) (Mandatory 1-13)

THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

COUNTERPROPOSAL

Date: 2/4/2013

1. This Counterproposal shall supersede and replace any previous counterproposal. This Counterproposal amends the proposed contract dated 1/11/2013 (Contract), between **City of Loveland, Colorado** (Seller), and **Loveland Investments LLC** (Buyer), relating to the sale and purchase of the following legally described real estate in the County of **Larimer**, Colorado:
Those properties commonly known as 905, 915, 925, 933, and 935 N. Taft Ave., City of Loveland, CO known as No. **905-935 N Taft Ave. Loveland CO 80537** (Property).

NOTE: If the table is omitted, or if any item is left blank or is marked in the "No Change" column, it means no change to the corresponding provision of the Contract. If any item is marked in the "Deleted" column, it means that the corresponding provision of the Contract to which reference is made is deleted.

2. **§ 3. DATES AND DEADLINES.** [NOTE: This table may be deleted if inapplicable.]

Item No.	Reference:	Event	Date or Deadline	No Change	Deleted
1	§ 4.3	Alternative Earnest Money Deadline	10 Days 48 hours from MEC		
Title and Association					
2	§ 7.1	Record Title Deadline	10 Days from MEC		
3	§ 7.5	Exceptions Request Deadline	13 Days from MEC		
4	§ 8.1	Record Title Objection Deadline	15 Days from MEC		
5	§ 8.2	Off-Record Title Deadline	15 Days from MEC		
6	§ 8.2	Off-Record Title Objection Deadline	18 Days from MEC		
7	§ 8.3	Title Resolution Deadline	18 Days from MEC		
8	§ 7.6	Association Documents Deadline	no change	<input checked="" type="checkbox"/>	
9	§ 7.6	Association Documents Objection Deadline	no change	<input checked="" type="checkbox"/>	
10	§ 8.5	Right of First Refusal Deadline	no change	<input checked="" type="checkbox"/>	
Sellers's Property Disclosure					
11	§ 10.1	Seller's Property Disclosure Deadline	no change	<input checked="" type="checkbox"/>	
Loan and Credit					
12	§ 5.1	Loan Application Deadline	no change	<input checked="" type="checkbox"/>	
13	§ 5.2	Loan Objection Deadline	no change	<input checked="" type="checkbox"/>	
14	§ 5.3	Buyer's Credit Information Deadline	no change	<input checked="" type="checkbox"/>	
15	§ 5.3	Disapproval of Buyer's Credit Information Deadline	no change	<input checked="" type="checkbox"/>	
16	§ 5.4	Existing Loan Documents Deadline	no change	<input checked="" type="checkbox"/>	
17	§ 5.4	Existing Loan Documents Objection Deadline	no change	<input checked="" type="checkbox"/>	
18	§ 5.4	Loan Transfer Approval Deadline	no change	<input checked="" type="checkbox"/>	
Appraisal					
19	§ 6.2	Appraisal Deadline	no change	<input checked="" type="checkbox"/>	

Buyer(s) Initials OP

Seller(s) Initials WAC

20	§ 6.2	Appraisal Objection Deadline	no change		<input checked="" type="checkbox"/>	
Survey						
21	§ 9.1	Survey Deadline	no change		<input checked="" type="checkbox"/>	
22	§ 9.2	Survey Objection Deadline	no change		<input checked="" type="checkbox"/>	
Inspection and Due Diligence						
23	§ 10.2	Inspection Objection Deadline	no change		<input checked="" type="checkbox"/>	
24	§ 10.3	Inspection Resolution Deadline	no change		<input checked="" type="checkbox"/>	
25	§ 10.5	Property Insurance Objection Deadline	no change		<input checked="" type="checkbox"/>	
26	§ 10.6	Due Diligence Documents Delivery Deadline	10 Days from MEC			
27	§ 10.7	Due Diligence Documents Objection Deadline	30 Days from MEC			
28	§ 10.8	Conditional Sale Deadline CBS1, CBSF1	no change		<input checked="" type="checkbox"/>	
29	§ 10.8	Environmental Inspection Objection Deadline CBS2, 3, 4			<input checked="" type="checkbox"/>	
30	§ 10.8	ADA Evaluation Objection Deadline CBS2, 3, 4	no change		<input checked="" type="checkbox"/>	
31	§ 11.1	Tenant Estoppel Statements Deadline CBS2, 3, 4	no change		<input checked="" type="checkbox"/>	
32	§ 11.2	Tenant Estoppel Statements Objection Deadline CBS2,3,4	no change		<input checked="" type="checkbox"/>	
Closing and Possession						
33	§ 12.3	Closing Date	3/22/2013	Friday		
34	§ 17	Possession Date	Date of Closing			
35	§ 17	Possession Time	Delivery of Deed			
36	n/a	n/a	no change			
37	n/a	n/a	no change			

3. **§ 4. PURCHASE PRICE AND TERMS.** [Note: This table may be omitted if Inapplicable.]

The Purchase Price set forth below shall be payable in U. S. Dollars by Buyer as follows:

Item No.	Reference	Item	Amount	Amount
1	§ 4.1	Purchase Price	\$275,000.00	
2	§ 4.2	Earnest Money		\$5,000.00
3	§ 4.5	New Loan		
4	§ 4.6	Assumption Balance		
5	§ 4.7	Seller or Private Financing		
6	n/a	n/a		
7	n/a	n/a		
8	§ 4.3	Cash at Closing		\$270,000.00
9		TOTAL	\$275,000.00	\$275,000.00

4. **ATTACHMENTS.** The following are a part of this Counterproposal:

no change

Note: The following disclosure forms are attached but are not a part of this Counterproposal:

no change

5. **OTHER CHANGES.**

5.1 The Contract shall be amended to remove the address at 903 N. Taft Ave. and replace it with 933 N. Taft Ave. as described above.

5.2 Section 2.5.4.5 shall be amended to clarify that Buyer shall receive credit for five (5) water taps. A credit shall be applied to 905 N. Taft Ave., 915 N. Taft Ave., 933 N. Taft Ave., 935 N. Taft Ave., and 935 1/2 N. Taft Ave. 925 N. Taft Ave. does not have a water tap credit.

5.3 Section 9.1.2 shall be amended to reflect that Buyer shall be responsible for ordering and paying for the cost of any surveys required in order for the Title Company to provide Owner's Extended Coverage title insurance.

5.4 Section 13 shall be amended to reflect that Seller will transfer the Property via Bargain and Sale Deed.

5.5 Earnest Money. Section 4.2 The Earnest Money shall be paid by cash or check and placed

Buyer(s) Initials

Seller(s) Initials

14 Days

in escrow with Title Company within ~~48 hours~~ following mutual execution of the Contract.

5.6 City Council Approval. This Contract is expressly contingent upon Loveland City Council approval and ratification prior to Closing. In the event the City Council does not approve this Contract, it shall automatically terminate, the Earnest Money shall be returned to Buyer, and neither party shall have any further obligations to one another thereafter.

5.7 Sections 15.3, 15.4, 15.5, 15.6 shall all be marked as None.

5.8 Section 22 & 23. The Seller does not agree to arbitration or mediation in the event of a dispute with the Contract.

5.9 Section 30.2 Shall be deleted. Buyer shall have the right to object to the the results of the Concept Review Team meeting with City of Loveland as part of its Due Diligence Documents Objection Deadline.

5.8 Section 2.4. The legal description of the property shall be amended as follows:

32 905 North Taft Avenue with a legal description of BEG 40 FT W & 371 FT N OF SE COR OF NE 1/4 15-5-69, LOV, TH W 620 FT, N 66 FT, E 620 FT, S 66 FT TO BEG, EX ERLY 10 FT, in the City of Loveland.

915 North Taft Avenue with a legal description of BEG 40 FT W & 437 FT N OF SE COR OF NE 1/4 15-5-69, LOV, TH W 620 FT, N 66 FT, E 620 FT, S 66 FT TO BEG, EX ERLY 10 FT, in the City of Loveland.

925 North Taft Avenue with a legal description of BEG 40 FT W & 504.62 FT N OF SE COR OF NE 15-5-69, LOV, W 620 FT, N 163.68 FT, SERLY 634 FT TO PT 129.62 FT N OF POB, S 129.62 FT TO BEG; LESS RD DESC IN 1832-729, in the City of Loveland.

933 North Taft Avenue with a legal description of PT NE 1/4 15-5-69 DESC: LOV, COM AT E 1/4 COR SD SEC, TH N 634.24 FT, W 40 FT, N 85 50' 9" W 15.04 FT TPOB, TH N 24.06 FT, N 85 50' 9" W 123.56 FT, N 65.72 FT TO PT ON S ROW LN C & S RR, TH ALG SD S ROW N 77 43' 27" W 493.25 FT TO NE COR LOT 10, BLK 1, ROMAR ADD, LOV, TH ALG E LN SD ROMAR ADD S 0 1' 17" E 159.56 FT, S 85 50' 9" E 606.75 FT TPOB (SPLIT FROM 95151-00-005), in the City of Loveland.

935 North Taft Avenue with a legal description of PAR IN NE 1/4 15-5-69: BEG AT E 1/4 COR, TH ALG E LN NE 1/4 N 634.24 FT, W 40 FT, N 85 50' 9" W 15.04 FT, N 24.06 FT TPOB, N 47.88 FT TO PT ON S ROW ARKINS BRANCH C & S RR, TH ALG SD S ROW LN N 77 43' 27" W 126.12 FT, S 65.72 FT, S 85 50' 9" E 123.56 FT TPOB, in the City of Loveland.

Additionally a small house is located on property with legal description and property address to be determined by Title Company.

33 6. **ACCEPTANCE DEADLINE.** This Counterproposal shall expire unless accepted in writing by Seller
34 and Buyer as evidenced by their signatures below and the offering party to this document receives notice
of such acceptance on or before February 6, 2013, 6:00 PM MST.

Date 14 Time

35 If accepted, the Contract, as amended by this Counterproposal, shall become a contract between Seller and Buyer.
36 All other terms and conditions of the Contract shall remain the same.

37
38 Seller: William Cahill Date: 2.5.2013

City of Loveland, Colorado

39 By: William Cahill, City Manager

Address:

40

41 Seller: _____ Date: _____

42 Address: Loveland Investments LLC

43 Joseph Schrader Date: 2-13-13

44 Buyer: Loveland Investments LLC

45 By: Joseph Schrader, Manager

Address:

APPROVED AS TO FORM
BY: William Cahill
ASSISTANT CITY ATTORNEY

46

47 Buyer: _____ Date: _____

48

Address: _____

- Note:** When this Counterproposal form is used, the Contract is **not** to be signed by the party initiating this Counterproposal. Brokers must complete and sign the Broker's Acknowledgments and Compensation Disclosure portion of the Contract.

CP40-9-12. COUNTERPROPOSAL

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CP 40-9-12. COUNTERPROPOSAL

Page 4 of 4

Buyer(s) Initials _____



Seller(s) Initials _____



Bret Lamperes
1914 Agate Ct
Loveland, CO 80538
Phone: (970)980-9700

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission.
 (CBS4-10-11) (Mandatory 1-12)

THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

CONTRACT TO BUY AND SELL REAL ESTATE (LAND)

(☐ Property with No Residences)
 (☒ Property with Residences-Residential Addendum Attached)

Date: **January 11, 2013**

AGREEMENT

1. AGREEMENT. Buyer, identified in § 2.1, agrees to buy, and Seller, identified in § 2.3, agrees to sell, the Property described below on the terms and conditions set forth in this contract (Contract).

2. PARTIES AND PROPERTY.

2.1. Buyer. Buyer, **Loveland Investments LLC**, will take title to the Property described below as ☐ Joint Tenants ☐ Tenants In Common ☒ Other **TBD**.

2.2. Assignability and Inurement. This Contract ☐ Shall ☒ Shall Not be assignable by Buyer without Seller's prior written consent. Except as so restricted, this Contract shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties.

2.3. Seller. Seller, **City of Loveland**, is the current owner of the Property described below.

2.4. Property. The Property is the following legally described real estate in the County of **Larimer**, Colorado:
5 lots and small house located between known as 903, 905, 915, 925 and 935 North Taft

known as No.	<u>N/A</u>	<u>Loveland</u>	<u>CO</u>	<u>80537</u>
	Street Address	City	State	Zip

together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto, and all interest of Seller in vacated streets and alleys adjacent thereto, except as herein excluded (Property).

2.5. Inclusions. The Purchase Price includes the following items (Inclusions):

2.5.1. Fixtures. All fixtures attached to the Property on the date of this Contract.

Other Fixtures: **N/A**

If any fixtures are attached to the Property after the date of this Contract, such additional fixtures are also included in the Purchase Price.

2.5.2. Personal Property. If on the Property whether attached or not on the date of this Contract:

N/A

Other Personal Property: **All appliances and fixtures currently in the house.**

The Personal Property to be conveyed at Closing shall be conveyed by Seller free and clear of all taxes (except personal property taxes for the year of Closing), liens and encumbrances, except **N/A**.
 Conveyance shall be by bill of sale or other applicable legal instrument.

2.5.3. Trade Fixtures. With respect to trade fixtures, Seller and Buyer agree as follows:

N/A

The Trade Fixtures to be conveyed at Closing shall be conveyed by Seller free and clear of all taxes (except personal property taxes for the year of Closing), liens and encumbrances, except N/A. Conveyance shall be by bill of sale or other applicable legal instrument.

2.5.4. Water Rights, Water and Sewer Taps.

2.5.4.1. Deeded Water Rights. The following legally described water rights:

N/A

Any water rights shall be conveyed by ☐ N/A Deed ☐ Other applicable legal instrument.

☐ **2.5.4.2. Well Rights.** If any water well is to be transferred to Buyer, Seller agrees to supply required information about such well to Buyer. Buyer understands that if the well to be transferred is a Small Capacity Well or a Domestic Exempt Water Well used for ordinary household purposes, Buyer shall, prior to or at Closing, complete a Change in Ownership form for the well. If an existing well has not been registered with the Colorado Division of Water Resources in the Department of Natural Resources (Division), Buyer shall complete a registration of existing well form for the well and pay the cost of registration. If no person will be providing a closing service in connection with the transaction, Buyer shall file the form with the Division within sixty days after Closing. The Well Permit # is N/A.

2.5.4.3. ☐ Water Stock Certificates:

N/A

2.5.4.4. ☒ Water Tap

☒ Sewer Tap

Note: Buyer is advised to obtain, from the provider, written confirmation of the amount remaining to be paid, if any, time and other restrictions for transfer and use of the tap.

2.5.4.5. Other Rights:

ALL water taps associated with these properties to be transferred in sale

2.5.5. Growing Crops. With respect to growing crops, Seller and Buyer agree as follows:

N/A

2.6. Exclusions. The following items are excluded (Exclusions):

N/A

3. DATES AND DEADLINES.

Item No.	Reference	Event	Date or Deadline
1	§ 4.2	Alternative Earnest Money Deadline	<i>Note until city approval on conceptual review</i>
Title and Association			
2	§ 7.1	Record Title Deadline	<i>January 25, 2013</i>
3	§ 7.2	Exceptions Request Deadline	<i>January 28, 2013</i>
4	§ 8.1	Record Title Objection Deadline	<i>January 29, 2013</i>
5	§ 8.2	Off-Record Title Deadline	<i>January 30, 2013</i>
6	§ 8.2	Off-Record Title Objection Deadline	<i>January 31, 2013</i>
7	§ 8.3	Title Resolution Deadline	<i>January 31, 2013</i>
8	§ 7.3	Association Documents Deadline	<i>N/A</i>
9	§ 7.3	Association Documents Objection Deadline	<i>N/A</i>
10	§ 8.5	Right of First Refusal Deadline	<i>N/A</i>
Seller's Property Disclosure			
11	§ 10.1	Seller's Property Disclosure Deadline	<i>N/A</i>

		Loan and Credit	
12	§ 5.1	Loan Application Deadline	N/A
13	§ 5.2	Loan Conditions Deadline	N/A
14	§ 5.3	Buyer's Credit Information Deadline	N/A
15	§ 5.3	Disapproval of Buyer's Credit Information Deadline	N/A
16	§ 5.4	Existing Loan Documents Deadline	N/A
17	§ 5.4	Existing Loan Documents Objection Deadline	N/A
18	§ 5.4	Loan Transfer Approval Deadline	N/A
		Appraisal	
19	§ 6.2	Appraisal Deadline	N/A
20	§ 6.2	Appraisal Objection Deadline	N/A
		Survey	
21	§ 9.1	Current Survey Deadline	N/A
22	§ 9.2	Current Survey Objection Deadline	N/A
		Inspection and Due Diligence	
23	§ 10.2	Inspection Objection Deadline	N/A
24	§ 10.3	Inspection Resolution Deadline	N/A
25	§ 10.5	Property Insurance Objection Deadline	N/A
26	§ 10.6	Due Diligence Documents Delivery Deadline	February 8, 2013
27	§ 10.7	Due Diligence Documents Objection Deadline	February 15, 2013
28	§ 10.8	Environmental Inspection Objection Deadline	N/A
29	§ 10.8	ADA Evaluation Objection Deadline	N/A
30	§ 11.1	Tenant Estoppel Statements Deadline	N/A
31	§ 11.2	Tenant Estoppel Statements Objection Deadline	N/A
		Closing and Possession	
32	§ 12.3	Closing Date	March 18, 2013
33	§ 17	Possession Date	February 18, 2013
34	§ 17	Possession Time	delivery of deed
35	§ 28	Acceptance Deadline Date	January 18, 2013
36	§ 28	Acceptance Deadline Time	3:00 PM
	N/A	N/A	N/A
	N/A	N/A	N/A

83 **Note: Applicability of Terms.**

84 Any box, blank or line in this Contract left blank or completed with the abbreviation "N/A", or the word "Deleted" means such
 85 provision in **Dates and Deadlines** (§ 3), including any deadline, is not applicable and the corresponding provision of this Contract
 86 to which reference is made is deleted.

87 The abbreviation "MBC" (mutual execution of this Contract) means the date upon which both parties have signed this Contract.

88 **4. PURCHASE PRICE AND TERMS.**

89 **4.1. Price and Terms.** The Purchase Price set forth below shall be payable in U.S. Dollars by Buyer as follows:

Item No.	Reference	Item	Amount	Amount
1	§ 4.1	Purchase Price	\$ 275,000	
2	§ 4.2	Earnest Money		\$ 2000
3	§ 4.5	New Loan		N/A
4	§ 4.6	Assumption Balance		N/A
5	§ 4.7	Seller or Private Financing		N/A
6	N/A	N/A	N/A	N/A
7	N/A	N/A	N/A	N/A
8	§ 4.3	Cash at Closing		\$275,000
9		TOTAL	\$ 275,000	\$ 275,000

90 **4.2. Earnest Money.** The Earnest Money set forth in this section, in the form of **Check**,
 91 shall be payable to and held by **Unified Title** (Earnest Money Holder), in its

trust account, on behalf of both Seller and Buyer. The Earnest Money deposit shall be tendered with this Contract unless the parties mutually agree to an **Alternative Earnest Money Deadline** (§ 3) for its payment. If Earnest Money Holder is other than the Brokerage Firm identified in § 33 or § 34, Closing Instructions signed by Buyer, Seller and Earnest Money Holder must be obtained on or before delivery of Earnest Money to Earnest Money Holder. The parties authorize delivery of the Earnest Money deposit to the company conducting the Closing (Closing Company), if any, at or before Closing. In the event Earnest Money Holder has agreed to have interest on Earnest Money deposits transferred to a fund established for the purpose of providing affordable housing to Colorado residents, Seller and Buyer acknowledge and agree that any interest accruing on the Earnest Money deposited with the Earnest Money Holder in this transaction shall be transferred to such fund.

4.2.1. Alternative Earnest Money Deadline. The deadline for delivering the Earnest Money, if other than at the time of tender of this Contract is as set forth as the **Alternative Earnest Money Deadline** (§ 3).

4.2.2. Return of Earnest Money. If Buyer has a Right to Terminate this Contract and timely terminates, Buyer shall be entitled to the return of Earnest Money as provided in this Contract. If this Contract is terminated as set forth in § 25 and, except as provided in § 24, if the Earnest Money has not already been returned following receipt of a Notice to Terminate, Seller agrees to execute and return to Buyer or Broker working with Buyer, written mutual instructions, i.e., Earnest Money Release form, within three days of Seller's receipt of such form.

4.3. Form of Funds; Time of Payment; Funds Available.

4.3.1. Good Funds. All amounts payable by the parties at Closing, including any loan proceeds, Cash at Closing and closing costs, shall be in funds that comply with all applicable Colorado laws, including electronic transfer funds, certified check, savings and loan teller's check and cashier's check (Good Funds).

4.3.2. Available Funds. All funds required to be paid at Closing or as otherwise agreed in writing between the parties shall be timely paid to allow disbursement by Closing Company at Closing **OR SUCH PARTY SHALL BE IN DEFAULT.** Buyer represents that Buyer, as of the date of this Contract, ☒ **Does** ☐ **Does Not** have funds that are immediately verifiable and available in an amount not less than the amount stated as Cash at Closing in § 4.1.

4.4. Seller Concession. Seller, at Closing, shall credit, as directed by Buyer, an amount of \$ **N/A** to assist with Buyer's closing costs (Seller Concession). Seller Concession is in addition to any sum Seller has agreed to pay or credit Buyer elsewhere in this Contract. Seller Concession shall be reduced to the extent it exceeds the amount allowed by Buyer's lender as set forth in the Closing Statement or HUD-1, at Closing.

4.5. New Loan. *OMITTED AS INAPPLICABLE.*

4.6. Assumption. *OMITTED AS INAPPLICABLE.*

4.7. Seller or Private Financing. *OMITTED AS INAPPLICABLE.*

TRANSACTION PROVISIONS

5. FINANCING CONDITIONS AND OBLIGATIONS.

5.1. Loan Application. If Buyer is to pay all or part of the Purchase Price by obtaining one or more new loans (New Loan), or if an existing loan is not to be released at Closing, Buyer, if required by such lender, shall make an application verifiable by such lender, on or before **Loan Application Deadline** (§ 3) and exercise reasonable efforts to obtain such loan or approval.

5.2. Loan Conditions. If Buyer is to pay all or part of the Purchase Price with a New Loan, this Contract is conditional upon Buyer determining, in Buyer's sole subjective discretion, whether the New Loan is satisfactory to Buyer, including its availability, payments, interest rate, terms, conditions and cost of such New Loan. This condition is for the benefit of Buyer. Buyer shall have the Right to Terminate under § 25.1, on or before **Loan Conditions Deadline** (§ 3), if the New Loan is not satisfactory to Buyer, in Buyer's sole subjective discretion. **IF SELLER DOES NOT TIMELY RECEIVE WRITTEN NOTICE TO TERMINATE, BUYER'S EARNEST MONEY SHALL BE NONREFUNDABLE**, except as otherwise provided in this Contract (e.g., Appraisal, Title, Survey).

5.3. Credit Information and Buyer's New Senior Loan. If Buyer is to pay all or part of the Purchase Price by executing a promissory note in favor of Seller, or if an existing loan is not to be released at Closing, this Contract is conditional (for the benefit of Seller) upon Seller's approval of Buyer's financial ability and creditworthiness, which approval shall be at Seller's sole subjective discretion. In such case: (1) Buyer shall supply to Seller by **Buyer's Credit Information Deadline** (§ 3), at Buyer's expense, information and documents (including a current credit report) concerning Buyer's financial, employment and credit condition and Buyer's New Senior Loan, defined below, if any; (2) Buyer consents that Seller may verify Buyer's financial ability and creditworthiness; (3) any such information and documents received by Seller shall be held by Seller in confidence, and not released to others except to protect Seller's interest in this transaction; and (4) in the event Buyer is to execute a promissory note secured by a deed of trust in favor of Seller, this Contract is conditional (for the benefit of Seller) upon Seller's approval of the terms and conditions of any New Loan to be obtained by Buyer if the deed of trust to Seller is to be subordinate to Buyer's New Loan (Buyer's New Senior Loan). If the Cash at Closing is less than as set forth in § 4.1 of this Contract or Buyer's New

Senior Loan changes from that approved by Seller, Seller shall have the Right to Terminate under § 25.1, at or before Closing. If Seller disapproves of Buyer's financial ability, creditworthiness or Buyer's New Senior Loan, in Seller's sole subjective discretion, Seller shall have the Right to Terminate under § 25.1, on or before **Disapproval of Buyer's Credit Information Deadline** (§ 3).

5.4. Existing Loan Review. If an existing loan is not to be released at Closing, Seller shall deliver copies of the loan documents (including note, deed of trust, and any modifications) to Buyer by **Existing Loan Documents Deadline** (§ 3). For the benefit of Buyer, this Contract is conditional upon Buyer's review and approval of the provisions of such loan documents. Buyer shall have the Right to Terminate under § 25.1, on or before **Existing Loan Documents Objection Deadline** (§ 3), based on any unsatisfactory provision of such loan documents, in Buyer's sole subjective discretion. If the lender's approval of a transfer of the Property is required, this Contract is conditional upon Buyer's obtaining such approval without change in the terms of such loan, except as set forth in § 4.6. If lender's approval is not obtained by **Loan Transfer Approval Deadline** (§ 3), this Contract shall terminate on such deadline. Seller shall have the Right to Terminate under § 25.1, on or before Closing, in Seller's sole subjective discretion, if Seller is to be released from liability under such existing loan and Buyer does not obtain such compliance as set forth in § 4.6.

6. APPRAISAL PROVISIONS.

6.1. Lender Property Requirements. If the lender imposes any requirements or repairs (Requirements) to be made to the Property (e.g., roof repair, repainting), beyond those matters already agreed to by Seller in this Contract, Seller shall have the Right to Terminate under § 25.1, (notwithstanding § 10 of this Contract), on or before three days following Seller's receipt of the Requirements, based on any unsatisfactory Requirements, in Seller's sole subjective discretion. Seller's Right to Terminate in this § 6.1 shall not apply if, on or before any termination by Seller pursuant to this § 6.1: (1) the parties enter into a written agreement regarding the Requirements; or (2) the Requirements have been completed; or (3) the satisfaction of the Requirements is waived in writing by Buyer.

6.2. Appraisal Condition. The applicable Appraisal provision set forth below shall apply to the respective loan type set forth in § 4.5.3, or if a cash transaction, i.e. no financing, § 6.2.1 shall apply.

6.2.1. Conventional/Other. Buyer shall have the sole option and election to terminate this Contract if the Property's valuation is less than the Purchase Price determined by an appraiser engaged on behalf of **N/A**. The appraisal shall be received by Buyer or Buyer's lender on or before **Appraisal Deadline** (§ 3). Buyer shall have the Right to Terminate under § 25.1, on or before **Appraisal Objection Deadline** (§ 3), if the Property's valuation is less than the Purchase Price and Seller's receipt of either a copy of such appraisal or written notice from lender that confirms the Property's valuation is less than the Purchase Price.

6.3. Cost of Appraisal. Cost of any appraisal to be obtained after the date of this Contract shall be timely paid by ☐ Buyer ☐ Seller.

7. EVIDENCE OF TITLE AND ASSOCIATION DOCUMENTS.

7.1. Evidence of Title. On or before **Record Title Deadline** (§ 3), Seller shall cause to be furnished to Buyer, at Seller's expense, a current commitment for owner's title insurance policy (Title Commitment) in an amount equal to the Purchase Price, or if this box is checked, ☐ **An Abstract** of title certified to a current date. If title insurance is furnished, Seller shall also deliver to Buyer copies of any abstracts of title covering all or any portion of the Property (Abstract) in Seller's possession. At Seller's expense, Seller shall cause the title insurance policy to be issued and delivered to Buyer as soon as practicable at or after Closing. The title insurance commitment ☒ **Shall** ☐ **Shall Not** commit to delete or insure over the standard exceptions which relate to: (1) parties in possession, (2) unrecorded easements, (3) survey matters, (4) unrecorded mechanics' liens, (5) gap period (effective date of commitment to date deed is recorded), and (6) unpaid taxes, assessments and unredeemed tax sales prior to the year of Closing. Any additional premium expense to obtain this additional coverage shall be paid by ☐ Buyer ☒ Seller.

Note: The title insurance company may not agree to delete or insure over any or all of the standard exceptions. Buyer shall have the right to review the Title Commitment, its provisions and Title Documents (defined in § 7.2), and if not satisfactory to Buyer, Buyer may exercise Buyer's rights pursuant to § 8.1.

7.2. Copies of Exceptions. On or before **Record Title Deadline** (§ 3), Seller, at Seller's expense, shall furnish to Buyer and **Agent representing the buyer**, (1) copies of any plats, declarations, covenants, conditions and restrictions burdening the Property, and (2) if a Title Commitment is required to be furnished, and if this box is checked ☒ **Copies of any Other Documents** (or, if illegible, summaries of such documents) listed in the schedule of exceptions (Exceptions). Even if the box is not checked, Seller shall have the obligation to furnish these documents pursuant to this section if requested by Buyer any time on or before **Exceptions Request Deadline** (§ 3). This requirement shall pertain only to documents as shown of record in the office of the clerk and recorder in the county where the Property is located. The Abstract or Title Commitment, together with any copies or summaries of such documents furnished pursuant to this section, constitute the title documents (collectively, Title Documents).

7.3. Homeowners' Association Documents. The term Association Documents consists of all owners' associations (Association) declarations, bylaws, operating agreements, rules and regulations, party wall agreements, minutes of most recent annual

owners' meeting and minutes of any directors' or managers' meetings during the six-month period immediately preceding the date of this Contract, if any (Governing Documents), most recent financial documents consisting of (1) annual balance sheet, (2) annual income and expenditures statement, and (3) annual budget (Financial Documents), if any (collectively, Association Documents).

7.3.1. Common Interest Community Disclosure. THE PROPERTY IS LOCATED WITHIN A COMMON INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR SUCH COMMUNITY. THE OWNER OF THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNER'S ASSOCIATION FOR THE COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION. THE DECLARATION, BYLAWS, AND RULES AND REGULATIONS WILL IMPOSE FINANCIAL OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN OBLIGATION TO PAY ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE ASSESSMENTS, THE ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO PAY THE DEBT. THE DECLARATION, BYLAWS, AND RULES AND REGULATIONS OF THE COMMUNITY MAY PROHIBIT THE OWNER FROM MAKING CHANGES TO THE PROPERTY WITHOUT AN ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION. PURCHASERS OF PROPERTY WITHIN THE COMMON INTEREST COMMUNITY SHOULD INVESTIGATE THE FINANCIAL OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY READ THE DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION.

7.3.2. Association Documents to Buyer.

☐ **7.3.2.1. Seller to Provide Association Documents.** Seller shall cause the Association Documents to be provided to Buyer, at Seller's expense, on or before **Association Documents Deadline** (§ 3).

☐ **7.3.2.2. Seller Authorizes Association.** Seller authorizes the Association to provide the Association Documents to Buyer, at Seller's expense.

7.3.2.3. Seller's Obligation. Seller's obligation to provide the Association Documents shall be fulfilled upon Buyer's receipt of the Association Documents, regardless of who provides such documents.

Note: If neither box in this § 7.3.2 is checked, the provisions of § 7.3.2.1 shall apply.

7.3.3. Conditional on Buyer's Review. If the box in either § 7.3.2.1 or § 7.3.2.2 is checked, the provisions of this § 7.3.3 shall apply. Buyer shall have the Right to Terminate under § 25.1, on or before **Association Documents Objection Deadline** (§ 3), based on any unsatisfactory provision in any of the Association Documents, in Buyer's sole subjective discretion. Should Buyer receive the Association Documents after **Association Documents Deadline** (§ 3), Buyer, at Buyer's option, shall have the Right to Terminate under § 25.1 by Buyer's Notice to Terminate received by Seller on or before ten days after Buyer's receipt of the Association Documents. If Buyer does not receive the Association Documents, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller after **Closing Date** (§ 3), Buyer's Notice to Terminate shall be received by Seller on or before three days prior to **Closing Date** (§ 3). If Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the provisions of the Association Documents as satisfactory, and Buyer waives any Right to Terminate under this provision, notwithstanding the provisions of § 8.5.

8. RECORD TITLE AND OFF-RECORD TITLE MATTERS.

8.1. Record Title Matters. Buyer has the right to review and object to any of the Title Documents (Right to Object, Resolution), as set forth in § 8.3. Buyer's objection may be based on any unsatisfactory form or content of Title Commitment, notwithstanding § 13, or any other unsatisfactory title condition, in Buyer's sole subjective discretion. If Buyer objects to any of the Title Documents, Buyer shall cause Seller to receive Buyer's Notice to Terminate or Notice of Title Objection on or before **Record Title Objection Deadline** (§ 3). If Title Documents are not received by Buyer, on or before the **Record Title Deadline** (§ 3), or if there is an endorsement to the Title Commitment that adds a new Exception to title, a copy of the new Exception to title and the modified Title Commitment shall be delivered to Buyer. Buyer shall cause Seller to receive Buyer's Notice to Terminate or Notice of Title Objection on or before ten days after receipt by Buyer of the following documents: (1) any required Title Document not timely received by Buyer, (2) any change to the Title Documents, or (3) endorsement to the Title Commitment. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection, pursuant to this § 8.1 (Record Title Matters), any title objection by Buyer and this Contract shall be governed by the provisions set forth in § 8.3 (Right to Object, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the Title Documents as satisfactory.

8.2. Off-Record Title Matters. Seller shall deliver to Buyer, on or before **Off-Record Title Deadline** (§ 3) true copies of all existing surveys in Seller's possession pertaining to the Property and shall disclose to Buyer all easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or other title matters (including, without limitation, rights of first refusal and options) not shown by public records, of which Seller has actual knowledge. Buyer shall have the right to inspect the Property to investigate if any third party has any right in the Property not shown by public records (such as an unrecorded easement, unrecorded lease, boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of

Title Objection of any unsatisfactory condition (whether disclosed by Seller or revealed by such inspection, notwithstanding § 13), in Buyer's sole subjective discretion, shall be received by Seller on or before **Off-Record Title Objection Deadline** (§ 3). If Seller receives Buyer's Notice to Terminate or Notice of Title Objection pursuant to this § 8.2 (Off-Record Title Matters), any title objection by Buyer and this Contract shall be governed by the provisions set forth in § 8.3 (Right to Object, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection, on or before **Off-Record Title Objection Deadline** (§ 3), Buyer accepts title subject to such rights, if any, of third parties of which Buyer has actual knowledge.

8.3. Right to Object, Resolution. Buyer's right to object to any title matters shall include, but not be limited to those matters set forth in §§ 8.1 (Record Title Matters), 8.2 (Off-Record Title Matters) and 13 (Transfer of Title), in Buyer's sole subjective discretion (collectively, Notice of Title Objection). If Buyer objects to any title matter, on or before the applicable deadline, Buyer shall have the choice to either (1) object to the condition of title, or (2) terminate this Contract.

8.3.1. Title Resolution. If Seller receives Buyer's Notice of Title Objection, as provided in § 8.1 (Record Title Matters) or § 8.2 (Off-Record Title Matters), on or before the applicable deadline, and if Buyer and Seller have not agreed to a written settlement thereof on or before **Title Resolution Deadline** (§ 3), this Contract shall terminate on the expiration of **Title Resolution Deadline** (§ 3), unless Seller receives Buyer's written withdrawal of Buyer's Notice of Title Objection (i.e., Buyer's written notice to waive objection to such items and waives the Right to Terminate for that reason), on or before expiration of **Title Resolution Deadline** (§ 3).

8.3.2. Right to Terminate – Title Objection. Buyer shall have the Right to Terminate under § 25.1, on or before the applicable deadline, based on any unsatisfactory title matter, in Buyer's sole subjective discretion.

8.4. Special Taxing Districts. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY, AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR.

Buyer shall have the Right to Terminate under § 25.1, on or before **Off-Record Title Objection Deadline** (§ 3), based on any unsatisfactory effect of the Property being located within a special taxing district, in Buyer's sole subjective discretion.

8.5. Right of First Refusal or Contract Approval. If there is a right of first refusal on the Property, or a right to approve this Contract, Seller shall promptly submit this Contract according to the terms and conditions of such right. If the holder of the right of first refusal exercises such right or the holder of a right to approve disapproves this Contract, this Contract shall terminate. If the right of first refusal is waived explicitly or expires, or the Contract is approved, this Contract shall remain in full force and effect. Seller shall promptly notify Buyer in writing of the foregoing. If expiration or waiver of the right of first refusal or Contract approval has not occurred on or before the **Right of First Refusal Deadline** (§ 3), this Contract shall then terminate.

8.6. Title Advisory. The Title Documents affect the title, ownership and use of the Property and should be reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the title, ownership and use of the Property, including, without limitation, boundary lines and encroachments, area, zoning, unrecorded easements and claims of easements, leases and other unrecorded agreements, and various laws and governmental regulations concerning land use, development and environmental matters. The surface estate may be owned separately from the underlying mineral estate, and transfer of the surface estate does not necessarily include transfer of the mineral rights or water rights. Third parties may hold interests in oil, gas, other minerals, geothermal energy or water on or under the Property, which interests may give them rights to enter and use the Property. Such matters may be excluded from or not covered by the title insurance policy. Buyer is advised to timely consult legal counsel with respect to all such matters as there are strict time limits provided in this Contract [e.g., **Record Title Objection Deadline** (§ 3) and **Off-Record Title Objection Deadline** (§ 3)].

9. CURRENT SURVEY REVIEW.

9.1. Current Survey Conditions. If the box in § 9.1.1 or § 9.1.2 is checked, Buyer, the issuer of the Title Commitment or the provider of the opinion of title if an abstract, and **N/A** shall receive a Current Survey, i.e., Improvement Location Certificate, Improvement Survey Plat or other form of survey set forth in § 9.1.2 (collectively, Current Survey), on or before **Current Survey Deadline** (§ 3). The Current Survey shall be certified by the surveyor to all those who are to receive the Current Survey.

☐ **9.1.1. Improvement Location Certificate.** If the box in § 9.1.1 is checked, ☐ Seller ☐ Buyer shall order or provide, and pay, on or before Closing, the cost of an **Improvement Location Certificate**.

☐ **9.1.2. Other Survey.** If the box in this § 9.1.2 is checked, a Current Survey, other than an Improvement Location Certificate, shall be an ☐ **Improvement Survey Plat** ☐ **N/A**. The parties agree that payment of the cost of

the Current Survey and obligation to order or provide the Current Survey shall be as follows:
N/A

9.2. Survey Objection. Buyer shall have the right to review and object to the Current Survey. Buyer shall have the Right to Terminate under § 25.1, on or before the **Current Survey Objection Deadline** (§ 3), if the Current Survey is not timely received by Buyer or based on any unsatisfactory matter with the Current Survey, notwithstanding § 8.2 or § 13.

DISCLOSURE, INSPECTION AND DUE DILIGENCE

10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY, DUE DILIGENCE, AND SOURCE OF WATER.

10.1. Seller's Property Disclosure Deadline. On or before Seller's **Property Disclosure Deadline** (§ 3), Seller agrees to deliver to Buyer the most current version of the applicable Colorado Real Estate Commission's Seller's Property Disclosure form completed by Seller to Seller's actual knowledge, current as of the date of this Contract.

10.2. Inspection Objection Deadline. Unless otherwise provided in this Contract, Buyer acknowledges that Seller is conveying the Property to Buyer in an "as is" condition, "where is" and "with all faults". Seller shall disclose to Buyer, in writing, any latent defects actually known by Seller. Buyer, acting in good faith, shall have the right to have inspections (by one or more third parties, personally, or both) of the Property and Inclusions (Inspection), at Buyer's expense. If (1) the physical condition of the Property, including, but not limited to, the roof, walls, structural integrity of the Property, the electrical, plumbing, HVAC and other mechanical systems of the Property, (2) the physical condition of the Inclusions, (3) service to the Property (including utilities and communication services), systems and components of the Property, e.g. heating and plumbing, (4) any proposed or existing transportation project, road, street or highway, or (5) any other activity, odor or noise (whether on or off the Property) and its effect or expected effect on the Property or its occupants is unsatisfactory, in Buyer's sole subjective discretion, Buyer shall, on or before **Inspection Objection Deadline** (§ 3):

10.2.1. Notice to Terminate. Notify Seller in writing that this Contract is terminated; or

10.2.2. Inspection Objection. Deliver to Seller a written description of any unsatisfactory physical condition that Buyer requires Seller to correct.

Buyer shall have the Right to Terminate under § 25.1, on or before **Inspection Objection Deadline** (§ 3), based on any unsatisfactory physical condition of the Property or Inclusions, in Buyer's sole subjective discretion.

10.3. Inspection Resolution Deadline. If an Inspection Objection is received by Seller, on or before **Inspection Objection Deadline** (§ 3), and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Inspection Resolution Deadline** (§ 3), this Contract shall terminate on **Inspection Resolution Deadline** (§ 3), unless Seller receives Buyer's written withdrawal of the Inspection Objection before such termination, i.e., on or before expiration of **Inspection Resolution Deadline** (§ 3).

10.4. Damage, Liens and Indemnity. Buyer, except as otherwise provided in this Contract or other written agreement between the parties, is responsible for payment for all inspections, tests, surveys, engineering reports, or any other work performed at Buyer's request (Work) and shall pay for any damage that occurs to the Property and Inclusions as a result of such Work. Buyer shall not permit claims or liens of any kind against the Property for Work performed on the Property at Buyer's request. Buyer agrees to indemnify, protect and hold Seller harmless from and against any liability, damage, cost or expense incurred by Seller and caused by any such Work, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by Seller to defend against any such liability, damage, cost or expense, or to enforce this section, including Seller's reasonable attorney fees, legal fees and expenses. The provisions of this section shall survive the termination of this Contract.

10.5. Insurability. Buyer shall have the right to review and object to the availability, terms and conditions of and premium for property insurance (Property Insurance). Buyer shall have the Right to Terminate under § 25.1, on or before **Property Insurance Objection Deadline** (§ 3), based on any unsatisfactory provision of the Property Insurance, in Buyer's sole subjective discretion.

