

AGENDA
LOVELAND CITY COUNCIL MEETING
TUESDAY, JULY 19, 2016
(5:00 P.M.) DINNER – City Manager’s Conference Room
(6:00 P.M.) REGULAR MEETING - City Council Chambers
CITY COUNCIL CHAMBERS
500 EAST THIRD STREET
LOVELAND, COLORADO

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“La Ciudad de Loveland está comprometida a proporcionar igualdad de oportunidades para los servicios, programas y actividades y no discriminar en base a discapacidad, raza, edad, color, origen nacional, religión, orientación sexual o género. Para más información sobre la no discriminación o para asistencia en traducción, favor contacte al Coordinador Título VI de la Ciudad al TitleSix@cityofloveland.org o al 970-962-2372. La Ciudad realizará las acomodaciones razonables para los ciudadanos de acuerdo con la Ley de Discapacidades para americanos (ADA). Para más información sobre ADA o acomodaciones, favor contacte al Coordinador de ADA de la Ciudad en adacoordinator@cityofloveland.org o al 970-962-3319”.

Please Note: Starting times shown on agenda are estimates only; actual times may vary.

(6:00) REGULAR MEETING - City Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

PROCLAMATION DECLARING JULY AS NATIONAL PARKS AND RECREATION MONTH
(Elizabeth Anderson, Parks and Recreation Director)

[PRESENTATION OF THE ROCKY MOUNTAIN NATIONAL PARK ANNUAL UPDATE](#)
(Ben Bobowski, Acting Superintendent and Kyle Patterson, Public Information Officer)

SPECIAL AGENDA ITEM

- (6:25) 1. CITY ATTORNEY (presenter: Tami Yellico)**
COUNCIL MEETING RULES CHANGES
A Motion To Adopt Resolution #R-53-2016 Rescinding All Prior Resolutions Concerning The Rules Of Procedure For The City Council Of The City Of Loveland, Colorado And Adopting Consolidated Rules Of Procedure
 This is an administrative action item placed on the July 5, 2016 agenda at City Council's request to update its rules on public comment. The proposed resolution also rescinds and replaces three resolutions to consolidate the rules governing City Council meetings into one resolution. At the July 5, 2016 City Council meeting, Councilor Krenning suggested

that an additional rule be added to City Council rules to allow 10 members of the public to make a written request to the City Manager for such members of the public to make 30 minute presentation and discussion with Council on any topic. Such a study session could only be scheduled with the concurrence of 2 or more members of City Council. A draft rule to that effect has been added as section 4.h in the attached draft rules.

(6:40) CONSENT AGENDA

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. Comments will be limited to no more than three minutes, the City Clerk will start the timer once an introduction is made and a buzzer will sound when the three minutes have expired.

2. CITY CLERK (presenter: Terry Andrews)

APPROVAL OF MEETING MINUTES

A Motion To Approve City Council Minutes For June 28, 2016 Study Session and the July 5, 2016 Regular Meeting

This is an administrative action item to approve the City Council minutes for the June 28, 2016 Study Session and the July 5, 2016 Regular Meeting.

3. CITY MANAGER (presenter: Steve Adams)

REAPPOINTMENT TO THE HISTORIC PRESERVATION COMMISSION AND AMENDED APPOINTMENTS TO THE HUMAN SERVICES COMMISSION

- 1. Adopt a motion to reappoint Jim Cox to the Historic Preservation Commission for a term effective until June 30, 2019**
- 2. Adopt a motion to amend the reappointment Amy Olinger to the Human Services Commission for a term effective until June 30, 2019**
- 3. Adopt a motion to amend the appointment Maren Soreide to the Human Services Commission for a term effective until June 30, 2019**
- 4. Adopt a motion to amend the reappointment Stan Taylor to the Human Services Commission for a term effective until June 30, 2019**

These are administrative action items to approve the reappointment of a Historic Preservation Commissioner and to amend the July 5, 2016 Council meeting approving appointment terms for Human Services Commission members from December 31, 2019 to June 30, 2019.

4. CITY CLERK (presenter: Terry Andrews)

CODE AMENDMENT TO INCREASE TASTING DAYS

A Motion To Approve On Second Reading, Ordinance #6024 Amending Section 8.08.030(K) Of The Loveland Municipal Code To Increase The Number Of Days Tastings Are Permitted

This is a legislative action item to consider amending Section 8.08.030(K) of the Loveland Municipal Code to increase the frequency and total number of tastings a retail liquor store or liquor-licensed drug store can conduct sample tastings. The increase would move from fifty two tastings yearly, for no more than two times between Monday and Saturday, to one hundred and four tastings, for no more than four times between Monday and Saturday. This ordinance was approved unanimously on first reading by City Council on July 5, 2016.

5. **CULTURAL SERVICES** (presenter: Susan Ison)
SUPPLEMENTAL APPROPRIATION FOR RIALTO AND MUSEUM PROGRAMS

A Motion To Approve On Second Reading, Ordinance #6025 Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For The Rialto Theater Cinema Series Program And Also The Loveland Museum/Gallery's Education, Classes And Programs

This is an administrative action item. A donation of \$14,201 has been received by the Rialto Theater from the Backstage Rialto to expand the theater's Cinema Series Program. Also, an appropriation of \$8,000 to fund the Cherry Pie Celebration, Halloween Fun Festival and the Lone Tree School programs. The City has received donations in the amount of \$14,102 to support the Rialto Theater Cinema Series and \$8,000 is anticipated to be generated from the Museum events. Thus, there is no impact on unassigned General Fund balance. This ordinance was approved unanimously on first reading by City Council on July 5, 2016.

6. **INFORMATION TECHNOLOGY** (presenter: Bill Westbrook)
SUPPLEMENTAL APPROPRIATION TO INVENTORY FIBER OPTIC

A Motion To Approve On Second Reading, Ordinance #6026 Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For An Inventory Of City Owned Fiber Optic Assets

This is an administrative action item. Information Technology is requesting an expense supplemental budget appropriation to support the broadband initiative for Loveland and internal traffic & IT operations. We are requesting an appropriation of \$86,515 for the 2016 budget from the Fiber Network Fund. This appropriation is intended to cover expenses for a physical inventory of eleven miles of City owned fiber infrastructure consisting of 67 splice hand holes and 464 slack (pull) hand holes, in coordination with a separate Platte River Power Authority funded project to perform a physical inventory of all fiber assets owned by PRPA. The partner performing this project will be Backbone Fiber, LLC, who is contracted with the City to perform fiber services including installation, splicing, maintenance, and researching and gathering of information for the City owned fiber network. The project will start immediately upon budget approval and is expected to last up to four months. This ordinance was approved unanimously on first reading by City Council on July 5, 2016.

7. **PARKS AND RECREATION** (presenter: Molly Elder)
SUPPLEMENTAL APPROPRIATION FOR MEHAFFEY DOG PARK

A Motion To Approve On Second Reading, Ordinance #6027 Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget To Fund Safety Repairs At Mehaffey Dog Park

This is an administrative action item. The ordinance provides \$41,000 from the General Fund to support emergency repairs made to the Mehaffey Dog Park to address safety concerns. The funding for the requested appropriation is from unreserved fund balance in the General Fund. The appropriation of this fund reduces the flexibility to fund other future events or projects. This ordinance was approved unanimously on first reading by City Council on July 5, 2016.

8. **PUBLIC WORKS** (presenter: Jeff Bailey)
IGA WITH CDOT FOR HIGHWAY 34 AND BOYD LAKE AVE CONSTRUCTION
A Motion To Approve On Second Reading, Ordinance #6028 Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For Upgrades To The Intersection Of U.S. Highway 34 And Boyd Lake Avenue.
 This is an administrative action item. City Council approval is necessary to appropriate the funds to authorize the use of the Federal Hazard Elimination funds that were recently awarded to upgrade the intersection. Overall funding approval will be required once this project is competitively bid and a contractor is selected to complete the work. The Ordinance was approved unanimously on first reading by City Council on July 5, 2016. This coversheet has been revised since first reading to provide additional information based on the Council discussion on July 5, 2016.
Project Funds
 CDOT & FHWA HES Grant = \$495,000 (appropriated in August 2013)
 Local Contribution (design, signal equipment and roadway construction) = \$1,800,000 (appropriated in October 2015).
 CDOT FASTER Safety Mitigation funds = \$900,000
 Approval of this item will allocate funds for the construction of this project (EN1302) and allow an agreement to be in place for reimbursement of construction costs.

9. **YOUTH ADVISORY COMMISSION** (presenters: Beth Gudmestad & YAC Members)
ELECTRONIC SMOKING DEVICE RESTRICTIONS
A Motion To Approve On Second Reading, Ordinance #6029 Amending Chapter 7.40 Of The Loveland Municipal Code To Address The Use Of Electronic Smoking Devices In Indoor Areas Within City Owned Facilities
 This is a legislative action item providing two alternative and mutually exclusive ordinances to prohibit the use of electronic smoking devices in public places. The Youth Advisory Commission Ordinance seeks to treat all emissions from electronic smoking devices the same as conventional tobacco smoke and the Council Directed Ordinance seeks to prohibit emissions from electronic smoking devices only within City buildings. This ordinance was approved unanimously on first reading by City Council on July 5, 2016.

10. **CITY ATTORNEY** (presenter: Tami Yellico)
SALES TAX EXEMPTION ON PRESCRIPTIONS FOR ANIMALS
A Motion To Approve On Second Reading, Ordinance #6030 Amending Sections 3.16.010 And 3.16.020 Of The Loveland Municipal Code Creating A New Sales Tax Exemption Mirroring The State Sales Tax Exemption For Animal Prescriptions And Medical Devices
 This is a legislative action to consider amending Sections 3.16.010 and 3.16.020 of the Loveland Municipal Code to specifically exempt Prescriptions for Animals from the City's sales tax. This ordinance was amended and approved unanimously on first reading by City Council on July 5, 2016.

11. **PUBLIC WORKS** (presenters: Leah Browder, Steve Southard and Tim Brown)
GOLF CAR CODE AMENDMENT
A Motion To Approve On Second Reading, Ordinance #6031 To Amend The Loveland Municipal Code With Respect To The Authorization And Regulation Of Golf Cars On Certain Public Streets Within The City Of Loveland
 This is a legislative action item. During the City Council Meeting on March 15, 2016 it was requested that bollards within a City emergency access path be adjusted to allow privately-owned golf cars to travel to The Olde Course. In order to implement the City Council's preferred approach as interpreted by staff, as-simple-an-amendment-as-possible to the Municipal Code to allow golf car travel to Loveland's municipal golf courses is

recommended. The Ordinance was approved unanimously on first reading at the July 5, 2016 meeting; however, a change to the insurance requirement and additional information were requested.

Estimated costs to adjust bollard locations are \$5,000. These funds will be identified within the Public Works Project Engineering budget. Should funding be required to secure an alternate entry point to replace the private Vista Verde gate access now closed to the general public by the governing HOA, a supplemental appropriation may be requested by Parks and Recreation.

**12. PARKS AND RECREATION (presenter: Janet Meisel-Burns)
TAP GRANT TO IMPROVE SAFE ACCESS TO REC TRAIL**

A Motion To Adopt Resolution #R-57-2016 Documenting Financial Support For The Namaqua Underpass As A Financial Match For A Transportation Alternatives Program Grant Request And Authorizing The City Manager To Execute A Support Letter

This is an administrative action item. The City of Loveland is seeking financial support from the Colorado Department of Transportation ("CDOT"), Transportation Alternatives Program Grant ("TAP") to improve safe access to the proposed and planned construction of the City of Loveland Recreation Trail at Namaqua Road. The new underpass will provide a safe, grade-separated crossing for the City recreation trail. The grant request seeks funding for design of the underpass in 2018 and construction of the underpass in 2019. Conservation Trust Funds will be requested in the 2018 and 2019 budget cycle if the TAP Grant is awarded to the City. Matching funds up to \$600,000 will be requested for the TAP grant. CDOT seeks a letter of financial support with the grant application documenting that the City of Loveland is committed to fund the matching grant request.

**13. PUBLIC WORKS (presenters: Leah Browder and Elizabeth Anderson)
TAP GRANT TO IMPROVE SIDEWALK AND TRAIL CONNECTIVITY**

A Motion To Adopt Resolution #R-58-2016 Of Support Documenting Financial Support For A Collaborative Transportation Alternatives Program Grant Request For A Sidewalk And Trail Project With Larimer County

This is an administrative action item. Larimer County has extended an invitation to the City of Loveland to participate in a collaborative application for a Colorado Department of Transportation ("CDOT"), Transportation Alternatives Program ("TAP") Grant to improve sidewalk and trail connectivity in the northeast corner of North US287 and 57th Street. While a more comprehensive presentation to City Council regarding sidewalk connectivity is planned for August, the grant application due date requires submittal of a letter of support before then and will not negatively impact future action that may arise from the August Council discussion on this topic. There is no financial impact at this time. Should the \$601,000 grant application be successful, matching funds of approximately \$60,000 will be presented for City Council consideration at a future date.

**14. ECONOMIC DEVELOPMENT (presenters: Mike Scholl and Jacque Wedding-Scott)
PUBLIC HEARING**

DDA PLAN OF DEVELOPMENT

A Motion To Adopt Resolution #R-59-2016 Of The Loveland City Council Approving The Amended Plan Of Development For The Loveland Downtown Development Authority (DDA)

This is an administrative action item. The Amended Plan of Development (the "Plan") for the Loveland Downtown Development Authority (DDA) is required by State law to be reviewed and adopted by the City Council. The DDA Plan is defined as a plan for the development or redevelopment of the DDA District over a thirty to fifty year period. The

DDA may not undertake any development projects until the City Council has approved the DDA Plan.

The Loveland Downtown Partnership (LDP) and DDA boards have approved the DDA Plan as submitted, and are recommending the Plan to the City Council for review and consideration. Two minor modifications are recommended, a clarification on the legal description of the District, and the exclusion of sales tax on food purchased for home consumption in both the sales tax increment and base. The DDA Plan excludes sales tax revenues obligated under any economic incentive agreement that is in place as of the approval date of the DDA Plan. On June 27, 2016 the Planning Commission approved a motion recommending approval of the Amended DDA Plan to the Loveland City Council. A redline of the amended Plan was reviewed with City Council during the Study Session on July 12, 2016 and is attached.

15. **LOVELAND FIRE RESCUE AUTHORITY** (presenter: Pat Mialy)
IGA FOR EMERGENCY MANAGEMENT MUTUAL AID
A Motion To Adopt Resolution #R-60-2016 Approving An Intergovernmental Mutual Aid Agreement For Disaster-Emergency Mutual Aid And Disaster-Emergency Funding Assistance
 This is an administrative action item. The newest version of this intergovernmental agreement for Emergency Management Mutual Aid includes language for an agreement between governments, and between governmental and non-governmental agencies to fill a gap in current agreements for resource management assistance. It is intended to ensure efficient resource management in the event of an incident.

16. **LOVELAND FIRE RESCUE AUTHORITY** (presenter: Mark Miller)
LFRA GRANT FUNDS
A Motion To Adopt Resolution #R-61-2016 Approving The Loveland Fire Rescue Authority's Supplemental Budget And Appropriation Resolution No. R-066 For The Loveland Fire Rescue Authority's 2016 Budget
 This is an administrative action item. There are three grants included in this appropriation that do not require any additional matching funds from LFRA or our governing partners. The grant funds will be used to purchase Emergency Operations Center (EOC) communications equipment, draft an Emergency Operations Plan and conduct an exercise, Big Thompson Canyon bunker gear, and a second set of hoods, gloves and helmets for fire personnel related to cancer prevention. The intergovernmental agreement that established the Fire Authority requires that both the City of Loveland City Council and the Loveland Rural Fire Protection District Board approve all budget appropriations to make them effective. The Loveland Fire Rescue Authority Board adopted this supplemental budget appropriation at their meeting on June 29, 2016. The Loveland Rural Fire Protection District approved it at their July 6, 2016 meeting.

17. **PUBLIC WORKS** (presenter: Eric Lessard)
STORMWATER CAPITAL IMPROVEMENT PROJECTS
A Motion To Adopt Resolution #R-62-2016 Authorizing A Notice Of Award For The 2016 Stormwater Capital Improvements Projects And Authorizing The City Manager To Execute The Contract
 This is an administrative action item awarding a construction contract for the 2016 Stormwater Capital Improvement Projects to Premier Earthworks & Infrastructure, Inc., for the amount of \$2,453,566.08, which was lower than the engineer's estimate and was part of the approved 2016 budget. The contract includes 26 individual stormwater improvement projects consisting of the installation of new master planned stormwater infrastructure and/or the replacement of aging, undersized, or failing existing stormwater infrastructure throughout the City of Loveland. The project will be funded through the

Stormwater Utility's Capital Improvement Project Fund and Stormwater System Investment Fees.

END OF CONSENT AGENDA

(6:50) CITY CLERK READS TITLES OF ORDINANCES ON THE CONSENT AGENDA

(6:55) 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

(7:10) 18. CITY MANAGER'S OFFICE (presenter: Rod Wensing) PUBLIC HEARING COMCAST FRANCHISE AGREEMENT

1. A Motion To Approve On First Reading, An Ordinance of the City of Loveland, Colorado Granting a Cable Franchise to Comcast of Colorado II, LLC

2. A Motion To Approve On First Reading, An Ordinance amending the Loveland Municipal Code at Section 13.16.030 concerning Customer Service Standards for Cable Television Operators

This is both an administrative and legislative action item to separately consider approving an Ordinance granting a renewal of a non-exclusive 10 year Cable Franchise Agreement from the City of Loveland to Comcast of Colorado II, LLC as well as considering an amended Ordinance establish updated Customer Service Standards for Cable Television Operators located in Section 13.16.030 of the Loveland Municipal Code.

The proposed cable franchise agreement renewal continues to collect 5% of gross revenues, as allowed by the federal cable act. Franchise fees are paid to compensate the City for Comcast's use of the public rights-of-ways and facilities.

The proposed cable franchise renewal agreement continues to collect 50 cents per month on residential subscribers with the purpose of funding capital and facility needs for Public, Educational and Government (PEG) cable television broadcasting. The revenues generated from this fee may be distributed among local PEG entities as determined by City Council.

In fact, the Council did just that in 2015 via an Intergovernmental Agreement (IGA) with Thompson School District that will provide approximately \$340,000 over the next 5 years for needed equipment upgrades associated with channel 14 broadcasts.

Average Franchise Fee Revenue: \$500,000 annually

Average PEG Fee Revenue: \$74,000 annually

- (7:30) 19. **PARKS AND RECREATION** (presenter: Janet Meisel-Burns)
IGA W/ CDOT AND DISPOSAL AND USE AGREEMENT W/ KIEWIT
 1. A Motion To Adopt Resolution #R-63-2016 Approving An Intergovernmental Agreement Between The City Of Loveland, Colorado And The Colorado Department of Transportation Regarding the Restoration and Use of the Round Mountain Staging And Rock Spoil Site at Viestenz-Smith Mountain Park, For Construction On Highway 34 And Authorizing The City Manager To Execute The Agreement
 2. A Motion To Adopt Resolution #R-64-2016 Approving The Disposal And Use Agreement Between The City Of Loveland, Colorado And Kiewit Infrastructure Co., For The Use Of The Round Mountain Staging and Rock Spoil Site at Viestenz-Smith Mountain Park, For Construction On Highway 34 And Authorizing The City Manager To Execute The Agreement
 This is an administrative action item. The City of Loveland ("City") and the Colorado Department of Transportation ("CDOT") seek a mutual decision that benefits both the City and CDOT regarding the reconstruction of US 34. The agreements address the needs for construction staging, a rock spoil site and the reclamation of the staging area once CDOT and their contractor complete the US34 Work in the Big Thompson canyon. The Disposal and Use Agreement will allow Kiewit Infrastructure, CDOT's Construction Manager and General Contractor, to use a portion of the Round Mountain property, which is a part of the Viestenz-Smith Mountain Park, for staging and equipment storage and for a rock crushing operation. Kiewit will lease the site from the City for \$500,000 paid up front for a term of 42 months. At the end of the US 34 project work, Kiewit and CDOT will waste excess rock at the site and CDOT will regrade and restore the site for a future trail head for Round Mountain. The CDOT agreement addresses the reclamation of the Round Mountain staging site and defines the parameters for CDOT to provide road base, rock and rip/rap for the City's ongoing project at Viestenz-Smith Mountain Park. Both agreements will permit CDOT to move forward with the first phase of re-construction for US 34, in the Big Thompson Canyon.
- (8:15) 20. **DEVELOPMENT SERVICES** (presenter: Karl Barton)
CREATE LOVELAND COMP PLAN
 A Motion To Adopt Resolution #R-65-2016 Approving Create Loveland As The Master Plan For The Physical Development Of The City Of Loveland, Colorado
 This is an administrative action item. This Resolution is to adopt Create Loveland as Loveland's new Comprehensive Plan. As the new comprehensive plan, Create Loveland will act as an advisory guide for making growth and development related decisions and evaluating alternatives. The Plan was unanimously recommended for approval by the Planning Commission on February 22, 2016. On April 12, 2016 the Plan was discussed at a Council Study Session, comments from that Session, and received since, have been integrated into the Plan document.
- (8:45) 21. **DEVELOPMENT SERVICES** (presenter: Brett Limbaugh)
WEST EISENHOWER REINVESTMENT ZONE
 A Motion To Adopt Resolution #R-66-2016 Establishing A West Eisenhower Reinvestment Zone Along West Eisenhower Boulevard In The City Of Loveland And Waiving Building Permit Fees, Capital-Related Fees And Granting Use Tax Credits For Development Within Such Zone
 This is an administrative action item. The economic assistance for redevelopment in the West Eisenhower Reinvestment Zone would be similar to the current CEF exemptions for Historic Downtown Loveland. With the goal being to create a high level of motivation for redevelopment, the economic assistance recommended by City staff includes a waiver of building permit and capital-related fees, including both capital expansion fees (CEFs) and

utility fees, and granting use tax credits. All developed property in the City receives credits on CEFs and utility fees at time of redeveloped. Since most properties within the reinvestment zone are currently developed, the amount of CEFs and utility fees waived would be diminished significantly by use of CEF and utility fee credits. The fee waivers and use tax credit may be approved by City Council by resolution, based on a finding of significant social, economic or cultural benefit. The Municipal Code requires that capital-related fees waived be paid by the general fund or other appropriate fund. The reinvestment zone would be effective on a trial basis for two years, unless extended by City Council.

- (9:15) 22. **CITY MANAGER** (presenter: Steve Adams)
APPOINTMENTS TO COUNTY AFFORDABLE HOUSING WORKING GROUP
A Motion to Approve the Appointments Of A Council Member And A City Staff Member To Larimer County Affordable Housing Working Group
 This is an administrative action item appointing a Council Member and a City staff member to the Larimer County Affordable Housing Working Group.

(9:25) **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

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PROCLAMATION

Designation of July as Park and Recreation Month

- WHEREAS,** parks and recreation programs are an integral part of communities throughout this country, including the City of Loveland; and
- WHEREAS,** our parks and recreation are vitally important to establishing and maintaining the quality of life in our communities, ensuring the health of all citizens, and contributing to the economic and environmental well-being of a community and region; and
- WHEREAS,** parks and recreation programs build healthy, active communities that aid in the prevention of chronic disease, provide therapeutic recreation services for those who are mentally or physically disabled, and also improve the mental and emotional health of all citizens; and
- WHEREAS,** parks and recreation programs increase a community's economic prosperity through increased property values, expansion of the local tax base, increased tourism, the attraction and retention of businesses, and crime reduction; and
- WHEREAS,** parks and recreation areas are fundamental to the environmental well-being of our community; and
- WHEREAS,** parks and natural recreation areas improve water quality, protect groundwater, prevent flooding, improve the quality of the air we breathe, provide vegetative buffers to development, and produce habitat for wildlife; and
- WHEREAS,** our parks and natural recreation areas ensure the ecological beauty of our community and provide a place for children and adults to connect with nature and recreate outdoors; and
- WHEREAS,** the U.S. House of Representatives has designated July as Parks and Recreation Month; and
- WHEREAS,** the City of Loveland recognizes the benefits derived from parks and recreation resources

NOW THEREFORE, BE IT RESOLVED that we, the City Council of the City of Loveland, recognize July as Park and Recreation Month in the City of Loveland.

Signed this 19th day of July, 2016

Cecil A. Gutierrez, Mayor
 City of Loveland, Colorado



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AGENDA ITEM: 1
MEETING DATE: 7/19/2016
TO: City Council
FROM: Tami Yellico, City Attorney
PRESENTER: Tami Yellico, City Attorney



TITLE:

A Resolution Rescinding All Prior Resolutions Concerning The Rules Of Procedure For The City Council Of The City Of Loveland, Colorado And Adopting Consolidated Rules Of Procedure

RECOMMENDED CITY COUNCIL ACTION:

Adopt the resolution as submitted.

OPTIONS:

1. Adopt the action as recommended.
2. Deny the action.
3. Adopt a modified action.
4. Refer back to staff for further development and consideration

SUMMARY:

This is an administrative item placed on the July 5, 2016 agenda at City Council's request to update its rules on public comment. The proposed resolution also rescinds and replaces three resolutions to consolidate the rules governing City Council meetings into one resolution.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible

BACKGROUND:

At the June 28, 2016 special meeting, City Council directed staff to place the topic of Council meeting procedure for public comments on the July 5, 2016 agenda.

Current Council policy is set forth in the three resolutions governing Council meetings, R-13-98, R-17-2000, and R-7-16.

The proposed resolution will rescind and replace these three resolutions to consolidate the rules governing City Council meetings into one resolution. The change proposed at the July 5, 2016 meeting on these rules was to the public comments section 4.c, which limits comments to three minutes per person, or a maximum of ten minutes if a person is representing four or more persons. This is the same standard Council already has for public hearings. The proposed resolution also includes reformatting and added subject matter headings for increased clarity.

At the July 5, 2016 City Council meeting, Councilor Krenning suggested that an additional rule be added to City Council rules to allow 10 members of the public to make a written request to the City Manager for such members of the public to make 30 minute presentation and discussion with Council on any topic relevant to City business. Such a study session could only be scheduled with the concurrence of 2 or more members of City Council. A draft rule to that effect has been added as section 4.h in the attached draft rules.

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

1. Resolution

RESOLUTION #R-53-2016

A RESOLUTION RESCINDING ALL PRIOR RESOLUTIONS CONCERNING THE RULES OF PROCEDURE FOR THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO AND ADOPTING CONSOLIDATED RULES OF PROCEDURE

WHEREAS, Section 4-1 of the Home Rule Charter of the City of Loveland provides that City Council shall prescribe by rules the procedures governing its meetings; and

WHEREAS, City Council previously adopted Resolutions #R-13-98, #R-17-2000 and #R-7-2016 regarding the Rules of Procedure governing City Council meetings; and

WHEREAS, prior revisions to the Rules of Procedure are hereby incorporated, consolidated and attached hereto as **Exhibit A**; and

WHEREAS, Resolutions #R-13-98, #R-17-2000 and #R-7-2016 are hereby rescinded and replaced by this Resolution.

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

Section 1. That the following Rules of Procedure of the City Council of the City of Loveland are hereby adopted by the City Council:

RULES OF PROCEDURE OF THE CITY COUNCIL OF THE CITY OF LOVELAND

1. **Robert's Rules of Order.** Robert's Rules of Order are adopted as the rules governing the conduct of business at meetings of the City Council with the following exception:
 - a. The motion to reconsider a matter shall be allowed if the motion is made at the next regular meeting of the Council by a person who initially voted with the prevailing side. If a Council member wishes to bring a subject back at a later time, the member must secure the concurrence of three other members to place it on the agenda. Council members will respect one another and the process by not repeatedly raising issues disposed of at earlier meetings.
2. **Meeting Times.**
 - a. City Council regular meetings shall begin at 6 PM and end on or before 10:30 PM, but may be extended by increments of thirty minutes by a voice vote of a majority of Council members present. The City Manager shall publish an estimated start time for the consent agenda and each item on the regular agenda.
 - b. Study Sessions shall begin at 6:30 p.m.
3. **Public Meeting Format.**
 - a. Matters pulled from the consent agenda will be taken up in the order in which they originally appeared on the consent agenda immediately after the consent agenda has been passed.

- b. It is the policy of the City Council to consider all matters on the agenda prior to the conclusion of a regular meeting. Some matters may be postponed to later meetings in the interest of time, but all will be addressed in some manner.
- c. The mayor is free to limit the physical conduct or activity of any person or Council member if such conduct or activity impairs the efficient function of Council. The Mayor shall ask those participating in disruptive private conversations to discontinue their conversations or to leave the room.

4. Public Comment.

- a. Citizens who wish to speak at a City Council meeting shall not be required to fill out a form requesting to speak. Persons wishing to speak should raise their hands at the appropriate time in the agenda and shall be recognized by the Mayor.
- b. Citizens will be treated with respect at all times. Persons addressing Council will be permitted to sit down once Council members have had any questions answered. Citizens need not remain at the podium while Council members make comments. The Council encourages all persons making public comments to maintain a sense of decorum, and conduct themselves in a manner respectful of the rights and feelings of others.
- c. Citizen comments shall be limited to three minutes per person. Persons representing more than four others shall be allowed a maximum of ten minutes to speak. In the interest of time, Council shall have the discretion of further limiting the time for public comment.
- d. Any person or Council member wishing to speak shall do so only after being recognized by the Mayor.
- e. The Mayor shall limit the comments of any person or Council member to the topic currently under Council consideration.
- f. Individuals may address the Council on the topic of their choice during the citizen comment portion of the meeting.
- g. When citizens raise specific concerns during the open portion of the meeting, Council will ask questions for clarification purposes and refer the matter to the city manager for follow up. Council will not try to “solve” the problem at the meeting.
- h. Ten or more members of the public may make a written request to the City Manager for a 30 minute presentation and discussion with City Council at a study session, subject to standard study session rules, on any topic relevant to City business, provided that at least two members of City Council concur with such request.

5. Public Hearing Format.

- a. It shall be the policy of the City Council to permit comment on legislative matters on the first reading of an ordinance. The initial public hearing on any quasi-judicial matters

will be scheduled to coincide with the first reading of any ordinance associated with the matter for which the hearing is to be conducted. In addition, a public hearing shall be held at the same time as the second reading of any ordinance involving a quasi-judicial matter. The public hearing on second reading need not be separately noticed if the public hearing has been continued for the date of the first reading. Members of the public will be permitted to provide additional, non-repetitive testimony at the public hearing on second reading and the applicant shall be given an opportunity to respond. In situations where an annexation ordinance and a zoning ordinance for the same property are being considered together, a single public hearing shall be held on both first and second readings at which members of the public may address the issues concerning the annexation and provide testimony concerning the zoning ordinance. A copy of a model schedule for the timing of public hearings and first and second readings of ordinances involving annexation of land and approval of zoning matters is attached hereto and incorporated herein by reference.

- b. During public hearings on first reading, applicants shall be granted a total of forty minutes in which to present the application. The applicant may use the forty minutes for their initial presentation, for rebuttal or for some combination of the two. The applicant must indicate at the beginning of his or her presentation how he or she wishes to use the allotted time. At the beginning of the applicant's presentation, the Mayor will ask the applicant or its representative how they wish to allocate the time.
- c. During public hearings, persons representing more than four others shall be allowed a maximum of ten minutes to speak. In the event a public hearing becomes overly lengthy, Council may continue it to the next meeting; special council meetings will not be held specifically for public hearings.

d. MODEL TIME LINE FOR PUBLIC HEARINGS

I. Annexation/Planned Unit Development ("PUD") Application

- Week 1: Planning Commission public hearing to consider Annexation and PUD General Development Plan (*full staff report and presentation - recommendation to Council*).
- Week 2: Council consideration of Resolution of Substantial Compliance (setting public hearing date concerning the property's eligibility for annexation)
- Week 3 or 4: Planning Commission approval of prior meeting minutes
- Week 9: Council regular meeting; public hearing concerning eligibility for annexation; consideration of Resolution finding Eligibility for annexation; first reading of Annexation Ordinance; public hearing concerning zoning; first reading of PUD Zoning Ordinance, and General Development Plan (*full staff report and presentation*). It is the practice of the City Council to combine the testimony for the public hearing concerning the annexation issues and the zoning issues.

Week 11: Council regular meeting; public hearing concerning Annexation Ordinance and PUD Ordinance; second reading of Annexation Ordinance; second reading of PUD Zoning Ordinance.

Week 13: Effective Date of Annexation and Zoning Ordinances

II. PUD Application

Week 1: Planning Commission public hearing to consider PUD General Development Plan (*full staff report and presentation - recommendation to Council*).

Week 3: Planning Commission approval of prior meeting minutes

Week 4: Council regular meeting; public hearing to consider zoning ordinance; first reading of PUD Zoning Ordinance, and General Development Plan (*full staff report and presentation*)

Week 6: Council regular meeting; public hearing concerning PUD Ordinance; second reading of PUD Zoning Ordinance

Week 8: Effective date of PUD Zoning Ordinance

NOTE: Times may differ based on regular meeting schedule of the City Council and number of Tuesdays in a given month.

Section 2. That Resolutions #R-13-98, #R-17-2000 and #R-7-2016 are hereby rescinded and replaced by this Resolution.

Section 3. That this Resolution shall be effective as of the date and time of its adoption.

Adopted this 19th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

MINUTES
LOVELAND CITY COUNCIL SPECIAL MEETING
TUESDAY, JUNE 28, 2016
CITY COUNCIL CHAMBERS
500 EAST THIRD STREET
LOVELAND, COLORADO

SPECIAL MEETING 6:30 P.M

ROLL CALL: Councilors present: Gutierrez, Ball, Shaffer, Overcash, Clark, Johnson. Councilors Krenning arrived at 6:32 p.m. Councilor McKean arrived at 6:35 p.m. Mayor Pro Tem Fogle was absent.

Councilor Clark moved to amend the agenda by having Council consider item #3 before items #1 and #2. The motion, seconded by Councilor Krenning, carried with six councilors present voting in favor and Councilors Ball and Shaffer voting against.

3. HUMAN RESOURCES
ACTING CITY MANAGER

This is an administrative action. The purpose of the Executive Session is to conduct interviews for the position of Acting City Manager. **Councilor Shaffer moved to Call an Executive Session as authorized by the Colorado Open Meetings Law in CRS § 24-6-402(4)(b), (4)(e), (4)(f) and (4)(g) and by City Charter Sections 4-4(c)(1), (c)(3), (c)(5) and (c)(6) for the Purpose of Conducting Interviews of applicants for the position of Acting City Manager, with such executive session authorized as a personnel matter, as a matter that may be the subject of negotiation, to consider applications and related materials, and potentially, for legal advice. Council May Consider Direction to Staff in Open Session or take action by motion. The motion seconded by Councilor Johnson, failed with four councilors voting in favor and councilors McKean, Overcash, Krenning and Clark voting against. Council determined the discussion should be held in the public meeting. ORIGINAL MOTION: Councilor Krenning moved to appoint Steve Adams as the Acting City Manager for the next six months or until such time as the new City Manager is on board at an increase of 10% over his current salary. The motion was seconded by Councilor Overcash. Steve indicated he would be willing to serve as permanent City Manager. AMENDMENT: Mayor Gutierrez amended the motion to change the "Acting City Manager" to "City Manager" (a contractual position). Councilor Krenning seconded the motion. CALL THE QUESTION: Councilor Krenning moved to call the question and end debate, which carried with seven councilors voting in favor and Councilor Clark voting against. AMENDMENT: Roll was called on the amendment, which carried with all councilors present voting in favor thereof. AMENDED MOTION: Roll was called on the Original motion, as amended, which carried with all councilors present voting in favor thereof.**

1. HUMAN RESOURCES
CITY ATTORNEY ANNUAL PERFORMANCE REVIEW

This is an administrative action for Council to conduct its annual evaluation interview with City Council's appointed position of the City Attorney. Council may go into executive session and may direct staff on record regarding related personnel matters. **Councilor Shaffer moved that Council go into an executive session to discuss personnel matters related to the performance evaluation of the City Attorney as authorized by C.R.S. Section 24-6-402(4)(f) and Charter Section 4-4(c)(5) and to consider and discuss documents and materials related to these personnel matters that are not**

subject to public inspection under the Colorado Open Records Act, as authorized by CRS § 24-6-402(4)(g) and Charter Section 4-4(c)(6) at 7:23p.m. The motion, seconded by Councilor Krenning, carried with all councilors present voting in favor thereof.

2. **HUMAN RESOURCES**

MUNICIPAL JUDGE ANNUAL PERFORMANCE REVIEW

This is an administrative action for Council to conduct its annual evaluation interview with City Council's appointed position of Municipal Judge. Council may go into executive session and may direct staff on the record regarding related personnel matters. **Councilor Shaffer moved to go into executive session to discuss personnel matters related to the performance evaluation of the Municipal Judge as authorized by C.R.S. Section 24-6-402(4)(f) and Charter Section 4-4(c)(5) and to consider and discuss documents and materials related to these personnel matters that are not subject to public inspection under the Colorado Open Records Act, at section 24-6-402(4)(g) and Loveland Charter Section 4-4(c)(6) at 7:23 p.m. The motion, seconded by Councilor Krenning, carried with all councilors present voting thereof.**

Council Reconvened at 9:43 p.m.

Councilor moved that Staff bring back for consideration at the next meeting of Council a resolution increasing the pay for the Municipal Judge, Geri Joneson by 3.5 %. Councilor Johnson seconded the motion, which carried with all councilors present voting in favor thereof.

Councilor moved that Staff bring back for consideration at the next meeting of Council a resolution increasing the pay for City Attorney, Tami Yellico by 3.5 %. Councilor seconded the motion, which carried with councilors present voting in favor thereof.

Consensus of Council was to direct the City Attorney to bring a resolution to Council on July 5, 2016, regarding rules of procedure, specifically the process for the public to speak. i.e. amount of time for each speaker, consolidating time, etc.. And to consider it as one of the first things on the agenda.

ADJOURN

Hearing no further business to come before this Council, Mayor Gutierrez closed the June 28, 2016 Special meeting at 9:48 p.m.

Respectfully submitted,

Teresa G. Andrews, City Clerk

Cecil A. Gutierrez, Mayor

MINUTES
LOVELAND CITY COUNCIL MEETING
TUESDAY, JULY 5, 2016
CITY COUNCIL CHAMBERS
500 EAST THIRD STREET
LOVELAND, COLORADO

6:00 p.m. CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL: Gutierrez, Fogle, Krenning, Ball, Overcash, Clark and McKean. Councilor Shaffer. Councilor Johnson was absent

SPECIAL AGENDA ITEMS:

1. **CITY COUNCIL** (presenter: Tami Yellico)
COUNCIL MEETING RULE CHANGE
Council Discussion ensued: Consensus of Council was to strike the last sentence in section "g". To add a provision for consideration where 10 members of the public (name, address and phone number) may petition the City Manager to place a topic on the next available Study session with support of at least 2 City Council members. **CONTINUED RESOLUTION: Councilor Krenning moved to continue the Resolution Rescinding All Prior Resolutions Concerning The Rules Of Procedure For The City Council Of The City Of Loveland, Colorado And Adopting Consolidated Rules Of Procedure; with the requested amendments to the July 19, 2016 meeting. The motion, seconded by Mayor Pro Tem Fogle, carried with all councilors present voting in favor thereof.**

2. **HUMAN RESOURCES** (presenter: Julia Holland)
SALARY INCREASES FOR MUNICIPAL JUDGE
This is an administrative action regarding compensation of the Municipal Judge. At the direction of City Council, the salary for the Municipal Judge shall receive a three and one-half percent (3.5%) merit increase beginning on July 1, 2016. There was no public comment. **Councilor Shaffer moved to approve Resolution #R54-2016 Of The Loveland City Council Regarding compensation of the Municipal Judge, Gerrellen Joneson. Increase of 3.5% to the current salary of \$100,006. The motion, seconded by Councilor Krenning, carried with all councilors present voting in favor thereof.**

3. **HUMAN RESOURCES** (presenter: Julia Holland)
SALARY INCREASES FOR CITY ATTORNEY
This is an administrative action regarding compensation of the City Attorney. At the direction of City Council, the salary for the City Attorney shall receive a three and one-half percent (3.5%) merit increase beginning on July 1, 2016. Bob Van Gorder, Ft. Collins resident, spoke in opposition to the resolution. **Councilor Shaffer moved to approve Resolution #R55-2016 Of The Loveland City Council Regarding compensation of the City Attorney Tami Yellico. Increase of 3.5% to the current salary of \$161,870. The motion, seconded by Councilor Krenning, carried with all councilors present voting in favor thereof.**

4. **HUMAN RESOURCES** (presenter: Julia Holland)
APPOINTMENT OF CITY MANAGER

This is an administrative action to adopt the resolution confirming the appointment of Steve Adams as City Manager effective July 1, 2016 and to authorize the Mayor to execute an employment agreement on terms and conditions consistent with Council's direction. The City Manager appointment was made by motion on June 28, 2016. Bruce Croissant, 1625 Jackson Ave, expressed concern with the firing of past city manager, Bill Cahill. Larry Sarner, Ward II resident, asked questions regarding the severance package for the new city manager. **Councilor Shaffer moved to approve Resolution #R56-2016 confirming the appointment of Steve Adams as City Manager for the City of Loveland and approving an Employment Agreement effective July 1, 2016. The motion, seconded by Councilor McKean, carried with all councilors present voting in favor thereof.**

CONSENT AGENDA

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. Comments will be limited to no more than three minutes, the City Clerk will start the timer once an introduction is made and a buzzer will sound when the three minutes have expired.

Councilor Shaffer moved to approve the Consent Agenda with the exceptions of items 10, 13 (Resident, Larry Sarner), 15, and 21 (Councilor Overcash), which will be considered on the Regular Agenda. The motion, seconded by Mayor Pro Tem Fogle, carried with all councilors present voting in favor thereof.

5. **CITY CLERK** (presenter: Terry Andrews)
APPROVAL OF MEETING MINUTES

A Motion To Approve City Council Minutes For the May 17, 2016 and June 7, 2016 Regular Meetings and the May 24, 2016 and June 14, 2016 Study Sessions and the June 16, 2016 Special Meeting was approved.

This is an administrative action item to approve the City Council minutes for the May 17, 2016 and June 7, 2016 Regular Meetings; the May 24, 2016 and June 14, 2016 Study Sessions; and the June 16, 2016 Special Meeting.

6. **CITY MANAGER** (presenter: Steve Adams)
APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS

1. Adopt a motion to reappoint Will Gresham to the Affordable Housing Commission for a term effective until June 30, 2019 was approved.
2. Adopt a motion to reappoint Barbara Irelan to the Affordable Housing Commission for a term effective until June 30, 2019 was approved.
3. Adopt a motion to reappoint Diann Rice to the Affordable Housing Commission for a term effective until June 30, 2019 was approved.
4. Adopt a motion to appoint Gil Barela to the Affordable Housing Commission for

a partial term effective until June 30, 2018 was approved.

5. Adopt a motion to appoint Jerry Beers as an alternate member on the Affordable Housing Commission for a term effective until June 30, 2017 was approved.
6. Adopt a motion to reappoint Amy Olinger to the Human Services Commission for a term effective until December 31, 2019 was approved.
7. Adopt a motion to appoint Maren Soreide to the Human Services Commission for a term effective until December 31, 2019 was approved.
8. Adopt a motion to reappoint Stan Taylor to the Human Services Commission for a term effective until December 31, 2019 was approved.
9. Adopt a motion to reappoint David Schneider to the Loveland Utilities Commission for a term effective until June 30, 2019 was approved.
10. Adopt a motion to reappoint Randy Williams to the Loveland Utilities Commission for a term effective until June 30, 2019 was approved.
11. Adopt a motion to reappoint Bruce Croissant to the Transportation Advisory Board for a term effective until June 30, 2019 was approved.
12. Adopt a motion to reappoint Lou Price to the Transportation Advisory Board for a term effective until June 30, 2019 was approved.

This is an administrative action item appointing members to Affordable Housing Commission, Human Services Commission, Loveland Utilities Commission and Transportation Advisory Board.

7. **CULTURAL SERVICES** (presenter: Bryan Zellmer)
SUPPLEMENTAL APPROPRIATION FOR CULTURAL DONATIONS

A Motion To Approve On Second Reading, Ordinance #6020 Enacting a Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For The Foote Lagoon Concert Series, The Rialto Theater Center Arts & Education Programs And The Rialto Theater Center Cinema Series was approved.

This is an administrative action item. Donations have been received from Kaiser Permanente to fund the Foote Lagoon Series (\$20,000) and the Iva McKee Charitable Trust to fund the Arts & Education Programs (\$28,000) and the Cinema Series (\$12,000). The ordinance was approved unanimously on first reading by City Council on June 7, 2016.

8. **MUNICIPAL COURT** (presenter: Geri Joneson)
COURT SURCHARGE FEES

A Motion To Approve On Second Reading, Ordinance #6021 To Amend Chapter 1.12.010, Subsection C, Of The Loveland Municipal Code To Include Municipal Court Justice Programs As A Recipient Of 30% Of The Total Surcharge Collected was approved.

This is an administrative action item. In February, a committee reviewed the use of a surcharge that has funded Alternative Dispute Resolution Programs and more recently, Traffic Safety and Enforcement Programs. The committee agreed that Municipal Court Justice Programs were valuable sentencing alternatives that benefit offenders and the community. It was further agreed that funding could be achieved by allocating 30% of the total annual surcharge to Municipal Court Justice Programs. The remaining 70% would be allocated to Traffic Safety and Enforcement. This would be a simple redistribution of funds with no financial consequence nor impact to the budget. The ordinance was approved unanimously on first reading by City Council on June 7, 2016.

9. **PUBLIC WORKS** (presenter: Jeff Bailey)
SUPPLEMENTAL APPROPRIATION BYRD DRIVE

A Motion To Approve On Second Reading, Ordinance #6022 Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For Byrd Drive Roadway Connection was approved.

This is an administrative action item. City Council approval is necessary to appropriate the funds to authorize the use of City of Loveland and Colorado Department of Transportation (CDOT) funds to construct the missing segment of Byrd Drive between Crossroads Blvd and Earhart Road. Council approved the Intergovernmental Agreement (IGA) at the May 6, 2016 Council Session which accepted the CDOT funds and conditions to be used to construct the missing segment of roadway. The ordinance was approved unanimously on first reading by City Council on June 7, 2016.

10. **CITY CLERK** (presenter: Terry Andrews)
DDA ELECTION
This item was considered on the Regular Agenda

11. **CITY CLERK** (presenter: Terry Andrews)
PUBLIC COMMENT
CODE AMENDMENT TO INCREASE TASTING DAYS
A Motion To Approve On First Reading, An Ordinance Amending Section 8.08.030(K) Of The Loveland Municipal Code To Increase The Number Of Days Tastings Are Permitted was approved.
 This is a legislative action item to consider amending Section 8.08.030(K) of the Loveland Municipal Code to increase the frequency and total number of tastings a retail liquor store or liquor-licensed drug store can conduct sample tastings. The increase would move from fifty two tastings yearly, for no more than two times between Monday and Saturday, to one hundred and four tastings, for no more than four times between Monday and Saturday.

12. **CULTURAL SERVICES** (presenter: Susan Ison)
PUBLIC COMMENT
SUPPLEMENTAL APPROPRIATION FOR RIALTO AND MUSEUM PROGRAMS
A Motion To Approve On First Reading, An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For The Rialto Theater Cinema Series Program And Also The Loveland Museum/Gallery's Education, Classes And Programs was approved.
 This is an administrative action item. A donation of \$14,201 has been received by the Rialto Theater from the Backstage Rialto to expand the theater's Cinema Series Program. Also, an appropriation of \$8,000 to fund the Cherry Pie Celebration, Halloween Fun Festival and the Lone Tree School programs. The City has received donations in the amount of \$14,102 to support the Rialto Theater Cinema Series and \$8,000 is anticipated to be generated from the Museum events. Thus, there is no impact on unassigned General Fund balance.

13. **INFORMATION TECHNOLOGY** (presenter: Bill Westbrook)
PUBLIC COMMENT
SUPPLEMENTAL APPROPRIATION TO INVENTORY FIBER OPTIC
This item was considered on the Regular Agenda

14. **PARKS AND RECREATION** (presenter: Molly Elder)
PUBLIC COMMENT
SUPPLEMENTAL APPROPRIATION FOR MEHAFFEY DOG PARK
A Motion To Approve On First Reading, An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget To Fund Safety Repairs At Mehaffey Dog Park was approved.
 This is an administrative action item. The ordinance provides \$41,000 from the General Fund to support emergency repairs made to the Mehaffey Dog Park to address safety concerns. The funding for the requested appropriation is from unreserved fund balance in the General Fund. The appropriation of this fund reduces the flexibility to fund other future

events or projects.

15. **PUBLIC WORKS** (presenter: Jeff Bailey)
PUBLIC COMMENT
IGA WITH CDOT FOR HIGHWAY 34 AND BOYD LAKE AVE CONSTRUCTION
This item was considered on the Regular Agenda.

16. **LOVELAND FIRE RESCUE AUTHORITY** (presenter: Pat Mialy)
2016 MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN
A Motion To Approve Resolution R-47-2016 Adopting 2016 Larimer County Multi-Jurisdictional Hazard Mitigation Plan was approved.

This is an administrative action item. Emergency Managers throughout Larimer County have collaborated to develop a single county wide Hazard Mitigation Plan (HMP) for responding to disasters and preventing losses in future occurrences. The plan includes requirements set forth by the Federal Emergency Management Agency (FEMA) and the Colorado Division of Homeland Security and Emergency Management in order for the City and Larimer County to be eligible for funding and technical assistance from state and federal hazard mitigation programs.

The impact on the budget for the adoption of the HMP is neutral; however, FEMA requires the City to have a current HMP in order to receive many types of FEMA-funded grants.

17. **ECONOMIC DEVELOPMENT** (presenter: Susan Grafton)
BUSINESS ASSISTANCE FOR GENESIS HOSPITALITY
A Motion To Adopt Resolution R-48-2016 Approving The Terms And Conditions Of The Genesis Hospitality Corporation Business Assistance Agreement was approved.

This is an administrative action item. This is an administrative action. On May 24, 2016, Genesis Hospitality appeared before Council in study session requesting business assistance. The company plans to expand their current facility with construction of a new manufacturing facility next to their existing plant on Medford Drive. Attached for Council review is the proposed Business Assistance Agreement providing for a maximum of \$100,000 in permit fee waivers and construction use tax.

18. **DEVELOPMENT SERVICES** (presenter: Noreen Smyth)
GATORWEST ADDITION ANNEXATION
A Motion To Adopt Resolution R-49-2016 Finding a Certain Petition for Annexation Known as Gatorwest Addition, Filed June 20, 2016, to be in Substantial Compliance with Section 30 of Article II of the Colorado Constitution and with the Requirements of Section 31-12-107(1), C.R.S.; and Establishing a Date, Time, and Place for a Hearing to Determine Whether the Proposed Annexation Complies with the Applicable Requirements of Sections 31-12-104 and 31-12-105, C.R.S., and is Eligible for Annexation to the City of Loveland, Colorado was approved.

This is a legislative action item to set a public hearing date of August 16, 2016 for the consideration of an annexation of 2.3 acres to be known as the Gatorwest Addition. The property is located at 5100 Granite Street, and also has frontage on the west side of N. Garfield Avenue, roughly half way between W. 50th Street and Ranch Acres Drive. Included with the annexation proposal is a request to zone the property B-Developing Business. The applicant is M. Bryan Short with Gatorwest, LLC.

19. **WATER AND POWER** (presenter: Greg Dewey)
LETTER OF UNDERSTANDING WITH CDOT FOR USE OF IDYLLWILDE
A Motion To Adopt Resolution R-50-2016 Approving A Letter Of Understanding (LOU) Between The Colorado Department Of Transportation And The City Of

Loveland was approved.

This is an administrative action item. A Letter of Understanding (LOU) to establish mutual collaboration between the Colorado Department of Transportation (CDOT) and the City of Loveland (City) regarding the status and condition of the Idylwilde parking lot on completion of U.S. Highway 34 reconstruction.

The letter of understanding is intended to assure that CDOT will not create more work or expense for the City in meeting the final U.S. Forest Service requirements for reclamation.

20. WATER AND POWER (presenter: Lindsey Bashline)
ENERGY IGA WITH PLATTE RIVER AND OTHER MUNICIPALITIES

A Motion To Adopt Resolution R-51-2016 Approving An Intergovernmental Agreement Among The Town Of Estes Park, The City Of Fort Collins, The City Of Longmont, The City Of Loveland, And Platte River Power Authority For Demand Side Management And Distributed Energy Resource Program Partnership was approved.

This is an administrative action item. An Intergovernmental Agreement (IGA) for Demand Side Management (DSM) and Distributed Energy Resource (DER) Program Partnership has been mutually drafted by the staff of Platte River Power Authority (PRPA) and the Municipalities of Estes Park, Fort Collins, Longmont and Loveland. The PRPA Board of Directors unanimously adopted the IGA at the May 26, 2016 meeting and the Loveland Utilities Commission unanimously voted to recommend that Council approve the IGA at the June 15, 2016 meeting.

DSM and DER programs are currently budgeted for in the Water and Power budget. The IGA does not necessarily increase DSM or DER program costs, but it does provide a mechanism for increasing DSM and DER programming (thereby increasing costs). No DSM or DER programs would be contracted for in excess of funds appropriated and budgeted in the Water and Power budget.

21. COMMUNITY PARTNERSHIP OFFICE (presenter: Alison Hade)
HSG AND CDBG RECOMMENDED ALLOCATIONS
This item was considered on the Regular Agenda

22. FINANCE (presenter: Theresa Wilson)
MAY 2016 FINANCIAL REPORT

This is an information only item. The Snapshot Report includes the City's preliminary revenue and expenditures including detailed reports on tax revenue and health claims year to date, ending May 31, 2016.

23. CITY MANAGER (presenter: Alan Krcmarik)
MAY 2016 INVESTMENT REPORT

This is an information only item. The budget projection for investment earnings for 2016 is \$2,199,328. On the portfolio's 2016 beginning balance this equates to an annual interest rate of 1.02%. Based on the May monthly report, the estimated yield on the fixed income securities held by USBank was at 1.26%, for total assets the yield was 1.11%. For the year-to-date, total earnings of \$861,530 have been posted to City fund accounts. U.S. short-term Treasury interest rates rose again in May; the portfolio's change in unrealized gain for the year-to-date was down to \$1.42 million. The end of May portfolio market value is estimated to be \$217.8 million. The total market value of the portfolio is now higher than the end of 2015 by about \$400,000. The peak amount for the portfolio was reached before the 2013 flood when it had an estimated market value of \$226.3 million.

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.

Stacy Lynne, Larimer County Resident, expressed concern regarding City Employee Detective Brian Koopman; John Meadors, spoke in support of Ms. Lynne's comments; Michelle DeMarco, Ft. Collins resident, asked why they were not informed of the "Brady Cop" list designation at the time of their case; Greg Larette, Limon, CO expressed concern with the Loveland Police Department; Colorado residents: Victoria Albright, Rosemary Van Gorder, Richard Nelson spoke in support of Ms. Lynne's comments this evening. Linda Bidlake, Ward 1 resident, expressed concern regarding the use of illegal fireworks in the City of Loveland.

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

10. CITY CLERK (presenter: Terry Andrews) DDA ELECTION

This is a legislative action item needed to allow the City to conduct a special election on November 8, 2016 as a coordinated election with the Larimer County Clerk and Recorder. The ordinance was approved unanimously on first reading by City Council on June 7, 2016. Mr. Sarnier was not present for this consideration. **Councilor Shaffer moved to Approve On Second Reading, Ordinance #6023 Calling for a Special Election To Be Held November 8, 2016 Which Shall Be Conducted As A Coordinated Election With The Larimer County Clerk and Recorder and, To The Extent Necessary To So Conduct That Election As A Coordinated Election, The Colorado Uniform Election Code Of 1992 Shall Govern was approved. The motion, seconded by Mayor Pro Tem Fogle, carried with all councilors present voting in favor thereof.**

13. INFORMATION TECHNOLOGY (presenter: Bill Westbrook) SUPPLEMENTAL APPROPRIATION TO INVENTORY FIBER OPTIC

This is an administrative action item. Information Technology is requesting an expense supplemental budget appropriation to support the broadband initiative for Loveland and internal traffic & IT operations. We are requesting an appropriation of \$86,515 for the 2016 budget from the Fiber Network Fund. This appropriation is intended to cover expenses for a physical inventory of eleven miles of City owned fiber infrastructure consisting of 67 splice hand holes and 464 slack (pull) hand holes, in coordination with a separate Platte River Power Authority funded project to perform a physical inventory of all fiber assets owned by PRPA. The partner performing this project will be Backbone Fiber, LLC, who is contracted with the City to perform fiber services including installation, splicing, maintenance, and researching and gathering of information for the City owned fiber network. The project will start immediately upon budget approval and is expected to

last up to four months. Public Comment: Larry Sarner, Ward 2, asked for clarification of what would be inventoried and why the general fund was paying for it. **Councilor Shaffer moved to approve On First Reading, An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For An Inventory Of City Owned Fiber Optic Assets.** The motion, seconded by Councilor Overcash, carried with all councilors present voting in favor thereof.

15. **PUBLIC WORKS** (presenter: Jeff Bailey)
IGA WITH CDOT FOR HIGHWAY 34 AND BOYD LAKE AVE CONSTRUCTION

This is an administrative action item. City Council approval is necessary to finalize the submitted IGA amendment and to authorize the use of the Federal Hazard Elimination funds that were recently awarded to upgrade the intersection. Overall funding approval will be required once this project is competitively bid and a contractor is selected to complete the work.

Project Funds

CDOT & FHWA HES Grant = \$495,000 (appropriated in August 2013)

Local Contribution (design, signal equipment and roadway construction) = \$1,800,000 (appropriated in October 2015).

CDOT FASTER Safety Mitigation funds = \$900,000

Approval of this item will allocate funds for the construction of this project (EN1302) and allow an agreement to be in place for reimbursement of construction costs. Patrick Dougherty, business owner and resident in the vicinity of this intersection, spoke in support of this project. **Councilor Shaffer moved to Adopt Resolution R-46-2016 Approving An Amendment To An Intergovernmental Agreement Between The City Of Loveland, Colorado And The State Of Colorado, Acting By And Through The Colorado Department Of Transportation, To Upgrade The Intersection Of U.S. Highway 34 And Boyd Lake Avenue In The City Of Loveland.** The motion, seconded by Councilor Clark, carried with all councilors present voting in favor thereof.

Councilor Shaffer moved to Approve On First Reading, An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For Upgrades To The Intersection Of U.S. Highway 34 And Boyd Lake Avenue. The motion, seconded by Mayor Pro Tem Fogle, carried with all councilors present voting in favor thereof. Council Direction was to schedule a follow up item on a study session agenda, regarding other needs for this project.

21. **COMMUNITY PARTNERSHIP OFFICE** (presenter: Alison Hade)
HSG AND CDBG RECOMMENDED ALLOCATIONS

This is an administrative action item. The Human Services Commission and Affordable Housing Commission considered 51 grant requests totaling \$1.38 million, and recommended funding 42 with allocations of \$550,411 for human services and \$299,516 for affordable housing and public facilities. The attached staff report describes how the commissions made their decisions. Public Comment: Glorie Magrum, Director of the House of Neighborly asked Council to spend more resources toward in the area of "Homeless" people within the City of Loveland; Marcy Yoder, United Way, spoke in support of the resolution. **Consensus of Council was to place the discussion regarding the rising "homeless" population at a future Study Session.** **Councilor Shaffer moved to Adopt Resolution R-52-2016 Approving the 2016 Grant Funding Recommendation of the Loveland Human Services Commission and the Loveland Affordable Housing Commission.** The motion seconded by Mayor Pro Tem Fogle, carried with all councilors present voting in favor thereof.

(7:25) 24. **YOUTH ADVISORY COMMISSION** (presenters: Beth Gudmestad & YAC Members)
ELECTRONIC SMOKING DEVICE RESTRICTIONS

This is a legislative action item providing two alternative and mutually exclusive ordinances to prohibit the use of electronic smoking devices in public places. The Youth Advisory Commission Ordinance seeks to treat all emissions from electronic smoking devices the same as conventional tobacco smoke and the Council Directed Ordinance seeks to prohibit emissions from electronic smoking devices only within City buildings. Public Comment: Roger Gomez, property owner in the City of Loveland, spoke in opposition of option 1; Andy Gomez, Vapor Store Owner, spoke in opposition of Option 1; Katherine York, Denver Vapor store owner, spoke in opposition of option 1, but supported option 2; Corey York, spoke in opposition; Lauren spoke in support of option 1; Lisa Lake, Larimer County Vape Store owner, spoke in opposition; Roger Weidleman, spoke in support of option 1; Scotty Tanner, Denver Vapor store owner, spoke in opposition; Monica Van Dreska, Denver Store Owner, spoke in opposition. **OPTION 1: Councilor Shaffer moved to approve on first reading, An Ordinance Amending Chapter 7.40 Of The Loveland Municipal Code To Address The Use Of Electronic Smoking Devices In Indoor Areas Within City Owned Facilities. The motion was seconded by Councilor Ball. CALL FOR THE QUESTION: Councilor Krenning moved to Call the question. The motion, seconded by Councilor McKean, failed with four councilors voting favor and Councilors Clark, Ball, Shaffer and Fogle voting against.**

Councilor Krenning moved to extend the meeting until 11:00 p.m. The motion seconded by Mayor Pro Tem Fogle, carried with all councilors present voting in favor thereof.

ORIGINAL MOTION: Roll was called on the original motion, which failed with three councilors voting in support and Councilors Clark, McKean, Shaffer, Overcash and Krenning voting against.

Councilor Shaffer moved to extend the meeting until 11:30 p.m. The motion seconded by Councilor Ball, carried with five councilors voting in favor and Councilors Fogle, Clark and McKean voting no.

OPTION 2: Councilor Shaffer moved to approve on first reading, An Ordinance Amending Chapter 7.40 Of The Loveland Municipal Code To Address The Use Of Electronic Smoking Devices In Indoor Areas Within City Owned Facilities. The motion was seconded by Mayor Pro Tem Fogle.

AMENDMENT: Councilor Krenning moved to amend the motion to include Parks and Open Space to Indoor areas. The motion, seconded by Mayor Pro Tem Fogle, failed with four councilors voting in favor and Councilors McKean, Shaffer, Overcash and Clark voting against.

ORIGINAL MOTION: Roll was called on the original motion, which carried with all councilors present voting favor thereof.

25. **CITY ATTORNEY** (presenter: Tami Yellico)
SALES TAX EXEMPTION ON PRESCRIPTIONS FOR ANIMALS

This is a legislative action item to consider amending Sections 3.16.010 and 3.16.020 of the Loveland Municipal Code to specifically exempt Prescriptions for Animals from the City's sales tax. Consensus of Council was to mirror the State and County regulations for the definition used in taxing veterinary prescriptions and retail products. **Councilor Shaffer moved to approve on first reading, An Ordinance Amending Sections 3.16.010 and 3.16.020 of the Loveland Municipal Code Creating a New Sales Tax Exemption Regarding Prescriptions for Animals. The motion was seconded by Councilor McKean. AMENDMENT: Mayor Pro Tem Fogle, moved to amend the ordinance by mirroring State and County regulations of the definition used in taxing veterinary prescriptions and retail products. The motion carried with all councilors present voting in favor thereof. ORIGINAL MOTION AS AMENDED: Roll was called on the original motion, as amended, which carried with all councilors present voting in favor thereof.**

Councilor Krenning moved to extend the meeting until 12:30 a.m. The motion seconded by Councilor McKean, failed with four councilors voting in favor and Councilors Overcash, Fogle Ball and Shaffer voting against.

Councilor McKean moved to extend the meeting until 12:00 a.m. The motion seconded by Councilor Krenning, carried with seven councilors voting in favor and Councilor Krenning voting against.

**26. PUBLIC WORKS (presenters: Leah Browder, Steve Southard and Tim Brown)
GOLF CAR CODE AMENDMENT**

This is a legislative action item. During the City Council Meeting on March 15, 2016 it was requested that bollards within a City emergency access path be adjusted to allow privately-owned golf carts to travel to The Olde Course. In order to implement the City Council's preferred approach as interpreted by staff, as simple an amendment as possible to the Municipal Code to allow golf car travel to Loveland's municipal golf courses is recommended. Estimated costs to adjust bollard locations are \$5,000. These funds will be identified within the Public Works Project Engineering budget. Should funding be required to secure an alternate entry point to replace the currently used private Vista Verde gate access, a supplemental appropriation may be necessary. Staff will look at the **Councilor Shaffer moved to Approve On First Reading, An Ordinance To Amend The Loveland Municipal Code With Respect To The Authorization And Regulation Of Golf Cars On Certain Public Streets Within The City Of Loveland.** The motion was seconded by Councilor Krenning. **CALL THE QUESTION:** Councilor Ball moved to call the question and end debate. The motion, seconded by Councilor Krenning, carried with all councilors present voting in favor thereof. **ORIGINAL MOTION:** Roll was called on the original motion, which carried with all councilors present voting in favor thereof.

**27. CITY ATTORNEY (presenter: Tami Yellico)
LITIGATION REGARDING UTILITY EASEMENTS**

This is an administrative action item. City Council may be asked to consider formal action by motion, to direct staff with regard to litigation and/or a potential Executive Session, to consider possible litigation and/or negotiation for utility easement quiet title actions. Roger Gomez, explained the issue regarding utilities located on his property. Agreements were issued v. easements. **Councilor Shaffer moved that the City Council go into executive session to received legal advice and to determine negotiating positions, develop negotiation strategy and to instruct negotiators with regard to litigation the City could initiate regarding City utility easements west of Wilson Avenue and specifically at 3510 W. Eisenhower as authorized by the following section of the Colorado Open Meetings Law and the City Charter: to received legal advice from the City Attorney's Office as authorized in CRS § 24-6-402(4)(b) and Charter Section 4-4(c)(3); and to discuss future negotiations, to determine negotiation positions, develop negotiation strategy and to instruct negotiators concerning such positions and strategy as authorized by CRS § 24-6-402(4)(e) and Charter Section 4-4(c)(1) at 11:50 p.m.**

Councilor Clark moved to extend the meeting until 12:30 a.m. The motion seconded by Mayor Pro Tem Fogle, carried with seven councilors voting in favor and Councilor Krenning voting against.

**28. CITY ATTORNEY (presenter: Tami Yellico)
BUCK 2ND LLP NEGOTIATION DIRECTION**

This is an administrative action to allow for receiving legal advice and to discuss matters subject to negotiation. In Executive Session, City Council can provide guidance regarding

negotiations concerning the lawsuit of Buck 2nd v City of Loveland and Giuliano & Father Construction v City of Loveland for the purpose of negotiations, possible settlement, or court ordered mediation. **Councilor Shaffer moved that the City Council go into executive session to received legal advice and to determine negotiating positions, develop negotiation strategy and to instruct negotiators with regard to litigation Buck 2nd LLC v City of Loveland and Giuliano & Father Construction, Inc. and Giuliano Addition, LLLP v City of Loveland as authorized by the following section of the Colorado Open Meetings Law and the City Charter: to received legal advice from the City Attorney's Office as authorized in CRS§24-6-402(4)(b) and Charter Section 4-4(c)(3); and for the purpose of settlement negotiations, to determine negotiation positions, develop negotiation strategy and to instruct negotiators concerning such positions and strategy as authorized by CRS § 24-6-402(4)(e) and Charter Section 4-4(c)(1) at 11:50 p.m. The motion, seconded by Councilor Clark, carried with seven voting in favor and Councilor Krenning voting against.**

Council reconvened at 12:28 a.m. Councilor Krenning was not present.

Councilor Ball moved to direct Staff to seek a Declaratory Judgment for 3510 W. Eisenhower Blvd for an Easement. The motion, seconded by Councilor Clark, carried with all councilors present voting in favor thereof.

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.

None

CITY MANAGER REPORT

None

CITY ATTORNEY REPORT

None

ADJOURN

Hearing no further business to come before this Council, Mayor Gutierrez adjourned the July 5, 2016 meeting at 12:29 a.m. on July 6, 2016.

Respectfully Submitted,

Teresa G. Andrews, City Clerk

Cecil A. Gutierrez, Mayor

AGENDA ITEM: 3
MEETING DATE: 7/19/2016
TO: City Council
FROM: City Manager's Office
PRESENTER: Steve Adams, City Manager



TITLE:

Appointment to the Historic Preservation Commission and Amended Appointments To The Human Services Commission

RECOMMENDED CITY COUNCIL ACTION:

1. Adopt a motion to reappoint Jim Cox to the Historic Preservation Commission for a term effective until June 30, 2019
2. Adopt a motion to amend the reappoint Amy Olinger to the Human Services Commission for a term effective until June 30, 2019
3. Adopt a motion to amend the appoint Maren Soreide to the Human Services Commission for a term effective until June 30, 2019
4. Adopt a motion to amend the reappoint Stan Taylor to the Human Services Commission for a term effective until June 30, 2019

OPTIONS:

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

SUMMARY:

This is an administrative action item to approve the reappointment of a Historic Preservation Commissioner and to amend the July 5, 2016 Council meeting approving appointment terms for Human Services Commission members from December 31, 2019 to June 30, 2019.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible

BACKGROUND:

The July 5, 2016 Council Meeting agenda item had the incorrect date for the end of the terms for the above Human Services Commissioners.

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

None

AGENDA ITEM: 4
MEETING DATE: 7/19/2016
TO: City Council
FROM: Terry Andrews, City Clerk
PRESENTER: Vince Junglas, Assistant City Attorney



TITLE:

An Ordinance Amending Section 8.08.030(K) Of The Loveland Municipal Code To Increase The Number Of Days Tastings Are Permitted

RECOMMENDED CITY COUNCIL ACTION:

Adopt the ordinance on second reading.

OPTIONS:

1. Adopt the Ordinance.
2. Deny the Resolution. (Certain liquor licensees will only be permitted to have tastings two days a week for no more than fifty two days a year).
3. Adopt modified action.
4. Refer back to staff for further development and consideration. (None).

SUMMARY:

This is a legislative action to consider amending Section 8.08.030(K) of the Loveland Municipal Code to increase the frequency and total number of tastings a retail liquor store or liquor-licensed drug store can conduct sample tastings. The increase would move from fifty two tastings yearly, for no more than two times between Monday and Saturday, to one hundred and four tastings, for no more than four times between Monday and Saturday. This ordinance was approved unanimously on first reading by City Council on July 5, 2016.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible

BACKGROUND:

At the May 17, 2016 regular meeting of City Council, this request was initiated by a local business manager who would like to offer additional tastings in his establishment to match the maximum number of tastings permitted by the state of Colorado. At the meeting Council directed Staff to bring the ordinance back for consideration.

In 2004, The Colorado General Assembly adopted, and the Governor signed into law, House Bill 04-1021 permitting local jurisdictions to allow retail liquor store and liquor-licensed drugstores to conduct sample tastings of alcohol beverages (beer, wine, and liquor) in their establishments without charging for such samples. This bill also required that, if a local government desired to allow such tastings in its jurisdiction, the local governmental body must do so by ordinance. On December 6, 2005, Council reviewed and adopted a measure that permitted sample tastings of malt, vinous, and spirituous beverages under certain types of liquor licenses for no more than two days between Monday and Saturday with a yearly cap of fifty two tastings, which was half of what was permitted by State statute (one hundred and four total days and no more than four days between Monday and Saturday).

Colorado has a thriving liquor manufacturing industry and ranks third¹ nationally in craft breweries per capita. The tasting amendments allow greater flexibility and volume for local licensees to sample the truly diverse and extensive array of beer, wine, and spirituous liquor that Colorado has to offer. The current statutory framework limits what licensees can do for tastings being only fifty two days a year with only two tastings permitted during a week. The proposed change will double the amount of sampling a licensee may provide to customers.

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

[Link to Ordinance on First Reading: Item 11](#)

¹ https://www.brewersassociation.org/attachments/0000/6291/Capita_perbrewery.pdf

AGENDA ITEM: 5
MEETING DATE: 7/19/2016
TO: City Council
FROM: Susan Ison, Cultural Services Director
PRESENTER: Susan Ison



TITLE:

An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For The Rialto Theater Cinema Series Program And Also The Loveland Museum/Gallery's Education, Classes And Programs

RECOMMENDED CITY COUNCIL ACTION:

Adopt the action as recommended.

OPTIONS:

1. Adopt the action as recommended.
2. Deny the action. If this appropriation request were not to be approved, we would have to refund the money to vendors and sponsors and cancel all of the remaining programs and events for 2016.
3. Adopt a modified action. (specify in the motion)

SUMMARY:

This is an administrative action. A donation of \$14,201 has been received by the Rialto Theater from the Backstage Rialto to expand the theater's Cinema Series Program. Also, an appropriation of \$8,000 to fund the Cherry Pie Celebration, Halloween Fun Festival and the Lone Tree School programs. This ordinance was approved unanimously on first reading by City Council on July 5, 2016.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible

The City has received donations in the amount of \$14,102 to support the Rialto Theater Cinema Series and \$8,000 is anticipated to be generated from the Museum events. Thus, there is no impact on unassigned General Fund balance.

BACKGROUND:

Rialto

\$14,102 from Backstage Rialto has been donated for support of the Rialto's expanded Cinema program. The purpose of this donation is to fund the launch of an expanded Cinema Program in the Summer of 2016. A wide variety of movies covering different genres and from different time periods will be screened throughout June and July with the intent to appeal to different audiences and get more segments of the community to learn about and use the Rialto Theater and its many, diverse offerings.

If this appropriation request were not to be approved, we would have to refund the money to Backstage Rialto and cancel all of the remaining movies in order to not go over budget. This action would also have an impact on another donation, previously submitted to Council for appropriation from the Iva Lee McKee Charitable Trust who is supporting the free movies for kids

on Tuesdays throughout the summer as well as helping with advertising dollars towards the expanded cinema program. We would therefore have to refund a significant portion of the Iva Lee McKee money if we were forced to cancel the series.

Loveland Museum/Gallery

The Cherry Pie Celebration, the Halloween Family Fun Festival and the Lone Tree Summer School programs are self-supporting. The mission of the Museum is to promote and enrich the quality of life by providing diverse cultural experiences through history, all forms of artistic expression and in community celebration. Additionally, the Museum has had an educational mission since 1999, as part of the Museum's American Alliance of Museums accreditation. All three of these programs provide services to the community based on the Museum's general mission statement and educational mission. Lone Tree Summer School has been a traditional educational program of the Museum for almost 40 years; Cherry Pie Celebration has been a museum event for over 30 years; and the Halloween Family Fun Festival has been a popular community event of the Museum for over 15 years. Together, these events see almost 5,000 attendees. Revenue is generated in several ways from all three programs. Registration for Lone Tree School is \$75 per non-member student and \$50 per museum member student; cash sponsorships for the Cherry Pie and Halloween Events have consistently been over \$2000 per year; vendor booth fees for both events have consistently equaled over \$1,000 per year; pie, ice cream and coffee sales for the Cherry Pie event have been over \$5000 the past two years. The revenues for these three programs combined have exceeded their expenses consistently for the past four years.

If this appropriation request were not to be approved, we would have to refund the money to vendors and sponsors of Cherry Pie and registrants of Lone Tree School and cancel all of the remaining programs and events for 2016.

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

[Link to Ordinance on First Reading: Item 12](#)

AGENDA ITEM: 6
MEETING DATE: 7/19/2016
TO: City Council
FROM: Information Technology
PRESENTER: Bill Westbrook, Information Technology



TITLE:

An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For An Inventory Of City Owned Fiber Optic Assets

RECOMMENDED CITY COUNCIL ACTION:

Adopt the action as recommended.

OPTIONS:

1. Adopt the action as recommended.
2. Deny the action. This information is vital for advancement of the broadband initiative and City operations. Any delay in approving this Supplemental Budget and Appropriation item would delay identification of fiber infrastructure and dark fiber availability for potential internal or partner needs and in turn delay progress on the Citizen approved Broadband Initiative 2C.
3. Adopt a modified action.
4. Refer back to staff for further development and consideration. It is vital that City Staff and potential partners have the inventory information available to assist in determining the City owned assets that can be used in the design and operation of fiber optic broadband network. Further information requests will be addressed by staff with the outcome that the project will be delayed due to inadequate information being available to assist in the planning for the design and operation of a fiber network.

SUMMARY:

This is an administrative item. Information Technology is requesting a supplemental budget appropriation to support the broadband initiative for Loveland and internal traffic & IT operations. We are requesting an appropriation of \$86,515 for the 2016 budget from the Fiber Network Fund. This appropriation is intended to cover expenses for a physical inventory of eleven miles of City owned fiber infrastructure consisting of 67 splice hand holes and 464 slack (pull) hand holes, in coordination with a separate Platte River Power Authority funded project to perform a physical inventory of all fiber assets owned by PRPA. The partner performing this project will be Backbone Fiber, LLC, who is contracted with the City to perform fiber services including installation, splicing, maintenance, and researching and gathering of information for the City owned fiber network. The project will start immediately upon budget approval and is expected to last up to four months. This ordinance was approved unanimously on first reading by City Council on July 5, 2016.

BUDGET IMPACT:

- ☐ Positive
☒ Negative
☐ Neutral or negligible

This supplemental appropriation is shown as a negative budget impact as no 2016 Budgeted funds were identified for this item. Staff has now taken some time to prepare estimated costs for

a physical inventory of City-owned fiber infrastructure. The remaining unassigned Fiber Network Fund balance will be \$230,997 if approved.

BACKGROUND:

The passage of Ballot Issue 2C effectively overturned Loveland's restrictions imposed through Senate Bill 152 (SB 152) and allows the City of Loveland to investigate alternatives for promoting broadband options while considering the needs and desires of our community. Support of that effort as well as to advance internal operations related to fiber use requires that the City have a complete inventory of its owned fiber infrastructure. The City owns 21 miles of fiber infrastructure, 10 miles of which are recent projects and have inventory information readily available. Earlier projects encompassing the other 11 miles did not have detailed inventory as a requirement, so that inventory information is missing. This request will provide a physical inventory for those 11 miles to include location, total strands, strands spliced and the associated splicing diagram at each hand hole, and identification of available dark fiber for possible use in the broadband initiative.

This supplemental appropriation will need to be approved so that accurate inventory information of all City-owned fiber assets are identified for use in developing the Broadband Assessment and Feasibility Analysis by our selected consultant.

