

**LOVELAND CITY COUNCIL MEETING
LOVELAND URBAN RENEWAL AUTHORITY
TUESDAY, MAY 3, 2011
CITY COUNCIL CHAMBERS
500 EAST THIRD STREET
LOVELAND, COLORADO**

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

**5:00 P.M. RECEPTION FOR RALPH MULLINIX
6:30 P.M. REGULAR MEETING—City Council Chambers**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

PROCLAMATION DECLARING MAY 1 – 7, 2011 AS MUNICIPAL CLERKS WEEK

PROCLAMATION DECLARING MAY 15 - 21, 2011 AS NATIONAL PUBLIC WORKS WEEK

PROCLAMATION DECLARING MAY, 2011 AS ARCHEOLOGY & HISTORIC PRESERVATION MONTH and presentation of plaques

PROCLAMATION RECOGNIZING RALPH MULLINIX'S OUTSTANDING SERVICE TO THE CITY OF LOVELAND

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

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

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

CONSENT AGENDA

- 1. MINUTES
 CONSIDERATION OF MINUTES FOR:
 a) April 12, 2011 Special Meeting**

- b) April 12, 2011 Study Session
- c) April 19, 2011 Regular Meeting

2. **DEVELOPMENT SERVICES**

REZONE OF PROPERTY – 1629 WEST 8TH STREET

Consideration on second reading of an ordinance amending Section 18.04.040 of the Loveland Municipal Code, the same relating to zoning regulations for certain property located in the North Taft Avenue First Addition, City of Loveland, Larimer County, Colorado

A quasi-judicial action to adopt an ordinance on second reading to rezone a 0.50-acre property located at 1629 W. 8th Street from R2 Developing Two-Family Residential to A Muse Planned Unit Development. The PUD includes a non-phased preliminary development plan which is integral to the rezoning application. The property is located on the north side of W. 8th Street, west of N. Taft Avenue and east of Kelly Drive. The applicant is Kyle Dallabetta. City Council unanimously approved this item on first reading on April 19, 2011.

3. **DEVELOPMENT SERVICES**

TEMPORARY DISCONNECT – MYERS GROUP PARTNERSHIP #949 SECOND SUBDIVISION

Consideration on second reading of an ordinance approving the disconnection of a certain parcel in the Myers Group Partnership # 949 Addition from the City of Loveland boundaries

Consideration of a legislative action to adopt an ordinance, on second reading, to temporarily disconnect Outlot B of the Myers Group Partnership # 949 Second Subdivision from the City. This will be the first step to prepare for the subsequent annexation of the Motorplex Entry Addition, of which this outlot will be a part. The applicant and sole owner is the City of Loveland. City Council unanimously approved this item on first reading on April 19, 2011.

4. **DEVELOPMENT SERVICES**

HISTORIC LANDMARK DESIGNATION – 1005 NORTH GARFIELD AVENUE

Consideration on second reading of an ordinance of the City Council designating as a Historic Landmark the Remington House located at 1005 North Garfield Avenue in Loveland, Colorado

This item is a legislative action to consider approval on second reading of an ordinance to designate as a Historic Landmark the “Remington House” at 1005 North Garfield Avenue. The property would be designated a Historic Landmark under Section 15.56 of the Municipal Code. The application is owner-initiated and staff has met with the owner to review the benefits and obligations of historic designation. City Council unanimously approved this item on first reading on April 19, 2011.

5. **FINANCE**

REAPPROPRIATION OF 2010 FUNDS (GENERAL FUND & AIRPORT)

- A. **Consideration on second reading of an ordinance enacting a supplemental budget and appropriation to the 2011 City of Loveland budget to reappropriate remaining funds for projects approved but not completed in 2010 and new projects**
- B. **Consideration on second reading of an ordinance enacting a supplemental budget and appropriation to the 2011 Ft. Collins-Loveland Municipal Airport budget to appropriate funds for projects approved but not completed in 2010 and for compensation to the Public Works Director for extra duties**

These are administrative actions. The Ordinances reappropriate funding for capital projects and other one-time projects approved but not completed in the prior year and a small number of new projects that were not anticipated at the time of budget adoption. City Council unanimously approved this item on first reading on April 19, 2011.

ADJOURN AS CITY COUNCIL AND CONVENE AS THE BOARD OF COMMISSIONERS FOR THE LOVELAND URBAN RENEWAL AUTHORITY (LURA)

6. FINANCE

REAPPROPRIATION OF 2010 FUNDS

Consideration on second reading of an ordinance enacting a supplemental budget and appropriation to the 2011 Loveland Urban Renewal Authority budget for the Facade Grant Program

This is an administrative action. The ordinance reappropriates the remaining balance of funding put in place for the program. City Council unanimously approved this item on first reading on April 19, 2011.

ADJOURN AS THE BOARD OF COMMISSIONERS FOR THE LOVELAND URBAN RENEWAL AUTHORITY AND RECONVENE AS CITY COUNCIL

7. FINANCE

EMPLOYEE MERIT-BASED RECOGNITION PROGRAM

A. Consideration on second reading of an ordinance enacting a supplemental budget and appropriation to the 2011 City of Loveland budget for the Employee Merit-Based Recognition Program

B. Consideration on second reading of an ordinance enacting a supplemental budget and appropriation to the 2011 Ft. Collins-Loveland Municipal Airport budget for the Employee Merit-Based Recognition Program

C. Consideration on second reading of an ordinance enacting a supplemental budget and appropriation to the 2011 Loveland-Larimer Building Authority budget for the Employee Merit-Based Recognition Program

These are administrative actions. The positive General Fund budget performance both in terms of revenues in excess of the budget and expenditures below the budget allowed for the 2010 ending fund balance to exceed the projected ending fund balance by \$3.8 million. The proposal is to use one quarter of that additional fund balance to recognize employees with lump sum raises based on performance in 2010. The lump sum raise is preferred to a percentage added to the employees' base pay to prevent cumulative impacts on future year budgets. The funding is from higher than anticipated fund balance at the end of the 2010 fiscal year. City Council unanimously approved this item on first reading on April 19, 2011.

8. POLICE

PUBLIC HEARING

MUNICIPAL CODE AMENDMENT - PANHANDLING

Consideration on first reading of an ordinance amending City Code Section 9.30.030 concerning panhandling and solicitations on or near public streets and highways

This is a legislative action intended to further regulate the physical presence of panhandlers and solicitors on and around public roadways, which presence creates public safety issues for the panhandlers, solicitors and motorists.

9. **PUBLIC WORKS**
TRAFFIC SIGNAL INSTALLATION CONTRACT AWARD
Consideration of a motion to award the 2011-2012 Traffic Signal Installation Contract to W.L. Contractors, Inc. in the amount of \$1,196,635.00 and authorize the City Manager to approve the contract
This is an administrative action to award the 2011-2012 Traffic Signal Installation Contract to W.L. Contractors, Inc. of Arvada, Colorado, in the amount of \$1,196,635.00 and authorize the City Manager to execute the contract.
10. **PUBLIC WORKS**
PUBLIC HEARING
CONTRACT AMENDMENT #2 – CITY PROPERTY, N. TAFT AVENUE
Consideration on first reading of an ordinance approving Amendment Number Two to contract to buy and sell City property located at 905, 915, 925, 933 and 935 N. Taft Avenue
This is an administrative action to consider an ordinance on first reading approving a contract extension to sell approximately 5.2 acres of City-owned property located at 905, 915, 925, 933, and 935 N. Taft Ave., which are parcels acquired for the Taft Ave. widening project. The original contract approved on December 1, 2009 was contingent upon approval of a final plat by January 1, 2012 and this deadline is extended to April 20, 2012 by this Amendment.
11. **CITY CLERK**
SETTING SPECIAL MEETING DATES
Consideration of a motion setting Special Meetings for Tuesday, May 10, 2011 and May 24, 2011
This is an administrative action. Staff is requesting City Council call Special Meetings, on May 10, 2011 and May 24, 2011 at 6:30 p.m. The purpose of the meetings is to discuss, consider any necessary items and possibly hold an Executive Session concerning matters related to the ACE Manufacturing and Innovation Park. Certain items will require discussion and consideration that may fall outside of the Council's regular meeting times.
12. **DEVELOPMENT SERVICES**
MUNICIPAL CODE AMENDMENTS – APPEALS PROVISIONS
Consideration on second reading of an ordinance amending Titles 16 and 18 of the Loveland Municipal Code by revising provisions of Titles 16 and 18, which retains the Zoning Board of Adjustment Hearing Officer, and enacting a new Chapter 18.80 regarding appeal provisions
Consideration of a legislative action to adopt an ordinance on second reading: (i) amending Title 16 and Title 18 relating to appeals of subdivision, zoning and land use actions; (ii) adding Chapter 18.80 to consolidate and clarify appeal provisions; (iii) amending Chapter 18.60 concerning the Zoning Board of Adjustment; and (iv) amending Chapter 18.52 concerning Supplementary Regulations. Following adoption of the ordinance on first reading on April 19th, the City Attorney's Office made some minor technical corrections to the ordinance. These corrections are not substantive. The packet includes a redline version of the ordinance (see Attachment B) showing the corrections. City Council unanimously approved this item on first reading on April 19, 2011.

END OF CONSENT AGENDA

CITY CLERK READS TITLES OF ORDINANCES ON THE CONSENT AGENDA

CITY COUNCIL

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

PROCEDURAL INFORMATION

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

REGULAR AGENDA

CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA

13. DEVELOPMENT SERVICES

TIMKA FIRST ADDITION ANNEXATION & ZONING

1. **Consideration on second reading of an ordinance approving the annexation of certain territory to the City of Loveland, Colorado, to be known and designated as "Timka First Addition" to the City of Loveland**
2. **Consideration on second reading of an ordinance amending Section 18.04.040 of the Loveland Municipal Code, the same relating to zoning regulations for "Timka First Addition" to the City of Loveland**
 1. Legislative action in consideration of an ordinance, on second reading, annexing the Timka First Addition to the City of Loveland, subject to an annexation agreement;
 2. Quasi-judicial action in consideration of an ordinance, on second reading, zoning the Timka First Addition as I-Developing Industrial District. City Council unanimously approved this item on first reading on April 19, 2011.

14. BUSINESS DEVELOPMENT

AMENDMENT TO 2010 LODGING TAX GRANT – CHAMBER OF COMMERCE

Consideration of Resolution #R-28-2011 amending the 2010 Lodging Tax Grant awarded to the Loveland Chamber of Commerce & Visitors Center

This is an administrative action. The Resolution awards an amendment to the grant contract agreed to by all parties in October 2010. It also authorizes the City Manager to execute the amended grant contract with the new scope of work presented in Exhibit A. \$30,000.00 was paid in 2010 from the lodging tax fund.

15. BUSINESS DEVELOPMENT

2011 LODGING TAX GRANT AWARDS

Consideration of Resolution #R-29-2011 awarding 2011 Lodging Tax Grants and authorizing contracts for City of Loveland Lodging Tax Grant Funds

This is an administrative action. The Resolution awards Lodging Tax Grants, approves the form of the grant contract and authorizes the City Manager to execute grant contracts in the

amounts and to the specified recipients. The action will award \$60,000 in lodging tax revenues appropriated for expenditure in the 2011 City budget.

16. CITY MANAGER

CITY COUNCIL'S ANNUAL ADVANCE REPORT

Consideration of a motion accepting and approving the report of the City Council's Annual Advance

This is an administrative action accepting and approving the report of the City Council's Annual Advance held on February 5, 2011.

17. FINANCE

MARCH 2011 FINANCE REPORT

This is an information only item. No action is required. The Snapshot Report includes the City's preliminary revenue and expenditures including detailed reports on tax revenue, health claims and cash reserves for the three months ending March 31, 2011.

18. CITY MANAGER'S OFFICE

INVESTMENT REPORT MARCH 2011

This is an information only item. No Council action is required. The budget estimate for investment earnings for 2011 is \$3,163,130. For the first quarter, the amount posted to the investment account is \$877,669 including realized gains. The actual year-to-date earnings are higher than the year-to-date projection by \$86,886. Based on the March monthly statement, the estimated annualized yield is about 2.03%, just over the annual target rate.

19. CITY MANAGER

Discussion and consideration of any needed action concerning the ACE Manufacturing and Innovation Park

ADJOURN



PROCLAMATION

- WHEREAS** The Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world, and
- WHEREAS** The Office of the Municipal Clerk is the oldest among public servants, and
- WHEREAS** The Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and
- WHEREAS** Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all.
- WHEREAS** The Municipal Clerk serves as the information center on functions of local government and community.
- WHEREAS** Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, province, county and international professional organizations.
- WHEREAS** It is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk.

NOW, THEREFORE, we the City Council of Loveland, do hereby recognize the week of May 1 through May 7, 2011, as

MUNICIPAL CLERKS WEEK

and further extend appreciation to our Municipal Clerk Team and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

Signed this 3rd day of May, 2011

Cecil A. Gutierrez
Mayor





CITY COUNCIL

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

PROCLAMATION

- WHEREAS,** public works services provided in our community are an integral part of our citizen's everyday lives; and
- WHEREAS,** having the support of an understanding and informed citizenry is vital to the efficient operations of the various public works systems and programs such as stormwater, streets, transit, solid waste, fleet, development review, traffic, facilities and public buildings; and
- WHEREAS,** the health and safety and comfort of this community greatly depends on these facilities and services; and
- WHEREAS,** the quality and effectiveness of these facilities and services, as well as their planning, design, construction, is vitally dependent upon the efforts and skill of public works officials; and
- WHEREAS,** this year's observance of Public Works Week celebrates the theme, "Public Works: Serving you and your community", recognizing the valuable work carried out by our highly capable and reliable public works professionals, engineers and administrators and acknowledging their contributions to an improved quality of life in this community.

NOW, THEREFORE, we, the City Council of the City of Loveland do hereby proclaim May 15-21, 2011 as

NATIONAL PUBLIC WORKS WEEK

in the City of Loveland, and we call upon all citizens to acquaint themselves with the issues involved in providing our public works and to recognize the contributions which public works officials make every day to our health, safety, comfort and quality of life.

Signed this 3rd day of May, 2011

Cecil A. Gutierrez, Mayor



PROCLAMATION

WHEREAS, historic preservation helps provide a deeper understanding of the diversity of our uniquely local and American heritage; and

WHEREAS, historic preservation is an effective tool for revitalizing neighborhoods, fostering local pride and maintaining community character while enhancing livability of communities across America; and

WHEREAS, Colorado Archeology & Historic Preservation Month 2011 provides an opportunity for citizens of all ages and from all walks of life to make the connection between historic preservation and the aesthetic, environmental and economic well-being of their communities; and

WHEREAS, it is important to celebrate the role of history in our lives and the contributions made by dedicated individuals in helping to preserve the tangible aspects of the heritage that has shaped us as a people; and

WHEREAS, "Celebrating America's Treasures" is the theme for Archeology & Historic Preservation Month 2011; and

WHEREAS, fifteen heritage-related events, ranging from farm and food activities, vintage baseball, a market and celebration of our agricultural heritage, presentations, a historic homes tour and a bicycle tour, will be held by the Loveland community in May 2011 and are listed on the City's website; and

NOW, THEREFORE, we, the City Council of the City of Loveland, do hereby proclaim May 2011, as

ARCHEOLOGY & HISTORIC PRESERVATION MONTH

and call upon the people of Loveland to recognize and participate in this special observance. In recognition of Archeology & Historic Preservation Month, we would like to honor all the buildings and sites in Loveland that are on the National Register of Historic Places, Colorado State Register of Historic Places, and Loveland Register of Historic Places.

Signed this 3rd day of May, 2011

Cecil A. Gutierrez, Mayor



PROCLAMATION

WHEREAS, in December 1972, Ralph K. Mullinix became a City of Loveland employee beginning at the City's water treatment plant as an Equipment Operator II; and

WHEREAS, in 1977 after serving almost five years Ralph was promoted to the position of Water and Wastewater Department Director; and

WHEREAS, from May 1990 to January 1991, Ralph served as Interim Fire Operations Manager; and

WHEREAS, from December 1992 to August 1993 Ralph served as Interim City Manager; and

WHEREAS, in December 1993 Ralph additionally became director of the City's electric utility when the Water/Wastewater and Light & Power Departments merged; and

WHEREAS, as director of these utilities Ralph provided guidance and supported the members of the Loveland Water Board, the Loveland Utility Advisory Board, and the Loveland Utilities Commission; and

WHEREAS, Ralph has taken a lead role in many important projects and processes on behalf of the utilities, the City organization, and the community through Loveland's greatest period of population and economic growth, such as development of the Water/Wastewater Financial Master Plan; the formation of the stormwater utility; economic development; development of the City's Raw Water Master Plan and Water Conservation Plan; construction of the initial Green Ridge Glade Reservoir and the expansion of Green Ridge Glade Reservoir, and other enhancements to the City's raw water supply; representation of the City's interests on the Platte River Power Authority Board for seventeen years; service on the McKee Hospital Board and on the High Plains Arts Council; and

WHEREAS, Ralph's loyalty, dedication, and service to the City of Loveland throughout his career has been of the highest level and quality; and

WHEREAS, because of Ralph's wisdom, environmental stewardship, insight and cost-saving efforts for Loveland, the citizens of Loveland have been well served; and

WHEREAS, Ralph has used his outstanding leadership skills for the betterment of the community, to wit as Chairman of the Platte River Power Authority Board of Directors for thirteen years, on the McKee Medical Center Board of Directors for thirteen years, and as a member and Chairman of the High Plains Art Council Board of Directors; and

WHEREAS, Ralph now ends his career at the City of Loveland, leaving to visit Central America, the Caribbean, the Balkans and other interesting locales both far and near; to spend quality time navigating his newly remodeled kitchen and tend to his Xeriscape garden; and to go angling, hunting or cycling with his family and many friends.

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



Section 1. The City Council hereby thanks Ralph for his thirty-eight plus years of outstanding service to the City of Loveland, to the City Council, to the City's employees and to the citizens of Loveland. Ralph's strong leadership and vision for Loveland's utilities and the community has been invaluable and essential to Loveland becoming and remaining in the future a desirable and wonderful place to live, work, play and raise a family.

Section 2. This Proclamation shall go into effect as of the date of its adoption.

SIGNED this 3rd day of May, 2011.

Cecil A. Gutierrez
Mayor

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

ROLL CALL

Roll was called and the following responded: McEwen, Solt, McKean, Johnson, Klassen, Rice, Heckel, Shaffer and Gutierrez.

1. DEVELOPMENT SERVICES

Release of Restriction on a Property

Resolution #R-21-2011

Administrative Action: Community Partnership Administrator Alison Hade introduced this item to Council. Pursuant to provisions in Section 16.43.080.D of the Loveland Municipal Code, this item is a request that City Council grant a waiver from the repayment obligation for selling an affordable housing unit to a household that does not meet the City's definition of a "qualified household". Section 16.43.080.D allows City Council to grant waivers to all or any portion of the repayment obligation on a case-by-case basis for good cause shown. The applicants contend that there are certain circumstances constituting a hardship that require them to sell the home as soon as possible. Those circumstances are described in the written request from the applicants included as Exhibit A to the accompanying staff memorandum. Also included, separate from the packet, is a confidential letter from the applicants detailing their financial and medical concerns. The staff memorandum includes findings for Council to consider in determining if there is good cause for granting the waiver. The applicants are Richard and Wilma Price. The subject property is located at 3462 Hewitt Street. If the waiver is granted, then the City would not receive any percentage of net proceeds from a future sale of the property. Councilor Johnson made a motion to approve Resolution #R-21-2011 authorizing the release of a restriction on conveyance of property recorded with the Larimer County Clerk and Recorder at Reception No. 20070091371 for Lot 25, Block 6, Giuliano First Subdivision, Loveland, Colorado pursuant to Section 16.43.080 of the Loveland Municipal Code. Councilor Shaffer seconded the motion and a roll call vote was taken with all councilors present voting in favor thereof.