10.6. Due Diligence Documents. Seller agrees to deliver copies of the following documents and information pertaining to the Property (Due Diligence Documents) to Buyer on or before **Due Diligence Documents Delivery Deadline** (§ 3) to the extent such Due Diligence Documents exist and are in Seller's possession:

10.6.1. All contracts relating to the operation, maintenance and management of the Property;

10.6.2. Property tax bills for the last N/A years;

10.6.3. As-built construction plans to the Property and the tenant improvements, including architectural, electrical, mechanical, and structural systems; engineering reports; and permanent Certificates of Occupancy, to the extent now available;

10.6.4. A list of all Inclusions to be conveyed to Buyer;

10.6.5. Operating statements for the past N/A years;

10.6.6. A rent roll accurate and correct to the date of this Contract;

10.6.7. All current leases, including any amendments or other occupancy agreements, pertaining to the Property (Leases);

10.6.8. A schedule of any tenant improvement work Seller is obligated to complete but has not yet completed and capital improvement work either scheduled or in process on the date of this Contract;

10.6.9. All insurance policies pertaining to the Property and copies of any claims which have been made for the past N/A years;

10.6.10. Soils reports, Surveys and engineering reports or data pertaining to the Property (if not delivered earlier under § 8.2);

10.6.11. Any and all existing documentation and reports regarding Phase I and II environmental reports, letters, test results, advisories, and similar documents respective to the existence or nonexistence of asbestos, PCB transformers, or other toxic hazardous or contaminated substances, and/or underground storage tanks and/or radon gas. If no reports are in Seller's possession or known to Seller, Seller shall warrant that no such reports are in Seller's possession or known to Seller;

10.6.12. Any *Americans with Disabilities Act* reports, studies or surveys concerning the compliance of the Property with said Act;

10.6.13. All permits, licenses and other building or use authorizations issued by any governmental authority with jurisdiction over the Property and written notice of any violation of any such permits, licenses or use authorizations, if any; and

10.6.14. Other Documents: N/A.

10.7. Due Diligence Documents Conditions. Buyer shall have the right to review and object to Due Diligence Documents, zoning and any use restrictions imposed by any governmental agency with jurisdiction over the Property (Zoning), in Buyer's sole subjective discretion, or Seller's failure to deliver to Buyer all Due Diligence Documents. Buyer shall also have the unilateral right to waive any condition herein.

10.7.1. Due Diligence Documents Objection. Buyer shall have the Right to Terminate under § 25.1, on or before Due Diligence Documents Objection Deadline (§ 3), based on any unsatisfactory matter with the Due Diligence Documents in Buyer's sole subjective discretion. If, however, Due Diligence Documents are not timely delivered under § 10.6, or if Seller fails to deliver all Due Diligence Documents to Buyer, then Buyer shall have the Right to Terminate under § 25.1 on or before the earlier of ten days after Due Diligence Documents Objection Deadline (§ 3) or Closing.

10.7.2. Zoning. Buyer shall have the Right to Terminate under § 25.1, on or before Due Diligence Documents Objection Deadline (§ 3), based on any unsatisfactory zoning, in Buyer's sole subjective discretion.

10.7.3. Source of Potable Water (Residential Land and Residential Improvements Only). Buyer ☐ Does ☒ Does Not acknowledge receipt of a copy of Seller's Property Disclosure or Source of Water Addendum disclosing the source of potable water for the Property. Buyer ☐ Does ☒ Does Not acknowledge receipt of a copy of the current well permit. ☐ There is No Well.

Note to Buyer: SOME WATER PROVIDERS RELY, TO VARYING DEGREES, ON NONRENEWABLE GROUND WATER. YOU MAY WISH TO CONTACT YOUR PROVIDER (OR INVESTIGATE THE DESCRIBED SOURCE) TO DETERMINE THE LONG-TERM SUFFICIENCY OF THE PROVIDER'S WATER SUPPLIES.

10.8. Due Diligence – Environmental, ADA. Buyer shall have the right to obtain environmental inspections of the Property including Phase I and Phase II Environmental Site Assessments, as applicable. ☐ Seller ☐ Buyer shall order or provide ☐ Phase I Environmental Site Assessment, ☐ Phase II Environmental Site Assessment (compliant with ASTM E1527-05 standard practices for Environmental Site Assessments) and/or ☐ N/A, at the expense of ☐ Seller ☐ Buyer (Environmental Inspection). In addition, Buyer may also conduct an evaluation whether the Property complies with the *Americans with Disabilities Act* (ADA Evaluation). All such inspections and evaluations shall be conducted at such times as are mutually agreeable to minimize the interruption of Seller's and any Seller's tenants' business uses of the Property, if any.

If Buyer's Phase I Environmental Site Assessment recommends a Phase II Environmental Site Assessment, the Environmental Inspection Objection Deadline (§ 3) shall be extended by N/A days (Extended Environmental Inspection Objection Deadline) and if such Extended Environmental Inspection Objection Deadline extends beyond the Closing Date (§ 3), the Closing Date (§ 3) shall be extended a like period of time.

Buyer shall have the Right to Terminate under § 25.1, on or before Environmental Inspection Objection Deadline (§ 3), or if applicable the Extended Environmental Inspection Objection Deadline, based on any unsatisfactory results of Environmental Inspection, in Buyer's sole subjective discretion.

Buyer shall have the Right to Terminate under § 25.1, on or before ADA Evaluation Objection Deadline (§ 3), based on any unsatisfactory ADA Evaluation, in Buyer's sole subjective discretion.

10.9. Existing Leases; Modification of Existing Leases; New Leases. Seller states that none of the Leases to be assigned to the Buyer at the time of Closing contain any rent concessions, rent reductions or rent abatements except as disclosed in the Lease or other writing received by Buyer. Seller shall not amend, alter, modify, extend or cancel any of the Leases nor shall Seller enter into any new leases affecting the Property without the prior written consent of Buyer, which consent shall not be unreasonably withheld or delayed.

11. TENANT ESTOPPEL STATEMENTS.

11.1. Tenant Estoppel Statements Conditions. Buyer shall have the right to review and object to any Estoppel Statements. Seller shall obtain and deliver to Buyer on or before **Tenant Estoppel Statements Deadline** (§ 3), statements in a form and substance reasonably acceptable to Buyer, from each occupant or tenant at the Property (Estoppel Statement) attached to a copy of such occupant's or tenant's lease and any amendments (Lease) stating:

- 11.1.1.** The commencement date of the Lease and scheduled termination date of the Lease;
- 11.1.2.** That said Lease is in full force and effect and that there have been no subsequent modifications or amendments;
- 11.1.3.** The amount of any advance rentals paid, rent concessions given, and deposits paid to Seller;
- 11.1.4.** The amount of monthly (or other applicable period) rental paid to Seller;
- 11.1.5.** That there is no default under the terms of said Lease by landlord or occupant; and
- 11.1.6.** That the Lease to which the Estoppel is attached is a true, correct and complete copy of the Lease demising the premises it describes.

11.2. Tenant Estoppel Statements Objection. Buyer shall have the Right to Terminate under § 25.1, on or before **Tenant Estoppel Statements Objection Deadline** (§ 3), based on any unsatisfactory Estoppel Statement, in Buyer's sole subjective discretion or if Seller fails to deliver the Estoppel Statements on or before **Tenant Estoppel Statements Deadline** (§ 3). Buyer shall also have the unilateral right to waive any unsatisfactory Estoppel Statement.

CLOSING PROVISIONS**12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.**

12.1. Closing Documents and Closing Information. Seller and Buyer shall cooperate with the Closing Company to enable the Closing Company to prepare and deliver documents required for Closing to Buyer and Seller and their designees. If Buyer is obtaining a new loan to purchase the Property, Buyer acknowledges Buyer's lender shall be required to provide the Closing Company in a timely manner all required loan documents and financial information concerning Buyer's new loan. Buyer and Seller will furnish any additional information and documents required by Closing Company that will be necessary to complete this transaction. Buyer and Seller shall sign and complete all customary or reasonably required documents at or before Closing.

12.2. Closing Instructions. Buyer and Seller agree to execute the Colorado Real Estate Commission's Closing Instructions. Such Closing Instructions ☐ Are ☒ Are Not executed with this Contract. Upon mutual execution, ☒ Seller ☐ Buyer shall deliver such Closing Instructions to the Closing Company.

12.3. Closing. Delivery of deed from Seller to Buyer shall be at closing (Closing). Closing shall be on the date specified as the **Closing Date** (§ 3) or by mutual agreement at an earlier date. The hour and place of Closing shall be as designated by **Buyer and Seller**.

12.4. Disclosure of Settlement Costs. Buyer and Seller acknowledge that costs, quality, and extent of service vary between different settlement service providers (e.g., attorneys, lenders, inspectors and title companies).

13. TRANSFER OF TITLE. Subject to tender of payment at Closing as required herein and compliance by Buyer with the other terms and provisions hereof, Seller shall execute and deliver a good and sufficient **General Warranty** deed to Buyer, at Closing, conveying the Property free and clear of all taxes except the general taxes for the year of Closing. Except as provided herein, title shall be conveyed free and clear of all liens, including any governmental liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not. Title shall be conveyed subject to:

13.1. Those specific Exceptions described by reference to recorded documents as reflected in the Title Documents accepted by Buyer in accordance with **Record Title Matters** (§ 8.1),

13.2. Distribution utility easements (including cable TV),

13.3. Those specifically described rights of third parties not shown by the public records of which Buyer has actual knowledge and which were accepted by Buyer in accordance with **Off-Record Title Matters** (§ 8.2) and **Current Survey Review** (§ 9),

13.4. Inclusion of the Property within any special taxing district, and

13.5. Other N/A.

14. PAYMENT OF ENCUMBRANCES. Any encumbrance required to be paid shall be paid at or before Closing from the proceeds of this transaction or from any other source.

15. CLOSING COSTS, CLOSING FEE, ASSOCIATION FEES AND TAXES.

15.1. Closing Costs. Buyer and Seller shall pay, in Good Funds, their respective closing costs and all other items required to be paid at Closing, except as otherwise provided herein.

15.2. Closing Services Fee. The fee for real estate closing services shall be paid at Closing by ☐ Buyer ☐ Seller ☒ One-Half by Buyer and One-Half by Seller ☐ Other N/A.

15.3. Status Letter and Transfer Fees. Any fees incident to the issuance of Association's statement of assessments (Status Letter) shall be paid by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☐ None. Any transfer fees assessed by the Association including, but not limited to, any record change fee, regardless of name or title of such fee (Association's Transfer Fee) shall be paid by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller. ☐ None.

15.4. Local Transfer Tax. ☐ The Local Transfer Tax of *N/A* % of the Purchase Price shall be paid at Closing by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☐ None.

15.5. Private Transfer Fee. Private transfer fees and other fees due to a transfer of the Property, payable at Closing, such as community association fees, developer fees and foundation fees, shall be paid at Closing by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☐ None.

15.6. Sales and Use Tax. Any sales and use tax that may accrue because of this transaction shall be paid when due by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☐ None.

16. PRORATIONS. The following shall be prorated to **Closing Date** (§ 3), except as otherwise provided:

16.1. Taxes. Personal property taxes, if any, special taxing district assessments, if any, and general real estate taxes for the year of Closing, based on ☐ Taxes for the Calendar Year Immediately Preceding Closing ☒ Most Recent Mill Levy and Most Recent Assessed Valuation, or ☐ Other *N/A*.

16.2. Rents. Rents based on ☐ Rents Actually Received ☐ Accrued. At Closing, Seller shall transfer or credit to Buyer the security deposits for all Leases assigned, or any remainder after lawful deductions, and notify all tenants in writing of such transfer and of the transferee's name and address. Seller shall assign to Buyer all Leases in effect at Closing and Buyer shall assume Seller's obligations under such Leases.

16.3. Association Assessments. Current regular Association assessments and dues (Association Assessments) paid in advance shall be credited to Seller at Closing. Cash reserves held out of the regular Association Assessments for deferred maintenance by the Association shall not be credited to Seller except as may be otherwise provided by the Governing Documents. Buyer acknowledges that Buyer may be obligated to pay the Association, at Closing, an amount for reserves or working capital. Any special assessment assessed prior to **Closing Date** (§ 3) by the Association shall be the obligation of ☐ Buyer ☐ Seller. Except however, any special assessment by the Association for improvements that have been installed as of the date of Buyer's signature hereon, whether assessed prior to or after Closing, shall be the obligation of Seller. Seller represents that the Association Assessments are currently payable at \$ *N/A* per *N/A* and that there are no unpaid regular or special assessments against the Property except the current regular assessments and *N/A*. Such assessments are subject to change as provided in the Governing Documents. Seller agrees to promptly request the Association to deliver to Buyer before **Closing Date** (§ 3) a current Status Letter.

16.4. Other Prorations. Water and sewer charges, interest on continuing loan, and *N/A*.

16.5. Final Settlement. Unless otherwise agreed in writing, these prorations shall be final.

17. POSSESSION. Possession of the Property shall be delivered to Buyer on **Possession Date** (§ 3) at **Possession Time** (§ 3), subject to the following leases or tenancies: *N/A*

If Seller, after Closing, fails to deliver possession as specified, Seller shall be subject to eviction and shall be additionally liable to Buyer for payment of \$ *N/A* per day (or any part of a day notwithstanding § 18.1) from **Possession Date** (§ 3) and **Possession Time** (§ 3) until possession is delivered.

GENERAL PROVISIONS

18. DAY; COMPUTATION OF PERIOD OF DAYS, DEADLINE.

18.1. Day. As used in this Contract, the term "day" shall mean the entire day ending at 11:59 p.m., United States Mountain Time (Standard or Daylight Savings as applicable).

18.2. Computation of Period of Days, Deadline. In computing a period of days, when the ending date is not specified, the first day is excluded and the last day is included, e.g., three days after MEC. If any deadline falls on a Saturday, Sunday or federal or Colorado state holiday (Holiday), such deadline ☒ Shall ☐ Shall Not be extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box be checked, the deadline shall not be extended.

19. CAUSES OF LOSS, INSURANCE; CONDITION OF, DAMAGE TO PROPERTY AND INCLUSIONS AND WALK-THROUGH. Except as otherwise provided in this Contract, the Property, Inclusions or both shall be delivered in the condition existing as of the date of this Contract, ordinary wear and tear excepted.

19.1. Causes of Loss, Insurance. In the event the Property or Inclusions are damaged by fire, other perils or causes of loss prior to Closing in an amount of not more than ten percent of the total Purchase Price (Property Damage), Seller shall be obligated to repair the same before **Closing Date** (§ 3). In the event such damage is not repaired within said time or if the damage

exceeds such sum, this Contract may be terminated at the option of Buyer. Buyer shall have the Right to Terminate under § 25.1, on or before **Closing Date** (§ 3), based on any Property Damage not repaired before **Closing Date** (§ 3). Should Buyer elect to carry out this Contract despite such Property Damage, Buyer shall be entitled to a credit at Closing for all insurance proceeds that were received by Seller (but not the Association, if any) resulting from such damage to the Property and Inclusions, plus the amount of any deductible provided for in such insurance policy. Such credit shall not exceed the Purchase Price. In the event Seller has not received such insurance proceeds prior to Closing, the parties may agree to extend the **Closing Date** (§ 3) or, at the option of Buyer, Seller shall assign such proceeds at Closing, plus credit Buyer the amount of any deductible provided for in such insurance policy, but not to exceed the total Purchase Price.

19.2. Damage, Inclusions and Services. Should any Inclusion or service (including utilities and communication services), systems and components of the Property, e.g. heating or plumbing, fail or be damaged between the date of this Contract and Closing or possession, whichever shall be earlier, then Seller shall be liable for the repair or replacement of such Inclusion, service, system, component or fixture of the Property with a unit of similar size, age and quality, or an equivalent credit, but only to the extent that the maintenance or replacement of such Inclusion, service, system, component or fixture is not the responsibility of the Association, if any, less any insurance proceeds received by Buyer covering such repair or replacement. Seller and Buyer are aware of the existence of pre-owned home warranty programs that may be purchased and may cover the repair or replacement of such Inclusions.

19.3. Condemnation. In the event Seller receives actual notice prior to Closing that a pending condemnation action may result in a taking of all or part of the Property or Inclusions, Seller shall promptly notify Buyer, in writing, of such condemnation action. Buyer shall have the Right to Terminate under § 25.1, on or before **Closing Date** (§ 3), based on such condemnation action, in Buyer's sole subjective discretion. Should Buyer elect to consummate this Contract despite such diminution of value to the Property and Inclusions, Buyer shall be entitled to a credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value of the Property or Inclusions but such credit shall not include relocation benefits or expenses, or exceed the Purchase Price.

19.4. Walk-Through and Verification of Condition. Buyer, upon reasonable notice, shall have the right to walk through the Property prior to Closing to verify that the physical condition of the Property and Inclusions complies with this Contract.

19.5 Risk of Loss—Growing Crops. The risk of loss for damage to growing crops by fire or other casualty shall be borne by the party entitled to the growing crops as provided in § 2.5.5 and such party shall be entitled to such insurance proceeds or benefits for the growing crops.

20. RECOMMENDATION OF LEGAL AND TAX COUNSEL. By signing this document, Buyer and Seller acknowledge that the respective broker has advised that this document has important legal consequences and has recommended the examination of title and consultation with legal and tax or other counsel before signing this Contract.

21. TIME OF ESSENCE, DEFAULT AND REMEDIES. Time is of the essence hereof. If any note or check received as Earnest Money hereunder or any other payment due hereunder is not paid, honored or tendered when due, or if any obligation hereunder is not performed or waived as herein provided, there shall be the following remedies:

21.1. If Buyer is in Default:

☐ **21.1.1. Specific Performance.** Seller may elect to treat this Contract as canceled, in which case all Earnest Money (whether or not paid by Buyer) shall be paid to Seller and retained by Seller; and Seller may recover such damages as may be proper; or Seller may elect to treat this Contract as being in full force and effect and Seller shall have the right to specific performance or damages, or both.

21.1.2. Liquidated Damages, Applicable. This § 21.1.2 shall apply unless the box in § 21.1.1. is checked. All Earnest Money (whether or not paid by Buyer) shall be paid to Seller, and retained by Seller. Both parties shall thereafter be released from all obligations hereunder. It is agreed that the Earnest Money specified in § 4.1 is LIQUIDATED DAMAGES, and not a penalty, which amount the parties agree is fair and reasonable and (except as provided in §§ 10.4, 22, 23 and 24), said payment of Earnest Money shall be SELLER'S SOLE AND ONLY REMEDY for Buyer's failure to perform the obligations of this Contract. Seller expressly waives the remedies of specific performance and additional damages.

21.2. If Seller is in Default: Buyer may elect to treat this Contract as canceled, in which case all Earnest Money received hereunder shall be returned and Buyer may recover such damages as may be proper, or Buyer may elect to treat this Contract as being in full force and effect and Buyer shall have the right to specific performance or damages, or both.

22. LEGAL FEES, COST AND EXPENSES. Anything to the contrary herein notwithstanding, in the event of any arbitration or litigation relating to this Contract, prior to or after **Closing Date** (§ 3), the arbitrator or court shall award to the prevailing party all reasonable costs and expenses, including attorney fees, legal fees and expenses.

23. MEDIATION. If a dispute arises relating to this Contract, prior to or after Closing, and is not resolved, the parties shall first proceed in good faith to submit the matter to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. The parties to the

dispute must agree, in writing, before any settlement is binding. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The mediation, unless otherwise agreed, shall terminate in the event the entire dispute is not resolved within thirty days of the date written notice requesting mediation is delivered by one party to the other at the party's last known address. This section shall not alter any date in this Contract, unless otherwise agreed.

24. EARNEST MONEY DISPUTE. Except as otherwise provided herein, Earnest Money Holder shall release the Earnest Money as directed by written mutual instructions, signed by both Buyer and Seller. In the event of any controversy regarding the Earnest Money (notwithstanding any termination of this Contract), Earnest Money Holder shall not be required to take any action. Earnest Money Holder, at its option and sole subjective discretion, may (1) await any proceeding, (2) interplead all parties and deposit Earnest Money into a court of competent jurisdiction and shall recover court costs and reasonable attorney and legal fees, or (3) provide notice to Buyer and Seller that unless Earnest Money Holder receives a copy of the Summons and Complaint or Claim (between Buyer and Seller) containing the case number of the lawsuit (Lawsuit) within one hundred twenty days of Earnest Money Holder's notice to the parties, Earnest Money Holder shall be authorized to return the Earnest Money to Buyer. In the event Earnest Money Holder does receive a copy of the Lawsuit, and has not interpleaded the monies at the time of any Order, Earnest Money Holder shall disburse the Earnest Money pursuant to the Order of the Court. The parties reaffirm the obligation of Mediation (§ 23). The provisions of this § 24 apply only if the Earnest Money Holder is one of the Brokerage Firms named in § 33 or § 34.

25. TERMINATION.

25.1. Right to Terminate. If a party has a right to terminate, as provided in this Contract (Right to Terminate), the termination shall be effective upon the other party's receipt of a written notice to terminate (Notice to Terminate), provided such written notice was received on or before the applicable deadline specified in this Contract. If the Notice to Terminate is not received on or before the specified deadline, the party with the Right to Terminate shall have accepted the specified matter, document or condition as satisfactory and waived the Right to Terminate under such provision.

25.2. Effect of Termination. In the event this Contract is terminated, all Earnest Money received hereunder shall be returned and the parties shall be relieved of all obligations hereunder, subject to §§ 10.4, 22, 23 and 24.

26. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL. This Contract, its exhibits and specified addenda, constitute the entire agreement between the parties relating to the subject hereof, and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Contract. No subsequent modification of any of the terms of this Contract shall be valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. Any obligation in this Contract that, by its terms, is intended to be performed after termination or Closing shall survive the same.

27. NOTICE, DELIVERY, AND CHOICE OF LAW.

27.1. Physical Delivery. All notices must be in writing, except as provided in § 27.2. Any document, including a signed document or notice, from or on behalf of Seller, and delivered to Buyer shall be effective when physically received by Buyer, any signatory on behalf of Buyer, any named individual of Buyer, any representative of Buyer, or Brokerage Firm of Broker working with Buyer (except for delivery, after Closing, of the notice requesting mediation described in § 23) and except as provided in § 27.2. Any document, including a signed document or notice, from or on behalf of Buyer, and delivered to Seller shall be effective when physically received by Seller, any signatory on behalf of Seller, any named individual of Seller, any representative of Seller, or Brokerage Firm of Broker working with Seller (except for delivery, after Closing, of the notice requesting mediation described in § 23) and except as provided in § 27.2.

27.2. Electronic Delivery. As an alternative to physical delivery, any document, including any signed document or written notice, may be delivered in electronic form only by the following indicated methods: ☒ Facsimile ☒ Email ☒ Internet ☐ No Electronic Delivery. If the box "No Electronic Delivery" is checked, this § 27.2 shall not be applicable and § 27.1 shall govern notice and delivery. Documents with original signatures shall be provided upon request of any party.

27.3. Choice of Law. This Contract and all disputes arising hereunder shall be governed by and construed in accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in Colorado for property located in Colorado.

28. NOTICE OF ACCEPTANCE, COUNTERPARTS. This proposal shall expire unless accepted in writing, by Buyer and Seller, as evidenced by their signatures below, and the offering party receives notice of such acceptance pursuant to § 27 on or before Acceptance Deadline Date (§ 3) and Acceptance Deadline Time (§ 3). If accepted, this document shall become a contract between Seller and Buyer. A copy of this document may be executed by each party, separately, and when each party has executed a copy thereof, such copies taken together shall be deemed to be a full and complete contract between the parties.

29. GOOD FAITH. Buyer and Seller acknowledge that each party has an obligation to act in good faith, including but not

673 limited to, exercising the rights and obligations set forth in the provisions of **Financing Conditions and Obligations** (§ 5),
 674 **Record Title and Off-Record Title Matters** (§ 8), **Current Survey Review** (§ 9) and **Property Disclosure, Inspection,**
 675 **Indemnity, Insurability, Due Diligence and Source of Water** (§ 10).

676 **ADDITIONAL PROVISIONS AND ATTACHMENTS**

677 **30. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado Real Estate
 678 Commission.)

679 1. *Seller agrees to work with the buyer on a 1031 exchange if the buyer decides*
to purchase with 1031 exchange money.

681 2. *Contract Contingent upon City of Loveland approval of conceptual review.*

682 **31. ATTACHMENTS.** The following are a part of this Contract:

683 *N/A*

684

685

686 **Note:** The following disclosure forms are attached but are not a part of this Contract:

687 *N/A*

688

689

690 **SIGNATURES**

691

Buyer's Name: *Loveland Investments LLC*

Loveland Investments LLC

Joseph Shee Mgr.

1-11-13

Buyer's Signature *Loveland Investments, LLC*

Date

Address: *N/A*

Loveland, CO 80527

Phone No.: *N/A*

Fax No.: *N/A*

Electronic Address: *N/A*

692 **[NOTE: If this offer is being countered or rejected, do not sign this document. Refer to § 32]**

Seller's Name: *City of Loveland*

Seller's Name: _____

Seller's Signature _____ Date

Address: _____

Phone No.: _____

Fax No.: _____

Electronic Address: _____

Seller's Name: _____

Seller's Signature _____ Date _____

Address: _____

Phone No.: _____

Fax No.: _____

Electronic Address: _____

32. COUNTER; REJECTION. This offer is ☐ Countered ☐ Rejected.

Initials only of party (Buyer or Seller) who countered or rejected offer _____

END OF CONTRACT TO BUY AND SELL REAL ESTATE**33. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.**

(To be completed by Broker working with Buyer)

Broker ☒ Does ☐ Does Not acknowledge receipt of Earnest Money deposit and, while not a party to the Contract, agrees to cooperate upon request with any mediation concluded under § 23. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 24, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder shall release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money shall be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared. Broker agrees that if Earnest Money Holder is other than the Brokerage Firm identified in § 33 or § 34, Closing Instructions signed by Buyer, Seller, and Earnest Money Holder must be obtained on or before delivery of Earnest Money to Earnest Money Holder.

Broker is working with Buyer as a ☒ Buyer's Agent ☐ Seller's Agent ☐ Transaction-Broker in this transaction.☐ This is a Change of Status.Brokerage Firm's compensation or commission is to be paid by ☒ Listing Brokerage Firm ☐ Buyer☐ Other N/A.Brokerage Firm's Name: **Bret Lamperes**Broker's Name: **Bret Lamperes**

Broker's Signature: _____

Date _____

Address: **1914 Agate Ct
Loveland, CO 80538**Phone No.: **(970) 980-9700**Fax No.: **N/A**Electronic Address: **N/A****34. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.**

(To be completed by Broker working with Seller)

Broker ☐ Does ☒ Does Not acknowledge receipt of Earnest Money deposit and, while not a party to the Contract, agrees to cooperate upon request with any mediation concluded under § 23. Broker agrees that if Brokerage Firm is the Earnest Money

Holder and, except as provided in § 24, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder shall release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money shall be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared. Broker agrees that if Earnest Money Holder is other than the Brokerage Firm identified in § 33 or § 34, Closing Instructions signed by Buyer, Seller, and Earnest Money Holder must be obtained on or before delivery of Earnest Money to Earnest Money Holder.

Broker is working with Seller as a ☒ Seller's Agent ☐ Buyer's Agent ☐ Transaction-Broker in this transaction.
☐ This is a Change of Status.

Brokerage Firm's compensation or commission is to be paid by ☐ Seller ☐ Buyer ☐ Other N/A.

Brokerage Firm's Name:

N/A

Loveland Commercial, LLC Nathan Klein

Broker's Name:

N/A

Broker's Signature:

Date

Address:

N/A

1043 Eagle Dr.

Phone No.:

N/A

Loveland, CO 80537

Fax No.:

N/A

970 667-7000 x109

Electronic Address:

N/A

970 635-2514

nklein@lovelandcommercial.com

697



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: 12
MEETING DATE: 2/19/2013
TO: City Council
FROM: Greg George, Development Services
PRESENTER: Greg George, Director, Development Services

TITLE:

An Ordinance Authorizing the Conveyance of Real Property Located in Lots 1 and 2, Block 1 and Tract C, Buck Fourth Subdivision, City of Loveland, Larimer County, Colorado

RECOMMENDED CITY COUNCIL ACTION:

Conduct a Public Hearing and Adopt 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 to consider an ordinance on first reading authorizing the conveyance of a parcel of real property owned by the City and used as a part of an existing regional detention pond to the current owner of Lots 1 and 2, Block 1 and Tract C, Buck Fourth Subdivision in return for a permanent exclusive easement over such property to permit continued operation of the regional detention pond and a new utility easement. The conveyance and the new easement are intended to clean up title defects resulting from modifications made in the Buck 4th Subdivision plat for a development that has never occurred and preserve the City's right to maintain the detention pond and sewer line in their existing locations.

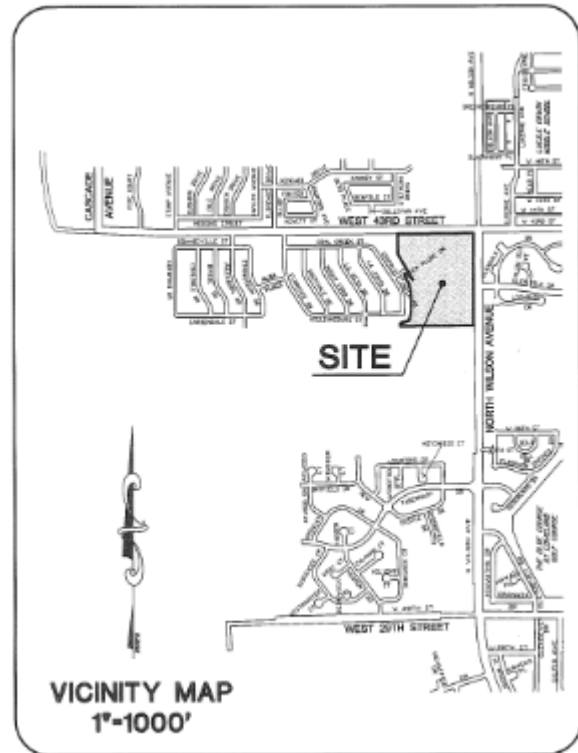
BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible
-

V/Executive/Legal/Development Services/Current Planning/Cover Sheets

SUMMARY:

This matter involves a parcel of commercial property at the southwest corner of N. Wilson Avenue and West 43rd Street. On the Buck First Subdivision plat, this parcel was identified as Tract N and dedicated to the City for use as a regional storm water detention pond in 1998. Pursuant to statute (C.R.S. §31-23-107), this dedication vested fee title in the City. The developer of the Buck First Subdivision constructed the regional detention pond and the City accepted and continues to operate and maintain the pond. The Buck First Subdivision plat also dedicated a 20' utility easement, which is used for the operation and maintenance of a sanitary sewer main. **A copy of the Buck First Subdivision is attached as Schedule 1.**



Tract M of the Buck First Subdivision was intended for commercial development, as reflected in the Buck Addition General Development Plan – Amendment Number Two (#P-40) approved by Ordinance 4943 on November 16, 2004. In 2005, the owner of Tract M of the Buck First Subdivision proposed modification of the subdivision plat to: (i) relocate the City's regional detention pond farther to the south, in order to accommodate a large grocery store anchor for the commercial development; and (ii) provide a new easement for the sanitary sewer main that was to be relocated to accommodate the commercial development.

To facilitate this development, Council adopted an ordinance (Ordinance 5052) authorizing conveyance of a portion of the City's detention pond parcel to the owner of Tract M, conditioned upon (1) receipt of offsite drainage easements to the south to facilitate relocation of the detention pond; (2) design of the relocated detention pond acceptable to the City; (3) construction of the relocated/modified detention pond in its new location; and (4) acceptance by the City of the relocated/modified pond. The FDP for the commercial development, known as the Glen Isle Town Center, was approved by the Planning Commission on October 17, 2006. The Buck Fourth Subdivision plat, which reflected the subdivision after future relocation of the pond, was recorded on November 7, 2006. **A copy of the Buck Fourth Subdivision is attached as Schedule 2.**

The proposed development contemplated by the Buck Fourth Subdivision plat has never occurred and a portion of the commercial property (which was Tract M of the Buck First Subdivision) is now owned by the developer's lender, Mile High Banks (or its designee, Utes Land Company).

The Bank has proposed the following actions to correct title defects resulting from the failure of the development and the conditions in Ordinance 5052:

1. a quit claim deed from the City for any interest in Lots 1-9, inclusive, and Tracts A, C, D, E, F, G, H, and I of the Buck Fourth Subdivision, which will transfer title to a portion of Lots 1 and 2 and Tract C of the Buck Fourth Subdivision previously included in the City's Tract N of the Buck First Subdivision and used by the City for the existing detention pond (referred to as the "Property" and **depicted on Schedule 3**);
2. a perpetual, exclusive easement to the City for continued use of the Property as a regional detention pond, subject to the owner's right to use the pond for storm drainage and for other purposes consistent with the City's use if approved by the City; and
3. an easement to the City for the continued use of the sanitary sewer main.

These actions will result in ownership aligning with the parcels platted under the Buck Fourth Subdivision, while preserving the City's continued use of the Regional Detention Pond and sanitary sewer main in their current locations. The need for relocation of the pond (as originally proposed with the Buck Fourth) or the utility easement can be addressed as a part of future development proposals, if necessary. These actions will protect the City's current uses and the future potential for commercial development.

REVIEWED BY CITY MANAGER:



LIST OF ATTACHMENTS:

1. Schedule 1 – Buck First Subdivision Plat
2. Schedule 2 – Buck Fourth Subdivision Plat
3. Schedule 3 - City Property to be Conveyed
4. Ordinance
5. Power Point Presentation



GRAPHIC SCALE - FEET

OCTOBER 15th, 1952

MATCH LINE SHEET 3 OF 3

Stewart & Associates,

BUCK FOURTH SUBDIVISION

BEING A SUBDIVISION OF TRACTS M, N, AND O, BUCK FIRST SUBDIVISION, SITUATE IN THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE 6TH P.M., TO THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO



Sign / Seal

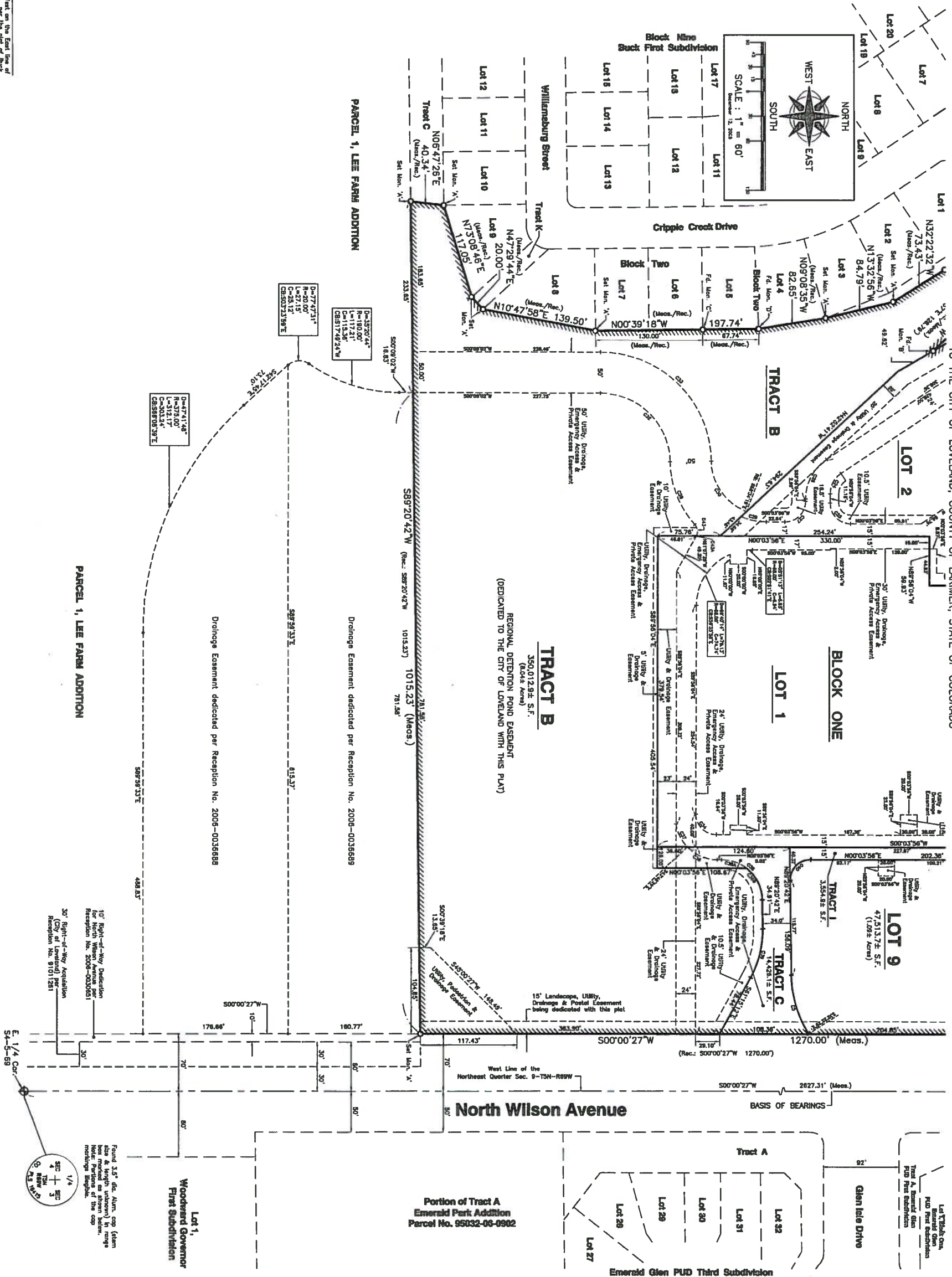
See Sheet 1 of 3
For Determination Legend

LINE	BEARING	DISTANCE
1	S87°43'44"W	19.72
2	S87°13'38"W	14.82
3	S00°00'00"W	14.82
4	S87°58'00"E	7.20
5	S87°58'00"E	6.88
6	S87°58'00"E	6.88
7	S87°58'00"E	6.88
8	S87°58'00"E	6.88
9	S87°58'00"E	6.88
10	S87°58'00"E	6.88
11	S87°58'00"E	6.88
12	S87°58'00"E	6.88
13	S87°58'00"E	6.88

LINE	BEARING	DISTANCE	CURVE DATA
1	S87°43'44"W	19.72	
2	S87°13'38"W	14.82	
3	S00°00'00"W	14.82	
4	S87°58'00"E	7.20	
5	S87°58'00"E	6.88	
6	S87°58'00"E	6.88	
7	S87°58'00"E	6.88	
8	S87°58'00"E	6.88	
9	S87°58'00"E	6.88	
10	S87°58'00"E	6.88	
11	S87°58'00"E	6.88	
12	S87°58'00"E	6.88	
13	S87°58'00"E	6.88	

BASE OF BEARINGS STATEMENT:
Basis of Bearings for this plat are based on the recent bearing of South 07°00'27" West on the East line of Block of Section 4, Township 5 North, Range 69 West of the 6th P.M., per the plat of Buck First Subdivision to the City of Loveland, County of Larimer, State of Colorado, as recorded on the Office of the Clerk and Recorder of Larimer County, Colorado. (Instrumentation of said plat on shown).

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. No warranty, may or may not be made by the surveyor as to the accuracy of the survey shown hereon. The survey is shown from the date of the subdivision shown herein.



Found 3.5' d.c. Alum. cap (from size & length unknown) in concrete. Note: Portions of the cap matching bridge.

INTERMILL LAND SURVEYING, INC.
1301 NORTH CLEVELAND AVENUE
LOVELAND, COLORADO 80537
P.O. BOX 988-0316 / FAX (970) 432-9775

REVISIONS:
1. Revision per City of Loveland, 12-22-08
2. Revision per City of Loveland, 12-22-08
3. Revision per City of Loveland, 12-22-08

DATE: 12-22-08
SCALE: 1"=60'
APPROVED BY: [Signature]

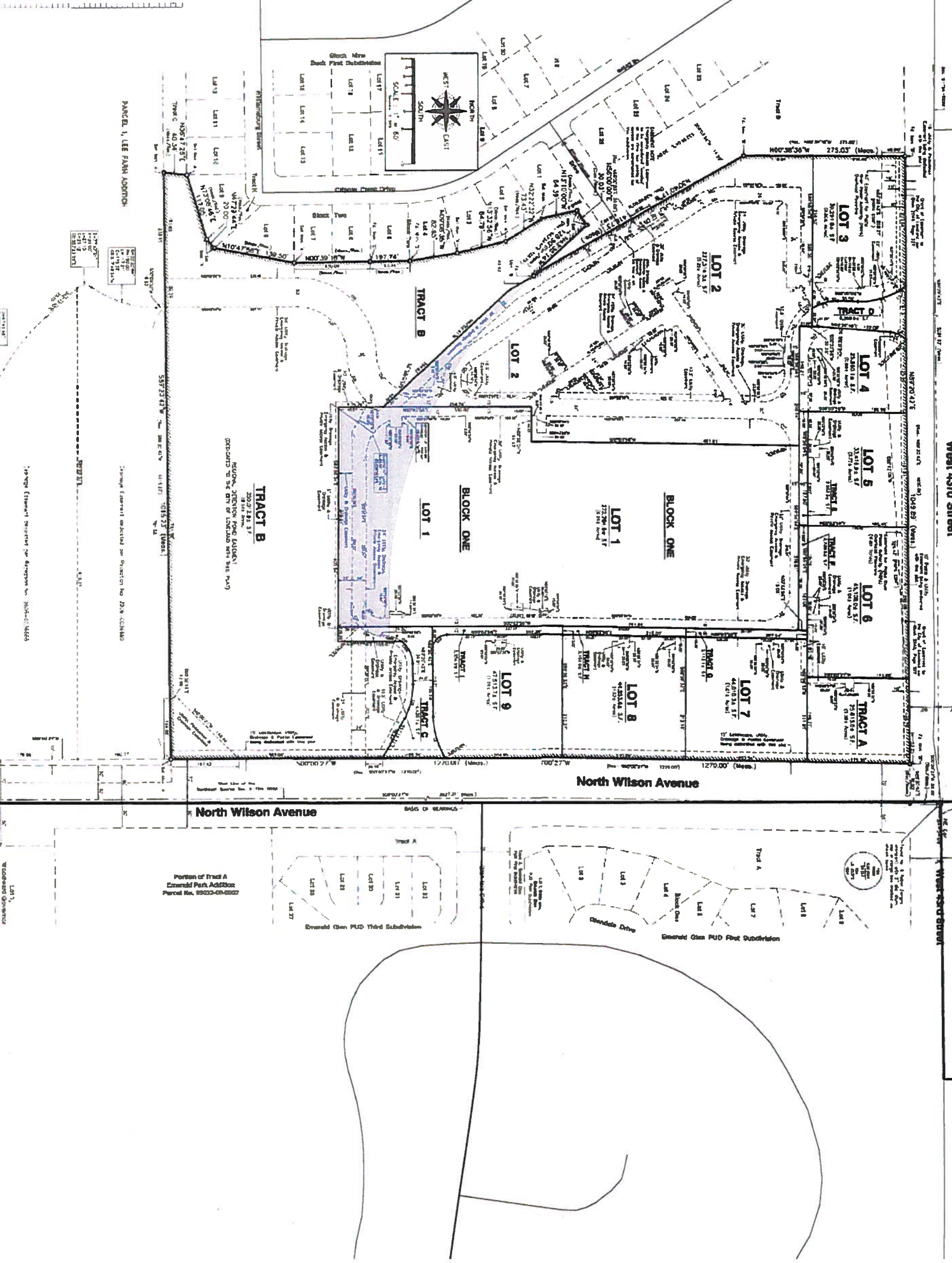
CLIENT: 43RD STREET PARTNERS, L.L.C.
Attn: Robert D. Smith
Golden, Colorado 80401

PROJECT TITLE: BUCK FOURTH SUBDIVISION
TO THE CITY OF LOVELAND, COLORADO

SHEET NO. 3
NO. OF SHEETS 3
PROJECT NO. P-04-5603

NOTE: Area in purple is legal description attached to Ordinance 5052 authorizing City to transfer this real property to 43rd Street Partners, LLC subject to satisfaction of four conditions, including construction of relocated detention pond and delivery of as built drawings. No subsequent agreement to convey appears to have been signed and the conditions have not been satisfied. [generated by City GIS based on legal description attached to Ordinance.]

