

**AGENDA**  
**LOVELAND CITY COUNCIL MEETING**  
**TUESDAY, SEPTEMBER 16, 2014**  
**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, age, 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](mailto: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 THE WEEK OF SEPTEMBER 15 THROUGH SEPTEMBER 21, 2014 AS NATIONAL DRIVE ELECTRIC WEEK (Michael Koenig)**

*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. Members of the public 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 comments to no more than three minutes.*

## **CONSENT AGENDA**

**1. CITY CLERK (presenter: Terry Andrews)**

## **APPROVAL OF MEETING MINUTES**

**1. A Motion to Approve the City Council Meeting Minutes for the August 19, 2014 Regular Meeting**

This is an administrative action to approve the City Council meeting minutes for the August 19, 2014 Regular Meeting.

**2. A Motion to Approve the City Council Study Session Minutes for the August 26, 2014 Study Session**

This is an administrative action to approve the City Council Study Session minutes for the August 26, 2014 Study Session.

2. **ECONOMIC DEVELOPMENT** (presenter: Betsey Hale)  
**SUPPLEMENTAL APPROPRIATION FOR REGIONAL TOURISM AUTHORITY APPLICATION**  
**A Motion to Approve and Order Published on Second Reading an Ordinance Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget for Consulting Services to Develop the Regional Tourism Authority Application to the State of Colorado Economic Development Commission**  
 This is an administrative action. The ordinance provides \$175,000 in funding for consultants to develop the application for the Regional Tourism Authority to the State Economic Development Commission. \$125,000 of the funding is from the Economic Incentive Fund and \$50,000 is from the Lodging Tax Fund. The ordinance is funded by fund balance reducing the flexibility to fund other projects. The current funding in the Economic Development Incentive Fund is \$1,110,120 and the balance in Lodging Tax Reserves is \$756,730. City Council unanimously approved the first reading of the appropriation ordinance at the September 2, 2014 regular meeting.

3. **ECONOMIC DEVELOPMENT** (presenter: Cindy Mackin)  
**SUPPLEMENTAL APPROPRIATION FOR PARTNERSHIP OF OTHER AGENCY TOURISM**  
**PUBLIC HEARING**  
**A Motion to Approve and Order Published on First Reading an Ordinance Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget for a Marketing Partnership and Support and Education of Other Agency Tourism Programs**  
 This is an administrative action. The ordinance funds a \$10,000 marketing partnership with Thunder Mountain Harley Davidson, \$10,000 support for the Estes Park Convention and Visitors Bureau (CVB) to match a federal grant and a \$5000 Familiarization Tour with the Colorado Tourism Office (CTO). The ordinance is funded by available fund balance reducing the flexibility to fund other projects. The current balance of the Lodging Tax Reserves is \$797,780.

4. **PUBLIC WORKS and PARKS & RECREATION** (presenters: Jeff Bailey, Janet Meisel-Burns)  
**PUBLIC HEARING**  
**SUPPLEMENTAL APPROPRIATION FOR MADISON BRIDGE REPLACEMENT**  
**A Motion to Approve and Order Published on First Reading an Ordinance Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget for the Madison Avenue Bridge Replacement and Trail Underpass Project**  
 This is an administrative action. The ordinance approves funding for the replacement of the bridge on Madison Avenue at the Chubbuck ditch and construction of an underpass for the recreational trail to eliminate an at-grade crossing on Madison Avenue. The ordinance is primarily funded by a Federal Grant at 80% of the project cost in the amount of \$848,000. The majority of the 20% local match is currently appropriated within the Transportation Fund and the Trails Capital Expansion Fund (CEF). A match amount of \$50,000 is required for the Trail underpass and is available in the Trail CEF undesignated fund balance. The total supplement amount is \$898,000.

5. **INFORMATION TECHNOLOGY** (presenter: Bill Westbrook)  
**VOIP CONTRACT AWARD**  
**A Motion to Award the Voice Over Internet Protocol (VoIP) Project for Replacement All Existing Rolm/Siemens Equipment, to SofTech Maintenance Company in Fort Collins, Colorado, in the Amount of \$716,808.57 and Authorize the City Manager to Execute the Contract**

This is an administrative action to award the Voice Over Internet Protocol (VoIP) project for replacement all existing Rolm/Siemens equipment, to SofTech Maintenance Company. The total appropriation is \$750,000.

#### END OF CONSENT AGENDA

#### CITY CLERK READS TITLES OF ORDINANCES ON THE CONSENT AGENDA

**PUBLIC COMMENT** *Anyone who wishes to speak to an item NOT on the Agenda may address the Council at this time.*

#### PROCEDURAL INFORMATION

*Anyone in the audience will be given time to speak to any item on the Regular Agenda before the Council acts upon it. The Mayor will call for public comment following the staff report. 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

6. **DEVELOPMENT SERVICES** (presenter: Troy Bliss)

##### **PUBLIC HEARING**

##### **REZONING IN THE TURNEY-BRIGGS ADDITION**

**A Motion to Approve and Order Published on First Reading an Ordinance Amending Section 18.04.040 of the Loveland Municipal Code, the Same Relating to Zoning Regulations for Certain Property Located in the Turney-Briggs Addition, City of Loveland, Larimer County, Colorado**

This is a quasi-judicial action to adopt an ordinance on first reading to rezone the Turney-Briggs Addition, or more particularly the northeast intersection of North Lincoln Avenue (Highway 287) and East Eisenhower Boulevard (Highway 34). The applicant's request is to rezone 5 residential properties on the west side of North Jefferson Avenue from residential (R3e – Established High Density Residential) to commercial (B – Developing Business). The Turney-Briggs Addition includes both residential and commercial properties. The properties fronting North Lincoln Avenue and those fronting East Eisenhower Boulevard are currently zoned B – Developing Business. The properties currently zoned Established High Density Residential are located northeast of the commercially zoned property and have access from local streets.

7. **ECONOMIC DEVELOPMENT** (presenters: Marcie Erion,

**Karin Bogren, Hach and Dave Gustavson, Cushman Wakefield)**

##### **BUSINESS ASSISTANCE REQUEST FROM HACH COMPANY**

This is an information only item. This request on behalf of Hach Company consists of building permit fee/use tax waivers and a business personal property tax rebate associated with construction of a new 86,000 sq. ft. building on their existing campus.

8. **ECONOMIC DEVELOPMENT** (presenter: Mike Scholl)

##### **PUBLIC HEARING**

##### **INCENTIVE AGREEMENT AND SUPPLEMENTAL APPROPRIATION FOR ORIGINS LOVELAND**

1. **A Motion to Adopt Resolution #R-62-2014 Approving an Agreement for Economic Incentive and Construction Materials Use Tax Waiver**

**2. A Motion to Approve and Order Published on First Reading an Ordinance Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget for an Incentive Agreement with Origins Loveland**

These are administrative actions appropriating funding for an incentive agreement and approving a resolution authorizing an incentive agreement with Jeff Noffsinger, owner of Origins Pizza, a proposed new pizza and wine bar to be located at 500 N. Lincoln, in the corner unit of Lincoln Place. The incentive agreement provides \$17,000 for the tenant improvements, plus a waiver of materials use tax not to exceed \$3,000. The ordinance is funded with fund balance within the Economic Incentive Fund and reduces the flexibility to fund other projects. The current balance in the Economic Development Incentive Fund is \$1,110,120.

**9. CITY ATTORNEY**

(presenter: Judy Schmidt)

**PUBLIC HEARING**

**EAGLE CROSSING SERVICE PLAN**

**A Motion to Adopt Resolution #R-63-2014 of the Loveland City Council Approving the Service Plan for Eagle Crossing-Loveland Metropolitan District Nos. 1-4**

This is a legislative action to approve a Service Plan in accordance with the Colorado Special District Act for four metropolitan districts to be known as Eagle Crossing-Loveland Metropolitan District Nos. 1-4. The Districts are being created to provide all or part of the public infrastructure improvements necessary for the development of a commercial project known as Eagle Crossing, which consists of approximately 50 acres located at the northwest quadrant of the intersection of Fairgrounds Avenue and Crossroads Boulevard. There is no budget impact to the City.

**10. WATER & POWER**

(presenter: Larry Howard)

**MOTION TO AMEND AGREEMENT WITH HOME SUPPLY**

**A Motion Directing the City Manager in consultation with the City Attorney and on terms Favorable to the City, to Negotiate and Enter into both: An Amendment to the January 15, 2014 Agreement between the City and Consolidated Home Supply Irrigating & Reservoir Company (Home Supply) to complete additional flood related repairs on the Home Supply's diversion structure on the Big Thompson River including addition of a gated spillway to provide mitigation against future flood damage; and A Phase II Agreement with Home Supply for Critical O&M Work**

This is an administrative action. The Home Supply's stone diversion dam structure (Big Dam) on the Big Thompson River sustained significant damage in the September, 2013 Flood. Since 1887, the City has used the structure under an agreement with Home Supply to divert water through a City owned pipeline into its water treatment facilities. Since the Flood, the City has participated with Home Supply under the terms of a January 15, 2014 Agreement (Attachment A) on a 50:50 cost share basis, up to a "not to exceed" cap of \$400,000 to make necessary repairs to the structure. Because of the importance of this diversion structure to both parties, the Home Supply is requesting additional financial assistance from the City, also on a 50:50 basis, for a total amount "not to exceed" \$550,000 to complete the flood related repairs, add a gated spillway to provide mitigation from future flood damages, and complete non flood related O&M repairs.

**BUSINESS FROM CITY 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.*

**CITY MANAGER REPORT**

**CITY ATTORNEY REPORT**

**ADJOURN**



## CITY COUNCIL

Civic Center • 500 East Third Street, Suite 330 • Loveland, CO 80537  
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[www.cityofloveland.org](http://www.cityofloveland.org)

### PROCLAMATION

**WHEREAS**, Plug-in Electric Vehicles offer consumers significant economic savings, environmental benefits, and help to decrease our nation's dependency on oil; and

**WHEREAS**, the week of September 15<sup>th</sup>-21<sup>st</sup> 2014, has been declared National Drive Electric Week, a weeklong celebration with the purpose of showcasing the wide variety of Plug-in Electric Vehicles available and to highlight the numerous benefits of Plug-in Electric Vehicles. There will be two nationally recognized events held in Northern Colorado during National Drive Electric Week; and

**WHEREAS**, Drive Electric Northern Colorado, the City of Loveland, the City of Fort Collins, and Colorado State University have partnered together to help create a model to accelerate the adoption of Plug-in Electric Vehicles in the Northern Colorado Region, and to encourage the community to consider purchasing Plug-in Electric Vehicle by attending local events in the Northern Colorado Region; and

**WHEREAS**, we encourage the community to join in the events planned during National Drive Electric Week and experience a Plug-in Electric Vehicle first-hand. Please visit [driveelectricnoco.org](http://driveelectricnoco.org) for more information.

**NOW, THEREFORE**, we, the City Council of Loveland do hereby proclaim the week of September 15<sup>th</sup>-21<sup>st</sup>, 2014 to be

### NATIONAL DRIVE ELECTRIC WEEK

and encourage our city to participate in nationally recognized drive electric week events.

Signed this 16th day of September, 2014.

Cecil A. Gutierrez  
Mayor

**MINUTES**  
**LOVELAND CITY COUNCIL MEETING**  
**TUESDAY, AUGUST 19, 2014**  
**CITY COUNCIL CHAMBERS**  
**500 EAST THIRD STREET**  
**LOVELAND, COLORADO**

6:30 P.M. **REGULAR MEETING - City Council Chambers**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL:** Fogle, Gutierrez, Shaffer, Taylor, Farley, McKean, Trenary and Krenning responded. Clark was absent.

**PRESENTATION FROM U.S. FOREST SERVICE TO LOVELAND STAFF FOR IDYLWILDE DAM** (presenters: Ranger Edwards and Ranger Atchley) Staff members receiving: Steve Adams, Briana Reed-Harmell and Larry Howard

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*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 comments to no more than three minutes.*

**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. Councilor Krenning asked to move Item #11 to the Regular Agenda. Councilor Shaffer moved to approve the Consent Agenda with the exception of Item #11. Councilor Farley seconded the motion which carried with all councilors present voting in favor thereof.**

**CONSENT AGENDA**

1. **CITY CLERK** (presenter: Terry Andrews)

**APPROVAL OF MEETING MINUTES**

1. **A Motion to Approve the City Council Study Session Minutes for the July 8, 2014 Study Session was approved.**

This is an administrative action to approve the City Council Study Session minutes for the July 8, 2014 Study Session.

2. **A Motion to Approve the City Council Study Session Minutes for the July 22, 2014 Study Session was approved.**

This is an administrative action to approve the City Council Study Session meeting minutes for the July 22, 2014 Study Session.

**3. A Motion to Approve the City Council Meeting Minutes for the August 5, 2014 Regular Meeting was approved.**

This is an administrative action to approve the City Council meeting minutes for the August 5, 2014 regular meeting.

**2. CITY MANAGER (presenter: Bill Cahill)**

**APPOINTMENTS TO THE AFFORDABLE HOUSING COMMISSION**

1. **A Motion to Appoint Correy Fuqua to the Affordable Housing Commission for a Partial Term Effective until June 30, 2015 was approved.**
2. **A Motion to Appoint Mechelle Martz-Mayfield to the Affordable Housing Commission for a Term Effective until June 30, 2017 was approved.**

These are administrative actions recommending the appointment of members to the Affordable Housing Commission.

**3. INFORMATION TECHNOLOGY (presenter: Bill Westbrook)**

**SUPPLEMENTAL APPROPRIATION FOR FIBER OPTIC CABLE INSTALL**

**A Motion to Approve and Order Published on Second Reading Ordinance #5877 Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget for the Installation of Fiber Optic Cable on 29th Street from Taft Avenue to Wilson Avenue was approved.**

This is an administrative action. The appropriation funds a project to bury, install, and terminate a fiber optic cable on 29th Street to provide connection to the new Fire Station 2, the Olde Course and the Cattail Creek Golf Courses. Revenues in the total amount of \$112,910 are hereby requested for appropriation and transfer to the Capital Projects for installation of fiber optic cable. Fund balance is used for the Golf Enterprise's share and reduces the flexibility to fund other projects in the Enterprise. This ordinance was approved unanimously on first reading by Council at the August 5, 2014 regular meeting.

**4. PUBLIC WORKS (presenter: Dave Klockeman)**

**IGA & SUPPLEMENTAL APPROPRIATION TO UPDATE CDOT TRAFFIC OPERATIONS CENTER EQUIPMENT**

1. **A Motion to Adopt Resolution #R-52-2014 Approving an Intergovernmental Agreement between the City of Loveland, Colorado, and the State of Colorado, Acting by and through the Colorado Department of Transportation (CDOT), to update equipment at the Traffic Operations Center (TOC) in the City of Loveland was approved.**

2. **A Public Hearing was held and a Motion to Approve and Order Published on First Reading an Ordinance Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget to Update Equipment at the Traffic Operations Center (TOC) in the City of Loveland was approved.**

These are administrative actions. The City has received a Federal grant, not to exceed \$205,000 of the \$247,615 total project cost, through the STP-Metro program to fund the upgrade of equipment at the existing TOC. This item includes consideration of a resolution approving an IGA between the City of Loveland and CDOT for the project and consideration of the first reading of an ordinance to appropriate the funds included in the IGA. The City of Loveland local match funds are in the amount of \$42,615. The City funds are included within the approved 2014 budget for Public Works Transportation Capital Improvement Projects.

**5. PUBLIC WORKS (presenter: Dave Klockeman)**

**IGA & SUPPLEMENTAL APPROPRIATION FOR ROADWAY WEATHER INFORMATION UPDATES**

1. **A Motion to Adopt Resolution #R-53-2014 Approving an Intergovernmental Agreement between the City of Loveland, Colorado, and the State of Colorado, Acting by and Through the Colorado Department of Transportation (CDOT), to Update the Existing Roadway Weather Information System in the City of Loveland was approved.**

2. **A Public Hearing was held and a Motion to Approve and Order Published on First Reading an Ordinance Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget to Update the Existing Roadway Weather Information System in the City of Loveland was approved.**

These are administrative actions. The City has received a CDOT grant, not to exceed \$304,000 of the \$380,000 total project cost, through the Responsible Acceleration of Maintenance and Partnerships (RAMP) program to fund the expansion and upgrade of the roadway weather information system throughout the City of Loveland. This item includes consideration of a resolution approving an intergovernmental agreement between the City of Loveland and CDOT for the project and consideration of the first reading of an ordinance to appropriate the funds included in the intergovernmental agreement. The City of Loveland local match funds are in the amount of \$76,000. The City funds are included within the approved 2014 budget for Public Works Transportation Capital Improvement Projects.

**6. PUBLIC WORKS (presenter: Dave Klockeman)**

**GRANT AGREEMENT AND SUPPLEMENTAL APPROPRIATION FOR I-25/CROSSROADS ANTI-ICING SYSTEM**

1. **A Motion to Adopt Resolution #R-54-2014 Authorizing the City Manager to Execute a Grant Agreement with the State of Colorado Transportation Department (CDOT) (Federal Aid Project No. STU M830-0687 (19886)) for I-25/Crossroads Anti-Icing System was approved.**

2. **A Public hearing was held and a Motion to Approve and Order Published on First Reading an Ordinance Enacting a Supplemental Budget and Appropriation to the Transportation Fund Capital Program for I-25/Crossroads Anti-Icing System was approved.**

These are administrative actions. The City has received a CDOT grant, not to exceed \$200,000 of the \$250,000 total project cost, through the Responsible Acceleration of Maintenance and Partnerships (RAMP) program for the expansion and upgrade of the roadway weather information system throughout the City. This item includes consideration of a resolution approving an intergovernmental agreement between the City and CDOT for the project and consideration of the first reading of an ordinance to appropriate the funds included in the intergovernmental agreement. The City of Loveland local match funds are in the amount of \$50,000. The City funds are included within the approved 2014 budget for Public Works Transportation Capital Improvement Projects.

**7. DEVELOPMENT SERVICES (presenter: Brian Burson)**

**EASEMENT VACATION FOR RESURRECTION FELLOWSHIP CHURCH**

**A Public Hearing was held and a Motion to Approve and Order Published on First Reading an Ordinance Vacating an Emergency Access Easement Across Lot 1, Block 1, Kness Addition, City of Loveland, County of Larimer, State of Colorado was approved.**

This item is a legislative action to adopt an ordinance vacating a public emergency access easement on Lot 1, Block 1, Kness Addition to the City of Loveland. The applicant and owner of the property is Resurrection Fellowship Church.

**8. DEVELOPMENT SERVICES (presenter: Kerri Burchett)**

**AMENDMENT TO BOYD LAKE VILLAGE CONCEPT MASTER PLAN**

A Public Hearing was held and a Motion to Approve and Order Published on First Reading an Ordinance Approving a First Amendment to the Conceptual Master Plan for the Waterfall Fourth Subdivision and the Waterfall Fifth Subdivision, City of Loveland, County of Larimer, State of Colorado, also Known as Boyd Lake Village was approved.

This item is a quasi-judicial action to consider amending the Boyd Lake Village Conceptual Master Plan (the "Master Plan"). The applicant is McWhinney Inc. Currently, the Master Plan designates specific primary and non-primary land uses for each lot so that at build out the project satisfies the zoning requirement that 60% of the land area is developed into primary jobs. There are seven vacant lots remaining in the 32-acre development located on the north side of East Eisenhower Boulevard, south of Boyd Lake. The removal of the specific designations will provide the applicant greater flexibility in locating primary and non-primary jobs on the remaining vacant lots within the development. Development standards contained in the Master Plan will ensure that the mix of primary and non-primary jobs remain in compliance with the zone district requirements. The amendment would not change the designations of existing uses or alter the design standards approved for the development.

**9. WATER & POWER (presenter: Melissa Morin)**

**TEMPORARY WORK SPACE EASEMENT FOR PUBLIC SERVICE COMPANY**

A Motion to Approve Resolution #R-55-2014 Granting a Temporary Work Space Easement to the Public Service Company of Colorado was approved.

This is an administrative action to grant a temporary easement to Public Service Company of Colorado to permit the use of a city owned property for access to their facilities within an existing easement. To access their facilities, they are seeking access through the City's water tank property located at the southwest corner of County Road 14 and County Road 17 (South Taft Ave).

**10. LOVELAND FIRE RESCUE AUTHORITY (presenter: Randy Mirowski)**

**AMENDMENT TO IGA BETWEEN LFRA AND JOHNSTOWN FIRE PROTECTION DISTRICT**

A Motion to Adopt Resolution #R-56-2014 Approving an Amendment to the Exhibits Attached to the Intergovernmental Automatic Response Agreement Between the Loveland Fire Rescue Authority and the Johnstown Fire Protection District was approved.

This is an administrative action to approve the amendment to the exhibits attached the intergovernmental automatic mutual aid agreement between Loveland Fire Rescue Authority (LFRA) and the Johnstown Fire Protection District (JFPD) are based on a recent evaluation of the response plans by both organizations based on resource location and availability. The areas of auto aid response are expanded for both the aid provided by LFRA to JFPD and the aid provided by JFPD to LFRA based on the relocation of LFRA Station 2 and the coverage area proposed within the plan for the development of an Authority between the JFPD and the Milliken Fire Protection District (MFPD). The Loveland Fire Rescue Authority Board approved this amendment July 10, 2014.

**11. POLICE (presenter: Tim Brown)**

**AMENDMENT TO ADD A SEX OFFENDER REGISTRATION FEE**

This item was moved to the Regular Agenda.

**END OF CONSENT AGENDA****CITY CLERK READS TITLES OF ORDINANCES ON THE CONSENT AGENDA**

**PUBLIC COMMENT** *Anyone who wishes to speak to an item NOT on the Agenda may address the Council at this time.*

1. **Presentation from Long-Term Recovery Group** (presenter: Glorie Magrum) Glorie Magrum and Phyllis Kane co-chairs of the Larimer County Long-Term Recovery Group gave Council an update of the long term recovery from the 2013 flood.

#### **PROCEDURAL INFORMATION**

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#### **REGULAR AGENDA**

##### **CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA**

12. **CULTURAL SERVICES** (presenter: Susan Ison)  
**AMENDMENT TO THE RIALTO RATES AND FEES**  
Cultural Services Director, Susan Ison introduced this item to Council. This is an administrative action. The Rialto Theater Center Business Plan presented to City Council on July 1, 2014, included a revision of rates, charges and fees for both the theater-side and the event-side. The accompanying resolution identifies the proposed rates, charges and fees for adoption by City Council, effective September 1, 2014. The Resolution increases Rates and Fees for the Theater-side of the Rialto Theater Center and reduces fees for the Event-side, which should increase overall revenue. **Consensus of Council was to consider Alternative Resolution #R-60-2014**, in place of Resolution #R-58-2014. The Mayor asked for public comment. Gail Bregaha Miller spoke in support of the alternative resolution. Tim Webb spoke in support of the resolution. Jim Welker, resident of Loveland, spoke in opposition and suggested looking into creating an enterprise fund. Rob Poke, Loveland Opera Theater member, spoke in support of resolution. Lynn Milar, resident of Loveland, spoke in support of the resolution. Dr. Julia Bishop Hope supported the resolution. Arial Krakafka spoke in support of the resolution. Trishar Banter, resident of Loveland, supported the resolution. David Meneo, Berthoud Dance Theater member spoke in support of the resolution. Cathryn Barrett supported the resolution. Ron Kelton spoke in support of the resolution. Craig Cable, Lifetree International Film Festival member supported the resolution. Larry Weston, Moon Theater Company member supported the resolution. Kate Eleanor, Loveland resident, spoke in support of the resolution.  
**Councilor Shaffer moved to Approve Resolution #R-60-2014 Amending the 2014 Schedule of Rates, Charges and Fees for City Services, Other than Services Provided by the Water and Power Department and the Stormwater Enterprise. Councilor Farley seconded the motion which carried with all councilors present voting in favor thereof.**

13. **DEVELOPMENT SERVICES** (presenter: Brian Burson)  
**AMENDMENTS TO LOVELAND EISENHOWER 1ST SUBDIVISION CONCEPT MASTER PLAN**

Senior City Planner, Brian Burson introduced this item to Council. This is a legislative action to amend the annexation and development agreement and a quasi-judicial action

to amend the Concept Master Plan for the Loveland Eisenhower 1st Subdivision. The amendments would allow development of 240-368 apartment units in the northeasterly portion of the site as an additional non-primary workplace use under the MAC zoning. With the proposed amendments, the original requirement set forth in the Concept Master Plan for a minimum of 23.9 acres of land area and 300,000 square feet of floor area to be developed for primary jobs would still be met. The applicant is Greg Parker representing Loveland Eisenhower Investments, Inc. Mayor opened the public hearing at 9:52 and asked for public comment. With no further public comment, Mayor Gutierrez closed the public hearing at 8:52 p.m.

**Councilor Shaffer moved to Approve and Order Published on First Reading an Ordinance Approving a First Amendment to the Conceptual Master Plan and a First Amendment to the Annexation and Development Agreement for the Loveland Eisenhower First Subdivision, City of Loveland, County of Larimer, State of Colorado. Councilor Farley seconded the motion which carried with all councilors present voting in favor thereof.**

**14. DEVELOPMENT SERVICES (presenter: Greg George)**

**AMENDMENT TO OIL AND GAS CAPITAL EXPANSION FEES**

Development Services Director, Greg George introduced this item to Council. This item is an administrative action to adopt a resolution establishing capital expansions fees (CEFs) for oil and gas development within the city limits of the City of Loveland. This resolution amends the "2013 Schedule of Capital Expansion Fees for Fire and Rescue, Law Enforcement and General Government" and the "2013 Schedule of Street Capital Expansion Fees," both of which establish CEFs for the years 2013 – 2017. The fees for law enforcement and general government would be based on the same fee rate as currently applied to other types of industrial development within the City. The streets CEFs would also be based on the same rate currently being charged for other new development, which is \$238.21 per trip end. The fee rate for fire protection would be higher than for other types of industrial development to reflect the likelihood that there may be a greater demand for emergency response and capital needs for fire protection. In order to collect CEFs, the subject resolution must be legally effective prior to the City accepting its first application for oil and gas development. City staff anticipates receiving our first application in the very near future.

**Councilor Shaffer moved to approve Resolution #R-59-2014 Amending Resolution #R-81-2012 Adopting the 2013 Schedule of Capital Expansion Fees for Fire and Rescue, Law Enforcement and General Government and Resolution #R-97-2012 Adopting the 2013 Schedule of Street Capital Expansion Fees to Include New Capital Expansion Fees for Oil and Gas Facilities Pursuant to Section Chapter 16.38 of the Loveland Municipal Code. Councilor Farley seconded the motion which carried with five councilors voting in favor, and Councilors McKean, Gutierrez and Krenning voting against.**

**11. POLICE (presenter: Tim Brown)**

**AMENDMENT TO ADD A SEX OFFENDER REGISTRATION FEE**

This is an administrative action. This resolution sets fees for State-mandated sex offender registration and provides for a waiver of fees for indigence. The \$75 and \$25 registration fee will offset a small portion of the cost to the City to administer the State-mandated sex offender registration. It is anticipated that the fees collected under this structure would be approximately \$5200 per year.

**Councilor Shaffer moved to approve Resolution #R-57-2014 Amending the 2014 Schedule of Rates, Charges and Fees for Police Records and Services Provided by the City of Loveland, CO by adding a Sex Offender Registration Fee. Councilor Farley seconded the motion, which failed with two councilors voting in favor and**

**Councilors Gutierrez, Farley, Krenning, Shaffer, Trenary, McKean voting against.**

**BUSINESS FROM CITY 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.*

Trenary: Watershed information including Big Thompson.  
 Farley: Human Services Commission (HSC) - no eligible applicants and Youth Advisory Council members are ok to serve on HSC; Update on Sculpture Show from the Visual Arts Commission produced another \$1 million show.  
 Krenning: Asked staff to look at the Denver Bond idea; Sent a link in an email to other Councilors regarding the "Little Tiny House" and talked about the "no zoning" in certain parts of other communities and the feasibility of doing that in Loveland as an affordable housing option- discussion ensued, with Council supported the idea of Staff looking at this idea and bringing the idea to the Planning Commission. Requested staff follow up with some type of action for Council consideration regarding Restorative Justice and Teen Court; School Board issues of common interest, suggested to host a joint meeting.  
 McKean: Announced the Corn Roast Festival this weekend.  
 Fogle: Announced the new Corn Roast Parade Route from the Chamber of Commerce and cautioned staying off 1st Street east of Lincoln because Railroad Avenue is not available.  
 Gutierrez: Announced School begins tomorrow; Attended meeting with CDOT and the North I-25 with the County Commissioner update.

**CITY MANAGER REPORT:** Announced the Fire Chief recruitment process with presentations, Wednesday 1 - 3:30 p.m. and then interviews on Thursday; Public Works Interviews are on Monday; Ice Bucket Challenge for Chief Hecker and City Manager out in front of the Municipal Building.

**CITY ATTORNEY REPORT:** None.

**ADJOURNMENT**

Having no further business to come before Council, the August 19, 2014, Regular Meeting was adjourned at 11:56 p.m.

Respectfully Submitted,

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Teresa G. Andrews, City Clerk

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Cecil A. Gutierrez, Mayor

**MINUTES  
JOINT MEETING  
LOVELAND CITY COUNCIL AND PLANNING COMMISSION  
STUDY SESSION  
TUESDAY, AUGUST 26, 2014  
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, age, 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](mailto:bettie.greenberg@cityofloveland.org) or 970-962-3319.

**6:30 P.M. STUDY SESSION - City Council Chambers**

## ROLL CALL

Councilors present: Gutierrez, Farley, Clark, Shaffer, Fogle, Trenary, Taylor and McKean. Councilor Krenning was absent. City Manager, Bill Cahill was also present.

## Planning Commission

Members present: Carol Dowding, Jeremy Jersvig, Michelle Forest, Rich Middleton, Mike Ray, Rob Molloy, and Buddy Meyers

## STUDY SESSION AGENDA

## 1. DEVELOPMENT SERVICES (presenter: Karl Barton; 90 min)

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## Create Loveland Vision Workbook

Senior Planner, Karl Barton presented this item to Council and the Planning Commission as an informational presentation of the draft Vision Workbook portion of *Create Loveland*. The purpose is to receive input from City Council and the Planning Commission on the Guiding Principles and Opportunities contained in the workbook. Consultants, Jeremy Call and Bruce Meighen of Logan Simpson Design, gave a presentation on the Vision Workbook and lead the discussion. The comments received will be the basis for the next draft of the workbook. The Vision Workbook will form the basis of *Create Loveland* and concludes the first two steps of Foundation and Visioning tasks for the Comprehensive Plan update process to be completed in the summer of 2015. Discussion and feedback involved: Centers + Corridors; Neighborhoods + Community Assets; and Health, Environment + Mobility. Mayor Gutierrez thanked staff and the consultants for the presentation. Council directed staff to move forward to the next step in the process.

## **ADJOURNMENT**

**Having no further business to come before Council, the August 26, 2014 Study Session was adjourned at 8:31 p.m.**

**Respectfully Submitted,**

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**Jeannie M. Weaver, Deputy City Clerk**

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## **Cecil A. Gutierrez, Mayor**



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

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<b>AGENDA ITEM:</b>	<b>2</b>
<b>MEETING DATE:</b>	9/16/2014
<b>TO:</b>	City Council
<b>FROM:</b>	Betsey Hale, Economic Development Department
<b>PRESENTER:</b>	Betsey Hale, Economic Development Department

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**TITLE:**

An Ordinance on Second Reading Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget for Consulting Services to Develop the Regional Tourism Authority Application to the State of Colorado Economic Development Commission

**RECOMMENDED CITY COUNCIL ACTION:**

Approve the ordinance on second reading.

**OPTIONS:**

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

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**SUMMARY:**

This is an administrative action. The ordinance provides \$175,000 in funding for consultants to develop the application for the Regional Tourism Authority to the State Economic Development Commission. \$125,000 of the funding is from the Economic Incentive Fund and \$50,000 is from the Lodging Tax Fund. City Council unanimously approved the first reading of the appropriation ordinance at the September 2, 2014 meeting.

**BUDGET IMPACT:**

Positive  
 Negative  
 Neutral or negligible

The ordinance is funded by fund balance reducing the flexibility to fund other projects. The current funding in the Economic Development Incentive Fund is \$1,110,120 and the balance in Lodging Tax Reserves is \$756,730.

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**BACKGROUND:**

At the July 22<sup>nd</sup> City Council study session, Council gave staff direction to bring a supplemental appropriation funding request for the purpose of hiring consultants to complete the Northern Colorado Regional Tourism Act application to Council for formal consideration.

The Regional Tourism Act (RTA) is legislation and a subsequent program developed by the State of Colorado Economic Development Commission to provide financial support for the development of regional tourism attractions and associated amenities. The purpose is to increase the attraction of out of state visitors and also increase visitors spending. The RTA provides for the establishment of an authority which will use the State of Colorado sales tax increment collected in a designated RTA zone for the purpose of financing eligible projects.

Larimer County, the City of Loveland and Town of Windsor will be considering support for a joint RTA application. The application effort will be led by a private non-profit; Go NoCo. The project concept areas are located at:

- The Larimer County Ranch and Fairgrounds
- Water Valley property in Loveland and Windsor
- Centerra
- Sylvan Dale Guest Ranch

Details of the projects are included in the presentation attached to this report. Total project construction costs are estimated over \$190 million.

At the August 4<sup>th</sup> meeting of the Windsor Town Board, staff was given direction to return to a town board meeting to formally approve \$50,000 of funding. These funds will be distributed to Go NoCo, a private 501c.3 non-profit that is leading this application effort. At the August 20<sup>th</sup> meeting of the Community Marketing Commission, the CMC approved a motion recommending support of \$50,000 in lodging tax reserves for this purpose.

It is anticipated that the Economic Development staff will negotiate and the City Manager will execute a contract with Go NoCo to prepare the joint RTA application and manage the application process including submission to the state Economic Development Commission. The services provided by Go NoCo will include hiring and managing professional financial, marketing, legal, and tenant recruitment consultants as necessary to prepare the application under the direction of a project manager. Staff will return to Council for formal approval of the RTA application prior to submission.

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**REVIEWED BY CITY MANAGER:**

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**LIST OF ATTACHMENTS:**

1. Ordinance

2. Complete first reading packet on September 2, 2014, can be accessed at: <http://www.cityofloveland.org/index.aspx?page=20&recordid=58756>

**FIRST READING** September 2, 2014

**SECOND READING** September 16, 2014

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2014 CITY OF LOVELAND BUDGET FOR CONSULTING SERVICES TO PREPARE THE APPLICATION FOR A REGIONAL TOURISM AUTHORITY TO THE STATE OF COLORADO ECONOMIC DEVELOPMENT COMMISSION**

**WHEREAS**, the City has reserved funds not anticipated or appropriated at the time of the adoption of the City budget for 2014; 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 2014, as authorized by Section 11-6(a) of the Loveland City Charter.

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

**Section 1.** That reserves in the amount of \$125,000 from fund balance in the Economic Incentive Fund 106 and \$50,000 from fund balance in the Lodging Tax Fund 206 are available for appropriation. Revenues in the total amount of \$175,000 are hereby appropriated for consulting services to prepare the application for a Regional Tourism Authority to the state of Colorado Economic Development Commission. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget  
Economic Incentive Fund 106**

<b>Revenues</b>	
Fund balance	125,000
<b>Total Revenue</b>	<b>125,000</b>
<b>Appropriations</b>	
106-18-180-1500-43450-EDTRA Professional Services	125,000
<b>Total Appropriations</b>	<b>125,000</b>

**Supplemental Budget  
Lodging Tax Fund**

<b>Revenues</b>	
Fund balance	50,000
<b>Total Revenue</b>	<b>50,000</b>
<b>Appropriations</b>	
206-18-182-1504-43450-EDTRA Professional Services	50,000
<b>Total Appropriations</b>	<b>50,000</b>

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

ADOPTED this \_\_\_\_ day of September, 2014.

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Cecil A. Gutierrez, Mayor

ATTEST:

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City Clerk

APPROVED AS TO FORM:

Mario Garcia  
Assistant City Attorney



**CITY OF LOVELAND**  
**ECONOMIC DEVELOPMENT OFFICE**  
 Civic Center • 500 East Third • Loveland, Colorado 80537  
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<b>AGENDA ITEM:</b>	<b>3</b>
<b>MEETING DATE:</b>	9/16/2014
<b>TO:</b>	City Council
<b>FROM:</b>	Betsey Hale, Economic Development Department
<b>PRESENTER:</b>	Cindy Mackin, Visitors Services Coordinator

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**TITLE:**

An Ordinance Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget for a Marketing Partnership and Support and Education of Other Agency Tourism Programs

**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

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**SUMMARY:**

This is an administrative action. The ordinance funds a \$10,000 marketing partnership with Thunder Mountain Harley Davidson, \$10,000 of support for the Estes Park Convention and Visitors Bureau (CVB) match for a federal Economic Development Administration Grant, and a \$5,000 Familiarization (FAM) Tour with the Colorado Tourism Office (CTO).

**BUDGET IMPACT:**

Positive  
 Negative  
 Neutral or negligible

The ordinance is funded by available fund balance reducing the flexibility to fund other projects. The current balance of the Lodging Tax reserves is \$797,780.

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**BACKGROUND:**

**Estes Park EDA** – As a result of the Flood last September, Visit Loveland is requesting \$10,000 of matching funds for a grant that Estes Park CVB applied for and received from the Economic

Development Administration. The purpose of the funds is to market Northern Colorado as a region. Boulder, Fort Collins, Loveland and Estes Park will be included in all advertising for a multimedia campaign targeting visitors and marketing Northern Colorado as a whole. Joint advertising as a region encourages visitors to stay one more day and use Loveland as their base camp.

**Thunder Mountain Harley Davidson Marketing Partnership** – Visit Loveland and the CMC are recommending a \$10,000 marketing partnership with Thunder Mountain Harley Davidson. The Visit Loveland logo will be branding the Thunder Mountain website with a direct link for visitors. The Thunder Mountain website has over 90,000 unique visitors a year. This added exposure will help direct visitors to the Visit Loveland website and increase traffic.

Visit Loveland will also have a presence in Thunder Mountain Store with an informational kiosk that will be placed in the retail customer service area, serving as an unmanned satellite office. Thunder Mountain sees over 90,000 customers per year in their store. This satellite office will further expose and direct customers to experience the rest of Loveland and its attractions including the downtown area. The Visit Loveland brand will expand its marketing exposure through cooperative advertising with Thunder Mountain Harley Davidson. The Visit Loveland logo will be featured on billboards along I-25 and US 287, website, posters, direct mail and e-newsletters with a direct link to Visit Loveland's website.

**CTO FAM Tour** – Staff and CMC is recommending \$5,000 to be used to offset costs associated with a Familiarization (FAM) tour for the Colorado Tourism Office and staff members from Colorado Welcome Center located at Prospect and I25. This tour of Loveland will be used to educate the Colorado Tourism Office and Welcome Center staff on all of Loveland's amenities and attractions. This will help further our message of events, attractions, meeting spaces, conference spaces, and happenings in Loveland within the industry to the professionals who pitch travel and tourism in Colorado.

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**REVIEWED BY CITY MANAGER:**



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**LIST OF ATTACHMENTS:**

1. Ordinance

**FIRST READING** September 16, 2014

**SECOND READING** \_\_\_\_\_

**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2014 CITY OF LOVELAND BUDGET FOR A MARKETING PARTNERSHIP AND SUPPORT AND EDUCATION OF OTHER AGENCY TOURISM PROGRAMS**

**WHEREAS**, the City has reserved funds not anticipated or appropriated at the time of the adoption of the City budget for 2014; 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 2014, as authorized by Section 11-6(a) of the Loveland City Charter.

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

**Section 1.** That reserves in the amount of \$25,000 from fund balance in the Lodging Tax Fund 206 are available for appropriation. Revenues in the total amount of \$25,000 are hereby appropriated for a marketing partnership and support and education of other agency tourism programs. The spending agencies and funds that shall be spending the monies suplementally budgeted and appropriated are as follows:

**Supplemental Budget  
Lodging Tax Fund 206**

**Revenues**

Fund Balance	25,000
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<b>Total Revenue</b>	<b>25,000</b>
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**Appropriations**

206-18-182-1504-43270	Travel	5,000
206-18-182-1504-43450	Professional Services	10,000
206-18-182-1504-43737	Advertising	10,000

<b>Total Appropriations</b>	<b>25,000</b>
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**Section 2.** That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

ADOPTED this \_\_\_\_ day of October, 2014.

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Cecil A. Gutierrez, Mayor

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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Lluis Garcia  
Assistant 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:**

**4**

**MEETING DATE:**

9/16/2014

**TO:**

City Council

**FROM:**

Dave Klockeman, Public Works Department

Keven Aggers, Parks and Recreation Department

**PRESENTERS:**

Jeff Bailey, Senior Civil Engineer, Public Works

Janet Meisel-Burns, Senior Park Planner, Parks and Recreation

**TITLE:**

An Ordinance on First Reading Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget for the Madison Avenue Bridge Replacement and Trail Underpass Project

**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

**SUMMARY:**

This is an administrative action. The ordinance approves funding for the replacement of the bridge on Madison Avenue at the Chubbuck ditch and construction of an underpass for the recreational trail to eliminate an at-grade crossing on Madison Avenue. The ordinance is primarily funded by a Federal Grant at 80% of the project cost in the amount of \$848,000. The majority of the 20% local match is currently appropriated within the Transportation Fund and the Trails Capital Expansion Fund (CEF). A match amount of \$50,000 is required for the Trail underpass and is available in the Trail CEF undesignated fund balance. The total supplement amount is \$898,000.

**BUDGET IMPACT:**

Positive  
 Negative  
 Neutral or negligible

The grants provide funding for a portion of the project, originally budgeted with City funds in the 2013 and 2014 Budgets. The grants will reduce the amount appropriated, increasing the fund

balance available for other capital projects. The City of Loveland was awarded separate grants in 2012 from the Colorado Department of Transportation, \$488,000 for the bridge replacement as part of the State Off System Bridge Program and a Federal Transportation grant of \$360,000 to construct a new underpass at Madison Avenue. The IGA with the State was signed in August 2012. The grants total \$848,000 towards the construction of the bridge and recreation trail underpass. The grant funds and appropriation will be used to provide a safe pedestrian access under Madison Avenue, just north of Seventh Street.

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**BACKGROUND:**

Public Works Engineering and Parks and Recreation Planning staff have been working on the engineering and design of a new bridge over the Chubbick Ditch, widening the roadway at the bridge and the design of a new recreation trail underpass at Madison Avenue. These improvements will provide for a safer pedestrian crossing of the recreation Trail and provide new sidewalk along the bridge, while improving the geometry of the bridge and roadway in this section of Madison Avenue. Staff completed the design and engineering of the project this spring and is currently bidding the project for construction. The contract award is anticipated in early October and construction is scheduled to start in early November 2014. Construction completion is anticipated in late April 2015.

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**REVIEWED BY CITY MANAGER:****LIST OF ATTACHMENTS:**

1. Ordinance

**FIRST READING** September 16, 2014

**SECOND READING** \_\_\_\_\_

**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2014 CITY OF LOVELAND BUDGET FOR THE MADISON AVENUE BRIDGE REPLACEMENT AND TRAIL UNDERPASS PROJECT**

**WHEREAS**, the City has received and/or reserved funds not anticipated or appropriated at the time of the adoption of the City budget for 2014; 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 2014, 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 \$488,000 from a Federal Transportation Enhancement Grant in Transportation Fund 211, and \$360,000 from a Federal Transportation Enhancement Grant and a \$50,000 fund balance in the Trails CEF Fund 262 are available for appropriation. Revenues in the total amount of \$898,000 are hereby appropriated for the Madison Avenue Bridge Replacement and Trail Underpass Project. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget  
Transportation Fund 211**

<b>Revenues</b>		
211-23-232-1701-32000-EN1003	Federal Grant	488,000
<b>Total Revenue</b>		<b>488,000</b>
<b>Appropriations</b>		
211-23-232-1701-49360-EN1003	Construction	488,000
<b>Total Appropriations</b>		<b>488,000</b>

**Supplemental Budget  
Trails CEF Fund 262**

<b>Revenues</b>		
Fund Balance		50,000
262-51-567-0000-32000-EN1003	Federal Grant	360,000
<b>Total Revenue</b>		<b>410,000</b>
<b>Appropriations</b>		
261-51-567-0000-49360-EN1003	Construction	410,000
<b>Total Appropriations</b>		<b>410,000</b>

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

ADOPTED this \_\_\_\_ day of October, 2014.

\_\_\_\_\_  
Cecil A. Gutierrez, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

Masie Garcia  
Assistant City Attorney



**CITY OF LOVELAND**  
**INFORMATION TECHNOLOGY DEPARTMENT**  
 Civic Center • 500 East Third • Loveland, Colorado 80537  
 (970) 962-2335 • FAX (970) 962-2909 • TDD (970) 962-2620

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<b>AGENDA ITEM:</b>	<b>5</b>
<b>MEETING DATE:</b>	9/16/2014
<b>TO:</b>	City Council
<b>FROM:</b>	Bill Westbrook, Information Technology Department
<b>PRESENTER:</b>	Bill Westbrook, Director of Information Technology

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**TITLE:**

A Motion to Award the Voice Over Internet Protocol (VoIP) Project for Replacement of All Existing Rolm/Siemens Equipment, to SofTech Maintenance Company in Fort Collins, Colorado, in the Amount of \$716,808.57 and Authorize the City Manager to Execute the Contract

**RECOMMENDED CITY COUNCIL ACTION:**

Approve the motion.

**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

---

**SUMMARY:**

This is an administrative action to award the Voice Over Internet Protocol (VoIP) project for replacement of all existing Rolm/Siemens equipment, to SofTech Maintenance Company.

**BUDGET IMPACT:**

Positive  
 Negative  
 Neutral or negligible

Funding is available in the adopted 2014 budget. The total appropriation is \$750,000.

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**BACKGROUND:**

Request for proposals were issued on July 11, 2014 for a voice over internet protocol (VOIP) solution to replace our mid 1980s vintage Rolm telephone equipment. Twenty companies indicated an interest in submitting a proposal, but eight actually submitted by the deadline on August 7, 2014.

Three were remotely hosted environments represented by Alteva, Jive, and Nextiva; and five were premise hosted represented by Affiniti (Shoretel), ICS (Cisco), Novac (Cisco), OCX (Shoretel), and SofTech (Avaya). All eight proposers were rated in seven general areas: functionality, manufacturer vision and stability, proposer experience, reliability, responsiveness, warrant/maintenance support, and cost effectiveness (total five-year costs divided by total evaluation points earned). Evaluation of the proposals resulted in three finalists: ICS, OCX, and SofTech. City Staff then spent the majority of a day with each of the three finalists interviewing the prospective telecomm partner and seeing product overviews and demonstrations.

The company chosen for this project is SofTech Maintenance Company out of Fort Collins. SofTech rated best in our evaluation of the three finalists, and is the most cost effective of the three, based on five-year costs divided by the evaluation of the RFP score resulting in a cost per point. OCX was \$937.52 per point, ICS was \$873.17 per point, and SofTech was \$852.00 per point.

Avaya phones will be placed where existing Rolm phones are today, and will be installed at the Public Works Administration Building and the new Fire Station 2 at occupancy. A significant offering that Avaya offers is a digital phone which can plug into our existing telephone cabling at locations where a VOIP network connection is not possible.

The final outcome of the RFP process is awarding of the VOIP project in total to SofTech Maintenance Company out of Fort Collins, representing Avaya.

Also four additional contracts for VoIP equipment and services have been previously issued based on the pricing presented in the project's Request for Proposal. The contracts are for a network assessment to determine if our existing network can support VoIP without improvement (\$17,993.52), equipment and installation at the new Public Works Administration building (\$37,861.37) and the new Fire Station 2 (\$21,179.72), and replacement of a failed switch at the Airport (\$17,134.80). All four of these contracts are funded by either Fire's construction budget, Public Works' construction budget, or Information Technology's budget and each has been executed on the basis of delegated department purchasing authority. If this contract for \$716,808.57 is approved by Council, the total of all contracts issued pursuant to the RFP will be \$810,977.98.

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**REVIEWED BY CITY MANAGER:**

*William D. Calfee*

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**LIST OF ATTACHMENTS:**

None



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

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**AGENDA ITEM:** 6  
**MEETING DATE:** 9/16/2014  
**TO:** City Council  
**FROM:** Greg George, Development Services Department  
**PRESENTER:** Troy Bliss, Current Planning Division

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**TITLE:**

An Ordinance on First Reading Amending Section 18.04.040 of the Loveland Municipal Code, the Same Relating to Zoning Regulations for Certain Property Located in the Turney-Briggs Addition, City of Loveland, Larimer County, Colorado

**RECOMMENDED CITY COUNCIL ACTION:**

Conduct a public hearing and adopt the ordinance on first reading, as presented.

**OPTIONS:**

1. Adopt the actions as recommended
2. Deny the actions
3. Adopt modified actions (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

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**SUMMARY:**

This is a quasi-judicial action to consider adoption of an ordinance on first reading to rezone a portion of the Turney-Briggs Addition, or more particularly, the northeast intersection of North Lincoln Avenue (Highway 287) and East Eisenhower Boulevard (Highway 34). The applicant's request is to rezone 5 residential properties on the west side of North Jefferson Avenue from residential (R3e – Established High Density Residential) to commercial (B – Developing Business). The Turney-Briggs Addition includes both residential and commercial properties. The properties fronting North Lincoln Avenue and those fronting East Eisenhower Boulevard are currently zoned B – Developing Business. The properties currently zoned R3e - Established High Density Residential are located northeast of the commercially zoned property and have access from local streets.

**BUDGET IMPACT:**

Positive  
 Negative  
 Neutral or negligible

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**BACKGROUND:**

The application to rezone the 5 residential properties (Lots 9 through 18, Block 4 – Turney-Briggs Addition) to B – Developing Business is prompted by a plan to redevelop the northeast corner of North Lincoln Avenue and East Eisenhower Boulevard for a specialty grocery store. The redevelopment project would generally occupy the southern half of the block including these 5 residential properties, a book store, a TV repair store, a garage, and vacant land fronting on East Eisenhower Boulevard and North Lincoln Avenue.

Approval of the rezoning request would not guarantee redevelopment of the properties for a special grocery store. A variety of commercial uses would have the opportunity to develop under the B - Developing Business zoning district. Mitigating measures to ensure that any future commercial development is compatible with the existing residential properties in the vicinity have been incorporated into the zoning change ordinance. Additional measures may be developed through the site plan development review process, if needed. At this time, application for a site development plan has not been submitted to the City for review.

Planning Commission conducted a public hearing to consider the proposed amendments on August 11, 2014. The Planning Commission unanimously recommends approval.

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**REVIEWED BY CITY MANAGER:****LIST OF ATTACHMENTS:**

1. Ordinance
2. Staff Memorandum, dated September 16, 2014

**FIRST READING:** September 16, 2014

**SECOND READING:** \_\_\_\_\_

**ORDINANCE NO.**

**AN ORDINANCE AMENDING SECTION 18.04.040 OF THE LOVELAND MUNICIPAL CODE, THE SAME RELATING TO ZONING REGULATIONS FOR CERTAIN PROPERTY LOCATED IN THE TURNNEY-BRIGGS ADDITION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO**

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

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

**Lots 9 through 18, Block 4, Turney-Briggs Addition to the City of Loveland, County of Larimer, State of Colorado**

Which territory is now included within the boundaries designated as R3e-Established high Density Residential shall be included within the boundaries of the district designated as follows:

**B-DEVELOPING BUSINESS**

The above Lots 9-18 contain +/- 0.8 acres more or less and is subject to all existing easements and/or rights of way of record.

**Section 2.** That development of the property as **B-DEVELOPING BUSINESS** shall be subject to all applicable zoning regulations for the City of Loveland.

**Section 3.** That development of the property as **B-DEVELOPING BUSINESS** shall also be subject to the following conditions:

(a) a neighborhood meeting shall be held prior to any staff decision on any site development plan submitted for the development or redevelopment of any of the lots within the property, or as subsequently replatted;

(b) the City's Current Planning Manager shall exercise his authority under Section 18.05.090.B. of the City Code to require that mailed notice be given of said staff decision

up to 300 feet from the boundary of the property in accordance with Section 18.05.090.C. of the City Code;

(c) any parties so noticed shall be “parties in interest” for the purpose of filing an appeal of said staff decision under Chapter 18.80 of the City Code.

**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 ten days after its final publication, as provided in City Charter Section 4-8(b).

**Section 4.** That the City Clerk is hereby directed to record this Ordinance with the Larimer County Clerk and Recorder after its effective date in accordance with State Statutes.

Signed this \_\_\_\_ day of \_\_\_\_\_, 2014.

---

Cecil A. Gutierrez, Mayor

ATTEST:

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City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Jesus Garcia  
Assistant City Attorney



## **M E M O R A N D U M**

**TO:** City Council

**FROM:** Troy Bliss, Senior Planner, Current Planning Division

**DATE:** September 16, 2014

**SUBJECT:** Turney-Briggs Addition – Rezoning

---

**I. EXHIBITS:**

A. Planning Commission Staff Report, dated August 11, 2014, including Attachments 1-4, as follows:

1. Turney-Briggs Addition (annexation map for reference)
2. Rezoning map with legal description
3. Concept Plan for specialty grocery store (illustrative only)
4. Neighborhood Correspondence

B. Approved August 11, 2014, Planning Commission minutes.

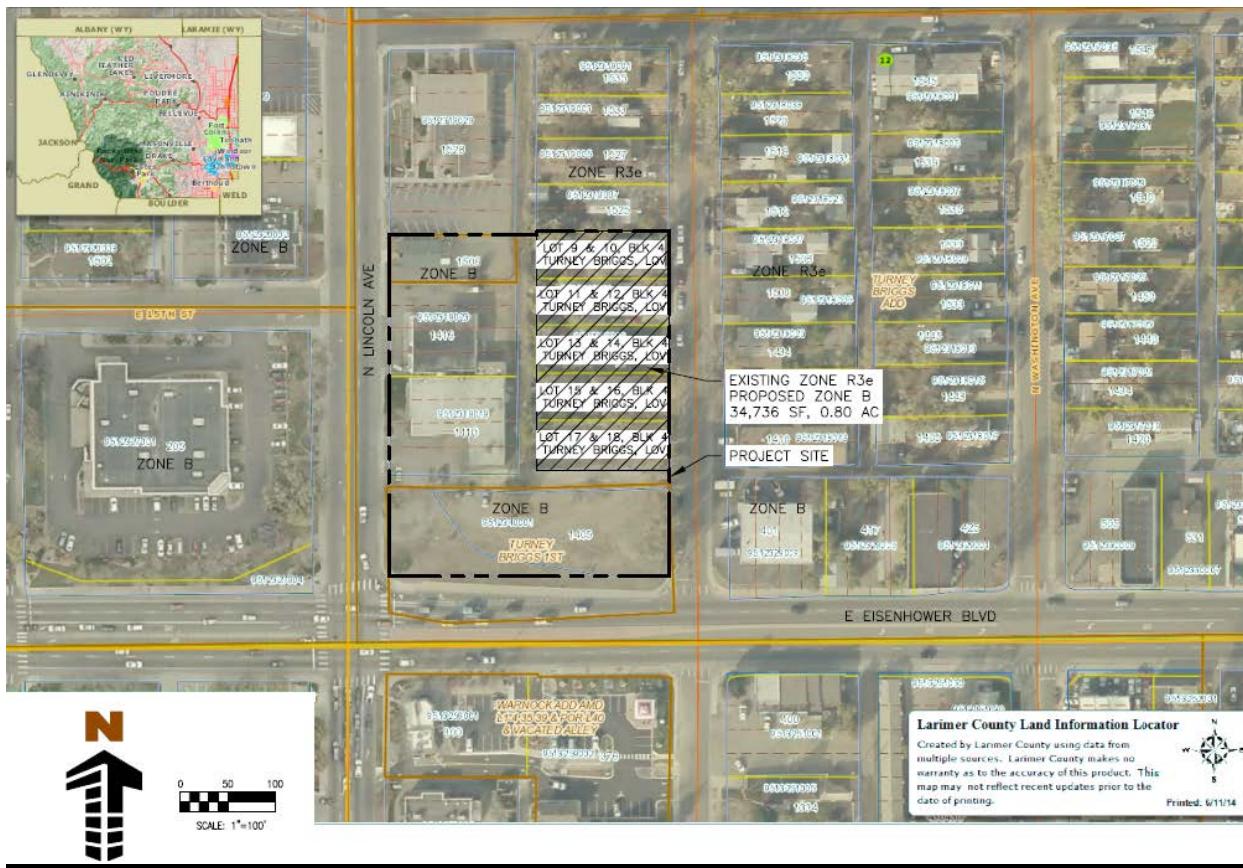
C. Citizen email communications to and from City Council.