RESOLUTION #R-21-2011

A RESOLUTION AUTHORIZING THE RELEASE OF A RESTRICTION ON CONVEYANCE OF PROPERTY RECORDED WITH THE LARIMER COUNTY CLERK AND RECORDER AT RECEPTION NO. 20070091371 FOR LOT 25, BLOCK 6, GIULIANO FIRST SUBDIVISION, LOVELAND, COLORADO PURSUANT TO SECTION 16.43.080 OF THE LOVELAND MUNICIPAL CODE

WHEREAS, Section 16.43.080 of the Loveland Municipal Code requires: (1) the City to place a deed restriction or encumbrance prohibiting the sale of an affordable housing unit to any person or entity other than a qualifying household, and prohibiting the rental of the property, for a period of twenty years from the date of the initial purchase of the affordable housing unit; and (2) the owner to pay the City a certain percentage of the owner's "net proceeds" on the sale of the unit to a non-qualifying household in violation of the deed restriction or encumbrance; and

WHEREAS, Subsection D of Section 16.43.080 permits the City Council to waive all or any portion of the owner's repayment obligation set forth in Section 16.48.080 on a case-by-case basis for good cause shown; and

WHEREAS, in accordance with Section 16.43.080, the City and Aspen Homes of Colorado, Inc. (the "Builder") entered into a Restriction on Conveyance of Property dated November 27, 2007 and recorded with the Larimer County Clerk and Recorder at reception number 20070091371 (the "Restriction") pursuant to which the property legally described as Lot 25, Block 6, Giuliano Subdivision, Loveland, Colorado (the "Property") was made subject to the requirements of Section 16.43.080; and

WHEREAS, in December, 2007, the Builder sold the Property to Richard and Wilma Price (the "Owners"), who were determined by the City to be a qualifying household; and

WHEREAS, for financial and medical reasons, the Owners must sell the Property; and

WHEREAS, the Owners have had the Property on the market for over a year and have been unable to find a buyer, qualified or otherwise, willing to close on the sale of the Property; and

WHEREAS, the Owners believe that the Restriction has negatively affected their ability to sell the Property and have requested that the City Council waive all of their repayment obligation pursuant to Subsection D of Section 16.43.080; and

WHEREAS, having reviewed the Owners' specific financial and medical concerns, the City Council desires to waive all of the Owners' repayment obligation for good cause shown pursuant to Subsection D of Section 16.43.080 by authorizing a release of the Restriction in accordance with the provisions set forth below.

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

Section 1. That, in accordance with Subsection D of Section 16.43.080, the City Council finds that the Owners' specific financial and medical concerns constitute good cause justifying a waiver of the repayment obligation set forth in Section 16.43.080, and authorizes the release of the Restriction in accordance with the provisions of Section 2 below.

Section 2. That the City Manager and the City Clerk are hereby authorized to execute and deliver a release, in a form approved by the City Attorney, of the Restriction on Conveyance of Property dated November 27, 2007 and recorded with the Larimer County Clerk and Recorder at reception number 20070091371 (the "Restriction"), at the time of closing of the sale of the Property by the Owners. Said release shall be executed and delivered to the title company conducting the closing and shall be recorded, simultaneously with the deed from the Owners, with the Larimer County Clerk and Recorder at the Owners' expense.

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

ADOPTED this 12th day of April, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

2. CITY MANAGER

Appointment to North Front Range Air Quality Technical Committee

Motion

Administrative Action: City Manager Bill Cahill introduced this item to Council. The North Front Range Metropolitan Planning Organization (NFRMPO) invited the City of Loveland and their other members to appoint a technical member to the newly forming North Front Range Air Quality Technical Committee ("AQTC"). The AQTC will provide scientific and technical information to the NFRMPO Planning Council regarding air quality issues and air pollution reduction measures. No appointment was made to the technical committee. The consensus of Council was to post this opportunity on the website until April 26, 2011. An appointment could possibly occur at the May 3rd City Council meeting.

CITY COUNCIL NEW BUSINESS

ADJOURNMENT

Having no further business to come before Council, the April 12, 2011 Special Meeting was adjourned at 7:22 p.m.

Teresa G. Andrews, City Clerk

Cecil A. Gutierrez, Mayor

Mayor Gutierrez called the Study Session of the Loveland City Council to order at 7:22 p.m. on the above date. Councilors present: Gutierrez, Solt, Johnson, Klassen, McEwen, Rice, McKean, Heckel and Shaffer. City Manager, Bill Cahill was also present.

1. CITY MANAGER'S OFFICE

Mid-Session Legislative Update / Discussion

Assistant City Manager, Rod Wensing presented this item for Council's information and discussion as a follow-up to a Council request for a mid-session Legislative update. Mr. Wensing briefed Council on the various Senate and House Bills that might have some effect on local government.

2. FINANCE

Conceptual Review of Financial Sustainability Options

Assistant City Manager and Finance Director, Renee Wheeler led the discussion of options generated to date in the Financial Sustainability process to determine whether City Council would be supportive of additional refinement of those options for inclusion in the recommendations to solve the \$3.5 million future year projected gap between revenues and expenditures in the General Fund. The public input process on budget balancing strategies continues through the end of April. The gap can be addressed through cost reductions, additional revenues, or a combination of both. The direction to date suggests a combination is appropriate. Council shared their own ideas for spending cuts in their own budget, employee compensation options and suggested moving the Tabor vote up to 2011. Staff will assess these additional ideas for merit and refinement to close the remaining gap and return to the next study session on Financial Sustainability.

The study session was adjourned at 9:02 p.m.

Respectfully Submitted,

Jeannie M. Weaver, Deputy City Clerk

Cecil A. Gutierrez, Mayor

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

ROLL CALL

Roll was called and the following responded: Gutierrez, McKean, Klassen, Heckel, Rice, McEwen, Shaffer and Solt. Councilor Johnson was absent.

PROCLAMATION

Mayor Gutierrez read a proclamation declaring April 19, 2011, as "Welcome Home Vietnam Veterans' Day". The proclamation was received by Ed Aitken, VFW.

PROCLAMATION

WHEREAS the Vietnam War was fought in the Republic of South Vietnam from 1961 to 1975, and involved North Vietnamese regular forces and Viet Cong guerrilla forces in armed conflict with United States Armed Forces and the Army of the Republic of Vietnam; and

WHEREAS members of the United States Armed Forces began serving in an advisory role to the Government of the Republic of South Vietnam in 1961; and

WHEREAS in 1965, United States Armed Forces ground combat units arrived in Vietnam; and

WHEREAS by the end of 1965, there were 80,000 United States troops in Vietnam, and by 1969, a peak of approximately 543,000 troops was reached; and

WHEREAS on January 27, 1973, the Treaty of Paris was signed, which required the release of all United States prisoners-of-war held in North Vietnam and the withdrawal of all United States Armed Forces from South Vietnam; and

WHEREAS on March 30, 1973, the United States Armed Forces completed the withdrawal of combat units and combat support units from South Vietnam; and

WHEREAS more than 58,000 members of the United States Armed Forces lost their lives in Vietnam and more than 300,000 members of the Armed Forces were wounded; and

WHEREAS the Vietnam War was an extremely divisive issue among the people of the United States and a conflict that caused a generation of veterans to wait too long for the United States public to acknowledge and honor the efforts and services of such veterans; and

WHEREAS members of the United States Armed Forces who served bravely and faithfully for the United States during the Vietnam War were often wrongly criticized for the policy decisions made by 4 presidential administrations in the United States; and

WHEREAS The Loveland City Council wishes to honor and recognize the contributions of veterans who served in the United States Armed Forces in Vietnam during war and during peace; and

WHEREAS we encourage the citizens of Loveland to provide the appreciation Vietnam War veterans deserve, but did not receive upon returning home from the war; and

WHEREAS the establishment of a 'Welcome Home Vietnam Veterans' Day' would be an appropriate way to honor those members of the United States Armed Forces who served in South Vietnam and throughout Southeast Asia during the Vietnam War;

Now, therefore, be it resolved that the Loveland City Council does hereby establish March 30, 2011 as

"WELCOME HOME VIETNAM VETERANS' DAY"

And encourages the citizens of Loveland to demonstrate the resolve that never again shall the Nation disregard and denigrate a generation of veterans and help promote awareness of the faithful service and contributions of such veterans during their military service as well as to their communities since returning home.

Signed April 19, 2011

Cecil A. Gutierrez, Mayor

PROCLAMATION

Councilor Solt read a proclamation declaring April 10-16, 2011 as "National Library Week". The proclamation was received by Library Director Ted Schmidt.

PROCLAMATION

WHEREAS, libraries provide free access to all – from books and online resources for families to library business centers that help support entrepreneurship and retraining; and

WHEREAS, our nation's public libraries make a difference in the lives of millions of Americans today, more than ever; and

WHEREAS, librarians are trained professionals, helping people of all ages and backgrounds find and interpret the information they need to live, learn and work in a challenging economy; and

WHEREAS, libraries are helping level the playing field for job seekers, with 88% of public libraries providing access to job databases and other online resources; and

WHEREAS, libraries are places of opportunity providing programs that teach all forms of literacy, promoting continuing education and encouraging lifelong learning; and

WHEREAS, in times of economic hardship, Americans turn to – and depend on – their libraries and librarians; and

WHEREAS, libraries, librarians, library workers and supporters across America are celebrating National Library Week.

NOW, THEREFORE, be it resolved that we, the Loveland City Council do hereby proclaim April 10-16, 2011 as
NATIONAL LIBRARY WEEK

and encourage all residents to visit the library to take advantage of the wonderful library resources available @ your library.
Create your own story @ your library.

Signed this 19th day of April, 2011

Cecil A. Gutierrez, Mayor

PROCLAMATION

Councilor Shaffer read a proclamation declaring the April 2011 as "Fair Housing Month".
The proclamation was received by Connie Ealey.

PROCLAMATION

WHEREAS, Title VIII of the Civil Rights Act, which guarantees fair housing for all residents of the United States, was signed into law in April 1968; and

WHEREAS, the Month of April is nationally recognized as Fair Housing Month and a time to reflect on and reaffirm our national commitment to the ideal that fair housing opportunity is available to everyone in the United States without regard to race, color, religion, national origin, sex, familial status, and disability; and

WHEREAS, this year's theme "LIVE FREE", indicates collaborative effort of the United States Department of Housing and Urban Development and its partners in realizing increased housing opportunities for every individual; and

WHEREAS, the State of Colorado, which enacted prohibitions against housing discrimination in 1959, the first state in the nation to pass anti-discrimination laws pertaining to private property, recognizing and affirming that all persons in the State of Colorado are free to purchase, rent, finance, and insure their homes without regard to their race, color, religion, creed, sex, national origin, ancestry, familial status, marital status, or sexual orientation; and

WHEREAS, the City of Loveland, Colorado welcomes this opportunity to reaffirm our commitment to the principal of fair housing for all and are committed to all efforts that address discrimination in our communities, support all programs that will educate the public concerning their rights to equal housing opportunity and to assure every person their right to live free of the fear of housing discrimination;

Now, Therefore, we, the City Council of Loveland do hereby declare April 2011 as

FAIR HOUSING MONTH

in the City of Loveland, Colorado.

Signed this 19th day of April, 2011

Cecil A. Gutierrez, Mayor

PROCLAMATION

Mayor Gutierrez read a proclamation of appreciation for the gift from the George K. Kroh Charitable Remainder Trust.

PROCLAMATION

WHEREAS, The George K. Kroh Charitable Remainder Trust was established in 1977; and

WHEREAS, The City of Loveland is a beneficiary of the Trust; and

WHEREAS, The City has been the recipient of an annual distribution of ten percent of the net income of the remaining Trust assets for the use and benefit of the Loveland Public Library, and ten percent of the net income of the

remaining Trust assets for the use and benefit of the Loveland Museum/Gallery, until full termination of the Trust by or before 2016; and

WHEREAS, upon requested termination of the designated principal, the Trust will provide an asset distribution for use by the Library and the Museum/Gallery of over \$600,000 each; and

WHEREAS, Resolution #R-24-2011 of the Loveland City Council consenting to the termination of the designated principal of the George K. Kroh Charitable Remainder Trust and accepting a distribution of the assets from said trust to the City of Loveland for the use and benefit of the Loveland Public Library and the Loveland Museum/Gallery is proposed for the City Council's adoption; and

WHEREAS, This continues the Kroh Family's tradition of generosity to the community.

NOW, THEREFORE, we, the City Council of the City of Loveland, on behalf of a grateful community, do hereby extend our sincere thanks for this gift of over \$1.2 million for the benefit of the citizens of Loveland.

Signed this 19th day of April, 2011

Cecil A. Gutierrez, Mayor

PROCEDURAL INFORMATION

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

CONSENT AGENDA

Mayor Gutierrez asked if anyone in the audience, Council or staff wished to speak on any of the items or public hearings listed on the Consent Agenda. F. Lee Severance, 833 E. 33rd Street, asked that Item 8 be removed from the Consent Agenda. Councilor McEwen moved to approve the Consent Agenda with the exception of Item 8. The motion was seconded by Councilor Heckel and a roll call vote was taken with all councilors present voting in favor thereof.

1. MINUTES

- a) Minutes for the March 22, 2011 special meeting were approved.
- b) Minutes for the March 22, 2011 study session were approved.
- c) Minutes for the April 5, 2011 regular meeting were approved.

2. DEVELOPMENT SERVICES

Municipal Code change – Special Event Defined

Ordinance #5569

Legislative Action: "AN ORDINANCE AMENDING CHAPTER 12.26 OF THE LOVELAND MUNICIPAL CODE AND OTHER RELATED CODE PROVISIONS TO REPLACE THE TERM SPECIAL EVENT WITH THE TERM LOCAL EVENT TO DISTINGUISH BETWEEN THE CITY'S EVENT PERMITTING PROCESS AND THE STATE'S LIQUOR CODE SPECIAL EVENTS PERMITTING PROCESS" was approved and ordered published on second reading.

3. DEVELOPMENT SERVICES

Drainage Easement Vacation – Peakview Commercial Park First Subdivision

Ordinance #5570

Legislative Action: "AN ORDINANCE VACATING A DRAINAGE EASEMENT LOCATED ON LOT 6 BLOCK 1, AMENDED PLAT OF PEAKVIEW COMMERCIAL PARK FIRST

SUBDIVISION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO" was approved and ordered published on second reading.

4. DEVELOPMENT SERVICES

Historic Landmark Designation – 1005 North Garfield Avenue

1st Rdg Ord & P.H.

Legislative Action: A public hearing was held and "AN ORDINANCE OF THE CITY COUNCIL DESIGNATING AS A HISTORIC LANDMARK THE REMINGTON HOUSE LOCATED AT 1005 NORTH GARFIELD AVENUE IN LOVELAND, COLORADO" was approved and ordered published on first reading.

5. WATER & POWER

Easement Grant – Public Service Company of Colorado

Resolution #R-22-2011

Administrative Action: Resolution #R-22-2011 granting an easement to Public Service Company of Colorado for installation of facilities within a portion of the City of Loveland's Airport Substation was approved.

RESOLUTION #R-22-2011

A RESOLUTION GRANTING AN EASEMENT TO PUBLIC SERVICE COMPANY OF COLORADO FOR INSTALLATION OF FACILITIES WITHIN A PORTION OF THE CITY OF LOVELAND'S AIRPORT SUBSTATION

WHEREAS, Public Service Company of Colorado ("PSCo") has requested that the City of Loveland grant PSCo an easement for installation of certain facilities within a portion of the City's Airport Substation in order to provide PSCo's customers with electricity; and

WHEREAS, the Power Division reviewed PSCo's request and found that the proposed installation would not affect the City's operations at Airport Substation; and

WHEREAS, City Council desires to grant the requested easement on the terms and conditions set forth in the "Public Service Company of Colorado Easement."

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

Section 1. That the "Public Service Company of Colorado Easement," attached hereto as Exhibit A and incorporated herein by reference ("Easement"), is hereby approved.

Section 2. That the City Manager and the City Clerk are hereby authorized and directed to execute the Easement on behalf of the City of Loveland.

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

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

ADOPTED this 19th day of April, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

6. WATER & POWER

Revocable License to Platte River Authority

Resolution #R-23-2011

Administrative Action: Resolution #R-23-2011 granting a revocable license to Platte River Power Authority to construct and maintain facilities owned by Public Service Company of Colorado and installed within a portion of the city of Loveland's Airport Substation was approved.

RESOLUTION #R-23-2011

A RESOLUTION GRANTING A REVOCABLE LICENSE TO PLATTE RIVER POWER AUTHORITY TO CONSTRUCT AND MAINTAIN FACILITIES OWNED BY PUBLIC SERVICE COMPANY OF COLORADO AND INSTALLED WITHIN A PORTION OF THE CITY OF LOVELAND'S AIRPORT SUBSTATION

WHEREAS, on April 5, 2011, the City of Loveland granted Public Service Company of Colorado ("PSCo") an easement for installation of facilities within a portion of the City's Airport Substation in order to serve PSCo's customers with electricity; and

WHEREAS, PSCo has engaged Platte River Power Authority ("PRPA") to construct and maintain PSCo's facilities within Airport Substation; and

WHEREAS, PRPA has requested that the City grant it a revocable license to access Airport Substation for the purpose of constructing and maintaining PSCo's facilities; and

WHEREAS, City Council desires to grant PRPA a revocable license on the terms and conditions set forth in the "License Agreement."

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

Section 1. That the "License Agreement," attached hereto as Exhibit A and incorporated herein by reference ("License"), is hereby approved.

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

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

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

ADOPTED this 19th day of April, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

7. LIBRARY & MUSEUM

Termination of George K Kroh Charitable Remainder Trust

Resolution #R-24-2011

Administrative Action: Resolution #R-24-2011 of the Loveland City Council consenting to the termination of the designated principal of the George K. Kroh Charitable remainder Trust and accepting a distribution of the assets from said trust to the City of Loveland for the use and benefit of the Loveland Public Library and the Loveland Museum/Gallery was approved.

RESOLUTION #R-24-2011

A RESOLUTION OF THE LOVELAND CITY COUNCIL CONSENTING TO THE TERMINATION OF THE DESIGNATED PRINCIPAL OF THE GEORGE K. KROH CHARITABLE REMAINDER TRUST AND ACCEPTING A DISTRIBUTION OF THE ASSETS FROM SAID TRUST TO THE CITY OF LOVELAND FOR THE USE AND BENEFIT OF THE LOVELAND PUBLIC LIBRARY AND THE LOVELAND MUSEUM/GALLERY

WHEREAS, the Trust Agreement of George K. Kroh dated November 18, 1977, as amended (the "Trust Agreement") established the George K. Kroh Charitable Remainder Trust (the "Trust"), which provides that the City of Loveland shall receive an annual distribution of ten percent of the net income of the Trust assets for the use and benefit of the Loveland Public Library, and ten percent of the net income of the Trust assets for the use and benefit of the Loveland Museum/Gallery; and

WHEREAS, the Trust further provides that upon termination of the Trust, the City of Loveland shall receive fifteen percent of the Trust assets for the use and benefit of the Loveland Public Library, and fifteen percent of the Trust assets for the use and benefit of the Loveland Museum/Gallery; and

WHEREAS, the Trustee, Home State Bank, has requested that the City of Loveland, as well as the other principal beneficiaries of the Trust, consent to the termination of the designated principal of the Trust, as permitted by the Trust Agreement, and accept a distribution of their respective allocations of the Trust assets in order to make available remaining funds to community organizations with expressed needs consistent with the purposes of the Trust; and

WHEREAS, even if the designated principal is terminated, the City will still be entitled to an annual distribution of ten percent of the net income of the remaining Trust assets for the use and benefit of the Loveland Public Library, and ten percent of the net income of the remaining Trust assets for the use and benefit of the Loveland Museum/Gallery, until full termination of the Trust by or before 2016; and

WHEREAS, on March 29, 2011, the Cultural Services Board adopted a motion recommending that the City Council consent to the termination of the designated principal of the Trust and accept a distribution of fifteen percent of the Trust assets to the City for the use and benefit of the Loveland Museum/Gallery; and

WHEREAS, on April 13, 2011, the Library Board adopted a motion recommending that the City Council consent to the termination of the designated principal of the Trust and accept a distribution of fifteen percent of the Trust assets to the City for the use and benefit of the Loveland Public Library; and

WHEREAS, the City Council desires to consent to the termination of the designated principal of the Trust and accept a distribution of the Trust assets to the City for the use and benefit of the Loveland Public Library and the Loveland Museum/Gallery as being in the best interests of the citizens of Loveland.

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

Section 1. That the City Council hereby consents to the termination of the designated principal of the Trust and accepts a distribution of fifteen percent of the Trust assets to the City for the use and benefit of the Loveland Public Library, and fifteen percent of the Trust assets to the City for the use and benefit of the Loveland Museum/Gallery.

Section 2. That the City Manager, in consultation with the City Attorney, is hereby authorized to execute for both distributions a Receipt and Release in the form attached hereto as Exhibits A-1 and A-2 and incorporated herein by reference, and any other documents required by the Trustee to effectuate the City's consent and acceptance as stated in Section 1 above.

Section 3. That, consistent with the expressed desire of the Trustor, George K. Kroh (the "Trustor"), the City Council hereby affirms the City's intention to use the Trust assets distributed to the City on behalf of the Loveland Public Library for the use and benefit of the Loveland Public Library; provided, however, that said assets shall not be used for ordinary operating expenses. The Library Board shall review any request to appropriate money from the Trust assets to be used for the benefit of the Loveland Public Library and shall advise the City Council with regard to all such requests.