SCHEDULE 3



FIRST READING February 19, 2013

SECOND READING _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF REAL PROPERTY LOCATED IN LOTS 1 AND 2, BLOCK 1 AND TRACT C, BUCK FOURTH SUBDIVISION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO

WHEREAS, the City of Loveland owns certain real property identified as Tract N, Buck First Subdivision, City of Loveland (the “Tract N”), which was dedicated to the City for use as a regional detention pond by the Buck First Subdivision plat recorded December 11, 1998 at Reception No. 98109239 in the real property records of the Larimer County Clerk and Recorder (the “Buck First Subdivision”); and

WHEREAS, the developer constructed and the City accepted, operates and maintains a regional detention pond on Tract N (the “Regional Detention Pond”); and

WHEREAS, the Buck First Subdivision plat also dedicated a 20’ utility easement located north of the boundary of Tract N, in which the City constructed, operates and maintains a sanitary sewer line (the “Utility Easement”); and

WHEREAS, Tract M of the Buck First Subdivision (“Tract M”) was subsequently acquired by 43rd Street Partners, LLC, a Colorado limited liability company (“43rd Street Partners”); and

WHEREAS, 43rd Street Partners, as owner, and Horizon Banks, N.A., NKA Mile High Banks (“Lender”) entered into a Deed of Trust recorded May 24, 2005 at Reception No. 20050041811 securing a loan to finance development of Tract M; and

WHEREAS, by adoption of Ordinance No. 5052 on December 20, 2005, the City Council of the City of Loveland (“Council”), authorized conveyance of a portion of the Tract N to 43rd Street Partners upon satisfaction of certain conditions, including relocation of the Regional Detention Pond to the south, so as to facilitate proposed commercial development on Tract M; and

WHEREAS, the Buck Fourth Subdivision plat was recorded November 7, 2006 at Reception No. 20060084244 in the real property records of the Larimer County Clerk and Recorder (the “Buck Fourth Subdivision”), which re-platted Tracts M and N, including relocation of the line dividing Tracts M and N to the south as proposed to facilitate commercial development, and dedicated Tract B of the Buck Fourth Subdivision to the City for the Regional Detention Pond; and

WHEREAS, in addition to Tract B of the Fourth Subdivision, the Buck Fourth Subdivision plat reflects that additional drainage easements adjacent to the south were dedicated to the City by separate instruments recorded at Reception Nos. 2006-0036688 and 2006-0036689 to facilitate relocation of the Regional Detention Pond; and

WHEREAS, the proposed commercial development to be facilitated by the Buck Fourth Subdivision has not occurred, the Regional Detention Pond has not been relocated to the south and remains on the property that previously constituted Tract N of the Buck First Subdivision, the City sanitary sewer line remains in the Utility Easement dedicated by the Buck First Subdivision plat and vacated by the Buck Fourth Subdivision plat and the Lender has foreclosed on and now owns, itself or through its designee Utes Land Company, a Colorado corporation (“Utes”), the real property that previously constituted Tract M of the Buck First Subdivision; and

WHEREAS, the Lender proposes to grant the City a perpetual exclusive easement for the Regional Detention Pond (the “New Detention Pond Easement”) over that portion of Tract N of the Buck First Subdivision now located within Lots 1 and 2, Block 1 of the Buck Fourth Subdivision as depicted and legally described on **Exhibit A** attached hereto and incorporated by reference (the “Property”) and a new easement over and across the Utility Easement (the “New Utility Easement”) in return for a quit claim deed transferring the City’s interest in Lots 1-9, inclusive, and Tracts A, C, D, E, F, G, H, and I of the Buck Fourth Subdivision, which includes the Property, from the City to Utes as Lender’s designee; and

WHEREAS, the proposed grant of the New Detention Pond Easement and New Utility Easement and conveyance by the City will correct title defects resulting from modifications made in the Buck Fourth Subdivision, allowing the potential for future development, while preserving the City’s right to maintain the existing Regional Detention Pond and sanitary sewer line in their current locations; and

WHEREAS, pursuant to Loveland Municipal Charter Section 4-7 the Council must act by ordinance to approve the transfer of fee ownership of real property owned by the City; and

WHEREAS, the City desires to authorize conveyance of the City’s interest in Lots 1-9, inclusive, and Tracts A, C, D, E, F, G, H, and I of the Buck Fourth Subdivision, which includes the Property, to the Lender’s designee on the terms and conditions hereinafter set forth in order to serve the best interests of the City and to facilitate the future development of the Buck Fourth Subdivision.

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

Section 1. That Council hereby repeals Ordinance No. 5052 previously approved on December 20, 2005 and adopts this Ordinance in lieu thereof.

Section 2. That Council hereby finds and determines that the conveyance of the City’s interest in Lots 1-9, inclusive, and Tracts A, C, D, E, F, G, H, and I of the Buck Fourth Subdivision, which includes the Property as described on **Exhibit A**, is in the best interest of the City of Loveland and, subject to receipt of the New Detention Pond Easement and the New Utility Easement, the Property is not needed for any governmental purpose.

Section 3. That the conveyance of the City's interest in Lots 1-9, inclusive, and Tracts A, C, D, E, F, G, H, and I of the Buck Fourth Subdivision, is hereby authorized and approved, subject to the City's receipt of the New Detention Pond Easement and the New Utility Easement acceptable in form and substance to the City Manager.

Section 4. That the City Manager is authorized to execute the following deeds, documents or agreements, the form of which is approved by the City Attorney: (a) a quit claim deed by which the City of Loveland conveys interest in Lots 1-9, inclusive, and Tracts A, C, D, E, F, G, H, and I of the Buck Fourth Subdivision to Utes as the Lender's designee; (b) agreements or documents by which the Lender or Utes as its designee, grants to the City the New Detention Pond Easement and the New Utility Easement. Further, the City Manager is authorized to execute, on behalf of the City of Loveland, all documents, the form of which is approved by the City Attorney necessary to consummate the transfer of the City's interest described herein and receipt of the New Detention Pond Easement and the New Utility Easement.

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.

Section 6. 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 7. That the City Clerk shall record this Ordinance in the real property records of the Larimer County Clerk and Recorder promptly after the Ordinance becomes effective.

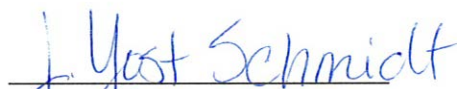
ADOPTED this ____ day of _____, 2013.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Deputy City Attorney

EXHIBIT A**DREXEL, BARRELL & CO.**

AUGUST 29, 2012

Engineers/Surveyors

Boulder
 Colorado Springs
 Steamboat Springs
 Grand Junction

1800 38th Street
 Boulder, CO 80301-2620

303.442.4338
 303.442.4373 Fax

LEGAL DESCRIPTION

A TRACT OF LAND WITHIN LOT 1 AND LOT 2, BUCK FOURTH SUBDIVISION, LOCATED IN THE NE1/4 OF SECTION 4, T5N, R69W OF THE 6TH P.M. CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 1, THENCE N89°56'04"W, 379.54 FEET ALONG THE SOUTHERLY LINE OF SAID LOT 1;

THENCE N00°03'56"E, 75.76 FEET ALONG THE WESTERLY LINE OF SAID LOT 1 TO THE MOST SOUTHERLY CORNER OF SAID LOT 2;

THENCE N42°52'41"W, 294.63 FEET ALONG THE SOUTHWESTERLY LINE OF SAID LOT 2;

THENCE N30°40'17"W, 34.63 FEET ALONG THE SOUTHWESTERLY LINE OF SAID LOT 2;

THENCE S46°50'18"E, 22.01 FEET;

THENCE S45°41'27"E, 47.22 FEET;

THENCE S49°58'07"E, 49.01 FEET;

THENCE S52°23'32"E, 54.58 FEET;

THENCE S62°12'41"E, 116.12 FEET;

THENCE S66°44'29"E, 59.52 FEET;

THENCE S69°43'52"E, 53.46 FEET;

THENCE S76°47'06"E, 62.20 FEET;

THENCE S84°23'12"E, 47.73 FEET;

THENCE S85°50'43"E, 62.33 FEET;

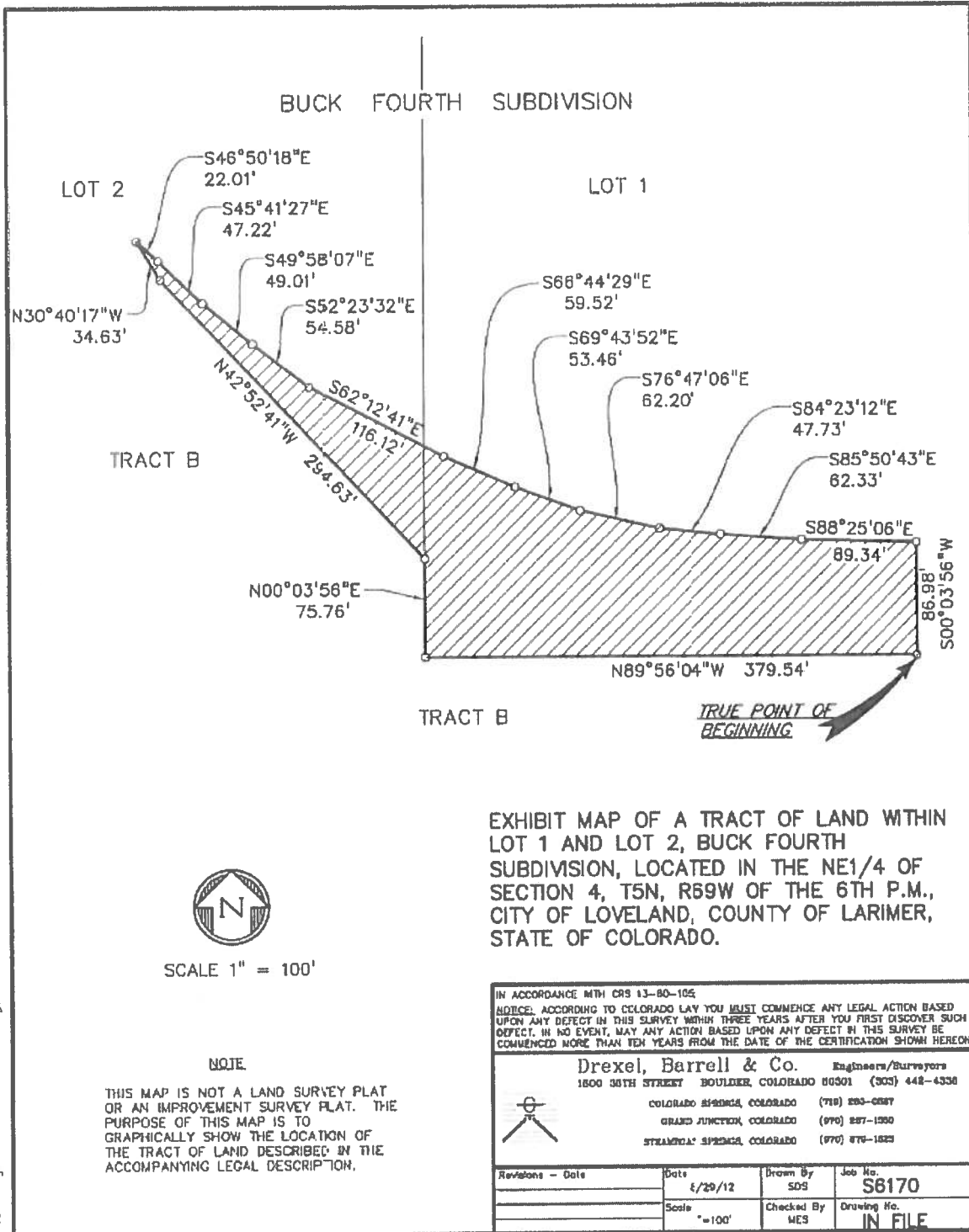
THENCE S88°25'06"E, 89.34 FEET TO A POINT ON THE EASTERLY
LINE OF SAID LOT 1;

THENCE S00°02'56"W, 86.98 FEET ALONG SAID EASTERLY LINE
OF LOT 1 TO THE TRUE POINT OF BEGINNING.

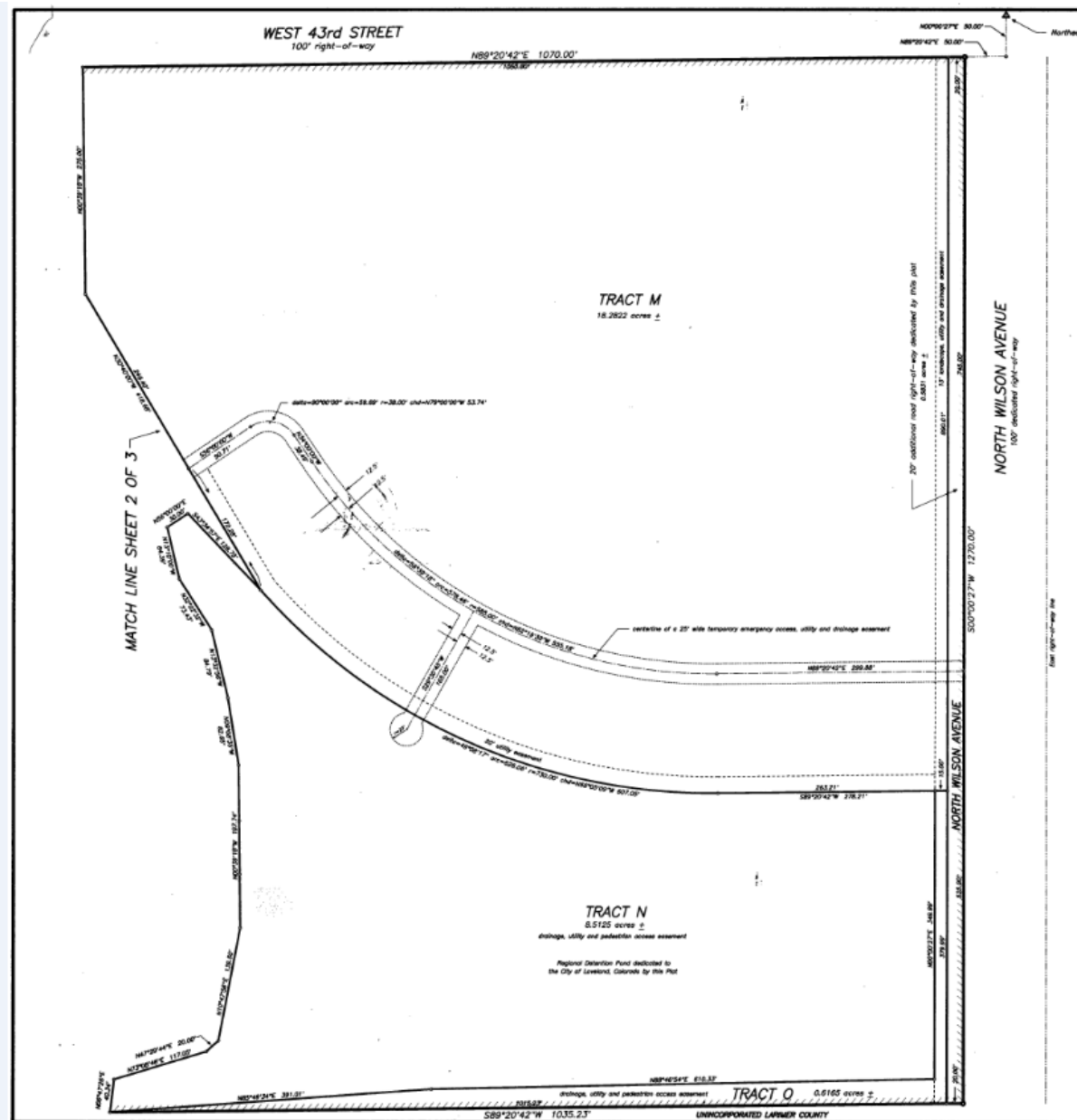
CONTAINING 1.127 ACRES

LEGAL DESCRIPTION PREPARED BY

MATHEW E. SELDERS
COLORADO LICENSE NO. 27275
1800 38TH STREET
BOULDER, CO 80301
303-442-4338



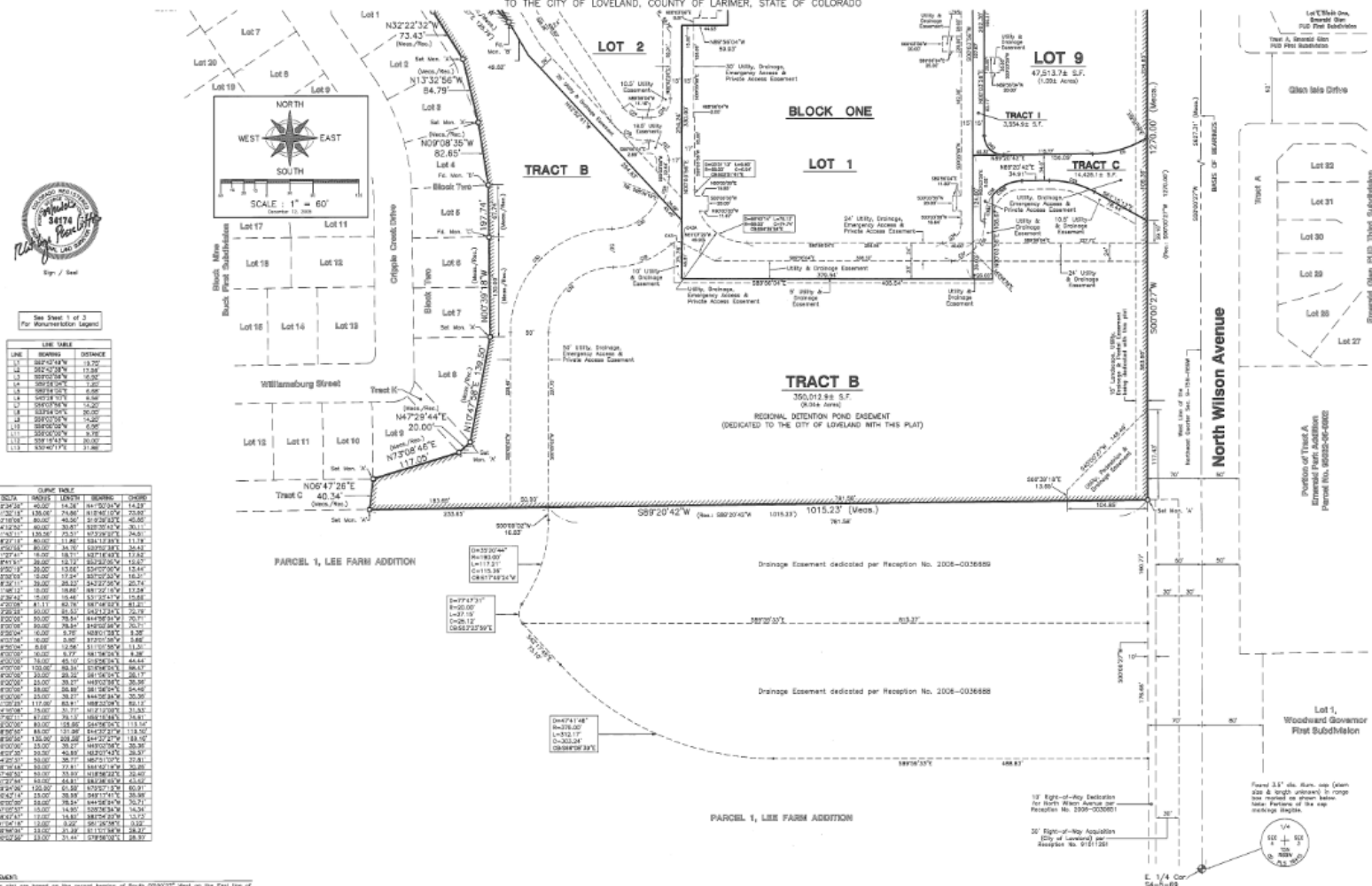
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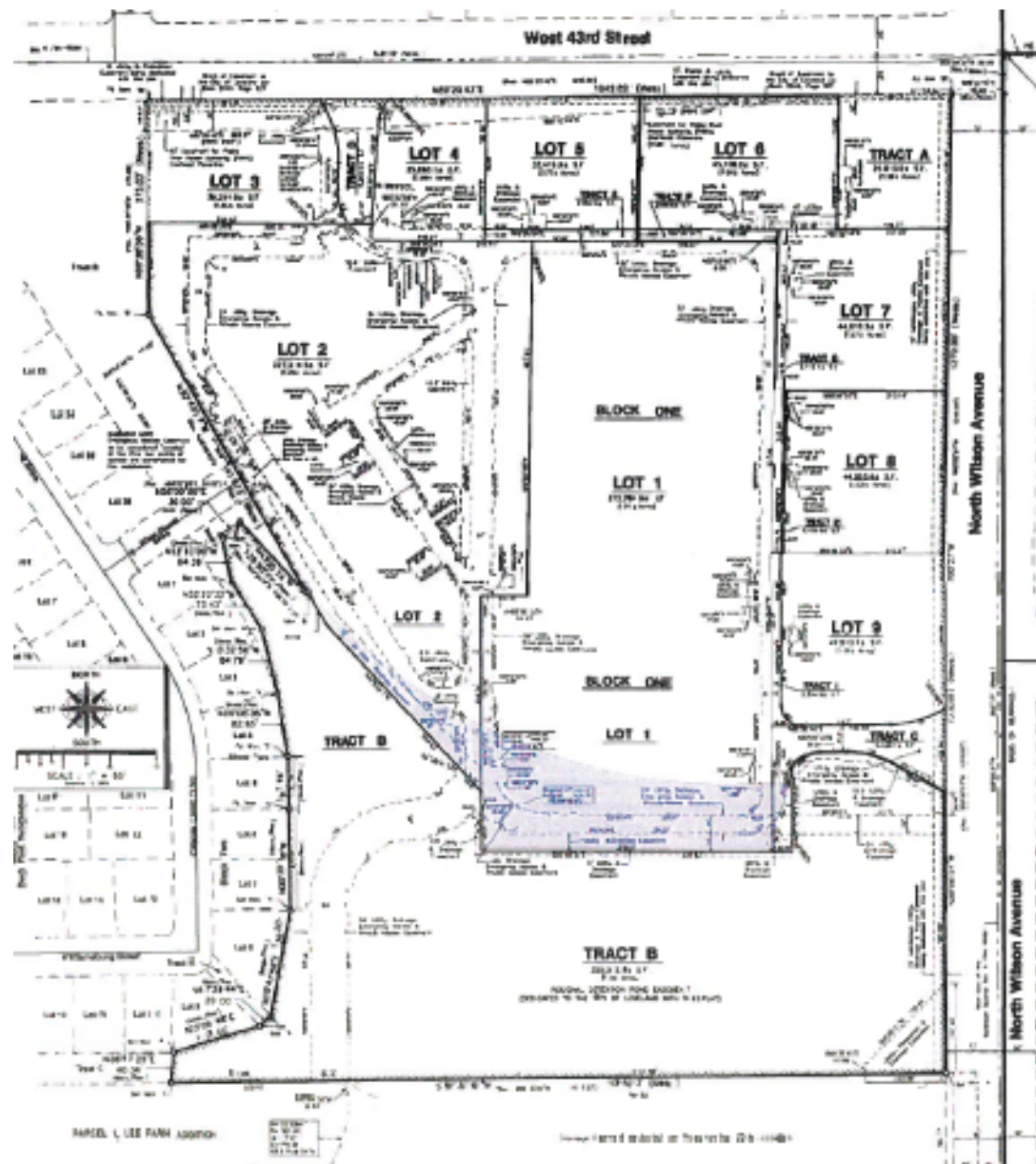


BUCK FOURTH SUBDIVISION

BUCK FOURTH SUBDIVISION

BEING A SUBDIVISION OF TRACTS M, N, AND O, BUCK FIRST SUBDIVISION, SITUATE IN THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE 6TH P.M., TO THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO







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: 13
MEETING DATE: 2/19/2013
TO: City Council
FROM: Steve Adams, Water and Power Department
PRESENTER: Steve Adams

TITLE:

A resolution approving an intergovernmental agreement between the City of Loveland, Colorado, Platte River Power Authority, the Town of Estes Park, the City of Fort Collins, and the City of Longmont for participation in a joint compensation study.

RECOMMENDED CITY COUNCIL ACTION:

To adopt 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 approve an intergovernmental agreement with Platte River Power Authority, Estes Park, Fort Collins and Longmont for participation in a joint compensation study.


BUDGET IMPACT:

- ☐ Positive
☒ Negative
☐ Neutral or negligible
-

SUMMARY:

Loveland Water and Power is partnering with Platte River Power Authority, the Town of Estes Park, the City of Fort Collins and the City of Longmont in hiring a consultant to perform a comprehensive compensation study for certain power utility positions. The results of this study will provide us valuable market analysis, furthering our efforts to attract and retain key positions within the electric industry.

See attachment to the Resolution requesting the approval of an IGA between the City of Loveland, Colorado, Platte River Power Authority, the Town of Estes Park, the City of Fort Collins, and the City of Longmont to share in the cost of the joint compensation study. The contribution amount for the City of Loveland, Colorado is not to exceed \$12,500 and is appropriated in the Loveland Water and Power budget. Per City Municipal Code, this IGA requires City Council approval.

REVIEWED BY CITY MANAGER: 

LIST OF ATTACHMENTS:

Resolution
IGA (Exhibit A to the Resolution)

RESOLUTION #R-17-2013

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO, PLATTE RIVER POWER AUTHORITY, THE TOWN OF ESTES PARK, THE CITY OF FORT COLLINS, AND THE CITY OF LONGMONT FOR PARTICIPATION IN A JOINT COMPENSATION STUDY

WHEREAS, Platte River Power Authority (“Platte River”) is coordinating a study to benefit its member cities to determine market compensation rates for certain power utility positions; and

WHEREAS, the City of Loveland desires to participate in the study and share in the cost of the study with the Town of Estes Park, the City of Fort Collins, and the City of Longmont; and

WHEREAS, as governmental entities in Colorado, the City, Platte River, Estes Park, Fort Collins, and Longmont 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 “Intergovernmental Agreement for the Funding and Coordination of a Joint Compensation Study,” attached hereto as Exhibit A and incorporated herein by reference (“Intergovernmental Agreement”), is hereby approved.

Section 2. That the City Manager is hereby authorized, following consultation with the City Attorney, to modify the Intergovernmental Agreement 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 Intergovernmental Agreement on behalf of the City.

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

ADOPTED this 19th day of February, 2013.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


Assistant City Attorney

**INTERGOVERNMENTAL AGREEMENT
FOR THE FUNDING AND COORDINATION OF A
JOINT COMPENSATION STUDY**

This Agreement is made and entered on the _____ day of _____, 2013, by and between Platte River Power Authority, a Colorado political subdivision (Platte River), the Town of Estes Park, (Estes Park), the City of Fort Collins, a Colorado municipal corporation (Fort Collins), the City of Longmont, a Colorado municipal corporation (Longmont), and the City of Loveland, a Colorado municipal corporation (Loveland). The listed municipalities may be referred to collectively as “Municipalities”.

RECITALS

- a. Platte River was formed by contract among the Municipalities pursuant to C.R.S. § 29-1-204 to provide electric generation and transmission services and other related functions of benefit to the Municipalities.
- b. The Municipalities operate electric distribution systems providing retail utility service to customers within their municipal boundaries and service territories.
- c. In order to attract and maintain employees with the unique skills necessary to manage and operate retail electric distribution systems, the Municipalities have a common need for reliable data reflecting the compensation levels offered by utilities with whom the Municipalities compete for employees.
- d. Some of the necessary compensation data is of common use to the Municipalities, but some of the information needed may be useful only to a subset of the Municipalities.
- e. There are economies of scale in conducting one comprehensive compensation study that addresses the common and unique needs of the Municipalities for compensation information.
- f. The Municipalities believe that a compensation study of this nature and magnitude would best be performed by a third party with expertise in this type of research.

- g. The results of a compensation study related to electric distribution utility systems has no relevance to Platte River, but Platte River is willing to coordinate the compensation study for the benefit of the Municipalities provided it is reimbursed for the costs incurred in retaining a third party consultant to conduct the research.

AGREEMENT

- 1) Platte River agrees to coordinate the performance of a joint compensation study for the benefit of the Municipalities. Coordination will include activities undertaken in conjunction with the Municipalities, including but not limited to, developing a mutually agreeable scope of work, bid solicitation and contracting with the consultant that will perform the joint compensation study.
- 2) The Municipalities agree to reimburse Platte River for amounts paid to the consultant under contract to perform the joint compensation study, such amounts to be calculated pursuant to Exhibit A. Platte River will bill each of the Municipalities separately, with payment due thirty (30) days after receipt of the billing.
- 3) Platte River will contract directly with the consultant chosen to complete the joint compensation study. It is anticipated that Platte River will contract with Strategic Staffing Placement LLC on a sole source basis. Under the Platte River Fiscal Resolution, competitive bids are unnecessary in this instance if the General Manager determines that Strategic Staffing Placement LLC will provide a specialized service for which a competitive bid process is not practicable or advantageous. Compensation of the consultant will be on an hourly basis plus expenses, capped at an amount not to exceed \$50,000.00. If the contract cannot be completed for \$50,000.00, Platte River will not be obligated to complete the study unless the Municipalities commit to provide sufficient additional funds through a modification of Exhibit A.

- 4) Platte River, after consultation with the Municipalities, may terminate the joint compensation study pursuant to the terms of its agreement with consultant. In the event that the joint compensation study is terminated prior to completion the Municipalities will be billed for the work completed, but in no event more than the amounts set forth in Exhibit A, and the Municipalities agree to pay the amounts billed. All work product and any intellectual property shall be provided to, and shall be the joint property of, the Municipalities. In the event of termination, Platte River will have no further obligations under this Agreement.
- 5) This Agreement is the entire agreement between Platte River and the Municipalities concerning the joint compensation study and shall be modified only by written instrument approved by the governing bodies of the Municipalities and Platte River.
- 6) All of the Municipalities' financial obligations under this Agreement are contingent upon appropriation, budgeting, and availability of specific funds to discharge those obligations. Nothing in this Agreement constitutes a debt, a direct or indirect multiple fiscal year financial obligation, or a pledge of the Municipalities' credit.
- 7) Platte River agrees to manage, and require the consultant to carry out, the joint compensation study in accordance with all applicable legal requirements.

IN WITNESS WHEREOF, the Parties have caused this Agreement, to be executed the day and year first above written.

PLATTE RIVER POWER AUTHORITY

ATTEST:

By: _____
General Manager

By: _____
Secretary

TOWN OF ESTES PARK, COLORADO

ATTEST:

By: _____
Mayor

By: _____
Town Clerk

CITY OF FORT COLLINS, COLORADO

ATTEST:

By: _____
Mayor

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
Deputy City Attorney

CITY OF LOVELAND, COLORADO

ATTEST:

By: _____
City Manager

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
Assistant City Attorney

CITY OF LONGMONT, COLORADO

ATTEST:

By: _____
Mayor

By: _____
City Clerk

APPROVED AS TO FORM AND SUBSTANCE:

Director of Longmont Power & Communications

APPROVED AS TO FORM:

Assistant City Attorney

PROOFREAD:

EXHIBIT A

The actual costs of retaining an independent consultant to perform the Joint Compensation Study will be split between the Municipalities according to the following formula: 1) one half of the actual costs will be split evenly between the Municipalities; and 2) one half of the actual costs will be apportioned between the Municipalities in proportion to energy sales from Platte River to each Municipality during 2012. The total of actual costs will not exceed \$50,000.00 absent written modification of this Exhibit A.

Attached is an example of the cost responsibility for all of the Municipalities based on the actual costs of the Joint Compensation Study being \$50,000.

PLATTE RIVER POWER AUTHORITY
2013 Compensation Study Allocation Shared with Municipalities

Costs Based on \$50,000 Estimate
 (Costs Share 1/2 Equally and 1/2 Based on 2012 MWh Sales)

	<u>1/2 ALLOCATED EQUALLY</u>	<u>2012 ENERGY SALES (MWH)</u>	<u>% OF TOTAL MUNICIPAL SALES</u>	<u>1/2 ALLOCATED BASED ON 2012 SALES</u>	<u>TOTAL Allocation</u>
ESTES PARK	\$ 6,250	126,889	3.975%	\$ 994	\$ 7,244
FORT COLLINS	6,250	1,508,735	47.263%	11,816	18,066
LONGMONT	6,250	813,675	25.489%	6,372	12,622
LOVELAND	<u>6,250</u>	<u>742,919</u>	<u>23.273%</u>	<u>5,818</u>	<u>12,068</u>
TOTAL	<u><u>\$ 25,000</u></u>	<u><u>3,192,218</u></u>	<u><u>100.000%</u></u>	<u><u>\$ 25,000</u></u>	<u><u>\$ 50,000</u></u>



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: 14
MEETING DATE: 2/19/2013
TO: City Council
FROM: City Manager's Office
PRESENTER: Bill Cahill

TITLE:

An Ordinance amending Section 2.60.240 of the Loveland Municipal Code pertaining to the Senior Advisory Board

RECOMMENDED CITY COUNCIL ACTION:

Conduct a public hearing and approve the ordinance.

OPTIONS:

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

DESCRIPTION:

A public hearing to consider a legislative action to adopt an ordinance on first reading amending Section 2.60.040 relating to the Senior Advisory Board membership.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible
-

SUMMARY:

Poudre Valley Hospital has, by merger, become the University of Colorado Health and the Poudre Valley Hospital/Aspen Club has accordingly become the UCH Aspen Club/Senior Services. At its February 6, 2012 meeting the Senior Advisory Board unanimously approved a motion recommending that the City Council amend Loveland Municipal Code Section 2.60.250 to reflect these changes.

REVIEWED BY CITY MANAGER:

LIST OF ATTACHMENTS:

An Ordinance amending Section 2.60.240 of the Loveland Municipal Code pertaining to the Senior Advisory Board

FIRST READING February 19, 2013

SECOND READING _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 2.60.240 OF THE LOVELAND MUNICIPAL CODE PERTAINING TO THE SENIOR ADVISORY BOARD

WHEREAS, Section 2.60.240 of the Loveland Municipal Code currently sets forth the membership of the City's Senior Advisory Board; and

WHEREAS, the Poudre Valley Hospital has, by merger, become the University of Colorado Health and the Poudre Valley Hospital/Aspen Club has accordingly become the UCH Aspen Club/Senior Services; and

WHEREAS, the Senior Advisory Board unanimously recommends that the City Council amend Loveland Municipal Code Section 2.60.250 to reflect these changes.

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

Section 1. That Section Subsection A. of Section 2.60.240 of the Loveland Municipal Code is hereby amended to read as follows:

2.60.240 Senior advisory board.

A. There is established a senior advisory board consisting of fifteen members. Nine members shall be appointed by the city council to serve terms of three years. Six members shall be nominated by the senior advisory board, and approved by the city council, to serve terms of two years. These six members shall consist of one at large member, and one member from each of the following organizations: Chilson Senior Advisory Committee, Housing Authority of the City of Loveland, Colorado, McKee Senior Services, the UCH Aspen Club/Senior Services, and the McKee Medical Center Seasons Club.

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.

Section 3. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

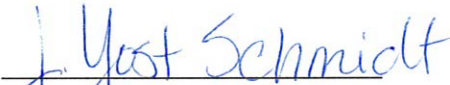
ADOPTED this _____ day of _____, 2013.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Deputy City Attorney

City Council Study Session
January 22, 2013
Page 1 of 1

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, Clark, Farley, McKean, Trenary, Klassen, Taylor and Shaffer. Councilor Fogle was absent. City Manager, Bill Cahill was also present.

1. CITY MANAGER

Amendment 64 Legalizing Marijuana in Colorado

City Attorney John Duval presented this item to Council. Mr. Duval reviewed the issues addressed in the recent adoption of Amendment 64 and the various implications for and effects on the City related to legalizing marijuana to be regulated and taxed similar to alcohol. Presenters also included: Luke Hecker, Chief of Police; Julia Holland, Director of Human Resources; Greg George, Director of Development Services. Discussion ensued. Council directed staff to redraft provisions of municipal law to reflect the legalization of possession and use of less than one ounce of marijuana by residents 21 and older. A resolution will be prepared and brought to Council declaring a moratorium on the retail sale and commercial cultivation of marijuana until September 1, 2013, which is after the Colorado legislature and U.S. Department of Justice act to resolve conflicts with the voter-approved Amendment 64.

The study session was adjourned at 8:54 p.m.

Respectfully Submitted,

Jeannie M. Weaver, Deputy City Clerk

Cecil A. Gutierrez, Mayor



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: 16
MEETING DATE: 2/19/2013
TO: City Council
FROM: Steve Adams, Water & Power
PRESENTER: Jim Lees

TITLE:

Public hearing and first reading of a resolution concerning funding for the Water Enterprise to improve the Water Treatment Plant and undertake a comprehensive water line replacement program

RECOMMENDED CITY COUNCIL ACTION:

Approve the resolution 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 to adopt a resolution that provides funding mechanisms for the Water Enterprise through external and internal loans, a series of rate increases, and an annual transfer of funds from the General Fund to the Water Enterprise. This funding will be used to improve the Water Treatment Plant and undertake a comprehensive water line replacement program.

BUDGET IMPACT:

- ☒ Positive
☒ Negative
☐ Neutral or negligible

The Water Enterprise will be positively affected by the receipt of cash for capital projects. The General Fund will be negatively affected due to its contribution of \$750,000 per year for 8 years to the Water Enterprise, limiting the ability of the General Fund to fund other General Fund needs.

SUMMARY:

Staff has been to three City Council study sessions in 2012 for input on the Water and Wastewater cost-of-service rate study. Funding the needs of the Water Enterprise has been the primary focus of these study sessions. Staff now returns with a resolution for Council consideration to carry out direction from the Council at the November 27, 2012 study session, in the following areas:

- 1) Pursue a 20-year external loan for \$10 million
- 2) Pursue an 8-year internal loan for \$6 million
- 3) Have the General Fund contribute \$750,000 per year for 8 years to pay for the principal portion of the internal loan
- 4) Implement the following series of rate increases to provide adequate cash flow to fund the needs of the Water Utility:

2014: 13%

2015-2019: 9% per year

2020-2022: 8% per year

This resolution is intended to be the guiding document for funding the needs of the Water Enterprise through 2022. The attached Staff Report, Financing Scenarios Table, and PowerPoint presentation, explain the specifics of the components of the resolution, as well as providing additional background information. The Appendix Report and Appendix PowerPoint present other background materials that have been developed over the course of the last several months for City Council study sessions.

REVIEWED BY CITY MANAGER:


LIST OF ATTACHMENTS:

1. Staff Report
2. PowerPoint presentation
3. A Resolution concerning funding for the Water Enterprise to improve the Water Treatment Plant and to undertake a comprehensive water line replacement program
4. Table summarizing financing scenarios from the latter stages of the process
5. Appendix Report on financing scenarios from the latter stages of the process
6. Appendix PowerPoint presentation on financing scenarios from the latter stages of the process



Department of Water and Power
 Service Center • 200 N. Wilson Avenue • Loveland, CO 80537
 (970) 962-3000 • (970) 962-3400 Fax • (970) 962-2620 TDD
www.cityofloveland.org

TO: City Council

THROUGH: Bill Cahill, City Manager
 Steve Adams, Water and Power Director

FROM: Jim Lees, Utility Accounting Manager
 Chris Matkins, Water Utilities Manager
 Alan Krcmarik, Executive Fiscal Advisor

DATE: February 19, 2013

SUBJECT: Staff Report on Water Utility Financing Proposal: Recommendations On How To Carry Out Direction From City Council

Through the course of the Water and Wastewater cost-of-service rate study begun in February of last year, the focus has been on how best to fund the needs of the Water Utility. Several funding options have been considered, and Staff received input from the Loveland Utilities Commission (LUC) at six meetings in 2012 and at the January 16, 2013 meeting, from the Citizens' Finance Advisory Commission (CFAC) at their November 14, 2012 meeting, and from City Council at three Study Sessions during 2012, including the final one on November 27, 2012, where specific direction was received. After considering this feedback, Staff is now seeking for City Council to adopt a resolution that will 1) indicate support for a preferred borrowing option; and 2) provide for a series of annual funds transfers and rate increases to meet future needs of the Water Utility. Today, Staff will present specific actions to carry out the consensus direction from City Council that were developed from guidance received at the November 27, 2012 Study Session.

Direction from November 27, 2012 City Council Study Session. At this meeting, the governing body gave consensus direction to meet the financing needs of the Water Utility through four specific instructions:

- 1) Pursue a 20-year external loan for \$10 million
- 2) Pursue an 8-year internal loan for \$6 million
- 3) Have the General Fund contribute \$750,000 per year for 8 years to pay for the principal portion of the internal loan
- 4) Implement the following series of rate increases to provide adequate cash flow to fund the needs of the Water Utility:
 - 2014: 13%
 - 2015-2019: 9% per year
 - 2020-2022: 8% per year

This series of rate increases represents the lower of the two series of rate increases that were presented to Council at this Study Session.

These four components were represented by Scenario D at the Study Session, and an important reason this scenario garnered support from Council was that it provided funding for \$17.5 million of water line replacements over the ten year period from 2013-2022. This represents 74% of the Staff-recommended level of line replacements, which Staff views as adequate.