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

[Link to Ordinance on First Reading: Item 13](#)

AGENDA ITEM: 7
MEETING DATE: 7/19/2016
TO: City Council
FROM: Parks and Recreation
PRESENTER: Elizabeth Anderson, Parks and Recreation Director



TITLE:

An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget To Fund Safety Repairs At Mehaffey Dog Park

RECOMMENDED CITY COUNCIL ACTION:

Approve the ordinance on second reading.

OPTIONS:

1. Adopt the action as recommended.
2. Deny the action. The Parks and Recreation Department would not receive the funds necessary to bring the affected accounts positive and back in line with budget.
3. Adopt a modified action.
4. Refer back to staff for further development and consideration. However, due to the safety related concerns of the citizen complaints received we have already completed removal and replacement of the dog park surface material.

SUMMARY:

This is an administrative action. The ordinance provides \$41,000 from the General Fund to support emergency repairs made to the Mehaffey Dog Park to address safety concerns. This ordinance was approved unanimously on first reading by City Council on July 5, 2016.

BUDGET IMPACT:

- ☐ Positive
☒ Negative
☐ Neutral or negligible

The funding for the requested appropriation is from unreserved fund balance in the General Fund. The appropriation of this fund reduces the flexibility to fund other future events or projects.

BACKGROUND:

In the fall of 2015, Mehaffey Dog Park was completed and opened to the public. During the construction of the park, the Parks and Recreation Department made the decision to utilize donated wood chips for the dog park ground cover. This material was provided to the project at no cost and we were told that the material was "clean".

In early 2016, staff began receiving complaints from community members regarding dogs exhibiting kennel cough type symptoms after visiting the dog park. We believed this was due to moisture that lay trapped within the wood chips throughout the winter months creating mold/mildew which dogs were then inhaling as they rooted through the ground cover. In response to this issue, staff turned over the wood chip surface material in preparation for spraying it with a disinfectant once weather conditions improved.

After the ground cover was turned over we immediately began receiving numerous citizen complaints regarding hazardous debris, such as glass, wire and metal, surfacing in the wood chips. It is our belief that this was flood debris since the chips had been stored in an area hard hit by the flood. Out of concerns for the safety of our citizens and their dogs, we promptly closed the dog park. The contaminated surfacing material was removed and replaced with pea gravel. Removal and replacement costs (including hauling and disposal of original material) totaled \$41,000. As this was an unforeseen repair, there was no remaining budget available in the Mehaffey Park project account to fund this ground cover replacement and the account numbers from which the funds were drawn to pay for the repairs are currently showing a negative balance.

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

[Link to Ordinance on First Reading: Item 14](#)

AGENDA ITEM: 8
MEETING DATE: 7/19/2016
TO: City Council
FROM: Leah Browder, Public Works Director
PRESENTER: Jeff Bailey, City Engineer



TITLE:

An Ordinance Enacting A Supplemental Budget And Appropriation To The 2016 City Of Loveland Budget For Upgrades To The Intersection Of U.S. Highway 34 And Boyd Lake Avenue.

RECOMMENDED CITY COUNCIL ACTION:

Approve and appropriate additional Federal Highway Administration (FHWA) funds, in the amount of \$900,000, which have been awarded to the City by CDOT for intersection improvements at US34 and Boyd Lake Avenue.

OPTIONS:

1. Adopt the action as recommended, which will allow the intersection improvement to be completed in 2016 as planned.
2. Deny the action, which would postpone the intersection improvement from being completed in 2016 and cause the loss of federal funding.
3. Adopt a modified action.
4. Refer back to staff for further development and consideration. This option is not recommended as the project would be delayed and federal funding could be lost.

SUMMARY:

This is an administrative action item. City Council approval is necessary to appropriate the funds to authorize the use of the Federal Hazard Elimination funds that were recently awarded to upgrade the intersection. Overall funding approval will be required once this project is competitively bid and a contractor is selected to complete the work. The Ordinance was approved unanimously on first reading by City Council on July 5, 2016. This coversheet has been revised since first reading to provide additional information based on the Council discussion on July 5, 2016.

Project Funds

CDOT & FHWA HES Grant = \$495,000 (appropriated in August 2013)

Local Contribution (design, signal equipment and roadway construction) = \$1,800,000 (appropriated in October 2015).

CDOT FASTER Safety Mitigation funds = \$900,000

Approval of this item will allocate funds for the construction of this project (EN1302) and allow an agreement to be in place for reimbursement of construction costs.

BUDGET IMPACT:

- ☒ Positive – Adds \$900,000 in previously unanticipated CDOT funding to the project.
- ☐ Negative
- ☐ Neutral or negligible
-

BACKGROUND:

In 2013, the City of Loveland was granted a Federal Hazard Elimination grant in the amount of \$495,000 for signal equipment upgrades at the intersection of US34 and Boyd Lake Avenue. Council approved the use of these funds on August 14, 2013.

Recently, as part of a broader CDOT evaluation of intersection safety, this intersection was ranked as having the highest safety improvement need in the North Front Range. Since the City was already planning a 2016 improvement project using the originally awarded FHE grant funding, the FASTER Safety Mitigation funding was awarded to expand the project to upgrade pedestrian facilities and to contribute toward additional eastbound and westbound left turn lanes on US34.

The additional funding will also allow for the construction of a subsequent phase of the ultimate improvement project, consisting of a roundabout at the Boyd Lake Avenue/Mountain Lion Drive intersection. This improvement, in conjunction with this summer's McWhinney project to extend Mountain Lion Drive across the Boyd Lake Outlet Exchange Ditch (near Kohl's), will provide a parallel east/west route to US34, providing an alternate thoroughfare potentially removing traffic from US34, as well as enhancing development opportunities for several vacant commercial parcels.

The project will include right-of-way acquisition, construction of additional east- and westbound left-turn lanes along with construction of necessary additional north- and south-bound receiving lanes, and construction/reconstruction of channelizing islands on all four quadrants of the intersection to control turning traffic while also shortening the roadway crossing distance for pedestrians.

Other pedestrian improvements will include the construction of protected refuge islands with pedestrian push buttons in the center of US34, additional and upgraded pedestrian signals, and sidewalks along both sides of Boyd Lake Avenue from US 34 to Mountain Lion Drive to enhance pedestrian access to Mountain View High School and local businesses. Bike lanes will also be constructed along Boyd Lake Avenue where applicable.

Design of the US34/Boyd Lake Intersection Project is being finalized and the project should be advertised for bids later this month. Construction will be accomplished in phases and is anticipated to begin in September 2016.

At the July 5, 2016 meeting, City Councilors requested additional information about status and timing of improvements north of US34 on Boyd Lake Avenue. Future plans include bridge widening, an underground pedestrian crossing and a roundabout dependent on development in the area. In a previously scheduled meeting on July 8, 2016, McWhinney representatives indicated a willingness to discuss this improvement project. However, with recent acceleration of other priority roadway projects (Kendall Parkway, Mountain Lion Drive and Sculptor Drive), the company's ability to advance another \$4 to \$5 million project before necessitated by development in the area is likely limited. City Council discussion of this project in the broader context of all roadway capital projects, will be possible at the July 26, 2016 Council Study Session during the currently scheduled "Transportation and Street Overview" item.

REVIEWED BY CITY MANAGER:

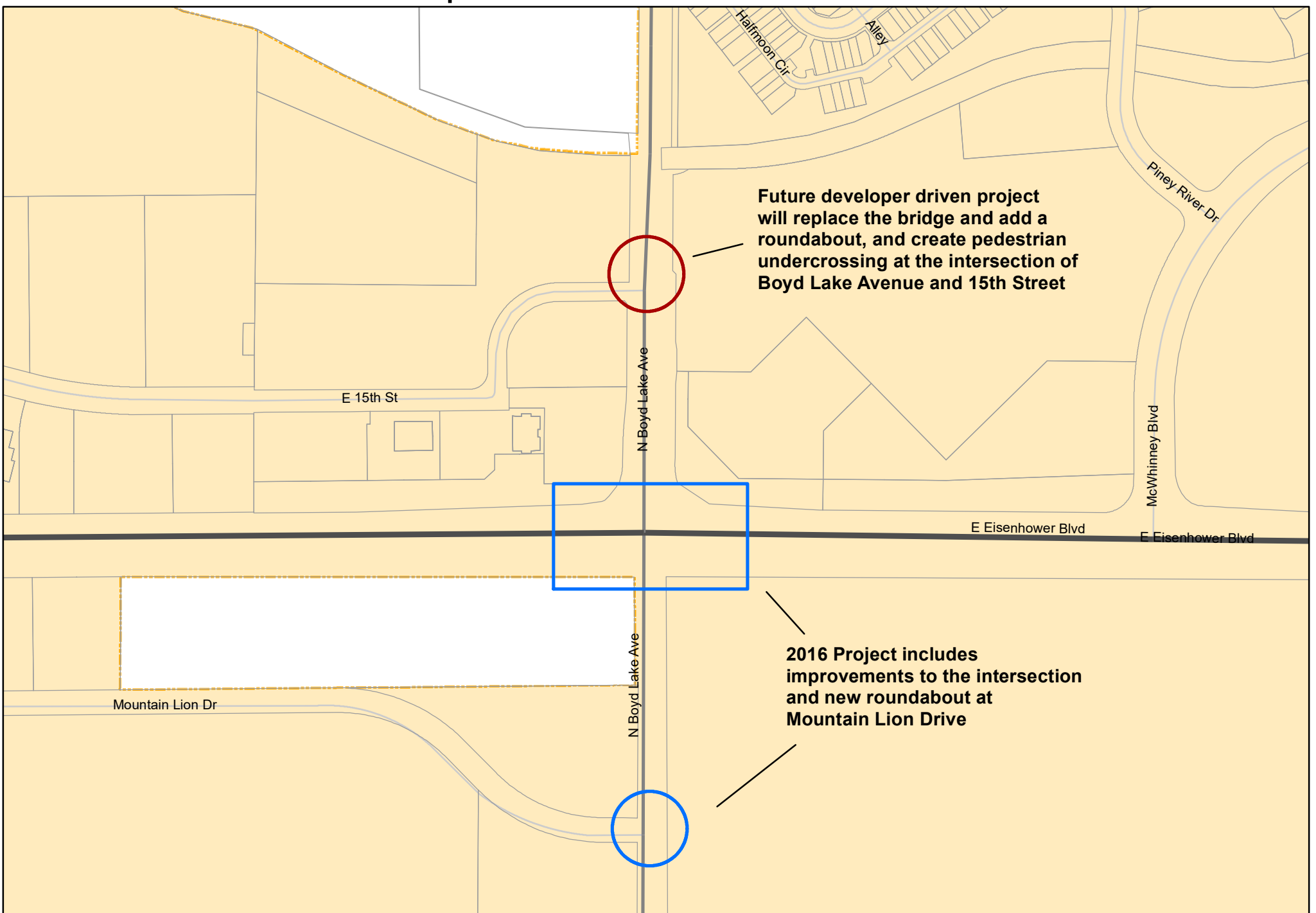
SCA

LIST OF ATTACHMENTS:

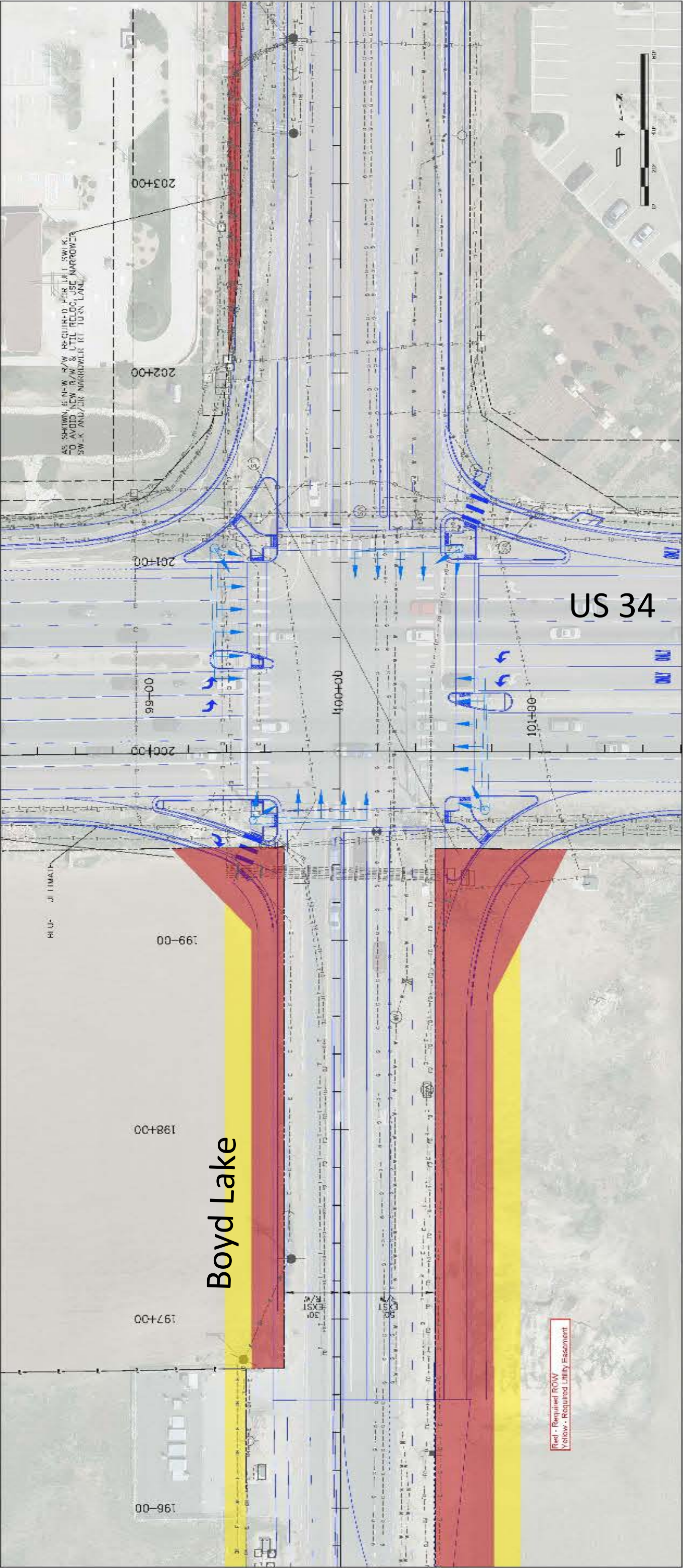
1. [Link to Ordinance on First Reading: Item 15](#)
2. Location Map

US Hwy 34 and Boyd Lake Intersection

Locations of Planned Improvements



Detailed Intersection Improvement Plan



AGENDA ITEM: 9
MEETING DATE: 7/19/2016
TO: City Council
FROM: The Youth Advisory Commission
PRESENTER: Youth Advisory Commission Representatives



TITLE:

An Ordinance Amending Chapter 7.40 Of The Loveland Municipal Code To Address The Use Of Electronic Smoking Devices In Indoor Areas Within City Owned Facilities (Council Directed Ordinance)

RECOMMENDED CITY COUNCIL ACTION:

Adopt the ordinance on second reading.

OPTIONS:

1. Adopt the motion as recommended.
2. Deny the action in total. (Electronic smoking devices are not regulated by City ordinance).
3. Adopt a modified action.
4. Refer back to staff for further development and consideration. (No timing issues or impacts if referred back to staff other than the ordinary departure of Youth Advisory Commission Members.)

SUMMARY:

This is a legislative item providing two alternative and mutually exclusive ordinances to prohibit the use of electronic smoking devices in public places. The Youth Advisory Commission Ordinance seeks to treat all emissions from electronic smoking devices the same as conventional tobacco smoke and the Council Directed Ordinance seeks to prohibit emissions from electronic smoking devices only within City buildings. This ordinance was approved unanimously on first reading by City Council on July 5, 2016.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible

BACKGROUND:

Electronic Smoking Devices:

Electronic smoking devices are not currently regulated within the city. The Youth Advisory proposal adds electronic smoking devices to the smoking ordinance banning their use from all areas where conventional smoking is prohibited. This includes bars, restaurants, workplaces, outdoor dining areas, bar patios, and transit facilities. The Food and Drug Administration (FDA) recently promulgated sweeping new rules and for the first time to extend federal regulatory authority to electronic smoking devices and accessories. These rules affect the manufacturing rather than the use of products. Manufacturers have up to 3 years to come into compliance so the ruling will not have an immediate effect on producers or retailers. Local governments continue to have authority to add these products to local smoking ordinances. These new rules are highlighted as follows:

- Retailers of electronic smoking devices and accessories are prohibited from selling to minors. Retailers are also required to check photo identification if the purchaser appears to be below the age of twenty six years of age.
- Producers of electronic smoking devices and accessories must place health warnings on certain items manufactured by producers.
- Producers of electronic smoking devices and accessories will be subject to inspection from the FDA, will be prohibited from providing free samples, and will be prohibited from marketing products as “light” or “mild” without FDA permission.
- Producers of electronic smoking devices and accessories must register with the FDA, provide the FDA with a detailed accounting of the product ingredients, and disclose their manufacturing process.

Electronic cigarettes or vaporizers are devices that vaporize and deliver to the lungs of the user a chemical mixture composed of nicotine, propylene glycol and other chemicals. Some e-devices are offered without nicotine, and some are offered in candy or fruit flavors that can be attractive to youth. A recent testing of vape shop e-juice samples in Utah showed that among products advertised as having no nicotine in them, 61% had nicotine levels over the 10% variance the American E-Liquids Manufacturing Association has set. These variances and trace amounts of nicotine were also found in other studies that tested e-liquids. Colorado Department of Health and Environment is conducting similar tests on e-liquids, but results are not yet available. When users inhale, a battery operated vaporizer heats a liquid solution into a vapor. E-devices are also being used with highly concentrated marijuana oil or wax, and may provide a discreet way of using marijuana in public settings. While vapor from electronic devices likely contain fewer toxins and carcinogens than those found in traditional tobacco smoke, this alone does not mean that breathing e-cigarette vapor is “safe.”

The use of electronic smoking devices may be visually similar to the smoking of cigarettes, and has already been observed in locations where smoking is prohibited, creating concern and confusion. The use of electronic smoking devices where smoking is prohibited may increase the social acceptability and appeal of smoking, particularly for youth. Several state and local governments have decided to regulate the use of electronic smoking devices:

- Connecticut, Delaware, Hawaii, Maine, Oregon, Utah, New Jersey, and North Dakota - passed legislation prohibiting e-cigarettes wherever regular smoking is banned.
- 10 States (including Colorado) - passed legislation regulating e-cigarette use in certain places such as school property and State workplaces.
- Nationally, at least 470 municipalities (including large metropolitan cities like New York and Chicago) include e-cigarettes in their local smoking ordinances.
- In Colorado 12 municipalities have included e-cigarettes in local smoking ordinances (see Policy Brief).

At least 10 national public health organizations, including the American Medical Association, have recommended that electronic smoking devices be added to local smoking ordinances.

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

[Link to Ordinance – Option 1 City Owned Facilities on First Reading: Item 24.](#)

AGENDA ITEM: 10
MEETING DATE: 7/19/2016
TO: City Council
FROM: Tami Yellico, City Attorney
PRESENTER: Brent Worthington, Director of Finance



TITLE:

An Ordinance Amending Sections 3.16.010 And 3.16.020 Of The Loveland Municipal Code Creating A New Sales Tax Exemption Mirroring The State Sales Tax Exemption For Animal Prescriptions And Medical Devices

RECOMMENDED CITY COUNCIL ACTION:

Adopt the ordinance on second reading.

OPTIONS:

1. Adopt the Ordinance.
2. Deny the Ordinance.
3. Adopt modified action.
4. Refer back to staff for further development and consideration.

SUMMARY:

This is a legislative action to consider amending Sections 3.16.010 and 3.16.020 of the Loveland Municipal Code to specifically exempt Prescriptions for Animals from the City's sales tax. This ordinance was amended and approved unanimously on first reading by City Council on July 5, 2016.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible

BACKGROUND:

Four City Council members directed staff to bring forth a proposed ordinance that would exempt Prescriptions for Animals from the City's sales tax.

The proposed sales tax exemption covers prescription drugs for animals and any other tangible personal property that is accompanied by a written prescription from a licensed veterinarian that identifies the animal on the label of the prescription drug. Any other medication that is purchased over the counter without a prescription is subject to the sales tax.

The Colorado Municipal League ("CML") has worked on a standard set of sales and use definitions as part of a statewide initiative to assist Colorado's business community. Staff is preparing an ordinance for Council's consideration later this year which will propose the adoption of the standard sales and use tax definitions, codifying the City's exemptions (including the exemption proposed in this ordinance), and other proposed changes to Chapter 3.16 of the Loveland Municipal Code. The proposed changes coming to Council later this year are focused on revenue neutrality under Article X of the Colorado Constitution (TABOR). The Council may desire to consider all proposed changes to Chapter 3.16 at the same time to preserve the City's tax base.

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

1. Ordinance as amended at the July 5, 2016 Council Meeting

First Reading: July 5, 2016

Second Reading: July 19, 2016

ORDINANCE NO: 6030

AN ORDINANCE AMENDING SECTIONS 3.16.010 AND 3.16.020 OF THE LOVELAND MUNICIPAL CODE CREATING A NEW SALES TAX EXEMPTION MIRRORING THE STATE SALES TAX EXEMPTION FOR ANIMAL PRESCRIPTIONS AND MEDICAL DEVICES

WHEREAS, the City of Loveland, a home rule municipality, (the “City”) adopted the state of Colorado’s sales tax exemptions as they existed in 1998 except food for home consumption, machine tools, and electricity, coal, wood, gas, fuel oil, or coke sold to occupants of residences and the aforementioned were made expressly taxable by Section 3.16.020; and

WHEREAS, C.R.S. 39-26-114(1)(a)(V), as it existed in 1998, did not specifically exempt prescription drugs for animals, prescription food for animals, prescription prosthetic devices for animals, and those items were tangible personal property not subject to an exemption and therefore subject to the sales tax; and

WHEREAS, the City did not actively enforce the collection of sales tax on prescription drugs for animals, prescription food for animals, or prescription prosthetic devices for animals pursuant to C.R.S. 39-26-114(1)(a)(V) since the City adopted the state of Colorado’s sales tax exemptions in 1998; and

WHEREAS, Council desires to mirror the state of Colorado’s taxability and exemption outcomes of prescription drugs for animals, prescription food for animals, and prescription prosthetic devices for animals.

WHEREAS, Council has determined that the addition of prescription drugs for animals, prescription food for animals, and prescription prosthetic devices prescribed by a licensed veterinarian, to the list of the City’s sales tax exemptions is fair and reasonable given the lack of historical enforcement.

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

Section 1. That Section 3.16.010 of the Loveland Municipal Code is hereby amended to read as follows:

3.16.010 Sales tax definitions.

A. For the purposes of this Chapter 3.16, the words contained herein shall have the meanings set forth in Section 39-26-102, Colorado Revised Statutes, as it currently exists or may hereafter be amended, and the definitions are incorporated in this chapter by this specific reference.

B. Notwithstanding subsection A of this Section, the following definitions shall be applicable to Chapter 3.16:

- a. "Prescription Drugs for Animals" means drugs dispensed in accordance with any order by a licensed veterinarian, not including drugs available over the counter, specifying the animal for which the medicine or drug is offered and directions, if any, to be placed on the label.
- b. "Prosthetic Devices" means any artificial limb, part, device or appliance for human or animal use which replaces a body part or aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular patient; and is prescribed by a licensed practitioner of the healing arts. Prosthetic devices include, but are not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, and oxygen concentrators with related accessories.

Section 2. That Section 3.16.020 of the Loveland Municipal Code is hereby amended to add a new sub-section (A)(1)(a) to read as follows:

1. In addition to those exemptions that existed in the 1998 version of § 39-26-114, Colorado Revised Statutes, unless otherwise made expressly taxable by Section 3.16.020(A), the following shall also be exempt from the sales tax:

- a. Prescription drugs for animals, prescription food for animals, and prescription prosthetic devices for animals that are dispensed and prescribed by a licensed veterinarian, specifying the animal for which the item is offered and directions, if any, to be placed on the label.

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

Section 4. This Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

ADOPTED this 19th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

AGENDA ITEM: 11
MEETING DATE: 7/19/2016
TO: City Council
FROM: Leah Browder, Public Works
PRESENTER: Leah Browder, Public Works
 Bob Ticer, Loveland Department
 Elizabeth Anderson, Parks and Recreation



TITLE:

An Ordinance To Amend The Loveland Municipal Code With Respect To The Authorization And Regulation Of Golf Cars On Certain Public Streets Within The City Of Loveland

RECOMMENDED CITY COUNCIL ACTION:

Adopt the revised ordinance on second reading.

OPTIONS:

1. Adopt the revised Ordinance.
2. Refer back to staff for development of a permit system so that road worthiness, insurance coverage and permission to travel upon private streets, when applicable, is verified.
3. Deny the action keeping with the current Municipal Code prohibition of golf car travel on public streets and prohibit use of private golf cars on City of Loveland municipal courses to eliminate the need for golf car travel on public roadways.
4. Adopt the revised Ordinance on second reading and further direct staff to pursue a future Ordinance that allows golf car travel upon all public streets. This is not recommended due to the growth projections for Loveland and the already challenged transportation network. If this option is selected, a significant work effort would be required and a re-prioritization of current assignments would be necessary.
5. Refer back to staff for development of an alternative approach.

SUMMARY:

This is a legislative item. During the City Council Meeting on March 15, 2016 it was requested that bollards within a City emergency access path be adjusted to allow privately-owned golf cars to travel to The Olde Course. In order to implement the City Council's preferred approach as interpreted by staff, as-simple-an-amendment-as-possible to the Municipal Code to allow golf car travel to Loveland's municipal golf courses is recommended. The Ordinance was approved unanimously on first reading at the July 5, 2016 meeting; however, a change to the insurance requirement and additional information were requested.

BUDGET IMPACT:

- ☐ Positive
☒ Negative
☐ Neutral or negligible

Estimated costs to adjust bollard locations are \$5,000. These funds will be identified within the Public Works Project Engineering budget. Should funding be required to secure an alternate entry point to replace the private Vista Verde gate access now closed to the general public by the governing HOA, a supplemental appropriation may be requested by Parks and Recreation.

BACKGROUND:

The Ordinance to allow golf car travel on certain City streets in Loveland includes the following key components:

- Roadworthy golf cars
- Valid driver's license & insurance
- One mile radius, municipal courses, daylight hours
- No State Highways except for incidental crossing
- Permission required to use private streets

While the Ordinance was approved unanimously at the July 5, 2016 City Council meeting, it was requested that the insurance requirements be reduced to reflect State minimum requirements. Modeled after Erie, Colorado's Ordinance, the original proposal included the following:

- A) \$100,000 for damages to property of others;
- B) Minimum \$100,000 for damages for or on account of bodily injury or death of one person as a result of any one accident, and, subject to such limit as to one person; and,
- C) Minimum \$300,000 for or on account of bodily injury to or death of all persons as a result of any one accident.

The Ordinance presented for second reading has been revised to reflect Colorado minimum vehicle insurance requirements:

- A) \$25,000 per person for bodily injury;
- B) \$50,000 per accident;
- C) \$15,000 for property damage.

Council also requested information about annual premiums for golf car insurance. In researching this question, staff found many variations depending on type of golf car and car storage; age and driving history of driver; whether the insured has other policies with the insurance company; and, in some cases, if the insured has a motorcycle endorsement on their driver's license and specialized training. We also learned that many of the better known insurance companies do not offer golf car coverage in Colorado for operation on public streets. However, there are several other agencies that do provide coverage. Quotes provided by those companies ranged from \$50 to \$300 annually. Please see Attachment A for additional detail about golf car insurance coverage.

The recommendation and Ordinance have been developed with a focus on golf course customers who live in the near vicinity of a facility due to their interest in using that course. This approach simplifies the surprisingly complicated issues and minimizes the need for golf car drivers to have to cross a state highway. It is not intended or recommended that the goal be to draw customers from across the city to a City course. Loveland was not planned or constructed with this intent, making long-distance golf car travel impractical and unsafe. The City's transportation system is facing tremendous challenges due to rapid growth and geographic constraints. Adding long distance golf car travel to the already unmet needs of vehicles, bicycles and pedestrians upon the current network is not recommended.

The City's golf course managers recommended the one mile radius boundary believing that this accommodates their course customers. Several insurance agents commented that this approach was also appealing from a risk and coverage perspective.

Should there be direction to pursue development of an Ordinance to allow golf car travel upon all public streets, a significant work effort including expansive public outreach would be required and a re-prioritization of current assignments would be necessary. The Police Department would require time to evaluate potential traffic safety impacts and enforcement implications of a

city-wide allowance for golf cars. It is projected that a robust pre-inspection and permit system would be required.

In developing the proposed Ordinance and approach, staff reviewed the history and work of several cities in a variety of states on this topic. Even those communities that were designed specifically for a golf course lifestyle indicate there are ongoing challenges with expanded requests along with keeping local legislation, requirements and programs current. Cities not specifically designed for golf course lifestyles that developed and adopted Code amendments usually did so due to a citizen request. These locales indicate working through the same challenges faced by Loveland in analyzing this issue and developing a recommendation. The information collected indicates that every jurisdiction except one developed a system that allows travel upon only certain city streets and implemented a formal permit system toward protecting public safety. There are also several cities that considered this request and decided not to allow golf car travel on public streets due to safety concerns heightened by population growth and associated traffic problems.

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

1. Ordinance
2. Golf Cart Insurance Information
3. Map showing approximate one mile radius around City courses

FIRST READING: July 5, 2016

SECOND READING: July 19, 2016

ORDINANCE NO. 6031

AN ORDINANCE AMENDING THE LOVELAND MUNICIPAL CODE WITH RESPECT TO THE AUTHORIZATION AND REGULATION OF GOLF CARS ON CERTAIN PUBLIC STREETS WITHIN THE CITY OF LOVELAND

WHEREAS, the City operates several golf courses and believes providing efficient access to the golf courses is in the best interests of its citizens; and

WHEREAS, in order to enable the operation of golf cars on public roadways to access golf courses, the City, as a local government, desires to authorize and regulate the operation of “golf cars” as defined by the Colorado Motor Vehicle Code in accordance with the authority set forth in Colorado Revised Statutes § 42-4-111(1)(bb); and

WHEREAS, the City desires to promulgate such regulations for the operation of golf cars within the City to ensure the health, safety and welfare of its citizens and others traveling upon public roadways; and

WHEREAS, the City Council finds that the Ordinance set forth below defines, authorizes and regulates the operation of golf cars upon City streets, rights-of-way and trails in a manner that both facilitates an efficient transportation system and protects the public.

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

Section 1. A new section following Chapter 10.04.020 shall be added to Title 10 of the Loveland Municipal Code to read as follows:

10.04.020 Operation of Golf Cars

A. “Golf car” shall mean a self-propelled vehicle not designed primarily for operation on roadways and that has:

1. A design speed of less than twenty miles per hour;
2. At least three wheels in contact with the ground;
3. An empty weight of not more than one thousand three hundred pounds; and
4. A carrying capacity of not more than four persons.

B. Operation of Golf Cars Authorized.

1. Except as set forth in this Section 10.04.020, no person shall operate a golf car upon any public roadway in the City;
2. The operation of a golf car on a public roadway shall be authorized as follows:
 - i. A golf car may be driven upon streets for no greater than a distance of one mile for the purpose of traveling to one of the City's golf courses. Such distance shall be measured in a one-mile radius from the clubhouse at each golf course, respectively.
 - ii. Golf cars shall not be operated upon or across any portion of Colorado State Highway 34, Colorado State Highway 402 Colorado State Highway 287, or any other roadway with a posted speed limit of greater than 30 miles per hour, except that a golf car shall be permitted to cross a state highway in accordance with the other requirements set forth herein.
 - iii. A golf car shall not be driven upon private roadways, such as those owned by homeowners' associations, without express permission of the owner of such private roadways.
3. It is the responsibility of the golf car driver to know what roads are designated as permissible for the operation of golf cars.
4. Nothing in this section authorizes the operation of a golf car on rights-of-way under the jurisdiction of the county. It is the duty of each golf car operator to ascertain whether a permissible right-of-way is within the city limits.

C. Golf Cars, Operations.

In addition to the authorized golf car operations set forth in Section 10.04.020(B) above, the following regulations apply to the operation of golf cars:

1. Any operator of a golf car shall be at least sixteen (16) years of age and hold a currently valid driver's license pursuant to Title 42 of the Colorado Revised Statutes, or the equivalent under the law of any other jurisdiction within the United States.
2. Prior to the operation of a golf car on a City street or roadway as allowed herein, each owner shall obtain and carry a liability insurance policy for that golf car meeting the insurance limits required for motor vehicles by Part 6, Article 4, Title 10, C.R.S., as may be amended from time to time.

3. No golf car shall be operated upon any City sidewalk, pedestrian trail, or recreational facility with the exception of golf courses and associated golf facilities, and the emergency access easement in the Fairway West Subdivision between Glen Haven Drive and West 37th Street. Nothing contained herein to the contrary, it shall be legal for a City-authorized golf car to operate on City paths, trails and areas within parks, greenbelts, open spaces, and recreation facilities for public safety, upkeep, maintenance and any other municipal purposes.
4. A golf car shall not be operated between sunset and sunrise, or at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of one thousand feet ahead.
5. Golf cars, when permitted to be operated upon a roadway, shall be operated as close to the right side of the roadway as practicable, exercising due care when approaching, overtaking, or passing a standing vehicle or one proceeding in the same direction, or when approaching, overtaking, or passing a pedestrian or bicyclist. In addition, the operator of a golf car must obey all traffic laws and parking regulations otherwise applicable to motor vehicles.

D. Violations.

Violations of this Section 10.04.020 shall be punishable in accordance with the penalty provisions set forth in Section 1.12.010 of the Code or applicable state proceedings.

E. Revocable

1. The operation of golf cars on City streets shall be deemed revocable upon the will of the City Council in its legislative capacity based on its consideration of the health, safety and welfare of the public arising from such use.
2. The operation of golf cars on City streets as included in this section shall not limit or otherwise preclude the City Council from contracting or expanding the streets or roads on which golf cars can be operated.

F. Waiver of Claim

Any person operating a golf car on City streets and all persons who are passengers in such golf cars shall be deemed to have waived any claim against the City for any loss or damages whatsoever while operating golf cars on City streets as permitted herein.

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

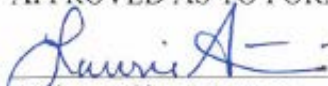
ADOPTED this 19th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

Golf cart insurance guide

By Gina Pogol Posted : 02/01/2016

URL:

<http://www.insurance.com/other-insurance/golf-cart-insurance.html>

If you own a golf cart, it's a good idea to buy golf cart insurance, and it may be required by your Homeowner Association (HOA) or state.

[Compare car insurance quotes now.](#)

Whether or not you need it depends on where you ride, and how you use your golf cart--like a riding mower, car or ATV. This guide explains how the way you use your cart determines the type of golf cart insurance coverage you may need, and you'll learn how to get covered for less.

Click on the links below to move directly to the section you need, or scroll down to review our entire guide.

- [Golf cart use: insurance implications](#)
- [Saving on golf cart insurance](#)
- [How much does it cost to insure a golf cart?](#)
- [Basic golf cart usage—insurance considerations](#)
- [Speed-modified cart--auto insurance with golf cart endorsement](#)
- [The golf cart as ATV—auto and umbrella insurance](#)
- [Golf cart accidents and insurance coverage](#)




Golf cart use: insurance implications

Larry Payton of Farmers Insurance in Incline Village, Nevada, says the two most common golf cart insurance questions are:

- "Do I need golf cart insurance?"
- "How much does golf cart insurance cost?"

Insurance requirements and cost differ by how your golf cart is used. Peyton reports that many people wonder, "Does my golf cart need its own policy?" While your [homeowners insurance](#) might be fine for basic use, a special golf cart insurance policy may be recommended for anything beyond that. Identify your usage profile in the table below and review its unique insurance requirements.

Golf cart use resembles	Golf cart usage type	Description	Best golf cart insurance

	Basic—similar to using a riding mower	Driving only on a golf course or on your own property.	Homeowners insurance with a golf cart endorsement
	Speed-modified—up to 25 miles per hour on neighborhood streets	Some street driving; may include safety features such as seat belts.	Auto insurance for golf carts or Low Speed Vehicles (LSVs)
	All-terrain vehicle (ATV)—use on neighborhood and city streets	Regular use on streets as well as golf course.	Auto insurance for golf carts and umbrella insurance

In many golf communities, the HOA requires golf cart owners purchase specific insurance for golf carts and name the HOA as an additional insured. Peyton says that his firm sells a golf cart insurance policy for \$50 per year and adds an HOA as an additional insured at no additional cost.

How to save on golf cart insurance

Call Insurance.com at (855) 430-7750 and let one of our licensed agents guide you through the process of bundling and discounts. Potential discounts include:

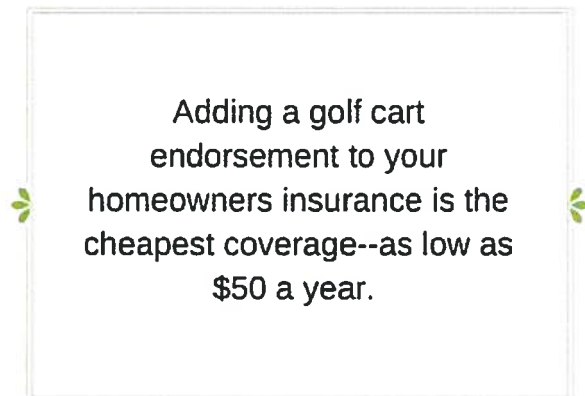
Golf cart insurance discount	Description
Bundling golf cart insurance	As with auto insurance, one of the best ways to obtain a significant discount is to buy your golf cart or LSV policy from an insurer with which you already do business. This is often referred to as a "bundling" or "multi-policy" discount. If your LSV needs an auto policy, make sure you ask for a multi vehicle discount .
Homeowners	Discounts may be available if you own your home.
Occupational	Some insurers provide discounts to people in certain occupations.
Switching	Certain insurers, such as as esurance, provide discounts of up to 15 percent when you switch over from another insurance company.
Motorcycle	Savings may also be available if you obtain a motorcycle license or endorsement.
Paid up-front	Additional discounts can sometimes be accessed if you pay your golf cart insurance premium up front for the entire year.

Safety certification	Taking safety courses, joining qualifying organizations or being a responsible driver may save you money -- it pays to ask.
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As always, you are likely to pay less if you are willing to take on a higher deductible (the portion of a claim you pay before your insurance pays the rest).

Golf cart insurance rates

How much does it cost to insure my golf cart? It is virtually impossible to compare golf cart insurance premiums by state, because there is no standard insurance policy requirement.



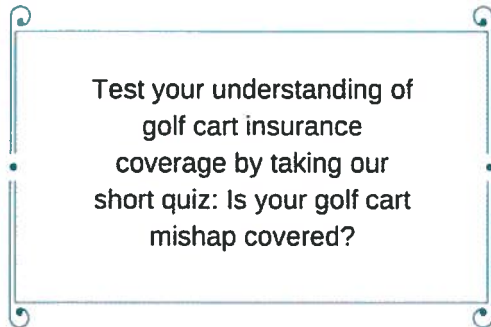
It's the way the cart is used that determines your insurance costs and coverage needs. The figures below are considered "typical," but can vary by the amount of coverage you want, your location, claims filed and other factors. It pays to compare several golf cart insurance quotes from competing companies to get the best deal. Make sure each offer provides the same amount of coverage.

- Adding a golf cart endorsement to your homeowners insurance is the cheapest coverage - as low as \$50 a year.
- A standalone golf cart policy runs about \$12 a month if you drive it to and from the golf course or in a golf course/retirement community.
- A speed-modified golf cart requires a special golf cart or auto policy, which can run between \$400 and \$1,000 per year, depending on your driving record and other factors.

Basic golf cart usage—insurance considerations

Basic golf cart usage is similar to driving a riding mower; it's probably covered under your [homeowner's policy](#). A riding mower doesn't have to be registered, you don't need a license to drive it, and you only use it on the grass. If this also describes your golf cart, you can probably just add it to your homeowner's insurance policy to protect yourself in the event of an accident.

Understand, however, that this coverage is extremely limited. Most homeowner's insurance policies do *not* cover golf cart accidents unless they occur on a golf course or on your own property.



Test your understanding of golf cart insurance coverage by taking our short quiz:

[Is your golf cart mishap covered?](#)

If you accidentally run over your boss at the company golf day, you're probably covered (though possibly no longer employed). But if your teen takes the cart to the neighbor's to show off his golf cart stupidity, you're on the hook if damage or injuries to others occur. If your golf cart multitasks away from home, it may be more like an ATV than a riding mower, and your insurance needs are different.

Some insurers offer a "beefed up" addition to the homeowner's policy called a "golf cart endorsement." It provides protection from liability and physical damage to the cart, and may cover theft, vandalism and other costs. However, the endorsement is usually void if the cart is:

- Used to carry people for money or for other business purposes
- Driven in a race
- Rented to someone else
- Driven anywhere but within the boundaries of a recognized retirement or limited access community, on a golf course, or travelling to and from a golf course
- Driven by someone not licensed to drive a private passenger vehicle

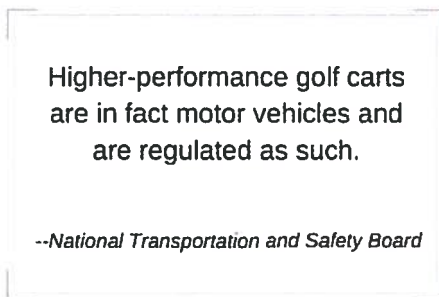
Notice that the golf cart endorsement typically won't cover you if your unlicensed child is driving. If you have a golf cart, [compare homeowners insurance policies](#) carefully and choose one with the options that best meet your needs.

Speed-modified: auto insurance with golf cart endorsement

Most golf carts are designed to operate at about 15 miles per hour. For this reason, golf carts are not required to have the safety features that we all take for granted in our cars--like seat belts, headlights, and doors. However, some golf carts are capable of higher performance, with top speed of 20-to-35 miles per hour. They are capable of being driven on public streets with lower

speed limits, and this is legal in all states except Connecticut, Mississippi, Montana and Pennsylvania.

These "speed-modified" carts are classified as "low speed vehicles" or LSVs, "neighborhood electric vehicles" or NEVs, and "medium speed vehicles" or MSVs. These souped-up golf carts are popular with people who like a quiet, emission-free way to pick up groceries, visit nearby friends or pop down to a local café for brunch.



According to the [National Transportation and Safety Board](#) (NTSB), all of these higher-performance carts are in fact motor vehicles and are regulated as such. Most if not all states in which they are legal require them to be insured, registered and operated only by licensed drivers.

Costs to insure golf carts classified as LSVs, NEVs or MSVs can approach that of automobile insurance, an unwelcome surprise to owners. For example, in The Villages, a Florida retirement community of about 100,000 residents, citizens who drive LSVs were stunned to find their insurance on these carts costs between \$400 and \$1,000 a year. In fact, some insurance providers issue automobile policies for golf carts classified as LSVs, NEVs or MSVs.

Penny Gusner, Consumer Analyst at Insure.com, says it's not a cut-and-dried rule. "I've seen many insurers say you should get specialty insurance (typically written under the motorcycle category) for your golf cart or LSV, etc. Specialty policies are separate from your auto insurance," she explains. "Other insurers say if you are going to be driving on public roadways, they will put the vehicle under a car insurance policy."

As always, you'll want to make sure that you're getting similar coverage when you compare golf cart or auto policies for your souped-up cart.

While some residents in The Villages seemed to think they were overpaying for their LSV coverage, golf cart insurers say the vehicles are a lot more dangerous than people think. LSVs perform poorly in crash tests, for one thing. They have high centers of gravity and are prone to tipping, and they can weigh up to 3,000 pounds. The impact of an LSV crash on passengers and pedestrians can be deadly. In addition, on golf courses, drinking is often involved, ratcheting up the danger--in Peachtree City, Georgia, for example, 12 percent of the city's DUI convictions went to golf cart drivers.

The golf cart as ATV—auto and umbrella insurance

If you drive your golf cart to and from the club when you play, or tool around a private golf or retirement community, you need insurance coverage beyond what your homeowner's policy provides. People with "toys" like ATVs, motorcycles, snowmobiles, and, ahem, golf carts, can somewhat protect themselves from expensive silliness with a standalone specialty or recreational vehicle policy, or an "umbrella" policy.

An umbrella policy provides extra liability insurance that goes above and beyond other insurance coverages that you carry, such as your homeowners, boat and auto insurance. It can help protect you from expensive liability claims associated with your recreational vehicles. Umbrella policies have the advantage of providing a lot of coverage--from \$1 million up to \$5 million, depending on what limit you choose--at a fairly low price. However, if you damage your own property or get hurt yourself, this policy won't cover you.

If you want coverage for injuries to others or damage to their property, you'll need a golf cart insurance policy. It's a special policy for off-road vehicles, similar to an auto insurance policy (but cheaper). You can purchase protection from:

- Property damage liability if you harm another person's property.
- Bodily injury liability if you cause injury to another person.
- Collision costs if you collide with another vehicle or object, and it doesn't matter who caused the collision.
- Other (comprehensive) damage to your cart from fire, theft, or anything other than a collision -- like wind damage or hail.

In some states, golf carts are allowed to travel on public streets to some degree. States that allow golf carts on public roads have varying licensing, registration and insurance requirements. Make sure you know your state or local laws before you drive your cart off your property.



Private golf or retirement communities often allow golf carts to be used as transportation within their boundaries, and usually require these vehicles to carry liability insurance. In The Villages, the average expense for golf cart insurance (required of anyone using them on the streets) is about \$12 a month, according to the Orlando Sentinel.

Golf cart accidents and insurance coverage

Determining which insurance coverage applies in the case of a golf cart mishap can be confusing. The table below summarizes various circumstances where damage occurs to people or things as a result of a golf cart accident and indicates the relevant policy for each.

Accident location	Golf cart use type	Cart damage	Special circumstances	Covered by	Not covered by
Golf course	ATV	Unharmd	Damage to others' property	Homeowners, golf cart insurance	
Golf course	ATV or speed-modified	Damaged		Golf cart insurance	Homeowners insurance
City street	NEV	Damaged		Golf cart or auto insurance ¹	Homeowners insurance

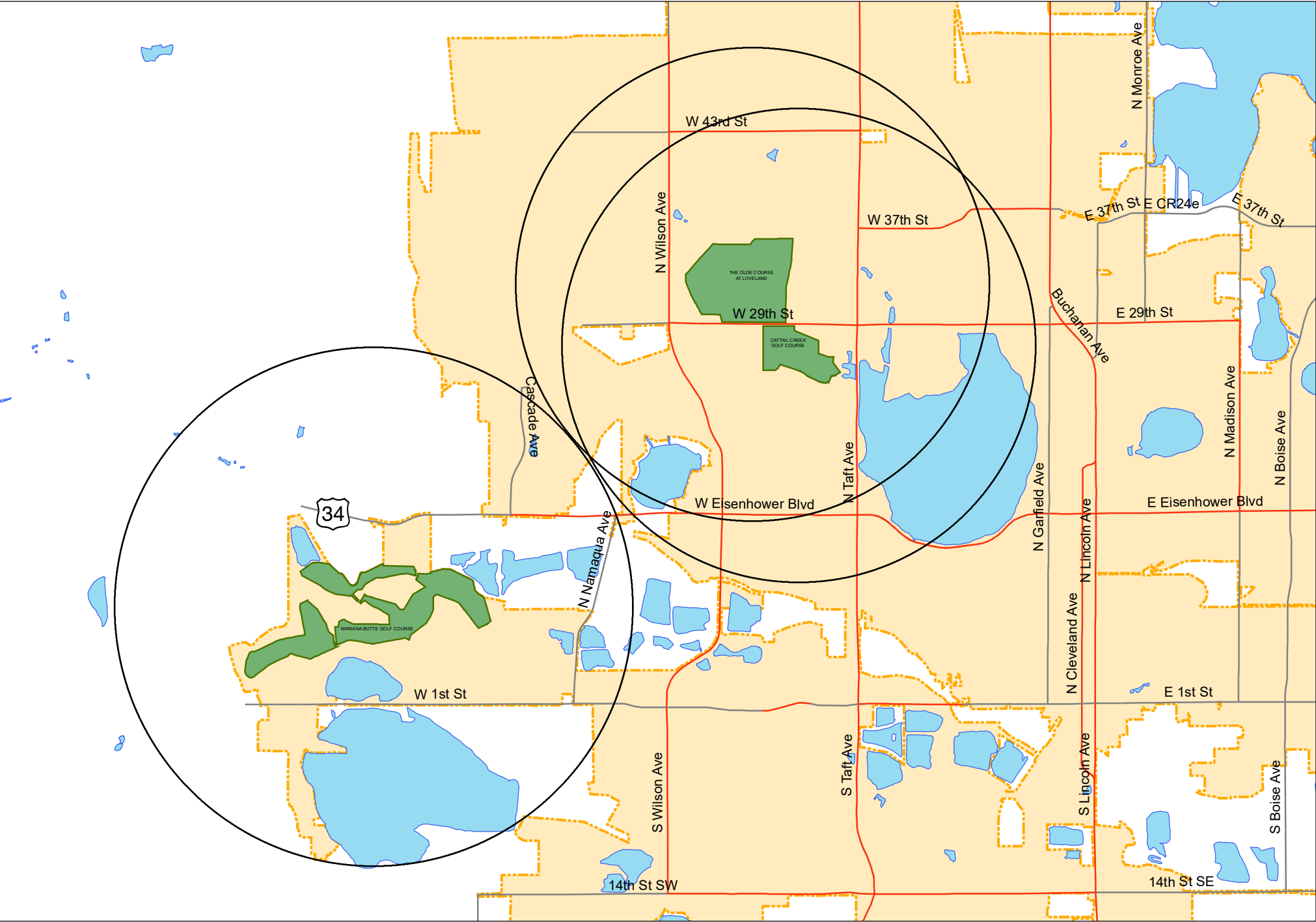
Outside a golf course	All	Damaged	Fire	Golf cart insurance ¹	Homeowners insurance
City street	All	Damaged	Golf cart rented to others		Homeowners, auto, or golf cart insurance ²
Golf course	All	Damaged	Unlicensed child	Homeowners (liability only) insurance	Golf cart insurance ³

¹Driver must be licensed and driving cart legally.

²Individual policy is void if golf cart is rented to others.

³Most golf cart insurance policies exclude unlicensed drivers.

Golf Course, Approximate 1 Mile Radius



AGENDA ITEM: 12
MEETING DATE: 7/19/2016
TO: City Council
FROM: Parks and Recreation Department
PRESENTER: Janet Meisel-Burns, RLA



TITLE:

A Resolution Documenting Financial Support For The Namaqua Underpass As A Financial Match For A Transportation Alternatives Program Grant Request And Authorizing The City Manager To Execute A Support Letter.

RECOMMENDED CITY COUNCIL ACTION:

Adopt the action as recommended.

OPTIONS:

1. Adopt the action as recommended.
2. Deny the action. Denial would prevent the City of Loveland from scoring as high on the grant evaluation, as a resolution is requested in the application process.
3. Adopt a modified action.
4. Refer back to staff for further development and consideration.

SUMMARY:

This is an administrative item. The City of Loveland is seeking financial support from the Colorado Department of Transportation ("CDOT"), Transportation Alternatives Program Grant ("TAP") to improve safe access to the proposed and planned construction of the City of Loveland Recreation Trail at Namaqua Road. The new underpass will provide a safe, grade-separated crossing for the City recreation trail. The grant request seeks funding for design of the underpass in 2018 and construction of the underpass in 2019. Conservation Trust Funds will be requested in the 2018 and 2019 budget cycle if the TAP Grant is awarded to the City. Matching funds up to \$600,000 will be requested for the TAP grant. CDOT seeks a letter of financial support with the grant application documenting that the City of Loveland is committed to fund the matching grant request.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible

There is no obligation of funds with this phase of the grant process. CDOT is only seeking a letter of support for the grant request.

BACKGROUND:

The proposed underpass will be south of the Barnes Ditch on the general alignment of the City of Loveland Recreation Trail crossing Namaqua Road. The first section of trail connecting to the proposed underpass is planned for construction this fall, from the west US 34 underpass back to Namaqua Road, south of the Barnes Ditch. The trail from Namaqua Road to Wilson Avenue is scheduled for construction in 2017.

The City of Loveland is seeking grant funds to supplement the design and construction of the future underpass. The underpass is estimated to cost \$1,200,000 including design and

construction. Easements for the underpass are already funded in the current 2016 and proposed 2017 trail budgets. Staff recommends supporting the design and construction of the underpass and seeks funds from CDOT, through the TAP Grant for the following beneficial reasons:

- The trail and underpass will improve accessibility, safety, convenience and enjoyment for all trail users,
- The new underpass improves connections to existing pedestrian infrastructure allowing increased mobility,
- The underpass will decrease the need for using motor vehicles in short-distance trips,
- Providing a safe connection addresses the numerous citizen complaints concerning trail access and connectivity in this area,
- Providing the underpass addresses the need for pedestrian infrastructure in the City of Loveland Parks and Recreation Master Plan and the Bicycle and Pedestrian Plan.
- The underpass is only funded at 50% of the total cost for design and construction, and TAP funds will provide the matching funding needed to complete this safe crossing of Namaqua Road.

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

1. Resolution
2. Exhibit A – vicinity map

RESOLUTION #R-57-2016

A RESOLUTION FOR FINANCIAL MATCH SUPPORT FOR A TRANSPORTATION ALTERNATIVES PROGRAM GRANT REQUEST FOR THE NAMAQUA UNDERPASS

WHEREAS, the City of Loveland (the “City”) plans to construct the first section of a recreational trail (the “Recreational Trail”) from west U.S. Highway 34 to Namaqua Road, south of the Barnes Ditch, in the fall of 2016. The second section of the Recreational Trail from Namaqua Road to Wilson Avenue is scheduled for construction in 2017;

WHEREAS, the City has planned to construct an underpass to connect the Recreational Trail south of the Barnes Ditch on the general alignment of the Recreational Trail on Namaqua Road (the “Underpass”);

WHEREAS, the Recreational Trail and Underpass will improve accessibility, safety, convenience and enjoyment for citizens of the City. Providing the Underpass will address the need for pedestrian infrastructure set forth in both the City of Loveland Bicycle and Pedestrian Plan and the Parks and Recreation Master Plan;

WHEREAS, the design and construction of the Underpass is estimated to cost \$1,200,000. Easements required for the Underpass are already funded in the 2016 and 2017 trail budgets;

WHEREAS, the City intends to apply for Transportation Alternatives Program Grant (“TAP Grant”) funds from the Colorado Department of Transportation (“CDOT”) in the amount of \$600,000 for design of the Underpass in year 2018 and construction of the Underpass in year 2019. A local match of \$600,000 would be required if the City’s TAP Grant application is successful; however, matching funds from the City’s budget would not need to be appropriated until years 2018 and 2019;

WHEREAS, CDOT requires that the City submit a letter of financial support from the City Manager with the TAP Grant application; and

WHEREAS, the City Council supports the TAP Grant application and desires to approve \$600,000 in funding for the local match.

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

Section 1. That the City of Loveland hereby supports the commitment of \$600,000 from the Conservation Trust Fund unassigned balance to contribute to the local match funds for the Transportation Alternatives Program Grant applications for the Namaqua Underpass, subject to appropriation by the City Council and subject to the award of such grants.

Section 2. That the City Manager is authorized to execute a letter of support that effectuates the purposes of this Resolution.

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

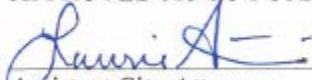
ADOPTED this 19th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


Assistant City Attorney

LOVELAND RECREATION TRAIL AND PROPOSED UNDERPASS AT NAMAQUA ROAD



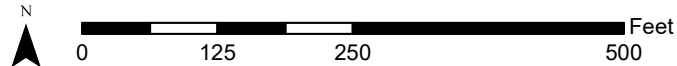
Vicinity Map



Loveland Recreation Trail
Conceptual Alignment
Construction to start in Fall, 2016

Proposed Underpass Location

Loveland Recreation Trail
Conceptual Alignment
Construction to start in 2017



LOVELAND RECREATION TRAIL AND PROPOSED UNDERPASS AT NAMAQUA ROAD P. 74

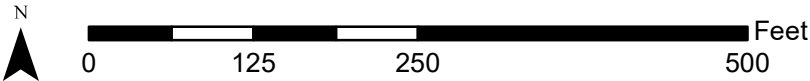


EXHIBIT A

Loveland Recreation Trail
Conceptual Alignment
to be Constructed in Fall, 2016

Proposed Underpass Location

Loveland Recreation Trail
Conceptual Alignment
to be Constructed in 2017



AGENDA ITEM: 13
MEETING DATE: 7/19/2016
TO: City Council
FROM: Public Works
PRESENTER: Leah Browder, Public Works
 Elizabeth Anderson, Parks and Recreation



TITLE:

A Resolution Of Support Documenting Financial Support For A Collaborative Transportation Alternatives Program Grant Request For A Sidewalk And Trail Project With Larimer County

RECOMMENDED CITY COUNCIL ACTION:

Adopt the resolution of support.

OPTIONS:

1. Adopt the Resolution.
2. Deny the recommendation.
3. Refer back to staff for development of an alternative approach.

SUMMARY:

This is an administrative item. Larimer County has extended an invitation to the City of Loveland to participate in a collaborative application for a Colorado Department of Transportation ("CDOT"), Transportation Alternatives Program ("TAP") Grant to improve sidewalk and trail connectivity in the northeast corner of North US287 and 57th Street. While a more comprehensive presentation to City Council regarding sidewalk connectivity is planned for August, the grant application due date requires submittal of a letter of support before then and will not negatively impact future action that may arise from the August Council discussion on this topic.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible

There is no financial impact at this time. Should the \$601,000 grant application be successful, matching funds of approximately \$60,000 will be presented for City Council consideration at a future date.

BACKGROUND:

Staff is finalizing a report regarding North US287 sidewalks following up discussion at the March 15, 2016 City Council Meeting. This presentation is currently projected for an August City Council Meeting date. The City's attention to this issue in this location coincides with Larimer County's desire to make some connectivity improvements in the same area due to citizen requests.

The County has proposed a collaborative TAP grant proposal for this parcel in County jurisdiction including the City of Loveland Public Works and Parks and Recreation Departments. Attachment A provides an overview of the longer-term pathway plan developed by the County. This first phase grant proposal would include segments 1, 2, 3 and 11. These segments include

a pathway to the transit stop and connecting the current trail underpass to the at-grade walk. Parks would also work with the property owner on segment 11 to connect that segment to the existing trail on the west side.

Estimated total project cost is \$601,000. A successful grant application would secure \$481,000 in federal funding. The local match requirement would be \$120,000 shared between the County and the City.

A Resolution of Support is required from the City and is attached for City Council consideration.

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

1. Resolution
2. Project Schematic

RESOLUTION #R-58-2016

A RESOLUTION FOR FINANCIAL MATCH SUPPORT FOR A TRANSPORTATION ALTERNATIVES PROGRAM GRANT APPLICATION FOR U.S. HIGHWAY 287 AND 57TH STREET SIDEWALK IMPROVEMENTS

WHEREAS, the U.S. Highway 287 (“US 287”) corridor through the City of Loveland (the “City”) is characterized by numerous and sometimes lengthy sidewalk gaps due mostly to mixed parcel jurisdiction between the City and Larimer County (the “County”), changing standards, and scattered development of the corridor over time;

WHEREAS, the County has proposed a collaboration with the City to prepare an application for a Transportation Alternatives Program grant (“TAP grant”) from the Colorado Department of Transportation (“CDOT”) to address sidewalk connectivity in the Northeast quadrant of the intersection of US 287 and 57th Street in the City. The County has prepared a long-term pathway plan set forth in Exhibit A, attached to this Resolution, for which the County seeks TAP grant funds;

WHEREAS, the TAP grant application would address segments 1, 2, 3 and 11 as set forth in Exhibit A. The total cost of addressing these segments is approximately \$601,000. The County intends to seek \$481,000 in grant funds, which requires \$120,000 in local match funds. The City’s portion of the local match would be approximately \$60,000;

WHEREAS, CDOT requires that the City submit a resolution of financial support with the TAP Grant application; and

WHEREAS, the City Council supports the TAP Grant application and the funding for the local match if the grant application is successful.

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

Section 1. That the City of Loveland hereby supports the commitment of \$60,000 from the General Fund unassigned balance to contribute to the local match funds for the Transportation Alternatives Program Grant applications for the US287 and 57th Street intersection, subject to appropriation by the City Council and subject to the award of such grant.

Section 2. That this Resolution shall take effect as of the date of its adoption.

ADOPTED this 19th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

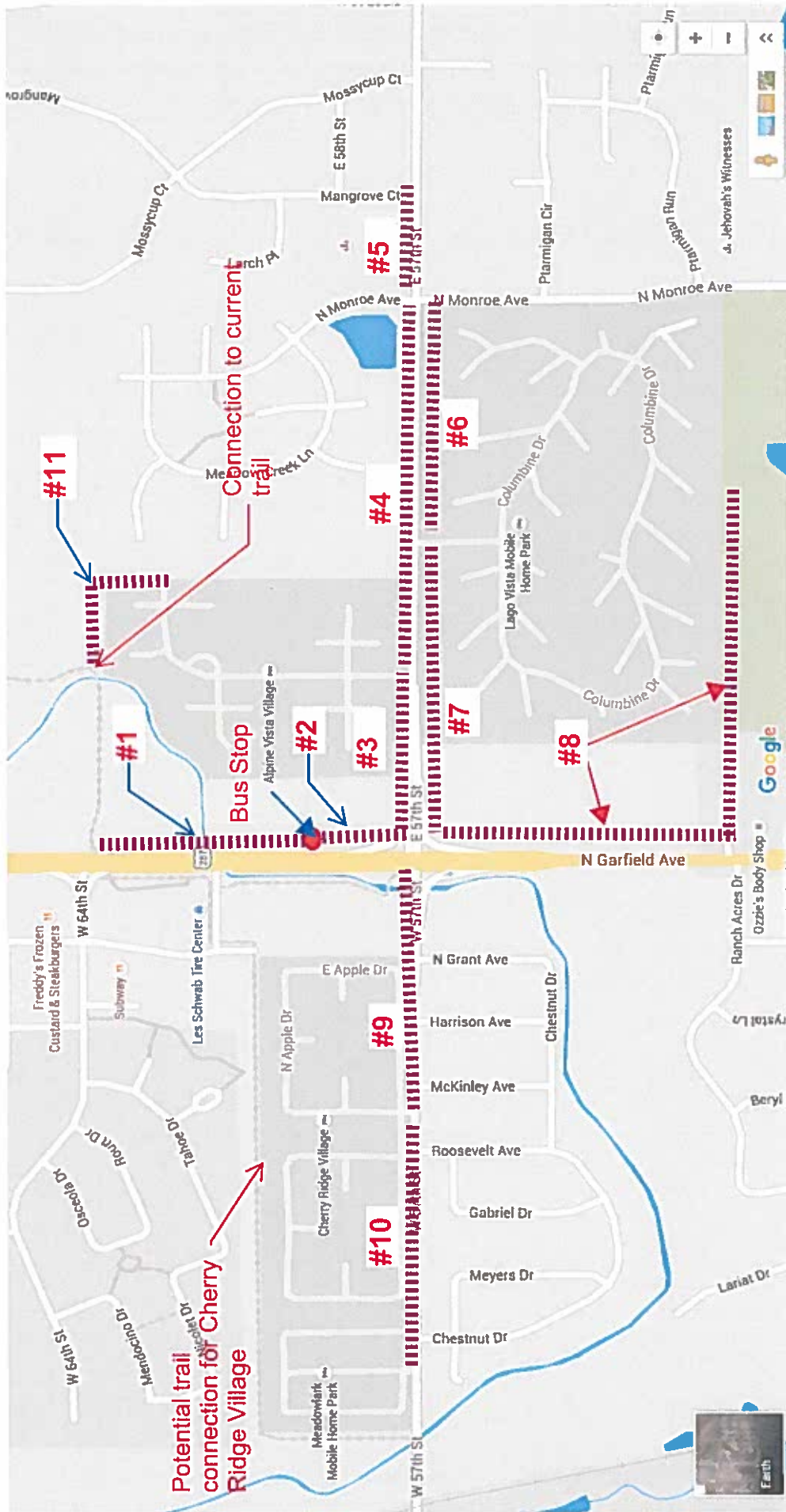
City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

57th Street and U.S 287 Pedestrian Improvements



AGENDA ITEM: 14
MEETING DATE: 7/19/2016
TO: City Council
FROM: Susan Grafton, Economic Development Director
PRESENTER: Mike Scholl, Economic Development Manager
 Jacque Wedding-Scott, Executive Director,
 Loveland Downtown Development Authority



TITLE:

A Resolution of the Loveland City Council Approving the Amended Plan of Development for the Loveland Downtown Development Authority (DDA)

RECOMMENDED CITY COUNCIL ACTION:

Hold a Public Hearing and adopt the Resolution for the Amended Plan of Development.

OPTIONS:

1. Adopt the action as recommended. This action is required by State law.
2. Deny the action. If the action is denied election deadlines won't be met.
3. Adopt a modified action. (specify in the motion)

SUMMARY:

This is an administrative action. The Amended Plan of Development (the "Plan") for the Loveland Downtown Development Authority (DDA) is required by State law to be reviewed and adopted by the City Council. The DDA Plan is defined as a plan for the development or redevelopment of the DDA District over a thirty to fifty year period. The DDA may not undertake any development projects until the City Council has approved the DDA Plan.

The Loveland Downtown Partnership (LDP) and DDA boards have approved the DDA Plan as submitted, and are recommending the Plan to the City Council for review and consideration. Two minor modifications are recommended, a clarification on the legal description of the District, and the exclusion of sales tax on food purchased for home consumption in both the sales tax increment and base. The DDA Plan excludes sales tax revenues obligated under any economic incentive agreement that is in place as of the approval date of the DDA Plan. On June 27, 2016 the Planning Commission approved a motion recommending approval of the Amended DDA Plan to the Loveland City Council. A redline of the amended Plan was reviewed with City Council during the Study Session on July 12, 2016 and is attached.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible

BACKGROUND:

In 2014, the City Council committed in principle to financially support the LDP in its efforts to implement the Downtown Strategic Plan in the amount of \$500,000 annually for a period of ten (10) years, commencing January 2015. As an IRS qualified 501(c)(4), the LDP was organized to 1) provide a means for persons interested in the development or redevelopment of the downtown to identify, discuss and act to address issues concerning the downtown, 2) coordinate activities, projects and programs which will enhance the downtown as a civic,

cultural, social, and economic center and a place where people can live, work, conduct business and enjoy a better quality of life, 3) promote cooperation among the public and private sectors to promote the downtown, and 4) encourage the commitment of public and private resources to the planning and development or redevelopment, and favorable marketing of the downtown.

Prior to undertaking any development or redevelopment project, a Plan of Development is required by State law to be reviewed and adopted by the City Council. The DDA Plan is defined as a plan for the development of public facilities and other improvements, to public or private property of all kinds, which may be necessary or appropriate to the execution of any such plan that will aid and improve the downtown development area over a thirty to fifty-year period.

After careful consideration, the LDP and DDA boards have both approved the Amended DDA Plan of Development and are recommending the Plan to the City Council for a public hearing, and Council review and consideration on July 19th via Resolution. Two minor modifications are recommended, a clarification on the legal description of the District, and the exclusion of sales tax on food purchased for home consumption in both the sales tax increment and base. The Amended DDA Plan excludes sales tax revenues obligated under any economic incentive agreement that is in place as of the approval date of the Amended DDA Plan. A redline of the amended Plan is attached.

The Loveland Planning Commission approved a motion on June 27, 2016 recommending approval of the Amended DDA Plan to the Loveland City Council.

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

1. Resolution adopting the Plan of Development
2. Amended Plan of Development
 - a. Appendix I: Included in Plan of Development
 - b. Appendix II (link): [A Strategic Plan for Revitalizing Downtown Loveland \(2014.\)](#)
 - c. Appendix III (link): [Downtown Vision Book \(2010\)](#)
 - d. Appendix IV (link): [Destination Downtown: HIP Streets Master Plan \(2010\)](#)
 - e. Appendix V (link): [Downtown Strategic Plan, Amendment to City's Comprehensive Plan \(2009\)](#)
3. Amended Plan of Development – Redlined Copy

RESOLUTION #R-59-2016

A RESOLUTION OF THE LOVELAND CITY COUNCIL APPROVING THE AMENDED PLAN OF DEVELOPMENT FOR THE LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY

WHEREAS, the Loveland Downtown Development Authority, in the City of Loveland, State of Colorado (the "Authority"), is a body corporate duly organized and existing under laws of the State of Colorado; and

WHEREAS, the members of the Board of the Authority the (the "Board") have been duly appointed and qualified; and

WHEREAS, pursuant to C.R.S. §31-25-807(3)(a), the Board has adopted the attached Amended Plan of Development for the Authority (the "Plan"), subject to approval of the Plan by the City Council of the City of Loveland (the "City"); and

WHEREAS, it is anticipated that, pursuant to Article X, Section 20 of the Colorado Constitution, the Authority will propose to the City Council that an election be held on November 8, 2016 (the "Election"), for the approval of debt to be issued by the City for Authority purposes, taxes to be levied by the City for Authority purposes and revenue retention above certain limits (collectively the "Ballot Questions"); and

WHEREAS, the Plan provides for the pledge of property tax increment and municipal sales tax increment in order to finance projects and purposes of the Authority as authorized in the Plan ("Tax Increment Provisions"); and

WHEREAS, in the event all of the Ballot Questions are not approved by the qualified electors at the Election, the City Council desires that the Tax Increment Provisions of the Plan shall then be automatically repealed; and

WHEREAS, pursuant to C.R.S. §31-25-807(4)(b), the City Council submitted the Plan to the Loveland Planning Commission (the "Planning Commission") and the Planning Commission has submitted a written letter of support of the Plan to the City Council; and

WHEREAS, pursuant to C.R.S. § 31-25-807(4)(c), the City Council held a public hearing on the Plan after notice of such hearing was published once during the week preceding the public hearing in a newspaper having a general circulation in Loveland.

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

Section 1. Findings. The City Council hereby finds that there is a need to take corrective measures in order to halt or prevent deterioration of property values or structures within the Plan area and to halt or prevent the growth of blighted areas therein. The City Council further finds that the Plan will afford maximum opportunity consistent with the sound needs and plans of the

City as a whole, for the development or redevelopment of the Plan area by the Authority and by private enterprises.

Section 2. Approval of Plan. Having received a recommendation from the Planning Commission on the Plan and having held a public hearing thereon after required public notice, the City Council hereby approves the Plan.

Section 3. Automatic Repeal. The section of the Plan entitled "Methods of Financing Projects" contains the Tax Increment Provisions. In the event that the qualified electors do not approve all of the Ballot Questions at the Election, the Tax Increment Provisions found in the above-referenced section of the Plan shall thereupon, without further action of the City Council, be automatically repealed and of no further force and effect. In such an event, the City shall promptly give written notice to the Larimer County Assessor of such repeal.

Adopted this 19th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney



LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY

Amended Plan of Development



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- III. **Objective and Purposes** 5
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- VI. **Methods of Financing Projects** 13
- VII. **Appendices** 14

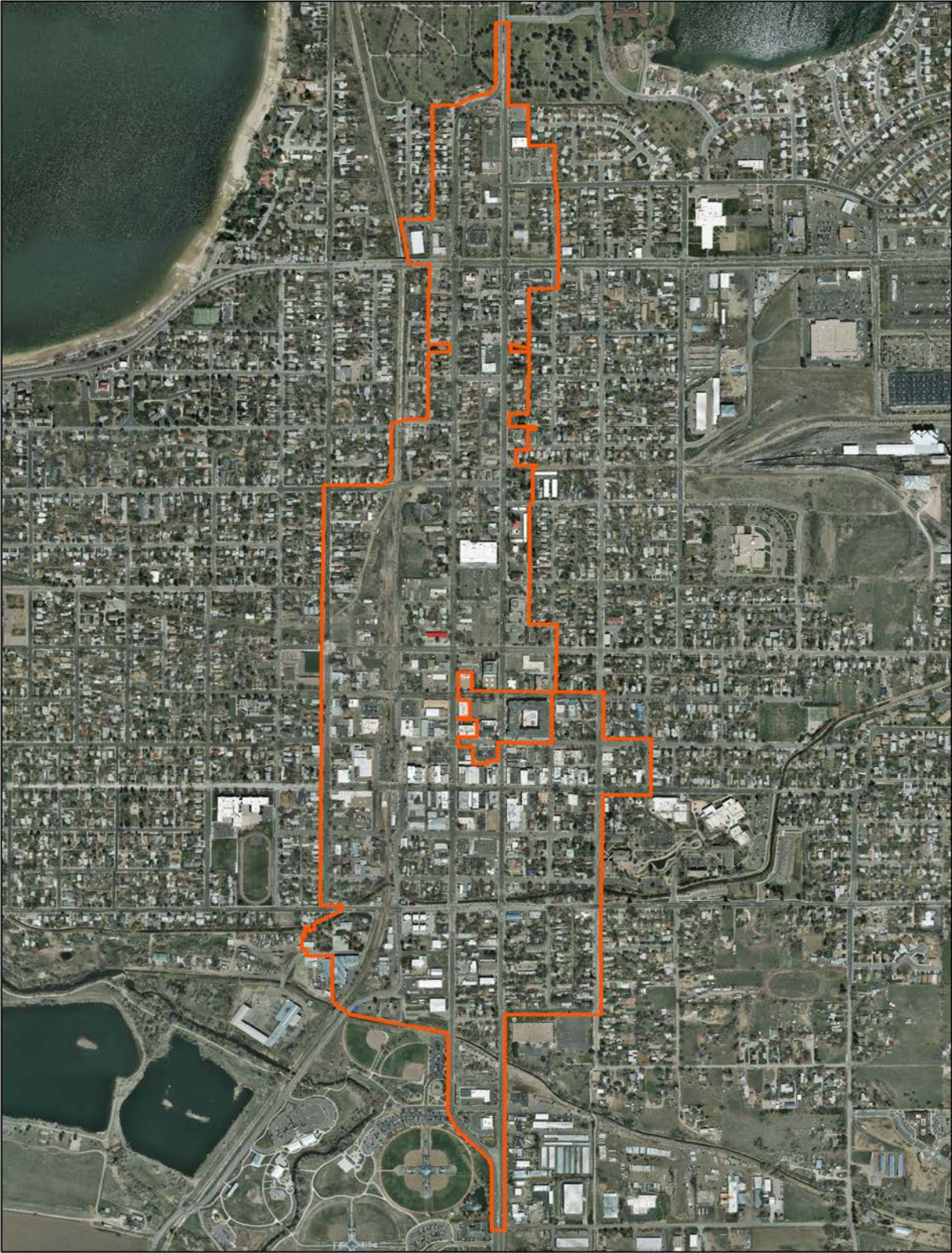
Foreword

The downtown (“Downtown”) of the City of Loveland (“Loveland”) serves as the heart of a city that from its beginnings in 1877 has defined the best of Colorado’s entrepreneurial spirit and sense of civic pride, with an emphasis on arts and cultural activities. Downtown Loveland residents, businesses and property owners believe that a strong economic foundation is critical to sustaining a vibrant community respectful of its history, committed to the full inclusion of all its citizens, and strategically positioned to thrive in a globally competitive marketplace.

This Plan of Development (the “Plan”) is an essential first legal step in creating a vibrant Downtown that provides a safe, dynamic environment to gather, live, educate, shop, work and play. The needs of the Downtown have been recognized over the past years in vision documents, comprehensive and strategic plans and master planning efforts. All of these document have identified the need to have a strong Downtown for the economic health and future of Loveland.

The emphasis of this Plan is on the needs of the Downtown over a thirty (30) to fifty (50) year period and the type of projects and programs that are required to satisfy those needs, rather than dictating the physical location, dimensions and design which can only evolve through continual planning efforts.

District Map



**Loveland Downtown Development Authority
Established by Ordinance No. 5927**

Boundaries of the DDA

The boundary of the Loveland Downtown Development Authority (the “DDA”), as shown on the preceding map, outlines the area in which the DDA will exercise its statutory powers (the “District”). The District was established on the basis of the best information available at the time. It is intended that the boundaries will change given changing times and circumstances. Property owners adjoining the District are encouraged to petition for inclusion if and when the uses and purposes of their properties become compatible with the purposes of the District.

The District is generally bounded on the east by Lincoln Avenue and on the west by Cleveland Avenue; the eastern boundary of the District goes from the tip of the southern gateway, following Lincoln Avenue to 3rd Street SE, east 2 blocks to Washington Avenue, 6 blocks north to 4th Street, east one block to Adams Avenue, north to 5th Street, and then back west to Washington Avenue; then from the intersection of 5th Street and Washington Avenue, north one block and west one block to Jefferson Avenue, north 1½ blocks and west another ½ block, then continuing northward, including the properties that front on Lincoln Avenue, toward Eisenhower Boulevard, to 1/2 block south of Eisenhower Boulevard, then east to Jefferson Avenue, north to the alley one half block past 16th Street, west 190 feet, north to the boundary with Lakeside Cemetery, west to Lincoln Avenue, north to the end of the one way system, and from the tip of the northern gateway, the western boundary includes the properties on the west side of Cleveland Avenue heading south to 11th Street, then west to just past the railroad tracks, south on Railroad Avenue for one block, and again west on 10th Street to Garfield Avenue, then south 11 blocks to past 2nd Street SW to the intersection of Garfield Avenue and Railroad Avenue, then following the irrigation ditch southeast back to Cleveland Avenue and then south to the end of the one way system.

The legal description of the District is attached as Appendix I to this Plan.

Objective and Purposes

The primary objectives of the DDA are to promote the safety, prosperity, security and general welfare of the District and its inhabitants, to prevent deterioration of property values and structures within the District, to prevent the growth of blighted areas within the District, to assist Loveland in the development, redevelopment and planning of the economic and physical restoration and growth of the District, to improve the overall appearance, condition and function of the District, to encourage a variety of uses compatible with the artistic and cultural community, to sustain and improve the economic vitality of the District, to promote the historic, artistic and cultural elements of the District, and to encourage pedestrian traffic and security in the District. To achieve these objectives, the specific goals of the DDA include the following and any other activities, plans, and development and redevelopment authorized by law.

The Plan recognizes that this is a long term revitalization strategy focused on implementing an entrepreneurial environment in which District products and services meet local demands and attract new residents and businesses to the area.