D. Staff presentation slides.

## II. EXECUTIVE SUMMARY:

This is a public hearing and quasi-judicial action to consider an ordinance that proposes to rezone Lots 9 through 18, Block 4 – Turney-Briggs Addition from residential (R3e – Established High Density Residential) to commercial (B – Developing Business). This rezoning request is the basis for a potential redevelopment of approximately the southern half of the block, for a specialty grocery store. The subject properties are located north of E. Eisenhower Boulevard on the west side of N. Jefferson Avenue.

### Vicinity map:



The City Comprehensive Plan recommends Corridor Commercial and Low Density Residential uses for the lots proposed to be rezoned. In connection with the potential for redevelopment of a larger area, the rezoning request would conform to the Corridor Commercial land use designation.

This rezoning application would not guarantee redevelopment of the properties for a special grocery store. A variety of commercial uses would have the opportunity to develop under the B zoning district. Mitigating measures for all future commercial development on existing residential properties would occur through the site plan process.

### **III. KEY ISSUES:**

#### **City Review:**

Staff believes that all key issues regarding the application have been identified and resolved through the staff review process, including the following:

1. The relationship of the rezoning to a larger redevelopment area along two major corridors;
2. No “spot-zone” is being created in conjunction with the rezoning request;
3. Findings have been made in support of the rezoning, and;
4. Conditions are being recommended in response to neighborhood concerns.

#### **Neighborhood Concerns:**

A neighborhood meeting was held at 5:30 p.m. on July 29, 2014, in the City Council Chambers. The meeting was attended by approximately 20 neighbors, along with City staff and the applicant team. Focus of the neighborhood meeting was on plans for the specialty grocery store, although Planning staff did discuss the rezoning and the possible implications on the surrounding area. The following outlines some of the major points of discussion expressed by neighbors:

- Traffic – There is a significant concern on the part of surrounding neighbors that the additional traffic generated from a specialty grocery store will have a detrimental impact to the neighborhood, particularly along the residential street (N. Jefferson Avenue). Concerns with more traffic to an already very busy intersection were also expressed.
- Vehicle Access – Access into the site, particularly along N. Jefferson Avenue was very concerning to residents in terms of adding more vehicles to the residential street. If this access cannot be eliminated, at a minimum opportunity to restrict traffic flow must be considered.
- Site Layout – Residents along N. Jefferson Avenue were adamant that a loading dock location should not be along this street.
- Parking – The availability of enough parking to be provided on-site was important, especially to avoid parking along N. Jefferson.
- Building Height – The height of a specialty grocery store and the location of the building is going to block views of the mountains from residential properties along the east side of N. Jefferson Avenue.
- Property Values – Concerns were raised with redevelopment of a specialty grocery store impacting residential property values.

Generally, the use of the site for a specialty grocery store was seen as a positive. However, it is the location and impact on residential properties that was viewed as a negative. For this reason, a majority of the neighbors are very concerned with the rezoning, based upon the intended outcome. Focusing only on the rezoning, it was expressed that this could open up other opportunities for less desirable uses, if the specialty grocery store did not happen.

**Citizen email communications to and from City Council:**

A number of email communications relating to the Turney-Briggs Rezoning have been received (see **Exhibit C**). Most of the comments concern the design of the proposed specialty grocery store and do not address the general zoning of the property. Some of these emails were received following the Planning Commission hearing on August 11, 2014. Consequently, the Planning Commission did not review all of this information.

**Planning Commission Hearing:**

Planning Commission conducted a public hearing for the application on August 11, 2014. After receiving all information and testimony, the Planning Commission voted unanimously to recommend conditional approval (as referenced in Section V. below), by a vote of 9-0.

**IV. RECOMMENDATION:**

Staff recommends that City Council conduct a public hearing and approve the ordinance, on first reading.

**V. CONDITIONS**

Recommend that City Council require:

- (1) A neighborhood meeting be held prior to any staff decision on any site development plan submitted for the development or redevelopment of any of the lots within Lots 9 through 18, Block 4, Turney-Briggs Addition, or as subsequently replatted;
- (2) The Current Planning Manager exercise his authority under Section 18.05.090.B. of the City Code to require that mailed notice be given of said staff decision up to 300 feet from the boundary of the subject property in accordance with Section 18.05.090.C. of the City Code; and
- (3) Any parties so noticed shall be “parties in interest” for the purpose of filing an appeal of said staff decision under Chapter 18.80 of the City Code.



## 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](http://www.cityofloveland.org)

### Planning Commission Staff Report

August 11, 2014

**Agenda #:** Regular Agenda - 2

**Title:** Turney-Briggs Addition – Lots 9 through 18, Block 4 Rezoning

**Applicant:** Zach Lauterbach, Evergreen Devco, Inc.

**Request:** **Rezoning of residential properties to commercial**

**Location:** North of E. Eisenhower Boulevard on the west side of N. Jefferson Avenue

**Existing Zoning:** R3e – Established High Density Residential

**Proposed Zoning:** B – Developing Business

**Staff Planner:** Troy Bliss

### Staff Recommendation

**APPROVAL** of the rezoning.

### Recommended Motions:

1. *Move to make the findings listed in Section VIII of the Planning Commission staff report dated August 11, 2014 and, based on those findings, recommend that City Council approve the Turney-Briggs Rezoning, subject to the conditions listed in Section IX, as amended on the record.*

### Summary of Analysis

This is a public hearing concerning the Turney-Briggs Addition or more particularly the intersection of N. Lincoln Avenue (Highway 287) and E. Eisenhower Boulevard (Highway 34). The applicant is seeking to rezone 5 residential properties on the west side of N. Jefferson Avenue from residential (R3e – Established High Density Residential) to commercial (B – Developing Business). The Turney-Briggs Addition includes both residential and commercial properties. All of the commercial properties are located along the 2 highways with the residential located behind along the smaller streets.

The application is being requested because the developer is seeking to purchase various properties that comprise the southern half of the block (between N. Jefferson and N. Lincoln Avenue on the north side of E. Eisenhower Boulevard) for potential redevelopment that would include a specialty grocery store. This is considered the first step, in being able to redevelop a larger commercial area at this location.

Applications for rezoning are considered quasi-judicial, where the Planning Commission will only provide a recommendation on the request. This recommendation is forwarded to City Council at a subsequent public hearing, taking into account all testimony and information furnished at the hearing on August 11, 2014. Only City Council may authorize the rezoning of properties through adoption of an ordinance. Rezoning does not grant development rights. Entitlements for specific development purposes are processed by separate applications, according to adopted City standards and requirements.

## I. SUMMARY

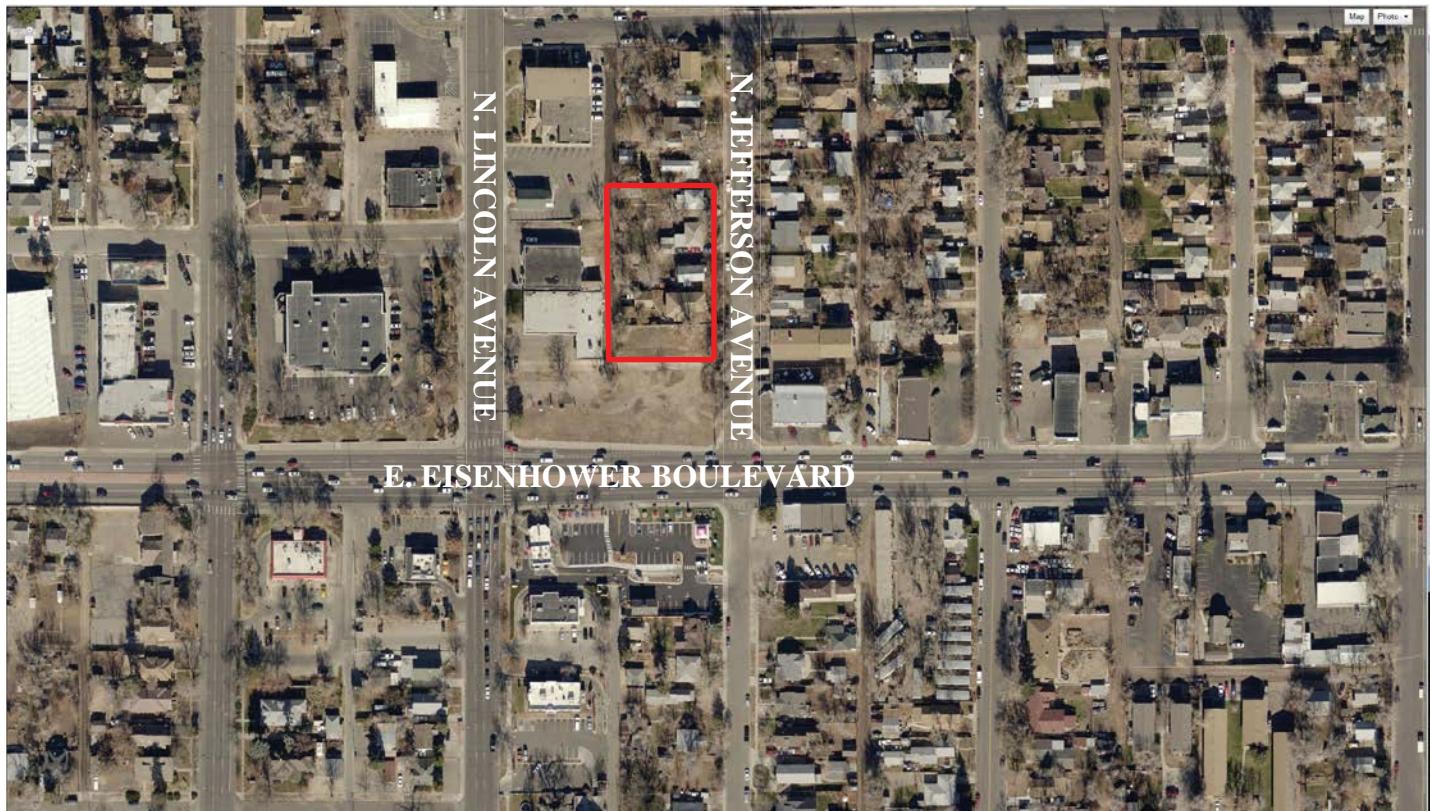
The application to rezone 5 residential properties (Lots 9 through 18, Block 4 – Turney-Briggs Addition) from residential (R3e – Established High Density Residential) to commercial (B – Developing Business) is prompted by an overall potential redevelopment plan for a specialty grocery store. Redevelopment would generally comprise the southern half of the block including these 5 residential properties, the book store building, the TV repair store, a garage, and the vacant land on the north side of E. Eisenhower Boulevard between N. Jefferson Avenue and N. Lincoln Avenue. Site details (i.e. access, circulation, traffic, parking, building orientation, architecture, landscaping, etc.) associated with redevelopment for a specialty grocery store have not been determined. However, to put the rezoning request into context, a Concept Plan (see **Attachment 3**) has been provided to give a sense of the project scope and the relationship of the residential zoning to the commercial zoning. A majority of the redevelopment site is zoned commercial.

This rezoning application would not guarantee redevelopment of the properties for a special grocery store. A variety of commercial uses would have the opportunity to develop under the B zoning district. This could include uses like a gas station (providing proper site placement from residential properties), restaurants (no drive-thru), banks (with drive-thru), bars/taverns, health care service facility, warehouse/distribution facility, etc. that could be similar or greater in nature, in terms of impact to residential properties. Mitigating measures for all future commercial development on existing residential properties is developed through the site plan process. With or without the rezoning, commercial opportunities will continue to be available for this area and the need to establish adequate buffering from residential will be required.

## II. ATTACHMENTS

1. Turney-Briggs Addition (annexation map for reference)
2. Rezoning map with legal description
3. Concept Plan for specialty grocery store (illustrative only)
4. Neighborhood Correspondence

### III. VICINITY MAP



### IV. SITE DATA

ACREAGE OF SITE - GROSS .....	+/- 0.8 ACRES
ACREAGE OF SITE-NET .....	+/- 0.8 ACRES
ACREAGE OF RIGHT-OF-WAY .....	N/A
EXISTING ZONING .....	R3E – ESTABLISHED HIGH DENSITY RESIDENTIAL
PROPOSED ZONING .....	B – DEVELOPING BUSINESS
MASTER PLAN DESIGNATION .....	CC – CORRIDOR COMMERCIAL
EXISTING USE .....	SINGLE FAMILY RESIDENTIAL
PROPOSED USE.....	SPECIALTY GROCERY STORE
ACREAGE OF OPEN SPACE PROPOSED .....	N/A
EXISTING ADJACENT ZONING AND USE - NORTH.....	B – DEVELOPING BUSINESS – VARIOUS COMMERCIAL USES AND R3E – ESTABLISHED HIGH DENSITY RESIDENTIAL – SINGLE FAMILY RESIDENCES
EXISTING ADJACENT ZONING AND USE - EAST .....	R3E – ESTABLISHED HIGH DENSITY RESIDENTIAL – SINGLE FAMILY RESIDENCES
EXISTING ADJACENT ZONING AND USE - SOUTH .....	B – DEVELOPING BUSINESS – VARIOUS COMMERCIAL USES
EXISTING ADJACENT ZONING AND USE - WEST .....	B – DEVELOPING BUSINESS – VARIOUS COMMERCIAL USES
UTILITY SERVICE PROVIDER - SEWER .....	CITY OF LOVELAND
UTILITY SERVICE PROVIDER - ELECTRIC.....	CITY OF LOVELAND
UTILITY SERVICE PROVIDER - WATER .....	CITY OF LOVELAND
WATER RIGHTS PAID .....	NO WATER RIGHTS DUE

## V. KEY ISSUES

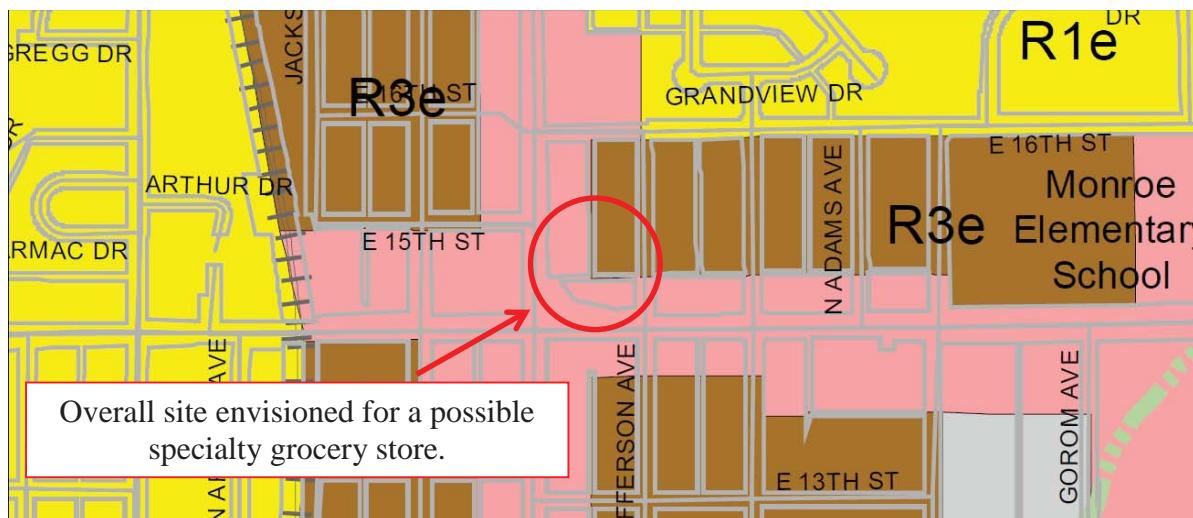
No key issues have been identified with the rezoning request from a City staff perspective. The proposed zoning is in alignment with the land use designation of the Comprehensive Plan and is appropriate given the properties location in not creating a spot zone. Further, rezoning these residential properties provides more ability to position this highly visible corner in Loveland for redevelopment. Without the acquisition and rezoning of residential properties on this specific block, fostering any viable redevelopment will become difficult given the complexities associated with this corner.

From a neighborhood and particularly surrounding property owner perspective, there are concerns related to the rezoning and more particularly the impacts (i.e. traffic, access, parking, noise, light, building orientation, building height, etc.) of the proposed special grocery store use on residential properties. This is further detailed in Section VII and in communications received (see **Attachment 4**).

## VI. BACKGROUND

The Turney-Briggs Addition is one of the older parts of Loveland, annexed in 1908. The addition includes properties between E. 16<sup>th</sup> Street and E. Eisenhower Boulevard (north and south) and N. Monroe Avenue and N. Lincoln Avenue (east and west). All of the properties fronting N. Lincoln Avenue and E. Eisenhower Boulevard are zoned commercial. There are also commercial properties tucked in behind those fronting the associated highways. The rest of the Turney-Briggs Addition is zoned residential. The residential zoning is of a high density, however does primarily include single-family residences. The residential area is almost entirely surrounded by commercial development, with the exception of single-family homes to the north and the Monroe Elementary School to the east.

This type of relationship of commercial and residential zoning along major arterial streets in older parts of Loveland is quite common. Particularly along the Eisenhower corridor, commercial development fronts the highway, while residential is directly behind. This creates some land use challenges because commercial property owners typically want exposure to the major street. Whereas, residential property owners typically want buffering from commercial properties and major streets. A majority of the commercial areas are not deep enough to fully take advantage of this transition, making redevelopment difficult. Opportunities that involve the acquisition and assembly of residential properties (such as this) will become necessary if larger commercial redevelopment is going to occur along these corridors (see zoning map exhibit). For example, this was the approach Walgreens had to take relative to the site directly west.



## VII. STAFF, APPLICANT, AND NEIGHBORHOOD INTERACTION

### A. Notification

An affidavit was received from Zach Lauterbach, Evergreen Devco, Inc. which certifies that the surrounding property owners within 600 feet of the properties were mailed notice and signs posted in prominent locations on the perimeter of the project site on July 25, 2014 in reference to the Planning Commission hearing. In addition, a notice was published in the Reporter Herald on July 26, 2014. All notices stated that the Planning Commission will hold a public hearing on August 11, 2014.

### B. Neighborhood Interaction/Response

A neighborhood meeting was held at 5:30 p.m. on July 29, 2014, in the City Council Chambers. The meeting was attended by approximately 20 neighbors, along with City staff and the applicant team. Focus of the neighborhood meeting was not so much in relation to the rezoning as it was with respect to the design and details of the specialty grocery site plan. The following outlines some of the major points of discussion expressed by neighbors:

- **Traffic** – There is a significant concern on the part of surrounding neighbors that the additional traffic generated from a specialty grocery store will have a detrimental impact to the neighborhood, particularly along the residential street (N. Jefferson Avenue). Concerns with more traffic to an already very busy intersection were also expressed.
- **Vehicle Access** – Access into the site, particularly along N. Jefferson Avenue was very concerning to residents in terms of adding more vehicles to the residential street. If this access cannot be eliminated, at a minimum opportunity to restrict traffic flow must be considered.
- **Site Layout** – Residents along N. Jefferson Avenue were adamant that a loading dock location should not be along this street.
- **Parking** – The availability of enough parking to be provided on-site was important, especially to avoid parking along N. Jefferson.
- **Building Height** – The height of a specialty grocery store and the location of the building is going to block views of the mountains from residential properties along the east side of N. Jefferson Avenue.
- **Property Values** – Concerns were raised with redevelopment of a specialty grocery store impacting residential property values.

Generally, the use of the site for a specialty grocery store was seen as a positive. However, it is the location and impact on residential properties that is seen as a negative. For this reason, a majority of the neighbors are very concerned with the rezoning, based upon the intended outcome. Focusing only on the rezoning, it was expressed that this could open up other opportunities for less desirable uses, if the specialty grocery store did not happen. In response to the concerns raised by the neighbors, City staff is recommending conditions (as reflected in Section IX.) that would: 1) allow further neighborhood participation in the design of the site and approval for a specialty grocery store; and 2) assure rezoning approval only if all other required City development applications, facilitating the specialty grocery store use are approved.

As of the date this Planning Commission staff report was prepared, additional correspondence has been received and is attached (see **Attachment 4**). City staff has also

been contacted by an attendee of the neighborhood meeting who intends to provide the Planning Commission with a petition of over 100 signatures in support of the request. This will be provided to the Planning Commission upon receipt.

## VIII. FINDINGS AND ANALYSIS

The chapters and sections cited below are from the Loveland Municipal Code as it relates to rezoning.

### REZONING

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

#### Current Planning

In consideration of a rezoning from R3e to B, the anticipated use of a specialty grocery store would be permitted by right. The B zoning designation would also allow for numerous other commercial opportunities.

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

#### Current Planning

The B zoning district affords for uses that may be incompatible with existing residential uses. Emphasis will need to be placed on the overall site design for any redevelopment, including a possible specialty grocery store. By imposing conditions (as indicated in Section IX), City staff believes this finding can be met.

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

#### Transportation

All future development or land application within this proposed property shall be in compliance with the City of Loveland Street Plan, the Larimer County Urban Area Street Standards and any updates to either in effect at the time of development application.

Therefore, pending future proposed development within this property, of which review and approval by the City is required, the Transportation Engineering Staff does not object to the application.

#### Fire

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

1. The rezoning of these properties from R3 to B will not affect response from the engine companies. The rezoned development site will comply with the requirements in the ACF Ordinance for response distance requirements from the first due Engine Company.
2. The rezoning of the lots 9-18, block 4 of Turney-Briggs addition to B, developing business, will not negatively impact fire protection for the subject development or surrounding properties.

### Power

Currently, the proposed rezoning area is served from an overhead two phase power line that is located in the alley between Jefferson and Lincoln Avenues. The existing uses as well as any future development requirements are current with the Power Division's existing infrastructure and system master plan.

### Stormwater

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

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

### Water/Wastewater

This development is situated within the City's current service area for both water and wastewater. The existing structures on the properties receive water and wastewater service from the City. The Department finds that the Development will be compliant to ACF for the following reasons: The proposed development will not negatively impact City water and wastewater facilities.

**Finding 4.** *Development of the subject property pursuant to any of the uses permitted by right under the zoning district would result in development that is consistent with relevant philosophies contained in the Loveland Comprehensive Master Plan, particularly those philosophies included in Section 4.0 Land Use.*

### Current Planning

The request of B - Developing Business zoning is consistent with the CC – Corridor Commercial land use designation of the Loveland Comprehensive Master Plan Land Use Plan. The Loveland Comprehensive Plan identifies goals, specific to the intent behind this rezoning request that include:

- Concentrate existing commercial outlets in strips along the two major arterials, US 34 and US 287, and encourage revitalization by upgrading facilities, reducing traffic conflicts, and improving parking where needed;
- Concentrate urban development in areas designated for such development;
- Strip commercial development is discouraged in order to prevent traffic congestion and encroachment into residential neighborhoods;
- The eastern U.S. 34 corridor should provide an inviting and aesthetically pleasing entryway into Loveland.
  - 1.A Developments should be sensitively placed in relation to other uses and exhibit a high quality of design, signage and landscaping. All development should comply with the U.S. 34 Corridor Plan, as adopted. (The area covered by this Plan includes land between the vicinity of Denver and Boise Avenue to 1/2 mile E. of I-25, and extends approximately 1/2 mile north and south of the highway.)
  - 1.B Development setbacks along U.S. 34 should present an image of a campus setting with low density allowed uses.
  - 1.C Open space is encouraged to be retained through the clustering of development and/or other innovative means.
  - 1.D As the major entryway to the City of Loveland, special care should be used to convey the high quality image desired by the City. Development regulations should be prepared and adopted for the U.S. 34 corridor that include, but are not limited to, such

elements as public signage, private advertising signage, landscaping, roadway and intersection improvements, building height, exterior storage, building design and siting, and other similar design attributes.

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

#### Current Planning

As part of the City's review, any development opportunity resulting from the rezoning application shall be subject to all applicable standards and requirements, assuring adequate health, safety, and welfare to the neighborhood and general public. This will include, but not be limited to the following:

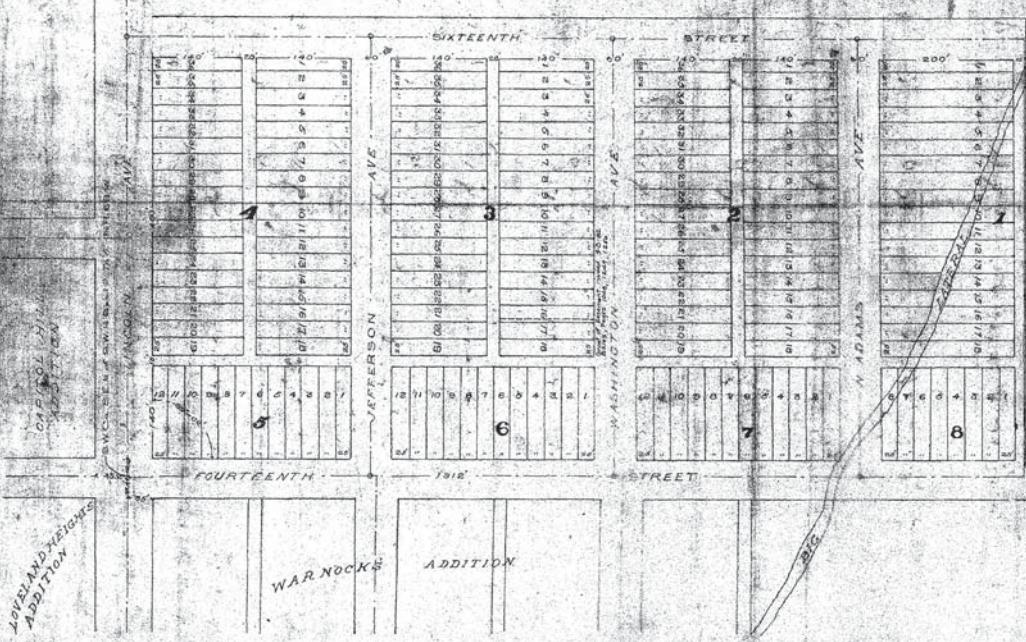
- **Traffic** – A Transportation Impact Study (TIS) is not required with a rezoning application but will be in conjunction with any use that is allowed by right or through special review. Through the City's review, staff will assure adequate levels of service and seek opportunities to minimize impacts on residential streets.
- **Access** – All access locations servicing redevelopment of the general area will fully analyzed and explores all avenues to maintain safe operating traffic circulation. Additionally, pedestrian access will be just as important, assuring proper locations to minimize vehicle conflicts.
- **Site Design** – Much attention will be given the location and supply of on-site parking, landscape treatments along the perimeter that provide visual appeal, and building orientation to maximize land area that will help create appropriate buffering from residential properties.
- **Noise** – A noise study will be required with any use proposed, given the proximity to residential properties. Through the outcome of a noise study, City staff will assure compliance to the City's noise ordinance. Building orientation and hours of operation for any type of use will also become an important factor, when considering the City's noise ordinance.

#### **IX. RECOMMENDED CONDITIONS**

City staff will be coordinating with the applicant to develop conditions that address neighborhood concerns. These conditions will be presented to the Planning Commission on or before the August 11, 2014, public hearing.

**TURNEY-BRIGGS ADDITION.**  
TO THE  
CITY OF LOVELAND, LARIMER COUNTY, COLORADO.

Scale, Inch = 100 Feet.



KNOWN ALL MEN BY THESE PRESENTS,

That the undersigned being owners of more than two acres of the area of the following described, To wit: The ENE of the S.E. of the SW 1/4 of Section 12, Tp. 5, N.R. C.R.W. C.R.M. thereof, subdivided said tract of land into Lots and Blocks with Streets and Alleys as shown by the Plat hereunto attached and made a part hereof, and designated as the **TURNEY-BRIGGS ADDITION** to the CITY OF LOVELAND, COLORADO, we hereby dedicate to the Public and to the People of the State of Colorado for the use thereof, the right, title, and interest aforesaid, in fee simple, to the State of Colorado.

But further known, that the water for the irrigation of said lots is a water right from the LOUDEN IRRIGATING TRAIL, running through the LOVELAND PIPE LINE, or the rate of one dollar per acre to Twenty acres of land and the same is hereby granted to the CITY OF LOVELAND, forever, for the use aforesaid.

Witness our hands and seal

This 7th day of April, AD 1908.

*John C. Briggs* *John C. Briggs*

STATE OF COLORADO

COUNTY OF LARIMER

On this 7th day of April, AD 1908,

Before me, John C. Briggs, Notary Public, duly sworn,

State of Colorado

Personally known to me to be the persons whose signatures are

subscribed to the foregoing instrument, and acknowledged to me to have executed the same as their free and voluntary act, by the persons

herein set forth, given under my hand and seal.

This 7th day of April, AD 1908.

My commission expires April 7, 1910.

*John C. Briggs* *John C. Briggs*

Approved by the Board of Trustees of the CITY OF LOVELAND,

the 7th day of April, AD 1908.

*John C. Briggs* *John C. Briggs*

Attest,

*John C. Briggs* *John C. Briggs*

PC ATTACHMENT 1



Larimer County Land Information Locator

Created by Larimer County using data from multiple sources. Larimer County makes no warranty as to the accuracy of this product. This map may not reflect recent updates prior to the date of printing.

Printed: 6/11/14

**LEGAL DESCRIPTION:**

Lots 9 through 18, Block 4, Turney-Briggs Addition to the City of Loveland, County of Larimer, State of Colorado.

**LEGAL DESCRIPTION: METES AND BOUNDS:**

A parcel of land being Lots 9 through 18, Block 4, Turney-Briggs Addition to the City of Loveland, situated in the SW 1/4 of Section 12, Township 5 North, Range 69 West, of the 6<sup>th</sup> P.M., City of Loveland, County of Larimer, State of Colorado, more particularly described as follows:

**Beginning** at the Northeast Corner of Lot 9, Block 4, Turney-Briggs Addition to the City of Loveland; Thence S00°28'25"W along the West R.O.W. Line of North Jefferson Street and along the East Line of said Block 4, a distance of 250.20 feet to the Southeast Corner of Lot 18; Thence S89°23'48"W along the North Line of a Public Alley and along the South Line of Lot 18, a distance of 139.81 feet to the Southwest Corner of Lot 18; Thence N00°26'43"E along the East Line of a 20 foot Public Alley and along the West Line of Lots 9 through 18, a distance of 249.95 feet to the Northwest Corner of said Lot 9; Thence N89°17'47"E along the North Line of said Lot 9, a distance of 139.93 feet to the **Point of Beginning**.

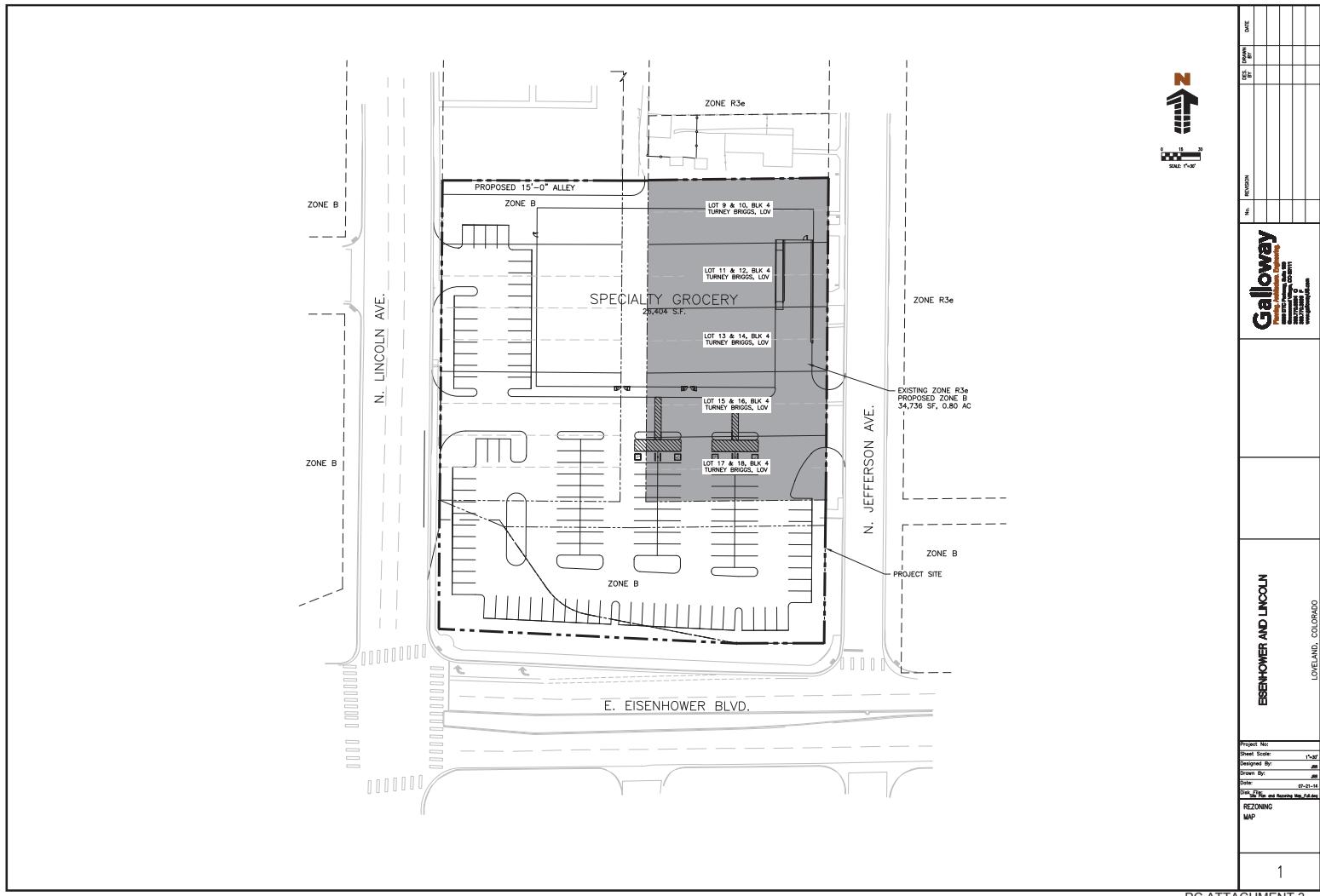
Parcel Contains (34,972 Square Feet) 0.8028 Acres.

Date prepared: July 23, 2011

Date of last revision:

Prepared by: Charles N. Beckstrom, PLS No. 33202  
for and on behalf of  
Engineering Service Company  
1300 South Potomac Street, Suite 126  
Aurora, Colorado 80012  
Phone: 303-337-1393  
[cbeckstrom@engineeringserviceco.com](mailto:cbeckstrom@engineeringserviceco.com)





*Thomas M. Culbertson  
2409 Winter Park Street  
Loveland, Colorado 80538  
Residence: 970-685-4442*

July 31, 2014

Mr. Buddy Myers  
Chairman  
City of Loveland Planning Commission  
500 E. Third St.  
Loveland, Colorado 80537

Dear Mr. Myers:

I read in the Reporter-Herald that the specialty grocery proposed for the northeast corner of the US 287/US34 intersection may come before the planning commission on August 11<sup>th</sup>. I will be out of town that day and cannot attend; therefore, I am expressing my thoughts and concerns in this letter.

It seems to me that there are better locations for this development. In order to make this work, several properties have to be sold, razed and then rezoned to put together a footprint big enough for the store. Why does that make sense when the former Albertsons building east of there is available, with parking lot, lighting, electricity, plumbing, sewer, loading dock and access to US 34 already there? The specialty grocery chain must have some special incentive or connection to bypass that facility and think that starting from scratch at one of the worst intersections in Loveland is a better solution economically. What are we not being told? Who will profit personally from the development of those parcels of land at US 34 and US 287? Who is encouraging the specialty grocery to pursue that course, when a former grocery store building already exists not very far from this site? Why would the city consider a heavy side traffic producer at such an awkward intersection? Is the city prepared to widen US34 through that stretch and if so, why? The railroad bridge just west of Cleveland would have to be widened as well. Why do all that for this development?

I have nothing against the specialty grocery itself and appreciate their desire to locate a store in Loveland, although as a retiree, I cannot make much use of a higher-priced alternative to Safeway and King Soopers. I just don't see the economic logic in force fitting a large store at a heavily congested intersection when a modifiable facility already exists.

Sincerely

  
Tom Culbertson

## **Troy Bliss**

---

**From:** Richard Ward <richardmward@yahoo.com>  
**Sent:** Monday, August 04, 2014 11:56 AM  
**To:** Troy Bliss  
**Subject:** Rezoning

Hi Troy

I received the letter concerning the rezoning request. (I live at 317 Crescent Dr)  
My question is what would be any negatives of proposed redevelopment? It seems to me to be all good.

Thank you in advance for your clarification.

Richard M Ward

## Troy Bliss

---

**From:** WOOD1701A@aol.com  
**Sent:** Monday, August 04, 2014 12:52 PM  
**To:** Mayor - Cecil Gutierrez  
**Cc:** Ward I - Troy Krenning; Ward I - Chauncey Taylor; Ward II - Joan Shaffer; Ward II - Phil Farley; Ward III - Hugh McKean; Ward III - John Fogle; Ward IV - Dave Clark; Troy Bliss  
**Subject:** Specialty Grocery Store Rezone change Request

North Jefferson Ave is a residential street and is not made to handle much traffic. I bought my house at 1516 North Jefferson about 12 years ago. I did not want to live in a mixed residential and commercial neighbor hood. All the residents that I talked to do not want the Zoning change from residential to commercial. Tearing down five house or 3/4 of the west side of the street and building a store will destroy the peacefully block that we enjoy now.

### NOISE.

I would have a loading dock one house down from me right across the street. I know that it would be a BIG change in NOISE. I work around semi trucks in a warehouse and they make more noise than most people think. The noise will be heard in my house when the truck backs down the ramp, when the trailer is dropped, when they come back and pick it up if the unhook, When the trailer door is shut, when the truck starts up and then pulls up the ramp. I know I will hear this noise because I hear the trash truck when the come by now.

Move the loading dock to the west side or enclose it. Have sound resistant windows installed in the houses nearest the loading dock.

### TRAFFIC

Having a entrance and exit from the store on Jefferson will completely change the traffic flow. Right now we have a very low volume of cars. That is because there are only 2 small commercial business and only three commercial lots. The size of these lot do not draw high volume traffic. If there is a 2 way entrance on Jefferson Ave the traffic increase will be high. Please do a traffic study now to see how low it really is.

I can tell you that a no left turn sign will not stop any one that needs to go east when leaving the store.

When going east they will use Jefferson to 16th street down to Rosewood to 34 east at the light.

The entrance could be angled and made one way one into the store, That keep traffic off Jefferson.

I was told that they have to have entrances on both side's of the store, Walgreens only has entrances on one side ,16 th street.

If you are going to allow the Rezoning then it should include fair market value offer to buy the other house on the block. They can then sell them to some one that will not care about all the changes.

Brian Wood  
 1516 North Jefferson Ave  
 970-667-6105

222  
**Let's Welcome a Specialty Grocer to Loveland!**

Target: Loveland City Council and the Loveland City Planning Division  
 Sponsored by: Residents of Loveland

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Thank you.

1 Name	Signature	Address	Optional: email or phone #
2 Nikki Pease	<u>Nikki Pease</u>	306 W. 45th St. Loveland, CO	
3 Robert Pease	<u>Robert Pease</u>	306 W. 45th St. Loveland, CO	
4 Debbie Roberts	<u>Debbie Roberts</u>	4520 <del>4520</del> 40 N. Sheridan #103	
5 Tom Silver	<u>Tom Silver</u>	1930 Rangeley Ct. Loveland	
6 Dixie Straight	<u>Dixie Straight</u>	923 Gardner Ave Loveland, CO	923 Dixie St. Loveland, CO
7 Jane D. Strout	<u>Jane D. Strout</u>	912 Jay St. Loveland	
8 Sean Gray	<u>Sean Gray</u>	238 Circle Residence	
9 Brenna Gray	<u>Brenna Gray</u>	PO Box 425 Loveland, CO	
10 Shallyse Gastelum	<u>Shallyse Gastelum</u>	1559 Zinc St. Loveland, CO	Shallyse@gmail.com
11 Heather Jenkins	<u>Heather Jenkins</u>	161 Heather Dr. Loveland	
12 Martin Jenkins	<u>Martin Jenkins</u>	1107 Heather Dr. Loveland	
13 Debbie Mariano	<u>Debbie Mariano</u>	551 10th St. Loveland	
14 N. L. Zebrowski	<u>N. L. Zebrowski</u>	2013 N. 4th St. Loveland	
15 Jane Niemand	<u>Jane Niemand</u>	1415 N. 4th St. Loveland	
16 April Garske	<u>April Garske</u>	2012 N. Estrella Ave	
17 Michael Tamm	<u>Michael Tamm</u>	221 Sherman Ave.	
18 Shiree Lomax	<u>Shiree Lomax</u>	733 Caesar Ct. Loveland, CO	
19 Tami Doyle	<u>Tami Doyle</u>	304 Mountain View Dr. Loveland, CO	
20 Meagan Murphy	<u>Meagan Murphy</u>	831 Bruns Dr.	

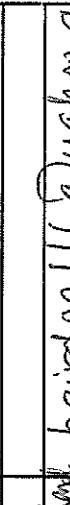
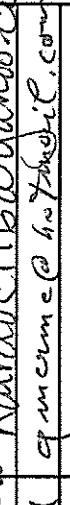
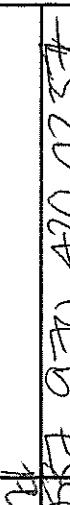
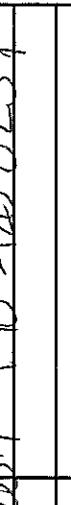
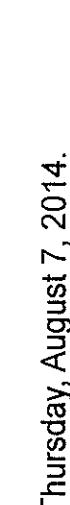
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1 Name	Signature	Address	Optional: email or phone #
2 Julie David		3655 Sile CR 67 Gill CO	julie.david@att.net
3 Lisa Ann Tunes		3333 Rockwood Ln	
4 Austin Null		4136 Rockview Ct.	
5 Leslie Genter		4137 Inlesberg Dr Loveland	leslie.genter@duaknow.com
6 G. J. Jerome		6945 Sky Pond Ln Loveland	g.jerome@hotmail.com
7 Corina Navarro		1629 Overridge Ct	corina.navarro@yahoo.com
8 Lori Hammond		2133 Krierson Rd	
9 AnnaLise Such		643 W 10th Street	80537
10 <del>Donna Johnson</del>		Loveland, CO	
11 Anush Strickland		Loveland, CO	
12 Shauna Trethewey		3020 Mountain Lion Dr. Loveland	970-556-2803
13 Stephanie Wilcox		505 Williams St 107	
14 Meghan Siefken		4341b Sunridge Dr. Loveland	
15 Sam Adolp		3827 3rd Street	
16 Beckan Bradford		3021 42nd Ave	
17 Bailey Hurna		1317 Arthur Ave Loveland	
18 Jennifer Amerson		2170 Lucy Dr. Loveland	970-400-0257
19 David McEnton		1797 Denver Ave	80538
20 Sarah Reeves		Loveland, CO	

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Thank you.

1 Name	Signature	Address	Optional: email or phone #
2 Leslie Patinella	Leslie Patinella	5999 WCR 12 Loveland CO 80537	tryflossing@aol.com
3 Matthew & Rose	Matthew & Rose	2727 Crooked Creek Dr Loveland CO 80538	
4 Maureen & Greg	Maureen & Greg	2930 Longmont City Ct. Ne	
5 Dennis & Gail	Dennis & Gail	2430 Murchie Ct. Ne	
6 Joyce & Eric	Joyce & Eric	2705 Crooked Creek & Loveland CO 80538	
7 Glen Leckie	Glen Leckie	2705 Crooked Creek CO 80538	
8 Christine Welebir	Christine Welebir	2793 Crooked Creek Ct. Loveland CO 80538	
9 Phil Sneed	Phil Sneed	2807 Crooked Creek Dr	80538
10 Phyllis Henney	Phyllis Henney	2851 Crooked Creek Dr.	80538
11 James Damman	James Damman	306 N. Washington Ave. #102	80537
12 Toni Kottwitz	Toni Kottwitz	1906 Muddy Creek Ave	80538
13 Wayne Olson	Wayne Olson	1750 Muddy Creek Dr	80538
14 Lillian Olson	Lillian Olson	1750 Muddy Creek Dr	80538
15 Ben & Steph Shadole		1804 Muddy Creek Cr	80538
16 Margaret Wick	Margaret Wick	1728 Muddy Creek Ln	80538
17 Daniel Metz	Daniel Metz	1728 Muddy Creek Ln	80538
18 Bruce Kottwitz	Bruce Kottwitz	1706 Meekley Creek Ln	80538
19 Glen Hiccox	Glen Hiccox	2227 Crooked Creek Ct	80538
20 Sirena Farm	Sirena Farm	2727 Crooked Creek Ct	80538

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1 Name	Signature	Address	Optional: email or phone #
2 Michael J. Peter-Gibson	<i>Michael J. Peter-Gibson</i>	2749 Crooked Wash Ct Loveland	80538
3 Linda H. Sister-Gibson	<i>Linda H. Sister-Gibson</i>	2749 Crooked Wash Ct Loveland	80538
4 SHARON STOWE	<i>Sharon Stowe</i>	2006 Crooked Wash Ct Loveland	80538
5 Laurene K. Poole	<i>Laurene K. Poole</i>	2915 Purgatory Creek Dr. Loveland	80538
6 John S. Poole	<i>John S. Poole</i>	2915 Purgatory Creek Dr. Loveland	80538
7 DAVID COX	<i>David Cox</i>	2771 CROOKED WASH CT	80538 970-217-8845
8 C. PETERSON	<i>Craig Peterson</i>	5175 Beechwood Drive	80538
9 ETIENNE PARROT	<i>Etienne Parrot</i>	5155 Brandwine Dr Loveland	80538
10 MARYLE PETERSEN	<i>Maryle Petersen</i>	5175 Brandwine wine	80538
11 SWYDIE EKLUND	<i>Swydie Eklund</i>	5140 Falladd Dr Loveland	80538
12 SPENCER MILES	<i>Spencer Miles</i>	972 Seabrough Dr	80538
13 WALLACE MCKEE	<i>Wallace McKee</i>	5225 Brandywine	80538
14 JEB HEDTHORN	<i>Jeb Hedthorn</i>	5217 Brandywine	80538
15 KATHRYN MASHAUE	<i>Kathryn Mashau</i>	5217 APRICOT DR	80538
16 LINDSEY DINSMORE	<i>Lindsey Dinsmore</i>	815 Norway Maple	80538
17 DONNA BEMENT	<i>Donna Bement</i>	1140 Flowering Almond Dr	80538
18 TROY HEDDE	<i>Troy Hedde</i>	5115 Brandywine Dr	80538
19 THERESA HEDDE	<i>Theresa Hedde</i>	5115 Brandywine Dr	80538
20 DEBORAH HEDTHORN	<i>Deborah Hedthorn</i>	2829 Crooked Wash Ct	80538

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1 Name	Signature	Address	Optional: email or phone #
2 Sandy Garrison	Sandy Garrison	1876 Muddy Creek Ct Loveland CO 80538	
3 Dale Carlson	Dale Carlson	1876 Muddy Creek Ct Loveland CO 80538	
4 Yolene George	Yolene George	1051 Mullen St Loveland CO 80537	
5 Sue Lamb	Sue Lamb	1732 Shadow Drive, Loveland, CO 80538	
6 Nancy Mans	Nancy Mans	4925 Pandrewood Dr Loveland CO 80538	Greely, CO 80634
7 " "	" "	5401 Stone Creek Cr.	Loveland CO 80538
8 Mark Johnson	Mark Johnson	2606 Prairie St Loveland CO 80537	Loveland, CO 80537
9 Dan & Jennifer	Dan & Jennifer	1908 Condura Dr	
10 Carol Ward	Carol Ward	1005 Sitka Ct	Loveland, CO 80538
11 Sylvia Seaton	Sylvia Seaton	2778 Crooked Creek Ct	Loveland, CO 80538
12 Donald D. Seaton	Donald D. Seaton	2778 Crooked Creek Ct	Loveland, CO 80538
13 Rhonda Foote	Rhonda Foote	4197 Mariana Butte Dr Loveland	
14 Sarah Richter	Sarah Richter	105 East 22nd St Loveland 80538	Loveland CO 80538
15 Odad Moose	Odad Moose	4600 W 5th St	Loveland CO 80538
16 Julia Ashby	Julia Ashby	1265 W. 50 <sup>th</sup> St	Loveland CO 80538
17 Carolyn Kehler	Carolyn Kehler	1820 Muddy Creek Circle	Loveland CO 80538
18 Katrin Rogers	Katrin Rogers	5853 Gratiot Ct CO	Loveland CO 80538
19 Nick Castiglione	Nick Castiglione	# 5015 Brandywine Drive	Loveland, CO 80537
20 Hal Roberts	Hal Roberts	5853 Cattaloupe Rd Loveland	

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1 Name	Signature	Address	Optional: email or phone #
2 John L. Kennedy	John L. Kennedy	3851 Crooked Wash	
3 Patricia Snyder	Patricia A. Snyder	3807 Crooked Wash Dr	
4 Diane Bernalice Deane	Bernalice Deane	2970 Crooked Wash Dr.	
5 Tina Kellogg	Tina Kellogg	2992 Crooked Wash Dr	
6 R. L. Backes	R. L. Backes	3142 Current Ct	
7 T. Dan Manley	T. Dan Manley	3290 Current Creek Cr	
8 Pam Krueger	Pam Krueger	3904 Crooked Wash Dr.	
9 Ron Chugmark	Ron Chugmark	3909 Crooked Wash Dr.	
10 Marie Deibert	Marie Deibert	3914 N. Oberholzer	
11 Angelique Villan	Angelique Villan	4211 Spruce Dr Loveland CO 80538	
12 Bill Cassells	Bill Cassells	3079 Crooked Wash Dr. 80538	
13 Maggie Cassells	Maggie Cassells	3079 Crooked Wash Dr 80538	
14 Ted Gonzalez	Ted Gonzalez	3131 Crooked Wash Dr 80538	
15 J. W. Backes	J. W. Backes	1899 Muddy Creek 80538	
16 Connie Backes	Connie Backes	1899 Muddy Creek 80538	
17 Delilah	Delilah	1896 Muddy Creek 80538	
18 Beth	Beth	1896 Muddy Creek 80538	
19 Sue Premer	Sue Premer	1888 Muddy Creek 80538	
20	J. Fatoro	1812 Murphy Creek Cir.	

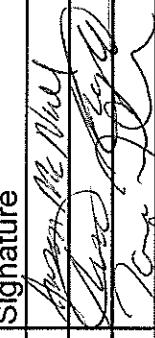
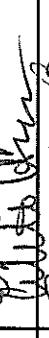
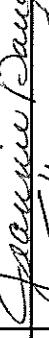
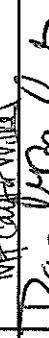
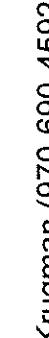
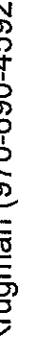
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1 Name	Signature	Address	Optional: email or phone #
2 Jason McNamee		711 McKinley Ave	
3 Tom Tice (6-1)		1610 Alberta Ave	
4 Tom Fisher		2117 S. Jefferson Ave	
5 April Meija		1208 Sycamore Dr	
6 Celeste Hinstrom		1853 Lily Pl.	
7 Jeannie Daugherty		2277 Yelms Ave	
8 Tyler Wilkes		105 E 1st Street	
9 Hung C. Wilkins		105 E 1st Street, Loveland	
10 DAVID BANFIELD		2197 Vangoem Circle	
11 William Kond		3048 Crooked Wash Dr.	
12 Sally Kouri		3048 Crooked Wash Dr.	
13 Eddie 2nd Kanger		3004 CROOKED WASH DR	
14 Monroe Whitney		2873 CROOKED WASH DR	
15 Katherine and Robert Nelson		2912 Bear Creek Dr.	
16 Gary Warren		2944 Bear Creek Dr.	
17 Donna Dunn		2890 Crooked Wash Dr.	
18 Sandra Cook		2876 Crooked Wash Dr.	
19 James Cook		2876 Crooked Wash Dr.	
20 Chris Schutte		2895 Crooked Wash Dr.	

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1 Name	Signature	Address	Optional: email or phone #
2 Patricia Wagner		2944 Purgatory Creek Dr.	
3 M. R. Blakeslee		3026 Crooked Wash Dr.	
4 Marcia Vang		3026 Crooked Wash Dr.	
5 Joseph A. Meyers		9999 Purgatory Cr Dr	
6 JoAnn M Kyral		2998 Purgatory Cr Dr	
7 Ted Schlegenthal		2926 Purgatory Creek Dr	
8 Linda Schlegenthal		2926 Purgatory Creek Dr	
9 Emily St. James		2938 Purgatory Creek	
10 Tamka Johnson		2975 Purgatory Creek	
11 Sandra Friederksen		3153 Crooked Wash Dr	
12 Yera McRae		8311 Browns Dr	
13 Donna Cebulski		3192 Crooked Wash Dr	
14 Jason Wood		3025 Crooked Wash Dr	
15 Kathlene Licht		3043 Crooked Wash Dr.	
16 Lola Kenyon		3004 Crooked Wash Dr.	
17 Roger Wronowski		3335 Challenge Point Dr	
18 Kim Walkowicz		3315 Challenge Dr.	
19 Lars Kemp		2903 Purgatory Creek Dr	
20 Doug Ticecoat		3235 Challenge Pt Dr.	

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1 Name	Signature	Address	Optional: email or phone #
2 Judy Hall		404 Allensport CO 5285 Grandview Ct	judy.hall@wildblue.net
3 Cindy (P)on		1506 Hitchhiker Dr. Loveland CO 80537	
4 Stefanie Burkhardt		1361 Hilltop Dr Loveland	
5 Brenda Parsons		257 S. Mtn. View Dr. Eaton	
6 Shasti Hawthorn		358 Harmony Ct Loveland	80537
7 Chuck Kellner		358 Harmony Ct Loveland	80537
8邹志伟 (L)eswren		358 Harmony Ct, Loveland	80537
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1 Name	Signature	Address	Optional: email or phone #
2 Susan Wellnitz		Loveland CO	
3 Leslie Pepp		Loveland CO	
4 Cheilee Jensen		Loveland, CO	
5 Greg Jensen		Loveland CO	
6 Anna Jo Soeken		Loveland CO	
7 Cathy Carroll		Loveland CO	
8 Rob Carroll		Loveland CO	
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Sponsored by: Residents of Loveland

We, the undersigned, are in support of the Evergreen Development Company's proposal to build a specialty grocery store at the intersection of Eisenhower Blvd and Lincoln Ave. We feel that this type of store would positively affect the Loveland community and is greatly needed as many residents already are traveling to Fort Collins and Longmont to support this type of grocery store. Let's keep this revenue in Loveland. This petition is also to inform the City Planning Division that we are in support of the rezoning of this property for this purpose.

Thank you.