One of the scenarios that was presented at the Study Session was Scenario B, which featured a \$12 million external loan for 20 years, no internal loan, and no contribution from the General Fund. In follow-up to a request after the Study Session, Staff prepared a Scenario B-1, with the change of making the \$12 million external loan a 10-year loan instead of a 20-year loan. The annual debt service for Scenario B-1 was \$1.2 million, and the result of this high debt service was that there was only \$6.5 million available for line replacements, and no funds available for line replacements until 2020. Based on Council's dismissal of another scenario because it provided only \$7.9 million of funding for line replacements, Staff concluded that Scenario B-1 would also not fulfill what Council wanted to accomplish.

Next, using the same numbering convention as above, is a more detailed discussion of the four instructions from City Council's direction to be incorporated into the resolution:

- 1) **\$10 Million, 20-Year External Loan.** City staff has identified three external funding options:
 - A. A loan from a bank to the City of Loveland Water Utility Enterprise;
 - B. A loan from the Colorado Water Resources and Power Development Authority ("CWRPDA" or the "Authority") to the Water Utility Enterprise; and
 - C. Issuance of water revenue bonds by the City of Loveland through its Water Utility Enterprise

Each of these techniques is described in more detail in the Appendix Report. Staff is actively pursuing the three options to determine how to best meet objectives at the lowest overall cost. At a future City Council meeting, Staff will present loan documents to Council for its consideration and approval.

- 2) **\$6 Million, 8-Year Internal Loan.** At the November Study Session, as was mentioned above, Scenario D was the scenario that received consensus support from City Council. Scenario D assumes that the \$6 million internal loan would come from the General Fund. After further investigation, Staff has discovered a noteworthy drawback to having the source of the \$6 million internal loan be the General Fund. In total, Scenario D features a combination of the \$10 million external loan for 20 years, and the \$6 million internal loan for 8 years from the General Fund. This scenario has level (P&I) payments that total \$1.5 million per year, but the General Fund would contribute \$750,000 per year toward the \$1.5 million total annual debt service, or, more accurately, the General Fund would forgive and give the Water Utility credit for the \$750,000 annual payment against the \$6 million loan. If the internal loan is made in 2013, this approach would cause the Water Utility to lose its status as an Enterprise Fund in 2014, but it would regain that status in 2015. The Enterprise Fund status is lost for one year under this scenario because the substance of this loan transaction, rather

than its form, contemplates that the Water Utility will not be paying back the \$6 million. Therefore the City Attorney, in consultation with bond counsel, advises that this \$6 million loan will be considered under TABOR to be a grant of \$6 million to the Water Utility in 2013 resulting in its loss of enterprise status in 2014, but regaining it in 2015.

To further clarify, if in 2013 bonds are issued by the Water Utility and a grant is made from the City's General Fund to the Water Utility that is 10% or greater than the Water Utility's annual revenues, under TABOR, the Water Utility will lose its enterprise status the following year, 2014. And assuming that no grant of 10 % or greater is received by the Water Utility from the General Fund in 2014, the Water Utility will regain its enterprise status under TABOR in 2015.

The City's TABOR spending base would ratchet up by the amount of the Water Utility's 2014 annual revenues if enterprise status is lost, and then ratchet back down in 2015 by the amount of those revenues in 2015.

There are several drawbacks that are worth noting in regard to the Water Utility losing its enterprise status:

- a) The Water Utility would not be able to issue bonds or issue any other multi-year debt in 2014 without a vote of the citizens. If some unanticipated large funding need arose in 2014 for the Water Utility, and being able to meet that need depended on a public vote, the Utility would be at some risk. The Water Utility would be able to issue multi-year debt without a vote in 2015 when it regains its enterprise status.
- b) There could be an adverse effect on the awarding of multi-year contracts. If, for example, enterprise status is lost in 2014, then the City Council would not be able to award a multi-year contract without the limitation that the contract is subject to the City Council's annual appropriation of funds to pay the contract. This would make the contract more uncertain to potential construction contractors, and could lead to a higher bid price for the project. Staff currently expects that the Water Treatment Plant construction contract may not be awarded until 2014, and would need to be a two year contract. Loss of enterprise status in 2014 is therefore a significant issue.
- c) Loss of enterprise status could limit the structure of an external loan. We have received some interest from a lender willing to disburse the external loan proceeds as needed, over time, rather than an initial lump sum. This could save substantial interest costs and be advantageous. However, if enterprise status is lost after 2013 due to an excessive General Fund transfer, then the utility may not be able to accept distributions from such a loan, because the utility would not have authority to create new debt or obligation without a vote of the citizens, and distributions on a loan may be regarded as new debts. A loss of enterprise status therefore limits the structure of an external loan in a way that could be costly to the utility.

For these reasons, Staff opposes an approach that results in the loss of enterprise status, and has developed another internal loan option. Instead of having the General Fund be the source for the \$6 million internal loan, the Power Utility would be the source. Staff has done an analysis of the 10-Year Financial Plan for Power, and with the proposed 8-year payback schedule, Power would be able to provide the \$6 million for the loan in 2013 and still complete all of the capital projects in the 10-Year Financial Plan. The General Fund could still contribute \$750,000 per year for 8 years toward the

\$1.5 million of annual debt service. But since the amount of the annual General Fund contribution would be less than 10% of the Water Utility's annual revenues, the Water Utility would not lose its enterprise status. Since getting the loan from the General Fund comes with a certain amount of risk associated with losing enterprise status, Staff recommends getting the internal loan from the Power Utility, where that same risk would not come into play.

3 & 4) \$750,000 Annual General Fund Contribution and Series of Rate Increases.

For these financing options to succeed, an annual transfer of \$750,000 from the General Fund to the Water Utility and the series of rate increases referenced in #4 above must be implemented. The current Council cannot bind a future Council to adopt annual transfers from the General Fund to the Water Utility or a series of rate increases. However, by adopting this resolution, Council can put into place a plan for an annual transfer of \$750,000 from the General Fund to the Water Enterprise and the multi-year rate increases referenced in #4 above. The resolution would ensure that these General Fund transfers and rate increases would occur automatically every year as set forth in the resolution unless and until the Council determines otherwise by a future resolution or ordinance.

Utility Bill Projections. In a subsequent public meeting after the November 27, 2012 Study Session, City Council requested to see what a total City utility bill would look like over the next 10 years, taking into account projected rate increases for all of the services. PowerPoint slide 9 illustrates how an average Residential water bill would change over the next 10 years based on the current series of rate increases. Slides 10-13 specifically address the Council inquiry illustrating average total City utility bill projections over the next 10 years for Residential and Commercial customers. These figures show an average annual increase in the Residential utility bill of 4.8% and 5.6% for the average annual increase in the Commercial bill.

Staff Recommendation. In reviewing the four key components of the consensus direction given by Council at the November 27, 2012 Study Session, Staff's recommendation for each of them is to adopt a resolution to:

- 1) \$10 Million, 20-Year External Loan:** Direct the City Manager to seek out the most advantageous financing package
- 2) \$6 million, 8-Year Internal Loan:** Establish the Power Enterprise as the source of the internal loan. With Power being the source of the loan, there would be no loss of enterprise status for the Water Enterprise. This is the most risk-averse choice for internal borrowing.
- 3) General Fund Annual Contribution:** Establish an annual appropriation in the General Fund of \$750,000 to be transferred to the Water Enterprise. The Water Enterprise would then, in turn, use those funds to pay the principal portion of the internal loan from the Power Enterprise.
- 4) Series of Rate Increases:** Approve the following series of rate increases to provide adequate cash flow to fund the needs of the Water Utility:
 - 2014: 13%
 - 2015-2019: 9% per year
 - 2020-2022: 8% per year

Given City Council's considerable support for the Utility's needs and measured guidance on rate increase limitations, Staff is comfortable with these four recommendations. Staff

believes this course of action will increase investment in the Water Utility significantly with provisions for returning to a self-funding Water Utility Enterprise within a 10 year planning horizon.

At their January 16, 2013 meeting, the LUC voted 7-1 to recommend to City Council for the approval of the 4-component Staff Recommendation shown above.

Attached for informational purposes is a table summarizing the financing scenarios that have been developed over the latter stages of the process, the PowerPoint slides that will be presented to the Council at this meeting, an Appendix Report that gets into more detail regarding the financing scenarios developed from November until now, and an Appendix PowerPoint presentation which also provides more information on the financing scenarios.

RECOMMENDATION:

Have City Council adopt a resolution to:

- 1) Direct the City Manager to secure for City Council's future consideration and approval a \$10 million, 20-year external loan to the Water Enterprise on the most advantageous terms available.
- 2) Authorize and approve the Power Enterprise loaning \$6 million to the Water Enterprise in 2013, to be repaid in 8 annual payments.
- 3) Direct the City Manager, in each year during the 8-year term of the \$6 million loan from the Power Enterprise to the Water Enterprise referenced in #2 above, to include in the City's annual budget and appropriation ordinances the transfer of \$750,000 from the General Fund to the Water Enterprise to be used to pay the annual principal portion of the loan from the Power Enterprise
- 4) Have Staff, prior to each calendar year, present a resolution for consideration and adoption by the City Council approving a revised Schedule of Rates, Charges and Fees for services provided by the Water and Power Department that incorporates the following increases in water rates:
 - 2014: 13%
 - 2015-2019: 9% per year
 - 2020-2022: 8% per year

1

Water Utility Financing Proposal:

Recommendations on How to Carry Out Direction from City Council

City Council Presentation
February 19, 2013



Overview

2

- Recap of Gathering Input
- Direction from November 27, 2012 City Council Study Session
- Resolution to Accomplish Council Direction
- Water Monthly Utility Bill Projections
- Total City Monthly Utility Bill Projections
- Staff and LUC Recommendation
- Discussion and Decision

Recap of Gathering Input

3

- Rate study begun in February, 2012
- Feedback from City Council and Advisory Groups
 - 3 Study Sessions with City Council
 - 7 Meetings with LUC
 - 1 Meeting with CFAC

Direction From November 27, 2012 City Council Study Session

4

1. Pursue a 20-year External Loan for \$10M
2. Pursue an 8-year Internal Loan for \$6M
3. General Fund contribution to Water Utility of \$750K per year for 8 years
4. Series of rate increases

2014:	13%
2015 – 2019:	9% per year
2020 – 2022:	8% per year

Resolution to Accomplish Council Direction

5

1. \$10M, 20-year External Loan

- Direct City Manager to find best External Financing Option
 - A. Bank Loan
 - B. Colorado Water Resources and Power Development Authority
 - C. Water Utility Bonding
- Loan document to be presented to Council for approval

Resolution to Accomplish Council Direction

6

2. \$6M, 8-year Internal Loan

- Authorize Internal Loan for Water Utility

Two Potential Funding Sources:

A. General Fund

- Water Utility would lose enterprise status

B. Power Utility

- Water Utility would not lose enterprise status

Impact of Losing Enterprise Fund Status

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- Would lose status for one year and regain it the next
- City's spending base under TABOR would ratchet up, then down
- Water Utility couldn't issue multi-year debt without a vote of Loveland citizens
- Adverse impact on awarding of contracts
- Could limit structure of external loan

Resolution to Accomplish Council Direction

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3. Annual transfer of \$750K for 8 years from the General Fund to the Water Utility

- \$750K to be used for annual principal payment on Internal Loan

4. Series of rate increases:

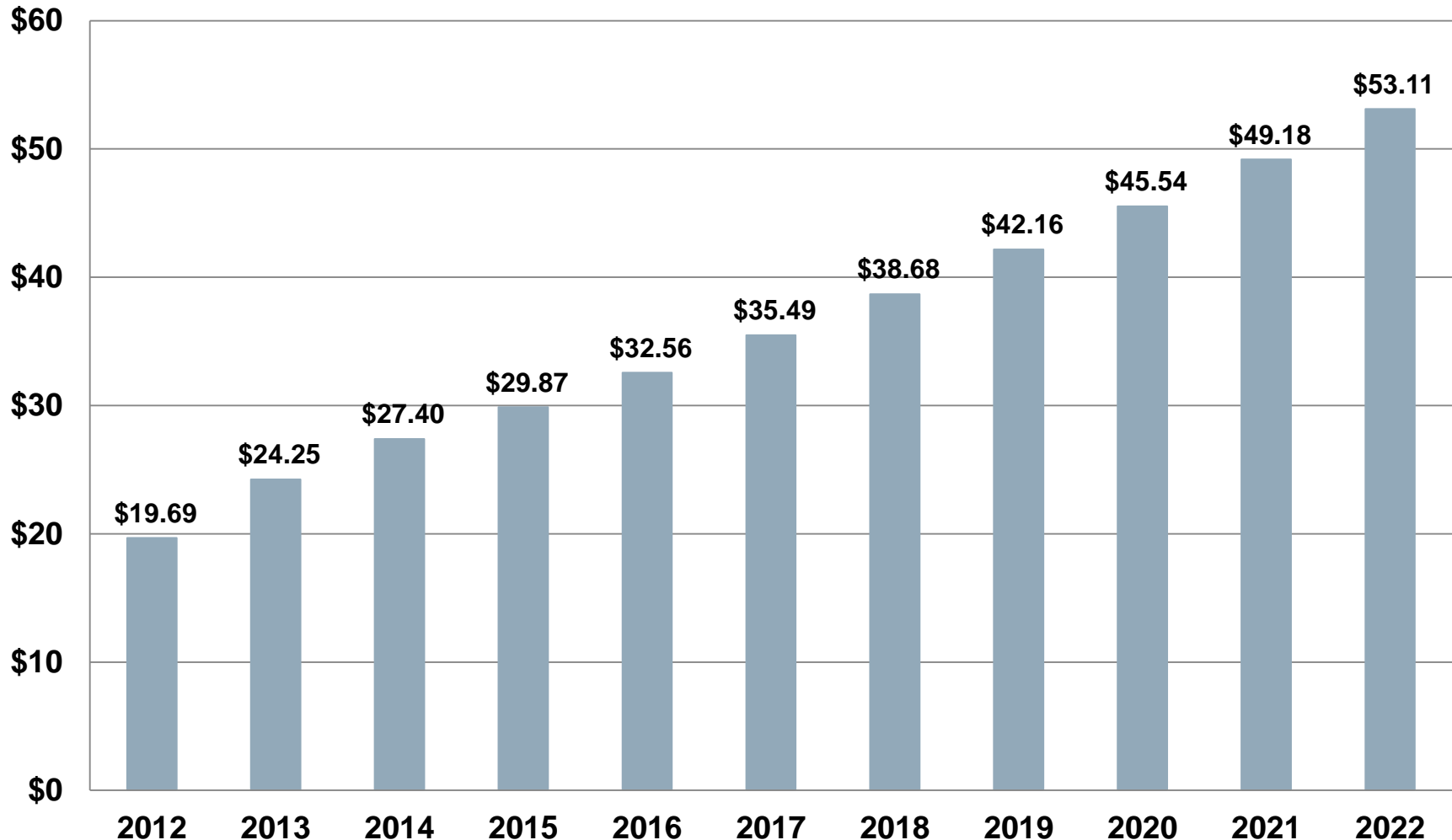
2014:	13%
2015 – 2019:	9% per year
2020 – 2022:	8% per year

- Annual transfers and rate increases would occur automatically unless directed otherwise by future Council

Projected Average Monthly Residential Water Bill 2012-2022^{P 177}

(8,100 gallons per month) –
Based on Current Series of Rate Increases

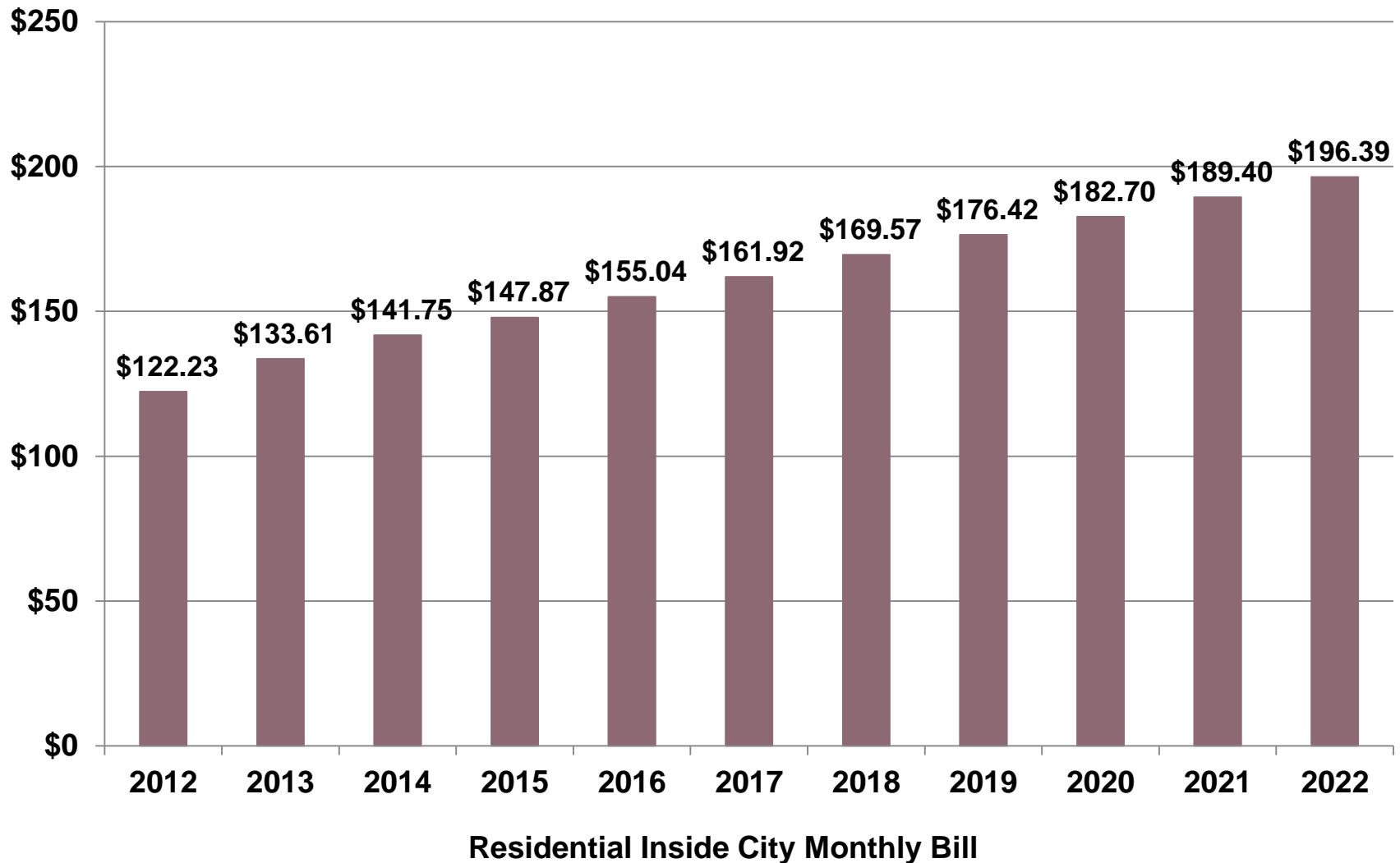
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Projection of Customer's Total Monthly Utility Bill 2012-2022

Residential Inside City

10



Projection of Customer's Total Monthly Utility Bill 2012-2022

Residential Inside City

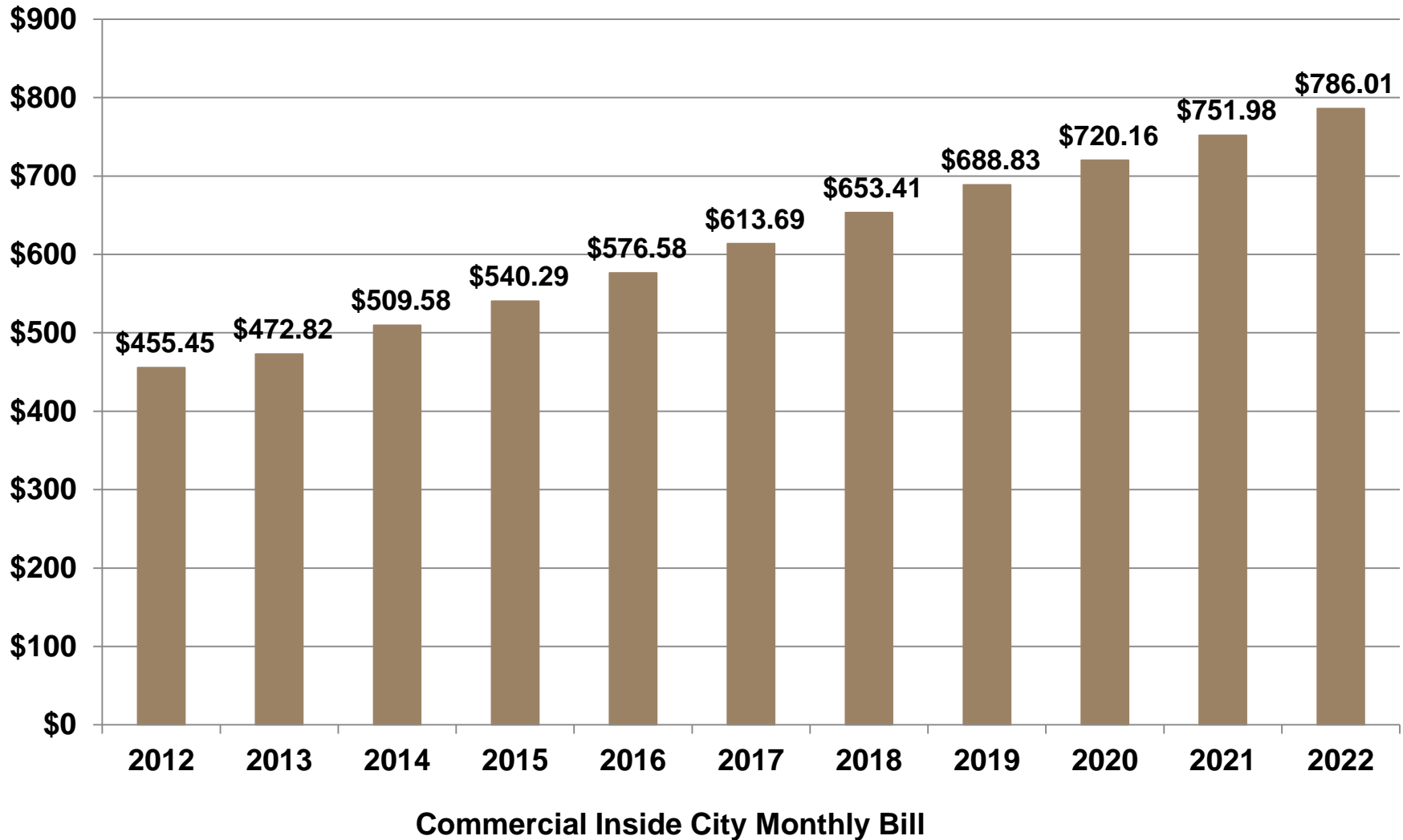
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Utility Total Monthly Bill Per Year	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Water	\$19.69	\$24.25	\$27.40	\$29.87	\$32.56	\$35.49	\$38.68	\$42.16	\$45.54	\$49.18	\$53.11
Wastewater	\$15.72	\$18.84	\$20.91	\$23.21	\$25.76	\$28.60	\$31.74	\$33.96	\$36.34	\$38.88	\$41.60
Electric	\$60.38	\$63.88	\$65.95	\$65.95	\$66.86	\$66.86	\$66.86	\$66.86	\$66.86	\$66.86	\$66.86
Storm Drainage	\$8.30	\$8.30	\$9.10	\$9.97	\$10.93	\$11.98	\$12.99	\$14.08	\$14.54	\$14.80	\$15.07
Street Maintenance	\$1.67	\$1.87	\$1.92	\$1.97	\$2.03	\$2.09	\$2.15	\$2.21	\$2.27	\$2.33	\$2.40
Solid Waste Management	\$15.67	\$15.67	\$15.67	\$16.10	\$16.10	\$16.10	\$16.30	\$16.30	\$16.30	\$16.50	\$16.50
Mosquito Control	\$.80	\$.80	\$.80	\$.80	\$.80	\$.80	\$.85	\$.85	\$.85	\$.85	\$.85
Total Residential Inside City	\$122.23	\$133.61	\$141.75	\$147.87	\$155.04	\$161.92	\$169.57	\$176.42	\$182.70	\$189.40	\$196.39
% Inc/(Dec) to Prior Year		9.31%	6.09%	4.31%	4.85%	4.44%	4.73%	4.04%	3.55%	3.67%	3.69%

Projection of Customer's Total Monthly Utility Bill 2012-2022

Commercial Inside City

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Projection of Customer's Total Monthly Utility Bill 2012-2022

Commercial Inside City

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Utility Total Monthly Bill Per Year	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Water	\$78.56	\$83.34	\$94.17	\$102.65	\$111.89	\$121.96	\$132.93	\$144.90	\$156.49	\$169.01	\$182.53
Wastewater	\$121.43	\$121.43	\$134.79	\$149.62	\$166.07	\$184.33	\$204.61	\$218.93	\$234.26	\$250.66	\$268.21
Electric	\$168.43	\$178.20	\$183.97	\$183.97	\$186.51	\$186.51	\$186.51	\$186.51	\$186.51	\$186.51	\$186.51
Storm Drainage	\$62.97	\$62.97	\$69.02	\$75.65	\$82.91	\$90.87	\$98.50	\$106.77	\$110.29	\$112.28	\$114.30
Street Maintenance	\$24.06	\$26.88	\$27.63	\$28.40	\$29.20	\$30.02	\$30.86	\$31.72	\$32.61	\$33.52	\$34.46
Solid Waste Management	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Mosquito Control	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Total Commercial Inside City	\$455.45	\$472.82	\$509.58	\$540.29	\$576.58	\$613.69	\$653.41	\$688.83	\$720.16	\$751.98	\$786.01
% Inc/(Dec) to Prior Year		3.81%	7.78%	6.02%	6.72%	6.44%	6.47%	5.42%	4.55%	4.42%	4.53%

Council Action Requested

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Adopt a Resolution Identifying the Following Funding Sources:

- 1) 20-year External Loan for \$10M with most advantageous financing package
- 2) 8-year Internal Loan for \$6M from Power Enterprise to Water Enterprise
- 3) Annual transfer of \$750K for 8 years from the General Fund to the Water Enterprise
- 4) Series of rate increases

2014:	13%
2015 – 2019:	9% per year
2020 – 2022:	8% per year

LUC Recommendation

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- At their January 16, 2013 meeting, the LUC voted 7-1 to support the Staff-recommended actions

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Discussion & Decision

FIRST READING

February 19, 2013

SECOND READING _____

RESOLUTION #R-16-2013**A RESOLUTION CONCERNING FUNDING FOR THE WATER ENTERPRISE TO IMPROVE THE WATER TREATMENT PLANT AND UNDERTAKE A COMPREHENSIVE WATER LINE REPLACEMENT PROGRAM**

WHEREAS, for well over one hundred years, the City of Loveland Water Utility has provided the Loveland community with a safe and reliable source of potable water at some of the lowest rates in the State of Colorado; and

WHEREAS, the Water Utility is now facing significant financial challenges due to escalating regulatory requirements, increasing operation and maintenance costs, aging infrastructure, and water treatment plant capacity limitations; and

WHEREAS, to meet these challenges and provide for the City's future economic growth and development, the Water Utility must improve the water treatment plant and undertake a comprehensive water line replacement program; and

WHEREAS, the City Council desires to secure adequate funding for the Water Utility to meet these project needs through a combination of sources, specifically external borrowing, internal borrowing, General Fund transfer, and water rate increases, designed to equitably distribute the financial impacts between current and future Water Utility customers and the citizens of Loveland who will benefit from the City's future economic growth and development; and

WHEREAS, Section 13-3(b) of the Loveland Municipal Charter provides that loans from one utility account to another shall be allowed with the City Council's approval, but shall require the affirmative vote of a majority of the entire City Council; and

WHEREAS, the Loveland Municipal Charter and Code provide that all utility rates, charges, and fees shall be set by the City Council by resolution adopted upon two readings.

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

Section 1. That the City Council hereby directs the City Manager to secure for the City Council's future consideration and approval as the Board of the City's Water Utility Enterprise a twenty-year amortized loan from an external source (or sources) to the Water Enterprise, on the most advantageous terms available as determined by the City Manager, in consultation with the City Attorney and the City's Executive Fiscal Advisor, in the principal

amount necessary to pay all financing costs and establish any required reserves to achieve net loan proceeds of Ten Million Dollars (\$10,000,000).

Section 2. That the City Council hereby authorizes and approves the Power Enterprise loaning to the Water Enterprise in 2013 Six Million Dollars (\$6,000,000) to be repaid by the Water Enterprise to the Power Enterprise in eight annual, fully-amortized principal and interest payments with the interest to be determined and accrue at the variable rate and in the manner required by Loveland Municipal Charter Section 13-3(b).

Section 3. That the City Council hereby directs that, in each year during the eight-year term of the loan contemplated in Section 2 above, the City Manager shall include in the City's annual budget and appropriation ordinances for each of those years the transfer of Seven Hundred Fifty Thousand Dollars (\$750,000) from the General Fund to the Water Enterprise to be used by the Water Enterprise to pay the principal due on the Six Million Dollar (\$6,000,000) loan from the Power Enterprise.

Section 4. That the City Council hereby adopts the following rate increases across all Water Utility customer classes for each of the next nine years as listed below, said rate increases to take effect beginning with billings mailed on or after January 1 of the then-current year:

2014	13% increase
2015	9% increase
2016	9% increase
2017	9% increase
2018	9% increase
2019	9% increase
2020	8% increase
2021	8% increase
2022	8% increase

The rate increases adopted herein shall be in addition to, and not in lieu of, any other rate increases for water service that may hereafter be adopted by the City Council to more accurately reflect the cost of providing water service to the Water Utility's customers.

Section 5. That this Resolution shall be effective as of the date of its adoption on second reading as provided in the Loveland Municipal Code.

ADOPTED this ____ day of March, 2013.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


Shamus L. Oltus
Assistant City Attorney

Scenario	Rate Track	Loan Amount	Loan Type/General Fund Assistance	Interest Rate	Annual Debt Service	Total Interest Payments	Level of Funding Provided for WTP	Level of Funding Provided for Line Replacements	% of Line Replacements Funded	First Year of Line Replacements	Loss of Enterprise Fund Status
A	A	\$16M	30 Year External Loan	3.4% fixed	\$820K	\$9.0M	Fully Funded (\$27.4M)	Fully Funded (\$23.5M)	100%	2013	NO
B	B	\$12M	20 Year External Loan	3.05% fixed	\$800K	\$4.0M	Fully Funded (\$27.4M)	\$12.8M	54%	2013	NO
B-1	B	\$12M	10 Year External Loan	1.55% fixed	\$1.5M	\$1.2M	Fully Funded (\$27.4M)	\$6.5M	28%	2020	NO
C	B	\$10M	10 Year Internal Loan	1.7% variable	\$1.1M	\$1.0M (assuming 1.7%)	Fully Funded (\$27.4M)	\$7.9M	34%	2020	NO
D	B	\$10M - \$6M -	20 Year External Loan 8 Year Internal Loan* *General Fund pays \$750K per year principal for internal loan and Water Utility pays up to \$94K of interest per year	3.05% fixed 1.5%-4.0% variable	\$675K + \$843K \$1.5M	\$4.1M	Fully Funded (\$27.4M)	\$17.5M	74%	2013	YES
D-1	B	\$10M - \$6M -	20 Year External Loan 8 Year Internal Loan from Power* *General Fund pays \$750K per year principal for internal loan and Water Utility pays up to \$94K of interest per year	3.05% fixed 1.5%-4.0% variable	\$675K + \$843K \$1.5M	\$4.1M	Fully Funded (\$27.4M)	\$17.5M	74%	2013	NO

NOTES:

1.

- Rate Track A: 17% in 2014; 18% per year 2015-2018; 4% per year 2019-2022

- Rate Track B: 13% in 2014; 9% per year 2015-2019; 8% per year 2020-2022

2. Scenario A is the only scenario that continues the transfer of a portion of Water Sales to the Raw Water Fund throughout the 10 year period through 2022. All other scenarios discontinue this transfer for the years from 2018-2022. During that five year period, 100% of Water Sales would stay in the Water Fund. The elimination of this transfer reduces the revenue stream into the Raw Water Fund starting in 2018, but the justification is that the needs of the Water Utility are greater and more immediate than the near-term needs to acquire and store more raw water.

3. External loan interest rates and length of loan could vary depending on what type of loan vehicle is used.

4. Current Water/Wastewater inflation rate is 4.2%



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www.cityofloveland.org

TO: City Council

THROUGH: Bill Cahill, City Manager
Steve Adams, Water and Power Director

FROM: Jim Lees, Utility Accounting Manager
Chris Matkins, Water Utilities Manager
Alan Krcmarik, Executive Fiscal Advisor

DATE: February 19, 2013

SUBJECT: Appendix Report on Water Utility Financing Update: Recommendations On How
To Carry Out Direction From City Council

DESCRIPTION:

This Appendix Report is included to provide Council with more background information on the four funding scenarios that were presented at the November 27, 2012 Study Session (Scenarios A-D) as well as two other scenarios that have been developed by Staff since then (Scenarios B-1 and D-1). Scenario B-1 was developed in response to a request after the November 27, 2012 Study Session as an alternative to Scenario B. Scenario B-1 is the same as Scenario B with the exception that Scenario B-1 features an external \$12 million loan for 10 years instead of the \$12 million, 20 year loan duration of Scenario B. Scenario D-1 was developed as an alternative to Scenario D, with the only change being that the funding source for the \$6 million, 8 year internal loan is the Power Utility Fund in Scenario D-1 instead of the General Fund in Scenario D. There is also more detailed information on the three financing alternatives that Staff is exploring for the \$10 million, 20 year external loan.

SUMMARY:

NOTE: All of the financial information discussed in the “Summary of Funding Scenarios” and “Pros and Cons of Financing Scenarios” sections below is summarized in the table that is labeled Attachment 4 to the Cover Letter and in slides 5-7 of the Appendix PowerPoint presentation.

Summary of Funding Scenarios. All of the funding scenarios have two common elements:

- 1) All generate an adequate level of funding for projects at the Water Treatment Plant (WTP) over the next 10 years.
- 2) All proceeds from borrowing (whether external or internal loans) would be received and available to spend in 2013.

The key differences between the scenarios are:

- 1) The rate increases necessary to fund Scenario A are:

2014: 17%

2015-2018: 18% per year

2019-2022: 4% per year

The rate increases necessary to fund all of the other scenarios (B through D1) are:

2014: 13%

2015-2019: 9% per year

2020-2022: 8% per year

- 2) Scenario A provides funding for 100% of the Staff-recommended water line replacements over the next 10 years. Scenarios B through D1 provide reduced waterline replacement funding (<100%).
- 3) Scenario A is the only scenario that continues the transfer of a portion of Water Sales to the Raw Water Fund throughout the 10-year period through 2022. All other scenarios discontinue this transfer for the years from 2018-2022. During that five-year period, 100% of Water Sales would stay in the Water Fund. The elimination of this transfer reduces the revenue stream into the Raw Water Fund starting in 2018, but the justification is that the needs of the Water Utility are greater and more immediate than the near-term needs to acquire and store more raw water.
- 4) Scenarios A, B, B-1 and C do not include any contributions from the General Fund, while Scenarios D and D-1 do incorporate General Fund contributions.

Scenario A – features a \$16 million external loan for 30 years, and has level principal and interest (P&I) payments of \$820,000 per year. This loan assumes a fixed interest rate of 3.4%, and requires \$9.0 million of interest payments over the life of the loan.

Scenario B – features a \$12 million external loan for 20 years, and has level P&I payments of \$800,000 per year. This loan assumes a fixed interest rate of 3.05%, and requires \$4.0 million of interest payments over the life of the loan.

Scenario B-1 – features a \$12 million external loan for 10 years and has level P&I payments of \$1.5 million per year. This loan assumes a fixed interest rate of 1.55%, and requires \$1.2 million of interest payments over the life of the loan.

Scenario C – features a \$10 million internal loan for 10 years, and has level P&I payments of \$1.1 million per year. This loan assumes a fixed interest rate of 1.7% (varies with the City's investments return), and requires \$1.0 million of interest payments over the life of the loan.

Scenario D – features a combination of a \$10 million external loan for 20 years, and a \$6 million internal loan for 8 years. The \$6 million loan would come from the City's General Fund. This scenario has level P&I payments that total \$1.5 million per year, but

the General Fund would contribute \$750,000 per year toward the \$1.5 million total annual debt service, or, more accurately, the General Fund would forgive and give the Water Utility credit for the \$750,000 annual payment against the \$6 million loan. If the internal loan is made in 2013, this approach would cause the Water Utility to lose its status as an Enterprise Fund in 2014, but it would regain that status in 2015. The Enterprise Fund status is lost for one year under this scenario because the substance of this loan transaction, rather than its form, contemplates that the Water Utility will not be paying back the \$6 million. Therefore, the City Attorney, in consultation with bond counsel, advises that this \$6 million loan will be considered under TABOR to be a grant of \$6 million to the Water Utility in 2013 resulting in its loss of enterprise status in 2014, but regaining it in 2015.

Scenario D-1 – features a combination of a \$10 million external loan for 20 years, and a \$6 million internal loan from the Power Utility Fund for 8 years. This scenario has level P&I payments of \$1.5 million per year, but requires the General Fund to contribute \$750,000 per year toward the \$1.5 million total annual debt service. In contrast to Scenario D, this scenario would **not** cause the Water Utility to lose its status as an Enterprise Fund.

Pros and Cons of Financing Scenarios

The Pros for Scenario A (\$16 million external loan for 30 years) are:

- A) Provides full funding (\$23.5 million) for line replacements over the 10 year timeframe.
- B) This is the only scenario preserving the transfer of a portion of Water Sales to the Raw Water Fund throughout the period from 2013-2022.
- C) Does not deplete General Fund surplus dollars
- D) Promotes intergenerational equity – aligns the service life of the improvement with the customer base that's paying for it.

The Cons for Scenario A are:

- A) Requires largest rate increases
- B) Requires longest repayment period and the most interest over the life of the loan
- C) Utility must meet additional financial requirements, such as minimum debt service coverage

The Pros for Scenario B (\$12 million external loan for 20 years) are:

- A) Provides \$12.8 million (54% of Staff-recommended level) of funding for line replacements. This is less than Scenario A, but more than Scenario C.
- B) Offers lower rate increases than Scenario A
- C) No General Fund subsidy required
- D) Promotes intergenerational equity

The Cons for Scenario B are:

- A) Longer amortization period and higher total interest paid compared to some of the other alternatives.
- B) Additional financial requirements, same as Scenario A

The Pros for Scenario B-1 (\$12 million external loan for 10 years) are:

- A) It has a shorter loan repayment period
- B) Offers lower rate increases than Scenario A

- C) No General Fund subsidy is required
- D) Promotes some intergenerational equity

The Cons for Scenario B-1 are:

- A) No line replacements funded until 2020, and other capital projects must be cut in 2018-2019.
- B) A total of only \$6.5 million (28% of Staff-recommended level) of line replacement projects funded in this scenario, only in the last three years of the timeframe.

The Pros for Scenario C (\$10 million internal loan for 10 years) are:

- A) Shorter amortization period
- B) Lower rate increases compared to Scenario A
- C) No additional financial requirements triggered by external borrowing
- D) Loan interest is paid to the City

The Cons for Scenario C are:

- A) No line replacement funding until 2020, and other capital projects would be cut in 2018-2019. \$7.9 million of line replacement projects funded only in the last three years.
- B) It could adversely impact the General Fund's ability to address emergency situations. Staff is developing plans to borrow this money without impacting General Fund capital programs. However, this scenario reduces flexibility for the City to meet unforeseen needs, or costs arising from a natural weather event
- C) If the City's investment return increases above 1.7%, the annual debt service payment for Water would also increase.

The Pros for Scenario D (\$10 million external loan for 20 years, \$6 million internal loan from non-utility funds for 8 years) are:

- A) Provides \$17.5 million (74%) of line replacements.
- B) Requires lower rate increases compared to Scenario A
- C) Promotes intergenerational equity

The Cons for Scenario D are:

- A) The Water Utility would lose its status as an Enterprise Fund for one year.
- B) The City's spending base under TABOR would change.
- C) Water Utility couldn't issue multiyear debt without a vote of Loveland citizens in year when enterprise status lost
- D) An adverse impact on the awarding of contracts
- E) Could limit the structure of an external loan
- F) General Fund dollars would be depleted.
- G) A longer repayment period and more interest over the life of the loan versus Scenario C
- H) Additional financial requirements

The Pros for Scenario D-1 (\$10 million external loan for 20 years, \$6 million internal loan from Power Fund for 8 years) are:

- A) Provide \$17.5 million of funding for line replacements which represents 74% of the Staff-recommended line replacements.
- B) Offers lower rate increases compared to Scenario A
- C) Retains Enterprise Fund status
- D) Promotes intergenerational equity

The Cons for Scenario D-1 are:

- A) General Fund dollars would be depleted which could be used for other General Fund needs.
- B) A longer repayment period and more interest over the life of the loan
- C) Additional financial requirements

Feedback from November 27, 2012 Study Session. Council indicated consensus support for Scenario D, although at the time, they were not aware of the possibility of the Water Utility losing its status as an enterprise fund. There also was some Council support for Scenario A and some for Scenario B. There was no Council support for Scenario C.

External Financing Options. City staff has identified three external funding options:

- A. A loan from a bank to the City of Loveland Water Utility Enterprise;
- B. A loan from the Colorado Water Resources and Power Development Authority (“CWRPDA” or the “Authority”) to the Water Utility Enterprise; and
- C. Issuance of water revenue bonds by the City of Loveland through its Water Utility Enterprise

Each of the techniques is described briefly below.

1. Loan from a Bank

Staff has contacted regional, state, and national banks to determine the feasibility of a direct bank loan. Several banks have indicated interest in preparing a financing option for the City to consider. Based on the bank’s review of the Utility’s financial position and projections, a bank could provide a loan to fund the project. Banks may elect to perform their own credit assessment risk and not to require a formal rating from Standard & Poor’s, Moody’s, or Fitch.

Some banks expressed an inability to extend credit for the anticipated 20-year payback period, but were interested in a loan duration of 15 years and shorter. Others indicated that 20 years is feasible, but may require higher interest rates. Based on recent Council interactions, the annual loan debt service should be limited to about \$675,000 . Current low interest rates make this option viable.

The advantages of a loan from a bank include: a) relatively simple loan and debt service documents; b) quick loan terms determination; c) competitive interest rates; d) financing benefits local or Colorado banks; and e) potential greater flexibility in setting the rate, prepayment options, and re-financing terms if interest rates decrease.