To achieve these objectives, the specific goals of the DDA include, but are not limited to the following:

1. Work with private entities, developers and property owners to promote positive investment in the District.
2. Work with business owners, and business entrepreneurs to promote retail growth, new job growth and other uses in the District.
3. Identify and help form collaborative public/private partnerships that promote economic growth in ways that honor and sustain strong community values.
4. Implement key elements of Loveland's approved infrastructure plan.
5. Increase residential and employment density as catalysts for enriching life for residents and visitors alike.
6. Assist emerging and existing businesses in navigating various local, county, and state regulations and taxing policies.
7. Identify and establish a communications process with current business and property owners within the District.
8. Establish multiple communication forums with emphasis on email, social media, and newspaper.
9. Work with Loveland in evaluating and potentially implementing a "One Stop" approach to Downtown development including identifying a potential organizational structure therefor.
10. Improve the visual attractiveness of the District including but not limited to façade renovations, public streets, alleys, curbs, gutters, sidewalks, lighting along with street furniture and landscaping.
11. Underground the utility systems.
12. Promote a diversity of activities in the District.

13. Promote and encourage the renovation and reuse of vacant and deteriorated structures within the District.
14. Encourage the creation and continuation of public events within the District
15. Promote and market the District.
16. Promote Loveland's unique identity as a destination for arts and culture.

Plan of Development Projects

- A. Plan projects may include public facilities and other improvements to public or private property of all kinds consistent with the priorities of the DDA by all means permitted by federal, state and local laws and regulations, including but not limited to, land assemblage, demolition, removal, site preparation, construction, renovation, repair, remodeling, reconstruction purchase of property interests, rehabilitating, equipping, selling and leasing in connection with such public and private improvements.

- B. Descriptions of specific development projects that have been conceptually identified as potential key downtown **redevelopment projects** including, but not limited to, the following:

ITEM	CITY/DDA FUNDING	OTHER PUBLIC FUNDING	PRIVATE	NOTES
Redevelopment Projects				
South Catalyst Project: 3 rd Street Site	\$15,000,000	\$15,000,000	\$50,000,000	Amount includes the estimate on land, plus the cost of the redevelopment with a parking structure
4th Street/Rialto Square	\$2,500,000	\$0	\$7,500,000	Includes the cost of land plus redevelopment cost,
Arcadia (opera House) (4th and Cleveland)	\$400,000	\$75,000	\$1,800,000	Based on preliminary review of proposed plan.
4th and Lincoln/Redevelopment (Heartland Corner)	\$2,000,000	\$0	\$6,250,000	Potential project/timeline unknown
Loveland Elks Lodge	\$250,000	\$200,000	\$2,000,000	Estimates are for rehab at \$100/square foot
Loveland Hotel	\$250,000	\$200,000	\$2,000,000	Estimates are for rehab at \$100/square foot
VFW Hall	\$500,000	\$0	\$4,000,000	
Feed and Grain	\$0	\$2,300,000	\$1,000,000	
Pulliam Building	\$4,600,000	\$200,000	\$1,200,000	Assumes the City receives a grant from the State Historic Fund and Historic Tax Credits
Former House of Neighborly Service Building - Cleveland	\$500,000	\$0	\$5,000,000	Assumes a redevelopment of a 20,000 sq./foot building
Safeway site	\$5,000,000	\$0	\$30,000,000	Requires further investigation
Railroad site	\$2,500,000	\$0	\$15,000,000	Land at 7th and Garfield
Other private	\$1,500,000		\$10,000,000	Includes other projects not contemplated, plus façade grants and fire safety grants
SUBTOTAL REDEVELOPMENT	\$35,500,000	\$17,975,000	\$139,500,000	

- C. Descriptions of specific potential **public facilities and improvements** that have been conceptually identified to complement private developments including, but not limited to, the following:

ITEM	CITY/DDA FUNDING	OTHER PUBLIC FUNDING	PRIVATE	NOTES
Infrastructure Projects				
4th Street/Phase I - 3 blocks	\$5,860,000			4th Street from Railroad to Jefferson
4th Street/Additional 2 blocks	\$2,500,000			4th Street to Garfield and Washington
3rd Street	\$2,250,000			3rd Street west of Cleveland to Feed and Grain
5th Street	\$3,010,000			5th Street from Lincoln to Railroad
5th Street Plaza	\$2,187,413			Museum plaza proposal in the parking lot at 5th and Lincoln
Power (Electric)	\$5,000,000			Estimates are for \$300,000 per block to underground the power
Railroad Avenue 1st to 5th	\$4,000,000			May include connectivity with the trail system.
Cost Escalation	\$3,161,483			Estimates were completed in 2009, the number is 20 percent of the cost of the streetscape improvements
SUBTOTAL INFRASTRUCTURE	\$27,968,896	\$0	\$0	

- D. **Other specific development projects and public facilities** currently contemplated are as follows:

ITEM	CITY/DDA FUNDING	OTHER PUBLIC FUNDING	PRIVATE	NOTES
Other Projects				
Trail Expansion	\$1,000,000			
Railroad Quiet Zones	\$1,000,000	\$2,000,000		Includes four rail crossings located at 1 st , 4 th , 6 th and 7 th Streets
SUBTOTAL OTHER	\$2,000,000	\$2,000,000	\$0	

- E. The DDA also may seek to support other projects not directly identified above including, but not limited to, the following:
1. Beautification programs;
 2. Pedestrian facilities and circulation improvements;
 3. Parking that is not otherwise included within specific projects (i.e., 3rd Street Catalyst);
and
 4. Downtown hotel or other convention facilities built in conjunction with a private development.

Strategic Downtown Plan

The DDA, acting in coordination with the Loveland Downtown Partnership and the City of Loveland, will need to establish short and long term priorities based on adopted strategic plans and identified development projects as such plans and projects evolve. The current plans, which are referenced below and attached as Appendices II through V to this Plan, are as follows:

Appendix II: *A Strategic Plan for Revitalizing Downtown Loveland (2014)*

The plan, adopted by the Loveland City Council and the Loveland Downtown Partnership, provides the comprehensive outline for short and long term success in Downtown Loveland.

A Strategic Plan for Revitalizing Downtown Loveland is driven by the following principles:

1. We are committed to a process driven by community stakeholders and supported by the City of Loveland.
2. We are committed to a long term revitalization strategy (20 yrs.) that combines immediate action to improve communications and marketing with an ongoing responsibility to maintain and improve the downtown infrastructure.
3. We are committed to shaping policies and procedures that provide adequate flexibility for the organization to respond quickly and effectively to changing conditions at the local, state, national, and/or international levels.
4. We are committed to implementing an entrepreneurial environment in which Downtown products and services meet local demands and attract new residents and businesses to the area.
5. We are committed to shaping collaborative public/private partnerships that promote economic growth in ways that honor and sustain strong community values.

Appendix III: *Downtown Vision Book (2010)*

The purpose of the Downtown Vision Book is to highlight catalyst projects, and describe the context, character and the opportunity for revitalization. In addition, the Downtown Vision Book identifies ideas, opportunities and strategies to further benefit Downtown Loveland. The Private-Public projects are designed to capture not only the value of public participation, but to be a catalyst for private investment, enhanced connections and enrichment of the community experience for residents, businesses and visitors alike.

Appendix IV: *Destination Downtown: HIP Streets Master Plan (Infrastructure Plan) (2010)*

The Infrastructure Plan was completed in 2010, and highlights the streetscape, utility and other public infrastructure improvements in Downtown Loveland.

Appendix V: *Downtown Strategic Plan – Amendment to the City’s Comprehensive Plan (2009)*

The plan, adopted by the Loveland City Council as an amendment to the Comprehensive Plan, was the basis for the effort by the City and the Loveland Downtown Team to revitalize the Downtown.

Methods of Financing Projects

In order to finance the projects and purposes of the DDA, the following financial sources are authorized to be utilized:

- A. Proceeds of bonds of, loans or advances to, or indebtedness incurred by the City of Loveland secured by the pledge of the following tax revenues for the maximum period of time authorized by C.R.S. § 31-25-807(3):
 - a. **Property Tax Increment:** All of that portion of property taxes in excess of such taxes which are produced by the levy at the rate fixed each year by or for any public body upon the valuation for assessment of taxable property within the boundaries of the District last certified prior to the effective date of approval by the City Council of Loveland of this Plan or, as to an area later added to the boundaries of the District, the effective date of the modification of this Plan.
 - b. **Municipal Sales Tax Increment:** All of that portion of municipal sales tax in excess of such taxes collected within the boundaries of the District for the twelve-month period ending on the last day of the month prior to the effective date of approval by the City Council of Loveland of this Plan. For purposes of calculating the amount of municipal sales tax, “municipal sales tax” shall be as defined in Section 3.16.010 and Section 3.16.020A of the Loveland Municipal Code, provided that such definition shall specifically not include those municipal sales tax revenues that are obligated to be paid in accordance with the specific terms and conditions of any economic incentive agreement in effect as of the approval date of this Plan.¹
 - c. **Other sources:** Such other sources of revenue for repayment of bonds, loans, advances or other indebtedness of Loveland as may be authorized by law.

All such taxes described in this paragraph A shall be adjusted, collected, allocated and used as set forth in C.R.S. § 31-25-807(3), as amended from time to time.

- B. Membership fees;
- C. Private contributions;
- D. Proceeds of loans to the DDA;
- E. Fees and other charges imposed in connection with projects undertaken by the DDA;
- F. Grants and other funds made available by public agencies and other entities;

¹ On January 27, 2015, the City of Loveland and Thornton Long Term Investments, L.L.C. entered into that certain Agreement for City Incentive, Fee Waiver, and Construction Materials Use Tax Waiver with Thornton Long Term Investments, L.L.C. for a Sprouts Farmers Market (the “Agreement”). Pursuant to the Agreement, a \$2,200,000 incentive was provided by the City of Loveland which is to be repaid at a rate of three percent (3%) interest, amortized over a ten (10) year period, in accordance with the terms and conditions of the Agreement.

- G. All types of bond issues, including industrial development revenue and special assessment bonds; and
- H. All such other sources and methods as may be authorized by law from time to time, including but not limited to, C.R.S. § 31-25-801, et seq.

Appendix I: *Legal Description of Downtown Development District*

Beginning at the point of intersection of the south right-of-way (ROW) line of E. 4th Street and the east ROW line of N. Washington Avenue; thence southerly along said east ROW line to its point of intersection with the north ROW line of E. 3rd Street; thence continuing southerly to the point of intersection of the south ROW line of E. 3rd Street and the east ROW line of N. Washington Avenue; thence continuing southerly along said east ROW line to its point of intersection with the north ROW line of E. 1st Street; thence southwesterly to the point of intersection of the south ROW line of E. 1st Street and the east ROW line of S. Washington Avenue; thence southerly along said east ROW line its point of intersection with the north ROW line of the alley between E. 1st Street and 2nd Street S.E.; thence continuing southerly to the point of intersection of the south ROW line of said alley and the east ROW line of S. Washington Avenue; thence continuing southerly along said east ROW line its point of intersection with the north ROW line of 2nd Street S.E.; thence continuing southerly to the point of intersection of the south ROW line of 2nd Street S.E. and the east ROW line of S. Washington Avenue; thence continuing southerly along said east ROW line to its point of intersection with the south ROW line extended of 3rd Street S.E.; thence westerly along said extended line to the point of intersection of the west ROW line of S. Washington Avenue and the south ROW line of 3rd Street S.E.; thence continuing westerly along said south ROW line to its point of intersection with the east ROW line of S. Lincoln Avenue; thence southerly along said east ROW line to its point of intersection with the north line extended of the 5th Street S.E. ROW; thence continuing southerly along said east ROW line to its point of intersection with the south line of the 5th Street S.E. ROW line; thence southerly along said east ROW line to its point of intersection with the north line of the 8th Street S.E. ROW; thence continuing southerly along said east ROW line to its point of intersection with the south line of the 8th Street S.E. ROW; thence westerly along the south line extended of the 8th Street S.E. ROW to the west line of the S. Lincoln Avenue ROW; thence northerly along the west ROW line of S. Lincoln Avenue to its point of intersection with the southwest line of the S. Cleveland Avenue ROW; thence continuing northwesterly along said southwest ROW line to its point of intersection with the south line of the 5th Street S.E. ROW; thence northerly along the west line of the S. Cleveland Avenue ROW to its point of intersection with the north line of the 5th Street S.E. ROW; thence continuing northerly along said west ROW line of S. Cleveland Avenue to its intersection with the north bank of the Farmer's Ditch; thence northwesterly along said bank to its point of intersection with the west ROW line of the Burlington Northern/Santa Fe Railroad and the south line of Henrikson Addition; thence continuing northwesterly along said south line to the southwest corner of Henrikson Addition; thence northerly along the west line of said Henrikson Addition to its point of intersection with the south ROW line of 2nd Street S.W.; thence westerly along said south ROW line to the NW corner of Mill First Addition; thence northerly perpendicular to said ROW line to a point on the south line of Mill Second Addition; thence westerly along said south line to the SW corner of Mill Second Addition; thence northerly and easterly along the west line of said Mill Second Addition to the NW corner thereof; thence easterly and southerly along the north line of Mill Second Addition to the NE corner thereof; thence northwesterly to the SE corner of Riverside Addition; thence northerly

along the east line of Riverside Addition to its point of intersection with the south ROW line of W. 1st Street; thence continuing northerly to the point of intersection of the north ROW line of W. 1st Street and the west ROW line of the N. Garfield Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of W. 2nd Street; thence continuing northerly to the point of intersection of the north ROW line of W. 2nd Street and the west ROW line of N. Garfield Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of W. 3rd Street; thence continuing northerly to the point of intersection of the north ROW line of W. 3rd Street and the west ROW line of N. Garfield Avenue; thence continuing northerly to the point of intersection of the south ROW line of the alley between W. 3rd Street and W. 4th Street and the west ROW line of N. Garfield Avenue; thence continuing northerly to the point of intersection of the north ROW line of said alley and the west ROW line of N. Garfield Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of W. 4th Street; thence continuing northerly to the point of intersection of the north ROW line of W. 4th Street and the west ROW line of N. Garfield Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of the alley between W. 4th Street and W. 5th Street and the west ROW line of N. Garfield Avenue; thence continuing northerly to the point of intersection of the north ROW line of said alley and the west ROW line of N. Garfield Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of W. 5th Street; thence continuing northerly to the point of intersection of the north ROW line of W. 5th Street and the west ROW line of N. Garfield Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of W. 6th Street; thence continuing northerly to the point of intersection of the north ROW line of W. 6th Street and the west ROW line of N. Garfield Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of W. 7th Street; thence continuing northerly to the point of intersection of the north ROW line of W. 7th Street and the west ROW line of N. Garfield Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of the alley between W. 7th Street and W. 8th Street; thence continuing northerly to the point of intersection of the north ROW line of said alley and the west ROW line of N. Garfield Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of W. 8th Street; thence continuing northerly to the point of intersection of the north ROW line of W. 8th Street and the west ROW line of N. Garfield Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of W. 10th Street; thence continuing northerly to the point of intersection of the north ROW line of W. 10th Street and the west ROW line of N. Garfield Avenue; thence easterly to the point of intersection of the east ROW line of N. Garfield Avenue and the north ROW line of W. 10th Street; thence easterly and northeasterly along said north ROW line to its point of intersection with the west ROW line of the Burlington Northern/Santa Fe Railroad; thence northerly along said west ROW to its point of intersection the south line of Little Barnes Ditch; thence continuing northerly to the point of intersection of the north line of said Ditch and the west ROW line of the Burlington Northern/Santa Fe Railroad; thence northerly along said west ROW line to its point of intersection with the south ROW line of E. 11th Street; thence continuing northerly to the point of intersection of the west ROW line of said Railroad and the north ROW line of W. 11th Street; thence northeasterly to the point of intersection of the east ROW line of N. Railroad Avenue and the north ROW line of E. 11th Street; thence easterly along said north ROW line to its point of intersection with the west ROW line of the alley between N. Railroad Avenue and N. Cleveland Avenue; thence northerly along said west alley ROW line to its point of intersection with the south ROW line of the alley between E. 11th Street and E. 12th Street; thence continuing northerly to the point of intersection of the north ROW line of the alley between E. 11th Street and E. 12th Street and the west ROW line of the alley between N. Railroad Avenue and N. Cleveland Avenue; thence continuing northerly along said west alley ROW line to its point of intersection with the south ROW line of E. 12th Street; thence continuing northerly to the point of intersection of the north ROW line of E. 12th Street and the west ROW line of the alley between N. Railroad Avenue and N. Cleveland Avenue; thence continuing northerly along said west alley

ROW line to its point of intersection with the south ROW line of the alley between E. 12th Street and E. 13th Street; thence easterly to the point of intersection of the east ROW line of the alley between N. Railroad Avenue and N. Cleveland Avenue and the midpoint of the westerly Lot line of Lot 8 of Block 5 of Loveland Heights Addition Subdivision, thence easterly through the east-west centerline of said Lot 8, to a point of intersection of west ROW line of N. Cleveland Avenue and the midpoint of the easterly lot line of Lot 8 of Block 5 of Loveland Heights Addition Subdivision, thence continuing northerly along the west ROW line of N. Cleveland Avenue to the northeast corner of Lot 10 of Block 5 of Loveland Heights Addition Subdivision, thence westerly along the north property line of said Lot 10 to the point of intersection of the east ROW line of the alley between N. Railroad Avenue and N. Cleveland Avenue and the northwest corner of Lot 10, Block 5 of Loveland Heights Addition, thence westerly across said alley ROW along the north property line extended of Lot 10, Block 5 of Loveland Heights Addition to its intersection with the west ROW line of the alley between N. Railroad Avenue and N. Cleveland Avenue, thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of E. 13th Street; thence continuing northerly to the point of intersection of the north ROW line of E. 13th Street and the west ROW line of the alley between N. Railroad Avenue and N. Cleveland Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of the alley between E. 13th Street and E. Eisenhower Boulevard; thence continuing northerly to the point of intersection of the north ROW line of said alley between E. 13th Street and E. Eisenhower Boulevard and the west ROW line of the alley between N. Railroad Avenue and N. Cleveland Avenue; thence continuing northerly along said west ROW line to the point of intersection of the east line of Lot 21, Block 4, Loveland Heights Addition and the south line of the vacated alley ROW; thence easterly along said south line to the centerline of the vacated alley ROW; thence northerly along said centerline to its point of intersection with the south ROW line of E. Eisenhower Boulevard; thence continuing northerly along the west line extended of said Lots to its point of intersection with the centerline of E. Eisenhower Avenue; thence westerly along said centerline, to its point of intersection with the west ROW line of the Burlington Northern/Santa Fe Railroad; thence northwesterly along said west ROW line to its point of intersection with the north line extended of the E. 15th Street ROW; thence easterly along said north line extended to its point of intersection with the west ROW line of Jackson Avenue; thence easterly along said north line extended of the East 15th Street ROW to its point of intersection with the east ROW line of Jackson Avenue; thence continuing easterly along the north ROW of E. 15th Street to its point of intersection with the east ROW line of the alley between Jackson Avenue and N. Lincoln Avenue; thence northerly along said east ROW of the alley to its point of intersection with the south ROW line of E. 16th Street; thence northerly along said east ROW of the alley to its point of intersection with the north ROW line of E. 16th Street; thence continuing northerly along said east ROW of the alley to its point of intersection with the southern property line of the Loveland Burial Park Cemetery; thence easterly along said southern property line to its point of intersection with the west ROW line of N. Cleveland Avenue; thence northeasterly along the northwestern ROW line of N. Cleveland Avenue to its point of intersection with the west ROW line of N. Lincoln Avenue; thence northerly along said west ROW line to its point of intersection with the south line extended of the E. 20th Street ROW; thence easterly along said south line extended to its intersection with the east ROW line of N. Lincoln Avenue; thence southerly along said east ROW line to its point of intersection with the south boundary line of the Stephenson 1st Subdivision; thence easterly along said south boundary line to its point of intersection with the west boundary of the Conger Subdivision of the North End Addition; thence southerly along said west boundary line to its intersection with the south boundary of the Conger Subdivision of the North End Addition; thence easterly along said south boundary to its intersection with the west boundary line of the Grandview Subdivision of North End Addition; thence southerly along said west boundary line to its intersection with the north ROW line of E. 16th Street; thence southeasterly across E. 16th Street to the point of intersection of the south ROW line of E. 16th Street and the east ROW line of N. Jefferson Avenue; thence southerly along said east ROW line to its point of intersection with the north ROW line of E. Eisenhower Blvd.; thence southerly along said east ROW line to its point of intersection with

the south ROW line of E. Eisenhower Blvd; thence continuing southerly along said east ROW line to its point of intersection with the south boundary line extended of the WARNOCK ADD AMD L1-4 35-39 & POR L40 & VACATED ALLEY Subdivision; thence westerly along said south boundary line extended to its intersection with the west ROW line of N. Jefferson Avenue; thence westerly along said south boundary line to its point of intersection with the west ROW line extended of the alley between N. Lincoln Avenue and N. Jefferson Avenue; thence southerly along said west alley ROW line to its point of intersection with the north ROW line of E. 13th Street; thence continuing southerly to the point of intersection of said west alley ROW line and the south ROW line of E. 13th Street; thence continuing southerly along said west alley ROW line to its point of intersection with north bank of the Big Lateral Ditch, thence northwesterly along north bank of said ditch to its intersection with the east ROW line of N. Lincoln Avenue, thence southerly along the east ROW line of N. Lincoln Avenue to a point 50 feet north of the southwest corner of Lot 6, Block 1 of the McKee Meadows Addition, thence easterly along a line 50 feet north of the southern property line of said Lot 6, Block 1 to its intersection with the west ROW line of the alley between N. Lincoln Avenue and N. Jefferson Avenue, thence continuing southerly along said west alley line to its point of intersection with the north ROW line of E. 12th Street; thence continuing southerly to the point of intersection of said west alley line with the south ROW line of E. 12th Street; thence continuing southerly along said west alley ROW line to its point of intersection with the north line of Lot 17, Block 2 of the McKee Meadows Addition, thence continuing westerly along north line of said Lot 17 to its point of intersection with the east ROW line of N. Lincoln Avenue; thence continuing southerly along the east ROW line of N. Lincoln Avenue to its point of intersection with the centerline of the alley ROW vacated via Ordinance 3317 and recorded at Reception Number 86051452 adjoining Block 2, Lincoln Place Addition; thence easterly along the centerline of said vacated alley to its point of intersection with the east line of Lot 10, Block 2, Lincoln Place Addition; thence southerly along said east line 20 feet to a point; thence westerly perpendicular to said east line to a point on the east line of Lot 11, Block 2, Lincoln Place Addition; thence southerly along the east line of said Lot 11 to its point of intersection with the north ROW line of E. 11th Street; thence continuing southerly to the point of intersection of the east line of Lot 11, Block 3, Lincoln Place Addition and the south ROW line of E. 11th Street; thence westerly along said south ROW line to its point of intersection with the east line of Lot 13, Block 3, Lincoln Place Addition; thence southerly along said east line to its point of intersection with the north ROW line of the Great Western/Omni Railroad; thence easterly along said north ROW line to its point of intersection with the east line of Lot 10, Block 3, Lincoln Place Addition; thence southerly to the point of intersection of the east line of Lot 2, Block 5, Orchard Park Addition and the south ROW line of said Railroad; thence continuing southerly along the east line of said Lot 2 to the NE corner of Lot 1, Block 5, Orchard Park; thence continuing south along the east line of said Lot 1 to its point of intersection with the north ROW line of E. 10th Street; thence southwest to the point of intersection of the south ROW line of E. 10th Street and the east ROW line of the alley between N. Jefferson Avenue and N. Lincoln Avenue; thence southerly along said east ROW line to its point of intersection with the north ROW line of E. 8th Street; thence continuing southerly to the point of intersection of the south ROW line of E. 8th Street and the east ROW line of the alley between N. Jefferson Avenue and N. Lincoln Avenue; thence southerly along said east ROW line to its point of intersection with the north ROW line of the alley between E. 8th Street and E. 7th Street; thence easterly along said north ROW line to its point of intersection with the west ROW line of N. Jefferson Avenue; thence continuing easterly to the point of intersection of said north ROW line and the east ROW line of N. Jefferson Avenue; thence southerly to the point of intersection of the south ROW line of said alley and the east ROW line of N. Jefferson Avenue; thence continuing southerly along said east line to its point of intersection with the north ROW line of E. 7th Street; thence continuing southerly to the point of intersection of the south ROW line of E. 7th Street and the east ROW line of E. Jefferson Avenue; thence continuing southerly along said east line to its point of intersection with the north ROW line of the alley between E. 7th Street and E. 6th Street; thence continuing southerly to the point of intersection of the south ROW line of said alley and the east ROW line of N. Jefferson Avenue; thence continuing southerly along said east line to its point intersection with the north ROW line of E. 6th Avenue; thence

easterly along said north line to its point intersection with the west ROW line of N. Washington Avenue; thence continuing easterly to the point intersection of the north ROW line of E. 6th Avenue and the east ROW line of N. Washington Avenue; thence southerly to the point of intersection of the south ROW line of E. 6th Avenue and the east ROW line of N. Washington Avenue; thence southerly along said east ROW line to its point of intersection with the north ROW line of the alley between E. 6th Street and E. 5th Street; thence continuing southerly to the point of intersection of the south ROW line of said alley and the east ROW line of N. Washington Avenue; thence continuing southerly along said east line to its point of intersection with the north ROW line of E. 5th Street; thence easterly along said north ROW line to its point of intersection with the west ROW line of N. Adams Avenue; thence continuing easterly to the point of intersection of the north ROW line of E. 5th Street and the east ROW line of N. Adams Avenue; thence southerly to the point of intersection of the south ROW line of E. 5th Street and the east ROW line of N. Adams Avenue; thence southerly along said east ROW line to its point of intersection with the north ROW line of E. 4th Street; thence continuing southerly to the point of intersection of the east ROW line of N. Adams Avenue and the south ROW line of E. 4th Street; thence westerly to the point of intersection of the west ROW line of N. Adams Avenue and the south ROW line of E. 4th Street; thence continuing westerly along said south ROW line to the Point of Beginning;

And,

Less [County building parcel] LOTS 13 THRU 16, BLK 7, City of Loveland, County of Larimer, State of Colorado; ALSO POR VACATED ALLEY PER BK 1712 PG 733; and [Former Home State Bank parcel] LOTS 1 THRU 8, BLK 12, City of Loveland, County of Larimer, State of Colorado; and [Museum parcel] LOTS 19-24, BLK 12, City of Loveland, County of Larimer, State of Colorado; and [Vacant Parking Lot parcel] LOTS 1-7, LESS S 25 FT LOTS 1-3 AND LESS S 25 FT OF E 5 FT LOT 4, BLK 13, City of Loveland, County of Larimer, State of Colorado; and [Lincoln Place parcel] The subdivision LINCOLN PLACE COMMUNITY, City of Loveland, County of Larimer, State of Colorado (20100069697) in its entirety (formerly known as Block 41 of Finley's Addition, City of Loveland, County of Larimer, State of Colorado), and [Street & Alley ROW] The full right-of-way of East 6th Street east of the easterly boundary line of the N. Cleveland Avenue right-of-way and west of the centerline of the N. Jefferson Avenue right-of-way, City of Loveland, County of Larimer, State of Colorado; and All public alley right-of-way within BLK 12, City of Loveland, County of Larimer, State of Colorado; and The full right-of-way of East 5th Street east of the easterly boundary line of the N. Cleveland Avenue right-of-way and west of the westerly boundary line of the N. Lincoln Avenue right-of-way, City of Loveland, County of Larimer, State of Colorado; and The north half of the street right-of-way of the intersection of East 5th Street and N. Lincoln Avenue, north of the centerline of East 5th Street, City of Loveland, County of Larimer, State of Colorado; and The north half of the right-of-way of East 5th Street north of the centerline of East 5th Street, east of the easterly boundary of the N. Lincoln Avenue right-of-way, and west of the centerline of the N. Jefferson Avenue right-of-way, City of Loveland, County of Larimer, State of Colorado; and The west half of the street right-of-way of N. Jefferson Avenue south of the southerly boundary of East 6th Street, and north of the northerly boundary of E 5th Street, City of Loveland, County of Larimer, State of Colorado.

Prepared by: Troy W. Jones, AICP, NCARB
MTA Planning & Architecture
Fort Collins, Colorado

Reviewed by: Scott Pearson
Planning Technician
Development Services Department
City of Loveland, Colorado

Appendix II: *Link to A Strategic Plan for Revitalizing Downtown Loveland (2014)*

<http://www.ci.loveland.co.us/modules/showdocument.aspx?documentid=9376>

Appendix III: *Link to Downtown Vision Book (2010)*

<http://www.ci.loveland.co.us/modules/showdocument.aspx?documentid=9378>

Appendix IV: *Link to Destination Downtown: HIP Streets Master Plan (Infrastructure Plan) (2010)*

<http://www.ci.loveland.co.us/modules/showdocument.aspx?documentid=9729>

Appendix V: *Downtown Strategic Plan – Amendment to the City’s Comprehensive Plan (2009)*



LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY

Amended Plan of Development



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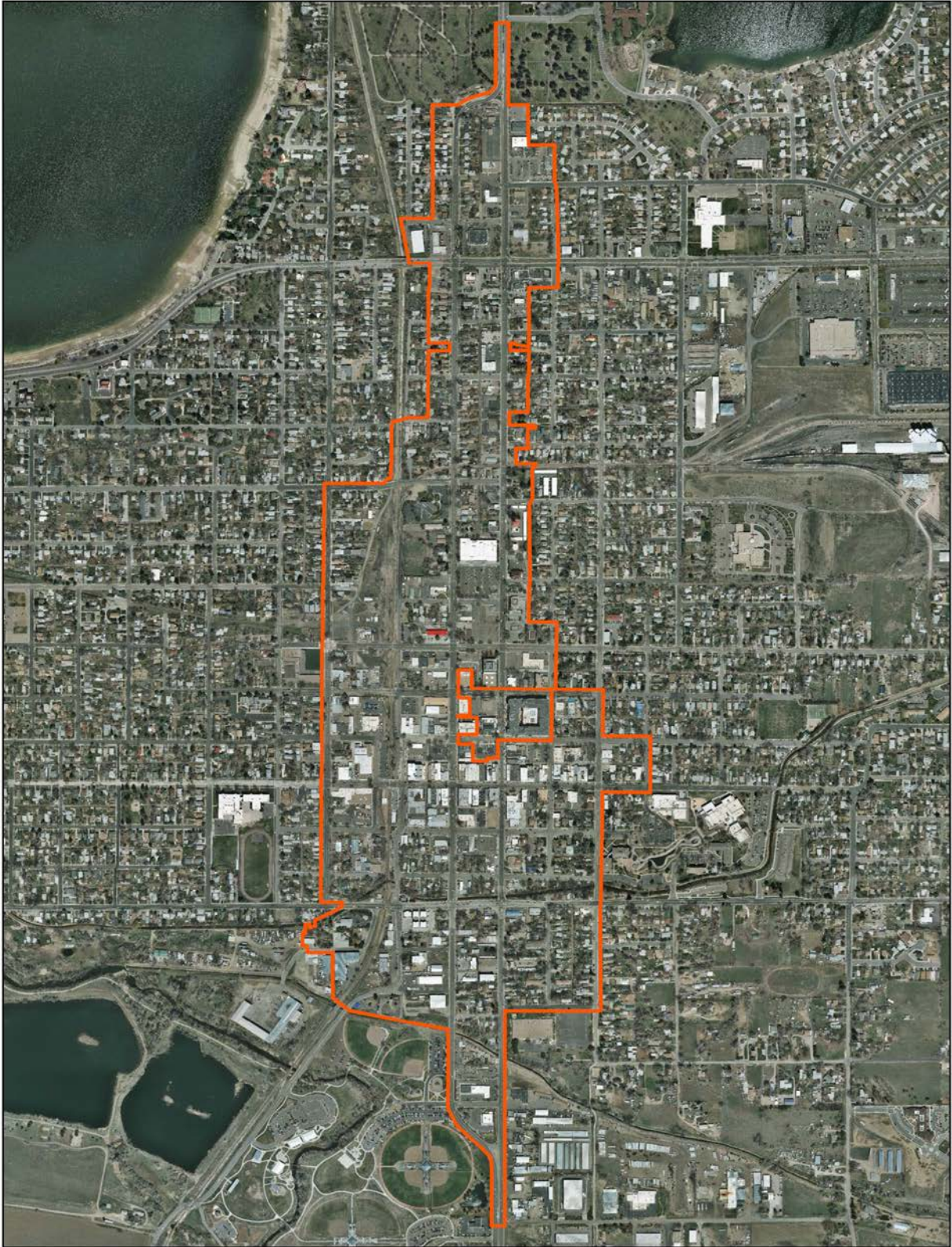
Foreword

The downtown (“Downtown”) of the City of Loveland (“Loveland”) serves as the heart of a city that from its beginnings in 1877 has defined the best of Colorado’s entrepreneurial spirit and sense of civic pride, with an emphasis on arts and cultural activities. Downtown Loveland residents, businesses and property owners believe that a strong economic foundation is critical to sustaining a vibrant community respectful of its history, committed to the full inclusion of all its citizens, and strategically positioned to thrive in a globally competitive marketplace.

This Plan of Development (the “Plan”) is an essential first legal step in creating a vibrant Downtown that provides a safe, dynamic environment to gather, live, educate, shop, work and play. The needs of the Downtown have been recognized over the past years in vision documents, comprehensive and strategic plans and master planning efforts. All of these document have identified the need to have a strong Downtown for the economic health and future of Loveland.

The emphasis of this Plan is on the needs of the Downtown over a thirty (30) to fifty (50) year period and the type of projects and programs that are required to satisfy those needs, rather than dictating the physical location, dimensions and design which can only evolve through continual planning efforts.

District Map



**Loveland Downtown Development Authority
Established by Ordinance No. 5927**

Boundaries of the DDA

The boundary of the Loveland Downtown Development Authority (the “DDA”), as shown on the preceding map, outlines the area in which the DDA will exercise its statutory powers (the “District”). The District was established on the basis of the best information available at the time. It is intended that the boundaries will change given changing times and circumstances. Property owners adjoining the District are encouraged to petition for inclusion if and when the uses and purposes of their properties become compatible with the purposes of the District.

The District is generally bounded on the east by Lincoln Avenue and on the west by Cleveland Avenue; the eastern boundary of the District goes from the tip of the southern gateway, following Lincoln Avenue to 3rd Street SE, east 2 blocks to Washington Avenue, 6 blocks north to 4th Street, east one block to Adams Avenue, north to 5th Street, and then back west to Washington Avenue; then from the intersection of 5th Street and Washington Avenue, north one block and west one block to Jefferson Avenue, north 1½ blocks and west another ½ block, then continuing northward, including the properties that front on Lincoln Avenue, toward Eisenhower Boulevard, to 1/2 block south of Eisenhower Boulevard, then east to Jefferson Avenue, north to the alley one half block past 16th Street, west 190 feet, north to the boundary with Lakeside Cemetery, west to Lincoln Avenue, north to the end of the one way system, and from the tip of the northern gateway, the western boundary includes the properties on the west side of Cleveland Avenue heading south to 11th Street, then west to just past the railroad tracks, south on Railroad Avenue for one block, and again west on 10th Street to Garfield Avenue, then south 11 blocks to past 2nd Street SW to the intersection of Garfield Avenue and Railroad Avenue, then following the irrigation ditch southeast back to Cleveland Avenue and then south to the end of the one way system.

The legal description of the District is attached as Appendix I to this Plan.

Objective and Purposes

The primary objectives of the DDA are to promote the safety, prosperity, security and general welfare of the District and its inhabitants, to prevent deterioration of property values and structures within the District, to prevent the growth of blighted areas within the District, to assist Loveland in the development, redevelopment and planning of the economic and physical restoration and growth of the District, to improve the overall appearance, condition and function of the District, to encourage a variety of uses compatible with the artistic and cultural community, to sustain and improve the economic vitality of the District, to promote the historic, artistic and cultural elements of the District, and to encourage pedestrian traffic and security in the District. To achieve these objectives, the specific goals of the DDA include the following and any other activities, plans, and development and redevelopment authorized by law.

The Plan recognizes that this is a long term revitalization strategy focused on implementing an entrepreneurial environment in which District products and services meet local demands and attract new residents and businesses to the area.

To achieve these objectives, the specific goals of the DDA include, but are not limited to the following:

1. Work with private entities, developers and property owners to promote positive investment in the District.
2. Work with business owners, and business entrepreneurs to promote retail growth, new job growth and other uses in the District.
3. Identify and help form collaborative public/private partnerships that promote economic growth in ways that honor and sustain strong community values.
4. Implement key elements of Loveland's approved infrastructure plan.
5. Increase residential and employment density as catalysts for enriching life for residents and visitors alike.
6. Assist emerging and existing businesses in navigating various local, county, and state regulations and taxing policies.
7. Identify and establish a communications process with current business and property owners within the District.
8. Establish multiple communication forums with emphasis on email, social media, and newspaper.
9. Work with Loveland in evaluating and potentially implementing a "One Stop" approach to Downtown development including identifying a potential organizational structure therefor.
10. Improve the visual attractiveness of the District including but not limited to façade renovations, public streets, alleys, curbs, gutters, sidewalks, lighting along with street furniture and landscaping.
11. Underground the utility systems.
12. Promote a diversity of activities in the District.

13. Promote and encourage the renovation and reuse of vacant and deteriorated structures within the District.
14. Encourage the creation and continuation of public events within the District
15. Promote and market the District.
16. Promote Loveland's unique identity as a destination for arts and culture.

Plan of Development Projects

- A. Plan projects may include public facilities and other improvements to public or private property of all kinds consistent with the priorities of the DDA by all means permitted by federal, state and local laws and regulations, including but not limited to, land assemblage, demolition, removal, site preparation, construction, renovation, repair, remodeling, reconstruction purchase of property interests, rehabilitating, equipping, selling and leasing in connection with such public and private improvements.

- B. Descriptions of specific development projects that have been conceptually identified as potential key downtown **redevelopment projects** including, but not limited to, the following:

ITEM	CITY/DDA FUNDING	OTHER PUBLIC FUNDING	PRIVATE	NOTES
Redevelopment Projects				
South Catalyst Project: 3 rd Street Site	\$15,000,000	\$15,000,000	\$50,000,000	Amount includes the estimate on land, plus the cost of the redevelopment with a parking structure
4th Street/Rialto Square	\$2,500,000	\$0	\$7,500,000	Includes the cost of land plus redevelopment cost,
Arcadia (opera House) (4th and Cleveland)	\$400,000	\$75,000	\$1,800,000	Based on preliminary review of proposed plan.
4th and Lincoln/Redevelopment (Heartland Corner)	\$2,000,000	\$0	\$6,250,000	Potential project/timeline unknown
Loveland Elks Lodge	\$250,000	\$200,000	\$2,000,000	Estimates are for rehab at \$100/square foot
Loveland Hotel	\$250,000	\$200,000	\$2,000,000	Estimates are for rehab at \$100/square foot
VFW Hall	\$500,000	\$0	\$4,000,000	
Feed and Grain	\$0	\$2,300,000	\$1,000,000	
Pulliam Building	\$4,600,000	\$200,000	\$1,200,000	Assumes the City receives a grant from the State Historic Fund and Historic Tax Credits
<u>Former</u> House of Neighborly Service Building - <u>Cleveland</u>	\$500,000	\$0	\$5,000,000	Assumes a redevelopment of a 20,000 sq./foot building
Safeway site	\$5,000,000	\$0	\$30,000,000	Requires further investigation
Railroad site	\$2,500,000	\$0	\$15,000,000	Land at 7th and Garfield
Other private	\$1,500,000		\$10,000,000	Includes other projects not contemplated, plus façade grants and fire safety grants
SUBTOTAL REDEVELOPMENT	\$35,500,000	\$17,975,000	\$139,500,000	

- C. Descriptions of specific potential **public facilities and improvements** that have been conceptually identified to complement private developments including, but not limited to, the following:

ITEM	CITY/DDA FUNDING	OTHER PUBLIC FUNDING	PRIVATE	NOTES
Infrastructure Projects				
4th Street/Phase I - 3 blocks	\$5,860,000			4th Street from Railroad to Jefferson
4th Street/Additional 2 blocks	\$2,500,000			4th Street to Garfield and Washington
3rd Street	\$2,250,000			3rd Street west of Cleveland to Feed and Grain
5th Street	\$3,010,000			5th Street from Lincoln to Railroad
5th Street Plaza	\$2,187,413			Museum plaza proposal in the parking lot at 5th and Lincoln
Power (Electric)	\$5,000,000			Estimates are for \$300,000 per block to underground the power
Railroad Avenue 1st to 5th	\$4,000,000			May include connectivity with the trail system.
Cost Escalation	\$3,161,483			Estimates were completed in 2009, the number is 20 percent of the cost of the streetscape improvements
SUBTOTAL INFRASTRUCTURE	\$27,968,896	\$0	\$0	

- D. **Other specific development projects and public facilities** currently contemplated are as follows:

ITEM	CITY/DDA FUNDING	OTHER PUBLIC FUNDING	PRIVATE	NOTES
Other Projects				
Trail Expansion	\$1,000,000			
<u>Railroad</u> Quiet Zones	\$1,000,000	\$2,000,000		Includes four rail crossings located at 1 st , 4 th , 6 th and 7 th Streets
SUBTOTAL OTHER	\$2,000,000	\$2,000,000	\$0	

- E. The DDA also may seek to support other projects not directly identified above including, but not limited to, the following:
1. Beautification programs;
 2. Pedestrian facilities and circulation improvements;
 3. Parking that is not otherwise included within specific projects (i.e., 3rd Street Catalyst);
and
 4. Downtown hotel or other convention facilities built in conjunction with a private development.

Strategic Downtown Plan

The DDA, acting in coordination with the Loveland Downtown Partnership and the City of Loveland, will need to establish short and long term priorities based on adopted strategic plans and identified development projects as such plans and projects evolve. The current plans, which are referenced below and attached as Appendices II through V to this Plan, are as follows:

Appendix II: *A Strategic Plan for Revitalizing Downtown Loveland (2014)*

The plan, adopted by the Loveland City Council and the Loveland Downtown Partnership, provides the comprehensive outline for short and long term success in Downtown Loveland.

A Strategic Plan for Revitalizing Downtown Loveland is driven by the following principles:

1. We are committed to a process driven by community stakeholders and supported by the City of Loveland.
2. We are committed to a long term revitalization strategy (20 yrs.) that combines immediate action to improve communications and marketing with an ongoing responsibility to maintain and improve the downtown infrastructure.
3. We are committed to shaping policies and procedures that provide adequate flexibility for the organization to respond quickly and effectively to changing conditions at the local, state, national, and/or international levels.
4. We are committed to implementing an entrepreneurial environment in which Downtown products and services meet local demands and attract new residents and businesses to the area.
5. We are committed to shaping collaborative public/private partnerships that promote economic growth in ways that honor and sustain strong community values.

Appendix III: *Downtown Vision Book (2010)*

The purpose of the Downtown Vision Book is to highlight catalyst projects, and describe the context, character and the opportunity for revitalization. In addition, the Downtown Vision Book identifies ideas, opportunities and strategies to further benefit Downtown Loveland. The Private-Public projects are designed to capture not only the value of public participation, but to be a catalyst for private investment, enhanced connections and enrichment of the community experience for residents, businesses and visitors alike.

Appendix IV: *Destination Downtown: HIP Streets Master Plan (Infrastructure Plan) (2010)*

The Infrastructure Plan was completed in 2010~~09~~, and highlights the streetscape, utility and other public infrastructure improvements in Downtown Loveland.

Appendix V: *Downtown Strategic Plan – Amendment to the City’s Comprehensive Plan (2009)*

The plan, adopted by the Loveland City Council as an amendment to the Comprehensive Plan, was the basis for the effort by the City and the Loveland Downtown Team to revitalize the Downtown.

Methods of Financing Projects

In order to finance the projects and purposes of the DDA, the following financial sources are authorized to be utilized:

- A. Proceeds of bonds of, loans or advances to, or indebtedness incurred by the City of Loveland secured by the pledge of the following tax revenues for the maximum period of time authorized by C.R.S. § 31-25-807(3):
 - a. **Property Tax Increment:** All of that portion of property taxes in excess of such taxes which are produced by the levy at the rate fixed each year by or for any public body upon the valuation for assessment of taxable property within the boundaries of the District last certified prior to the effective date of approval by the City Council of Loveland of this Plan or, as to an area later added to the boundaries of the District, the effective date of the modification of this Plan.
 - b. **Municipal Sales Tax Increment:** All of that portion of municipal sales tax in excess of such taxes collected within the boundaries of the District for the twelve-month period ending on the last day of the month prior to the effective date of approval by the City Council of Loveland of this Plan. For purposes of calculating the amount of municipal sales tax, “municipal sales tax” shall be as defined in Section 3.16.010 and Section 3.16.020A of the Loveland Municipal Code, provided that such definition shall specifically not include those municipal sales tax revenues that are obligated to be paid in accordance with the specific terms and conditions of any economic incentive agreement in effect as of the approval date of this Plan¹. the first \$2,549,200.00 sales tax on the sale of food for home consumption as defined in C.R.S. § 39-26-102(4.5)(a), with the exception of candy and soda as defined in C.R.S. § 39-26-707(1.5) which shall be included in the definition of municipal sales tax.
 - c. **Other sources:** Such other sources of revenue for repayment of bonds, loans, advances or other indebtedness of Loveland as may be authorized by law.

All such taxes described in this paragraph A shall be adjusted, collected, allocated and used as set forth in C.R.S. § 31-25-807(3), as amended from time to time.

- B. Membership fees;
- C. Private contributions;
- D. Proceeds of loans to the DDA;

¹ On January 27, 2015, the City of Loveland and Thornton Long Term Investments, L.L.C. entered into that certain Agreement for City Incentive, Fee Waiver, and Construction Materials Use Tax Waiver with Thornton Long Term Investments, L.L.C. for a Sprouts Farmers Market (the “Agreement”). Pursuant to the Agreement, a \$2,200,000 incentive was provided by the City of Loveland which is to be repaid at a rate of three percent (3%) interest, amortized over a ten (10) year period, in accordance with the terms and conditions of the Agreement.

- E. Fees and other charges imposed in connection with projects undertaken by the DDA;
- F. Grants and other funds made available by public agencies and other entities;
- G. All types of bond issues, including industrial development revenue and special assessment bonds; and
- H. All such other sources and methods as may be authorized by law from time to time, including but not limited to, C.R.S. § 31-25-801, et seq.

Appendix I: Legal Description of Downtown Development District

Beginning at the point of intersection of the south right-of-way (ROW) line of E. 4th Street and the east ROW line of N. Washington Avenue; thence southerly along said east ROW line to its point of intersection with the north ROW line of E. 3rd Street; thence continuing southerly to the point of intersection of the south ROW line of E. 3rd Street and the east ROW line of N. Washington Avenue; thence continuing southerly along said east ROW line to its point of intersection with the north ROW line of E. 1st Street; thence southwesterly to the point of intersection of the south ROW line of E. 1st Street and the east ROW line of S. Washington Avenue; thence southerly along said east ROW line its point of intersection with the north ROW line of the alley between E. 1st Street and 2nd Street S.E.; thence continuing southerly to the point of intersection of the south ROW line of said alley and the east ROW line of S. Washington Avenue; thence continuing southerly along said east ROW line its point of intersection with the north ROW line of 2nd Street S.E.; thence continuing southerly to the point of intersection of the south ROW line of 2nd Street S.E. and the east ROW line of S. Washington Avenue; thence continuing southerly along said east ROW line to its point of intersection with the south ROW line extended of 3rd Street S.E.; thence westerly along said extended line to the point of intersection of the west ROW line of S. Washington Avenue and the south ROW line of 3rd Street S.E.; thence continuing westerly along said south ROW line to its point of intersection with the east ROW line of S. Lincoln Avenue; thence southerly along said east ROW line to its point of intersection with the north line extended of the 5th Street S.E. ROW; thence continuing southerly along said east ROW line to its point of intersection with the south line of the 5th Street S.E. ROW; thence southerly along said east ROW line to its point of intersection with the north line of the 8th Street S.E. ROW; thence continuing southerly along said east ROW line to its point of intersection with the south line of the 8th Street S.E. ROW; thence westerly along the south line extended of the 8th Street S.E. ROW to the west line of the S. Lincoln Avenue ROW; thence northerly along the west ROW line of S. Lincoln Avenue to its point of intersection with the southwest line of the S. Cleveland Avenue ROW; thence continuing northwesterly along said southwest ROW line to its point of intersection with the south line of the 5th Street S.E. ROW; thence northerly along the west line of the S. Cleveland Avenue ROW to its point of intersection with the north line of the 5th Street S.E. ROW; thence continuing northerly along said west ROW line of S. Cleveland Avenue to its intersection with the north bank of the Farmer's Ditch; thence northwesterly along said bank to its point of intersection with the west ROW line of the Burlington Northern/Santa Fe Railroad and the south line of Henrikson Addition; thence continuing northwesterly along said south line to the southwest corner of Henrikson Addition; thence northerly along the west line of said Henrikson Addition to its point of intersection with the south ROW line of 2nd Street S.W.; thence westerly along said south ROW line to the NW corner of Mill First Addition; thence northerly perpendicular to said ROW line to a point on the south line of Mill Second Addition; thence westerly

along said south line to the SW corner of Mill Second Addition; thence northerly and easterly along the west line of said Mill Second Addition to the NW corner thereof; thence easterly and southerly along the north line of Mill Second Addition to the NE corner thereof; thence northwesterly to the SE corner of Riverside Addition; thence northerly along the east line of Riverside Addition to its point of intersection with the south ROW line of W. 1st Street; thence continuing northerly to the point of intersection of the north ROW line of W. 1st Street and the west ROW line of the N. Garfield Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of W. 2nd Street; thence continuing northerly to the point of intersection of the north ROW line of W. 2nd Street and the west ROW line of N. Garfield Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of W. 3rd Street; thence continuing northerly to the point of intersection of the north ROW line of W. 3rd Street and the west ROW line of N. Garfield Avenue; thence continuing northerly to the point of intersection of the south ROW line of the alley between W. 3rd Street and W. 4th Street and the west ROW line of N. Garfield Avenue; thence continuing northerly to the point of intersection of the north ROW line of said alley and the west ROW line of N. Garfield Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of W. 4th Street; thence continuing northerly to the point of intersection of the north ROW line of W. 4th Street and the west ROW line of N. Garfield Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of the alley between W. 4th Street and W. 5th Street and the west ROW line of N. Garfield Avenue; thence continuing northerly to the point of intersection of the north ROW line of said alley and the west ROW line of N. Garfield Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of W. 5th Street; thence continuing northerly to the point of intersection of the north ROW line of W. 5th Street and the west ROW line of N. Garfield Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of W. 6th Street; thence continuing northerly to the point of intersection of the north ROW line of W. 6th Street and the west ROW line of N. Garfield Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of W. 7th Street; thence continuing northerly to the point of intersection of the north ROW line of W. 7th Street and the west ROW line of N. Garfield Avenue; thence continuing northerly along said west ROW line its the point of intersection with the south ROW line of the alley between W. 7th Street and W. 8th Street; thence continuing northerly to the point of intersection of the north ROW line of said alley and the west ROW line of N. Garfield Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of W. 8th Street; thence continuing northerly to the point of intersection of the north ROW line of W. 8th Street and the west ROW line of N. Garfield Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of W. 10th Street; thence continuing northerly to the point of intersection of the north ROW line of W. 10th Street and the west ROW line of N. Garfield Avenue; thence easterly to the point of intersection of the east ROW line of N. Garfield Avenue and the north ROW line of W. 10th Street; thence easterly and northeasterly along said north ROW line to its point of intersection with the west ROW line of the Burlington Northern/Santa Fe Railroad; thence northerly along said west ROW to its point of intersection the south line of Little Barnes Ditch; thence continuing northerly to the point of intersection of the north line of said Ditch and the west ROW line of the Burlington Northern/Santa Fe Railroad; thence northerly along said west ROW line to its point of intersection with the south ROW line of E. 11th Street; thence continuing northerly to the point of intersection of the west ROW line of said Railroad and the north ROW line of W. 11th Street; thence northeasterly to the point of intersection of the east ROW line of N. Railroad Avenue and the north ROW line of E. 11th Street; thence easterly along said north ROW line to its point of intersection with the west ROW line of the alley between N. Railroad Avenue and N. Cleveland Avenue; thence northerly along said west alley ROW line to its point of intersection with the south ROW line of the alley between E. 11th Street and E. 12th Street; thence continuing northerly to the point of intersection of the north ROW line of the alley between E. 11th Street and E. 12th Street and the west ROW line of the alley between N. Railroad Avenue and N. Cleveland Avenue; thence continuing

northerly along said west alley ROW line to its point of intersection with the south ROW line of E. 12th Street; thence continuing northerly to the point of intersection of the north ROW line of E. 12th Street and the west ROW line of the alley between N. Railroad Avenue and N. Cleveland Avenue; thence continuing northerly along said west alley ROW line to its point of intersection with the south ROW line of the alley between E. 12th Street and E. 13th Street; thence easterly to the point of intersection of the east ROW line of the alley between N. Railroad Avenue and N. Cleveland Avenue and the midpoint of the westerly Lot line of Lot 8 of Block 5 of Loveland Heights Addition Subdivision, thence easterly through the east-west centerline of said Lot 8, to a point of intersection of west ROW line of N. Cleveland Avenue and the midpoint of the easterly lot line of Lot 8 of Block 5 of Loveland Heights Addition Subdivision, thence continuing northerly along the west ROW line of N. Cleveland Avenue to the northeast corner of Lot 10 of Block 5 of Loveland Heights Addition Subdivision, thence westerly along the north property line of said Lot 10 to the point of intersection of the east ROW line of the alley between N. Railroad Avenue and N. Cleveland Avenue and the northwest corner of Lot 10, Block 5 of Loveland Heights Addition, thence westerly across said alley ROW along the north property line extended of Lot 10, Block 5 of Loveland Heights Addition to its intersection with the west ROW line of the alley between N. Railroad Avenue and N. Cleveland Avenue, thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of E. 13th Street; thence continuing northerly to the point of intersection of the north ROW line of E. 13th Street and the west ROW line of the alley between N. Railroad Avenue and N. Cleveland Avenue; thence continuing northerly along said west ROW line to its point of intersection with the south ROW line of the alley between E. 13th Street and E. Eisenhower Boulevard; thence continuing northerly to the point of intersection of the north ROW line of said alley between E. 13th Street and E. Eisenhower Boulevard and the west ROW line of the alley between N. Railroad Avenue and N. Cleveland Avenue; thence continuing northerly along said west ROW line to the point of intersection of the east line of Lot 21, Block 4, Loveland Heights Addition and the south line of the vacated alley ROW; thence easterly along said south line to the centerline of the vacated alley ROW; thence northerly along said centerline to its point of intersection with the south ROW line of E. Eisenhower Boulevard; thence continuing northerly along the west line extended of said Lots to its point of intersection with the centerline of E. Eisenhower Avenue; thence westerly along said centerline, to its point of intersection with the west ROW line of the Burlington Northern/Santa Fe Railroad; thence northwesterly along said west ROW line to its point of intersection with the north line extended of the E. 15th Street ROW; thence easterly along said north line extended to its point of intersection with the west ROW line of Jackson Avenue; thence easterly along said north line extended of the East 15th Street ROW to its point of intersection with the east ROW line of Jackson Avenue; thence continuing easterly along the north ROW of E. 15th Street to its point of intersection with the east ROW line of the alley between Jackson Avenue and N. Lincoln Avenue; thence northerly along said east ROW of the alley to its point of intersection with the south ROW line of E. 16th Street; thence northerly along said east ROW of the alley to its point of intersection with the north ROW line of E. 16th Street; thence continuing northerly along said east ROW of the alley to its point of intersection with the southern property line of the Loveland Burial Park Cemetery; thence easterly along said southern property line to its point of intersection with the west ROW line of N. Cleveland Avenue; thence northeasterly along the northwestern ROW line of N. Cleveland Avenue to its point of intersection with the west ROW line of N. Lincoln Avenue; thence northerly along said west ROW line to its point of intersection with the south line extended of the E. 20th Street ROW; thence easterly along said south line extended to its intersection with the east ROW line of N. Lincoln Avenue; thence southerly along said east ROW line to its point of intersection with the south boundary line of the Stephenson 1st Subdivision; thence easterly along said south boundary line to its point of intersection with the west boundary of the Conger Subdivision of the North End Addition; thence southerly along said west boundary line to its intersection with the south boundary of the Conger Subdivision of the North End Addition; thence easterly along said south boundary to its intersection with the west boundary line of the Grandview Subdivision of North End Addition; thence southerly along said west boundary line to its intersection with the north ROW line of E. 16th Street; thence

southeasterly across E. 16th Street to the point of intersection of the south ROW line of E. 16th Street and the east ROW line of N. Jefferson Avenue; thence southerly along said east ROW line to its point of intersection with the north ROW line of E. Eisenhower Blvd.; thence southerly along said east ROW line to its point of intersection with the south ROW line of E. Eisenhower Blvd; thence continuing southerly along said east ROW line to its point of intersection with the south boundary line extended of the WARNOCK ADD AMD L1-4 35-39 & POR L40 & VACATED ALLEY Subdivision; thence westerly along said south boundary line extended to its intersection with the west ROW line of N. Jefferson Avenue; thence westerly along said south boundary line to its point of intersection with the west ROW line extended of the alley between N. Lincoln Avenue and N. Jefferson Avenue; thence southerly along said west alley ROW line to its point of intersection with the north ROW line of E. 13th Street; thence continuing southerly to the point of intersection of said west alley ROW line and the south ROW line of E. 13th Street; thence continuing southerly along said west alley ROW line to its point of intersection with north bank of the Big Lateral Ditch, thence northwesterly along north bank of said ditch to its intersection with the east ROW line of N. Lincoln Avenue, thence southerly along the east ROW line of N. Lincoln Avenue to a point 50 feet north of the southwest corner of Lot 6, Block 1 of the McKee Meadows Addition, thence easterly along a line 50 feet north of the southern property line of said Lot 6, Block 1 to its intersection with the west ROW line of the alley between N. Lincoln Avenue and N. Jefferson Avenue, thence continuing southerly along said west alley line to its point of intersection with the north ROW line of E. 12th Street; thence continuing southerly to the point of intersection of said west alley line with the south ROW line of E. 12th Street; thence continuing southerly along said west alley ROW line to its point of intersection with the north line of Lot 17, Block 2 of the McKee Meadows Addition, thence continuing westerly along north line of said Lot 17 to its point of intersection with the east ROW line of N. Lincoln Avenue; thence continuing southerly along the east ROW line of N. Lincoln Avenue to its point of intersection with the centerline of the alley ROW vacated via Ordinance 3317 and recorded at Reception Number 86051452 adjoining Block 2, Lincoln Place Addition; thence easterly along the centerline of said vacated alley to its point of intersection with the east line of Lot 10, Block 2, Lincoln Place Addition; thence southerly along said east line 20 feet to a point; thence westerly perpendicular to said east line to a point on the east line of Lot 11, Block 2, Lincoln Place Addition; thence southerly along the east line of said Lot 11 to its point of intersection with the north ROW line of E. 11th Street; thence continuing southerly to the point of intersection of the east line of Lot 11, Block 3, Lincoln Place Addition and the south ROW line of E. 11th Street; thence westerly along said south ROW line to its point of intersection with the east line of Lot 13, Block 3, Lincoln Place Addition; thence southerly along said east line to its point of intersection with the north ROW line of the Great Western/Omni Railroad; thence easterly along said north ROW line to its point of intersection with the east line of Lot 10, Block 3, Lincoln Place Addition; thence southerly to the point of intersection of the east line of Lot 2, Block 5, Orchard Park Addition and the south ROW line of said Railroad; thence continuing southerly along the east line of said Lot 2 to the NE corner of Lot 1, Block 5, Orchard Park; thence continuing south along the east line of said Lot 1 to its point of intersection with the north ROW line of E. 10th Street; thence southwesterly to the point of intersection of the south ROW line of E. 10th Street and the east ROW line of the alley between N. Jefferson Avenue and N. Lincoln Avenue; thence southerly along said east ROW line to its point of intersection with the north ROW line of E. 8th Street; thence continuing southerly to the point of intersection of the south ROW line of E. 8th Street and the east ROW line of the alley between N. Jefferson Avenue and N. Lincoln Avenue; thence southerly along said east ROW line to its point of intersection with the north ROW line of the alley between E. 8th Street and E. 7th Street; thence easterly along said north ROW line to its point of intersection with the west ROW line of N. Jefferson Avenue; thence continuing easterly to the point of intersection of said north ROW line and the east ROW line of N. Jefferson Avenue; thence southerly to the point of intersection of the south ROW line of said alley and the east ROW line of N. Jefferson Avenue; thence continuing southerly along said east line to its point of intersection with the north ROW line of E. 7th Street; thence continuing southerly to the point of intersection of the south ROW line of E. 7th Street and the east ROW line of E. Jefferson Avenue; thence continuing southerly along said east line to its point of

intersection with the north ROW line of the alley between E. 7th Street and E. 6th Street; thence continuing southerly to the point of intersection of the south ROW line of said alley and the east ROW line of N. Jefferson Avenue; thence continuing southerly along said east line to its point intersection with the north ROW line of E. 6th Avenue; thence easterly along said north line to its point intersection with the west ROW line of N. Washington Avenue; thence continuing easterly to the point intersection of the north ROW line of E. 6th Avenue and the east ROW line of N. Washington Avenue; thence southerly to the point of intersection of the south ROW line of E. 6th Avenue and the east ROW line of N. Washington Avenue; thence southerly along said east ROW line to its point of intersection with the north ROW line of the alley between E. 6th Street and E. 5th Street; thence continuing southerly to the point of intersection of the south ROW line of said alley and the east ROW line of N. Washington Avenue; thence continuing southerly along said east line to its point of intersection with the north ROW line of E. 5th Street; thence easterly along said north ROW line to its point of intersection with the west ROW line of N. Adams Avenue; thence continuing easterly to the point of intersection of the north ROW line of E. 5th Street and the east ROW line of N. Adams Avenue; thence southerly to the point of intersection of the south ROW line of E. 5th Street and the east ROW line of N. Adams Avenue; thence southerly along said east ROW line to its point of intersection with the north ROW line of E. 4th Street; thence continuing southerly to the point of intersection of the east ROW line of N. Adams Avenue and the south ROW line of E. 4th Street; thence westerly to the point of intersection of the west ROW line of N. Adams Avenue and the south ROW line of E. 4th Street; thence continuing westerly along said south ROW line to the Point of Beginning;

And,

Less [County building parcel] LOTS 13 THRU 16, BLK 7, City of Loveland, County of Larimer, State of Colorado; ALSO POR VACATED ALLEY PER BK 1712 PG 733; and [Former Home State Bank parcel] LOTS 1 THRU 8, BLK 12, City of Loveland, County of Larimer, State of Colorado; and [Museum parcel] LOTS 19-24, BLK 12, City of Loveland, County of Larimer, State of Colorado; and [Vacant Parking Lot parcel] LOTS 1-7, LESS S 25 FT LOTS 1-3 AND LESS S 25 FT OF E 5 FT LOT 4, BLK 13, City of Loveland, County of Larimer, State of Colorado; and [Lincoln Place parcel] The subdivision LINCOLN PLACE COMMUNITY, City of Loveland, County of Larimer, State of Colorado (20100069697) in its entirety (formerly known as Block 41 of Finley's Addition, City of Loveland, County of Larimer, State of Colorado), and [Street & Alley ROW] The full right-of-way of East 6th Street east of the easterly boundary line of the N. Cleveland Avenue right-of-way and west of the centerline of the N. Jefferson Avenue right-of-way, City of Loveland, County of Larimer, State of Colorado; and All public alley right-of-way within BLK 12, City of Loveland, County of Larimer, State of Colorado; and The full right-of-way of East 5th Street east of the easterly boundary line of the N. Cleveland Avenue right-of-way and west of the westerly boundary line of the N. Lincoln Avenue right-of-way, City of Loveland, County of Larimer, State of Colorado; and The north half of the street right-of-way of the intersection of East 5th Street and N. Lincoln Avenue, north of the centerline of East 5th Street, City of Loveland, County of Larimer, State of Colorado; and The north half of the right-of-way of East 5th Street north of the centerline of East 5th Street, east of the easterly boundary of the N. Lincoln Avenue right-of-way, and west of the centerline of the N. Jefferson Avenue right-of-way, City of Loveland, County of Larimer, State of Colorado; and The west half of the street right-of-way of N. Jefferson Avenue south of the southerly boundary of East 6th Street, and north of the northerly boundary of E 5th Street, City of Loveland, County of Larimer, State of Colorado.

Prepared by: Troy W. Jones, AICP, NCARB
MTA Planning & Architecture
Fort Collins, Colorado

Reviewed by: Scott Pearson
Planning Technician
Development Services Department
City of Loveland, Colorado

Appendix II: *Link to A Strategic Plan for Revitalizing Downtown Loveland (2014)*

<http://www.ci.loveland.co.us/modules/showdocument.aspx?documentid=9376>

Appendix III: Link to Downtown Vision Book (2010)

<http://www.ci.loveland.co.us/modules/showdocument.aspx?documentid=9378>

Appendix IV: Link to Destination Downtown: HIP Streets Master Plan (Infrastructure Plan) (2010)

<http://www.ci.loveland.co.us/modules/showdocument.aspx?documentid=9729>

Appendix V: Downtown Strategic Plan – Amendment to the City’s Comprehensive Plan (2009)

AGENDA ITEM: 15
MEETING DATE: 7/19/2016
TO: City Council
FROM: Mark Miller, Fire Chief
 Pat Mialy, LFRA Office of Emergency Management
PRESENTER: Pat Mialy, Emergency Manager



TITLE:

A Resolution Approving An Intergovernmental Mutual Aid Agreement For Disaster-Emergency Mutual Aid And Disaster-Emergency Funding Assistance

RECOMMENDED CITY COUNCIL ACTION:

Adopt the action as recommended.

OPTIONS:

1. Adopt the action as recommended.
2. Deny the action. It would be more difficult to share resources and get quick access to resources that need to be available in the event of a major incident.
3. Adopt a modified action. (specify in the motion)
4. Refer back to staff for further development and consideration. Delay in accomplishing the network of contractual documents that need to be in place to efficiently manage a major incident.

SUMMARY:

This is an administrative item. The newest version of this intergovernmental agreement for Emergency Management Mutual Aid includes language for an agreement between governments, and between governmental and non-governmental agencies to fill a gap in current agreements for resource management assistance. It is intended to ensure efficient resource management in the event of an incident.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible

The agreement would simply facilitate the sharing of resources and the speed that the resources would be available.

BACKGROUND:

There is a 2014 emergency management mutual aid agreement in place. This version includes very few changes; however, there are additional Larimer County jurisdictions involved in this version. It is important to the Larimer County Emergency Managers that all jurisdictions have signed the exact same agreement ensuring that resource management during an incident is efficient and cost effective.

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

Resolution

RESOLUTION # R-60-2016**A RESOLUTION APPROVING AN INTERGOVERNMENTAL
MUTUAL AID AGREEMENT FOR DISASTER-EMERGENCY MUTUAL AID AND
DISASTER-EMERGENCY FUNDING ASSISTANCE**

WHEREAS, in accordance with section C.R.S. § 29-1-203 governmental entities may cooperate or contract one with another to provide any function, service or facility lawfully authorized to each of the respective units of governments; and

WHEREAS, in accordance with C.R.S. § 29-1-201, governmental entities are permitted and encouraged to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with other governments; and

WHEREAS, the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701 *et seq.*, contains authority and provisions for mutual aid agreements in Disaster-emergency situations; and

WHEREAS, City of Loveland (“City”) and Larimer County and other agencies and entities expected to join this Agreement (collectively referred to as ‘Participating Agencies’) are independent governmental entities duly organized and existing in accordance with Colorado law and are called upon to respond to emergency areas contained within their respective jurisdictions; and

WHEREAS, the Agreement contemplates private entities and non-profit agencies to join the Agreement and to the extent that such private entities may seek reimbursement for the provision of emergency resources pursuant to the Agreement, the City finds that such reimbursement would serve a public purpose by encouraging non-governmental entities to provide resources in an emergency situation in the interest of the health, safety and welfare of citizens of the City; and

WHEREAS, the Participating Agencies, pursuant to the Agreement, intend to authorize and provide the terms for their mutual assistance in emergency situations, whether natural or human-caused, which require resources in addition to those that can be provided by the Party in whose jurisdiction the emergency occurs, as well as to set forth provisions respecting emergency funding assistance; and

WHEREAS, it is the intent and desire of the Participating Agencies to provide a disaster emergency response system that meets the health, safety and welfare needs of the affected residents; and

WHEREAS, the Council of City of Loveland finds that it is in the best interests of the City to adopt the “Mutual Aid Agreement for Disaster-Emergency Mutual Aid and Disaster-Emergency Funding Assistance” attached hereto as **Exhibit A** and incorporated by reference (the “Agreement”).

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

Section 1. That the Agreement as set forth in Exhibit A is hereby adopted.

Section 2. That the City Manager is hereby authorized and directed to enter into the Agreement, subject to such modifications in form or substance as the City Manager, in consultation with the City Attorney, may deem necessary to effectuate the purposes of this resolution or to protect the interests of the City.

Section 3. That this Resolution shall go into effect as of the date and time of its adoption.

ADOPTED this 19th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

Approved as to form:



Teresa Ablao
Assistant City Attorney

AGENDA ITEM: 16
MEETING DATE: 7/19/2016
TO: City Council
FROM: Loveland Fire Rescue Authority
PRESENTER: Mark Miller, Fire Chief



TITLE:

A Resolution Approving The Loveland Fire Rescue Authority's Supplemental Budget And Appropriation Resolution No. R-066 For The Loveland Fire Rescue Authority's 2016 Budget

RECOMMENDED CITY COUNCIL ACTION:

Adopt the action as recommended.

OPTIONS:

1. Adopt the action as recommended.
2. Deny the action. LFRA would not be able to make use of awarded grant funding.
3. Adopt a modified action. (specify in the motion)
4. Refer back to staff for further development and consideration. If the project is referred back to staff, it will just take longer to get safety protective gear to firefighters.

SUMMARY:

This is an administrative item. There are three grants included in this appropriation that do not require any additional matching funds from LFRA or our governing partners. The grant funds will be used to purchase Emergency Operations Center (EOC) communications equipment, draft an Emergency Operations Plan and conduct an exercise, Big Thompson Canyon bunker gear, and a second set of hoods, gloves and helmets for fire personnel related to cancer prevention. The intergovernmental agreement that established the Fire Authority requires that both the City of Loveland City Council and the Loveland Rural Fire Protection District Board approve all budget appropriations to make them effective. The Loveland Fire Rescue Authority Board adopted this supplemental budget appropriation at their meeting on June 29, 2016. The Loveland Rural Fire Protection District approved it at their July 6, 2016 meeting.

BUDGET IMPACT:

- ☒ Positive
☐ Negative
☐ Neutral or negligible

There is no additional funding being requested of the City of Loveland. This resolution simply approves the addition of grant money to both LFRA revenue and expenditure accounts to provide for firefighter safety gear.

BACKGROUND:

The grant awards are being appropriated in this resolution help to advance our strategic goals and improve firefighter safety.

- \$20,000 from the Homeland Security Grant through the Northeast All Hazards Region for 2 800Mhz radios, head sets, and the related software and programming; an update to the Emergency Operations Center plan; and an exercise on that plan.

- \$28,134 from the Colorado Division of Fire Prevention and Control for the Big Thompson Canyon bunker gear replacements (18 sets). The money will go to the Rural District and the Rural District will contribute that to LFRA so that the Quartermaster is ensuring the consistency of gear for all LFRA personnel, using the current sealed competitive bid for bunker gear. The other half of the gear was included in the carryover supplemental appropriation (savings from the Rural 2015 budgeted contribution to LFRA) the first quarter of this year.
- \$23,111 from the Colorado Division of Prevention and Control for a second set of hoods, gloves, and helmets that will allow for decontamination after a fire response to assist with firefighter cancer prevention efforts.

No additional contributions are required of our governing partners. This action appropriates the grant award revenue and the exact amount is appropriated for the designated grant expenditures. It will be effective July 20 if approved by City Council.

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

1. City Resolution and Exhibit
2. LFRA Resolution

RESOLUTION #R-61-2016

A RESOLUTION APPROVING THE LOVELAND FIRE RESCUE AUTHORITY'S SUPPLEMENTAL BUDGET AND APPROPRIATION RESOLUTION NO. R-066 FOR THE LOVELAND FIRE RESCUE AUTHORITY'S 2016 BUDGET

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

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

WHEREAS, the Fire Authority held a public hearing on June 29, 2016 and by adoption of Resolution No. R-066, approved a supplemental budget and appropriation to its 2016 budget to appropriate additional funding for expenditures associated with new projects; and

WHEREAS, the Fire Authority Board of Directors submitted the Fire Authority's Resolution No. R-066 enacting a supplemental budget and appropriation to the 2016 budget, which is attached hereto as **Exhibit A** and incorporated herein by reference, to the City and the District for approval as required by Section 1.9(f) of the Authority IGA; and

WHEREAS, the City Council desires to approve the Fire Authority's Resolution No. R-066.

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

Section 1. That the 2016 Loveland Fire Rescue Authority Supplemental Budget and Appropriation, attached hereto as **Exhibit A** and which has been filed with the Fire Authority Administrative Office in its entirety, for the fiscal year beginning January 1, 2016 and ending December 31, 2016, with revenues in the amount of \$71,245, and expenditures of \$71,245 for operations, is hereby approved.

Section 2. That this Resolution shall take effect as of the date of its adoption.

ADOPTED this 19th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

**Loveland Fire Rescue Authority
2016 Supplemental Budget**

Funds Appropriated for Use by the Authority:

Account Title	Account Number	Amount	Description
Sources of Funds:			
State Grant	604-22-227-1600-32100 FRSHSG2015	20,000	Homeland Security Grant through Northeast All Hazards Region for Emergency Operations Center Communications Equipment
Contributions Rural District	604-22-227-1601-32402	28,134	Big Thompson Canyon Volunteer Fire Department State Grant from the Colorado Division of Fire Prevention and Control for bunker gear replacement
State Grant	604-22-224-1630-32100	23,111	LFRA State Grant from the Colorado Division of Fire Prevention and Control for cancer prevention purchase of a second set of hoods, gloves and helmets
Total Funds		\$71,245	

2016 Supplemental Authority Appropriations and Expenditures:

Account Title	Account Number	Amount	Description
Uses of Funds:			
Other Capital	604-22-227-1600-49399 FRSHSG2015	15,000	Emergency Operations Center Communications Equipment
Other Services	604-22-227-1600-43899 FRSHSG2015	5,000	Emergency Operation Center Plan and an exercise
Personal Protection Equipment (PPE)	604-22-224-1630-42025 FRFS&DP2016	23,111	Hoods, gloves and helmets for the cancer prevention program
Personal Protection Equipment (PPE)	604-22-224-1630-42025 FRBTCVFD	28,134	18 sets of bunker gear for the Big Thompson Canyon Fire Department
Total Appropriations and Expenditures		\$71,245	

RESOLUTION NO. R-066

A RESOLUTION ADOPTING A SUPPLEMENTAL BUDGET REGARDING THE APPROPRIATION OF MONEYS TO AND THE EXPENDITURE OF MONEYS FROM THE GENERAL FUND FOR THE LOVELAND FIRE RESCUE AUTHORITY, STATE OF COLORADO, FOR THE CALENDAR YEAR BEGINNING ON THE FIRST DAY OF JANUARY 2016 AND ENDING ON THE LAST DAY OF DECEMBER 2016

WHEREAS, the Loveland Fire Rescue Authority ("**Authority**") is a governmental entity of the State of Colorado, established by contract between the City of Loveland ("**City**") and the Loveland Rural Fire Protection District ("**Rural District**") pursuant to that certain Intergovernmental Agreement for the Establishment and Operation of the Loveland Fire Rescue Authority as a Separate Governmental Entity dated August 19, 2011 ("**Establishing IGA**");

WHEREAS, on November 18, 2015, the Authority Board of Directors ("**Board**"), after complying with notice and other statutory requirements, duly adopted a budget for fiscal year 2016 ("**2016 Budget**"). Pursuant to Section 4.1 of the Establishing IGA, the 2016 Budget subsequently was approved by the City Council and by the Rural District Board of Directors, and the amounts set forth therein were appropriated by the Authority Board on December 16, 2015;

WHEREAS, after adopting the 2016 Budget and making appropriations thereunder, the Authority Board determined it necessary to approve additional appropriations of moneys to and expenditures of moneys from the General Fund for fiscal year 2016;

WHEREAS, the Authority Board authorized its administrative staff and consultants to prepare and submit a proposed 2016 Supplemental Budget reflecting the additional appropriations of moneys to and expenditures of moneys from the General Fund;

WHEREAS, a proposed 2016 Supplemental Budget has been submitted to the Authority Board for its consideration. A copy of the 2016 Supplemental Budget is attached to this Resolution;

WHEREAS, pursuant to Section 4.1 of the Establishing IGA, the 2016 Supplemental Budget also must be submitted to the City Council and Rural District Board of Directors for their consideration, and shall become effective only after approval of both the City Council and Rural District Board of Directors;

WHEREAS,

WHEREAS, it is the Authority Board's understanding that, in addition to the foregoing, the City and Rural District also have received and/or have reserved funds not anticipated or reserved at the time the City Council and Rural District Board of Directors adopted their respective 2016 budgets;

WHEREAS, the Authority Board desires to adopt the attached 2016 Supplemental Budget, and desires to request that the City Council and Rural District Board of Directors approve the

attached 2016 Supplemental Budget, and appropriate the necessary funds to provide for the 2016 Supplemental Budget from awarded grant fund, as appropriate;

WHEREAS, due and proper notice, published and posted in accordance with the law, advised the public that (1) the Authority's proposed 2016 Supplemental Budget was available for inspection by the public at a designated public office; (2) the Authority Board would hold a public hearing on the proposed 2016 Supplemental Budget on Wednesday, June 29, 2016 at 1:30 pm; and (3) interested electors could comment on or to file or register objections to the proposed 2016 Supplemental Budget any time before the public hearing; and,

WHEREAS, the Authority Board held a public hearing on Wednesday, June 29, 2016, and interested electors were given the opportunity to comment on or to file or register any objections to the attached 2016 Supplemental Budget.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE LOVELAND FIRE RESCUE AUTHORITY, STATE OF COLORADO, AS FOLLOWS:

Section 1. Receipt of Moneys to the General Fund. Subject to approval of the City Council and Rural District Board of Directors pursuant to Section 4 below, the Authority Board hereby authorizes and approves the receipt and appropriation in 2016 of an additional \$65,245 in revenue from awarded grant contributions and Rural District contributions to the Authority's General Fund; \$23,110.78 from the Colorado Firefight Safety and Disease Prevention awarded by the State of Colorado Division of Fire Prevention and Control for hoods, gloves and helmets, \$28,134 from the Rural District generated by their Colorado Firefight Safety and Disease Prevention awarded by the State of Colorado Division of Fire Prevention and Control for the replacement of 18 sets of bunker gear, and \$14,000.00 Homeland Security Grant through the Northeastern All Hazard Region and Larimer County from the State of Colorado Department of Public Safety Division of Homeland Security and Emergency Management for emergency operations center communications equipment.