1 Name	Signature	Address	Optional: email or phone #
2 Helen Bobbitt	Helen Bobbitt	2834 Crooked Wash Dr, Loveland	
3 Barton Bobbitt	Barton D. Bobbitt	" "	" "
4 Shirley Hernandez	Shirley Hernandez	2848 Crooked Wash Dr, Loveland	
5 Fausto Hernandez	Fausto Hernandez	2848 Crooked Wash Dr, Loveland	
6 Donna Gammi	Donna Gammi	1857 Valley Creek Circle	
7 Eve Schaefer	Eve Schaefer	2862 Crooked Wash Drive	
8 Tom Messlich	Tom Messlich	514 E 47th St, Loveland	
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Please return this form to Pam Krugman (970-690-4592) or Madeline Niccore (970-461-1666) by Thursday, August 7, 2014.

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Thank you.

1 Name	Signature	Address	Optional: email or phone #
2	Charlene Buttsnath	243 Cardinal Ave.	505-7057-0541
3	Technine Maxwell	1320 E. 1 <sup>st</sup> St.	970-689-9824
4	Karen Hilliard	241 W. Main Street, Loveland	970-203-4104
5	Julie Stinson	1859 Blue River Dr	970-679-8590
6	David Powell	1919 Park Dr	970-481-5015
7	Kennie Reynolds	2440 N. 20th Ave, Loveland	970-496-2004
8	Robert Reynolds	2440 N. Boise Ave, Boise	970-391-6677
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Thank you.

1 Name	Signature	Address	Loveland 80537	Optional: email or phone #
2	<i>Jason Garrison</i>	<i>3702 Surrey Bridge</i>	<i>970 218 2319</i>	
3	<i>Keisha Garrison</i>	<i>Keisha Garrison</i>	<i>970 223 5675</i>	
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1 Name	Signature	Address	Optional: email or phone #
2 <del>Kathy Spencer</del>	<del>Kathy Spencer</del>	513 W. 9th St. Loveland	<del>Kredette@rcog.com</del>
3 <del>David Preston</del>	<del>David Preston</del>	<del>Roselleton, Loveland</del>	
4 <del>Bethany VanDer Linden</del>	<del>Bethany VanDer Linden</del>	<del>116 E Colorado Ave, Berthoud, CO</del>	
5 <del>Carol Daniels</del>	<del>Carol Daniels</del>	<del>312 Numaga Rd. Loveland, CO 80537</del>	
6 <del>Sue Nelson</del>	<del>Sue Nelson</del>	<del>136 Grouse Hollow, Loveland, CO 80537</del>	
7 <del>David Robinson</del>	<del>David Robinson</del>	<del>903 Canyon Ct Loveland, CO 80538</del>	
8 <del>Heather Spencer</del>	<del>Heather Spencer</del>	<del>513 W. 9th St. Loveland</del>	<del>Paulactien@gmail.com</del>
9 <del>John Loveland</del>	<del>John Loveland</del>	<del>1608 S. Baldwin</del>	<del>N/A</del>
10 <del>Veres House</del>	<del>Veres House</del>	<del>Veres House, Loveland</del>	
11 <del>Mark Spencer</del>	<del>Mark Spencer</del>	<del>513 W. 9th St. Loveland</del>	
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Thank you.

1 Name	Signature	Address	Optional: email or phone #
2 CHOTS Matheson	Chris Matheson	3670 Beecham ct	Chris @teammpl.com
3 Scott McCrary	Scott McCrary	1841 Hillrose Dr.	scottmac_2000@yahoo.com
4 Roba Greenlee	Roba Greenlee	3603 Hillrose in Loveland	970-669-7830
5 Rose Netto	Rose Netto	2127 Genoa Ct Loveland	rose@teammlr.com
6 <del>Shane</del> Ann Combs	Ann Combs	3616 Kiowa Dr. Loveland	acombs@fiji.com
7 Heather Recalido	Heather Recalido	2420 Derby Ln Dr. Loveland	heather.eggs@electricaggrill.com
8 BRENT ECKER	Brent Ecker	3708 Vero Rd Loveland	
9 ANNE KRIOUSSI S	Anne Krioussi	2126 Genoa Ct Loveland	970.663.9282
10 Bruno Krissis	Bruno Krissis	2126 Genoa Ct Loveland	90538
11 Conrad Kosch	Conrad Kosch	2127 Genoa Ct Loveland	80538
12 Cory Roberts	Cory Roberts	1803 Lincoln St Loveland	80538
13 Jacqueline Mathews	Jeanneida Mathews	3670 Dahlhaus Ct Loveland	80538
14 Leslie Reming	Leslie Reming	4148 La Veta Dr, Loveland	80538
15 Brandi Dennis	Brandi Dennis	4148 La Veta Dr. Loveland	80538
16 Julie Johnson Engstrom	Julie Johnson Engstrom	2114 Denver Court Loveland	80538
17 Jeff Engstrom	Jeff Engstrom	2114 Genoa Court Loveland	80538
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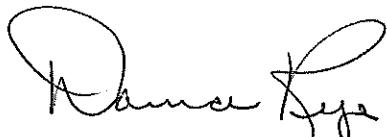
Members of the Loveland Planning Commission and Members of the Loveland City Council.

Re: Rezoning application of the property at 1409, 1411, 1413, 1501 & 1515 North Jefferson Avenue. Also listed as lots 9-18, Block 4, Turney-Briggs Addition. The request is for B, Developing Business.

Commission and Council Members:

As the owner of the property located at 430 East Eisenhower Blvd., I would like to voice my vote for acceptance of this change. I find the need for such a successful business as the proposed specialty grocery store, out weighs any negative effect on property values. Except for the change in use of this property, has it not always been a business area. I think it quite near sighted to consider the properties adjacent to Eisenhower (Hwy 34) and Lincoln Avenue (Hwy287) anything but business, in the development of Loveland.

Respectfully submitted:



Donna Rye  
430 East Eisenhower Blvd. # 2  
Loveland, CO 80537

**CITY OF LOVELAND  
PLANNING COMMISSION MINUTES  
August 11, 2014**

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A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on August 11, 2014 at 6:30 p.m. Members present: Chairman Meyers; and Commissioners Middleton, Molloy, Dowding, Crescibene, Forrest, Ray, Prior, and Jersvig. Members absent: None. City Staff present: Bob Paulsen, Current Planning Manager; Sharon Citino, Assistant City Attorney.

*These minutes are a general summary of the meeting. For more detailed information, audio and videotapes of the meeting are available for review in the Development Services office.*

**CITIZEN REPORTS**

There were no citizen reports.

**STAFF MATTERS**

1. **Mr. Paulsen, Current Planning Manager**, reminded the commissioners that there are three items on the August 25<sup>th</sup> Planning Commission Agenda and on August 26<sup>th</sup> they will have a joint study session with City Council on the Comprehensive Plan.
2. **Ms. Sharon Citino, Assistant City Attorney**, notified the commission that she will be taking a leave of absence for a few months and **Mr. Moses Garcia, Assistant City Attorney**, will be taking over for her in her absence.

**Chair Meyers** presented **Commissioner Prior** with a plaque and thanked him for his service on the Commission. Commissioner Prior submitted his resignation on August 6th to Chair Meyers and Staff Liaison Paulsen.

**COMMITTEE REPORTS**

**Commissioner Molloy** informed the commission that the **Title 18 Committee** will meet August 14<sup>th</sup>.

**Commissioners Crescibene and Dowding** attended the Stakeholder Committee for Create Loveland on August 5<sup>th</sup>. They are working on the Vision Book for the Comprehensive Plan.

**COMMISSIONER COMMENTS**

There were no comments.

**APPROVAL OF THE MINUTES**

**Commissioner Middleton** made a motion to approve the July 28, 2014 minutes; upon a second from **Commissioner Prior** the minutes were approved with 7 ayes and 2 abstentions.

## **REGULAR AGENDA**

### **1. Kendall Brook Multi-Family PDP and PP**

**Mr. Troy Bliss, Senior Planner**, addressed the Commission and began by describing the project as a 120 unit apartment complex to be built south of West 50<sup>th</sup> Street between Georgetown Drive and Avon Avenue. The original zoning for Kendall Brook provides for a mixture of housing, allowing for multi-family rental units. The Preliminary Development Plan (PDP) proposed by the applicant details a specific development proposal for the subject property, including the layout of buildings, landscaping, vehicle circulation and parking. The Preliminary Subdivision Plat (PP) proposes the subdivision of the property, including individual lots on which each building is proposed to be located. It establishes all necessary conveyances for public and private use. Both the PDP and the PP require approval by the Planning Commission. If approved or denied, an appeal may be taken to the City Council.

A neighborhood meeting was held on April 24<sup>th</sup> with over 100 people attending, with most attendees expressing opposition to the project. Neighbors have also submitted 39 letters and emails expressing their concern with the project. An overview of the neighborhood concerns was provided along with an indication that members from the Kendall Brook and Taft Hill Farms HOAs have requested a presentation to the Planning Commission.

The project design has been reviewed by the City's Development Review Team (DRT). The DRT looked at four main categories to make their determination: Zoning, Comprehensive Plan, Adequate Community Facilities and Site Development Performance Standards and Guidelines (SDPSG).

- Zoning – The subject property is within the Kendall Brook Planned Unit Development. A General Development Plan (GDP) established zoning standards for the overall Kendall Brook PUD, including use, density and design standards for the subject site. The GDP allows for multi-family apartments and greater densities than what is being presented tonight. The Comprehensive plan allows for limited higher densities in some locations.
- Comprehensive Plan – The intent is to provide a variety of residential uses for a variety of socioeconomics in the community. PUD's have established this philosophy.
- Community Facilities – Traffic, Utilities, Storm Drainage and Emergency Services are all considered, studied and found to be able to demonstrate services available.
- SDPSG – Landscaping details, circulation and parking are looked at for compliance with City standards. Specifically addressing parking, two spaces per unit are the parking lot requirements including both surface parking and garage parking. The only opportunities for parking on the street are Avon and Tennessee. W 50<sup>th</sup> and Georgetown are designated no parking streets.

Staff Recommendation: With the recommended conditions to be included in the Final Development Plan, staff believes all of the elements are in compliance with City standards and with the standards adopted in the GDP. The garages will have a condition, to ensure all the garage stalls are available for parking use only. The garages will be part of the rental unit.

**The applicant, Mr. Larry Buckendorf, President of Journey Homes**, introduced his presentation team: Joe Schumacher, Crow Creek Construction; Dan Hall, Olsson Associates;

Kris Picket, Olsson Associates; Morgan Kidder, Crow Creek Construction; and Kelly Peters, Economic Development Expert and Kendall Brook resident.

**Mr. Buckendorf** stated that he will be one of two owners of the project and that it would be a long term ownership, he has no plans to sell the project. He gave the Commissioners some history about Journey Homes stating that they have been extremely successful at building homes, including during the recession. Journey Homes has built 5,000 homes since 1999. He spoke to the Commission of the company's quality of construction and pride of going above and beyond for customer satisfaction.

He addressed the issue with the Better Business Bureau brought up in neighborhood correspondence, indicating that out of 659 units built in 2013 there were eight complaints filed with the BBB and all have been addressed. He stated that they have never had a lawsuit filed against them and while the concrete issues are a legitimate concern, they have no bearing on the issue tonight.

He also explained, regarding the application, that certain criteria have already been established by the City. During the review process, each concern the City had was addressed and the criteria was met. The GDP for the neighborhood was established in 2000, and assigned an allowance for mixed densities within the neighborhood. He feels that if the design and development guidelines are met, then the project should be approved.

He indicated that he had tried to reach out to the HOA and stated that there have been five separate attempts to contact the HOA president and talk, but he received no return calls or emails.

**Mr. Kris Picket, Consultant**, stated that Journey Homes is primarily a single family home builder, but the current market is showing the need for multifamily rental units. He indicated that Journey Homes is an experienced multifamily developer and cited their experience. He also indicated that an onsite Manager will live in one of the units.

He explained that the project was designed to organize the two story buildings around the perimeter of the development site and place the parking at the center of the site—therefore buffering impacts on the existing neighborhood. He indicated that two parking spaces are typical for what a two bedroom unit needs. The garages were set up as an additional amenity, but to address the concerns of parking availability, the garages will be “tied” to specific units.

He stated that the landscaping will meet or exceed the City's criteria. The detention pond is a regional storm water drainage facility. He explained that the wetlands developed over a period of time. A water quality pond will “clean” the run off and then drain into the detention pond.

**Ms. Kelly Peters, Kendall Brook Resident, Economic Development Expert**, stated that there is a strong need for rentals in Loveland. The average rent in Loveland is \$1,026 and the rental vacancy rate is at 2.3%. With the Kendall Brook project, the typical renter would make \$48,000 a year, this demographic includes entry level positions, educators, and public servants. She stated that the project would create over 300 jobs, \$1.7 million in sales and use taxes, and it would provide additional property taxes. She received much of her statistics from City staff including the Harvard Housing Study.

## Commissioners' Questions & Responses by the Applicant

- *HOA votes and who would be doing the voting?*  
The property has 70 voting shares assigned to it, which is 13% of the overall votes in the HOA. The property owner holds these votes.
- *Parking - Can the open parking be assigned?*  
The parking spaces meet the requirement for 120 two bedroom units, allowing 2 parking spaces per unit. The spaces will not be assigned to the units, but garages (and the spaces within the garages) would be. The garages would only be allowed for automobiles, not for storage or storing recreational vehicles. There are eight handicapped accessible parking spots, the amount required by the ADA.
- *Trash receptacles and the location – Is only four receptacles enough for 120 units and how will the trucks turn around?*  
This is the required amount. There is adequate turning for trucks based on the review of the Fire Authority.
- *Open Space and Fencing – What is the percentage of open space required and will there be fences?*  
The GDP didn't specify the amount of required open space, but the project has over 40% open space. There is no plan for fences other than the 3 rail fencing.
- *Snow removal – Is there a snow removal plan?*  
It will be done according to city standards and requirements. Depending on accumulation of snow, if excessive it would be trucked out. Snow and landscaping maintenance will be contracted out.
- *Lack of onsite amenities – Why no playground?*  
The unit renters will be allowed to use the other amenities in the neighborhood. The applicant feels they accommodated and exceeded the requirements of the GDP with the amount of landscaped areas. The rules and regulations were already established for the whole area to use the parks.
- *Density and experience – Why 120 units and have you built this type of project elsewhere?*  
It worked with the configuration of site, they could have built a 3 story building, but tried to minimize the intensity of the project. They are currently building these exact units in Greeley and Fort Collins. Every subcontractor that will be on the project is a locally owned business.

At 8:08 PM **Chair Meyers** called for a 10 minute recess.

**Chair Meyers** opened the Public Hearing at 8:18PM.

**Dr. Chris White, 4355 Ridgeway Drive and Chair of the Opposition Presentation Committee**

addressed the commissioners stating that he along with four other HOA Board Members of the Kendall Brook and Taft Hill Farm Subdivisions have prepared a collective presentation, capturing the concerns of residents, and attempting to limit the amount of repetitive comments. The proposal by Journey Homes is not just an HOA concern, over 230 concerned neighbors are in attendance at the meeting tonight. His main concerns are too much density and the wrong contractor to do the development. He stated that the residents aren't anti-growth and would welcome a well planned development with a quality developer. The proposed apartment complex is inappropriate and doesn't blend well with the surrounding neighborhoods. He also addressed safety, traffic, and parking concerns. He informed the Commission that the past president of the HOA tried to contact Journey Homes and Mr. White did write a letter in response to Mr. Buckendorf's request to meet.

**Brad Sarff, 1514 Homeland, Member of the Opposition Presentation Committee**, feels that most people thought that an owner occupied multifamily development would go in when he saw the sign advertising it. He believes the GDP zoning is not appropriate and could create an adversarial atmosphere between owners and renters. He stated that he is advocating for townhomes in a lower density configuration.

**Sue Schneider, 1570 Rhode Island Street, Member of the Opposition Presentation Committee**

is on the HOA Landscaping Review Committee, she stated that if the city approves a development within an HOA the city should be sensitive to the concerns of the HOA. She is concerned about the onsite manager enforcing the HOA covenants. She feels the architecture of the buildings is incompatible with the appearance of the majority homes in the area. They lack architectural elements and have no outdoor living space, such as patios.

**Mr. Bill Reinhardt, Member of the Opposition Presentation Committee**, commented that there are too few parking spaces in the complex. The number of occupants will have at minimum two cars. That means 240 parking spaces including the garages will be used for parking. That would create over flow parking going into other streets affecting the quality of life in these areas. He feels that parking will be impossible for the HOA to resolve and that the city may be forcing a significant hardship on these neighborhoods. He would like the minimum standard should be raised to 2.5 parking spaces per unit.

**Susan Lilly, President of the HOA and Member of the Opposition Presentation Committee**, stated that cars cannot be parked on the street for more than 3 days and no one ton trucks are allowed.

**Mr. Pat McFall, 1675 Tennessee Street, Member of the Opposition Presentation Committee**

addressed the potential traffic problems. He believes the existing traffic recommendations, are mistaken. More than 61 people will make early morning trips. Public transportation is pretty far away. The elementary students will travel along Taft Ave. In winter, the sidewalks are covered in snow and ice for days. The traffic study was paid for by the developer. Traffic on 50<sup>th</sup> will back up, congestion is bad now. Peak hours are creating continual backups. He showed various intersection problems. No stop light at Wilson and 50<sup>th</sup>. Eventually people will start taking the 57<sup>th</sup> street corridor.

**Ms. Donna White, 4355 Ridgeway Drive, Member of the Opposition Presentation Committee**, stated that her major concern is safety. Safety of children crossing busy streets, the Louden Ditch, and retention pond pose hazards. The proposed fence is a three rail fence which would not keep children from being able to go out into the street.

**Mr. Pat Kelly, Member of the Opposition Presentation Committee**, addressed the drainage, flooding and retention pond concerns. He stated overflow would have run into the already overflowing Louden Ditch. On May 23<sup>rd</sup> they received 4 inches of rain that flooded the ditch and the neighborhood park. He feels there will be increased flood potential, because there is no plan for additional drainage.

**Dr. White, Chair of the Opposition Presentation Committee**, addressed the Harvard Study, stating that it was commissioned by a group advocating apartment living. The vision for a community is determined by the quality and character of the design. Journey Homes received a BBB rating of F. He stated they need someone with a record of good service, other builders did not have the same problems with cracks in driveways and steps. He also stated that many owners were told the concrete flatwork was not under warrantee. He questioned Journey Homes' earnestness and sense of responsibility to these homeowners. Future occupants deserve a builder who will do it right the first time.

At 9:48PM **Chair Meyers** called for a 10 minute recess.

**Chair Meyers** reopened the Public Hearing at 9:58PM.

**Mr. Brett Bennett**, original developer of the subdivision, stated that the GDP allows for a maximum number of up to 130 multi family dwelling units on the property in question.

**Mr. Mike Hanscome, 1990 Arkansas Street**, moved to Kendall Brook because he has a young daughter and there are 14 kids and they all play in the streets. Concerned about added traffic and worried about their kids. A huge family neighborhood.

#### **Chair Meyers Paused the Public Hearing**

**Chair Meyers** asked **Mr. Paulsen, Current Planning Manager**, to address the audience regarding the Turney-Briggs Rezoning application. **Mr. Paulsen** asked if there was anyone in the audience waiting to comment on the Turney-Briggs Rezoning application. This item was the next item on the agenda. Given the late hour, **Mr. Paulsen** wanted to know if those who were waiting were interested in the item being continued to a public hearing on August 25, 2014. No one from the audience came forward requesting a continuation.

#### **Chair Meyers Re-opened the Kendall Brook Public Hearing**

**Mr. George Fitzgerald, 4760 Ignacio Avenue**, Economic Development Engineering Geologist. He stated that he started doing an Economic Cost Benefit Analysis between different types of housing and they all turned out about the same. He expressed that Journey Homes is a company that builds homes and they have to make a profit and that is their bottom line.

**Ms. Susan Whinery, 1640 Antonio Court**, asked how often is the Comp. Plan updated, is it relevant to what is happening today? She also commented on Journey Homes focus is on quantity and not on quality.

**Ms. Susan Lilly, HOA president, 1545 Rhode Island**, stated she would like clarification regarding the change made to the layout of the buildings.

**Upon no further public comments, Chair Meyers closed the Public Hearing.**

**Mr. Buckendorf** provided follow-up answers to the public comments:

- *Density* - established according to approved standards, codes and rules that were established by this community.
- *The assumption of owner occupied units* – there is no requirement for owner-occupied units. PUD requirements for the site have been followed.
- *Not enough open space* - 40% is more than what is required.
- *Traffic problems and accessibility to amenities* – The project is well situated to reduce impact on the neighborhood. All homes including single family units impact traffic.
- *HOA standards* – Journey Homes fully intends to comply with the standards and guidelines of the HOA. It can't be arbitrary.
- *Onsite manager* - there will be a resident manager, but not be a separate office, as it is cost prohibitive. The property management company are licensed and regulated by the state of CO.
- *Architectural control issues* – the building architecture is designed to blend with nearby homes. Concerns about the topography of the site can't be changed.
- *Drainage and Environmental Issues* – the storm drainage system was already established by the GDP and is designed to handle the drainage of the development. Run off will go through grass swales and a small water quality pond, thus water will be cleaned before going into the retention ponds.
- *Green space, play areas* - the parks within the Kendall Brook community will be available for use by the multifamily units. This has always been the plan. The apartment complex will pay HOA dues like the other homeowners for park and trail upkeep.
- *Parking* - 2 spaces per unit is the City criteria and adequate based on the type of development. He indicated that their team could look at reducing the number of garages and add more parking open spaces.
- *Traffic impact* - can be absorbed by the surrounding street infrastructure. Their traffic engineer prepared the traffic study, which is a typical industry standard for the study to be paid for by the developer. The City traffic engineer tells the developer what needs to be

done. He indicated that the developer will install a crosswalk as suggested by the City. Safety concerns for children: try to minimize them, the buffering was thought out years ago.

- *Studies* – The studies cited by the applicant team were provided by City staff and were based on research completed on apartment projects.
- *Concrete Problems with single family homes built by Journey Homes* - Claims will be fixed before the end of summer. These problems relate to flat work, and aren't foundation issues or structural problems.
- *HOA Authority* – HOA's don't make land use decisions. It is the City's role to review the development plans, not the HOA's. There is no overstepping of their authority. Journey Homes will comply with all applicable HOA design standards.
- *Outdoor amenities*: patios are located on each side on the bottom level of the building entrys. They are about 3 feet wide. There are no balconies, which are expensive and create a fire hazard.
- *Tree protection and replacement* – Developer will take all reasonable action to protect and replace trees.
- *Change in orientation of the buildings* – Journey Homes has not presented any orientation changes to the buildings; the only change is for screening the mechanical equipment. A change was made to parking location, moving it from the perimeter of the development to the inside of the buildings.
- *Soil expansion* – Soils are tested for every single foundation.
- *Transportation by R2J routing buses up to 50<sup>th</sup>* - This was not taken into account in the traffic study.

### Commissioner Comments

**Commissioner Jersvig** asked about the 46 homes that have concrete issues, are there any more? He also asked when did they first start coming to his attention and when did he respond.

**Mr. Buckendorf** stated that if there is a problem and a homeowner has submitted a warrantee claim. The concrete issues are flatwork only. The first one was September 2013 and they responded on October 3, 2013. They usually have a two week response turn around since an inspector is sent out prior to the response.

**Commissioner Prior** asked how is the multifamily units compatible to the existing area? He also asked how the no storage in the garages would be enforced. **Mr. Buckendorf** explained the compatibility is already established by the PUD. The General Development Plan specified general access, buffering and design. The elements are consistent with what is in the neighborhood. The no storage rule will be on the development plan and policed by the onsite manager via inspections.

**Commissioner Forrest** asked if they have a quality control program at his company? Is there something in place to adapt to issues? Is there bike parking? If it is requested to reduce garage space how many spaces would you gain? **Mr. Buckendorf** explained that concrete is a difficult thing in Colorado. He stated that we have identified, acknowledged and changed contractors and processes. Yes, we have included bike parking and deferring to city staff where they should go. If they eliminate all the garages they gain eight spaces overall.

**Commissioner Dowding** commented on the need for a snow removal plan. She also feels that since pets are allowed, there should be a pet area. Adequate number of Handicap parking. Only 4 trash areas, means 30 units use one dumpster.

**Commissioner Ray** questioned **Mr. Bliss** on the density. **Mr. Bliss** explained that through PUD zoning you have opportunities to increase density on the under lying land use. **Commissioner Ray** commented about the Low Density and the multifamily number of units per acre. **Mr. Bliss** explained that each PUD is different and offers flexibility to each individual site. The GDP did allow for a variety of residential building sites with different density allowances. **Commissioner Ray** feels that there are detrimental impacts on property in proximity to the proposed apartment complex. **Mr. Buckendorf** stated that there is 80 feet from property line to property line. **Commissioner Ray** stated that other subdivisions approved by the Planning Commission had larger buffers from single family residences.

**Commissioner Middleton** questioned **Mr. Bliss** on conformance with the GDP regarding a provision where two townhomes/multi-family etc. buildings are adjacent to each other, one of the end units shall be one story. **Mr. Bliss** commented that the intent behind this provision was for larger buildings, oriented in a linear fashion, to avoid a “tunnel-effect”.

**Commissioner Middleton** asked why the architectural review committee wasn't being used in this situation. **Mr. Buckendorf** stated he would be willing to do that. **Commissioner Middleton** also asked if it is reasonable to wait a year for concrete work to be fixed. **Mr. Buckendorf** replied yes. **Commissioner Middleton** indicated that he would not support the project application.

**Commissioner Molloy** commented that he feels the project doesn't fit within the site, that the site is too tight. He also indicated that the way it's designed it doesn't fit with the quality of life within the Kendall Brook neighborhood. He stated that the parking spaces aren't convenient to the units, some buildings only have 5 parking spaces nearby and there are a lot of inconveniences in the way it is put together. Overall, the design seems forced.

**Commissioner Crescibene** stated that he has a problem with the length of time the applicant has taken to fix the concrete flatwork on nearby home sites. Stated that he doesn't think the proposed project is family oriented, as there is nowhere for the kids to play within the project site.

**Chair Meyers** wanted to know the motivation to divide the lots into individual lots. **Mr. Burkendorf** stated it was from a discussion with the City, to have each building have its own plot on the plat since each building would have its own irrigation system. **Mr. Bliss** stated there

is no specific requirement to have the lots set up the way they are. **Chair Meyers** asked if the individual lots could be sold off to individual builders. He also asked about the design of the garages. **Mr. Buckendorf** stated the garage structures haven't been designed yet.

**Chair Meyers** indicated concerns about the detrimental impact concerning traffic, safety, and quality of life, not only on the established area, but the residents of the apartments. He feels that the PDP and the GDP contradict each other in the requirement for design standards. He stated it doesn't maintain the spirit of the intent. The city is a lot different from what it was in 1999 and should be looked at with a holistic viewpoint.

**Commissioner Middleton** moved to make the findings listed in Section VIII of the Planning Commission staff report dated August 11, 2014, and based on these findings approve the Kendall Brook Multi-Family Preliminary Development Plan, subject to the conditions listed in Section IX, as amended on the record, upon a second by **Commissioner Dowding** the motion was unanimously denied.

**Commissioner Middleton** moved to make the findings listed in Section VIII of the Planning Commission staff report dated August 11, 2014, and based on these findings approve the Kendall Brook Fifth Subdivision Preliminary Plat, subject to the conditions listed in Section IX, as amended on the record, upon a second by **Commissioner Crescibene** the motion was unanimously denied.

At 12:14AM **Chair Meyers** called for a 10 minute recess.

**Chair Meyers** reopened the meeting at 12:24AM.

## **2. Turney-Briggs Addition Rezoning**

**Mr. Troy Bliss, Senior Planner**, addressed the Commission and explained that the application includes a rezoning request for 5 residential properties for potential redevelopment that could include a specialty grocery store. These properties are located along the west side of Jefferson Avenue to the north of Eisenhower Boulevard.

**Mr. Bliss** stated that a neighborhood meeting was held on July 29<sup>th</sup> and attended by approximately twenty people. The majority of questions and concerns at the neighborhood meeting were geared toward the grocery store which is proposed for the site and the impacts that would have on the nearby residential properties. **Mr. Bliss** outlined the concerns raised by the neighborhood citing additional traffic, access, parking encroachment, location of a loading dock, noise, and elimination of mountain views. **Mr. Bliss** emphasized that the plans for a grocery store are not under consideration at this point, as the request is solely a rezoning application. Formal submittal of plans for a grocery store have not been made to the City for review.

A petition of over 200 signatures supporting a potential specialty grocery store and an individual letter was also presented to the Commissioners received by staff.

**Mr. Bliss** explained that in reviewing the application, staff looked to the Comprehensive Plan policies to determine if the rezoning request would provide appropriate zoning for the properties

in question. He also explained that many commercially zoned properties along Eisenhower have wide but shallow lots, presenting challenges for business development in terms of buffering and separation from abutting residential. Staff feels the rezoning is appropriate for this location given its proximity to the Eisenhower and Lincoln corridors and to existing commercially-zoned property. Rezoning would allow for greater redevelopment opportunities given the constraints associated with this major intersection.

**Ms. Bethany Clark, Planner II, 287 Strategic Plan**, was asked to speak regarding the plans for the bow tie intersection at Highway 287 and Highway 34 and how this project would be affected by it in the future—should the double round-about be implemented in the future. She stated that the intersection is identified as a conceptual catalyst in the 287 Corridor Plan and that if the bow-tie intersection was approved the applicant is aware of the possible reduction in the parking lot size.

**The applicant, Mr. Zach Lauterbach, Evergreen Devco, Inc.**, addressed the Commission and stated that the specialty grocer is aware that the parking lot could change and he stated that the City already owns the right-of-way that goes through the Southwest corner of the property. They are currently under contract on all of the properties proposed for rezoning; without rezoning approval they would not be able to move forward with the grocery store development.

**Chair Meyers** indicated that he would like to see an over-lay of the bow tie intersection and how it would affect the parking lot. Even though it is only at a conceptual stage, he stated that for any future projects that could be affected by a strategic plan there should be an over-lay to let citizens know what is possible now and how it could be affected in the future.

**Commissioner Jersvig** asked how the applicant envisioned a stand-alone store working since most grocery stores are an anchor store within a larger development.

**Mr. Lauterbach** stated that Evergreen Development has built many grocery stores including Kroeger, Safeway, Whole Foods, Sprouts and Trader Joes and for a variety of reasons the specialty grocer specifically targeted this intersection. The location would allow them to serve customers that were within walking distance and to be easily accessible from all directions. They are aware of the neighbor's concerns. He indicated that they will work hard to mitigate impacts. He gave an example of an area in Denver where a Sprouts store was developed. The neighbors were concerned about having a grocery store so close to them and how Evergreen was able to address those concerns to the neighborhoods' satisfaction. They mitigated impacts through landscaping, adding green-scape to the loading dock, and restricted the loading and unloading hours.

**Commissioner Prior** asked if they had communicated with the other commercial businesses in the area. The applicant has communicated with Walgreens, but not to the other nearby businesses, although they plan to.

**Commissioner Forrest** expressed her concern on how it would affect business for the Crunchy Grocer. **Mr. Lauterbach** stated that while he doesn't know yet how much overlap there would be in terms of market, they have seen instances where specialty stores were able to complement each other by providing unique services.

**Commissioner Middleton** wanted to know what assurances there would be if the rezoning is approved but something happens and the specialty grocer decides not to build there.

**Mr. Paulsen** stated that staff has prepared conditions to address this issue, and that the condition would require that there would be a neighborhood meeting prior to any staff decision on any site development plan. Further, that neighbors would have the opportunity to appeal a staff decision on a site development plan proposed for that location.

**Chair Meyers opened the Public Hearing.**

**Ms. Madeline Niccore, 2727 Crooked Wash Court**, stated she is one of the persons responsible for the petition with 200 signatures in support of a specialty grocery store. She is a new Loveland resident and misses having a specialty grocery store easily accessible to her.

**Ms. Pam Krugman, 2404 Crooked Wash Court**, stated she is also responsible for getting signatures on the petition and strongly supports a specialty grocer at this location.

**Upon no further public comments, Chair Meyers closed the Public Hearing.**

The Commissioners each commented regarding their favorability and support of the rezoning.

**Chair Meyers** read the recommendation to City Council:

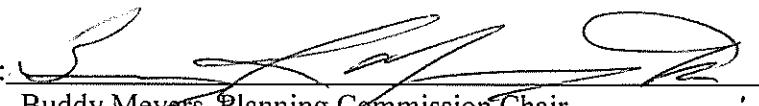
*Move to recommend that City Council require that: (1) a neighborhood meeting be held prior to any staff decision on any site development plan submitted for the development or redevelopment of any of the lots within Lots 9 through 18, Block 4, Turney-Briggs Addition, or as subsequently replatted; (2) the Current Planning Manager exercise his authority under Section 18.05.090.B. of the City Code to require that mailed notice be given of said staff decision up to 300 feet from the boundary of the subject property in accordance with Section 18.05.090.C. of the City Code; and (3) any parties so noticed shall be “parties in interest” for the purpose of filing an appeal of said staff decision under Chapter 18.80 of the City Code.*

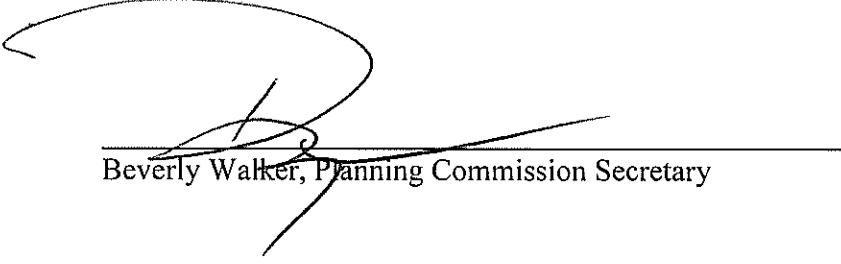
In addition **Commissioner Prior** read the staff recommendation: *move to make the findings listed in Section VIII of the Planning Commission staff report dated August 11, 2014 and, based on those findings, recommend that City Council approve the Turney-Briggs Rezoning, subject to the conditions listed in Section IX, as amended on the record.* Upon a second by **Commissioner Crescibene**, the motion was unanimously adopted.

## **ADJOURNMENT**

**Commissioner Middleton**, made a motion to adjourn at 1:58AM. Upon a second by **Commissioner Forrest**, the motion was unanimously adopted.

Approved by:

  
Buddy Meyers, Planning Commission Chair

  
Beverly Walker, Planning Commission Secretary

**Troy Bliss**

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**From:** eb\_web <eb\_web@comcast.net>  
**Sent:** Thursday, August 14, 2014 9:02 AM  
**To:** Mayor - Cecil Gutierrez; Ward IV - Ralph Trenary; Ward III - John Fogle; Ward III - Hugh McKean; Ward II - Phil Farley; Ward II - Joan Shaffer; Ward I - Troy Krenning; Ward I - Chauncey Taylor  
**Subject:** Support for proposed Specialty Grocer at Hwy 34 & Lincoln  
**Importance:** High

Dear Mayor Gutierrez and Loveland City Council Members,

I strongly urge you to approve Evergreen's development plans for a Sprouts Farmer's Market between Lincoln and Jefferson just south of Eisenhower.

I am a home owner of a property on Arthur Drive near Lake Loveland as well as the owner of *The Lofts at Jefferson*, a luxury 3-plex apartment building under construction at the corner of N Jefferson Ave and E 13th St. I have received only positive feedback from my neighbors on Jefferson and 13th street regarding *The Lofts* bringing new life to this tired downtown area neighborhood.

I believe the proposed Sprouts Farmer's Market will be another great example of positive, desperately needed urban renewal for this area of the city. Sprouts, a friendly, upscale, yet affordable market is the perfect grocer choice for the area. It will no doubt be a waystop for tourists on their way up to Estes/RMNP, but will also be embraced by the local population. I know my tenants and neighbors will love having such a convenience only a block away.

So please add my name to the list of Loveland-ites expressing their excitement and support of the proposed Sprouts Farmer's Market. The city should be doing all that they can to enable this development proposal as more grocery stores are badly needed across the city, but Sprouts in particular is perfect for this location near downtown.

Sincerely,

Edie LaFonte  
Owner of *The Lofts at Jefferson*  
970-420-2070

**Troy Bliss**

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**From:** Lisa Butler <lambbookkeeping@yahoo.com>  
**Sent:** Tuesday, September 02, 2014 8:55 PM  
**To:** Ward III - John Fogle; Mayor - Cecil Gutierrez  
**Subject:** Fw: Grocery at Eisenhower & Lincoln

Hi,

I just want to encourage all of you folks on the City Council and Mayor Gutierrez, to vote in favor of the grocery store (Sprouts) that is attempting to go in on hwy 34 and Lincoln. Loveland really does need a grocery like Sprouts. Their food is fairly priced and of high quality. Those of us who want this store in Loveland proper don't want to push out the bigger grocery stores, we just want some choice in good natural food type items to buy. There is no way this sort of store will ever replace the big chains. It would be so nice to be able to keep my dollars spent in Loveland and still be able to shop at a store of this type rather than going all the way up to Ft. Collins.

The location is ideal not only for residents of Loveland but people passing through on the biggest major highway going east and west through Loveland. I realize there are some considerations to the people who live in the area with having a grocery store "in their back yard", but I am also in the understanding that Sprouts goes out of their way to accommodate situations like this and I am confident they will reach a fair solution for everyone concerned in this one.

Thank you so much for all of the work you all do to make Loveland such a wonderful, wholesome place for us to live and raise our families. I trust you will make the right decision in this matter.

Sincerely,  
Lisa Butler

**Troy Bliss**

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**From:** Lisa Butler <lambbookkeeping@yahoo.com>  
**Sent:** Monday, September 01, 2014 7:43 PM  
**To:** Ward I - Chauncey Taylor; Ward I - Troy Krenning; Ward II - Joan Shaffer; Ward II - Phil Farley; Ward III - Hugh McKean; John.Fogle@cityoflovel.org; Ward IV - Ralph Trenary; Mayor@cityoflovelnd.org  
**Subject:** Grocery at Eisenhower & Lincoln

Hi,

I just want to encourage all of you folks on the City Council and Mayor Guitierrez, to vote in favor of the grocery store (Sprouts) that is attempting to go in on hwy 34 and Lincoln. Loveland really does need a grocery like Sprouts. Their food is fairly priced and of high quality. Those of us who want this store in Loveland proper don't want to push out the bigger grocery stores, we just want some choice in good natural food type items to buy. There is no way this sort of store will ever replace the big chains. It would be so nice to be able to keep my dollars spent in Loveland and still be able to shop at a store of this type rather than going all the way up to Ft. Collins.

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Thank you so much for all of the work you all do to make Loveland such a wonderful, wholesome place for us to live and raise our families. I trust you will make the right decision in this matter.

Sincerely,  
Lisa Butler

**Troy Bliss**

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**From:** kmillerjjj@comcast.net  
**Sent:** Thursday, August 21, 2014 11:10 AM  
**To:** Ward I - Chauncey Taylor; Ward I - Troy Krenning; Ward II - Joan Shaffer; hil.Farley@cityofloveland.org; Ward III - Hugh McKean; Ward IV - Ralph Trenary; Mayor - Cecil Gutierrez  
**Subject:** New Sprouts Market for Loveland

Please, please approve the plans for a new grocery store in Loveland as quickly as possible. I have been living in Loveland for 15 years and for those same fifteen years I have been driving to Fort Collins at least once a week to do my shopping at Natural Grocers and more recently at Sprouts. Fort Collins already has two Sprouts, a Whole Foods, a Natural Grocers, three food coops and will have a Trader Joe's. Longmont already has had a Natural Grocers and a Sprouts and some coops and another store; even Greeley has a Natural Grocers and a Sprouts. Why has Loveland been left out of the picture? This town is way short on grocery stores -- no competition here as it's an old Albertson's or a King's. Even towns half our size have more selection than we do!

Please see that there is nothing to hold back the construction of this store. We have waited all too long for this.

Thank you

Kayla Miller  
1856 Bushnell Drive  
Loveland, CO 80537

## Troy Bliss

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**From:** Lisa Butler <lambbookkeeping@yahoo.com>  
**Sent:** Tuesday, September 02, 2014 8:53 PM  
**To:** Ward IV - Ralph Trenary  
**Subject:** Re: Grocery at Eisenhower & Lincoln

Thank you for your personal response!

On Tuesday, September 2, 2014 1:20 PM, Ward IV - Ralph Trenary <[Ralph.Trenary@cityofloveland.org](mailto:Ralph.Trenary@cityofloveland.org)> wrote:

Dear Ms. Butler,

Thank you for sharing your views and experiences relating to this project. As a Ward IV Councilor, and knowing that this is yet another exceptional project in my Ward, it has my full support.

The hard truth will be in the final numbers that the developer and Sprouts (presumably) bring to Council for the structure of the economic incentive. I try my best to see these questions as investment opportunities for our community. Sadly, there are some on Council who can only see the "cost."

I encourage you to share your support with Loveland friends, neighbors and business leaders. The more supportive voices heard by Council the better!

Sincerely,

Ralph Trenary  
 City Councilor - Ward 4  
 Loveland, Colorado

[<mailto:Ralph.Trenary@cityofloveland.org>](mailto:Ralph.Trenary@cityofloveland.org)

970-213-9224 cell/v-mail/text

Facebook - Ralph Trenary – City Councilor, Loveland, Colorado

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Under Colorado's Open Records Act (CORA), all e-mails sent by or to me on this City of Loveland owned e-mail account may be subject to public disclosure.

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From: Lisa Butler [[lambbookkeeping@yahoo.com](mailto:lambbookkeeping@yahoo.com)]

Sent: Monday, September 01, 2014 19:43

To: Ward I - Chauncey Taylor; Ward I - Troy Krenning; Ward II - Joan Shaffer; Ward II - Phil Farley; Ward III - Hugh McKean; [John.Fogle@cityoflovel.org](mailto:John.Fogle@cityoflovel.org); Ward IV - Ralph Trenary;

[<mailto:Mayor@cityoflovelnd.org>](mailto:Mayor@cityoflovelnd.org)

Subject: Grocery at Eisenhower & Lincoln

Hi,

I just want to encourage all of you folks on the City Council and Mayor Guitierrez, to vote in favor of the grocery store (Sprouts) that is attempting to go in on hwy 34 and Lincoln. Loveland really does need a grocery like Sprouts. Their food is fairly priced and of high quality. Those of us who want this store in Loveland proper don't want to push out the bigger grocery stores, we just want some choice in good natural food type items to buy. There is no way this sort of store will ever replace the big chains. It would be so nice to be able to keep my dollars spent in Loveland and still be able to shop at a store of this type rather than going all the way up to Ft. Collins.

The location is ideal not only for residents of Loveland but people passing through on the biggest major highway going east and west through Loveland. I realize there are some considerations to the people who live in the area with having a grocery store "in their back yard", but I am also in the understanding that Sprouts goes out of their way to accommodate situations like this and I am confident they will reach a fair solution for everyone concerned in this one.

Thank you so much for all of the work you all do to make Loveland such a wonderful, wholesome place for us to live and raise our families. I trust you will make the right decision in this matter.

Sincerely,  
Lisa Butler

**Troy Bliss**

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**From:** Mayor - Cecil Gutierrez  
**Sent:** Friday, August 22, 2014 4:19 PM  
**To:** kmillerjjj@comcast.net  
**Cc:** Temp CCMAIL  
**Subject:** Re: New Sprouts Market for Loveland

Hello Kayla,

Thank you for the email supporting the natural grocery store. As you may know, the Planning Commission recently approved the zoning change requested for the grocery store. I am convinced the City Council will probably agree. That is not the real problem in this case. The real problem is the amount of money they are asking the City to provide as an incentive to come here. We are being asked to provide about one third of the cost to develop the site. This kind of incentive is extreme, in my opinion. While I support bringing a natural grocer to Loveland, I also have a fiduciary responsibility to the taxpayers to ensure that investments in new businesses are reasonable and that we can recoup our investment in a reasonable amount of time. While I can't go into the particulars, we continue to negotiate with the company. Stay tuned.

Regards,

Cecil Gutierrez, Mayor  
City of Loveland

Sent from my iPad

On Aug 21, 2014, at 11:09 AM, "[kmillerjjj@comcast.net](mailto:kmillerjjj@comcast.net)" <[kmillerjjj@comcast.net](mailto:kmillerjjj@comcast.net)> wrote:

Please, please approve the plans for a new grocery store in Loveland as quickly as possible. I have been living in Loveland for 15 years and for those same fifteen years I have been driving to Fort Collins at least once a week to do my shopping at Natural Grocers and more recently at Sprouts. Fort Collins already has two Sprouts, a Whole Foods, a Natural Grocers, three food coops and will have a Trader Joe's. Longmont already has had a Natural Grocers and a Sprouts and some coops and another store; even Greeley has a Natural Grocers and a Sprouts. Why has Loveland been left out of the picture? This town is way short on grocery stores -- no competition here as it's an old Albertson's or a King's. Even towns half our size have more selection than we do!

Please see that there is nothing to hold back the construction of this store. We have waited all too long for this.

Thank you

Kayla Miller  
1856 Bushnell Drive  
Loveland, CO 80537

## Troy Bliss

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**From:** WOOD1701A@aol.com  
**Sent:** Monday, August 11, 2014 3:59 PM  
**To:** Ward I - Troy Krenning  
**Subject:** Re: Specialty Grocery Store Rezone change Request

Than you Troy for your response. The BIG Difference on the noise is the loading dock location across the street from my house, There would be a different change to the noise with a tractor trailer and that would be a big issue. Thank you for serving on the city council.

Brian Wood

In a message dated 8/9/2014 11:28:30 A.M. Mountain Daylight Time, [Troy.Krenning@cityofloveland.org](mailto:Troy.Krenning@cityofloveland.org) writes:

Brian,

I did read your initial email and apologize for the lack of response on my part. Customarily the councilors in the Ward where the email originates from respond and often that is not done as a "reply all" thus the rest of us may not realize your message lacked a response.

I have noted your concerns and believe that many of your concerns are easily addressed in the planning stage IF this proposal moves forward.

The only exception I would have is with the requirement that a developer install sound proofing windows in adjoining residences. You already live at the epicenter of two major US highways and thus ambient traffic noise is or must already be an issue.

Nonetheless, thank you for the thoughtful email and I will keep your concerns close by if and when this proposal advances.

Respectfully,

Troy Krenning  
Ward 1

Sent from my iPhone

On Aug 9, 2014, at 11:21 AM, "[WOOD1701A@aol.com](mailto:WOOD1701A@aol.com)<<mailto:WOOD1701A@aol.com>>" <[WOOD1701A@aol.com](mailto:WOOD1701A@aol.com)<<mailto:WOOD1701A@aol.com>>> wrote:

The lack of a response make me think that no one on the city consol has any concern about the rights of the home owners that live on Jefferson Ave. Can at least one of you acknowledge you read this email?

In a message dated 8/4/2014 12:51:56 P.M. Mountain Daylight Time, [WOOD1701A@aol.com](mailto:WOOD1701A@aol.com)<<mailto:WOOD1701A@aol.com>> writes:

North Jefferson Ave is a residential street and is not made to handle much traffic. I bought my house at 1516 North Jefferson about 12 years ago. I did not want to live in a mixed residential and commercial neighbor hood. All the residents that I talked to do not want the Zoning change from residential to commercial. Tearing down five house or 3/4 of the west side of the street and building a store will destroy the peacefully block that we enjoy now.

NOISE.

I would have a loading dock one house down from me right across the street. I know that it would be a BIG change in NOISE. I work around semi trucks in a warehouse and they make more noise than most people think. The noise will be heard in my house when the truck backs down the ramp, when the trailer is dropped, when they come back and pick it up if the unhook, When the trailer door is shut, when the truck starts up and then pulls up the ramp. I know I will hear this noise because I hear the trash truck when the come by now.

Move the loading dock to the west side or enclose it. Have sound resistant windows installed in the houses nearest the loading dock.

#### TRAFFIC

Having a entrance and exit from the store on Jefferson will completely change the traffic flow. Right now we have a very low volume of cars. That is because there are only 2 small commercial business and only three commercial lots. The size of these lot do not draw high volume traffic. If there is a 2 way entrance on Jefferson Ave the traffic increase will be high. Please do a traffic study now to see how low it really is.

I can tell you that a no left turn sign will not stop any one that needs to go east when leaving the store.

When going east they will use Jefferson to 16th street down to Rosewood to 34 east at the light.

The entrance could be angled and made one way one into the store, That keep traffic of off Jefferson.

I was told that they have to have entrances on both side's of the store, Walgreens only has entrances on one side ,16 th street.

If you are going to allow the Rezoning then it should include fair market value offer to buy the other house on the block. They can then sell them to some one that will not care about all the changes.

Brian Wood  
1516 North Jefferson Ave  
970-667-6105

## Troy Bliss

---

**From:** Ward IV - Dave Clark  
**Sent:** Sunday, August 10, 2014 10:49 PM  
**To:** WOOD1701A@aol.com  
**Cc:** Mayor - Cecil Gutierrez; Ward I - Troy Krenning; Ward I - Chauncey Taylor; Ward II - Joan Shaffer; Ward II - Phil Farley; Ward III - Hugh McKean; Ward III - John Fogle; Troy Bliss; Temp CCMAIL  
**Subject:** Re: Specialty Grocery Store Rezone change Request

Brian,

Yes I did read your email. I have been assured by city staff that these issues and many others that have been raised will be studied and addressed. I have not personally seen any proposed drawings for this project yet so I do not know answers to your questions. I, like you, are anxious to see this proposal and how they have addressed these issues.

Thanks

Dave Clark  
 City Council, ward 4  
 Mayor Pro-Tem

Sent from my iPad

On Aug 9, 2014, at 11:21 AM, "[WOOD1701A@aol.com](mailto:WOOD1701A@aol.com)" <[WOOD1701A@aol.com](mailto:WOOD1701A@aol.com)> wrote:

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If you are going to allow the Rezoning then it should include fair market value offer to buy the other house on the block. They can then sell them to some one that will not care about all the changes.

Brian Wood  
1516 North Jefferson Ave  
970-667-6105

## Troy Bliss

---

**From:** Ward III - Hugh McKean  
**Sent:** Saturday, August 09, 2014 3:36 PM  
**To:** WOOD1701A@aol.com  
**Cc:** Temp CCMAIL  
**Subject:** RE: Specialty Grocery Store Rezone change Request

Brian,

I also read your email and have considered your concerns. I would have the same if this was an activity that was going on near my home. My short response is that this has not yet been discussed with all of Council. It seems that there is a variety of information coming from a number of sources but that I do not have anything that our City staff have asked me to consider where this issue is concerned. I am a firm defender of your rights as a private property owner and I would expect to hear from you and your neighbors when (or if) this is brought before City Council. If you have any questions of me, specifically, give me a shout at the number below.

Hugh McKean  
 Loveland City Council  
 Ward III  
 970-581-3754

---

**From:** [WOOD1701A@aol.com](mailto:WOOD1701A@aol.com) [WOOD1701A@aol.com]  
**Sent:** Saturday, August 09, 2014 11:21 AM  
**To:** [WOOD1701A@aol.com](mailto:WOOD1701A@aol.com); Mayor - Cecil Gutierrez  
**Cc:** Ward I - Troy Krenning; Ward I - Chauncey Taylor; Ward II - Joan Shaffer; Ward II - Phil Farley; Ward III - Hugh McKean; Ward III - John Fogle; Ward IV - Dave Clark; Troy Bliss  
**Subject:** Re: Specialty Grocery Store Rezone change Request

The lack of a response make me think that no one on the city consol has any concern about the rights of the home owners that live on Jefferson Ave. Can at least one of you acknowledge you read this email?

In a message dated 8/4/2014 12:51:56 P.M. Mountain Daylight Time, [WOOD1701A@aol.com](mailto:WOOD1701A@aol.com) writes:

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NOISE.

I would have a loading dock one house down from me right across the street. I know that it would be a BIG change in NOISE. I work around semi trucks in a warehouse and they make more noise than most people think. The noise will be heard in my house when the truck backs down the ramp, when the trailer is dropped, when they come back and pick it up if the unhook, When the trailer door is shut, when the truck starts up and then pulls up the ramp. I know I will hear this noise because I hear the trash truck when the come by now. Move the loading dock to the west side or enclose it. Have sound resistant windows installed in the houses nearest the loading dock.

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If you are going to allow the Rezoning then it should include fair market value offer to buy the other house on the block. They can then sell them to some one that will not care about all the changes.

Brian Wood  
1516 North Jefferson Ave  
970-667-6105

## Troy Bliss

---

**From:** Ward I - Troy Krenning  
**Sent:** Saturday, August 09, 2014 11:28 AM  
**To:** WOOD1701A@aol.com  
**Cc:** Mayor - Cecil Gutierrez; Ward I - Chauncey Taylor; Ward II - Joan Shaffer; Ward II - Phil Farley; Ward III - Hugh McKean; Ward III - John Fogle; Ward IV - Dave Clark; Troy Bliss; Temp CCMAIL  
**Subject:** Re: Specialty Grocery Store Rezone change Request

Brian,

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The only exception I would have is with the requirement that a developer install sound proofing windows in adjoining residences. You already live at the epicenter of two major US highways and thus ambient traffic noise is or must already be an issue.

Nonetheless, thank you for the thoughtful email and I will keep your concerns close by if and when this proposal advances.

Respectfully,

Troy Krenning  
Ward 1

Sent from my iPhone

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1516 North Jefferson Ave  
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**Cc:** Ward I - Troy Krenning; Ward I - Chauncey Taylor; Ward II - Joan Shaffer; Ward II - Phil Farley; Ward III - Hugh McKean; Ward III - John Fogle; Ward IV - Dave Clark; Troy Bliss  
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Brian Wood  
 1516 North Jefferson Ave  
 970-667-6105

## Troy Bliss

---

**From:** Ward I - Troy Krenning  
**Sent:** Monday, August 11, 2014 6:18 PM  
**To:** WOOD1701A@aol.com  
**Cc:** Temp CCMAIL  
**Subject:** Re: Specialty Grocery Store Rezone change Request

Brian,

Let's see how the project progresses. When I sat on the planning commission we often dealt with these issues and fabricated mutual solutions that each side found agreeable. For instance, limiting the hours when a dock can be used, flipping the dock so it is on the opposite side of neighbors, adding landscaping buffers, etc. There are always solutions to problems and often are not simply an either/or.

My real question for you is; how do you feel about the redevelopment of that corner in general? Is sprouts the right product? I would like to see that corner redeveloped, but what would the best use of that block be?

Look forward to your thoughts.

Troy

Sent from my iPhone

On Aug 11, 2014, at 3:59 PM, "[WOOD1701A@aol.com](mailto:WOOD1701A@aol.com)" <[WOOD1701A@aol.com](mailto:WOOD1701A@aol.com)> wrote:

Than you Troy for your response. The BIG Difference on the noise is the loading dock location across the street from my house, There would be a different change to the noise with a tractor trailer and that would be a big issue. Thank you for serving on the city council.

Brian Wood

In a message dated 8/9/2014 11:28:30 A.M. Mountain Daylight Time, [Troy.Krenning@cityofloveland.org](mailto:Troy.Krenning@cityofloveland.org) writes:

Brian,

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Brian Wood  
1516 North Jefferson Ave  
970-667-6105

**Troy Bliss**

---

**From:** Ward I - Troy Krenning  
**Sent:** Tuesday, August 26, 2014 5:13 PM  
**To:** Joyce Harger  
**Cc:** Temp CCMAIL  
**Subject:** Re: Sprouts

I like the idea of them coming as well and think they would fit right in at the intersection they propose. What they want is to recapture the sales tax they generate, \$3m, projected to take up to 7 yrs. I am mixed because I want Loveland to abolish the sales tax on groceries, to benefit citizens, not use it as a means to subsidize developers. I have a very hard time believing that this project can't pay it's one way given the strong desire for them to locate here. In addition they will ask for few waivers.

Troy

Sent from my iPhone

On Aug 26, 2014, at 4:17 PM, "Joyce Harger" <[hargerjoyce@yahoo.com](mailto:hargerjoyce@yahoo.com)> wrote:

Troy-

Doug has been making numerous calls & we have a better understanding now about Sprouts. Doug just talked with John Fogle, & the dollars will be paid back eventually in sales tax. We are all for them coming here.