2. A Loan from the Colorado Water Resources and Power Development Authority (the Authority).

The State of Colorado offers financing programs for water utility projects. Staff has been investigating one program with the Authority and the Colorado Department of Public Health and Environment.

Under this program, the Authority issues bonds that provide loans for the Water Utility. The Authority has a triple-A credit rating (the highest available) and the rates on the bonds

would be lower than if the City Water Utility issued bonds. The Authority's program also uses federal dollars to reduce interest rates approximately 30%.

The use of federal money requires prevailing wages on the funded projects, which could increase construction costs. Based on a 2011 study, the State Department of Transportation concluded that the prevailing wage requirement did not add significant costs to projects. Staff is evaluating whether this program offers the lowest net cost to the City.

The Authority groups financing needs of several communities into one bond issuance to save on administrative costs. In discussions with the Authority, their financial staff believes the Authority's board would allow the City of Loveland Water Utility to proceed on the first-round schedule. The advantage would that we would be able to proceed immediately through the financing process. While there is a chance that another utility could be combined with Loveland, the financing could be tailored to Loveland's specific needs.

This borrowing technique is fairly complex, requires the longest amount of time to complete, and requires the highest administrative/reporting/overhead requirements of all borrowing options. The Water Utility would work closely with the Authority to accomplish all of the requirements and may have to coordinate with other jurisdictions in the process.

3. City Water Utility Bond Issuance

This option proposes that the City Water Utility Enterprise would issue revenue bonds to fund \$10 million of improvements, as previously discussed with the Loveland Utility Commission and the Council. This could be completed within two months. The City and its Water Utility have strong financial positions and have detailed long-term financial plans in place. The Water Utility Enterprise would obtain a credit rating from at least one of the three major credit rating agencies. This is a very detailed process and requires assistance of the City's bond counsel and an external financial advisor. For a \$10 million bond issue, Staff has estimated \$200,000 of issuance costs. The bond issue would also require a debt service reserve account to be funded. This can be done from the issuance of bonds or from other available Water Utility funds. Interest earned on money held in the debt service reserve reduces carrying costs over the term of the bond issue.

The advantage of this approach is that the water utility bond issue would be designed solely for its own use. Interest rates on the bonds are not likely to be as low as the Authority financing approach. At the time of issuance, the call features on the bonds would have to be determined, allowing the bonds to be called prior to the final 20-year maturity. Typical call features are at the tenth year with no premium for call. Shorter call terms required a premium.

A water utility revenue bond process could be completed more quickly than the Authority approach, but would still require a considerable amount of staff time. A water utility bond issue would require an extensive set of documents.

Staff is actively pursuing the three options to determine how to best meet objectives at the lowest overall cost.

1

Water Utility Financing Proposal:

Recommendations on How to Carry Out Direction from City Council
(Appendix Slides)

**City Council Presentation
February 19, 2013**



Overview

2

- Six Borrowing Scenarios
- Feedback from November 27, 2012 City Council Study Session
- External Financing Options

Common Elements In All Scenarios

3

- All fully fund Staff-recommended projects at Water Treatment Plant
- All loan proceeds would be available in 2013

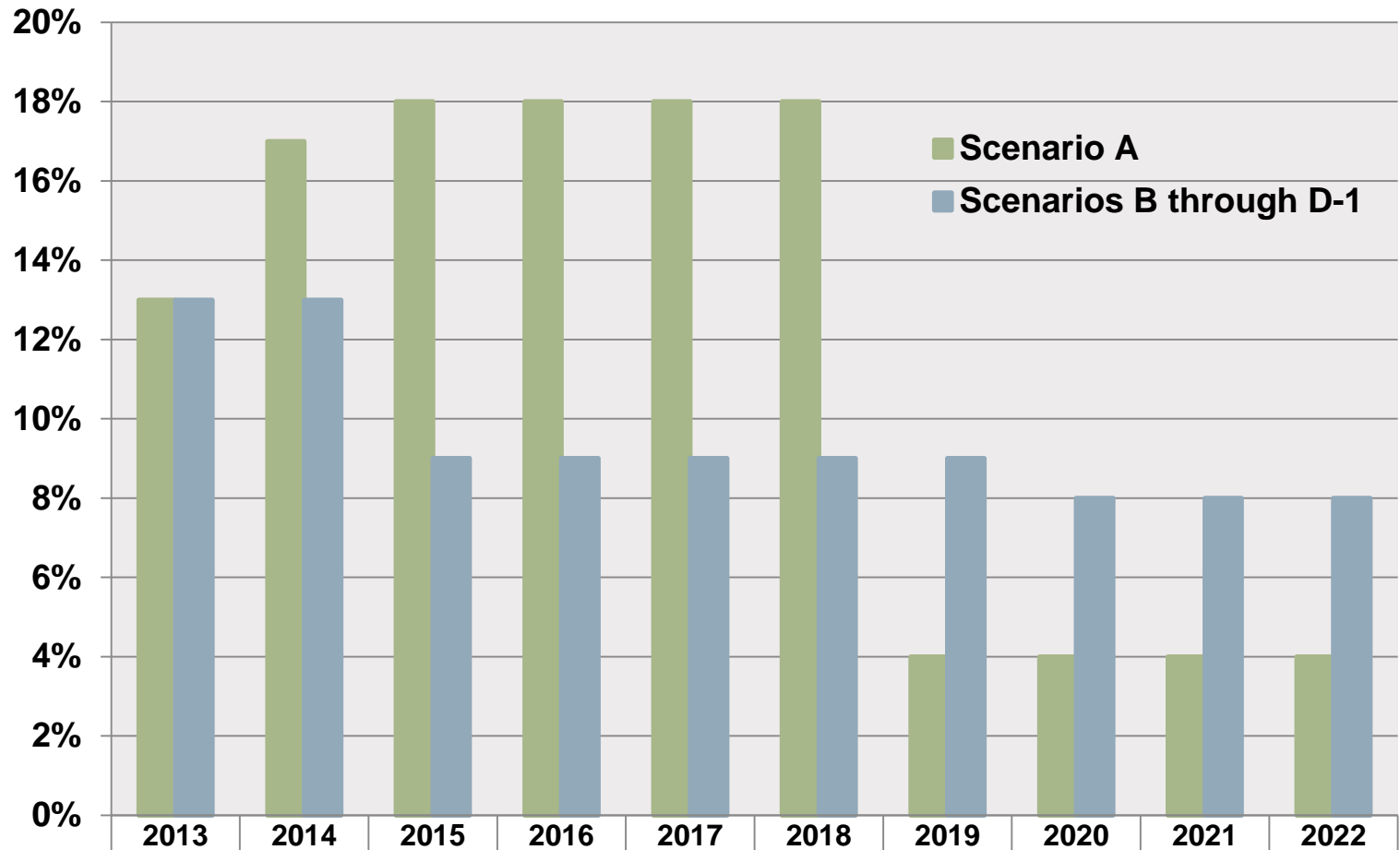
Key Differences Between the Scenarios

4

- ❑ Series of rate increases
- ❑ Level of funding for water line replacements
- ❑ Transfer of Water Sales to Raw Water Fund
- ❑ General Fund contributions
- ❑ Annual debt service

Projected Annual Water Rate Increases 2013-2022

5



Scenario A	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
	13%	17%	18%	18%	18%	18%	4%	4%	4%	4%
Scenarios B through D-1	13%	13%	9%	9%	9%	9%	9%	8%	8%	8%

Debt Service Comparison

6

Scenario	Loan Amount	Loan Type	Interest Rate	Annual Debt Service	Total Interest Payments
A	\$16M	30 Year External Loan	3.4% (fixed)	\$820K	\$9.0M
B	\$12M	20 Year External Loan	3.05% (fixed)	\$800K	\$4.0M
B-1	\$12M	10 Year External Loan	1.55% (fixed)	\$1.5M	\$1.2M
C	\$10M	10 Year Internal Loan	1.7% (variable)	\$1.1M	\$1.0M (assuming 1.7%)
D	\$10M – 20 Yr External \$6M – 8 Yr Internal (from non-utility funds)	3.05% (fixed) 1.5%-4.0% (variable)	+	\$675K <u>\$843K</u> \$1.5M	\$4.1M
D-1	\$10M – 20 Yr External \$6M – 8 Yr Internal (from Power fund)	3.05% (fixed) 1.5%-4.0% (variable)	+	\$675K <u>\$843K</u> \$1.5M	\$4.1M

NOTE: Scenarios D and D-1 require General Fund contribution

Level of Funding Provided

7

Scenario	Loan Amount	Loan Type	WTP	Line Replacements	% of Line Replacements	First Year of Line Replacements
A	\$16M	30 Year External Loan	Fully Funded (\$27.4M)	Fully Funded (\$23.5M)	100%	2013
B	\$12M	20 Year External Loan	Fully Funded (\$27.4M)	\$12.8M	54%	2013
B-1	\$12M	10 Year External Loan	Fully Funded (\$27.4M)	\$6.5M	28%	2020
C	\$10M	10 Year Internal Loan	Fully Funded (\$27.4M)	\$7.9M	34%	2020
D	\$10M – 20 Yr External \$6M – 8 Yr Internal (from non-utility funds)		Fully Funded (\$27.4M)	\$17.5M	74%	2013
D-1	\$10M – 20 Yr External \$6M – 8 Yr Internal (from Power fund)		Fully Funded (\$27.4M)	\$17.5M	74%	2013

Scenario **A**

Pros and Cons of \$16M, 30 Yr External Loan

8

PROS

- A. Provides full funding of \$23.5M for line replacements.
- B. Continues transfer of portion of Water Sales to Raw Water Fund.
- C. No depletion of General Fund dollars.
- D. Promotes intergenerational equity.

CONS

- A. Higher rate increases.
- B. Longest repayment period.
- C. Additional financial requirements

Scenario **B**

Pros and Cons of \$12M, 20 Yr External Loan

9

PROS

- A. Provides \$12.8M of funding for line replacements.
- B. Lower rate increases.
- C. No depletion of General Fund dollars.
- D. Promotes intergenerational equity.

CONS

- A. Longer repayment period.
- B. Additional financial requirements.

Scenario **B-1**

Pros and Cons of \$12M, 10 Yr External Loan

10

PROS

- A. Shorter repayment period.
- B. Lower rate increases.
- C. No depletion of General Fund dollars.
- D. Promotes intergenerational equity.

CONS

- A. No funding for line replacements until 2020.
- B. Lowest total funding of line replacements in any of the scenarios.

Scenario **C**

Pros and Cons of \$10M, 10 Yr Internal Loan

11

PROS

- A. Shorter repayment period.
- B. Lower rate increases.
- C. No additional financial requirements.
- D. Loan interest is paid to the City.

CONS

- A. No funding for line replacements until 2020.
- B. Less funds for other City needs.
- C. Variable interest rate

Pros and Cons of \$10M External and \$6M Internal Loan from Non-Utility Funds

12

PROS

- A. Provides \$17.5M of funding for line replacements.
- B. Lower rate increases.
- C. Promotes intergenerational equity.

CONS

- A. Loss of Enterprise Fund status for one year.
- B. Change in City's spending base under TABOR.
- C. Depletion of General Fund dollars.
- D. Longer repayment period.
- E. Additional financial requirements.

Pros and Cons of \$10M External and \$6M Internal Loan from Power Fund

13

PROS

- A. Provides \$17.5M of funding for line replacements.
- B. Lower rate increases.
- C. No loss of Enterprise Fund status.
- D. Promotes intergenerational equity.

CONS

- A. Depletion of General Fund dollars.
- B. Longer repayment period.
- C. Additional financial requirements.

Feedback From November 27, 2012 City Council Study Session

14

- Consensus indication for Scenario D
- Some support for Scenario A
- Some support for Scenario B
- No support for Scenario C

External Financing Options

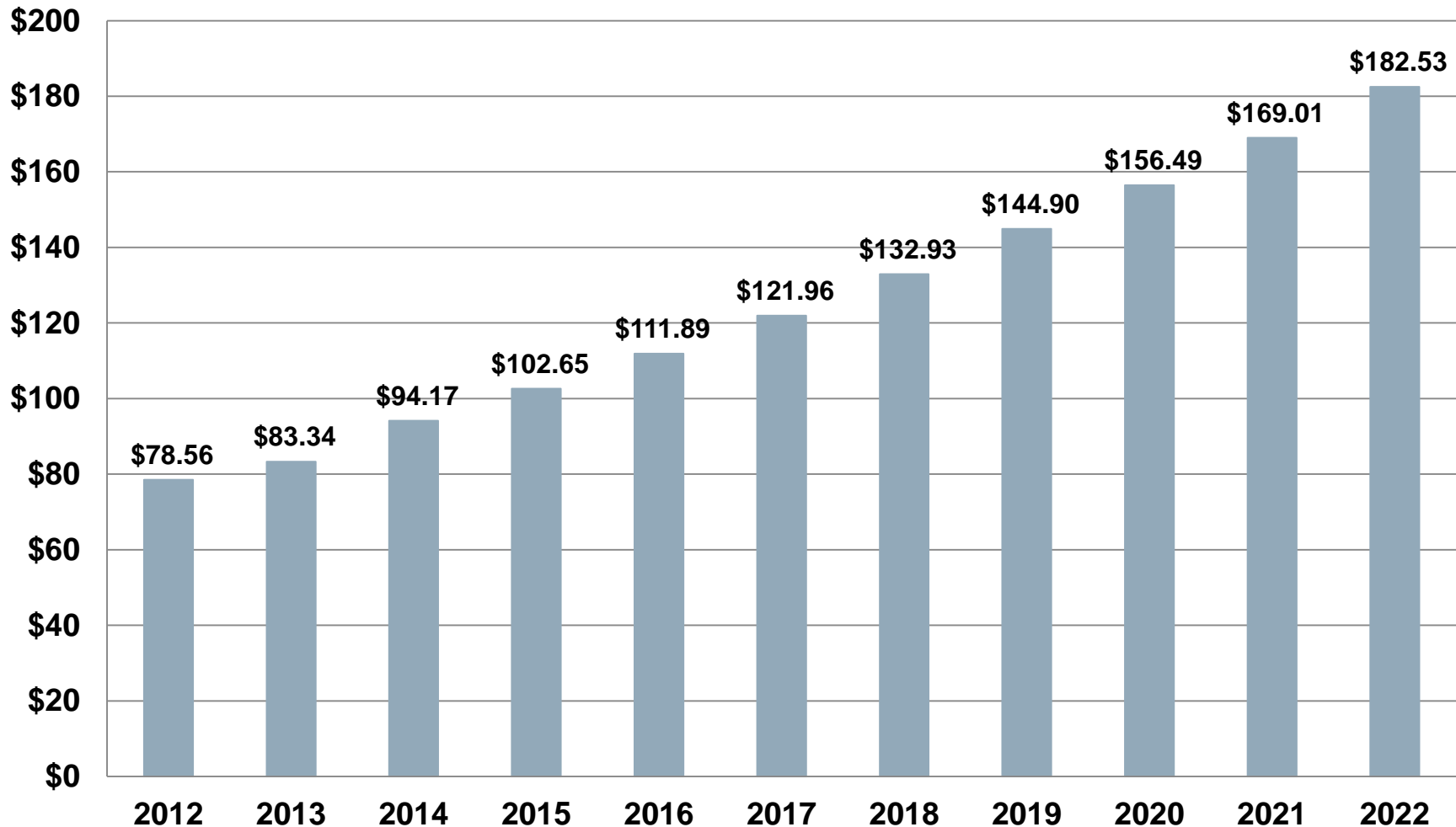
15

1. Bank Loan
2. Colorado Water Resources and Power Development Authority
3. Water Utility Bonding

Projected Average Monthly Commercial Water Bill 2012-2022^{P. 210}

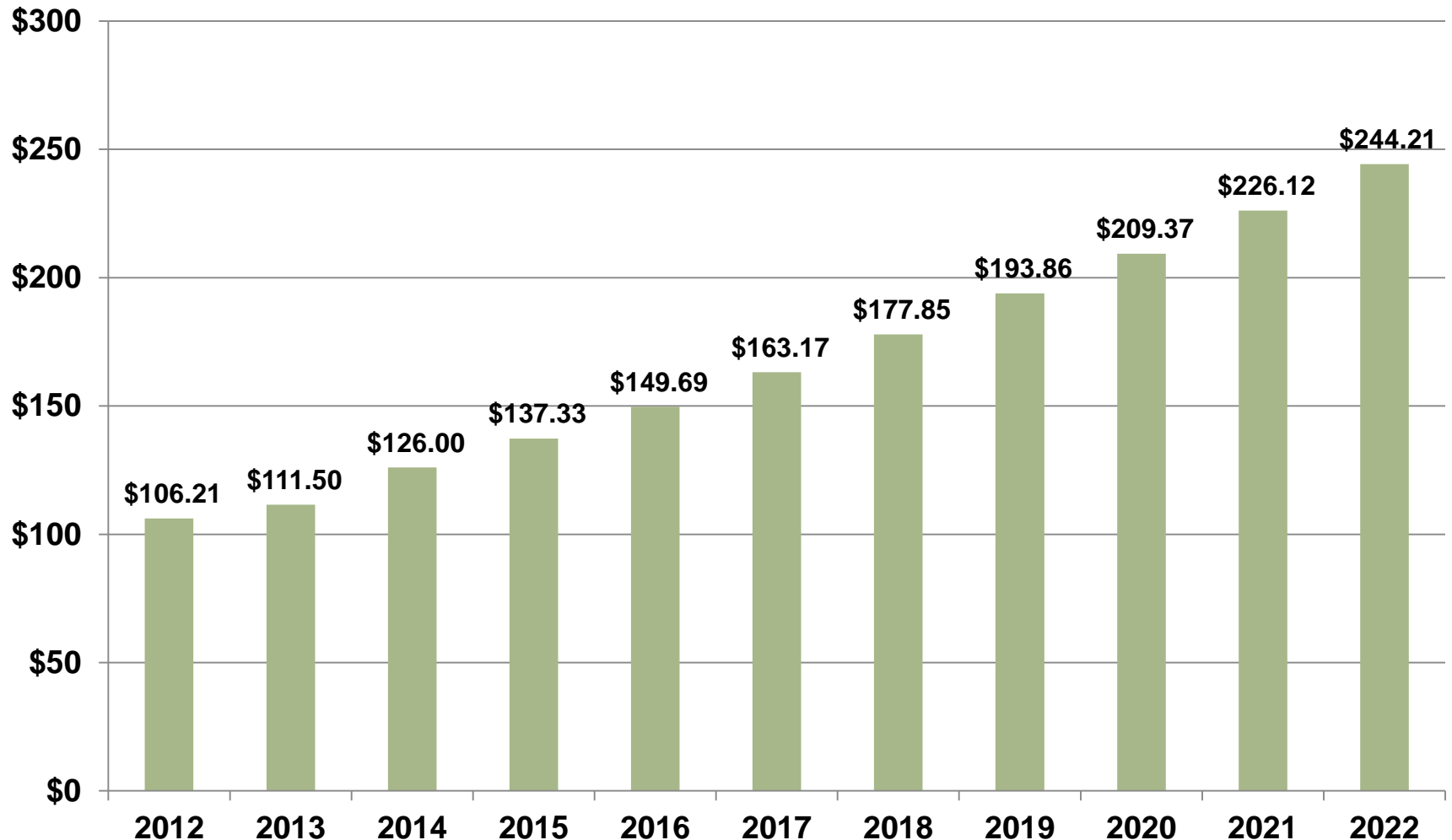
(41,630 gallons per month) –
Based on Current Series of Rate Increases

16



Projected Average Monthly Irrigation Water Bill 2012-2022

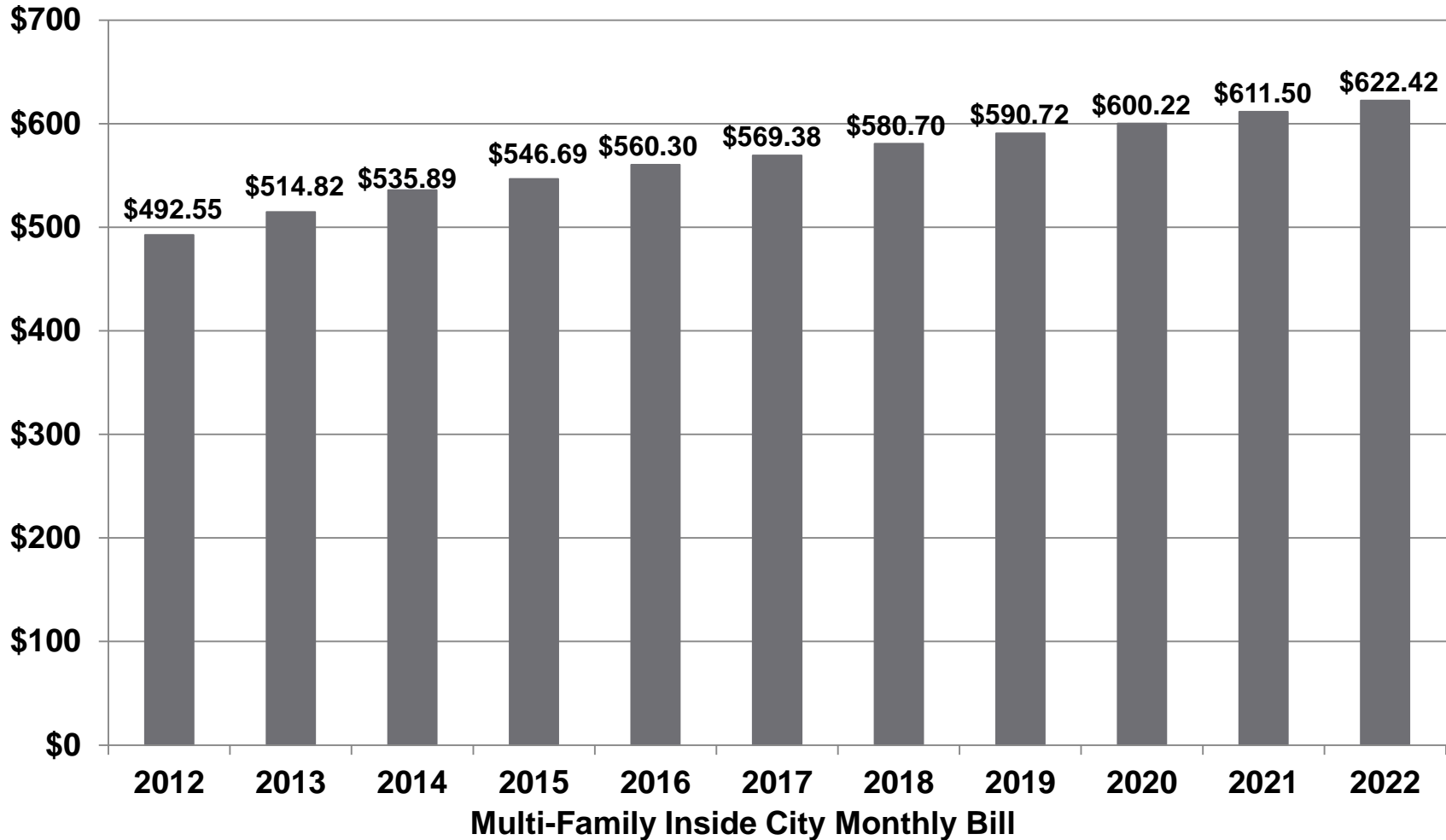
(46,700 gallons per month) –
Based on Current Series of Rate Increases



Projection of Customer's Total Monthly Utility Bill 2012-2022

Multi-Family Inside City

18



*Based on an average sized Multi-Family complex of 5.83 dwelling units

Projection of Customer's Total Monthly Utility Bill 2012-2022

Multi-Family Inside City

19

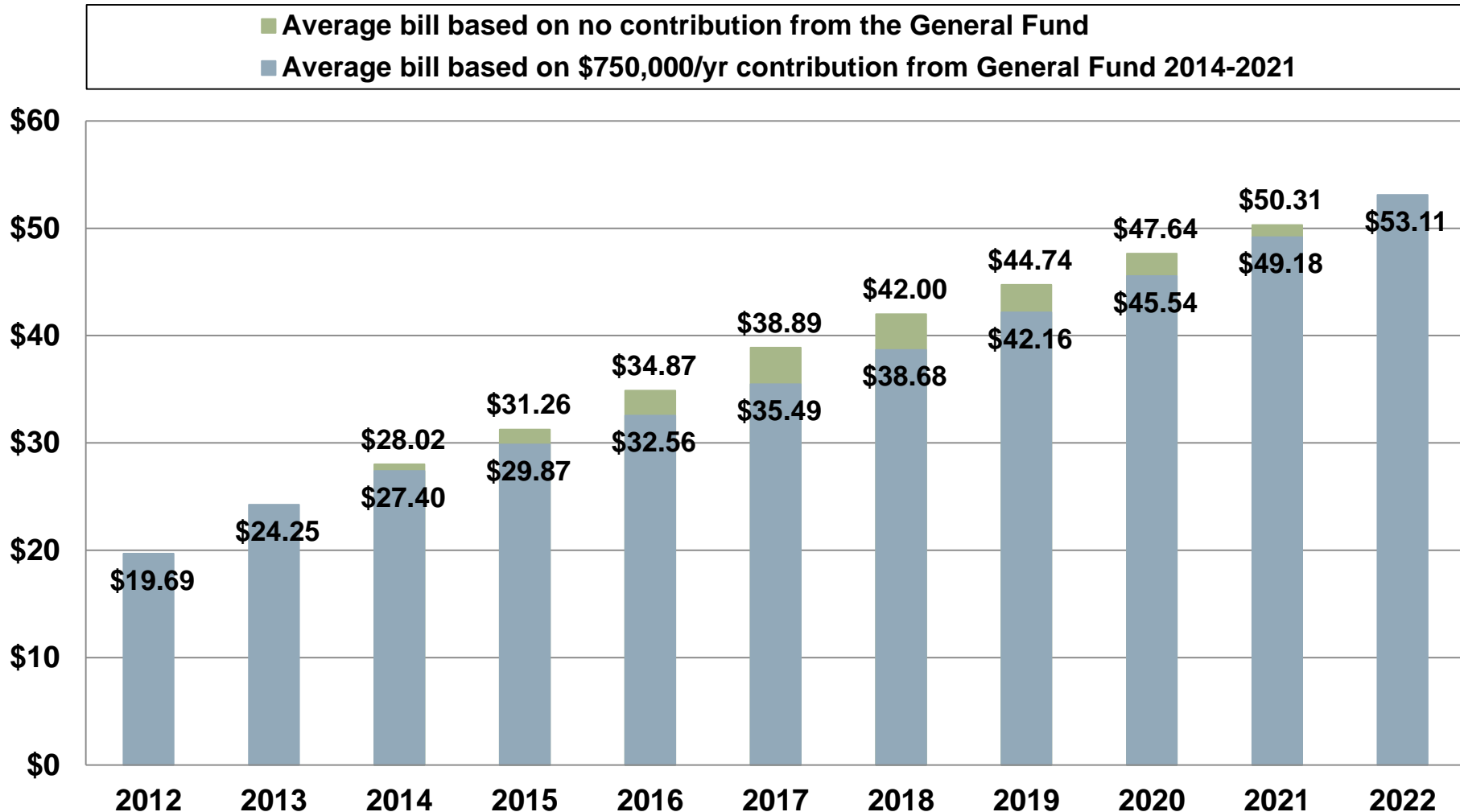
Utility Total Monthly Bill Per Year	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Water	\$52.84	\$55.90	\$63.17	\$68.86	\$75.05	\$81.80	\$89.16	\$97.19	\$104.96	\$113.36	\$122.43
Wastewater	\$12.65	\$11.22	\$12.46	\$13.83	\$15.36	\$17.05	\$18.92	\$20.25	\$21.66	\$23.17	\$24.80
Electric	\$351.99	\$372.43	\$384.50	\$384.50	\$389.80	\$389.80	\$389.80	\$389.80	\$389.80	\$389.80	\$389.80
Storm Drainage	\$4.61	\$4.61	\$5.05	\$5.53	\$6.06	\$6.64	\$7.20	\$7.80	\$8.06	\$8.21	\$8.36
Street Maintenance	\$1.67	\$1.87	\$1.92	\$1.97	\$2.03	\$2.09	\$2.15	\$2.21	\$2.27	\$2.33	\$2.40
Solid Waste Management	\$64.13	\$64.13	\$64.13	\$67.34	\$67.34	\$67.34	\$68.52	\$68.52	\$68.52	\$69.68	\$69.68
Mosquito Control	\$4.66	\$4.66	\$4.66	\$4.66	\$4.66	\$4.66	\$4.95	\$4.95	\$4.95	\$4.95	\$4.95
Total Multi-Family Inside City	\$492.55	\$514.82	\$535.89	\$546.69	\$560.30	\$569.38	\$580.70	\$590.72	\$600.22	\$611.50	\$622.42
% Inc/(Dec) to Prior Year		4.52%	4.09%	2.02%	2.49%	1.62%	1.99%	1.73%	1.61%	1.88%	1.79%

***Based on an average sized Multi-Family complex of 5.83 dwelling units**

Projected Average Residential Water Bill 2012-2022^{P. 214}

(8,100 gallons per month) – With and Without General Fund Contribution

20



Projection of Customer's Total Monthly Utility Bill 2012-2022

Residential Inside City

Without \$750K/yr Contribution from General Fund to Water 2014-2021

21

Utility Total Monthly Bill Per Year	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Water	\$19.69	\$24.25	\$28.02	\$31.26	\$34.87	\$38.89	\$42.00	\$44.74	\$47.64	\$50.31	\$53.11
Wastewater	\$15.72	\$18.84	\$20.91	\$23.21	\$25.76	\$28.60	\$31.74	\$33.96	\$36.34	\$38.88	\$41.60
Electric	\$60.38	\$63.88	\$65.95	\$65.95	\$66.86	\$66.86	\$66.86	\$66.86	\$66.86	\$66.86	\$66.86
Storm Drainage	\$8.30	\$8.30	\$9.10	\$9.97	\$10.93	\$11.98	\$12.99	\$14.08	\$14.54	\$14.80	\$15.07
Street Maintenance	\$1.67	\$1.87	\$1.92	\$1.97	\$2.03	\$2.09	\$2.15	\$2.21	\$2.27	\$2.33	\$2.40
Solid Waste Management	\$15.67	\$15.67	\$15.67	\$16.10	\$16.10	\$16.10	\$16.30	\$16.30	\$16.30	\$16.50	\$16.50
Mosquito Control	\$.80	\$.80	\$.80	\$.80	\$.80	\$.80	\$.85	\$.85	\$.85	\$.85	\$.85
Total Residential Inside City	\$122.23	\$133.61	\$142.37	\$149.26	\$157.35	\$165.32	\$172.89	\$179.00	\$184.80	\$190.53	\$196.39
% Inc/(Dec) to Prior Year		9.31%	6.55%	4.83%	5.42%	5.06%	4.57%	3.53%	3.24%	3.10%	3.07%



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: 17
MEETING DATE: 2/19/2013
TO: Mayor and City Council
FROM: Rod Wensing, Assistant City Manager
PRESENTER: Jon Lehmann, Director of Regulatory and Government Affairs
Comcast Cable

TITLE:

An ordinance on second reading amending the cable television franchise agreement between the City of Loveland, Colorado and Comcast of Colorado II, LLC, to extend the term of the existing franchise

RECOMMENDED CITY COUNCIL ACTION:

Approve the attached 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 moves the expiration of the current cable franchise from April 30, 2013 to December 31, 2013.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible
-

SUMMARY:

As the Council is aware, City staff along with outside counsel, Ken Fellman of Kissinger & Fellman, P.C. has begun informal discussions regarding the renewal of the City's current non-exclusive franchise agreement with Comcast Cable. The grounds for this request revolve around Comcast Cable's current in-state franchise renewal commitments and the desire to maximize the most effective use of their resources in the negotiation process.

Comcast is requesting that the City consider extending the current franchise expiration of April 30, 2013 to December 31, 2013.

City staff believes that consenting to this franchise extension request is reasonable and will not negatively impact our negotiations going forward.

Please also note that the City's current and past franchise agreements have always been non-exclusive and do not limit the ability of other cable operators or other TV / communication companies to serve the Loveland market and receive equal access to City owned right-of-way and associated facilities.

REVIEWED BY CITY MANAGER:



LIST OF ATTACHMENTS:

1. An ordinance on first reading amending the cable television franchise agreement between the City of Loveland, Colorado and Comcast of Colorado II, LLC, to extend the term of the existing franchise.
2. Amendment to the cable television franchise between the City of Loveland and Comcast of Colorado II, LLC
3. Letter from Comcast Cable requesting the extension of the current franchise.

FIRST READING February 5, 2013

SECOND READING February 19, 2013

ORDINANCE NO.

AN ORDINANCE AMENDING THE CABLE FRANCHISE AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND COMCAST OF COLORADO II, LLC TO EXTEND THE TERM OF THE FRANCHISE AGREEMENT

WHEREAS, on April 3, 2007, the Loveland City Council adopted Ordinance No. 5178 approving the grant of a nonexclusive franchise to Comcast of Colorado II, LLC (“Comcast”) for its construction and operation of a cable television system within the City; and

WHEREAS, pursuant to Ordinance No. 5178, the City and Comcast entered into a Cable Franchise Agreement (“Franchise Agreement”) effective May 1, 2007 through April 30, 2013; and

WHEREAS, Comcast desires to renew the franchise and has preserved its right of renewal by timely filing a request with the City to activate the formal process for renewing the franchise pursuant to the provisions of the Cable Communications Policy Act of 1984; and

WHEREAS, City staff and Comcast representatives have discussed renewal of the franchise, and the parties have agreed that their respective interests will be served by a formal extension of the existing Franchise Agreement to a date certain in order to allow additional time for negotiation; and

WHEREAS, the Loveland City Council desires to extend the existing term of the Franchise Agreement to December 31, 2013.

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

Section 1. That the “First Amendment to the Cable Franchise Agreement,” attached hereto as Exhibit A and incorporated herein by reference (“First Amendment”), is hereby approved.

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

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

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).

ADOPTED this 19th day of February, 2013.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


 Assistant City Attorney

Exhibit A

FIRST AMENDMENT TO THE CABLE FRANCHISE AGREEMENT

This First Amendment to the Cable Franchise Agreement (“**First Amendment**”) is made and entered into as of this _____ day of _____, 2013, by and between the **City of Loveland**, a Colorado municipal corporation (“**City**”), and **Comcast of Colorado II, LLC** (“**Comcast**”).

Whereas, on April 3, 2007, the Loveland City Council adopted Ordinance No. 5178 approving the grant of a nonexclusive franchise to Comcast for its construction and operation of a cable television system within the City; and

Whereas, pursuant to Ordinance No. 5178, the City and Comcast entered into a Cable Franchise Agreement (“**Franchise Agreement**”) effective May 1, 2007 through April 30, 2013; and

Whereas, Comcast desires to renew the franchise and has preserved its right of renewal by timely filing a request with the City to activate the formal process for renewing the franchise pursuant to the provisions of the Cable Communications Policy Act of 1984 (“**Cable Act**”); and

Whereas, City staff and Comcast representatives have discussed renewal of the franchise, and the parties have agreed that their respective interests will be served by a formal extension of the existing Franchise Agreement to a date certain in order to allow additional time for negotiation.

Now, therefore, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

1. The term of the Franchise Agreement shall be extended to December 31, 2013.
2. Except as specifically modified hereby, the Franchise Agreement shall remain in full force and effect.
3. Neither party waives any right it may have under law by execution of this First Amendment, and Comcast shall not be required to file any additional request or document in order to preserve its right of renewal under Section 626 of the Cable Act.

In Witness Whereof, the parties have executed this First Amendment as of the day and year first written above.

City of Loveland

By: _____
Cecil Gutierrez, Mayor

Attest:

City Clerk

Approved as to Form:

Assistant City Attorney

Comcast of Colorado II, LLC

By: _____

Title: _____



Comcast Cable
8000 East Iliff Avenue
Denver, CO 80231

December 3, 2012

The Honorable Cecil Gutierrez
Mayor, City of Loveland
500 E. Third Street
Loveland, CO 80537

DEC 04 2012

CITY MANAGER

Dear Mayor Gutierrez:

My name is Jon Lehmann and I am a Director of Government & Regulatory Affairs for Comcast covering the City of Loveland ("City"). As you may be aware, Comcast's cable television Franchise Agreement ("Franchise") expires on April 30, 2013. Comcast and the City have initiated informal discussions regarding renewal of the Franchise; however, in order to allow sufficient time to finalize a renewal, we would like for the City to consider extending the current Franchise through December 31, 2013.

We believe extending the current Franchise until December 31, 2013, will allow for the most efficient and cost effective use of resources in the negotiation process by both the City and Comcast. We have confidence that a renewal agreement will be reached through our informal negotiations on or before that date.

For your convenience, we have enclosed drafts of a proposed Ordinance and Franchise Agreement Extension both of which continue to reserve all rights under the formal renewal procedures of the 1984 Cable Act. Please be assured that we will continue to operate under and comply with the terms of the Franchise until such time as a renewal agreement is reached.

We look forward to successfully concluding a renewal agreement and to providing quality cable television service in the City of Loveland for many years to come.

Please feel free to contact me at 303/603-2062 if you have any questions or concerns.

Very truly yours,

Jon Lehmann
Director of Regulatory and Government Affairs

Cc: Loveland City Council
Bill Cahill, Loveland City Manager

Enclosures

bcc: to John Duval

**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: 18
MEETING DATE: 2/19/2013
TO: City Council
FROM: Brent Worthington, Finance
PRESENTER: Brent Worthington

TITLE:

December 2012 Preliminary Financial Report

RECOMMENDED CITY COUNCIL ACTION:

This is an information only item. No action is required.

DESCRIPTION:

The Snapshot Report includes the City's preliminary revenue and expenditures including detailed reports on tax revenue and health claims year to date, ending December 31, 2012.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible
-

SUMMARY:

The Snapshot Report is submitted for Council review and includes the reporting of the City's revenue and expenditures including detailed reports on tax revenue and health claims as of December 31, 2012. This report is preliminary and amounts will likely change with end-of-year accruals and corrections. Citywide Revenue (excluding internal transfers) of \$209,169,149 is 103.4% of year to date (YTD) budget or \$6,789,959 over the budget. Sales Tax collections are 104.0% of the YTD budget or \$1,319,857 over budget. Building Material Use Tax is 150.0% of YTD budget, or \$500,063 over budget. Sales and Use Tax collections combined were 106.4% of YTD budget or \$2,288,742 over budget. When the combined sales and use tax for the current year are compared to 2011 for the same period last year, they are higher by 8.4% or \$2,950,872.

Citywide total expenditures of \$191,071,665 (excluding internal transfers) are 81.0% of the YTD budget or \$44,824,565 under the budget.

REVIEWED BY CITY MANAGER: *William D. Cahill*

LIST OF ATTACHMENTS:

Snapshot report for December 2012



SnapShot

Monthly Financial Report
December 2012

A Snapshot In Time

Financial Sustainability Strategies Can Be Found At:

CityofLoveland.org

- ⇒ Departments
- ⇒ Finance
- ⇒ Administration
- ⇒ Financial Reports
- ⇒ Financial Sustainability Strategies

- Citywide Revenue, excluding transfers between funds, \$209.2 million (3.4% above budget projections)
- Sales & Use Tax Collection, \$38.2 million (6.4% above budget projections)
- Citywide Expenditures, excluding transfers between funds, \$191.1 million (19.0% below budget projections)
- Citywide Year-To-Date Revenues exceed Year-To-Date Expenditures by \$18.1 million
- General Fund Revenue, excluding transfers between funds, \$68.3 million (7.6% above budget projections)
- General Fund Expenditures, excluding transfers between funds, \$59 million, (7.8% below budget projections)
- General Fund Revenues exceed Expenditures by \$9.6 million

Inside This Edition

Citywide Revenues & Expenditures	2
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Tax Totals & Comparison	6-9
Sales Tax SIC & Geo Codes	10-12
Health Care Claims	13
Activity Measures	14
Capital Projects	15

The Sales Tax Basics

December 2012	Sales Tax	Motor Vehicle Use Tax	Building Materials Use Tax	Combined
Budget 2012	\$ 32,868,020	\$ 2,000,000	\$ 1,000,000	\$ 35,868,020
Actual 2012	\$ 34,187,877	\$ 2,468,822	\$ 1,500,063	\$ 38,156,762
% of Budget	104.0%	123.4%	150.0%	106.4%
Actual 2011	\$ 32,129,139	\$ 2,120,569	\$ 956,181	\$ 35,205,889
Change from prior year	6.4%	16.4%	56.9%	8.4%

Financial Sustainability

The City remains in a strong financial position because of a tradition of conservative fiscal management. To uphold this tradition, the City ensures that operations are paid for by current-year revenues, fund balances are positive and reserves are sufficient to overcome financial challenges, and debt is considered extraordinary and avoided in favor of a pay-as-we-go system. This sound fiscal policy allows the City to achieve Council goals and priorities and to meet challenges as they arise.

In 2011, the City embarked upon a community-wide financial sustainability effort to ensure that shortfalls projected in its General Fund 10-year financial plan were addressed using a balanced plan consisting of 81% expenditure cuts and 19% revenue increases. The Financial Sustainability Strategy, adopted by the City Council on June 7, 2011, includes both immediate actions reflected in the 2012 budget and ongoing processes designed to ensure that the City retains a healthy financial outlook.

Although sales and use tax revenue is greater in 2012 than in 2007, inflation adjustment of the revenue shows that collections in 2012 are still below 2007 collections when inflation is taken into account. For five months in 2012, collections in real dollar terms trended above 2007 amounts, but only slightly, emphasizing the importance of continuing the strategy implementation.