Section 2. Expenditures of Money from the General Fund. Subject to approval of the City Council and Rural District Board of Directors pursuant to Section 4 below, the Authority Board hereby ratifies and approves the expenditure of an additional \$65,245 from the Authority's General Fund during fiscal year 2016.

Section 3. Adoption of Supplemental Budget for 2016. Subject to approval of the City Council and Rural District Board of Directors pursuant to Section 4 below, the Authority Board hereby adopts the 2016 Supplemental Budget in the form attached to this Resolution.

Section 4. City Council's and Rural District Board of Directors' Approval Required. Pursuant to Section 4.1 of the Establishing IGA, the 2016 Supplemental Budget shall become effective as of the date that both the City Council and Rural District Board of Directors approve the 2016 Supplemental Budget. The Authority's administrative staff shall obtain and maintain with this Resolution a copy of the City Council and Rural District Board actions approving or denying approval of the attached 2016 Supplemental Budget.

Section 5. Purposes of 2016 Supplemental Budget Could Not Have Been Reasonably Foreseen. At the time the Authority Board adopted the 2016 Budget in the fall of 2015, it could not have reasonably foreseen the need to approve additional appropriations of moneys to and expenditures of moneys from the General Fund for fiscal year 2016.

ADOPTED this 15th day of July, 2016.

ATTEST:

Secretary

**Loveland Fire Rescue Authority
2016 Supplemental Budget**

Funds Appropriated for Use by the Authority:

Account Title	Account Number	Amount	Description
Sources of Funds:			
State Grant	604-22-227-1600-32100 FRSHSG2015	14,000	Homeland Security Grant through Northeast All Hazards Region for Emergency Operations Center Communications Equipment
Contributions Rural District	604-22-227-1601-32402	28,134	Big Thompson Canyon Volunteer Fire Department State Grant from the Colorado Division of Fire Prevention and Control for bunker gear replacement
State Grant	604-22-224-1630-32100	23,111	LFRA State Grant from the Colorado Division of Fire Prevention and Control for cancer prevention purchase of a second set of hoods, gloves and helmets
Total Funds		\$65,245	

2016 Supplemental Authority Appropriations and Expenditures:

Account Title	Account Number	Amount	Description
Uses of Funds:			
Other Capital	604-22-227-1600-49399 FRSHSG2015	14,000	Emergency Operations Center Communications Equipment
Personal Protection Equipment (PPE)	604-22-224-1630-42025 FRFS&DP2016	23,111	Hoods, gloves and helmets for the cancer prevention program
Personal Protection Equipment (PPE)	604-22-224-1630-42025 FRBTCVFD	28,134	18 sets of bunker gear for the Big Thompson Canyon Fire Department
Total Appropriations and Expenditures		\$65,245	

AGENDA ITEM: 17
MEETING DATE: 7/19/2016
TO: City Council
FROM: Leah Browder, Public Works Director
PRESENTER: Eric Lessard, Civil Engineer



TITLE:

A Resolution Authorizing A Notice Of Award For The 2016 Stormwater Capital Improvements Projects And Authorizing The City Manager To Execute The Contract

RECOMMENDED CITY COUNCIL ACTION:

Adopt the action as recommended and award of the construction contract to the lowest responsible bidder for the 2016 Stormwater Capital Improvement Projects to Premier Earthworks & Infrastructure, Inc. for the amount of \$2,453,566.08 and authorization for the City Manager to execute the contract.

OPTIONS:

1. Adopt the action as recommended.
2. Deny the action.
3. Adopt a modified action.
4. Refer back to staff for further development and consideration.

SUMMARY:

This is an administrative action awarding a construction contract for the 2016 Stormwater Capital Improvement Projects to Premier Earthworks & Infrastructure, Inc., for the amount of \$2,453,566.08, which was lower than the engineer's estimate and was part of the approved 2016 budget. The contract includes 26 individual stormwater improvement projects consisting of the installation of new master planned stormwater infrastructure and/or the replacement of aging, undersized, or failing existing stormwater infrastructure throughout the City of Loveland. The project will be funded through the Stormwater Utility's Capital Improvement Project Fund and Stormwater System Investment Fees.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible

The project is fully funded through the previously approved 2016 budget.

BACKGROUND:

The 2016 Stormwater Capital Improvement Projects includes a total of 26 individual stormwater improvement projects represented by separate bid schedules. The projects include major and minor stormwater capital improvement projects along with annual system maintenance work wrapped into a single construction contract in order to improve construction efficiency, reduce overall construction time, and achieve lower bid prices. These projects generally consist of installing new stormwater infrastructure and the removal and replacement of aging, undersized, or failing existing infrastructure. Specific projects included in the contract include:

- The Airport Basin North Outfall: Installation of over 2,200 feet of large diameter storm sewer running from the Northern Colorado Regional Airport's north detention pond to the

north side of County Road 30. This is a master planned project funded by Stormwater System Investment Fees.

- 29th Street Culvert Improvements: Installation of two new 36-inch diameter culverts and lining of an existing culvert from the Benson Park Pond to the North Lake Park Pond across 29th Street. The existing infrastructure is undersized and failing. The culverts will be installed using trenchless technology so that 29th Street can remain open during construction.
- Wernimont Regional Detention Pond Repairs: Pipe lining and replacement of failing concrete infrastructure at the detention pond.
- W. Eisenhower Bike Trail Storm Sewer: Installation of new 30-inch diameter storm sewer to address capacity issues in the existing Hogback Basin storm sewer on the west side of Eisenhower Boulevard.
- Stormwater Maintenance Projects: A variety of smaller maintenance projects to address aging, undersized, or failing existing infrastructure, such as storm sewer, inlets, manholes, crosspans, erosion protection, and concrete pans.

Construction will occur from September 2016 through March 2017. Much of the work must occur during the fall or winter months due to irrigation ditch interactions within the projects. The projects will have little impact on roadways or the traveling public.

Sealed bids were opened Thursday, June 23, 2016. Three bids were received for 26 bid schedules, A-Z. The following is a list of the bidders and their respective bid totals.

Bidder	Total Bid Schedule
Premier Earthworks & Infrastructure	\$ 2,453,566.08
Territory Unlimited, Inc.	\$ 2,591,653.00
Mountain Constructors, Inc.	\$ 2,697,507.00

Stormwater Utility staff recommends awarding the 2016 Stormwater Capital Improvement Projects contract to Premier Earthworks & Infrastructure, Inc., the lowest responsible bidder, and providing authorization for the City Manager to execute the contract. The total contract value will be \$2,453,566.08.

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

1. Resolution

RESOLUTION #R-62-2016

A RESOLUTION AUTHORIZING A NOTICE OF AWARD FOR THE 2016 STORMWATER CAPITAL IMPROVEMENTS PROJECTS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, the 2016 Stormwater Capital Improvement Projects include a total of 26 individual stormwater improvement projects. The projects include major and minor stormwater capital improvement projects along with annual systems maintenance work (the “Projects”), and generally consist of installing new stormwater infrastructure and the removal and replacement of aging, undersized, or failing existing infrastructure;

WHEREAS, the City of Loveland Public Works Department issued an Invitation to Bid for the 2016 Stormwater Capital Improvement Projects, and opened the sealed bids received in response on June 23, 2016;

WHEREAS, the recommendation of the Public Works Department is that the Notice of Award to be issued to Premier Earthworks & Infrastructure as the lowest responsible bidder;

WHEREAS, the awarded contract for the Projects will be funded through the Stormwater Utility’s Capital Improvement Project Fund and Stormwater System Investment Fees. The Projects are fully funded through the previously-approved 2016 budget;

WHEREAS, construction for the Projects will occur from September 2016 through March 2017 due to irrigation ditch interactions within the Projects; and

WHEREAS, the City Council desires to approve the Notice of Award to Premier Earthworks & Infrastructure and approve a construction contract in the amount of \$2,453,566.08 on behalf of the City, and to authorize the City Manager to execute the contract.

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

Section 1. That the Notice of Award for the 2016 Stormwater Capital Improvement Projects is hereby approved.

Section 2. That the Public Works Department in consultation with the City Attorney shall prepare a construction contract in the amount of \$2,453,566.08 with Premier Earthworks & Infrastructure and the City Manager is hereby authorized, following consultation with the City Attorney, to modify the contract in form or substance as deemed necessary to effectuate the purposes of this Resolution or to protect the interests of the City.

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

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

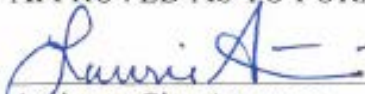
ADOPTED this 19th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

AGENDA ITEM: 18
MEETING DATE: 7/19/2016
TO: City Council
FROM: Rod Wensing, Assistant City Manager
PRESENTER: Rod Wensing



TITLE:

1. An Ordinance of the City of Loveland, Colorado Granting a Cable Franchise to Comcast of Colorado II, LLC
2. An Ordinance amending the Loveland Municipal Code at Section 13.16.030 concerning Customer Service Standards for Cable Television Operators

RECOMMENDED CITY COUNCIL ACTION:

Conduct a Public Hearing and adopt the above actions on first reading.

OPTIONS:

1. Adopt the actions as recommended.
2. Deny the actions. (Current Franchise Agreement will continue on Month to Month Basis)
3. Adopt a modified action. (specify in the motion)
4. Refer back to staff for further development and consideration.

SUMMARY:

The Council will be asked to take both an administrative and legislative action separately to consider approving an Ordinance granting a renewal of a non-exclusive 10 year Cable Franchise Agreement from the City of Loveland to Comcast of Colorado II, LLC as well as considering an amended Ordinance establish updated Customer Service Standards for Cable Television Operators located in Section 13.16.030 of the Loveland Municipal Code.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible

The proposed cable franchise agreement renewal continues to collect 5% of gross revenues, as allowed by the federal cable act. Franchise fees are paid to compensate the City for Comcast's use of the public rights-of-ways and facilities.

The proposed cable franchise renewal agreement continues to collect 50 cents per month on residential subscribers with the purpose of funding capital and facility needs for Public, Educational and Government (PEG) cable television broadcasting. The revenues generated from this fee may be distributed among local PEG entities as determined by City Council.

In fact, the Council did just that in 2015 via an Intergovernmental Agreement (IGA) with Thompson School District that will provide approximately \$340,000 over the next 5 years for needed equipment upgrades associated with channel 14 broadcasts.

Average Franchise Fee Revenue: \$500,000 annually
Average PEG Fee Revenue: \$74,000 annually

BACKGROUND:

Comcast currently serves its cable customers within the City of Loveland pursuant to a Cable Franchise Agreement that went into effect on May 1, 2007. On November 19, 2013 the City Council voted unanimously to reject the proposed Cable Franchise Agreement and directed City staff to only return after a new Comcast Xfinity Store was both located and open within the City limits of Loveland at some point in the future.

During negotiations, the City sought to: (1) Improve customer service; (2) maintain benefits provided by the existing agreement; (3) eliminate regulatory provisions from the agreement that are no longer relevant; and (4) address issues of changing technology and changing regulations in a manner that benefits the City and its citizens. In addition to addressing key issues such as the definition of "gross revenues," the City's ability to monitor and audit future franchise fee payments, and competitive equity with other cable providers serving customers in Loveland, the proposed agreement also provides for up to five public, educational, and government ("PEG") access channels. Three of the PEG channels are currently broadcasting in standard-definition and are used by the City, the Thompson School District, and Aims Community College. Two of the PEG channels will be high-definition ("HD") channels, one of which will be available to the City upon 120 days' written notice to Comcast, and one of which will be available to the schools after January 1, 2016 upon 120 days' written notice to Comcast. Staff believes the proposed agreement addresses the community's future cable-related needs and improves upon the existing agreement. The attached staff memorandum goes into more detail.

One of the primary areas of concern expressed by the citizens and members of City Council is customer service. Therefore, to address the citizens' and City Council's concerns, staff has proposed a number of updates to the City's Customer Service Standards, which are codified in the Loveland Municipal Code at Section 13.16.030. Those updates require, among other things, that cable operators maintain a local office to be open weekdays as well as some weekend and evening hours, and provide their customers with the option to speak to a live customer service representative who can communicate clearly in English or Spanish as requested by the customer. The attached staff memorandum goes into more detail.

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

1. Staff Memorandum
2. PowerPoint Presentation
3. Ordinance Granting Cable Franchise to Comcast
4. Franchise Agreement (Exhibit A to the Ordinance)
5. Ordinance Amending the Loveland Municipal Code at Section 13.16.030 Concerning Customer Service Standards for Cable Operators
6. [Redline Franchise Agreement Showing Changes](#)
7. [Redline Customer Service Standards Showing Changes](#)

MEMORANDUM

Date: July 19, 2016

To: Mayor and City Council

From: Rod Wensing, Assistant City Manager

Via: Stephen D. Adams, City Manager

Re: Loveland Comcast Cable Television Franchise Renewal

Loveland Comcast Cable Television Franchise Renewal

About Cable Franchising:

In order to provide their services, cable companies have to use the public rights-of-way (ROW) to install their cable equipment and facilities throughout the city. A cable franchise is the formal agreement between the City and a cable provider outlining the terms and conditions under which it can use the public ROW. The franchise imposes various obligations on the cable company including compensating the City for use of the ROW, protecting the rights and interests of Loveland residents and cable television subscribers, and providing certain public benefits.

Comcast's Franchise with City of Loveland:

Comcast - the nation's largest cable television provider - is currently the primary source of cable television services in Loveland. They currently operate in Loveland under a non-exclusive franchise agreement* effective since May 2007. The agreement allows Comcast to use the City's ROW in return for the payment of certain rental fees - known as franchise fees - and other benefits for Loveland and its residents.

**Should another cable provider want to offer cable service in Loveland, the City could offer that company the same franchise opportunity that Comcast has. Per the new trend, the city could also offer a new franchise to another operator on the City's preferred terms and conditions, however, if they are more favorable then the incumbent franchise operator could force the City to change its franchise terms to match what is offered to the new competitor. To date, no other service providers have asked for a franchise.*

Status of Current Cable TV Franchise Agreement:

Comcast timely notified the City of its intent to seek renewal of the franchise agreement as required by federal law. Under federal law, Comcast is entitled to a franchise renewal if Comcast offers and has the legal, technical, and financial ability to comply with a franchise agreement that meets the future cable-related needs of the community. Comcast has complied with the existing franchise agreement, which staff believed was an appropriate place to begin negotiations.

- Originally effective May 1, 2007 to April 30, 2013
- City Council formally approved 3 extensions between March 25, 2013 and December 31, 2014
- On November 19, 2013 the City Council voted unanimously to reject the proposed Cable Franchise Agreement and directed City staff to only return after a new Comcast Xfinity Store was both located and open within the City limits of Loveland at some point in the future.
- Currently operating under Section 626 of the Federal Cable TV Act since January 1, 2015. *(existing Cable Franchise operating requirements and City revenue stay intact during negotiating period)*

Length of Cable Franchise Agreement:

The next cable franchise is proposed to be for a term of 10 years.

Model Cable Franchise Template:

The City's negotiations are based on a **model franchise template** used in the metro area. The franchise is based on the one agreed to between Comcast and the City of Denver and one between Comcast and the City of Aurora.

City Negotiation Priorities:

- 1) Improve customer service. 2) Maintain existing benefits. 3) Eliminate outdated provisions. 4) Address changing technology.

Community Outreach / Public Hearings:

1. June 25, 2013
2. August 13, 2013
3. November 12, 2013
4. November 19, 2013

City Negotiating Team:

- Ken Fellman, Esq. from Kissinger & Fellman, P.C. (via consulting contract)
- City Manager's Office
- City Attorney's Office

Cable Franchise Negotiations Completed:

November 1, 2013

How Renewal Works:

The franchise renewal process is governed by federal law (Section 626 of Cable Act, 47 CFR 546). It occurs over the 6 months to one year before a franchise expires.

What the City CAN and CAN'T do:

Can Do's

- Require specific cable system performance.
- Require placement at a specific channel location for public access channel(s) (PEG).
- Require support of PEG access through facilities, equipment, and channels (spectrum).
- Establish customer service standards, including ones related to answering telephones calls, response to complaints, and imposition of late fees.
- Require a specific definition of gross revenues.
- Negotiate in good faith with additional cable companies, as this is a non-exclusive franchise grant.
- Require construction in the city and cable right of way work to be completed in a manner that does not create unreasonable disruption.
- Require company to apply for and be issued all necessary construction and occupancy permits.
- Establish franchise fees and definition of gross revenues in accordance with federal law.
- Require compliance with technical standards.
- Establish procedure for addressing franchise transfers.
- Establish procedure for remedying franchise violations.
- Establish franchise termination provisions.

The City has the authority to impose franchise conditions that are necessary to meet the future cable related needs of the community, taking into account the costs of meeting those needs. In addition, the Federal Cable Act gives the City the authority to impose separate customer service standards on cable operators which given the relationship of the cable operator and their customers in the City. Whether obligations are imposed in the franchise or in separate customer services standards, the federal law gives the cable operator (Comcast) the right to pass the full costs of complying with any locally imposed standards on to its subscribers within that jurisdiction.

Can't Do's

- Cannot require a specific transmission technology (e.g. fiber to the home).
- Cannot use the franchise to negotiate for any communications services that are not considered cable services under federal law (telephone, high speed internet).
- Cannot specify which channels are or are not carried.
- Cannot specify which channels are on which tier of service (other than PEG access).
- Cannot regulate rates beyond what is applicable by federal, state and local laws.
- Cannot require franchise fees of more than 5 percent of gross revenues, as defined in the franchise agreement.
- Cannot regulate any voice (telephone) services (regulated by state Public Utilities Commission).
- Cannot regulate data services, including Internet services.
- Cannot specify engineering performance standards in those areas where FCC has preemptive authority.
- Cannot grant an exclusive franchise.

There are limitations on the City's ability to negotiate certain franchise terms as a result of federal and state laws. Unfortunately, these limitations prevent the City from addressing, in the context of the franchise agreement, some of the major concerns about Comcast's service in the City, including rates, internet and phone service, channel placement, and ala-carte options.

Limitations and restrictions in local governments' ability to regulate cable/video services, including rates regulation, arise from the Cable Communications Act of 1984, 47 U.S.C. §§ 521 – 573, specifically [47 U.S.C. §§ 541- 549](#). The Cable Act was amended by the Cable Television Consumer Protection and Competition Act of 1992 and Telecommunications Act of 1996, which represented the first major overhaul of US telecommunication policy since the Communications Act of 1934. The Federal Communications Commission (FCC) has the authority to set rules for local cable franchising. Those regulations implementing the Cable Act can be found in [Part 76 of Title 47 Code of Federal Regulations](#).

Limitations and restrictions on local governments' ability to regulate internet and other communication services offered over systems laid in the public rights of way are a result of state law. In 2005, the Colorado General Assembly passed Senate Bill 152, codified at C.R.S. § 29-27-101, et seq. ("SB 152"). SB 152 placed certain limitations on a local government's ability to deploy and operate advanced communications networks. Essentially, local governments are prohibited from investing in these networks, even in the case of public private partnerships where the service and all of the customer interaction is through a private sector partner, unless the municipality first obtains approval of the local electorate.

CABLE FRANCHISE AGREEMENT - WHAT REGULATED AND WHAT'S CHANGED?

TOPIC	CITY CAN AMEND OR MODIFY?	CITY BENEFIT: CURRENT VS.	NOTES
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	YES	NO	NEW AGREEMENT	
RATES				
Rates for Cable Services		✓	Same	Because of a finding of “Effective Completion” by the Federal Communications Commission in 2006, the City is not permitted to regulate cable rates.
Telecommunication Services		✓	Same	State law preempts any local government regulation of telecommunication services
Promotions		✓	Same	Similar to rate regulations, the City may not mandate how and who promotions are offered to, as this would be a type of rate regulation.
Rate Discrimination	✓		Same	There can be no rate discrimination based on age, race, disability and other legally protected status or geographic location in the City. However, Comcast is allowed to provide rate discounts to senior citizens or economically disadvantaged individuals. Comcast can also temporarily reduce rates as part of a promotion campaign.
OTHER SERVICES/OTHER CABLE COMPANIES				
Internet Service		✓	Same	Franchises can, by law, regulate cable services. As a result of State law preemption, internet services, even though bundled with cable services, cannot be regulated in the Franchise.
Telephone/Voice Service		✓	Same	As a result of State law preemption, telephone services, even though bundled with cable services, cannot be regulated in the Franchise.
Non-Exclusive Grant	✓		Same	The City may grant additional franchises to other companies willing to provide cable services in the City.
Competitive Equity	✓		Improved	<p>Current: The current franchise agreement states that the City would have to offer a new cable company terms and conditions comparable to Comcast.</p> <p>Negotiated: Language follows a trend in cable language which instead, allows the city to offer a new franchise operator. If the City’s preferred terms and conditions are more favorable, then the incumbent franchise operator could force the City to change its franchise terms to balance the relative benefits and obligations in the new competitor’s franchise.</p>
PROGRAMMING				

Channel Placement		✓	Same	The City cannot mandate where Comcast places a channel. The City can and does require Comcast to provide notice when a service tier change results in a deletion of programming.
Carry Specific Channels		✓	Same	The City cannot require Comcast to provide specific channels.
Programming Categories	✓		Same	The City can require Comcast provide certain broad levels of programming: educational, Colorado news, sports, general entertainment, children/family, arts, foreign language, science/documentary, national news, PEG Access.
TOPIC	CITY CAN AMEND OR MODIFY?		CITY BENEFIT: CURRENT VS. NEW AGREEMENT	NOTES
	YES	NO		
PEG (public, educ., and govt. access programming)	✓		Improved	<p>Current: The PEG fee is set at fifty cents (\$0.50) per month per Residential Subscriber to be used solely for broadcast related capital costs. Comcast agreed to provide 3 channels for PEG programming. (Annual revenue to the city has been around \$74,000 since 2007).</p> <p>Negotiated: All of the above and the city now has 5 PEG channels for programming. Including 1 HD PEG channel for immediate City use, with the possibility of another HD PEG channel later in the franchise term.</p>
CABLE SYSTEM PERFORMANCE				
Technical Standards	✓		Improved	<p>Current: The City may require an upgrade of the cable system to provide certain cable services and may require that Comcast meet the technical standards that have been adopted by the FCC. Also requires Comcast to conduct and keep records of system tests.</p> <p>Negotiated: All of the above and the addition of a requirement for a technology assessment by Comcast after 5 years and the report provided to the City.</p>
Performance Evaluations	✓		Improved	<p>Current: Comcast must undertake performance tests to demonstrate compliance, with no determined regularity.</p> <p>Negotiated: Provides for a performance evaluation of the cable system which specifies that it must occur once every 2 years; it must be open to the public; and topics</p>

				can include rate structures, new technologies, cable system performance, programming, etc.
FEES & FINANCE				
Franchise Fees and Definition of Gross Revenues	✓		Improved	<p>Current: The franchise fee is set at 5% of Comcast's Gross Revenues for cable services as in accordance with federal law. Under federal law, Comcast has the right and currently does pass-through the amount of the franchise fee to subscribers. (Annual revenue to the city has been around \$500,000 since 2007).</p> <p>Negotiated: All of the above and the gross revenue definition has been re-defined to include new revenue streams and limit Comcast's ability to modify calculations of gross revenue. A financial audit may be required by the City to ensure that Comcast has complied with this provision.</p>
Penalties for Franchise Violation	✓		Improved	<p>Current: Daily franchise violation penalties range from \$50 to \$150 a day.</p> <p>Negotiated: Provides for \$500/day penalties for general construction delays, violation of PEG obligations, franchise fee, or other payment obligations, \$250/day for other material breaches, and \$100/day for non-material defaults</p>
Audit/Financial Review	✓		Improved	<p>Current: Provides that if an audit discloses underpayments of more than 3%, Comcast will pay the costs of the audit up to \$5,000. The current franchise only provided for mediation in the event of a dispute over revenue allocation, with no clear way for the City to enforce its interpretation.</p> <p>Negotiated: More detailed audit and record keeping language has been added to protect City's ability to accurately monitor and audit future franchise fee payments if necessary. In the event of an audit that discloses underpayments of more than 4%. Comcast will pay the costs up to \$3,000 per year, allowing audits to extend three years to a cap of \$9,000.</p>
TOPIC	CITY CAN AMEND OR MODIFY?		CITY BENEFIT: CURRENT VS. NEW AGREEMENT	NOTES
	YES	NO		

OTHER				
	✓			
Service to Schools and Public Buildings	✓		Improved	<p>Current: Provides that Comcast will deliver one free basic service subscription to all City-owned and occupied buildings, schools, and public libraries.</p> <p>Negotiated: All of the above and the addition of free digital starter service when currently connected to Comcast's existing system.</p>
Joint Trenching	✓		Improved	<p>Current: Comcast is only asked to attend planning meetings to discuss joint trenching opportunities.</p> <p>Negotiated: All of the above and the addition of language that requires attendance and joint trenching / boring when possible and practical.</p>
Open Records	✓		Improved	<p>Current: Comcast only has to make requested records by the city available for inspection at Comcast's Denver office.</p> <p>Negotiated: Comcast now will be required to provide copies of the requested documents to the City at their own cost without having to go to the Denver office.</p>
Relocation of Comcast Facilities Necessitated by Public Projects	✓		Improved	<p>Current: Comcast must relocate its facilities at its own cost within 30 days after notification by the City, unless the construction project involves expenditures by the City of more than \$150,000 in which case Comcast has 60 days to relocate.</p> <p>Negotiated: Comcast must now relocate its facilities at its own cost within 5 business days of City notification, at its own expense. If the cost of relocating is over \$500,000, Comcast has 60 days to relocate.</p>
Revocation of Franchise	✓		Improved	<p>Current: The city must have two separate administrative proceedings before ordering a revocation of a franchise.</p> <p>Negotiated: Only one administrative proceeding by the city is needed.</p>
Franchise Transfer or Change of Control	✓		Improved	<p>Current: The city has the right to consider cable system claims made against a proposed transferee if Comcast were to transfer their franchise or merge with another company.</p> <p>Negotiated: Allows the city to consider broadband system claims in addition to cable claims made against</p>

				the proposed transferee when evaluating the transaction.
Construction in the City	✓		Same	Comcast must adhere to the City's applicable codes, must provide notices to homeowners, must cause minimal interference to property, must repair and restore of property, and must following tree trimming standards.
Customer Service Standards (CSS)	✓		Same	Comcast must comply with the City's adopted Customer Service Standards (CSS). The City is also modifying its existing CSS concurrently with this cable franchise renewal process.

CUSTOMER SERVICE STANDARDS - WHAT IS REGULATED AND WHAT'S CHANGED?

TOPIC	CITY CAN AMEND OR MODIFY?		CITY BENEFIT OF NEW PROPOSED AGREEMENT	NOTES
	YES	NO		
CUSTOMER SERVICE STANDARDS				
Service Center	✓		Same	<p>Current: Comcast is required to provide a service center within 10 miles of a Loveland customer.</p> <p>Negotiated: The service center must be conveniently located to service customers. (<i>Comcast Xfinity Store opened in the Shops at Centerra on February 20th</i>)</p>
Service Hours and Response	✓		Same	<p>Current: Addresses 24-7 service dispatchers and technicians; specific response times and reporting requirements; and proposed service appointment window. In addition, appointments must either be for a specific time, or a maximum of four hours between 8am and 6pm six days a week (or outside of these hours if at customer's convenience). In addition, the service center must be open from 8am to 6pm Mon-Fri and Sat from 9am to 1pm and these hours must be posted at the service center.</p> <p>Negotiated: Appointment windows must be any 4 hours between 8am and 6pm 6 days a week. The service center must also hold normal business hours, including evening and some weekend hours. The service center must have a sign posted, <i>visible from outside</i>, that lists these hours. (<i>Comcast Xfinity Store hours are posted as Mon. – Sat. 9:00 – 7:00 and Sun. 10:00 – 4:00</i>)</p>
Residential Service Interruptions	✓		Improved	<p>Current: Comcast must ensure subscribers receive continuous, uninterrupted cable service. Currently, Comcast must correct any equipment failure in the Cable System affecting 5 or more customers within 2 hours after the 3rd customer call.</p>

				<p>Negotiated: Removes the stipulation that 5 or more customers must be affected before any investigation begins. The Franchise provides for remedies so if Comcast does not adhere the City may: assess monetary damages, order rebates or credits for customers, withhold permits, and in extreme situations take over the cable system.</p>
Complaint Files/Reports	✓		Improved	<p>Current: Comcast will establish a written complaint procedure filed with the city before implementation. Comcast will keep an accurate and comprehensive file of any complaints regarding the cable system. Complaint records must be available during business hours to the city, and summaries of these should be sent quarterly. Service request summaries should be completed each month and submitted to the city by the 15th day of the succeeding month, submitted to the city clerk's office.</p> <p>Negotiated: Complaint Files / Reports will now be available to the city at the cable operator's expense for at least three years, complaints passed on by the city will be dated for the day it is received by Comcast. The cable operator must notify a customer of the outcome of the complaint within 10 calendar days of receipt, if not; the city can review the complaint. If a customer is dissatisfied with the cable operator's decisions they can have the city review the complaint. Invalid complaints received by the cable operator will be reported to the city. Records on complaints, service requests, service interruptions and outages, and ability to meet call standards should be sent to the city quarterly. Notifications sent to customers should concurrently be sent to the City.</p>
TOPIC	CITY CAN AMEND OR MODIFY?		CITY BENEFIT OF NEW PROPOSED AGREEMENT	NOTES
	YES	NO		
Landscape damage / Credits	✓		Improved	<p>Current: Tree trimming should be kept to a minimum, that any landscape damage should be restored, and that trees or shrubs should not be removed without prior property owner permission.</p> <p>Negotiated: Expands this language by stating that any landscaping damage must be restored within 7 days at the expense of the cable operator which must cover 100% of the damage, a customer requesting disconnection within 30 days of installation will receive a credit to their account in the next billing cycle (provided customer returns equipment in working order)</p>

Customer convenience/ flexibility	✓		Improved	<p>Current: Maintains that within 30 seconds or less of a transfer, calls to service/repair and billing/service must lead to a direct connection with a representative, damaged equipment can be exchanged for free at service centers, the use of the anniversary billing system, must provide TDD service with trained operators, availability of info on services, products, and cable company upon customer request, and that equipment-related reception problems must be repaired by the end of the day after the customer call was received.</p> <p>Negotiated: Comcast shall promote their 'self-help' tools, local access lines with live reps that speak clear English or Spanish, option to speak with live rep within 60 seconds of call, 30 seconds of a transfer, damaged equipment exchanged for free at customer address, option to pay through automated phone system, promos need to be clearly explained, availability of TTY, TDD, TYY, VRS or other ADA compliant service and trained operators, availability of info on services, products, and cable company in written English or Spanish upon request, equipment-related reception problems to be assessed within one day of notification, and repaired within 2 days of problem assessment, cable operator to maintain periodic communication with the customer during services so customer knows problem is being addressed and provide online customer access to these standards.</p>
Customer Privacy	✓		Improved	<p>Current: Cable operator will not monitor individual customer viewing patterns without customer consent. Cable operator will not share or sell personal info without customer consent. A cable operator can disclose info if it is necessary their business of providing service.</p> <p>Negotiated: All of the above and an addition of 4 pages of new language to the privacy policy, which provides enhanced protections of a customer's personal info and viewing privacy.</p>
	CITY CAN AMEND OR MODIFY?		CITY BENEFIT OF NEW PROPOSED AGREEMENT	
TOPIC	YES	NO		
				NOTES

Noncompliance	✓		Improved	<p>Current: If the city suspects noncompliance, an informal meeting can be held to review alleged noncompliance. If the issue is not resolved, the cable operator can request an administrative hearing. The cable operator must be given at least 10 days' notice of this hearing, the allegations, and the potential consequences of non-compliance if sustained. After the hearing, if noncompliance sustained, cable operator must remedy situation within 30 days. If claims of noncompliance are substantiated, the city can: impose assessments of up to \$1000 per day until non-compliance is remedied, order after further hearings that rebates and credits to affected customers, declare a violation of the franchise agreement, triggering all available obligations and remedies under the franchise agreement, and/or withhold licenses and permits for work by the cable operator or its subcontractors.</p> <p>Negotiated: All of the above and if the city determines noncompliance has been substantiated, reverse any decision of the cable operator in the matter and grant a specific city-determined solution.</p>
Letters of credit	✓		Improved	<p>Current: Not specifically addressed in Customer Service Standards.</p> <p>Negotiated: Comcast must provide a \$50,000 letter of credit or escrow funds to an agent approved by the city within 30 days of notice from the city of an alleged franchise violation. The escrowed funds or letter of credit will constitute the "security fund" for ensuring compliance with city standards. The escrowed funds or letter of credit will be maintained by a cable operator at the amount initially required until any claims related to the alleged violation are paid in full. The city may require the cable operator to increase the amount of the security fund if new risk factors arise which necessitate an increase. The security fund will serve as security for the payment of any penalties, fees, charges, or credits</p>
TOPIC	CITY CAN AMEND OR MODIFY?		CITY BENEFIT OF NEW PROPOSED AGREEMENT	NOTES
	YES	NO		
Customer notification	✓		Improved	<p>Current: When performing major projects, property owners must be notified by mail at least one week in advance. In an emergency, a cable operator will try to contact the property owner and will leave a door hangar notice if no contact is</p>

				<p>made. A cable operator will provide customers with written notification of any change in rates, programming, or channel positions at least 30 days in advance. Vans and employees must be easily identified. Cost estimates must be told to a customer before the job is started.</p> <p>Negotiated: Provides all of the above and now the door hangar must also clearly describing the issue and a contact if the customer has questions, field crew supervisor's must be able to communicate clearly with the customer and cost estimates must now be given to the customer both orally and in written form before the job is started.</p>
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Answers to Specific Council Questions Expressed by Council at 11/19/13 Meeting:

(originally delivered to Council on October 23, 2014)

1. Office location and office hours
2. Automatic refunds to customers from outages
3. Local phone number for residents – To avoid 1-800 Number confusion
4. Need for customer service and specifically English speaking, American-based (or at least English proficient) account representatives

Questions:

Q1. How many of the contractual provisions have been agreed to that address the four concerns above?

Response from City Staff: None. Comcast has taken the position that it refuses to put these provisions in franchise agreements. Staff believes that provisions addressing each of these issues can be adopted unilaterally in customer service standards. However, Comcast could formally challenge any customer service standards imposed by the City, and/or pass the costs of compliance with those standards on to its local subscribers.

Q2: What happens if there is an outage that impacts someone's DVR playback?

Response from Comcast: Comcast prides itself on having as few outages for as minimal time as possible. As you all know from the outage report we sent you, we only had 13 outages within the City of Loveland over the first 5 months of this year. Many times an outage is outside our control (i.e., an individual or company cuts our line) and is not foreseeable. Our technical teams, however, are notified immediately and work as quickly as possible to restore services. In addition, many of the programs our customers record on their DVRs are also located On Demand. We now offer more than 50,000 choices with thousands of free selections. Furthermore, we have the Xfinity TV app and the Xfinity TV GO app where our customers can watch hundreds of thousands of entertainment choices from their DVR, On Demand or they can live stream more than 50 linear channels on any of their mobile devices. Finally, if a customer is recording a program on their DVR when an outage occurs, the DVR should have the recording saved up to the point of the outage.

Q3: What are service level agreements and how is this related to cable governance?

Response from Comcast: Service Level Agreements are agreements Comcast has with Comcast Business customers. Please visit <http://business.comcast.com/> for Comcast Business products and services. Service Level Agreements are unrelated to cable governance and not regulated by the federal Cable Act or a municipal Franchise. Comcast has agreements with our residential customers which can be found here: <http://www.comcast.com/Corporate/Customers/Policies/Policies.html>. Please remember that under federal law, municipal

regulation is limited to cable/video service only.

Q4: When would the new evening and weekend hours begin?

Response from Comcast: If there were new evening and weekend hours for our Customer Service Center required in updated Customer Service Standards, and then they would most likely begin immediately after the effective date of the new Franchise Agreement and/or the updated Customer Service Standards.

Q5: Is it expensive to have a local number that is then forwarded to a 1-800 number?

Response from City Staff: An online search shows monthly costs for a business to use this approach would be less than \$50 per month.

Q6: Are there any franchise agreements around the country which have auto refunds set up?

Response from City Staff: Our outside counsel, Ken Fellman, has reached out to his colleagues through the National Association of Telecommunications Officers and Advisors. We have learned that New York City requires automatic refunds in the event of outages that meet certain thresholds in length, timing, and number of channels and subscribers affected. Comcast is not one of the three cable operators serving New York City, but may be soon, if its merger with Time Warner Cable is approved. Yuma, Arizona has a code provision requiring a pro rata credit for any outage exceeding four hours. Yuma is served by Time Warner Cable, so like New York; it is likely to become a Comcast system. Fairfax County, Virginia has a code provision that requires "In the event that service to Subscribers is totally interrupted for more than 24 hours, Grantee shall provide the affected Subscribers with a pro rata credit or rebate of the Subscriber's fees paid or payable." Comcast serves a small part of the County, and the County representative informed us that they were not sure if Comcast is complying with this provision. Apple Valley, Farmington, and Rosemount, MN have provisions in their franchise agreements that require a pro rata credit "if Service is interrupted or discontinued for a total of more than 48 hours in any 30 day period." Charter Communications is the cable operator in these cities.

Q7: When calling Comcast (particularly after hours) what are the chances of a representative is an American-based English speaker?

Response from Comcast: The majority of the 300+ million calls we receive each year are handled at call centers located in the communities we serve in the United States. We do have a smaller percentage of our inbound call volume handled outside the United States, including Mexico and the Philippines. We use outsourced call center resources to supplement our internal resources and create "flexible capacity" to handle calls with specific requests, such as technical troubleshooting assistance. There are also certain basic types of calls, such as digital set-top box activations, that are handled more efficiently and effectively using outsourced resources. Unlike many other companies, Comcast has chosen to keep the majority of our call center operations in the United States, including Colorado.

In September of 2012, we evolved our call center structure to function as Centers of Excellence focused on handling specific types of calls, such as sales, billing, retention or repair. The goal was to continue to improve the overall customer experience, create operational efficiencies and provide employees with more targeted training and career paths. Although the transition took a small period of time, we have seen strong improvements in our customer experience over the past six months. In Colorado, we have three Centers of Excellence employing approximately 1,500 Coloradans. The Center of Excellence located in Colorado Springs focuses on retention, the one in Denver focuses on repair and the one in Englewood handles Commercial Business Services.

Finally, in the newly negotiated Customer Service Standards, after more than 18 months of discussions, Comcast and the City of Loveland came to the reasonable compromise of adding the following language to the Standards, "Customers shall be provided an option, through the local telephone access lines, to speak to a live customer service representative, able to converse clearly with the customer, in either English or Spanish, at the customer's option." We also note that the outsourced call center resources we utilize screen applicants thoroughly for English proficiency, as that is one of the most crucial parts of the process at those call center locations. We will continue to work closely with these outsourced call center resources to ensure that the quality of the employees and their English proficiency measure up to our customers' expectations.

Q8: What if the City did not grant a franchise agreement to Comcast to provide cable TV services in the City of Loveland?

Response from City Staff: Our outside counsel, Ken Fellman tells us that under federal law, a cable operator is presumed to be entitled to a franchise renewal. As has been discussed with Council previously, there is a formal statutory process that must be followed if a city wishes to reject a cable operator's continued ability to provide cable services in the community. Unless the City pursued the formal statutory process, and ultimately denied the franchise renewal, Comcast will still be able to operate in the City indefinitely. In this instance, the current franchise would continue on a month-to-month basis, or the City could formally extend the franchise for a specific period of time while negotiations continued.

Conclusion

During negotiations, the City sought to: (1) Improve customer service; (2) maintain benefits provided by the existing agreement; (3) eliminate regulatory provisions from the agreement that are no longer relevant; and (4) address issues of changing technology and changing regulations in a manner that benefits the City and its citizens. The passage of both Ordinances involving the Granting of a Cable Franchise to Comcast of Colorado II, LLC and amending the Loveland Municipal Code at Section 13.16.030 Concerning Customer Service Standards for Cable Operators will result in the implementation of the above provisions.

CABLE TELEVISION FRANCHISE RENEWAL

Comcast of Colorado II, LLC

July 19, 2017



- Original Agreement: May 1, 2007 - April 30, 2013
- Council voted to reject proposed Agreement on November 19, 2013
- Currently operating in a month to month per the Federal Cable TV Act
- Xfinity Store opens in the Shops @ Centerra on February 20, 2016

PROCESS HISTORY

- Maintain the current 3 Standard Definition channels
- Add 2 High Definition channels
- Technology review after 5 years
- System performance review every 2 years
- Financial audit/review with 30 days notice

AGREEMENT HIGHLIGHTS

- ▶ Residential Service Interruption Response
- ▶ Customer complaint data available for 3 years
- ▶ Protection of customer personal information and viewing privacy
- ▶ Customer notification procedures
- ▶ Council can change and adopt as needed in the future

CUSTOMER SERVICE STANDARDS HIGHLIGHTS

CABLE TELEVISION FRANCHISE RENEWAL

Questions?



FIRST READING: July 19,

2016

SECOND READING: _____

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF LOVELAND, COLORADO
GRANTING A CABLE FRANCHISE TO COMCAST OF COLORADO II,
LLC**

WHEREAS, the City of Loveland desires to grant to Comcast of Colorado II, LLC a ten-year cable franchise, and Comcast of Colorado II, LLC desires to accept such grant, on the terms and conditions set forth in the “Cable Franchise Agreement Between the City of Loveland, Colorado and Comcast of Colorado II, LLC,” attached hereto as Exhibit A and incorporated herein by reference (“Franchise Agreement”).

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

Section 1. That the Franchise Agreement is hereby approved.

Section 2. That the Mayor and the City Clerk are hereby authorized and directed to execute the Franchise Agreement on behalf of the City of Loveland.

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).

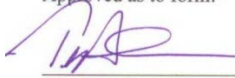
ADOPTED this _____ day of _____, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

Approved as to form:

A handwritten signature in purple ink, appearing to be 'T. Ablao', written over a horizontal line.

Teresa Ablao
Assistant City Attorney

**COMCAST OF COLORADO II, LLC AND
THE CITY OF LOVELAND, COLORADO**

CABLE FRANCHISE AGREEMENT

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**COMCAST OF COLORADO II, LLC AND
CITY OF LOVELAND, COLORADO**

CABLE FRANCHISE AGREEMENT

SECTION 1. DEFINITIONS AND EXHIBITS

(A) DEFINITIONS

For the purposes of this Franchise, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning. The word “shall” is always mandatory and not merely directory.

1.1 “Access” means the availability for noncommercial use by various agencies, institutions, organizations, groups and individuals in the community, including the City and its designees, of the Cable System to acquire, create, receive, and distribute video Cable Services and other services and signals as permitted under Applicable Law including, but not limited to:

- a. “Public Access” means Access where community-based, noncommercial organizations, groups or individual members of the general public, on a nondiscriminatory basis, are the primary users.
- b. “Educational Access” means Access where schools are the primary users having editorial control over programming and services. For purposes of this definition, “school” means any State-accredited educational institution, public or private, including, for example, primary and secondary schools, colleges and universities.
- c. “Government Access” means Access where governmental institutions or their designees are the primary users having editorial control over programming and services.

1.2 “Access Channel” means any Channel, or portion thereof, designated for Access purposes or otherwise made available to facilitate or transmit Access programming or services.

1.3 “Activated” means the status of any capacity or part of the Cable System in which any Cable Service requiring the use of that capacity or part is available without further installation of system equipment, whether hardware or software.

1.4 “Affiliate,” when used in connection with Grantee, means any Person who owns or controls, is owned or controlled by, or is under common ownership or control with, Grantee.

1.5 “Applicable Law” means any statute, ordinance, judicial decision, executive order or regulation having the force and effect of law, that determines the legal standing of a case or issue.

1.6 “Bad Debt” means amounts lawfully billed to a Subscriber and owed by the Subscriber for Cable Service and accrued as revenues on the books of Grantee, but not collected after reasonable efforts have been made by Grantee to collect the charges.

1.7 “Basic Service” is the level of programming service which includes, at a minimum, all Broadcast Channels, all PEG SD Access Channels required in this Franchise, and any additional Programming added by the Grantee, and is made available to all Cable Services Subscribers in the Franchise Area.

1.8 “Broadcast Channel” means local commercial television stations, qualified low power stations and qualified local noncommercial educational television stations, as referenced under 47 USC § 534 and 535.

1.9 “Broadcast Signal” means a television or radio signal transmitted over the air to a wide geographic audience, and received by a Cable System by antenna, microwave, satellite dishes or any other means.

1.10 “Cable Act” means the Title VI of the Communications Act of 1934, as amended.

1.11 “Cable Operator” means any Person or groups of Persons, including Grantee, who provide(s) Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System or who otherwise control(s) or is (are) responsible for, through any arrangement, the management and operation of such a Cable System.

1.12 “Cable Service” means the one-way transmission to Subscribers of video programming or other programming service, and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

1.13 “Cable System” means any facility, including Grantee’s, consisting of a set of closed transmissions paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves Subscribers without using any Right-of-Way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the federal Communications Act (47 U.S.C. 201 et seq.), except that such facility shall be considered a Cable System (other than for purposes of Section 621(c) (47 U.S.C. 541(c)) to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with federal statutes; or (E) any facilities of any electric utility used solely for

operating its electric utility systems.

1.14 “Channel” means a portion of the electromagnetic frequency spectrum which is used in the Cable System and which is capable of delivering a television channel (as television channel is defined by the FCC by regulation).

1.15 “City” is the City of Loveland, Colorado, a body politic and corporate under the laws of the State of Colorado.

1.16 “City Council” means the Loveland City Council, or its successor, the governing body of the City of Loveland, Colorado.

1.17 “Colorado Communications and Utility Alliance” or “CCUA” means the non-profit entity formed by franchising authorities and/or local governments in Colorado or its successor entity, whose purpose is, among other things, to communicate with regard to franchising matters collectively and cooperatively.

1.18 “Commercial Subscribers” means any Subscribers other than Residential Subscribers.

1.19 “Designated Access Provider” means the entity or entities designated now or in the future by the City to manage or co-manage Access Channels and facilities. The City may be a Designated Access Provider.

1.20 “Digital Starter Service” means the Tier of optional video programming services, which is the level of Cable Service received by most Subscribers above Basic Service, and does not include Premium Services.

1.21 “Downstream” means carrying a transmission from the Headend to remote points on the Cable System or to Interconnection points on the Cable System.

1.22 “Dwelling Unit” means any building, or portion thereof, that has independent living facilities, including provisions for cooking, sanitation and sleeping, and that is designed for residential occupancy. Buildings with more than one set of facilities for cooking shall be considered Multiple Dwelling Units unless the additional facilities are clearly accessory.

1.23 “FCC” means the Federal Communications Commission.

1.24 “Fiber Optic” means a transmission medium of optical fiber cable, along with all associated electronics and equipment, capable of carrying Cable Service by means of electric lightwave impulses.

1.25 “Franchise” means the document in which this definition appears, *i.e.*, the contractual agreement, executed between the City and Grantee, containing the specific provisions of the authorization granted, including references, specifications, requirements and other related matters.

1.26 “Franchise Area” means the area within the jurisdictional boundaries of the City, including any areas annexed by the City during the term of this Franchise.

1.27 “Franchise Fee” means that fee payable to the City described in subsection 3.1 (A).

1.28 “Grantee” means Comcast of Colorado II, LLC or its lawful successor, transferee or assignee.

1.29 “Gross Revenues” means, and shall be construed broadly to include all revenues derived directly or indirectly by Grantee and/or an Affiliated Entity that is the cable operator of the Cable System, from the operation of Grantee’s Cable System to provide Cable Services within the City. Gross revenues include, by way of illustration and not limitation:

- monthly fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial customers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event and video-on-demand Cable Services);
- installation, reconnection, downgrade, upgrade or similar charges associated with changes in subscriber Cable Service levels;
- fees paid to Grantee for channels designated for commercial/leased access use and shall be allocated on a pro rata basis using total Cable Service subscribers within the City;
- converter, remote control, and other Cable Service equipment rentals, leases, or sales;
- Advertising Revenues as defined herein;
- late fees, convenience fees and administrative fees which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total subscriber revenues within the City;
- revenues from program guides;
- Franchise Fees;
- FCC Regulatory Fees; and,
- commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service subscribers within the City.

(A) “Advertising Revenues” shall mean revenues derived from sales of advertising that are made available to Grantee’s Cable System subscribers within the City and shall be allocated on a *pro rata* basis using total Cable Service subscribers reached by the advertising. Additionally, Grantee agrees that Gross Revenues subject to franchise fees shall include all commissions, rep fees, Affiliated Entity fees, or rebates paid to National Cable Communications (“NCC”) and Comcast Spotlight (“Spotlight”) or their successors associated with sales of advertising on the Cable System within the City allocated according to this paragraph using total Cable Service subscribers reached by the advertising.

(B) “Gross Revenues” shall not include:

- actual bad debt write-offs, except any portion which is subsequently collected which shall be allocated on a *pro rata* basis using Cable Services revenue as a percentage of total subscriber revenues within the City;
- any taxes and/or fees on services furnished by Grantee imposed by any municipality, state or other governmental unit, provided that Franchise Fees and the FCC regulatory fee shall not be regarded as such a tax or fee;
- fees imposed by any municipality, state or other governmental unit on Grantee including but not limited to Public, Educational and Governmental (PEG) Fees;
- launch fees and marketing co-op fees; and,
- unaffiliated third party advertising sales agency fees which are reflected as a deduction from revenues.

(C) To the extent revenues are received by Grantee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a *pro rata* basis when comparing the bundled service price and its components to the sum of the published rate card, except as required by specific federal, state or local law, it is expressly understood that equipment may be subject to inclusion in the bundled price at full rate card value. This calculation shall be applied to every bundled service package containing Cable Service from which Grantee derives revenues in the City. The City reserves its right to review and to challenge Grantee’s calculations.

(D) Grantee reserves the right to change the allocation methodologies set forth in this Section 1.29 in order to meet the standards required by governing accounting principles as promulgated and defined by the Financial Accounting Standards Board (“FASB”), Emerging Issues Task Force (“EITF”) and/or the U.S. Securities and Exchange Commission (“SEC”). Grantee will explain and document the required changes to the City within three (3) months of making such changes, and as part of any audit or review of franchise fee payments, and any such changes shall be subject to 1.29(E) below.

(E) Resolution of any disputes over the classification of revenue should first be attempted by agreement of the Parties, but should no resolution be reached, the Parties agree that reference shall be made to generally accepted accounting principles (“GAAP”) as promulgated and defined by the Financial Accounting Standards Board (“FASB”), Emerging Issues Task Force (“EITF”) and/or the U.S. Securities and Exchange Commission (“SEC”). Notwithstanding the forgoing, the City reserves its right to challenge Grantee’s calculation of Gross Revenues, including the interpretation of GAAP as promulgated and defined by the FASB, EITF and/or the SEC.

1.30 “Headend” means any facility for signal reception and dissemination on a Cable System, including cables, antennas, wires, satellite dishes, monitors, switchers, modulators, processors for Broadcast Signals, equipment for the Interconnection of the Cable System with adjacent Cable Systems and Interconnection of any networks which are part of the Cable System, and all other related equipment and facilities.

1.31 “Leased Access Channel” means any Channel or portion of a Channel commercially available for video programming by Persons other than Grantee, for a fee or charge.

1.32 “Manager” means the City Manager of the City or designee.

1.33 “Person” means any individual, sole proprietorship, partnership, association, or corporation, or any other form of entity or organization.

1.34 “Premium Service” means programming choices (such as movie Channels, pay-per-view programs, or video on demand) offered to Subscribers on a per-Channel, per-program or per-event basis.

1.35 “Residential Subscriber” means any Person who receives Cable Service delivered to Dwelling Units or Multiple Dwelling Units, excluding such Multiple Dwelling Units billed on a bulk-billing basis.

1.36 “Right-of-Way” means each of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and located within the City: streets, roadways, highways, avenues, lanes, alleys, bridges, sidewalks, easements, rights-of-way and similar public property and areas.

1.37 “State” means the State of Colorado.

1.38 “Subscriber” means any Person who or which elects to subscribe to, for any purpose, Cable Service provided by Grantee by means of or in connection with the Cable System and whose premises are physically wired and lawfully Activated to receive Cable Service from Grantee’s Cable System, and who is in compliance with Grantee’s regular and nondiscriminatory terms and conditions for receipt of service.

1.39 “Subscriber Network” means that portion of the Cable System used primarily by Grantee in the transmission of Cable Services to Residential Subscribers.

1.40 “Telecommunications” means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received (as provided in 47 U.S.C. Section 153(43)).

1.41 “Telecommunications Service” means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used (as provided in 47 U.S.C. Section 153(46)).

1.42 “Tier” means a group of Channels for which a single periodic subscription fee is charged.

1.43 “Two-Way” means that the Cable System is capable of providing both Upstream and Downstream transmissions.

1.44 “Upstream” means carrying a transmission to the Headend from remote points on the Cable System or from Interconnection points on the Cable System.

(B) EXHIBITS

The following documents, which are occasionally referred to in this Franchise, are formally incorporated and made a part of this Franchise by this reference:

- 1) ***Exhibit A***, entitled Customer Service Standards.
- 2) ***Exhibit B***, entitled Report Form.

SECTION 2. GRANT OF FRANCHISE

2.1 Grant

(A) The City hereby grants to Grantee a nonexclusive authorization to make reasonable and lawful use of the Rights-of-Way within the City to construct, operate, maintain, reconstruct and rebuild a Cable System for the purpose of providing Cable Service subject to the terms and conditions set forth in this Franchise and in any prior utility or use agreements entered into by Grantee with regard to any individual property. This Franchise shall constitute both a right and an obligation to provide the Cable Services required by, and to fulfill the obligations set forth in, the provisions of this Franchise.

(B) Nothing in this Franchise shall be deemed to waive the lawful requirements of any generally applicable City ordinance existing as of the Effective Date, as defined in subsection 2.3.

(C) Each and every term, provision or condition herein is subject to the provisions of State law, federal law, the Charter of the City, and the ordinances and regulations enacted

pursuant thereto. The Charter and Municipal Code of the City, as the same may be amended from time to time, are hereby expressly incorporated into this Franchise as if fully set out herein by this reference. Notwithstanding the foregoing, the City may not unilaterally alter the material rights and obligations of Grantee under this Franchise.

(D) This Franchise shall not be interpreted to prevent the City from imposing additional lawful conditions, including additional compensation conditions for use of the Rights-of-Way, should Grantee provide service other than Cable Service.

(E) Grantee promises and guarantees, as a condition of exercising the privileges granted by this Franchise, that any Affiliate of the Grantee directly involved in the offering of Cable Service in the Franchise Area, or directly involved in the management or operation of the Cable System in the Franchise Area, will also comply with the obligations of this Franchise.

(F) No rights shall pass to Grantee by implication. Without limiting the foregoing, by way of example and not limitation, this Franchise shall not include or be a substitute for:

(1) Any other permit or authorization required for the privilege of transacting and carrying on a business within the City that may be required by the ordinances and laws of the City;

(2) Any permit, agreement, or authorization required by the City for Right-of-Way users in connection with operations on or in Rights-of-Way or public property including, by way of example and not limitation, street cut permits; or

(3) Any permits or agreements for occupying any other property of the City or private entities to which access is not specifically granted by this Franchise including, without limitation, permits and agreements for placing devices on poles, in conduits or in or on other structures.

(G) This Franchise is intended to convey limited rights and interests only as to those Rights-of-Way in which the City has an actual interest. It is not a warranty of title or interest in any Right-of-Way; it does not provide the Grantee with any interest in any particular location within the Right-of-Way; and it does not confer rights other than as expressly provided in the grant hereof.

(H) This Franchise does not authorize Grantee to provide Telecommunications Service, or to construct, operate or maintain Telecommunications facilities. This Franchise is not a bar to the provision of non-Cable Services, or to the imposition of any lawful conditions on Grantee with respect to Telecommunications, whether similar, different or the same as the conditions specified herein. This Franchise does not relieve Grantee of any obligation it may have to obtain from the City an authorization to provide Telecommunications Services, or to construct, operate or maintain Telecommunications facilities, or relieve Grantee of its obligation to comply with any such authorizations that may be lawfully required.

2.2 Use of Rights-of-Way

(A) Subject to the City's supervision and control, Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the Rights-of-Way within the City such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of a Cable System within the City. Grantee, through this Franchise, is granted extensive and valuable rights to operate its Cable System for profit using the City's Rights-of-Way in compliance with all applicable City construction codes and procedures. As trustee for the public, the City is entitled to fair compensation as provided for in Section 3 of this Franchise to be paid for these valuable rights throughout the term of the Franchise.

(B) Grantee must follow City established nondiscriminatory requirements for placement of Cable System facilities in Rights-of-Way, including the specific location of facilities in the Rights-of-Way, and must in any event install Cable System facilities in a manner that minimizes interference with the use of the Rights-of-Way by others, including others that may be installing communications facilities. Within limits reasonably related to the City's role in protecting public health, safety and welfare, the City may require that Cable System facilities be installed at a particular time, at a specific place or in a particular manner as a condition of access to a particular Right-of-Way; may deny access if Grantee is not willing to comply with City's requirements; and may remove, or require removal of, any facility that is not installed by Grantee in compliance with the requirements established by the City, or which is installed without prior City approval of the time, place or manner of installation, and charge Grantee for all the costs associated with removal; and may require Grantee to cooperate with others to minimize adverse impacts on the Rights-of-Way through joint trenching and other arrangements.

2.3 Effective Date and Term of Franchise

This Franchise and the rights, privileges and authority granted hereunder shall take effect on July 1, 2016 (the "Effective Date"), and shall terminate on June 30, 2026 unless terminated sooner as hereinafter provided.

2.4 Franchise Nonexclusive

This Franchise shall be nonexclusive, and subject to all prior rights, interests, easements or licenses granted by the City to any Person to use any property, Right-of-Way, right, interest or license for any purpose whatsoever, including the right of the City to use same for any purpose it deems fit, including the same or similar purposes allowed Grantee hereunder. The City may at any time grant authorization to use the Rights-of-Way for any purpose not incompatible with Grantee's authority under this Franchise and for such additional franchises for Cable Systems as the City deems appropriate.

2.5 Police Powers

Grantee's rights hereunder are subject to the police powers of the City to adopt and enforce ordinances necessary to the safety, health, and welfare of the public, and Grantee agrees to comply with all laws and ordinances of general applicability enacted, or hereafter enacted, by the City or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The City shall have the right to adopt, from time to time, such ordinances as may be deemed necessary in the exercise of its police power; provided that such hereinafter enacted ordinances shall be reasonable and not materially modify the terms of this Franchise. Any conflict between the provisions of this Franchise and any other present or future lawful exercise of the City's police powers shall be resolved in favor of the latter.

2.6 Competitive Equity

(A) The Grantee acknowledges and agrees that the City reserves the right to grant one (1) or more additional franchises or other similar lawful authorization to provide Cable Services within the City. If the City grants such an additional franchise or other similar lawful authorization containing material terms and conditions that differ from Grantee's material obligations under this Franchise, then the City agrees that the obligations in this Franchise will, pursuant to the process set forth in this Section, be amended to include any material terms or conditions that it imposes upon the new entrant, or provide relief from existing material terms or conditions, so as to insure that the regulatory and financial burdens on each entity are materially equivalent. "Material terms and conditions" include, but are not limited to: Franchise Fees and Gross Revenues; insurance; System build-out requirements; security instruments; Public, Education and Government Access Channels and support; customer service standards; required reports and related record keeping; competitive equity (or its equivalent); audits; dispute resolution; remedies; and notice and opportunity to cure breaches. The parties agree that this provision shall not require a word for word identical franchise or authorization for a competitive entity so long as the regulatory and financial burdens on each entity are materially equivalent. Video programming services (as defined in the Cable Act) delivered over wireless broadband networks are specifically exempted from the requirements of this Section.

(B) The modification process of this Franchise as provided for in Section 2.6 (A) shall only be initiated by written notice by the Grantee to the City regarding specified franchise obligations. Grantee's notice shall address the following: (1) identifying the specific terms or conditions in the competitive cable services franchise which are materially different from Grantee's obligations under this Franchise; (2) identifying the Franchise terms and conditions for which Grantee is seeking amendments; (3) providing text for any proposed Franchise amendments to the City, with a written explanation of why the proposed amendments are necessary and consistent.

(C) Upon receipt of Grantee's written notice as provided in Section 2.6 (B), the City and Grantee agree that they will use best efforts in good faith to negotiate Grantee's proposed Franchise modifications, and that such negotiation will proceed and conclude within a ninety (90) day time period, unless that time period is reduced or extended by mutual agreement of the

parties. If the City and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then the City shall amend this Franchise to include the modifications.

(D) In the alternative to Franchise modification negotiations as provided for in Section 2.6 (C), or if the City and Grantee fail to reach agreement in such negotiations, Grantee may, at its option, elect to replace this Franchise by opting into the franchise or other similar lawful authorization that the City grants to another provider of Cable Services, so as to insure that the regulatory and financial burdens on each entity are equivalent. If Grantee so elects, the City shall immediately commence proceedings to replace this Franchise with the franchise issued to the other Cable Services provider.

(E) Notwithstanding anything contained in this Section 2.6(A) through (D) to the contrary, the City shall not be obligated to amend or replace this Franchise unless the new entrant makes Cable Services available for purchase by Subscribers or customers under its franchise agreement with the City.

(F) Notwithstanding any provision to the contrary, at any time that non-wireless facilities based entity, legally authorized by state or federal law, makes available for purchase by Subscribers or customers, Cable Services or multiple Channels of video programming within the Franchise Area without a franchise or other similar lawful authorization granted by the City, then:

(1) Grantee may negotiate with the City to seek Franchise modifications as per Section 2.6(C) above; or

(a) the term of Grantee's Franchise shall, upon ninety (90) days written notice from Grantee, be shortened so that the Franchise shall be deemed to expire on a date eighteen (18) months from the first day of the month following the date of Grantee's notice; or,

(b) Grantee may assert, at Grantee's option, that this Franchise is rendered "commercially impracticable," and invoke the modification procedures set forth in Section 625 of the Cable Act.

2.7 Familiarity with Franchise

The Grantee acknowledges and warrants by acceptance of the rights, privileges and agreements granted herein, that it has carefully read and fully comprehends the terms and conditions of this Franchise and is willing to and does accept all lawful and reasonable risks of the meaning of the provisions, terms and conditions herein. The Grantee further acknowledges and states that it has fully studied and considered the requirements and provisions of this Franchise, and finds that the same are commercially practicable at this time, and consistent with all local, State and federal laws and regulations currently in effect, including the Cable Act.

2.8 Effect of Acceptance

By accepting the Franchise, the Grantee: (1) acknowledges and accepts the City's legal right to issue and enforce the Franchise; (2) accepts and agrees to comply with each and every provision of this Franchise subject to Applicable Law; and (3) agrees that the Franchise was granted pursuant to processes and procedures consistent with Applicable Law, and that it will not raise any claim to the contrary.

SECTION 3. FRANCHISE FEE PAYMENT AND FINANCIAL CONTROLS

3.1 Franchise Fee

As compensation for the benefits and privileges granted under this Franchise and in consideration of permission to use the City's Rights-of-Way, Grantee shall continue to pay as a Franchise Fee to the City, throughout the duration of and consistent with this Franchise, an amount equal to five percent (5%) of Grantee's Gross Revenues.

3.2 Payments

Grantee's Franchise Fee payments to the City shall be computed quarterly for the preceding calendar quarter ending March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than thirty (30) days after said dates.

3.3 Acceptance of Payment and Recomputation

No acceptance of any payment shall be construed as an accord by the City that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim the City may have for further or additional sums payable or for the performance of any other obligation of Grantee.

3.4 Quarterly Franchise Fee Reports

Each payment shall be accompanied by a written report to the City, or concurrently sent under separate cover, verified by an authorized representative of Grantee, containing an accurate statement in summarized form, as well as in detail, of Grantee's Gross Revenues and the computation of the payment amount. Such reports shall detail all Gross Revenues of the Cable System.

3.5 Annual Franchise Fee Reports

Grantee shall, within sixty (60) days after the end of each year, furnish to the City a statement stating the total amount of Gross Revenues for the year and all payments, deductions and computations for the period.

3.6 Audits

On an annual basis, upon thirty (30) days prior written notice, the City, including the City's Auditor or his/her authorized representative, shall have the right to conduct an independent audit/review of Grantee's records reasonably related to the administration or enforcement of this Franchise. Pursuant to subsection 1.29, as part of the Franchise Fee audit/review the City shall specifically have the right to review relevant data related to the allocation of revenue to Cable Services in the event Grantee offers Cable Services bundled with non-Cable Services. For purposes of this section, "relevant data" shall include, at a minimum, Grantee's records, produced and maintained in the ordinary course of business, showing the subscriber counts per package and the revenue allocation per package for each package that was available for City subscribers during the audit period. To the extent that the City does not believe that the relevant data supplied is sufficient for the City to complete its audit/review, the City may require other relevant data. For purposes of this Section 3.6, the "other relevant data" shall generally mean all: (1) billing reports, (2) financial reports (such as General Ledgers) and (3) sample customer bills used by Grantee to determine Gross Revenues for the Franchise Area that would allow the City to recompute the Gross Revenue determination. If the audit/review shows that Franchise Fee payments have been underpaid by four percent (4%) or more (or such other contract underpayment threshold as set forth in a generally applicable and enforceable regulation or policy of the City related to audits), Grantee shall pay the total cost of the audit/review, such cost not to exceed three thousand dollars (\$3,000) for each year of the audit period. The City's right to audit/review and the Grantee's obligation to retain records related to this subsection shall expire three (3) years after each Franchise Fee payment has been made to the City.

3.7 Late Payments

In the event any payment due quarterly is not received within thirty (30) days from the end of the calendar quarter, Grantee shall pay interest on the amount due (at the prime rate as listed in the Wall Street Journal on the date the payment was due), compounded daily, calculated from the date the payment was originally due until the date the City receives the payment.

3.8 Underpayments

If a net Franchise Fee underpayment is discovered as the result of an audit, Grantee shall pay interest at the rate of the eight percent (8%) per annum, compounded quarterly, calculated from the date each portion of the underpayment was originally due until the date Grantee remits the underpayment to the City.

3.9 Alternative Compensation

In the event the obligation of Grantee to compensate the City through Franchise Fee payments is lawfully suspended or eliminated, in whole or part, then Grantee shall pay to the City compensation equivalent to the compensation paid to the City by other similarly situated users of the City's Rights-of-Way for Grantee's use of the City's Rights-of-Way, provided that

in no event shall such payments exceed the equivalent of five percent (5%) of Grantee's Gross Revenues (subject to the other provisions contained in this Franchise), to the extent consistent with Applicable Law.

3.10 Maximum Legal Compensation

The parties acknowledge that, at present, applicable federal law limits the City to collection of a maximum permissible Franchise Fee of five percent (5%) of Gross Revenues. In the event that at any time during the duration of this Franchise, the City is authorized to collect an amount in excess of five percent (5%) of Gross Revenues, then this Franchise may be amended unilaterally by the City to provide that such excess amount shall be added to the Franchise Fee payments to be paid by Grantee to the City hereunder, provided that Grantee has received at least ninety (90) days prior written notice from the City of such amendment, so long as all cable operators in the City are paying the same Franchise Fee amount.

3.11 Additional Commitments Not Franchise Fee Payments

No term or condition in this Franchise, including the funding required by Section 9, shall in any way modify or affect Grantee's obligation to pay Franchise Fees. Although the total sum of Franchise Fee payments and additional commitments set forth elsewhere in this Franchise may total more than five percent (5%) of Grantee's Gross Revenues in any twelve (12) month period, Grantee agrees that the additional commitments herein are not Franchise Fees as defined under any federal law, nor are they to be offset or credited against any Franchise Fee payments due to the City, nor do they represent an increase in Franchise Fees.

3.12 Tax Liability

The Franchise Fees shall be in addition to any and all taxes or other levies or assessments which are now or hereafter required to be paid by businesses in general by any law of the City, the State or the United States including, without limitation, sales, use and other taxes, business license fees or other payments. Payment of the Franchise Fees under this Franchise shall not exempt Grantee from the payment of any other license fee, permit fee, tax or charge on the business, occupation, property or income of Grantee that may be lawfully imposed by the City. Any other license fees, taxes or charges shall be of general applicability in nature and shall not be levied against Grantee solely because of its status as a Cable Operator, or against Subscribers, solely because of their status as such.

3.13 Financial Records

Grantee agrees to meet with a representative of the City upon request to review Grantee's methodology of record-keeping, financial reporting, the computing of Franchise Fee obligations and other procedures, the understanding of which the City deems necessary for reviewing reports and records.

3.14 Payment on Termination

If this Franchise terminates for any reason, the Grantee shall file with the City within ninety (90) calendar days of the date of the termination, a financial statement, certified by an independent certified public accountant, showing the Gross Revenues received by the Grantee since the end of the previous fiscal year. The City reserves the right to satisfy any remaining financial obligations of the Grantee to the City by utilizing the funds available in the letter of credit or other security provided by the Grantee.

SECTION 4. ADMINISTRATION AND REGULATION

4.1 Authority

(A) The City shall be vested with the power and right to reasonably regulate the exercise of the privileges permitted by this Franchise in the public interest, or to delegate that power and right, or any part thereof, to the extent permitted under federal, State and local law, to any agent including, but not limited to, the CCUA, in its sole discretion.

(B) Nothing in this Franchise shall limit nor expand the City's right of eminent domain under State law.

4.2 Rates and Charges

All of Grantee's rates and charges related to or regarding Cable Services shall be subject to regulation by the City to the full extent authorized by applicable federal, State and local laws.

4.3 Rate Discrimination

All of Grantee's rates and charges shall be published (in the form of a publicly-available rate card) and be non-discriminatory as to all Persons and organizations of similar classes, under similar circumstances and conditions. Grantee shall apply its rates in accordance with Applicable Law, with identical rates and charges for all Subscribers receiving identical Cable Services, without regard to race, color, ethnic or national origin, religion, age, sex, sexual orientation, marital, military or economic status, or physical or mental disability or geographic location within the City. Grantee shall offer the same Cable Services to all Residential Subscribers at identical rates to the extent required by Applicable Law and to Multiple Dwelling Unit Subscribers to the extent authorized by FCC rules or applicable federal law. Grantee shall permit Subscribers to make any lawful in-residence connections the Subscriber chooses without additional charge nor penalizing the Subscriber therefor. However, if any in-home connection requires service from Grantee due to signal quality, signal leakage or other factors, caused by improper installation of such in-home wiring or faulty materials of such in-home wiring, the Subscriber may be charged reasonable service charges by Grantee. Nothing herein shall be construed to prohibit:

(A) The temporary reduction or waiving of rates or charges in conjunction with valid promotional campaigns; or,

(B) The offering of reasonable discounts to senior citizens or economically disadvantaged citizens; or,

(C) The offering of rate discounts for Cable Service; or,

(D) The Grantee from establishing different and nondiscriminatory rates and charges and classes of service for Commercial Subscribers, as allowable by federal law and regulations.

4.4 Filing of Rates and Charges

(A) Throughout the term of this Franchise, Grantee shall maintain on file with the City a complete schedule of applicable rates and charges for Cable Services provided under this Franchise. Nothing in this subsection shall be construed to require Grantee to file rates and charges under temporary reductions or waivers of rates and charges in conjunction with promotional campaigns.

(B) Upon request of the City, Grantee shall provide a complete schedule of current rates and charges for any and all Leased Access Channels, or portions of such Channels, provided by Grantee. The schedule shall include a description of the price, terms, and conditions established by Grantee for Leased Access Channels.

4.5 Cross Subsidization

Grantee shall comply with all Applicable Laws regarding rates for Cable Services and all Applicable Laws covering issues of cross subsidization.

4.6 Reserved Authority

Both Grantee and the City reserve all rights they may have under the Cable Act and any other relevant provisions of federal, State, or local law.

4.7 Time Limits Strictly Construed

Whenever this Franchise sets forth a time for any act to be performed by Grantee, such time shall be deemed to be of the essence, and any failure of Grantee to perform within the allotted time may be considered a breach of this Franchise, and sufficient grounds for the City to invoke any relevant remedy.

4.8 Franchise Amendment Procedure

Either party may at any time seek an amendment of this Franchise by so notifying the other party in writing. Within thirty (30) days of receipt of notice, the City and Grantee shall

meet to discuss the proposed amendment(s). If the parties reach a mutual agreement upon the suggested amendment(s), such amendment(s) shall be submitted to the City Council for its approval. If so approved by the City Council and the Grantee, then such amendment(s) shall be deemed part of this Franchise. If mutual agreement is not reached, there shall be no amendment.

4.9 Performance Evaluations

(A) The City may hold performance evaluation sessions upon ninety (90) days written notice, provided that such evaluation sessions shall be held no more frequently than once every two (2) years. All such evaluation sessions shall be conducted by the City.

(B) Special evaluation sessions may be held at any time by the City during the term of this Franchise, upon ninety (90) days written notice to Grantee.

(C) All regular evaluation sessions shall be open to the public and announced at least two (2) weeks in advance in any manner within the discretion of the City. Grantee shall also include with or on the Subscriber billing statements for the billing period immediately preceding the commencement of the session, written notification of the date, time, and place of the regular performance evaluation session, and any special evaluation session as required by the City, provided Grantee receives appropriate advance notice.

(D) Topics which may be discussed at any evaluation session may include, but are not limited to, Cable Service rate structures; Franchise Fee payments; liquidated damages; free or discounted Cable Services; application of new technologies; Cable System performance; Cable Services provided; programming offered; Subscriber complaints; privacy; amendments to this Franchise; judicial and FCC rulings; line extension policies; and the City or Grantee's rules; provided that nothing in this subsection shall be construed as requiring the renegotiation of this Franchise.

(E) During evaluations under this subsection, Grantee shall fully cooperate with the City and shall provide such information and documents as the City may reasonably require to perform the evaluation.

4.10 Late Fees

(A) For purposes of this subsection, any assessment, charge, cost, fee or sum, however characterized, that the Grantee imposes upon a Subscriber solely for late payment of a bill is a late fee and shall be applied in accordance with the City's Customer Service Standards, as the same may be amended from time to time by the City Council acting by ordinance or resolution, or as the same may be superseded by legislation or final court order.

(B) Nothing in this subsection shall be deemed to create, limit or otherwise affect the ability of the Grantee, if any, to impose other assessments, charges, fees or sums other than those permitted by this subsection, for the Grantee's other services or activities it performs in compliance with Applicable Law, including FCC law, rule or regulation.

(C) The Grantee's late fee and disconnection policies and practices shall be nondiscriminatory and such policies and practices, and any fees imposed pursuant to this subsection, shall apply equally in all parts of the City without regard to the neighborhood or income level of the Subscriber.

4.11 Force Majeure

In the event Grantee is prevented or delayed in the performance of any of its obligations under this Franchise by reason beyond the control of Grantee, Grantee shall have a reasonable time, under the circumstances, to perform the affected obligation under this Franchise or to procure a substitute for such obligation which is satisfactory to the City. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, work stoppages or labor disputes, power outages, telephone network outages, and severe or unusual weather conditions which have a direct and substantial impact on the Grantee's ability to provide Cable Services in the City and which was not caused and could not have been avoided by the Grantee which used its best efforts in its operations to avoid such results.

If Grantee believes that a reason beyond its control has prevented or delayed its compliance with the terms of this Franchise, Grantee shall provide documentation as reasonably required by the City to substantiate the Grantee's claim. If Grantee has not yet cured the deficiency, Grantee shall also provide the City with its proposed plan for remediation, including the timing for such cure.

SECTION 5. FINANCIAL AND INSURANCE REQUIREMENTS

5.1 Indemnification

(A) General Indemnification. Grantee shall indemnify, defend and hold the City, its officers, officials, boards, commissions, agents and employees, harmless from any action or claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses, arising from any casualty or accident to Person or property, including, without limitation, copyright infringement, defamation, and all other damages in any way arising out of, or by reason of, any construction, excavation, operation, maintenance, reconstruction, or any other act done under this Franchise, by or for Grantee, its agents, or its employees, or by reason of any neglect or omission of Grantee. Grantee shall consult and cooperate with the City while conducting its defense of the City.

(B) Indemnification for Relocation. Grantee shall indemnify the City for any damages, claims, additional costs or reasonable expenses assessed against, or payable by, the City arising out of, or resulting from, directly or indirectly, Grantee's failure to remove, adjust or relocate any of its facilities in the Rights-of-Way in a timely manner in accordance with any relocation required by the City.

(C) Additional Circumstances. Grantee shall also indemnify, defend and hold the City harmless for any claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and reasonable attorneys' fees or reasonable expenses in any way arising out of:

(1) The lawful actions of the City in granting this Franchise to the extent such actions are consistent with this Franchise and Applicable Law.

(2) Damages arising out of any failure by Grantee to secure consents from the owners, authorized distributors, or licensees/licensors of programs to be delivered by the Cable System, whether or not any act or omission complained of is authorized, allowed or prohibited by this Franchise.

(D) Procedures and Defense. If a claim or action arises, the City or any other indemnified party shall promptly tender the defense of the claim to Grantee, which defense shall be at Grantee's expense. The City may participate in the defense of a claim, but if Grantee provides a defense at Grantee's expense then Grantee shall not be liable for any attorneys' fees, expenses or other costs that City may incur if it chooses to participate in the defense of a claim, unless and until separate representation as described below in Paragraph 5.1(F) is required. In that event the provisions of Paragraph 5.1(F) shall govern Grantee's responsibility for City's/County's/Town's attorney's fees, expenses or other costs. In any event, Grantee may not agree to any settlement of claims affecting the City without the City's approval.