Joyce

**Troy Bliss**

---

**From:** kmillerjjj@comcast.net  
**Sent:** Thursday, September 04, 2014 11:52 AM  
**To:** Ward II - Joan Shaffer; Ward III - John Fogle; Ward I - Chauncey Taylor; PhilFarley@cityofloveland.org; Ward IV - Ralph Trenary; Ward III - Hugh McKean; Ward I - Troy Krenning  
**Cc:** Mayor - Cecil Gutierrez  
**Subject:** Sprouts And Rec Trail

Please do what you can to see that the approval goes through for the new Sprouts Grocery. I am on my way to Ft. Collins to spend over \$100 at Sprouts as I do at least once a week. We need a grocery here! We have no selection of grocery stores like Ft. Collins, Longmont, and even Greeley do.

Second, please see that the rec trail is completed from the Wilson site to the underpass at Highway 34 near Group Publishing. That should have priority over the 57th street location.

Thanks so much.

**Troy Bliss**

---

**From:** Joyce Harger <hargerjoyce@yahoo.com>  
**Sent:** Tuesday, August 26, 2014 4:17 PM  
**To:** Ward I - Troy Krenning  
**Subject:** Sprouts

Troy-

Doug has been making numerous calls & we have a better understanding now about Sprouts. Doug just talked with John Fogle, & the dollars will be paid back eventually in sales tax. We are all for them coming here.

Joyce

# Turney-Briggs Addition – Rezoning

P. 106

Rezoning of 0.8 acres from residential to commercial



## Project Details:

P. 107

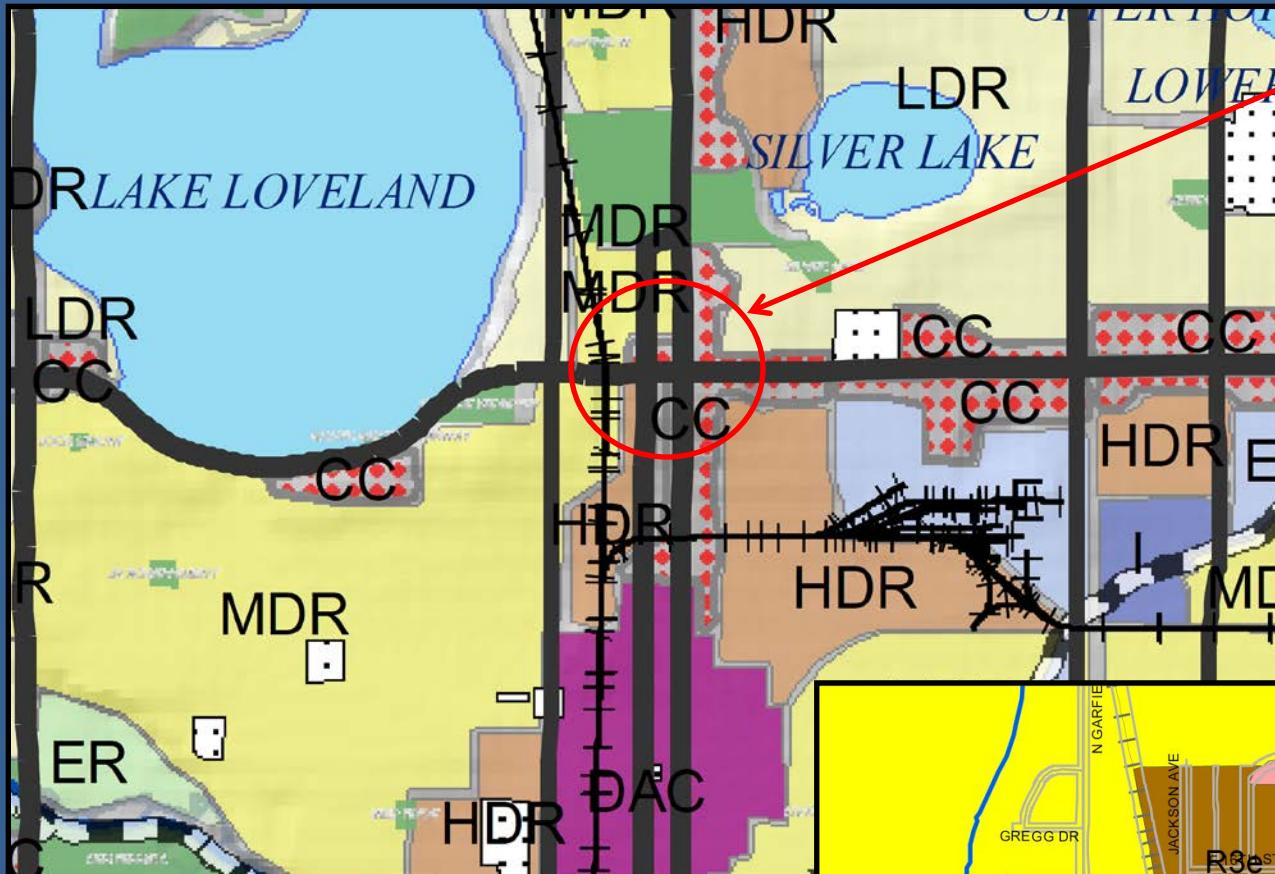
- Rezone 0.8 acres of residential (R3e – Established High Density Residential) to commercial (B – Developing Business)
- Purpose of rezoning is anticipated for the assembly of properties for a specialty grocery store.

## City Council:

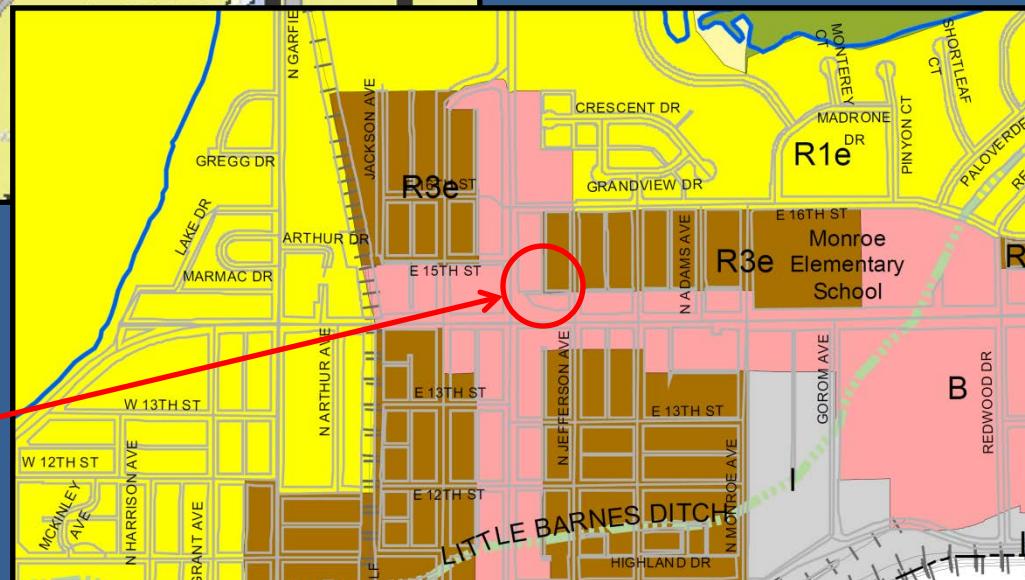
- Conduct a public hearing for consideration of the rezoning proposal.
- Determine compliance related to the Comprehensive Plan and City Zoning for rezoning Lots 9 through 18, Block 4 – Turney-Briggs Addition..

# City Staff Analysis:

## ➤ Comprehensive Plan and Zoning



Zoning Map  
illustrating  
current zoning



## Neighborhood Involvement:

- Rezoning proposal was presented to surrounding property owners at a neighborhood meeting on *July 29, 2014*.
  - Approximately 20 property owners attended
  - A majority of the property owners live near the site - expressed concerns relative to use and site design details associated with a specialty grocery store
  - Other communications presented to City staff following the neighborhood meeting

## Planning Commission Review:

- Public hearing was held on August 11, 2014.
- Planning Commission recommended unanimous approval of the rezoning, subject to conditions to allow neighborhood involvement in conjunction with future plans for redevelopment.

## **City staff and Planning Commission recommendation:**

P. 110

Recommend that City Council require:

- (1) a neighborhood meeting be held prior to any staff decision on any site development plan submitted for the development or redevelopment of any of the lots within Lots 9 through 18, Block 4, Turney-Briggs Addition, or as subsequently replatted;
- (2) the Current Planning Manager exercise his authority under Section 18.05.090.B. of the City Code to require that mailed notice be given of said staff decision up to 300 feet from the boundary of the subject property in accordance with Section 18.05.090.C. of the City Code; and
- (3) any parties so noticed shall be “parties in interest” for the purpose of filing an appeal of said staff decision under Chapter 18.80 of the City Code.



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

---

<b>AGENDA ITEM:</b>	7
<b>MEETING DATE:</b>	9/16/2014
<b>TO:</b>	City Council
<b>FROM:</b>	Marcie Erion, Economic Development Department
<b>PRESENTERS:</b>	Karin Bogren, Hach and Dave Gustavson, Cushman Wakefield

---

**TITLE:**  
 Business Assistance Request from Hach Company

**RECOMMENDED CITY COUNCIL ACTION:**  
 Discussion and Direction

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**SUMMARY:**  
 This is an information only item. This request on behalf of Hach Company consists of building permit fee/use tax waivers and a business personal property tax rebate associated with construction of a new 86,000 sq. foot building on their existing campus.

**BUDGET IMPACT:**  
 Positive  
 Negative  
 Neutral or negligible

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**BACKGROUND:**  
 The City of Loveland is being asked for \$1 million in business assistance by Hach Company. This would include city fee and use tax waivers and business personal property tax rebates. Staff is currently working with private and public partners to fill the gap from the original incentive request amount of \$700,000 made by Hach in April 2013 (see attached memo.) At that time, the facility was planned to be 70,000 sq. ft. with a project budget of \$14 million. The size and scope of the project has since increased to 86,000 sq. ft. with a project budget of up to \$25 million which includes a minimum of \$4 million in new equipment purchases, thus the larger incentive request. The Loveland Development Fund has pledged \$50,000 towards the incentive and Larimer County has been asked to participate as well with a business personal property tax rebate. They will provide direction September 16th after a board meeting with the County Commissioners. The State Office of Economic Development and International Trade is engaging in discussions with Hach on possible tax credits but this decision would not be expected until later in the fall. Danaher Corporation has given Hach a deadline for completion of a feasibility study of Fall 2014.

Based on the current fee estimate, the fee waivers are estimated to be \$630,000. The rebate of business personal property taxes would start in 2017 if the building is completed in 2016. This rebate would provide the balance for the assistance package totaling \$700,000. It is expected that this package will not include cash but will be revenue forgone to the city. The dollar amount is contingent upon county participation filling the final gap of the Hach request. The City would see a return of the investment within five years of issuance of the Certificate of Occupancy for the new building.

Anticipated business assistance partnership:

City of Loveland – not to exceed \$700,000

Loveland Development Fund- \$50,000

Larimer County- \$250,000

#### **HISTORY:**

The mission at Hach Company is to ensure water quality for people around the world. It was founded in 1947 by Clifford and Kitty Hach with their first water treatment kit produced in 1949. The company moved to Loveland in 1978 and has been a major primary employer in Loveland and the region from the time they joined the local community. They were acquired by Danaher Corporation in 1999. Danaher Corporation is currently number 179 on the Forbes 500 and is trading strongly at \$77/share. Hach Company annual revenues are in the hundreds of millions.

Hach products serve a variety of industries including: bottled water, wastewater and municipal drinking water, power generation, brewing water quality and water analysis in food production. The products are also diverse from lab instruments and sensors to software and test kits/strips. Water is life and Hach is in business to see that their services are faster, simpler, greener, reliable and easy to use. They also strive to ensure that the products are available to the world as water quality is a global issue. They do this through vast business partnerships as well as philanthropy.

Hach Company employs around 1000 people in Loveland at an average wage package of \$82,000 based on the most current Quarterly Census of Employment and Wages report compiled by the Colorado Department of Labor. They have outgrown their existing buildings on the 15 acre site and are exploring the development and construction of a new 86,000 square foot building to house their Research and Development Department. Because of the large presence and existing investment in Loveland, Danaher did not actively pursue the competitive process of relocation. However, without the expansion of the existing facility, they are unable to accommodate their growth and would then have to consider adding the new jobs to a different facility to meet demand. Construction of the new facility is expected to start in 2015 with completion in 2016.

#### **The Project:**

- Research and Development
- Addition of a new 86,000 square foot building to campus
- \$21 million investment in construction and equipment

- Consolidation of 180 employees from the region to the Loveland site
- Addition of 20 jobs from out of state
- Conservative estimate of 120 new jobs over six years – jobs at an average base compensation and bonus package of \$88,000 but jobs range from manufacturing to engineering
- Benefits include health coverage, 401k, bonus and performance structure and stock options
- New facility would allow Hach Company to remodel the existing R&D space (approximately 25,000sq ft.) which provides additional investment in the community and is part of their future plans

---

**REVIEWED BY CITY MANAGER:****LIST OF ATTACHMENTS:**

1. City Manager Proposal Letter April 2013
2. Letter of Request
3. Economic Impact Analysis
4. Project Checklist
5. Presentations

[WWW.DANAHER.COM](http://WWW.DANAHER.COM)[WWW.HACH.COM](http://WWW.HACH.COM)



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ECONOMIC DEVELOPMENT OFFICE  
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April 19, 2013

Ms. Kelly Peters  
Northern Colorado Economic Development Corporation  
3553 Clydesdale Pkwy, Suite 230  
Loveland, Colorado 80538

**RE: Project H2O –BUSINESS PROPOSAL**

Dear Ms. Peters,

In response to the inquiry regarding a local company interested in building a new facility on their Loveland campus please accept the attached business proposal. The business proposal is intended to serve as a starting point for negotiations and the City is willing to discuss additional terms and conditions. Also, the proposal will be subject to approval by Loveland City Council.

The business proposal is based on the following information provided to the City:

- 70,000 square foot expansion of an existing facility
- \$14 million total development cost
- 100 new jobs over five years with an average salary of \$85,828

We recognize that the information may not be complete and additional information may require further negotiations.

Thank you for the opportunity to present our business proposal. We recognize that this is merely a starting point for what we hope will be a long-term partnership. We are grateful for the opportunity to help business grow in Loveland and we look forward to working with you.

Thank you.

Sincerely,

William D. Cahill, City Manager  
City of Loveland

## Business Proposal

The City of Loveland offers the following business proposal for consideration by Project H2O. The terms provide the framework for negotiation which may result in some modification. The final package is subject to final approval by the Loveland City Council, and any other limitations outlined in the proposal. We also acknowledge that additional negotiation on the terms and conditions will be likely.

<u>Item</u>	<u>Estimated Amount</u>
• Waive 100 percent of building permit fees and City Materials Use Tax estimated at \$300,000	\$300,000
• Expedited review of site plan and building permit applications	n/a
○ The City will work with applicant's design team to set clear deadlines and reasonable assumptions for submittals and review periods	
○ City's review team will work directly with the applicant's design team to ensure timely review and approvals	
• Waive 100 percent of capital expansion fees estimated at \$75,000	\$75,000
• \$2,000 for every net new job created and maintained for 12 months over five years, not to exceed \$200,000	\$200,000
• Rebate of business personal property tax at 100 percent for five years estimated at \$1250,000	\$125,000
<b>TOTAL</b>	<b>\$700,000</b>

Mr. Bill Cahill  
Loveland City Manager  
500 East Third Street  
Loveland, CO 80537

19 August 2014

Hach Company manufactures and distributes analytical instruments and reagents used to test the quality of water and other liquid solutions. Manufactured and distributed worldwide, Hach systems are designed to simplify analysis by offering on-line instrumentation, portable laboratory equipment, prepared reagents, easy-to-follow methods, and technical support. Hach is a wholly owned subsidiary of Danaher Corporation (DHR), a fortune 500 corporation. Hach's global headquarters have been in Loveland, Colorado since 1978 and houses research and development laboratories, instrument manufacturing operations, and the Hach Technical Training Center. Over 1000 employees are currently employed by Hach at this location.

Hach Company has grown significantly through the past several years and no long has enough space for future growth within its current facility. Hach also needs to expand and update its research and development space to offer the desired work environment required for a world class design team.

Hach has reviewed several options including remodeling the existing facility, renting existing space at another location and building a research and development facility at our current site. Hach has determined that the most desired option to best meet our business needs is to invest in a new facility. Hach will be relocating over 130 employees to this facility from existing Loveland facilities along with consolidating 50 additional personnel from another Danaher company renting a Fort Collins facility and up to 20 personnel from out of state facilities. In addition, Hach expects to grow at a rate of 20 new associates per year for the next 6 years; resulting in an increased employee count of up to 180 employees with an average salary of \$80,000 annually.

The forecasted cost for the new facility investment is \$21 million. Hach is requesting that the City of Loveland wave/reimburse \$1 million (review after scaling to 86,000 sq ft facility from 70,000 sq ft. facility) in city fees in support of our 36 year relationship with the City of Loveland which has contributed to the City's tax base growth.

Thank you for your consideration for our request for reimbursement and support of Hach's effort to invest in our global headquarter expansion allowing for increased revenues, employees, and tax base.



EIA For Hach R & D Facility		With August 20 Revisions											
II.	2014	2015	2016	2017	2018	2019	2020	2021	Assumptions				
										\$75	per s.f.	\$86,000	building square foota
Property Tax			5,904	17,889	18,068	18,249	18,432	18,616	Assumptions	\$25,000,000	total build cost	\$290.70	per sq.ft.
										\$13,000,000	estimated value at co		
										\$75	per s.f.		
										86,000	s.f.		
										\$6,450,000			
										0.29	assessment rate		
										\$1,870,500	Assessed Value		
										\$1,870.50	per mil		
										9.564	City mill levy		
										\$17,889.46	City Property tax		
										77.312	total mills		
										\$144,612,096	Total Property Tax		
										\$270,000			
													\$9,000,000 Materials
III.	Furniture												
	Sales or Use Tax on furniture												
		\$200,000	\$6,000										
				over five years									
	Sales Tax Computer Equipment												
		\$50,000	\$1,500										
				over five years									
	Sales Tax Manufacturing Equipment												
		\$0	\$0										
				over five years									
IV.	Employment		\$ 82,000	84,050	86,151	88,305	90,513						
			30	30	30	30	30						
	Taxable wages		2,460,000	2,521,500	2,584,538	2,649,151	2,715,380						
	Sales tax		73,800	75,645	77,536	79,475	81,461						
	Loveland Capture at 30%		22,140	45,387	69,783	95,369	122,192						
	Cumulative capture		22,140	67,527	137,310	232,679	\$354,871						
	Materials at Loveland location												
			5,000,000	-	-	-	-						
	Buy 100% in Loveland		1,000,000	-	-	-	-						
	Apply 3% use tax		30,000	-	-	-	-						
	Cumulative		30,000	30,000	30,000	30,000	30,000						
	How much subject to sales or use tax or exempt												
			6,000	6,000	6,000	6,000	\$6,000						
			Total of	\$789,110									
			Highlighted										
			above										
	Visitor Information												
	Total visitors		1,500	1,500	1,500	1,500	1,500						
	Day time spending		54,150	54,962	55,787	56,623	57,473						
	Lodging spending		150,000	150,000	150,000	150,000	150,000						
	Sales tax		6,125	6,216	6,310	6,404	6,500						
	Lodging Tax		4,275	4,339	4,404	4,470	4,537						
	Sales & Lodging Tax		10,400	10,555	10,714	10,875	11,038	*					
	Cumulative		10,400	20,955	31,669	42,543	\$53,581						

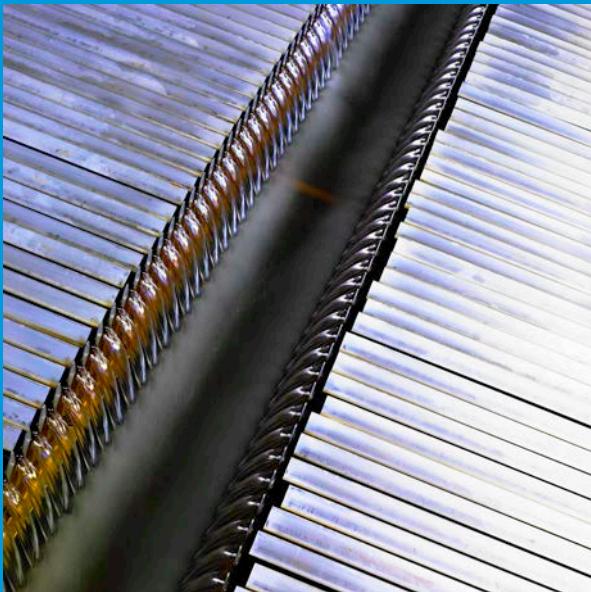
City of Loveland Economic Development Policy Project Checklist		Incentive Type:
Hach Company		Incentive Type:
Requirement	Meets (y/n)	Date
Met with the Economic Development Manager	Y	July 30, 2014
Letter of Intent/Request Received	Y	August 20, 2014
Economic Impact Analysis Data Submitted	Y	August 20, 2014
Impact Analysis shows Positive Net New Revenue	Y	August 22, 2014
Pays 80% of Employee Health Ins. Premium	Y	August 20, 2014
Offers Group Health Ins. Coverage to Dependents	Y	August 20, 2014
Performance Agreement	Y	August 20, 2014
Minimum investment of \$500,000	Y	August 20, 2014
Net New Jobs to Loveland	up to 140	August 20, 2014
Project Budget Submitted	Y	August 20, 2014
<b>Study Session</b>		
<b>Council Meeting and Approval</b>		Info only September
Average Annual Wages Company wide		Meets (y/n)
110% of Larimer County Ave Annual Wage	n/a	
120% of Larimer County Ave Annual Wage	n/a	
130% of Larimer County Ave Annual Wage	n/a	
140% of Larimer County Ave Annual Wage	n/a	
150% or > Larimer County Ave Annual Wage	n/a	Y
<b>Encouraged but not required</b>		Meets (y/n)
Located in an Enterprise Zone	N	
Located in Downtown Loveland	N	
Reuse of an existing vacant facility	N	
Clean Energy Company	N	
Health Care	N	
Aerospace/Aviation	N	
Bio-Science	N	
Arts/Sculpture Related	N	
Rocky Mountain Innovation Initiative Client	N	
<b>Proposed Incentive</b>		

Building Permit Fee/use tax waivers and business personal property tax rebate		August 20, 2014
Details		
Return of investment in 5 years		
Issuance of Building permit by 2016, rebate of BPP tied to property tax payments by Hach		
\$21 million project budget		
Consolidation of 180 from other facilities, addition of 20 jobs from out of state and 20 new jobs/yr/six years		
\$21 million project budget		
16		
Details		
if yes must enter wage amount		
Average wage of \$82,000/yr		
Details		
if yes enter address		
if yes enter address		
if yes enter address		
Up to but not to exceed \$700,000		



# HACH COMPANY

## Water Quality Group



# HACH

- Manufacture water analysis instruments, chemistries, service and software.
- Serve the industrial and municipal markets.
- Global reach with sales, support, manufacturing and R&D.
- Founded in 1947 by Clifford and Kitty Hach in Ames Iowa.
- Acquired by Danaher Corporation in 1999.
  - Combined with Dr. Lange, based in Berlin, Germany.
- Headquartered in Loveland, CO since 1973.
- 3,900 Associates
  - 1,700 Americas, locally 1,000
  - 1,600 Europe
  - 500 Asia

# HACH GEOGRAPHIC FOOTPRINT



## HACH MISSION

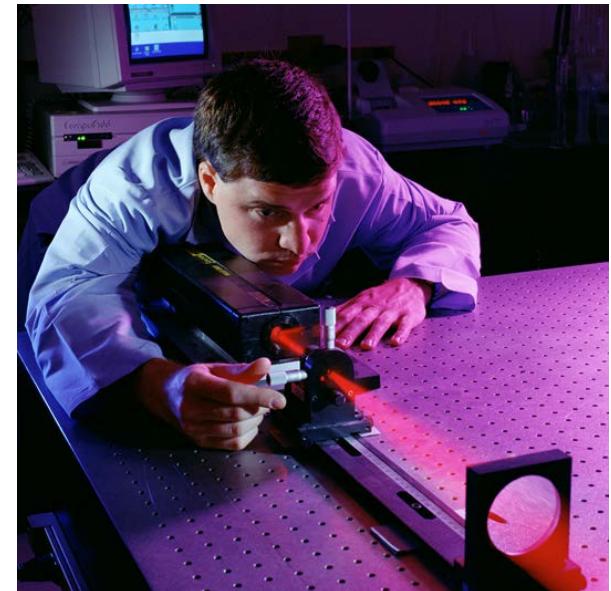
Ensure water quality for people around the world.

## HACH VISION

We make water analysis better – faster, simpler, greener and more informative – via unsurpassed customer partnerships, the most knowledgeable experts, and reliable, easy-to-use products.

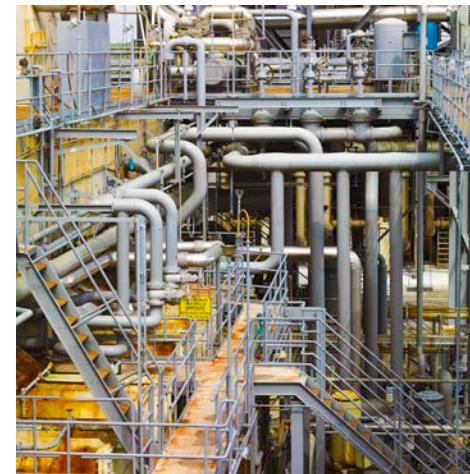
# SUSTAINED BUSINESS PERFORMANCE

- Over 75 years of analytics expertise.
  - 1933: Dr. Lange GmbH founded in Berlin
  - 1947: Hach founded in Ames, Iowa
  - 1999: Acquired by Danaher Corporation
- Consistent Investment in R&D and technology.
  - 527 patents covering 130 patent families
  - A leader in industry firsts
- Commitment to quality, delivery and customer value.
  - Leadership in customer service, technical support and training.



# MARKET REACH

- Drinking Water
- Wastewater
- Food & Beverage
- Chemical, Petrochemical, Oil and Gas
- Engineers & Consultants
- Electronics
- Labs
- Life Sciences
- Power Utilities



# OPTIMIZATION & COMPLIANCE

Products that optimize the quality and regulatory compliance of water throughout the water cycle.



## LOCAL CUSTOMERS

City of Loveland  
City of Fort Collins  
Soldier Canyon Filter Plant  
Anheuser Busch  
New Belgium  
Avago  
Woodward



# OPPORTUNITY

- Invest in a business that has added 334 employees over past 13 years.
- Future growth at Loveland location limited by physical space constraints.
- Propose building an 86,000 sq. ft. R&D center to support future growth.
- Estimated total cost of up to \$25,000,000.
- Consolidation of 180 existing R&D employees into new facility.
- Addition of 20 R&D positions transferred from out of state.
- Average salary of an R&D associate is \$88,000.
- Estimate 120 new jobs over 6 years at an average salary of \$82,000.

**Hach is requesting \$1,000,000 in assistance to support this investment.**

# About Cushman & Wakefield

The **Denver Cushman & Wakefield** office opened in October 1977. Today, with 165 employees located in the metro Denver area, the firm provides market coverage and expertise to all regions of Colorado. In 2013, C&W was responsible for more than 418 leasing and sales transactions in the metro Denver region, representing more than \$1.3 billion in aggregate value. We completed 349 valuation assignments and managed over 9.8 million square feet (sq ft) in 54 various assets in Metro Denver.



## OWNERSHIP STRUCTURE

C&W is a privately-held company. EXOR S.p.A., the investment arm of the Agnelli family, owns a controlling stake (currently 75.54%) in the firm. C&W management and employees own the remaining 24.46% of the company's equity.

2014	C&W appoints John Elkann of EXOR as Chairman of the Board and Carlo Sant'Albano as International CEO C&W creates new Investor Services Group
2013	C&W appoints Edward C. Forst as CEO  C&W/NorthMarq acquires Commerce Real Estate Solutions in the U.S. and Project Solutions Group (PSG) in APAC
2012	C&W opens office in Taipei, Taiwan  Carlo Sant'Albano named CEO of EMEA
2011	C&W acquires client services business of Cousins Properties Incorporated  Established a joint venture with NorthMarq Real Estate Services in Minnesota  Launch of Pan-European Urban Retail Fund
2010	C&W acquires full ownership of Corporate Occupier Solutions (COS), Ltd  Glenn Rufrano named President & CEO
2009	Merger of IFIL into IFI to form EXOR
2008	C&W acquires Burnham Real Estate in Western U.S. and P&D Real Estate Consultants in Turkey
2007	IFIL Group acquires majority stake in C&W  C&W acquires Semco, assuming full control of C&W South America, and a majority interest in Sonnenblick Goldman  C&W acquires 100% interest in C&W Asia and 100% interest in Alston Nock  Strategic alliance with Property and Portfolio Research (PPR)  C&W forms C&W Hospitality Asia and establishes C&W Capital Asia (CWCA)
2006	C&W gains full control of C&W Mexico
2005	C&W acquires Russian firm - Stiles & Riabokobylko, Canada's Royal LePage and Semco Johnson Controls
2002	Established C&W U.S. Alliance Program
2001	C&W acquires ownership interest in The Apartment Group (TAG)  Merger of Cushman & Wakefield and Cushman Realty Corporation
1998	C&W merges with Healey & Baker
1994	Worldwide partnerships established with major real estate service firms in U.S., Europe, Asia, South America, Mexico and Canada
1990	Presence in Europe established through Healey & Baker  C&W EXPANDS NATIONALLY, BECOMING A FULL-SERVICE REAL ESTATE PROVIDER
1976	Rockefeller Group (RGI) acquires C&W
1917	Cushman & Wakefield is established



# Project Management Group Overview

For over 40 years, Cushman & Wakefield's Project Management Group has provided development expertise in support of several hundred million square feet of commercial and mixed use real estate worldwide.

- **STRATEGIC PLANNING**

Comprehensive analysis of physical and technical requirements

- **STRATEGIC CONSULTATION**

Planning, designing, constructing new buildings; workplace re-engineering

- **PROJECT & PROGRAM MANAGEMENT**

Project Management for individual and multi-site programs

- **DEVELOPMENT MANAGEMENT**

Build-to-suit & owner-occupant projects: "big box", multi-use, office and industrial

- **CONSTRUCTION MANAGEMENT**

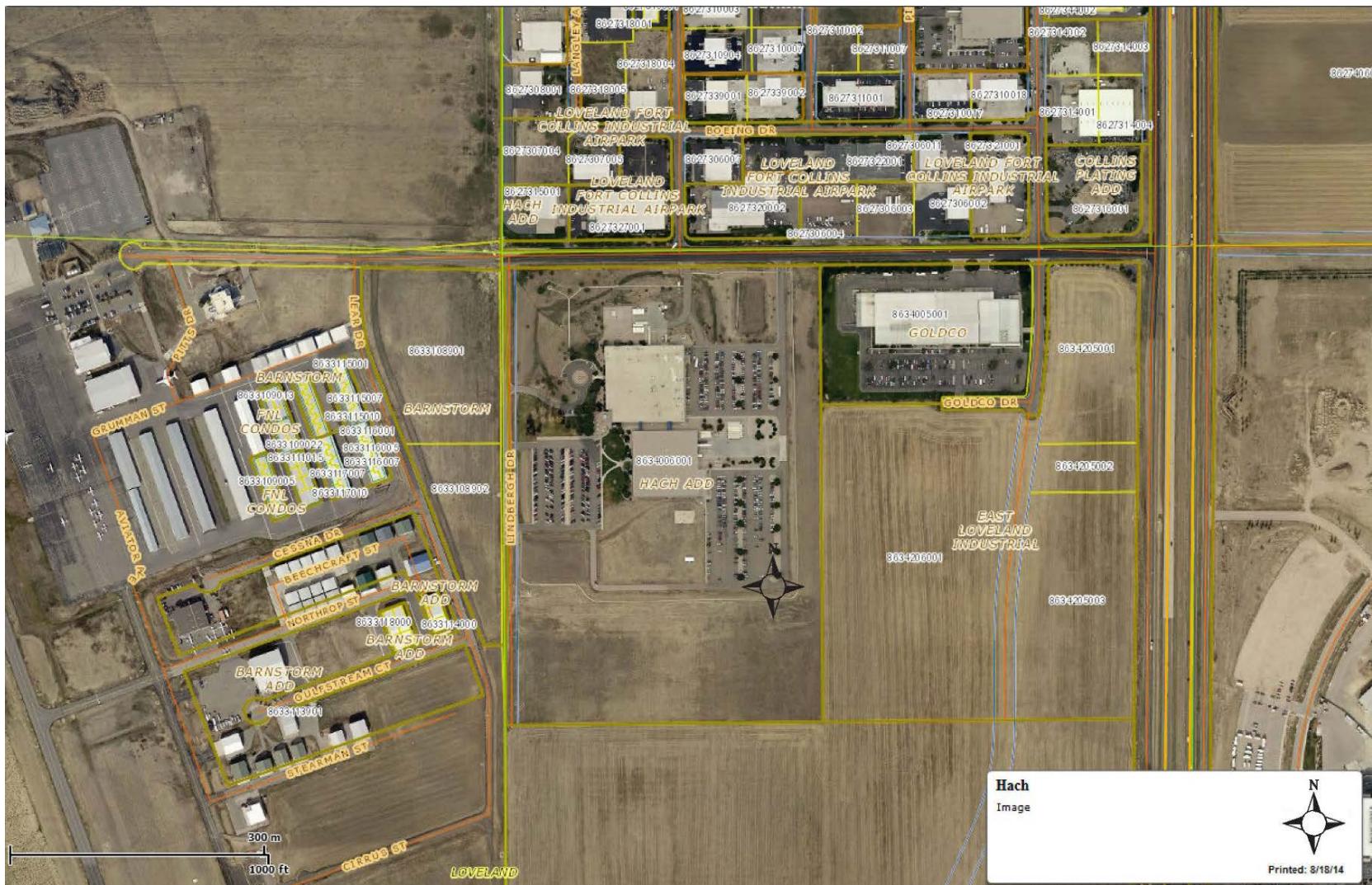
Cost controls, procurement, schedule management, change order review, general construction administration and oversight

- **RELOCATION MANAGEMENT**

Moves, adds & changes, migration planning and move management



# Project Aerial



## Project Aerial #2





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

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<b>AGENDA ITEM:</b>	<b>8</b>
<b>MEETING DATE:</b>	9/16/2014
<b>TO:</b>	City Council
<b>FROM:</b>	Mike Scholl, Economic Development Department
<b>PRESENTER:</b>	Mike Scholl, Economic Development Manager

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**TITLE:**

1. A Resolution Approving an Agreement for Economic Incentive and Construction Materials Use Tax Waiver
2. An Ordinance on First Reading Enacting a Supplemental Budget and Appropriation to the 2014 City of Loveland Budget for an Incentive Agreement with Origins Loveland

**RECOMMENDED CITY COUNCIL ACTION:**

1. Approve the resolution.
2. 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

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**SUMMARY:**

These are administrative actions appropriating funding for an incentive agreement and approving a resolution authorizing an incentive agreement with Jeff Noffsinger, owner of Origins Pizza, a proposed new pizza and wine bar to be located at 500 N. Lincoln, in the corner unit of Lincoln Place. The incentive agreement provides \$17,000 for the tenant improvements, plus a waiver of materials use tax not to exceed \$3,000.

**BUDGET IMPACT:**

Positive  
 Negative  
 Neutral or negligible

The ordinance is funded with fund balance within the Economic Incentive Fund and reduces the flexibility to fund other projects. The current balance in the economic development incentive fund is \$1,110,120.

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**BACKGROUND:**

Origins Loveland is a proposed new pizza and wine bar to be located at 500 N. Lincoln in the corner unit of Lincoln Place. The space has been vacant since the completion of the building in 2007. Staff has been working with Jeff Noffsinger, the owner/entrepreneur on this project and the preliminary commitment letter is attached.

Mr. Noffsinger has asked for City assistance to complete the project. Mr. Noffsinger contacted the City over a year ago expressing an interest in locating in Downtown Loveland. At that time, staff directed him to the Loveland Center for Business Development where he was provided assistance with his business plan and loan application. He also identified the site and is close to finalizing a lease agreement for the space. The total investment will be roughly \$460,000 with \$230,000 for the core and shell, plus an additional \$230,000 on tenant improvements and furniture, fixtures and equipment. The landlord is contributing \$145,000, and the owner is contributing \$145,000 with an SBA Loan for an additional \$150,000. The City is contributing the final piece totaling \$20,000. (see chart)

	Amount
Property Owner	\$145,000
Origins Loveland	\$145,000
SBA Loan	\$150,000
City Contribution	\$20,000
<b>TOTAL</b>	<b>\$460,000</b>

**Proposed Incentive Agreement:**

The incentive agreement would provide \$17,000 for the tenant improvements, plus a waiver of materials use tax not to exceed \$3,000. The \$17,000 would be reimbursement for improvements related to public safety and infrastructure that would carry forward to future tenants should the restaurant fail. The reimbursement would not be made available until the receipt of a certificate of occupancy.

Further, the restaurant will be required to repay the City through collection of sales tax within 24 months of opening. If the restaurant fails to generate \$17,000 in sales tax, he will be required to reimburse the City for the difference. The SBA loan is contingent upon the receipt of assistance from the City for the project.

Because the incentive package is less than \$20,000, staff is bringing the agreement to Council without a study session or prior information item on a regular agenda. The memorandum was provided to Council prior and is an attachment to the Council packet.

**The agreement is consistent with the adopted Economic Development Strategic Plan:**

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

Also, the agreement is consistent with the approved incentive policy:

Downtown Loveland: Projects considering a location in Historic Downtown Loveland may benefit from additional assistance such as:

- Façade Improvement Grants
- Urban Renewal Area Programs
- Historic Preservation Tax Credit Programs
- Market Research Assistance
- Fee Waivers: Exemption From Approximately 20 City Fees
- General Improvement District
- Others As Approved By The Loveland City Council

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**REVIEWED BY CITY MANAGER:**

*William D. Cainell*

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**LIST OF ATTACHMENTS:**

1. Resolution
2. Ordinance
3. Staff Memo
4. Project Checklist
5. Letter of Request
6. EIA

**RESOLUTION #R-\_\_\_\_\_****A RESOLUTION APPROVING AN AGREEMENT FOR ECONOMIC INCENTIVE  
AND CONSTRUCTION MATERIALS USE TAX WAIVER**

**WHEREAS**, Origins Loveland LLC, a Colorado limited liability corporation (“**Origins Loveland**”) has entered into a long-term lease agreement for a commercial unit located at 500 N. Lincoln Avenue, Loveland, Colorado 80537 (“**Property**”) and intends to invest \$460,000 in tenant improvements and infrastructure for the Property (“**Improvements**”) for the purposes of operating a pizza and wine bar (“**Restaurant**”); and

**WHEREAS**, to help fund the Improvements, Origins Loveland has worked with the Loveland Center for Business Development to secure a Small Business Association loan in the amount of \$150,000, which loan is contingent on receipt of City assistance to close the funding gap; and

**WHEREAS**, Origins Loveland has requested from the City certain economic incentives to close the funding gap and defray the cost of making the Improvements, as more fully set forth in the Agreement attached as **Exhibit A** and incorporated herein (the “**Agreement**”); and

**WHEREAS**, the City desires to assist Origins Loveland with the development of the Restaurant by investing Seventeen Thousand Dollars (\$17,000.00) from the City’s Economic Incentive Fund, and by granting a construction materials use tax credit in connection with the Restaurant in an amount not to exceed Three Thousand Dollars (\$3,000.00); and

**WHEREAS**, City Code Section 3.16.590 provides that the City Council may grant, by resolution, a use tax credit against the collection of such taxes equal to the amount of tax credited, provided that any such credit shall not exceed the amount of tax that would otherwise be collected under Chapter 3.16, upon a finding that granting the credit will serve a public purpose, including, without limitation, providing the public with significant social, economic, or cultural benefits; and

**WHEREAS**, City Code Section 3.04.090 provides that the City Council may appropriate funds for all public purposes to the full extent authorized by the Colorado Constitution and the City’s Charter; and

**WHEREAS**, City Council believes that providing assistance in the form of an investment from the Economic Incentive Fund and the granting of a construction materials use tax credit to assist Origins Loveland with making the Improvements and opening the Restaurant are in the best interests of the City and serve the public purposes of producing significant social and economic benefits to the citizens of Loveland, primarily in the form of economic development and increased assessed values for property tax purposes and sales tax revenues to the City; and

**WHEREAS**, by the adoption of this Resolution, the City Council approves the execution of the Agreement to provide Origins Loveland with the requested assistance on the terms and conditions provided herein.

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

**Section 1.** That the City Council hereby finds that granting Origins Loveland the monetary incentive and tax credit set forth in the Agreement to support the development of the Restaurant will serve a public purpose by providing significant social and economic benefits to the citizens of Loveland, primarily in the form of jobs, economic development, and increased tax revenues and, therefore, the monetary incentive and tax credit granted in the Agreement are in the best interests of the public and the City.

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

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

**Section 4.** That the City Manager and the City Clerk are hereby authorized and directed to execute the Agreement on behalf of the City of Loveland after the City Council has approved an ordinance, on second reading, appropriating the funds committed under the Agreement.

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

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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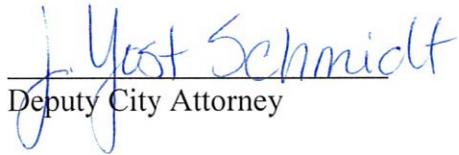
Cecil A. Gutierrez, Mayor

ATTEST:

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City Clerk

APPROVED AS TO FORM:

  
J. Yost Schmidt  
Deputy City Attorney

**EXHIBIT A****ORIGINS LOVELAND LLC**  
**AGREEMENT FOR ECONOMIC INCENTIVE**  
**AND CONSTRUCTION MATERIALS USE TAX WAIVER**

**THIS AGREEMENT** (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2014, by and between the **CITY OF LOVELAND, COLORADO**, a home rule municipality (“City”), and **ORIGINS LOVELAND LLC**, a Colorado limited liability company (“Origins Loveland”).

**WHEREAS**, Origins Loveland has entered into a long-term lease agreement for a commercial unit located at 532 N. Lincoln Avenue, Suite 500, Loveland, Colorado 80537 (“Property”) and intends to invest \$460,000 in tenant improvements and infrastructure for the Property (“Improvements”) for the purposes of operating a pizza and wine bar (“Restaurant”); and

**WHEREAS**, to help fund the Improvements, Origins Loveland has worked with the Loveland Center for Business Development to secure a Small Business Association, which loan is contingent on receipt of City assistance to close the funding gap; and

**WHEREAS**, Origins Loveland has requested from the City certain economic incentives to close the funding gap and defray the cost of making the Improvements; and

**WHEREAS**, the City desires to assist Origins Loveland with the development of the Restaurant by providing financial assistance in the amount of Seventeen Thousand Dollars (\$17,000.00) from the City’s Economic Incentive Fund, and by granting a construction materials use tax credit in connection with the Improvements in an amount not to exceed Three Thousand Dollars (\$3,000.00); and

**WHEREAS**, City Code Section 3.16.590 provides that the City Council may grant, by resolution, a use tax credit against the collection of such taxes equal to the amount of tax credited, provided that any such credit shall not exceed the amount of tax that would otherwise be collected under Chapter 3.16, upon a finding that granting the credit will serve a public purpose, including, without limitation, providing the public with significant social, economic, or cultural benefits; and

**WHEREAS**, City Code Section 3.04.090 provides that the City Council may appropriate funds for all public purposes to the full extent authorized by the Colorado Constitution and the City’s Charter; and

**WHEREAS**, by the adoption of Resolution #R-\_\_\_\_-2014 (“Resolution”), the City Council has made a finding that the terms of this Agreement providing financial assistance and the granting of a construction materials use tax credit to assist Origins Loveland with making the Improvements and opening the Restaurant are in the best interests of the City and serve the public purposes of producing significant social and economic benefits to the citizens of

Loveland, primarily in the form of economic development and increased assessed values for property tax purposes and sales tax revenues to the City; and

**WHEREAS**, by the adoption of the Resolution, the City Council has approved this Agreement to provide Origins Loveland with the requested assistance on the terms and conditions provided herein.

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

**1. Economic Incentive Payment.** The City agrees, as an economic incentive for Origins Loveland to complete the Improvements and open the Restaurant, to reimburse Origins Loveland for the cost of making the following Improvements: (i) installation of improvements to the exterior windows and curved portion of the front of the building visible to the public right-of-way; (ii) installation of a grease receptor, hood, and fire suppression systems; and (iii) installation of HVAC and electrical systems; in a total cumulative amount not to exceed Seventeen Thousand Dollars (\$17,000.00) (“**Economic Incentive Payment**”). The City shall pay the Economic Incentive Payment to Origins Loveland thirty (30) calendar days following issuance of the certificate of occupancy for the Property and presentation by Origins Loveland to the City of invoices and payment documentation evidencing Origins Loveland’s costs for the Improvements. The City shall not be obligated to pay Origins Loveland any amount under this Agreement if Origins Loveland fails, on or before July 1, 2015 (“**Completion Date**”) to: (a) obtain a certificate of occupancy for the Property; (b) present the invoice and payment documentation required herein; and (c) open the Restaurant to the public. Origins Loveland agrees to repay the Economic Incentive Payment to the City as set forth in Section 2. below, less any credit set forth in Section 3. below.

**2. Repayment of Economic Incentive Payment.** Origins Loveland promises to pay to the City on that date which is sixty (60) days after the end of the Credit Period (as defined in Section 3. below), the Economic Incentive Payment less the credits available to Origins Loveland as set forth in Section 3. below; provided, however, that in the event that Origins Loveland at any time prior to the end of the Credit Period discontinues the operation of the Restaurant for any reason other than a Permitted Reason (as defined below), Origins Loveland shall pay the amount required in this Section 2. less any credit set forth in Section 3. below, on that date which is sixty (60) days after the date on which Origins Loveland discontinues operation of the Restaurant. As used herein, “**Permitted Reason**” shall mean: (a) damage or destruction due to casualty; and (b) condemnation.

**3. Credit for City Sales Taxes Collected and Paid.** Subject to the provisions of Section 4. below, and in the event that Origins Loveland completes the Improvements and opens the Restaurant to the public not later than the Completion Date, Origins Loveland may reduce and credit against the payment required in Section 2. above an amount equal to one hundred percent (100%) of all City sales taxes collected by Origins Loveland and received by the City or the Loveland Urban Renewal Authority (“**LURA**”) with respect to transactions in or from the Restaurant during the twenty-four (24) calendar month period commencing on the first day of the month following the date on which Origins Loveland opens the Restaurant to the public (“**Credit**

**Period"). This credit, however, shall only be taken for those City sales taxes collected by Origins Loveland that are imposed by and have in fact been paid to the City or LURA. If Origins Loveland fails to generate and pay to the City or LURA City sales tax in an amount equal to the Economic Incentive Payment by the end of the Credit Period, Origins Loveland shall pay to the City a sum equal to the amount by which the Economic Incentive Payment exceeds the total City sales tax paid to the City or LURA during the Credit Period and such amount shall be due and payable within thirty (30) calendar days of the end of the Credit Period. Notwithstanding the foregoing, the City Manager may, in his discretion and for good cause shown, extend the Credit Period for not more than an additional six (6) months, provided that any request for such extension shall be submitted by Origins Loveland in writing prior to the end of the original twenty four (24) month Credit Period and approved by the City Manager.**

**4. Multi-Year Fiscal Obligation.** The City's obligations to pay Origins Loveland as provided in Section 1. above may extend beyond December 31, 2014, and such continuing obligation under this Agreement is considered a multi-year fiscal obligation under Article X, Section 20 of the Colorado Constitution and the City's Charter Section 11-6. As such, it is a multi-year fiscal obligation subject to annual appropriation by the City Council. The City shall have no obligation to pay Origins Loveland as provided in Section 1. above if payment is being sought or is to be made on or after December 31, 2014, if the necessary appropriation has not been made by the City Council to authorize such payment. However, the City agrees that the City Manager shall include in the annual budget and appropriation ordinances for 2015 and subsequent years when needed for the City Council's consideration the necessary appropriation to pay Origins Loveland as provided in Section 1. above.

**5. Construction Materials Use Tax Credit.**

**a.** On the express condition that Origins Loveland obtains a building permit for the Improvements on or before December 31, 2014, Origins Loveland shall receive a credit for the City's construction materials use taxes for the Improvements due on application for a building permit, as authorized by City Code Section 3.16.590, up to an amount not to exceed Three Thousand Dollars (\$3,000.00) ("Tax Credit"). If Origins Loveland fails to obtain a building permit for the Improvements on or before the date set forth above, then the City's obligation to provide the Tax Credit to Origins Loveland for the Improvements shall expire, and the City shall have no obligation to waive any construction materials use tax due with respect to the Improvements. Notwithstanding the foregoing, the City Manager may, in his discretion and for good cause shown, extend the deadline set forth above by which Origins Loveland must obtain a building permit for the Improvements, provided that any request for such extension shall be submitted by Origins Loveland in writing and signed by the City Manager and further provided that no such extension shall operate to extend the Completion Date required under paragraph 1 above.

**b.** The construction materials use taxes waived pursuant to this Section 5. shall be limited to City taxes and shall not include any amounts for use taxes payable to Larimer County or any other taxing jurisdiction in connection with the Improvements.

c. Origins Loveland acknowledges and agrees that the actual construction material use taxes that will be due for the Improvements have not been finally determined and have been estimated on the basis of information provided to the City by Origins Loveland. All construction materials use tax due with respect to the Improvements in excess of the Tax Credit shall be paid by Origins Loveland.

**6. Remedies Upon Default.** Default by Origins Loveland shall be deemed to have occurred under this Agreement upon the occurrence of any one of the following events: (i) commencement of any proceeding under any bankruptcy or insolvency laws by or against Origins Loveland; (ii) the sale or transfer of the Restaurant without the prior written consent of the City, which consent shall not be unreasonably withheld; or (iii) Origins Loveland's failure to make timely payment as required by Sections 2. or 3. above. Upon occurrence of any one or more of these events of default and Origins Loveland's failure to cure such default within thirty (30) calendar days after written notice from the City, the entire Economic Incentive Payment, less any City sales taxes collected by Origins Loveland and received by the City or LURA during the Credit Period, shall be immediately due and payable to the City without further notice at the City's option.

**7. Right of Offset.** Origins Loveland agrees that the City shall have the right to withhold and offset any amounts that may become payable to Origins Loveland by the City under this Agreement against any amounts that Origins Loveland may owe to the City, whether arising under this Agreement or otherwise. For example, but not by way of limitation, if Origins Loveland fails to pay any amounts due to the City for services unrelated to this Agreement, such as utility and other services, the City shall have the right to withhold payment of and set off any amounts that may be due by the City to Origins Loveland against any amounts that may be due to the City by Origins Loveland.

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

**9. Time is of the Essence.** Time shall be of the essence for the performance of all obligations under this Agreement.

**10. Assignment.** Origins Loveland shall not assign or transfer any or all of its interests, rights, or obligations under this Agreement without the prior written consent of the City Council. Any such assignment or transfer without the City Council's prior written consent shall be deemed null and void and of no effect.

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

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

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

If to the City:	William D. Cahill City Manager City of Loveland 500 East Third Street, Suite 330 Loveland, CO 80537
With Copy to:	City Attorney City of Loveland 500 East Third Street, Suite 330 Loveland, CO 80537
If to Origins Loveland:	Origins Loveland LLC 500 North Lincoln Avenue Loveland, CO 80537

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

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

**15. No Waiver.** In the event the City waives any breach of this Agreement, no such waiver shall be held or construed to be a waiver of any subsequent breach hereof.

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

**17. Waiver of Confidentiality.** Under C.R.S. § 24-72-204 of the Colorado Open Records Act and under City Code Section 3.16.230, the City is required to maintain as confidential documents that are not subject to public inspection sales tax information and records for Origins Loveland that are submitted to and on file with the City. However, notwithstanding these provisions of law or any other applicable provisions of the law, by its signature below Origins Loveland hereby consents to and authorizes the City to provide information as to gross receipts, sales tax collections, the amount of sales tax credited under this Agreement and net new jobs created by Origins Loveland to members of the Loveland City Council and acknowledges and agrees that such information provided to Council shall be subject to public inspection.

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

**ORIGINS LOVELAND LLC,**  
A Colorado limited liability company

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_ as \_\_\_\_\_ of Origins Loveland LLC, a Colorado limited liability corporation.

Witness my hand and official seal. My commission expires: \_\_\_\_\_

(S E A L)

\_\_\_\_\_  
Notary Public

**CITY OF LOVELAND, COLORADO,**  
A home rule municipality

By: \_\_\_\_\_  
William D. Cahill, City Manager

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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Deputy City Attorney

**FIRST READING** September 16, 2014

**SECOND READING** \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2014 CITY OF LOVELAND BUDGET FOR AN INCENTIVE AGREEMENT WITH ORIGINS LOVELAND**

**WHEREAS**, the City has received and/or reserved funds not anticipated or appropriated at the time of the adoption of the City budget for 2014; 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 2014, as authorized by Section 11-6(a) of the Loveland City Charter.

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

**Section 1.** That reserves in the amount of \$17,000 from fund balance in the Economic Incentive Fund 106 are available for appropriation. Revenues in the total amount of \$17,000 are hereby appropriated for an incentive agreement with Origins Loveland. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget  
Economic Incentive Fund 106**

<b>Revenues</b>		
Fund Balance		17,000
<b>Total Revenue</b>		<b>17,000</b>
 <b>Appropriations</b>		
106-18-180-1500-43155	Economic Incentives	17,000
<b>Total Appropriations</b>		<b>17,000</b>

**Section 2.** That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the

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

ADOPTED this \_\_\_\_ day of September, 2014.

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Cecil A. Gutierrez, Mayor

ATTEST:

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City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Llasis Garcia  
Assistant City Attorney



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

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## Memorandum

**To:** Loveland City Council

**Through:** Bill Cahill, City Manager

**From:** Mike Scholl, Economic Development Manager

**Date:** August 21, 2014

**RE:** Origins Loveland Incentive Request – STAFF UPDATE

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**Background:**

Origins Loveland is a proposed new pizza and wine bar to be located at 500 N. Lincoln in the corner unit of Lincoln Place. The space has been vacant since the completion of the building in 2007. Staff has been working with Jeff Noffsinger, the owner/entrepreneur on this project and the preliminary commitment letter is attached.

Mr. Noffsinger has asked for City assistance to complete the project. Mr. Noffsinger contacted the City over a year ago expressing an interest in locating in Downtown Loveland. At that time, staff directed him to the Loveland Center for Business Development where he was provided assistance with his business plan and loan application. He also identified the site and is close to finalizing a lease agreement for the space. The total investment will be roughly \$460,000 with \$230,000 for the core and shell, plus an additional \$230,000 on tenant improvements and FF&E. The landlord is contributing \$145,000 with an SBA Loan for an additional \$150,000. The owner is contributing the balance of the funds. He has asked the City for an incentive totaling \$20,000.

**Proposed Incentive Agreement:**

The incentive agreement would provide \$17,000 for the tenant improvements, plus a waiver of materials use tax not to exceed \$3,000. The \$17,000 would be reimbursement for improvements related to public safety and infrastructure that would carry forward to future tenants should the restaurant fail. The reimbursement would not be made available until the receipt of a certificate of occupancy.

Further, the restaurant will be required to repay the City through collection of sales tax within 24 months of opening. If the restaurant fails to generate \$17,000 in sales tax, he will be required to reimburse the City for the difference. The SBA loan is contingent upon the receipt of assistance from the City for the project.