Section 4. That, consistent with the expressed desire of the Trustor, the City Council hereby affirms the City's intention to use the Trust assets distributed to the City on behalf of the Loveland Museum/Gallery for the use and benefit of the Loveland Museum/Gallery, and specifically for the support and encouragement of art exhibitions and for the acquisition of tangible permanent art objects. The Cultural Services Board shall review any request to appropriate money from the Trust assets to be used for the benefit of the Museum/Gallery and shall advise the City Council with regard to all such requests.

Section 5. That, consistent with the expressed desire of the Trustee, the City Council hereby affirms the City's intention to use the Trust assets distributed to the City for the use and benefit of the Loveland Public Library and the Loveland Museum/Gallery as a supplement to, and not as a replacement for, funds budgeted and appropriated to the Loveland Public Library and the Loveland Museum/Gallery from the General Fund of the City.

Section 6. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 19th day of April, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibits A-1 and A-2 are available in the City Clerk's Office

8. DEVELOPMENT SERVICES

TEMPORARY DISCONNECT – MYERS GROUP PARTNERSHIP #949 SECOND SUBDIVISION

1ST Rdg Ord & P.H.

This item was removed from the consent agenda.

9. DEVELOPMENT SERVICES

Annexation & Zoning – Timka First Addition

a) Resolution #R-25-2011

Legislative Action: A Public Hearing for the Timka First Addition Annexation was held and Resolution #R-25-2011 concerning the annexation to the City of Loveland, Colorado, of a certain area designated as "Timka First Addition" more particularly described herein, and setting forth findings of fact and conclusions based thereon as required by the Colorado Constitution and by State Statute was approved.

RESOLUTION #R-25-2011

A RESOLUTION CONCERNING THE ANNEXATION TO THE CITY OF LOVELAND, COLORADO, OF A CERTAIN AREA DESIGNATED AS "TIMKA FIRST ADDITION" MORE PARTICULARLY DESCRIBED

HEREIN, AND SETTING FORTH FINDINGS OF FACT AND CONCLUSIONS BASED THEREON AS
REQUIRED BY THE COLORADO CONSTITUTION AND BY STATE STATUTE

WHEREAS, on January 12, 2011, a Petition for Annexation was filed by persons comprising more than fifty percent (50%) of the landowners in the area described on Exhibit A, attached hereto and incorporated herein, who own more than fifty percent (50%) of said area, excluding public streets and alleys; and

WHEREAS, said petition requests the City of Loveland to annex said area to the City; and

WHEREAS, pursuant to Resolution No. R-16-2011, the City Council found that said petition substantially complies with and meets the requirements of Section 30(1)(b) of Article II of the Colorado Constitution and of §31-12-107(1), C.R.S.; and

WHEREAS, on April 19, 2011, commencing at 6:30 p.m., pursuant to the notice required by §31-12-108, C.R.S., the City Council held a public hearing to determine whether the area proposed to be annexed complies with the applicable requirements Section 30 of Article II of the Colorado Constitution and of §§31-12-104 and 31-12-105, C.R.S., and is eligible for annexation; whether or not an election is required under Section 30(1)(a) of Article II of the Colorado Constitution and of §31-12-107(2), C.R.S.; and whether or not additional terms and conditions are to be imposed; now, therefore,

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

1. The City Council of the City of Loveland makes the following findings of fact:

A. The subject Petition for Annexation was signed by persons comprising more than fifty percent (50%) of the landowners in the area proposed to be annexed, who own more than fifty percent (50%) of said area, excluding public streets and alleys.

B. Pursuant to Resolution No. R-16-2011, the City Council found that said petition substantially complies with and meets the requirements of Section 30(1)(b) of Article II of the Colorado Constitution §31-12-107(1), C.R.S.

C. Pursuant to Resolution No. R-16-2011, a public hearing was held on March 15, 2011, commencing at the hour of 6:30 p.m., to determine whether the proposed annexation complies with the applicable requirements of Section 30 of Article II of the Colorado Constitution §§31-12-104 and 31-12-105, C.R.S.; whether an election is required under Section 30(1)(a) of Article II of the Colorado Constitution §31-12-107(2), C.R.S.; and whether additional terms and conditions are to be imposed.

D. Notice of said public hearing was published in The Loveland Reporter Herald on March 19 and 26 and April 2 and 9, 2011, in the manner prescribed by §31-12-108(2), C.R.S. The Loveland Reporter Herald is a newspaper of general circulation in the area proposed to be annexed. Copies of the published notices, together with a copy of said resolution and a copy of said petition, were sent by registered mail by the City Clerk to the Board of County Commissioners of Larimer County and to the Larimer County Attorney and to all special districts and school districts having territory within the area proposed to be annexed at least 25 days prior to the date fixed for said hearing.

E. The land to be annexed lies entirely within the City of Loveland Growth Management Area, as depicted in the 2005 Comprehensive Plan, as amended. Therefore, pursuant to Section 3.3.1 of the Intergovernmental Agreement with Larimer County, the annexation impact report requirement of §31-12-108.5, C.R.S. has been waived.

F. The perimeter of the area proposed to be annexed within Serial Parcel 1 is 1966.50 linear feet, of which 331.17 linear feet are contiguous to the City of Loveland. Not less than one-sixth of the perimeter of said area is contiguous with the City of Loveland. The perimeter of the area proposed to be annexed within Serial Parcel 2 is 1966.15 linear feet, of which 331.00 linear feet are contiguous to the City of Loveland. Not less than one-sixth of the perimeter of said area is contiguous with the City of Loveland.

G. A community of interest exists between the area proposed to be annexed and the City of Loveland.

H. The area proposed to be annexed is urban or will be urbanized in the near future, and said area is integrated with or is capable of being integrated with the City of Loveland.

I. No land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, is divided into separate parts or parcels without the written consent of the landowners thereof unless such tracts or parcels are separated by a dedicated street, road, or other public way.

J. No land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising 20 acres or more and which, together with the buildings and improvements situated thereon, has a valuation for assessment in excess of \$200,000 for ad valorem tax purposes for the year next preceding the annexation, is included within the area proposed to be annexed without the written consent of the landowner or landowners.

K. No annexation proceedings have been commenced for the annexation to another municipality of part or all of the area proposed to be annexed.

L. The annexation of the area proposed to be annexed will not result in the detachment of the area from any school district and the attachment of the same to another school district.

M. The annexation of the area proposed to be annexed would not have the effect of extending the boundary of the City of Loveland more than three miles in any direction from any point of such boundary in any one year.

N. In establishing the boundaries of the area proposed to be annexed, the entire width of any platted street or alley to be annexed is included within said area.

O. The annexation of the area proposed to be annexed will not deny reasonable access to any landowner, owner of an easement or owner of a franchise adjoining a platted street or alley which is included in said area but which is not bounded on both sides by the City of Loveland.

2. The City Council reaches the following conclusions based on the above findings of fact:

A. The proposed annexation of the area described on Exhibit A complies with and meets the requirements of the applicable parts of Section 30 of Article II of the Colorado Constitution §§31-12-104 and 31-12-105, C.R.S.

B. No election is required under Section 30(1)(a) of Article II of the Colorado Constitution §31-12-107(2), C.R.S.

C. No additional terms and conditions are to be imposed.

3. This Resolution shall become effective on the date and at the time of its adoption.

APPROVED the 19th day of April, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

b) 1st Rdg Ord & P.H.

Legislative Action: A motion making the findings of fact set forth in Section VI of the January 24, 2011 Planning Commission staff report and "AN ORDINANCE APPROVING THE ANNEXATION OF CERTAIN TERRITORY TO THE CITY OF LOVELAND, COLORADO, TO BE KNOWN AND DESIGNATED AS "TIMKA FIRST ADDITION" TO THE CITY OF LOVELAND", subject to the terms of annexation set forth in Section III, of Staff memorandum dated April 19, 2011, listed below, was approved and ordered published on first reading.

Terms of Annexation

Planning Commission and City staff recommends the following revised terms of annexation:

1. Upon annexation of the property, all development and redevelopment of the property shall be governed by the Development Standards in Attachment #2, as well as all applicable codes, standards and policies of the City. These Development Standards shall be incorporated into the Annexation Agreement between the Owner and the City.

2. When reviewing and acting upon any application for a use permitted by special review, the City shall be authorized to consider the goals, objectives and criteria for the E-Employment Center land use category, as set forth in the 2005 Comprehensive Plan, as amended. Applications that do not meet the intent of the goals, objectives and criteria for the E-Employment Center land use category, as set forth in the 2005 Comprehensive Plan, as amended, may be disapproved by the City.

3. Upon annexation and zoning into the City, and notwithstanding the provisions of Sections 18.36.010 and 18.36.020 of the City of Loveland Municipal Code, the following uses shall not be permitted on this site:

- a. Crematorium
- b. Heavy industrial
- c. Truck stop
- d. Junkyard
- e. Packing facility
- f. Jails, detention and penal center
- g. Outdoor storage as a principle use
- h. Sexually Oriented Businesses
- i. Recycling collection facility attended
- j. Recycling collection facility unattended

4. Upon annexation and zoning into the City, and notwithstanding the provisions of Sections 18.36.010 and 18.36.020 of the City of Loveland Municipal Code, all uses normally permitted by right and all uses normally permitted by special review in the E-Employment District shall also be permitted on this property as specified in Chapter 18.30 of the City of Loveland Municipal

Code. In cases where a use is allowed in the I zone by right but normally requires a special review in the E zone, the uses allowed by right in the I zone shall govern.

Transportation Engineering:

5. All future development within this addition shall comply with the Larimer County Urban Area Street Standards (LCUASS), the 2030 Transportation Plan, and any updates to either in effect at the time of a building permit, and/or a site-specific development application. Any and all variances from these standards and plans require specific written approval by the City Engineer.

6. Notwithstanding any conceptual information presented in the Annexation/Zoning submittal; street layout, street alignments, access locations, intersection configurations and intersection operations (traffic controls) shall be determined at the time of application for a building permit, and/or a site-specific development application.

7. The owner shall dedicate to the City, at no cost to the City, right-of-way for all street facilities adjacent to , or within, this addition that are shown on the adopted Transportation Plan prior to approval of a building permit and/or a site specific development application within this addition. Furthermore, the owner shall dedicate additional right-of-way for SH 402 on any future platting application for the property in order to achieve a 70-foot total half right-of-way on SH 402 adjacent to the property.

8. The developer agrees to acquire, at no cost to the City, any off-site right-of-way necessary for mitigation improvements. Prior to the approval of a building permit, and-or a site specific development application within this addition, the developer shall submit documentation satisfactory to the City, establishing the Developer's unrestricted ability to acquire sufficient public right-of-way for the construction and maintenance of any required street improvements to both adjacent and off-site streets.

9. The ultimate roadway improvements, including sidewalk, adjacent to the property for SH 402 shall be designed and constructed by the developer, unless designed and constructed by others. A cash-in-lieu payment may be accepted for all or part of the improvements, if approved in writing by the City Engineer. The timing and detailed scope of these improvements will be determined through review and approval of the building permit application and/or a site-specific development application.

10. Any future proposed development within the addition shall submit a Traffic Impact Study and demonstrate compliance with current City Standards at the time of development.

11. Any future proposed development within the addition shall obtain written concurrence from CDOT for access to SH 402.

Water/Wastewater:

12. At the time of Development, the Developer shall, provide the City a Water and Wastewater Impact Design Analysis Report for the Development.

Power:

13. All plats f this property shall include the following note:

"When the property being annexed into the City of Loveland is currently located within the REA certified territory, this property is subject to a five percent (5%) surcharge on electrical energy as defined in 40-9.5-204, CRS, and the City of Loveland Municipal Code 13.12.180. This surcharge applies to any subsequent subdivisions of property annexed after January 31, 1987 within the REA certified service territory. A surcharge of 5% will be added to all bills for the sale of electric power to additional services which came into the existence after January 31, 1987, within the territory herein annexed which surcharge will expire ten years after effective date of this annexation."

c) 1st Rdg Ord & P.H.

Quasi-judicial Action: A motion making the findings set forth in Section VI of the January 24, 2011 Planning Commission staff report and "AN ORDINANCE AMENDING SECTION 18.04.040 OF THE LOVELAND MUNICIPAL CODE, THE SAME RELATING TO ZONING REGULATIONS FOR "TIMKA FIRST ADDITION" TO THE CITY OF LOVELAND" was approved and ordered published on first reading.

10. DEVELOPMENT SERVICES

Rezone of Property- 1629 West 8th Street

1st Rdg Ord & P.H.

Quasi-judicial Action: A public hearing was held and "AN ORDINANCE AMENDING SECTION 18.04.040 OF THE LOVELAND MUNICIPAL CODE, THE SAME RELATING TO ZONING REGULATIONS FOR CERTAIN PROPERTY LOCATED IN THE NORTH

Taft Avenue First Addition, City of Loveland, Larimer County, Colorado" was approved and ordered published on first reading.

END OF CONSENT AGENDA

CITY CLERK READ TITLES OF ORDINANCES ON THE CONSENT AGENDA.

CITY COUNCIL

a) Citizens' Reports

- John Metters, citizen, distributed information to City Council regarding fluoride in the water.
- Troy Krenning, citizen, congratulated Council and staff regarding the ACE Manufacturing and Technology Park.

b) Business from Council

McKean	Councilor McKean highlighted activities around the annual spring waterway cleanup event held the previous Saturday.
Shaffer	Councilor Shaffer also commented about the waterway clean-up and expressed appreciation to city staff member Joe Chaplin.
Gutierrez	Mayor Gutierrez expressed appreciation to Rob McDaniel for the Arbor Day activities. He attended the grand opening of Studio Vino and the 8 th grade career walking tours held in Loveland. The Mayor and City Manager Cahill will attend Senator Mark Udall's meeting on Thursday, April 21, on the topic of "Winning the Global Economic Race". The Mayor announced Transarrow Helicopter will be relocating to the Fort Collins-Loveland Airport.
c) City Manager Report	None
d) City Attorney Report	None

PROCEDURAL INFORMATION

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

REGULAR AGENDA

CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA

8. DEVELOPMENT SERVICES

TEMPORARY DISCONNECT – MYERS GROUP PARTNERSHIP #949 SECOND SUBDIVISION

1ST Rdg Ord & P.H.

Legislative Action: City Planner Brian Burson introduced this item to Council. This item is a legislative action to adopt an ordinance, on first reading, to temporarily disconnect Outlot B of the Myers Group Partnership #949 Second Subdivision from the City. This will be the first step to prepare for the subsequent annexation of the Motorplex Entry Addition, of which this outlot will be a part. The applicant and sole owner is the City of Loveland. The Mayor opened the public hearing at 7:29 p.m. F. Lee Severance, 833 E. 33rd Street, spoke in opposition to the ordinance. The Mayor closed the public hearing at 7:29 p.m. Councilor McEwen made a motion to approve and ordered published on first reading "AN ORDINANCE APPROVING THE DISCONNECTION OF A CERTAIN PARCEL IN THE MYERS GROUP PARTNERSHIP # 949 ADDITION FROM THE CITY OF LOVELAND BOUNDARIES". Councilor Klassen seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

11. DEVELOPMENT SERVICES

Rialto Bridge Project

Administrative Actions: City Planner Mike Scholl introduced this item to Council. Phil Farley and Troy Peterson were also present. This is an administrative action to consider a resolution and a supplemental appropriation ordinance on second reading.

1. The resolution would authorize the City Manager to sign the Project Development Agreement with the Rialto Bridge LLC. The Agreement and the Staff Report are attached.

2. The supplemental budget appropriation funds the \$700,000 contribution by the Community Foundation. The Community Foundation is funding approximately 3,500 square feet of construction on the 2nd floor. Staff is also asking for an additional \$318,780 to complete the construction and \$178,920 for the construction contingency. The funds will be drawn from the Cultural Services CEFs.

a) Resolution #R-26-2011

Councilor McEwen made a motion to approve Resolution #R-26-2011 approving and authorizing the City Manager to execute the project development agreement for the Rialto Bridge Project. Councilor Heckel seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

RESOLUTION #R-26-2011

A RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROJECT DEVELOPMENT AGREEMENT FOR THE RIALTO BRIDGE PROJECT

WHEREAS, the City owns that certain real property known as the Rialto Theater located 228 Fourth Street, Loveland, Colorado (the "Rialto") and the adjacent real property and building located at 224 Fourth Street, Loveland, Colorado (the "City Property"); and

WHEREAS, Rialto Bridge, LLC ("Developer") owns that certain real property and building located at 218 Fourth Street, Loveland, Colorado (the "Developer Property"), which is adjacent to the City Fourth Street Property; and

WHEREAS, City and Developer desire to jointly develop the City Property and the Developer Property (sometimes referred to herein collectively as the "Properties") as an integrated public-private project to complement and supplement the Rialto Theater, including public spaces suitable for utilization by the City as lobby, circulation, and concession areas, "back of house" facilities, mechanical and administrative/operational space for the Rialto Theater, and public office and meeting spaces (the "Public Spaces"), and to create complementary private spaces suitable for private restaurant, and commercial uses ("Private Spaces"). The Public Spaces and Private Spaces, as well as the common areas serving such space, will be located in a new building constructed on the Properties and physically connected to the Rialto Theater, are hereinafter referred to collectively as the "Project"; and

WHEREAS, on June 1, 2010, City Council adopted Resolution #R-21-2010 approving and authorizing the City Manager to execute the Project Design Agreement for the Project, which was executed and dated June 20, 2010 (the "Design Agreement"); and

WHEREAS, the City and Developer have completed the Project Plans under the Design Agreement and desire to enter into the Project Development Agreement attached hereto as Exhibit A and incorporated herein by this reference (the "Agreement") to construct the Project; and

WHEREAS, the Agreement includes a limited Materials Use Tax waiver, as more fully set forth therein; and

WHEREAS, the Project will serve the public purposes of providing significant social, cultural, and economic benefits to the citizens of Loveland, including jobs, economic development and revitalization of the Downtown area, enhanced cultural facilities, and increased tax revenues.

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

Section 1. That the City Council hereby finds that the Project is in the best interests of the public and the City and will serve the public purposes of providing significant social and economic benefits to the citizens of Loveland, including the provision of jobs, economic development, increased tax revenues, and cultural benefits to the citizens of Loveland.

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

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

Section 4. That after execution of the Agreement and following consultation with the City Attorney, the City Manager and the City Clerk are hereby authorized and to: (i) sign the Condominium Declaration attached to the Agreement and the Condominium Map referred to therein, and the City Manager is authorized to agree on the City's behalf to such modifications in form or substance to the Condominium Declaration as the City Manager determines are necessary to effectuate the purposes of this resolution or to protect the interests of the City; and (ii) to execute and deliver such additional agreements, plats, deeds, and documentation and take such action, himself or through duly authorized designees, as may be necessary or appropriate to implement the Agreement and operate the Project within budgets approved and appropriated by Council from time to time.

Section 5. That this Resolution shall go into effect as of the date and time of its adoption.

ADOPTED this 19th day of April, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

b) Ordinance #5571

Councilor McEwen made a motion to approve and ordered published on second reading "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR THE COMMUNITY FOUNDATION CONTRIBUTION AND ADDITIONAL CONSTRUCTION AND CONTINGENCY FUNDING TO THE RIALTO BRIDGE PROJECT". Councilor Shaffer seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

12. FINANCE

REAPPROPRIATION OF 2010 FUNDS (GENERAL FUND & AIRPORT)

Administrative Actions: Assistant City Manager and Finance Director Renee Wheeler introduced this item to Council. The Ordinances reappropriate funding for capital projects and other one-time projects approved but not completed in the prior year and a small number of new projects that were not anticipated at the time of budget adoption. The Mayor opened the public hearing at 8:25 p.m. and hearing no comments closed the public hearing at 8:25 p.m.

a) 1st Rdg Ord & P.H.

Councilor McEwen made a motion to approve and ordered published on first reading "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET TO REAPPROPRIATE REMAINING FUNDS FOR PROJECTS APPROVED BUT NOT COMPLETED IN 2010 AND NEW PROJECTS". Councilor Klassen seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

b) 1st Rdg Ord & P.H.

Councilor McEwen made a motion to approve and ordered published on first reading "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 FT. COLLINS-LOVELAND MUNICIPAL AIRPORT BUDGET TO APPROPRIATE FUNDS FOR PROJECTS APPROVED BUT NOT COMPLETED IN 2010 AND FOR COMPENSATION TO THE PUBLIC WORKS DIRECTOR FOR EXTRA DUTIES". Councilor McKean seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

At 8:27 p.m. City Council adjourned and reconvened as the Board of Commissioners for the Loveland Urban Renewal Authority (LURA)

13. FINANCE

Reappropriation of 2010 Funds

1st Rdg Ord & P.H.