(E) Non-waiver. The fact that Grantee carries out any activities under this Franchise through independent contractors shall not constitute an avoidance of or defense to Grantee's duty of defense and indemnification under this subsection.

(F) Expenses. If separate representation to fully protect the interests of both parties is or becomes necessary, such as a conflict of interest between the City and the counsel selected by Grantee to represent the City, Grantee shall pay, from the date such separate representation is required forward, all reasonable expenses incurred by the City in defending itself with regard to any action, suit or proceeding indemnified by Grantee. Provided, however, that in the event that such separate representation is or becomes necessary, and City desires to hire counsel or any other outside experts or consultants and desires Grantee to pay those expenses, then City shall be required to obtain Grantee's consent to the engagement of such counsel, experts or consultants, such consent not to be unreasonably withheld. The City's expenses shall include all reasonable out-of-pocket expenses, such as consultants' fees, and shall also include the reasonable value of any services rendered by the City Attorney or his/her assistants or any employees of the City or its agents but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the City by Grantee.

5.2 Insurance

(A) Grantee shall maintain in full force and effect at its own cost and expense each of the following policies of insurance:

(1) Commercial General Liability insurance with limits of no less than one million dollars (\$1,000,000.00) per occurrence and one million dollars (\$1,000,000.00) general aggregate. Coverage shall be at least as broad as that provided by ISO CG 00 01 1/96 or its equivalent and include severability of interests. Such insurance shall name the City, its officers, officials and employees as additional insureds per ISO CG 2026 or its equivalent. There shall be a waiver of subrogation and rights of recovery against the City, its officers, officials and employees. Coverage shall apply as to claims between insureds on the policy, if applicable.

(2) Commercial Automobile Liability insurance with minimum combined single limits of one million dollars (\$1,000,000.00) each occurrence with respect to each of Grantee's owned, hired and non-owned vehicles assigned to or used in the operation of the Cable System in the City. The policy shall contain a severability of interests provision.

(B) The insurance shall not be canceled or materially changed so as to be out of compliance with these requirements without thirty (30) days' written notice first provided to the City, via certified mail, and ten (10) days' notice for nonpayment of premium. If the insurance is canceled or materially altered so as to be out of compliance with the requirements of this subsection within the term of this Franchise, Grantee shall provide a replacement policy. Grantee agrees to maintain continuous uninterrupted insurance coverage, in at least the amounts required, for the duration of this Franchise and, in the case of the Commercial General Liability, for at least one (1) year after expiration of this Franchise.

5.3 Deductibles / Certificate of Insurance

Any deductible of the policies shall not in any way limit Grantee's liability to the City.

(A) Endorsements.

(1) All policies shall contain, or shall be endorsed so that:

(a) The City, its officers, officials, boards, commissions, employees and agents are to be covered as, and have the rights of, additional insureds with respect to liability arising out of activities performed by, or on behalf of, Grantee under this Franchise or Applicable Law, or in the construction, operation or repair, or ownership of the Cable System;

(b) Grantee's insurance coverage shall be primary insurance with respect to the City, its officers, officials, boards, commissions, employees and agents. Any insurance or self-insurance maintained by the City, its officers, officials, boards, commissions, employees and agents shall be in excess of the Grantee's insurance and shall not contribute to it; and

(c) Grantee's insurance shall apply separately to each insured against whom a claim is made or lawsuit is brought, except with respect to the limits of the insurer's liability.

(B) Acceptability of Insurers. The insurance obtained by Grantee shall be placed with insurers with a Best's rating of no less than "A VII."

(C) Verification of Coverage. The Grantee shall furnish the City with certificates of insurance and endorsements or a copy of the page of the policy reflecting blanket additional insured status. The certificates and endorsements for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on standard forms or such forms as are consistent with standard industry practices.

(D) Self-Insurance In the alternative to providing a certificate of insurance to the City certifying insurance coverage as required above, Grantee may provide self-insurance in the same amount and level of protection for Grantee and City, its officers, agents and employees as otherwise required under this Section. The adequacy of self-insurance shall be subject to the periodic review and approval of the City.

5.4 Letter of Credit

(A) If there is a claim by the City of an uncured breach by Grantee of a material provision of this Franchise or pattern of repeated violations of any provision(s) of this Franchise, then the City may require and Grantee shall establish and provide within thirty (30) days from receiving notice from the City, to the City as security for the faithful performance by Grantee of all of the provisions of this Franchise, a letter of credit from a financial institution satisfactory to the City in the amount of fifty thousand dollars (\$50,000.00).

(B) In the event that Grantee establishes a letter of credit pursuant to the procedures of this Section, then the letter of credit shall be maintained at fifty thousand dollars (\$50,000.00) until the allegations of the uncured breach have been resolved.

(C) As an alternative to the provision of a Letter of Credit to the City as set forth in Subsections 5.4 (A) and (B) above, if the City is a member of CCUA, and if Grantee provides a Letter of Credit to CCUA in an amount agreed to between Grantee and CCUA for the benefit of its members, in order to collectively address claims reference in 5.4 (A), Grantee shall not be required to provide a separate Letter of Credit to the City.

(D) After completion of the procedures set forth in Section 13.1 or other applicable provisions of this Franchise, the letter of credit may be drawn upon by the City for purposes including, but not limited to, the following:

(1) Failure of Grantee to pay the City sums due under the terms of this Franchise;

(2) Reimbursement of costs borne by the City to correct Franchise violations not corrected by Grantee;

(3) Monetary remedies or damages assessed against Grantee due to default or breach of Franchise requirements; and,

(4) Failure to comply with the Customer Service Standards of the City, as the same may be amended from time to time by the City Council acting by ordinance or resolution.

(E) The City shall give Grantee written notice of any withdrawal under this subsection upon such withdrawal. Within seven (7) days following receipt of such notice, Grantee shall restore the letter of credit to the amount required under this Franchise.

(F) Grantee shall have the right to appeal to the City Council for reimbursement in the event Grantee believes that the letter of credit was drawn upon improperly. Grantee shall also have the right of judicial appeal if Grantee believes the letter of credit has not been properly drawn upon in accordance with this Franchise. Any funds the City erroneously or wrongfully withdraws from the letter of credit shall be returned to Grantee with interest, from the date of withdrawal at a rate equal to the prime rate of interest as quoted in the Wall Street Journal.

SECTION 6. CUSTOMER SERVICE

6.1 Customer Service Standards

Grantee shall comply with Customer Service Standards of the City, as the same may be amended from time to time by the City Council in its sole discretion, acting by ordinance. Any requirement in Customer Service Standards for a “local” telephone number may be met by the provision of a toll-free number. The Customer Services Standards in effect as of the Effective Date of this Franchise are attached as Exhibit A. Grantee reserves the right to challenge any customer service ordinance which it believes is inconsistent with its contractual rights under this Franchise.

6.2 Subscriber Privacy

Grantee shall fully comply with any provisions regarding the privacy rights of Subscribers contained in federal, State, or local law.

6.3 Subscriber Contracts

Grantee shall not enter into a contract with any Subscriber which is in any way inconsistent with the terms of this Franchise, or any Exhibit hereto, or the requirements of any applicable Customer Service Standard. Upon request, Grantee will provide to the City a sample of the Subscriber contract or service agreement then in use.

6.4 Advance Notice to City

The Grantee shall use reasonable efforts to furnish information provided to Subscribers or the media in the normal course of business to the City in advance.

6.5 Identification of Local Franchise Authority on Subscriber Bills

Grantee shall place the City's phone number on its Subscriber bills to identify where a Subscriber may call to address escalated complaints.

SECTION 7. REPORTS AND RECORDS

7.1 Open Records

Grantee shall manage all of its operations in accordance with a policy of keeping its documents and records open and accessible to the City. The City, including the City's Auditor or his/her authorized representative, shall have access to, and the right to inspect, any books and records of Grantee, its parent corporations and Affiliates which are reasonably related to the administration or enforcement of the terms of this Franchise. Grantee shall not deny the City access to any of Grantee's records on the basis that Grantee's records are under the control of any parent corporation, Affiliate or a third party. The City may, in writing, request copies of any such records or books and Grantee shall provide such copies within thirty (30) days of the transmittal of such request. One (1) copy of all reports and records required under this or any other subsection shall be furnished to the City, at the sole expense of Grantee. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then Grantee may request, in writing within ten (10) days, that the City inspect them at Grantee's local offices. If any books or records of Grantee are not kept in a local office and not made available in copies to the City upon written request as set forth above, and if the City determines that an examination of such records is necessary or appropriate for the performance of any of the City's duties, administration or enforcement of this Franchise, then all reasonable travel and related expenses incurred in making such examination shall be paid by Grantee.

7.2 Confidentiality

The City agrees to treat as confidential any books or records that constitute proprietary or confidential information under federal or State law, to the extent Grantee makes the City aware of such confidentiality. Grantee shall be responsible for clearly and conspicuously stamping the word "Confidential" on each page that contains confidential or proprietary information, and shall provide a brief written explanation as to why such information is confidential under State or federal law. If the City believes it must release any such confidential books and records in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. If the City receives a demand from any Person for disclosure of any information designated by Grantee as confidential, the City shall, so far as consistent with Applicable Law, advise Grantee and provide Grantee with a copy of any written request by the party demanding access to such information within a

reasonable time. Until otherwise ordered by a court or agency of competent jurisdiction, the City agrees that, to the extent permitted by State and federal law, it shall deny access to any of Grantee's books and records marked confidential as set forth above to any Person. Grantee shall reimburse the City for all reasonable costs and attorneys fees incurred in any legal proceedings pursued under this Section.

7.3 Records Required

(A) Grantee shall at all times maintain, and shall furnish to the City upon thirty (30) days written request and subject to Applicable Law:

(1) A complete set of maps showing the exact location of all Cable System equipment and facilities in the Right-of-Way, but excluding detail on proprietary electronics contained therein and Subscriber drops. As-built maps including proprietary electronics shall be available at Grantee's offices for inspection by the City's authorized representative(s) or agent(s) and made available to such during the course of technical inspections as reasonably conducted by the City. These maps shall be certified as accurate by an appropriate representative of the Grantee;

(2) A copy of all FCC filings on behalf of Grantee, its parent corporations or Affiliates which relate to the operation of the Cable System in the City;

(3) Current Subscriber Records and information;

(4) A log of Cable Services added or dropped, Channel changes, number of Subscribers added or terminated, all construction activity, and total homes passed for the previous twelve (12) months; and

(5) A list of Cable Services, rates and Channel line-ups.

(B) Subject to subsection 7.2, all information furnished to the City is public information, and shall be treated as such, except for information involving the privacy rights of individual Subscribers.

7.4 Annual Reports

Within sixty (60) days of the City's written request, Grantee shall submit to the City a written report, in a form acceptable to the City, which shall include, but not necessarily be limited to, the following information for the City:

(A) A Gross Revenue statement, as required by subsection 3.5 of this Franchise;

(B) A summary of the previous year's activities in the development of the Cable System, including, but not limited to, Cable Services begun or discontinued during the reporting year, and the number of Subscribers for each class of Cable Service (*i.e.*, Basic, Digital Starter,

and Premium);

(C) The number of homes passed, beginning and ending Cable System plant miles, any services added or dropped, and any technological changes occurring in the Cable System;

(D) A statement of planned construction, if any, for the next year; and,

(E) A copy of the most recent annual report Grantee filed with the SEC or other governing body.

The parties agree that the City's request for these annual reports shall remain effective, and need only be made once. Such a request shall require the Grantee to continue to provide the reports annually, until further written notice from the City to the contrary.

7.5 Copies of Federal and State Reports

Within thirty (30) days of a written request, Grantee shall submit to the City copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by Grantee or its parent corporation(s), to any federal, State or local courts, regulatory agencies and other government bodies if such documents directly relate to the operations of Grantee's Cable System within the City. Grantee shall not claim confidential, privileged or proprietary rights to such documents unless under federal, State, or local law such documents have been determined to be confidential by a court of competent jurisdiction, or a federal or State agency.

7.6 Complaint File and Reports

(A) Grantee shall keep an accurate and comprehensive file of any complaints regarding the Cable System, in a manner consistent with the privacy rights of Subscribers, and Grantee's actions in response to those complaints. These files shall remain available for viewing to the City during normal business hours at Grantee's local business office.

(B) Within thirty (30) days of a written request, Grantee shall provide the City a quarterly executive summary in the form attached hereto as Exhibit B, which shall include the following information from the preceding quarter:

- (1) A summary of service calls, identifying the number and nature of the requests and their disposition;
- (2) A log of all service interruptions;
- (3) A summary of customer complaints referred by the City to Grantee; and,
- (4) Such other information as reasonably requested by the City.

The parties agree that the City's request for these summary reports shall remain effective, and need only be made once. Such a request shall require the Grantee to continue to provide the reports quarterly, until further written notice from the City to the contrary.

7.7 Failure to Report

The failure or neglect of Grantee to file any of the reports or filings required under this Franchise or such other reports as the City may reasonably request (not including clerical errors or errors made in good faith), may, at the City's option, be deemed a breach of this Franchise.

7.8 False Statements

Any false or misleading statement or representation in any report required by this Franchise (not including clerical errors or errors made in good faith) may be deemed a material breach of this Franchise and may subject Grantee to all remedies, legal or equitable, which are available to the City under this Franchise or otherwise.

SECTION 8. PROGRAMMING

8.1 Broad Programming Categories

Grantee shall provide or enable the provision of at least the following initial broad categories of programming to the extent such categories are reasonably available:

- (A) Educational programming;
- (B) Colorado news, weather & information;
- (C) Sports;
- (D) General entertainment (including movies);
- (E) Children/family-oriented;
- (F) Arts, culture and performing arts;
- (G) Foreign language;
- (H) Science/documentary;
- (I) National news, weather and information; and,
- (J) Public, Educational and Government Access, to the extent required by this Franchise.

8.2 Deletion or Reduction of Broad Programming Categories

(A) Grantee shall not delete or so limit as to effectively delete any broad category of programming within its control without the prior written consent of the City.

(B) In the event of a modification proceeding under federal law, the mix and quality of Cable Services provided by Grantee on the Effective Date of this Franchise shall be deemed the mix and quality of Cable Services required under this Franchise throughout its term.

8.3 Obscenity

Grantee shall not transmit, or permit to be transmitted over any Channel subject to its editorial control, any programming which is obscene under, or violates any provision of, Applicable Law relating to obscenity, and is not protected by the Constitution of the United States. Grantee shall be deemed to have transmitted or permitted a transmission of obscene programming only if a court of competent jurisdiction has found that any of Grantee's officers or employees or agents have permitted programming which is obscene under, or violative of, any provision of Applicable Law relating to obscenity, and is otherwise not protected by the Constitution of the United States, to be transmitted over any Channel subject to Grantee's editorial control. Grantee shall comply with all relevant provisions of federal law relating to obscenity.

8.4 Parental Control Device

Upon request by any Subscriber, Grantee shall make available a parental control or lockout device, traps or filters to enable a Subscriber to control access to both the audio and video portions of any or all Channels. Grantee shall inform its Subscribers of the availability of the lockout device at the time of their initial subscription and periodically thereafter. Any device offered shall be at a rate, if any, in compliance with Applicable Law.

8.5 Continuity of Service Mandatory

(A) It shall be the right of all Subscribers to continue to receive Cable Service from Grantee insofar as their financial and other obligations to Grantee are honored. The Grantee shall act so as to ensure that all Subscribers receive continuous, uninterrupted Cable Service regardless of the circumstances. For the purposes of this subsection, "uninterrupted" does not include short-term outages of the Cable System for maintenance or testing.

(B) In the event of a change of grantee, or in the event a new Cable Operator acquires the Cable System in accordance with this Franchise, Grantee shall cooperate with the City, new franchisee or Cable Operator in maintaining continuity of Cable Service to all Subscribers. During any transition period, Grantee shall be entitled to the revenues for any period during which it operates the Cable System, and shall be entitled to reasonable costs for its services when it no longer operates the Cable System.

(C) In the event Grantee fails to operate the Cable System for four (4) consecutive days without prior approval of the Manager, or without just cause, the City may, at its option, operate the Cable System itself or designate another Cable Operator until such time as Grantee restores service under conditions acceptable to the City or a permanent Cable Operator is selected. If the City is required to fulfill this obligation for Grantee, Grantee shall reimburse the City for all reasonable costs or damages that are the result of Grantee's failure to perform.

8.6 Services for the Disabled

Grantee shall comply with the Americans with Disabilities Act and any amendments thereto.

SECTION 9. ACCESS

9.1 Designated Access Providers

(A) The City shall have the sole and exclusive responsibility for identifying the Designated Access Providers, including itself for Access purposes, to control and manage the use of any or all Access Facilities provided by Grantee under this Franchise. As used in this Section, such "Access Facilities" includes the Channels, services, facilities, equipment, technical components and/or financial support provided under this Franchise, which is used or useable by and for Public Access, Educational Access, and Government Access ("PEG" or "PEG Access").

(B) Grantee shall cooperate with City in City's efforts to provide Access programming, but will not be responsible or liable for any damages resulting from a claim in connection with the programming placed on the Access Channels by the Designated Access Provider.

9.2 Channel Capacity and Use

(A) Grantee shall make available to City up to five (5) Downstream Channels for PEG use as provided for in this Section.

(B) Grantee shall have the right to temporarily use any Channel, or portion thereof, which is allocated under this Section for PEG use, within sixty (60) days after a written request for such use is submitted to City, if such Channel is not "fully utilized" as defined herein. A Channel shall be considered fully utilized if substantially unduplicated programming is delivered over it more than an average of 38 hours per week over a six (6) month period. Programming that is repeated on an Access Channel up to two times per day shall be considered "unduplicated programming." Character-generated programming shall be included for purposes of this subsection, but may be counted towards the total average hours only with respect to three (3) Channels provided to City. If a Channel allocated for PEG use will be used by Grantee in accordance with the terms of this subsection, the institution to which the Channel has been allocated shall have the right to require the return of the Channel or portion thereof. City shall request return of such Channel space by delivering written notice to Grantee stating that the

institution is prepared to fully utilize the Channel, or portion thereof, in accordance with this subsection. In such event, the Channel or portion thereof shall be returned to such institution within sixty (60) days after receipt by Grantee of such written notice.

(C) Standard Definition (“SD”) Digital Access Channels.

(1) Grantee shall provide three (3) Activated Downstream Channels for PEG Access use in a standard definition (“SD”) digital format in Grantee’s Basic Service (“SD Access Channel”). Grantee shall carry all components of the SD Access Channel Signals provided by a Designated Access Provider including, but not limited to, closed captioning, stereo audio and other elements associated with the Programming. A Designated Access Provider shall be responsible for providing the SD Access Channel Signal in an SD format to the demarcation point at the designated point of origination for the SD Access Channel. Grantee shall transport and distribute the SD Access Channel signal on its Cable System and shall not unreasonably discriminate against SD Access Channels with respect to accessibility, functionality and to the application of any applicable Federal Communications Commission Rules & Regulations, including without limitation Subpart K Channel signal standards.

(2) With respect to signal quality, Grantee shall not be required to carry a SD Access Channel in a higher quality format than that of the SD Access Channel signal delivered to Grantee, but Grantee shall distribute the SD Access Channel signal without degradation. Upon reasonable written request by a Designated Access Provider, Grantee shall verify signal delivery to Subscribers with the Designated Access Provider, consistent with the requirements of this Section 9.2(C).

(3) Grantee shall be responsible for costs associated with the transmission of SD Access signals on its side of the demarcation point which for the purposes of this Section 9.2 (C)(3), shall mean up to and including the modulator where the City signal is converted into a format to be transmitted over a fiber connection to Grantee. The City or Designated Access Provider shall be responsible for costs associated with SD Access signal transmission on its side of the demarcation point.

(4) SD Access Channels may require Subscribers to buy or lease special equipment, available to all Subscribers, and subscribe to those tiers of Cable Service, upon which SD channels are made available. Grantee is not required to provide free SD equipment to Subscribers, including complimentary government and educational accounts, nor modify its equipment or pricing policies in any manner.

(D) High Definition (“HD”) Digital Access Channels.

(1) After the Effective Date, and with at least one hundred twenty (120) days of written notice to Grantee, the City may request, and the Grantee shall activate and provide on its Cable System, one (1) HD Access Channel for which the City may provide Access Channel signals in HD format to the demarcation point at the designated point of origination for the

Access Channel. After the second anniversary of the Effective Date, upon one hundred twenty (120) days written notice to Grantee, the City may request, and Grantee shall provide on its Cable System, one (1) additional Activated Downstream Channel for PEG Access use in a High Definition (“HD”) digital format (“HD Access Channel or Channels”). Activation of HD Access Channels shall only occur after the following conditions are satisfied:

(a) The City shall, in its written notice to Grantee as provided for in this Section, confirm that it or its Designated Access Provider has the capabilities to produce, has been producing and will produce programming in an HD format for the newly activated HD Access Channel(s); and,

(b) There will be a minimum of five (5) hours per-day, five days per-week of HD PEG programming available for each HD Access Channel.

(2) The City shall be responsible for providing the HD Access Channel signal in an HD digital format to the demarcation point at the designated point of origination for the HD Access Channel. For purposes of this Franchise, an HD signal refers to a television signal delivering picture resolution of either 720p or 1080i, or such other resolution in this same range that Grantee utilizes for other similar non-sport, non-movie programming channels on the Cable System, whichever is greater.

(3) Grantee shall transport and distribute the HD Access Channel signal on its Cable System and shall not unreasonably discriminate against HD Access Channels with respect to accessibility, functionality and to the application of any applicable Federal Communications Commission Rules & Regulations, including without limitation Subpart K Channel signal standards. With respect to signal quality, Grantee shall not be required to carry a HD Access Channel in a higher quality format than that of the HD Access Channel signal delivered to Grantee, but Grantee shall distribute the HD Access Channel signal without degradation. Grantee shall carry all components of the HD Access Channel signals provided by the Designated Access Provider including, but not limited to, closed captioning, stereo audio and other elements associated with the Programming. Upon reasonable written request by the City, Grantee shall verify signal delivery to Subscribers with the City, consistent with the requirements of this Section 9.2(D).

(4) HD Access Channels may require Subscribers to buy or lease special equipment, available to all Subscribers, and subscribe to those tiers of Cable Service, upon which HD channels are made available. Grantee is not required to provide free HD equipment to Subscribers, including complimentary government and educational accounts, nor modify its equipment or pricing policies in any manner.

(5) The City or any Designated Access Provider is responsible for acquiring all equipment necessary to produce programming in HD.

(6) Grantee shall cooperate with the City to procure and provide, at City's cost, all necessary transmission equipment from the Designated Access Provider channel origination point, at Grantee's headend and through Grantee's distribution system, in order to deliver the HD Access Channels. The City shall be responsible for the costs of all transmission equipment, including HD modulator and demodulator, and encoder or decoder equipment, and multiplex equipment, required in order for Grantee to receive and distribute the HD Access Channel signal, or for the cost of any resulting upgrades to the video return line. The City and Grantee agree that such expense of acquiring and installing the transmission equipment or upgrades to the video return line qualifies as a capital cost for PEG Facilities within the meaning of the Cable Act 47 U.S.C.A. Section 542(g)(20)(C), and therefore is an appropriate use of revenues derived from those PEG Capital fees provided for in this Franchise.

(E) Grantee shall simultaneously carry the two (2) HD Access Channels provided for in Section 9.2(D) in high definition format on the Cable System, in addition to simultaneously carrying in standard definition format the SD Access Channels provided pursuant to Subsection 9.2(C).

(F) There shall be no restriction on Grantee's technology used to deploy and deliver SD or HD signals so long as the requirements of the Franchise are otherwise met. Grantee may implement HD carriage of the PEG channel in any manner (including selection of compression, utilization of IP, and other processing characteristics) that produces a signal quality for the consumer that is reasonably comparable and functionally equivalent to similar commercial HD channels carried on the Cable System. In the event the City believes that Grantee fails to meet this standard, City will notify Grantee of such concern, and Grantee will respond to and resolve any complaints in a timely manner.

9.3 Access Channel Assignments

Grantee will use reasonable efforts to minimize the movement of SD and HD Access Channel assignments. Grantee shall also use reasonable efforts to institute common SD and HD Access Channel assignments among the CCUA members served by the same Headend as City for compatible Access programming, for example, assigning all Educational Access Channels programmed by higher education organizations to the same Channel number. In addition, Grantee will make reasonable efforts to locate HD Access Channels provided pursuant to Subsection 9.2(D) in a location on its HD Channel line-up that is easily accessible to Subscribers.

9.4 Relocation of Access Channels

Grantee shall provide City a minimum of sixty (60) days' notice, and use its best efforts to provide one hundred and twenty (120) days' notice, prior to the time Public, Educational, and Governmental Access Channel designations are changed.

9.5 Support for Access Costs

During the term of this Franchise Agreement, Grantee shall provide fifty cents (\$0.50) per month per Residential Subscriber (the “PEG Contribution”) to be used solely for capital costs related to Public, Educational and Governmental Access, or as may be permitted by Applicable Law. To address inflationary impacts on capital equipment or to evaluate whether the City’s PEG Access capital costs have reduced with time, the City and Grantee may meet no more than three times after the Effective Date to discuss whether to increase or to decrease the PEG Contribution. The primary purpose of such meetings will be for the parties to review prior expenditures and future capital plans to determine if the current PEG Contribution is reasonably appropriate to meet future needs. The City and Grantee may suggest to each other, based upon their own assessments of reasonable past practices and future anticipated needs, whether the current level of PEG Contribution is appropriate. If either party believes that the PEG Contribution should be modified in a reasonable amount to address such future needs the parties shall share all relevant information supporting their positions and negotiate in good faith to determine if the PEG Contribution should be increased or decreased, and if so, in what amount. Such discussions regarding potential adjustment to the PEG Contribution will be conducted pursuant to the Franchise amendment procedures in Section 4.8 of this Franchise. Grantee shall make PEG Contribution payments quarterly, following the effective date of this Franchise Agreement for the preceding quarter ending March 31, June 30, September 30, and December 31. Each payment shall be due and payable no later than thirty (30) days following the end of the quarter. City shall have sole discretion to allocate the expenditure of such payments for any capital costs related to PEG Access. The parties agree that this Franchise shall provide City discretion to utilize Access payments for new internal network connections and enhancements to the City’s existing network.

9.6 Access Support Not Franchise Fees

Grantee agrees that capital support for Access Costs arising from or relating to the obligations set forth in this Section shall in no way modify or otherwise affect Grantee’s obligations to pay Franchise Fees to City. Grantee agrees that although the sum of Franchise Fees plus the payments set forth in this Section may total more than five percent (5%) of Grantee’s Gross Revenues in any 12-month period, the additional commitments shall not be offset or otherwise credited in any way against any Franchise Fee payments under this Franchise Agreement so long as such support is used for capital Access purposes consistent with this Franchise and federal law.

9.7 Access Channels On Basic Service or Lowest Priced HD Service Tier

All SD Access Channels under this Franchise Agreement shall be included by Grantee, without limitation, as part of Basic Service. All HD Access Channels under this Franchise Agreement shall be included by Grantee, without limitation, as part of the lowest priced tier of HD Cable Service upon which Grantee provides HD programming content.

9.8 Change In Technology

In the event Grantee makes any change in the Cable System and related equipment and Facilities or in Grantee's signal delivery technology, which directly or indirectly affects the signal quality or transmission of Access services or programming, Grantee shall at its own expense take necessary technical steps or provide necessary technical assistance, including the acquisition of all necessary equipment, and full training of City's Access personnel to ensure that the capabilities of Access services are not diminished or adversely affected by such change. If the City implements a new video delivery technology that is currently offered and can be accommodated on the Grantee's local Cable System then the same provisions above shall apply. If the City implements a new video delivery technology that is not currently offered on and/or that cannot be accommodated by the Grantee's local Cable System, then the City shall be responsible for acquiring all necessary equipment, facilities, technical assistance, and training to deliver the signal to the Grantee's headend for distribution to subscribers.

9.9 Technical Quality

Grantee shall maintain all upstream and downstream Access services and Channels on its side of the demarcation point at the same level of technical quality and reliability required by this Franchise Agreement and all other applicable laws, rules and regulations for Residential Subscriber Channels. Grantee shall provide routine maintenance for all transmission equipment on its side of the demarcation point, including modulators, decoders, multiplex equipment, and associated cable and equipment necessary to carry a quality signal to and from City's facilities for the Access Channels provided under this Franchise Agreement, including the business class broadband equipment and services necessary for the video on demand and streaming service described in Section 9.5. Grantee shall also provide, if requested in advance by the City, advice and technical expertise regarding the proper operation and maintenance of transmission equipment on the City's side of the demarcation point. The City shall be responsible for all initial and replacement costs of all HD modulator and demodulator equipment, web-based video on demand servers and web-based video streaming servers. The City shall also be responsible, at its own expense, to replace any of the Grantee's equipment that is damaged by the gross negligence or intentional acts of City staff. The Grantee shall be responsible, at its own expense, to replace any of the Grantee's equipment that is damaged by the gross negligence or intentional acts of Grantee's staff. The City will be responsible for the cost of repairing and/or replacing any HD PEG Access and web-based video on demand transmission equipment that Grantee maintains that is used exclusively for transmission of the City's and/or its Designated Access Providers' HD Access programming.

9.10 Access Cooperation

City may designate any other jurisdiction which has entered into an agreement with Grantee or an Affiliate of Grantee based upon this Franchise Agreement, any CCUA member, the CCUA, or any combination thereof to receive any Access benefit due City hereunder, or to share in the use of Access Facilities hereunder. The purpose of this subsection shall be to allow cooperation in the use of Access and the application of any provision under this Section as City

in its sole discretion deems appropriate, and Grantee shall cooperate fully with, and in, any such arrangements by City.

9.11 Return Lines/Access Origination

(A) Grantee shall continuously maintain the return lines previously constructed to the City Council Chambers throughout the Term of the Franchise, in order to enable the distribution of Access programming to Residential Subscribers on the Access Channels; provided however that Grantee's maintenance obligations with respect to this location shall cease if this location is no longer used in the future by the City to originate Access programming.

(B) Grantee shall construct and maintain new Fiber Optic return lines to the Headend from production facilities of new or relocated Designated Access Providers delivering Access programming to Residential Subscribers as requested in writing by the City. All actual construction costs incurred by Grantee from the nearest interconnection point to the Designated Access Provider shall be paid by the City or the Designated Access Provider. New return lines shall be completed within one (1) year from the request of the City or its Designated Access Provider, or as otherwise agreed to by the parties. If an emergency situation necessitates movement of production facilities to a new location, the parties shall work together to complete the new return line as soon as reasonably possible.

SECTION 10. GENERAL RIGHT-OF-WAY USE AND CONSTRUCTION

10.1 Right to Construct

Subject to Applicable Law, regulations, rules, resolutions and ordinances of the City and the provisions of this Franchise, Grantee may perform all construction in the Rights-of-Way for any facility needed for the maintenance or extension of Grantee's Cable System.

10.2 Right-of-Way Meetings

Grantee will regularly attend and participate in meetings of the City, of which the Grantee is made aware, regarding Right-of-Way issues that may impact the Cable System.

10.3 Joint Trenching/Boring Meetings

Grantee will regularly attend and participate in planning meetings of the City, of which the Grantee is made aware, to anticipate joint trenching and boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Grantee shall work with other providers, licensees, permittees, and franchisees so as to reduce so far as possible the number of Right-of-Way cuts within the City.

10.4 General Standard

All work authorized and required hereunder shall be done in a safe, thorough and workmanlike manner. All installations of equipment shall be permanent in nature, durable and installed in accordance with good engineering practices.

10.5 Permits Required for Construction

Prior to doing any work in the Right-of Way or other public property, Grantee shall apply for, and obtain, appropriate permits from the City. As part of the permitting process, the City may impose such conditions and regulations as are necessary for the purpose of protecting any structures in such Rights-of-Way, proper restoration of such Rights-of-Way and structures, the protection of the public, and the continuity of pedestrian or vehicular traffic. Such conditions may also include the provision of a construction schedule and maps showing the location of the facilities to be installed in the Right-of-Way. Grantee shall pay all applicable fees for the requisite City permits received by Grantee.

10.6 Emergency Permits

In the event that emergency repairs are necessary, Grantee shall immediately notify the City of the need for such repairs. Grantee may initiate such emergency repairs, and shall apply for appropriate permits within forty-eight (48) hours after discovery of the emergency.

10.7 Compliance with Applicable Codes

(A) City Construction Codes. Grantee shall comply with all applicable City construction codes, including, without limitation, the Uniform Building Code and other building codes, the Uniform Fire Code, the Uniform Mechanical Code, the Electronic Industries Association Standard for Physical Location and Protection of Below-Ground Fiber Optic Cable Plant, and zoning codes and regulations.

(B) Tower Specifications. Antenna supporting structures (towers) shall be designed for the proper loading as specified by the Electronics Industries Association (EIA), as those specifications may be amended from time to time. Antenna supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable federal, State, and local codes or regulations.

(C) Safety Codes. Grantee shall comply with all federal, State and City safety requirements, rules, regulations, laws and practices, and employ all necessary devices as required by Applicable Law during construction, operation and repair of its Cable System. By way of illustration and not limitation, Grantee shall comply with the National Electric Code, National Electrical Safety Code and Occupational Safety and Health Administration (OSHA) Standards.

10.8 GIS Mapping

Grantee shall comply with any generally applicable ordinances, rules and regulations of the City regarding geographic information mapping systems for users of the Rights-of-Way.

10.9 Minimal Interference

Work in the Right-of-Way, on other public property, near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Grantee's Cable System shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, or any other property of the City, or with any other pipes, wires, conduits, pedestals, structures, or other facilities that may have been laid in the Rights-of-Way by, or under, the City's authority. The Grantee's Cable System shall be located, erected and maintained so as not to endanger or interfere with the lives of Persons, or to interfere with new improvements the City may deem proper to make or to unnecessarily hinder or obstruct the free use of the Rights-of-Way or other public property, and shall not interfere with the travel and use of public places by the public during the construction, repair, operation or removal thereof, and shall not obstruct or impede traffic. In the event of such interference, the City may require the removal or relocation of Grantee's lines, cables, equipment and other appurtenances from the property in question at Grantee's expense.

10.10 Prevent Injury/Safety

Grantee shall provide and use any equipment and facilities necessary to control and carry Grantee's signals so as to prevent injury to the City's property or property belonging to any Person. Grantee, at its own expense, shall repair, renew, change and improve its facilities to keep them in good repair, and safe and presentable condition. All excavations made by Grantee in the Rights-of-Way shall be properly safeguarded for the prevention of accidents by the placement of adequate barriers, fences or boarding, the bounds of which, during periods of dusk and darkness, shall be clearly designated by warning lights.

10.11 Hazardous Substances

(A) Grantee shall comply with any and all Applicable Laws, statutes, regulations and orders concerning hazardous substances relating to Grantee's Cable System in the Rights-of-Way.

(B) Upon reasonable notice to Grantee, the City may inspect Grantee's facilities in the Rights-of-Way to determine if any release of hazardous substances has occurred, or may occur, from or related to Grantee's Cable System. In removing or modifying Grantee's facilities as provided in this Franchise, Grantee shall also remove all residue of hazardous substances related thereto.

(C) Grantee agrees to indemnify the City against any claims, costs, and expenses, of any kind, whether direct or indirect, incurred by the City arising out of a release of hazardous substances caused by Grantee's Cable System.

10.12 Locates

Prior to doing any work in the Right-of-Way, Grantee shall give appropriate notices to the City and to the notification association established in C.R.S. Section 9-1.5-105, as such may be amended from time to time.

Within forty-eight (48) hours after any City bureau or franchisee, licensee or permittee notifies Grantee of a proposed Right-of-Way excavation, Grantee shall, at Grantee's expense:

(A) Mark on the surface all of its located underground facilities within the area of the proposed excavation;

(B) Notify the excavator of any unlocated underground facilities in the area of the proposed excavation; or

(C) Notify the excavator that Grantee does not have any underground facilities in the vicinity of the proposed excavation.

10.13 Notice to Private Property Owners

Grantee shall give notice to private property owners of work on or adjacent to private property in accordance with the City's Customer Service Standards, as the same may be amended from time to time by the City Council acting by Ordinance or resolution.

10.14 Underground Construction and Use of Poles

(A) When required by general ordinances, resolutions, regulations or rules of the City or applicable State or federal law, Grantee's Cable System shall be placed underground at Grantee's expense unless funding is generally available for such relocation to all users of the Rights-of-Way. Placing facilities underground does not preclude the use of ground-mounted appurtenances.

(B) Where electric, telephone, and other above-ground utilities are installed underground at the time of Cable System construction, or when all such wiring is subsequently placed underground, all Cable System lines shall also be placed underground with other wireline service at no expense to the City or Subscribers unless funding is generally available for such relocation to all users of the Rights-of-Way. Related Cable System equipment, such as pedestals, must be placed in accordance with the City's applicable code requirements and rules. In areas where either electric or telephone utility wiring is aerial, the Grantee may install aerial cable, except when a property owner or resident requests underground installation and agrees to bear the additional cost in excess of aerial installation.

(C) The Grantee shall utilize existing poles and conduit wherever possible.

(D) In the event Grantee cannot obtain the necessary poles and related facilities pursuant to its existing pole attachment agreement with the City or such other agreement as may be determined by the parties, and only in such event, then it shall be lawful for Grantee to make all needed excavations in the Rights-of-Way for the purpose of placing, erecting, laying, maintaining, repairing, and removing poles, supports for wires and conductors, and any other facility needed for the maintenance or extension of Grantee's Cable System. All poles of Grantee shall be located as designated by the proper City authorities.

(E) This Franchise does not grant, give or convey to the Grantee the right or privilege to install its facilities in any manner on specific utility poles or equipment of the City or any other Person. Copies of agreements for the use of poles, conduits or other utility facilities must be provided upon request by the City.

(F) The Grantee and the City recognize that situations may occur in the future where the City may desire to place its own cable or conduit for Fiber Optic cable in trenches or bores opened by the Grantee. The Grantee agrees to cooperate with the City in any construction by the Grantee that involves trenching or boring, provided that the City has first notified the Grantee in some manner that it is interested in sharing the trenches or bores in the area where the Grantee's construction is occurring. The Grantee shall allow the City to lay its cable, conduit and Fiber Optic cable in the Grantee's trenches and bores, provided the City shares in the cost of the trenching and boring on the same terms and conditions as the Grantee at that time shares the total cost of trenches and bores. The City shall be responsible for maintaining its respective cable, conduit and Fiber Optic cable buried in the Grantee's trenches and bores under this paragraph.

10.15 Undergrounding of Multiple Dwelling Unit Drops

In cases of single site Multiple Dwelling Units, Grantee shall minimize the number of individual aerial drop cables by installing multiple drop cables underground between the pole and Multiple Dwelling Unit where determined to be technologically feasible in agreement with the owners and/or owner's association of the Multiple Dwelling Units.

10.16 Burial Standards

(A) Depths. Unless otherwise required by law, Grantee, and its contractors, shall comply with the following burial depth standards. In no event shall Grantee be required to bury its cable deeper than electric or gas facilities, or existing telephone facilities in the same portion of the Right-of-Way, so long as those facilities have been buried in accordance with Applicable Law:

Underground cable drops from the curb shall be buried at a minimum depth of twelve (12) inches, unless a sprinkler system or other construction concerns preclude it, in which case, underground cable drops shall be buried at a depth of at least six (6) inches.

Feeder lines shall be buried at a minimum depth of eighteen (18) inches.

Trunk lines shall be buried at a minimum depth of thirty-six (36) inches.

Fiber Optic cable shall be buried at a minimum depth of thirty-six (36) inches.

In the event of a conflict between this subsection and the provisions of any customer service standard, this subsection shall control.

(B) Timeliness. Cable drops installed by Grantee to residences shall be buried according to these standards within one calendar week of initial installation, or at a time mutually-agreed upon between the Grantee and the Subscriber. When freezing surface conditions prevent Grantee from achieving such timetable, Grantee shall apprise the Subscriber of the circumstances and the revised schedule for burial, and shall provide the Subscriber with Grantee's telephone number and instructions as to how and when to call Grantee to request burial of the line if the revised schedule is not met.

10.17 Cable Drop Bonding

Grantee shall ensure that all cable drops are properly bonded at the home, consistent with applicable code requirements.

10.18 Prewiring

Any ordinance or resolution of the City which requires prewiring of subdivisions or other developments for electrical and telephone service shall be construed to include wiring for Cable Systems.

10.19 Repair and Restoration of Property

(A) The Grantee shall protect public and private property from damage. If damage occurs, the Grantee shall promptly notify the property owner within twenty-four (24) hours in writing.

(B) Whenever Grantee disturbs or damages any Right-of-Way, other public property or any private property, Grantee shall promptly restore the Right-of-Way or property to at least its prior condition, normal wear and tear excepted, at its own expense.

(C) Rights-of-Way and Other Public Property. Grantee shall warrant any restoration work performed by or for Grantee in the Right-of-Way or on other public property in accordance with Applicable Law. If restoration is not satisfactorily performed by the Grantee within a reasonable time, the City may, after prior notice to the Grantee, or without notice where the disturbance or damage may create a risk to public health or safety, cause the repairs to be made and recover the cost of those repairs from the Grantee. Within thirty (30) days of receipt of an

itemized list of those costs, including the costs of labor, materials and equipment, the Grantee shall pay the City.

(D) Private Property. Upon completion of the work which caused any disturbance or damage, Grantee shall promptly commence restoration of private property, and will use best efforts to complete the restoration within seventy-two (72) hours, considering the nature of the work that must be performed. Grantee shall also perform such restoration in accordance with the City's Customer Service Standards, as the same may be amended from time to time by the City Council acting by ordinance or resolution.

10.20 Use of Conduits by the City

The City may install or affix and maintain wires and equipment owned by the City for City purposes in or upon any and all of Grantee's ducts, conduits or equipment in the Rights-of-Way and other public places if such placement does not interfere with Grantee's use of its facilities, without charge to the City, to the extent space therein or thereon is reasonably available, and pursuant to all applicable ordinances and codes. This right shall not extend to affiliates of Grantee who have facilities in the right-of-way for the provision of non-cable services. For the purposes of this subsection, "City purposes" includes, but is not limited to, the use of the structures and installations for City fire, police, traffic, water, telephone, and/or signal systems, but not for Cable Service or transmission to third parties of telecommunications or information services in competition with Grantee. Grantee shall not deduct the value of such use of its facilities from its Franchise Fee payments or from other fees payable to the City.

10.21 Common Users

(A) For the purposes of this subsection:

(1) "Attachment" means any wire, optical fiber or other cable, and any related device, apparatus or auxiliary equipment, for the purpose of voice, video or data transmission.

(2) "Conduit" or "Conduit Facility" means any structure, or section thereof, containing one or more Ducts, conduits, manholes, handhole or other such facilities in Grantee's Cable System.

(3) "Duct" means a single enclosed raceway for cables, Fiber Optics or other wires.

(4) "Licensee" means any Person licensed or otherwise permitted by the City to use the Rights-of-Way.

(5) "Surplus Ducts or Conduits" are Conduit Facilities other than those occupied by Grantee or any prior Licensee, or unoccupied Ducts held by Grantee as emergency use spares, or other unoccupied Ducts that Grantee reasonably expects to use

within two (2) years from the date of a request for use.

(B) Grantee acknowledges that the Rights-of-Way have a finite capacity for containing Conduits. Therefore, Grantee agrees that whenever the City determines it is impracticable to permit construction of an underground Conduit system by any other Person which may at the time have authority to construct or maintain Conduits or Ducts in the Rights-of-Way, but excluding Persons providing Cable Services in competition with Grantee, the City may require Grantee to afford to such Person the right to use Grantee's Surplus Ducts or Conduits in common with Grantee, pursuant to the terms and conditions of an agreement for use of Surplus Ducts or Conduits entered into by Grantee and the Licensee. Nothing herein shall require Grantee to enter into an agreement with such Person if, in Grantee's reasonable determination, such an agreement could compromise the integrity of the Cable System.

(C) A Licensee occupying part of a Duct shall be deemed to occupy the entire Duct.

(D) Grantee shall give a Licensee a minimum of one hundred twenty (120) days' notice of its need to occupy a licensed Conduit and shall propose that the Licensee take the first feasible action as follows:

(1) Pay revised Conduit rent designed to recover the cost of retrofitting the Conduit with multiplexing, Fiber Optics or other space-saving technology sufficient to meet Grantee's space needs;

(2) Pay revised Conduit rent based on the cost of new Conduit constructed to meet Grantee's space needs;

(3) Vacate the needed Ducts or Conduit; or

(4) Construct and maintain sufficient new Conduit to meet Grantee's space needs.

(E) When two or more Licensees occupy a section of Conduit Facility, the last Licensee to occupy the Conduit Facility shall be the first to vacate or construct new Conduit. When Conduit rent is revised because of retrofitting, space-saving technology or construction of new Conduit, all Licensees shall bear the increased cost.

(F) All Attachments shall meet local, State, and federal clearance and other safety requirements, be adequately grounded and anchored, and meet the provisions of contracts executed between Grantee and the Licensee. Grantee may, at its option, correct any attachment deficiencies and charge the Licensee for its costs. Each Licensee shall pay Grantee for any fines, fees, damages or other costs the Licensee's attachments cause Grantee to incur.

(G) In order to enforce the provisions of this subsection with respect to Grantee, the City must demonstrate that it has required that all similarly situated users of the Rights-of-Way to comply with the provisions of this subsection.

10.22 Acquisition of Facilities

Upon Grantee's acquisition of Cable System-related facilities in any City Right-of-Way, or upon the addition to the City of any area in which Grantee owns or operates any such facility, Grantee shall, at the City's request, submit to the City a statement describing all such facilities involved, whether authorized by franchise, permit, license or other prior right, and specifying the location of all such facilities to the extent Grantee has possession of such information. Such Cable System-related facilities shall immediately be subject to the terms of this Franchise.

10.23 Discontinuing Use/Abandonment of Cable System Facilities

Whenever Grantee intends to discontinue using any facility within the Rights-of-Way, Grantee shall submit for the City's approval a complete description of the facility and the date on which Grantee intends to discontinue using the facility. Grantee may remove the facility or request that the City permit it to remain in place. Notwithstanding Grantee's request that any such facility remain in place, the City may require Grantee to remove the facility from the Right-of-Way or modify the facility to protect the public health, welfare, safety, and convenience, or otherwise serve the public interest. The City may require Grantee to perform a combination of modification and removal of the facility. Grantee shall complete such removal or modification in accordance with a schedule set by the City. Until such time as Grantee removes or modifies the facility as directed by the City, or until the rights to and responsibility for the facility are accepted by another Person having authority to construct and maintain such facility, Grantee shall be responsible for all necessary repairs and relocations of the facility, as well as maintenance of the Right-of-Way, in the same manner and degree as if the facility were in active use, and Grantee shall retain all liability for such facility. If Grantee abandons its facilities, the City may choose to use such facilities for any purpose whatsoever including, but not limited to, Access purposes.

10.24 Movement of Cable System Facilities For City Purposes

The City shall have the right to require Grantee to relocate, remove, replace, modify or disconnect Grantee's facilities and equipment located in the Rights-of-Way or on any other property of the City for public purposes, in the event of an emergency, or when the public health, safety or welfare requires such change (for example, without limitation, by reason of traffic conditions, public safety, Right-of-Way vacation, Right-of-Way construction, change or establishment of Right-of-Way grade, installation of sewers, drains, gas or water pipes, or any other types of structures or improvements by the City for public purposes). Such work shall be performed at the Grantee's expense. Except during an emergency, the City shall provide reasonable notice to Grantee, not to be less than five (5) business days, and allow Grantee with the opportunity to perform such action. In the event of any capital improvement project exceeding \$500,000 in expenditures by the City which requires the removal, replacement, modification or disconnection of Grantee's facilities or equipment, the City shall provide at least sixty (60) days' written notice to Grantee. Following notice by the City, Grantee shall relocate, remove, replace, modify or disconnect any of its facilities or equipment within any Right-of-Way, or on any other property of the City. If the City requires Grantee to relocate its facilities

located within the Rights-of-Way, the City shall make a reasonable effort to provide Grantee with an alternate location within the Rights-of-Way. If funds are generally made available to users of the Rights-of-Way for such relocation, Grantee shall be entitled to its pro rata share of such funds.

If the Grantee fails to complete this work within the time prescribed and to the City's satisfaction, the City may cause such work to be done and bill the cost of the work to the Grantee, including all costs and expenses incurred by the City due to Grantee's delay. In such event, the City shall not be liable for any damage to any portion of Grantee's Cable System. Within thirty (30) days of receipt of an itemized list of those costs, the Grantee shall pay the City.

10.25 Movement of Cable System Facilities for Other Franchise Holders

If any removal, replacement, modification or disconnection of the Cable System is required to accommodate the construction, operation or repair of the facilities or equipment of another City franchise holder, Grantee shall, after at least thirty (30) days' advance written notice, take action to effect the necessary changes requested by the responsible entity. Grantee may require that the costs associated with the removal or relocation be paid by the benefited party.

10.26 Temporary Changes for Other Permittees

At the request of any Person holding a valid permit and upon reasonable advance notice, Grantee shall temporarily raise, lower or remove its wires as necessary to permit the moving of a building, vehicle, equipment or other item. The expense of such temporary changes must be paid by the permit holder, and Grantee may require a reasonable deposit of the estimated payment in advance.

10.27 Reservation of City Use of Right-of-Way

Nothing in this Franchise shall prevent the City or public utilities owned, maintained or operated by public entities other than the City from constructing sewers; grading, paving, repairing or altering any Right-of-Way; laying down, repairing or removing water mains; or constructing or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure or prevent the use and operation of Grantee's Cable System.

10.28 Tree Trimming

Grantee may prune or cause to be pruned, using proper pruning practices, any tree in the City's Rights-of-Way which interferes with Grantee's Cable System. Grantee shall comply with any general ordinance or regulations of the City regarding tree trimming. Except in emergencies, Grantee may not prune trees at a point below thirty (30) feet above sidewalk grade until one (1) week written notice has been given to the owner or occupant of the premises abutting the Right-

of-Way in or over which the tree is growing. The owner or occupant of the abutting premises may prune such tree at his or her own expense during this one (1) week period. If the owner or occupant fails to do so, Grantee may prune such tree at its own expense. For purposes of this subsection, emergencies exist when it is necessary to prune to protect the public or Grantee's facilities from imminent danger only.

10.29 Inspection of Construction and Facilities

The City may inspect any of Grantee's facilities, equipment or construction at any time upon at least twenty-four (24) hours' notice, or, in case of emergency, upon demand without prior notice. The City shall have the right to charge generally applicable inspection fees therefore. If an unsafe condition is found to exist, the City, in addition to taking any other action permitted under Applicable Law, may order Grantee, in writing, to make the necessary repairs and alterations specified therein forthwith to correct the unsafe condition by a time the City establishes. The City has the right to correct, inspect, administer and repair the unsafe condition if Grantee fails to do so, and to charge Grantee therefore.

10.30 Stop Work

(A) On notice from the City that any work is being performed contrary to the provisions of this Franchise, or in an unsafe or dangerous manner as determined by the City, or in violation of the terms of any applicable permit, laws, regulations, ordinances, or standards, the work may immediately be stopped by the City.

(B) The stop work order shall:

- (1) Be in writing;
- (2) Be given to the Person doing the work, or posted on the work site;
- (3) Be sent to Grantee by overnight delivery at the address given herein;
- (4) Indicate the nature of the alleged violation or unsafe condition; and
- (5) Establish conditions under which work may be resumed.

10.31 Work of Contractors and Subcontractors

Grantee's contractors and subcontractors shall be licensed and bonded in accordance with the City's ordinances, regulations and requirements. Work by contractors and subcontractors is subject to the same restrictions, limitations and conditions as if the work were performed by Grantee. Grantee shall be responsible for all work performed by its contractors and subcontractors and others performing work on its behalf as if the work were performed by it, and shall ensure that all such work is performed in compliance with this Franchise and other Applicable Law, and shall be jointly and severally liable for all damages and correcting all

damage caused by them. It is Grantee's responsibility to ensure that contractors, subcontractors or other Persons performing work on Grantee's behalf are familiar with the requirements of this Franchise and other Applicable Law governing the work performed by them.

SECTION 11. CABLE SYSTEM, TECHNICAL STANDARDS AND TESTING

11.1 Subscriber Network

(A) Grantee's Cable System shall be equivalent to or exceed technical characteristics of a traditional HFC 750 MHz Cable System and provide Activated Two-Way capability. The Cable System shall be capable of supporting video and audio. The Cable System shall deliver no less than one hundred ten (110) Channels of digital video programming services to Subscribers, provided that the Grantee reserves the right to use the bandwidth in the future for other uses based on market factors.

(B) Equipment must be installed so that all closed captioning programming received by the Cable System shall include the closed caption signal so long as the closed caption signal is provided consistent with FCC standards. Equipment must be installed so that all local signals received in stereo or with secondary audio tracks (broadcast and Access) are retransmitted in those same formats.

(C) All construction shall be subject to the City's permitting process.

(D) Grantee and City shall meet, at the City's request, to discuss the progress of the design plan and construction.

(E) Grantee will take prompt corrective action if it finds that any facilities or equipment on the Cable System are not operating as expected, or if it finds that facilities and equipment do not comply with the requirements of this Franchise or Applicable Law.

(F) Grantee's construction decisions shall be based solely upon legitimate engineering decisions and shall not take into consideration the income level of any particular community within the Franchise Area.

11.2 Technology Assessment

(A) The City may notify Grantee on or after five (5) years after the Effective Date, that the City will conduct a technology assessment of Grantee's Cable System. The technology assessment may include, but is not be limited to, determining whether Grantee's Cable System technology and performance are consistent with current technical practices and range and level of services existing in the fifteen (15) largest U.S. cable systems owned and operated by Grantee's Parent Corporation and/or Affiliates pursuant to franchises that have been renewed or extended since the Effective Date.

(B) Grantee shall cooperate with the City to provide necessary non-confidential and proprietary information upon the City's reasonable request as part of the technology assessment.

(C) At the discretion of the City, findings from the technology assessment may be included in any proceeding commenced for the purpose of identifying future cable-related community needs and interests undertaken by the City pursuant to 47 U.S.C. §546.

11.3 Standby Power

Grantee's Cable System Headend shall be capable of providing at least twelve (12) hours of emergency operation. In addition, throughout the term of this Franchise, Grantee shall have a plan in place, along with all resources necessary for implementing such plan, for dealing with outages of more than four (4) hours. This outage plan and evidence of requisite implementation resources shall be presented to the City no later than thirty (30) days following receipt of a request.

11.4 Emergency Alert Capability

Grantee shall provide an operating Emergency Alert System ("EAS") throughout the term of this Franchise in compliance with FCC standards. Grantee shall test the EAS as required by the FCC. Upon request, the City shall be permitted to participate in and/or witness the EAS testing up to twice a year on a schedule formed in consultation with Grantee. If the test indicates that the EAS is not performing properly, Grantee shall make any necessary adjustment to the EAS, and the EAS shall be retested.

11.5 Technical Performance

The technical performance of the Cable System shall meet or exceed all applicable federal (including, but not limited to, the FCC), State and local technical standards, as they may be amended from time to time, regardless of the transmission technology utilized. The City shall have the full authority permitted by Applicable Law to enforce compliance with these technical standards.

11.6 Cable System Performance Testing

(A) Grantee shall, at Grantee's expense, perform the following tests on its Cable System:

- (1) All tests required by the FCC;
- (2) All other tests reasonably necessary to determine compliance with technical standards adopted by the FCC at any time during the term of this Franchise; and
- (3) All other tests as otherwise specified in this Franchise.

(B) At a minimum, Grantee's tests shall include:

- (1) Cumulative leakage index testing of any new construction;
- (2) Semi-annual compliance and proof of performance tests in conformance with generally accepted industry guidelines;
- (3) Tests in response to Subscriber complaints;
- (4) Periodic monitoring tests, at intervals not to exceed six (6) months, of Subscriber (field) test points, the Headend, and the condition of standby power supplies; and
- (5) Cumulative leakage index tests, at least annually, designed to ensure that one hundred percent (100%) of Grantee's Cable System has been ground or air tested for signal leakage in accordance with FCC standards.

(C) Grantee shall maintain written records of all results of its Cable System tests, performed by or for Grantee. Copies of such test results will be provided to the City upon reasonable request.

(D) If the FCC no longer requires proof of performance tests for Grantee's Cable System during the term of this Franchise, Grantee agrees that it shall continue to conduct proof of performance tests on the Cable System in accordance with the standards that were in place on the Effective Date, or any generally applicable standards later adopted, at least once a year, and provide written results of such tests to the City upon request.

(E) The FCC semi-annual testing is conducted in January/February and July/August of each year. If the City contacts Grantee prior to the next test period (*i.e.*, before December 15 and June 15 respectively of each year), Grantee shall provide City with no less than seven (7) days prior written notice of the actual date(s) for FCC compliance testing. If City notifies Grantee by the December 15th and June 15th dates that it wishes to have a representative present during the next test(s), Grantee shall cooperate in scheduling its testing so that the representative can be present. Notwithstanding the above, all technical performance tests may be witnessed by representatives of the City.

(F) Grantee shall be required to promptly take such corrective measures as are necessary to correct any performance deficiencies fully and to prevent their recurrence as far as possible. Grantee's failure to correct deficiencies identified through this testing process shall be a material violation of this Franchise. Sites shall be re-tested following correction.

11.7 Additional Tests

Where there exists other evidence which in the judgment of the City casts doubt upon the reliability or technical quality of Cable Service, the City shall have the right and authority to

require Grantee to test, analyze and report on the performance of the Cable System. Grantee shall fully cooperate with the City in performing such testing and shall prepare the results and a report, if requested, within thirty (30) days after testing. Such report shall include the following information:

- (A) the nature of the complaint or problem which precipitated the special tests;
- (B) the Cable System component tested;
- (C) the equipment used and procedures employed in testing;
- (D) the method, if any, in which such complaint or problem was resolved; and
- (E) any other information pertinent to said tests and analysis which may be required.

SECTION 12. SERVICE AVAILABILITY, INTERCONNECTION AND SERVICE TO SCHOOLS AND PUBLIC BUILDINGS

12.1 Service Availability

(A) In General. Except as otherwise provided in herein, Grantee shall provide Cable Service within seven (7) days of a request by any Person within the City. For purposes of this Section, a request shall be deemed made on the date of signing a service agreement, receipt of funds by Grantee, receipt of a written request by Grantee or receipt by Grantee of a verified verbal request. Except as otherwise provided herein, Grantee shall provide such service:

(1) With no line extension charge except as specifically authorized elsewhere in this Franchise Agreement.

(2) At a non-discriminatory installation charge for a standard installation, consisting of a 125 foot drop connecting to an inside wall for Residential Subscribers, with additional charges for non-standard installations computed according to a non-discriminatory methodology for such installations, adopted by Grantee and provided in writing to the City;

(3) At non-discriminatory monthly rates for Residential Subscribers.

(B) Service to Multiple Dwelling Units. Consistent with this Section 12.1, the Grantee shall offer the individual units of a Multiple Dwelling Unit all Cable Services offered to other Dwelling Units in the City and shall individually wire units upon request of the property owner or renter who has been given written authorization by the owner; provided, however, that any such offering is conditioned upon the Grantee having legal access to said unit. The City acknowledges that the Grantee cannot control the dissemination of particular Cable Services beyond the point of demarcation at a Multiple Dwelling Unit.

(C) Customer Charges for Extensions of Service. Grantee agrees to extend its Cable System to all persons living in areas with a residential density of twenty-five (25) residences per mile of Cable System plant. If the residential density is less than twenty-five (25) residences per 5,280 cable-bearing strand feet of trunk or distribution cable, service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by the Grantee and customers in the area in which service may be expanded, the Grantee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of residences per 5,280 cable-bearing strand feet of its trunk or distribution cable and whose denominator equals twenty-five (25). Customers who request service hereunder will bear the remainder of the construction and other costs on a pro rata basis. The Grantee may require that the payment of the capital contribution in aid of construction borne by such potential customers be paid in advance.

12.2 Connection of Public Facilities

Grantee shall, at no cost to the City, provide one outlet of Basic Service and Digital Starter Service to all City owned and occupied buildings, schools and public libraries located in areas where Grantee provides Cable Service, so long as these facilities are already served or are located within 150 feet of its Cable System. For purposes of this subsection, “school” means all State-accredited K-12 public and private schools. Such obligation to provide free Cable Service shall not extend to areas of City buildings where the Grantee would normally enter into a commercial contract to provide such Cable Service (*e.g.*, golf courses, airport restaurants and concourses, and recreation center work out facilities). Outlets of Basic and Digital Starter Service provided in accordance with this subsection may be used to distribute Cable Services throughout such buildings, provided such distribution can be accomplished without causing Cable System disruption and general technical standards are maintained. Such outlets may only be used for lawful purposes. The Cable Service provided shall not be distributed beyond the originally installed outlets without authorization from Grantee, which shall not be unreasonably withheld.

SECTION 13. FRANCHISE VIOLATIONS

13.1 Procedure for Remedying Franchise Violations

(A) If the City reasonably believes that Grantee has failed to perform any obligation under this Franchise or has failed to perform in a timely manner, the City shall notify Grantee in writing, stating with reasonable specificity the nature of the alleged default. Grantee shall have thirty (30) days from the receipt of such notice to:

- (1) respond to the City, contesting the City’s assertion that a default has occurred, and requesting a meeting in accordance with subsection (B), below;
- (2) cure the default; or,

(3) notify the City that Grantee cannot cure the default within the thirty (30) days, because of the nature of the default. In the event the default cannot be cured within thirty (30) days, Grantee shall promptly take all reasonable steps to cure the default and notify the City in writing and in detail as to the exact steps that will be taken and the projected completion date. In such case, the City may set a meeting in accordance with subsection (B) below to determine whether additional time beyond the thirty (30) days specified above is indeed needed, and whether Grantee's proposed completion schedule and steps are reasonable.

(B) If Grantee does not cure the alleged default within the cure period stated above, or by the projected completion date under subsection (A)(3), or denies the default and requests a meeting in accordance with (A)(1), or the City orders a meeting in accordance with subsection (A)(3), the City shall set a meeting to investigate said issues or the existence of the alleged default. The City shall notify Grantee of the meeting in writing and such meeting shall take place no less than thirty (30) days after Grantee's receipt of notice of the meeting. At the meeting, Grantee shall be provided an opportunity to be heard and to present evidence in its defense.

(C) If, after the meeting, the City determines that a default exists, the City shall order Grantee to correct or remedy the default or breach within fifteen (15) days or within such other reasonable time frame as the City shall determine. In the event Grantee does not cure within such time to the City's reasonable satisfaction, the City may:

- (1) Withdraw an amount from the letter of credit as monetary damages;
- (2) Recommend the revocation of this Franchise pursuant to the procedures in subsection 13.2; or,
- (3) Recommend any other legal or equitable remedy available under this Franchise or any Applicable Law.

(D) The determination as to whether a violation of this Franchise has occurred shall be within the discretion of the City, provided that any such final determination may be subject to appeal to a court of competent jurisdiction under Applicable Law.

13.2 Revocation

(A) In addition to revocation in accordance with other provisions of this Franchise, the City may revoke this Franchise and rescind all rights and privileges associated with this Franchise in the following circumstances, each of which represents a material breach of this Franchise:

- (1) If Grantee fails to perform any material obligation under this Franchise or under any other agreement, ordinance or document regarding the City and Grantee;

(2) If Grantee willfully fails for more than forty-eight (48) hours to provide continuous and uninterrupted Cable Service;

(3) If Grantee attempts to evade any material provision of this Franchise or to practice any fraud or deceit upon the City or Subscribers; or

(4) If Grantee becomes insolvent, or if there is an assignment for the benefit of Grantee's creditors;

(5) If Grantee makes a material misrepresentation of fact in the application for or negotiation of this Franchise.

(B) Following the procedures set forth in subsection 13.1 and prior to forfeiture or termination of the Franchise, the City shall give written notice to the Grantee of its intent to revoke the Franchise and set a date for a revocation proceeding. The notice shall set forth the exact nature of the noncompliance.

(C) Any proceeding under the paragraph above shall be conducted by the City Council and open to the public. Grantee shall be afforded at least forty-five (45) days prior written notice of such proceeding.

(1) At such proceeding, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce evidence, and to question witnesses. A complete verbatim record and transcript shall be made of such proceeding and the cost shall be shared equally between the parties. The City Council shall hear any Persons interested in the revocation, and shall allow Grantee, in particular, an opportunity to state its position on the matter.

(2) Within ninety (90) days after the hearing, the City Council shall determine whether to revoke the Franchise and declare that the Franchise is revoked and the letter of credit forfeited; or if the breach at issue is capable of being cured by Grantee, direct Grantee to take appropriate remedial action within the time and in the manner and on the terms and conditions that the City Council determines are reasonable under the circumstances. If the City determines that the Franchise is to be revoked, the City shall set forth the reasons for such a decision and shall transmit a copy of the decision to the Grantee. Grantee shall be bound by the City's decision to revoke the Franchise unless it appeals the decision to a court of competent jurisdiction within fifteen (15) days of the date of the decision.

(3) Grantee shall be entitled to such relief as the Court may deem appropriate.

(4) The City Council may at its sole discretion take any lawful action which it deems appropriate to enforce the City's rights under the Franchise in lieu of revocation of the Franchise.

13.3 Procedures in the Event of Termination or Revocation

(A) If this Franchise expires without renewal after completion of all processes available under this Franchise and federal law or is otherwise lawfully terminated or revoked, the City may, subject to Applicable Law:

(1) Allow Grantee to maintain and operate its Cable System on a month-to-month basis or short-term extension of this Franchise for not less than six (6) months, unless a sale of the Cable System can be closed sooner or Grantee demonstrates to the City's satisfaction that it needs additional time to complete the sale; or

(2) Purchase Grantee's Cable System in accordance with the procedures set forth in subsection 13.4, below.

(B) In the event that a sale has not been completed in accordance with subsections (A)(1) and/or (A)(2) above, the City may order the removal of the above-ground Cable System facilities and such underground facilities from the City at Grantee's sole expense within a reasonable period of time as determined by the City. In removing its plant, structures and equipment, Grantee shall refill, at its own expense, any excavation that is made by it and shall leave all Rights-of-Way, public places and private property in as good condition as that prevailing prior to Grantee's removal of its equipment without affecting the electrical or telephone cable wires or attachments. The indemnification and insurance provisions and the letter of credit shall remain in full force and effect during the period of removal, and Grantee shall not be entitled to, and agrees not to request, compensation of any sort therefore.

(C) If Grantee fails to complete any removal required by subsection 13.3 (B) to the City's satisfaction, after written notice to Grantee, the City may cause the work to be done and Grantee shall reimburse the City for the costs incurred within thirty (30) days after receipt of an itemized list of the costs, or the City may recover the costs through the letter of credit provided by Grantee.

(D) The City may seek legal and equitable relief to enforce the provisions of this Franchise.

13.4 Purchase of Cable System

(A) If at any time this Franchise is revoked, terminated, or not renewed upon expiration in accordance with the provisions of federal law, the City shall have the option to purchase the Cable System.

(B) The City may, at any time thereafter, offer in writing to purchase Grantee's Cable System. Grantee shall have thirty (30) days from receipt of a written offer from the City within which to accept or reject the offer.

(C) In any case where the City elects to purchase the Cable System, the purchase shall be closed within one hundred twenty (120) days of the date of the City's audit of a current profit and loss statement of Grantee. The City shall pay for the Cable System in cash or certified funds, and Grantee shall deliver appropriate bills of sale and other instruments of conveyance.

(D) For the purposes of this subsection, the price for the Cable System shall be determined as follows:

(1) In the case of the expiration of the Franchise without renewal, at fair market value determined on the basis of Grantee's Cable System valued as a going concern, but with no value allocated to the Franchise itself. In order to obtain the fair market value, this valuation shall be reduced by the amount of any lien, encumbrance, or other obligation of Grantee which the City would assume.

(2) In the case of revocation for cause, the equitable price of Grantee's Cable System.

13.5 Receivership and Foreclosure

(A) At the option of the City, subject to Applicable Law, this Franchise may be revoked one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless:

(1) The receivership or trusteeship is vacated within one hundred twenty (120) days of appointment; or

(2) The receivers or trustees have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Franchise, and have remedied all defaults under the Franchise. Additionally, the receivers or trustees shall have executed an agreement duly approved by the court having jurisdiction, by which the receivers or trustees assume and agree to be bound by each and every term, provision and limitation of this Franchise.

(B) If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property and equipment of Grantee, the City may serve notice of revocation on Grantee and to the purchaser at the sale, and the rights and privileges of Grantee under this Franchise shall be revoked thirty (30) days after service of such notice, unless:

(1) The City has approved the transfer of the Franchise, in accordance with the procedures set forth in this Franchise and as provided by law; and

(2) The purchaser has covenanted and agreed with the City to assume and be bound by all of the terms and conditions of this Franchise.

13.6 No Monetary Recourse Against the City

Grantee shall not have any monetary recourse against the City or its officers, officials, boards, commissions, agents or employees for any loss, costs, expenses or damages arising out of any provision or requirement of this Franchise or the enforcement thereof, in accordance with the provisions of applicable federal, State and local law. The rights of the City under this Franchise are in addition to, and shall not be read to limit, any immunities the City may enjoy under federal, State or local law.

13.7 Alternative Remedies

No provision of this Franchise shall be deemed to bar the right of the City to seek or obtain judicial relief from a violation of any provision of the Franchise or any rule, regulation, requirement or directive promulgated thereunder. Neither the existence of other remedies identified in this Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of the City to recover monetary damages for such violations by Grantee, or to seek and obtain judicial enforcement of Grantee's obligations by means of specific performance, injunctive relief or mandate, or any other remedy at law or in equity.

13.8 Assessment of Monetary Damages

(A) The City may assess against Grantee monetary damages (i) up to five hundred dollars (\$500.00) per day for general construction delays, violations of PEG obligations or payment obligations, (ii) up to two hundred fifty dollars (\$250.00) per day for any other material breaches, or (iii) up to one hundred dollars (\$100.00) per day for defaults, and withdraw the assessment from the letter of credit or collect the assessment as specified in this Franchise. Damages pursuant to this Section shall accrue for a period not to exceed one hundred twenty (120) days per violation proceeding. To assess any amount from the letter of credit, City shall follow the procedures for withdrawals from the letter of credit set forth in the letter of credit and-in this Franchise. Such damages shall accrue beginning thirty (30) days following Grantee's receipt of the notice required by subsection 13.1(A), or such later date if approved by the City in its sole discretion, but may not be assessed until after the procedures in subsection 13.1 have been completed.

(B) The assessment does not constitute a waiver by City of any other right or remedy it may have under the Franchise or Applicable Law, including its right to recover from Grantee any additional damages, losses, costs and expenses that are incurred by City by reason of the breach of this Franchise.

13.9 Effect of Abandonment

If the Grantee abandons its Cable System during the Franchise term, or fails to operate its Cable System in accordance with its duty to provide continuous service, the City, at its option, may operate the Cable System; designate another entity to operate the Cable System temporarily until the Grantee restores service under conditions acceptable to the City, or until the Franchise is

revoked and a new franchisee is selected by the City; or obtain an injunction requiring the Grantee to continue operations. If the City is required to operate or designate another entity to operate the Cable System, the Grantee shall reimburse the City or its designee for all reasonable costs, expenses and damages incurred.

13.10 What Constitutes Abandonment

The City shall be entitled to exercise its options in subsection 13.9 if:

(A) The Grantee fails to provide Cable Service in accordance with this Franchise over a substantial portion of the Franchise Area for four (4) consecutive days, unless the City authorizes a longer interruption of service; or

(B) The Grantee, for any period, willfully and without cause refuses to provide Cable Service in accordance with this Franchise.

SECTION 14. FRANCHISE RENEWAL AND TRANSFER

14.1 Renewal

(A) The City and Grantee agree that any proceedings undertaken by the City that relate to the renewal of the Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or State law.

(B) In addition to the procedures set forth in said Section 626(a), the City agrees to notify Grantee of the completion of its assessments regarding the identification of future cable-related community needs and interests, as well as the past performance of Grantee under the then current Franchise term. Notwithstanding anything to the contrary set forth herein, Grantee and City agree that at any time during the term of the then current Franchise, while affording the public adequate notice and opportunity for comment, the City and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current Franchise and the City may grant a renewal thereof. Grantee and City consider the terms set forth in this subsection to be consistent with the express provisions of Section 626 of the Cable Act.

14.2 Transfer of Ownership or Control

(A) The Cable System and this Franchise shall not be sold, assigned, transferred, leased or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger or consolidation; nor shall title thereto, either legal or equitable, or any right, interest or property therein pass to or vest in any Person or entity without the prior written consent of the City, which consent shall be by the City Council/Commission, acting by ordinance/resolution.

(B) The Grantee shall promptly notify the City of any actual or proposed change in, or transfer of, or acquisition by any other party of control of the Grantee. The word “control” as used herein is not limited to majority stockholders but includes actual working control in whatever manner exercised. Every change, transfer or acquisition of control of the Grantee shall make this Franchise subject to cancellation unless and until the City shall have consented in writing thereto.

(C) The parties to the sale or transfer shall make a written request to the City for its approval of a sale or transfer and furnish all information required by law and the City.

(D) In seeking the City’s consent to any change in ownership or control, the proposed transferee shall indicate whether it:

(1) Has ever been convicted or held liable for acts involving deceit including any violation of federal, State or local law or regulations, or is currently under an indictment, investigation or complaint charging such acts;

(2) Has ever had a judgment in an action for fraud, deceit, or misrepresentation entered against the proposed transferee by any court of competent jurisdiction;

(3) Has pending any material legal claim, lawsuit, or administrative proceeding arising out of or involving a cable system or a broadband system;

(4) Is financially solvent, by submitting financial data including financial statements that are audited by a certified public accountant who may also be an officer of the transferee, along with any other data that the City may reasonably require; and

(5) Has the financial, legal and technical capability to enable it to maintain and operate the Cable System for the remaining term of the Franchise.

(E) The City shall act by ordinance on the request within one hundred twenty (120) days of the request, provided it has received all information required by this Franchise and/or by Applicable Law. The City and the Grantee may by mutual agreement, at any time, extend the 120 day period. Subject to the foregoing, if the City fails to render a final decision on the request within one hundred twenty (120) days, such request shall be deemed granted unless the requesting party and the City agree to an extension of time.

(F) Within thirty (30) days of any transfer or sale, if approved or deemed granted by the City, Grantee shall file with the City a copy of the deed, agreement, lease or other written instrument evidencing such sale or transfer of ownership or control, certified and sworn to as correct by Grantee and the transferee, and the transferee shall file its written acceptance agreeing to be bound by all of the provisions of this Franchise, subject to Applicable Law. In the event of a change in control, in which the Grantee is not replaced by another entity, the Grantee will continue to be bound by all of the provisions of the Franchise, subject to Applicable Law, and

will not be required to file an additional written acceptance.

(G) In reviewing a request for sale or transfer, the City may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and Grantee shall assist the City in so inquiring. The City may condition said sale or transfer upon such terms and conditions as it deems reasonably appropriate, in accordance with Applicable Law.

(H) Notwithstanding anything to the contrary in this subsection, the prior approval of the City shall not be required for any sale, assignment or transfer of the Franchise or Cable System to an entity controlling, controlled by or under the same common control as Grantee, provided that the proposed assignee or transferee must show financial responsibility as may be determined necessary by the City and must agree in writing to comply with all of the provisions of the Franchise. Further, Grantee may pledge the assets of the Cable System for the purpose of financing without the consent of the City; provided that such pledge of assets shall not impair or mitigate Grantee's responsibilities and capabilities to meet all of its obligations under the provisions of this Franchise.

SECTION 15. SEVERABILITY

If any Section, subsection, paragraph, term or provision of this Franchise is determined to be illegal, invalid or unconstitutional by any court or agency of competent jurisdiction, such determination shall have no effect on the validity of any other Section, subsection, paragraph, term or provision of this Franchise, all of which will remain in full force and effect for the term of the Franchise.

SECTION 16. MISCELLANEOUS PROVISIONS

16.1 Preferential or Discriminatory Practices Prohibited

NO DISCRIMINATION IN EMPLOYMENT. In connection with the performance of work under this Franchise, the Grantee agrees not to refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any Person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Grantee further agrees to insert the foregoing provision in all subcontracts hereunder. Throughout the term of this Franchise, Grantee shall fully comply with all equal employment or non-discrimination provisions and requirements of federal, State and local laws, and in particular, FCC rules and regulations relating thereto.

16.2 Notices

Throughout the term of the Franchise, each party shall maintain and file with the other a local address for the service of notices by mail. All notices shall be sent overnight delivery postage prepaid to such respective address and such notices shall be effective upon the date of

mailing. These addresses may be changed by the City or the Grantee by written notice at any time. At the Effective Date of this Franchise:

Grantee's address shall be:

. Comcast of Colorado II, LLC
 . 8000 E. Iliff Ave.
 . Denver, CO 80231
 . Attn: Government Affairs

The City's address shall be:

. City of Loveland
 . 500 E. Third Street, Suite 330
 . Loveland, CO 80537

16.3 Descriptive Headings

The headings and titles of the Sections and subsections of this Franchise are for reference purposes only, and shall not affect the meaning or interpretation of the text herein.

16.4 Publication Costs to be Borne by Grantee

Grantee shall reimburse the City for all costs incurred in publishing this Franchise, if such publication is required.

16.5 Binding Effect

This Franchise shall be binding upon the parties hereto, their permitted successors and assigns.

16.6 No Joint Venture

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third Persons or the public in any manner which would indicate any such relationship with the other.

16.7 Waiver

The failure of the City at any time to require performance by the Grantee of any provision hereof shall in no way affect the right of the City hereafter to enforce the same. Nor shall the waiver by the City of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

16.8 Reasonableness of Consent or Approval

Whenever under this Franchise “reasonableness” is the standard for the granting or denial of the consent or approval of either party hereto, such party shall be entitled to consider public and governmental policy, moral and ethical standards as well as business and economic considerations.

16.9 Entire Agreement

This Franchise and all Exhibits represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior oral negotiations between the parties.

16.10 Jurisdiction

Venue for any judicial dispute between the City and Grantee arising under or out of this Franchise shall be in Larimer County District Court, Colorado, or in the United States District Court in Denver.