Initially, staff had proposed a simple performance based sales tax rebate, which is reflected in the commitment letter. Because the sales tax is dedicated to the Finleys Block (Lincoln Place) URA, we could not rebate the sales tax.

**Next Steps:**

Because the incentive package is less than \$20,000, staff can bring the agreement to Council without a study session or prior information item on a regular agenda. The memorandum is intended as the Council briefing.

The agreement is consistent with the adopted Economic Development Strategic Plan:

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

Also, the agreement is consistent with the approved incentive policy:

*Downtown Loveland: Projects considering a location in Historic Downtown Loveland may benefit from additional assistance such as:*

- *Façade Improvement Grants*
- *Urban Renewal Area Programs*
- *Historic Preservation Tax Credit Programs*
- *Market Research Assistance*
- *Fee Waivers: Exemption From Approximately 20 City Fees*
- *General Improvement District*
- *Others As Approved By The Loveland City Council*

City of Loveland Economic Development Policy Project Checklist		
Origins Loveland		Incentive Type:
Requirement	Meets (y/n)	Date
Met with the Economic Development Manager	Yes	December 1, 2013
Letter of Intent/Request Received	Yes	July 1, 2014
Economic Impact Analysis Data Submitted	Yes	July 1, 2014
Impact Analysis shows Positive Net New Revenue	Yes	
Pays 80% of Employee Health Ins. Premium	NA	
Offers Group Health Ins. Coverage to Dependents	NA	
Performance Agreement	NA	
Minimum investment of \$500,000	NA	
Net New Jobs to Loveland	NA	
Project Budget Submitted	Yes	
Study Session		
Council Meeting and Approval		
Average Annual Wages Company wide	Meets (y/n)	
110% of Larimer County Ave Annual Wage	n/a	
120% of Larimer County Ave Annual Wage	n/a	
130% of Larimer County Ave Annual Wage	n/a	
140% of Larimer County Ave Annual Wage	n/a	
150% or > Larimer County Ave Annual Wage	n/a	
Encouraged but not required	Meets (y/n)	
Located in an Enterprise Zone		
Located in Downtown Loveland	Yes	
Reuse of an existing vacant facility	Yes	
Clean Energy Company		
Health Care		
Aerospace/Aviation		
Bio-Science		
Arts/Sculpture Related		
Rocky Mountain Innovation Initiative Client		
Proposed Incentive	\$17,000 for tenant i	

August 20, 2014	
Details	
Projected sales indicate a \$149,000 in net new revenue to the City over five years	
Details	
Details	
500 N. Lincoln Avenue	
500 N. Lincoln Avenue	
Improvements and up to \$3,000 waiver of materials use tax	



August 25, 2014

Mike Scholl  
Economic Development Manager  
500 East 3<sup>rd</sup> Street, Suite 300  
Loveland, CO 80537

Dear Mr. Scholl:

Origins Loveland, LLC, is proposing to open Origins Wine Bar and Wood Fired Pizza at the prominent corner of 5<sup>th</sup> & Lincoln in downtown Loveland. The restaurant will be occupying approximate 3,700 square feet at Lincoln Place, which has been vacant since its completion in 2007. Total investment into the project will be approximately \$460,000.

To assist with financing the project, we are seeking an economic incentive from the City of Loveland in the amount of \$20,000. This economic incentive will bridge the funding gap between partner capital contributions, landlord participation, and Small Business Administration loan proceeds.

After two years of researching the Loveland community, we are very excited to join a great business climate and be part of the City's revitalization efforts of the historic downtown. Thank you for your consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeffrey M. Noffsinger".

Jeffrey M. Noffsinger

A handwritten signature in black ink, appearing to read "Suzanne D. Alley".

Suzanne D. Alley

### Origins Loveland/EIA

Year	Projected Sales Tax Revenue	Business Personal Property
2015	\$30,000	\$2,000
2016	\$30,900.00	\$2,060.00
2017	\$31,827.00	\$2,121.80
2018	\$32,781.81	\$2,185.45
2019	\$33,765.26	\$2,251.02
<b>Total</b>	<b>\$159,274</b>	<b>\$10,618</b>

Projected Five Year Revenue/Gross	\$169,892
City Contribution	\$20,000
<b>Net New Revenue</b>	<b>\$149,892</b>

### Origins Loveland/Project Budget

Item	Amount
Owner Investment	\$145,000
Landlord/Property Owner	\$145,000
SBA Loan	\$150,000
City Contribution	\$20,000
<b>Total Project Cost</b>	<b>\$460,000</b>

*\*City Contribution is roughly 4 percent of total project cost.*



**CITY OF LOVELAND**  
CITY ATTORNEY'S OFFICE

Civic Center • 500 East Third • Loveland, Colorado 80537  
(970) 962-2540 • FAX (970) 962-2900 • TDD (970) 962-2620

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<b>AGENDA ITEM:</b>	<b>9</b>
<b>MEETING DATE:</b>	9/16/2014
<b>TO:</b>	City Council
<b>FROM:</b>	City Attorney's Office / City Manager's Office
<b>PRESENTER:</b>	Judy Schmidt, Acting City Attorney

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**TITLE:**

A Resolution of the Loveland City Council Approving the Service Plan for Eagle Crossing-Loveland Metropolitan District Nos. 1-4

**RECOMMENDED CITY COUNCIL ACTION:**

Conduct a public hearing and determine whether to adopt the resolution.

**OPTIONS:**

1. Adopt the action
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

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**SUMMARY:**

This is a legislative action to approve a Service Plan in accordance with the Colorado Special District Act for four metropolitan districts to be known as Eagle Crossing-Loveland Metropolitan District Nos. 1-4. The Districts are being created to provide all or part of the public infrastructure improvements necessary for the development of a commercial project known as Eagle Crossing, which consists of approximately 50 acres located at the northwest quadrant of the intersection of Fairgrounds Avenue and Crossroads Boulevard.

**BUDGET IMPACT:**

Positive  
 Negative  
 Neutral or negligible

There is no budget impact to the City.

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**BACKGROUND:**

Eagle Crossing Development, Inc. (the "Developer") has filed with the City a "Service Plan for Eagle Crossing-Loveland Metropolitan District Nos. 1-4," a copy of which is attached as Exhibit A to the Resolution (the "Service Plan"). The Service Plan proposes the creation of four

metropolitan districts to be used primarily to finance the various public infrastructure improvements needed for a commercial development located within the City known as Eagle Crossing (the "Development"). State law permits the creation of these Districts provided that the City Council adopts a resolution authorizing their creation.

The Districts' initial boundaries are proposed to consist of approximately 1.0 acre, but the ultimate boundaries of the Districts are proposed to consist of approximately 50 acres. As property is developed it will be included in one of the Districts. The property is currently zoned Developing Industrial, and the developer has indicated it may seek development approval to construct up to 645,000 square feet of commercial development. The details of the future commercial development are still in the planning phase, but are expected to consist of office, retail, restaurant, and hotel developments. Additionally, the property is part of the area under study by the City for a proposed Regional Tourism Authority and planning for construction will ultimately reflect the outcome of that effort. The assessed valuation of the Project area is assumed to be -0- for purposes of this Service Plan. The anticipated population at build-out is -0- persons.

The Service Plan contemplates that the Districts will fund and manage the construction and operation of certain public facilities and improvements. The District will be authorized to construct, install, and provide the following facilities, improvements, and services: sanitation, storm drainage, water, streets, traffic and safety controls, parks and recreation, transportation, mosquito and pest control, security, television relay and translation, and covenant enforcement. All facilities, services, and improvements are required in the Service Plan to comply with applicable provisions of the City Charter, Code, rules, regulations, standards, and policies ("City Policy"). The Districts are also required to obtain City approval of engineering plans and any required City permits.

Public Improvements for water and sanitation will be or have been dedicated to the Loveland-Fort Collins Water District and South Fort Collins Sanitation District, respectively, for ongoing operations and maintenance. Other Public Improvements may be designated by the City for dedication to the City or other governmental entity in accordance with future development agreements or development approvals. In such event, the Districts shall dedicate the designated Public Improvements to the City or other appropriate jurisdiction in a manner consistent with rules and regulations of the City and applicable provisions of the Loveland Municipal Code, or according to the particular development agreement or approval. The Districts have the right to operate and maintain Public Improvements not dedicated to the City or other appropriate governmental entity.

The Service Plan recognizes that the District Boundaries overlap the Loveland-Fort Collins Water District and the South Fort Collins Sanitation District. The Service Plan authorizes the Districts to finance the cost of water and sanitation improvements necessary to serve the Project and requires the Districts to obtain any consent from the Loveland-Fort Collins Water District and the South Fort Collins Sanitation District to the overlap of the District Boundaries that may be required by Colorado statutes.

The Service Plan limits the total amount of debt which may be incurred by the Districts to \$10,000,000. However, the Service Plan also provides that all debt instruments entered into by the District shall provide that the Districts' obligations thereunder shall be discharged 40 years after the date on which the debt instrument is issued, regardless of whether the obligations under the debt instrument are paid in full.

The Service Plan provides that the maximum mill levy the District may impose will be 39 mills for payment of debt and for operation and maintenance expenses (subject to adjustment due to changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement).

Attached to this cover sheet is a letter to Alan Krcmarik, the City's Executive Fiscal Advisor dated August 29, 2014 from Jim Manire of First Southwest. Mr. Manire is a financial advisor hired by the City, at the Developer's cost, to review the financial aspects of the Service Plan. Mr. Manire reviewed the Financing Plan submitted with the Service Plan and concludes that "[b]ased on the assumptions made by the developers in the financing plan, however, there will be sufficient development for the Districts to issue Debt in the future. If the Debt is not issued as proposed in 2018, projected development within the Districts would make conditions more favorable to Debt issuance in successive years. This is also indicated by the \$5 million in cash which builds up in the model after 2027, which suggests that additional debt could be issued after the development stabilizes. With projected commercial construction of more than \$77 million, the financing plan for issuing the projected Debt within the mill levy cap is reasonable." The Service Plan has also been reviewed by the City's bond counsel, Dee Wisor, and the Acting City Attorney and they have determined that the Service Plan is acceptable as to legal form.

A notice of this public hearing before City Council for consideration of the Service Plan was published in the *Loveland Reporter-Herald* on August 27, 2014 as required by law, mailed on August 27, 2014 to property owners within the boundaries of the Districts; and mailed on August 29, 2014 to existing municipalities or special districts that have levied taxes on the property within the District Boundaries within the preceding tax year and have boundaries within a radius of 3 miles of the proposed Districts.

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**REVIEWED BY CITY MANAGER:**

*William DeCarill*

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**LIST OF ATTACHMENTS:**

1. Letter dated August 29, 2014 from Jim Manire of First Southwest
2. PowerPoint presentation for Eagle Crossing-Loveland Metropolitan District Nos. 1-4
3. Resolution with Service Plan attached as Exhibit A

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James Manire, Senior Vice President  
 6041 South Syracuse Way, Suite 300  
 Greenwood Village, CO 80111

August 29, 2014

Mr. Alan Krcmarik  
 Executive Fiscal Advisor  
 City of Loveland  
 500 East 3<sup>rd</sup> Avenue  
 Loveland, CO 80537

Dear Mr. Krcmarik:

FirstSouthwest Company ("FirstSouthwest) has been retained by the City of Loveland, Colorado, to review the Financing Plan submitted in conjunction with the proposed formation of the four new metropolitan districts. Eagle Crossing – Loveland Districts Nos. 1 – 4 (the "Districts"). In this capacity, we have reviewed the projections contained in Exhibit F to the draft Service Plan for the Districts, and have participated in related discussions with City staff and with counsel to the developer.

FirstSouthwest's review of the Financing Plan is based on the assumptions provided by the developers. Our report should not be viewed as an independent confirmation of the developer's assumptions relating to the real estate market, property valuations, construction buildout, or absorption rates.

#### Eagle Crossing – Loveland Districts Nos. 1 – 4: Expected Development

The Districts are being formed to finance public infrastructure to serve 50 acres of undeveloped property within the City, located northeast of the intersection of Interstate Highway 25 and Crossroads Boulevard (Exit 259). The initial boundary of the Districts will encompass an area of approximately one (1) acre. The Service Plan allows for future District inclusions and boundary changes to occur to include some or all of the 50 acres described in the Service Plan.

While no specific construction within the Districts is proposed by the developers at this time, it is noted that all projected development will be for commercial property, with no residential development expected. According to the Service Plan:

The project is currently zoned Developing Industrial, with up to 645,000 square feet of commercial development. The details of the future commercial development are still in the planning phase, but are expected to consist of office, retail, restaurant, and hotel developments. Additionally, the Project is part of the area under study by the City of a proposed Regional Tourism Authority and planning for construction will ultimately reflect the outcome of that effort.

#### Debt and District Funding Sources

The developers are requesting formation of the Districts for the purpose of financing an estimated \$5,480,492 of project infrastructure costs for Districts 1 – 4 (Exhibit D). Under the Service Plan, Districts 1 - 4 will be permitted to issue no more than \$10 million of bonds or other Debt for this purpose. This amount is expected to provide funding for the required infrastructure as well as for any bond reserve funds, capitalized interest, and financing costs.

Debt issued by the Districts will be repaid primarily from property taxes. The Districts will be permitted to collect property taxes in an amount up to 39 mills for this purpose, as well as for payment of the Districts' administrative and operating costs, or for repayment of amounts due to the developers. Other sources of District revenue will include specific ownership taxes and reimbursable developer advances. Developer advances may be reimbursed from Debt or from other revenues of the Districts, subject to the overall property tax cap of 39 mills.

The Service Plan states that any Debt instrument entered into by the Districts shall be discharged 40 years after it is issued, whether or not the Debt has been repaid in full.

#### The Proposed Financing Plan

The Financing Plan provided in Exhibit F includes the following assumptions:

The Financing plan projects the development of seven (7) lots within the Districts, with commercial construction beginning in 2015 and continuing through 2025, providing a growing base for future tax revenues. Total commercial construction through 2025 is assumed to have a market value of over \$77 million (\$22.4 million assessed value).

Taxes are levied by the Districts at the rate of 39 mills, producing tax revenue beginning in 2017 and ending in 2048. In those years, 35 mills are dedicated to debt service, and 4 mills to operations.

Bonds are issued in 2018, in the amount of \$6,835,000. \$5,660,725 is estimated to be available for project costs, while the balance is allocated to debt service reserves, capitalized interest, and transaction fees.

The assumed interest rate on the bonds is 7.00%.

The Bonds are paid in full in 2048.

Significant excess cash begins to accumulate in the Districts, beginning in 2027.

#### Comments and Conclusions

As is generally true with financial projections included in a Service Plan for a new metropolitan district, these financial projections do not constitute a commitment to construct any specific commercial projects, nor do they obligate the developer to begin new construction on any specific timetable. The timing and amount of the initial issuance of debt by the Districts, and of the issuance of any additional debt, will be subject to market conditions and credit analysis performed at the time of issuance. The ability to issue debt in the future will also depend on the level of development achieved within the districts, and on the rate of taxes imposed by the Districts in relationship to the limits created by the Service Plan.

There are two significant financial constraints proposed in this Service Plan: the maximum amount of debt which can be issued by the Districts is \$10 million, and the maximum property tax rate which can be imposed by the District in any year cannot exceed 39 mills. These limit the debt and tax burden which can be created by the Districts on this property.

Under the Financing Plan which has been provided, several assumptions could be considered to be "aggressive". The projected issuance of \$6,835,000 in 2018 is aggressive because of the relatively small tax base projected at the time (approximately \$2.9 million in assessed value). The assessed value is projected

to grow to over \$8 million by 2021, when larger debt payments begin. In 2018, an investor would be able to evaluate the construction then occurring in the Districts, and its likely effect on the tax base in 2021 and thereafter. Nevertheless, investors may not be prepared to purchase bonds when the assessed value of the issuing district is less than twice the amount of the debt. The financing plan also assumes the mill levy is assessed at the maximum level of 39 mills throughout the term of the debt. Most investors expect a cushion or a differential between the required mill levy and the maximum mill levy.

The interest rate on District bonds is projected at 7.0%. In today's market, an interest rate of 7.00% on a 20-year tax-exempt bond is more than enough to attract investors to purchase an issue which meets other basic credit criteria. There is a possibility, however, that the Districts may not be tax-exempt issuers due to changing IRS considerations. If the bonds are not tax-exempt, the sufficiency of the 7.00% interest rate is not assured.

Based on the assumptions made by the developers in the financing plan, however, there will be sufficient development for the Districts to issue Debt in the future. If the Debt is not issued as proposed in 2018, projected development within the Districts would make conditions more favorable for Debt issuance in successive years. This is also indicated by the \$5 million in cash which builds up in the model after 2027, which suggests that additional debt could be issued after the development stabilizes. With projected commercial construction of more than \$77 million, the financing plan for issuing the projected Debt within the mill levy cap is reasonable.

Sincerely,



James Manire  
Senior Vice President

# EAGLE CROSSING LOVELAND METROPOLITAN DISTRICT NOS. 1-4

- William P. Ankele, Jr., Esq.
- WHITE BEAR ANKELE TANAKA & WALDRON
- 2154 E. Commons Ave., Suite 2000
  - Centennial, Colorado
  - (303) 858-1800

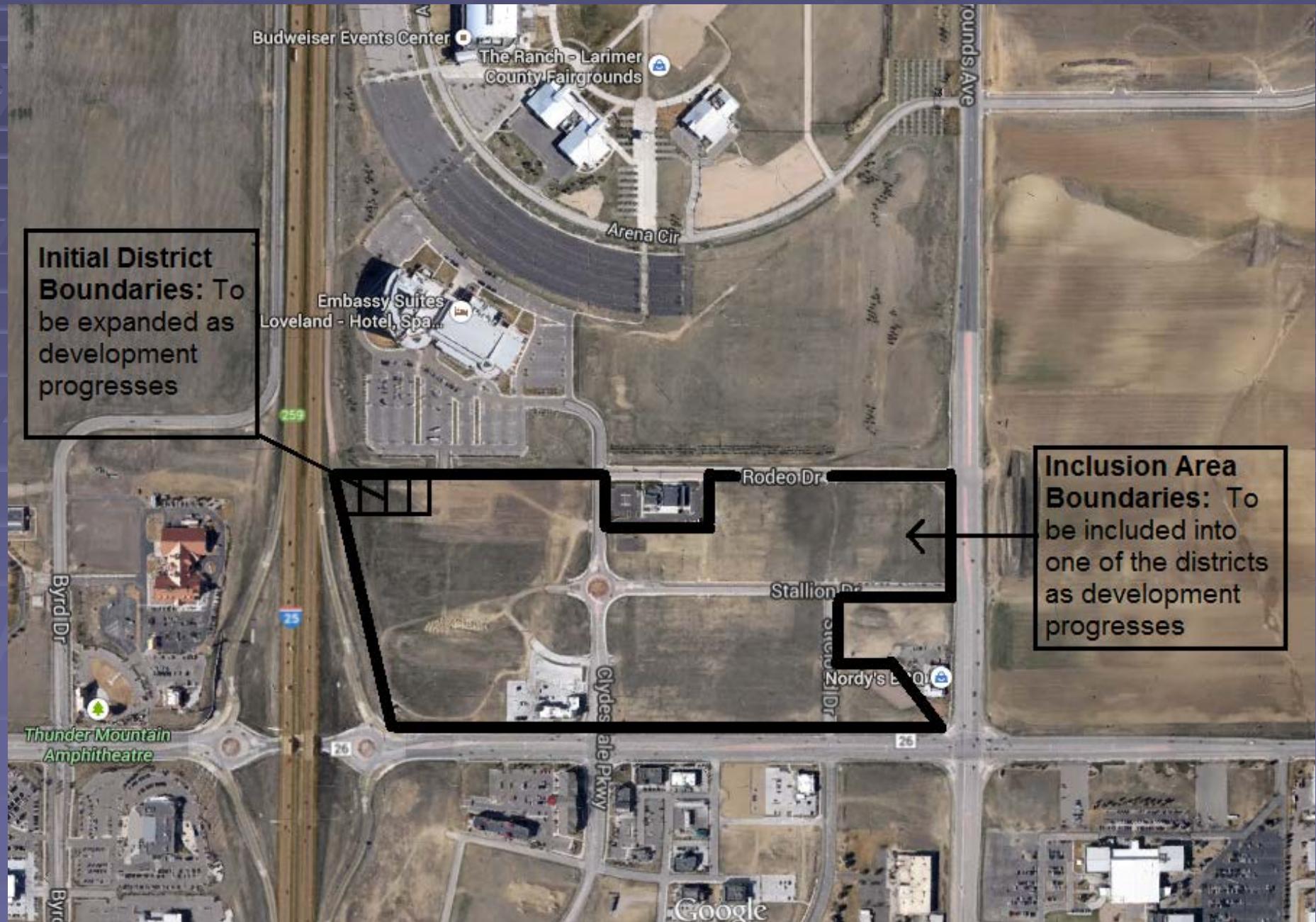
# Service Plan Summary

- Provide for public improvements (e.g. streets, water, sewer, park and rec, etc.)
- Most improvements dedicated to City or existing water/sanitation districts
- Debt Cap = \$10 Million Combined
- Mill Levy Cap = 39 mills combined for debt service and operations
- Max term of bonds = 40 years

# Other Elements

- Multiple District Structure
- Funding Capacity For RTA Driven Improvements
- Disclosures to Purchasers
- Annual Report to City

# District Map



# Cost Estimates

- Administrative & Miscellaneous
  - \$1,390,402
- Earthwork
  - \$251,576
- Streets
  - \$1,258,487
- Sewer
  - \$93,882

- Water
  - \$297,603
- Storm
  - \$844,483
- Offsite Improvements
  - \$1,344,058

**TOTAL COST ESTIMATE**  
**\$5,480,492**

# Financial Plan

7.00% Rate      Series 2018

Issue	Term	Repayment Source	Par Amount	Project Fund Proceeds at Close
Series 2018	30 Year Term	Comm.	\$6,835,000	\$5,660,725
Total			\$6,835,000	\$5,660,725

- 1 .      Cover Page
- 2 .      Schedule of Revenue & Debt Service
- 3 .      Schedule of Operating Mill Levy & Expense
- 4 .      Commercial Development
- 5 .      Commercial Development - Page 2 of 2
- 6 .      Assessed Value Summary
- 7 .      Debt Service Schedule
- 8 .      Sources and Uses of Funds

Series 2018	Comm.

# Statutory Findings

- 1. There is sufficient existing and projected need for organized service in the area to be served by the proposed Districts.
  - The Financial Plan projects a total of 645,000 square feet of commercial development

# Statutory Findings

- 2. The existing service in the area to be served by the proposed Districts is inadequate for present and projected needs.
  - No other entities are offering to finance costs for public infrastructure for the Project.
  - Loveland-Fort Collins Water District and South Fort Collins Sanitation District can provide retail services with facilities that are dedicated to them – but not financing for facilities.

# Statutory Findings

- 3. The proposed Districts are capable of providing economical and sufficient service to the area within their proposed boundaries.
  - The Financial Plan shows ability to finance \$5,480,492 in improvement costs, together with District operating expenses from a combined maximum mill levy of not more than 39 mills.

# Statutory Findings

- 4. The area to be included within the proposed Districts has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.
  - The Financial Plan describes the manner in which the Districts will be able to reasonably discharge their debt from a mill levy not to exceed 39 mills.

# Discretionary Findings

- 5. Adequate service is not or will not be available to the area through the City or other existing municipal or quasi-municipal corporations within a reasonable time and on a comparable basis.
  - Neither the City nor any other entity is offering to finance the costs of public infrastructure for the Project. Ongoing services will be provided by the City, the Loveland-Fort Collins Water District, and the South Fort Collins Sanitation District but the Districts are not proposing to offer these services.

# Discretionary Findings

- 6. The facility and service standards of the proposed Districts are compatible with the facility and service standards of the City.
  - All Public Improvements are subject to compliance with City design standards.

# Discretionary Findings

- 7. The proposal is in substantial compliance with any Master Plan adopted by the City pursuant to C.R.S. Section 31-23-206, as amended.
  - A review of the Master Plan adopted in 2005, shows the area of the Project with the “Commercial Corridor” in the Land Use Plan, as adopted in 2007. The Project is therefore consistent with the Master Plan.

# Discretionary Findings

- 8. The proposal is in substantial compliance with any duly adopted City, County, regional and State long-range water quality management plans for the area.
  - Since retail water and sanitation service is being provided by the Loveland-Fort Collins Water District and the South Fort Collins Sanitation District, and service through such entities is subject to water quality management plans for the area, the Proposal is in substantial compliance

# Discretionary Findings

- 9. The creation of the proposed Districts will be in the best interests of the area proposed to be served.
  - Serves the best interest of the Project by permitting financing public infrastructure on a long-term basis from reasonable mill levies.
  - Provides debt capacity for financing other onsite and offsite public improvements that may be needed in support of the proposed RTA.

**RESOLUTION #R-\_\_\_\_****A RESOLUTION OF THE LOVELAND CITY COUNCIL APPROVING  
THE SERVICE PLAN FOR EAGLE CROSSING-LOVELAND  
METROPOLITAN DISTRICT NOS. 1-4**

**WHEREAS**, pursuant to C.R.S. Section 32-1-204.5, as amended, the Service Plan for Eagle Crossing-Loveland Metropolitan District Nos. 1-4 (the “Districts”) has been submitted to the City Council (the “City Council”) of the City of Loveland, Colorado (the “City”); and

**WHEREAS**, a copy of said Service Plan is attached hereto as Exhibit A and incorporated herein by reference (the “Service Plan”); and

**WHEREAS**, the boundaries of the proposed Districts are wholly contained within the boundaries of the City; and

**WHEREAS**, notice of the hearing before the City Council for its consideration of the Service Plan was duly published in the *Loveland Reporter-Herald* on August 27, 2014, as required by law, as evidenced by the “Affidavit of Publication” attached hereto as Exhibit B and incorporated herein by reference; and

**WHEREAS**, notice of the hearing before the City Council was also duly mailed by first class mail on August 29, 2014 to interested persons, defined as follows: (1) the Colorado Division of Local Government; and (2) the governing body of any municipality or special district which has levied an ad valorem tax within the next preceding tax year, and which has boundaries within a radius of three miles of the proposed Districts’ boundaries, as evidenced by the Certificate of Mailing attached hereto as Exhibit C and incorporated herein by reference; and

**WHEREAS**, pursuant to the provisions of Title 32, Article 1, C.R.S., as amended, the City Council held a public hearing on the Service Plan for the proposed Districts on September 16, 2014; and

**WHEREAS**, the City Council considered the Service Plan, and all other testimony and evidence presented at said hearing.

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

**Section 1.** That the hearing before the City Council was open to the public; that all interested parties were heard or had the opportunity to be heard; and that all relevant testimony and evidence submitted to the City Council was considered.

**Section 2.** That evidence satisfactory to the City Council for finding each of the following was presented at the hearing:

- a.** there is sufficient existing and projected need for organized service in the area to be served by the proposed Districts;
- b.** the existing service in the area to be served by the proposed Districts is inadequate for present and projected needs;
- c.** the proposed Districts is capable of providing economical and sufficient service to the area within its proposed boundaries;
- d.** the area to be included within the proposed Districts has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis;
- e.** adequate service is not or will not be available to the area through the City or other existing municipal or quasi-municipal corporations within a reasonable time and on a comparable basis;
- f.** the facility and service standards of the proposed Districts are compatible with the facility and service standards of the City;
- g.** the proposal is in substantial compliance with any Master Plan adopted by the City pursuant to C.R.S. Section 31-23-206, as amended;
- h.** the proposal is in substantial compliance with any duly adopted City, County, regional and State long-range water quality management plans for the area; and
- i.** the creation of the proposed Districts will be in the best interests of the area proposed to be served.

**Section 3.** That the City Council hereby determines that the requirements of C.R.S. Sections 32-1-202 (1), (2) and (3), relating to the filing of the Service Plan for the Districts, and the requirements of C.R.S. Sections 32-1-204 (1) and (1.5), relating to notice of the hearing by the City Council, and the requirements of C.R.S. Section 32-1-204.5, relating to the approval by the City Council, have been fulfilled in a timely manner.

**Section 4.** That the City Council hereby approves the Service Plan for the Districts as submitted.

**Section 5.** That a certified copy of this Resolution shall be filed in the records of the City and the Larimer County Clerk and Recorder, and submitted to the petitioners under the Service Plan for the purpose of filing in the Districts Court of Larimer County.

**Section 6.** That the City Council's findings in this Resolution and its approval of the Service Plan are conditioned upon the proponents of the Service Plan having reimbursed the City for all the charges and fees it has incurred with its bond counsel and public finance consultant relating to their review of the Service Plan and creation of the Districts.

**Section 7.** That nothing herein limits the City's powers with respect to the Districts, the property within the Districts, or the improvements to be constructed by the Districts.

**Section 8.** That the City's findings are based solely on the evidence in the Service Plan and such other evidence presented at the public hearing, and the City has not conducted any independent investigation of the evidence. The City makes no guarantee as to the financial viability of the Districts or the achievability of the results as set forth in the Service Plan.

**Section 9.** That this Resolution shall be effective as of the date of its adoption.

**ADOPTED** this 16<sup>th</sup> day of September, 2014.

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Cecil A. Gutierrez, Mayor

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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*Shane L. Olters*  
Assistant City Attorney

**EXHIBIT A**

Service Plan for Eagle Crossing-Loveland Metropolitan District Nos. 1-4

**SERVICE PLAN**

**FOR**

**EAGLE CROSSING-LOVELAND METROPOLITAN DISTRICT  
NOS. 1-4**

**CITY OF LOVELAND, COLORADO**

Prepared

by

WHITE BEAR ANKELE TANAKA & WALDRON  
2154 E. Commons Ave, Suite 2000  
Centennial, CO 80122  
(303) 858-1800

September 4, 2014

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## **EXHIBITS**

**EXHIBIT A** Initial District Boundary Legal Descriptions

**EXHIBIT B** Vicinity Map

**EXHIBIT C-1** Initial District Boundary Maps

**EXHIBIT C-2** Inclusion Area Boundary Legal Description and Map

**EXHIBIT D** Preliminary Infrastructure Plan

**EXHIBIT E** Map Depicting Public Improvements

**EXHIBIT F** Financial Plan

## I. **INTRODUCTION**

### A. Purpose and Intent.

The Districts are independent units of local government, separate and distinct from the City and, except as may otherwise be provided for by State or local law or this Service Plan, their activities are subject to review by the City if they deviate in a material way from the requirements of this Service Plan. It is intended that the Districts will provide a part or all of various District Activities necessary and appropriate for the development of the Project. The District Activities will be provided for the use and benefit of all anticipated inhabitants and taxpayers of the Districts and the general public, subject to such policies, rules and regulations as may be permitted under applicable law. A primary purpose of the Districts will be to finance the construction of the Public Improvements. The Districts would also be authorized to provide ongoing operations and maintenance services to the extent the Public Improvements are not accepted by other governmental entities for operations and maintenance.

### B. Need for the Districts.

1. *The creation of the proposed Districts will be in the best interests of the area proposed to be served.* At this time, the City does not intend to finance or construct any streets, safety protection, water, sanitation, storm drainage in the areas to be served. As a result, the Districts are the best (and only) alternative to provide these facilities and services within a time frame calculated to serve the Project and the City.

2. *Adequate service is not, nor will be, available to the area through the City, Larimer County (the "County") or other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis.* The City does not plan to finance or construct the facilities or provide the proposed services to or for the Project. The service area is entirely within the boundaries of the City so County-provided facilities or services are not a reasonable alternative. Except for Water and Sanitation service provided by the Loveland-Fort Collins Water District and South Fort Collins Sanitation District, respectively, there are no other quasi-municipal entities that can or are willing to provide the facilities or services to the Project. These latter Districts do not provide financing for Project infrastructure, but accept water and sanitation facilities for ongoing operations.

3. *There is sufficient existing and projected need for organized service in the area to be serviced by the proposed Districts.* The need for the services and facilities is supported by the growth projected to occur within the Project.

4. *The existing service in the area to be served by the proposed Districts is inadequate for present and projected needs.* Except for Water and Sanitation service provided by the Loveland-Fort Collins Water District and South Fort Collins Sanitation District, respectively (which only applies to retail water and sanitation service), there is no existing service in the area to be served, and no means to provide needed public improvements absent the Districts. Therefore, the existing service is inadequate to serve the immediate and projected needs of the Project.

**C. Objectives of the Service Plan.**

One of the objectives of the Service Plan is to authorize the Districts to provide for the planning, design, acquisition, construction, installation, relocation and redevelopment of the Public Improvements from the proceeds of Debt to be issued by the Districts. All Debt is expected to be repaid by taxes at a mill levy no higher than the Maximum Debt Mill Levy and other legally available revenues of the Districts. Debt which is issued within these parameters, as further described in the Financial Plan, will insulate property owners from excessive tax burdens to support the servicing of the Debt and will result in a timely and reasonable discharge of the Debt.

A further objective of the Service Plan is to authorize the Districts to undertake operations and maintenance functions for Public Improvements that are not dedicated to the City or to another appropriate governmental entity to perform such functions.

It is the intent of the Districts to dissolve upon payment or defeasance of all Debt incurred, except where continuing operations or maintenance functions exist.

The Districts shall also be authorized to finance the District Activities that can be funded from Debt to be repaid from tax revenues collected from a mill levy which shall not exceed the Maximum Debt Mill Levy and other legally available revenues of the Districts.

**II. DEFINITIONS**

In this Service Plan, the following terms shall have the meanings indicated below, unless the context hereof clearly requires otherwise:

**Board or Boards:** means the board of directors of one District or the boards of directors of all Districts, collectively.

**Bond, Bonds or Debt:** means general obligation or revenue bonds, notes, contracts, agreements, certificates of indebtedness, interim certificates or receipts, or other documents or instruments evidencing loans or advances to any District with a term longer than one fiscal year, or not otherwise subject to annual appropriation.

**City:** means the City of Loveland, Colorado.

**City Council:** means the City Council of the City of Loveland, Colorado.

**Coordinating District:** means District No. 1.

**District:** means any one of the Eagle Crossing-Loveland Metropolitan District Nos. 1-4.

**District Activities:** means any and all services, functions, and powers that special districts organized under the Special District Act may provide, perform or exercise, in connection with the provision of the Public Improvements as further defined in Section V.A below, and including but not limited to those described in **Exhibit D** and depicted in **Exhibit E**.

District Boundaries: means the boundaries of the Districts as described in the Initial District Boundary Maps and the Inclusion Area Boundary Maps.

District No. 1: means the Eagle Crossing-Loveland Metropolitan District No. 1.

District No. 1 Initial District Boundaries: means the boundaries of District No. 1 as described in **Exhibit A**, attached hereto and as depicted on the District No. 1 Initial District Boundary Map.

District No. 1 Initial District Boundary Map: means the map attached hereto within **Exhibit C-1** depicting the initial boundaries of District No. 1.

District No. 2: means the Eagle Crossing-Loveland Metropolitan District No. 2

District No. 2 Initial District Boundaries: means the initial boundaries of District No. 2 as described in **Exhibit A**, attached hereto and as depicted on the District No. 2 Initial District Boundary Map.

District No. 2 Initial District Boundary Map: means the map attached hereto within **Exhibit C-1** depicting the initial boundaries of District No. 2.

District No. 3: means the Eagle Crossing-Loveland Metropolitan District No. 3.

District No. 3 Initial District Boundaries: means the initial boundaries of District No. 3 as described in **Exhibit A**, attached hereto and as depicted on the District No. 3 Initial District Boundary Map.

District No. 3 Initial District Boundary Map: means the map attached hereto within **Exhibit C-1** depicting the initial boundaries of District No. 3.

District No. 4: means the Eagle Crossing-Loveland Metropolitan District No. 4.

District No. 4 Initial District Boundaries: means the initial boundaries of District No. 4 as described in **Exhibit A**, attached hereto and as depicted on the District No. 4 Initial District Boundary Map.

District No. 4 Initial District Boundary Map: means the map attached hereto within **Exhibit C-1** depicting the initial boundaries of District No. 4.

Districts: means District Nos. 1-4, collectively.

Financial Plan: means the Financial Plan described in Section VI, below, and attached hereto in **Exhibit F**, which describes: (i) how the Public Improvements are to be financed; (ii) how the Debt is expected to be incurred; and (iii) the estimated operating revenue derived from property taxes for the first budget year.

Financing Districts: means District Nos. 2 through 4.

Inclusion Area Boundaries: means the property described in **Exhibit C-2** describing additional property that may be included into the boundaries of the Districts.

Inclusion Area Boundaries Map: means the map attached hereto within **Exhibit C-2** describing additional property that may be included into the boundaries of the Districts.

Initial District Boundaries: means the District No. 1 Initial District Boundaries, the District No. 2 Initial District Boundaries, the District No. 3 Initial District Boundaries, and the District No. 4 Initial District Boundaries collectively.

Maximum Aggregate Mill Levy: means the maximum mill levy the Districts are permitted to impose for payment of Debt, capital improvements costs, administration, operations, and maintenance expenses as set forth in Section VI.C below.

Maximum Debt Authorization: means the total Debt the Districts are permitted to issue as set forth in Section V.A.17 below.

Maximum Debt Mill Levy: means the maximum mill levy any individual District is permitted to impose for payment of Debt as set forth in Section VI.C below.

Maximum Operations Mill Levy: means the maximum mill levy any individual District is permitted to impose for administration, operations and maintenance, and capital expenditures as set forth in Section VI.C below.

Municipal Code: means the Loveland Municipal Code of the City of Loveland, Colorado.

Project: means the development or property commonly referred to as Eagle Crossing, consisting of an area including approximately 50 acres within the City of Loveland, generally located at the north-west quadrant of the intersection of Fairgrounds Avenue and Crossroads Boulevard, in Loveland, Colorado.

Public Improvements: means those improvements permitted under the Special District Act as further defined in Section V.A below, including but not limited to those described in **Exhibit D** and depicted in **Exhibit E**.

Service Area: means the property within the Initial District Boundaries and Inclusion Area Boundaries.

Service Plan: means this Service Plan.

Special District Act: means Section 32-1-101, *et seq.*, of the Colorado Revised Statutes, as amended from time to time.

State: means the State of Colorado.

TABOR: means Article X Section 20 of the Colorado Constitution.

### III. **BOUNDARIES**

The area of the Initial District Boundaries includes approximately 1 acre and the total area to be included in the Inclusion Area Boundaries is approximately 49 acres. A legal description of the Initial District Boundaries is attached hereto as **Exhibit A**. A map of the Initial District Boundaries is attached hereto as **Exhibit C-1** and a map of the Inclusion Area Boundaries is attached hereto as **Exhibit C-2**. A vicinity map is attached hereto as **Exhibit B**. It is anticipated that the District Boundaries may change from time to time as inclusions and exclusions occur pursuant to Section 32-1-401, et. seq., C.R.S., and Section 32-1-501, et. seq., C.R.S., subject to the limitations set forth in this Service Plan.

### IV. **PROPOSED LAND USE/POPULATION PROJECTIONS/ASSESSED VALUATION**

The Project area consists of approximately 50 acres of land. The project is currently zoned Developing Industrial, with up to 645,000 square feet of commercial development. The details of the future commercial development are still in the planning phase, but are expected to consist of office, retail, restaurant, and hotel developments. Additionally, the Project is part of the area under study by the City of a proposed Regional Tourism Authority and planning for construction will ultimately reflect the outcome of that effort. The assessed valuation of the Project area is assumed to be -0- for purposes of this Service Plan. The anticipated population at build-out is -0- persons.

Approval of this Service Plan by the City does not imply approval of the development of a specific area within the Districts, nor does it imply approval of the total site/floor area of commercial or industrial buildings. Notwithstanding anything contained in this Service Plan to the contrary, the District shall be subject to and comply with all applicable provisions of the City's Charter, code, ordinances, resolutions, rules, regulations, standards and policies.

### V. **DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES**

#### A. Powers of the Districts and Service Plan Amendment.

The Districts shall have the power and authority to provide the District Activities within and without the boundaries of the Districts as such power and authority is described in the Special District Act, and other applicable statutes, common law and the Constitution, subject to the limitations set forth in this Service Plan.

1. Sanitation. The design, acquisition, installation, construction, financing, operation, and maintenance of storm or sanitary sewers, or both, flood and surface drainage improvements including but not limited to, culverts, dams, retaining walls, access ways inlets, detention ponds and paving, roadside swales and curb and gutter, wastewater lift stations, force mains and wetwell storage facilities, and all necessary or proper equipment and appurtenances incident thereto, together with all necessary, incidental and appurtenant facilities, land and easements, and all necessary extensions of and improvements to said facilities or systems.

2. Water. The design, acquisition, installation, construction, financing of a complete potable water and non-potable irrigation water system, including but not limited to, water rights, water supply, transmission and distribution systems for domestic and other public or private purposes, together with all necessary and proper water rights, equipment and appurtenances incident thereto which may include, but shall not be limited to, transmission lines, distribution mains and laterals, storage facilities, land and easements, together with extensions of and improvements to said systems.

3. Streets. The design, acquisition, installation, construction, financing, operation, and maintenance of street and roadway improvements, including but not limited to curbs, gutters, culverts, storm sewers and other drainage facilities, detention ponds, retaining walls and appurtenances, as well as sidewalks, bridges, parking facilities, paving, lighting, grading, landscaping, under grounding of public utilities, snow removal equipment, or tunnels and other street improvements, together with all necessary, incidental, and appurtenant facilities, land and easements together with extension of and improvements to said facilities.

4. Traffic and Safety Controls. The design, acquisition, installation, construction, financing, operation, and maintenance of traffic and safety protection facilities and services through traffic and safety controls and devices on arterial streets and highways, as well as other facilities and improvements including but not limited to, signalization at intersections, traffic signs, area identification signs, directional assistance, and driver information signs, together with all necessary, incidental, and appurtenant facilities, land easements, together with extensions of and improvements to said facilities.

5. Parks and Recreation. The design, acquisition, installation, construction, financing, operation, and maintenance of public park and recreation facilities or programs including, but not limited to, grading, soil preparation, sprinkler systems, splashpads, common area landscaping and weed control, outdoor lighting of all types, community events, and other facilities, together with all necessary, incidental and appurtenant facilities, land and easements, and all necessary extensions of and improvements to said facilities or systems.

6. Transportation. The design, acquisition, installation, construction, financing, operation, and maintenance of public transportation system improvements, including transportation equipment, park and ride facilities and parking lots, parking structures, roofs, covers, and facilities, including structures for repair, operations and maintenance of such facilities, together with all necessary, incidental and appurtenant facilities, land and easements, and all necessary extensions of and improvements to said facilities or systems.

7. Television Relay and Translator. The design, acquisition, construction, completion, installation, financing, and/or operation and maintenance of television relay and translator facilities, including but not limited to cable television and communication facilities, together with all necessary, incidental and appurtenant facilities, land and easements, and all necessary extensions of and improvements to said facilities.

8. Mosquito and Pest Control. The design, acquisition, installation, construction, financing, operation, and maintenance of systems and methods for the elimination and control of mosquitoes, rodents and other pests.

9. Security. The Districts shall have the power to furnish security services for any area within the Districts' boundaries. Prior to furnishing any security services, the Districts shall provide written notification to, consult with, and obtain the prior written consent of the City's Chief of Police and any applicable master association or similar body having authority in its charter or declaration to furnish security services within the Districts' boundaries.

10. Covenant Enforcement. The Districts shall have the power to provide covenant enforcement and design review services within the Districts.

11. Legal Powers. The powers of the Districts will be exercised by their boards of directors to the extent necessary to provide the Public Improvements and District Activities contemplated in this Service Plan. The foregoing Public Improvements and District Activities will be undertaken in accordance with, and pursuant to, the procedures and conditions contained in the Special District Act, other applicable statutes, and this Service Plan, as any or all of the same may be amended from time to time.

12. Other. In addition to the powers enumerated above, the boards of directors of the Districts shall also have the following authority:

a. To amend this Service Plan as needed, subject to the appropriate statutory procedures, provided that any material modification of this Service Plan shall be made only with the prior written approval of the City Council in accordance with Section 32-1-207, C.R.S. Each District shall have the right to amend this Service Plan independent of participation of the other Districts; provided, that a District shall not be permitted to amend those portions of this Service Plan which affect, impair, or impinge upon the rights or powers of another District without such other District's consent; and

b. To forego, reschedule, or restructure the financing and construction of certain improvements and facilities, in order to better accommodate the pace of growth, resource availability, and potential inclusions of property within the Districts, or if the development of the improvements and facilities would best be performed by another entity; and

c. Except as otherwise limited in this Service Plan, to exercise all necessary and implied powers under Title 32, C.R.S. in the reasonable discretion of the boards of directors of the Districts as necessary to further the exercise of the powers expressly authorized by this Service Plan.

13. Operations and Maintenance Limitation. One of the primary purposes of the Districts is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. Public Improvements for Water and Sanitation will or have been dedicated to the Loveland-Fort Collins Water District and South Fort Collins Sanitation District, respectively, for ongoing operations and maintenance. Certain Public Improvements may also be designated by the City for dedication to the City or other governmental entity in accordance with future development agreements or development approvals. In such event, the Districts shall dedicate the designated Public Improvements to the City or other appropriate jurisdiction in a manner consistent with rules and regulations of the City and applicable provisions of the Loveland Municipal Code, or according to the particular development agreement or approval.

Notwithstanding the foregoing, the Districts shall have the right to operate and maintain Public Improvements not dedicated to the City or other appropriate governmental entity.

14. Construction Standards Limitation. The Public Improvements shall be designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having proper jurisdiction, as applicable. The Districts will obtain the City's approval of civil engineering plans for any offsite Public Improvements and applicable permits for construction and installation of all Public Improvements prior to performing such work.

15. Inclusion Limitation. The Districts shall not include within any of their boundaries any property outside the Service Area without the prior written consent of the City Council.

16. Exclusion Limitation. No property may be excluded from a District which has issued Debt and included in another District without the City's consent.

17. Maximum Debt Authorization Limitation. The Districts shall not issue Debt in excess of \$10 Million. This is a combined limit for all Districts and is not a separate \$10 Million limit for each District. Debt may be restructured to accomplish a refunding or reissuance, provided the principal amount of the Debt does not exceed the Maximum Debt Authorization; so as to avoid the "double counting" of any Debt. Excluded from this limitation is any agreement by which one or more of the Districts pledges revenue to payment of Debt issued by any other District or Districts.

18. Subdistrict Limitation. No subdistricts shall be created without City consent.

19. Condemnation Limitation. Absent the prior written approval of the City, the Districts shall not exercise their statutory power of eminent domain with respect to property outside their boundaries.

20. Overlapping Districts.

The District Boundaries overlap the Loveland-Fort Collins Water District. The Districts are not authorized to provide retail water service within the Service Area to the extent such service is provided by Loveland-Fort Collins Water District. The Districts are authorized in this Service Plan to finance the costs of water improvements necessary to serve the Project. To the extent required under Section 32-1-107, C.R.S. the Districts shall obtain any required consent of Loveland-Fort Collins Water District to the overlap of the District Boundaries.

The District Boundaries overlap the South Fort Collins Sanitation District. The Districts are not authorized to provide retail sanitation service within the Service Area to the extent such service is provided by the South Fort Collins Sanitation District. The Districts are authorized in this Service Plan to finance the costs of sanitation improvements necessary to serve the Project. To the extent required under Section 32-1-107, C.R.S. the Districts shall obtain any required consent of South Fort Collins Sanitation District to the overlap of the District Boundaries.

21. Bankruptcy Limitation. All of the limitations contained in this Service Plan, including, but not limited to, those pertaining to the Maximum Debt Mill Levy, Maximum Operations Mill Levy, and Maximum Aggregate Mill Levy have been established under the authority of the City to approve this Service Plan with conditions pursuant to Section 32-1-204.5, C.R.S. It is expressly intended that such limitations:

a. Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Service Plan Amendment; and

b. Are, together with all other requirements of Colorado law, included in the “political or governmental powers” reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the “regulatory or electoral approval necessary under applicable non-bankruptcy law” as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Debt Mill Levy, shall be deemed a material modification of this Service Plan pursuant to Section 32-1-207, C.R.S. and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the City as part of a Service Plan Amendment.

22. Service Plan Amendment Requirement. This Service Plan has been designed with sufficient flexibility to enable the Districts to provide required services and facilities under evolving circumstances without the need for numerous amendments. Actions of the Districts which violate the limitations set forth in Sections V.A.1-20 above or in Section VI.B-E shall be deemed to be material modifications to this Service Plan and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the Districts. Nothing shall prohibit the Districts from issuing notices to the City of potential actions that might be considered material modifications, as permitted in Section 32-1-207(3)(b), C.R.S., and any such actions that are made the subject of such notices shall not be considered material modifications unless the City objects as provided in said statutory section.

#### B. Preliminary Engineering Survey.

The Districts shall have authority to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, maintenance and financing of the Public Improvements within and without the boundaries of the Districts. The Districts may, under this Service Plan, expand or contract their improvement construction plans and services provided. The Preliminary Infrastructure Plan, including: (1) a list of the Public Improvements to be developed by the District; and (2) an estimate of the cost of the Public Improvements is attached hereto as **Exhibit D**. An estimate of the costs of the Public Improvements which may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, maintained or financed was prepared based upon a preliminary engineering survey and estimates derived from the zoning on the property in the Service Area and is approximately \$5.5 million. Those Public Improvements the District anticipates under the Preliminary Infrastructure Plan are depicted in the Map Depicting Future Public Improvements, attached hereto as **Exhibit E**.

All of the Public Improvements will be designed in such a way as to assure that the Public Improvements standards will be compatible with those of the City. All construction cost estimates are based on the assumption that construction conforms to applicable local, State or Federal requirements.

C. Multiple District Structure.

It is anticipated that the Districts, collectively, will undertake the financing and provision of the District Activities. The nature of the functions and services to be provided by each District is expected to be established in one or more intergovernmental agreements between and among the Districts. Such agreements will be designed to help assure the orderly development of the District Activities in accordance with the requirements of this Service Plan. Implementation of such intergovernmental agreements is essential to the orderly implementation of this Service Plan.

VI. FINANCIAL PLAN

A. General.

The Districts shall be authorized to conduct the District Activities using any legally available revenue source or financing mechanism permitted under the Special District Act. The Financial Plan for the Districts shall be to issue such Debt as the Districts can reasonably pay from revenues derived from the Maximum Debt Mill Levy and other legally available revenues of the Districts. The total combined Debt that the Districts shall be permitted to issue shall not exceed \$10 million dollars, which Debt shall be permitted to be issued on a schedule and in such year or years as the Coordinating District determines shall meet the needs of the Financial Plan referenced above and shall be phased to serve development as it occurs. All Debt issued by the Districts may be payable from any and all legally available revenues of the Districts. The total Debt authorization is supported by the Financial Plan attached hereto as **Exhibit F**. For purposes of the Financing Plan, assumptions have been made concerning the initial phase of commercial development, rather than projecting specific buildout for the entire Project. This was done in order to demonstrate that the Districts would have the financial ability to discharge proposed indebtedness and otherwise meet its expenses at reasonable mill levies and without undue reliance on longer term projections. It is anticipated that the developer of the Project and/or other parties may incur costs for District Activities, either in the form of direct payments for such costs, or by means of advances to the Districts; these direct payments and/or advances shall be reimbursable by the Districts from Debt, contractual reimbursement agreements and/or any legally available revenue source.

B. Maximum Voted Interest Rate and Maximum Underwriting Discount.

The interest rate on any Debt is expected to be the market rate at the time the Debt is issued. The proposed maximum interest rate on any Debt may not exceed 12%. The proposed maximum underwriting discount may not exceed 5%. Debt, when issued, will comply with all relevant requirements of this Service Plan, State law and Federal law as then applicable to the issuance of public securities.

C. Maximum Mill Levies.

1. The “Maximum Debt Mill Levy” shall be the maximum mill levy a District is permitted to impose upon the taxable property within such District for payment of Debt, and shall be thirty-nine (39) mills. If there are changes in the method of calculating assessed valuation or any constitutionally mandated or statutorily authorized tax credit, cut or abatement; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2014, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation to assessed valuation shall be deemed to be a change in the method of calculating assessed valuation.

2. The “Maximum Operations and Maintenance Mill Levy” shall be the maximum mill levy the Districts are permitted to impose upon the taxable property within the Districts for payment of administration, operations, maintenance, and capital improvements costs, and shall be thirty-nine (39) mills. If there are changes in the method of calculating assessed valuation or any constitutionally mandated or statutorily authorized tax credit, cut or abatement; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2014, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation to assessed valuation shall be deemed to be a change in the method of calculating assessed valuation.

3. The “Maximum Aggregate Mill Levy” shall be the maximum mill levy the District is permitted to impose upon the taxable property within the District for payment of Debt, capital improvements costs, and administration, operations, and maintenance costs, and shall be thirty-nine (39) mills. However, if, on or after January 1, 2014, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement, the preceding mill levy limitations may be increased or decreased to reflect such changes, with such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2014, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation to assessed valuation shall be deemed to be a change in the method of calculating assessed valuation. By way of example, if a District has imposed a Debt mill levy of 30 mills, the maximum operations and maintenance mill levy that it can simultaneously impose is 9 mills.

D. Revenues.

Each of the Districts may impose a mill levy on taxable property within its boundaries as a source of revenue for repayment of Debt and for operations and maintenance, but in no event shall the mill levy exceed the limits in section VI.C. The Districts may also rely

upon various other revenue sources authorized by law, and upon grants, donations or advances from public or private parties. At the Districts' discretion, these may include the power to assess fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(1)(j), C.R.S., as amended from time to time.

**E. Security for Debt.**

The Districts shall not pledge any revenue or property of the City as security for the indebtedness set forth in this Service Plan. Approval of this Service Plan shall not be construed as a guarantee by the City of payment of any of the Districts' obligations; nor shall anything in this Service Plan be construed so as to create any responsibility or liability on the part of the City in the event of default by the Districts in the payment of any such obligation. All Debt instruments entered into by a District shall provide that the District's obligations thereunder shall be discharged forty (40) years after the date such Debt is issued regardless of whether the obligations under such Debt instruments are paid in full.

**F. TABOR Compliance.**

The Districts will comply with the provisions of TABOR. In the discretion of the Board of the Coordinating District, the Districts may set up other qualifying entities to manage, fund, construct and operate facilities, services, and programs. To the extent allowed by law, any entity created by the Districts will remain under the control of the Board of the Coordinating District. Any such entity shall be subject to the limits of this Service Plan.

**G. Districts' Operating Costs.**

The estimated cost of acquiring land, engineering services, legal services and administrative services, together with the estimated costs of the Districts' organization and initial operations, are included within the estimated cost of the Public Improvements set forth in Section V.B, which amounts will be eligible for reimbursement from the proceeds of Debt or other revenues.

The first year's operating budget is estimated to be \$100,000 which is anticipated to be derived from property taxes and other revenues (including developer advances or other payments). The first year's operating budget is an estimate only, and variations from this estimate shall not be considered a material modification of this Service Plan.

**H. Conservation Trust Fund.**

The District shall claim no entitlement to funds from the Conservation Trust Fund, the Great Outdoor Colorado Fund or any other grant monies for which the City may be eligible, without the prior written consent of the City Council.

**VII. ANNUAL REPORT**

**A. General.**

The Districts shall be responsible for submitting an annual report to the City Manager no later than August 1<sup>st</sup> of each year following the year in which the Order and Decree creating the Districts has been issued. The report may be a consolidated report for all Districts.

**B. Reporting of Significant Events.**

The annual report shall include information as to any of the following:

1. Boundary changes made to any Districts' boundary as of December 31 of the prior year.

2. Intergovernmental agreements with other governmental entities entered into as of December 31 of the prior year.

3. A list of all facilities and improvements constructed by the Districts that have been dedicated to and accepted by the City as of December 31 of the prior year.

4. The assessed valuation of the Districts for the current year.

5. Current year budget including a description of the Public Improvements to be constructed in such year.

6. Audit of the Districts' financial statements, for the year ending December 31 of the previous year, prepared in accordance with generally accepted accounting principles or audit exemption, if required by law.