Citywide Revenues & Expenditures

December 2012

Combined Statement of Revenues and Expenditures December 2012				
REVENUE	Current Month	YTD Actual	YTD Revised Budget	% of Budget
General Governmental				
1 General Fund	\$ 4,719,375	\$ 68,309,511	\$ 63,498,700	107.6%
2 Special Revenue	154,834	1,135,545	1,232,230	92.2%
3 Other Entities	913,604	23,519,321	26,478,400	88.8%
4 Internal Service	1,309,478	16,447,988	16,166,950	101.7%
5 <i>Subtotal General Govt Operations</i>	\$ 7,097,290	\$ 109,412,365	\$ 107,376,280	101.9%
6 Capital Projects	1,275,254	10,665,110	11,640,040	91.6%
Enterprise Fund				
7 Water & Power	5,875,475	74,775,185	69,180,870	108.1%
8 Stormwater	374,862	4,273,946	4,415,590	96.8%
9 Golf	35,157	3,789,278	3,559,290	106.5%
10 Solid Waste	469,780	6,253,265	6,207,120	100.7%
11 <i>Subtotal Enterprise</i>	\$ 6,755,274	\$ 89,091,674	\$ 83,362,870	106.9%
12 Total Revenue	\$ 15,127,818	\$ 209,169,149	\$ 202,379,190	103.4%
<i>Prior Year External Revenue</i>		204,488,297		
<i>Increase From Prior Year</i>		2.3%		
13 Internal Transfers	2,290,428	10,986,602	24,066,410	45.7%
14 Grand Total Revenues	\$ 17,418,247	\$ 220,155,751	\$ 226,445,600	97.2%
EXPENDITURES				
General Governmental				
15 General Fund	\$ 4,883,181	\$ 57,921,255	\$ 62,370,290	92.9%
16 Special Revenue	141,773	822,834	999,220	82.3%
17 Other Entities	1,979,901	22,824,861	23,852,300	95.7%
18 Internal Services	1,295,011	13,523,935	16,765,280	80.7%
19 <i>Subtotal General Gov't Operations</i>	\$ 8,299,866	\$ 95,092,884	\$ 103,987,090	91.4%
20 Capital	3,845,670	30,847,297	62,621,200	49.3%
Enterprise Fund				
21 Water & Power	5,104,906	56,239,370	59,228,390	95.0%
22 Stormwater	210,848	1,967,157	2,649,960	74.2%
23 Golf	156,170	2,616,969	2,760,260	94.8%
24 Solid Waste	454,977	4,307,988	4,649,330	92.7%
25 <i>Subtotal Enterprise</i>	\$ 5,926,901	\$ 65,131,484	\$ 69,287,940	94.0%
26 Total Expenditures	\$ 18,072,438	\$ 191,071,665	\$ 235,896,230	81.0%
<i>Prior Year External Expenditures</i>		179,955,573		
<i>Increase (-Decrease) From Prior Year</i>		6.2%		
27 Internal Transfers	2,290,428	10,986,602	24,066,410	45.7%
28 Grand Total Expenditures	\$ 20,362,866	\$ 202,058,267	\$ 259,962,640	77.7%
<i>** Based on seasonality of receipts and expenditures since 1995.</i>				

Special Revenue Funds: Community Development Block Grant, Cemetery, Local Improvement District, Lodging Tax, Affordable Housing, Seizure & Forfeitures.

General Government Capital Projects Fund: Capital Expansion Fee Funds, Park Improvement, Conservation Trust, Open Space, Art In Public Places.

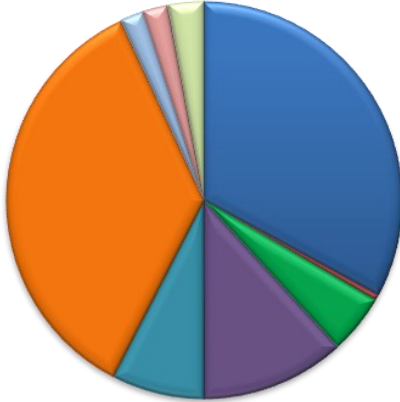
Other Entities Fund: Special Improvement District #1, Airport, General Improvement District #1, Loveland Urban Renewal Authority, Loveland/Larimer Building Authority, Loveland Fire and Rescue Authority.

Internal Service Funds: Risk/Insurance, Fleet, Employee Benefits.

December 2012

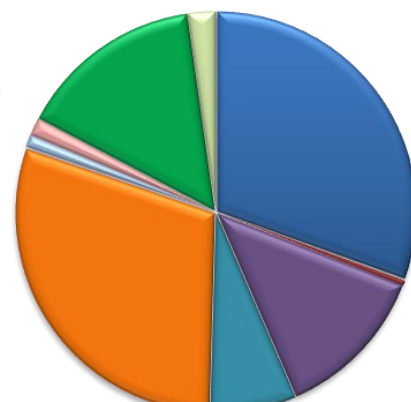
YTD Operating Revenues of \$209.1 Million

■ General Fund
 ■ Special Revenue
 ■ Capital Projects
 ■ Other Entities
 ■ Internal Service
 ■ Utilities
 ■ Stormwater
 ■ Golf
 ■ Solid Waste



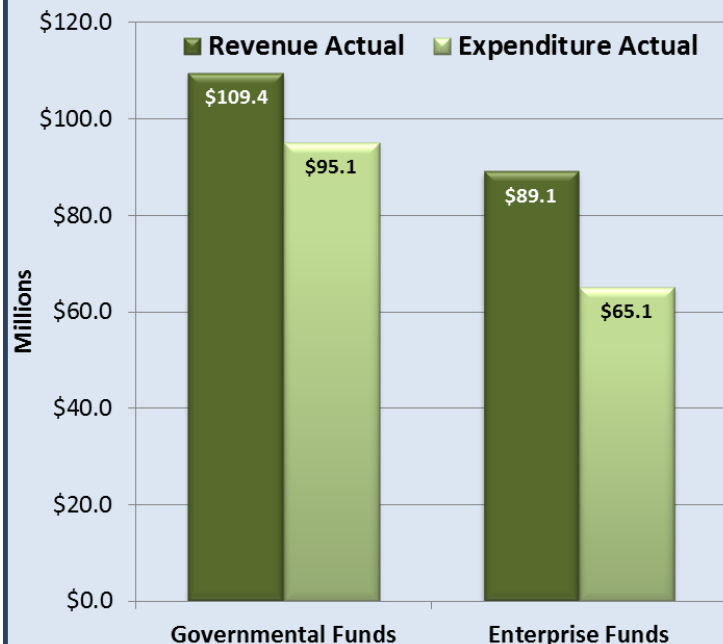
YTD Operating Expenditures of \$191.1 Million

■ General Fund
 ■ Special Revenue
 ■ Other Entities
 ■ Internal Service
 ■ Utilities
 ■ Stormwater
 ■ Golf
 ■ Capital Projects
 ■ Solid Waste



- ⇒ Both revenues and expenditures are preliminary and subject to change after end-of-year accruals and audit adjustments
- ⇒ General Fund revenue is above budget due to higher than projected sales, auto use, and building permit revenue (line 1)
- ⇒ Other Entities (line 3) revenue is below budget due to the timing of Federal grant expenditures at the Airport
- ⇒ Water & Power revenues are above budget (line 7) due to higher than expected revenue from plant investment fees and water and power sales
- ⇒ Internal transfers (line 13 & 27) are under budget due to the timing of related expenditures
- ⇒ The General Fund (line 15) is under budget due to lower than planned spending for economic incentives and the timing of payments to the Fire Authority and human services grantees
- ⇒ Special Revenue funds (line 16) are below budget due to the timing of grant payments from the
- ⇒ CDBG Fund and payments for wayfinding signs in the Lodging Tax Fund
- ⇒ Other entities (line 17) is below budget due to the timing of planned capital expenditures at the Fort Collins-Loveland Municipal Airport
- ⇒ Internal services (line 18) is under budget due to lower than anticipated health claims and payments for workers compensation and unemployment events
- ⇒ Capital expenditures (line 20) are under budget due to the timing of capital projects throughout the City
- ⇒ Stormwater (line 22) is under budget due to lower than expected repair and maintenance costs

By Comparison, Excluding Transfers



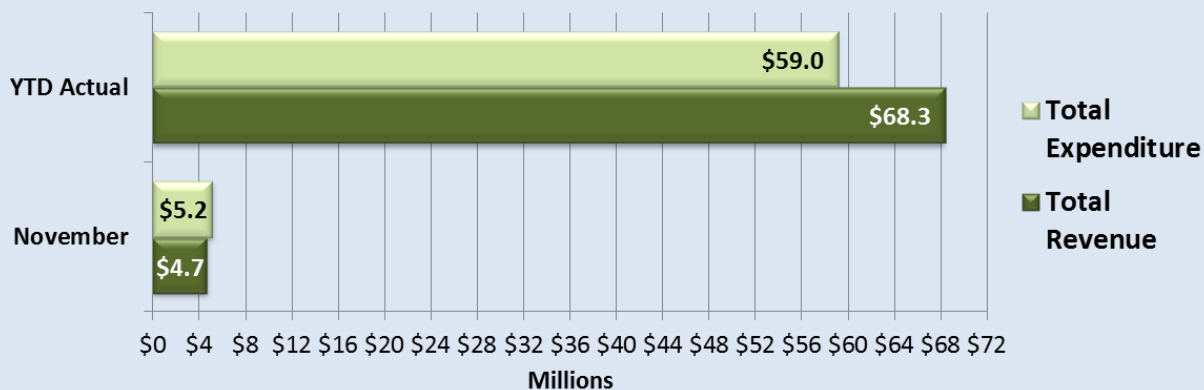
General Fund Revenues & Expenditures

December 2012

General Fund Revenue & Expenditures December 2012					
REVENUES	December 2012	YTD Actual	YTD Revised Budget	% of Budget	
1 Taxes					
2 Property tax	\$ 40,702	\$ 7,433,387	\$ 7,428,900	100.1%	
3 Sales tax	2,841,959	34,187,877	32,868,020	104.0%	
4 Building use tax	110,414	1,500,063	1,000,000	150.0%	
5 Auto use tax	190,420	2,468,821	2,000,000	123.4%	
6 Other taxes	242,382	3,211,415	2,484,600	129.3%	
7 Intergovernmental	324,466	6,009,270	5,842,750	102.9%	
8 License & permits					
9 Building permits	86,402	1,546,662	793,280	195.0%	
10 Other permits	10,287	355,274	279,900	126.9%	
11 Charges for services	270,080	3,857,746	3,594,300	107.3%	
12 Fines & forfeitures	49,458	926,318	1,005,280	92.1%	
13 Interest income	32,091	405,101	405,050	100.0%	
14 Miscellaneous	520,712	6,407,575	5,796,620	110.5%	
15 Subtotal	\$ 4,719,375	\$ 68,309,511	\$ 63,498,700	107.6%	
16 Interfund transfers	2,249,004	4,107,603	4,084,400	100.6%	
17 Total Revenue	\$ 6,968,379	\$ 72,417,114	\$ 67,583,100	107.2%	
EXPENDITURES					
Operating Expenditures					
18 Legislative	\$ 12,141	\$ 95,719	\$ 126,200	75.8%	
19 Executive & Legal	198,776	2,142,999	2,404,140	89.1%	
20 Economic Development	80,364	1,255,384	2,388,480	52.6%	
21 Cultural Services	160,702	1,320,053	1,387,060	95.2%	
22 Development Services	300,203	2,419,610	2,857,050	84.7%	
23 Finance	309,634	3,637,646	3,948,570	92.1%	
24 Fire & Rescue	2,847	645,467	674,470	95.7%	
25 Human Resources	59,994	846,584	926,550	91.4%	
26 Information Technology	239,633	3,030,651	3,308,510	91.6%	
27 Library	222,382	2,300,376	2,373,090	96.9%	
28 Parks & Recreation	1,176,176	7,989,470	8,718,860	91.6%	
29 Police	1,395,506	15,471,773	16,180,080	95.6%	
30 Public Works	1,149,463	11,283,238	11,542,720	97.8%	
31 Non-Departmental	(136,095)	6,605,752	7,205,610	91.7%	
32 Subtotal Operating	\$ 5,171,726	\$ 59,044,723	\$ 64,041,390	92.2%	
33 Internal Transfers	19,770	3,745,516	7,015,230	53.4%	
34 Total Expenditures	\$ 5,191,496	\$ 62,790,239	\$ 71,056,620	88.4%	

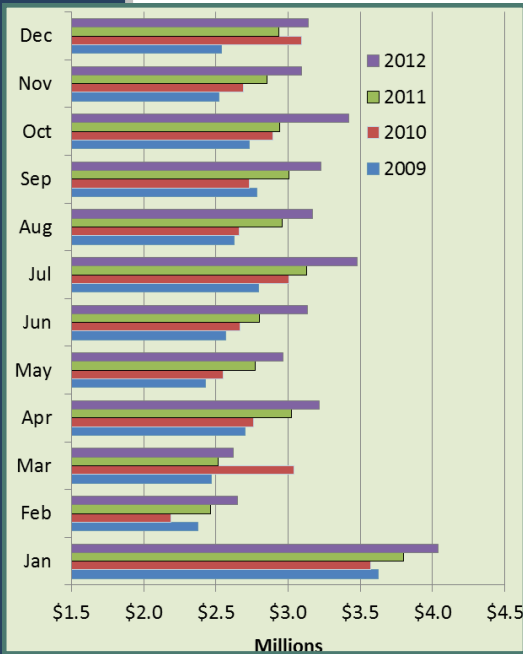
- ⇒ Both revenues and expenditures are preliminary and subject to change after end-of-year accruals and audit adjustments
- ⇒ Sales Tax revenue is above budgeted levels by 4.0%
- ⇒ Building use tax and permit revenue (lines 5, 9) exceed budget due to higher than expected building activity
- ⇒ Other permit revenue (line 10) is above budget due to higher than planned street cut revenue
- ⇒ Charges for services (line 11) is above budget due to greater than planned recreation revenue
- ⇒ Miscellaneous revenue is higher than expected due to higher than planned rental, sales tax application revenue, and donations
- ⇒ Internal transfers (lines 16 & 33) are under budget due to the timing of related expenditures
- ⇒ Council expenditures (line 18) are under budget due to lower than planned travel and meeting and food costs
- ⇒ Economic Development (line 20) is under budget due to lower than expected incentive payments
- ⇒ Development Services expenditures (line 22) are under budget due to the timing of humanservices grants
- ⇒ Finance is under budget due to lower than planned bank charges, audit expenses, and withdrawals of supplies from the warehouse (line 23)
- ⇒ Revenues exceed expenditures by \$9,626,875 (line 17 less line 34)

General Fund Operating Revenue & Expenditures By Comparison, Excluding Transfers



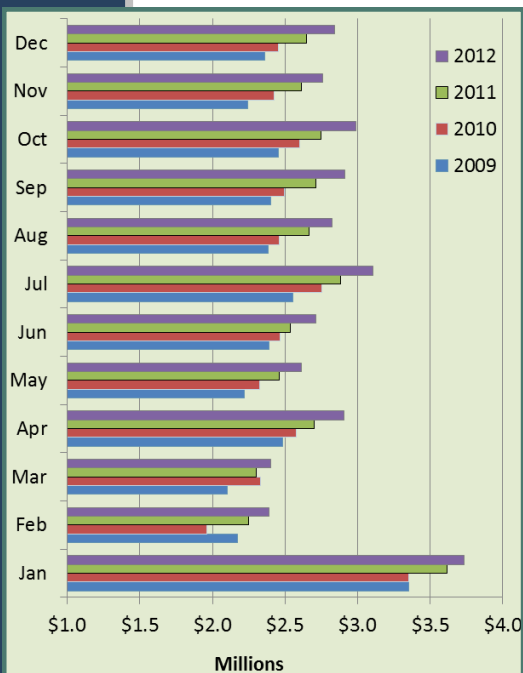
Tax Totals & Comparisons

Sales & Use Tax



	2009	2010	2011	2012	2012 Budget	+ / - Budget
Jan	\$ 3,622,251	\$ 3,573,972	\$ 3,799,760	\$ 4,039,679	\$ 3,863,500	4.6%
Feb	2,374,608	2,191,609	2,465,447	2,649,229	2,353,490	12.6%
Mar	2,468,095	3,041,068	2,517,162	2,618,052	2,834,880	-7.6%
Apr	2,701,737	2,759,556	3,022,770	3,215,437	3,043,630	5.6%
May	2,428,860	2,550,227	2,769,526	2,966,032	2,777,110	6.8%
Jun	2,569,125	2,665,632	2,800,184	3,136,014	2,904,600	8.0%
Jul	2,794,222	3,004,324	3,129,254	3,480,123	3,254,770	6.9%
Aug	2,628,842	2,662,932	2,961,686	3,171,055	2,930,740	8.2%
Sep	2,782,768	2,732,087	3,008,637	3,225,155	2,992,510	7.8%
Oct	2,733,964	2,897,370	2,944,433	3,421,099	3,116,480	9.8%
Nov	2,522,092	2,690,549	2,853,360	3,092,095	2,881,350	7.3%
Dec	2,537,802	3,096,111	2,933,671	3,142,793	2,914,960	7.8%
	\$32,164,365	\$33,865,435	\$35,205,889	\$38,156,762	\$35,868,020	6.4%
YTD	\$32,164,365	\$33,865,435	\$35,205,889	\$38,156,762	\$35,868,020	6.4%

Retail Sales Tax

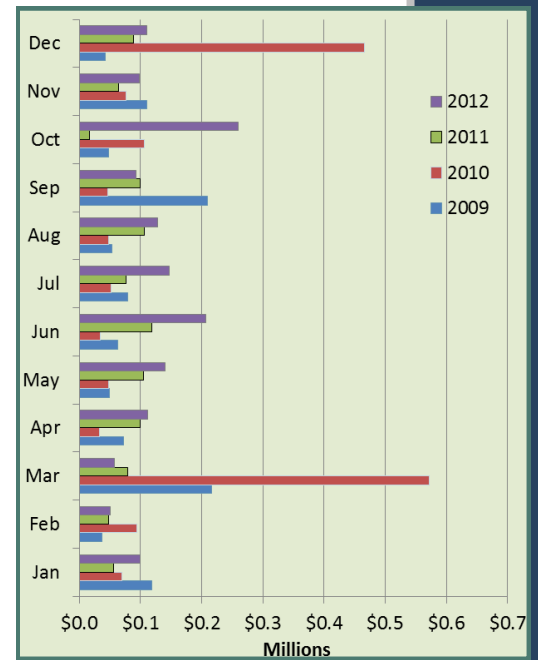


	2009	2010	2011	2012	2012 Budget	+ / - Budget
Jan	\$ 3,354,704	\$ 3,352,821	\$ 3,613,881	3,733,310	\$ 3,648,890	2.3%
Feb	2,170,562	1,959,729	2,249,749	2,390,409	2,132,780	12.1%
Mar	2,100,216	2,328,701	2,299,237	2,403,380	2,534,340	-5.2%
Apr	2,482,752	2,579,918	2,702,024	2,905,558	2,807,740	3.5%
May	2,218,482	2,324,395	2,462,213	2,614,500	2,529,650	3.4%
Jun	2,390,535	2,468,207	2,536,541	2,711,906	2,686,160	1.0%
Jul	2,552,195	2,752,870	2,882,075	3,105,564	2,995,960	3.7%
Aug	2,383,119	2,458,382	2,667,674	2,823,319	2,675,470	5.5%
Sep	2,401,596	2,495,338	2,710,738	2,909,008	2,715,690	7.1%
Oct	2,457,158	2,602,599	2,746,866	2,991,034	2,832,420	5.6%
Nov	2,245,659	2,422,352	2,610,980	2,757,932	2,636,260	4.6%
Dec	2,358,273	2,455,821	2,647,162	2,841,959	2,672,660	6.3%
	\$29,115,253	\$30,201,133	\$ 32,129,139	\$34,187,877	\$32,868,020	4.0%
YTD	\$29,115,253	\$30,201,133	\$ 32,129,139	\$34,187,877	\$32,868,020	4.0%

SnapShot

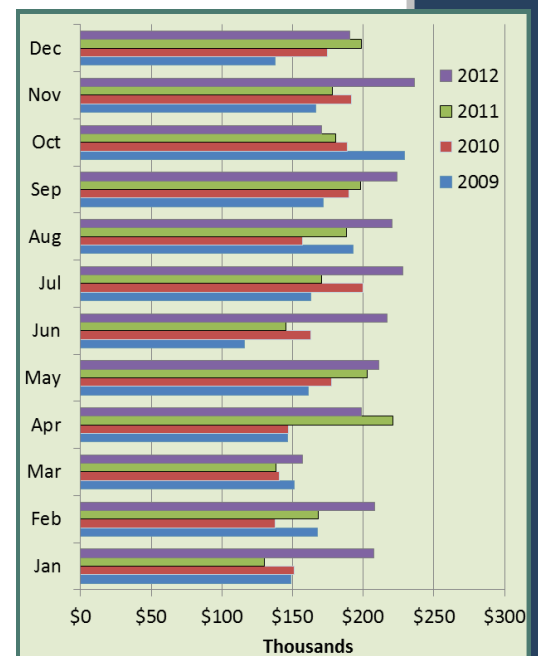
Building Materials Use Tax

	2009	2010	2011	2012	2012 Budget	+ / - Budget
Jan	\$ 118,719	\$ 70,117	\$ 55,542	\$ 99,108	\$ 67,230	47.4%
Feb	36,254	93,928	47,621	50,703	64,310	-21.2%
Mar	216,500	571,599	79,590	57,845	144,060	-59.8%
Apr	72,251	32,260	99,569	111,197	82,360	35.0%
May	49,434	48,145	104,373	140,470	75,760	85.4%
Jun	62,723	34,349	118,318	207,024	66,460	211.5%
Jul	79,061	51,657	76,488	146,570	76,580	91.4%
Aug	52,578	47,716	105,871	127,261	70,510	80.5%
Sep	209,338	46,646	99,544	92,415	93,610	-1.3%
Oct	47,437	105,818	17,021	259,279	80,030	224.0%
Nov	110,207	76,444	64,211	97,778	78,900	23.9%
Dec	41,844	465,626	88,033	110,414	100,190	10.2%
	\$1,096,346	\$1,644,305	\$956,181	\$1,500,063	\$1,000,000	50.0%
YTD	\$1,096,346	\$1,644,305	\$956,181	\$1,500,063	\$1,000,000	50.0%



Motor Vehicle Use Tax

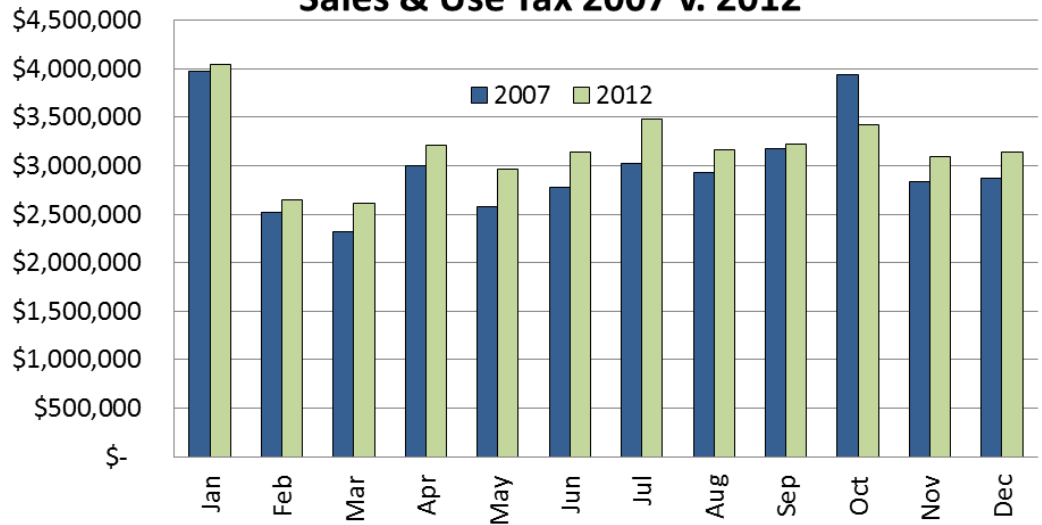
	2009	2010	2011	2012	2012 Budget	+ / - Budget
Jan	\$ 148,828	\$ 151,034	\$ 130,337	\$ 207,261	\$ 147,380	40.6%
Feb	167,793	137,951	168,077	208,117	156,400	33.1%
Mar	151,378	140,768	138,335	156,828	156,480	0.2%
Apr	146,734	147,378	221,177	198,682	153,530	29.4%
May	160,943	177,687	202,940	211,062	171,700	22.9%
Jun	115,867	163,076	145,325	217,084	151,980	42.8%
Jul	162,966	199,797	170,691	227,989	182,230	25.1%
Aug	193,144	156,834	188,141	220,475	184,760	19.3%
Sep	171,833	190,102	198,355	223,732	183,210	22.1%
Oct	229,369	188,953	180,546	170,786	204,030	-16.3%
Nov	166,225	191,753	178,169	236,385	166,190	42.2%
Dec	137,685	174,664	198,476	190,420	142,110	34.0%
	\$1,952,766	\$2,019,997	\$2,120,569	\$2,468,822	\$2,000,000	23.4%
YTD	\$1,952,766	\$2,019,997	\$2,120,569	\$2,468,822	\$2,000,000	23.4%



2007 vs 2012 Tax Comparisons

	2007	2012
Jan	\$3,972,513	\$4,039,678
Feb	2,520,486	2,649,229
Mar	2,319,579	2,618,053
Apr	3,003,780	3,215,437
May	2,581,830	2,966,032
Jun	2,781,786	3,136,014
Jul	3,022,815	3,480,123
Aug	2,931,667	3,171,054
Sep	3,176,883	3,225,155
Oct	3,936,330	3,421,099
Nov	2,835,420	3,092,095
Dec	2,869,916	3,142,793
	\$35,953,006	\$38,156,762

Sales & Use Tax 2007 v. 2012



	2007	2012
Jan	\$3,972,513	\$3,607,507
Feb	2,507,072	2,355,439
Mar	2,286,415	2,310,176
Apr	2,941,724	2,828,763
May	2,513,134	2,612,416
Jun	2,702,532	2,766,189
Jul	2,937,441	3,074,729
Aug	2,854,102	2,786,157
Sep	3,084,330	2,821,103
Oct	3,813,494	2,993,663
Nov	2,730,719	2,718,647
Dec	2,765,797	2,770,683
	\$35,109,275	\$33,645,470

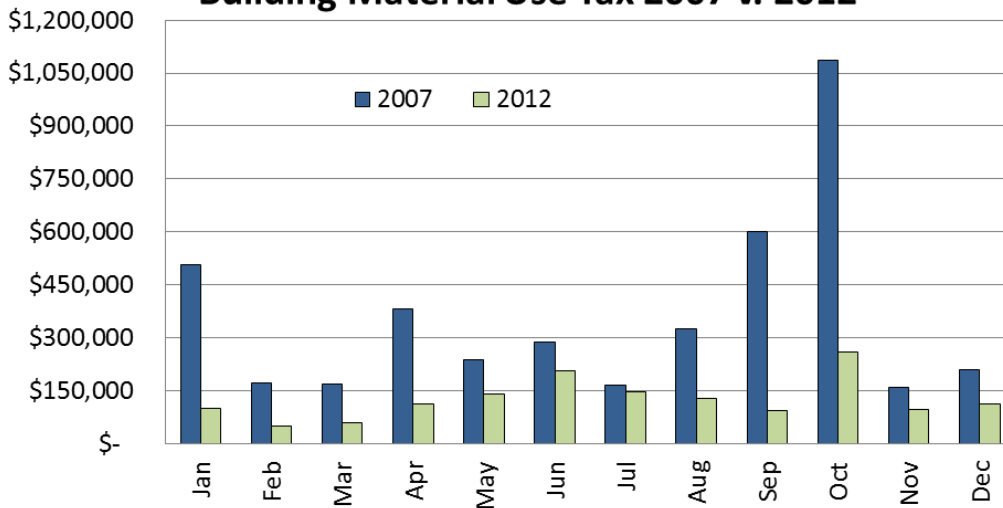
Sales & Use Tax 2007 v. 2012 in Constant January 2007 Dollars



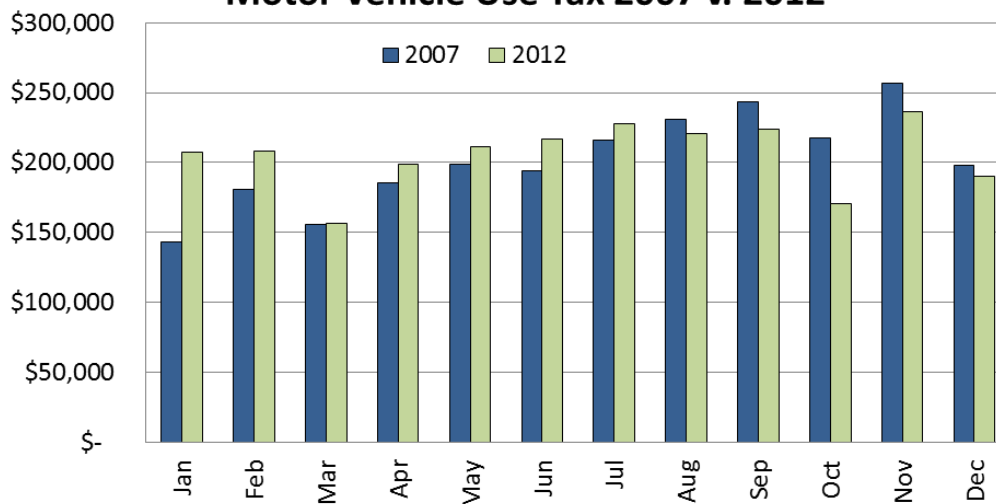
SnapShot

Retail Sales Tax 2007 v. 2012

	2007	2012
Jan	\$3,324,067	\$3,733,309
Feb	2,167,873	2,390,409
Mar	1,994,635	2,403,380
Apr	2,437,958	2,905,558
May	2,146,685	2,614,500
Jun	2,300,533	2,711,906
Jul	2,640,223	3,105,564
Aug	2,376,534	2,823,319
Sep	2,332,844	2,909,008
Oct	2,632,667	2,991,034
Nov	2,419,051	2,757,932
Dec	2,464,559	2,841,959
	\$29,237,629	\$34,187,877

Building Material Use Tax 2007 v. 2012

	2007	2012
Jan	\$505,441	\$99,108
Feb	171,835	50,703
Mar	169,579	57,845
Apr	380,285	111,197
May	236,140	140,470
Jun	287,300	207,024
Jul	166,446	146,570
Aug	324,125	127,261
Sep	600,704	92,415
Oct	1,086,325	259,279
Nov	159,382	97,778
Dec	207,723	110,414
	\$4,295,285	\$1,500,063

Motor Vehicle Use Tax 2007 v. 2012

	2007	2012
Jan	\$143,005	\$207,261
Feb	180,778	208,117
Mar	155,365	156,828
Apr	185,537	198,682
May	199,005	211,062
Jun	193,953	217,084
Jul	216,146	227,989
Aug	231,008	220,475
Sep	243,336	223,732
Oct	217,338	170,786
Nov	256,987	236,385
Dec	197,634	190,420
	\$2,420,092	\$2,468,821

Sales Tax Collections

December 2012

Description	YTD 2012	YTD 2011	\$ Change	% Change	% of Total	Total %
Department Stores & General Merchandise	\$ 7,731,895	\$ 7,442,395	\$ 289,500	3.9%	22.6%	22.6%
Restaurants & Bars	4,375,426	3,918,015	457,411	11.7%	12.8%	35.4%
Grocery Stores & Specialty Foods	3,369,335	3,253,291	116,044	3.6%	9.9%	45.3%
Clothing & Clothing Accessories Stores	2,524,479	2,382,665	141,814	6.0%	7.4%	52.7%
Building Material & Lawn & Garden Supplies	2,298,628	2,105,270	193,358	9.2%	6.7%	59.4%
Motor Vehicle Dealers, Auto Parts & Leasing	2,271,768	1,968,968	302,800	15.4%	6.6%	66.0%
Sporting Goods, Hobby, Book & Music Stores	1,726,444	1,566,969	159,475	10.2%	5.0%	71.1%
Utilities	1,705,517	1,663,707	41,811	2.5%	5.0%	76.1%
Broadcasting & Telecommunications	1,334,116	1,319,015	15,101	1.1%	3.9%	80.0%
Used Merchandise Stores	1,068,684	913,438	155,246	17.0%	3.1%	83.1%
Beer, Wine & Liquor Stores	826,642	730,584	96,059	13.1%	2.4%	85.5%
Hotels, Motels & Other Accommodations	760,498	684,999	75,499	11.0%	2.2%	87.7%
Consumer Goods & Commercial Equipment Rental	594,358	513,604	80,754	15.7%	1.7%	89.5%
Health & Personal Care Stores	564,338	538,332	26,006	4.8%	1.7%	91.1%
Electronic Shopping & Mail-Order Houses	465,209	459,702	5,506	1.2%	1.4%	92.5%
Electronics & Appliance Stores	461,840	620,022	(158,181)	-25.5%	1.4%	93.8%
Furniture & Home Furnishing Stores	441,695	440,874	821	0.2%	1.3%	95.1%
Office Supplies, Stationery & Gift Stores	315,453	324,861	(9,408)	-2.9%	0.9%	96.0%
Gasoline Stations with Convenience Stores	271,343	250,308	21,034	8.4%	0.8%	96.8%
All Other Categories	1,080,209	1,032,121	48,088	4.7%	3.2%	100.0%
Total	\$ 34,187,877	\$ 32,129,139	\$ 2,058,738	6.4%	100.0%	

⇒ By business category, Used Merchandise Stores Finished 2012 at 17.0% over their 2011 performance. In addition, Consumer Goods & Commercial Equipment Rentals ended this year with a 15.7% increase. Restaurants & Bars maintained their consistent strong growth, posting an 11.7% increase and lead all categories for total dollar increases for the year. The “Beer, Wine & Liquor Stores” category posted a 13.1% increase through December and the “Motor Vehicle Dealers, Auto Parts & Leasing” has ended 2012 in the top three with an increase of 15.4% for the year. With the addition of new dealerships and increased demand, this category should continue this trend into 2013.

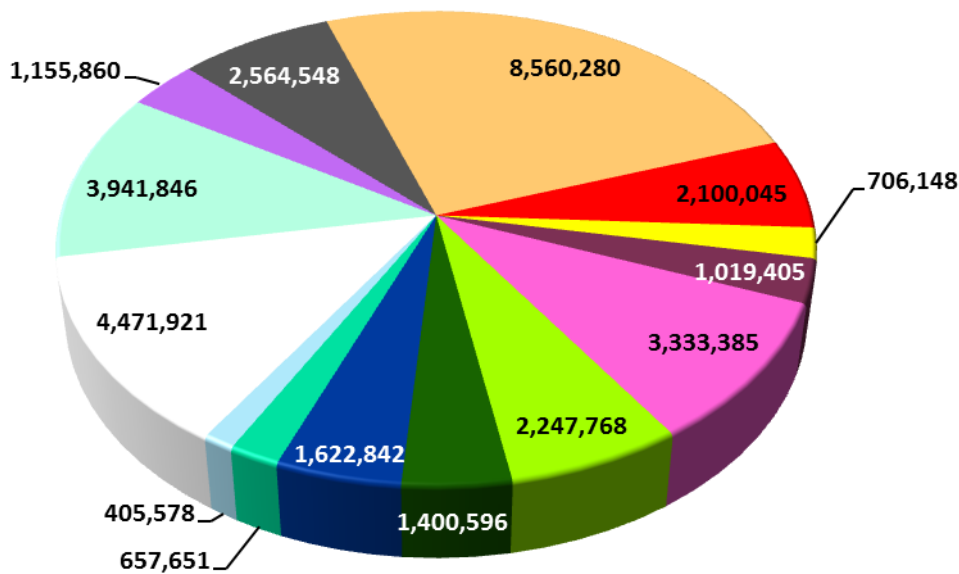
⇒ 2012 sales tax revenue ended the year 6.4% above 2011. The North East Loveland area had the strongest growth over 2011 with a 20.2% increase. North East Loveland’s performance throughout 2012 came with the strong performance of new and existing restaurants coupled with a large increase from the hotels in the area. Only two areas trailed their 2011 pace. The year 2012 started with the Downtown area showing almost 10% decline in sales over 2011. As new retail stores have opened for business in the downtown area and overall sales improved, the downtown area ended 2012 down only 2.0% for the year. This positive trend should carry into 2013 providing there are no major store closings in the downtown area’s future. Through audit, it was discovered that a major retailer in the Promenade Shops had been over-reporting sales. This error has been corrected; as a result, sales show a 2.9% negative trend. However, after adjusting for this reporting issue, the remaining Promenade Shops show a 5.5% positive trend for 2012. We have tracked the adjusted sales trend throughout the year for the Promenade Shops.

⇒ Lodging Tax Revenue received in 2012 was \$668,591 for the year.

Geographical Codes

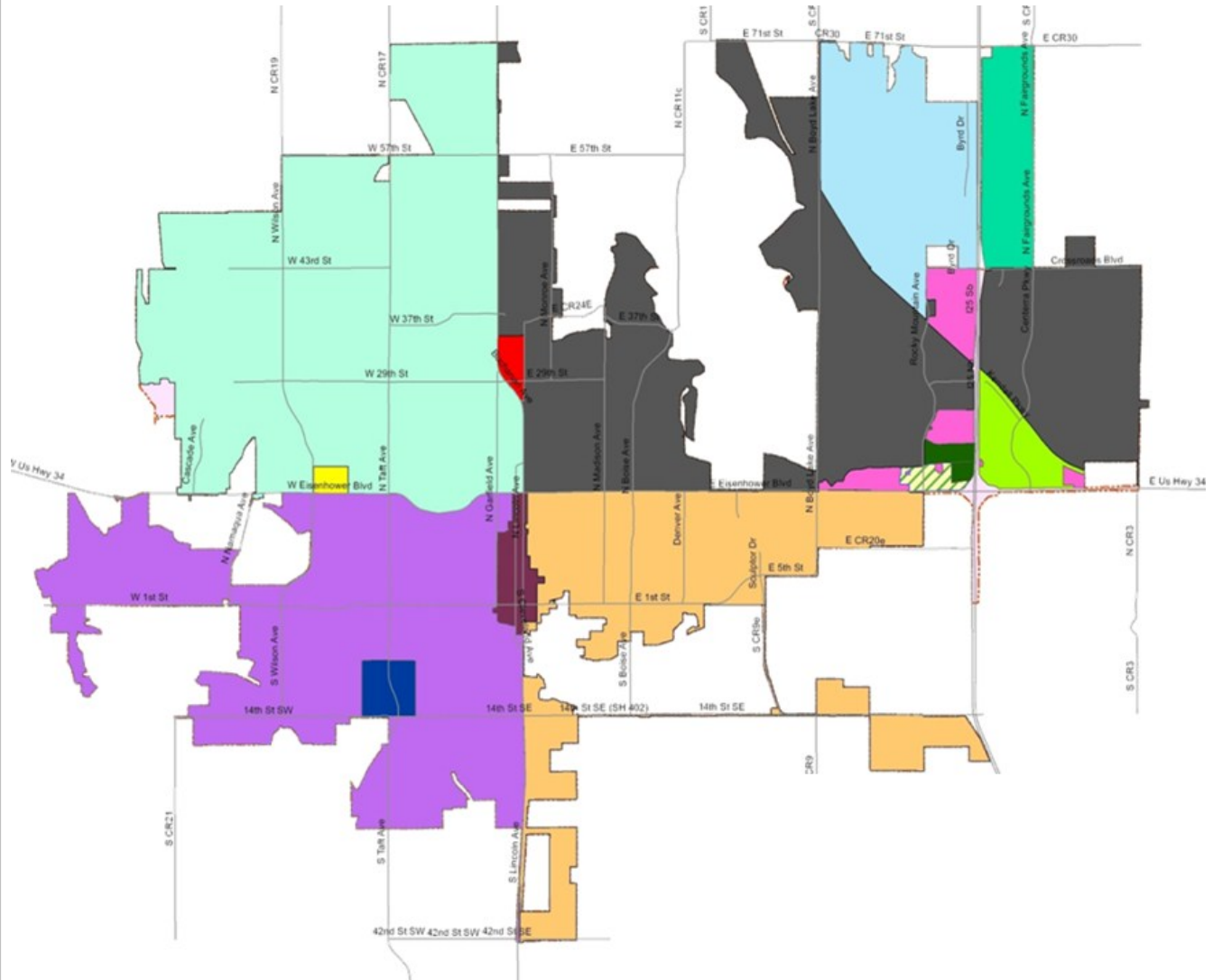
December 2012

Geographical Area	YTD 2012	YTD 2011	Change
North West Loveland	\$3,941,846	\$3,739,870	5.4%
South West Loveland	1,155,860	1,085,655	6.5%
North East Loveland	2,564,548	2,133,043	20.2%
South East Loveland	8,560,280	7,988,861	7.2%
Orchards Shopping Center	2,100,045	1,999,095	5.0%
Columbine Shopping Center	706,148	654,741	7.9%
Downtown	1,019,405	1,039,773	-2.0%
Centerra	3,333,385	3,001,986	11.0%
Promenade Shops	2,247,768	2,313,867	-2.9%
Outlet Mall	1,400,596	1,313,606	6.6%
Thompson Valley Shopping Center	1,622,842	1,528,544	6.2%
The Ranch	657,651	649,623	1.2%
Airport	405,578	383,456	5.8%
All Other Areas	4,471,921	4,297,018	4.1%
Total	<u>\$34,187,877</u>	<u>\$32,129,139</u>	<u>6.4%</u>



Geographical Codes

December 2012



For a larger view of this map, please visit:

- ⇒ www.cityofloveland.org
- ⇒ Departments
- ⇒ Finance
- ⇒ Administration
- ⇒ Financial Reports
- ⇒ View Monthly Financial Reports
- ⇒ "Click here" below monthly SnapShot links

click + magnifier to zoom

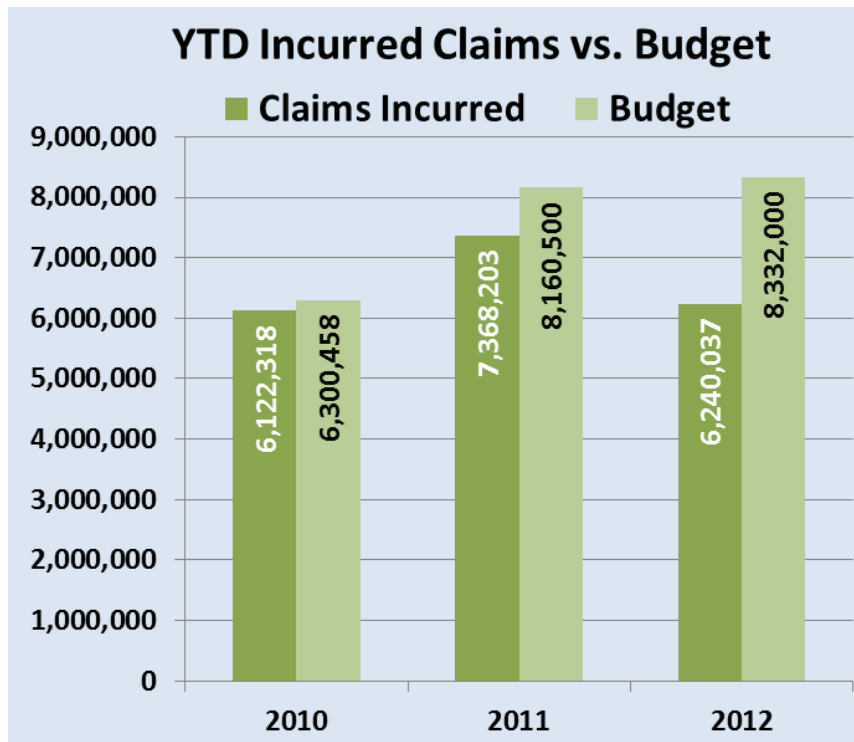
Health Care Claims

December 2012

Monthly Financial Report

Cash Basis of Claims Paid					\$ Over / (Under) Budget	% Over / (Under) Budget
		OAP	HRA	Total	Budget	
2012	December	159,617	77,140	236,757	694,333	(457,576)
	YTD	4,857,572	1,382,465	6,240,037	8,332,000	(2,091,963)
2011	December	482,698	70,299	552,996	680,042	(127,045)
	YTD	6,169,548	1,198,656	7,368,203	8,160,500	(792,297)
Change	December	(323,081)	6,841	(316,239)		
	% December	-66.9%	9.7%	-57.2%		
	YTD	(1,311,976)	183,809	(1,128,166)		
	% YTD	-21.3%	15.3%	-15.3%		