IN WITNESS WHEREOF, this Franchise is signed in the name of the City of Loveland, Colorado this ____ day of _____, 2016.

ATTEST:

CITY OF LOVELAND, COLORADO:

City Clerk

Cecil Gutierrez, Mayor

APPROVED AS TO FORM:

RECOMMENDED AND APPROVED:

City Attorney

William D. Cahill, City Manager

Accepted and approved this _____ day of _____, 2016.

ATTEST:

COMCAST OF COLORADO II, LLC

Public Notary

Name/Title: _____

**EXHIBIT A:
CUSTOMER SERVICE STANDARDS**

EXHIBIT B**Report Form**

Comcast
Quarterly Executive Summary - Escalated Complaints
Section 7.6 (B) of our Franchise Agreement
Quarter Ending _____, Year
CITY OF LOVELAND

<u>Type of Complaint</u>	<u>Number of Calls</u>
Accessibility	0
Billing, Credit and Refunds	0
Courtesy	0
Drop Bury	0
Installation	0
Notices/Easement Issues (Non-Rebuild)	0
Pedestal	0
Problem Resolution	0
Programming	0
Property Damage (Non-Rebuild)	0
Rates	0
Rebuild/Upgrade Damage	0
Rebuild/Upgrade Notices/Easement Issues	0
Reception/Signal Quality	0
Safety	0
Service and Install Appointments	0
Service Interruptions	0
Serviceability	0
<u>TOTAL</u>	0

Compliments	
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FIRST READING: July 19,

2016 SECOND READING:

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE LOVELAND MUNICIPAL CODE AT
SECTION 13.16.030 CONCERNING CUSTOMER SERVICE
STANDARDS FOR CABLE OPERATORS**

WHEREAS, Section 552 of Title 47 of the United States Code authorizes local franchising authorities to establish and enforce customer service requirements upon cable operators within their jurisdictions; and

WHEREAS, pursuant to paragraph 6.1 of the “Cable Franchise Agreement Between the City of Loveland, Colorado and Comcast of Colorado II, LLC” effective July 1, 2016 through June 30, 2026 (“Franchise Agreement”), Comcast shall comply with the customer service standards of the City adopted by ordinance; and

WHEREAS, whereas the City last amended its customer service standards on July 3, 2007 by Ordinance No. 5206, which amendments were codified in Section 13.16.030 of the City Code; and

WHEREAS, the City desires to amend the customer service standards to reflect current industry standards and best practices; and

WHEREAS, Comcast was given notice of the amended customer service standards and was provided an opportunity to comment on the amendments; and

WHEREAS, the City Council believes it is in the best interests of the citizens of Loveland to enact the amended customer service standards to regulate cable operators within the City.

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

Section 1. That Section 13.16.030 of the Loveland Municipal Code is hereby repealed in its entirety and reenacted to read as follows:

13.16.030 Customer service standards.

A. Policy.

1. The cable operator should resolve citizen complaints without delay and interference from the city. Where a given complaint is not addressed by the cable operator to the

citizen's satisfaction, the city should intervene. In addition, where a pattern of unremedied complaints or noncompliance with the standards is identified, the city should prescribe a cure and establish a reasonable deadline for implementation of the cure. If the noncompliance is not cured within established deadlines, monetary sanctions should be imposed to encourage compliance and deter future non-compliance.

2. These standards are intended to be of general application and are expected to be met under normal operating conditions; however, the cable operator shall be relieved of any obligations hereunder if it is unable to perform due to a region-wide natural emergency or in the event of force majeure affecting a significant portion of the franchise area. The cable operator is free to exceed these standards to the benefit of its customers and such shall be considered performance for the purposes of these standards.
 3. These standards supersede any contradictory or inconsistent provision in federal, state, or local law (source: 47 U.S.C. § 552(a)(1) and (d)); provided, however, that any provision in federal, state, or local law, or in any original franchise agreement or renewal agreement, that imposes a higher obligation or requirement than is imposed by these standards, shall not be considered contradictory or inconsistent with these standards. In the event of a conflict between these standards and a franchise agreement, the franchise agreement shall control.
 4. These standards apply to the provision of any cable service provided by a cable operator over a cable system within the city of Loveland, Colorado.
- B. Definitions. When used in these customer service standards (the "standards"), the following words, phrases, and terms shall have the meanings given below.

"Adoption" shall mean the process necessary to formally enact the standards within the city's jurisdiction under applicable ordinances and laws.

"Affiliate" shall mean any person or entity that is owned or controlled by, or under common ownership or control with, a cable operator and provides any cable service or other service.

"Applicable law" shall mean, with respect to these standards and any cable operator's privacy policies, any statute, ordinance, judicial decision, executive order, or regulation having the force and effect of law that determines the legal standing of a case or issue.

"Cable operator" shall mean any person or group of persons who: (a) provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system; or (b) otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system (source: 47 U.S.C. § 522(5)).

"Cable service" shall mean: (a) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service; and (b) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service (source: 47 U.S.C. § 522(6)). For purposes of this definition, "video programming" is programming provided by, or generally considered comparable to programming provided by a television broadcast station (source: 47 U.S.C. § 522(20)). "Other programming service" is information that a cable operator makes available to all subscribers generally (source: 47 U.S.C. § 522(14)).

“Cable system” shall mean a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include: (a) a facility that serves only to retransmit the television signals of one or more television broadcast stations; or (b) a facility that serves subscribers without using any public right-of-way. (source: 47 U.S.C. § 522(7)).

“City” shall mean the city of Loveland, Colorado.

“Contractor” shall mean a person or entity that agrees by contract to furnish materials or perform services for another at a specified consideration.

“Customer” shall mean any person who receives any cable service from a cable operator.

“Customer service representative” shall mean any person employed with or under contract or subcontract to a cable operator to assist, or provide service to, customers, whether by telephone, writing service or installation orders, answering customers’ questions in person, receiving and processing payments, or performing any other customer service-related tasks.

“Escalated complaint” shall mean a complaint that is referred to a cable operator by the city.

“Necessary” shall mean required or indispensable.

“Non-cable-related purpose” shall mean any purpose that is not necessary to render or conduct a legitimate business activity related to a cable service or other service provided by a cable operator to a customer. Market research, telemarketing, and other marketing of services or products that are not related to a cable service or other service provided by a cable operator to a customer shall be considered non-cable-related purposes.

“Normal business hours” shall mean those hours during which most similar businesses in the community are open to serve customers. In all cases, “normal business hours” must include at least some evening hours one night per week, and include some weekend hours (source: 47 C.F.R. § 76.309).

“Normal operating conditions” shall mean those service conditions which are within the control of a cable operator. Conditions which are not within the control of a cable operator include, but are not necessarily limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Conditions which are ordinarily within the control of a cable operator include, but are not necessarily limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade to the cable system.

“Other service(s)” shall mean any wire or radio communications service provided using any of the facilities of a cable operator that are used in the provision of cable service.

“Personally identifiable information” shall mean specific information about an identified customer, including, but not limited to, a customer’s: (a) login information for the use of cable service and management of a customer’s cable service account; (b) extent of viewing of video programming or other services; (c) shopping choices; (d) interests and opinions; (e) energy uses; (f) medical information; (g) banking data or information; or (h) any other personal or private information. “Personally identifiable information” shall not mean any aggregate information about customers which does not identify

particular persons, or information gathered by a cable operator necessary to install, repair, or service equipment or cable system facilities at a customer's premises.

"Service interruption" or "interruption" shall mean the loss or substantial impairment of picture and/or sound on one or more cable television channels.

"Service outage" or "outage" shall mean a loss or substantial impairment in reception on all channels.

"Subcontractor" shall mean a person or entity that enters into a contract to perform part or all of the obligations of another's contract.

"Writing" or "written" as the term applies to notification shall include electronic communications.

Any terms not specifically defined in these standards shall be given their ordinary meaning, or where otherwise defined in applicable federal law, such terms shall be interpreted consistent with those definitions.

C. Customer service.

1. Courtesy. Cable operator employees, contractors, and subcontractors shall be courteous, knowledgeable, and helpful and shall provide effective and satisfactory service in all contacts with customers.
2. Accessibility.
 - a. A cable operator shall provide customer service centers/business offices ("service centers") which are conveniently located and which are open during normal business hours. Service centers shall be fully staffed with customer service representatives offering the following services to customers who come to the service center: bill payment, equipment exchange, processing of change of service requests, and response to customer inquiries and request. Unless otherwise requested by the city, a cable operator shall post a sign at each service center, visible from the outside of the service center, advising customers of its hours of operation and of the telephone number at which to contact the cable operator if the service center is not open at the times posted. The cable operator shall use commercially reasonable efforts to implement and promote "self-help" tools and technology in order to respond to the growing demand of customers who wish to interact with the cable operator on the customer's own terms and timeline and at their own convenience, without having to travel to a service center. Without limitation, examples of self-help tools or technology may include self-installation kits to customers upon request, pre-paid mailers for the return of equipment upon customer request, an automated phone option for customer bill payments, and equipment exchanges at a customer's residence in the event of damaged equipment. A cable operator shall provide free exchanges of faulty equipment at the customer's address if the equipment has not been damaged in any manner due to the fault or negligence of the customer.
 - b. A cable operator shall maintain local telephone access lines that shall be available twenty-four hours a day, seven days a week for service/repair requests and billing/service inquiries. Customers shall be provided an option, through the local telephone access lines, to speak to a live customer service representative, able to converse clearly with the customer, in either English or Spanish, at the customer's option.

- c. A cable operator shall have dispatchers and technicians on call twenty-four hours a day, seven days a week, including legal holidays.
 - d. If a customer service telephone call is answered with a recorded message providing the customer with various menu options to address the customer's concern, the recorded message must provide the customer the option to connect to and speak with a customer service representative within sixty seconds of the commencement of the recording. During normal business hours, a cable operator shall retain sufficient customer service representatives and telephone line capacity to ensure that telephone calls to technical service/repair and billing/service inquiry lines are answered by a customer service representative within thirty seconds or less from the time a customer chooses a menu option to speak directly with a customer service representative or chooses a menu option that pursuant to the automated voice message, leads to a direct connection with a customer service representative. Under normal operating conditions, this thirty second telephone answer time requirement standard shall be met no less than ninety percent of the time measured quarterly.
 - e. Under normal operating conditions, a customer shall not receive a busy signal more than three percent of the time. This standard shall be met ninety percent or more of the time, measured quarterly.
3. Responsiveness.
- a. Guaranteed seven day residential installation.
 - i. A cable operator shall complete all standard residential installations or modifications to service requested by customers within seven business days after the order is placed, unless a later date for installation is requested. "Standard" residential installations are those located up to one hundred twenty five feet from the existing distribution system. If the customer requests a nonstandard residential installation, or the cable operator determines that a nonstandard residential installation is required, the cable operator shall provide the customer in advance with a total installation cost estimate and an estimated date of completion.
 - ii. All underground cable drops to the home shall be buried at a depth of no less than twelve inches, or such other depth as may be required by the franchise agreement or local code provisions, or if there are no applicable franchise or code requirements, at such other depths as may be agreed to by the parties if other construction concerns preclude the twelve inch requirement, and within no more than one calendar week from the initial installation, or at a time mutually agreed upon between the cable operator and the customer.
 - b. Residential installation and service appointments.
 - i. The "appointment window" alternatives for specific installations, service calls, and/or other installation activities will be either a specific time, or at a maximum, a four hour time block between the hours of 8:00 a.m. and 6:00 p.m., six days per week. A cable operator may schedule service calls and other installation activities outside of the above days and hours for the express convenience of customers. For purposes of this subsection "appointment window" means the period of time in which the representative of the cable operator must arrive at the customer's location.

- ii. A cable operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment, unless the customer's issue has otherwise been resolved.
 - iii. If a cable operator is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the cable operator shall take reasonable efforts to contact the customer promptly, but in no event later than the end of the appointment window. The appointment will be rescheduled, as necessary at a time that is convenient to the customer, within normal business hours or as may be otherwise agreed to between the customer and cable operator.
 - iv. A cable operator shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives within the agreed upon time, and, if the customer is absent when the technician arrives, the technician leaves written notification of arrival and return time, and a copy of that notification is kept by the cable operator. In such circumstances, the cable operator shall contact the customer within forty-eight hours.
- c. Residential service interruptions.
 - i. In the event of system outages resulting from cable operator equipment failure, the cable operator shall correct such failure within two hours after the third customer call is received.
 - ii. All other service interruptions resulting from cable operator equipment failure shall be corrected by the cable operator by the end of the next calendar day.
 - iii. Records of complaints.
 - (a) A cable operator shall keep an accurate and comprehensive file of any complaints regarding the cable system or its operation of the cable system, in a manner consistent with the privacy rights of customers, and the cable operator's actions in response to those complaints. These files shall remain available for viewing by the city during normal business hours at the cable operator's business office, and shall be retained by the cable operator for a period of at least three years.
 - (b) Upon written request a cable operator shall provide the city an executive summary quarterly, which shall include information concerning customer complaints referred by the city to the cable operator and any other requirements of a franchise agreement, but no personally identifiable information. These summaries shall be provided within fifteen days after the end of each quarter. Once a request is made, it need not be repeated, and quarterly executive summaries shall be provided by the cable operator until notified in writing by the city that such summaries are no longer required.
 - (c) Upon written request a summary of service requests, identifying the number and nature of the requests and their disposition, shall also be completed by the cable operator for each quarter and submitted to the city by the fifteenth day of the month after each calendar quarter. Once a request is made, it need not be repeated, and quarterly summary of service requests shall be provided by the cable operator until notified in writing by the city that such summaries are no longer required. Complaints shall be

broken out by the nature of the complaint and the type of cable service subject to the complaint.

- iv. Records of service interruptions and outages. A cable operator shall maintain records of all outages and reported service interruptions. Such records shall indicate the type of cable service interrupted, including the reasons for the interruptions. A log of all service interruptions shall be maintained and provided to the city quarterly, upon written request, within fifteen days after the end of each quarter. Such records shall be submitted to the city with the records identified in subsection C.3.c.3.b. above if so requested in writing, and shall be retained by the cable operator for a period of three years.
- v. All service outages and interruptions for any cause beyond the control of the cable operator shall be corrected within thirty-six hours, after the conditions beyond its control have been corrected.
- d. Television reception.
 - i. A cable operator shall provide clear television reception that meets or exceeds technical standards established by the United States Federal Communications Commission ("FCC"). A cable operator shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Scheduled interruptions shall be preceded by notice and shall occur during periods of minimum use of the system, preferably between midnight and 6:00 a.m.
 - ii. If a customer experiences poor video or audio reception attributable to a cable operator's equipment, the cable operator shall:
 - (a) assess the problem within one day of notification;
 - (b) communicate with the customer regarding the nature of the problem and the expected time for repair; and
 - (c) complete the repair within two days of assessing the problem unless circumstances exist that reasonably require additional time.
 - iii. If an appointment is necessary to address any video or audio reception problem, the customer may choose a block of time described in subsection C.3.b.1. At the customer's request, the cable operator shall repair the problem at a later time convenient to the customer, during normal business hours or at such other time as may be agreed to by the customer and cable operator. A cable operator shall maintain periodic communications with a customer during the time period in which problem ascertainment and repair are ongoing so that the customer is advised of the status of the cable operator's efforts to address the problem.
- e. Problem resolution. A cable operator's customer service representatives shall have the authority to provide credit for interrupted service, waive fees, schedule service appointments, and change billing cycles, where appropriate. Any difficulties that cannot be resolved by the customer service representative shall be referred to the appropriate supervisor who shall contact the customer within four hours and resolve the problem within forty-eight hours or within such other time frame as is acceptable to the customer and the cable operator.
- f. Billing, credits, and refunds.

- i. In addition to other options for payment of a customer's service bill, a cable operator shall make available a telephone payment option where a customer without account irregularities can enter payment information through an automated system, without the necessity of speaking to a customer service representative.
- ii. A cable operator shall allow at least thirty days from the beginning date of the applicable service period for payment of a customer's service bill for that period. If a customer's service bill is not paid within that period of time the cable operator may apply an administrative fee to the customer's account. The administrative fee must reflect the average costs incurred by the cable operator in attempting to collect the past due payment in accordance with applicable law. If the customer's service bill is not paid within forty-five days of the beginning date of the applicable service period, the cable operator may perform a "soft" disconnect of the customer's service. If a customer's service bill is not paid within fifty-two days of the beginning date of the applicable service period, the cable operator may disconnect the customer's service, provided it has provided two weeks' notice to the customer that such disconnection may result.
- iii. The cable operator shall issue a credit or refund to a customer within thirty days after determining the customer's entitlement to a credit or refund.
- iv. Whenever the cable operator offers any promotional or specially-priced service(s), its promotional materials shall clearly identify and explain the specific terms of the promotion, including, but not limited to, the manner in which any payment credit will be applied.
- g. Treatment of property. To the extent that a franchise agreement does not contain the following procedures for treatment of property, a cable operator shall comply with the procedures set forth in this section.
 - i. A cable operator shall keep tree trimming to a minimum. Trees and shrubs or other landscaping that are damaged by a cable operator, or any employee or agent of a cable operator, during installation or construction shall be restored to their prior condition or replaced within seven days, unless seasonal conditions require a longer time, in which case such restoration or replacement shall be made within seven days after conditions permit. Trees and shrubs on private property shall not be removed without the prior permission of the owner or legal tenant of the property on which they are located. This provision shall be in addition to, and shall not supersede, any requirement in any franchise agreement.
 - ii. A cable operator shall, at its own cost and expense, and in a manner approved by the property owner and the city, restore any private property to as good condition as before the work causing such disturbance was initiated. A cable operator shall repair, replace, or compensate a property owner for any damage resulting from the cable operator's installation, construction, service, or repair activities. If compensation is requested by the customer for damage caused by any cable operator activity, the cable operator shall reimburse the property owner one hundred percent of the actual cost of the damage.

iii. Except in the case of an emergency involving public safety or service interruption to a large number of customers, a cable operator shall give reasonable notice to property owners or legal tenants prior to entering upon private premises, and the notice shall specify the work to be performed; provided, however, that in the case of construction operations, such notice shall be delivered or provided at least twenty-four hours prior to entry, unless such notice is waived by the customer. For purposes of this subsection, “reasonable notice” shall be considered:

- (a) for pedestal installation or similar major construction, seven days.
- (b) for routine maintenance, such as adding or dropping service, tree trimming, and the like, reasonable notice given the circumstances. Unless a franchise agreement has a different requirement, reasonable notice shall require, at a minimum, prior notice to a property owner or tenant before entry is made onto that person’s property.
- (c) for emergency work a cable operator shall attempt to contact the property owner or legal tenant in person, and shall leave a door hanger notice in the event personal contact is not made. Door hangars must describe the issue and provide contact information where the property owner or tenant can receive more information about the emergency work.

Nothing herein shall be construed as authorizing access or entry to private property, or any other property, where such right to access or entry is not otherwise provided by law.

iv. Cable operator personnel shall clean all areas surrounding any work site and ensure that all cable materials have been disposed of properly.

4. Services for customers with disabilities.

- a. For any customer with a disability, a cable operator shall deliver and pick up equipment at the customer’s home at no charge unless the malfunction was caused by the actions of the customer. In the case of malfunctioning equipment, the technician shall provide replacement equipment, hook it up, and ensure that it is working properly, and shall return the defective equipment to the cable operator.
- b. A cable operator shall provide either TTY, TDD, TYY, VRS service, or other similar service that is in compliance with the Americans With Disabilities Act and other applicable law, with trained operators who can provide every type of assistance rendered by the cable operator’s customer service representatives for any hearing-impaired customer at no charge.
- c. A cable operator shall provide free use of a remote control unit to mobility-impaired (if disabled, in accordance with subsection C.4.d.) customers.
- d. Any customer with a disability may request the special services described above by providing a cable operator with a letter from the customer’s physician stating the need, or by making the request to the cable operator’s installer or service technician where the need for the special services can be visually confirmed.

5. Cable services information.

- a. At any time a customer or prospective customer may request, a cable operator shall provide the following information, in clear, concise, written form, easily accessible and located on the cable operator’s website (and in Spanish, when requested by the customer):

- i. products and services offered by the cable operator, including its channel lineup;
 - ii. the cable operator's complete range of service options and the prices for these services;
 - iii. the cable operator's billing, collection, and disconnection policies;
 - iv. privacy rights of customers;
 - v. all applicable complaint procedures, including complaint forms and the telephone numbers and mailing addresses of the cable operator and the FCC;
 - vi. use and availability of parental control/lock out device;
 - vii. special services for customers with disabilities; and
 - viii. the days and times of operation and locations of the service centers;
- b. At a customer's request, a cable operator shall make available either a complete copy of these standards and any other applicable customer service standards, or a summary of these standards, in a format to be approved by the city, which shall include, at a minimum, the URL address of a website containing these standards in their entirety; provided however, that if the city does not maintain a website with a complete copy of these standards, a cable operator shall be under no obligation to do so. If acceptable to a customer, a cable operator may fulfill customer requests for any of the information listed in this section by making the requested information available electronically, such as on a website or by electronic mail.
 - c. Upon written request, a cable operator shall meet annually with the city to review the format of the cable operator's bills to customers. Whenever the cable operator makes substantial changes to its billing format, it will contact the city at least thirty days prior to the time such changes are to be effective in order to inform the city of such changes.
 - d. Copies of notices provided to the customer in accordance with subsection C.5.e. shall be filed (by fax or email acceptable) concurrently with the city.
 - e. A cable operator shall provide customers with written notification of any change in rates for nondiscretionary cable services, and for service tier changes that result in a deletion of programming from a customer's service tier, at least thirty days before the effective date of change. For purposes of this section, "nondiscretionary" means the subscribed tier and any other cable services that a customer has subscribed to at the time the change in rates are announced by the cable operator.
 - f. All officers, agents, and employees of the cable operator or its contractors or subcontractors who are in personal contact with customers, and/or when working on public property, shall wear on their outer clothing identification cards bearing their name and photograph and identifying them as representatives of the cable operator. The cable operator shall account for all identification cards at all times. Every vehicle of the cable operator shall be clearly visually identified to the public as working for the cable operator. Whenever a cable operator work crew is in personal contact with customers or public employees, a supervisor must be able to communicate clearly with the customer or public employee. Every vehicle of a subcontractor or contractor shall be labeled with the name of the contractor and further identified as contracting or subcontracting for the cable operator.

- g. Each customer service representative, technician, or employee of the cable operator in each contact with a customer shall state the estimated cost of the service, repair, or installation orally prior to delivery of the service or before any work is performed, and shall provide the customer with an oral statement of the total charges before terminating the telephone call or before leaving the location at which the work was performed. A written estimate of the charges shall be provided to the customer before the actual work is performed.
- 6. Customer privacy.
 - a. Cable customer privacy. In addition to complying with the requirements in this subsection, a cable operator shall fully comply with all obligations under 47 U.S.C. Section 551.
 - b. Collection and use of personally identifiable information.
 - i. A cable operator shall not use the cable system to collect, monitor, or observe personally identifiable information without the prior affirmative written or electronic consent of the customer unless, and only to the extent, that such information is: (a) used to detect unauthorized reception of cable communications; or (b) necessary to render a cable service or other service provided by the cable operator to the customer and as otherwise authorized by applicable law.
 - ii. A cable operator shall take such actions as are necessary using then-current industry standard practices to prevent any affiliate from using the facilities of the cable operator in any manner, including, but not limited to, sending data or other signals through such facilities, to the extent such use will permit an affiliate unauthorized access to personally identifiable information on equipment of a customer (regardless of whether such equipment is owned or leased by the customer or provided by a cable operator) or on any of the facilities of the cable operator that are used in the provision of cable service. This subsection shall not be interpreted to prohibit an affiliate from obtaining access to personally identifiable information to the extent otherwise permitted by this subsection.
 - iii. A cable operator shall take such actions as are necessary using then-current industry standard practices to prevent a person or entity (other than an Affiliate) from using the facilities of the cable operator in any manner, including, but not limited to, sending data or other signals through such facilities, to the extent such use will permit such person or entity unauthorized access to personally identifiable information on equipment of a customer (regardless of whether such equipment is owned or leased by the customer or provided by a cable operator) or on any of the facilities of the cable operator that are used in the provision of cable service.
 - c. Disclosure of personally identifiable information. A cable operator shall not disclose personally identifiable information without the prior affirmative written or electronic consent of the customer, unless otherwise authorized by applicable law.
 - i. A minimum of thirty days prior to making any disclosure of personally identifiable information of any customer for any non-cable-related purpose as provided in this subsection, where such customer has not previously been

- provided the notice and choice provided for in subsection C.6.i, the cable operator shall notify each customer (that the cable operator intends to disclose information about) of the customer's right to prohibit the disclosure of such information for non-cable-related purposes. The notice to customers may reference the customer to his or her options to state a preference for disclosure or non-disclosure of certain information, as provided in subsection C.6.i.
- ii. A cable operator may disclose personally identifiable information only to the extent that it is necessary to render, or conduct a legitimate business activity related to, a cable service or other service provided by the cable operator to the customer.
 - iii. To the extent authorized by applicable law, a cable operator may disclose personally identifiable information pursuant to a subpoena, court order, warrant, or other valid legal process authorizing such disclosure.
- d. Access to information. Any personally identifiable information collected and maintained by a cable operator shall be made available for customer examination within thirty days of receiving a request by a customer to examine such information about himself or herself at the local offices of the cable operator or other convenient place within the city designated by the cable operator, or electronically, such as over a website. Upon a reasonable showing by the customer that such personally identifiable information is inaccurate, a cable operator shall correct such information.
- e. Privacy notice to customers
- i. A cable operator shall annually mail or provide a separate written or electronic copy of the privacy statement to customers consistent with 47 U.S.C. Section 551(a)(1), and shall provide a customer a copy of such statement at the time the cable operator enters into an agreement with the customer to provide cable service. The written notice shall be in a clear and conspicuous format, which at a minimum, shall be in a comparable font size to other general information provided to customers about their account as it appears on either paper or electronic customer communications.
 - ii. In or accompanying the statement required by subsection C.6.e.i, a cable operator shall state substantially the following message regarding the disclosure of customer information: "Unless a customer affirmatively consents electronically or in writing to the disclosure of personally identifiable information, any disclosure of personally identifiable information for purposes other than to the extent necessary to render, or conduct a legitimate business activity related to, a cable service or other service, is limited to:
 - (a) Disclosure pursuant to valid legal process authorized by applicable law.
 - (b) Disclosure of the name and address of a customer subscribing to any general programming tiers of service and other categories of cable services provided by the cable operator that do not directly or indirectly disclose:
 - (i) a customer's extent of viewing of a cable service or other service provided by the cable operator; (ii) the extent of any other use by a customer of a cable service; (b) the nature of any transactions made by a customer over the cable system; or (d) the nature of programming or websites that a customer subscribes to or views (i.e., a cable operator may

only disclose the fact that a person subscribes to a general tier of service, or a package of channels with the same type of programming), provided that with respect to the nature of websites subscribed to or viewed, these are limited to websites accessed by a customer in connection with programming available from their account for cable services.”

The notice shall also inform the customers of their right to prohibit the disclosure of their names and addresses in accordance with subsection C.6.c.i. If a customer exercises his or her right to prohibit the disclosure of name and address as provided in subsection C.6.c.i. or this subsection, such prohibition against disclosure shall remain in effect, unless and until the customer subsequently changes their disclosure preferences as described in subsection C.6.i below.

- f. Privacy reporting requirements. The cable operator shall include in its regular periodic reports to the city required by its franchise agreement information summarizing:
 - i. The type of personally identifiable information that was actually collected or disclosed by cable operator during the reporting period.
 - ii. For each type of personally identifiable information collected or disclosed, a statement from an authorized representative of the cable operator certifying that the personally identifiable information collected or disclosed was: (a) collected or disclosed to the extent necessary to render, or conduct a legitimate business activity related to, a cable service or other service provided by the cable operator; (b) used to the extent necessary to detect unauthorized reception of cable communications; (c) disclosed pursuant to valid legal process authorized by applicable law; or (d) a disclosure of personally identifiable information of particular subscribers, but only to the extent affirmatively consented to by such subscribers in writing or electronically, or as otherwise authorized by applicable law.
 - iii. The standard industrial classification codes or comparable identifiers pertaining to any entities to whom such personally identifiable information was disclosed, except that a cable operator need not provide the name of any court or governmental entity to which such disclosure was made pursuant to valid legal process authorized by applicable law.
 - iv. The general measures that have been taken to prevent the unauthorized access to personally identifiable information by a person other than the customer or the cable operator. A cable operator shall meet with city if requested to discuss technology used to prohibit unauthorized access to personally identifiable information by any means.
- g. Nothing in this subsection C.6. shall be construed to prevent the city from obtaining personally identifiable information to the extent not prohibited by Section 631 of the Communications Act, 47 U.S.C. Section 551, and applicable laws.
- h. Destruction of personally identifiable information. A cable operator shall destroy any personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or

- orders for access to such information under subsection C.6.d., pursuant to a court order or other valid legal process, or pursuant to applicable law.
- i. Notice and choice for customers. The cable operator shall at all times make available to customers one or more methods for customers to use to prohibit or limit disclosures, or permit or release disclosures, as provided for in this subsection C.6. These methods may include, for example, online website “preference center” features, automated toll-free telephone systems, live toll-free telephone interactions with customer service agents, in-person interactions with customer service personnel, regular mail methods such as a postage paid, self-addressed post card, an insert included with the customer’s monthly bill for cable service, the privacy notice specified in subsection C.6.e., or such other comparable methods as may be provided by the cable operator. Website “preference center” features shall be easily identifiable and navigable by customers, and shall be in a comparable size font as other billing information provided to customers on a cable operator’s website. A customer who provides the cable operator with permission to disclose personally identifiable information through any of the methods offered by a cable operator shall be provided follow-up notice, no less than annually, of the customer’s right to prohibit these disclosures and the options for the customer to express his or her preference regarding disclosures. Such notice shall, at a minimum, be provided by an insert in the cable operator’s bill (or other direct mail piece) to the customer or a notice or message printed on the cable operator’s bill to the customer, and on the cable operator’s website when a customer logs in to view his or her cable service account options. The form of such notice shall also be provided on an annual basis to the city. These methods of notification to customers may also include other comparable methods as submitted by the cable operator and approved by the city in its reasonable discretion
 7. Safety. A cable operator shall install and locate its facilities, cable system, and equipment in compliance with all federal, state, local, and company safety standards, and in such manner as shall not unduly interfere with or endanger persons or property. Whenever a cable operator receives notice that an unsafe condition exists with respect to its equipment, the cable operator shall investigate such condition immediately, and shall take such measures as are necessary to remove or eliminate any unsafe condition.
 8. Cancellation of new services. In the event that a new customer requests installation of cable service and is unsatisfied with their initial cable service, and provided that the customer so notifies the cable operator of their dissatisfaction within thirty days of initial installation, then such customer can request disconnection of cable service within thirty days of initial installation, and the cable operator shall provide a credit to the customer’s account consistent with this section. The customer will be required to return all equipment in good working order. If the equipment is returned in good working order, then the cable operator shall refund the monthly recurring fee for the new customer’s first thirty days of cable service and any charges paid for installation. This provision does not apply to existing customers who request upgrades to their cable service, to discretionary cable service such as pay-per-view or movies

purchased and viewed on demand, or to customer moves and/or transfers of cable service. The service credit shall be provided in the next billing cycle.

D. Complaint procedure.

1. Complaints to a cable operator.

- a. A cable operator shall establish written procedures for receiving, acting upon, and resolving customer complaints, and crediting customer accounts, and shall have such procedures printed and disseminated at the cable operator's sole expense, consistent with subsection C.5.a.v. of these standards.
- b. Said written procedures shall prescribe a simple manner in which any customer may submit a complaint by telephone or in writing to a cable operator that it has violated any provision of these customer service standards, any terms or conditions of the customer's contract with the cable operator, or reasonable business practices. If a representative of the city notifies the cable operator of a customer complaint that has not previously been made by the customer to the cable operator, the complaint shall be deemed to have been made by the customer as of the date of the city's notice to the cable operator.
- c. At the conclusion of the cable operator's investigation of a customer complaint, but in no more than ten calendar days after receiving the complaint, the cable operator shall notify the customer of the results of its investigation and its proposed action or credit.
- d. A cable operator shall also notify the customer of the customer's right to file a complaint with the city in the event the customer is dissatisfied with the cable operator's decision, and shall thoroughly explain the necessary procedures for filing such complaint with the city.
- e. A cable operator shall immediately report all customer escalated complaints that it does not find valid to the city.
- f. A cable operator's complaint procedures shall be filed with the city prior to implementation.

2. Complaints to the city.

- a. Any customer who is dissatisfied with any proposed decision of the cable operator or who has not received a decision within the time period set forth below shall be entitled to have the complaint reviewed by the city.
- b. The customer may initiate the review either by calling the city or by filing a written complaint together with the cable operator's written decision, if any, with the city.
- c. The customer shall make such filing and notification within twenty days of receipt of the cable operator's decision or, if no decision has been provided, within thirty days after filing the original complaint with the cable operator.
- d. If the city decides that further evidence is warranted, the city shall require the cable operator and the customer to submit, within ten days of notice thereof, a written statement of the facts and arguments in support of their respective positions.
- e. The cable operator and the customer shall produce any additional evidence, including any reports from the cable operator, which the city may deem necessary to an understanding and determination of the complaint.

- f. The city shall issue a determination within fifteen days of receiving the customer complaint, or after examining the materials submitted, setting forth its basis for the determination.
 - g. The city may extend these time limits for reasonable cause and may intercede and attempt to negotiate an informal resolution.
- 3. Security fund or letter of credit. A cable operator shall comply with any franchise agreement regarding letters of credit. If a franchise agreement is silent on letter of credit the following shall apply:
 - a. Within thirty days of the written notification to a cable operator by the city that an alleged franchise violation exists, a cable operator shall deposit with an escrow agent approved by the city fifty thousand dollars or, in the sole discretion of the city, such lesser amount as the city deems reasonable to protect subscribers within its jurisdiction. Alternatively, at the cable operator's discretion, it may provide to the city an irrevocable letter of credit in the same amount. The escrowed funds or letter of credit shall constitute the "security fund" for ensuring compliance with these standards for the benefit of the city. The escrowed funds or letter of credit shall be maintained by a cable operator at the amount initially required, even if amounts are withdrawn pursuant to any provision of these standards, until any claims related to the alleged franchise violation(s) are paid in full.
 - b. The city may require the cable operator to increase the amount of the security fund if it finds that new risk factors exist which necessitate such an increase.
 - c. The security fund shall serve as security for the payment of any penalties, fees, charges, or credits as provided for herein and for the performance by a cable operator of all its obligations under these customer service standards.
 - d. The rights reserved to the city with respect to the security fund are in addition to all other rights of the city, whether reserved by any applicable franchise agreement or authorized by law, and no action, proceeding, or exercise of a right with respect to same shall in any way affect or diminish any other right the city may otherwise have.
- 4. Verification of compliance. A cable operator shall establish its compliance with any or all of the standards required through annual reports that demonstrate said compliance, or as requested by the city.
- 5. Procedure for remedying violations.
 - a. If the city has reason to believe that a cable operator has failed to comply with any of these standards, or has failed to perform in a timely manner, the city may pursue the procedures in its franchise agreement to address violations of these standards in a like manner as other franchise violations are considered.
 - b. Following the procedures set forth in any franchise agreement governing the manner to address alleged franchise violations, if the city determines in its sole discretion that the noncompliance has been substantiated, in addition to any remedies that may be provided in the franchise agreement, the city may:
 - i. impose assessments of up to one thousand dollars per day, to be withdrawn from the security fund in addition to any franchise fee until the non-compliance is remedied; and/or

- ii. order such rebates and credits to affected customers as in its sole discretion it deems reasonable and appropriate for degraded or unsatisfactory services that constituted noncompliance with these standards; and/or
 - iii. reverse any decision of the cable operator in the matter; and/or
 - iv. grant a specific solution as determined by the city; and/or
 - v. except for in emergency situations, withhold licenses and permits for work by the cable operator or its subcontractors in accordance with applicable law.
- E. Non-waiver. Failure to enforce any provision of these standards shall not operate as a waiver of the obligations or responsibilities of a cable operator under said provision, or any other provision of these standards.

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

ADOPTED this ____ day of _____, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

Approved as to form:



Teresa Ablao
Assistant City Attorney

AGENDA ITEM: 19
MEETING DATE: 7/19/2016
TO: City Council
FROM: Elizabeth Anderson, Parks and Recreation Department
PRESENTER: Janet Meisel-Burns, Senior Park Planner



TITLE:

1. A Resolution Approving An Intergovernmental Agreement Between The City Of Loveland, Colorado And The Colorado Department of Transportation Regarding the Restoration and Use of the Round Mountain Staging And Rock Spoil Site at Viestenz-Smith Mountain Park, For Construction On Highway 34 And Authorizing The City Manager To Execute The Agreement.

2. A Resolution Approving The Disposal And Use Agreement Between The City Of Loveland, Colorado And Kiewit Infrastructure Co., For The Use Of The Round Mountain Staging and Rock Spoil Site at Viestenz-Smith Mountain Park, For Construction On Highway 34 And Authorizing The City Manager To Execute The Agreement.

RECOMMENDED CITY COUNCIL ACTION:

Adopt the action as recommended.

OPTIONS:

1. Adopt the action as recommended.
2. Deny the action. Denial would hold up the re-construction of US 34 in the Big Thompson Canyon.
3. Adopt a modified action.
4. Refer back to staff for further development and consideration. Further review could delay the re-construction of the US 34 project, and might affect the timing of the reconstruction of Viestenz-Smith Mountain Park, due to the lack of rock materials needed for the park project.

SUMMARY:

This is an administrative action. The City of Loveland ("City") and the Colorado Department of Transportation ("CDOT") seek a mutual decision that benefits both the City and CDOT regarding the reconstruction of US 34. The agreements address the needs for construction staging, a rock spoil site and the reclamation of the staging area once CDOT and their contractor complete the US34 Work in the Big Thompson canyon. The Disposal and Use Agreement will allow Kiewit Infrastructure, CDOT's Construction Manager and General Contractor, to use a portion of the Round Mountain property, which is a part of the Viestenz-Smith Mountain Park, for staging and equipment storage and for a rock crushing operation. Kiewit will lease the site from the City for \$500,000 paid up front for a term of 42 months. At the end of the US 34 project work, Kiewit and CDOT will waste excess rock at the site and CDOT will regrade and restore the site for a future trail head for Round Mountain. The CDOT agreement addresses the reclamation of the Round Mountain staging site and defines the parameters for CDOT to provide road base, rock and rip/ras for the City's ongoing project at Viestenz-Smith Mountain Park. Both agreements will permit CDOT to move forward with the first phase of re-construction for US 34, in the Big Thompson Canyon.

BUDGET IMPACT:

- ☒ Positive
☐ Negative
☐ Neutral or negligible

The City of Loveland will receive compensation from Kiewit Infrastructure Co. for the use of the Round Mountain staging and rock spoil site in the sum of \$500,000 to be used for the restoration of Viestenz-Smith Mountain Park or other Flood Recovery Projects for the Parks and Recreation Department with funds to be deposited to the Capital Projects Fund No. 120-51-565-0000-43450. In addition the City of Loveland will receive rock and gravel materials valued at approximately \$250,000 for the Viestenz-Smith Mountain Park reconstruction project.

BACKGROUND:

Staff has been working with CDOT for the past year to determine the best alignment for the roadway through the Big Thompson Canyon. One key goal for road reconstruction is to create a safer and more resilient roadway alignment that works in harmony with the Big Thompson River. Eliminating the horseshoe curve west of the Viestenz-Smith Mountain Park ("VSMP") is one of the greatest opportunities to accomplish this goal. This section of road was scoured away completely in both the 1976 and 2013 floods. With the construction of the new road alignment at the horseshoe curve, CDOT and their contractor, Kiewit Infrastructure, will be generating massive quantities of rock from the blasting and will need to store, sort and crush this material close to the construction work.

CDOT and Kiewit wish to enter into agreements with the City that address the use of a portion of the Round Mountain property south of VSMP (Exhibit A and A-1). The Disposal and Use agreement with Kiewit will permit the temporary use of the approx. 18.5 Acre site for Kiewit's use for construction staging, rock sorting and crushing operations in the canyon. The location of the site is instrumental in the quick delivery of the materials to the regions in the canyon that will be reconstructed. This location will help expedite the reconstruction of the US 34 roadway and eliminate the need to move the rock and road base material out of the canyon to crush and sort, thus reducing the truck traffic in the canyon and keeping the roadways in Loveland open and free of major reconstruction traffic. The Agreement would allow CDOT to begin time sensitive construction, while still being able to minimize impacts to travelers during the peak tourism season. CDOT is planning to start the first phase of construction in mid-July, 2016. The Round Mountain staging area will also be used to store excess rock material over the course of the 3-year reconstruction. CDOT and Kiewit estimate the need to permanently store 400,000-600,000 cubic yards of rock at the site.

Once roadway reconstruction is complete CDOT will restore the site including grading and seeding. CDOT has also agreed to grade in a new parking lot for a future trail access once all work is completed on US 34. The agreement with CDOT addresses the reclamation and restoration of the Round Mountain site and also provides the City of Loveland the opportunity to use rock, road base and excess materials for VSMP and other City projects over the course of the lease agreement.

Staff believes it is mutually beneficial to the City of Loveland to cooperate with CDOT for the new roadway alignment and for the removal and storage of the rock spoils in a location that benefits all parties. The City will receive \$500,000 for the lease of the Round Mountain staging and waste site and will also receive rock and road base material for the restoration of VSMP valued at over \$250,000. See Exhibit B for the general layout and site parameters of the site during the Kiewit lease. Exhibit C shows a visual representation of the grading changes proposed by Kiewit at the waste management site.

Overview of the Disposal and Use Agreement:

During reconstruction Kiewit will blast rock from several locations up the canyon and haul, sort and crush the rock at the Round Mountain staging site. Early in the construction process the rock will be crushed for road base material for the new roadway. This agreement will permit Kiewit to use the Round Mountain property for their material crushing and processing, material sorting and storing along with construction equipment and supply storage. At the end of the project excess rock material will be stored permanently on the east edge of the site. Uses permitted on the site

Include storage of explosives, fuel storage and storage containers, rock crushing machinery, trucks and equipment necessary to complete the roadway reconstruction. A new access road and gated entry will be constructed.

Overview of the CDOT Intergovernmental Agreement:

The Agreement provides that all reclamation obligations shall be the responsibility of CDOT for the restoration of the Round Mountain staging and rock spoil site. Reclamation of the site shall include grading and seeding, preparation of a 50 car gravel parking area, for future use as a trail head. The planting plan shall include appropriate seed and shrub mix for the foothills/montane climate and CDOT shall leave the access road and security gate for the City of Loveland in place.

Throughout the US 34 project, excess materials will be stored at this site and any useable materials generated from the CDOT project, such as rocks, rip/rap, road base (Class 6) and fines, that have not been allocated to the US 34 project will be made available to the City of Loveland. The agreement defines the City's need for rock and road base for VSMP and permits the City to remove up to 5,000 cubic yards of rock or rip/rap for the Park and up to 5,000 cubic yards of road base free of charge to the City.

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

1. Resolution for Maintenance and Use Agreement
2. Resolution for Disposal and Use Agreement
3. Exhibit A – vicinity map
4. Exhibit B – plan view of Round Mountain Staging and Waste Site
5. Exhibit C – 3D visual graphic of Staging and Waste Site
6. Power Point Presentation

RESOLUTION #R-63-2016**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION, REGARDING USE AND RECLAMATION OF CITY OF LOVELAND PROPERTY**

WHEREAS, the Colorado Department of Transportation (“CDOT”) will begin reconstruction of U.S. Highway 34 in the Big Thompson Canyon (the “Project”) as early as July 2016. The Project will include rock blasting in order to construct a new roadway alignment in the area known as the “Horseshoe Curve;”

WHEREAS, CDOT wishes to use the Round Mountain Site (“RM”) within Viestenz-Smith Mountain Park (“VSMP”), which is owned by the City of Loveland, for activities required for the Project that include, but are not limited to, material crushing and processing, material sorting and storing along with construction equipment and supply storage;

WHEREAS, the City believes that allowing CDOT to use RM for activities required for the Project is in the best interests of the City and its citizens to facilitate the reconstruction of U.S. Highway 34. The City intends to simultaneously enter into a separate agreement with CDOT’s contractor Kiewit Infrastructure Co. (“Kiewit”) for Kiewit’s use of RM in conjunction with CDOT’s use;

WHEREAS, CDOT recognizes that the use of RM by CDOT and Kiewit will create a scar on the land at RM. At the completion of the Project, CDOT will prepare a reclamation plan for RM and complete reclamation of the RM land to reduce the impact on RM, as set forth in detail in the Intergovernmental Agreement set forth in “Exhibit A,” attached hereto.;

WHEREAS, CDOT will also make available to the City certain materials processed at RM for the City’s use at VSMP and for other City projects;

WHEREAS, the City and CDOT wish to enter into an IGA to define the division of responsibilities with regard to the use and reclamation of RM. Such reclamation shall include topsoil, seeding and tree plantings, and preparation of a trailhead parking area; and

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

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

Section 1. That the Intergovernmental Agreement attached hereto as Exhibit A and incorporated herein by reference (the “IGA”), is hereby approved.

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

Section 3. That the City Manager and the City Clerk are hereby authorized and directed to execute the amendment to the Intergovernmental Agreement on behalf of the City after the Resolution is approved by City Council and becomes effective.

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

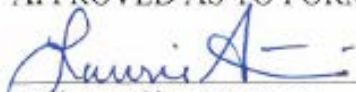
ADOPTED this 19th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


Assistant City Attorney

**INTERGOVERNMENTAL AGREEMENT REGARDING USE AND RECLAMATION
OF CITY OF LOVELAND PROPERTY BY THE COLORADO DEPARTMENT OF
TRANSPORTATION**

THIS AGREEMENT, is made this _____ day of _____, 20____, by and between the State of Colorado for the use and benefit of THE COLORADO DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "State" or "CDOT", and the CITY OF LOVELAND, STATE OF COLORADO, 500 East Third Street, Suite 320, Loveland, Colorado 80537, CDOT Vendor #: 2000033, hereinafter referred to as the "Local Agency" or "City", the State and the Local Agency shall be collectively referred to as the "Parties."

RECITALS

1. CDOT will begin reconstruction of US 34 in the Big Thompson Canyon (the Project) as early as July 2016 and this reconstruction will include rock blasting in order to construct a new roadway alignment in the area of mileposts 78-79 (known as the horseshoe curve) on US 34.

2. CDOT has obtained the required approval, clearance and coordination from and with appropriate agencies for the Project.

3. The Parties agree that it would be in the best interest of both Parties to allow CDOT to use the Round Mountain site (RM) within Viestenz-Smith Mountain Park (VSMP) for activities that include, but are not limited to, material crushing and processing, material sorting and storing along with construction equipment and supply storage. The legal description of the area which is the subject of this Agreement is set forth on Exhibit A, attached hereto.

4. The Parties acknowledge that the City has entered into a separate agreement with CDOT's contractor Kiewit Infrastructure Co. (Kiewit) for Kiewit's use of RM for the Project.

5. In addition, the Parties have determined that it is in their mutual best interest to enter into this Agreement that will allow CDOT and the City of Loveland to work cooperatively on the reconstruction of VSMP for the mutual benefit of the citizens of Loveland and the northern Colorado region.

6. The Parties acknowledge that the use of RM by both CDOT and Kiewit will impact RM by leaving a scar on the land. At the completion of the US 34 CDOT project and within the time frames set forth in this Agreement, CDOT will prepare a reclamation plan for RM and complete reclamation of the RM land as further described in Exhibit B, attached hereto.

7. The Parties agree that there are no funds to be transferred between the Parties and

that CDOT desires to perform the Work under this Agreement at no cost to the City.

8. It is agreed that any and all costs shall be borne by the CDOT at 100%.

9. CDOT desires to comply with all federal and State provisions and other applicable requirements, including the State's general administration and supervision of the work to be performed within the City under this Agreement.

10. This Agreement is executed under the authority of §§ 29-1-203, 43-1-116, 43-2-101(4)(c), C.R.S.

11. CDOT is adequately staffed and suitably equipped to undertake and satisfactorily complete all of the Work.

12. This Agreement is executed by the City under the authority of an appropriate ordinance or resolution duly passed and adopted by the authorized representatives of the City, which also establishes the authority under which the City enters into this Agreement and is attached hereto as **Exhibit C**.

NOW, THEREFORE, in consideration of the mutual promises and covenants described herein, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

Section 1. Scope of Work

The Work under this Agreement shall consist of: (a) the City allowing CDOT to use RM for activities necessary for the reconstruction of US 34 in the Big Thompson Canyon; (b) CDOT providing the City with materials for VSMP; and (c) CDOT's reclamation of RM after the reconstruction of US 34 in the Big Thompson Canyon has been completed (the Work), as described in detail in **Exhibit B**, attached hereto.

Section 2. Order of Precedence

In the event there is a conflict or inconsistencies between this Agreement and its exhibits, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

1. This Agreement
2. Exhibit B (Scope of Work)
3. Exhibit A (Legal Description)
3. Exhibit A-1 (Boundary Map)

Section 3. Term

This Agreement shall be effective upon the date made and shall remain in effect for a period of forty-eight (48) months unless earlier terminated pursuant to the terms of this Agreement. CDOT shall complete all of the Work on or before the expiration of this Agreement.

Section 4. Project Funding Provisions

The City and CDOT agree there are no funding provisions or requirements for this Agreement.

Section 5. Representative and Notice

The State will provide a liaison for the City through the State's Region Director, Region 4, 1061 West 10th Street, Greeley, Colorado 80634. Said Region Director will also be responsible for coordinating CDOT's activities under this contract. All communications relating to the day-to-day activities for the Work shall be exchanged between representatives of the State's Transportation Region 4 and the Local Agency. All communication, notices, and correspondence shall be addressed to the individuals identified below. Either party may from time to time designate in writing new or substitute representatives.

If to the State:

Jake Schuch
CDOT Region 4
10601 West 10th Street
Greeley, Colorado 80634
970-350-2205
Jake.schuch@state.co.us

If to the Local Agency:

Janet Meisel-Burns
City of Loveland
500 East 3rd Street, Suite 200
Loveland, Colorado 80537
970-962-2451
Janet.meisel-burns@cityofloveland.org

Section 6. Environmental Obligations

CDOT shall comply with all applicable environmental regulations during the term of this Agreement. CDOT shall have no environmental responsibilities for RM after the reclamation has been completed by CDOT and the City has accepted said reclamation.

Section 7. Record Keeping

CDOT shall maintain a complete file of all records, documents, communications, and other written materials, which pertain to the Work completed under this Agreement. CDOT shall maintain such records for a period of three (3) years after the date of termination of this contract for such further period as may be necessary to resolve any matters which may be pending. CDOT shall make such materials available for inspection at all reasonable times and shall permit duly authorized agents and employees of the City to inspect the Work and to inspect, review and audit the project records.

Section 8. Specific Areas of Responsibility

CDOT shall be responsible to perform all tasks as are identified herein that are needed to complete all activities, as described in Exhibit B. CDOT agrees to comply with: 1) applicable requirements and standards in applicable laws, regulations, policies, procedures and guidelines; and 2) applicable terms and conditions of this Agreement, including those process and task requirements and standards addressed below.

Section 9. Maintenance Responsibility

After completion of the reclamation of RM by CDOT, the City will maintain RM at its own cost and expense. CDOT shall have no maintenance responsibilities for RM after the reclamation has been completed by CDOT and the City has accepted said reclamation.

Section 10. General Provisions

A. This IGA may be terminated as follows:

- (1) Termination for Cause. If, through any cause, CDOT shall fail to fulfill, in a timely

and proper manner, its obligations under this Agreement, or if CDOT shall violate any of the covenants, agreements, or stipulations of this Agreement, the City shall have the right to terminate this Agreement for cause by giving written notice to CDOT of its intent to terminate and providing no less than ten (10) days opportunity to cure the default or show cause why termination is otherwise not appropriate.

Notwithstanding the above, CDOT shall not be relieved of liability to the City for any damages sustained by the City by virtue of any breach of the Agreement by CDOT.

- B. Notwithstanding anything herein to the contrary, the Parties understand and agree that all terms and conditions of this Agreement and attachments hereto which may require continued performance or compliance beyond termination date of the Agreement shall survive such termination date and shall be enforceable by the City as provided herein in the event of such failure to perform or comply by CDOT.
- C. This Agreement is subject to such modifications as may be required by changes in federal or State law, or their implementing regulations. Any such required modification shall automatically be incorporated into and be a part of this Agreement on the effective date of such changes as if fully set forth herein. Except as specifically provided otherwise herein, no modification of this Agreement shall be effective unless agreed to in writing by all Parties in an amendment to this Agreement that is properly executed and approved in accordance with applicable law.
- D. To the extent that this Agreement may be executed and performance of the obligation of the Parties may be accomplished within the intent of the Agreement, the terms on this Agreement are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect any other terms or provision hereof. The waiver of any breach of a term hereof shall not be construed as a waiver of any other term, or the same term upon subsequent breach.
- E. This Agreement is intended as the complete integration of all understandings among the Parties. No prior or contemporaneous addition, deletion or other amendment hereto shall have any force or affect whatsoever, unless embodied herein in writing.
- F. Except as herein otherwise provided, this Agreement shall inure to the benefit of, and be binding upon the Parties hereto and their respective successors and assigns.
- G. Time is of the essence in performance of the Services and is a significant and material term of this Contract.
- H. The Local Agency represents and warrants that it currently has no interest, and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of its obligations under this Agreement, and it will not employ any person or firm having any such known interests.
- I. This Agreement shall become "effective" only upon the date it is executed by CDOT. The terms of this Agreement shall begin on the date first written above and shall continue through the completion and final acceptance of this Project by CDOT and the Local Agency.
- J. It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly

reserved to the Parties hereto, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third party. It is the express intention of the Parties that any person or entity other than the Parties receiving services or benefits under this Agreement be deemed to be an incidental beneficiary only.

- K. Each Party assures and guarantees that it possesses the legal authority to enter into this Agreement. Each Party warrants that it has taken all actions required by its procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its signatory to execute this Agreement and to bind the Party to its terms. The person(s) executing this Agreement on behalf of each Party warrant(s) that they have full authorization to execute this Agreement.
- L. 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. § 24-1-101 *et seq.* and under any other applicable law.
- M. 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.
- N. 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.
- O. CDOT shall not assign this Agreement without the City's prior written consent.
- P. This Agreement shall be governed by the laws of the State of Colorado, and venue shall be in the City and County of Denver, State of Colorado.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

THE PARTIES HERETO HAVE EXECUTED THIS INTERGOVERNMENT AGREEMENT

*** Persons signing for the Local Agency hereby swear and affirm that they are authorized to act on the Local Agency's behalf and acknowledge that the State is relying on their representations to that effect.**

STATE OF COLORADO John W. Hickenlooper, GOVERNOR	
<p style="text-align: center;">LOCAL AGENCY CITY OF LOVELAND</p> <p>Name: _____ (print name)</p> <p>Title: _____ (print title)</p> <p>_____</p> <p style="text-align: center;">*Signature</p> <p>Date: _____</p>	<p style="text-align: center;">COLORADO DEPARTMENT OF TRANSPORTATION Shailen P. Bhatt, Executive Director</p> <p style="text-align: center;">By: Joshua Laipply, P.E., Chief Engineer</p> <p>Date: _____</p>
<p style="text-align: center;">Additional Local Agency Signature (If Necessary)</p> <p>Name: _____ (print name)</p> <p>Title: _____ (print title)</p> <p>_____</p> <p style="text-align: center;">*Signature</p> <p>Date: _____</p>	<p style="text-align: center;">LEGAL REVIEW Kathy Young, First Assistant Attorney General</p> <p style="text-align: center;">By: Assistant Attorney General</p> <p>Date: _____</p>

ALL AGREEMENTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Agreements. This Agreement is not valid until signed and dated below by the State Controller or delegate. The Local Agency is not authorized to begin performance until such time. If the Local Agency begins performing prior thereto, the State of Colorado is not obligated to pay the Local Agency for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER Robert Jaros, CPA, MBA, JD
<p>By: _____</p> <p>Colorado Department of Transportation</p> <p>Date: _____</p>

EXHIBIT A
Legal Description
COLORADO DEPARTMENT OF TRANSPORTATION
REAL PROPERTY

TO BE ACQUIRED

Temporary Easement

FROM

City of Loveland
500 E. 3rd St
Loveland, CO 80537

FOR

Project Code: 20279
Project Number: ER 0341-084
Location: US34 – MP79.48 – MP79.87

EXHIBIT "A"

PROJECT CODE: 20279
PROJECT NUMBER: ER 0341-084
TEMPORARY EASEMENT
DATE: JUNE 20, 2016

LEGAL DESCRIPTION

Temporary Easement of the Department of Transportation, State of Colorado, Project Number ER 0341-084, containing 1,873,139 square feet (43.001 Acres), lying in the North Half of Section 7, Township 5 North, Range 70 West of the 6th P.M., being a portion of that certain parcel of land described in deed recorded on Book 534, Page 159, on December 22, 1926, in the Larimer County Clerk and Recorder's office, being more particularly described as follows:

Commencing at the Northeast Corner of said Section 7 (3.25" BLM Brass Cap on 2" steel pipe in rock cairn – "1962"), whence the Northwest Corner of said Section 7 (3.25" BLM Brass Cap on 2.5" aluminum pipe in rock cairn – "1962") bears S88°02'45"W, a distance of 5,796.74 feet (basis of bearing – assumed);

Thence S50°23'51"W, a distance of 1,403.33 feet to the southerly Right of Way line of the Department of Transportation, State of Colorado, Project No. 9-R-4 and the POINT OF BEGINNING;

1. Thence S10°35'28"W, a distance of 422.20 feet;
2. Thence S46°11'46"W, a distance of 754.41 feet;
3. Thence S89°38'34"W, a distance of 290.25 feet;
4. Thence N77°06'57"W, a distance of 588.21 feet;
5. Thence N15°52'00"W, a distance of 354.25 feet;
6. Thence N23°10'41"W, a distance of 762.85 feet to said southerly Right of Way line;

Thence coincident with said southerly Right of Way line, the following nine (9) courses:

1. Thence N64°29'51"E, tangent with the following described curve, a distance of 280.70 feet;
2. Thence along the arc of a curve to the right, a radius of 894.93 feet, a central angle of 13°03'00", a chord bearing N71°01'21"E a distance of 203.39 feet, and an arc distance of 203.83 feet;
3. Thence N77°32'51"E, tangent with the previous and following described curves, a distance of 261.90 feet;
4. Thence along the arc of a curve to the right, a radius of 656.21 feet, a central angle of 24°11'00", a chord bearing N89°38'21"E a distance of 274.92 feet, and an arc distance of 276.97 feet;
5. Thence S11°43'51"W, radial with the previous and following described curves, a distance of 15.00 feet;
6. Thence along the arc of a curve to the right, a radius of 641.21 feet, a central angle of 17°24'00", a chord bearing S69°34'09"E a distance of 193.98 feet, and an arc distance of 194.73 feet;

7. Thence S60°52'09"E, tangent with the previous and following described curves, a distance of 588.30 feet;
8. Thence along the arc of a curve to the left, a radius of 2,939.79 feet, a central angle of 02°24'00", a chord bearing S62°04'09"E, a distance of 123.13 feet, and an arc distance of 123.14 feet;
9. Thence S63°16'09"E, tangent with the previous described curve, a distance of 117.64 feet, more or less, to the POINT OF BEGINNING.

The above described parcel contains 1,873,139 square feet (43.001 Acres), more or less, for temporary construction purposes.

TOGHETER WITH:

Temporary Easement of the Department of Transportation, State of Colorado, Project Number ER 0341-084, containing 96,108 square feet (2.206 Acres), lying in the Northeast Quarter of Section 7, Township 5 North, Range 70 West of the 6th P.M., being a portion of that certain parcel of land described in deed recorded on Book 534, Page 159, on December 22, 1926, in the Larimer County Clerk and Recorder's office, being more particularly described as follows:

Commencing at the Northeast Corner of said Section 7 (3.25" BLM Brass Cap on 2" steel pipe in rock cairn – "1962"), whence the Northwest Corner of said Section 7 (3.25" BLM Brass Cap on 2.5" aluminum pipe in rock cairn – "1962") bears S88°02'45"W, a distance of 5,796.74 feet (basis of bearing – assumed);

Thence S70°59'00"W, a distance of 1,564.41 feet to the northerly Right of Way line of the Department of Transportation, State of Colorado, Project No. 9-R-4 and the POINT OF BEGINNING;

1. Thence N60°52'09"W, coincident with said northerly Right of Way line and tangent with the following described curve, a distance of 294.15 feet;
2. Thence along the arc of a curve to the left, continuing along said northerly Right of Way line, a radius of 791.21 feet, a central angle of 17°24'00", a chord bearing N69°34'09"W a distance of 239.36 feet, and an arc distance of 240.28 feet;
3. Thence N55°35'55"E, non-tangent with the previous described curve, a distance of 303.10 feet;
4. Thence S61°26'22"E, a distance of 278.83 feet;
5. Thence S02°58'22"W, a distance of 265.05 feet, more or less, to the POINT OF BEGINNING.

The above described parcel contains 96,108 square feet (2.206 Acres), more or less, for temporary construction purposes.

The above described parcels contain a combined total area of 1,969,247 square feet (45.207 Acres), more or less.

Edward C. Silver, PLS 37051
Colorado Licensed Professional Land Surveyor
For and on the behalf of
Jacobs Engineering Group, Inc
707 17th Street, Suite 2400
Denver, CO 80202



B534_P159.txt

Map Check Report

Project: B534_P159
 Alignment: WHENCE
 Description:

Type Elevation	Point Name\ Direction	Length	Northing	Easting
POB 0.00	()		96275.83	64351.84
POE 0.00	(S 88°02'45" W)	5796.74	96078.16	58558.47

Alignment: TIE
 Description:

Type Elevation	Point Name\ Direction	Length	Northing	Easting
POB 0.00	()		95381.26	63270.59
POE 0.00	(N 50°23'51" E)	1403.33	96275.83	64351.84

Alignment: BOUNDARY
 Description:

Type Elevation	Point Name\ Direction	Length	Northing	Easting
POB 0.00	()		95381.26	63270.59
PI 0.00	(S 10°35'28" W)	422.20	94966.25	63192.99
PI 0.00	(S 46°11'46" W)	754.41	94444.06	62648.52
PI 0.00	(S 89°38'34" W)	290.25	94442.25	62358.28
PI 0.00	(N 77°06'57" W)	588.21	94573.41	61784.87
PI 0.00	(N 15°52'00" W)	354.25	94914.17	61688.02
PI 0.00	(N 23°10'41" W)	762.85	95615.44	61387.77

		B534_P159.txt		
PC	(N 64°29'51" E)	280.70	95736.30	61641.12
0.00				
	Radius:	894.93		
	Delta:	13°03'00"		
	Length:	203.83		
	Chord:	203.39		
	Tangent:	102.36		
	Middle Ordinate:	5.80		
	External:	5.83		
CC	(S 25°30'09" E (Radial))		94928.57	62026.43
0.00				
	N 71°01'21" E (Chord)			
PT	(S 12°27'09" E (Radial))		95802.44	61833.46
0.00				
PC	(N 77°32'51" E)	261.90	95858.92	62089.20
0.00				
	Radius:	656.21		
	Delta:	24°11'00"		
	Length:	276.97		
	Chord:	274.92		
	Tangent:	140.58		
	Middle Ordinate:	14.56		
	External:	14.89		
CC	(S 12°27'09" E (Radial))		95218.14	62230.70
0.00				
	N 89°38'21" E (Chord)			
PT	(S 11°43'51" W (Radial))		95860.65	62364.11
0.00				
PC	(S 11°43'51" W)	15.00	95845.96	62361.06
0.00				
	Radius:	641.21		
	Delta:	17°24'00"		
	Length:	194.73		
	Chord:	193.98		
	Tangent:	98.12		
	Middle Ordinate:	7.38		
	External:	7.46		
CC	(S 11°43'51" W (Radial))		95218.14	62230.70
0.00				
	S 69°34'09" E (Chord)			
PT	(S 29°07'51" W (Radial))		95778.25	62542.84
0.00				
PC	(S 60°52'09" E)	588.30	95491.86	63056.73
0.00				
	Radius:	2939.79		
	Delta:	2°24'00"		
	Length:	123.14		
	Chord:	123.13		
	Tangent:	61.58		
	Middle Ordinate:	0.64		
	External:	0.64		
CC	(S 29°07'51" W (Radial))		98059.79	64487.84

B534_P159.txt

0.00	S 62°04'09" E (Chord)		
	S 26°43'51" W (Radial)		
PT	()	95434.18	63165.52
0.00			
	S 63°16'09" E	117.64	
POE	()	95381.26	63270.59
0.00			

Northing Error: 0.00 ft
 Easting Error: -0.01 ft
 Closing Direction: S 78°44'10" E
 Closing Distance: 0.01 ft
 Closed Area: 1873139.440 sq ft (43.001 ac)
 Perimeter: 5234.39 ft
 Precision: 761874.27

TEMP_EASE_2.txt

Map Check Report

Project: TEMP_EASE_2
 Alignment: WHENCE
 Description:

Type	Point Name\		North	East
Elevation	Direction	Length	thing	ing
POB ()			96275.83	64351.84
0.00	S 88°02'45" W	5796.74		
POE ()			96078.16	58558.47
0.00				

Alignment: TIE 2
 Description:

Type	Point Name\		North	East
Elevation	Direction	Length	thing	ing
POB ()			96275.83	64351.84
0.00	S 70°59'00" W	1564.41		
POE ()			95766.08	62872.81
0.00				

Alignment: BOUNDARY 2
 Description:

Type	Point Name\		North	East
Elevation	Direction	Length	thing	ing
POB ()			95766.08	62872.81
178956.97	N 60°52'09" W	294.15		
PC ()			95909.27	62615.86
178956.97				
	Radius:	791.21		
	Delta:	17°24'00"		
	Length:	240.28		
	Chord:	239.36		
	Tangent:	121.07		
	Middle Ordinate:	9.10		
	External:	9.21		
	N 29°07'51" E (Radial)			
CC ()			95218.14	62230.70
178956.97				
	N 69°34'09" W (Chord)			
	N 11°43'51" E (Radial)			
PT ()			95992.83	62391.56
178956.97				
	N 55°35'55" E	303.10		

	TEMP_EASE_2.txt		
PI ()		96164.07	62641.65
178956.97			
S 61°26'22" E	278.83		
PI ()		96030.77	62886.55
178956.97			
S 2°58'22" W	265.05		
POE ()		95766.08	62872.81
178956.97			

Northing Error: -0.00 ft
Easting Error: -0.00 ft
Closing Direction: N 64°08'05" E
Closing Distance: 0.00 ft
Closed Area: 96107.962 sq ft (2.206 ac)
Perimeter: 1381.41 ft
Precision: 290510.92

534-159

WIT: NEW N. R. M. K.
No. 219775

WARRANTY DEED—B. &—Oct West Printing and Stationery Co. Colorado Springs, Colo. 72913

This Deed, Made this eleventh day of December in the year of our Lord one thousand nine hundred and twenty six, between

Louis Pappas, sometimes known as Louis Pappa

of the County of Larimer, and State of Colorado, of the first part, and

The City of Loveland, a municipal corporation,

of the County of Larimer, and State of Colorado, of the second part:

Witnesseth, That the said part of of the first part, for and in consideration of the sum of ten dollars and other valuable considerations to the said part of of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances, he is granted, bargained, sold and conveyed, and by these presents do he grant, bargain, sell, convey and confirm unto the said part of of the second part its successors and assigns forever, all the following described lot or parcel of land, situate, lying and being in the

County of Larimer and State of Colorado, to-wit:
The north one-half of the northwest one-quarter (N $\frac{1}{2}$ N $\frac{1}{4}$) and the north
east one-quarter (NE $\frac{1}{4}$) and the north one-half of the southeast one-quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$) of
Section Six (6), Township Two North (2N), Range Twenty West (20W) of the Sixth (6th) P.M., except portions
thereof heretofore conveyed by deeds recorded in Book 357 at page 119, and in Book 399 at
page 108, and in Book 421 at page 525, and in Book 428 at page 118 of the public records
of Larimer County, Colorado in the office of the Clerk and Recorder thereof.

Together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversioners, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the said part of of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

To Have and to Hold the said premises above bargained and described, with the appurtenances unto

The City of Loveland, a municipal corporation,

the said part of of the second part its successors and assigns forever. And the said

Louis Pappas, sometimes known as Louis Pappa

part of of the first part, for himself and his heirs, executors and administrators, do he covenant, grant, bargain and agree to and with the said part of of the second part its successors and assigns, that at the time of the

sealing and delivery of these presents he well seized of the premises above conveyed, as of good, sure, perfect, absolute and

indefeasible estate of inheritance, in law, in fee simple, and he good right, full power and lawful authority to grant, bargain, sell and convey

the same in manner and form aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and incumbrances of whatever kind or nature soever provided he himself, first party, reserve the right and privilege to use

when said premises during his natural life as a single and privilege shall not be waived, transferred, relinquished, and shall be absolutely void and forfeited in the

work of the first party or the permanent removal of first party, and first party shall be privileged to use the premises said premises and to then

with use said premises in any manner not inconsistent with second party's possession of said premises and also except to be lost due to 1917 which first party

agrees to pay and the above bargained premises in the quiet and peaceable possession of the said part of of the second part its successors

against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said part of of the first part shall and

will Warrant and Forever Defend.

In Witness Whereof, The said part of of the first part has hereunto set his hand and seal the day and year first above written.

Louis Pappas, sometimes known as Louis Pappa his Louis Pappas, sometimes known as Louis Pappa

Marion B. Shady Notary Public Notary Public

Rick Williams Notary Public Notary Public

STATE OF COLORADO, ss. Glen O Draggoo a Notary Public

County of Larimer County, in the State aforesaid, do hereby certify that

in and for said Larimer Louis Pappas, sometimes known as Louis Pappa

who is personally known to me to be the person whose name is subscribed to the foregoing Deed, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument of writing as his free and voluntary act and deed, for the uses and purposes therein set forth.

Given under my hand and Notary seal, this 13th day of December A. D. 1926

My commission expires November 4, 1929 A. D.

Glen O Draggoo NOTARY PUBLIC.

Filed for record the 22 day of December A. D. 1926, at 10:00 o'clock A. M.

Matthew Auld RECORDER.

By H. R. Cushing DEPUTY.

DEC. 22. 1926

Scope of Work:

The Round Mountain Staging and Processing Site (RM) has been identified at approximately milepost 79.6 along US 34. The preparation of RM for use will include limited deforestation of RM and will accommodate the temporary construction of an access road to RM from US 34. The estimated ground disturbance at RM is 18.5 acres. The estimated access road will be 40 feet wide with a berm on the downhill side of the roadway. A security gate will be installed at the entrance to the access road and shall remain once restoration is complete. The project team will make an effort to keep as many trees at the toe of the slopes as possible to screen the new slopes when site grading occurs and through the life of the US34 project.

Anticipated activities at RM during the Project include, but are not limited to, material crushing and processing, material sorting and storing along with construction equipment and supply storage. Throughout the US 34 project, excess materials will be stored at this site and any useable materials generated from the CDOT project, such as rocks, rip/rap, road base (Class 6) and fines, that have not been allocated to the US 34 project will be made available to the City of Loveland. Anticipated material quantities for the City include:

- Approx. 5,000 CY of rock for buried rip/rap, retaining walls and stacked boulder walls at VSMP
 - Rock sized from 18" (buried rip-rap) Class D50, to 36"-42" boulders for stacked boulder wall, class D50 rock that meets our density, gravity and expansion requirements
- City may dispose of Approx. 12,500 CY of fines and unsorted small rock/gravel from VSMP at the RM site.

CDOT will process up to 5,000 CY of road base at the request of The City for use for VSMP and other City of Loveland projects. The gradation of the road base will match CDOT's project specification for aggregate base course (class 6).

The City of Loveland will be responsible for transporting any material provided by CDOT for use at VSMP or other City of Loveland projects. CDOT will be responsible for loading the material. CDOT will track the volume and type of material loaded by bucket count and will provide the City of Loveland quantity updates when requested.

The City shall have the absolute right to reject any materials made available to it by CDOT, and CDOT shall dispose of such materials in accordance with the terms of this Agreement.

At the completion of the US 34 CDOT project CDOT will prepare a reclamation plan for RM that will include, but is not limited to, re-contouring the site to match natural contours, re-seeding and planting of woody vegetation components. The City shall have the right to review such reclamation plan and provide approval of the same, which approval shall not be unreasonably withheld. The following elements are anticipated to be included:

- Removal of all concrete and asphalt spoils, no concrete or asphalt shall be buried on the site, without prior City of Loveland approval,
- Restoration of the Staging and Rock Spoil Site shall include topsoil, seeding and tree plantings appropriate for the site and soil conditions,
- Shrub mix shall be included in appropriate seed mix for the area,
- A trail head parking area once construction is complete. Parking area to accommodate 50 cars approx. 20,000 SF or 0.50 Acres of useable area for trailhead
- The City of Loveland shall have final approval of the design and layout of the parking area
- The access road and gate shall remain as a condition of the reclamation of the RM site.

CDOT or its contractors shall complete the restoration of the site per the approved reclamation plan. Once all work is completed and accepted by the City of Loveland, the City shall issue a

Final Letter of Acceptance and the site shall be turned over to the City of Loveland.

P. 276

The City of Loveland acknowledges there will be a scar on the landscape as a result of this use. However, it has been determined that the integrity of the setting in the canyon will not be substantially diminished the value of the RM property.

EXHIBIT C

**Local Agency
Ordinance or
Resolution**

RESOLUTION #R-64-2016**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND KIEWIT INFRASTRUCTURE CO. PERMITTING THE USE OF THE ROUND MOUNTAIN AREA WITHIN VIESTENZ-SMITH MOUNTAIN PARK FOR STAGING AND ROCK SPOILS AS PART OF THE U.S. HIGHWAY 34 CONSTRUCTION PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the State of Colorado acting through the Department of Transportation (hereinafter “CDOT”) has planned a multi-phase construction project for permanent repairs to U.S. Highway 34 between Estes Park and Loveland (the “Project”); and

WHEREAS, Kiewit Infrastructure Co. (“Kiewit”) is under contract with CDOT as general contractor/construction manager for the Project; and

WHEREAS, Kiewit anticipates being awarded Notice to Proceed for Construction Package 1 for the Project on or about July 15, 2016; and

WHEREAS, as part of Kiewit’s work for Construction Package 1, Kiewit requires a staging site in the Big Thompson Canyon where Contractor will be permitted to store vehicles, equipment, and fuel, engage in rock crushing and sorting activities, store and dispose of excess construction materials, and otherwise utilize the site for the work; and

WHEREAS, Kiewit in conjunction with CDOT has identified certain property owned by the City of Loveland (“City”) known as “Round Mountain” within the Viestenz-Smith Mountain Park (“Round Mountain Site”) that Kiewit wishes to use for the staging and rock spoils for Construction Package 1; and

WHEREAS, Kiewit has agreed to compensate the City for use of the Round Mountain Site in the amount of five hundred thousand dollars (\$500,000) payable within ten (10) days of issuance of the Notice to Proceed; and

WHEREAS, the City is willing to permit Kiewit to use the Round Mountain Site for the purposes and subject to the terms and conditions of the Disposal and Use Agreement, attached hereto as “Exhibit A,” in exchange for the compensation described above; and

WHEREAS, the City believes that permitting Kiewit to use the Round Mountain Site to facilitate reconstruction of U.S. Highway 34 is in the best interests of its citizens; and

WHEREAS, the City Council desires to approve the Disposal and Use Agreement on behalf of the City and to authorize the City Manager to execute the same.

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

Section 1. That the Disposal and Use Agreement is hereby approved.

Section 2. That the City Manager is hereby authorized, following consultation with the City Attorney, to modify the Disposal and Use Agreement in form or substance and to enter into future amendments to the Agreement as deemed necessary to effectuate the purposes of this Resolution or to protect the interests of the City.

Section 3. That the City Manager and the City Clerk are hereby authorized and directed to execute the Disposal and Use Agreement on behalf of the City.

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

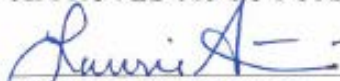
ADOPTED this 19th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

RESOLUTION #R-_____

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND KIEWIT INFRASTRUCTURE CO. PERMITTING THE USE OF THE ROUND MOUNTAIN AREA WITHIN VIESTENZ-SMITH MOUNTAIN PARK FOR STAGING AND ROCK SPOILS AS PART OF THE U.S. HIGHWAY 34 CONSTRUCTION PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the State of Colorado acting through the Department of Transportation (hereinafter “CDOT”) has planned a multi-phase construction project for permanent repairs to U.S. Highway 34 between Estes Park and Loveland (the “Project”); and

WHEREAS, Kiewit Infrastructure Co. (“Kiewit”) is under contract with CDOT as general contractor/construction manager for the Project; and

WHEREAS, Kiewit anticipates being awarded Notice to Proceed for Construction Package 1 for the Project on or about July 15, 2016; and

WHEREAS, as part of Kiewit’s work for Construction Package 1, Kiewit requires a staging site in the Big Thompson Canyon where Contractor will be permitted to store vehicles, equipment, and fuel, engage in rock crushing and sorting activities, store and dispose of excess construction materials, and otherwise utilize the site for the work; and

WHEREAS, Kiewit in conjunction with CDOT has identified certain property owned by the City of Loveland (“City”) known as “Round Mountain” within the Viestenz-Smith Mountain Park (“Round Mountain Site”) that Kiewit wishes to use for the staging and rock spoils for Construction Package 1; and

WHEREAS, Kiewit has agreed to compensate the City for use of the Round Mountain Site in the amount of five hundred thousand dollars (\$500,000) payable within ten (10) days of issuance of the Notice to Proceed; and

WHEREAS, the City is willing to permit Kiewit to use the Round Mountain Site for the purposes and subject to the terms and conditions of the Disposal and Use Agreement, attached hereto as “Exhibit A,” in exchange for the compensation described above; and

WHEREAS, the City believes that permitting Kiewit to use the Round Mountain Site to facilitate reconstruction of U.S. Highway 34 is in the best interests of its citizens; and

WHEREAS, the City Council desires to approve the Disposal and Use Agreement on behalf of the City and to authorize the Interim City Manager to execute the same.