7. Notice of any uncured events of default by any District under any Debt instrument, which continue beyond a ninety (90) day period.

**VIII. DISSOLUTION**

Upon an independent determination of the City Council that the purposes for which the Districts were created have been accomplished, the Districts agree to file petitions in the appropriate District Court for dissolution, pursuant to the applicable State statutes. In no event shall a dissolution occur until the Districts have provided for the payment or discharge of all of their outstanding indebtedness and other financial obligations as required pursuant to the Special District Act.

**IX. DISCLOSURE TO PURCHASERS**

The Districts will take steps to cause the developers of the property within the Project to provide written notice at the time of closing to their respective initial purchasers regarding the existence of any taxes, charges or assessments which the Districts may or have the authority to impose under this Service Plan.

**X. CONCLUSION**

It is submitted that this Service Plan for the Districts, as required by Section 32-1-203(2), C.R.S. establishes that:

1. There is sufficient existing and projected need for organized service in the area to be serviced by the Districts;
2. The existing service in the area to be served by the Districts is inadequate for present and projected needs;
3. The Districts are capable of providing economical and sufficient service to the area within its proposed boundaries; and
4. The area to be included in the Districts does have, and will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

**RESPECTFULLY SUBMITTED THIS 4<sup>TH</sup> DAY OF SEPTEMBER, 2014.**

**WHITE BEAR ANKELE TANAKA & WALDRON  
ATTORNEYS AT LAW**

**ATTORNEYS FOR THE PETITIONERS**

**EXHIBIT A**

**INITIAL DISTRICT BOUNDARY LEGAL DESCRIPTIONS**

# EAGLE CROSSING LOVELAND METROPOLITAN DISTRICT 1

## LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN; IN THE CITY OF LOVELAND, LARIMER COUNTY, COLORADO. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE NORTHWEST CORNER OF LOT 1, BLOCK 1, AS SHOWN ON THE PLAT OF EAST LOVELAND INDUSTRIAL, NINETEENTH SUBDIVISION, AS RECORDED AT THE LARIMER COUNTY CLERK AND RECORDER'S OFFICE UNDER RECEPTION NUMBER 20070064705, FROM WHENCE THE NORTHEAST CORNER OF LOT 5, BLOCK 1 OF SAID NINETEENTH SUBDIVISION, BEARS S 89°57'40" E A DISTANCE OF 982.87 FEET;

THENCE ON SAID LINE S 89°57'40" E A DISTANCE OF 105.10 FEET;

THENCE S 00°00'00" E, A DISTANCE OF 165.17 FEET;

THENCE ON THE SOUTH PROPERTY LINE OF LOT 1, BLOCK 1 OF SAID NINETEENTH SUBDIVISION; N 90°00'00" W, A DISTANCE OF 81.32 FEET;

THENCE ON THE WEST PROPERTY LINE OF LOT 1, BLOCK 1 OF SAID NINETEENTH SUBDIVISION; N 08°11'26" W, A DISTANCE OF 166.94 FEET TO THE **POINT OF BEGINNING**.

SAID PARCEL CONTAINS 0.35 ACRES (15,398 SQUARE FEET) MORE OR LESS AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS AND RESTRICTIONS NOW IN USE OR OF RECORD.



# EAGLE CROSSING LOVELAND METROPOLITAN DISTRICT 2

## LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN; IN THE CITY OF LOVELAND, LARIMER COUNTY, COLORADO. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING AT THE NORTHWEST CORNER OF LOT 1, BLOCK 1 AS SHOWN ON THE PLAT OF EAST LOVELAND INDUSTRIAL, NINETEENTH SUBDIVISION, AS RECORDED AT THE LARIMER COUNTY CLERK AND RECORDER'S OFFICE UNDER RECEPTION NUMBER 20070064705, FROM WHENCE THE NORTHEAST CORNER OF LOT 5, BLOCK 1 OF SAID NINETEENTH SUBDIVISION, BEARS S 89°57'40" E A DISTANCE OF 982.87 FEET;**

THENCE ON SAID LINE S 89°57'40" E A DISTANCE OF 105.10 FEET TO THE **POINT OF BEGINNING**;

THENCE ON SAID LINE S 89°57'40" E A DISTANCE OF 93 FEET;

THENCE S 00°00'00" E, A DISTANCE OF 165.10 FEET;

THENCE ON THE SOUTH PROPERTY LINE OF LOT 1, BLOCK 1 OF SAID NINETEENTH SUBDIVISION; N 90°00'00" W, A DISTANCE OF 93.00 FEET;

THENCE N 00°00'00" E, A DISTANCE OF 165.17 FEET TO THE **POINT OF BEGINNING**.

SAID PARCEL CONTAINS 0.35 ACRES (15,357 SQUARE FEET) MORE OR LESS AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS AND RESTRICTIONS NOW IN USE OR OF RECORD.

# EAGLE CROSSING LOVELAND METROPOLITAN DISTRICT 3

## LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN; IN THE CITY OF LOVELAND, LARIMER COUNTY, COLORADO. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE NORTHWEST CORNER OF LOT 1, BLOCK 1 AS SHOWN ON THE PLAT OF EAST LOVELAND INDUSTRIAL, NINETEENTH SUBDIVISION, AS RECORDED AT THE LARIMER COUNTY CLERK AND RECORDER'S OFFICE UNDER RECEPTION NUMBER 20070064705, FROM WHENCE THE NORTHEAST CORNER OF LOT 5, BLOCK 1 OF SAID NINETEENTH SUBDIVISION, BEARS S 89°57'40" E A DISTANCE OF 982.87 FEET;

THENCE ON SAID LINE S 89°57'40" E A DISTANCE OF 198.10 FEET TO THE **POINT OF BEGINNING**;

THENCE ON SAID LINE S 89°57'40" E A DISTANCE OF 93.00 FEET;

THENCE S 00°00'00" E, A DISTANCE OF 165.04 FEET;

THENCE ON THE SOUTH PROPERTY LINE OF LOT 1, BLOCK 1 OF SAID NINETEENTH SUBDIVISION; N 90°00'00" W, A DISTANCE OF 93.00 FEET;

THENCE N 00°00'00" E, A DISTANCE OF 165.10 FEET TO THE **POINT OF BEGINNING**.

SAID PARCEL CONTAINS 0.35 ACRES (15,352 SQUARE FEET) MORE OR LESS AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS AND RESTRICTIONS NOW IN USE OR OF RECORD.

# EAGLE CROSSING LOVELAND METROPOLITAN DISTRICT 4

## LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN; IN THE CITY OF LOVELAND, LARIMER COUNTY, COLORADO. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING AT THE NORTHWEST CORNER OF LOT 1, BLOCK 1 AS SHOWN ON THE PLAT OF EAST LOVELAND INDUSTRIAL, NINETEENTH SUBDIVISION, AS RECORDED AT THE LARIMER COUNTY CLERK AND RECORDER'S OFFICE UNDER RECEPTION NUMBER 20070064705, FROM WHENCE THE NORTHEAST CORNER OF LOT 5, BLOCK 1 OF SAID NINETEENTH SUBDIVISION, BEARS S 89°57'40" E A DISTANCE OF 982.87 FEET;**

THENCE ON SAID LINE S 89°57'40" E A DISTANCE OF 291.1 FEET TO THE **POINT OF BEGINNING**;

THENCE ON SAID LINE S 89°57'40" E A DISTANCE OF 93.00 FEET;

THENCE ON THE EAST PROPERTY LINE OF LOT 1, BLOCK 1 OF SAID NINETEENTH SUBDIVISION; S 00°00'00" E, A DISTANCE OF 164.99 FEET;

THENCE ON THE SOUTH PROPERTY LINE OF LOT 1, BLOCK 1 OF SAID NINETEENTH SUBDIVISION; N 90°00'00" W, A DISTANCE OF 93.00 FEET;

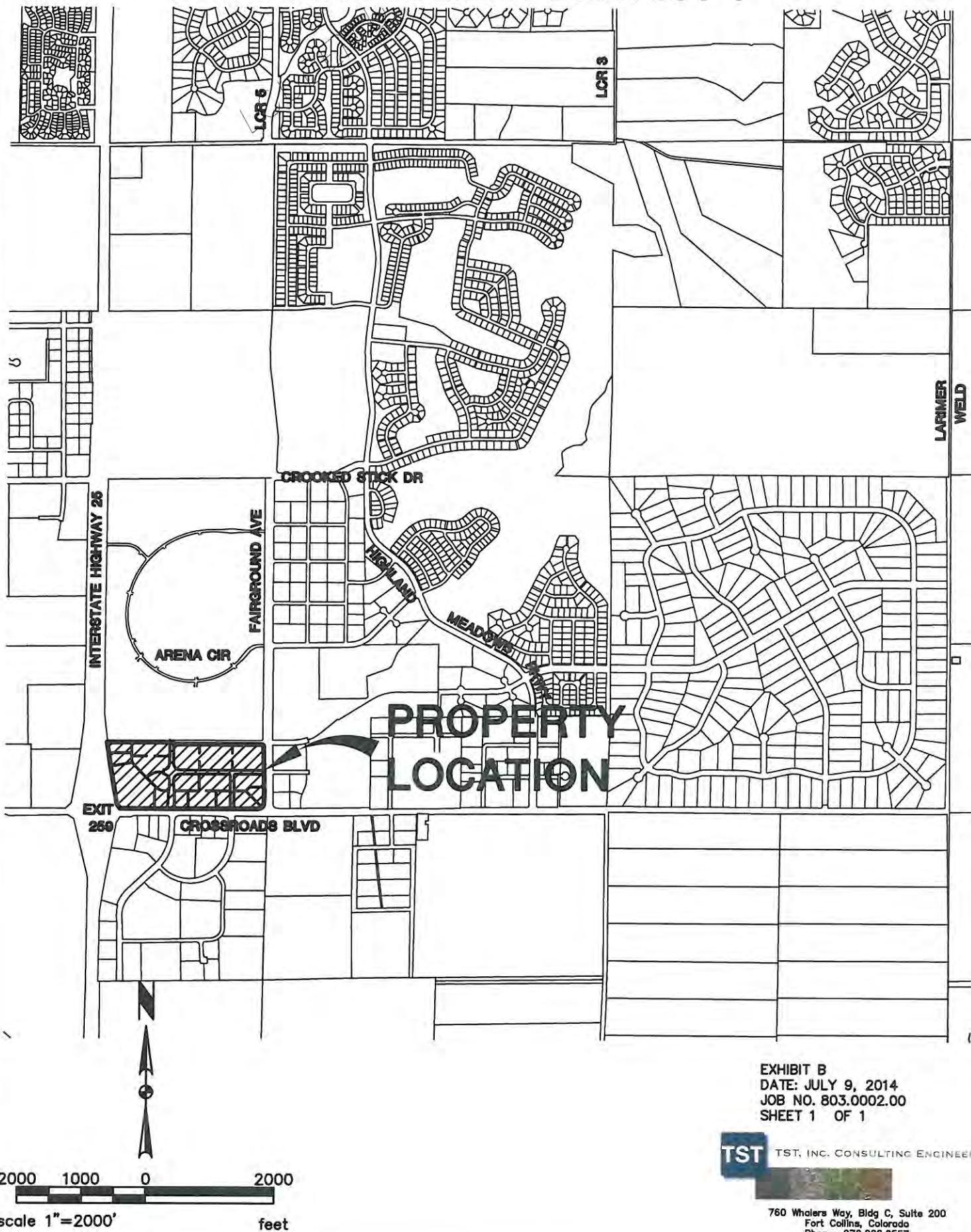
THENCE N 00°00'00" E, A DISTANCE OF 165.04 FEET TO THE **POINT OF BEGINNING**.

SAID PARCEL CONTAINS 0.35 ACRES (15,346 SQUARE FEET) MORE OR LESS AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS AND RESTRICTIONS NOW IN USE OR OF RECORD.



**EXHIBIT B**  
**VICINITY MAP**

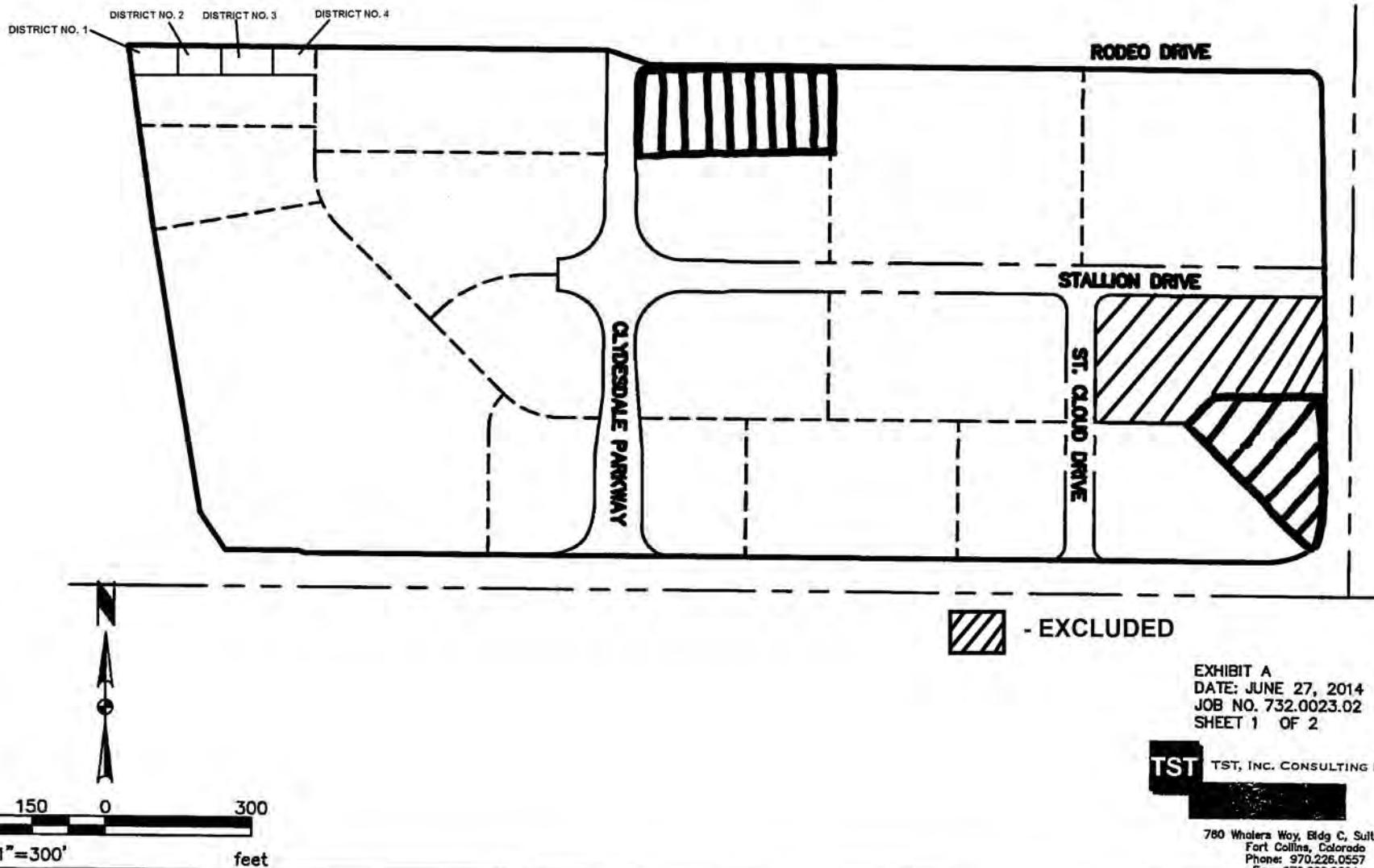
# EAGLE CROSSING LOVELAND METROPOLITAN DISTRICT 1



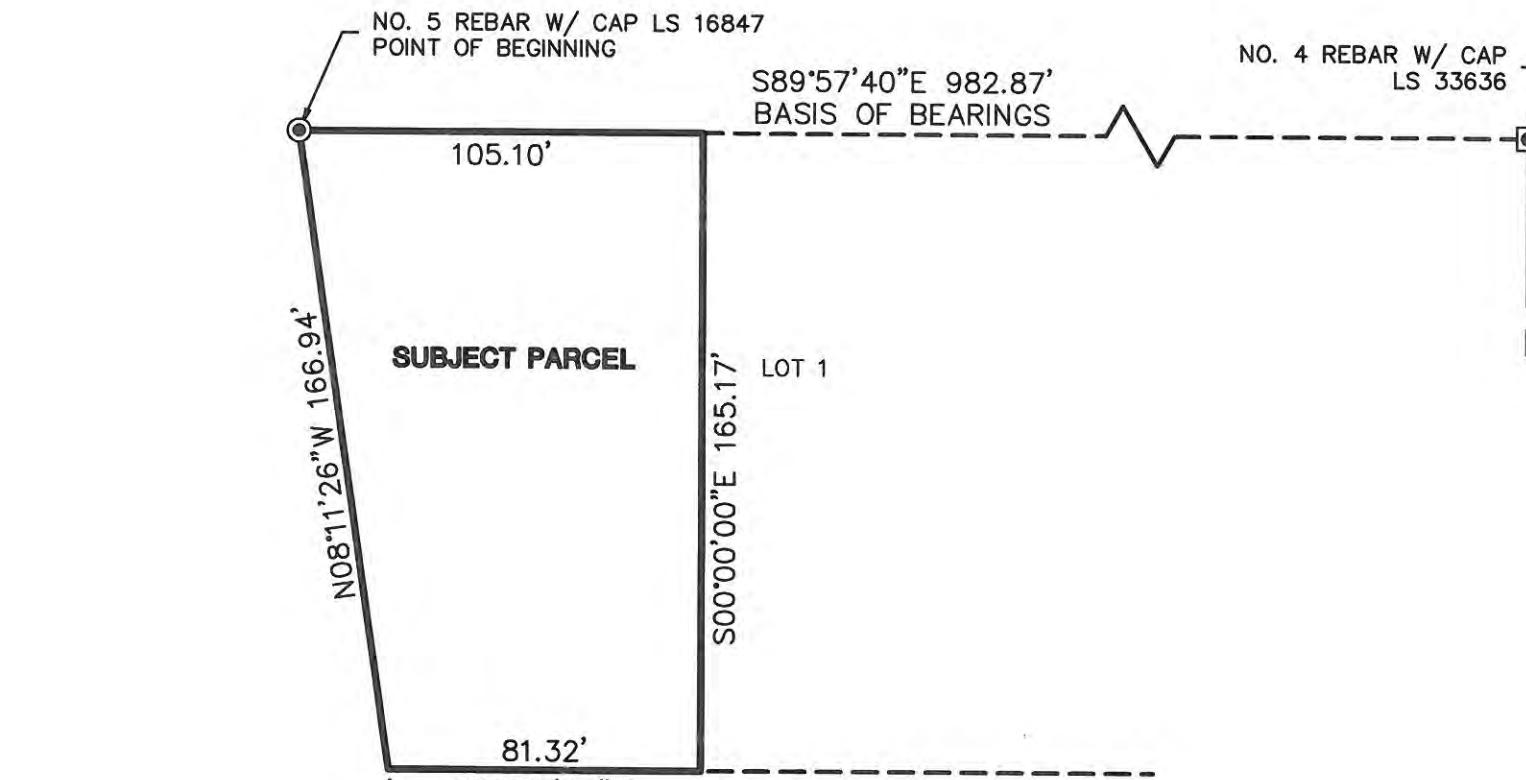
**EXHIBIT C-1**  
**INITIAL DISTRICT BOUNDARY MAPS**

# EAGLE CROSSING LOVELAND METROPOLITAN DISTRICT 1-4

## INITIAL DISTRICT BOUNDARIES



# EAGLE CROSSING LOVELAND METROPOLITAN DISTRICT 1



LOT 2

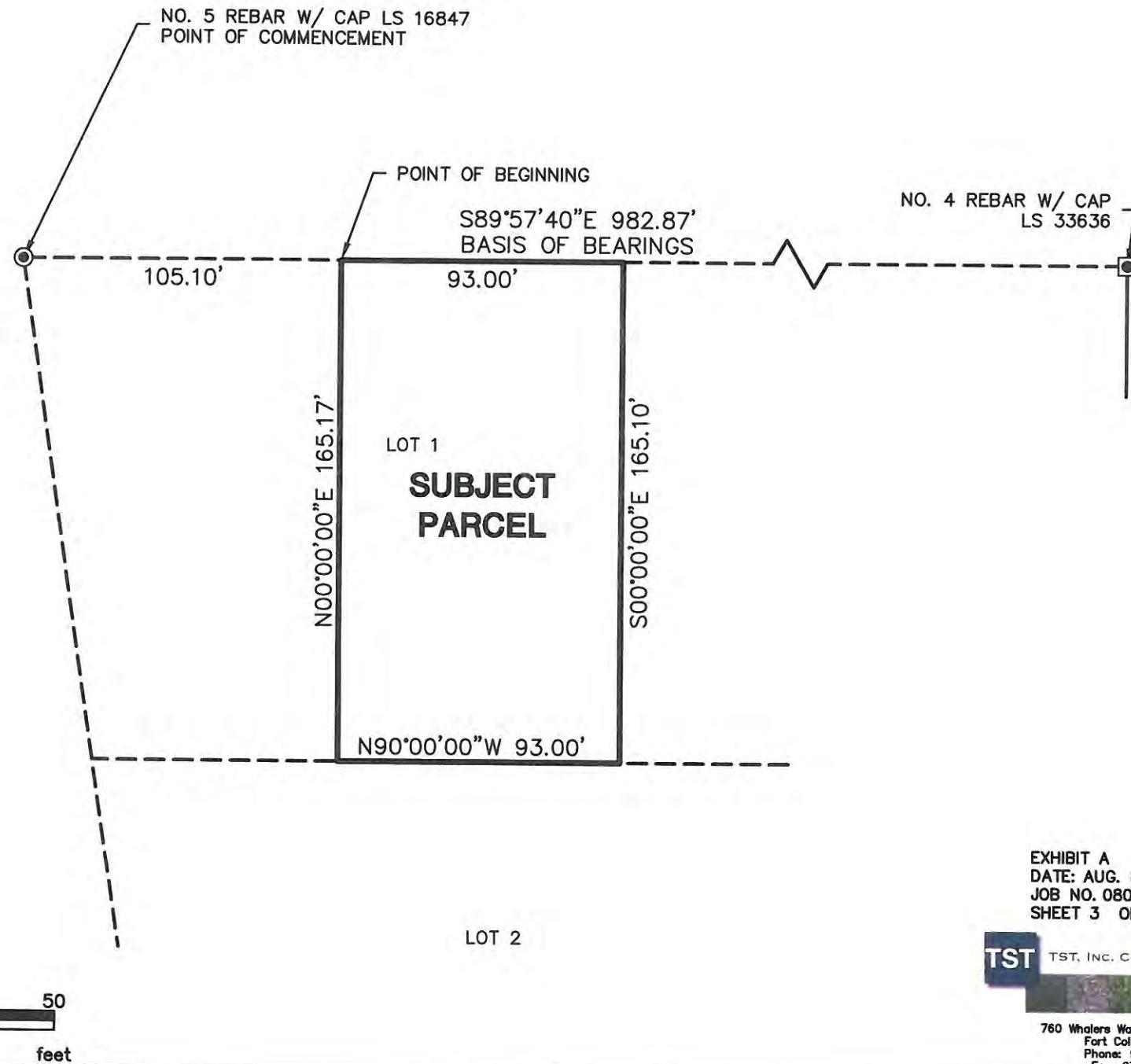


50 25 0 50  
scale 1"=50' feet

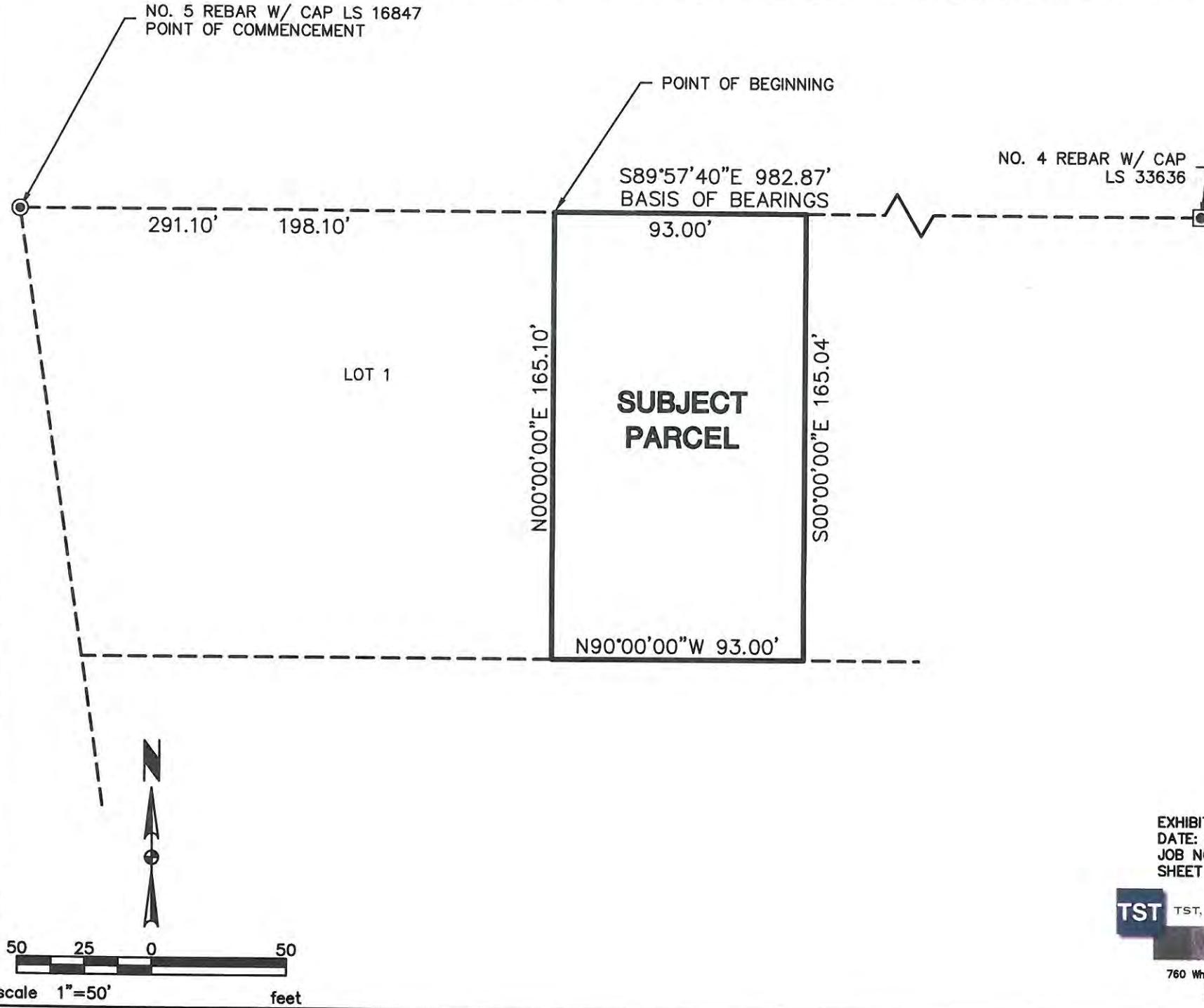
EXHIBIT A  
DATE: AUG. 8, 2014  
JOB NO. 0803.0300.00  
SHEET 1 OF 8

**TST** TST, INC. CONSULTING ENGINEERS  
760 Whalers Way, Bldg C, Suite 200  
Fort Collins, Colorado  
Phone: 970.226.0557  
Fax: 970.226.0204

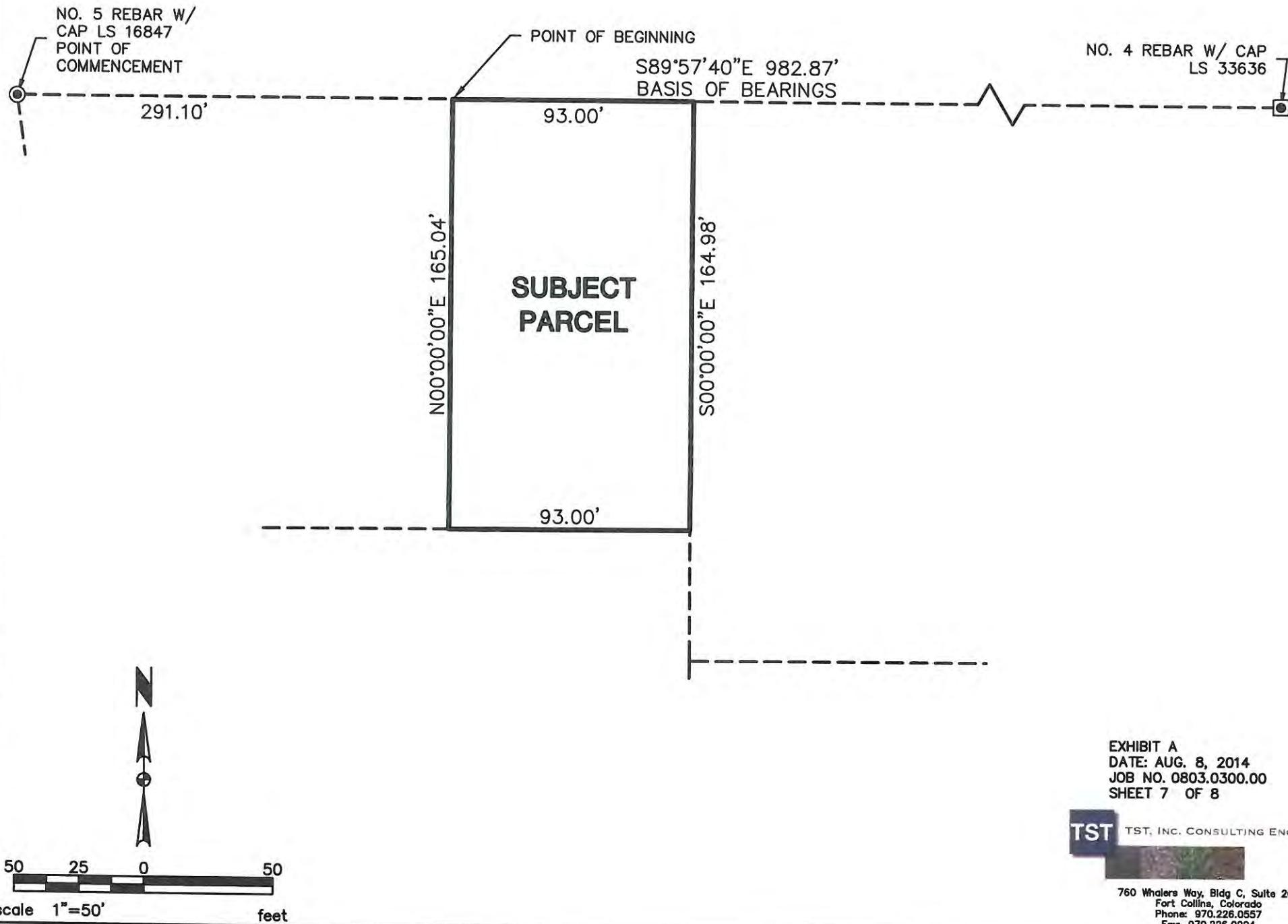
# EAGLE CROSSING LOVELAND METROPOLITAN DISTRICT 2



# EAGLE CROSSING LOVELAND METROPOLITAN DISTRICT 3



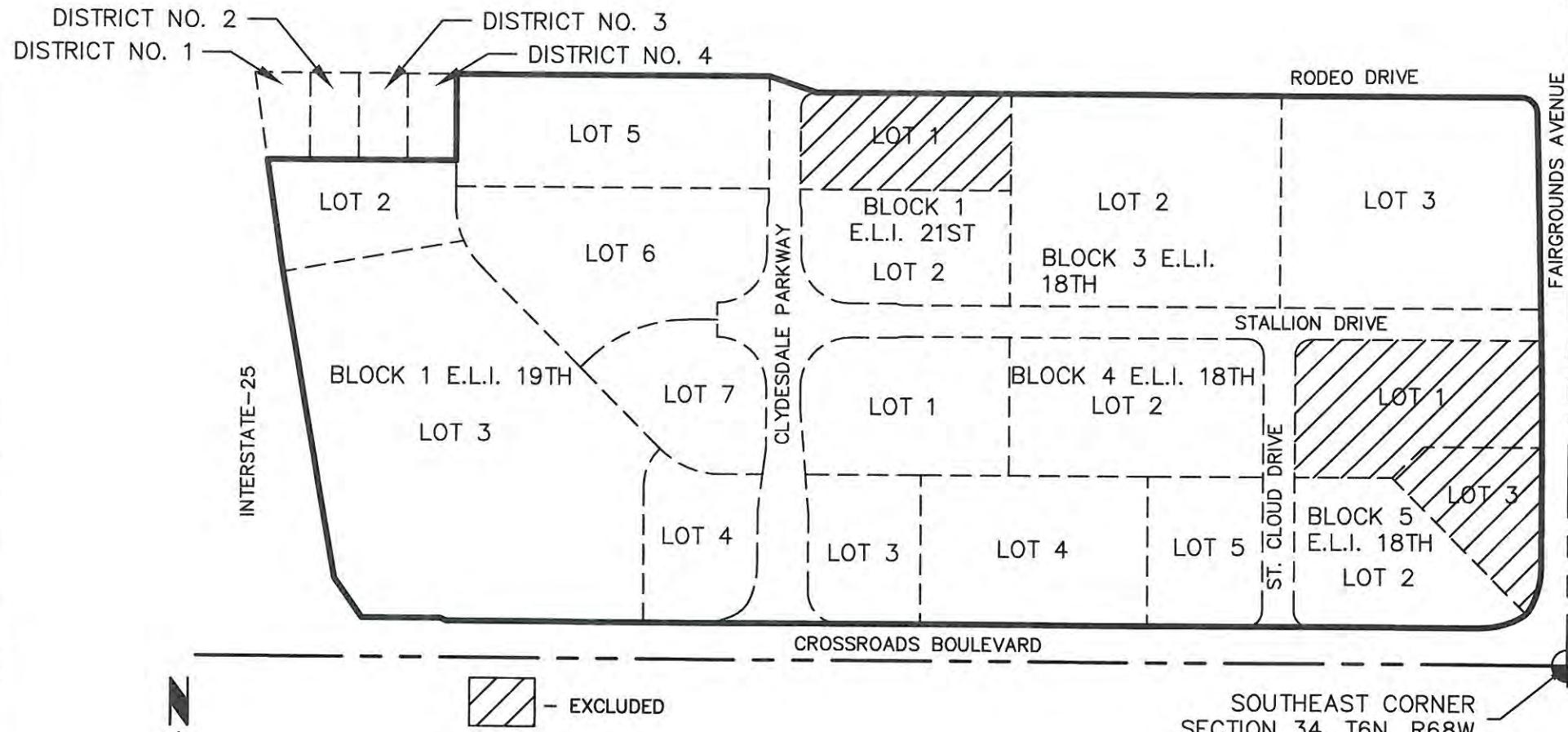
# EAGLE CROSSING LOVELAND METROPOLITAN DISTRICT 4



**EXHIBIT C-2**

**INCLUSION AREA BOUNDARY LEGAL DESCRIPTION AND MAP**

# EAGLE CROSSING LOVELAND METROPOLITAN DISTRICT INCLUSION AREA



# EAGLE CROSSING LOVELAND INCLUSION AREA BOUNDARIES

## LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 6 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN; IN THE CITY OF LOVELAND, LARIMER COUNTY, COLORADO. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

INCLUDING LOTS 2 AND 3, BLOCK 3 OF THE EAST LOVELAND INDUSTRIAL, EIGHTEENTH SUBDIVISION, AS SHOWN ON THE PLAT RECORDED AT THE LARIMER COUNTY CLERK OF RECORDER'S OFFICE UNDER RECEPTION NUMBER 20060056249;

LOTS 1 THROUGH 5, BLOCK 4 OF SAID EAST LOVELAND INDUSTRIAL, EIGHTEENTH SUBDIVISION;

LOT 2, BLOCK 5 OF SAID EAST LOVELAND INDUSTRIAL, EIGHTEENTH SUBDIVISION;

THE RIGHT-OF-WAY OF STALLION DRIVE, EAST OF CLYDESDALE PARKWAY, AS SHOWN ON SAID EAST LOVELAND INDUSTRIAL, EIGHTEENTH SUBDIVISION;

THE RIGHT-OF-WAY OF CLYDESDALE PARKWAY, AS SHOWN ON SAID EAST LOVELAND INDUSTRIAL, EIGHTEENTH SUBDIVISION;

THE RIGHT-OF-WAY OF ST. CLOUD DRIVE, AS SHOWN ON SAID EAST LOVELAND INDUSTRIAL, EIGHTEENTH SUBDIVISION;

LOTS 2 THROUGH 7, BLOCK 1 OF THE EAST LOVELAND INDUSTRIAL, NINETEENTH SUBDIVISION, AS SHOWN ON THE PLAT RECORDED AT THE LARIMER COUNTY CLERK OF RECORDER'S OFFICE UNDER RECEPTION NUMBER 20070064705;

LOT 2, BLOCK 1 OF THE EAST LOVELAND INDUSTRIAL, TWENTY-FIRST SUBDIVISION, AS SHOWN ON THE PLAT RECORDED AT THE LARIMER COUNTY CLERK OF RECORDER'S OFFICE UNDER RECEPTION NUMBER 20100064285;

SAID PARCEL CONTAINS 48.92 ACRES (2,131,120 SQUARE FEET) MORE OR LESS AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS AND RESTRICTIONS NOW IN USE OR OF RECORD.



FOR AND ON BEHALF OF TST, INC. CONSULTING ENGINEERS  
K:\803\0300\05 Drawings\Exhibits\Metro Dist Inclusion Ar AUG 8, 2014

2 OF 2

**EXHIBIT D**  
**PRELIMINARY INFRASTRUCTURE PLAN**



## Conceptual Cost Estimate

Client: Eagle Crossing Development, Inc.

Date: July 11, 2014

Project: Eagle Crossing Loveland Metropolitan Districts 1-4

Project No. 0803.0300.00

By: DAP

No.	Item	Quantity	Units	Unit Cost	Total
<b>A. METROPOLITAN DISTRICT IMPROVEMENTS</b>					
<i>I. ADMINISTRATIVE &amp; MISCELLANEOUS</i>					
1	MOBILIZATION	1	L.S.	\$7,778.33	\$7,778
2	CONSTRUCTION STAKING	1	L.S.	\$62,856.75	\$62,857
3	MATERIAL TESTING	1	L.S.	\$39,667.10	\$39,667
4	LANDSCAPING (IRR., TREES, ETC.)	131,700	S.F.	\$3.00	\$395,100
5	MONUMENTS AND ENTRYWAY FEATURES - FUTURE	1	L.S.	\$400,000.00	\$400,000
6	ENGINEERING DESIGN & ADMIN.	1	L.S.	\$400,000.00	\$400,000
7	CONSTRUCTION INSPECTION & ADMIN.	1	L.S.	\$85,000.00	\$85,000
<i>SUBTOTAL</i>					<b>\$1,390,402</b>
<i>II. EARTHWORK</i>					
1	CLEAR AND GRUB & SITE DEMO	1	L.S.	\$2,564.05	\$2,564
2	EARTHWORK CUT/FILL/STOCKPILE	118,046	C.Y.	\$1.86	\$219,566
3	EARTHWORK SURVEY	1	L.S.	\$7,534.45	\$7,534
4	SEED AND MULCH (DETENTION AREA)	48.0	AC.	\$456.50	\$21,912
<i>SUBTOTAL</i>					<b>\$251,576</b>
<i>III. STREETS</i>					
1	URBAN MINOR COLLECTOR (60' ROW) - FUTURE	585	L.F.	\$250.00	\$146,250
2	CONCRETE ONSITE	1	L.S.	\$511,820.35	\$511,820
3	ALL OTHER EXISTING STREET INFRASTRUCTURE (INCLUDES RODEO DRIVE)	1	L.S.	\$600,416.97	\$600,417
<i>SUBTOTAL</i>					<b>\$1,258,487</b>
<i>IV. SEWER</i>					
1	8" SEWER LINE	2,460	L.F.	\$27.66	\$68,044
1	ALL OTHER SEWER INFRASTRUCTURE, APPURTENANCES, ETC.	1	L.S.	\$25,838.00	\$25,838
<i>SUBTOTAL</i>					<b>\$93,882</b>
<i>V. WATER</i>					
1	8" WATERLINE	660	L.F.	\$20.56	\$13,570
2	10" WATERLINE	2,120	L.F.	\$26.18	\$55,502
3	12" WATERLINE	2,720	L.F.	\$32.35	\$87,992
4	ALL OTHER WATER INFRASTRUCTURE, APPURTENANCES, ETC.	1	L.S.	\$140,540.00	\$140,540
<i>SUBTOTAL</i>					<b>\$297,603</b>
<i>VI. STORM</i>					
1	ALL STORM INFRASTRUCTURE-ONSTIE	1	L.S.	\$844,483.00	\$844,483
<i>SUBTOTAL</i>					<b>\$844,483</b>
<i>VII. OFFSITE IMPROVEMENTS</i>					
1	OFFSITE STORM INFRSTRUCTURE	1	L.S.	\$1,075,255.60	\$1,075,256
2	OFFSITE SANITARY SEWER INFRSTRUCTURE (40/60 SPLIT)	1	L.S.	\$132,607.52	\$132,608
3	OFFSITE EARTHWORK REGIONAL DETENTION	1	L.S.	\$77,514.32	\$77,514
4	OFFSITE TEMPORARY SEEDING	1	L.S.	\$22,908.00	\$22,908
5	OFFSITE MISCELLANEOUS	1	L.S.	\$35,772.76	\$35,773
<i>SUBTOTAL</i>					<b>\$1,344,058</b>
<i>TOTAL COST</i>					<b>\$ 5,480,492</b>

## Notes:

Numbers and quantities shown are based off of cost spreadsheets provided by GLH Construction.

Traffic control cost has not been included.

Erosion control costs have not been included.

Dry utilities have not been included.

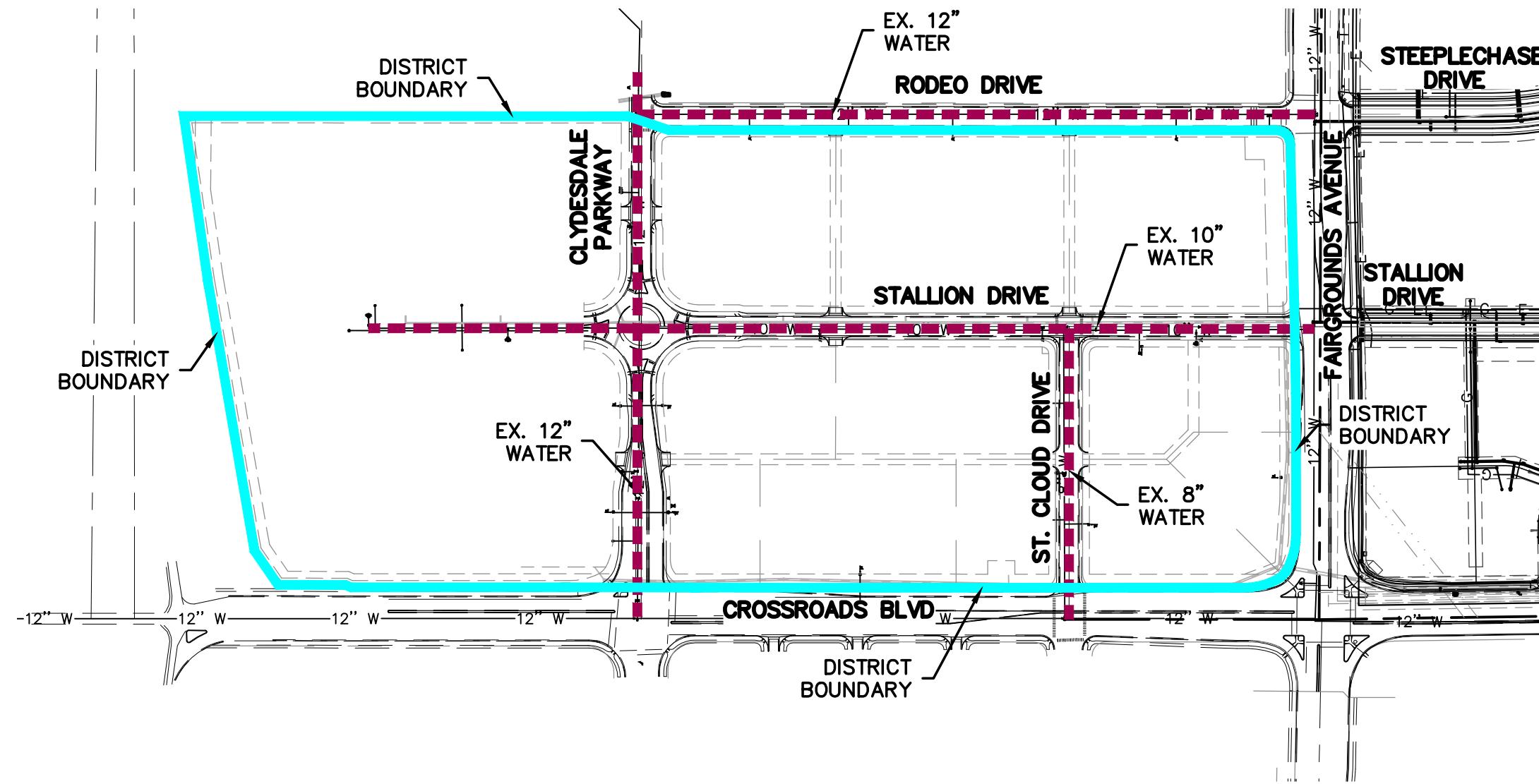
Existing or future reimbursements have not been included.

The offsite sewer has been split between these districts and the Eagle Crossing Windsor Metro. Districts. This split was assumed to be 40/60 based on the total contributing acreages from each district.

**EXHIBIT E**  
**MAP DEPICTING PUBLIC IMPROVEMENTS**

# EAGLE CROSSING LOVELAND METROPOLITAN DISTRICTS 1-4 (WATER INFRASTRUCTURE)

P. 214



## WATER LEGEND:

----- EXISTING WATER

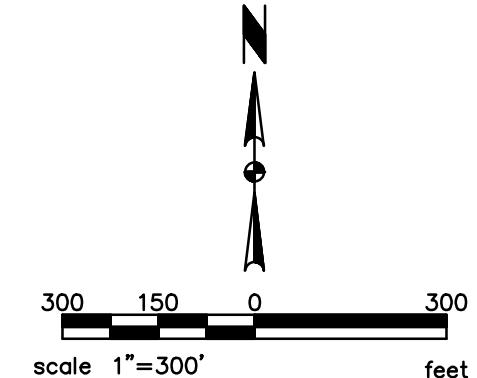


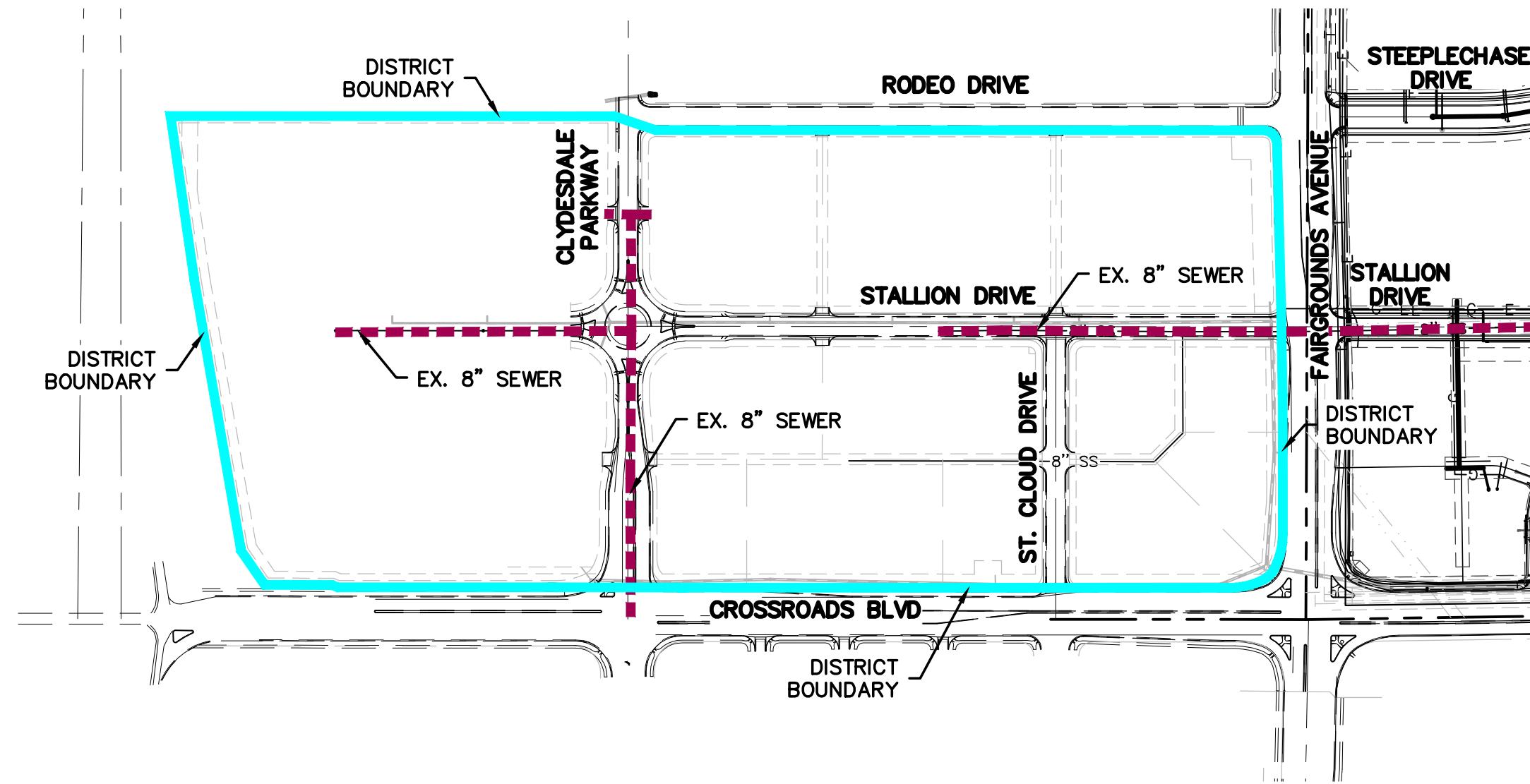
EXHIBIT E1  
DATE: JULY 2014  
JOB NO. 0803.0200.00  
SHEET 1 OF 6

**TST** TST, INC. CONSULTING ENGINEERS

760 Whalers Way, Bldg. C, Suite 200  
Fort Collins, Colorado  
Phone: 970.226.0557  
Fax: 970.226.0204

# EAGLE CROSSING LOVELAND METROPOLITAN DISTRICTS 1-4 (SANITARY SEWER INFRASTRUCTURE)

P. 215



## SANITARY LEGEND:

EXISTING SANITARY SEWER

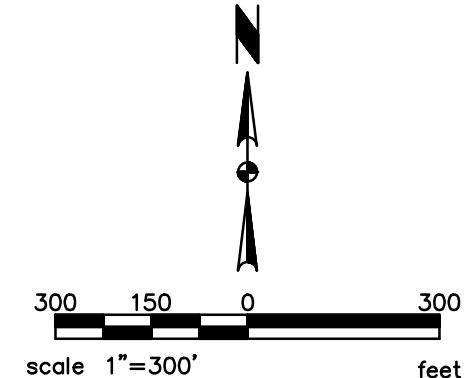


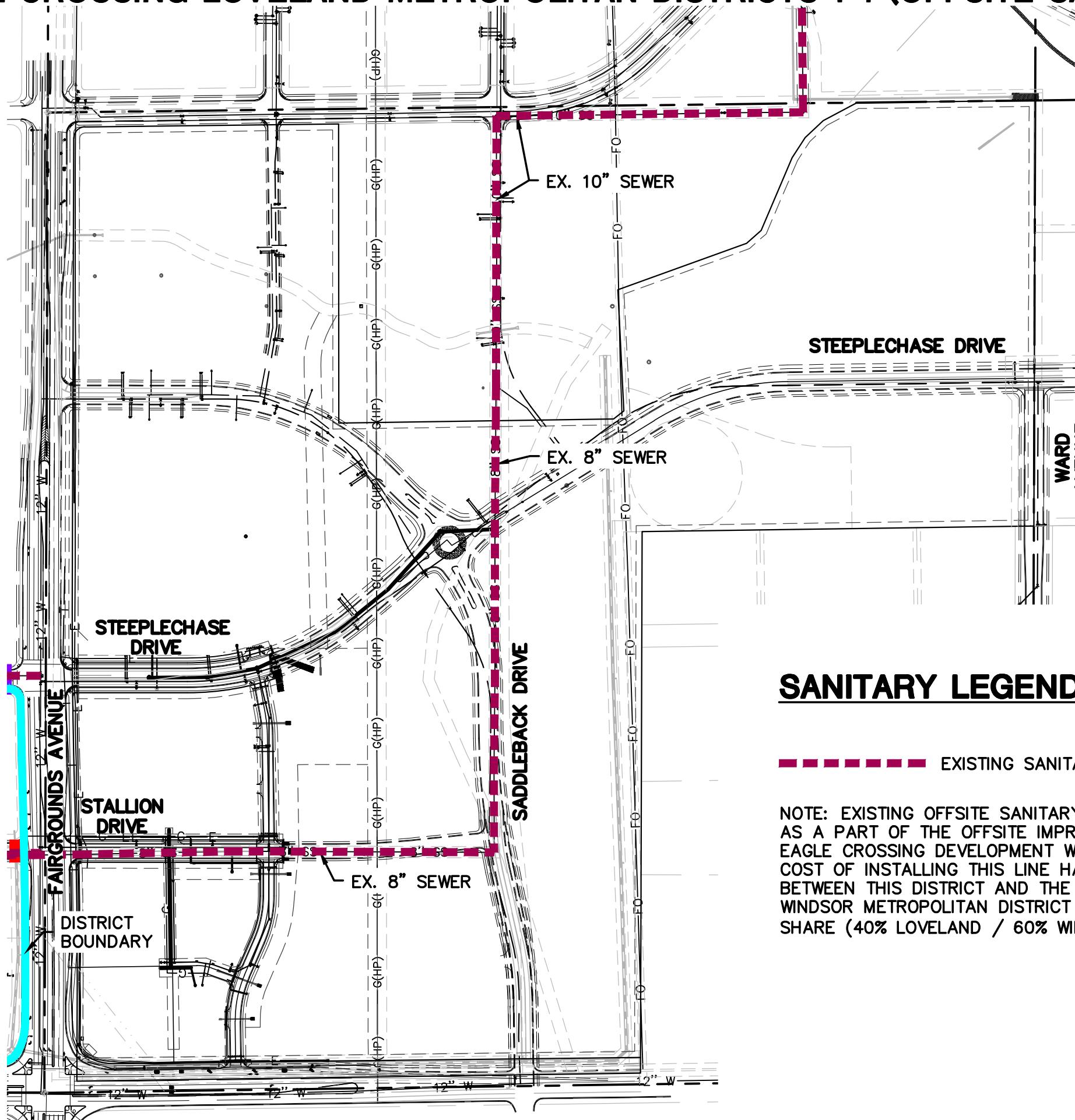
EXHIBIT E2  
DATE: JULY 2014  
JOB NO. 0803.0200.00  
SHEET 2 OF 6

**TST** TST, INC. CONSULTING ENGINEERS

760 Whalers Way, Bldg. C, Suite 200  
Fort Collins, Colorado  
Phone: 970.226.0557  
Fax: 970.226.0204

EAGLE CROSSING LOVELAND METROPOLITAN DISTRICTS 1-4 (OFFSITE SANITARY SEWER INFRASTRUCTURE)

P. 216



## **SANITARY LEGEND**

#### ■ ■ ■ ■ ■ ■ ■ EXISTING SANITARY SEWER

NOTE: EXISTING OFFSITE SANITARY SEWER WAS BUILT AS A PART OF THE OFFSITE IMPROVEMENTS FOR THE EAGLE CROSSING DEVELOPMENT WEST OF LCR 5. THE COST OF INSTALLING THIS LINE HAS BEEN SPLIT BETWEEN THIS DISTRICT AND THE EAGLE CROSSING WINDSOR METROPOLITAN DISTRICT #1 BY PRO-RATA SHARE (40% LOVELAND / 60% WINDSOR).