Administrative Action: Budget Officer John Hartman introduced this item to Council. This is an administrative action. The ordinance reappropriates the remaining balance of funding put in place for the program. Fund balance is available for the appropriation.

The Mayor opened the public hearing at 8:28 p.m. and hearing no comments closed the hearing at 8:28 p.m. Councilor McEwen made a motion to approve and ordered published on first reading "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 LOVELAND URBAN RENEWAL AUTHORITY BUDGET FOR THE FAÇADE GRANT PROGRAM". Councilor Shaffer seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

At 8:30 p.m. the Board of Commissioners for the Loveland Urban Renewal Authority (LURA) adjourned and reconvened as City Council.

14. FINANCE

Employee Merit-Based Recognition Program

Administrative Actions: Assistant City Manager and Finance Director Renee Wheeler introduced this item to Council. This is an administrative action. The positive General Fund budget performance both in terms of revenues in excess of the budget and expenditures below the budget allowed for the 2010 ending fund balance to exceed the projected ending fund balance by \$3.8 million. The proposal is to use one quarter of that additional fund balance to recognize employees with lump sum raises based on performance in 2010. The lump sum raise is preferred to a percentage added to the employees' base pay to prevent cumulative impacts on future year budgets. The Mayor opened the public hearing at 8:32 p.m. and hearing no comments closed the public hearing at 8:32 p.m.

a) 1st Rdg Ord & P.H.

Councilor McEwen made a motion to approve and ordered published on first reading "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR THE EMPLOYEE MERIT-BASED RECOGNITION PROGRAM". Councilor McKean seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

b) 1st Rdg Ord & P.H.

Councilor McEwen made a motion to approve and ordered published on first reading "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 FT. COLLINS-LOVELAND MUNICIPAL AIRPORT BUDGET FOR THE EMPLOYEE MERIT-BASED RECOGNITION PROGRAM". Councilor McKean seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

c) 1st Rdg Ord & P.H.

Councilor McEwen made a motion to approve and ordered published on first reading "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 LOVELAND-LARIMER BUILDING AUTHORITY BUDGET FOR THE EMPLOYEE MERIT-BASED RECOGNITION PROGRAM". Councilor McKean seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

15. DEVELOPMENT SERVICES

Municipal Code Amendments – Appeals Provisions

Legislative Actions: Planning Manager Bob Paulson introduced this item to Council. This item considers the adoption of an ordinance on first reading: (i) amending Title 16 and Title 18 relating to appeals of subdivision, zoning and land use actions; (ii) adding Chapter 18.80 to consolidate and clarify appeal provisions; (iii) amending Chapter 18.60 concerning the Zoning Board of Adjustment; and (iv) amending Chapter 18.52 concerning Supplementary Regulations; and adoption of a resolution amending the appeal provisions in the Site Development Performance Standards and Guidelines to ensure procedural consistency. The Mayor opened the public hearing at 8:50 p.m. Troy

Krenning, Planning Commission member, spoke in favor of Ordinance "B" which retains a Zoning Board of Adjustment Hearing Officer. Buddy Meyers, Planning Commission member spoke in favor of Ordinance "B". Rich Middleton, Planning Commission member spoke in favor of Ordinance "B". The Mayor closed the public hearing at 8:55 p.m. The Planning commission will periodically review decisions made by the hearing officer and determine appropriateness.

a) Ordinance Removed

b) 1st Rdg Ord & P.H.

Councilor McEwen made a motion to approve and ordered published on first reading "AN ORDINANCE AMENDING TITLES 16 AND 18 OF THE LOVELAND MUNICIPAL CODE BY REVISING PROVISIONS OF TITLES 16 AND 18 WHICH RETAIN THE ZONING BOARD OF ADJUSTMENT HEARING OFFICER AND ENACTING A NEW CHAPTER 18.80 REGARDING APPEAL PROVISIONS". Councilor Heckel seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

c) Resolution #R-27-2011

Councilor McEwen made a motion to approve Resolution #R-27-2011 amending the City of Loveland Site Development Performance Standards and Guidelines adopted October 1989, updated January 2000. Councilor McKean seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

RESOLUTION # R-27-2011

A RESOLUTION AMENDING THE CITY OF LOVELAND SITE DEVELOPMENT PERFORMANCE STANDARDS AND GUIDELINES ADOPTED OCTOBER 1989, UPDATED JANUARY 2000

WHEREAS, in October 1989 the City adopted Site Development Performance Standards and Guidelines, as amended in August, 2007, that provide supplemental development standards to Title 18, "Zoning," of the Loveland Municipal Code; and

WHEREAS, modification to the Site Development Performance Standards and Guidelines is necessary for updating general provisions, as well as updating procedures for appeals; and

WHEREAS, Section 18.47.020 of the Municipal Code provides that the Site Development Performance Standards and Guidelines may be amended from time to time by resolution of the City Council.

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

Section 1. That Section 5.01 of the City of Loveland Site Development Performance Standards and Guidelines, adopted 1989, as amended in August 2007, is hereby amended as provided in Exhibit A, a copy of which is attached hereto and incorporated herein.

Section 2. That this resolution shall take effect as of the date and time of its adoption.

ADOPTED this 19th Day of April, 2011

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

16. CITY MANAGER

Discussion and consideration of any needed action concerning the ACE Manufacturing and Innovation Park

No discussion or action was considered at this meeting. Councilor McEwen made a motion to call a special meeting for April 26, 2011 at 6:30 p.m. immediately preceding the study session in these Council Chambers. The subject matter is ACE Manufacturing and Innovation Park. Councilor Heckel seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

ADJOURNMENT

Having no further business to come before Council, the April 19, 2011 Regular Meeting was adjourned at 9:25 p.m.

Respectfully Submitted,

Teresa G. Andrews, City Clerk

Cecil A. Gutierrez, Mayor



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

AGENDA ITEM: 2
MEETING DATE: 5/3/2011
TO: City Council
FROM: Greg George, Development Services Director
PRESENTER: Kerri Burchett, Current Planning

TITLE:

AN ORDINANCE AMENDING SECTION 18.04.040 OF THE LOVELAND MUNICIPAL CODE, THE SAME RELATING TO ZONING REGULATIONS FOR CERTAIN PROPERTY LOCATED IN THE NORTH TAFT AVENUE FIRST ADDITION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO.

DESCRIPTION:

A quasi-judicial action to adopt an ordinance on second reading to rezone a 0.50-acre property located at 1629 W. 8th Street from R2 Developing Two-Family Residential to A Muse Planned Unit Development. The PUD includes a non-phased preliminary development plan which is integral to the rezoning application. The property is located on the north side of W. 8th Street, west of N. Taft Avenue and east of Kelly Drive. The applicant is Kyle Dallabetta.

BUDGET IMPACT:

☐ Yes ☒ No

SUMMARY:

The preliminary development plan would allow the conversion of a residential house into a small coffee shop and art gallery. No exterior modifications to the structure or site are proposed. The property was annexed into the City as part of an enclave and zoned R2 Developing Two-Family Residential. Other uses occurring on the site, as granted in the annexation agreement, include an existing 1,740 square foot art studio. The Planning Commission recommended approval of the rezoning/preliminary development plan at a public hearing on March 28, 2011. City Council voted unanimously to adopt the ordinance on first reading on April 19, 2011.

LIST OF ATTACHMENTS:

A. Ordinance

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion for City Council action:

Move to adopt on second reading AN ORDINANCE AMENDING SECTION 18.04.040 OF THE LOVELAND MUNICIPAL CODE, THE SAME RELATING TO ZONING REGULATIONS FOR CERTAIN PROPERTY LOCATED IN THE NORTH TAFT AVENUE FIRST ADDITION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO.

REVIEWED BY CITY MANAGER:

FIRST READING: April 19, 2011

SECOND READING: May 3, 2011

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION 18.04.040 OF THE LOVELAND MUNICIPAL CODE, THE SAME RELATING TO ZONING REGULATIONS FOR CERTAIN PROPERTY LOCATED IN THE NORTH TAFT AVENUE FIRST ADDITION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO

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

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

That the territory located within the North Taft Avenue First Addition, City of Loveland, Larimer County, Colorado, and more particularly described as:

That portion of the North Taft Avenue First Addition, to the City of Loveland, Colorado being a portion of the Northeast Quarter of Section 15, Township 5 North, Range 69 West of the Sixth Principal Meridian, City of Loveland, County of Larimer, Colorado, more particularly described as follows:

Considering the South line of Said Northeast Quarter as bearing North 90°00'00" West, with all bearings contained herein relative thereto:

Commencing at the Southeast Corner of the Northeast Quarter of said Section 15:

thence North 90°00'00" West, a distance of 660.00 feet;

thence North 00°00'00" East, a distance of 27.41 feet to the POINT OF BEGINNING;

thence continuing North 00°00'00" East, along the East Line of the Romar Addition to the City of Loveland, a distance of 137.59 feet;

thence departing said East Line, North 90°00'00" East, a distance of 156.00 feet;

thence South 00°00'00" West, a distance of 135.20 feet, to a point on the North right-of-way line of West Eight Street;

thence South 89°07'17" West, along said North right-of-way line, a distance of 156.02 feet to the POINT OF BEGINNING.

Which territory is now included within the boundaries designated as R2 – Developing Two-Family Residential District, shall be included within the boundaries of the district designated as follows:

"A Muse Planned Unit Development, P-104"

The above described property contains 21,277.81 square feet or 0.4885 acres, more or less, and is further subject to all Rights-of-Way, Easements, Restrictions and Agreements, written or unwritten, now existing, or of record.

Section 2. That the **A Muse Planned Unit Development, P-104** shall be subject to all applicable zoning regulations for the City of Loveland except where they conflict with any Preliminary Development Plan or Final Development Plan applicable to the property.

Section 3. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

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

Signed this ____ day of _____, 2011.

ATTEST:

CITY OF LOVELAND, COLORADO:

City Clerk

Mayor

APPROVED AS TO FORM:


Assistant City Attorney



CITY OF LOVELAND
DEVELOPMENT SERVICES DEPARTMENT
Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
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AGENDA ITEM: 3
MEETING DATE: 5/3/2011
TO: City Council
FROM: Greg George, Development Services Director
PRESENTER: Brian Burson, Current Planning Division

TITLE:

AN ORDINANCE APPROVING THE DISCONNECTION OF A CERTAIN PARCEL IN THE MYERS GROUP PARTNERSHIP # 949 ADDITION FROM THE CITY OF LOVELAND BOUNDARIES

DESCRIPTION:

Consideration of a legislative action to adopt an ordinance, on second reading, to temporarily disconnect Outlot B of the Myers Group Partnership # 949 Second Subdivision from the City. This will be the first step to prepare for the subsequent annexation of the Motorplex Entry Addition, of which this outlot will be a part. The applicant and sole owner is the City of Loveland.

BUDGET IMPACT:

☐ Yes ☒ No

SUMMARY:

The site is located at the southeast corner of Crossroads Boulevard and Byrd Drive, just west of the interchange of Crossroads Boulevard and I-25. It is currently a landscaped open space related to this intersection and the adjacent Co's BMW. Disconnection of this parcel will prepare for a subsequent, and more extensive, annexation to be known as Motorplex Entry Addition. The subsequent annexation will reincorporate Outlot B into the City, as well as the connecting existing rights-of-way for Crossroads Boulevard, portions of Byrd Drive, the interchange of Crossroads Boulevard and I-25, and I-25 itself extending from this intersection to Larimer County Road #30.

On April 19, 2011, City Council voted unanimously to approve the ordinance on first reading as part of the Consent Agenda. The annexation is currently scheduled for City Council consideration in June 2011.

LIST OF ATTACHMENTS:

- A. Ordinance for disconnection
 - B. Vicinity map
 - C. Context map
-

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion for City Council action:

“Move to adopt on second reading, 'AN ORDINANCE APPROVING THE DISCONNECTION OF A CERTAIN PARCEL IN THE MYERS GROUP PARTNERSHIP # 949 ADDITION FROM THE CITY OF LOVELAND BOUNDARIES'”

REVIEWED BY CITY MANAGER:

FIRST READING: April 19, 2011

SECOND READING: May 3, 2011

ORDINANCE NO. _____

**AN ORDINANCE APPROVING THE DISCONNECTION OF A CERTAIN
PARCEL IN THE MYERS GROUP PARTNERSHIP # 949 ADDITION FROM
THE CITY OF LOVELAND BOUNDARIES**

WHEREAS, the City desires to annex certain portions of existing public rights-of-way dedicated for Crossroads Boulevard, Byrd Drive and Interstate 25 between Crossroads Boulevard and Larimer County Road No. 30 (the “Rights-of-Way”); and,

WHEREAS, annexation of the Rights-of-Way will further the purposes of the City of Loveland 2005 Comprehensive Plan, as amended, and the City’s 2030 Transportation Master Plan, as amended, and further secure financial resources for public street and road improvements within or adjacent to the Rights-of-Way; and,

WHEREAS, in order for the City to annex the Rights-of-Way, the City must disconnect a parcel of real property now located in the City within the Myers Group Partnership # 949 Addition, which parcel is legally described in Section 3 below (the “Parcel”); and,

WHEREAS, the City intends to re-annex the Parcel in conjunction with the City’s annexation of the Rights-of-Way; and,

WHEREAS, A Petition for Disconnection of the Parcel was filed with the City of Loveland on March 4, 2011, by Loveland City Manager William D. Cahill, on behalf of the City of Loveland, the sole owner of the Parcel.

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

Section 1. That the City Council hereby finds and determines that the City’s best interests will not be prejudiced by the requested disconnection of the Parcel, this disconnection does not conflict with any state statute, and this disconnection is authorized under Article XX of the Colorado Constitution, Section 2-4 of the Loveland City Charter and, to the extent applicable, under C.R.S. §31-12-501.

Section 2. That the City Council hereby further finds that it is necessary and proper to adopt this Ordinance for the public’s health, safety and welfare to facilitate the City’s annexation of the Rights-of-Way to further the purposes of the City’s 2005 Comprehensive Plan and its 2030 Transportation Plan.

Section 3. That the Parcel, which is hereafter legally described, is hereby disconnected from the boundaries of the City of Loveland, Colorado:

OUTLOT B, MYERS GROUP PARTNERSHIP #949 SECOND SUBDIVISION, CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO,

a tract of land containing 11,141 square feet, more or less.

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

Section 5. That when this Ordinance becomes law, the City Clerk shall file two certified copies of this Ordinance with the Larimer County Clerk and Recorder with directions to the Clerk and Recorder to file one of the certified copies with the Division of Local Government in the Colorado Department of Local Affairs as provided in C.R.S. Section 24-32-109.

Signed this _____ day of _____, 2011.

ATTESTED:

CITY OF LOVELAND, COLORADO:

City Clerk

Mayor

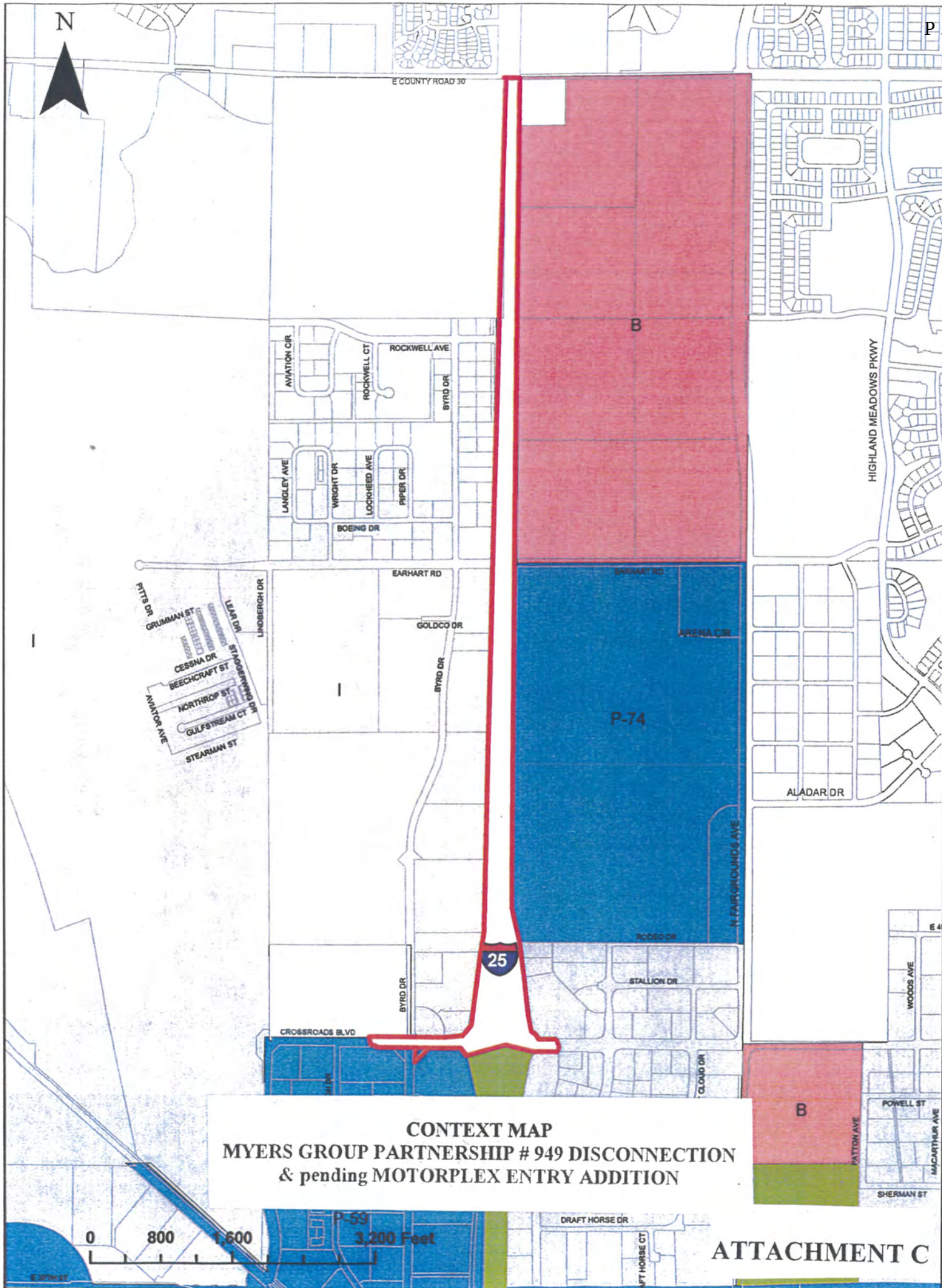
APPROVED AS TO FORM:


Assistant City Attorney



VICINITY MAP
Myers Group Disconnection

ATTACHMENT B





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

AGENDA ITEM: 4

MEETING DATE: 5/3/2011

TO: City Council

FROM: Greg George, Development Services Department

PRESENTER: Bethany Clark, Community and Strategic Planning

TITLE:

AN ORDINANCE OF THE CITY COUNCIL DESIGNATING AS A HISTORIC LANDMARK THE REMINGTON HOUSE LOCATED AT 1005 NORTH GARFIELD AVENUE IN LOVELAND, COLORADO

DESCRIPTION:

This item is a legislative action to consider approval on second reading of an ordinance to designate as a Historic Landmark the "Remington House" at 1005 North Garfield Avenue. The property would be designated a Historic Landmark under Section 15.56 of the Municipal Code. The application is owner-initiated and staff has met with the owner to review the benefits and obligations of historic designation.

BUDGET IMPACT:

☒ Yes ☐ No

SUMMARY:

On March 21, 2011, the Historic Preservation Commission found the Remington House to be eligible for designation as detailed in the attached staff. On April 19, 2011, City Council unanimously approved the ordinance on first reading, as part of the Consent Agenda.

LIST OF ATTACHMENTS:

- Ordinance designating 1005 North Garfield Avenue to the Loveland Historic Register

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion: move to adopt on second reading AN ORDINANCE OF THE CITY COUNCIL DESIGNATING AS A HISTORIC LANDMARK THE REMINGTON HOUSE LOCATED AT 1005 NORTH GARFIELD AVENUE IN LOVELAND, COLORADO

REVIEWED BY CITY MANAGER:

FIRST READING: April 19, 2011

SECOND READING: May 3, 2011

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL DESIGNATING AS A HISTORIC LANDMARK THE REMINGTON HOUSE LOCATED AT 1005 NORTH GARFIELD AVENUE IN LOVELAND, COLORADO

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

WHEREAS, Section 15.56.090 of the Loveland Municipal Code further provides that landmarks must be at least fifty (50) years old and meet one (1) or more of the criteria for architectural, social/cultural, or geographic/environmental significance; and

WHEREAS, the City of Loveland has, through the Historic Preservation Commission, worked to evaluate the nomination for designation as a landmark of certain property located at 1005 North Garfield Avenue in Loveland, Colorado, known as the Remington House; and

WHEREAS, the Historic Preservation Commission has recommended that the City Council designate the Remington House as a landmark; and

WHEREAS, a duly noticed public hearing has been held on the proposed landmark designation.