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

Section 1. That the Disposal and Use Agreement is hereby approved.

Section 2. That the Interim City Manager is hereby authorized, following consultation with the City Attorney, to modify the Disposal and Use Agreement in form or substance and to enter into future amendments to the Agreement as deemed necessary to effectuate the purposes of this Resolution or to protect the interests of the City.

Section 3. That the Interim City Manager and the City Clerk are hereby authorized and directed to execute the Possession and Use Agreement on behalf of the City.

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

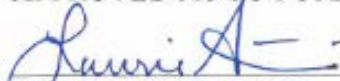
ADOPTED this 19th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

Co./Job 102893

DISPOSAL AND USE AGREEMENT

This Disposal and Use Agreement ("Agreement") is made this ____ day of July, 2016 by and between City of Loveland, a municipal corporation ("City" or "Owner"), and Kiewit Infrastructure Co., a Delaware Corporation ("Contractor").

WHEREAS, Contractor anticipates being awarded Notice to Proceed ("NTP") for Construction Package 1 of a Colorado Department of Transportation ("CDOT") project for improvements to U.S. Highway 34 on or about July 15, 2016; and

WHEREAS, as part of Contractor's work for Construction Package 1, Contractor requires a staging area in the Big Thompson Canyon where Contractor will be permitted to store trucks and other equipment, utilize a rock crusher to crush rock, sort rock, store fuel, store and dispose of excess construction materials, and otherwise utilize the staging area property for its work; and

WHEREAS, Contractor, in conjunction with CDOT, has identified certain property that Contractor wishes to use for staging and rock spoils for Construction Package 1. Such identified property is owned by the City and is known as "Round Mountain" with a legal description as set forth on Exhibit A, attached hereto (the "Property"); and

WHEREAS, the City is willing to permit Contractor to use the Property for the purposes and subject to the terms and conditions set forth in this Agreement as the City understands Contractor's work is necessary to the repairs and improvements to U.S. Highway 34 and such repairs and improvements will benefit the City and its citizens.

NOW THEREFORE, in consideration of the mutual covenants, agreements, and conditions contained herein, the sufficiency of which are hereby acknowledged, Owner and Contractor agree as follows:

1. Contingency. The parties agree that this Agreement is expressly contingent upon Contractor being given a Notice to Proceed by CDOT for Construction Package 1. The parties also agree that this Agreement is expressly contingent upon Owner and CDOT executing an intergovernmental agreement which includes an obligation by CDOT to restore the Property to its original condition to the greatest extent possible.

2. Term of Agreement. This Agreement shall remain in place, unless otherwise terminated earlier as set forth below, for a period of forty-two (42) months from the date of CDOT's issuance of the NTP.

3. Compensation. Contractor shall pay to Owner the amount of five hundred thousand dollars (\$500,000) within ten (10) calendar days of CDOT's issuance of the Notice to Proceed to Contractor for Construction Package 1 via ACH deposit.

4. Ownership of the Property.

- a) Owner warrants and covenants that it owns, is lawfully seized and has title to the Property. Owner will forever warrant and defend the title of the Property against the lawful claims of all persons.
- b) If, during the term of this Agreement, Owner elects to convey the Property to any third party, Owner shall explicitly make such conveyances of the Property subject to

this Agreement by reference in any and all documents of conveyance.

5. Permitted Uses of the Property by Contractor. Owner hereby gives and grants to Contractor the following rights of use and disposal with respect to the Property:

- a) The Contractor shall have the right to grade and prepare the Property for a staging facility, which may include the installation of access roads, berms, fencing and vehicle traffic control gates and the right to store materials and equipment, maintain and repair equipment and all other uses related to the activities in 5(b) below.
- b) **Material Processing, Storage and Disposal.**
 - i. Contractor shall be permitted to conduct rock crushing and materials processing activities on the Property.
 - ii. Contractor shall be permitted to use the Property for disposal of materials including, but not limited to, earth, rock, concrete, asphalt, and other materials not suitable for incorporation into Contractor's work on Construction Package 1 ("Materials"). Contractor makes no representation or warranty regarding the quality or content of the Materials. Owner accepts all Materials "as is." These items will be left in place through the life of construction of the project and all concrete and asphalt will be left in such a way that it can be removed during the reclamation phase of the Material processing site.
 - iii. Contractor anticipates disposing of Materials in the locations set forth on "Exhibit B," attached hereto and incorporated herein. Contractor shall coordinate with Owner for the final locations and densities of disposal of Materials on the Property. Contractor shall obtain Owner's approval for such final locations and densities; such approval shall not be unreasonably withheld.
 - iv. All Materials deposited by Contractor on the Property shall become the property of Owner upon delivery of the Materials to the Property, with the exception of all concrete and asphalt, which shall be removed by CDOT or its contractor during the reclamation phase of the Material processing site. During the term of this Agreement, Contractor may remove stored materials from the property for incorporation in contracts awarded to Contractor by CDOT and/or the City of Loveland with the City's written consent.
 - v. Contractor makes no guarantee as to the quantities or volume of Materials to be placed on the Property.
- c) **Equipment and Vehicle Storage and Operations.**
 - i. Contractor may erect, place, and operate on and over the Property machinery, office trailers and equipment as it deems necessary for hauling, dumping, crushing, and processing the Materials and may remove such machinery and equipment from the Property at any time it desires; provided, however, that such removal shall not be later than thirty (30) days after termination or expiration of this Agreement.

- ii. Contractor may store fuel, connex boxes and fuel storage, explosive storage, topsoil storage, commercial vehicles, traffic control devices, permanent materials and barriers.
- iii. Contractor may operate such machinery and equipment twenty-four (24) hours per day, seven (7) days per week, on the Property.
- iv. Contractor agrees to leave the access road in good repair and the access gate in place when the contractor vacates or no later than thirty (30) days after termination or expiration of this Agreement.

6. Permits and Compliance with the Law. Contractor shall ensure that CDOT has obtained or shall obtain all permits, including applicable environmental permits, prior to Contractor placing the Materials on the Property. Contractor agrees to conduct its operations so as to comply with all applicable permits, licenses, statutes and law.

7. Insurance and Security of the Property.

- a) The Contractor and its subcontractors, if any, shall procure and keep in force during the duration of this Agreement the following insurance policies and shall provide the City with a certificate of insurance evidencing upon execution of this Agreement:
 - i. Comprehensive general liability insurance insuring the Contractor and naming the Owner as an additional insured with minimum combined single limits of \$5,000,000 each occurrence and \$10,000,000 aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision.
 - ii. Pollution and environmental insurance coverage sufficient to cover all activities that Contractor is performing on the Property naming the Owner as an additional insured.
 - iii. Contractor shall name the City as an additional insured on any umbrella policies.
 - iv. Workers' compensation insurance and all other insurance required by any applicable law. *(Note: if under Colorado law the Contractor is not required to carry workers' compensation insurance, the Contractor shall execute a Certificate of Exemption and Waiver, attached hereto as Exhibit C and incorporated herein by reference.)*
- b) Required insurance policies shall be with companies qualified to do business in Colorado with a general policyholder's financial rating acceptable to the City. Said policies shall not be cancelable or subject to reduction in coverage limits or other modification except after thirty days prior written notice to the City. The Contractor shall identify whether the type of coverage is "occurrence" or "claims made." If the

type of coverage is “claims made,” which at renewal the Contractor changes to “occurrence,” the Contractor shall carry a six-month tail. Comprehensive general and automobile policies shall be for the mutual and joint benefit and protection of the Contractor and the City. Such policies shall provide that the City, although named as an additional insured, shall nevertheless be entitled to recover under said policies for any loss occasioned to it, its officers, employees, and agents by reason of negligence of the Contractor, its officers, employees, agents, subcontractors, or business invitees. Such policies shall be written as primary policies not contributing to and not in excess of coverage the City may carry.

- c) Contractor shall provide adequate security services to keep the Property secure at all times and to prevent access by any unauthorized person onto the Property during the Contractor’s use of the Property.
- d) Contractor will install and maintain a gate and vehicle tracking pad near the entrance of the road of the Material processing site.
- e) Contractor shall ensure that fire access is available to all portions of the Property for the entire term of this Agreement.

8. **Indemnification.**

- a) The Contractor agrees to indemnify and hold harmless the City, its officers, employees, and agents from and against all liability, claims, and demands on account of any injury, loss, or damage arising out of or connected with its use of the Property as set forth herein, if such injury, loss, or damage, or any portion thereof, is caused by, or claimed to be caused by, the act, omission, or other fault of the Contractor or any subcontractor of the Contractor, or any officer, employee, or agent of the Contractor or any subcontractor, or any other person for whom the Contractor is responsible. The Contractor shall investigate, handle, respond to, and defend against any such liability, claims, and demands, and shall bear all other costs and expenses related thereto, including court costs and attorneys’ fees. If the Contractor is providing architectural, engineering, design, or surveying services, the obligation to indemnify and pay costs, expenses, and attorneys’ fees, is limited to the amount represented by the degree or percentage of negligence or fault attributable to the Contractor, or the Contractor’s agents, representatives, employees, servants, subcontractors, or suppliers as determined by adjudication, alternative dispute resolution, or otherwise resolved by mutual agreement between the Contractor and the City. The Contractor shall notify the City and provide a copy of any and all written claims or demands within two business days of receipt. The Contractor’s indemnification obligation shall not be construed to extend to any injury, loss, or damage to the extent caused by the act, omission, or other fault of the City. This paragraph shall survive the termination or expiration of this Contract.
- b) The parties understand and agree that Colorado law prohibits the City from promising to indemnify the Contractor.

9. **Termination.**

- a) **Default by Contractor.** This Agreement is made on the condition also that if any one

or more of the following events (each an “Event of Default”) shall happen, the Contractor shall be deemed in default of this Agreement:

- i. The Contractor fails to make the payment as set forth in Paragraph 3 of this Agreement;
 - ii. The Contractor neglects or fails to perform any of the other covenants contained in this Agreement, and the Contractor fails to remedy the same within fourteen (14) days after Contractor has received written notice specifying such neglect or failure; or
 - iii. The Contractor is: (a) adjudicated a bankrupt or insolvent; (b) files a petition in bankruptcy for reorganization or for the adoption of an arrangement under the Bankruptcy Act (as may be amended from time to time); and/or (c) makes an assignment of its property for the benefit of its creditors.
- b) Owner agrees, upon termination of this Agreement and/or abandonment of the Property by Contractor, to assume full responsibility for the condition of the Property and the Materials. Owner acknowledges that Contractor shall not be required to grade, compact or otherwise perform any work relating to the Property or the Materials, other than as set forth herein.

10. General Provisions.

- a) Each party represents that it has the good and lawful right to enter into this Agreement.
- b) 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. § 24-1-101 *et seq.* and under any other applicable law.
- c) Notwithstanding anything herein to the contrary, the Contractor understands and agrees that the City is a governmental entity subject to the Colorado Open Records Act (“CORA”), and the City’s compliance with CORA or any other applicable law shall not be a breach of this Agreement.
- d) 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 an amendment to this Agreement that is properly executed and approved in accordance with applicable law.
- e) This Agreement is subject to such modifications as may be required by changes in federal or State law, or their implementing regulations. Any such required modification shall automatically be incorporated into and be a part of this Agreement on the effective date of such changes as if fully set forth herein.
- f) 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.

- g) The Contractor shall not assign this Agreement without the City's prior written consent.
- h) This Agreement shall be governed by the laws of the State of Colorado, and venue shall be in the County of Larimer, State of Colorado.
- i) Electronic Signature. This Agreement may be executed by electronic signature in accordance with C.R.S 24-71.3-101 *et seq.*

11. Notices.

Any and all notices and payments to be given under the terms of this Agreement shall be deemed delivered when such notices and payments are placed in the United States mail, properly sealed and stamped, and containing the following address:

Notices to Owner:	City of Loveland Parks and Recreation Department Attn: Elizabeth Anderson, Director 500 E. Third Street, Suite 200 Loveland, CO 80537
-------------------	---

(Notice and payment delivered to Owner named above shall constitute delivery of notice and payment to all of the undersigned.)

Notices to Contractor:	Attn: Real Estate Department 1000 Kiewit Plaza Omaha, Nebraska 68131
------------------------	--

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

OWNER:

CONTRACTOR:

By: William D. Cahill, City Manager

By: _____

Tax ID: 84-6000609

Its: _____

Exhibit A

Round Mountain Material Processing and Staging Site

1211 W Highway 34
Loveland, CO

Parcel Num : 0507000928
Township : 05, Range : 70, Section: 07

**COLORADO DEPARTMENT OF TRANSPORTATION
REAL PROPERTY**

TO BE ACQUIRED

Temporary Easement

FROM

City of Loveland
500 E. 3rd St
Loveland, CO 80537

FOR

Project Code: 20279
Project Number: ER 0341-084
Location: US34 – MP79.48 – MP79.87

EXHIBIT "A"

PROJECT CODE: 20279
PROJECT NUMBER: ER 0341-084
TEMPORARY EASEMENT
DATE: JUNE 20, 2016

LEGAL DESCRIPTION

Temporary Easement of the Department of Transportation, State of Colorado, Project Number ER 0341-084, containing 1,873,139 square feet (43.001 Acres), lying in the North Half of Section 7, Township 5 North, Range 70 West of the 6th P.M., being a portion of that certain parcel of land described in deed recorded on Book 534, Page 159, on December 22, 1926, in the Larimer County Clerk and Recorder's office, being more particularly described as follows:

Commencing at the Northeast Corner of said Section 7 (3.25" BLM Brass Cap on 2" steel pipe in rock cairn – "1962"), whence the Northwest Corner of said Section 7 (3.25" BLM Brass Cap on 2.5" aluminum pipe in rock cairn – "1962") bears S88°02'45"W, a distance of 5,796.74 feet (basis of bearing – assumed);

Thence S50°23'51"W, a distance of 1,403.33 feet to the southerly Right of Way line of the Department of Transportation, State of Colorado, Project No. 9-R-4 and the POINT OF BEGINNING;

1. Thence S10°35'28"W, a distance of 422.20 feet;
2. Thence S46°11'46"W, a distance of 754.41 feet;
3. Thence S89°38'34"W, a distance of 290.25 feet;
4. Thence N77°06'57"W, a distance of 588.21 feet;
5. Thence N15°52'00"W, a distance of 354.25 feet;
6. Thence N23°10'41"W, a distance of 762.85 feet to said southerly Right of Way line;

Thence coincident with said southerly Right of Way line, the following nine (9) courses:

1. Thence N64°29'51"E, tangent with the following described curve, a distance of 280.70 feet;
2. Thence along the arc of a curve to the right, a radius of 894.93 feet, a central angle of 13°03'00", a chord bearing N71°01'21"E a distance of 203.39 feet, and an arc distance of 203.83 feet;
3. Thence N77°32'51"E, tangent with the previous and following described curves, a distance of 261.90 feet;
4. Thence along the arc of a curve to the right, a radius of 656.21 feet, a central angle of 24°11'00", a chord bearing N89°38'21"E a distance of 274.92 feet, and an arc distance of 276.97 feet;
5. Thence S11°43'51"W, radial with the previous and following described curves, a distance of 15.00 feet;
6. Thence along the arc of a curve to the right, a radius of 641.21 feet, a central angle of 17°24'00", a chord bearing S69°34'09"E a distance of 193.98 feet, and an arc distance of 194.73 feet;

7. Thence S60°52'09"E, tangent with the previous and following described curves, a distance of 588.30 feet;
8. Thence along the arc of a curve to the left, a radius of 2,939.79 feet, a central angle of 02°24'00", a chord bearing S62°04'09"E, a distance of 123.13 feet, and an arc distance of 123.14 feet;
9. Thence S63°16'09"E, tangent with the previous described curve, a distance of 117.64 feet, more or less, to the POINT OF BEGINNING.

The above described parcel contains 1,873,139 square feet (43.001 Acres), more or less, for temporary construction purposes.

TOGHETER WITH:

Temporary Easement of the Department of Transportation, State of Colorado, Project Number ER 0341-084, containing 96,108 square feet (2.206 Acres), lying in the Northeast Quarter of Section 7, Township 5 North, Range 70 West of the 6th P.M., being a portion of that certain parcel of land described in deed recorded on Book 534, Page 159, on December 22, 1926, in the Larimer County Clerk and Recorder's office, being more particularly described as follows:

Commencing at the Northeast Corner of said Section 7 (3.25" BLM Brass Cap on 2" steel pipe in rock cairn – "1962"), whence the Northwest Corner of said Section 7 (3.25" BLM Brass Cap on 2.5" aluminum pipe in rock cairn – "1962") bears S88°02'45"W, a distance of 5,796.74 feet (basis of bearing – assumed);

Thence S70°59'00"W, a distance of 1,564.41 feet to the northerly Right of Way line of the Department of Transportation, State of Colorado, Project No. 9-R-4 and the POINT OF BEGINNING;

1. Thence N60°52'09"W, coincident with said northerly Right of Way line and tangent with the following described curve, a distance of 294.15 feet;
2. Thence along the arc of a curve to the left, continuing along said northerly Right of Way line, a radius of 791.21 feet, a central angle of 17°24'00", a chord bearing N69°34'09"W a distance of 239.36 feet, and an arc distance of 240.28 feet;
3. Thence N55°35'55"E, non-tangent with the previous described curve, a distance of 303.10 feet;
4. Thence S61°26'22"E, a distance of 278.83 feet;
5. Thence S02°58'22"W, a distance of 265.05 feet, more or less, to the POINT OF BEGINNING.

The above described parcel contains 96,108 square feet (2.206 Acres), more or less, for temporary construction purposes.

The above described parcels contain a combined total area of 1,969,247 square feet (45.207 Acres), more or less.

Edward C. Silver, PLS 37051
Colorado Licensed Professional Land Surveyor
For and on the behalf of
Jacobs Engineering Group, Inc
707 17th Street, Suite 2400
Denver, CO 80202



B534_P159.txt

Map Check Report

Project: B534_P159
 Alignment: WHENCE
 Description:

Type Elevation	Point Name\ Direction	Length	Northing	Easting
POB 0.00	()		96275.83	64351.84
	S 88°02'45" W	5796.74		
POE 0.00	()		96078.16	58558.47

Alignment: TIE
 Description:

Type Elevation	Point Name\ Direction	Length	Northing	Easting
POB 0.00	()		95381.26	63270.59
	N 50°23'51" E	1403.33		
POE 0.00	()		96275.83	64351.84

Alignment: BOUNDARY
 Description:

Type Elevation	Point Name\ Direction	Length	Northing	Easting
POB 0.00	()		95381.26	63270.59
	S 10°35'28" W	422.20		
PI 0.00	()		94966.25	63192.99
	S 46°11'46" W	754.41		
PI 0.00	()		94444.06	62648.52
	S 89°38'34" W	290.25		
PI 0.00	()		94442.25	62358.28
	N 77°06'57" W	588.21		
PI 0.00	()		94573.41	61784.87
	N 15°52'00" W	354.25		
PI 0.00	()		94914.17	61688.02
	N 23°10'41" W	762.85		
PI 0.00	()		95615.44	61387.77

		B534_P159.txt		
PC	N 64°29'51" E	280.70	95736.30	61641.12
0.00	()			
	Radius:	894.93		
	Delta:	13°03'00"		
	Length:	203.83		
	Chord:	203.39		
	Tangent:	102.36		
	Middle Ordinate:	5.80		
	External:	5.83		
CC	S 25°30'09" E (Radial)		94928.57	62026.43
0.00	()			
	N 71°01'21" E (Chord)			
PT	S 12°27'09" E (Radial)		95802.44	61833.46
0.00	()			
PC	N 77°32'51" E	261.90	95858.92	62089.20
0.00	()			
	Radius:	656.21		
	Delta:	24°11'00"		
	Length:	276.97		
	Chord:	274.92		
	Tangent:	140.58		
	Middle Ordinate:	14.56		
	External:	14.89		
CC	S 12°27'09" E (Radial)		95218.14	62230.70
0.00	()			
	N 89°38'21" E (Chord)			
PT	S 11°43'51" W (Radial)		95860.65	62364.11
0.00	()			
PC	S 11°43'51" W	15.00	95845.96	62361.06
0.00	()			
	Radius:	641.21		
	Delta:	17°24'00"		
	Length:	194.73		
	Chord:	193.98		
	Tangent:	98.12		
	Middle Ordinate:	7.38		
	External:	7.46		
CC	S 11°43'51" W (Radial)		95218.14	62230.70
0.00	()			
	S 69°34'09" E (Chord)			
PT	S 29°07'51" W (Radial)		95778.25	62542.84
0.00	()			
PC	S 60°52'09" E	588.30	95491.86	63056.73
0.00	()			
	Radius:	2939.79		
	Delta:	2°24'00"		
	Length:	123.14		
	Chord:	123.13		
	Tangent:	61.58		
	Middle Ordinate:	0.64		
	External:	0.64		
CC	S 29°07'51" W (Radial)		98059.79	64487.84
	()			

B534_P159.txt

0.00	S 62°04'09" E (Chord)		
	S 26°43'51" W (Radial)		
PT	()	95434.18	63165.52
0.00			
	S 63°16'09" E	117.64	
POE	()	95381.26	63270.59
0.00			

Northing Error: 0.00 ft
 Easting Error: -0.01 ft
 Closing Direction: S 78°44'10" E
 Closing Distance: 0.01 ft
 Closed Area: 1873139.440 sq ft (43.001 ac)
 Perimeter: 5234.39 ft
 Precision: 761874.27

TEMP_EASE_2.txt

Map Check Report

Project: TEMP_EASE_2
 Alignment: WHENCE
 Description:

Type	Point Name\	Northing	Easting
Elevation	Direction	Length	
POB ()		96275.83	64351.84
0.00	S 88°02'45" W	5796.74	
POE ()		96078.16	58558.47
0.00			

Alignment: TIE 2
 Description:

Type	Point Name\	Northing	Easting
Elevation	Direction	Length	
POB ()		96275.83	64351.84
0.00	S 70°59'00" W	1564.41	
POE ()		95766.08	62872.81
0.00			

Alignment: BOUNDARY 2
 Description:

Type	Point Name\	Northing	Easting
Elevation	Direction	Length	
POB ()		95766.08	62872.81
178956.97	N 60°52'09" W	294.15	
PC ()		95909.27	62615.86
178956.97			
	Radius:	791.21	
	Delta:	17°24'00"	
	Length:	240.28	
	Chord:	239.36	
	Tangent:	121.07	
	Middle Ordinate:	9.10	
	External:	9.21	
	N 29°07'51" E (Radial)		
CC ()		95218.14	62230.70
178956.97			
	N 69°34'09" W (Chord)		
	N 11°43'51" E (Radial)		
PT ()		95992.83	62391.56
178956.97			
	N 55°35'55" E	303.10	

PI ()	TEMP_EASE_2.txt	96164.07	62641.65
178956.97			
S 61°26'22" E	278.83		
PI ()		96030.77	62886.55
178956.97			
S 2°58'22" W	265.05		
POE ()		95766.08	62872.81
178956.97			

Northing Error: -0.00 ft
 Easting Error: -0.00 ft
 Closing Direction: N 64°08'05" E
 Closing Distance: 0.00 ft
 Closed Area: 96107.962 sq ft (2.206 ac)
 Perimeter: 1381.41 ft
 Precision: 290510.92

534-159

WIT: NEW N. R. M. R.
No. 219775

WARRANTY DEED—B. &—Oct West Printing and Stationery Co. Colorado Springs, Colo. 72913

This Deed, Made this eleventh day of December in the year of our Lord one thousand nine hundred and twenty six, between

Louis Pappas, sometimes known as Louis Pappa

of the County of Larimer, and State of Colorado, of the first part, and

The City of Loveland, a municipal corporation,

of the County of Larimer, and State of Colorado, of the second part:

Witnesseth, That the said part 1 of the first part, for and in consideration of the sum of ten dollars and other valuable considerations to the said part 2 of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances, he has granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell, convey and confirm unto the said part 2 of the second part its successors and assigns forever, all the following described lot or parcel of land, situate, lying and being in the

County of Larimer and State of Colorado, to-wit:
The north one-half of the northwest one-quarter (N $\frac{1}{2}$ N $\frac{1}{4}$) and the north-east one-quarter (NE $\frac{1}{4}$) and the north one-half of the southeast one-quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$) of Section Six (6), Township Two North (2N), Range Twenty West (20W) of the Sixth (6th) P.M., except portions thereof heretofore conveyed by deeds recorded in Book 357 at page 449, and in Book 399 at page 108, and in Book 421 at page 525, and in Book 428 at page 148 of the public records of Larimer County, Colorado in the office of the Clerk and Recorder thereof.

Together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the said part 1 of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

To Have and to Hold the said premises above bargained and described, with the appurtenances unto

The City of Loveland, a municipal corporation,

the said part 2 of the second part its successors here and assigns forever. And the said

Louis Pappas, sometimes known as Louis Pappa part 1 of the first part, for himself and his heirs, executors and administrators, do covenant, grant, bargain and agree to and with the said part 2 of the second part its successors here and assigns, that at the time of the enrolling and delivery of these presents he has well seized of the premises above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and incumbrances of whatever kind or nature soever provided he himself, first party, reserve the right and privilege to use

when said premises during the term of years which right and privilege shall not be assigned, transferred, relinquished, and shall be absolutely void and forfeited in the event of the death of first party or the permanent removal of first party, and first party shall be privileged to use the premises said premises and to then use said premises in any manner not inconsistent with second party's possession of said premises and also except to be lost due to 1917 which first party agrees to pay

and the above bargained premises in the quiet and peaceable possession of the said part 2 of the second part its successors here and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said part 1 of the first part shall and will Warrant and Forever Defend.

In Witness Whereof, The said part 1 of the first part has hereunto set his hand and seal the day and year first above written.

Louis Pappas, sometimes known as Louis Pappa
Harmon B. Shady
Rick Williams

Louis Pappas, sometimes known as Louis Pappa
Mrs. as Louis Pappa

STATE OF COLORADO, ss. Glen O. Draggoo a Notary Public

County of Larimer in and for said Larimer County, in the State aforesaid, do hereby certify that

Louis Pappas, sometimes known as Louis Pappa



who is personally known to me to be the person whose name is subscribed to the foregoing Deed, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument of writing as his free and voluntary act and deed, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 13th day of December A. D. 1926

My commission expires November 4, 1929 A. D.

Glen O. Draggoo
NOTARY PUBLIC.

Filed for record the 22 day of December A. D. 1926, at 10:00 o'clock A. M.

DEC. 22. 1926

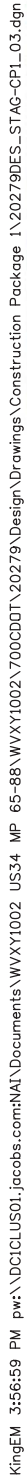
Matthew Auld RECORDER.
By H. R. Cushing DEPUTY.

Exhibit B

See attached map for disposal areas.



VICINITY MAP



Print Date: 6/21/2016	
File Name: 20279DES_STAG-CP1_03.dgn	
Horiz. Scale: 1:200	Vert. Scale: As Noted

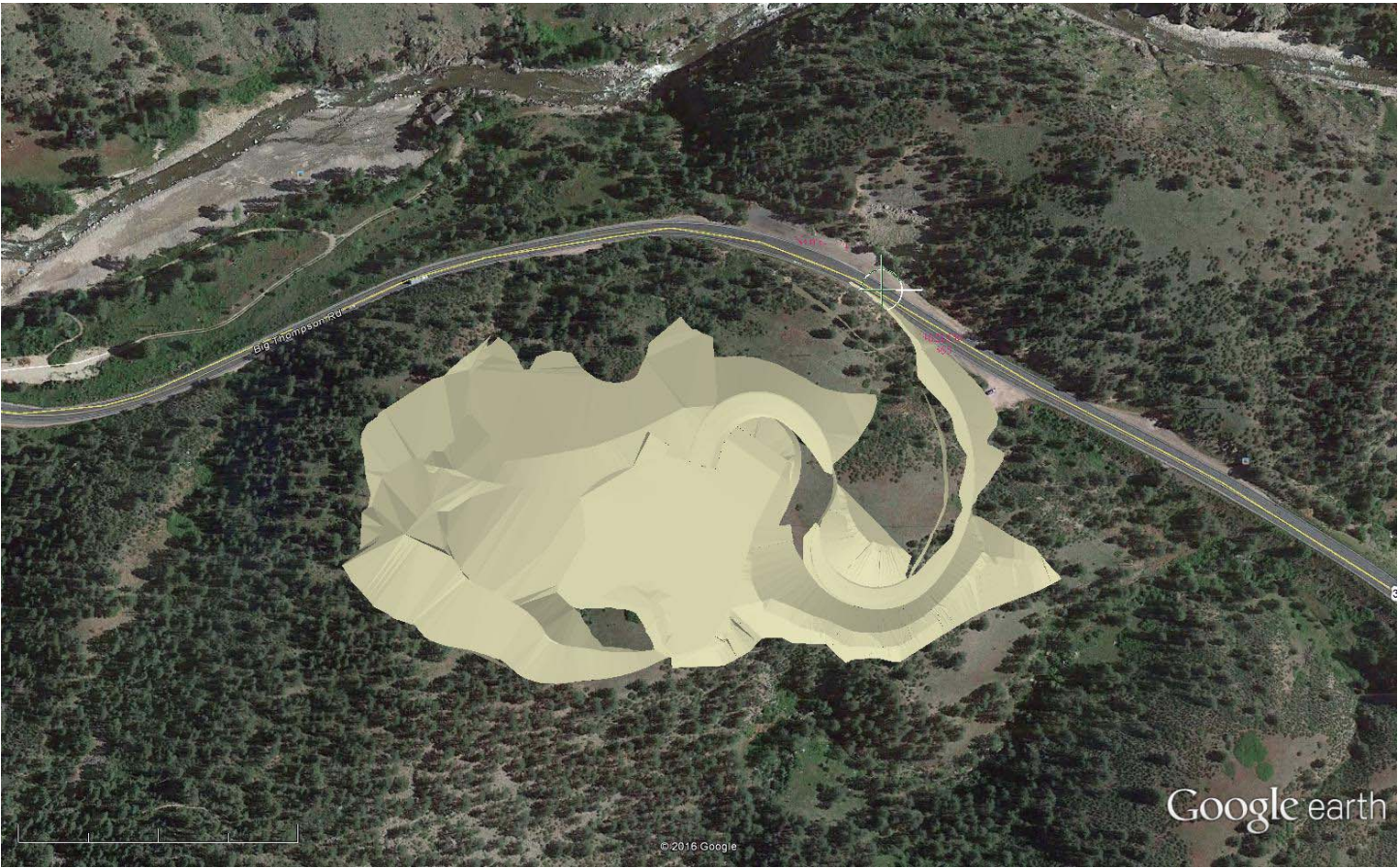


Colorado Department of Transportation

 2207 East Highway 402
Loveland, CO 80537
Phone: 970-667-4670 FAX: 970-669-0289

Region 4 Loveland Residency JRU

49 of 202





COLORADO
Department of
Transportation



Parks and Recreation

**Viestenz-Smith
Mountain Park**

City of Loveland/ CDOT/ Kiewit Infrastructure Disposal and Use Agreement CDOT IGA

Evan Phelps, Kiewit Infrastructure
James Usher, US 34 Project Director
Janet Meisel-Burns, Loveland, Sr. Park Planner



Why We're Doing All This Work

It will flood again!



Reduce Impact and Risk

- Maintain evacuation routes and emergency access
- Avoid air evacuations
- Reestablish access to homes and businesses more quickly
- Mother Nature will do what she wants - let's give her room



VICINITY MAP



Round Mountain Staging Area and Rock Waste Site – Phase I

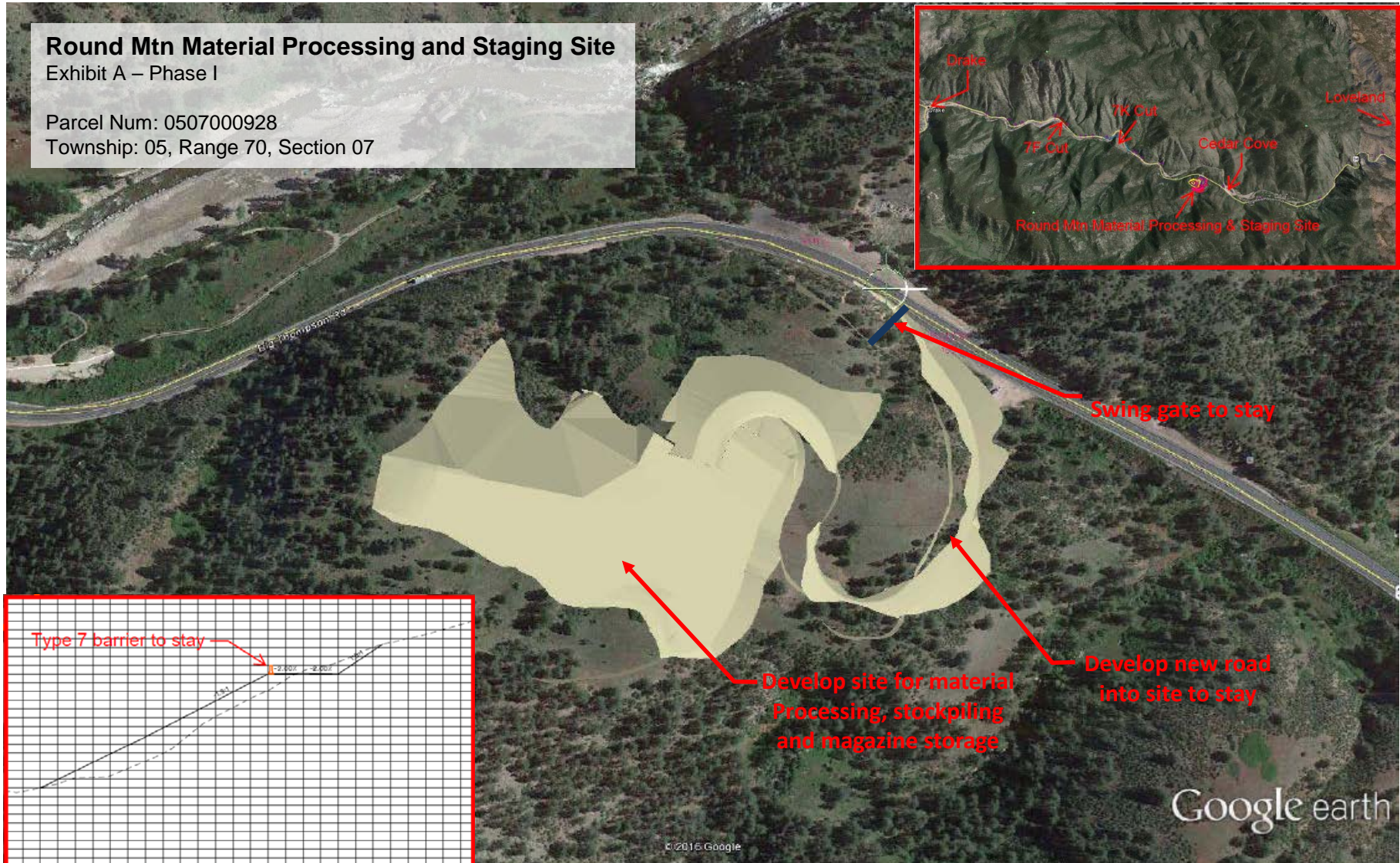
307

Round Mtn Material Processing and Staging Site

Exhibit A – Phase I

Parcel Num: 0507000928

Township: 05, Range 70, Section 07





Round Mountain Staging Area and Rock Waste Site – Phase II

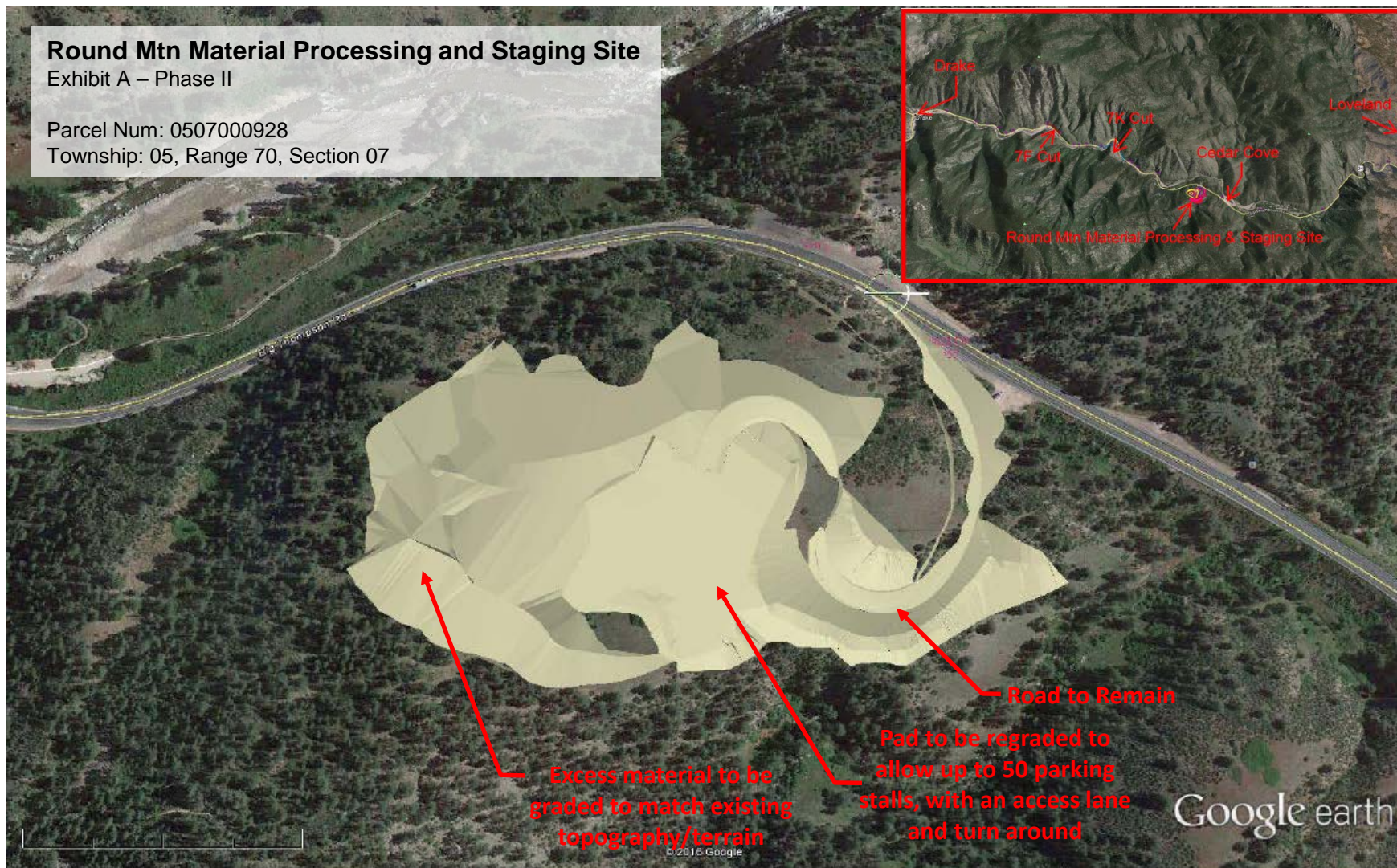
308

Round Mtn Material Processing and Staging Site

Exhibit A – Phase II

Parcel Num: 0507000928

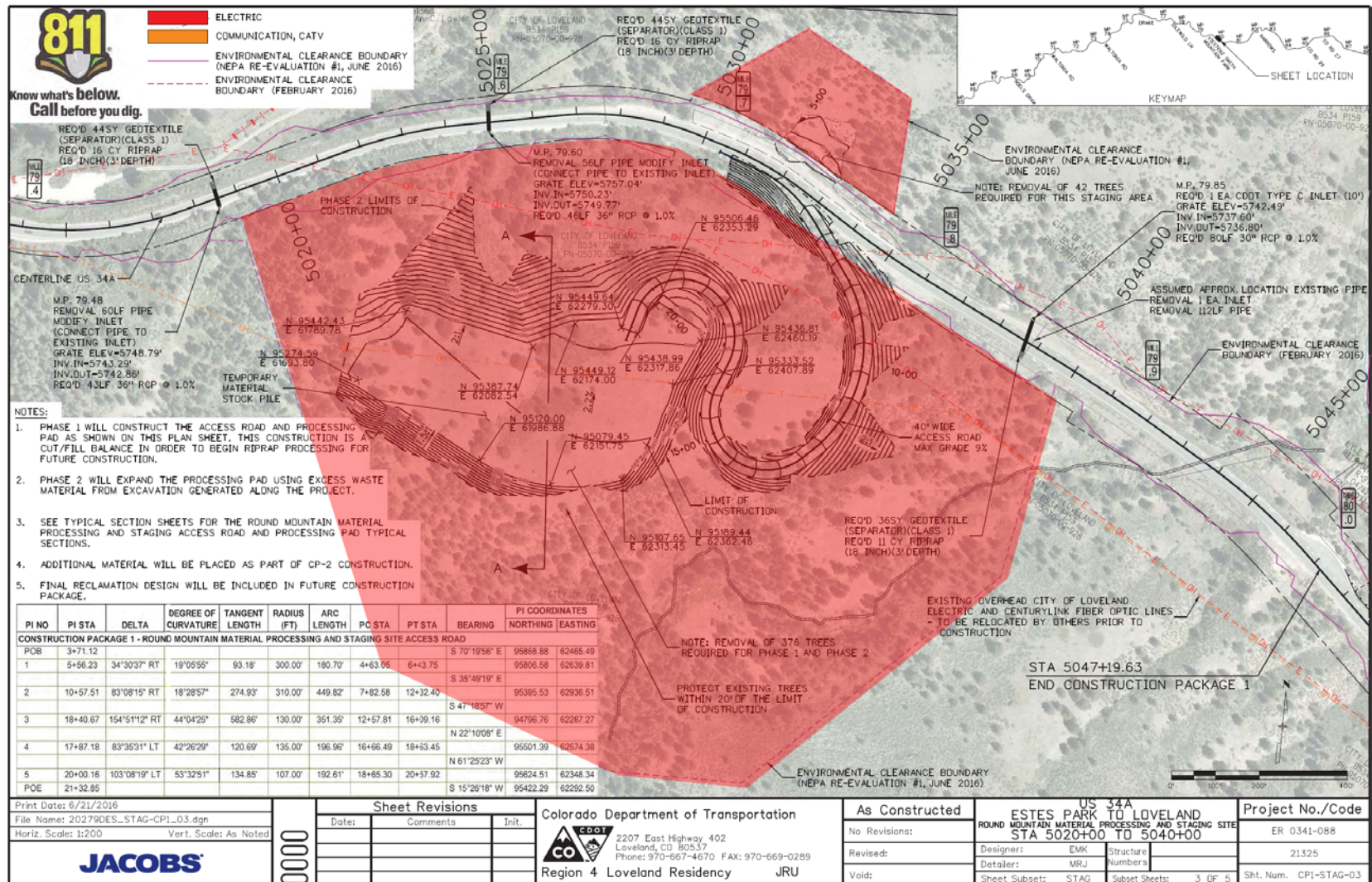
Township: 05, Range 70, Section 07





Boundary of Round Mountain Staging and Rock Spoil Site

P 309





Round Mountain Staging Area and Rock Spoil Site

P. 310





Round Mountain Staging Area and Rock Spoil Site - Initial Vegetation

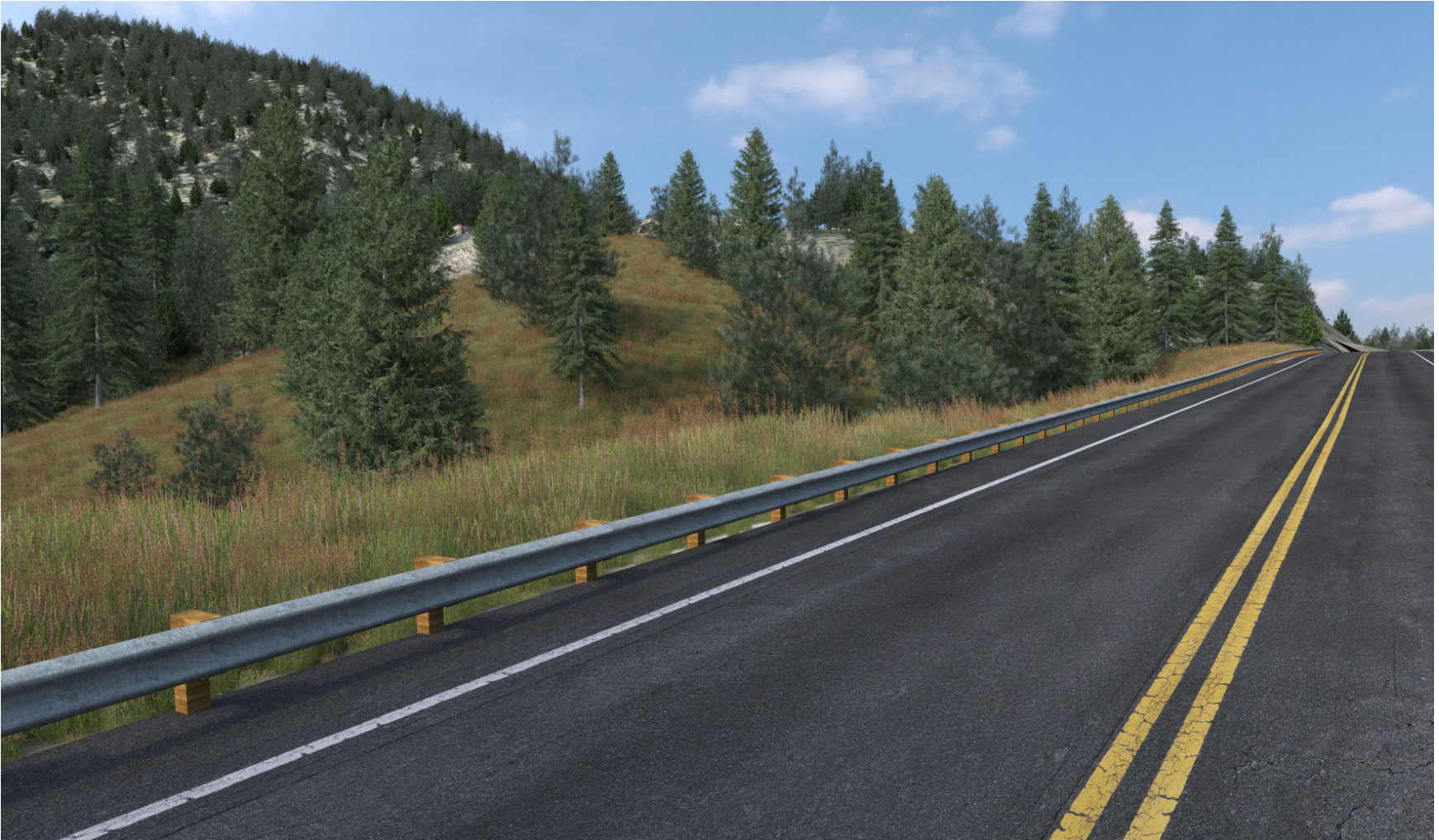
P. 311





Round Mountain Staging Area and Rock Spoil Site - Mature Vegetation

P. 312





Need for Agreements

- Reduce construction duration and overall Impacts to canyon residents and Loveland
- Need to store and waste 400,000 – 600,000 CY of rock for the duration of the project
- Kiewit needs additional Staging Area for rock crushing operations
- CDOT Agreement requires reclamation regardless of contractor



Advantages of Agreements

- Kiewit won't transport rock or road base beyond Canyon work area
- Loveland receives fair compensation and additional funding for VSMP
- Loveland receives rock, rip/rap and road base for the VSMP project at no cost
- CDOT and Loveland win by keeping costs lower for both projects and maintain a cooperative working relationship



Project Contacts

- James Usher, CDOT US 34 Project Director
- Evan Phelps, Kiewit Infrastructure
- Mike Neal, Kiewit Infrastructure
- Janet Meisel-Burns, Project Manager, VSMP
- Visit our website
www.codot.gov/projects/floodrelatedprojects/us-34-big-thompson-canyon-1

AGENDA ITEM: 20
MEETING DATE: 7/19/2016
TO: City Council
FROM: Development Services
PRESENTER: Karl Barton, Senior City Planner



TITLE:

A Resolution Approving Create Loveland As The Master Plan For The Physical Development Of The City Of Loveland, Colorado

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends that council adopt the resolution.

OPTIONS:

1. Adopt the action as recommended.
2. Deny the action. If the Resolution is denied, Loveland will continue to use the 2005 Comprehensive Plan until such time that a new plan is adopted
3. Adopt a modified action.
4. Refer back to staff for further development and consideration.

SUMMARY:

This is an administrative item. This Resolution is to adopt Create Loveland as Loveland's new Comprehensive Plan. As the new comprehensive plan, Create Loveland will act as an advisory guide for making growth and development related decisions and evaluating alternatives. The Plan was unanimously recommended for approval by the Planning Commission on February 22, 2016. On April 12, 2016 the Plan was discussed at a Council Study Session, comments from that Session, and received since, have been integrated into the Plan document.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible

BACKGROUND:

The Create Loveland plan document is the culmination of a two year process centered on a robust public engagement program. The planning team held many events specifically to engage with the community about Create Loveland, as well as attended many public events and facilitated on-line commenting. Overall, there were more than 3500 pieces of public input taken and used during the drafting of the Plan.

A Stakeholder Committee consisting of 20 members from across the Loveland community met to have detailed conversations about the direction and content of the Plan. A Technical Advisory Committee consisting of City staff provided input on the Plan from an internal and professional perspective.

PLANNING COMMISSION

The planning team worked extremely closely with the Planning Commission in the creation and drafting of the Plan. Seven study sessions were held with the Planning Commission, including three in the final months of the Plan drafting process. This close working relationship resulted in

a Plan that received a unanimous recommendation for approval from the Commission on February 22, 2016.

CREATE LOVELAND

Create Loveland is Loveland's new comprehensive plan, intended to protect and enhance Loveland's quality of life and economic vitality as it grows. It is an advisory, not regulatory, document that depicts the general location, type, and intensity of future development, as well as the policies that will be used to guide growth and inform decision making. It is mostly frequently used when evaluating annexations and re-zonings. It will also be used in the creation of important infrastructure plans such as the transportation master plan and raw water master plan.

The Comprehensive Plan is a visible public statement communicating a community's vision and priorities to interested parties. It addresses community needs and wants and analyzes the opportunities for and barriers to achieving them. It directs the infrastructure and other investments that a community will make. It seeks to balance the need to provide certainty to stakeholders and community members about what they can expect their community to look and feel like in the future while at the same time providing the flexibility for decision makers to respond to current conditions when evaluating alternatives.

PLAN FEATURES AND ORGANIZATION

Loveland's last comprehensive plan was completed in 2005. Since that time there have been many changes to the Loveland community and the larger environment within which it sits. To help Loveland prosper through these changes, Create Loveland focuses on land use and the built environment and features a new future land use plan as well as Policies and Supporting Strategies designed to achieve the community's vision. Also included within the Plan is an examination of the impact of the built environment on public health, threats to the City's wellbeing, a look at the fiscal impacts of Loveland's growth and development pattern, an interweaving of community design elements, and metrics to measure Loveland's progress towards its goals.

Create Loveland is based around nine **Plan Elements** (Chapter 2) plus a **Future Land Use Plan** (Chapter 3).

The 9 **Plan Elements** are:

1. A Commitment to A Downtown Renaissance
2. Revitalize Our Corridors and Gateways
3. Cultivate Vibrant Economic Centers
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6. Create a Connected and Accessible Community
7. Facilitate Complete Neighborhoods
8. Invest in Loveland's Older Neighborhoods
9. Strengthen Loveland's Strategic Roles in the Community & Region

Within each Plan Element are a set of Policies and within each Policy are sets of Supporting Strategies designed to achieve and implement the Policy in a way that is consistent with Loveland's vision and values.

The Land Use Plan is contained in Chapter 3. It contains a Future Land Use Map, descriptions of the land Use Designations, and a Suggested Future Land Use Map. The Land Use Map adds flexibility in strategic opportunity areas through the addition of Overlay Land Use Designations. The Suggested Land Use Changes Map indicates opportunities to make changes to the base

land use map that were identified through the Create Loveland planning process, but need to be officially adopted through a site specific process.

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

1. Resolution
2. Staff Memorandum
3. [Create Loveland Adoption Draft](#)
4. Planning Commission Staff Report with attachments (excluding Create Loveland draft)
5. Planning Commission Minutes
6. Signed Planning Commission Resolution
7. Staff Presentation Slides

RESOLUTION #R-65-2016

A RESOLUTION APPROVING CREATE LOVELAND AS THE MASTER PLAN FOR THE PHYSICAL DEVELOPMENT OF THE CITY OF LOVELAND, COLORADO

WHEREAS, City is required to maintain a master plan for the development of the City, including any areas outside of the City that bear relation to the planning of the City, pursuant to Section 31-23-206, C.R.S.; and

WHEREAS, the City's current master plan is the City of Loveland 2005 Comprehensive Plan adopted by Resolution #R-21-2007, as amended by the 2011 Implementation Plan adopted by Resolution #R-92-2011 (together, the "2005 Plan"); and

WHEREAS, the City desires to update and fully restate the 2005 Plan as set forth in **Exhibit "A,"** attached hereto and incorporated by reference, and to designate such plan "Create Loveland"; and

WHEREAS, on February 22, 2016 after a duly noticed public hearing the Planning Commission adopted Create Loveland as the master plan of the City and recommended adoption by City Council; and

WHEREAS, City Council has reviewed Create Loveland as the master plan for the City and finds that adoption of such plan as an advisory document to guide land development decisions is in the best interest of the City.

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

Section 1. Create Loveland as set forth in **Exhibit "A,"** and as it may be amended, is approved as the master plan for the physical development of the City, including any areas outside of the City that bear relation to the planning of the City.

Section 2. Create Loveland shall be an advisory document to guide land development decisions and shall fully replace and supersede the 2005 Plan.

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

ADOPTED this 19th day of July, 2016.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney



Staff Memorandum

To: Loveland City Council

From: Karl Barton, Development Services

Through: Brett Limbaugh, Development Services Director

Date: July 19, 2016

RE: Create Loveland

At the April 12th Study Session, staff gave a presentation on Create Loveland. The Council was then given additional time to review the Plan and give comments ahead of the adoption hearing. The comments received are listed in the table below along with their location within the Plan and the change made to the Plan in response. In all cases, the suggested change has been incorporated into the document.

Comment	Page / Policy / Section	Response / Change
Page A-87 has a sentence, the first in the second paragraph, "Incompatible residential development over the past decade has encroached upon the airport, particularly in the county, threatening the airport's long-term viability." This sentence really doesn't serve any purpose. The development is there, it will have to be dealt with in the future but calling it out doesn't help. The subsequent sentences are quite good and address the "Now what?" of the problem. I would suggest taking out that first sentence	Appendix Land Use & Community Design Snapshot Page A-87	Sentence removed Page Appendix F 83
In the section "City of Loveland's Role in Development") you might consider adding a bullet point that relates to the direction given by the Commission to develop a plan that would create some type of PUD for the Airport Area. The wording for the bullet might be: "Create an Airport District Zone with land use designations and development standards to support the Airport area becoming a key economic and innovation center for the region."	Chapter 3: Our Places Market Supported Development Opportunities Airport Area Page 3-5	Added suggested wording to page Chapter 3 79 as suggested and added as a Supporting Strategy to Policy 3 in the Strengthen Loveland's Strategic Roles in the Community & the Region, Page Chapter 2 73

Comment	Page / Policy / Section	Response / Change
Add the text "... the designation of the nearby area of Loveland and Windsor as a beneficiary of funds provided through Colorado's Regional Tourism Act (RTA) to develop tourist draws, ..." to the second paragraph on page 3-3	Chapter 3: Our Places Market Supported Development Opportunities Airport Area Page 3-3	Added suggested wording, Page Chapter 3 77
Add the text, "... and, in the future, the proposed tourist attractions to be built through RTA funding, ..." to the 4 th bullet in the Strengths section on Page 3-3.	Chapter 3: Our Places Market Supported Development Opportunities Airport Area Page 3-3	Added suggested wording, Page Chapter 3 77
Modify the 1 st paragraph of the Development Opportunities Section so that the 1 st two sentences read, "Due to the large amount of undeveloped land, The City of Loveland has the unique opportunity to strategically plan the Airport area development in a way that aligns with the city's goals and objectives and the area's strategic competitive advantages rooted in such factors as: the area's designation by The Lemelson Foundation as the Center of Innovation of this decade; designation of the airport as the testbed for the FAA's NextGen air traffic control system; the locale for research and development of unmanned aerial vehicles for the Defense Advanced Research Projects Agency; availability of advanced studies by the local research universities (CSU, CU, Ames, and NCU) in the areas of sensors, aviation and aerospace, alternative energy, and autonomous transportation, among others; and recognition as one of the most productive regions in America for fostering new business start-ups. It is important that land development policies and zoning are consistent with exploiting such advantages. Properly crafted land use policies can spur economic growth in the areas cited. With the promise of such job creation, the airport could qualify for designation as a Colorado Aviation Development Zone, garnering employee hiring tax credits for participating enterprises.	Chapter 3: Our Places Market Supported Development Opportunities Airport Area Page 3-3	Added suggested wording, Page Chapter 3 77

Comment	Page / Policy / Section	Response / Change
Add the text, "... (a desired circumstance in the interest of public safety) ..." to the 2 nd bullet of the Weaknesses section on Page 3-3	Chapter 3: Our Places Market Supported Development Opportunities Airport Area Page 3-3	Added suggested wording, Page Chapter 3 77
Modify the 1 st paragraph on Page 3-5 so that the 2 nd sentence reads, "Development of residential land uses needs to be sufficiently clear of the airport operating area to protect the safety of the public."	Chapter 3: Our Places Market Supported Development Opportunities Airport Area Page 3-5	Added suggested wording, Page Chapter 3 79
In 2 nd paragraph on page 3-5, Change 2 nd sentence to read, "Once completed, , the area will have an agglomeration of entertainment..."	Chapter 3: Our Places Market Supported Development Opportunities Airport Area Page 3-5	Made suggested change, Page Chapter 3 79

STAFF RECOMMENDATION

Adopt a resolution approving Create Loveland as the master plan for the physical development of the City of Loveland, Colorado.



Community & Strategic Planning

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 (970) 962-2607 • Fax (970) 962-2945 • TDD (970) 962-2620
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Planning Commission Staff Report

February 22, 2016

Agenda #: Regular Agenda -
Title: Create Loveland
Applicant: Community & Strategic Planning
Request: Resolution Recommending Approval of the Comprehensive Plan
Staff Planner: Karl Barton

Staff Recommendation

APPROVAL of the Resolution

Recommended Motion:

1. *Move to adopt the Resolution, recommending adoption of the City of Loveland 2016 comprehensive master plan known as Create Loveland, as amended on the record.*

I. ATTACHMENTS

1. Resolution with Clean Adoption Draft of Create Loveland attached as Exhibit A
2. Updated Comment Table

II. ADOPTION HEARING

At this hearing, Planning Commission will be asked to recommend that City Council adopt Create Loveland by Resolution. It contains the Policies, Supporting Strategies and Future Land Use Map that will guide future growth and development in a manner that accurately represents the vision and values of the community and the Planning Commission.

The Plan seen here is the culmination of two years' worth of concentrated work from the Planning Commission, Advisory Boards, planning team, and community. It represents a major accomplishment for the Planning Commission. The planning team greatly appreciates the dialogue with Planning Commission throughout 7 study sessions to prepare the Adoption Draft.

- August 24, 2014 – Community Vision

- December 9, 2014 – Community Choices
- March 9, 2015 – Draft Strategies
- April 27, 2015 – Preliminary Draft
- July 13, 2015 – Public Draft
- August 10, 2015 – Public Draft comments
- November 9, 2015 – Public Draft comments

The input and comment provided at these hearings has demonstrably made Create Loveland better. The Plan is more focused, the meanings of the policies are clearer, the messaging is more consistent, and the community values are better represented. Through this process that the Plan has received significant review and is ready for adoption.

The Commission will find that there is little new material included in this adoption draft that has not been reviewed previously. **Attachment 2** is the updated Comment Table. Comments in green were received at the last study session and afterwards. As before, the responses to the comments are in the right hand column. Even if there is not much new material, please take a look to make sure that the planning team has not missed anything.

III. CREATE LOVELAND

Create Loveland is Loveland's new comprehensive plan, as such it is Loveland's road map to the future. It depicts the general location, type, and intensity of future development, as well as the policies that will be used to guide growth and inform decision making. It is an advisory, not regulatory document. But it is used to inform growth and development decisions and provide guidance when revising development codes.

The Comprehensive Plan is a visible public statement communicating a community's vision and priorities to interested parties. It is intended to be aspirational. It addresses a community's needs and wants and analyzes the opportunities for and barriers to achieving them. It directs the infrastructure and other investments that a community will make. It seeks to balance the need to provide certainty to stakeholders and community members about what they can expect their community to look and feel like in the future while at the same time providing the flexibility for decision makers to respond to current conditions when evaluating alternatives.

Current forecasts have Loveland's population doubling by about 2045. As this happens, there will be the need to make decisions regarding growth and development, about how and where new development will locate and what it will look and function like. Create Loveland is a key tool to be used to guide this decision making and assist in evaluating alternatives. It is intended to protect and enhance Loveland's quality of life and economic vitality as it grows. It will also be used in the creation of important infrastructure plans such as the transportation master plan and raw water master plan.

Plan Features and Organization

Loveland's last comprehensive plan was completed in 2005. Since that time there have been many changes to the Loveland community and the larger environment within which it sits. To help Loveland prosper through these changes, Create Loveland focuses on land use and the built environment and features a new future land use plan as well as Policies and Supporting Strategies designed to achieve the community's vision. Also included within the Plan is an examination of the impact of the built

environment on public health, threats to the City's wellbeing, a look at the fiscal impacts of Loveland's growth and development pattern, an interweaving of community design elements, and metrics to measure Loveland's progress towards its goals.

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Create Loveland was drafted through a two year process centered on a robust public engagement program. The planning team held many events specifically to engage with the community about Create Loveland, as well as attended many public events. There was also an on-line outreach presence that allowed people to provide feedback on the Plan at their leisure.

A Stakeholder Committee consisting of 20 members from across the Loveland community met to have detailed conversations about the direction and content of the Plan. A Technical Advisory Committee consisting of City staff and a health planner from CanDo provided input on the Plan from an internal and professional perspective.

Overall, there were more than 3500 pieces of public input taken and used during the drafting of the Plan.

What is new since the Last Planning Commission Study Session

Since the last time that Create Loveland was at the Planning Commission for a study session, minor refinements have been made based on Planning Commission comments. The Plan is now ready for adoption.

The Current Planning Division has reviewed the plan to make sure that the Policies and Supporting Strategies are structured in a fashion capable of being implemented through the development review process. The comments from the Current Planning team were minor. In a few places, language was changed to make the intent and meaning clearer. These comments and the planning team response are included in the updated Comment Table, included as Attachment 2. Updated findings have been added to Chapter 4, which will be used during the review of discretionary land use applications (See page 4-4 and 4-5). These findings will be used in the same manner and situations as findings are currently used under the current plan, but the language has been changed in order to reflect the new Plan.

In Chapter 3, a page of Graphic Definitions has been added to better explain the meaning of terms used in the Land Use Designations. These Definitions illustrate the rationale behind the numbers used in the Land Use Designations for terms such as Block Length and Setback. For example, the intent behind the Block Length guidelines in the land use designations is explained in these graphic definitions as trying to balance development needs and walkability. These definitions have been added to page 3-19.

Finally, a Suggested Future Land Use Changes map has been added to Chapter 3. Through the public input and expert analysis conducted as part of the Create Loveland planning process the public and planning team considered opportunities to extend and support existing successful land uses, respond to market demands, facilitate development that better responds to current conditions and lot arrangement, and align with current entitlements. These opportunities are shown on Figure 3-10, Suggested Future Land Use Changes. These changes are not officially adopted with this Plan because they require further examination and public review that is beyond the scope of the process to adopt Create Loveland. The suggested land use changes are shown here for future consideration as they represent important ideas for Loveland's future. The intention would be to review, refine, and consider adoption of these changes through a separate public process, when development is more imminent, a property owner is ready to bring these changes forward or as part of a specific planning project.

IV. NEXT STEPS

Create Loveland is scheduled to go to a City Council study session on March 22, where we will present the Plan as recommended by the Planning Commission. Following that study session the Plan will be brought to City Council for adoption by Resolution. At this time, no date has been set for that hearing.

June 3, 2015 version

Public Draft Plan Comments/Responses

October 30, 2015

All comments submitted on the June 2015 Public Draft and after are shown in the table below. They are organized into three categories: 1) Comments Addressed in the September Final Draft (improve plan), 2) Comments Already Addressed (no improvement to plan needed), and 3) Out of Scope Comments. All comments in the first category have been responded to in the September 2015 Final Draft. Planning Commission members should confirm that the Final Draft is ready to proceed to a Public Hearing for adoption.

Black = comment from public or staff

Red = commented on by PC on 7/13 or 8/10/2015 or in Commissioner Redlines

Blue = page numbers refer to Redline version of September 2015 Chapter 2 and 3

Green = comments received at 11-9-15 study session or from staff redlines on 12-1-15

Comment #	Page/Policy #	Submitted Via	Public Draft Comment/Question	Response/Change in the Final Draft
Comments Addressed (improve plan)				
1	Centers	Open City Hall	<p>Redevelopment of older shopping centers should be encouraged but not with taxpayer funds being used to subsidize bringing in new chains. Loveland's population has reached a point at which national retailers see the dollars in all of the new households and will expand here on their own.</p> <p>8/10 Dowding, Comments #1 and 2: Recommend removing Policy 1.4 and reference where City's economic incentive policy can be found. Role of City needs to be couched. Using power of City in preferred role as a facilitation and negotiation role as a broker, and wisely use its regulatory role.</p>	<p>Removed Centers Policy 1.4: Offer economic incentives according to City policy for redevelopment projects that significantly advance the City's vision.</p> <p>Page 2 - 28</p>
2	Neighborhood Character	Open City Hall	<p>The city should act as a facilitator between large developers and sections of blighted neighborhoods to speed up redevelopment. Options should be prepared in advance so that if a homeowner wants to play the "I'm holding out for more" game, a new zone could be designated quickly.</p>	<p>Added to Neighborhood Character Policy 5.1 the City's role as a facilitator</p> <p>Page 2-67</p>



June 3, 2015 version

Comment #	Page/Policy #	Submitted Via	Public Draft Comment/Question	Response/Change in the Final Draft
			8/10 Dowding, Comments #1 and 2: Similar to the above, the City's preferred role is as a facilitation and negotiation role as a broker, and wisely use its regulatory role.	
3	Chapter 2 Intro, page 2-4	City Staff	US 34 Corridor Plan - include in list and as it is a defined boundary, show on the map.	Added US 34 Corridor Plan to list of related plans. The US 34 Corridor Plan is already outlined on Figure 2-1 map. Page 2-6 and 2-7 (map)
4	Chapter 2 Centers and Corridors, page 2-6	City Staff	The themes and plan elements for Ch. 2 are not intuitively organized. The hierarchy to the chapter needs to be improved.	Added element/policy reference table to Chapter Introduction. Formatting styles in Final Draft will improve organization. Page 2-2 and 2-3
5	Chapter 2 Downtown, page 2-9	City Staff	Is there a defined area for "downtown" to be clear where we apply these? A key map would be very helpful when specific policies are targeted to specific areas.	The Downtown Activity Center (DAC) is the area in which the majority of these policies apply. Improved connections between Downtown and surrounding neighborhoods are important and noted in blue on the map. The legend for Downtown opportunities map was updated. Page 2-13
6	Chapter 2 Corridors, page 2-4	City Staff	Are these areas the only "corridors" that we would apply the policies to? So, for example, we would not apply these to Taft or Wilson.	One approach would be to associate land use categories with a plan element (i.e. policies for commercial activity centers would be found in Centers and Corridors).
7	Chapter 2 Corridors, Policy 4.3	City Staff	What does this mean? How would we compliance interpret this?	Removed Corridor Policy 4.3 as it is redundant with subsequent supporting strategies. Page 2-13
8	Chapter 2 Centers, Policy 1.8	City Staff	Siting of parking; visibility from corridors - breaking up views of large parking lots along corridors.	Added "and siting and visibility from corridors" Page 2-29
9	Chapter 2 Centers, Policy 1.2/1.6	City Staff	Same policy item is repeated twice	Deleted duplicate policy. Page 2-29
10	Chapter 2 Centers, Policy 2	City Staff	A bullet indicating building siting, not orienting backs of building on to corridors is needed.	Added additional supporting strategy related to building orientation towards corridors



June 3, 2015 version

Comment #	Page/Policy #	Submitted Via	Public Draft Comment/Question	Response/Change in the Final Draft
				Page 2-29
11	Chapter 2 Centers, Policy 2.4	City Staff	Grocery store is also needed in east Loveland	Added east Loveland to supporting strategy Page 2-29
12	Chapter 2, p. 2-4	City Staff	Where are commercial and industrial policies outside of a corridor or center?	Policies regarding commercial and industrial areas are isolated in the Corridor and Center sections. A new table was added to page 4-4 on how Plan Elements and Land Use Categories relate to one another. Page 2-2 and 2-3
13	Chapter 3, page 3-6	City Staff	I do not understand what this map is showing and the difference between the blue and green areas	The green is the Airport Area (as defined in the Airport Strategic Plan), and the blue is the I-25/US 34 Area. Maps were revised to show only one area for all subarea maps. Page 3-6
14	Chapter 3, Land Use Categories	City Staff	Use better examples where feasible for Complete Neighborhood category.	Examples were changed from ground level photos of buildings to an aerial image showing a pattern of development. Also referred to the Facilitate Complete Neighborhoods artist's rendering in Chapter 2. Page 3-36
15	Chapter 3, Estate Residential, page 3-23	City Staff	Front yard setback	Changed to "front yard setback" for all land use categories. Various pages
16	Chapter 3, Low Density Residential, page 3-24	City Staff	I'm not sure that I understand the land use mix column. Does this mean that apartments and retail can be developed within the LDR category? They are not allowed in the zoning compliance categories. Do the blocks in the mix indicate a percentage that is allowed?	The land use mix illustrates what is allowed within the category as a whole (based on the 2005 Comprehensive Plan Land Use Category Descriptions). Since the Land Use Categories do not follow parcel boundaries, this is a general guideline of what uses could be seen in a general area, to achieve the target gross area density. Removed four-plex/eight-plex within LDR Page 3-24



June 3, 2015 version

Comment #	Page/Policy #	Submitted Via	Public Draft Comment/Question	Response/Change in the Final Draft
17	Chapter 3, Medium Density Residential, page 3-25	City Staff	I'm unclear on where the setback and height numbers are coming from. Is this a recommendation for us to change in the zoning code?	The setback and building heights are an average based on the existing development pattern, and taking into consideration the future desired development pattern. Target densities are the same as the 2005 Comprehensive Plan. Changed Setback to "Front Setback" on each category page. Various pages
18	Chapter 3, Regional Activity Center, page 3-27	City Staff	Add Business zoning	Added Business Zoning to list Page 3-27
19	Chapter 3, Neighborhood Activity Center, page 3-30	City Staff	Add PUD zoning.	8/10: PUD zoning only refers to interim condition. PUD zoning will continue for the future until we work through the zoning code update. Legacy PUD zoning (already applied) will remain. Added PUD Zoning to list for NAC and Industrial. Page 3-30 and 3-33
20	Chapter 3, Employment, page 3-32	City Staff	Add Employment zoning	Added Employment Zoning to list. Page 3-32
21	Chapter 3, Public Quasi Public, page 3-34	City Staff	What is the specific Zoning Compliance for Public/Quasi-public?	There is no specific zoning category for civic or public uses. Added bullet description at top: Includes civic and governmental uses, churches, schools, and medical facilities. Page 3-34
22	Chapter 3, Complete Neighborhoods, page 3-36	City Staff	Where is the narrative about this being flexibly applied as an option - not designated/required on specific property?	Revised the first bullet to clarify that the Complete Neighborhood Overlay is an optional designation for LDR and MDR uses city-wide. Opportunities identified through public input for suitable locations are shown on the Land Use Map. Page 3-36



June 3, 2015 version

Comment #	Page/Policy #	Submitted Via	Public Draft Comment/Question	Response/Change in the Final Draft
23	Land Use Plan	City Staff	<p>Could the Enhanced Corridor Overlay be applied to parcels that are adjacent to parcels that are adjacent to the corridor? This would support land assemblage and redevelopment.</p> <p>8/10: Suggest that Enhanced Corridor be applied on a case by case at a future date. Molloy: Plan should support parcel assembly in strategic locations, such as Downtown and corridors.</p>	<p>Policy 2.4 was added to identify the criteria would need to be met in order to apply this optional overlay.</p> <p>Added as Action Item to Appendix A that Enhanced Corridor designation be studied further for adjacent parcels.</p> <p>Page 2-44</p>
24	Land Use Plan	City Staff	<p>The River Adjacent Overlay should address mineral extraction.</p> <p>8/10: Ray: significant number of gravel pits along Big T in West Loveland. What does Comp Plan say about re-use of active gravel pits long-term, remediation, etc.? Crystal Lake, IL is good case study for gravel pit remediation.</p>	<p>Revised River Adjacent Overlay to address mineral extraction: 1) recognize as existing and anticipated use. 2) discourage within city limits, 3) reclaimed in a way that supports the River Adjacent Overlay.</p> <p>Strategy added to Environment 4.</p> <p>Page 2-44</p>
25	Residential Land Uses	City Staff	<p>Can we add some policies or supporting strategies that will support better design? Specifically, can we provide a supporting strategy that supports our efforts to limit the amount of the facade of a house that is taken up by the garage?</p>	<p>8/10: Codifying the memo will occur through the zoning code update, not through Comprehensive Plan.</p> <p>Added to Policy 3 in Facilitate Complete Neighborhoods: Utilize residential design standards to achieve neighborhoods that have attractive streetscapes and public realms not visually dominated by garages.</p> <p>Page 2-60</p>
26	Downtown	City Staff	<p>Add a supporting strategy that supports the expansion of General Improvement District #1 to facilitate property owners to voluntarily waive parking requirements (redirect funding for a parking structure).</p>	<p>Added as a strategy in the Downtown section.</p> <p>Page 2-14</p>
27	Chapter 2 Overall	8/16 PC written comments (redline version)	<p>Meyers: concern over priority or timing of when policies would be implemented.</p>	<p>As a long-range comprehensive plan, no timing or priority is given to the policies, rather they serve as criteria to guide City development activities. The Annual Workplan (Appendix A) translates several of the policies into specific projects, as do specific area plans such as the Highway 287 Corridor Plan. The</p>

June 3, 2015 version

Comment #	Page/Policy #	Submitted Via	Public Draft Comment/Question	Response/Change in the Final Draft
				timing of Annual Workplan projects is at the discretion of City Council.
28	Chapter 2 Overall	8/16 PC written comments (redline version)	<p>Meyers: Good view of the City, but still very Downtown-centric. Change focus so that Downtown not reiterated in other sections. Take care of the whole city.</p> <p>Dowding: Downtown has its own chapter for good reason. But shouldn't be focus of entire plan.</p>	<p>The project team reviewed the plan and consolidated Downtown specific discussion into the Downtown section.</p> <p>Downtown continues to be included where interdependency between sections or City functions is key, such as in the theme "Invest in Loveland's Older Neighborhoods."</p> <p>We moved the below paragraph, from the Element "Invest in Loveland's Older Neighborhoods" to the Downtown Element. Now on Page 2-13.</p> <p>The City is currently working toward maintaining and upgrading existing neighborhood infrastructure, and rehabilitating historic buildings and landmarks. The future stability, reuse and redevelopment of established neighborhoods will influence the future of Loveland's Downtown and overall quality of life and attractiveness. Revitalization of Downtown will provide better services and amenities for residents of surrounding neighborhoods, enhancing their desirability. Safe and attractive bicycle and pedestrian routes will further strengthen the connection between Downtown and the surrounding neighborhoods.</p>
29	Downtown Introduction, p. 2-9	8/16 PC written comments (redline version)	Meyers: What is the status of Destination Downtown: HIP Streets Master Plan, 2009	<p>This adopted plan continues to be implemented and has served improve the various wayfinding signs, Downtown streetscapes, and pedestrian improvements. Its status was added to the introduction bullets.</p> <p>Page 2-11</p>
30	Downtown Introduction, p. 2-12	8/16 PC written comments (redline version)	Meyers: concern re: term couplet.	<p>Changed to intersection.</p> <p>Page 2-15</p>



June 3, 2015 version

Comment #	Page/Policy #	Submitted Via	Public Draft Comment/Question	Response/Change in the Final Draft
31	Downtown Introduction, p. 2-12	8/16 PC written comments (redline version)	Meyers: concern re: pedestrian activity and the railroad.	Added new strategy: When planning for pedestrians Downtown, work with railroad companies to ensure pedestrian safety. Page 2-15
32	Corridors Intro, p. 2-21	8/16 PC written comments (redline version)	Meyers: does numbering on the opportunities maps suggest a priority.	Numbering the call-outs served as a key or legend to correspond to the numbers on the maps. All opportunity maps were revised to clarify. Various pages
33	Health, Environment, and Mobility Introduction, p. 2-31	8/16 PC written comments (redline version)	Meyers: careful to correlate statements in Chapter 2 with the land use plan.	Chapter 2 text was revised accordingly. Various pages
34	Chapter 2 Health, p. 2-34	8/16 PC written comments (redline version)	Meyers: Are obesity statistics affected by new residents? Did recent relocations affect this?	The relationship of new residents to the trends are unknown. It is unlikely that the survey asked respondents how long they have lived in Loveland. Staff consulted with the Health District of Northern Larimer County to obtain the most recent, relevant statistics. Whether the trend reflects recent or long-time residents has little bearing on the intent of the policies.
35	Chapter 2 Health	7/13 PC	Meyers: How has affordable, healthy foods been defined? Suggest changing term.	"Affordable" was removed from Health 2.1 as the City has no role over food pricing. Page 2-38 Healthy eating or healthy food are broad, commonly understood terms used by the public in expressing their desires for improved physical wellbeing. The project team recommended that a prescriptive definition is not necessary to understand the plan's intent.
	Downtown, p 2-11	8/16 PC Written comments (redline version)	Meyers: Commuter Rail status? BNSF, OmniTrax, other?	The development of commuter rail on the BNSF from Ft Collins, through Loveland and Longmont, connecting to the FasTracks system in Thornton is still included in the CDOT Record of Decision for the N I-25 EIS. When development of this service is more imminent the City will no doubt have a role to play in supporting it. We are not aware of any plans



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				for commuter rail along the OmniTrax / Great Western line
	Downtown, p 2-12	8/16 PC Written comments (redline version)	Meyers: Big glass canyons?	Supporting strategy added to Policy 3 in Revitalize Our Corridors and Gateways: New development should balance the need for taller buildings and greater density with the need to create an environment that is attractive and comfortable for pedestrians and motorists. Page 2-23
	Cultivate Vibrant Urban Centers, p 2-26	8/16 PC Written comments (redline version)	Meyers: "How and what is?" Regarding primary jobs	Added to text: The City places a premium on attracting primary jobs that produce goods and services that are consumed outside of the region. The Economic Development department spearheads this effort but The City's land use planning seeks to ensure that there is adequate and appropriate parcels for primary job development. Page 2-25
36	Health, p. 2-38 and Housing p. 2-59	8/16 PC written comments (redline version)	Meyers: the market supports consolidation of some uses. Strategy to encourage neighborhood serving commercial may not align with market pressures.	Added consideration of market demands to strategy. Now both policies include phrases to suggest a partnership to accommodate both market demands and community goals. Also created a new sidebar re: Aligning Community Desires with Market Demands. Page 2-58
37	Health, p. 2-38	8/16 PC written comments (redline version)	Meyers: remove Mayors name to not date the plan.	Removed as requested. Page 2-38
38	Environment Introduction, p. 2-30	7/13 PC	C. Forrest and Meyers: p. 2-30: Conceptual rendering from 287 Strategic Plan. Question re: appropriate use of this illustration. Consider zooming in to crop out 287 and focus on environmental assets.	Figure was revised as requested. Page 2-40



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39	Environment, p. 44	8/16 PC written comments (redline version)	Meyers: What is police position on dark sky ordinance strategy?	Staff have solicited feedback from the police officer assigned to the development review to see whether “dark sky” presents any law enforcement concerns. Dark sky approaches do not mean no lighting at night. Rather dark sky strategies emphasize downward directed lighting (i.e., not casting lighting to the sky). Dark sky strategies have been shown to improve safety issues by reducing glare and directing light to targeted areas.
40	Health, p. 2-44	8/16 PC written comments (redline version)	Meyers: concern re: the availability of water and relationship to landscape requirements.	Health 4.6 (urban heat island) speaks to the role of landscaping to mitigate urban heat islands. Water conservation is addressed elsewhere in landscaping (Environment 4.5), in household use (Environment 5.2), and as a Residential Water Use performance measure. Sidebar added: Create Loveland seeks to help Loveland become a more water efficient community by considering the impact of land use decisions on water use while anticipating how water supply will have an impact on future land use options. Currently, the water supply is not seen as placing immediate limits on Loveland's growth. However, it will need to be continually monitored through the Raw Water Master Plan. Page 2-41
41	Housing, p. 2-58	8/16 PC written comments (redline version)	Meyers: Housing 4.4 suggests incentives for mixed housing types. What types of incentives?	The strategy states “incentives such as density bonuses or allowances for accessory dwelling units...” if criteria are met. Page 2-60
42	Community and Regional Assets, p. 2-71	8/16 PC written comments (redline version)	Meyers: Regional 6.1 Question: how do you direct growth, per “Direct growth to where infrastructure capacity is available, or committed to be available in the future” How is this related to CEFs?	There are many ways to direct growth to locations where infrastructure is available or fiscally advantageous locations. The accompanying strategies speak to this: “integration of land use, utility, and transportation planning,” “contiguous annexations,” “do not extend City utilities outside the



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				<p>City limits without formal approval by the City Council,” etc. Having said that, Loveland’s practice has been to allow growth so long as the developers provide the infrastructure (or enter into reimbursement or oversizing agreements). CEFs are one means of development “paying its own way,” however, they are not fully predicated on appropriate locations or timing of infrastructure capacity relative to overall growth management goals.</p> <p>By requiring that new development install their required infrastructure and secure the required easements and reimbursement agreements Loveland directs growth by making it financially advantageous to develop contiguously to existing development.</p> <p>Added additional language to strategy to address this.</p> <p>Page 2-74</p>
43	Health, page 2-36			<p>Changed in measurement from obesity to physical activity.</p> <p>Page 2-26</p>
44	Health, page 2-38			<p>Removed supporting strategy “Incorporate healthy eating and physical activity opportunities into existing City events as appropriate.” From Policy 2 as it is not sufficiently related to land use.</p> <p>page 2-38</p>
45	Various		Several comments	<p>Added threat acknowledgement sidebars.</p> <p>“Threats to Loveland’s Economy” page 2-8</p> <p>“Threats to Loveland’s Health, Environment, and Infrastructure” page 2-31</p> <p>“Threats to Loveland’s Neighborhoods and Community Networks.” Page 2-52</p>



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46	Ch 2 Corridors section, Ch 3 Enhanced Corridor Land Use Designation, Ch 3 Land Use Map	11/9 PC	Carol: 287 and Comp Plan may not be consistent. Check for consistency between Ch 2 Corridors section, Ch 3 Enhanced Corridor, and Ch 3 Land Use Map.	Change Downtown supporting strategy 2.2 to: Make Downtown one of the hubs of our transit system, including both bus and commuter rail in the long term, by investing in Downtown transit stations and considering existing and proposed transit stops / stations in the review and design of Downtown projects. Coordinate service with other transit hubs such as that at the Orchards Shopping Center and transit enhancements on the Hwy 287 corridor. Addressed 1-6-16 page 2-14
47	Ch 2	11/9 PC	Carol: Add "Conceptual" or "Example" to artists' renderings to all 12 illustrations in Chapter 2, or in Introduction to Chapter 2 as one of several possible outcomes.	Add the following 3 sentences to page 2-5 before the paragraph describing Annual Work Plans: Throughout this Chapter, you will find conceptual renderings that depict future development scenarios. These renderings are conceptual because they show only one of many possible futures that could result from the implementation of this Plan's policies. The process of implementing Plan policies will involve extensive coordination with and consideration of affected property and business owners. Addressed 1-6-15 page 2-5
48	Ch 2 Downtown .2, Corridors illustration on 2-17	11/9 PC	Carol: Downtown 2.2 – no primary transit hub mentioned in 287 Plan downtown, except in Orchards. Corridors 2-17: Centralize transit access at Orchards – example of where the two plans are consistent.	See response to comment 46
49	Page 2-50	11/9 PC	Buddy: 2-29 – photo flipped to irrelevant page.	Adjust after other changes are made to document.