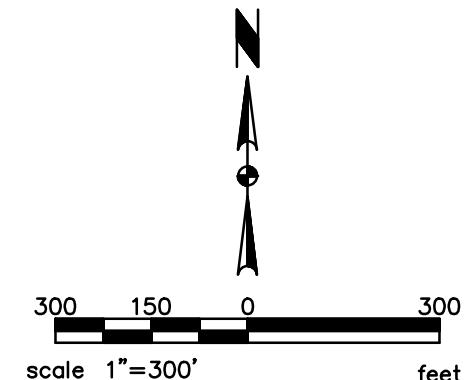


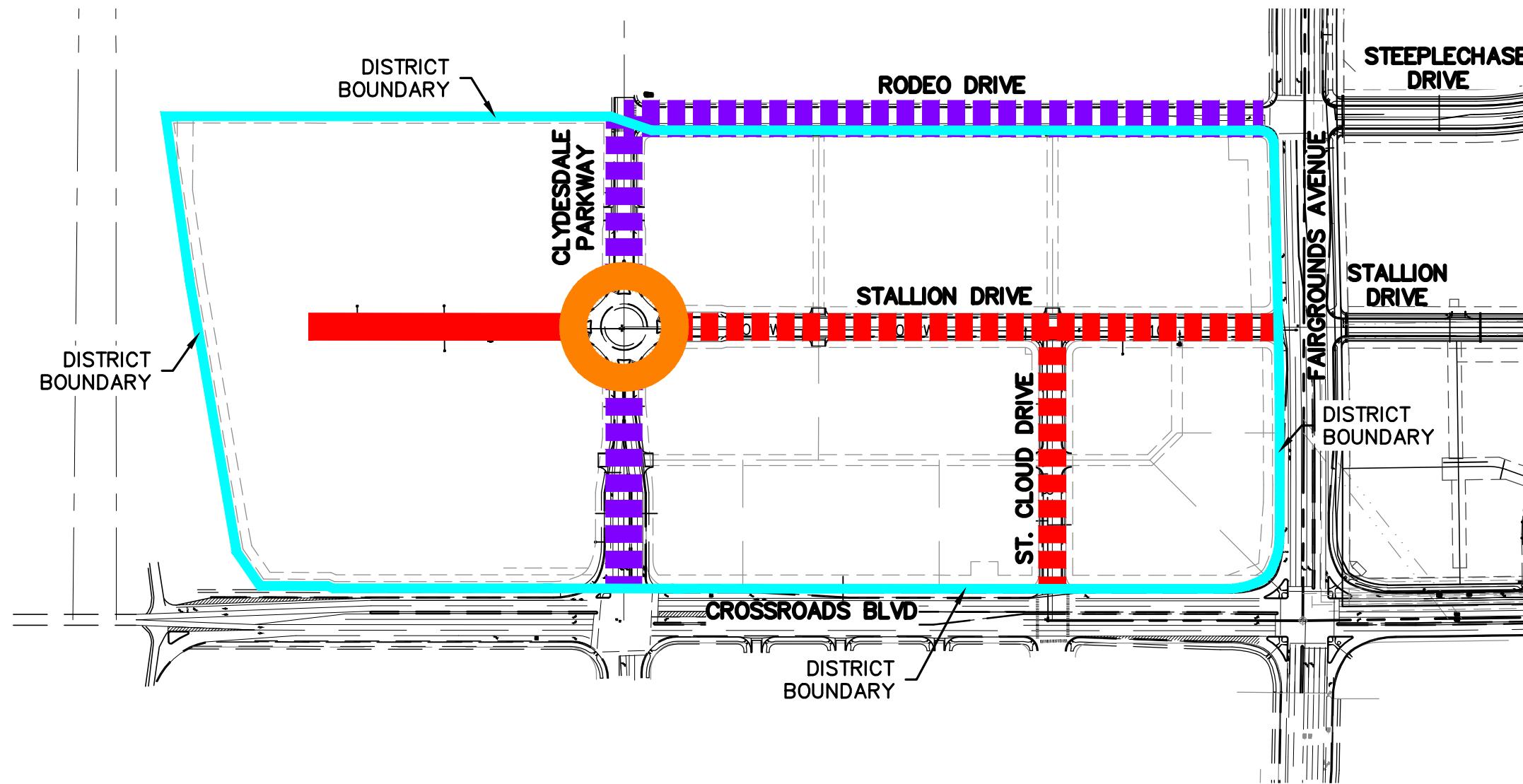
EXHIBIT E3  
DATE: JULY 2014  
JOB NO. 0803.0200.00  
SHEET 3 OF 6



760 Whalers Way, Bldg. C, Suite 200  
Fort Collins, Colorado  
Phone: 970.226.0557  
Fax: 970.226.0204

# EAGLE CROSSING LOVELAND METROPOLITAN DISTRICTS 1-4 (STREET INFRASTRUCTURE)

P. 217



## ROADWAY LEGEND:

 MAJOR COLLECTOR (80' ROW)

 MINOR COLLECTOR (60' ROW)



NOTE: DASHED COLOR LINES REPRESENT EXISTING  
STREET INFRASTRUCTURE.

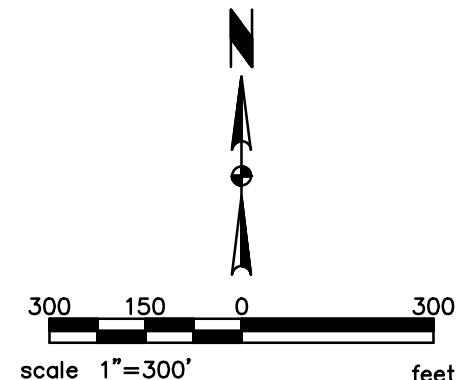
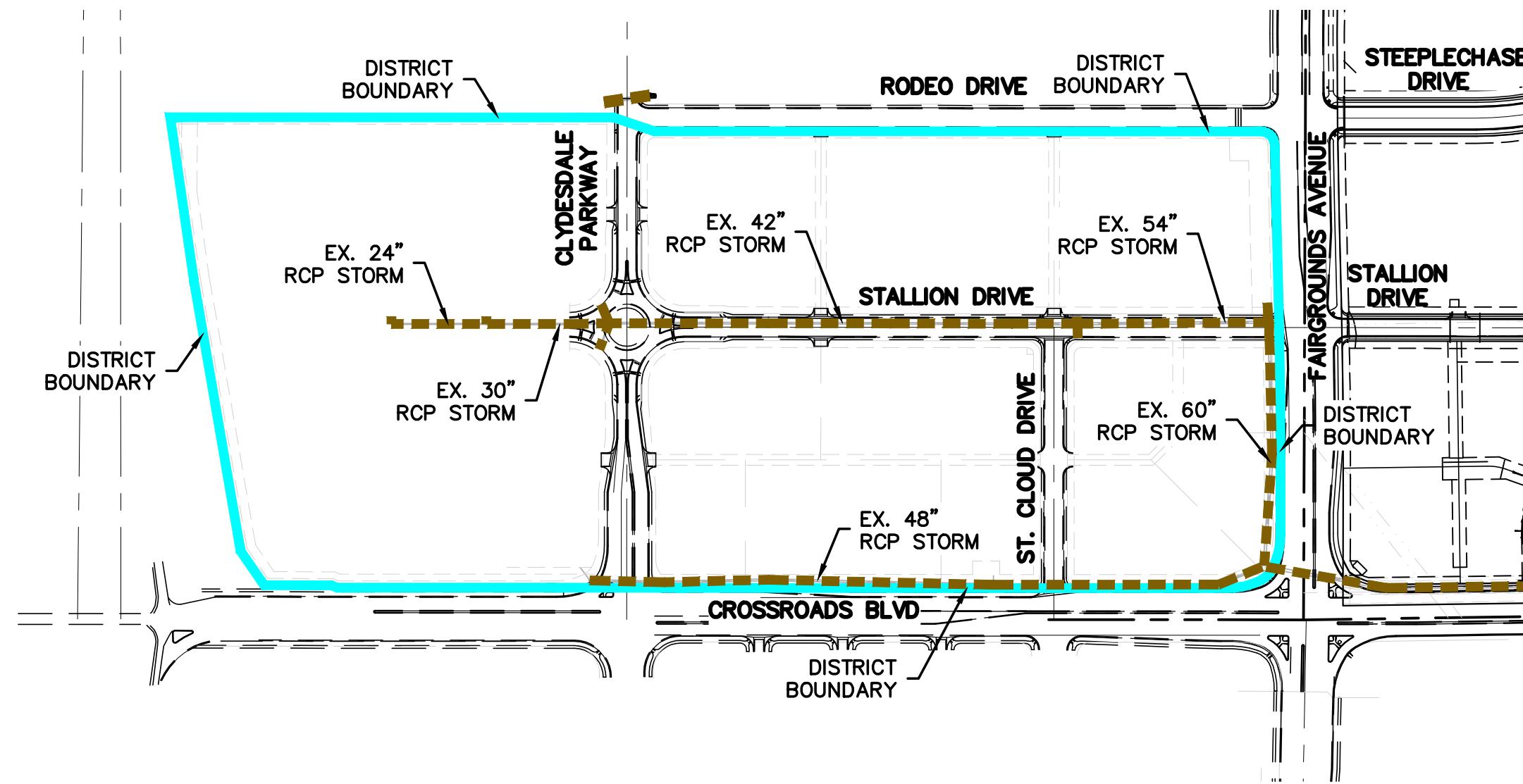


EXHIBIT E4  
DATE: JULY 2014  
JOB NO. 0803.0200.00  
SHEET 4 OF 6

**TST** TST, INC. CONSULTING ENGINEERS

760 Whalers Way, Bldg. C, Suite 200  
Fort Collins, Colorado  
Phone: 970.226.0557  
Fax: 970.226.0204

EAGLE CROSSING LOVELAND METROPOLITAN DISTRICTS 1-4 (STORM INFRASTRUCTURE)



# STORM LEGEND

#### ■ ■ ■ ■ ■ ■ ■ EXISTING STORES

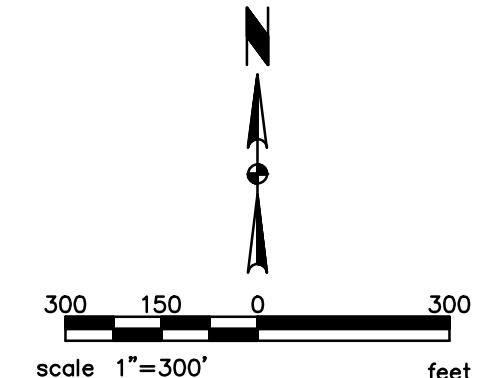


EXHIBIT E5  
DATE: JULY 2014  
JOB NO. 0803.0300.00  
SHEET 5 OF 6



# EAGLE CROSSING LOVELAND METROPOLITAN DISTRICTS 1-4 (OFFSITE STORM INFRASTRUCTURE)

P. 219

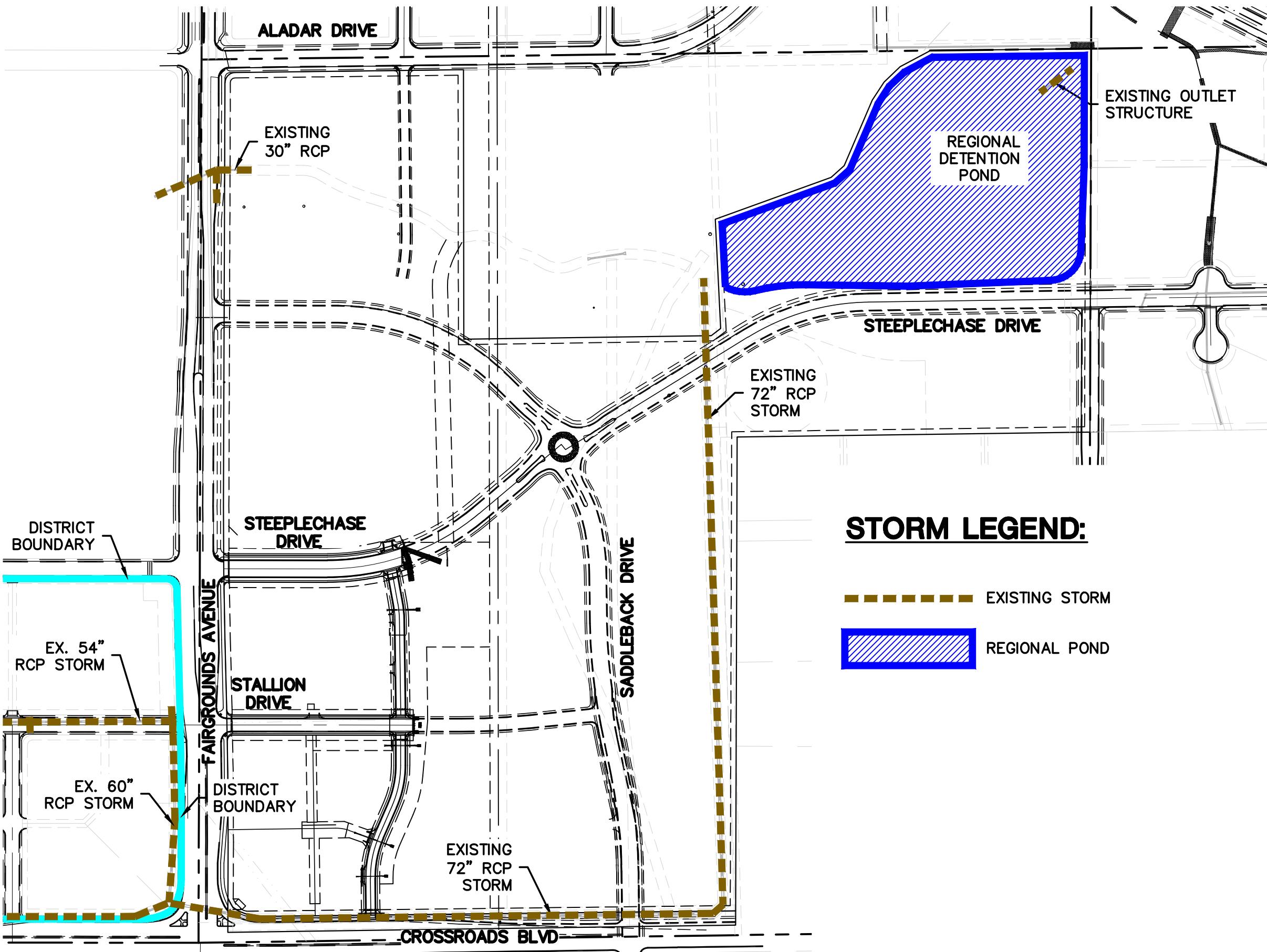


EXHIBIT E6  
DATE: JULY 2014  
JOB NO. 0803.0300.00  
SHEET 6 OF 6

**TST** TST, INC. CONSULTING ENGINEERS

760 Whalers Way, Bldg. C, Suite 200  
Fort Collins, Colorado  
Phone: 970.226.0557  
Fax: 970.226.0204

**EXHIBIT F**  
**FINANCIAL PLAN**

## Table of Schedules

Assumptions	New Money (Taxable) - Commercial Development
-------------	--

Preliminary as of 08/21/2014

7.00% Rate      Series 2018

Issue	Term	Repayment Source	Par Amount	Project Fund Proceeds at Close
Series 2018	30 Year Term	Comm.	\$6,835,000	\$5,660,725
Total			\$6,835,000	\$5,660,725

- 1 .      Cover Page
- 2 .      Schedule of Revenue & Debt Service
- 3 .      Schedule of Operating Mill Levy & Expense
- 4 .      Commercial Development
- 5 .      Commercial Development - Page 2 of 2
- 6 .      Assessed Value Summary

Series 2018	Comm.
7 .	Debt Service Schedule
8 .	Sources and Uses of Funds

**Eagle Crossing Metropolitan District**  
**City of Loveland, CO**  
**Preliminary - Discussion Purposes Only**

ECMD  
 Cashflow  
 8/22/2014

**Schedule of Revenue & Debt Service**

**New Money (Taxable) - Commercial Development**

Collection Year	Assessed Value and Bond Levy Revenue					Combined Revenue Available for Debt Service	Commercial		Combined Debt Service	Annual Surplus/Deficit	Cumulative Surplus/Deficit			
	Property Tax				\$6,835,000		Series 2018							
	Assessed Value	Bond Levy	From AV	S.O. Tax	Revenue for Debt Service		Debt Service	Capitalized Interest						
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)		
			98.5% Net of Collection Fees	7.00%										
2017	2,428,762	35.000	83,732	5,861	89,593	89,593				89,593	89,593			
2018	2,877,473	35.000	99,201	6,944	106,145	106,145				106,145	195,738			
2019	3,295,560	35.000	113,614	7,953	121,567	121,567	471,615	(353,711)	117,904	3,664	199,401			
2020	6,639,596	35.000	228,900	16,023	244,923	244,923	471,615	(282,969)	188,646	56,277	255,678			
2021	8,255,534	35.000	284,610	19,923	304,532	304,532	476,615		476,615	(172,083)	83,596			
2022	10,891,495	35.000	375,484	26,284	401,768	401,768	476,265		476,265	(74,497)	9,099			
2023	13,804,429	35.000	475,908	33,314	509,221	509,221	475,915		475,915	33,306	42,405			
2024	14,231,912	35.000	490,645	34,345	524,990	524,990	475,565		475,565	49,425	91,830			
2025	15,617,753	35.000	538,422	37,690	576,112	576,112	475,215		475,215	100,897	192,727			
2026	17,037,245	35.000	587,359	41,115	628,474	628,474	474,865		474,865	153,609	346,336			
2027	22,423,171	35.000	773,039	54,113	827,152	827,152	474,515		474,515	352,637	698,973			
2028	22,423,171	35.000	773,039	54,113	827,152	827,152	519,165		519,165	307,987	1,006,959			
2029	22,423,171	35.000	773,039	54,113	827,152	827,152	520,665		520,665	306,487	1,313,446			
2030	22,423,171	35.000	773,039	54,113	827,152	827,152	611,815		611,815	215,337	1,528,782			
2031	22,423,171	35.000	773,039	54,113	827,152	827,152	626,315		626,315	200,837	1,729,619			
2032	22,423,171	35.000	773,039	54,113	827,152	827,152	629,065		629,065	198,087	1,927,705			
2033	22,423,171	35.000	773,039	54,113	827,152	827,152	630,765		630,765	196,387	2,124,092			
2034	22,423,171	35.000	773,039	54,113	827,152	827,152	626,415		626,415	200,737	2,324,829			
2035	22,423,171	35.000	773,039	54,113	827,152	827,152	626,365		626,365	200,787	2,525,615			
2036	22,423,171	35.000	773,039	54,113	827,152	827,152	630,265		630,265	196,887	2,722,502			
2037	22,423,171	35.000	773,039	54,113	827,152	827,152	627,765		627,765	199,387	2,921,888			
2038	22,423,171	35.000	773,039	54,113	827,152	827,152	629,215		629,215	197,937	3,119,825			
2039	22,423,171	35.000	773,039	54,113	827,152	827,152	629,265		629,265	197,887	3,317,711			
2040	22,423,171	35.000	773,039	54,113	827,152	827,152	627,915		627,915	199,237	3,516,948			
2041	22,423,171	35.000	773,039	54,113	827,152	827,152	675,165		675,165	151,987	3,668,934			
2042	22,423,171	35.000	773,039	54,113	827,152	827,152	677,515		677,515	149,637	3,818,571			
2043	22,423,171	35.000	773,039	54,113	827,152	827,152	682,765		682,765	144,387	3,962,957			
2044	22,423,171	35.000	773,039	54,113	827,152	827,152	680,565		680,565	146,587	4,109,544			
2045	22,423,171	35.000	773,039	54,113	827,152	827,152	681,265		681,265	145,887	4,255,431			
2046	22,423,171	35.000	773,039	54,113	827,152	827,152	679,515		679,515	147,637	4,403,067			
2047	22,423,171	35.000	773,039	54,113	827,152	827,152	680,315		680,315	146,837	4,549,904			
2048	22,423,171	35.000	773,039	54,113	827,152	827,152	341,565		341,565	485,587	5,035,490			
			20,284,729	1,419,931	21,704,660	21,704,660	17,305,850	(636,680)	16,669,170	5,035,490				

**Eagle Crossing Metropolitan District**  
**City of Loveland, CO**  
**Preliminary - Discussion Purposes Only**

ECMD  
 Operations  
 8/22/2014

3

**Schedule of Operating Mill Levy & Expense**

Collection Year	Assessed Value	Operations Mill Levy	Property Tax @ 98.5%	Operating Expense	Annual Surplus/Deficit	Cumulative Surplus/Deficit
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2017	-	4.000	-	-	0	0
2018	2,877,473	4.000	11,337	10,337	1,000	1,000
2019	3,295,560	4.000	12,985	11,985	1,000	2,000
2020	6,639,596	4.000	26,160	25,160	1,000	3,000
2021	8,255,534	4.000	32,527	31,527	1,000	4,000
2022	10,891,495	4.000	42,912	41,912	1,000	5,000
2023	13,804,429	4.000	54,389	53,389	1,000	6,000
2024	14,231,912	4.000	56,074	55,074	1,000	7,000
2025	15,617,753	4.000	61,534	60,534	1,000	8,000
2026	17,037,245	4.000	67,127	66,127	1,000	9,000
2027	22,423,171	4.000	88,347	87,347	1,000	10,000
2028	22,423,171	4.000	88,347	87,347	1,000	11,000
2029	22,423,171	4.000	88,347	87,347	1,000	12,000
2030	22,423,171	4.000	88,347	87,347	1,000	13,000
2031	22,423,171	4.000	88,347	87,347	1,000	14,000
2032	22,423,171	4.000	88,347	87,347	1,000	15,000
2033	22,423,171	4.000	88,347	87,347	1,000	16,000
2034	22,423,171	4.000	88,347	87,347	1,000	17,000
2035	22,423,171	4.000	88,347	87,347	1,000	18,000
2036	22,423,171	4.000	88,347	87,347	1,000	19,000
2037	22,423,171	4.000	88,347	87,347	1,000	20,000
2038	22,423,171	4.000	88,347	87,347	1,000	21,000
2039	22,423,171	4.000	88,347	87,347	1,000	22,000
2040	22,423,171	4.000	88,347	87,347	1,000	23,000
2041	22,423,171	4.000	88,347	87,347	1,000	24,000
2042	22,423,171	4.000	88,347	87,347	1,000	25,000
2043	22,423,171	4.000	88,347	87,347	1,000	26,000
2044	22,423,171	4.000	88,347	87,347	1,000	27,000
2045	22,423,171	4.000	88,347	87,347	1,000	28,000
2046	22,423,171	4.000	88,347	87,347	1,000	29,000
2047	22,423,171	4.000	88,347	87,347	1,000	30,000
2048	22,423,171	4.000	88,347	87,347	1,000	31,000
	2,308,685		2,277,685		31,000	

## Commercial Development

Completion Year	Assessment Year	Collection Year	Block 3 Lot 2 (Office)		Block 3 Lot 3 (Retail)		Block 4 Lot 1 (Office)		Block 4 Lot 2 (Office)		Block 4 Lot 3 (Retail)		Block 4 Lot 4 (Retail)		Block 4 Lot 5 (Retail)		Block 5 Lot 2 (Retail)		Commercial Development Market Value	Annual Assessed Value	
			Sq. Ft. of Development	Value/ Sq. Ft	Sq. Ft. of Development	Value/ Sq. Ft	Sq. Ft. of Development	Value/ Sq. Ft	Sq. Ft. of Development	Value/ Sq. Ft	Sq. Ft. of Development	Value/ Sq. Ft	Sq. Ft. of Development	Value/ Sq. Ft	Sq. Ft. of Development	Value/ Sq. Ft	Sq. Ft. of Development	Value/ Sq. Ft			
2014	2015	2016	-	120.00		120.00		120.00		120.00		120.00		120.00		120.00		120.00		-	-
2015	2016	2017		120.00		120.00		120.00		120.00		120.00		120.00		120.00		120.00		2,206,920	640,007
2016	2017	2018		120.00		120.00		120.00		120.00		120.00		120.00		120.00		120.00		-	-
2017	2018	2019		120.00		120.00		120.00		120.00		120.00		120.00		120.00		120.00		1,441,680	418,087
2018	2019	2020		120.00		120.00		120.00		120.00		120.00		120.00		120.00		120.00		2,958,600	857,994
2019	2020	2021		120.00		120.00		120.00		120.00		120.00		120.00		120.00		120.00		1,497,120	434,165
2020	2021	2022		120.00		120.00		120.00		120.00		120.00		120.00		120.00		120.00		6,161,880	1,786,945
2021	2022	2023	83,705	120.00		120.00		120.00		120.00		120.00		120.00		120.00		120.00		10,044,600	2,912,934
2022	2023	2024		120.00		120.00		120.00		120.00		120.00		120.00		120.00		120.00		-	-
2023	2024	2025		120.00		120.00		120.00		120.00		120.00		120.00		120.00		120.00		4,778,760	1,385,840
2024	2025	2026		120.00		120.00		120.00		120.00		120.00		120.00		120.00		120.00		4,894,800	1,419,492
2025	2026	2027		120.00		120.00		120.00		120.00		120.00		120.00		120.00		120.00		-	-

## Commercial Development - Page 2

Completion Year	Appraisal Year	Phase										Page 2 Only		Annual Market Value	Annual Assessed Valuation		
		Block 1 Lot 1 (Restaurant)		Block 1 Lot 2 (Restaurant)		Block 1 Lot 3 (Office Building)		Block 1 Lot 4 (Perkins / Remax)		Block 1 Lot 5 (Hotel)		Block 1 Lot 6 (Retail)		Block 1 Lot 7 (Retail)			
		Sq. Ft. of Development	Value/ Sq. Ft	Sq. Ft. of Development	Value/ Sq. Ft	Sq. Ft. of Development	Value/ Sq. Ft	Sq. Ft. of Development	Value/ Sq. Ft	Sq. Ft. of Development	Value/ Sq. Ft	Sq. Ft. of Development	Value/ Sq. Ft	Sq. Ft. of Development	Value/ Sq. Ft		
2015	2016	120.00	120.00	120.00	120.00	120.00	120.00	51,401	120.00	120.00	120.00	120.00	120.00	120.00	120.00	6,168,120	1,788,755
2016	2017	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	1,547,280	448,711
2017	2018	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	-	1,441,680
2018	2019	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	71,438	120.00	120.00	120.00	120.00	120.00	8,572,560	2,486,042
2019	2020	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	4,075,080	1,181,773
2020	2021	120.00	120.00	120.00	120.00	120.00	120.00	9,848	120.00	120.00	120.00	120.00	120.00	120.00	120.00	5,572,200	1,615,938
2021	2022	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	2,927,640	849,016
2022	2023	12,284	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	9,089,520	2,635,961
2023	2024	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	-	-
2024	2025	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	1,474,080	427,483
2025	2026	120.00	120.00	120.00	120.00	154,768	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	120.00	4,778,760	1,385,840
																4,894,800	1,419,492
																18,572,160	5,385,926

**Eagle Crossing Metropolitan District**  
**City of Loveland, CO**  
**Preliminary - Discussion Purposes Only**

ECMD  
AV Summary

**Assessed Value Summary**

Completion Year	Assessment Year	Tax Collection Year	Assessed Value - From Commercial Development			
			Commercial	Incremental	Growth Factor	Total Assessed Value
			Assessed Value	AV	0.00%	
		2014	-	-	-	-
2014	2015	2015	-	-	-	-
2015	2016	2017	2,428,762	2,428,762	-	2,428,762
2016	2017	2018	448,711	448,711	-	2,877,473
2017	2018	2019	418,087	418,087	-	3,295,560
2018	2019	2020	3,344,036	3,344,036	-	6,639,596
2019	2020	2021	1,615,938	1,615,938	-	8,255,534
2020	2021	2022	2,635,961	2,635,961	-	10,891,495
2021	2022	2023	2,912,934	2,912,934	-	13,804,429
2022	2023	2024	427,483	427,483	-	14,231,912
2023	2024	2025	1,385,840	1,385,840	-	15,617,753
2024	2025	2026	1,419,492	1,419,492	-	17,037,245
2025	2026	2027	5,385,926	5,385,926	-	22,423,171
2026	2027	2028	-	-	-	22,423,171
2027	2028	2029	-	-	-	22,423,171
2028	2029	2030	-	-	-	22,423,171
2029	2030	2031	-	-	-	22,423,171
2030	2031	2032	-	-	-	22,423,171
2031	2032	2033	-	-	-	22,423,171
2032	2033	2034	-	-	-	22,423,171
2033	2034	2035	-	-	-	22,423,171
2034	2035	2036	-	-	-	22,423,171
2035	2036	2037	-	-	-	22,423,171
2036	2037	2038	-	-	-	22,423,171
2037	2038	2039	-	-	-	22,423,171
2038	2039	2040	-	-	-	22,423,171
2039	2040	2041	-	-	-	22,423,171
2040	2041	2042	-	-	-	22,423,171
2041	2042	2043	-	-	-	22,423,171
2042	2043	2044	-	-	-	22,423,171
2043	2044	2045	-	-	-	22,423,171
2044	2045	2046	-	-	-	22,423,171
2045	2046	2047	-	-	-	22,423,171
2046	2047	2048	-	-	-	22,423,171
Total			22,423,171	22,423,171	-	

Debt Service Schedule  
 \$6,835,000

New Money (Taxable) - Commercial Development

Date	Principal	Interest Rate	Interest	P & I	Annual P & I	Capitalized Interest	DSRF Earnings 2.00%	Net Annual P & I
06/01/19	-	-	239,225.00	239,225.00		(176,855.63)	(3,417.50)	
12/01/19	-	7.000	239,225.00	239,225.00	478,450.00	(176,855.63)	(3,417.50)	117,903.75
06/01/20	-	-	239,225.00	239,225.00		(176,855.63)	(3,417.50)	
12/01/20	-	7.000	239,225.00	239,225.00	478,450.00	(106,113.38)	(3,417.50)	188,646.00
06/01/21	-	-	239,225.00	239,225.00			(3,417.50)	
12/01/21	5,000	7.000	239,225.00	244,225.00	483,450.00		(3,417.50)	476,615.00
06/01/22	-	-	239,050.00	239,050.00			(3,417.50)	
12/01/22	5,000	7.000	239,050.00	244,050.00	483,100.00		(3,417.50)	476,265.00
06/01/23	-	-	238,875.00	238,875.00			(3,417.50)	
12/01/23	5,000	7.000	238,875.00	243,875.00	482,750.00		(3,417.50)	475,915.00
06/01/24	-	-	238,700.00	238,700.00			(3,417.50)	
12/01/24	5,000	7.000	238,700.00	243,700.00	482,400.00		(3,417.50)	475,565.00
06/01/25	-	-	238,525.00	238,525.00			(3,417.50)	
12/01/25	5,000	7.000	238,525.00	243,525.00	482,050.00		(3,417.50)	475,215.00
06/01/26	-	-	238,350.00	238,350.00			(3,417.50)	
12/01/26	5,000	7.000	238,350.00	243,350.00	481,700.00		(3,417.50)	474,865.00
06/01/27	-	-	238,175.00	238,175.00			(3,417.50)	
12/01/27	5,000	7.000	238,175.00	243,175.00	481,350.00		(3,417.50)	474,515.00
06/01/28	-	-	238,000.00	238,000.00			(3,417.50)	
12/01/28	50,000	7.000	238,000.00	288,000.00	526,000.00		(3,417.50)	519,165.00
06/01/29	-	-	236,250.00	236,250.00			(3,417.50)	
12/01/29	55,000	7.000	236,250.00	291,250.00	527,500.00		(3,417.50)	520,665.00
06/01/30	-	-	234,325.00	234,325.00			(3,417.50)	
12/01/30	150,000	7.000	234,325.00	384,325.00	618,650.00		(3,417.50)	611,815.00
06/01/31	-	-	229,075.00	229,075.00			(3,417.50)	
12/01/31	175,000	7.000	229,075.00	404,075.00	633,150.00		(3,417.50)	626,315.00
06/01/32	-	-	222,950.00	222,950.00			(3,417.50)	
12/01/32	190,000	7.000	222,950.00	412,950.00	635,900.00		(3,417.50)	629,065.00
06/01/33	-	-	216,300.00	216,300.00			(3,417.50)	
12/01/33	205,000	7.000	216,300.00	421,300.00	637,600.00		(3,417.50)	630,765.00
06/01/34	-	-	209,125.00	209,125.00			(3,417.50)	
12/01/34	215,000	7.000	209,125.00	424,125.00	633,250.00		(3,417.50)	626,415.00
06/01/35	-	-	201,600.00	201,600.00			(3,417.50)	
12/01/35	230,000	7.000	201,600.00	431,600.00	633,200.00		(3,417.50)	626,365.00
06/01/36	-	-	193,550.00	193,550.00			(3,417.50)	
12/01/36	250,000	7.000	193,550.00	443,550.00	637,100.00		(3,417.50)	630,265.00
06/01/37	-	-	184,800.00	184,800.00			(3,417.50)	
12/01/37	265,000	7.000	184,800.00	449,800.00	634,600.00		(3,417.50)	627,765.00
06/01/38	-	-	175,525.00	175,525.00			(3,417.50)	
12/01/38	285,000	7.000	175,525.00	460,525.00	636,050.00		(3,417.50)	629,215.00
06/01/39	-	-	165,550.00	165,550.00			(3,417.50)	
12/01/39	305,000	7.000	165,550.00	470,550.00	636,100.00		(3,417.50)	629,265.00
06/01/40	-	-	154,875.00	154,875.00			(3,417.50)	
12/01/40	325,000	7.000	154,875.00	479,875.00	634,750.00		(3,417.50)	627,915.00
06/01/41	-	-	143,500.00	143,500.00			(3,417.50)	
12/01/41	395,000	7.000	143,500.00	538,500.00	682,000.00		(3,417.50)	675,165.00
06/01/42	-	-	129,675.00	129,675.00			(3,417.50)	
12/01/42	425,000	7.000	129,675.00	554,675.00	684,350.00		(3,417.50)	677,515.00
06/01/43	-	-	114,800.00	114,800.00			(3,417.50)	
12/01/43	460,000	7.000	114,800.00	574,800.00	689,600.00		(3,417.50)	682,765.00
06/01/44	-	-	98,700.00	98,700.00			(3,417.50)	
12/01/44	490,000	7.000	98,700.00	588,700.00	687,400.00		(3,417.50)	680,565.00
06/01/45	-	-	81,550.00	81,550.00			(3,417.50)	
12/01/45	525,000	7.000	81,550.00	606,550.00	688,100.00		(3,417.50)	681,265.00
06/01/46	-	-	63,175.00	63,175.00			(3,417.50)	
12/01/46	560,000	7.000	63,175.00	623,175.00	686,350.00		(3,417.50)	679,515.00
06/01/47	-	-	43,575.00	43,575.00			(3,417.50)	
12/01/47	600,000	7.000	43,575.00	643,575.00	687,150.00		(3,417.50)	680,315.00
06/01/48	-	-	22,575.00	22,575.00			(3,417.50)	
12/01/48	645,000	7.000	22,575.00	667,575.00	690,150.00		(345,167.50)	341,565.00
	6,835,000		11,017,650.00	17,852,650.00	17,852,650.00	(636,680.25)	(546,800.00)	16,669,169.75

Dated	12/01/18	Average Coupon	7.000000
Settlement	12/01/18	NIC	7.065139
		TIC	7.136447
		Arbitrage Yield	7.000000
		Bond Years	157,395.00
		Average Life	23.03
		Accrued Interest	0.00

Eagle Crossing Metropolitan District  
 City of Loveland, CO  
 Preliminary - Discussion Purposes Only  
 Series 2018

8  
 ECMD  
 Sources/Uses  
 8/22/2014

Sources and Uses of Funds

**New Money (Taxable) - Commercial Development**

**Sources**

Principal Amount of Bond Issue	6,835,000.00
<hr/>	
	6,835,000.00

**Uses**

Project Funds at Close	5,660,725.00
Reserve Fund	341,750.00
Bond Discount	102,525.00
Capitalized Interest Fund	630,000.00
Cost of Issuance	100,000.00
Contingency	0.00
<hr/>	
	6,835,000.00

**EXHIBIT B**  
Affidavit of Publication

# AFFIDAVIT OF PUBLICATION

# REPORTER-HERALD

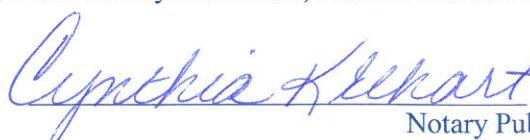
State of Colorado  
County of Larimer

I, the undersigned agent, do solemnly swear that the LOVELAND REPORTER-HERALD is a daily newspaper printed, in whole or in part, and published in the City of Loveland, County of Larimer, State of Colorado, and which has general circulation therein and in parts of Larimer and Weld counties; that said newspaper has been continuously and uninterruptedly published for a period of more than six months next prior to the first publication of the annexed legal notice of advertisement, that said newspaper has been admitted to the United States mails as second-class matter under the provisions of the Act of March 3, 1879, or any, amendments thereof, and that said newspaper is a daily newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado; that a copy of each number of said newspaper, in which said notice of advertisement was published, was transmitted by mail or carrier to each of the subscribers of said newspaper, according to the accustomed mode of business in this office.

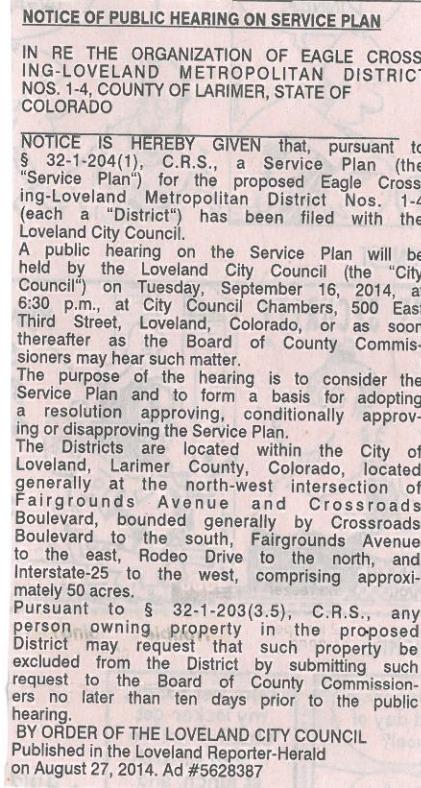
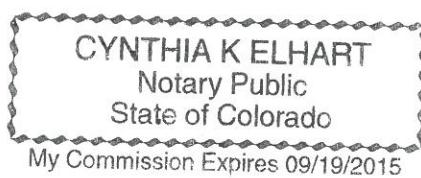
The annexed legal notice or advertisement was published in the regular and entire edition of said daily newspaper once; and that one publication of said notice was in the issue of said newspaper dated August 27, 2014.

  
Debra K. Rypawy  
Agent

Subscribed and sworn to before me this 27th day of August, 2014, in the County of Larimer, State of Colorado.

  
Cynthia K. Elhart  
Notary Public

Account #221944  
Ad #5628387  
Fee \$24.60



# AFFIDAVIT OF PUBLICATION

# REPORTER-HERALD

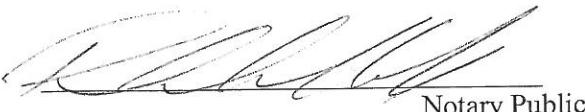
State of Colorado  
County of Larimer

I, the undersigned agent, do solemnly swear that the LOVELAND REPORTER-HERALD is a daily newspaper printed, in whole or in part, and published in the City of Loveland, County of Larimer, State of Colorado, and which has general circulation therein and in parts of Larimer and Weld counties; that said newspaper has been continuously and uninterruptedly published for a period of more than six months next prior to the first publication of the annexed legal notice of advertisement, that said newspaper has been admitted to the United States mails as second-class matter under the provisions of the Act of March 3, 1879, or any, amendments thereof, and that said newspaper is a daily newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado; that a copy of each number of said newspaper, in which said notice of advertisement was published, was transmitted by mail or carrier to each of the subscribers of said newspaper, according to the accustomed mode of business in this office.

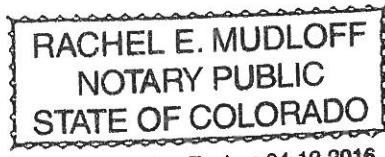
The annexed legal notice or advertisement was published in the regular and entire edition of said daily newspaper once; and that one publication of said notice was in the issue of said newspaper dated September 3, 2014.

  
Debra K. Rypawy Agent

Subscribed and sworn to before me this 3rd day of September, 2014, in the County of Larimer, State of Colorado.

  
Notary Public

Account #221944  
Ad #5628930  
Fee \$27.46



**NOTICE OF PUBLIC HEARING ON SERVICE PLAN**

IN RE THE ORGANIZATION OF EAGLE  
CROSSING-LOVELAND METROPOLITAN  
DISTRICT NOS. 1-4, COUNTY OF LARIMER,  
STATE OF COLORADO

NOTICE IS HEREBY GIVEN that, pursuant to § 32-1-204(1), C.R.S., a Service Plan (the "Service Plan") for the proposed Eagle Crossing-Loveland Metropolitan District Nos. 1-4 (each a "District") has been filed with the Loveland City Council.

A public hearing on the Service Plan will be held by the Loveland City Council (the "City Council") on Tuesday, September 16, 2014, at 6:30 p.m., at City Council Chambers, 500 East Third Street, Loveland, Colorado, or as soon thereafter as the City Council may hear such matter.

The purpose of the hearing is to consider the Service Plan and to form a basis for adopting a resolution approving, conditionally approving or disapproving the Service Plan.

The Districts are located within the City of Loveland, Larimer County, Colorado, located generally at the north-west intersection of Fairgrounds Avenue and Crossroads Boulevard, bounded generally by Crossroads Boulevard to the south, Fairgrounds Avenue to the east, Rodeo Drive to the north, and Interstate-25 to the west, comprising approximately 50 acres.

Pursuant to § 32-1-203(3.5), C.R.S., any person owning property in the proposed District may request that such property be excluded from the District by submitting such request to the City Council no later than ten days prior to the public hearing.

BY ORDER OF THE LOVELAND CITY COUNCIL  
Published in the Loveland Reporter-Herald  
on September 3, 2014. Ad #5628930

**EXHIBIT C**  
Certificate of Mailing

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**CERTIFICATE OF MAILING NOTICE OF PUBLIC HEARING**

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IN RE PUBLIC HEARING TO APPROVE SERVICE PLAN OF EAGLE CROSSING-LOVELAND METROPOLITAN DISTRICT NOS. 1-4, CITY OF LOVELAND, STATE OF COLORADO

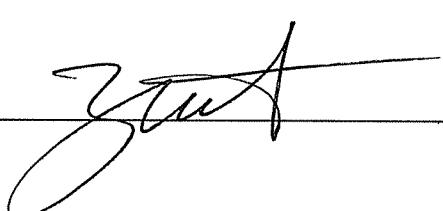
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STATE OF COLORADO      )  
                                    ) ss.  
COUNTY OF ARAPAHOE      )

I, Zachary P. White, of lawful age and duly sworn, state:

1. I am an Attorney at the law firm of WHITE BEAR ANKELE TANAKA & WALDRON, acting on behalf of the proponents of the proposed Eagle Crossing-Loveland Metropolitan District Nos. 1-4 (the "Districts") in the above captioned matter.
2. On July 14, 2014, I received a listing of all property owners within the boundaries of the proposed special districts, and a listing of any existing municipalities or special districts that has levied an ad valorem tax within the preceding tax year and has boundaries within a radius of three miles of the proposed districts from the Larimer County Assessor's Office.
3. On August 27, 2014, in accordance with section 32-1-204(1.5), C.R.S., I mailed the Notice of Public Hearing, a copy of which is attached hereto as **Exhibit A**, to all property owners within the boundaries of the proposed districts as listed on **Exhibit B**.
4. On August 29, 2014, in accordance with section 32-1-204(1), C.R.S., I mailed the Notice of Public Hearing, a copy of which is attached hereto as **Exhibit A**, to the governing body of any existing municipality or special district that has levied an ad valorem tax within the preceding tax year and has boundaries within a radius of three miles of the proposed districts as listed on **Exhibit C**.

Signed this 29<sup>th</sup> day of August, 2014.

By: 

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**EXHIBIT A**

CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO

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**NOTICE OF PUBLIC HEARING**

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**IN RE THE ORGANIZATION OF EAGLE CROSSING-LOVELAND METROPOLITAN DISTRICT NOS. 1-4**

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PUBLIC NOTICE IS HEREBY GIVEN that there has been filed with the City of Loveland, Larimer County, Colorado, a Service Plan and related documents (the "Service Plan") for the organization of the proposed Eagle Crossing-Loveland Metropolitan District Nos. 1-4 (the "Districts"). The Service Plan and a map of the proposed Districts' boundaries are on file and available for public inspection in the office of the City Manager, 500 E. Third Street, Loveland, Colorado 80537.

The proposed Districts are metropolitan districts, located within the City of Loveland, Larimer County, Colorado, located generally at the north-west quadrant of the intersection at Fairgrounds Avenue and Crossroads Boulevard, bounded generally by Crossroads Boulevard to the south, Fairgrounds Avenue to the east, Rodeo Drive to the north, and Interstate-25 to the west, comprising approximately 50 acres. The purpose of the Districts is to provide a part or all of various District Activities, as defined in the Service Plan, necessary and appropriate for the development of the project. The District Activities will be provided for the use and benefit of all anticipated inhabitants and taxpayers of the Districts and the general public, subject to such policies, rules and regulations as may be permitted under applicable law. A primary purpose of the Districts will be to finance the construction of the Public Improvements, as defined in the Service Plan. The Districts would also be authorized to provide ongoing operations and maintenance services to the extent the Public Improvements are not accepted by other governmental entities for operations and maintenance. The Service Plan limits the Districts' maximum debt service mill levy to 39 mills.

NOTICE IS HEREBY FURTHER GIVEN of a public hearing on the proposed Service Plan. The Loveland City Council will hold a public hearing on the Service Plan for the proposed Districts in the Loveland City Council Chambers, 500 E. Third Street, Loveland, Colorado, 80537, **at 6:30 p.m. on September 16, 2014**. The purpose of the hearing before the Loveland City Council shall be to consider the Service Plan and to form a basis for adopting a resolution approving, disapproving or conditionally approving the Service Plan. All protests and objections must be submitted in writing to the Loveland City Council at the address noted above, at or prior to the public hearing or any continuance or postponement thereof in order to be considered.

NOTICE IS FURTHER GIVEN that pursuant to Section 32-1-203(3.5), C.R.S., as amended, any owner of real property within the proposed Districts may file a petition with the Loveland City Council requesting that such real property be excluded from the Districts. Any person owning property in the proposed Districts who requests that his property be excluded from the Districts prior to approval of the Service Plan shall submit such request to the Loveland City Council no later than ten days prior to the public hearing, but the Loveland City Council shall not be limited in its action with respect to exclusion of territory based upon such request. Any request for exclusion shall be acted upon before final action of the Loveland City Council under Section 32-1-205, C.R.S. All protests and objections to the proposed Districts shall be deemed to be waived unless presented at the time and in the manner specified.

Conditional upon approval of the Service Plan by the Loveland City Council, and subsequent to the filing of a petition for organization with the Larimer County District Court as provided for in Section 32-1-301, *et seq.*, C.R.S., it is anticipated that the question of the organization of the District, as well as ballot questions necessary to implement the provisions of Section 20 of Article X of the Colorado Constitution and to elect initial directors to the Board of Directors of the proposed Districts, will be submitted to the eligible electors of the proposed Districts by mail ballot at an election on November 4, 2014.

**EXHIBIT B**

Eagle Crossing One, LLC  
1625 Pelican Lakes Pt, Suite 201  
Windsor, CO 80550

Eagle Crossing Development Inc.  
1625 Pelican Lakes Pt, Suite 201  
Windsor, CO 80550

**EXHIBIT C**

## **Municipalities and Special Districts Within 3-Mile Radius**

CENTERRA METROPOLITAN  
DISTRICT NO. 1  
1627 E. 18th St.  
Loveland, CO 80538

CENTERRA METROPOLITAN  
DISTRICT NO. 4  
1627 E. 18th St.  
Loveland, CO 80538

CITY OF LOVELAND  
500 E. 3rd Street, Suite 330  
Loveland, CO 80537

HIGHPOINTE VISTA  
METROPOLITAN DISTRICT NO. 1  
333 W. Drade Road, Suite 142  
Fort Collins, CO 80526

JOHNSTOWN NORTH  
METROPOLITAN DISTRICT NO. 2  
1627 E. 18th St.  
Loveland, CO 80538

LARIMER COUNTY  
200 W. Oak Street, Second Floor  
Fort Collins, CO 80522

NORTH WELD COUNTY WATER  
DISTRICT  
32825 CR 39 P.O. Box 56  
Lucerne, CO 80646

SOUTH FORT COLLINS  
SANITATION DISTRICT  
5150 Snead Drive  
Fort Collins, CO 80525

CENTERRA METROPOLITAN  
DISTRICT NO. 2  
1627 E. 18th St.  
Loveland, CO 80538

CENTERRA METROPOLITAN  
DISTRICT NO. 5  
1627 E. 18th St.  
Loveland, CO 80538

FORT COLLINS - LOVELAND  
WATER DISTRICT  
5150 Snead Drive  
Fort Collins, CO 80525

HIGHPOINTE VISTA  
METROPOLITAN DISTRICT NO. 2  
333 W. Drade Road, Suite 142  
Fort Collins, CO 80526

JOHNSTOWN NORTH  
METROPOLITAN DISTRICT NO. 3  
1627 E. 18th St.  
Loveland, CO 80538

LITTLE THOMPSON WATER  
DISTRICT  
835 E. State Highway 56  
Berthoud, CO 80513

NORTHERN COLORADO WATER  
CONSERVANCY DISTRICT  
220 Water Avenue  
Berthoud, CO 80513

SPRING CANYON WATER &  
SANITATION DISTRICT  
4908 Shoreline Drive  
Fort Collins, CO 80526

CENTERRA METROPOLITAN  
DISTRICT NO. 3  
1627 E. 18th St.  
Loveland, CO 80538

CITY OF FORT COLLINS  
300 LaPorte Avenue  
Fort Collins, CO 80521

HEALTH DISTRICT OF NORTHERN  
LARIMER COUNTY  
120 Bristlecone Drive  
Fort Collins, CO 80524

JOHNSTOWN NORTH  
METROPOLITAN DISTRICT NO. 1  
1627 E. 18th St.  
Loveland, CO 80538

LAKEVIEW METROPOLITAN  
DISTRICT  
333 W. Drade Road, Suite 142  
Fort Collins, CO 80526

LOVELAND RURAL FIRE  
PROTECTION DISTRICT  
1423 W. 29th Street  
Loveland, CO 80538

POUDRE VALLEY FIRE  
PROTECTION DISTRICT  
102 Reminton Street  
Fort Collins, CO 80524

THE LAKES AT CENTERRA  
METROPOLITAN DISTRICT NO. 1  
1627 E. 18th St.  
Loveland, CO 80538

THE LAKES AT CENTERRA  
METROPOLITAN DISTRICT NO. 2  
1627 E. 18th St.  
Loveland, CO 80538

TOWN OF JOHNSTOWN  
450 S. Parish Avenue  
Johnstown, CO 80534

WATERFALL METROPOLITAN  
DISTRICT NO. 2  
1627 E. 18th St.  
Loveland, CO 80538

WINDSOR HIGHLANDS  
METROPOLITAN DISTRICT NO. 2  
6795 Crystal Downs Drive  
Windsor, CO 80550

WINDSOR HIGHLANDS  
METROPOLITAN DISTRICT NO. 5  
6795 Crystal Downs Drive  
Windsor, CO 80550

THE LAKES AT CENTERRA  
METROPOLITAN DISTRICT NO. 3  
1627 E. 18th St.  
Loveland, CO 80538

TOWN OF WINDSOR  
301 Walnut Street  
Windsor, CO 80550

WATERFRONT METROPOLITAN  
DISTRICT  
2154 E. Commons Avenue, Suite 2000  
Centennial, CO 80122

WINDSOR HIGHLANDS  
METROPOLITAN DISTRICT NO. 3  
6795 Crystal Downs Drive  
Windsor, CO 80550

WINDSOR HIGHLANDS  
METROPOLITAN DISTRICT NO. 6  
6795 Crystal Downs Drive  
Windsor, CO 80550

THOMPSON CROSSING  
METROPOLITAN DISTRICT NO. 1  
27486 CR 13  
Loveland, CO 80534

WATERFALL METROPOLITAN  
DISTRICT NO. 1  
1627 E. 18th St.  
Loveland, CO 80538

WINDSOR - SEVERANCE FIRE  
PROTECTION DISTRICT  
100 7th Street  
Windsor, CO 80550

WINDSOR HIGHLANDS  
METROPOLITAN DISTRICT NO. 4  
6795 Crystal Downs Drive  
Windsor, CO 80550

DIVISION OF LOCAL  
GOVERNMENT  
1313 Sherman Street, Room 521  
Denver, CO 80203



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

---

<b>AGENDA ITEM:</b>	<b>10</b>
<b>MEETING DATE:</b>	9/16/2014
<b>TO:</b>	City Council
<b>FROM:</b>	Steve Adams, Water & Power Department
<b>PRESENTER:</b>	Larry Howard, Water & Power Department

---

**TITLE:**

A Motion Directing the City Manager in consultation with the City Attorney and on terms Favorable to the City, to Negotiate and Enter into both:

A) An Amendment to the January 15, 2014 Agreement between the City and Consolidated Home Supply Irrigating & Reservoir Company (Home Supply) to complete additional flood related repairs on the Home Supply's diversion structure on the Big Thompson River including addition of a gated spillway to provide mitigation against future flood damage: and,

B) A Phase II Agreement with Home Supply for Critical O&M Work

**RECOMMENDED CITY COUNCIL ACTION:**

Adopt the motion approving both agreements identified in A and B.

**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

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**SUMMARY:**

This is an administrative action. The Home Supply's stone diversion dam structure (Big Dam) on the Big Thompson River sustained significant damage in the September, 2013 Flood. Since 1887, the City has used the structure under an agreement with Home Supply to divert water through a City-owned pipeline into its water treatment facilities. Since the Flood, the City has participated with Home Supply under the terms of a January 15, 2014 Agreement (**Attachment A**) on a 50:50 cost share basis, up to a "not to exceed" cap of \$400,000 to make necessary repairs to the structure. Because of the importance of this diversion structure to both parties, the Home Supply is requesting additional financial assistance from the City, also on a 50:50 basis, for a total amount "not to exceed" \$550,000

to complete the flood related repairs, add a gated spillway to provide mitigation from future flood damages, and complete non-flood related O&M repairs.

**BUDGET IMPACT:**

- Positive
- Negative
- Neutral or negligible

Charges for this work will be made to the source of supply fund, line item 300-46-316-2901-43569, repair and maintenance.

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**BACKGROUND:**

The City is obligated under an 1895 Agreement with the Home Supply to pay 11.36% of the cost to repair the stone diversion structure (Big Dam), which is used by the City to divert water from the Big Thompson River through a City-owned pipeline into the water treatment facilities (**Attachment A(a)**). The Dam sustained significant damage in the September, 2013 Flood. Photos showing the flood damage, the repair work in progress, and the current status of repairs are attached for your information (**Attachment B**).