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

Section 1. The City Council finds that the Remington House, more particularly described on **Exhibit A**, attached hereto and incorporated herein, satisfies the age requirement and meets the following significant criteria for designation as a landmark to the Loveland Historic Register:

- a.) Architectural
 - 1. Exemplifies specific elements of an architectural style or period.
- b.) Social/Cultural
 - 1. Exemplifies the cultural, political, economic or social heritage of the community.
- c.) Physical Integrity
 - 1. Shows character, interest, or value as part of the development, heritage or cultural characteristics of the community, region, state or nation.
 - 2. Retains original design features, materials, and/or character.

3. Retains its original location.

Section 2. The Remington House, described on **Exhibit A**, is hereby designated as a landmark to the Loveland Historic Register.

Section 3. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

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

Signed this ____ day of _____, 2011

Attest:

CITY OF LOVELAND, COLORADO:

City Clerk

Mayor

APPROVED AS TO FORM:

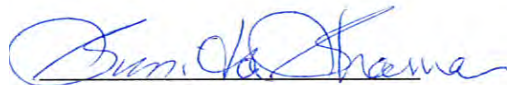

Assistant City Attorney

Exhibit A

LOTS 7-10, LESS THE WEST 63 FEET, BLK 8; AMENDED PLAT OF S ½ BLK 8, LAKESIDE
AMENDED, CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO

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

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

AGENDA ITEM: 5
MEETING DATE: 5/3/2011
TO: City Council
FROM: Renee Wheeler, Finance Department
PRESENTER: John Hartman, Budget Officer

TITLE:

- A. An ordinance on second reading enacting a supplemental budget and appropriation to the 2011 City of Loveland budget to reappropriate remaining funds for projects approved but not completed in 2010 and new projects.
- B. An ordinance on second reading enacting a supplemental budget and appropriation to the 2011 Ft. Collins-Loveland Municipal Airport budget to appropriate funds for projects approved but not completed in 2010 and for compensation to the Public Works Director for extra duties

DESCRIPTION:

This is an administrative action. The Ordinances reappropriate funding for capital projects and other one-time projects approved but not completed in the prior year and a small number of new projects that were not anticipated at the time of budget adoption.

BUDGET IMPACT:

☒ Yes ☐ No

- A. Fund balance generated by savings in the department budgets resulting from expenses that did not occur due to the timing of capital projects is used as the source of funds reappropriated for projects. Several projects include grant funding for which the City has been approved, but the grant funds have not yet been received.
 - B. Fund balance is available due to savings in the 2010 budget from the projects being completed under budget.
-

SUMMARY:

- A. This action is the reappropriation of funds for projects approved in the 2010 Budget that have not been completed or closed out at the end of 2010. By City Charter and state

law, all appropriations for any one fiscal year expire on December 31. Reappropriation is necessary to allow the expenditures of ongoing projects to continue into 2011.

Council approved nearly all of the projects included in the ordinance as a part of the 2010 Budget. Also included are appropriations for some new projects. The funding for these projects is from grants, donations, or savings in the department budgets.

The ordinance is organized by fund, with new revenues and line item appropriations within each fund shown. Negative amounts indicate a budget is being reduced. This occurs in the Water Enterprise, Wastewater Enterprise, and Power Enterprise Funds. In the Water and Power Enterprises, new funds have been created. These new funds are to track System Impact and Plant Investment Fees (SIF and PIF) revenues and expenses. Previously the enterprises had all expenses within one fund. Staff believes the use of two funds will better represent the costs of projects funded through the impact fees by showing them in separate funds.

A detailed explanation of each project or program is included in the attached Staff Report. The descriptions are organized by project with the funding source(s) for each project or program identified. The projects or programs are listed in order of dollar amount. Many capital projects are funded by resources in multiple funds. These resources are transferred to the Capital Projects fund where the total expense for each project is budgeted. This allows the project to be budgeted in one place so the total impact is shown, rather than having to add several components across various funds to the total impact of the project

In the Staff Report, projects approved in 2010 and being “rolled over” into the 2011 Budget are referred to as “reappropriations”, since we are appropriating the remaining balance of the appropriation approved in 2010. New projects or projects that required an increased appropriation recommended by staff are described as “Supplements”, with the reason for the supplement described. In all cases, the supplemental appropriations are funded by savings that occurred in the 2010 budget or by grants and donations. The supplemental requests for new projects include the following projects:

- NIBRS crime statistics reporting program - \$148,680
- Rialto Theater Environmental Remediation - \$110,000
- Furniture and Telephone Replacement for the Dispatch Consoles - \$96,000
- Business Performance Agreements - \$88,500
- Library donation for books and materials - \$49,800
- Roof Replacement - \$40,000
- FDIC Security Details by the Police Department – \$13,880
- Cultural Services programs - \$4,000

Please refer to the Staff Report for details on these recommended supplemental appropriations.

- B. The funding will be used for the completion of the runway repair projects. These projects were approved and included in the 2010 Airport budget, projects were completed under budget. Reappropriation is necessary to make funds available to complete the projects.

These projects are FAA related and funds that were not spent in a calendar year are rolled into the next fiscal year for use at the airport, as required by federal regulation.

Both ordinances were approved by Council on First Reading by a unanimous vote.

LIST OF ATTACHMENTS:

1. Staff Report
 2. An ordinance enacting a supplemental budget and appropriation to the 2011 City of Loveland budget to reappropriate remaining funds for projects approved but not completed in 2010 and new projects
 3. An ordinance on second reading enacting a supplemental budget and appropriation to the 2011 Ft. Collins-Loveland Municipal Airport budget to appropriate funds for projects approved but not completed in 2010 and for compensation to the Public Works Director for extra duties
-

RECOMMENDED CITY COUNCIL ACTION:

Approve the ordinances on second reading

REVIEWED BY CITY MANAGER:

**CITY OF LOVELAND****BUDGET DIVISION**

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

TO: City Council

THROUGH: Bill Cahill, City Manager
Renee Wheeler, Assistant City Manager

FROM: John Hartman, Budget Officer

DATE: April 19, 2011

RE: Staff Report on Projects in the Reappropriation Ordinance

This is an annual appropriation ordinance staff brings to Council. The total projected cost of a project is appropriated in the first year a project is funded. This allows Council and the public to see what the total project will cost and that resources are available to fund the entire project.

State law and the City Charter state that all appropriations cease on December 31, the final day of the fiscal year. Capital projects by their nature take more than one fiscal year to complete for a variety of reasons. This requires the reappropriation of the funding that was not spent on the projects in the prior year in order to make funding available to complete the projects.

Gross appropriations, the sum of the total appropriations for each fund, total \$31.61 million. With the exclusion of the transfers between the various funds; the net appropriation in the ordinance is \$22.48 million. This appropriation is funded by \$3.93 million of grant revenue and \$18.54 million in fund balance.

Of the net appropriation, 37% of the total is in one program, the Library Expansion Project.

73.0% of the total net appropriation is in five projects or programs, the one mentioned above, in addition to the four projects below:

- Storm Water infrastructure improvements;
- The Transportation Program;
- A project to tie the Airport Substation with the East Substation; and
- The Council Incentive Fund

The following is an explanation on a project basis with the funding sources identified. The projects are listed in descending order by the amount of the project.

Projects Reappropriated

Loveland Public Library Department – Library Building Expansion - \$8,258,110

Reappropriation of funding approved in 2010 for design and construction of the expansion project. This amount includes \$387,260 from a Stimulus Grant for Energy Efficiency to have the program be LEED certified.

The funding source is Library Impact Fees, General Government Impact Fees, donations and grants in the amount of \$2 million and a federal stimulus grant.

Public Works Department – Storm Water Enterprise – Storm Water Infrastructure Improvements - \$3,478,970

Reappropriation of funds approved in 2010 for the construction of the improvements. Projects include the following:

- Washington Avenue Outfall Phase IV - \$3,313,990; and
- Seven small miscellaneous projects \$124,980.

The funding source is Storm Water Enterprise Fund balance.

Public Works Department - Transportation Program - \$3,109,080

Reappropriation of funds approved in 2010 for the transportation program. Projects include:

- U.S. 34 and Madison Intersection Design - \$749,020;
- Completion of the I-25 and Crossroads Interchange – 497,410;
- Taft Avenue -14th Street SW Intersection - \$309,390;
- Taft Avenue and Eisenhower Blvd. Intersection Improvements - \$150,000;
- Upgrades to the Traffic Operations Center - \$211,580;
- Madison Avenue – Carlisle Drive to 5th Street SW - \$185,000
- Garfield Avenue at U.S. 34 Right Turn Lane - \$181,580;
- Signal Replacement at 4th Street and Lincoln/Cleveland Avenues - \$118,700; and
- Thirteen small miscellaneous projects - \$706,400.

The funding sources for the projects are from Street Impact Fee revenues in the amount of \$1,613,970, the General Fund from TABOR revenues of \$624,310, General Fund unrestricted fund balance of \$29,000, and Federal or State Grants of \$841,800.

Water and Power Department – Tie the Airport and East Substations - \$825,000

Reappropriation of funds approved in 2010 for right-way acquisition and placing conduit underground.

The funding source is Power Enterprise Fund balance.

Non-Departmental – Council Business Incentive Program - \$736,590

Reappropriation of funds approved in 2010 for economic development incentives.

The funding source is General Fund balance.

Public Works – Civic Center Parking Lot - \$644,110

Reappropriation of funding approved in 2010 for construction of the new lot.

The funding source is General Government CEF Fund balance.

Development Services – ArtSpace Project - \$475,000

Reappropriation of funds approved in 2010 for the development project.

The funding source is General Fund balance from the Council Capital Reserve.

Water & Power – Filter Plant 2 Pipe Gallery Improvements – \$424,640

Reappropriation of funds approved in 2010 for construction of the improvements.

The funding source is Water Enterprise Fund balance.

Water & Power Department – Water Enterprise Projects - \$421,030

Reappropriation of funds approved in 2010 for the following projects:

- Morning Drive Alternate Design - \$198,300
- Purchase of CBT Water - \$123,000
- Raw Water Yield Study - \$66,950
- Vulnerability Assessment Improvements - \$23,000
- Two small projects with invoices remaining to close out the projects -\$9,780

The funding source is Water Enterprise Fund balance, Water System Impact fees, and Raw Water revenues.

Parks and Recreation Department – Hatfield Chilson Recreation Center Expansion- \$359,250

Reappropriation of funds approved in 2010 for the completion of the expansion of the recreation center by approximately 16,000 square feet. The remaining work consists of completion of the landscaping on 1st street and the renovation and upgrade for the South Galleria and Senior Center. This portion of the project consists of carpet replacement, ceramic tile replacement in the bathrooms, ceiling tile replacement, and the replacement of some fixtures and furniture.

The funding source is General Fund balance.

Development Services Department/Community Partnerships Division – Community Development Block Grant (CDBG) Grants -\$325,600

Reappropriation of the CDBG block grant funds approved in 2010. The terms of the contracts for CDBG funds ends September 30, 2011.

The funding source is Federal CDBG Grants funds.

Public Works Department – Fleet Division – Replacement of Fire truck and a bus - \$312,350

Reappropriation of funding approved in 2010 for the purchase of replacement fire apparatus and a bus. The equipment was ordered but not received in 2010 due to the long lead time in the purchasing cycle for these trucks.

The funding source is a Fleet Fund balance and a Federal Transit Authority grant.

Water & Power Department - Wastewater Line Projects - \$274,130

Reappropriation of funding approved in 2010 for the following projects:

- Manhole rehabilitation Phase I - \$89,490;
- Wastewater Collection System Modeling - \$75,210
- Sludge Thickening Project – 52,010;
- Odor Control/Corrosion Improvements - \$30,000; and
- Two small projects totaling \$27,420.

The funding source is Wastewater Enterprise Fund balance.

Parks and Recreation Department – Bike/Hike Trail Underpass at U.S. 287 - \$250,000

Reappropriation of funds approved in 2010 for the construction of the underpass and the trail for Segments 6a and 6b. The two segments total about 2 miles and will connect to the east side of the under pass beneath U.S. 287 to be constructed near U.S. 287 and 65th Street.

The funding source is Conservation Trust Fund balance.

Water & Power Department – Power Enterprise – Energy Efficiency Programs - \$246,200

Reappropriation of funding approved in 2010. The projects include:

- OPower - \$129,300
- Larimer County Youth Conservation Corps - \$13,400
- Energy Star Clothes Washer Rebates - \$3,500
- PRPA Support in Excess of their Funding - \$100,000

The funding source is Power Enterprise Fund balance.

Water & Power Department – Power Enterprise – East Substation - \$232,000

Reappropriation of funding approved in 2010 for the installation of the control house and transformers.

The funding source is Power Enterprise Fund balance.

Development Services Department/Community Partnerships Division – Human Services Grants -\$164,500

Reappropriation of funding for Human Resource Commission grants approved in 2009. The terms of the contracts for Human Services grant funds ends June 30, 2010.

The funding source is General Fund balance.

Information Technology – Network Hardware Replacement - \$148,980

Reappropriation of funding approved in 2010 for the replacement of hardware. The replacement decision was deferred to make decision based on requirements related to voice over Internet Protocol (VOIP).

The funding source is General Fund balance.

Information Technology Department – Public Works Asset Management System – \$148,250

Reappropriation of funding approved in 2010 for the development and implementation of the system.

The funding source is General Government Capital Expansion Fee revenues.

Development Services/Public Works Departments – Historic Preservation Projects - \$129,340

Reappropriation of funds approved in 2010 for:

- The renovation of the Milner-Schwartz House; and
- The Historic Residential Guidelines.

The funding sources are historic preservation grants.

Water & Power – 1st Street and Wilson to Namaqua Road Conductor Upgrade - \$100,000

Reappropriation of funding approved in 2010 for the upgrade.

The funding source is Power Enterprise Fund balance.

Finance – Unemployment Insurance - \$97,740

Appropriation of remaining maximum liability for the Enterprise Funds for unemployment claims. Enterprise revenues are transferred to the Risk Fund for payment on the claims, with the exception of the Golf fund, which is being covered by the General fund due to low balances continuing in the Golf Fund.

The funding sources are General Fund balance, Water Enterprise Fund balance, Wastewater Enterprise Fund balance, Power Enterprise Fund balance, and Solid Waste Enterprise Fund balance.

Public Works – Solid Waste Enterprise – Snow Plows - \$73,330

Reappropriation of funding approved in 2010 for the purchase of snow plows to be placed on solid waste trucks for residential snow removal.

The funding source is Solid Waste Enterprise Fund balance.

Information Technology Department – Electronic Drawing Review – \$59,250

Reappropriation of funding approved in 2010. Purchase of hardware, software, web site interfaces and training to implement a new electronic development review process. This will allow the City to receive, review and return development review documents in an electronic format. Staff believes this will enable the building and development review process to be completed in a more timely and cost effective manner.

The funding source is General Fund balance.

Police – Records System Purge - \$52,840

Reappropriation of funding approved in 2010 for the project.

The funding source is General Fund balance.

Cultural Services – Art in Public Places - \$52,840

Reappropriation of funding approved in 2010 for the following projects:

- Library Expansion Art - \$42,500
- Highway 287 Underpass Art – 10,330

The funding source is Art in Public Places Fund balance.

Development Services – Energy Efficiency Stimulus Grants - \$52,740

Reappropriation of funding approved in 2010 for grants to non-profit agencies for energy efficiency grants.

The funding source is a federal stimulus grant.

Information Technology – Web Redesign Project - \$41,810

Reappropriation of funding approved in 2010 for the project.

The funding source is General Fund balance.

Fire & Rescue – Fire Truck Replacement Equipment - \$38,500

Reappropriation of funding approved in 2010 for equipment on the fire truck being replaced. The appropriations for the truck are in the Fleet Fund. The truck was delivered to the City in February of 2011. The reappropriations are to complete the payment of invoices for the truck and the equipment.

The funding source is General Fund balance.

Parks and Recreation – Replacement Equipment - \$32,500

Reappropriation of funding approved in 2010 for:

- Playground replacement at the Civic Center - \$25,000; and
- Irrigation projects - \$7,500

The funding source is General Fund balance.

Cultural Services Department – Museum and Rialto Programs - \$23,960

Reappropriation of funds approved in 2010 for exhibits and projects conducted by the Department. The projects include:

- Museum Expansion Feasibility Study - \$7,480
- India Exhibit - \$12,000;
- Threads to China Exhibit - \$3,980;
- History Exhibits - \$500.

The funding source is General Fund balance.

Fire & Rescue – Mobile Data Terminals - \$25,730

Reappropriation of a grant approved in 2010 for the purchase of mobile data terminals for the front line fire apparatus.

The funding source is a federal Assistance to Firefighters grant.

Development Services –CanDo Grant - \$21,840

Reappropriation of funds approved in 2010 for the CanDo grant for outreach to homeowner associations and the Community Design Element for the master plan.

The funding source is grant funds.

Community and Business Relations Department – PRPA Economic Development funds - \$21,390

Reappropriation of funding received in 2008 and 2009 from the Platte River Power Authority for economic development. Only part of the 2008 funding was allocated. The amount consists of \$6,990 from 2008 and all of the 2009 funding of \$14,400. Council has not decided on how to allocate these funds, but they are appropriated to be available when the decision is made. Past uses of this funding have been contributions to the Northern Colorado Economic Development Corporation and funding of the Business Appreciation Luncheon.

The funding source is General Fund balance.

Development Services – Rialto Bridge Design - \$15,360

Reappropriation of funding approved in 2010 for the design of the Rialto Bridge Project.

The funding source is General Fund balance from the Council Capital Reserve.

Information Services Department – Completion of the Development Services Innoprise Module - \$14,460

Reappropriation of funding approved in 2010 for disc storage, equipment and operating costs to complete the module installation.

The funding source is General Fund balance.

Police Department – SWAT Equipment - \$10,700

Reappropriation of funding approved in 2010 for the replacement of guns and ammunition purchases that were ordered but not received by the end of the year.

The funding source is General Fund balance.

Parks & Recreation Department – Water Augmentation - \$10,230

Reappropriation of funding approved in 2010 for legal and engineering fees associated with the Water Court proceedings for Barnes Park.

The funding source is General Fund balance.

Fire & Rescue Department – Engine Repairs - \$9,650

Reappropriation of funds approved in 2010. The repairs were not completed by the end of the year.

The funding source is General Fund balance.

Information Technology – Chilson Fiber Optic Upgrade - \$6,050

Reappropriation of funding approved in 2010 for the upgrade.

The funding source is General Fund balance.

Library – Smart Investing Grant – 2,760

Reappropriation of funding approved in 2010 for the program from a grant thought the Friends of the Library.

The funding source is General Fund balance.

Fire & Rescue Department – Emergency Warning Sign Program - \$740

Reappropriation of grant funding approved in 2010 for the sign program.

The funding source is General Fund balance.

Community & Business Relations – Community Marketing Commission Grants (\$3,000)

The Commission has provided the Cultural Services Department with a grant for the Threads to China exhibit. The grant line is reduced by \$3,000 and the funding is transferred to the General Fund for use on the exhibit's costs.

Supplemental Requests

Police Department – NIBRS Crime Statistics Reporting System - \$148,680

Supplemental Request - Appropriation of funding to upgrade the records management system to enable NIBRS reporting as required by the State.

The funding source is General Fund balance from savings in the Department budget in 2010.

Public Works – Rialto Theater Remediation - \$110,000

Supplement Request – Appropriation of funding for environmental remediation issues within the Rialto Theater.

The funding source is Risk & Insurance Fund reserves.

Police Department – Dispatch Furniture and Equipment Replacement - \$96,000

Supplemental Request – Appropriation of funding to replace the furniture and telephones at the Emergency Dispatch consoles.

The funding source is General Fund balance from savings in the Department budget in 2010.

Non-Departmental – Development Performance Agreements -\$88,500

Supplemental Request – Appropriation of the percentage of sales tax revenues collected for deferred CEF fees in 2010 that apply to outstanding performance agreements. The performance agreements allowed a business to use part of the sales tax collected to pay for Capital Expansion Fees due to the City. If the level of sales tax in the agreement is not achieved within the specified time-frame, the businesses are required to pay the fees.