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50	Page 2-50	11/9 PC	Buddy: 2-50 – bullet incorrectly formatted, should be numbered and changes sequence of following.	Adjust after other changes are made to document.
51	Ch 2 Downtown	11/9 PC	Carol: “Invest in a Downtown Renaissance” suggests dollars are required by developers. Karl: Invest is broad to suggest creativity, energy. Buddy: express in terms of investing innovation, creativity, more holistic but define it so that there is no hidden meaning. Rich: “positive growth attitude”. Mike: “A Commitment to a Downtown Renaissance.”	Change name of Plan Element to “A Commitment to a Downtown Renaissance” Make sure this is reflected throughout document Addressed in Chapter 2 1-6-16 page 2-2
52	Ch 2 Neighborhood Character, Pg 2-66	11 / 9 PC	Carol: 2-66. Neighborhood Character 3.3: “Target new affordable housing development opportunities for existing residents.” Was “affordable housing” used intentionally, need to define? Michele: explain that trying to maintain affordable housing. (internal note: Affordable Housing also included in Housing 2.1 through 2.3.) Concern is simply that it is not clear, should disassociate it from Federally funded programs. Karl: What is the Commission’s support for multi-generational housing policies? Buddy: in specific areas because of the demands that may be higher than current residential communities can support.	Change Supporting Strategy 3.3 in the Invest in Loveland’s Older Neighborhoods Plan Element to read: Work to ensure housing affordability for existing residents, particularly for the elderly, to allow for aging within the community. Addressed 1-6-16 page 2-62
53	Page 2-16, Policy 253	11/9 PC	Buddy: 2-16: “Continue to explore the possibility of establishing railroad quiet zones Downtown, including the establishment of an equitable funding mechanism for doing so.” Perhaps “as long as it is consistent with Policy 2 that is it supported by RRs” or “with appropriate pedestrian safeguards”.	Replace Supporting Strategy 5.5. on page 2-16 with the below sentences: Continue to explore the possibility of establishing railroad quiet zones Downtown, including the establishment of an equitable funding mechanism for doing so. Consider pedestrian safety in the design and ensure that Railroad company support is present. Addressed 1-6-16 page 2-15



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54	All	11/9 PC	Buddy: check all pictures and diagrams, formatting for consistency.	Adjust after other changes are made to document.
55	Page 2-58	11/9 PC	Buddy: Page 2-58 consolidation of commercial. Point that was trying to be made: not just commercial, also services industries, medical, etc. are consolidating.	<p>Replace the last two sentences of the sidebar on page 2-58 with the two sentences below: However, current trends in commercial development may be favoring consolidation into larger sites, including for the medical and dental uses that people enjoy having conveniently located within their neighborhood. Create Loveland looks for opportunities to work with developers to create neighborhood commercial and service nodes while recognizing that not all commercial development will fit this pattern.</p> <p>Addressed 1-6-16 page 2-54</p>
56	Ch 2 Downtown	11/9 PC	Michelle: HIP Streets Master Plan. Are they still active documents. Karl: Yes. And the point of including the graphics was to refer to the ideas in the plan that are still valid. Not have a better substitute.	Addressed / Resolved
57	Page 2-40	11/9 PC	Carol. P. 2-40 artists rendering. Questioned building in floodplain. Discussion ensued suggesting it should be left.	Addressed / Resolved

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58		11/9 PC	Mike R: sometimes it is difficult to understand big scale of these city-wide plans. When reviewing site-specific plans, do not want to be held to how the Comp Plan supports/disagrees with staff recommendation. Karl: Planning Commission has significant discretion given to you by City Council. Hopefully bad projects do not come to Planning Commission that are also supported by the Comp Plan. Bob: Comp Plan is not a regulatory document, it is a policy document. Other standards and code requirements will be built on top of it. For example, may bring to you projects that were referenced in Comp Plan. That is why we are following the Comp Plan with a zoning code update.	Addressed / Resolved
59	Chapter 4, Page 4-11	Staff, 12-1-15	Role of Indicators in plan implementation is unclear	Response: Indicators are not intended to be used as findings. They are intended to be monitored over time in order to see how the City is performing as related to the Council Results. In most cases it would be hard to state that a single development has a big impact on the Indicators and therefore it would be difficult to use them to evaluate development proposals.
60	Chapter 3, Land Use Map	Staff, 12-1-15	Add note to land use plan to indicate that the plan for the area between Loveland and Fort Collins is still in effect even though the land uses in that plan have been interpreted onto the map itself	Add note and outline to Future Land Use map that reads: See the Plan For the Area Between Fort Collins and Loveland for more information about land use patterns and density in this area page 3-23
61	Chapter 4, Implementation	Staff, 12-1-15	There is a need for findings to be made when reviewing discretionary land use applications	Three findings have been created and will be placed in Chapter 4, on page 4-5. These findings will function in the same manner and be used in the same situations as findings are used in the current plan.



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				page 4-4, 4-5
62	Chapter 3, Land Use Designations	Staff, 12-1-15	Include narrative in "Forms" section that explains the intent behind the numbers and other statements included there	Add narratives to each land use designation as appropriate, see draft Word document for suggested text Addressed through Graphic Definitions, see comment 64 below
63	Chapter 3, Land Use Designations	Staff, 12-1-15	Include a "Graphic Definition Page" that explains some of the Form and other things in the Land Use Designations	Add graphic definitions to page 3-19 Provide graphic definitions for : Street Pattern Block Length Setback Building Height See page 3-19
64	Chapter 2	Staff, 12-1-15	Organization is still confusing. How do the Plan Elements relate to the Plan sections	Update headers in each land use designation to make organization more clear by adding which section each element belongs to. Ex: On page 3-24 the heading would read Centers & Corridors <i>Plan Element 3</i> <i>Cultivate Vibrant Economic Centers</i> Number Plan Elements, so that A Commitment to a Downtown renaissance is Plan Element 1 and so forth Addressed on 1-6-16, decided not to go with numbering Plan Elements at this time



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65	Chapter 2 and 3,	Staff, 12-1-15	How do the Market Driven opportunity areas in Chapter 3 relate to the opportunity maps in Chapter 2	Response: They were completed through separate process and address different topics. Where appropriate, the ideas from the Market Supported Opportunity maps were used in the Opportunity maps
66	Page 1-8	Janet's redlines	Update flow chart pg 1-8	Change flowchart to reflect actual schedule page 1-8
67	Page 2-1	Janet's redlines	Update length of planning process	Change text to reflect actual length of process Addressed 1-6-16 page 2-1
68	Pg 2-2	Janet's redlines	Change pol 4 name per redlines	Change "Create a Safe and Healthy Built Environment" Policy 4 to: Strive to provide year round parks and recreation opportunities that are universally accessible Reflect change on page 2-28 as well Addressed 1-6-16 page 2-36 and 2-2
69	Page 2-3	Janet's redlines	Change name of policy 1 per redlines	Change "Celebrate our Natural Assets in an Urban Setting" Policy 1 to: Protect sensitive natural areas and wildlife habitats from development impacts. page 2- 40
70	Various	Janet's redlines	Update Quality of Life survey information	2015 Results Opportunities to Gather As a Community = 87% Shopping opportunities = 75% Alternative Transportation Options Are Useful and Viable = 54% City Council is approving development the enhances quality of life = 57%



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				pages 2-8, 2-25, 2-29, 2-49
71	Page 2-8	Janet's redlines	Check formatting in "threats" sidebar	Final bullet is shown as deleted in redlined version Addressed 1-6-16 page 2-8
72	Page 2-31	Janet's redlines	Check Missed ops for trails.." in Threats sidebar	Change final bullet in sidebar to read: Risk of missing opportunities for adding needed parks and trails page 2-29
73	Page 2-35	Janet's redlines	Look for missing footnote #4	Make sure that footnote shows up in final formatted document page 2-34
74	Page 2-38	Janet's redlines	Change supporting strategy per redlines	Change supporting strategy 2.3 to read: Identify appropriate locations for and support community gardens, such as within new developments, on vacant land, or on City properties. page 2-36
75	Page 2-43	Janet's redlines	Minor changes per redlines	Change supporting strategy 1.4 by removing the words "to the west" Change caption of lower photo by replacing "have and must" with the word "should" Page 2-40
76	Page 2-48	Janet's redlines	Trail is referenced but not shown in map	Call-out is meant to be general



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77	Page 2-52	Janet's redlines	Change to Threats sidebar per redlines	Final bullet as already been remove page 2-49
78	Various	Janet's redlines	Change "Parks & Environmentally Sensitive Lands" land use designation to "Parks & Open Lands"	Change name of land use designation to Parks, Open Lands & Environmentally Sensitive Places pages 3-21, 3-24, 3-23, 3-37
79	Page 3-35	Janet's redlines	Changes to land use designation per redlines	Add PP – Public Park to the Zoning Compliance List page 3-37
80	Chapter 1 and 2	Kerri's redlines	The structure of the Plan, particularly how the elements relate to the sections, etc is still confusing	Number the Plan Elements Before each Plan Element use the entire name of the Section. See comment 64
81	Various	Kerri's redlines	Label opportunities maps to make it clear what they are and what their purpose is	Use this text: Most of the plan Elements include an Opportunities Map before the Policies and Supporting Strategies. The Opportunities Maps are intended to depict places in Loveland where the Policies and Supporting Strategies can be implemented. The maps are not regulatory, but the ideas could be implemented through specific development projects, code updates, and more detailed planning efforts. page 2-5.
82	Page 2-38	Kerri's redlines	Change to supporting strategy per redline	Change supporting strategy 1.2 to read "Improve traffic calming and pedestrian – orientated streetscapes on local..." page 2-35



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83	Page 2-75	Kerri's redlines	Change label to Development Center	Change caption on photo to read: New Development Center and Fire Administration Building page 2-69
84	Various, Chapter 3	Kerri's redlines	Add numbers to Market Supported Opportunities sub-maps that correspond to the numbers on the main map	Add numeral 1 to map on page 3-4 Add numeral 2 to map on page 3-6 Add numeral 3 to map on page 3-8 Add numeral 4 to map on page 3-10 Add numeral 5 to map on page 3-13
85	Page 3-17	Kerri's redlines	Text mentions four "other" categories, there are more than that	Change Other Categories section to note that there are three not four Change Overlay Category section to say that there are three, not two. Move sentence about Complete Neighborhoods from the Other section to the Overlay section page 3-18
86	Page 3-20	Kerri's redlines	Text need to be before the table of land use designations	When formatting, make sure that the Other and Overlay sections come before the table of land use categories page 3-18
87	Page 3-23	Kerri's redlines	What is a "radial" street pattern	Street patterns will be clarified through the graphic definition pages, see comment 63 Specifically, a radial street pattern is one that has a lower level of connectivity and intersection density than the traditional or modified grid with more cul-de-sac and loops. This reflects a transportation system that needs to support a lower level of demand due to low density. For greater clarity, we have changed the name of this street pattern to Curvilinear page 3-19



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88	Various, Land Use Designation 1 Sheets	Kerri's redlines	We need to have a description of the "whys" behind the numbers used for things such as block length and setbacks	Addressed through Graphic Definitions See comment 62 page 3-19
89	Page 3-30	Kerri's redlines	Add statement in Form section relating to pedestrian amenities, per redlines	Add bullet point in Form section that reads : Pedestrian connections to adjacent neighborhoods with pedestrian amenities page 3-32
90	Chapter 3	Staff, 12-1-15	Can a graphic" definitions" page be added to better explain the things in the land use designations, such as street pattern, etc	See comment 63 page 3-19
91	Chapter 3	Staff	Add Suggested Future Land Use Changes map that shows changes to base land use designations developed during planning process	pages 3-18 and 3-24
Comment Already Addressed (no change to plan needed)				
		Website	Does the plan do anything to welcome diversity into the city? I have mentioned this several times but do not see it reflected. Thanks.	The Plan does not specifically address social or racial diversity on the policy level, though the Plan recommends housing diversity (Ch. 2 Neighborhoods & Community Assets, Policy 3; and Housing, Policy 1, 2 and 3), economic diversity in terms of commercial centers and employment options (Ch. 2 Centers), biodiversity (Ch. 2 Environment, Policy 4.5), and diversity in transportation options (Ch. 2 Mobility).
	Mobility	Website	Need light rail running east/west along Highway 34. Also light rail running north/south along Highway 287.	Light/commuter rail corridors have been studied addressed in the 2035 Transportation Plan and the 2035 NFRMPO Transportation Plan. Commuter rail sharing the north-south railroad corridor (near Highway 287) is supported by the Plan (see Regional and Community Assets section of Chapter 2)



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	Mobility	Website	Provide bus shelters that provide shelter from elements at stops where buses pull out of traffic, then merge back into traffic at new development between Lincoln/Cleveland and First/Third.	Comment will be forwarded to Transportation Department.
	Mobility/Downtown	Website	1. Need for another major/minor N-S corridor "around" downtown Loveland: Garfield on west or one on east side?	Addressed in Mobility Policy 4.5: Improve existing intersections to facilitate north-south and east-west traffic; and Policy 4.6: Create new transportation corridors to overcome barriers to local traffic.
		Website	2. Emphasize development of 402, entry to Loveland...and add some extension to west and north to connect to Eisenhower/US34.	Addressed in Regional Services Policy 2.8, Mobility Policy 1.5, Corridors Policy 3.2, and Centers Policy 3.1 and 3.5. The Hwy 402 Corridor is called out specifically in Chapter 3 as a Market- Supported Development Opportunity, where additional street connections north is specifically called out. More detail can be found in the 2035 Transportation Plan.
	Mobility	Website	3. Need the three interchanges at I-25 to accommodate a widened I-25.	Interchange improvements are noted in Chapter 3 in the Airport Area, I-25/US 34 Area, and the Hwy 402 Corridor, as well as Appendix A "Interchange Area Plans."
	Environment/Ch. 3	Website	6. Emphasize: no or little development along Big Thompson River (flood plain/flood damage); acquisition of land along Big Thompson from I-25 west to Dam Store.	The Plan has policies that help to restrict certain kinds of development along the Big Thompson. Relevant policies also include Environment Policy 1.6 and Policy 2. The new River Adjacent Overlay land use category also encourages appropriate restrictions on development in and adjacent to the floodplain. See the Bigger Vision for the Big Thompson which proposes specific land conservation priorities from the Dam Store to west Loveland.
	Centers	Open City Hall	Development fees should be raised.	Comment noted. Development fees are evaluated annually and updated as needed, with the intent that development "pays its own way."
	Regional Services	Open City Hall	The 7 Policies listed in this section should be ranked in the same order in which they are listed, with 1 being	The policies and supporting strategies are equally important and prioritizing them would diminish their versatility.



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			most important and 7 being least important. In terms of growing the city, quality should prevail over quantity.	
	Regional Services, 2	Open City Hall	In regards to Policy 2, I propose that additional routes be added going South and East. We have a robust busing system to Fort Collins, but minimal routes and times to Longmont and Berthoud. If we would like to continue our close relationship with Berthoud, I feel this is critical.	The Plan anticipates improved bus service south and east. See Regional Services Policy 2.3 and 2.4 and Fig. 2-7 Community and Regional Assets Map.
	Health and Wellness	Open City Hall	I am old enough to be retired but I think the top priority should be on providing more sports and exercise facilities for the community's youth. We need more baseball fields, basketball and tennis courts, running trails, a new skating rink and a great sledding hill that has kids hiking up a trail after each run.	Mobility Policy 4 encourages accessible, year-round parks and recreation opportunities, and refers to the 2014 Parks and Recreation Plan for further details.
	Health and Wellness	Open City Hall	I feel that all the suggestions listed in this area are incredibly important. I would love to see more community gardens. We live in an apartment and I miss the opportunity to grow my own produce. I am not aware of any opportunities to do that now.	Thank you, the Health section also talks about the importance of community gardens, and is embodied in Policy 2.3.
	Health and Wellness	Open City Hall	Living just South of Lake Loveland, I find that it is hard to take my children on bike rides as there are no safe bike paths in our area that do not require traveling on busy streets. I propose that this be a priority. I would love to use our bicycles more to travel, but do not feel safe doing so.	Creating comfortable and safe pedestrian and bicycle facilities is an important emphasis in the Plan. Relevant policies include: Health Policy 1 and Mobility Policy 2.
	Mobility	Open City Hall	The Front Range is a perfect spot for passenger trains running back and forth from Fort Collins to Colorado Springs, with feeder lines into Boulder and DIA.	Based on existing plans, such as the 2035 NFRMPO Transportation Plan, the Comprehensive Plan sets up land uses for the potential regional commuter rail line. This can be found in the Downtown Policy 2.2 and Mobility Policy 2.
	Land Use Plan	City Staff	It is not clear whether or not the Plan For The Area Between Loveland and Fort Collins is still in effect. Is it still referred to when reviewing development proposals	Yes, the plan is still in effect. See Table 2-1.
Out of Scope Comments				



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	Mobility	Website	The Plan needs to address and build on resources currently, but, partially in place. First, Ped/Bikeway tunnel north of 57th needs to connect to a user friendly sidewalk on the east side of State Highway 287. Secondly, left turn lane on 57th needs a left turn signal onto Taft.	Outside of Comprehensive Plan scope, but addressed in the 2035 Transportation Plan and the 287 Strategic Plan. Comment was forwarded to Transportation and Parks Departments.
	Mobility/Environment	Website	We need more hiking paths that are NOT concrete/cement. Need some that are dirt or crushed rock. These cement paths we have now are nice looking but I get shin splints when I walk them.	Outside of Comprehensive Plan scope, but addressed in the Parks and Open Space Master Plan. The guideline for soft-surfaced trails is 1 mile/5,000 residents. Comment was forwarded to Transportation and Parks Departments.
	Mobility	Website	Sidewalk needs to be constructed on east side of 287 and north of 57th to facilitate access to present tunnel (under Highway 287).	Outside of Comprehensive Plan scope, but addressed in the 2035 Transportation Plan and the 287 Strategic Plan. Comment was forwarded to Transportation and Parks Departments.
	Mobility	Website	Left turn arrow needs to be installed on the present left turn lane on 57th to facilitate turning southbound onto Taft.	Outside of Comprehensive Plan scope. Comment was forwarded to the Transportation Department.
	Mobility	Website	Between 1st /3rd and Cleveland/Lincoln there needs to be places for public transportation buses to pull out of flow of Highway 287 traffic to load/unload then merge back into traffic.	Outside of Comprehensive Plan scope, though the Plan does include a policy to support the bus system (Ch. 2 Mobility, Policy 3). Comment was forwarded to the Transportation Department.
	Mobility	Website	4. Need better "frontage" roads paralleling I-25, on east and west sides for a) transportation to and from Fort Collins, and b) in order to provide alternate routes to accommodate backups on I-25 and around accidents on I-25 closing it down.	Outside of Comprehensive Plan scope, but addressed in the 2035 Transportation Plan. Comment was forwarded to the Transportation Department.
	Mobility/Environment	Website	5. Extension of 22nd street west to Namaqua Ridge and trail from recreation trail/Mehaffey Park to the north Namaqua Ridge and from there west to Devils Backbone trails and north to Coyote Ridge.	Outside of Comprehensive Plan scope, but addressed in 2035 Transportation Plan and 2014 Parks and Recreation Master Plan. Comment was forwarded to the Transportation and Parks Departments.
	Corridors	Open City Hall	We need "Slower Traffic Keep Right" signs along 34 and 287. Such signs do not prohibit drivers from moving	Outside of Comprehensive Plan scope. Comment was forwarded to the Transportation Department.



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			into the left lane to make a turn, but suggests that government wants to see traffic run more efficiently.	



**CITY OF LOVELAND
PLANNING COMMISSION MINUTES
February 22, 2016**

A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on February 22, 2016 at 6:30 p.m. Members present: Chairman Jersvig; and Commissioners Dowding, Meyers, Molloy, Forrest, Ray, and McFall. Members absent: Commissioner Crescibene. City Staff present: Bob Paulsen, Current Planning Manager; Moses Garcia, 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. **Robert Paulsen**, Current Planning Manager, reviewed the March 14, 2016 agenda.
2. At the January 25th Planning Commission meeting, **Commissioner Meyers** asked if **Mr. Paulsen** could research and provide an update to the Planning Commission regarding the cause of the high chlorine levels reported by a citizen while testing water west of town. In response to this request, **Mr. Paulsen** provided the following information received from **Chris Matkins**, Water Division Manager: The typical chlorine levels range between 1.2 and 1.5 ppm. Occasionally, the Water Division will see higher levels approaching 1.7 ppm; however, this is infrequent and typically related to complicated construction staging. **Mr. Paulsen** advised that any additional questions or concerns be directed to the Water Division.
 - a. **Mr. Paulsen** noted that **Chris Matkins** will be pursuing a new job and **Mr. Paulsen** can provide another contact if needed. **Commissioner Meyers** stated that he will pass this information on to the citizen.
3. In response to **Commissioner Dowding's** request for more information about the Professional Services Contracts presented by **City Manager Cahill** at the January 25th Planning Commission meeting, **Mr. Paulsen** stated that Shadow Play Films produces short films and videos used for outreach efforts by the Water and Power Department.
4. **Mr. Paulsen** stated that **Commissioner Jersvig** and **Commissioner Dowding** will attend the Boards and Commission Summit on March 3rd.
5. **Mr. Paulsen** stated that the 2015 Annual Report Findings will be finalized and sent to the commissioners prior to next meeting.
6. **Mr. Paulsen** stated that development review applications have nearly doubled since 2014; however, performance levels stayed consistent to the division's 4-year average.
 - a. **Commissioner Molloy** stated that the electronic submittal process the City of Loveland utilizes has been one of the cleanest, most reliable, and timely processes compared to other cities and counties he has worked with.
7. **Commissioner Molloy** asked the status of filling the two Planning Commissioner vacancies. **Jenell Cheever**, Planning Commission Secretary, stated that the positions will be posted soon and need to be advertised for a period of 30 days. This advertisement will be sent to

developers, participants of the Create Loveland outreach, and the Loveland Chamber of Commerce. **Commissioner Ray** recommended sending the advertisement to other boards and commissions within the city.

COMMITTEE REPORTS

- **Title 18 Committee - Commissioner Molloy:** The Title 18 February meeting addressed the downtown sign code and wireless antennas downtown. **Commissioner Molloy** stated that the Title 18 code provisions for wireless antennas need to be updated to be in alignment with the FCC requirements.
- **Zoning Board of Adjustments - Commissioner Forrest:** Findings for the February 8th hearing pertaining to a second story deck were sent out last week.

COMMISSIONER COMMENTS

- Commissioners discussed the Highway 402 Corridor joint study session held on February 10th with the Larimer County Planning Commission.

APPROVAL OF THE MINUTES

Commissioner Dowding made a motion to approve the January 25, 2016 minutes; upon a second from **Commissioner McFall** the minutes were unanimously approved.

REGULAR AGENDA

1. 5726 Byrd Drive Appeal

Project Description: This is a public hearing on a quasi-judicial matter to consider an appeal of the Planning Division's decision that an electronic message sign is not permitted on the I-25 frontage of 5726 Byrd Drive. To be eligible for an electronic message sign, the provisions require that the premise directly abut I-25 for more than 500 lineal feet, based on staff's reading of the zoning code and the property frontage is only 370 lineal feet.

The property owner, **Josh Elliott** with Autoplex, is appealing staff's interpretation of the eligibility for the electronic message sign. The appeal alleges that the code provision does not specify that the property's lot frontage must abut I-25 for more than 500 lineal feet and that the entire perimeter of the property can count towards the 500 foot requirement. The appeal states that planning staff has erred in failing to properly interpret the signage provisions in the Code.

The appeal hearing is a de novo hearing which means that the Planning Commission can receive and review all information presented. The Planning Commission's decision is final pending a further appeal to City Council.

Kerri Burchett, Principal Planner, outlined the basis of the appeal and stated that per Chapter 18.50.120 of the Municipal Code, electronic message signs are only permitted on a premise directly abutting I-25 for more than 500 linear feet. Staff has consistently applied the rule that only property directly abutting I-25 will count towards this 500 linear feet; therefore, the applicant is ineligible for an electronic sign because the property directly abutting I-25 is only 370 feet. **Ms. Burchett** stated that this sign is considered an ineligible electronic sign and therefore there is not a variance mechanism to approve this electronic sign.

Ms. Burchett described several options the applicant has to pursue other signage opportunities on their premise, including working with the adjacent property owner to establish a larger premise. This would allow an electronic sign on the I-25 frontage to be shared between the two businesses.

Ms. Burchett introduced the applicant's representative, **Danielle Llewellyn** with DaVinci Sign Systems. **Ms. Llewellyn** showed a diagram of the site location and noted that the Municipal Code does not state that the property must abut parallel to I-25. Thus, the perimeter of the property could count towards the 500 foot requirement.

Ms. Llewellyn noted that working with the adjacent property owner to obtain a shared electronic sign is not an option. This adjacent property owner has an empty warehouse and wouldn't benefit from the electronic sign and therefore is not willing to combine properties.

Ms. Llewellyn noted that the property owner, **Josh Elliott**, is actually proposing a smaller electronic sign than the Code allows for properties having 500 feet abutting I-25.

COMMISSIONER QUESTIONS AND COMMENTS

- **Commissioner Dowding** asked **Ms. Llewellyn** if the property owner purchased the property expecting to put up an electronic sign and **Ms. Llewellyn** stated "yes."

CITIZEN COMMENTS

Commissioner Jersvig opened the public hearing at 7:22 p.m.

- There were no public comments.

Commissioner Jersvig closed the public hearing at 7:22 p.m.

COMMISSIONER COMMENTS

- Commissioners discussed other sign options for the property. The property owner, **Mr. Elliot**, noted that aside from signs on the building, there are no other signs on the

property. **Mr. Elliot** also noted that the only purpose of the electronic sign is to advertise the business.

- **Commissioner McFall** stated that although city staff has consistently used the definition that only property parallel to I-25 is considered when determining the number of feet abutting I-25, he can see how the applicant interprets the code to allow property with a road perpendicular to I-25 to count their property perimeter towards the 500 foot requirement.
- **Commissioner Ray** stated that he was a Planning Commissioner when the sign code was updated in 2009 and at that time the intention of the sign code was to only consider property abutting parallel to I-25. Allowing properties that have a perpendicular crossing to I-25 to include the property perimeter to make 500 feet would potentially lead to light pollution and overcrowding.
 - **Commissioner Molloy** stated that based on the layout of other properties in the area, he did not see an issue with overcrowding if properties with perpendicular crossing to I-25 were allowed to include their perimeter to meet the 500 foot requirement.
- Commissioners discussed the definition of abut and agreed that the code is open to interpretation because the term “abut” is vague. Commissioners recommend updating the sign code to remove the word abut and replace with a better defined word.
- **Moses Garcia**, Assistant City Attorney, stated that the Planning Commission’s decision today will define how staff interprets the code and would also apply to all future applicants. There is not a variance procedure so no conditions can be placed on their decision or interpretation.

***Commission Dowding** moved to find that staff has properly interpreted the provision in Section 18.50. 120.J of the Municipal Code and direct staff to prepare written findings and conclusions for adoption by the Planning Commission within 30 days from the date of this hearing. Upon a second by **Commissioner Meyers**, the motion was defeated with one aye and six nays.*

Commissioner Jersvig called for a recess at 7:50 p.m.

Commissioner Jersvig called the meeting to order at 8:00 p.m.

***Commissioner Dowding** moved to find that the phrase “directly abutting” in Section 18.50.120 J. of the Municipal Code may be interpreted to mean “perpendicular and parallel to I-25” where there is adjacent street right-of-way, and that based on such interpretation the applicant’s property qualifies for electronic signage. Upon a second from **Commissioner McFall**, the motion passed with six ayes and one nay.*

1. Create Loveland Resolution

Project Description: This is a public hearing on a legislative matter. Create Loveland is Loveland’s new comprehensive plan; as such, it is Loveland’s road map to the future. The Plan depicts the general location, type, and intensity of future development, and establishes policies that will be used to guide growth and inform decision making. While it is an

advisory document, not regulatory document, this plan sets a framework for that will be used to develop future regulations. At this hearing, Planning Commission will be asked to recommend that City Council adopt Create Loveland.

Karl Barton, City Planner, reviewed the work, accomplishments, and revisions that were completed in order to draft the Create Loveland Comprehensive Plan. **Mr. Barton** thanked the Planning Commission, citizens, and consultants that have provided comments and contributed their time to help draft this plan. **Mr. Barton** stated that if Create Loveland is approved by the Planning Commission, he will hold a Study Session with City Council on March 22nd.

COMMISSIONER QUESTIONS AND COMMENTS

Commissioners recommended the following changes:

- Comments Table: Asked for consistency in the naming format used between the green and the red fonts. Recommended changing names listed in green print to use people's last names instead of their first names.
- Table of Contents: Noted that the page numbers listed for the appendices need to be corrected.
- Page 227: The labels of the 2 overlays need to be switched.
- Page 4-7: The date listed for the "Comprehensive Plan Text Amendments" should be changed from 2005 to 2015.

CITIZEN COMMENTS

Commissioner Jersvig opened the public hearing at 8:20 p.m.

- **Don Marostica**, member of the Stakeholder Committee, commended Karl for his hard work and supports the plan. Asked that they city work with CDOT officials when developing the I-25 corridor.
- **Marigail Jury**, representative for Loveland Senior Advisory Board, provided a copy of "The Highland Group Strategic Research, Planning, and Marketing Solutions." This document provides detail on Loveland and Larimer County Communities and provides recommendations on implementing the Comprehensive Plan. **Ms. Jury** stated that she was looking forward to partnering with the city.
- **Irene Fortune**, Transportation Advisory Board representative on Stakeholder Committee, stated that she thinks Create Loveland is a good plan but would ask that the commissioners look ahead to anticipate future conflicts and to turn down development that is not conducive to quality of life in Loveland. **Ms. Fortune** discussed the walkability within different city subdivisions and felt that Create Loveland improves the walkability of Loveland.
- **Kelly Hayworth**, coordinator with CanDo Loveland, stated her support for the plan and noted the impressive staff outreach effort and communication.

- **Katie Guthrie**, CanDo Built Environment Coordinator, stated her support for the plan and commented that the plan maintains the quality of Loveland because it was developed through a rich public process.

Commissioner Jersvig closed the public hearing at 8:43 p.m.

COMMISSIONER COMMENTS

All of the commissioners expressed support for the plan and thanked Karl for his time and community outreach effort. **Commissioner Meyers** stated that it is important to codify and institutionalize the management system so it reportable to citizens, businesses, elected officials and city staff. Also noted that it is important to consider CDOT plans, power alternatives, and homeland defense when implementing the plan.

Commissioner Meyers moved to adopt the Resolution, recommending adoption of the City of Loveland 2016 comprehensive master plan known as Create Loveland, as amended on the record. Upon a second by Commissioner McFall, the motion was unanimously adopted.


ADJOURNMENT

Commissioner Meyers, made a motion to adjourn. Upon a second by **Commissioner Forrest**, the motion was unanimously adopted.

Commissioner Jersvig adjourned the meeting at 8:55 p.m.

Approved by: _____


Jeremy Jersvig, Planning Commission Chair


Jenell Cheever, Planning Commission Secretary

PLANNING COMMISSION

RESOLUTION NO. 16-03

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY
OF LOVELAND RECOMMENDING ADOPTION OF THE CITY OF
LOVELAND 2016 COMPREHENSIVE MASTER PLAN KNOWN AS
CREATE LOVELAND**

WHEREAS, pursuant to C.R.S. §31-23-206, it is the duty of the Loveland Planning Commission (this "Commission") to make and adopt a master plan, subject to approval by the City Council, for the physical development of the City of Loveland ("City"); and

WHEREAS, in October 1994, after recommendation by this Commission, the City adopted the 1994 Comprehensive Master Plan ("1994 Plan"); and

WHEREAS, on March 6, 2007, after recommendation by this Commission and pursuant to Resolution #R-21-2007, the City amended and re-named the 1994 Plan as the 2005 Comprehensive Plan ("2005 Plan"), which plan the City has continued to amend to reflect updates to such plan; and

WHEREAS, the 2005 Plan advises that the City Council cause a new comprehensive master plan to be prepared at least once every ten years and adopt such plan after notice, a public hearing and recommendation by this Commission; and

WHEREAS, in response thereto, City staff has developed the City of Loveland 2016 Comprehensive Master Plan referred to herein as "Create Loveland" to supersede and fully replace the 2005 Plan as a guide for land development decisions; and

WHEREAS, this Commission has made careful and comprehensive review of Create Loveland and finds that the plan, as proposed, represents the desires of the community and can function as an effective guide for both public and private land development decisions; and

WHEREAS, this Commission held a duly noticed public hearing on Create Loveland on February 22, 2016.

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

Section 1. That the Loveland Planning Commission hereby makes the findings set forth in this Resolution.

Section 2. That the Loveland Planning Commission hereby recommends that the Loveland City Council adopt Create Loveland, attached hereto and incorporated herein as **Exhibit A**, to supersede and fully replace the 2005 Plan, as amended.

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

Signed this 22nd day of February, 2016.

LOVELAND PLANNING COMMISSION



Jeremy Jersvig, Planning Commission Chair

ATTEST:



Janelle Cheever
Planning Commission Secretary

APPROVED AS TO FORM:



Mass Garcia
Assistant City Attorney

CREATE LOVELAND

City Council Adoption Hearing
July 19, 2016



Goals of Create Loveland

Continue to create a great Loveland

Protect and improve quality of life as we grow

Support economic vitality

Healthy, safe, resilient community

Attractive living options



Planning Process – Planning Commission

Close review by PC – 7 study sessions

Recommended for Approval on February 22nd
Unanimously



Planning Process - Public Outreach

3,500 Interactions over 50 events

Online Outreach

Attendance at events (Fire & Ice Festival, Farmers' Markets)

Open Houses

Interviews

Analyze options and alternatives
Visualize desired future
Inventory assets and challenges



Planning Process - Committees and Commissions

Stakeholder Committee

Technical Advisory Committee

Boards and Commissions

7 Planning Commission
Study Sessions



Comprehensive Plan Overview



Advisory document

Roadmap – Type, Location, Character,
Density

Basis of other city plans

Implemented by further Council action

What's New With Create Loveland

Update Community Vision

Plan Elements, Policies, and
Supporting Strategies - Focused on
Land Use

Health and the Built Environment

Updated Land Use Designations /
Overlays

Indicators



Next Steps

Implementation

Capital Plan

Zoning code update

Web – optimization

Public roll-out



Conclusion

Adopt a resolution approving Create Loveland as the master plan for the physical development of the City of Loveland, Colorado.



AGENDA ITEM: 21
MEETING DATE: 7/19/2016
TO: City Council
FROM: Development Services
PRESENTER: Brett Limbaugh, Development Services Director



TITLE:

A Resolution Establishing A West Eisenhower Reinvestment Zone Along West Eisenhower Boulevard In The City Of Loveland And Waiving Building Permit Fees, Capital-Related Fees And Granting Use Tax Credits For Development Within Such Zone

RECOMMENDED CITY COUNCIL ACTION:

Adopt the action as recommended.

OPTIONS:

1. Adopt the action as recommended.
2. Deny the action. There would be no particular program in place to encourage redevelopment in the west Eisenhower corridor.
3. Adopt a modified action. For example, Council could expand the proposed Reinvestment Zone to other segments of Eisenhower Boulevard or modify the type of assistance provided.
4. Refer back to staff for further development and consideration. Depending on the nature and magnitude of revisions, there would be a delay in establishing a program for redevelopment in the west Eisenhower corridor.

SUMMARY:

This is an administrative item. The economic assistance for redevelopment in the West Eisenhower Reinvestment Zone would be similar to the current CEF exemptions for Historic Downtown Loveland. With the goal being to create a high level of motivation for redevelopment, the economic assistance recommended by City staff includes a waiver of building permit and capital-related fees, including both capital expansion fees (CEFs) and utility fees, and granting use tax credits. All developed property in the City receives credits on CEFs and utility fees at time of redeveloped. Since most properties within the reinvestment zone are currently developed, the amount of CEFs and utility fees waived would be diminished significantly by use of CEF and utility fee credits. The fee waivers and use tax credit may be approved by City Council by resolution, based on a finding of significant social, economic or cultural benefit. The Municipal Code requires that capital-related fees waived be paid by the general fund or other appropriate fund. The reinvestment zone would be effective on a trial basis for two years, unless extended by City Council.

BUDGET IMPACT:

- ☐ Positive
☒ Negative
☐ Neutral or negligible

To provide an estimate of impact on the budget, City staff developed a reasonable scenario for the amount and type of redevelopment that would occur in the reinvestment zone if the waivers were sufficient to stimulate redevelopment. Predictions on how and when property would redevelopment were based on the interviews with commercial brokers in April 2016. Seventeen properties, two of which are currently vacant, were considered as likely candidates for

development or redevelopment. The estimate takes into account existing CEF and utility fee credits for developed properties. Please see Section III of the staff memorandum for more detail on the methodology for developing the redevelopment scenario and estimated impacts on the budget.

The estimated impact on the budget is \$475,000 over two years. To provide certainty regarding impacts on the budget, the \$475,000 has been included in the resolution as a “not to exceed amount”.

BACKGROUND:

On February 16, 2016, City Council discussed the need to promote redevelopment and business reinvestment on properties along the west Eisenhower corridor. Council requested that a “palette of options” for regulatory relief be developed by City staff. On May 10, 2016, City staff presented several options for regulatory relief to Council. The options were developed to address obstacles to redevelopment identified through interviews in April 2016 with three commercial brokers familiar with west Eisenhower. At the May 10th meeting, City Council gave City staff direction to develop a “CEF free-zone” to expedite redevelopment along the west Eisenhower corridor.

City staff recommends that City Council make the finding in Section III.C of the City staff memorandum to City Council dated July 19, 2016 (**Attachment A**) and, based on that finding, adopt the resolution as presented creating a West Eisenhower Reinvestment Zone on both sides of west Eisenhower Boulevard generally between Taft Avenue and Wilson Avenue as depicted on **Exhibit A** to the resolution.

City staff mailed letters to all property owners within the proposed Reinvestment Zone inviting them to an open house at 5:00 pm, Thursday, July 14, 2016 at Perkins Restaurant (2222 West Eisenhower). This public event will allow staff to meet individually with property owners and developers about this program. A summary of this event will be given to City Council on July 19, 2016.

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

1. Resolution
2. City Staff Memorandum
3. PowerPoint

RESOLUTION #R-66-2016**A RESOLUTION ESTABLISHING THE WEST EISENHOWER REINVESTMENT ZONE ALONG WEST EISENHOWER BOULEVARD IN THE CITY OF LOVELAND AND WAIVING BUILDING PERMIT FEES AND CAPITAL-RELATED FEES AND GRANTING USE TAX CREDITS FOR DEVELOPMENT WITHIN SUCH ZONE**

WHEREAS, City Council recognizes the need to encourage redevelopment of and business reinvestment in properties along the west Eisenhower Boulevard corridor; and

WHEREAS, City Council desires to establish the lots along west Eisenhower Boulevard identified in **Exhibit “A,”** attached hereto and incorporated by reference, as the West Eisenhower Reinvestment Zone and to offer regulatory relief to encourage redevelopment and reinvestment therein; and

WHEREAS, City Council desires to offer regulatory relief in the West Eisenhower Reinvestment Zone in an amount not to exceed \$475,000 by waiving building permit fees and capital-related fees, including capital expansion and utility fees, imposed pursuant to Chapters 15 and 16 of the Loveland Municipal Code, respectively, and by granting use tax credits imposed pursuant to Chapter 3 of the Loveland Municipal Code; and

WHEREAS, pursuant to Section 16.38.070 of the Loveland Municipal Code, the City is authorized to waive capital expansion fees or any other fees imposed by the City upon new development, whether for capital or other purposes, upon a finding that such waiver is in the best interests of the public by encouraging activities that provide significant social, economic or cultural benefit, provided that any capital-related fee waived is paid by the general fund or other appropriate fund; and

WHEREAS, pursuant to Section 3.16.590 of the Loveland Municipal Code, the City is authorized to grant a use tax credit not to exceed the amount of such tax that would otherwise be collected pursuant to Chapter 3 of the Loveland Municipal Code, upon a finding that granting such credit will serve a public purpose including, without limitation, providing the public with significant social, economic or cultural benefits.

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

Section 1. The lots identified in **Exhibit “A”** shall be known as the West Eisenhower Reinvestment Zone.

Section 2. The waiver of building fees and capital-related fees, including capital expansion and utility fees, and the granting of use tax credits in the West Eisenhower Reinvestment Zone provides significant social, economic and cultural benefits by stimulating economic growth, reinvestment and revitalization in an area of the City that has had fewer development opportunities.

Section 3. City building fees and capital-related fees, including capital expansion and utility fees, shall be waived for development within the West Eisenhower Reinvestment Zone, subject to Section 5.

Section 4. The City hereby grants use tax credits for development within the West Eisenhower Reinvestment Zone, subject to Section 5.

Section 5. The fees waived under Section 3 and the credits granted under Section 4 shall, in total, not exceed \$475,000, and the credits granted under Section 4 shall not exceed the amount of use taxes that would otherwise be collected pursuant to Chapter 3 of the Loveland Municipal Code.

Section 6. All capital-related fees waived, including capital expansion and utility fees, shall be paid by the general fund, unless another appropriate fund is designated by the City Council.

Section 7. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 19th day of July, 2016.

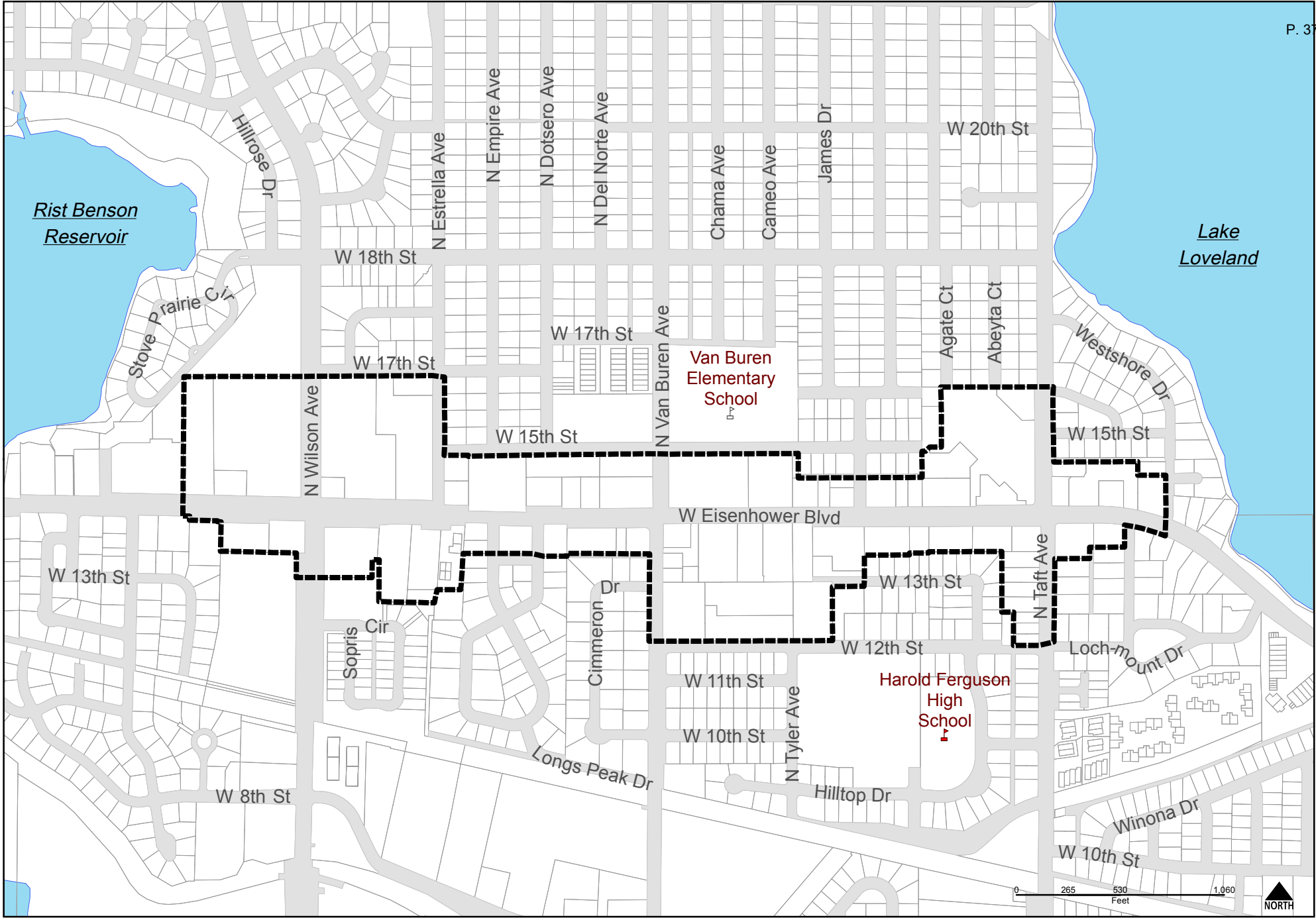
Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk


APPROVED AS TO FORM:


Assistant City Attorney



Document Path: J:\PROJECTS\DevelopmentServices\Regulatory_Relief\Corridor_Exhibit\Map.mxd

Legend

 Corridor Reinvestment Zone Boundary

West Eisenhower Boulevard - Corridor Reinvestment Zone

Exhibit A





DEVELOPMENT SERVICES ADMINISTRATION

410 East 5th Street • Loveland, CO 80537
(970) 962-2346 • TDD (970) 962-2620
www.cityofloveland.org

MEMORANDUM

To: City Council

From: Brett Limbaugh, Development Service Director

Date: July 19, 2016

Re: West Eisenhower Reinvestment Zone

I. INTRODUCTION

This memorandum provides additional information on the proposed West Eisenhower Reinvestment Zone with respect to:

- Relative Municipal Code provisions
- Redevelopment scenario
- Budget impacts

II. INTERNAL STAFF PARTICIPANTS

The following City staff members worked on this project:

- | | |
|------------------|-----------------|
| • Rod Wensing | • Alan Krcmarik |
| • Brett Limbaugh | • Karl Barton |
| • Susan Grafton | • Phil Kleisler |
| • Bob Paulsen | • Greg George |
| • Kerri Burchett | • Moses Garcia |

III. RELATIVE MUNICIPAL CODE PROVISIONS

A. Capital-related fee waiver: The provisions allowing City Council to grant fee waivers for capital-related fees, including capital expansion fees (CEFs) and utility fees, are in Section 16.38.070 of the Municipal Code, as stated below.

16.38.070 Exemption from capital expansion fees – Generally. Council may by resolution grant an exemption from all or part of the capital expansion fees or any other fees imposed by the city upon new development, whether for capital or other purposes, upon a finding that such waiver is in the best interests of the public by encouraging activities that provide significant social, economic, or cultural benefits. When a capital-related fee is waived pursuant to this section, council shall direct that the waived fee be paid by the general fund or another appropriate fund.

- B. Building use tax credit:** The provisions allowing City Council to grant a building use tax credit are in Section 3.16.590 of the Municipal Code, as stated below.

3.16.590 Sales and Use Tax Credits. Notwithstanding any other provision in this Chapter to the contrary, the City Council may grant by resolution to any person a sales tax and/or use tax credit against the collection of such taxes equal to the amount of tax credited. However, any such credit shall not exceed the amount of tax that would otherwise be collected under this Chapter. The Council may grant the credit on such terms and conditions as it determines is in the best interest of the City provided that it also determines and finds in the resolution that granting the credit will serve a public purpose, which purpose may include, without limitation, providing the public with significant social, economic or cultural benefits. (Ord. 5267 § 1, 2007; Ord. 4857 § 1, 2004)

- C. Finding of significant social, economic or cultural benefit:** Over the past many years the area referred to as the West Eisenhower Reinvestment Zone has not developed/redeveloped at the same pace as other parts of the City. Continued deterioration and stagnation will have a negative impact on the economic vitality of this portion of the City. Therefore, the City has determined that investment and redevelopment in the West Eisenhower Reinvestment Zone serves an important public purpose for the larger community and can be encouraged through temporary relief from certain development and permit fees and by granting use tax credits. Development and redevelopment will improve business opportunities, reinvigorate commercial areas along the corridor and thereby provide significant social, economic, and cultural benefits to the City of Loveland.

IV. REDEVELOPMENT SCENARIO

- A. Purpose:** City staff developed a possible scenario for how redevelopment would occur if the program was able to stimulate meaningful development activity. The scenario was then used to predict impacts on the City's budget over the 2 year period.

B. Methodology:

- 1. Step One – Field Survey and Boundary Determination:** Through a field survey City staff prepared a comprehensive assessment of the 85 properties within the proposed reinvestment zone to predict which properties would be most likely to redevelop or develop. Factors considered included property size and configuration, vehicular access and age of existing development. Staff recommends including all commercially zoned land fronting west Eisenhower Boulevard between Taft Avenue and Wilson Avenue, in addition to the nodes at each of those intersections as depicted in Exhibit A to the resolution.

In some instances lots not directly fronting west Eisenhower Boulevard were included to encourage potential assemblage of lots for larger scale development. Additionally, seven residential lots are included along the west side of Taft Avenue south of the intersection. The City recently purchased these lots to facilitate a project to improve the intersection of Eisenhower Boulevard and Taft Avenue. The

residential structures on each lot will be demolished as part of the intersection project. Inclusion in the reinvestment zone will provide more options for redevelopment of the property in the future.

All but five lots within the proposed zone are developed to some extent and most are occupied. Three projects have been constructed over the past five years: two banks and a fast food restaurant.

The average building age within the proposed zone is 39 years, suggesting that some are nearing their useful life. The aging building supply appears to be more prominent along the southern side of west Eisenhower Boulevard. As shown on **Figure 1** on page 5 of 6, roughly two thirds of buildings older than 50 years are along the south side of West Eisenhower Boulevard. The following table displays summary information about the proposed zone.

Number of Properties	85
Average Lot Size	0.8 Acres
Newest Building Year	2013
Oldest Building Year	1939
Average Building Age	39
Estimated CEF Credits	\$4.8 M

Source: Larimer County Assessor, City of Loveland

Based on the information above, fifteen properties were considered as good candidates for redevelopment and two for new development (see **Figure 2** on page 6 of 6).

2. **Step Two - Land use types:** To predict what sort of development would occur on the 17 properties, City staff reviewed redevelopment and development projects approved by the City over the last 4 years on properties along state highway corridors. Each of the 17 potential redevelopment sites were matched with a recent comparable development project, such as a drive-thru coffee shop, a bank, a fast food restaurant or office or retail remodel. The development projects selected reflect uses that typically generate high capital expansion fees and use tax. In developing the scenario, several properties were matched with the same development project (i.e. five properties were matched with a drive-thru coffee shop). It is not likely that a drive-thru coffee shop would be developed on five properties, but other projects with similar fee requirements could be. This assessment was informed by information obtained from the commercial brokers interviewed in April 2016. Based on this methodology, the estimate of potential fees waived might be considered on the high side.
3. **Step Three - Capital expansion and utility fee credits:** City staff reviewed City and County records to determine the existing use on each of the 17 properties. This information was used to estimate fee credits for both capital expansion and utility fees for each property.

4. **Step Four - Capital expansion, plan check and utility fees due:** The fees due for the projects matched to each of the 17 properties were used to estimate total fees due after accounting for the capital expansion and utility fee credits estimated in Step Three.
5. **Step Five - Building use tax:** The approved project matched to each of the 17 properties was used to estimate the amount of building use tax that would be due at time of building permit issuance.

V. BUDGET IMPACTS

The data developed based on the redevelopment scenario was used to provide City Council with an estimate of impacts on the budget over the two year period. If 17 properties experience some level of redevelopment or development over the two year period, then the West Eisenhower Reinvestment Zone would be considered a success.

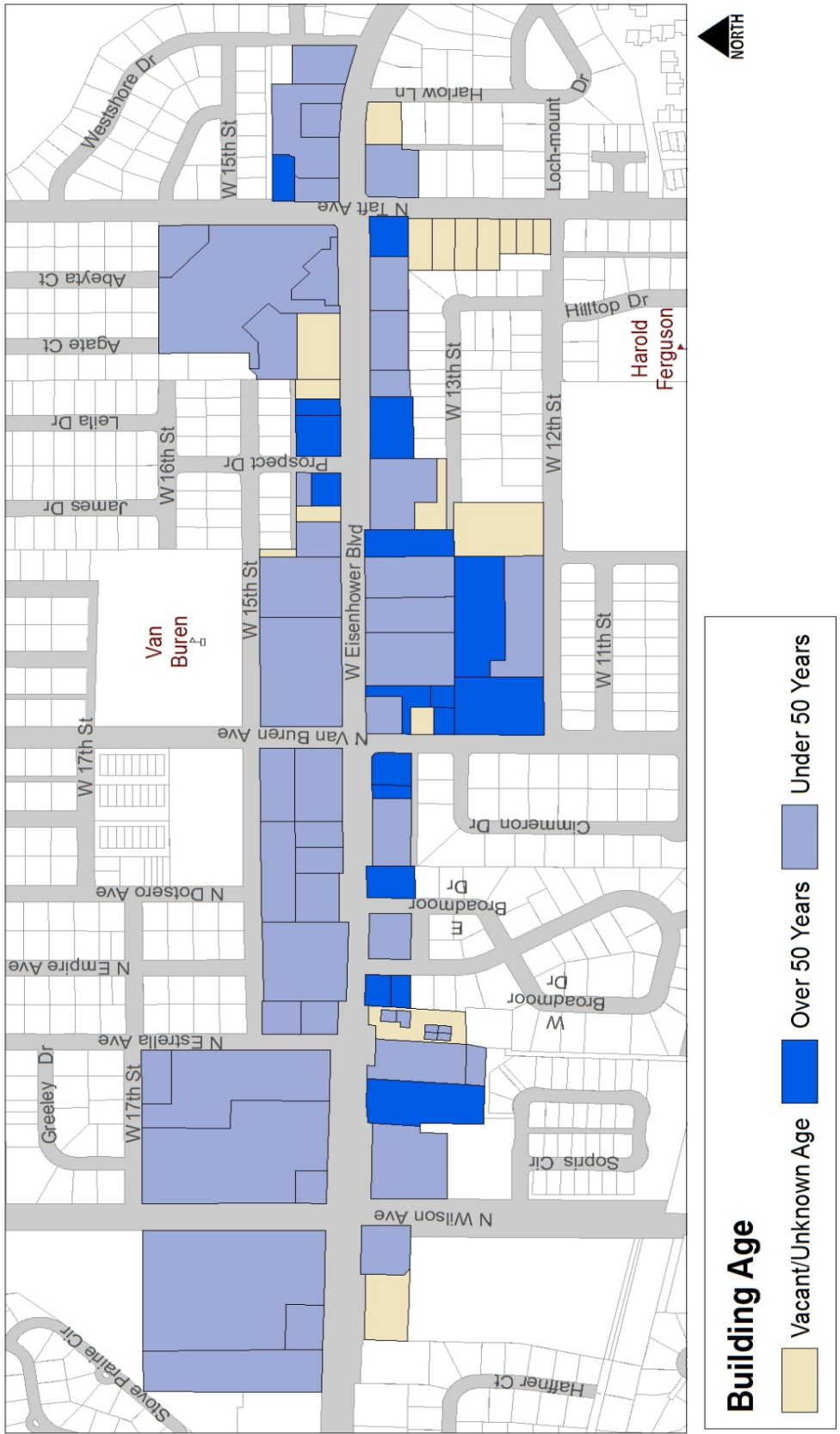
The data developed based on the redevelopment scenario and use to estimate impacts on the budget is show in the spreadsheet on **Attachment 1**. The total amount waived shown on the spreadsheet is \$473, 022. A reasonable estimate of the impact on the budget resulting from waiving capital-related fees, including CEFs and utility fees, building permit fees and building use tax within the two year period would be \$475,000.

Property owners utilizing this program could save between 89% and 99% of permit fees and use tax.

VI. ATTACHMENTS

1. Detailed Development Scenario spreadsheet

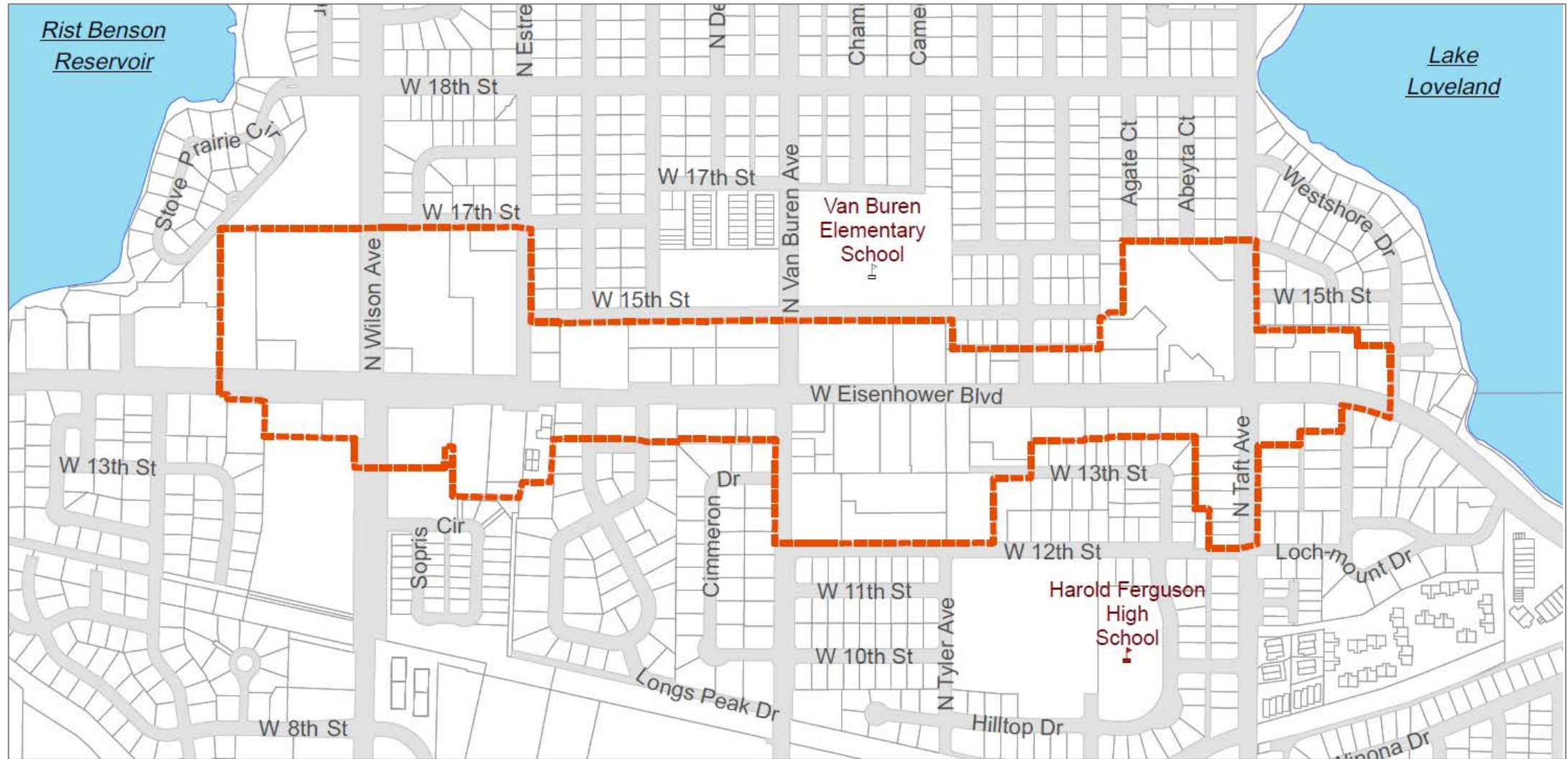
Figure 1
Building Age



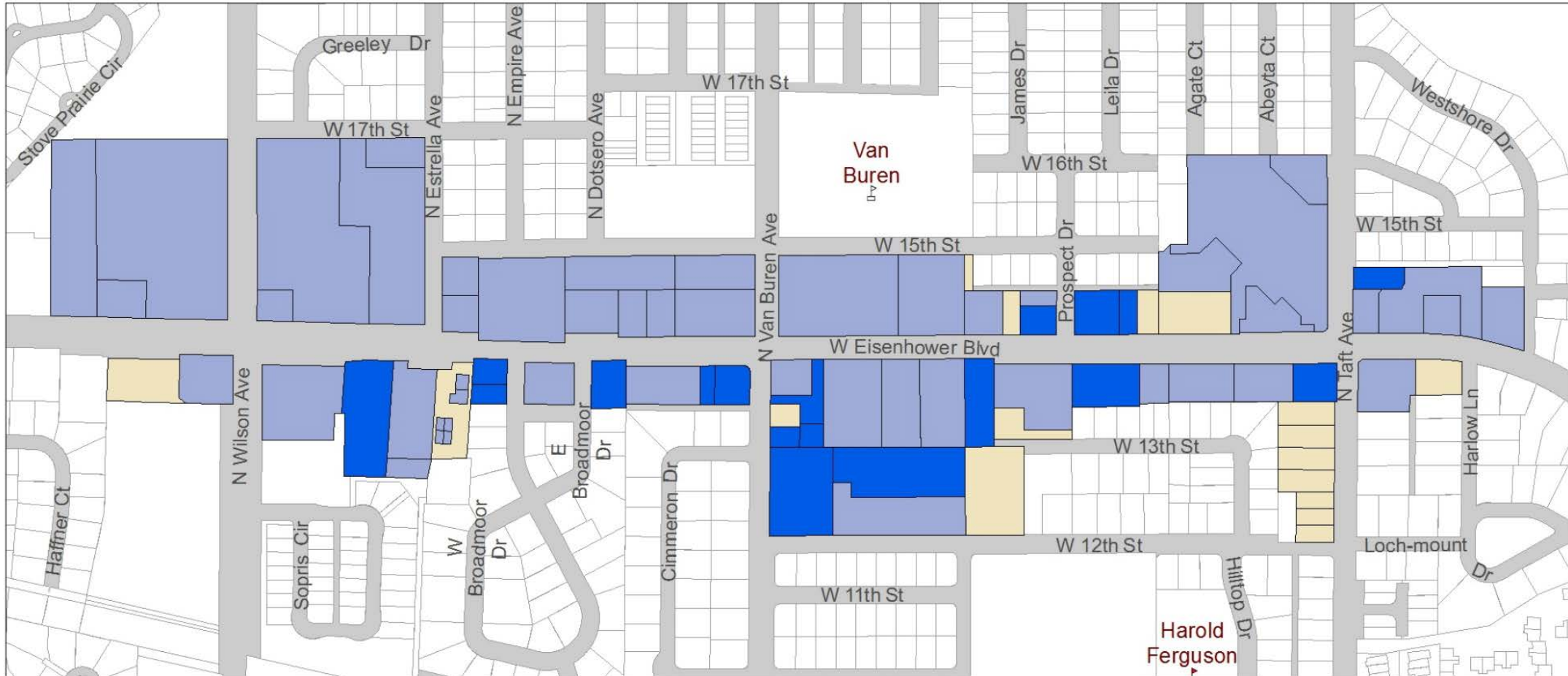
West Eisenhower Reinvestment Zone

City Council
July 19, 2016

PROJECT BOUNDARY



BUILDING AGE

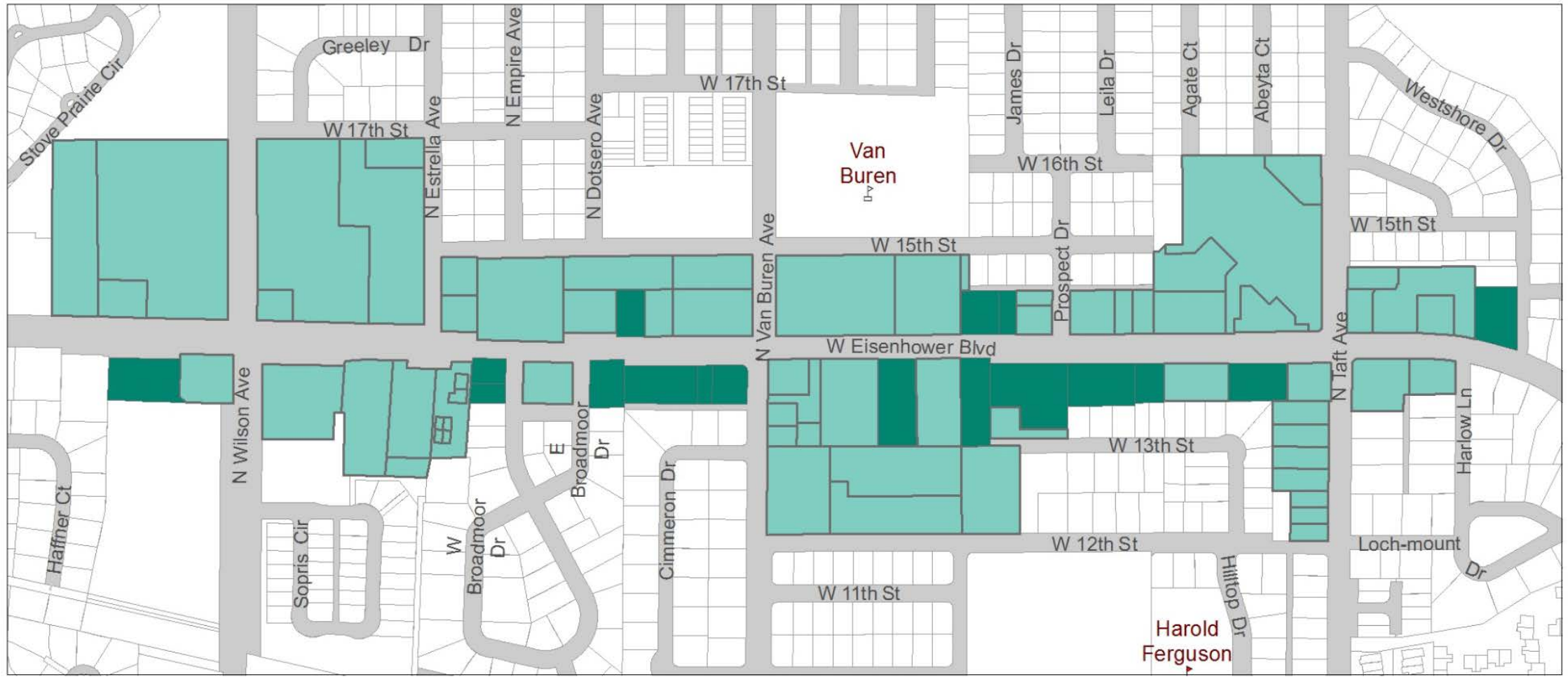


Building Age

Vacant/Unknown Age
 Over 50 Years
 Under 50 Years



POTENTIAL REDEVELOPMENT SITES



Potential Redevelopment Sites

	Sites		Proposed Zone
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DEVELOPMENT FEE SCENARIO

Business Type	Scenario Use	CEF Fees	Building Fees	Utility Fees	Use Tax	Amount Waived	Remaining Due
Undeveloped	Drive Thru Coffee	\$43,855	\$2,196	\$47,800	\$1,337	\$95,187	\$290
Medical/Office	Drive Thru Coffee	\$33,772	\$2,196	\$23,900	\$1,337	\$61,205	\$290
Restaurant/Liquor Store	Drive Thru Coffee	\$0	\$3,162	\$5,826	\$45,429	\$54,417	\$545
Vehicle Repair Shop	Drive Thru Coffee	\$25,722	\$2,196	\$23,900	\$1,337	\$53,155	\$290
Undeveloped	Drive Thru Coffee	\$33,379	\$3,162	\$5,826	\$2,517	\$44,884	\$545
Vacant Building	Bank	\$11,114	\$12,052	\$500	\$16,500	\$40,166	\$3,300
Retail Shopping Center	Bank	\$0	\$12,052	\$500	\$16,500	\$29,052	\$3,300
Retail Shopping Center	Bank	\$0	\$8,530	\$356	\$11,250	\$20,136	\$2,250
Vehicle Repair Shop/Restaurant	Fast Food	\$0	\$4,874	\$2,971	\$6,750	\$14,594	\$1,463
Retail and Fast Food	Fast Food	\$0	\$4,874	\$2,971	\$6,750	\$14,594	\$1,463
General Office	Fast Food	\$0	\$4,874	\$2,971	\$6,750	\$14,594	\$1,463
Single Family Home	Office Remodel	\$0	\$3,855	\$0	\$3,598	\$7,453	\$780
Retail Shopping Center	Office Remodel	\$0	\$3,855	\$0	\$3,598	\$7,453	\$780
Salon	Retail remodel	\$0	\$2,140	\$0	\$3,569	\$5,709	\$254
Specialty Retail	Retail Remodel	\$0	\$2,140	\$0	\$3,569	\$5,709	\$254
Veterinarian and Residence	Drive Thru Coffee	\$0	\$2,196	\$0	\$2,517	\$4,713	\$545
Single Family Home	Assembled w/ other lot	--	--	--	--	\$0	\$0
		\$147,84			\$133,30	473,022	
Total		2	\$74,353	\$117,521	6		\$17,810

AGENDA ITEM: 22
MEETING DATE: 7/19/2016
TO: City Council
FROM: City Manager
PRESENTER: Steve Adams



TITLE:

Appointment Of Council Member And City Staff Member To Larimer County Affordable Housing Working Group

RECOMMENDED CITY COUNCIL ACTION:

1. Adopt a motion to appoint a City Council Member to the Larimer County Affordable Housing Working Group.
2. Adopt a motion to appoint Alison Hade as City staff member to the Larimer County Affordable Housing Working Group.

OPTIONS:

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

SUMMARY:

This is an administrative item appointing a Council Member and a City staff member to the Larimer County Affordable Housing Working Group.

BUDGET IMPACT:

- ☐ Positive
☐ Negative
☒ Neutral or negligible

BACKGROUND:

The Larimer County Board of County Commissioners is convening a working group to pursue solutions to make housing more affordable in Larimer County. The Commissioners propose a group of elected officials and staff to participate in monthly meetings to address these solutions. The proposed group consists of two individuals to represent the City of Loveland.

Alison Hade, Community Partnership Administrator, has expressed her interest as Loveland's staff representative.

REVIEWED BY CITY MANAGER:

SCA

LIST OF ATTACHMENTS:

1. June 5, 2016 letter from County Commissioner Tom Donnelly, Chair of the Larimer County Board of County Commissioners



Post Office Box 1190
Fort Collins, Colorado 80522-1190
(970) 498-7010
FAX (970) 498-7006

June 5, 2016

Loveland City Council
City of Loveland
500 East 3rd Street, Suite 300
Loveland, CO 80537

RECEIVED

JUN 10 2016

CITY MANAGER

Dear Mayor Gutierrez:

Housing affordability continues to pose a significant and growing challenge within our community. Current data suggests that only fifty-seven percent of families can afford the median priced home in Larimer County today. This growing disparity is not only a threat to the families of our community, but will increasingly impact the ability of local employers to hire quality employees in the future.

Efforts are already underway by a variety of organizations to address affordable housing for the lowest income earners in the community. This conversation is intended to focus on the separate issue of housing affordability, such as the narrow distribution of housing prices, the affordability of starter homes, housing policies that affect market conditions, the ability to borrow and finance home purchases, and the supply of new and refurbished housing.

The Board of County Commissioners would like to convene a working group to pursue local, regional, and state-level solutions to make housing more affordable in Larimer County and we would like to invite your organization to participate in this worthwhile effort. We envision a series of monthly meetings over the next year. Please reply to Michelle Bird (mbird@larimer.org or 970-498-7015) with the name and contact information of two individuals chosen to represent your organization.

We look forward to your participation and the opportunity to work collaboratively in order to address these important issues facing our county.

Sincerely,
FOR THE BOARD OF COUNTY COMMISSIONERS

Tom Donnelly
Chair
District III

cc: Bill Cahill

BOARD OF COUNTY COMMISSIONERS

Lew Gaiter III
District 1

Steve Johnson
District 2

Tom Donnelly
District 3