The Home Supply lacked available funds and reasonable financing options to make the necessary repairs, and because the structure is of vital importance to the City, on October 15, 2013 Council authorized the City to enter into an Agreement to provide additional financial assistance. The City and Home Supply signed the agreement on January 15, 2014 (the "Phase I Agreement") for repair work on a 50:50 cost share basis in a total amount "not to exceed" \$400,000, referred to as the "Phase I" work in the October 16, 2013 Deere & Ault Letter Report of the Dam (**Attachment A(b)**) performed after the Flood.

During completion of the repair work this spring, additional damage was identified which requires repair. It was also determined that installation of a gated spillway would protect the dam against future flood damage. Home Supply has asked that the City amend the Phase I Agreement to include this additional work.

Finally, the Dam also requires critical, non-flood related maintenance work, which was identified as "Phase II" in the October 16, 2013 Deere & Ault Letter Report. The City and Home Supply wish to enter into a new agreement for the cost of completing such work (the "Phase II Agreement"). Engineering inspection of the dam following the 2013 flood revealed that following 118 years of use the grout holding the stones in place had badly eroded over almost all of the dam face, as deeply as about half way through the thickness of the stones. The integrity of the dam itself is at risk if this grout is not replaced soon through a process known as 'pointing.' The only alternatives to repairing the grout to protect and strengthen the existing structure are, 1) to replace the 62' high dam itself when it eventually fails, or 2) construct an alternate City river diversion site upstream for getting water directly from the river into the water treatment plant. These options are far more expensive than doing this critical work now.

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Costs for all shared work described in the amended Phase I Agreement and proposed Phase II Agreement will be shared on a 50:50 basis. The City's total "not to exceed" cost for both agreements will be \$550,000. The \$550,000 cap on the City's portion of the combined Phase I and Phase II expenses assumes all approved FEMA funds are disbursed by the state. The parties agree that reimbursable amounts obtained from sources such as the Natural Resource Conservation Service (NRCS), Federal Emergency Management Agency (FEMA), and the Colorado Water Conservation Board (CWCB), will be shared equally by the parties, thus the City's 50% portion will be based on shared nonreimbursable expenses. Staff recommends approval of both an Amendment to the Phase I Agreement and creation of a Phase II Agreement, as the work included is interrelated and can be completed now in a more efficient manner. The work under both Agreements is critical to the continued integrity of the Dam and is separated into two Agreements primarily because of differing FEMA eligibility.

To summarize, if this recommendation is approved by Council, the agreements between the City and Home Supply pertaining to the Dam will include the following:

- **January 15, 2014 Agreement ("Phase I Agreement"):** Original Agreement between the City and Home Supply for the Big Dam Project for "Phase I" repair work. A copy is attached.
- **Amendment to Phase I Agreement:** Changes the scope of the Phase I Agreement to add the following FEMA eligible costs: replacement of additional weakened stone blocks which have been identified; completion of work on the cap of the dam; additional river relocation work; additional engineering costs; and a 20' x 6' gated spillway and appurtenant structures and controls to provide protection from future flood damages.
- **Phase II Agreement (O&M—Not FEMA eligible):** Complete critical non-flood related O&M work needed on the dam, including repointing and grouting the dam face.

Staff recommends the City pursue negotiations with Home Supply simultaneously on the amendment to the Phase I Agreement and on a Phase II Agreement to complete critical O&M work. This will provide the Home Supply with the funds necessary to complete the repairs to the diversion structure. Initial discussions have resulted in the "Drafting Points" document which is attached (**Attachment C**). This document was prepared by City staff and unanimously approved by Home Supply's Board on August 25, 2014.

Successful repairs will ensure the City's continued ability to use this critical structure to make its decreed diversions directly from the Big Thompson River into the water treatment plant.

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**REVIEWED BY CITY MANAGER:**

*William D. Cain*

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**LIST OF ATTACHMENTS:**

1. **Attachment A:** January 15, 2014 Agreement ("Phase I Agreement") For Home Supply Big Dam Repair, with its following exhibits:
  - a) 1895 Agreement between Home Supply and Loveland
  - b) October 16, 2013 Deere & Ault Report
2. **Attachment B:** Photos of damage to the diversion structure, repair work underway, and the current status of the repairs.
3. **Attachment C:** "Agreement with Home Supply Drafting Points" outlining tentative points of agreement based on discussions between Home Supply and staff. Approved by Home Supply's Board.

## Attachment A

### AGREEMENT For Home Supply Big Dam Flood Repair

This Agreement for Home Supply Big Dam Flood Repair ("Agreement") is made and entered into this 15th day of January, 2014, by and between the City of Loveland, a Colorado municipal corporation ("City"), and The Consolidated Home Supply Ditch And Reservoir Company, a Colorado mutual irrigation company ("Home Supply").

1. **Background.** The September 2013 flood ("Flood") significantly damaged the diversion structure owned and operated by Home Supply on the Big Thompson River adjacent to N. County Road 29 and the City's Chasteen's Grove Water Treatment Plant known as the Big Dam ("Big Dam"). The Big Dam is used by Home Supply and the City, which diverts water from the Big Thompson River at the Big Dam pursuant to a December 19, 1895 Agreement with Home Supply, a copy of which is attached hereto as **Exhibit A** and incorporated herein by reference ("1895 Agreement"). Home Supply and the City need to repair the Big Dam as soon as possible so that the parties' respective water diversions can be made on a consistent and reliable basis. The 1895 Agreement obligates the City to pay a portion of the costs required to repair the Big Dam (calculated by the parties to be 11.36%). Because operation of the Big Dam is critical to the City's municipal water supply, the City has agreed that it is in the City's best interest to increase its contribution toward the costs required to repair damage sustained by the Big Dam as a result of the Flood on the terms and conditions set forth herein.

2. **Project Scope.** This Agreement shall be limited to work required to repair damage sustained by the Big Dam as a result of the Flood ("Project"), which is generally described as "Phase 1" in the October 16, 2013 report from Deere & Ault Consultants, Inc. ("Deere & Ault Report"), a copy of which is attached hereto as **Exhibit B** and incorporated herein by reference. This Agreement does not and shall not be construed to include work required to address deferred operating and maintenance costs for the Big Dam, which are generally described as "Phase 2" in the Deere & Ault Report.

3. **Responsibilities of Home Supply.**

a. Home Supply shall accomplish the Project according to the requirements of the Federal Emergency Management Agency ("FEMA") in order to maximize potential reimbursement for the Project, and the requirements of the Colorado Water Conservation Board ("CWCB") to ensure compliance with the requirements of the loan received by Home Supply from the CWCB for the Project.

b. Home Supply shall require its contractor to carry general liability insurance in an amount sufficient to fully insure the Project, and to name the City as an additional insured under such policy.

c. Home Supply shall provide the City and its agents with unrestricted access to the Project site at all times for purposes of Project observation and inspection. Said inspection shall be for City purposes only and shall not be for the purpose of approving or accepting any work performed by Home Supply's contractor.

d. Home Supply shall provide the City and its agents with full and timely access to all Project contracts, designs, drawings, reports, invoices, and cost documentation.

e. Home Supply shall invoice the City for its Reimbursement Obligation, defined below, not more frequently than monthly. Each invoice shall be accompanied by documentation sufficient to support the requested payment as determined by the City. Home Supply's failure to provide sufficient supporting documentation upon 30 days' written request from the City shall be grounds for delayed payment or nonpayment of the unsupported payment request.

f. Home Supply shall provide the City and its agents with reasonable access to the Project site and Home Supply's adjacent property for the purpose of performing any work necessary to repair the City's intake located on the left (north) abutment of the Big Dam.

4. **Responsibilities of City.**

a. The City shall reimburse Home Supply for 50% of all Eligible Costs up to a total not-to-exceed amount of \$400,000 ("Reimbursement Obligation"). For the purposes of this Agreement, "Eligible Costs" shall mean those costs incurred by Home Supply to complete the Project, minus any grants received by Home Supply from FEMA and other grant sources. For the purpose of this paragraph, "grant" shall mean any funding the terms of which do not require repayment by Home Supply. The City's Reimbursement Obligation shall expire on December 31, 2015 unless extended by the parties in writing prior to said date.

b. Except as otherwise provided in this Agreement, the City shall pay Home Supply within 30 days of receipt of each invoice.

c. The City shall be responsible for the safety of its personnel and agents at the Project site and shall follow all applicable laws and regulations for construction site safety.

5. **Full Satisfaction of City's Project Cost Contributions Under the 1895 Agreement.** The City's promise to pay the Reimbursement Obligation on the terms and conditions set forth herein shall discharge and release the City from any obligation for financial contribution to the Project under the 1895 Agreement. In other words, the City shall not be required to pay Home Supply an additional 11.36% of Project costs above and beyond the Reimbursement Obligation.

6. **Overpayments by City.** If, after final accounting of all Project costs, the City determines that it paid Home Supply monies in excess of the City's Reimbursement Obligation, the City shall notify Home Supply of such overpayment in writing and request a refund. Home

Supply shall refund all such overpayments to the City within 30 days of receiving written notice from the City.

7. **Term.** Unless earlier terminated by either party as permitted herein, this Agreement shall be effective from the date set forth above through December 31, 2015, or until all refunds due to the City from Home Supply pursuant to paragraph 6 of this Agreement are received, whichever is later.

8. **Appropriation.** To the extent this Agreement constitutes a multiple fiscal year debt or financial obligation of the 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. The City shall have no obligation to continue this Agreement in any fiscal year in which no such appropriation is made.

9. **Time of the Essence.** Time is of the essence for this Agreement and for each and every term and condition herein.

10. **Default; Termination.** Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either party fails to perform according to the terms of this Agreement, such party may be declared in default. If the defaulting party does not cure said breach within ten days of written notice thereof, the non-defaulting party may terminate this Agreement immediately upon written notice of termination to the other. In the event of such termination by the City, the City shall be liable to pay its share of Eligible Costs incurred by Home Supply up to the date of termination, but the City shall not be liable to pay any portion of Eligible Costs incurred by Home Supply beyond that date.

11. **Future Cooperation on Phase 2 Work.** Following successful completion of the Project, and conditioned upon the parties' full satisfaction of their respective obligations under this Agreement, representatives of the City and Home Supply shall meet to discuss potential contributions by the City above and beyond those required in the 1895 Agreement for deferred operating and maintenance costs for the Big Dam, which are generally described as "Phase 2" in the Deere & Ault Report; provided, however, that nothing in this Agreement is intended or shall be construed to commit the City to pay any costs for Phase 2 work above and beyond the amount set forth in the 1895 Agreement.

12. **Notices.** Written notices shall be directed as follows and shall be deemed received when hand-delivered or emailed, or three days after being sent by certified mail, return receipt requested:

To the City:  
Stephen C. Adams  
Loveland Water & Power  
200 N. Wilson Avenue  
Loveland, CO 80537  
steve.adams@cityofloveland.org

To Home Supply:  
Minerva Lee  
President, Home Supply  
PO Box 1548  
Berthoud, CO 80513  
consolidatedhomesupplyditch@g  
mail.com

**13. 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 notices, requirements, immunities, rights, benefits, protections, limitations of liability, and other provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 *et seq.* and under any other applicable law.

**14. Miscellaneous.** 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. 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. Home Supply shall not assign this Agreement without the City's prior written consent. This Agreement shall be governed by the laws of the State of Colorado, and venue shall only be in the County of Larimer, State of Colorado.

Signed by the parties on the date first above written.

ATTEST.   
\_\_\_\_\_  
Jesus D. Andrews  
City Clerk

City of Loveland, Colorado

By:   
\_\_\_\_\_  
Title: William D. Cahill, City Manager

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Assistant City Attorney

STATE OF COLORADO      )  
                                  ) ss  
COUNTY OF LARIMER      )

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of January, 2014  
by William D. Cahill as City Manager of the City of Loveland, Colorado.

Witness my official seal.  
My commission expires:

8-8-2017

Notary Public Signature

(SEAL)

HEIDI J LEATHERWOOD  
Notary Public  
State of Colorado  
NOTARY ID 20134047790  
MY COMMISSION EXPIRES August 8, 2017

The Consolidated Home Supply Ditch And  
Reservoir Company

By:

Title: Minerva Lee, President

STATE OF COLORADO )  
                          )  
                          ) ss

COUNTY OF LARIMER )

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of January, 2014  
by Minerva Lee as President of The Consolidated Home Supply Ditch And Reservoir Company.

Witness my official seal.

My commission expires: July 30, 2016

Notary Public Signature

(SEAL)

REBECCA D MORRIS  
Notary Public  
State of Colorado  
Commission # 19864016647  
My Commission Expires Jul 30, 2016

EXHIBIT

tabbed

A

THIS AGREEMENT, made and entered into, this 19<sup>th</sup> day of December A.D. 1895, by and between THE CONSOLIDATED HOME-SUPPLY DITCH & RESERVOIR COMPANY, a Corporation, of the County of Larimer and State of Colorado, of the first part, and THE TOWN OF LOVELAND, a Municipal Corporation, of said County and State aforesaid of the second part,

WITNESSETH:— That whereas, the said party of the first part is the owner of a certain DAM in the Big Thompson River, in said County and State, known as "THE HOME-SUPPLY DAM" used by said first party to raise the water in said river to the Head-Gate of first parties Ditch, whereby a Reservoir is created in said river, and

Whereas, the said party of the second part has a system of Water-Works, consisting of a Pipe-line, the same extending into said Reservoir as its source of supply, and

Whereas, the said party of the first part has a Gate in said Dam, for the purpose of drawing off the water of said Reservoir, whereby the said source of supply of said second party is rendered unavailable when the said Reservoir is lowered below the said pipe-line,

Now Therefore, in consideration of the sum of TWELVE HUNDRED AND FIFTY Dollars in hand paid by the party of the second part to the said party of the first part, the receipt of which is hereby acknowledged, and the further consideration of the covenants and agreements herein mentioned to be kept and performed, the said party of the first part hereby agrees for itself, its successors and assigns, to keep the said Gate in said Dam closed, and never hereafter to draw off the water of said Reservoir by itself, agents or employees, or allow or permit the same to be done otherwise than through its Ditch as now located, whereby the said party of the second part may be deprived of taking water

A

B

through its said pipe-line, nor will the said party of the first part ever hereafter interfere with, or in any wise prevent the said second party from having access to said water in said Reservoir with its supply pipe.

And it is further agreed and understood, that if at any time after the said Dam shall be completely finished by said first party, it shall be deemed necessary by both parties hereto to draw off the water in the said Reservoir for the purpose of making alterations or repairs, the water may be drawn off for that purpose, and such alterations or repair if water be turned off for the purpose, shall be made without unnecessary delay, and the work prosecuted with reasonable dispatch.

And it is further agreed and understood, that if at any time it shall be deemed necessary for the interests of both parties hereto to make alterations or repairs upon said Dam, that the expense of said alterations or repairs shall be borne by both parties, in the proportion as the consideration herein is to the whole cost of the Dam, namely Eleven Thousand Dollars.

In witness whereon, the said party of the first part has caused these presents to be executed by its President and Secretary, and to be sealed with its seal, and the said party of the second part has caused the same to be executed by the Mayor and Recorder of the said Corporation and the seal of said corporation to be affixed, the day and year first above written. *in duplicate*

THE CON. HOME-SUPPLY DITCH & RESERVOIR COMPANY.

By W. A. Hawkins President by J. Glenn Sec'y.

THE TOWN of LOVELAND:

Attest J. M. Seaman By H. L. Beckfield Mayor.  
Recorder.



EXHIBIT

B

October 16, 2013

Ms. Minerva Lee  
Consolidated Home Supply Ditch and Reservoir Company  
c/o Northern Colorado Water Conservancy District  
220 Water Avenue  
Berthoud, Colorado 80513

**Re: Big Dam Diversion Structure, Examination and Proposed Repair;  
D&A Job No. CG-0122.019.00**

Dear Ms. Lee:

This letter report presents our observations and recommendations for the proposed repair of Big Dam on the Big Thompson River. The top five feet of the dam was washed out during the flooding of September 11 through 15, 2013. Peak flows may have been of the order of 15,000 to 20,000 cfs with maximum overtopping of the structure of the order of 10 feet.

Our recommendations are based upon the examination of conditions during our site visit of October 7, 2013. The examination was conducted by Don W. Deere, P.E. and Colby Hayden, P.E. of our Longmont office. We were met on-site by Board Member, Gary Gerrard.

#### DIVERSION DAM CONDITIONS

The Big Dam is primarily a masonry thin arch dam constructed in 1895 by the Consolidated Home Supply Ditch Company to provide diversion off the Big Thompson River. The main arch dam is approximately 65 feet high, 70 feet long, and five feet wide at the crest. The arch dam transitions into a short gravity dam on the left, or north, abutment. An aerial photograph of the dam is shown on **Figure 1**. We understand that the dam is not considered a jurisdictional dam because the reservoir area has been filled with alluvial deposits resulting in only a few acre-feet of water storage. The dam serves as a diversion structure for the Consolidated Home Supply Ditch and Reservoir Company and the City of Loveland.

The left 50 feet of the diversion dam is a straight gravity section only three to six feet high. The gravity and arch sections are separated by a masonry and concrete buttress thrust block. The intake and headgate to the Consolidated Home Supply Canal are located on the right, or south, abutment, and the City of Loveland's intake is on the left abutment.

Visible damage caused by the flood includes:

1. Loss of the top five feet of the crest along 75 percent of the arch dam section
2. Severe damage to the left abutment concrete buttress

Ms. Minerva Lee  
October 16, 2013  
Page 2

3. Creation of a moderate sized hole on the left abutment dam/rock contact about 20 feet below the crest
4. Minor damage to gunite facing of gravity dam
5. Increased loss of mortar between masonry blocks on downstream face

**Figures 2 and 3** compare 2004 and October 2013 photographs of the dam's downstream face near the crest. As shown on the figures, four vertical courses of masonry were lost. A fifth course was damaged and chipped locally.

As can be seen on **Figures 2 and 3**, the failed section corresponds closely with an apparent scarp line seen in the 2004 photographs. Remnants of the upstream gunite face (sprayed concrete with fine aggregate) can be seen on **Figure 2**. It appears the one to two-inch thick gunite facing, that is believed was installed in the 1960s, only extends about five feet below the original crest. During the flooding, the courses of masonry blocks below the gunite probably experienced uplift forces, which contributed to failure.

The damage to the arch dam's left abutment buttress is shown on the upper photograph of **Figure 4**. This area may be where failure initiated in the upper dam masonry courses. Most of the arch dam is confined within the narrow slot canyon in very good quality Colorado Red Granite. A coherent arch in compression is formed throughout most of the dam structure, making it a strong and robust structure. The exception to this is the top few feet of the dam, which because of the topography, relies on this artificial buttress thrust block to engage full arching action in the upper dam courses.

Review of flood videos revealed very turbulent flow in the area of the flow restriction caused by the buttress. Masonry blocks in the buttress and adjoining arch dam were probably the first blocks to fail and resulted in loss of arching action for remaining blocks in the upper dam masonry courses. This loss of arching action, combined with hydrostatic uplift, flow velocity and depth, cavitation, and debris impact all contributed to the failure.

A moderate sized hole at the left abutment rock/dam contact is shown on **Figure 4** (lower photograph). This area contains smooth and shiny masonry blocks as it is a major impact zone for cascading water. The rock mass is locally closely jointed in this area, and water has plucked out both abutment rock and dam masonry. The hole needs to be inspected up closer, but appears to be two to three feet deep. The photographs also show that most of the mortar between masonry blocks has been removed on the downstream face over time by the water flow and freeze-thaw action. Our examination of the crest indicates that mortar loss of about six inches in depth may be common. Since the typical outer face masonry blocks are 18 inches thick, about one-third of the block to block contact has been lost over time. Closer examination of the downstream face is needed to verify this conclusion. Additionally, it appears that there may be similar openings in the rock/dam contact at lower portions of the right abutment. Further examinations of this area, as well as the plunge pool at the toe of the dam are warranted.

Ms. Minerva Lee  
October 16, 2013  
Page 3

**Figure 5** shows the downstream face of the gravity dam section in the lower photograph. Much of the gunite facing has been lost. The small upper level outlet gate may be inoperable.

### **PROPOSED REPAIR**

We have divided the repair project into two phases. Phase 1 essential work is that required to make the dam and diversion structure operational for next spring's irrigation season. Phase 2 work includes additional warm weather repairs that should be performed during the fall of 2014.

#### **Phase 1**

Phase 1 repairs include the following items:

1. Rebuild crest utilizing masonry block and concrete
2. Rebuild left abutment buttress
3. Repair hole on left abutment

The proposed crest repair is shown on **Figure 6**. The repair consists of rebuilding the downstream face utilizing matching quartzite blocks. This will retain the historic appearance of the structure, as well as provide a durable downstream face. The blocks will also provide a forming base for the remaining concrete placements.

The remainder of the crest will be built using cast-in-place concrete. This includes a mass concrete block with a reinforced concrete upstream face wall and crest cap.

The left abutment buttress thrust block needs to be reconstructed. Additional inspection is required once all trash is removed. It could require demolition of some or all of the existing concrete buttress and rebuilding with reinforced concrete. Alternatively, it may be repaired utilizing shotcrete, placement of rock anchors, and grouting.

The purpose of the above repairs is to restore the full arching action of the top eight feet of the dam. This zone has loosened due to topography, freeze/thaw, and ultimately flood overtopping.

The hole in the downstream left rock abutment contact should be filled with reinforced shotcrete and then grouted. Further inspection will allow us to evaluate if this repair is critical for operation or can be moved into next year's Phase 2 work.

#### **Phase 2**

We recommend repointing of masonry blocks on the downstream dam face. Small drain pipes will be installed in the mortar joints to continue to allow drainage to occur. Special care is needed along the rock/masonry contact.

Ms. Minerva Lee  
October 16, 2013  
Page 4

Other holes at the abutment contact may need to be shotcreted and grouted. As mentioned, there appears to be a hole at the lower right abutment contact that requires filling.

### COSTS

The total estimated cost of repair is approximately \$1.536 million, which includes a 20 percent contingency. The costs are itemized on Table 1. Engineering costs are estimated at \$174,590 and are itemized on Table 2.

### SCHEDULE

Surveying of the structure should be completed by October 25, 2013. Ninety percent plans and specifications for repair will be completed by Thanksgiving. Phase 1 repair is expected to be completed in 60 days this winter. An additional 60 days of construction is expected for Phase 2 in the fall of 2014.

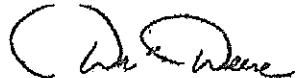
### CONCLUSIONS

The proposed repairs should allow this well designed structure to regain its original function. These repairs are designed to restore the full arching action of the dam, so it can withstand the powerful forces of overtopping river flows.

Please call if you have any questions or comments.

Sincerely,

DEERE & AULT CONSULTANTS, INC.



Don W. Deere, P.E.  
Principal

DWD:sp

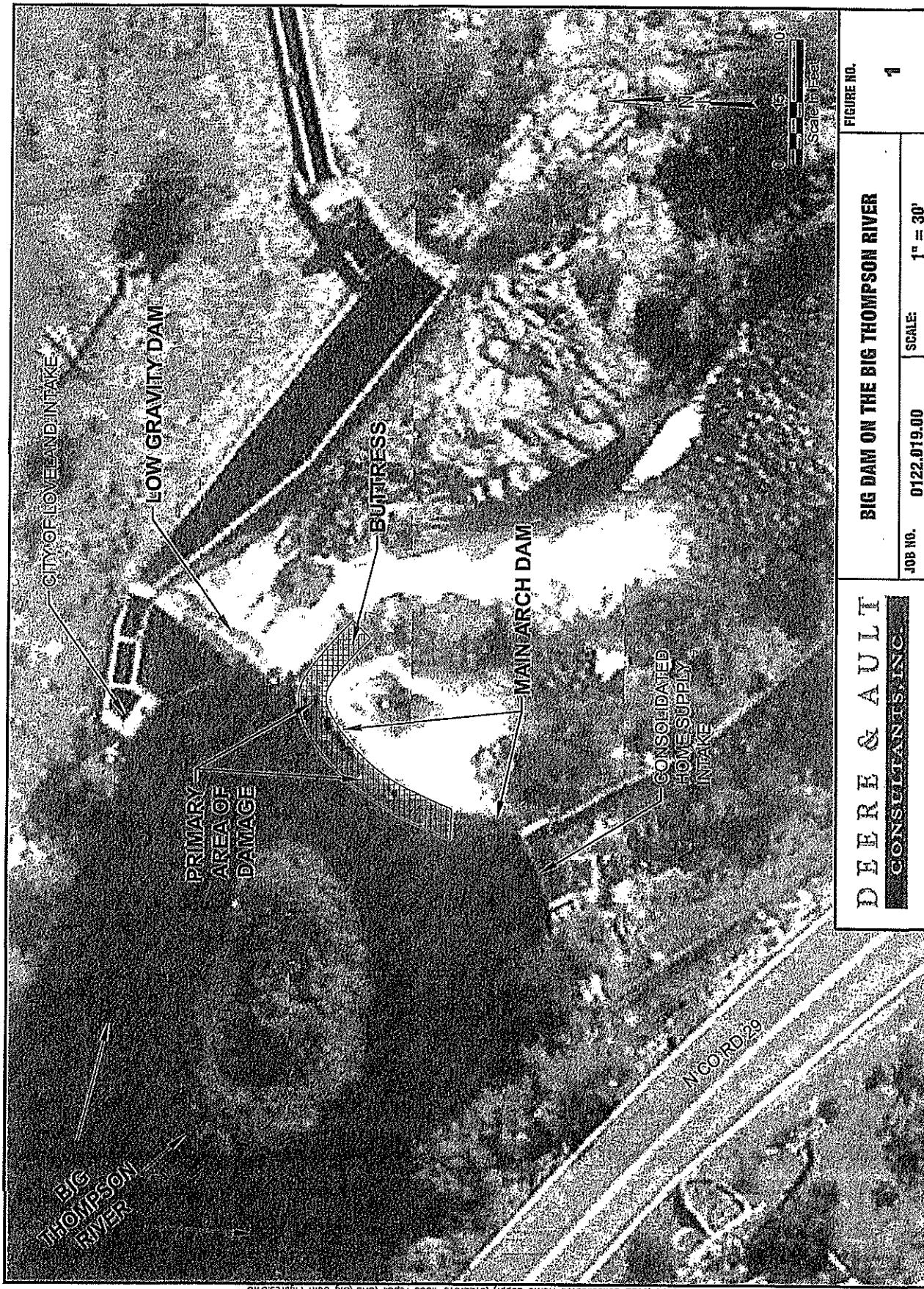
Attachments

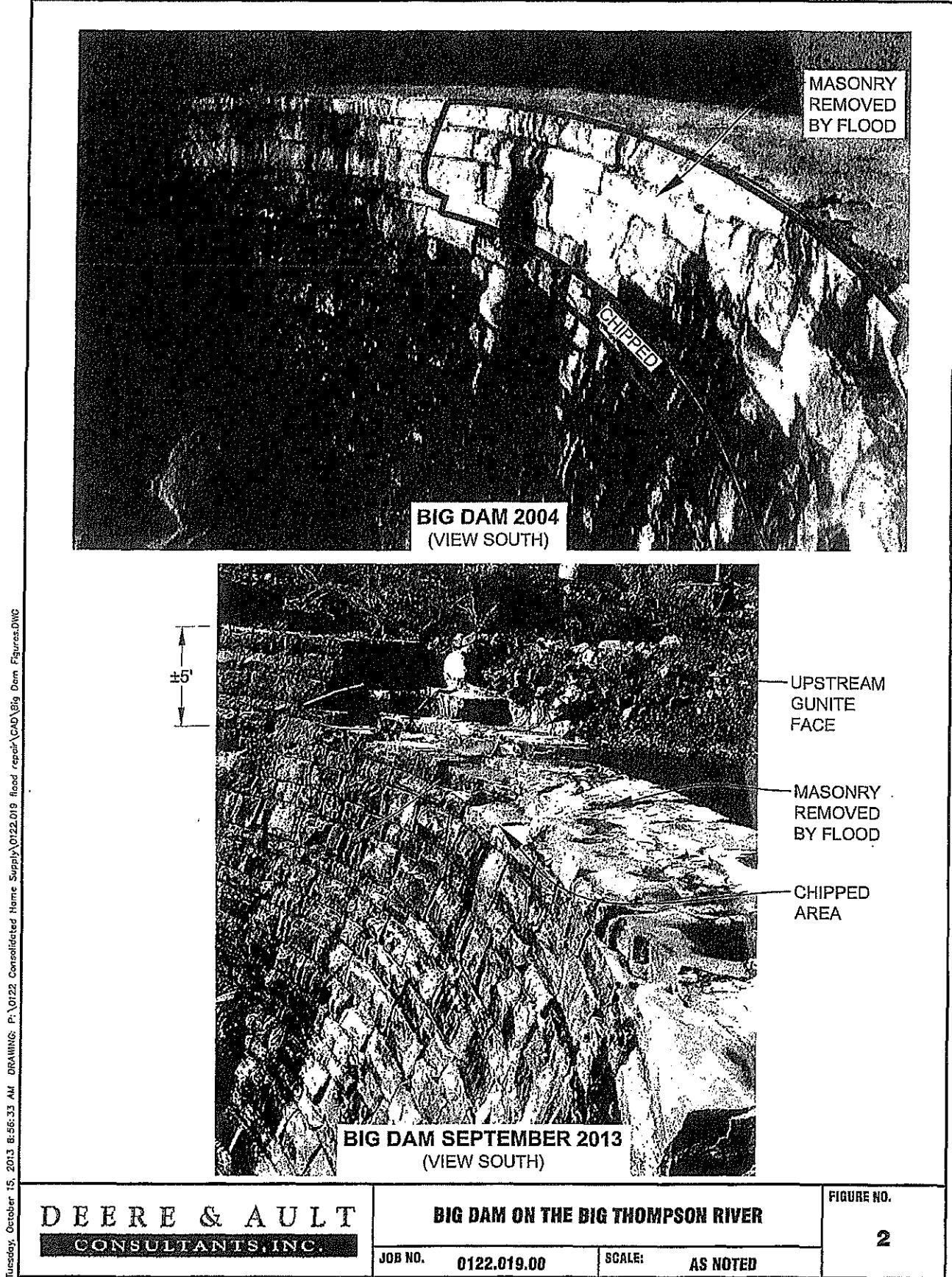
**TABLE 1**  
**COSTS TO REPAIR BIG DAM DIVERSION**  
**CONSOLIDATED HOME SUPPLY DITCH COMPANY**  
**October 16, 2013**

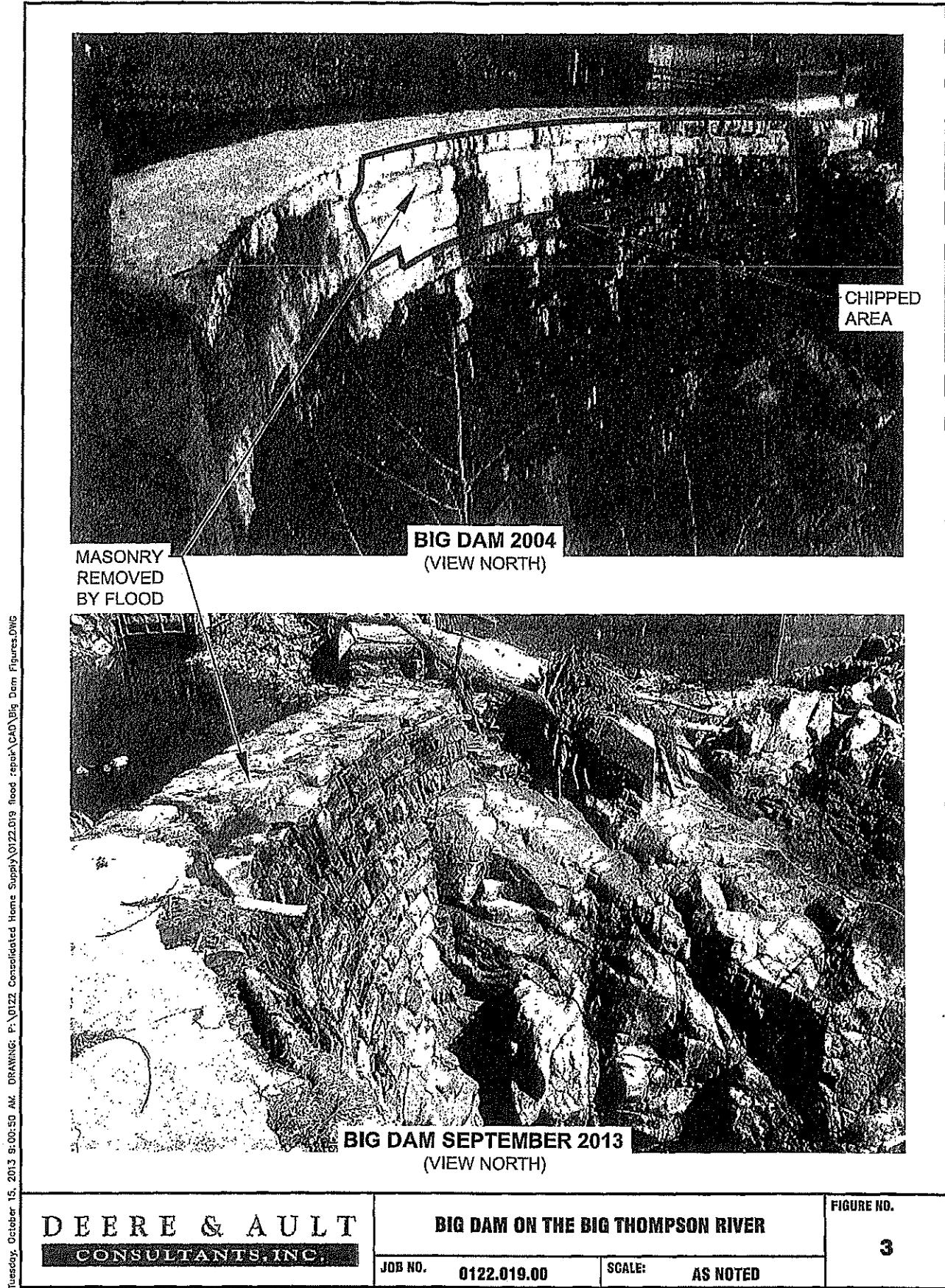
Description	Quantity	Unit	Rate	Total
<b>Phase 1</b>				
Diversion and Care of the River	1	LS	\$ 90,000	\$ 90,000
Masonry Wall (60' x 5')	180	SF	\$ 250	\$ 45,000
Concrete Work	100	CY	\$ 1,800	\$ 180,000
Shotcrete Repairs	20	CY	\$ 3,000	\$ 60,000
Anchor Bars	8	Each	\$ 2,000	\$ 16,000
Grouting	1	LS	\$ 25,000	<u>\$ 25,000</u>
			Subtotal	\$ 416,000
Cold Weather/Safety Premium @ 25%				\$ 104,000
Mobilization @ 5%				\$ 20,800
Miscellaneous and Unlisted @ 5%				<u>\$ 20,800</u>
			Total Phase 1	\$ 561,600
<b>Phase 2</b>				
Diversion and Care of the River	1	LS	\$ 90,000	\$ 90,000
Repoint - Downstream Face	1	LS	\$ 200,000	\$ 200,000
Grouting	1	LS	\$ 25,000	\$ 25,000
Shotcrete Repairs	40	CY	\$ 3,000	<u>\$ 120,000</u>
			Subtotal	\$ 435,000
Special Safety Costs @ 15%				\$ 65,250
Mobilization @ 5%				\$ 21,750
Miscellaneous and Unlisted @ 5%				<u>\$ 21,750</u>
			Total Phase 2	\$ 543,750
<b>SUBTOTAL CONSTRUCTION</b>				
Engineering			\$ 174,590	
Contingency @ 20%			\$ 255,988	
<b>TOTAL ESTIMATED COST (rounded to nearest \$1,000)</b>				<b>\$ 1,536,000</b>

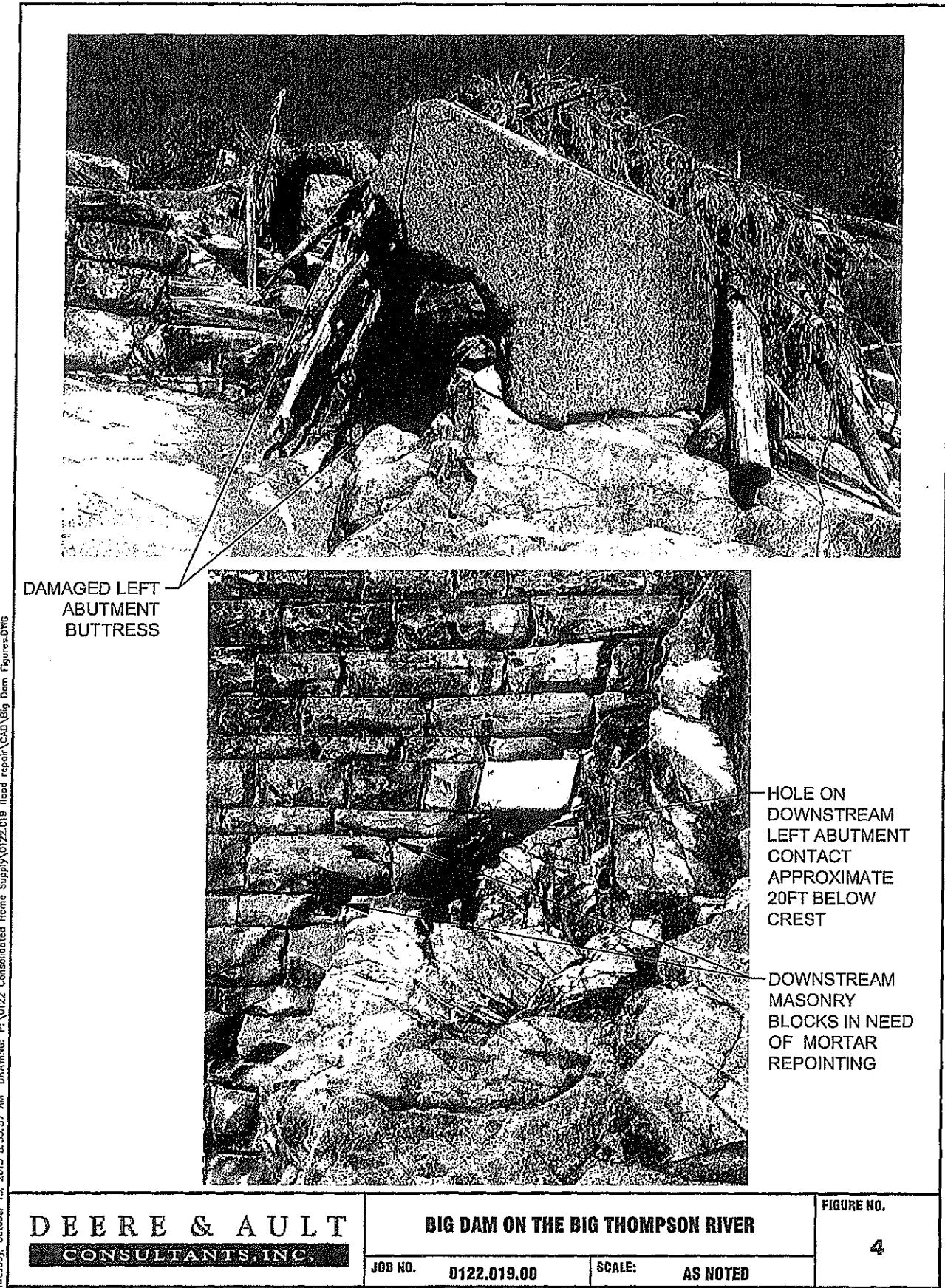
**TABLE 2**  
**ENGINEERING COSTS TO REPAIR BIG DAM DIVERSION**  
**CONSOLIDATED HOME SUPPLY DITCH COMPANY**  
October 16, 2013

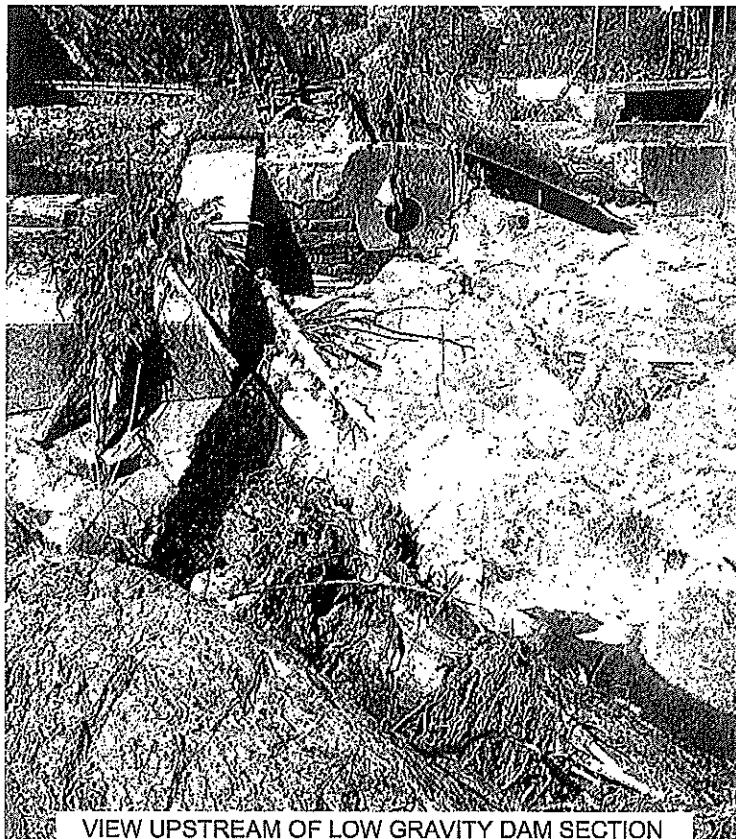
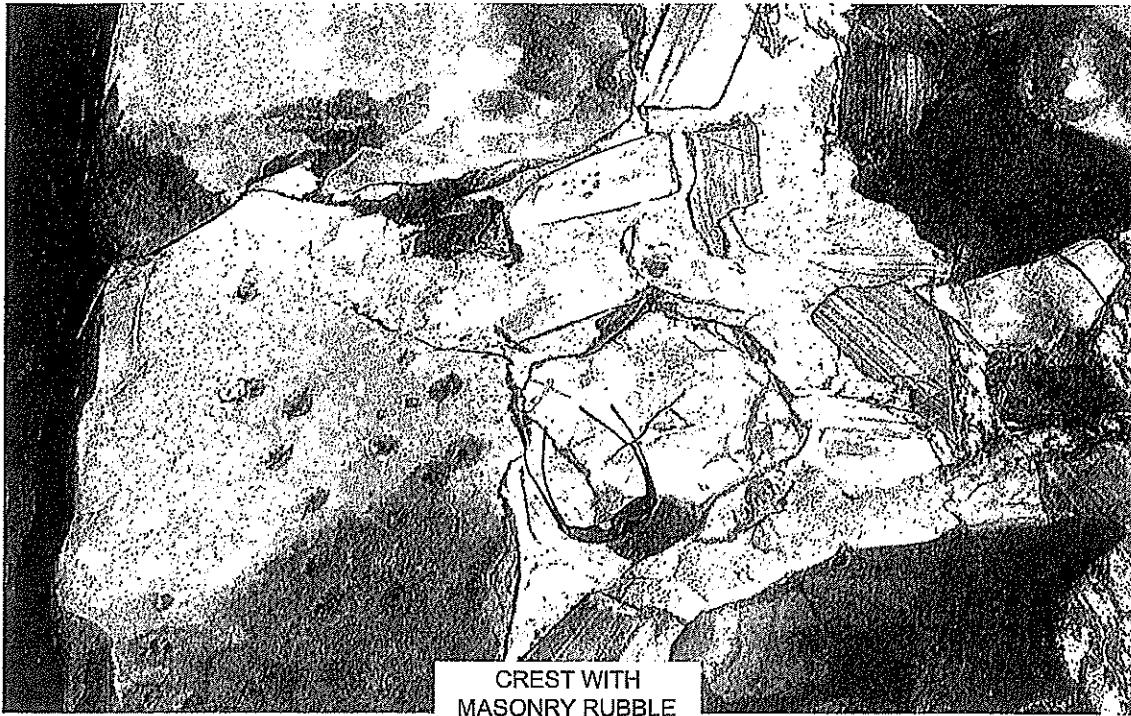
Description	Quantity	Unit	Rate	Total
<u>Design</u>				
Don Deere	100	Hours	\$ 250.00	\$ 25,000
Colby Hayden	40	Hours	\$ 180.00	\$ 7,200
Glen Church	120	Hours	\$ 135.00	\$ 16,200
Grant Horeczy	60	Hours	\$ 130.00	\$ 7,800
Laura Campbell	120	Hours	\$ 76.00	\$ 9,120
CAD Technician	120	Hours	\$ 88.00	\$ 10,560
Clerical	40	Hours	\$ 84.00	\$ 3,360
Surveying	1	LS	\$ 4,950.00	\$ 4,950
Miscellaneous expenses				\$ 3,000
			Total Design	\$ 87,190
<u>Meetings (as needed)</u>				
		Allowance		\$ 10,000
<u>Construction Engineering per Phase (assuming a 60-day construction period)</u>				
Don Deere	40	Hours	\$ 250.00	\$ 10,000
Colby Hayden	80	Hours	\$ 180.00	\$ 14,400
Derek Foster	100	Hours	\$ 103.00	\$ 10,300
Miscellaneous expenses and testing				\$ 4,000
			Total Construction Phase 1	\$ 38,700
			Total Construction Phase 2	\$ 38,700
			<b>TOTAL ENGINEERING</b>	<b>\$ 174,590</b>











Tuesday, October 15, 2013 8:02:35 AM DRAWING: P:\0122\Consolidated Home Supply\0122.019 flood report\CAD\Big Dam Figures.DWG

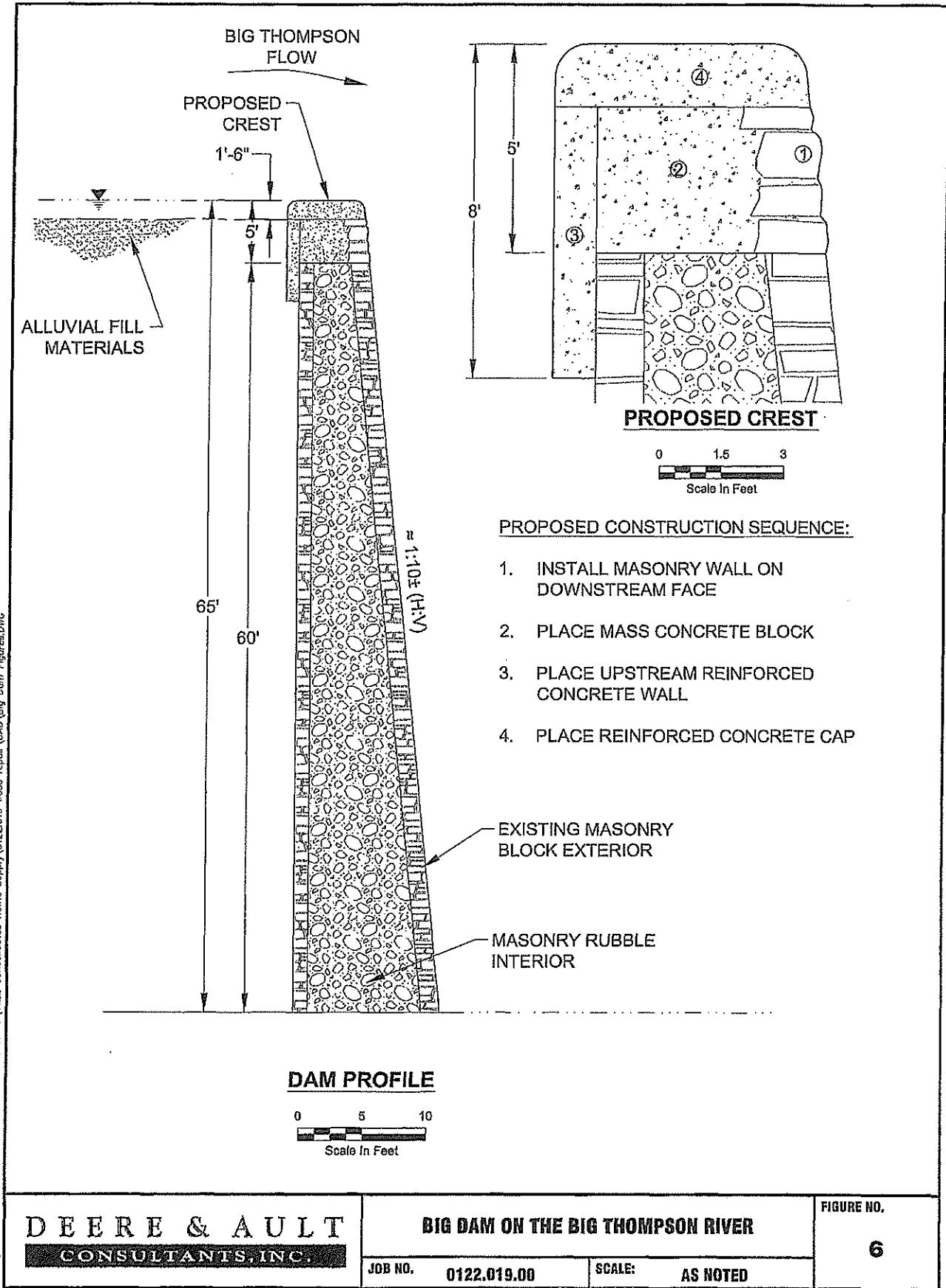
**DEERE & AULT**  
CONSULTANTS, INC.

**BIG DAM ON THE BIG THOMPSON RIVER**

JOB NO. 0122.019.00      SCALE: AS NOTED

FIGURE NO.

**5**



## Attachment B



Damage to dam following crest of flood in September 2013



Damage to dam at low river flows – Winter 2013



Rerouted river to allow work on the dam during the 2013-2014 winter



Aerial view showing status of temporary repairs, ready for 2014 runoff season



Upstream view of the spillway cutout

City's Diversion  
Structure



Downstream view of spillway cutout

## Attachment C

### Agreement with Home Supply

#### Drafting Points

8/25/14

#### 1. Facility Definitions – Ownership:

- a. Dam and abutments (arch & gravity) – Home Supply.
- b. Gated spillway – Home Supply.
- c. Gated spillway approach and outlet flow diversion walls and concrete access walkway (parallel to City's inlet channel) – Home Supply.
- d. Compressor Building (defined to include all facilities within, including air compressors, receiver tank, gages, level elements, controls systems (Programmable Logic Controller (PLC), local panel interface, enclosure), heating, ventilation, electrical, and ancillary systems), and the air supply line between the spillway gate and compressor building. – Home Supply.
- e. Power and communication facilities external to the compressor building, mini-power center, and water treatment plant supervisory control and data acquisition (SCADA) system – City.
- f. All other facilities separately owned by the parties are not a part of the Agreement.

#### 2. Project Identification:

- a. The Project ("Phase I Work") described in the January 15, 2014 Home Supply Big Dam Flood Repair Agreement ("January, 2014 Agreement") shall be amended to include the addition of the repair work found in the construction plans and technical specifications titled, "Consolidated Home Supply Big Dam Diversion Structure Repairs. In addition, the cost of the Phase I Work shall be increased by \$150,000, which shall be shared 50:50 as set forth in Paragraph 4(a) of the January, 2014 Agreement, and the \$400,000 cap shall be removed. This work will be referred to as Project 1.A.
- b. Project 1.A includes the inclusion of eligible work on the Home Supply System that was altered during construction of Phase I Work to accommodate the right (south) abutment anchor point and reestablish diversion capacity in the existing Home Supply flumed conveyance channel (the "Additional Work"). Project 1.A also includes the installation of the gated spillway, including a mechanical headgate that will be located adjacent to the City of Loveland's river diversion structure. Project 1.A work improvements are outlined in construction plans for, "Consolidated Home Supply Big Dam Diversion Structure," dated August 14, 2014 described under paragraph 3.c.
- c. The parties also agree to complete the "Phase 2 Work" as defined in the January, 2014 Agreement, which includes work unrelated to the flood damage and primarily consists of "repainting" the stone face of the dam, which is replacing and restoring the grout between the stones.

#### 3. Further Description of Additional Work:

- a. The Additional Work will generally include design and construct gated spillway & flow diversion wall(s), maintenance access road, compressor building, control system, power supply to compressor building, conduit control cables and conductors, and communication interface with the SCADA system. The Additional Work also includes all

gravity dam demolition, granite removal and river diversion work necessary and relocating the Home Supply diversion structure several feet to the south of its original location, which became necessary when the right buttress of the dam had to be reconstructed. The Additional Work is shown on the Construction Plans for "Consolidated Home Supply Big Dam Diversion Structure Repairs." Home Supply work (head gate diversion, access road for right (south) abutment, sandout gate access, and parshall flume in home Supply ditch), and work on the cutoff wall on the left (north) abutment adjacent to City's diversion structure, are excluded from the proposed cost sharing. The City shall grant an easement to Home Supply for construction of and access to the compressor building located on City property.

- b. Home Supply shall provide the City and its agents with unrestricted access to the Project site at all times for purposes of Project observation and inspection. Said inspection shall be for City purposes only and shall not be for the purpose of approving or accepting any work performed by Home Supply's contractor.
- c. The City shall provide Home Supply and its agents with unrestricted access to the Project site at all times for purposes of Project construction, observation and inspection.
- d. Costs exceeding the total reimbursements received from FEMA for the Additional Work shall be shared by the City and Home Supply Company on a 50:50 basis for Project 1.A design and construction (except for portions excluded in 3.a, above).
- e. The Additional Work is to be constructed in accordance with Federal Emergency Management Agency (FEMA) project worksheet and final "Construction Plans for Consolidated Home Supply Big Dam Diversion Structure Repairs" prepared by Deere & Ault and dated July 14, 2014).

#### **4. Operation and Maintenance (O&M):**

- a. City will agree to operate (including, without limitation, maintaining, responding to alarms, preparing work orders, implementing minor repairs) the gated spillway from the compressor building control system if Home Supply will agree to release and indemnify City related to such operation.
- b. The City agrees to perform the following maintenance, generally described as all work necessary to operate and maintain the gated spillway, compressor building, air supply line between the gate and compressor building, and power and communications interface with SCADA system, including, without limitation, the following: gated spillway inspections or replacement as recommended by gated spillway equipment manufacturer for gate and ancillary equipment in accordance with the O&M manual provided by gate manufacturer, Obermeyer Hydro, Inc., compressor building maintenance and upkeep, air compressor maintenance, air dryer maintenance, heater and exhaust fan maintenance, airline inspection and maintenance, lighting maintenance, stilling well maintenance, level transmitter maintenance, electrical troubleshooting and maintenance, electric transformer (mini power center) maintenance, PLC troubleshooting and maintenance, and control and communication components troubleshooting and maintenance.

#### **5. Emergency Work:**

- a. City and Home Supply will work cooperatively during an emergency to reestablish operation of the dam and spillway. As owner of the facility, Home Supply will cooperate with appropriate federal, state and local agencies to secure necessary permits, funding, and work access to the site.

**6. Cooperation and Access:**

- a. Following successful completion of the Phase I Work, the Additional Work, and the Phase II Work, and conditioned upon the parties' full satisfaction of their respective obligations outlined herein, representatives of the City and Home Supply shall meet to discuss potential contributions by the City above and beyond those required in the 1895 Agreement for deferred operating and maintenance costs for the Big Dam.
- b. Parties intend that constructed facilities will ensure that each will be able to receive full and unrestricted legally available diversions when completed; all remaining water to spill over spillway or over the dam when flows exceed the spillway capacity.
- c. Parties intend that each will receive full legally available diversion flowrate at all times during operation of the gated spillway.
- d. If any cost of completing the work described above is completely or partially disallowed in later federal or state review actions, the City and Home Supply agree to cost share the disallowed amount on a 50:50 basis.