The funding source is General Fund balance.

Library Department - Materials and Supplies - \$49,800

Supplemental Request - Appropriation of gifts and donations received in 2010 for books and materials, other supplies and services.

The funding source is donations to the Library.

Public Works – Roof Replacement - \$40,000

Supplemental Request - The project was approved in the Capital Program but was inadvertently not included in the development of the numbers or entered on the financial system by the Budget Office for the Adopted Budget.

The funding source is General Fund balance.

Police Department – Security Details - \$13,880

Supplemental Request – Appropriation of FDIC security details providing police presence at two banks.

The funding source is a payment from the FDIC for the security details.

Cultural Services Department – Museum and Rialto Programs - \$4,000

Supplemental Request for appropriation of donations that will be received in 2011 for exhibits and programs conducted by the Department. The projects include:

- Threads to China Exhibit - \$3,000; and
- Rialto School residencies - \$1,000.

The funding source is donations of \$1,000, from Thompson R2J School District, and a grant from the Community Marketing Commission.

FIRST READING April 19, 2011

SECOND READING May 3, 2011

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET TO REAPPROPRIATE REMAINING FUNDS FOR PROJECTS APPROVED BUT NOT COMPLETED IN 2010 AND NEW PROJECTS

WHEREAS, the City's 2010 budget included appropriations for projects not completed or closed out by the end of 2010, when the 2010 budget appropriations expired in accordance with the City of Loveland Charter and state law, requiring reappropriation in 2011 to permit expenditure of such funds to continue with respect to ongoing projects; and

WHEREAS, the City has also received or has reserved funds not anticipated or appropriated at the time of the adoption of the City budget for 2011; and

WHEREAS, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2011, as authorized by Section 11-6(a) of the Loveland City Charter.

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

Section 1. That reserved funds not appropriated at the time of adoption of the budget for 2011 have resulted from expenditures that were budgeted in the 2010 budget but not made. Reappropriation is necessary to permit expenditure of the funds in 2011 for purposes previously approved by Council. In addition, grant funds have been received and reserve funds are available that were not anticipated or appropriated at the time of adoption of the 2011 budget. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget
2010 On-Going Projects and Capital Rollover
General Fund 1**

Revenues

Fund Balance		3,390,990
001-1914-334-24-00-SP1002	State Historical Grant-Residential Design Guidelines	15,380
001-1914-363-00-00-SP1101	Contributions -CanDo Grant	1,840
001-1914-363-00-00-SP1102	Contributions -CanDo Grant	20,000
001-1924-334-48-00-STIM08	Federal Grant - Energy Efficiency Stimulus Grant	52,740
001-2102-321-30-00	Special Events	13,880
001-2202-334-48-00-FRAFG	Federal Grant - Assistance to Firefighters Grant	25,730
001-2321-334-48-00-STIM08	Federal Grant - Energy Efficiency Stimulus Grant	46,400
001-2332-334-24-00-SP0702	State Historical Grant-Milner Swartz House Renovation	113,960
001-5225-365-25-21	Donation for Rialto School Residencies	1,000
001-0000-373-41-01	Transfer from Lodging Tax Fund	3,000

Total Revenue**3,684,920****Appropriations:****Community & Business Relations**

001-1822-409-03-76	Economic Development - PRPA	21,390

Cultural Services

001-5220-409-02-08	Shipping and Freight - India Exhibit	12,000
001-5220-409-02-28	History Exhibits	500
001-5220-409-03-38	Marketing - Threads to China Exhibit	6,980
001-5220-409-03-99	Other Purchased Services Museum Expansion Feasibility Study	7,480
001-5225-409-03-38	Marketing - Rialto School Residencies	1,000

Development Services

001-1914-409-01-12-SP1101	Temporary Salary - HOA Outreach Grant	1,710
001-1914-409-01-44-SP1101	FICA - HOA Outreach Grant	130
001-1914-409-03-50-SP1002	Professional Services - Historic Residential Guidelines Grant	15,380
001-1914-409-03-50-CMART	Professional Services-Art Space	475,000
001-1914-409-03-50-SP1001	Professional Services -Rialto Bridge- Design	15,360
001-1914-409-03-50-SP1102	Professional Services -Community Design Element	20,000
001-1924-409-04-86	Non-Profit Grants	164,500
001-1924-409-04-40-STIM08	Non-Profit Grants - Energy Efficiency Stimulus Grant	52,740

Fire & Rescue

001-2202-409-02-15-FRAFG	Computer Supplies - Mobile Data Terminals	25,730
001-2202-409-09-44	Motor Vehicle - Fire Truck Replacement Equipment	38,500
001-2203-409-03-50	Professional Services - Emergency Management	740

Information Services

001-1602-409-02-15	Computer Supplies - Chilson Fiber Optic Upgrade	6,050
001-1602-409-02-15-ITEDR	Computer Supplies - Electronic Drawing Review Project	14,370
001-1602-409-03-50-ITWEBR	Professional Services - Web Redesign	41,810
001-1602-409-09-99	Other Capital - Network Hardware Replacement	148,980
001-1604-409-02-15-ITEDR	Computer Supplies - Electronic Drawing Review Project	15,570
001-1604-409-02-99-ITEDR	Other Supplies - Electronic Drawing Review Project	14,310
001-1604-409-03-50	Professional Services - Innoprise Dev. Srv. Module	14,460
001-1604-409-03-99-ITEDR	Other Purchased Services- Electronic Drawing Review Project	15,000

General Fund Cont.**Library**

001-1410-409-01-11	Regular Salaries - Smart Investing Grant	2,550
001-1410-409-01-44	FICA - Smart Investing Grant	210
001-1410-409-02-14-LBDONA	Books & Periodicals	23,500
001-1410-409-02-99-LBDONA	Other Purchased Services	3,000
001-1410-409-03-33-LBDONA	Subscriptions	17,300
001-1410-409-03-99-LBDONA	Other Purchased Services	6,000

Parks & Recreation

001-5130-409-09-99	Other Capital - Playground Replacement	25,000
001-5131-409-09-99	Other Capital - Irrigation Projects	7,500
001-1592-409-03-50	Professional Services -Water Augmentation	10,230

Police

001-2102-409-01-21	Overtime	13,880
001-2102-409-02-33	SWAT Equipment	10,700
001-2102-409-03-69	Repair and Maintenance - AFR Purge	52,840
001-2102-409-09-47	Office Furniture and Equipment	96,000
001-2106-409-03-69	Repair and Maintenance - NIBRS Software	148,680

Public Works

001-2303-409-09-99	Other Capital	19,000
001-2321-409-03-50-STIM08	Professional Services Energy Grant	46,400
001-2332-409-09-60-SP0702	Construction -Milner Swartz House Renovation	113,960

Non-Departmental

001-5502-409-03-76	Economic Development	88,500
001-5502-409-05-55	Economic Incentives - Council Incentive Fund	736,590
001-5502-473-07-02	Transfer to Capital Projects Fund	1,052,560
001-5502-473-07-89	Transfer to Risk	80,830

Total Appropriations		3,684,920

**Supplemental Budget
2010 On-Going Projects and Capital Rollover
Capital Projects Fund 2**

Revenues

002-0000-373-01-00	Transfer from General Fund - Roof Replacement	40,000
002-0000-373-01-00-EN0105	Transfer from General Fund - Transportation Program	30,000
002-0000-373-01-00-EN0109	Transfer from General Fund - Transportation Program	299,610
002-0000-373-01-00-EN0112	Transfer from General Fund - Transportation Program	10,000
002-0000-373-01-00-EN0212	Transfer from General Fund - Transportation Program	49,210
002-0000-373-01-00-EN0330	Transfer from General Fund - Transportation Program	14,160
002-0000-373-01-00-EN0332	Transfer from General Fund - Transportation Program	410
002-0000-373-01-00-EN0412	Transfer from General Fund - Transportation Program	9,110
002-0000-373-01-00-EN0606	Transfer from General Fund - Transportation Program	13,010
002-0000-373-01-00-EN0609	Transfer from General Fund - Transportation Program	30,940
002-0000-373-01-00-EN0705	Transfer from General Fund - Transportation Program	37,000
002-0000-373-01-00-EN0719	Transfer from General Fund - Transportation Program	400
002-0000-373-01-00-TS0901	Transfer from General Fund - Transportation Program	118,700
002-0000-373-01-00-EN1006	Transfer from General Fund - Transportation Program	4,090
002-0000-373-01-00-EN8212	Transfer from General Fund - Transportation Program	3,530
002-0000-373-01-00-TS0101	Transfer from General Fund - Transportation Program	4,320
002-0000-373-01-00-TS0706	Transfer from General Fund - Transportation Program	7,280
002-0000-373-01-00-TS0714	Transfer from General Fund - Transportation Program	16,340
002-0000-373-01-00-TS1002	Transfer from General Fund - Transportation Program	5,200
002-0000-373-01-00-PK0801	Transfer from General Fund - Chilon Expansion	359,250
002-0000-373-89-01-SP1001	Transfer from Risk and Insurance Fund - Rialto Asbestos Remediation	110,000
002-0000-373-22-06-GF0701	Transfer from Library CEF - Library Expansion	2,594,910
002-0000-373-22-08-GF0701	Transfer from General Government CEF - Library Expansion	3,275,940
002-0000-373-22-09-EN0105	Transfer from Street CEF - Transportation Program	120,000
002-0000-373-22-09-EN0109	Transfer from Street CEF - Transportation Program	449,410
002-0000-373-22-09-EN0112	Transfer from Street CEF - Transportation Program	10,000
002-0000-373-22-09-EN0212	Transfer from Street CEF - Transportation Program	49,210
002-0000-373-22-09-EN0233	Transfer from Street CEF - Transportation Program	338,860
002-0000-373-22-09-EN0330	Transfer from Street CEF - Transportation Program	56,650
002-0000-373-22-09-EN0606	Transfer from Street CEF - Transportation Program	39,010
002-0000-373-22-09-EN0609	Transfer from Street CEF - Transportation Program	278,450
002-0000-373-22-09-EN0705	Transfer from Street CEF - Transportation Program	148,000
002-0000-373-22-09-EN0719	Transfer from Street CEF - Transportation Program	1,600
002-0000-373-22-09-EN8212	Transfer from Street CEF - Transportation Program	14,120
002-0000-373-22-09-TS0101	Transfer from Street CEF - Transportation Program	17,300
002-0000-373-22-09-TS0501	Transfer from Street CEF - Transportation Program	29,140
002-0000-373-22-09-TS0714	Transfer from Street CEF - Transportation Program	47,210
002-0000-373-22-09-TS1002	Transfer from Street CEF - Transportation Program	15,010
002-0000-373-22-08	Transfer from General Government CEF - Asset Management System	148,250
002-0270-334-48-00-TS0706	Federal Grant - Transportation Program	175,160
002-0270-334-48-00-TS0714	Federal Grant - Transportation Program	118,030
002-0270-334-48-00-TS1002	Federal Grant - Transportation Program	37,530
002-0270-334-02-00-TSSR11	Federal Grant - Safe Routes 2011-2011 SCY	2,290
002-0270-334-02-00-TSSRTS	Federal Grant - Safe Routes to School	11,380
002-1410-368-41-00-GF0701	Contributions - Library Expansion	1,600,000
002-1410-334-48-01-STIM08	Energy Efficiency Stimulus Grant - Library Expansion	387,260
002-1410-334-02-00-GF0701	State Grant _ Library Expansion	400,000
002-2307-337-10-00-ENCROS	Federal Stimulus Grant - I25 and Crossroads Interchange	497,410

Total Revenue**12,024,690**

Capital Project Fund Cont.**Appropriations**

002-5502-409-09-99-SP1001	Other Capital - Rialto Asbestos Remediation	110,000

Information Technology

002-1604-409-02-15	Software - Asset Management System	26,050
002-1604-409-02-99	Other Supplies - Asset Management System	14,130
002-1604-409-03-50	Professional Services - Asset Management System	97,500
002-1604-409-03-80	Training - Asset Management System	10,570

Library

002-1410-409-09-55-GF0701	Design - Library Expansion	853,890
002-1410-409-09-55- STIM08	Design - Library Expansion - Stimulus Grant for LEED elements	387,260

Parks & Recreation

002-0704-409-09-55-PK0801		
002-0704-409-09-60-PK0801	Construction - Chilson Recreation Center Expansion	359,250

Public Works

002-0270-409-09-60-EN0105	Construction - Taft Avenue/Eisenhower Intersection	150,000
002-0270-409-09-60-EN0109	Construction - U.S. 34 at Madison Avenue Preliminary Design	749,020
002-0270-409-09-60-EN0112	Construction - Bike Route Signage and Striping	20,000
002-0270-409-09-60-EN0212	Construction - Bike Lane Construction and Pedestrian Walkways	98,420
002-0270-409-09-60-EN0223	Construction - Small Capital Projects	338,860
002-0270-409-09-60-EN0330	Construction - Boise Avenue and 37th Street Intersection Improvements	70,810
002-0270-409-09-60-EN0332	Construction - Miscellaneous Repairs	410
002-0270-409-09-60-EN0412	Construction - Arkins Branch Right of Way	9,110
002-0270-409-09-60-EN0606	Construction - Boyd Route Study	52,020
002-0270-409-09-60-EN0609	Construction - Taft Avenue/ 14th Street SW Intersection	309,390
002-0270-409-09-60-EN0705	Construction - Madison Avenue - Carlisle to 5th St. SW	185,000
002-0270-409-09-60-EN0719	Construction - U.S.34/ Wilson Avenue Median Improvements	2,000
002-0270-409-09-60-TS0901	Construction - Signal Replacement at 4th Street-Cleveland/Lincoln	118,700
002-0270-409-09-60-EN1006	Construction - Garfield Corridor Study	4,090
002-0270-409-09-60-EN8212	Construction - Transportation Master Plan through 2050	17,650
002-0270-409-09-60-TS0101	Construction - Signal System Interconnect	21,620
002-0270-409-09-60-TS0706	Construction - Upgrades to Traffic Operations Center	211,580
002-0270-409-09-60-TS0714	Construction - Garfield Ave. and U.S. 34 Southbound Turn Lane	181,580
002-0270-409-09-60-TS1002	Construction - Centerra Area ITS	57,740
002-0270-409-09-60-TSSR11	Construction - Safe Routes 2010-2011 SCY	2,290
002-0270-409-09-60-TSSRTS	Construction - Safe Routes to School	11,380
002-2307-409-09-60-ENCROS	Construction - I25 and Crossroads Interchange	497,410
002-2321-409-09-60	Construction - Roof Replacement	40,000

Total Appropriations**12,024,690**

**Supplemental Budget
2010 On-Going Projects and Capital Rollover
Conservation Trust Fund 29**

Revenues		
Fund Balance		250,000
Total Revenue		250,000
Appropriations		
Parks & Recreation		
029-5136-409-09-60-PKTR10	Construction -Segments 6a & 287 Bypass	250,000
Total Appropriations		250,000

**Supplemental Budget
2010 On-Going Projects and Capital Rollover
Community Development Block Grant Fund 31**

Revenues		
031-0000-336-21-24	Block Grant 2009	325,600
Total Revenue		325,600
Appropriations		
2009 Grant		
031-1924-409-04-40	Non Profit Grants	325,600
Total Appropriations		325,600

**Supplemental Budget
2010 On-Going Projects and Capital Rollover
Art in Public Places Fund 36**

Revenues

Fund Balance	52,840

Total Revenue	52,840

Appropriations

036-5240-409-08-73	42,500

036-5240-409-08-96	10,340

Total Appropriations	52,840

**Supplemental Budget
2010 On-Going Projects and Capital Rollover
Water Enterprise Fund 41**

Revenues

Fund Balance		1,304,000
041-0000-361-10-00	Interest	(101,800)
041-0000-388-10-00	Capital Recovery Surcharge	(53,280)
041-0000-388-11-00	Capital Recovery Surcharge-Out	(170)
041-0000-388-19-00	Plant Investment Fee	(1,095,750)
041-0000-388-19-01	Developer Reimbursements	(116,800)

Total Revenue **(63,800)**

Appropriations**Water & Power**

041-4510-409-09-99-WA930	Other Capital - Service Center Signage	7,400
041-4520-473-07-89	Transfer to Risk & Insurance	13,040
041-4610-409-03-50-W0812D	Purchased Services - Centerra Booster Station	2,380
041-4610-409-09-52	Engineering	(431,300)
041-4610-409-09-61	Oversizing	(50,000)
041-4610-409-09-83	Operating Expense Added To Capital	(75,000)
041-4620-409-09-83	Operating Expense Added To Capital	(12,000)
041-4630-409-09-83	Operating Expense Added To Capital	(25,990)
041-4610-409-09-60-W1015C	Construction - Vulnerability Assessment Program	23,000
041-4710-409-03-50-WA139C	Professional Services - Raw Water Yield Study	66,950
041-4710-409-09-83	Operating Expense Added To Capital	(5,520)
041-4720-409-09-83	Operating Expense Added To Capital	(1,400)
041-4730-409-09-60-W1011C	Construction - Filter Plant 2 Pipe Gallery Imprv.	424,640

Total Appropriations **(63,800)**

**Supplemental Budget
2010 On-Going Projects and Capital Rollover
Wastewater Enterprise Fund 42**

Revenues

Fund Balance		(1,380,100)
042-0000-361-10-00	Interest	(74,270)
042-0000-388-10-00	Capital Recovery Surcharge	(74,000)
042-0000-388-11-00	Capital Recovery Surcharge-Out	(350)
042-0000-388-19-00	Plant Investment Fee	(708,990)

Total Revenue **(1,528,370)**

Appropriations**Water & Power**

042-4510-409-09-99-WW930	Other Capital - Service Center Signage	5,200
042-4520-473-07-89	Transfer to Risk and Insurance	860
042-4610-409-03-50-WW380	Professional Services - Collection Modeling	75,210
042-4610-409-09-52	Engineering	(10,440)
042-4610-409-09-60	Construction	(95,080)
042-4610-409-09-83	Operating Expense Added to Capital	(6,640)
042-4610-409-09-99-WW380	Other Capital - Manhole Rehabilitation	89,490
042-4620-409-09-83	Operating Expense Added to Capital	(14,500)
042-4630-409-09-83	Operating Expense Added to Capital	(26,580)
042-4710-409-09-83	Operating Expense Added to Capital	(920)
042-4720-409-09-83	Operating Expense Added to Capital	(4,160)
042-4740-409-09-52-W1010H	Engineering-Sludge Thickening Design	31,210
042-4740-409-09-52	Engineering-Order Control/Corrosion Imprv.	(187,840)
042-4740-409-09-60	Construction	(2,085,830)
042-4740-409-09-83	Operating Expense Added to Capital	(4,440)
042-4750-409-09-83	Operating Expense Added to Capital	(3,250)

Total Appropriations **(2,237,710)**

**Supplemental Budget
2010 On-Going Projects and Capital Rollover
Storm Water Enterprise Fund 43**

Revenues		
Fund Balance		3,478,970
Total Revenue		3,478,970
Appropriations		
Public Works		
043-2310-409-03-50	Professional Services -Rate Study	40,000
043-2312-409-03-50-SW0702	Professional Services -Floodplain Technical Asst.	10,130
043-2312-409-03-50-SW0804	Professional Services -Lake Loveland Zone A Floodplain	20,060
043-2312-409-03-50-SW0807	Professional Services -Dry Creek at Mariana Butte	5,000
043-2312-409-03-50-SW0904	Professional Services -Wernimont Pond Block Invt.	2,460
043-2312-409-09-52-SW0711	Engineering - Boyd Lake Ditch Grading	64,900
043-2312-409-09-52-SW0808	Engineering - Airport Basin Regional Detention Pond	13,920
043-2312-409-09-52-SW0902	Engineering - South Loveland Outfall Phase 3	8,510
043-2312-409-09-60-SW0710	Construction - Washington Outfall Phase 4	3,313,990
Total Appropriations		3,478,970

**Supplemental Budget
2010 On-Going Projects and Capital Rollover
Power Enterprise Fund 44**

Revenues		
Fund Balance		1,376,880
044-0000-361-10-00	Interest	(63,550)
044-0000-388-19-00	Plant Investment Fee	(1,500,000)
Total Revenue		(186,670)
Appropriations		
Water & Power		
044-4510-409-09-99	Other Capital - Service Center Signage	7,400
044-4520-473-07-89	Transfer to Risk and Insurance	1,430
044-4810-409-03-50	Professional Services - Energy Efficiency Programs	146,200
044-4810-409-03-99	Other Services - Energy Efficiency Programs	100,000
044-4830-409-09-99	Other Capital - Tie Airport and East Substations	700,000
044-4850-409-09-99	Other Capital	(1,141,700)
Total Appropriations		(186,670)