This chart represents claims paid by Cigna in the current month, but due to the timing of when Accounting receives the information, the claims do not get recorded as an expenditure until the following month. ⇒ OAP—Open Access Plan ⇒ HRA—Health Reimbursement Arrangement

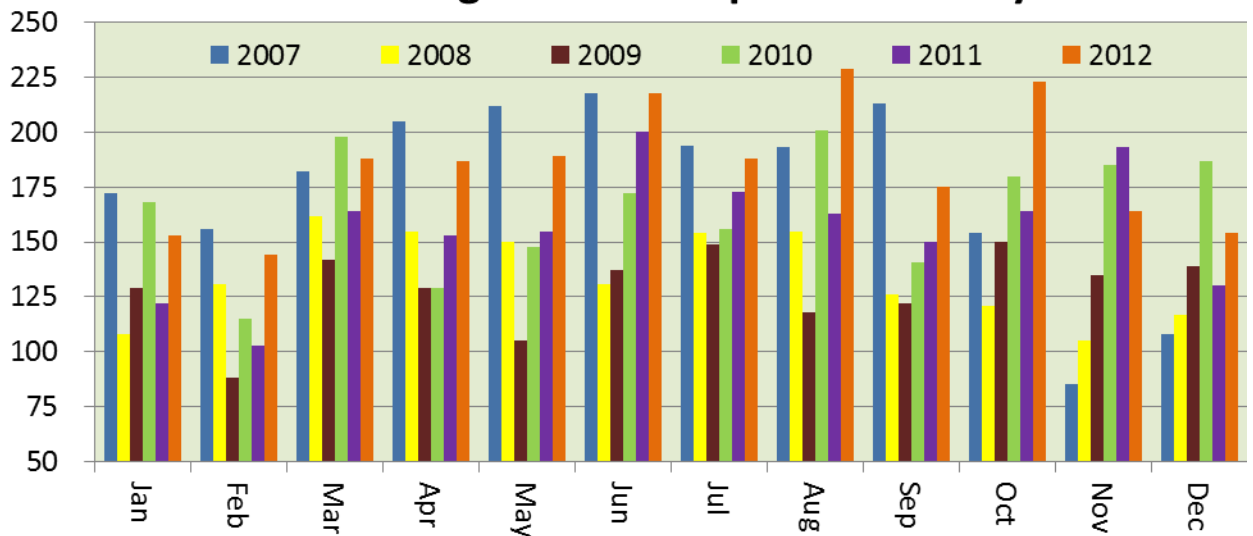


StopLoss Claims (claims over \$150k paid by StopLoss Carrier)				
2012 # of stoploss claims = 1				
YTD Claims Over \$25K				
Comparison (2009-2012)				
through December	2009	2010	2011	2012
# of claims	41	53	66	51
YTD Cost of high claims	\$2,811,502	\$4,134,990	\$3,376,922	\$2,780,612

Activity Measures

Measures	December '10	December '11	December '12	2010 YTD	2011 YTD	2012 YTD
# of Building Permits	187	130	154	1,980	1,870	2,212
Building Permit Valuations	\$38,053,268	9,749,017	\$7,543,284	\$148,784,159	\$78,717,041	\$134,290,222
# of Certified Occupancies	16	21	36	192	231	350
Net # of Sales Tax Licenses	27	-48	13	139	193	(54)
New Residential Electric Meter Sets	46	7	95	311	335	359
# of Utility Bills Sent	35,250	35,984	36,347	420,521	391,450	433,607
Rounds of Golf	3,634	0	694	120,494	117,204	122,849
Health Claim Costs/Emp.	\$ 1,142.35	\$ 877.77	\$ 365.93	\$ 11,078.77	\$ 11,434.37	\$ 9,772.30
# of Vacant Positions	11	27	39	109	200	406
# of Frozen Vacant Positions	13	8.5	9	160	127	108
# of Eliminated Positions	42	45.58	47	478	488	561
KWH Demand (kH)	98,550	105,024	101,596	1,238,422	1,279,438	1,292,209
KWH Purchased (kwh)	61,462,080	64,126,663	62,688,462	702,481,452	667,395,077	742,506,716
Gallons of Water Sold	146,647,090	152,186,164	151,780,723	3,574,213,686	3,671,735,722	4,190,277,746
# of Workers' Comp Claims	6	11	4	120	105	98
\$ of Workers' Comp Claims Paid	\$ 209,543.00	\$ 39,057.20	\$ 97,207.68	\$1,018,633.00	\$ 249,039.25	\$ 620,353.73
# of Open Claims Current Year	13	20	10	123	181	121
# of Total Open Claims	16	22	12	172	215	180
\$ of Total Open Claims	\$ 208,903.00	\$ 185,378.00	\$ 223,207.81	\$2,502,709.00	\$1,583,576.00	\$3,044,770.86
\$ of Lodging Tax Collected	\$ 31,687.00	\$ 34,684.54	\$ 42,944.92	\$ 486,371.65	\$ 577,672.26	\$ 668,591.13

Building Permit Comparison History



Capital Projects \$500,000+

Project Title	2012 Budget	2012 Expenditures	Remaining 2012 Budget	% of 2012 Budget (Exp/Bud)
Water Capital				
Morning Dr Alt Waterline 30"	\$ 1,924,700	\$ 940,981	\$ 983,719	48.89%
Filter Plant 2 Improvements	954,860	856,894	97,966	89.74%
29th St Waterline Replacement	581,370	487,023	94,347	83.77%
Raw Water Capital				
Windy Gap Firming Project	1,205,060	83,136	1,121,924	6.90%
Purchase of Colorado-Big Thompson Project (CBT) Water	2,606,600	2,289,218	317,382	87.82%
Wastewater Utility Capital				
Carlisle Phase IV from Taft to Railroad	597,100	539,580	57,520	90.37%
South Horseshoe Lift Station	1,216,210	75,553	1,140,657	6.21%
Fairgrounds/Namaqua Interceptor	709,600	709,151	449	99.94%
Power Capital				
East Sub to Crossroads Sub on Railroad	1,894,640	514,908	1,379,732	27.18%
Horseshoe Sub along Hwy 287 to 29th St.	1,338,910	611	1,338,299	0.05%
Stormwater Capital				
Washington Ave Outfall Phase 4	1,256,433	807,997	448,436	64.31%
MeHaffey Park Regional Detention Pond	580,565	15,318	565,247	2.64%
Streets Transportation Program				
2012 Street Rehabilitation	3,644,900	3,454,964	189,936	94.79%
Fiber network to signals and other facilities	1,084,000	12,875	1,071,125	1.19%
US 287 - Garfield Traffic Signal	668,420	33,494	634,926	5.01%
All Other				
Fire Station 6 Remodel and Expansion	915,000	810,805	104,195	88.61%
Rialto Theater Center	1,114,000	926,649	187,351	83.18%
Library Expansion	857,520	726,918	130,602	84.77%
Police Dispatch Console Replacement	1,200,000	944,993	255,007	78.75%
Facilities Maintenance Capital Projects	655,440	445,237	210,203	67.93%
MeHaffey Park Development	8,550,000	1,049,952	7,500,048	12.28%
Open Lands Acquisition	3,036,170	490,933	2,545,237	16.17%
Leslie the Cleaner Demolition and Remediation	\$ 500,000	\$ 442,812	\$ 57,188	88.56%

December 2012 SnapShot

Monthly Financial Report

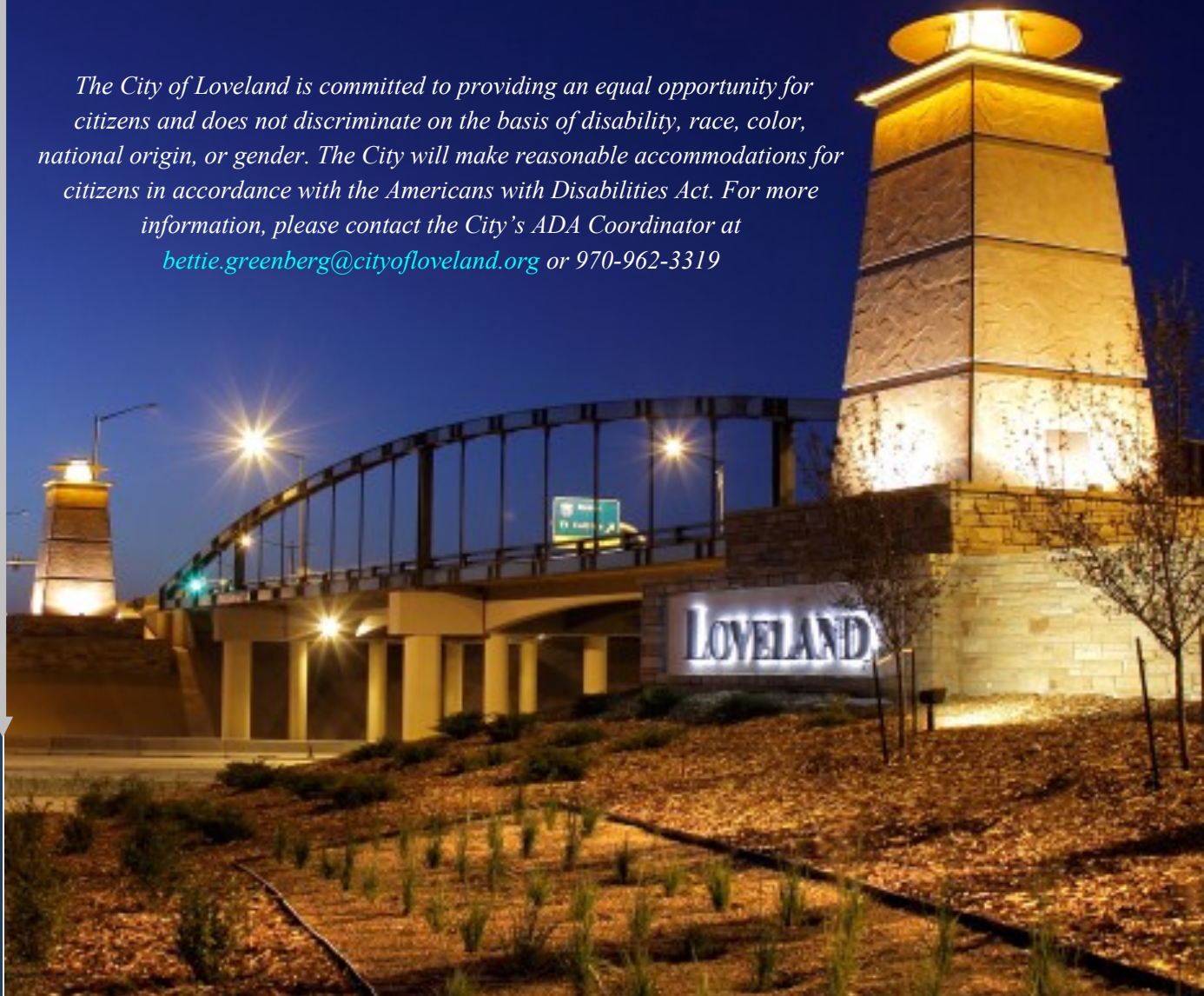
City Of Loveland 500 East 3rd Street Loveland, CO 80537

For more information regarding this report contact:

Brent Worthington, Finance Director

970.962.2300 or brent.worthington@cityofloveland.org

The City of Loveland is committed to providing an equal opportunity for citizens and does not discriminate on the basis of disability, race, color, national origin, or gender. The City will make reasonable accommodations for citizens in accordance with the Americans with Disabilities Act. For more information, please contact the City's ADA Coordinator at betty.greenberg@cityofloveland.org or 970-962-3319





Snapshot

December 2012

Brent Worthington
Finance Director

Presented
February 19, 2013

December 2012 Snapshot

- Citywide Revenue
 - \$209.2 million, excluding transfers
 - 3.4% above budget projections

- Citywide Expenditures
 - \$191.1 million, excluding transfers
 - 19% below budget projections

- Citywide revenues exceed expenditures by \$18.1 million.

December 2012 Snapshot

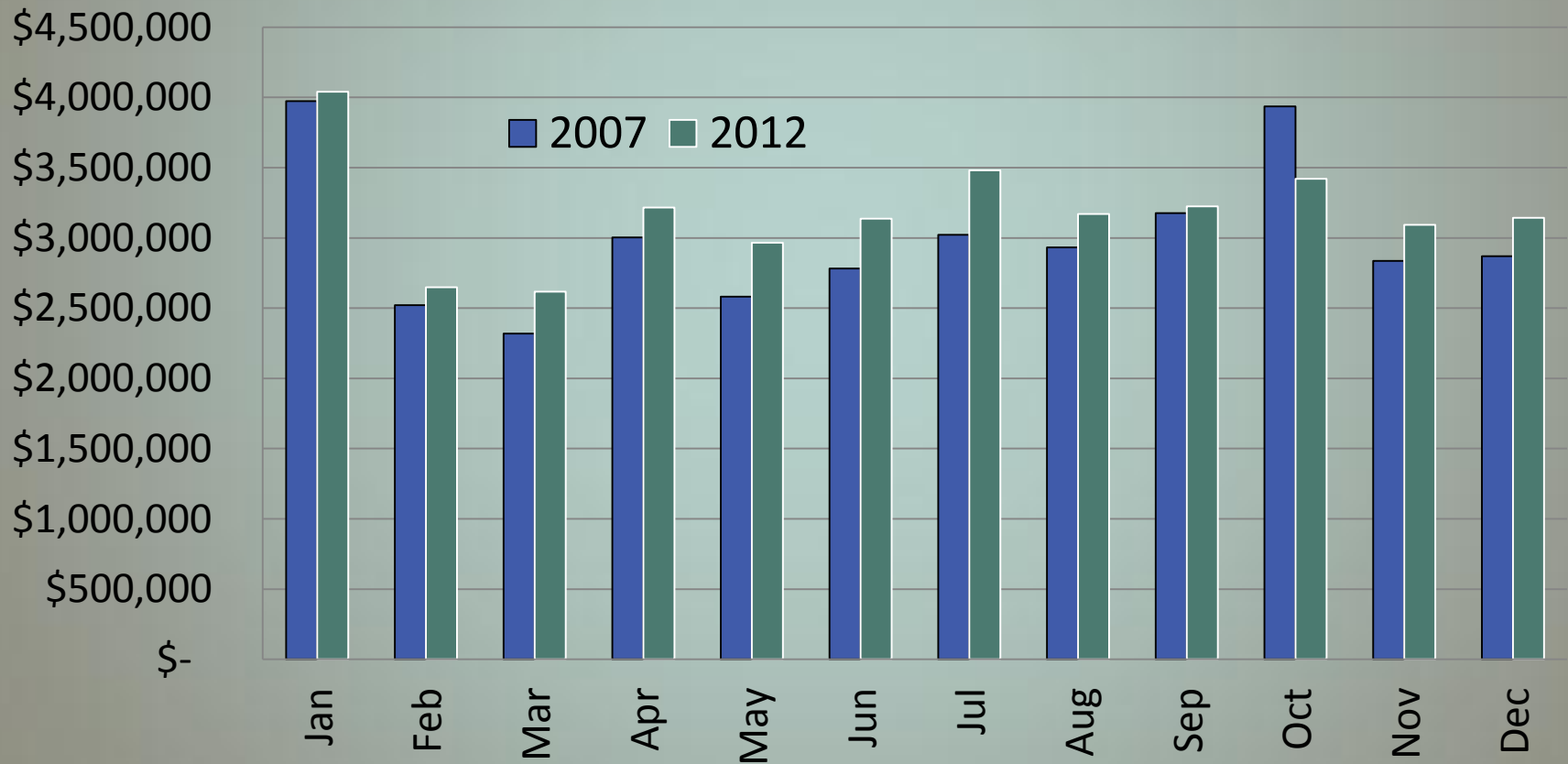
- General Fund Revenue: \$68.3 million YTD
 - 7.6% above 2012 YTD Budget
 - 5.2% above same period last year

- Sales and Use Tax Revenue: \$38.1 million
 - 6.4% above budget projections
 - 8.4% above same period as last year

- Sales Tax only: \$34.1 million YTD
 - 4.0% above budget projections
 - 6.4% above same period last year

December 2012 Snapshot

Sales & Use Tax 2007 v. 2012



December 2012 Snapshot

Sales & Use Tax 2007 v. 2012 in Constant January 2007 Dollars



December 2012 Snapshot

- General Fund Expenditures
 - \$59 million YTD, excluding transfers
 - 7.8% below budget projections

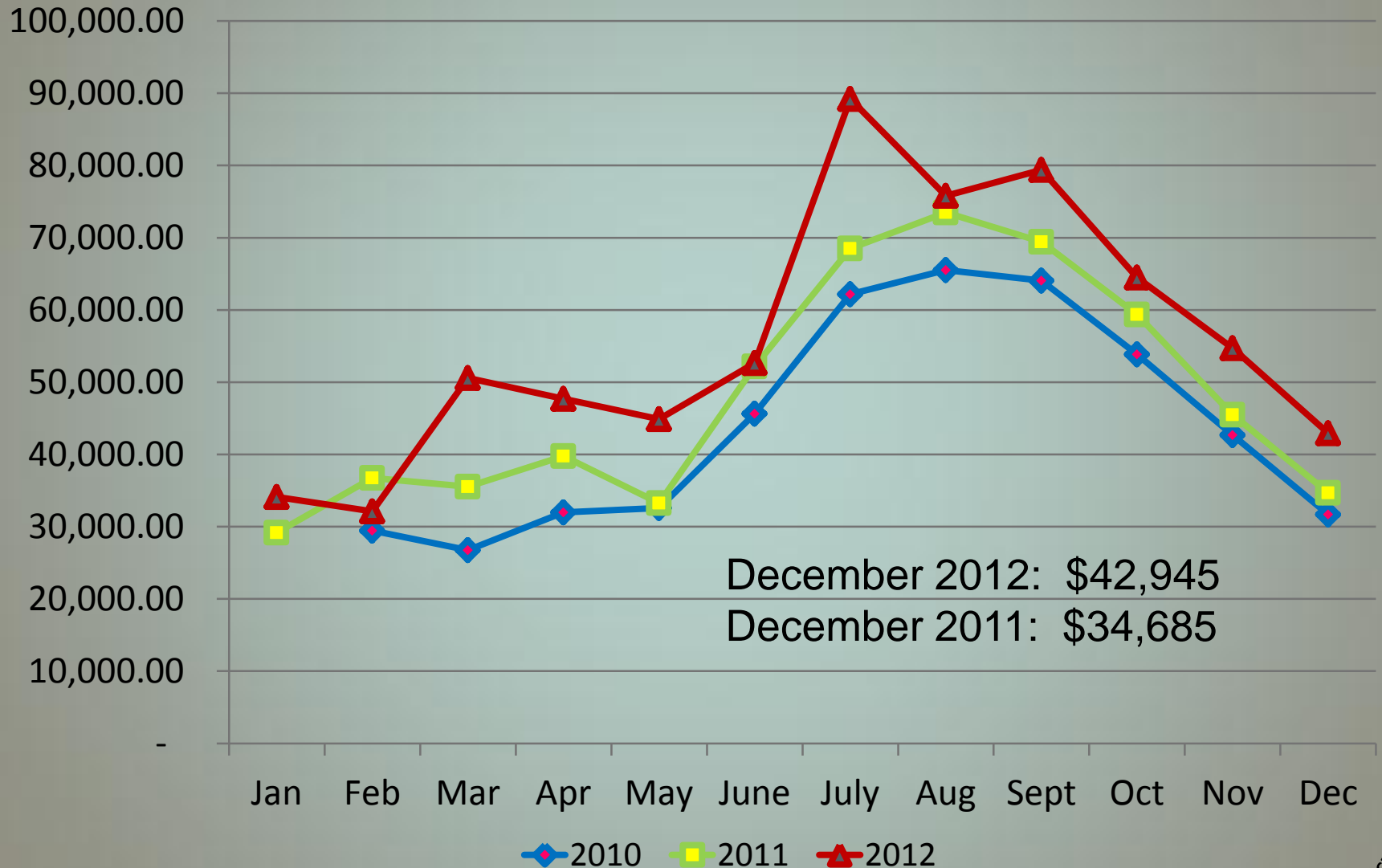
- General Fund Revenues Exceed Expenditures by \$9.6 million

- Health Claims
 - December Claims \$236,757
 - 65.9% below December budget projections
 - 2012 YTD decreased from \$7.3 million to \$6.2 million from same time as last year (15.3%)

December 2012 Snapshot

- Other highlights
 - Lodging tax YTD is \$668,591 (21.9% higher than 2011 YTD).

Lodging Tax Comparison





December 2012 Snapshot

Questions?

Brent Worthington
Finance Director

Presented
February 19, 2013

**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: 19
MEETING DATE: 2/19/2013
TO: City Council
FROM: Alan Krcmarik, Executive Fiscal Advisor
PRESENTER: Alan Krcmarik

TITLE:

Investment Report for December 2012

RECOMMENDED CITY COUNCIL ACTION:

This is an information only item. No Council action is required.

DESCRIPTION: The budget estimate for investment earnings for 2012 was \$2,729,560. Through December 2012, the amount posted to the investment account is \$2,520,033 including realized gains. Actual year-to-date earnings are lower than the budget projection by \$209,525. Based on the monthly statement, the estimated annualized 1.22% yield on the securities held by USBank was down from last month and under the annual target rate of 1.70% for 2012. Reinvestment rates are near record low levels, much lower than the budget projection.

SUMMARY: At the end of December the City's portfolio had an estimated market value of \$212 million, about \$1.8 million less than a month ago. Of this amount, USBank held (including accrued interest) \$186.2 million in trust accounts; other funds are held in local government investment pools, in operating accounts at WellsFargo Bank, and a few miscellaneous accounts. Interest rates have trended significantly lower over since March and are projected to remain low for years. Investments are in US Treasury Notes, high-rated US Agency Bonds, high-rated corporate bonds, money market accounts, and local government investment pools. The City's investment strategy emphasizes safety of principal, then sufficient liquidity to meet cash needs, and finally, return on investment. Each percent of earnings on the portfolio equates to about \$2.1 million annually.

REVIEWED BY CITY MANAGER:

LIST OF ATTACHMENTS: Investment Focus December 2012



Investment Focus

Monthly Investment Report

December 2012

What's in here?

Focal Points	1
Gain / Loss	
Rate Trends	2
Cash Statement	3
Portfolio size	4
Investment types	
Transactions /	5
Maturity	
Future Scan	6

Focal Points

- * **2012 targets for the City's portfolio: 1) the interest rate target is **1.7%**; 2) the earnings goal = **\$2,729,560**.**
- * **City investments are in high quality, low risk securities, in compliance with state law and the adopted investment policy.**
- * **Revenue posted to accounts = **\$2,520,023** – **7.7% under target**. This includes realized gains on security sales of **\$273,605**.**
- * **Each 1% of the total portfolio amounts to about \$2.1 million.**
- * **The month end market value shows the unrealized loss increased, estimated to be **\$393,509** at the end of December.**

Recovery Shows a Soft Spot – GDP Shrinks 0.1%

"The U.S. economy shrank for the first time in more than three years in the fourth quarter, underscoring the halting nature of the recovery. But the strength of consumer spending and business investment suggested that the economy will grow, albeit slowly. The drop, a surprise, was driven by a sharp fall in government spending and by businesses putting fewer goods on warehouse shelves. (Source: Josh Mitchell, in *The Wall Street Journal* January 31, 2013.)

Type of Investment	Purchase Price	Market Value	Unrealized Gain or Loss
Checking Accounts	\$ 8,113,385	\$8,113,385	--
Investment Pools	17,616,050	17,616,050	--
Money Markets	<u>7,662,075</u>	<u>7,662,075</u>	--
Subtotal	\$ 33,391,518	\$ 33,391,518	--
Notes and Bonds	<u>178,993,251</u>	<u>178,599,742</u>	\$ (393,509)
Total Portfolio	\$ 212,384,761	\$ 211,991,252	\$ (393,509)
Data Sources	(Morgan Stanley)	(US Bank)	

Due to rounding, column and row totals may not add exactly.

Treasury rate trends / Gross Domestic Product



Interest rates on US treasuries finished the month of December up when compared to the end of October.

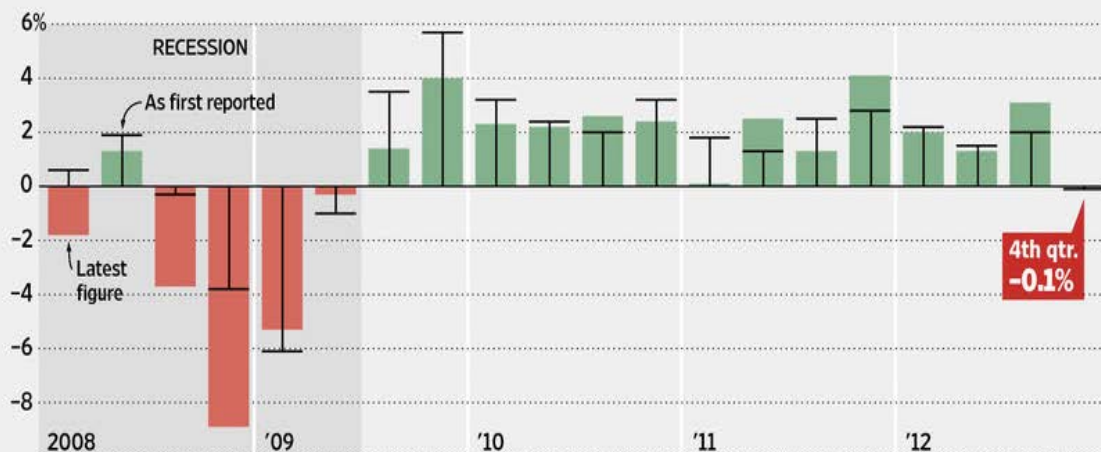
The 2-year treasury was flat for December. The 3-year was 2 points higher. The 5-year finished 11 basis points higher.

The rate shifts decreased the value of securities in the portfolio. Rates on purchases moved slightly higher.

First Look at the Fourth Quarter

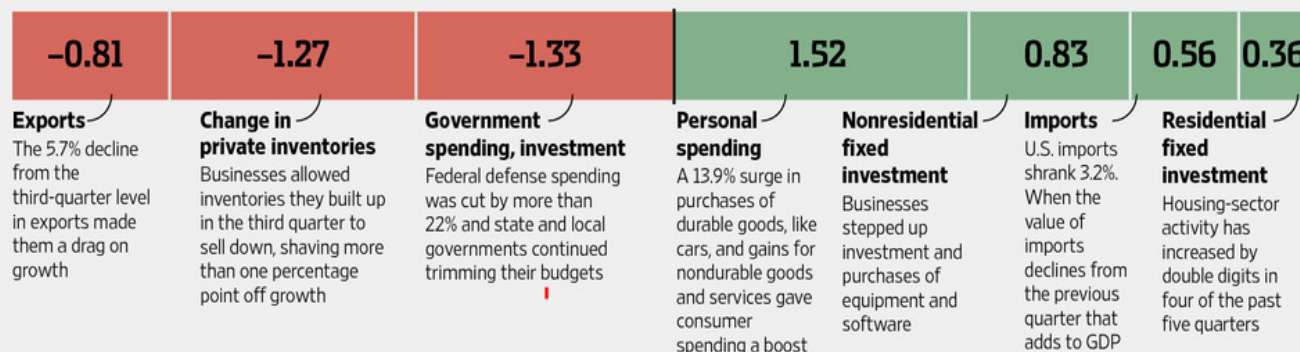
U.S. GDP contracted in the fourth quarter, but initial readings are nearly always revised.

Quarterly change at an annualized rate in GDP, adjusted for inflation



Why the economy contracted in the fourth quarter

Contribution to the 0.1% change in real GDP, in percentage points



Source: Commerce Department

Pat Minczeski/The Wall Street Journal

Cash Position Summary

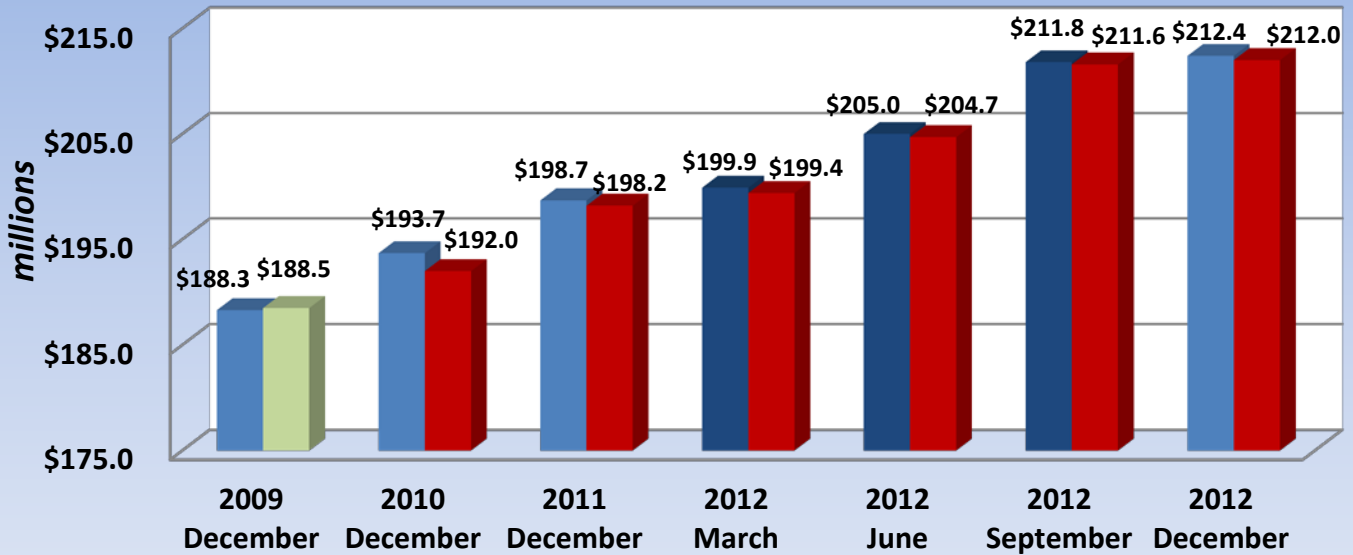
Cash & Reserves (unaudited)

		2012 Beginning	YTD Activity	Month End Total
	Restricted Reserves	Due to rounding, column and row totals may not add exactly.		
1	Capital Expansion Fees	\$ 33,634,541	\$ 1,335,799	\$ 34,970,340
2	Water System Impact Fees	7,351,374	1,595,255	8,946,629
3	Raw Water Revenue – Windy Gap	22,362,750	(1,467,735)	20,895,015
4	Wastewater System Imp. Fees	4,509,816	622,305	5,132,121
5	Storm Drain System Imp. Fees	1,344,721	190,913	1,535,634
6	Power Plant Investment Fees	6,866,635	1,372,314	8,238,949
7	Cemetery Perpetual Care	2,531,442	97,826	2,629,268
8	Other Restricted	29,211,947	(43,534)	29,168,413
9	Total Restricted	\$ 107,813,225	\$ 3,703,145	\$ 111,516,371
	Committed/ Assigned			
10	General Fund	\$ 11,622,515	\$ (2,434,365)	\$ 9,188,150
11	Enterprise Funds	5,098,358	(98,311)	5,000,047
12	Internal Service Funds	17,970,582	1,856,522	19,827,104
13	Total Reserves	\$ 34,691,455	\$ (676,155)	\$ 34,015,301
14	Total Restricted and Reserved	\$ 142,504,681	\$ 3,026,990	\$ 145,531,617
	Unassigned Balance			
15	General Fund	\$ 17,142,212	\$ 10,281,105	\$ 27,423,317
16	Airport	897,343	263,340	1,160,684
17	Internal Service – Vehicle Maint	142,091	103,539	245,629
18	Enterprise Funds	36,427,968	690,529	37,118,497
19	Total Unrestricted	\$ 54,609,615	\$ 11,338,512	\$ 65,948,128
20	TOTAL CASH	\$ 197,114,296	\$ 14,365,503	\$ 211,479,799

Monthly Investment Report

Portfolio Size / Types of Investments

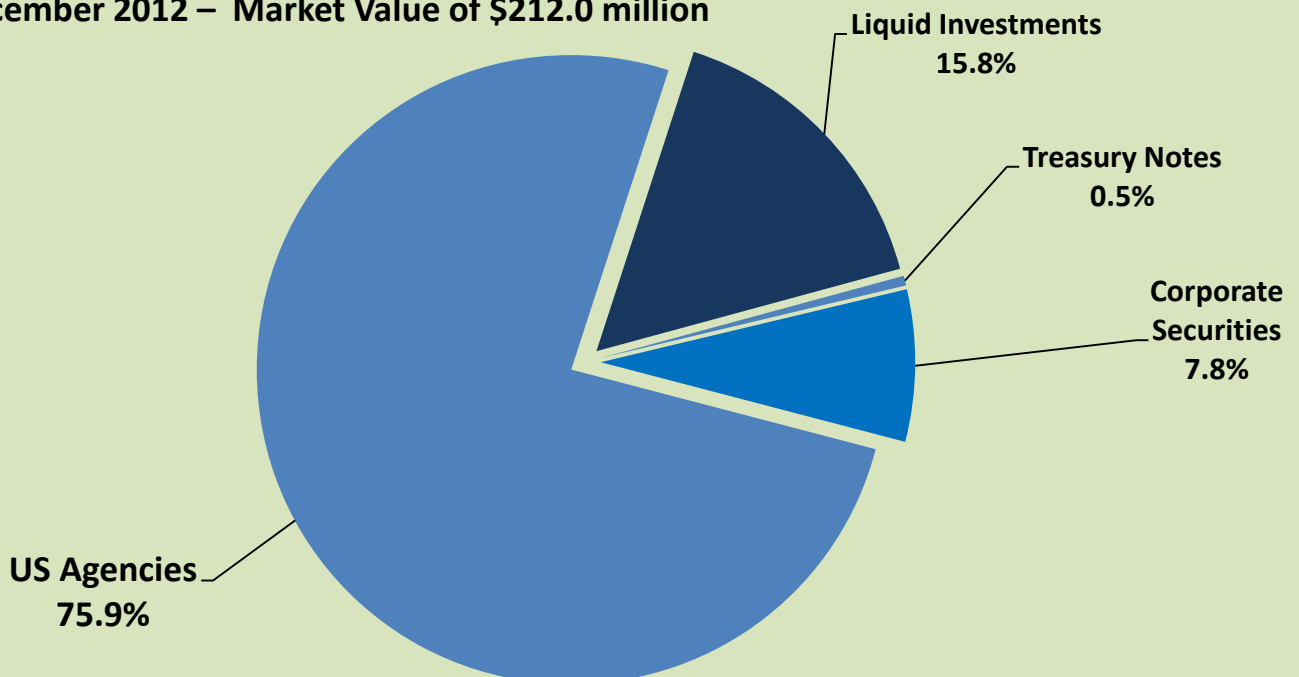
Portfolio Size since December 2009



Blue bars show Purchase value, red and green bars show market value, red = loss and green = gain

Portfolio by Type of Investment

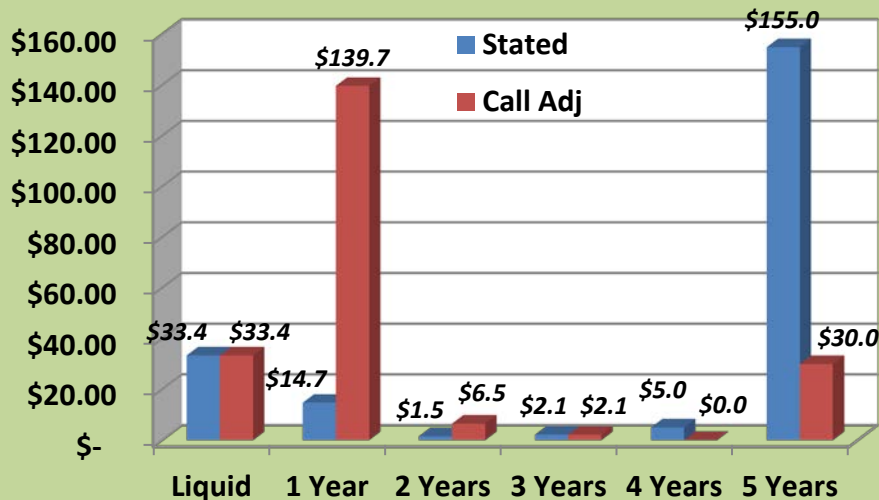
December 2012 – Market Value of \$212.0 million



Transactions / Portfolio by Maturity

	Maturity Date	Face Value	Purchase \$	Stated Rate
<u>Purchases</u>				
Fed Home Loan Mort. Corp.	12/20/2017	\$ 10,000,000	\$ 10,000,000.00	0.920%
<u>Matured</u>				
None this month				
<u>Called</u>				
Fed. Nat'l. Mortgage Assn.	12/28/2016	\$ 5,000,000	<u>Call Value \$</u> \$ 5,000,000.00	1.250%
<u>Sales</u>				
Fed. Nat'l. Mortgage Assn.	02/13/2017	\$ 9,700,000	<u>Gain \$</u> \$38,800.00	0.875%

Portfolio by Estimated Maturity Term
(in millions - Total = \$212.0 at the end of December 2012)



The target rate for 2012 is 1.7%. Rates are now up slightly ahead of near record lows. Through December, the portfolio proceeds were below the earnings target level for 2012.

To support earnings or to reposition the portfolio, bonds may be sold. Gains on sales total \$273,605 to date.

The blue bars show the stated term. Red bars show the calls. Most of the five year bonds will be called early.



Future Scan: Fed “glum”, continues purchases; risks remain

- ❖ The **Federal Open Market Committee (“FOMC” or “Fed” or “Committee”)** met on January 29-30.
 - The Committee decided to keep buying mortgage-backed and Treasury securities to keep interest rates low. They signaled no intention, for now, of letting up.
 - The Committee decided to keep the target range for the federal funds rate at 0 to 1/4 percent and currently anticipates that this exceptionally low range for the federal funds rate will be appropriate at least as long as: 1) the unemployment rate remains above 6-1/2 percent; 2) inflation one and two years ahead is projected to be no more than a half percentage point above the Committee’s 2 percent longer-run goal, and; 3) longer-term inflation expectations continue to be well anchored.
 - “Growth in economic activity paused in recent months . . . attributable to weather-related disruptions and other transitory factors.” The Fed’s general outlook at the meeting was assessed as “glum”. (Source: *The Wall Street Journal*, January 31, 2013.)
- ❖ **Morgan Stanley Smith Barney (“MS”):**
 - “The fiscal cliff deal that was finally signed into law was a welcomed relief for the risk markets, but it is not a conclusion to the political drama. The stage has now been set for perhaps an even more contentious debate as the next big deadline is the debt ceiling, and the sequestered spending cuts that were delayed for two months.”
 - Morgan Stanley economists estimate the fiscal cliff deal will shave about 0.75% from 2013 real GDP.
 - The UST 10-yr sold off in response to uncertainty being removed from avoiding the full effects of the fiscal cliff. Near term, the back end of the curve could remain anxious, and an overshoot above our 2.00% top for the 10-yr cannot be ruled out. Our near term range is 1.55% to 2.05%.
 - Our municipal strategists also believe municipals [Bonds] could outperform Treasuries, but it could be a case where tax-exempt rates rise less than their UST counterparts. (Source: *Basis Points Fixed Income Strategy*, Kevin Flanagan and John Mackay, January 8, 2013.)
- ❖ The December 2012 Colorado Employment Situation was released on January 18, 2013. Using non-seasonally adjusted employment data, **Colorado’s unemployment rate** for December was estimated to be 7.5% compared to the national unemployment rate of 7.6%. Larimer County was at 5.9%. Boulder County moved down to 5.5% and Weld County rose to 8.4%. Data for cities were nearly flat to a month ago. Loveland’s unemployment rate is estimated to be 6.6%, lower than November; and down from 7.4% one year ago. Fort Collins was 5.7%, Boulder 4.9%, and Greeley 8.6%.
- ❖ **Recession Outlook:** “I don’t think the US economy is out of the woods. However wrong ECRI might have been in their way-too-early recession call, significant risks remain. The greatest endogenous threat to the US economy is the impact of the expired 2% FICA tax holiday together with the decline in early 2013 personal income as a result of 2012 year-end maneuvers. If John and Mary Doe are forced to cut back on spending, we could see a daisy-chain effect on retail sales, industrial production and employment.” (Source: *Advisor Perspectives*, Doug Short, February 1, 2013)

[For more information regarding this report, please contact:](#)

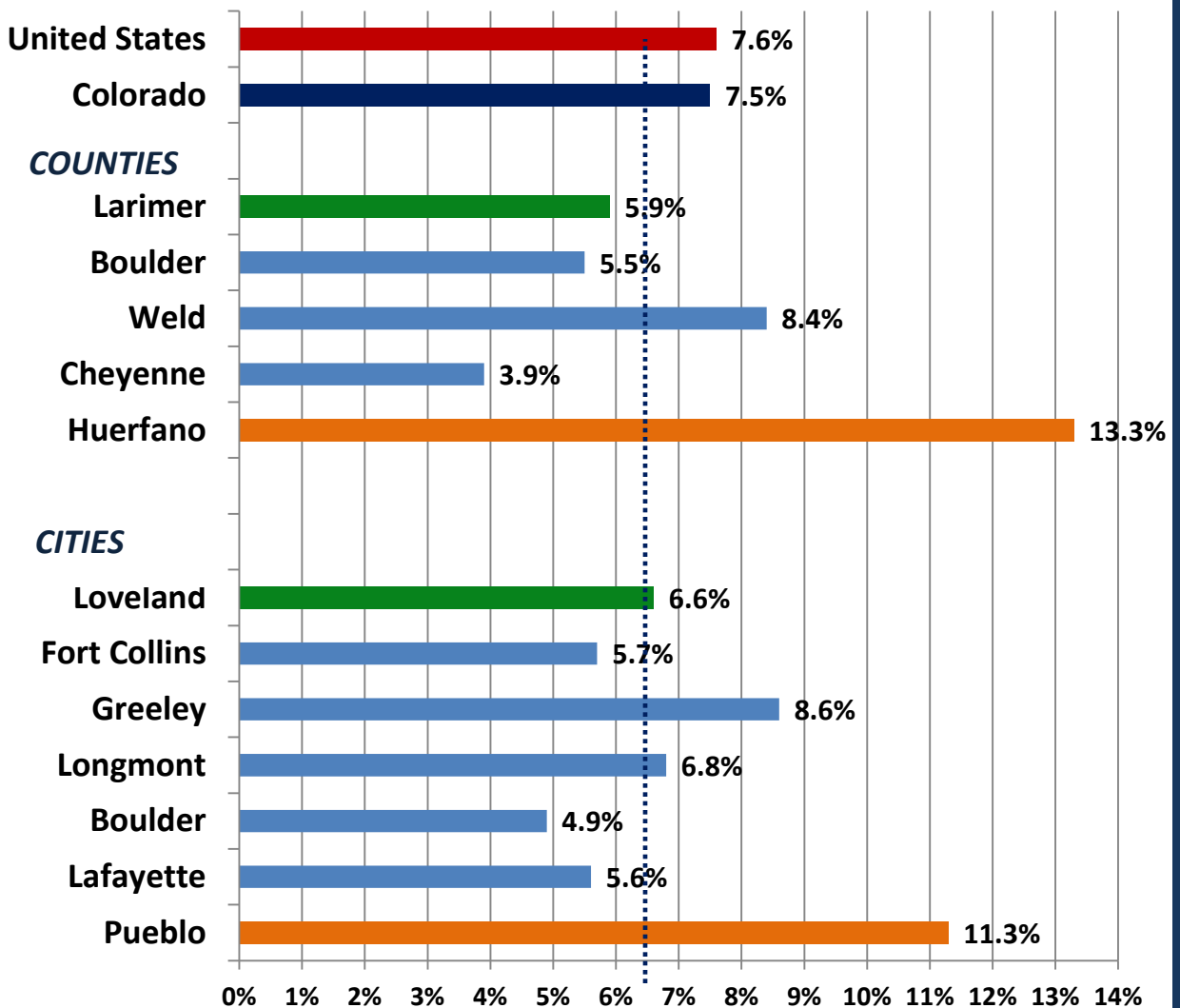
Alan Krcmarik, Executive Fiscal Advisor 970.962.2625 or Alan.Krcmarik@cityofloveland.org

Updated Colorado Labor Data

- ❑ Loveland's workforce **expanded** in **December**, up 344 jobs from November 2012.
- ❑ Compared to one year ago in December, there are 931 **more** jobs.