**Supplemental Budget
2010 On-Going Projects and Capital Rollover
Raw Water Enterprise Fund 46**

Revenues		
Fund Balance		123,000
Total Revenue		123,000
Appropriations		
Water & Power		
046-4710-409-09-52-W1014A	Engineering - Purchase CBT Water	123,000
Total Appropriations		123,000

**Supplemental Budget
2010 On-Going Projects and Capital Rollover
Fleet Internal Service Fund 80**

Revenues		
Fund Balance		222,450
080-0000-338-90-00	Federal Grants - FTA	89,900
Total Revenue		312,350
Appropriations		
Finance/Fleet Services		
080-2360-409-09-44	Motor Vehicles and Bus	312,350
Total Appropriations		312,350

**Supplemental Budget
2010 On-Going Projects and Capital Rollover
Risk & Insurance Fund 89**

Revenues

Fund Balance		110,000
089-0000-373-01-00	Transfer from General Fund	80,830
089-0000-373-94-00	Transfer from Solid Waste	1,580
089-0000-373-41-00	Transfer from Water	13,040
089-0000-373-42-00	Transfer from Wastewater	860
089-0000-373-44-00	Transfer from Power	1,430

Total Revenue **207,740**

Appropriations

089-1575-473-02-07	Transfer to Capital Projects Fund -Rialto Asbestos	110,000
089-1575-409-05-40	Unemployment	97,740

Total Appropriations **207,740**

Solid Waste Enterprise Fund 94

Revenues

Fund Balance	74,910

Total Revenue **74,910**

Appropriations**Public Works**

094-2355-409-03-40	Equipment - Snow Plows	73,330
094-2355-473-89-00	Transfer to Risk and Insurance	1,580

Total Appropriations **74,910**

**Supplemental Budget
2010 On-Going Projects and Capital Rollover
Library Capital Expansion Fee Fund 226**

Revenues		
Fund Balance		2,594,910
Total Revenue		2,594,910
Appropriations		
226-1410-473-02-00-GF0701	Transfer to Capital Projects Fund - Library Expansion	2,594,910
Total Appropriations		2,594,910

**Supplemental Budget
2010 On-Going Projects and Capital Rollover
General Government Capital Expansion Fee Fund 228**

Revenues		
Fund Balance		4,068,300
228-0000-373-01-00	Transfer from General Fund	-
Total Revenue		4,068,300
Appropriations		
228-2321-409-09-60- GF1002	Construction - Employee Parking Lot	644,110
228-5502-473-07-02	Transfer to Capital Projects Fund - Asset Management	148,250
228-5502-473-07-02 -GF0701	Transfer to Capital Projects Fund - Library Expansion	3,275,940
Total Appropriations		4,068,300

**Supplemental Budget
2010 On-Going Projects and Capital Rollover
Streets Capital Expansion Fee Fund 229**

Revenues		
Fund Balance		1,613,970
Total Revenue		1,613,970
Appropriations		
Public Works		
229-0270-473-02-00	Transfer to Capital Projects Fund - Transportation Program	1,613,970
Total Appropriations		1,613,970

**Supplemental Budget
2010 On-Going Projects and Capital Rollover
Lodging Tax Fund Fund 241**

Appropriations		
Lodging Tax		
241-1822-409-04-40	Grants	(3,000)
241-1822-473-01-00	Transfer to General Fund - Threads to China Exhibit Grant to Museum	3,000
Total Appropriations		-

Supplemental Budget
2010 On-Going Projects and Capital Rollover
Water System Impact Fee Fund 301

Revenues

301-0000-361-10-00	101,800
301-0000-388-10-00	53,450
301-0000-388-19-00	1,095,750
301-0000-388-19-01	116,800

Total Revenue**1,367,800****Appropriations****Water & Power**

301-4610-409-09-52-W1016D	Engineering	190,550
301-4610-409-09-52-W1007D	Engineering	198,300
301-4610-409-09-52-W1017D	Engineering	240,750
301-4610-409-09-61-W0718E	Oversizing	50,000
301-4610-409-09-83-W1016D	Operating Expense Added to Capital	37,500
301-4610-409-09-83-W1017D	Operating Expense Added to Capital	37,500
301-4620-409-09-83-W1016D	Operating Expense Added to Capital	6,000
301-4620-409-09-83-W1017D	Operating Expense Added to Capital	6,000
301-4630-409-09-83	Operating Expense Added to Capital	18,050
301-4630-409-09-83-W1016D	Operating Expense Added to Capital	3,970
301-4630-409-09-83-W1017D	Operating Expense Added to Capital	3,970
301-4710-409-09-83-W1016D	Operating Expense Added to Capital	2,760
301-4710-409-09-83-W1017D	Operating Expense Added to Capital	2,760
301-4720-409-09-83-W1016D	Operating Expense Added to Capital	700
301-4720-409-09-83-W1017D	Operating Expense Added to Capital	700

Total Appropriations**799,510**

**Supplemental Budget
2010 On-Going Projects and Capital Rollover
Wastewater System Impact Fee Fund 316**

Revenues

Fund Balance	1,655,090
316-0000-361-10-00	74,270
361-0000-388-10-00	74,350
316-0000-388-19-00	708,990

Total Revenue **2,512,700**

Appropriations**Water & Power**

316-4610-409-09-52-W1003H	Engineering-Carlisle Phase IV	32,660
316-4610-409-09-60-W1003H	Construction-Carlisle Phase IV	95,080
316-4610-409-09-83-W1003H	Operating Expense Added to Capital	6,400
316-4610-409-09-83-W1010H	Operating Expense Added to Capital	240
316-4620-409-09-83-W1003H	Operating Expense Added to Capital	500
316-4620-409-09-83-W1010H	Operating Expense Added to Capital	14,000
316-4630-409-09-83-W1003H	Operating Expense Added to Capital	7,480
316-4630-409-09-83-W1010H	Operating Expense Added to Capital	1,040
316-4630-409-09-83	Operating Expense Added to Capital	18,060
316-4710-409-09-83-W1003H	Operating Expense Added to Capital	400
316-4710-409-09-83-W1010H	Operating Expense Added to Capital	520
316-4720-409-09-83-W1010H	Operating Expense Added to Capital	4,160
316-4740-409-09-52-W1010H	Engineering-Sludge Thickening Design	226,640
316-4740-409-09-52	Engineering-Odor Control/Corrosion Imprv.	12,000
316-4740-409-09-60-W1010H	Construction-Sludge Thickening	2,085,830
316-4740-409-09-83-W1010H	Operating Expense Added to Capital	4,440
316-4750-409-09-83-W1010H	Operating Expense Added to Capital	3,250

Total Appropriations **2,512,700**

**Supplemental Budget
2010 On-Going Projects and Capital Rollover
Power System Impact Fee Fund 331**

Revenues

Fund Balance		173,450
331-0000-361-10-00	Interest	63,550
331-0000-388-19-00	Plant Investment Fee	1,500,000

Total Revenue **1,737,000**

Appropriations**Water & Power**

044-4830-409-09-99-PW921A	Other Capital	125,000
331-4850-409-09-99	Other Capital - East Substation	332,000
331-4850-409-09-99-PW920	Other Capital	1,280,000

Total Appropriations **1,737,000**

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

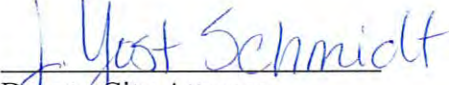
ADOPTED this 3rd day of May, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


Deputy City Attorney

FIRST READING April 19, 2011

SECOND READING May 3, 2011

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 FT. COLLINS-LOVELAND MUNICIPAL AIRPORT BUDGET TO APPROPRIATE FUNDS FOR PROJECTS APPROVED BUT NOT COMPLETED IN 2010 AND FOR COMPENSATION TO THE PUBLIC WORKS DIRECTOR FOR EXTRA DUTIES

WHEREAS, the 2010 budget for the Fort Collins-Loveland Municipal Airport included appropriations for projects not completed or closed out by the end of 2010, when the 2010 budget appropriations expired in accordance with the City of Loveland Charter and state law, requiring reappropriation in 2011 to permit expenditure of such funds to continue with respect to ongoing projects; and

WHEREAS, the City also has reserved funds not appropriated at the time of the adoption of the City budget for 2011; and

WHEREAS, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the Airport budget for 2011, as authorized by Section 11-6(a) of the Loveland City Charter.

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

Section 1. That revenues and/or reserves in the amount of \$194,020 from fund balance in the Airport Fund 018 are available for appropriation. Revenues in the total amount of \$194,020 are hereby appropriated for projects approved in 2010 but not completed or closed out and for supplemental compensation to the Public Works Director for extra duties performed as Interim Airport Director as hereinafter set forth. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget
2010 On-Going Projects and Capital Rollover
Airport Fund 18**

Revenues

Fund Balance	194,020

Total Revenue	194,020

Appropriations

018-5503-409-01-11	Regular Salaries	6,100
018-5503-409-01-44	FICA	470
018-5503-409-09-52	Design AIP Projects	39,130
018-5503-409-09-60	Construction - AIP Projects	148,320

Total Appropriations	194,020

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

ADOPTED this 3rd day of May, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Deputy City Attorney

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

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

AGENDA ITEM: 6
MEETING DATE: 5/3/2011
TO: City Council
FROM: Renee Wheeler, Finance Department
PRESENTER: John Hartman, Budget Officer

TITLE:

Consideration of an ordinance on second reading enacting a supplemental budget and appropriation to the Loveland Urban Renewal Authority budget to reappropriate the Facade Grant Program approved in 2010 but not completed.

DESCRIPTION:

This is an administrative action. The ordinance reappropriates the remaining balance of funding put in place for the program.

BUDGET IMPACT:

☒ Yes ☐ No

Fund balance is available for the appropriation.

SUMMARY:

City Council provided general funds to seed the grant program. The remaining balance of the seed funds is \$43,870. These are reappropriated for facade grant requests that may be submitted in 2011.

The Ordinance was approved by Council on First Reading by a unanimous vote.

LIST OF ATTACHMENTS:

1. An ordinance enacting a supplemental budget and appropriation to the Loveland Urban Renewal Authority Budget to reappropriate the Façade Grant Program approved in 2010 but not completed.
-

RECOMMENDED CITY COUNCIL ACTION:

Approve the ordinance on Second Reading

REVIEWED BY CITY MANAGER:

FIRST READING April 19, 2011

SECOND READING May 3, 2011

ORDINANCE NO. _____

**AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND
APPROPRIATION TO THE 2011 LOVELAND URBAN RENEWAL
AUTHORITY BUDGET FOR THE FAÇADE GRANT PROGRAM**

WHEREAS, the Authority's 2010 budget included appropriations for grants not completed or closed out by the end of 2010, when the 2010 budget appropriations expired, requiring reappropriation in 2011 to permit expenditure of such funds in 2011 for grants approved but not completed in 2010; and

WHEREAS, the Authority also has received or has reserved funds not anticipated or appropriated at the time of the adoption of the Authority's budget for 2011; and

WHEREAS, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the Authority budget for 2011, as authorized by Section 11-6(a) of the Loveland City Charter.

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

Section 1. That revenues and/or reserves in the amount of \$43,870 from fund balance in the Loveland Urban Renewal Authority Fund 037 are available for appropriation. Revenues in the total amount of \$43,870 are hereby reappropriated for the Façade Grant Program as hereinafter set forth. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget
2010 On-Going Projects and Capital Rollover
Love land Urban Renewal Authority Fund 37**

Revenues

Fund Balance	43,870

Total Revenue	43,870

Appropriations

037-8004-409-04-02	Façade Grants	43,870

Total Appropriations	43,870

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

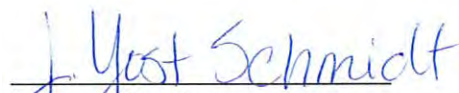
ADOPTED this 3rd day of May, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Deputy City Attorney



CITY OF LOVELAND

FINANCE DEPARTMENT

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

AGENDA ITEM: 7
MEETING DATE: 5/3/2011
TO: City Council
FROM: Renee Wheeler, Assistant City Manager/Finance Department
PRESENTER: Renee Wheeler

TITLE:

Consideration of:

- A. An ordinance on second reading enacting a supplemental budget and appropriation to the 2011 City of Loveland budget for the Employee Merit-Based Recognition Program.
- B. An ordinance on second reading enacting a supplemental budget and appropriation to the 2011 Ft. Collins-Loveland Municipal Airport budget for the employee merit-based recognition program.
- C. An ordinance on second reading enacting a supplemental budget and appropriation to the 2011 Loveland-Larimer Building Authority budget for the employee merit-based recognition program.

DESCRIPTION:

This is an administrative action. The positive General Fund budget performance both in terms of revenues in excess of the budget and expenditures below the budget allowed for the 2010 ending fund balance to exceed the projected ending fund balance by \$3.8 million. The proposal is to use one quarter of that additional fund balance to recognize employees with lump sum raises based on performance in 2010. The lump sum raise is preferred to a percentage added to the employees' base pay to prevent cumulative impacts on future year budgets.

BUDGET IMPACT:

☒ Yes ☐ No

The funding is from higher than anticipated fund balance at the end of the 2010 fiscal year.

SUMMARY:

Background:

City Council adopted a Financial Sustainability principle: *Maintain the City as an employer of choice, able to attract and retain high-quality employees.* This principle was one of six

principles that guide resource decision-making requiring a balance of values as an organization. Decisions related to pay increases are important for financial sustainability because personnel expenditures in the General Fund represents 66% of the total budget including transfers and capital and 73% of the budget without transfers and capital.

Personnel expenditures over the last few years have been impacted by budget reductions. In 2009 the pool of money made available for merit based pay was reduced from 3.5% of salaries to 2.5% of salaries. In 2010 employees, with the exception of the sworn police, took a cut in pay. They were required to take four furlough days and were not granted raises. Over the two years changes in the benefit plan shifted around \$400,000 of medical expenses to the employees. 26 full time equivalent positions were eliminated while retaining the same levels of service, shifting work to other remaining staff. The Human Resources Director reported to City Council that there were a few positions that recruiting and retention of the employees had become a challenge and some positions that had fallen out of alignment with market (i.e., Power line employees).

Recommendation:

Staff recommends appropriating 2.5% of the salaries budget in each fund to recognize employees in the form of lump sum checks based on performance evaluations conducted at the end of 2010 on second reading. The public hearings was held on April 19, 2011 and the first reading of the ordinances were unanimously approved by City Council.

LIST OF ATTACHMENTS:

1. An ordinance enacting a supplemental budget and appropriation to the 2011 City of Loveland budget for the Employee Merit-Based Recognition Program.
 2. An ordinance enacting a supplemental budget and appropriation to the 2011 Ft. Collins-Loveland Municipal Airport budget for the employee merit-based recognition program.
 3. An ordinance enacting a supplemental budget and appropriation to the 2011 Loveland-Larimer Building Authority budget for the employee merit-based recognition program.
-

RECOMMENDED CITY COUNCIL ACTION:

Approve the ordinances on second reading

REVIEWED BY CITY MANAGER:

FIRST READING April 19, 2011

SECOND READING May 3, 2011

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR THE EMPLOYEE MERIT-BASED RECOGNITION PROGRAM

WHEREAS, the City has received or has reserved funds not anticipated or appropriated at the time of the adoption of the City budget for 2011; and

WHEREAS, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2011, as authorized by Section 11-6(a) of the Loveland City Charter.

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

Section 1. That revenues and/or reserves in the amount of \$910,570 in the General Fund 001; \$2,730 on Conservation Trust Fund 029; \$3,440 in the Open Space Fund 032; \$1,200 in the Art in Public Places Fund 036; \$69,810 in the Water Enterprise Fund 041; \$51,240 in the Wastewater Enterprise Fund 042; \$27,840 in the Storm Water Enterprise Fund 043; \$106,180 in the Power Enterprise Fund 044; \$36,080 in the Golf Enterprise Fund 051; \$20,820 in the Vehicle Maintenance Fund 081; \$7,120 in the Risk and Insurance Fund 089; and \$39,660 in the Solid Waste Enterprise Fund 094; from reserves are available for appropriation. These revenues are hereby appropriated for the Employee Merit-Based Recognition Program. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget
General Fund - Merit Based Recognition Program**

Revenues		
Fund Balance		910,570
Total Revenue		910,570
Appropriations		
001-5502-409-01-11	Regular Salaries	910,570
Total Appropriations		910,570

**Supplemental Budget
Conservation Trust Fund- Merit Based Recognition Program**

Revenues		
Fund Balance		2,730
Total Revenue		2,730
Appropriations		
029-5136-409-01-11	Regular Salaries	2,730
Total Appropriations		2,730

**Supplemental Budget
Open Space Fund - Merit Based Recognition Program**

Revenues		
Fund Balance		3,440
Total Revenue		3,440
Appropriations		
032-0745-409-01-11	Regular Salaries	3,440
Total Appropriations		3,440

**Supplemental Budget
Art in Public Places Fund -Merit Based Recognition Program**

Revenues		
Fund Balance		1,200
Total Revenue		1,200
Appropriations		
036-5240-409-01-11	Regular Salaries	1,200
Total Appropriations		1,200

**Supplemental Budget
Water Enterprise Fund - Merit Based Recognition Program**

Revenues		
Fund Balance		69,810
Total Revenue		69,810
Appropriations		
041-4520-409-01-11	Regular Salaries	69,810
Total Appropriations		69,810

**Supplemental Budget
Wastewater Enterprise Fund - Merit Based Recognition Program**

Revenues		
Fund Balance		51,240
Total Revenue		51,240
Appropriations		
042-4520-409-01-11	Regular Salaries	51,240
Total Appropriations		51,240

**Supplemental Budget
Storm Water Enterprise Fund - Merit Based Recognition Program**

Revenues		
Fund Balance		27,840
Total Revenue		27,840
Appropriations		
043-2310-409-01-11	Regular Salaries	27,840
Total Appropriations		27,840

**Supplemental Budget
Power Enterprise Fund Fund - Merit Based Recognition Program**

Revenues		
Fund Balance		106,180
Total Revenue		106,180
Appropriations		
044-4520-409-01-11	Regular Salaries	106,180
Total Appropriations		106,180

**Supplemental Budget
Golf Enterprise Fund - Merit Based Recognition Program**

Revenues		
Fund Balance		36,080
Total Revenue		36,080
 Appropriations		
051-5101-409-01-11	Regular Salaries	36,080
Total Appropriations		36,080

**Supplemental Budget
Vehicle Maintenance Fund - Merit Based Recognition Program**

Revenues		
Fund Balance		20,820
Total Revenue		20,820
 Appropriations		
081-2361-409-01-11	Regular Salaries	20,820
Total Appropriations		20,820

**Supplemental Budget
Risk and Insurance Fund Fund - Merit Based Recognition Program**

Revenues		
Fund Balance		7,120
Total Revenue		7,120
 Appropriations		
089-1575-409-01-11	Regular Salaries	7,120
Total Appropriations		7,120

**Supplemental Budget
Solid Waste Enterprise Fund - Merit Based Recognition Program**

Revenues		
Fund Balance		39,660
Total Revenue		39,660
 Appropriations		
094-2355-409-01-11	Regular Salaries	39,660
Total Appropriations		39,660

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

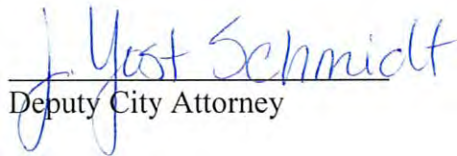
ADOPTED this 3rd day of May, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Deputy City Attorney

FIRST READING April 19, 2011

SECOND READING May 3, 2011

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 FT. COLLINS-LOVELAND MUNICIPAL AIRPORT BUDGET FOR THE EMPLOYEE MERIT-BASED RECOGNITION PROGRAM

WHEREAS, the City has received or has reserved funds not anticipated or appropriated at the time of the adoption of the City budget for 2011; and

WHEREAS, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2011, as authorized by Section 11-6(a) of the Loveland City Charter.

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

Section 1. That revenues and/or reserves in the amount of \$7,750 Airport Fund 018 from reserves are available for appropriation. Revenues in the total amount of \$7,750 are hereby appropriated for the Employee Merit-Based Recognition Program. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget
Airport Fund - Merit Based Recognition Program**

Revenues

Fund Balance	7,750
Total Revenue	7,750

Appropriations

001-5503-409-01-11	Regular Salaries	7,750
Total Appropriations		7,750

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

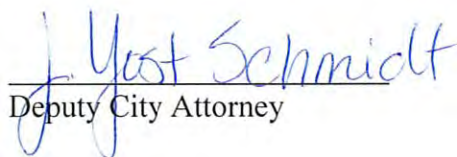
ADOPTED this 3rd day of May, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


Deputy City Attorney

FIRST READING April 19, 2011SECOND READING May 3, 2011

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 LOVELAND-LARIMER BUILDING AUTHORITY BUDGET FOR THE EMPLOYEE MERIT-BASED RECOGNITION PROGRAM

WHEREAS, the City has received or has reserved funds not anticipated or appropriated at the time of the adoption of the City budget for 2011; and

WHEREAS, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2011, as authorized by Section 11-6(a) of the Loveland City Charter.