Unemployment Rates

Data not adjusted for seasonality



**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: 21
MEETING DATE: 2/19/2013
TO: City Council
FROM: William D. Cahill, City Manager
PRESENTER: William D. Cahill, City Manager

TITLE:

A Resolution Approving Settlement of the Klen v. City Of Loveland Lawsuit

RECOMMENDED CITY COUNCIL ACTION:

Adopt 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 matter to consider a resolution approving the Material Terms of Settlement Agreement ("Agreement") pertaining to the Klen Lawsuit against the City and several City employees, on the condition that the settlement payment under the Agreement will be made by the City's insurer, the Colorado Intergovernmental Risk Sharing Agency ("CIRSA"). The resolution also authorizes the City Manager, in consultation with legal counsel appointed by CIRSA, to enter into a formal "Final Settlement Agreement" on the City's behalf.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible

Because the City has already spent its \$150,000 deductible in defense of this Lawsuit, the settlement payment of \$495,000.00 under the Agreement will be made by CIRSA.

SUMMARY:

In early 2007, Edward J. Klen, Stephen J. Klen, Diverse Construction, Inc. and Holstein Self-Service Storage, LLC (collectively, the "Klens"), commenced Civil Action No. 07-CV-00347 in the U.S. District Court for Colorado (the "Lawsuit") naming the City of Loveland ("City") and several City employees as defendants. While most of the Klens' claims against the City and its employees have been dismissed by the courts over the course of the past six years, some of the remaining claims against the City and some of its employees are still to be decided at trial.

Chief District Court Judge Marcia S. Krieger recently ordered the parties to participate in a settlement conference to be mediated by Magistrate Judge Michael E. Hegarty. Representatives of the City and CIRSA attended this conference. CIRSA was represented, in part, because the City has already spent its \$150,000 deductible in defense of this Lawsuit, so any settlement reached would require CIRSA's approval and its payment of any settlement amount. This resolution approves the proposed settlement on the condition that the settlement payment is made by CIRSA. In addition, the resolution authorizes the City Manager, in consultation with legal counsel appointed by CIRSA, to enter into a formal final settlement agreement to be filed with the Court.

REVIEWED BY CITY MANAGER:



LIST OF ATTACHMENTS:

1. Resolution (Including Exhibit A - Material Terms Of Settlement Agreement)
2. 2008 Police Gun Range Agreement
3. Existing Special Review

RESOLUTION #R-18-2013**A RESOLUTION APPROVING SETTLEMENT OF THE KLEN V. CITY
OF LOVELAND LAWSUIT**

WHEREAS, in early 2007, Edward J. Klen, Stephen J. Klen, Diverse Construction, Inc. and Holstein Self-Service Storage, LLC (collectively, the “Klens”), commenced Civil Action No. 07-CV-00347 in the U.S. District Court for Colorado (the “Lawsuit”) naming the City of Loveland (“City”) and several City employees as defendants; and

WHEREAS, while most of the Klens’ claims against the City and its employees have been dismissed by the courts over the course of the past six years, some of the remaining claims against the City and some of its employees are still to be decided at trial; and

WHEREAS, Chief District Court Judge Marcia S. Krieger recently ordered the parties to participate in a settlement conference to be mediated by Magistrate Judge Michael E. Hegarty; and

WHEREAS, attending this conference with City representatives was a representative from the City’s insurer, the Colorado Intergovernmental Risk Sharing Agency (“CIRSA”); and

WHEREAS, the CIRSA representative attended this conference, in part, because the City has already spent its \$150,000 deductible in defense of this Lawsuit, so any settlement reached would require CIRSA’s approval and its payment of any settlement amount; and

WHEREAS, as a result of the mediation, a proposed settlement was reached by the parties, and approved by CIRSA; and

WHEREAS, the proposed settlement was reduced to writing in the “Material Terms of Settlement Agreement” attached as **Exhibit “A”** (the “Agreement”); and

WHEREAS, Section 1. of the Agreement expressly provides that it and the parties’ “Final Settlement Agreement” are subject to the City Council’s approval; and

WHEREAS, the Council has reviewed the settlement terms and conditions of the Agreement and finds that the proposed settlement is in the best interests of the City to avoid the continued expense and vagaries of litigation, but to do so without any admission of wrongdoing in this matter by the City or its employees.

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

Section 1. That the Agreement is hereby approved with the understanding and on the condition that the \$495,000 settlement payment to the Klens under the Agreement will be made by CIRSA.

Section 2. That the City Manager, in consultation with the City's CIRSA appointed legal counsel, is authorized to enter into the formal "Final Settlement Agreement" on the City's behalf on terms and conditions consistent with the Agreement and or such other terms and conditions as the City Manager determines are in the City's best interests.

Section 3. That the City Council received the recommendation of the parties that the Council consider a proposal from the Klens to expand their existing gun range and finds, in connection therewith, as follows:

- A. Provided the Klen proposal for expansion, when submitted to the City, is in substantial compliance with the currently approved "Anasazi Park Phase 2 - Major Amendment to Special Review No. 835" ("Special Review No. 835"), there may be no need for additional special review or modification of a special review, as otherwise required under City Code Title 18, with respect to such a proposed expansion of the existing gun range into the existing, but currently unfinished, approximately 9,000 square foot portion of the Anasazi Park Phase 2 building located at 697 North Denver Avenue, Loveland, Colorado (the "Expansion").
- B. Provided that a proposed expansion, as described in Section 3.A. above, is hereafter submitted to the City by the Klens in substantial compliance with Special Review No. 835, the existing capital expansion fee credits held by the City with respect to the Anasazi Park Phase 2 building located at 697 North Denver Avenue will suffice to cover any capital expansion fees owed for such a proposed expansion, and, therefore, no further capital expansion fees will be owed by the Klens, Diverse or Holstein (whichever might be responsible for same) to the City for any such proposed expansion.
- C. That the City will consider entering into a services contract (subject to annual appropriation as required by City Charter Section 11-6(b) and Section 20, Article X of the Colorado Constitution) between the City and the Klens, Diverse or Holstein (as the case might be) for the Loveland Police Department's use of Plaintiffs' gun range in the Anasazi Park Phase 2 building for training purposes, provide such contract is at the same cost as the original 2008 contract, \$47,870 per year (prorated at \$3,989.17 per month), between the City and the previous gun range operator. Any such services contract shall include such other applicable conditions as the City currently includes in its similar services contracts and shall be completed in accordance with the City's current purchasing requirements.

Based on the foregoing, the City Manager is authorized to acknowledge and confirm these findings in the parties' formal "Final Settlement Agreement" and to enter into on the City's behalf the services contract described above in paragraph C.

Section 4. This Resolution shall be effective as of the date and time of its adoption.

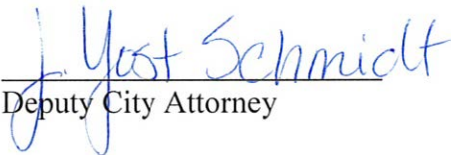
ADOPTED this _____ day of February, 2013.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


Deputy City Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 07-cv-00347-MSK-MEH

EDWARD J. KLEN,
STEPHEN J. KLEN,
DIVERSE CONSTRUCTION, INC., a Colorado corporation, and
HOLSTEIN SELF-SERVICE STORAGE, LLC, organized under Colorado law,

Plaintiffs,

v.

THE CITY OF LOVELAND, COLORADO, a Colorado municipal corporation,
THOMAS HAWKINSON, City of Loveland Building Official, in his individual capacity,
GREG GEORGE, City of Loveland Community Services Director, in his individual capacity,
JOHN R. DUVAL, City of Loveland Attorney, in his individual capacity, and
DAVID SPRAGUE, City of Loveland Plans Reviewer, in his individual capacity,

Defendants.

MATERIAL TERMS OF SETTLEMENT AGREEMENT

1. This settlement agreement and the Final Settlement Agreement are subject to the approval of the City Council for the City of Loveland.
2. This settlement is a compromise of disputed claims. No party admits any liability to the other party.
3. Plaintiffs agree to release all claims, grievances and causes of action that were or could have been brought, whether known or unknown, against Defendants in this lawsuit. This includes Plaintiffs' agreement not to bring any action or be a party in any action against any of the Defendants challenging the City of Loveland's capital expansion fee calculations and/or collections, as a result of the allegations raised in this litigation.
4. Defendants shall pay the total sum of four hundred ninety-five thousand dollars (\$495,000.00) to Plaintiffs within fourteen (14) business days after receipt from the Plaintiffs of an executed W-9 form and a stipulation for dismissal of individual Defendants.
5. Defendants in their individual capacities will be dismissed from the case by a Stipulation for Dismissal with Prejudice with each party to pay their own costs. The parties stipulate and agree that no settlement monies are being paid by these

Defendants in their individual capacities. Settlement monies are paid solely by the City of Loveland.

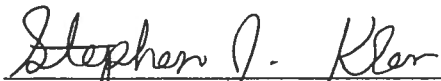
6. Defendants agree to recommend the following actions to the City Council:
 - a. Conduct no special review on the expansion of the existing gun range for the 9,000 square feet that is currently built, but unfinished, in the Anasazi Phase II building;
 - b. Charge no additional capital expansion fees on the Anasazi Phase II project for the expansion of the gun range; and
 - c. Enter into a services contract for five years (renewable each year subject to TABOR) between the City of Loveland and the Plaintiffs for use of the gun range in the subject building, for the same use and at the same cost as the original 2008 contract.
7. The Plaintiffs and their attorneys agree to keep the terms of this Agreement confidential.
8. The parties agree that this Material Terms of Settlement Agreement is binding and enforceable. Defendants' counsel will take the lead in drafting a formal Final Settlement Agreement encompassing the material terms set forth herein, and counsel for Plaintiffs will cooperate, and will assist in preparing a Stipulation of Dismissal with Prejudice to be filed within 20 days of the execution of the Final Settlement Agreement.

APPROVED:

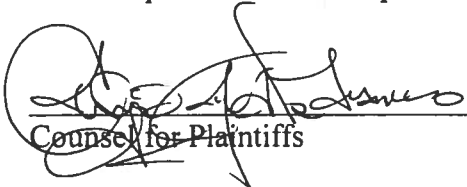


Edward J. Klen, individually Date
and as representative of corporate Plaintiffs

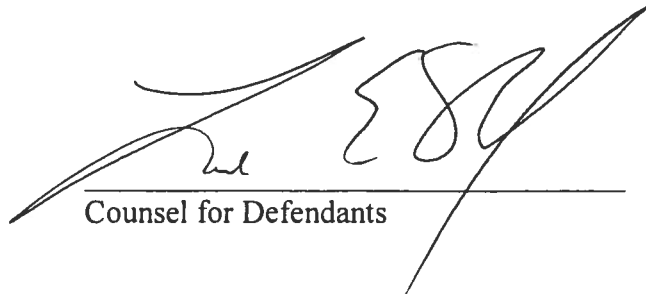
 1.28.13
Representative of Defendants Date



Stephen J. Klen, individually Date
and as representative of corporate Plaintiffs



Counsel for Plaintiffs



Counsel for Defendants

A G R E E M E N T For Police Training Services

THIS AGREEMENT ("Agreement") is made and entered into this 7th day of July, 2008, *nunc pro tunc*, by and between the CITY OF LOVELAND, COLORADO, a home rule municipality ("City"), and Front Range Gun Club LLC, a Colorado limited liability company ("FRGC").

WHEREAS, City desires to access FRGC range for firearm training of its police officers; and

WHEREAS, FRGC desires to provide such access to City at its range located at 697 North Denver Avenue, Suite 128 B, Loveland, Colorado 80537 (the "Range").

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

1. Services. FRGC agrees to provide City police officers with access to the Range as set forth herein and as further specified in Exhibit A, attached hereto and incorporated herein by reference ("Services"). FRGC warrants and represents that it has the requisite authority to enter into this Agreement and that the Range is in compliance with all applicable laws.

2. Compensation. City agrees to pay FRGC as set forth in Exhibit A. City shall make payment upon receipt and approval of invoices submitted by FRGC, which invoices shall be submitted to City annually on the anniversary date of this Agreement and which shall identify the specific Services performed for which payment is requested.

3. Term. The Term of this Agreement shall be from the date first written above until December 31, 2008. This agreement may be extended annually for four (4) additional years ending December 31, 2012, subject to the annual written agreement of the parties not less than thirty (30) days prior to the anniversary date, and subject to appropriations as set forth in Section 4.

4. Appropriation. To the extent this Agreement constitutes a multiple fiscal year debt or financial obligation of City, it shall be subject to annual appropriation pursuant to the City of Loveland Municipal Charter Section 11-6 and Article X, Section 20 of the Colorado Constitution. City shall have no obligation to continue this Agreement in any fiscal year in which no such appropriation is made.

5. Independent Contractor. The parties agree that the FRGC is an independent contractor and neither it nor its officers, managers, employees, or other agents shall not be an employee, agent, or servant of City.

6. Insurance Requirements.

a. Comprehensive General Liability Insurance. City shall procure and keep in force during the duration of this Agreement a policy of comprehensive general liability insurance insuring FRGC against any liability for personal injury, bodily injury, or death arising

out of the performance of this Agreement with at least One Million Dollars (\$1,000,000) each occurrence. The existence of such insurance is not intended to and does not waive any claims or defenses relating to governmental immunity in law or equity.

7. Indemnification. FRGC is advised and acknowledges that the City is a governmental entity and as such may not be permitted under current Colorado law to indemnify another entity, and further acknowledges that the City's agreement to indemnify FRGC is limited by applicable constitutions, statutes and case law. As such, to the fullest extent permitted by law, and consistent with the requirements of the Colorado Governmental Immunity Act (C.R.S. Section 24-10-101, et seq.), City of Loveland shall hold FRGC, its managers, members, affiliates, successors and assigns harmless from and otherwise indemnify them against any and all employee, adjacent property owners or other third party claims, causes of action, damages, expenses or costs (including reasonable attorneys' fees incurred) arising from or relating to any negligent act or omission or other tortious conduct by City while at the Range on or off duty that arises from this Agreement.

a. Termination. If, through any cause, either party fails to fulfill its obligations under this Agreement in a timely and proper manner, violates any provision of this Agreement, or violates any applicable law, and does not commence correction of such nonperformance or violation within seven (7) calendar days of receipt of written notice and diligently complete the correction thereafter, the other party shall have the right to terminate this Agreement for cause immediately upon written notice. In the event of such termination by City, City shall be liable to pay FRGC for Range Access as of the effective date of termination, but shall not be liable to FRGC for anticipated profits. Notwithstanding the above, FRGC shall not be relieved of liability to City for any damages sustained by City by virtue of any breach of this Agreement.

8. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and venue shall be in the County of Larimer, State of Colorado.

9. Governmental Immunity Act. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 et seq.

10. Assignability. Neither party shall not assign this Agreement without the other party's prior written consent.

11. Binding Effect. This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, personal representatives, successors, and assigns.

12. Survival Clause. The "Indemnification" provision set forth in this Agreement shall survive the completion of the Services and the satisfaction, expiration, or termination of this Agreement.

13. Entire Agreement. This Agreement contains the entire agreement of the parties relating to the subject matter hereof and, except as provided herein, may not be modified or amended except by written agreement of the parties.

14. Severability. In the event a court of competent jurisdiction holds any provision of this Agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Agreement.

15. Headings. Paragraph headings used in this Agreement are for convenience of reference and shall in no way control or affect the meaning or interpretation of any provision of this Agreement.

16. Notices. Written notices required 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:

If to City:

Attn: Luke Hecker, Chief of Police
Police Department
City of Loveland
810 East 10th Street
Loveland, CO 80537

If to FRGC:

Front Rage Gun Club
697 North Denver Avenue, Suite 128 B
Loveland, Colorado 80537

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



CITY OF LOVELAND, COLORADO

By:

Luke Hecker

Title:

CHIEF OF POLICE

ATTEST:

Jannie M. Weaver
City Clerk *Deputy*

APPROVED AS TO FORM:

Moses Garcia
Assistant City Attorney

FRONT RANGE GUN CLUB, LLC:

By: [Signature]

Title: President

STATE OF Colorado)
COUNTY OF Sumner) ss.

The foregoing Agreement was acknowledged before me this 25th day of July, 2008 by Del Kevin Cooper.
(Insert name of individual signing on behalf of FRGC)

Witness my hand and official seal.

My commission expires 10/23/2010.



Mary Skipworth
Notary Public

EXHIBIT A SCOPE OF SERVICES

SECTION I - SERVICES OF FRGC AND PERIOD OF PERFORMANCE

- A. FRGC shall provide the following range access and service to City in accordance with tables below:

Date	Time
Monday July 7 th	12:30 - 17:30 (Day Shift Firearms Training)
Monday July 14 th	11:30 - 16:30 (Swing Shift Firearms Training)
Thursday July 17 th	20:30 - 01:30 (Swing Shift Firearms Training)
Monday July 21 st	20:30 - 01:30 (Swing Shift Firearms Training)
Thursday July 24 th	20:30 - 01:30 (Swing Shift Firearms Training)
Monday July 28 th	12:30 - 17:30 (Day Shift Firearms Training)
Monday Oct. 6 th	12:30 - 17:30 (Day Shift Firearms Training)
Monday Oct 13 th	11:30 - 16:30 (Swing Shift Firearms Training)
Thursday Oct 16 th	20:30 - 01:30 (Swing Shift Firearms Training)
Monday 20 th	20:30 - 01:30 (Swing Shift Firearms Training)
Thursday 23 rd	20:30 - 01:30 (Swing Shift Firearms Training)
Monday Oct 27 th	12:30 - 17:30 (Day Shift Firearms Training)
Monday TBD	12:00 - 18:00 (SWAT)
Monday July 7 th	12:00 - 18:00 (SWAT)
Monday Aug 4 th	12:00 - 18:00 (SWAT)
Monday Sept 1 st	12:00 - 18:00 (SWAT)
Monday Oct. 6 th	12:00 - 18:00 (SWAT)
Monday Nov 3 rd	12:00 - 18:00 (SWAT)
Monday Dec 1 st	12:00 - 18:00 (SWAT)

Year	Month/Event
2008	July / Oct / SWAT / Sustainment
2009	TBD / July / Oct / SWAT x 9 / Sustainment
2010	TBD / July / Oct / SWAT x 12/ Sustainment
2011	TBD / July / Oct / SWAT x 12/ Sustainment
2012	TBD / July / Oct / SWAT x 12/ Sustainment

- B. Understanding the unique and dynamic requirements of a Police Department of this size, we will strive to accommodate training shifts and rescheduling as necessary. These training shifts and reschedules will be done on an "as available" basis.
- C. In order for FRGC to reschedule training or additional training days, training must be cancelled no less than 24 hours in advance with request for reschedule no less than 24 hours in advance.

SECTION II – FRGC COMPENSATION

A. The City will compensate FRGC in accordance with the following table.

Year	Annual Cost	Monthly Cost
2008 (Base Year)	\$47,870.00	\$5,983.75
2009 (Option 1)	\$45,420.00	\$3,785.00
2010 (Option 2)	\$46,782.00	\$3,898.50
2011 (Option 3)	\$48,186.00	\$4,015.50
2012(Option 4)	\$49,631.00	\$4,135.90

B. Additional training days can be scheduled at a daily rate of \$650.00 per session (six hours) or \$108.00 with a minimum of 2 hours (\$216.00)

SECTION III - THE CITY'S RESPONSIBILITIES

A. City shall designate a project manager during the term of this Agreement. The project manager has the authority to administer this Agreement and shall monitor compliance with all terms and conditions stated herein. All requests for information from or a decision by City on any aspect of the work shall be directed to the project manager.

B. City shall be responsible for all damages incurred while the Loveland City Police Department conducts training on the FRGC premises.

C. City will be responsible for providing all ammunition and targets for all training.

D. City will be responsible for providing Instructors and Medical Support Personnel should the training require such.

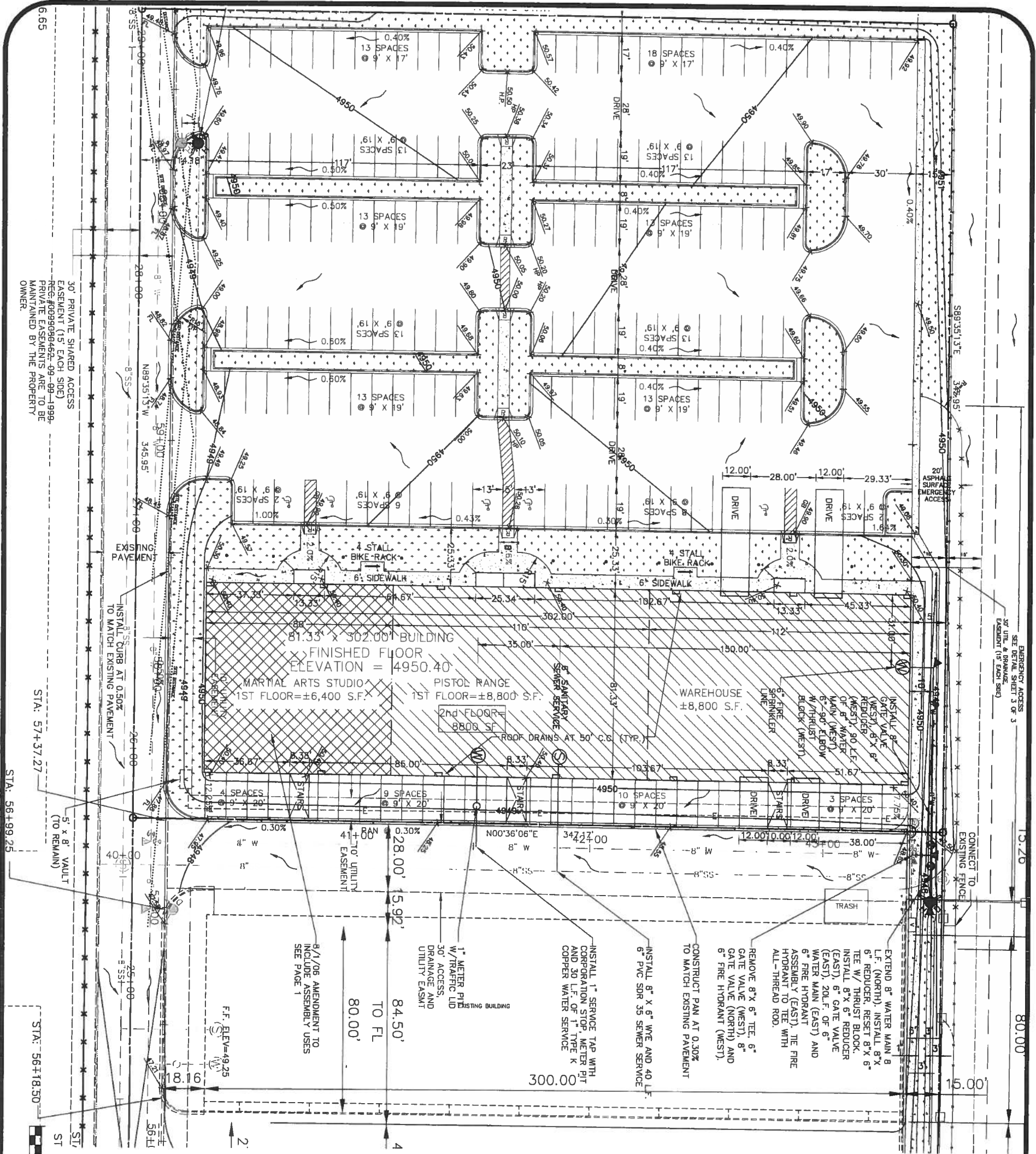
E. City will hold harmless FRGC for all activities undertaken by members of the Loveland Police Department while they are on the premises.

SECTION IV – FRGC RESPONSIBILITIES

A. FRGC will provide access in accordance with Section I paragraph A.

B. FRGC will provide target backers for targets.

C. FRGC will provide a Range Manager to support training. Range Manager will be responsible for assisting Loveland Police Department Instructors with range controls if necessary.



LEGEND

PROPOSED ASPHALT SURFACE

PROPOSED CONCRETE SURFACE

PROPOSED LANDSCAPED SURFACE

PROPOSED BUILDING

EXISTING WATERLINE

EXISTING FIRE HYDRANT

EXISTING SEWERLINE

EXISTING SANITARY SEWER MANHOLE

EXISTING ELECTRIC LINE

EXISTING TELEPHONE LINE

EXISTING STORM PIPE

EXISTING CONTOUR

PROPOSED CONTOUR

DIRECTION OF DRAINAGE

STANDARD SYMBOLS

LANDSCAPE ARCHITECTURE

ENGINEERING

DATE: 10/1/07

BY: [Signature]

NOTES

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS, AS APPLICABLE.

2. THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

**ANASAZI PARK PHASE 2
AMENDMENT TO SPECIAL REVIEW NO. 835**

SPECIAL REVIEW SITE PLAN

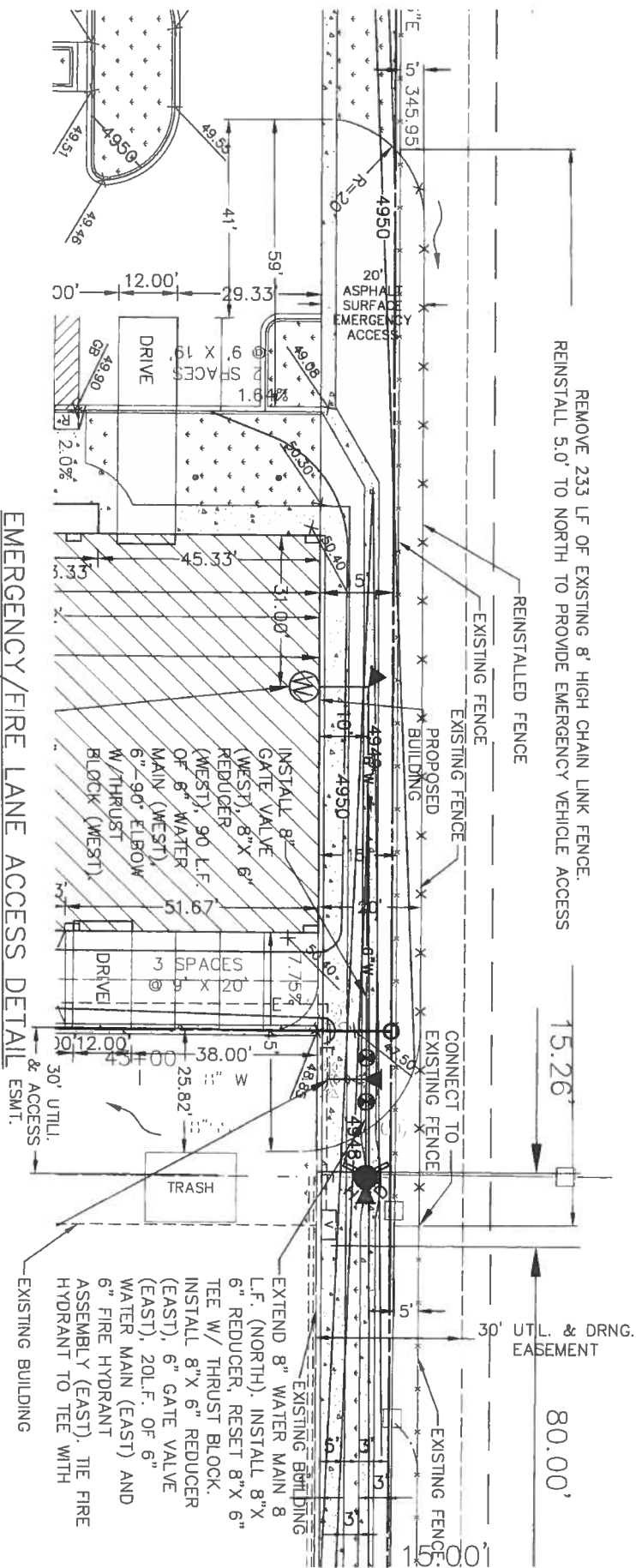
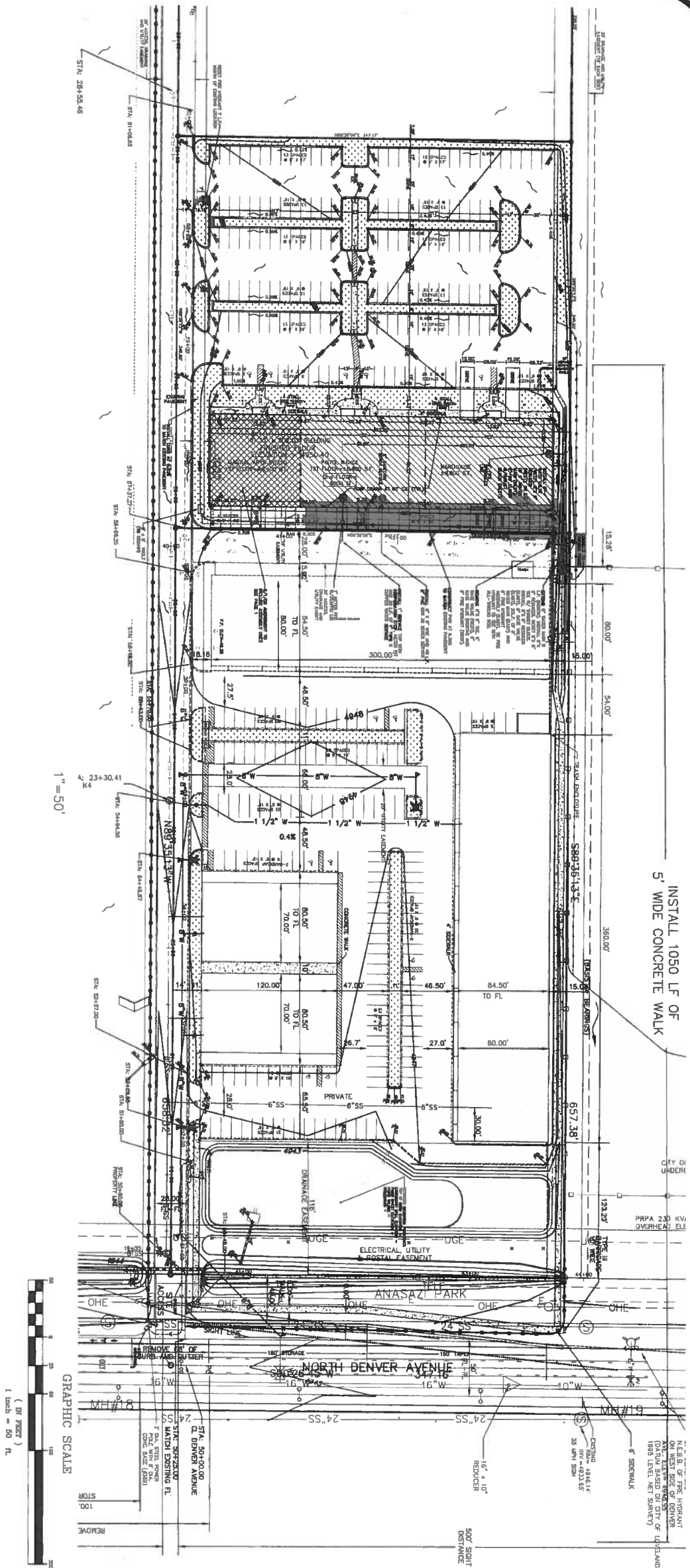
PREPARED BY:
The Fredrickson Group
PLANNERS / LANDSCAPE ARCHITECTS
118 E. 29TH ST. SUITE C
LOVELAND, COLORADO 80538
(970) 278-0240
hmf@fredricksongroup.com

CLIENT:
ED AND STEVE KLEIN
HOLSTEIN STORAGE, LLC
6909 SHANNON COURT
LOVELAND, CO 80538
(970) 667-6556

No.	Revising/Name	Date
1		
2		
3		
4		

Project: 17-701LV
Date: DECEMBER 19, 2007
Scale: 1"=20' 0"

2 OF 4



PREPARED BY:
The Frederickson Group
PLANNERS / LANDSCAPE ARCHITECTS
118 E. 29TH ST., SUITE C
LOVELAND, COLORADO 80538
PHONE: (970) 667-4240
FAX: (970) 667-4240

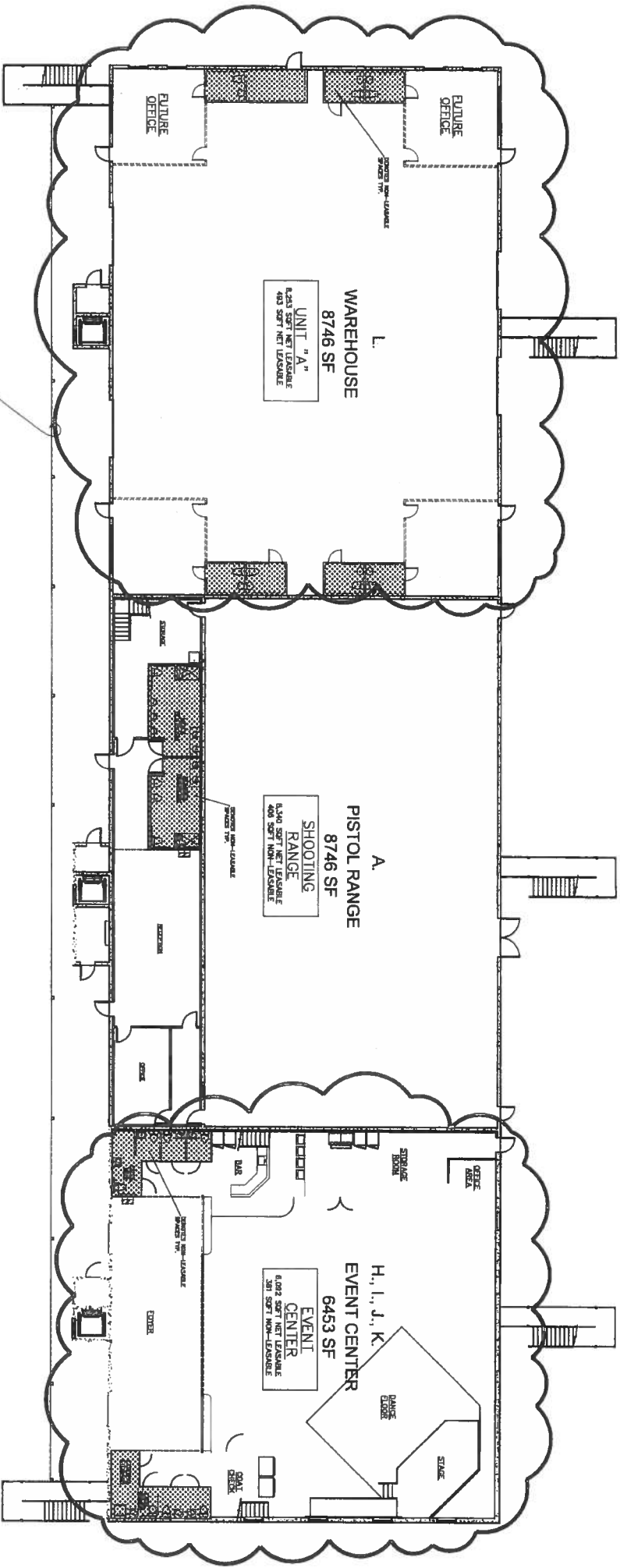
CLIENT:
**ED AND STEVE KLEN
HOLSTEIN STORAGE, LLC
6909 SHANNON COURT
LOVELAND, CO 80538
(970) 667-6556**

**ANASAZI PARK PHASE 2
AMENDMENT TO SPECIAL REVIEW NO. 835**

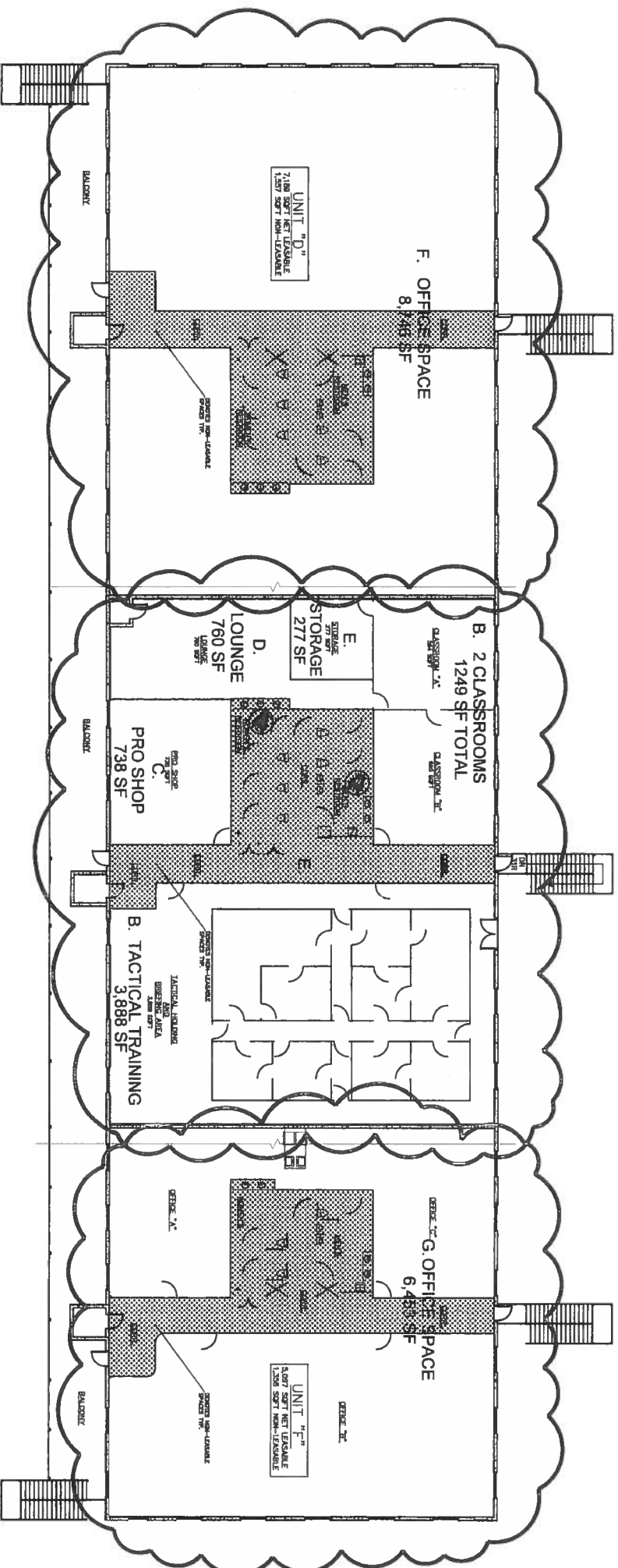
AREA SITE PLAN & FIRE LANE DETAIL

No.	Revision/Issue	Date

Project: 17701LV
Time: DECEMBER 19, 2007
Scale: 3 OF 4



AREAS INCLUDING CHANGES DESCRIBED ON SHEET 1 OF 4, TYPICAL



THE ABOVE PLANS WERE PROVIDED BY KENNEDY ASSOCIATES.

PREPARED BY:
The Frederickson Group
PLANNERS / LANDSCAPE ARCHITECTS
118 E. 29TH ST. SUITE C
LOVELAND, COLORADO 80538
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hmf@frederickson.com

CLIENT:
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HOLSTEIN STORAGE, LLC
6909 SHANNON COURT
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ANASAZI PARK PHASE 2 AMENDMENT TO SPECIAL REVIEW NO. 835

SPACE USAGE, LOWER AND UPPER LEVELS

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