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

Section 1. That revenues and/or reserves in the amount of \$2,580 in the Loveland-Larimer Building Authority Fund 026 are available for appropriation. Revenues in the total amount of \$2,580 are hereby appropriated for the Employee Merit-Based Recognition Program. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

Supplemental Budget			
Larimer Loveland Building Authority - Merit Based Recognition Program			
Revenues			
026-0000-337-11-00	Larimer County		520
026-0000-337-11-01	City of Loveland		2,060
Total Revenue			2,580
Appropriations			
026-2335-409-01-11	Regular Salaries		2,580
Total Appropriations			2,580

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

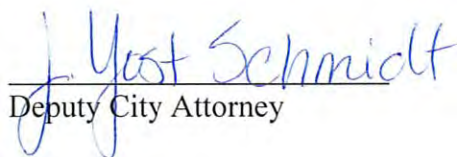
ADOPTED this 3rd day of May, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


Deputy City Attorney

**CITY OF LOVELAND****POLICE DEPARTMENT**

810 East 10th Street • Loveland, Colorado 80537
(970) 667-2151 • FAX (970) 962-2917 • TDD (970) 962-2620

AGENDA ITEM: 8
MEETING DATE: May 3, 2011
TO: City Council
FROM: Captain Rob McDaniel, Police Department
PRESENTER: Chief Luke Hecker

TITLE: Public Hearing to Consider on First Reading: An Ordinance Amending City Code Section 9.30.030 Concerning Panhandling and Solicitations on or Near Public Streets and Highways

DESCRIPTION: This is a legislative action intended to further regulate the physical presence of panhandlers and solicitors on and around public roadways, which presence creates public safety issues for the panhandlers, solicitors and motorists.

BUDGET IMPACT:

☐ Yes ☒ No

SUMMARY: Panhandling, as a speech-related activity, is protected by the First Amendment of the United States Constitution. However, the courts have recognized that reasonable time, manner and place restrictions may be imposed by state and local governments to regulate panhandling and similar activities. City Code Chapter 9.30 currently imposes such time, manner and place restrictions on panhandling in the City, including the provisions of Code Section 9.30.030 which regulate persons “who solicit employment, business, contributions, or sales of any kind” on or near city streets or highways.

The Loveland Police Department has received increasing complaints concerning panhandlers and solicitors conducting their activities on and around Eisenhower, U.S. 287 and other major arterial streets in the City. In responding to these complaints, it has been observed that Code Section 9.30.030, as currently written, is inadequate to prohibit some of the conduct complained of even though the conduct clearly constituted a public safety issue, not only for the panhandler or solicitor, but also for passing motorists. Therefore, it is being proposed that Code Section

9.30.030 be amended to clarify that it applies: (1) not only to solicitations but also to “panhandling,” as this word is defined in Section 9.30.010B.; and (2) to panhandlers and solicitors entering onto all traveled portions of the street or highway, including bike lanes, street gutters and vehicle parking areas.

It should be noted that in paragraph B. of Section 9.30.030 all panhandling and soliciting near an interstate or state highway system is prohibited because of the obvious safety concerns related to the high traffic volume and speed on these highways. However, as Section 9.30.030 now reads as amended by this Ordinance, persons holding signs on sidewalks to advertise nearby businesses would not be prohibited since they are not “directly” soliciting business from passing motorists. Also, panhandling and soliciting in or near all other City streets would continue to be permitted so long as it is conducted in compliance with the requirements of Section 9.30.030

LIST OF ATTACHMENTS:

1. Redlined copy of the Ordinance
2. Clean copy of the Ordinance

RECOMMENDED CITY COUNCIL ACTION: Move to approve Ordinance on first reading**REVIEWED BY CITY MANAGER:**

FIRST READING: May 3, 2011

SECOND READING: _____

ORDINANCE No. _____

**AN ORDINANCE AMENDING CITY CODE SECTION 9.30.030 CONCERNING
PANHANDLING AND SOLICITATIONS ON OR NEAR PUBLIC STREETS AND
HIGHWAYS**

WHEREAS, City Code Chapter 9.30 currently imposes time, manner and place restrictions on panhandling in the City; and

WHEREAS, included in this Chapter is Section 9.30.030 which regulates persons “who solicit employment, business, contributions, or sales of any kind” on or near City streets or highways; and

WHEREAS, the Loveland Police Department has received increasing complaints concerning panhandlers and solicitors conducting their activities on and around Eisenhower, U.S. 287 and other major arterial streets in the City; and

WHEREAS, in responding to these complaints, it has been observed that Code Section 9.30.030, as currently written, is inadequate to regulate some of the panhandling and soliciting conduct complained of even though the conduct clearly constituted a public safety issue, not only for the panhandler or solicitor, but also for passing motorists; and

WHEREAS, this Ordinance amends Code Section 9.30.030 to regulate such conduct; and

WHEREAS, the City Council hereby finds that the amendments in this Ordinance to Code Section 9.30.030 are necessary for the public’s health, safety and welfare.

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

Section 1. That Loveland Municipal Code Section 9.30.030 is hereby amended to read in full as follows:

9.30.030 Panhandling and Solicitations on or Near Public Streets ~~and~~ Highways

- A. It shall be unlawful for any persons to panhandle or to solicit employment, business, contributions, or sales of any kind, or collect monies for the same, directly from the occupant of any vehicle traveling upon any public street or highway when:
1. such panhandling, solicitation or collection involvescauses the person performing the activity to enter onto the traveled portion of a public street or highway to complete the transaction, including, without limitation, entering onto bike lanes, street gutters or vehicle parking areas; or

2. such panhandling, solicitation or collection involves the person performing the activity ~~being to be~~ located upon any median area of the traveled portion of a public street or highway which separates traffic lanes for vehicular travel ~~in opposite directions~~; or
 3. the person performing the activity is located such that vehicles cannot move into a legal parking area to safely ~~complete~~ conduct the transaction.
- B. Notwithstanding the provisions of paragraph A. above, it shall be unlawful for any person to panhandle or to solicit or attempt to solicit employment, business, or contributions of any kind directly from the occupant of any vehicle on any highway included in the interstate or state highway system, including any entrance to or exit from such highway.

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).

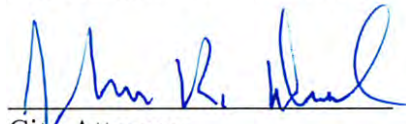
Dated this _____ day of _____, 2011.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

FIRST READING: May 3, 2011

SECOND READING: _____

ORDINANCE No. _____

**AN ORDINANCE AMENDING CITY CODE SECTION 9.30.030 CONCERNING
PANHANDLING AND SOLICITATIONS ON OR NEAR PUBLIC STREETS AND
HIGHWAYS**

WHEREAS, City Code Chapter 9.30 currently imposes time, manner and place restrictions on panhandling in the City; and

WHEREAS, included in this Chapter is Section 9.30.030 which regulates persons “who solicit employment, business, contributions, or sales of any kind” on or near City streets or highways; and

WHEREAS, the Loveland Police Department has received increasing complaints concerning panhandlers and solicitors conducting their activities on and around Eisenhower, U.S. 287 and other major arterial streets in the City; and

WHEREAS, in responding to these complaints, it has been observed that Code Section 9.30.030, as currently written, is inadequate to regulate some of the panhandling and soliciting conduct complained of even though the conduct clearly constituted a public safety issue, not only for the panhandler or solicitor, but also for passing motorists; and

WHEREAS, this Ordinance amends Code Section 9.30.030 to regulate such conduct; and

WHEREAS, the City Council hereby finds that the amendments in this Ordinance to Code Section 9.30.030 are necessary for the public’s health, safety and welfare.

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

Section 1. That Loveland Municipal Code Section 9.30.030 is hereby amended to read in full as follows:

9.30.030 Panhandling and Solicitations on or Near Public Streets and Highways

- A. It shall be unlawful for any persons to panhandle or to solicit employment, business, contributions, or sales of any kind, or collect monies for the same, directly from the occupant of any vehicle traveling upon any public street or highway when:
 - 1. such panhandling, solicitation or collection involves the person performing the activity to enter onto the traveled portion of a public street or highway to complete the transaction, including, without limitation, entering onto bike lanes, street gutters or vehicle parking areas; or

2. such panhandling, solicitation or collection involves the person performing the activity being located upon any median area of the traveled portion of a public street or highway which separates traffic lanes for vehicular travel; or
 3. the person performing the activity is located such that vehicles cannot move into a legal parking area to safely complete the transaction.
- B. Notwithstanding the provisions of paragraph A. above, it shall be unlawful for any person to panhandle or to solicit or attempt to solicit employment, business, or contributions of any kind directly from the occupant of any vehicle on any highway included in the interstate or state highway system, including any entrance to or exit from such highway.

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).

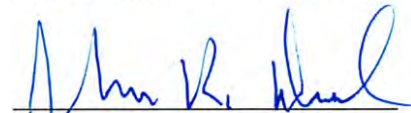
Dated this _____ day of _____, 2011.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney



CITY OF LOVELAND
PUBLIC WORKS DEPARTMENT
Administration Offices • 410 East Fifth Street • Loveland, Colorado 80537
(970) 962-2555 • FAX (970) 962-2908 • TDD (970) 962-2620

AGENDA ITEM: 9
MEETING DATE: 5/3/2011
TO: City Council
FROM: Bill Hange, City Traffic Engineer - Public Works Traffic Division
PRESENTER: Dave Klockeman, City Engineer - Public Works

TITLE:
Traffic Signal Installation Contract Award

DESCRIPTION:

This is an administrative action to award the 2011-2012 Traffic Signal Installation Contract to W.L. Contractors, Inc. of Arvada, Colorado, in the amount of \$1,196,635.00 and authorize the City Manager to execute the contract.

BUDGET IMPACT:

☒ Yes ☐ No

Funding is available in the Adopted 2011 Budget.

SUMMARY:

Sealed Bids for the 2011-2012 Traffic Signal Installation Contract were opened on Thursday, April 7, 2011.

This is a contract for on-call traffic signal installation work needed for various capital improvement projects throughout Loveland. Two contractors had expressed interest in the work. Only one of the contractors attended the mandatory pre-bid conference required for this project. As a result, only one bid was received.

The bid received was within the City's estimate, comparable to previous prices for this type of work, and met all of the City's requirements.

Bid received: W.L. Contractors, Inc. of Arvada, Colorado, in the amount of \$1,196,635.00.

W.L. Contractors, inc. has been the City's contractor for similar work under a similar contract for a number of years. The last formal bid process for this work was completed in 2007 and

awarded to W.L. Contractors. The bid was extended in 2008, 2009, and 2010 to W.L. Contractors in accordance with the provisions of the previous bid documents and City Purchasing Policies, and as a result of the quality of work performed. The current bid documents allow for the extension of this contract for up to three (3) additional years if mutually agreeable between the City and W.L. Contractors.

The amount of this traffic signal work includes labor, equipment, traffic control and some parts required for the installation of traffic signals and related devices throughout the City of Loveland.

The current bid form was updated from the previous bid for similar work to allow for changes in the work and technology over the past several years. One new item was a signal maintenance line item to provide services if the City's existing Staff is unavailable due to other commitments or in the case of a major storm event. The actual amount of work to be completed under this contract depends on the budget and scope and timing of Transportation Capital Improvement projects.

Staff recommends award of the traffic signal installation contract to W.L. Contractors, Inc. of Arvada, Colorado, in the bid amount of \$1,196,635.00.

LIST OF ATTACHMENTS:

None

RECOMMENDED CITY COUNCIL ACTION:

Award the 2011-2012 Traffic Signal Installation Contract to W.L. Contractors, Inc. in the amount of \$1,196,635.00 and authorization for the City Manager to approve the contract.

REVIEWED BY CITY MANAGER:



CITY OF LOVELAND
PUBLIC WORKS DEPARTMENT

Administration Offices • 410 East Fifth Street • Loveland, Colorado 80537
(970) 962-2555 • FAX (970) 962-2908 • TDD (970) 962-2620

AGENDA ITEM: 10
MEETING DATE: 5/3/2011
TO: City Council
FROM: Ken Cooper, Public Works – Facilities Management
PRESENTER: Ken Cooper

TITLE: An ordinance approving Amendment Number Two to contract to buy and sell City property located at 905, 915, 925, 933 and 935 N. Taft Avenue

DESCRIPTION:

This is an administrative matter to consider an ordinance on first reading approving a contract extension to sell approximately 5.2 acres of City-owned property located at 905, 915, 925, 933, and 935 N. Taft Ave., which are parcels acquired for the Taft Ave. widening project. The original contract approved on December 1, 2009 was contingent upon approval of a final plat by January 1, 2012 and this deadline is extended to April 30, 2012 by this Amendment.

BUDGET IMPACT:

☒ Yes ☐ No

SUMMARY:

Between 2003 and 2004, the City purchased five parcels along the west side of N. Taft Ave. to allow the expansion of Taft just north of 8th Street. The addresses for the properties purchased were 905, 915, 925, 933, and 935 N. Taft Ave. Together, they comprise about 5.2 acres. As part of the project, the properties were annexed into the City of Loveland and the houses there were razed. During annexation, the 5.2 acre property was zoned R2 – Developing Two Family Residential.

In 2009, local developer Joe Shrader offered the City \$2.10 per square foot to purchase the remaining 5.2 acres and planned to develop it into low-density residential housing. In total, the purchase offer was \$473,846. Sale of the property and a contract was approved by City Council on December 1, 2009 by adoption of Ordinance 5477. The contract was contingent upon the City's approval of a final subdivision plat no later than January 1, 2012, with closing to occur 90 days after final City approval of the plat. Subsequently, the contract was amended to extend the

deadline for submission of the preliminary subdivision plat, but the final deadline for approval of a final subdivision plat was not amended.

Unfortunately, the buyer has experienced a number of issues which have slowed his ability to complete the final subdivision plat in a timely manner. These issues include:

- The buyer could not produce a project plan which met the original expectation for low-density housing, while also meeting the economic requirements needed for a lender to support such a plan. Instead, the buyer has been working with City Development Services to achieve higher density housing. A draft of that plan is attached.
- The 5.2 acre site is especially flat, requiring unexpected design and engineering costs to adequately drain the site upon construction.

The buyer is asking for the City to extend the terms of the contract, allowing the final plat to instead be approved no later than April 30, 2012. Closing would still occur 90 days after final plat approval.

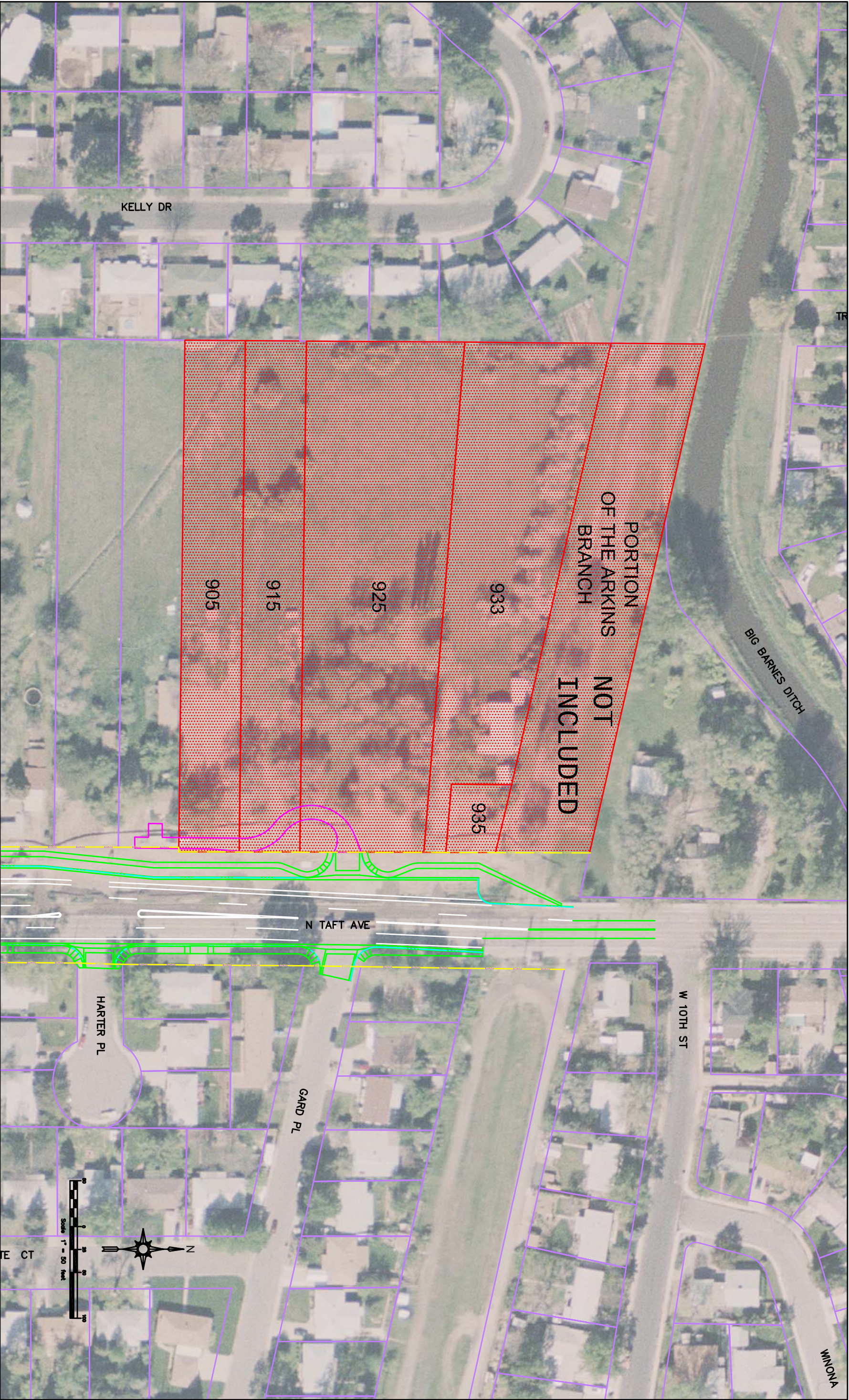
If approved by Council, the monies collected from the real estate sale will be used to reimburse Public Works Capital Expansion Fees originally used to purchase the properties for the Taft Ave. widening project.

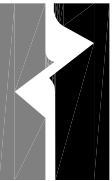
LIST OF ATTACHMENTS: Map Showing Location of Property
 Ordinance Approving Amendment Number Two to Contract
 Exhibit A to Ordinance – Original Contract with Amendment
 Exhibit B to Ordinance – Amendment Number Two to Contract
 Exhibit C – Draft of Higher-density Housing Plan for the Property

RECOMMENDED CITY COUNCIL ACTION: Approve the Ordinance Approving Amendment Number Two to Contract to Buy and Sell City Property Located at 905, 915, 925, 933, and 935 N. Taft Ave.

REVIEWED BY CITY MANAGER:

MAP OF PROPERTY



Computer File Information				Sheet Revisions				 CITY OF LOVELAND		PUBLIC WORKS ENGINEERING 410 East Fifth Street Loveland, Colorado 80537 Phone: (970) 962-2627 FAX: (970) 962-2908 www.loveland.co.us/PublicWorks/PWMain/PWHome.aspx		As Constructed		TAFT AVENUE & W 8TH STREET 905-935 N. Taft Ave PROPERTY EXHIBIT		Project No./Code EN0104	
Creation Date:	04/18/08	Initials:	SRA	CRI1													
Last Modification Date:		Initials:		CRI2													
Full Path: \\P:\Public\Engineering\City\Projects\Big Thompson River to East Fifth & 8th\Layer-000				CRI3													
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FIRST READING May 3, 2011

SECOND READING _____

ORDINANCE NO. _____

**AN ORDINANCE APPROVING AMENDMENT NUMBER TWO TO
CONTRACT TO BUY AND SELL CITY PROPERTY LOCATED AT 905,
915, 925, 933 AND 935 N. TAFT AVENUE**

WHEREAS, between 2003 and 2004, the City purchased five parcels along the west side of N. Taft Avenue just north of 8th street, to allow the expansion of Taft Avenue; and

WHEREAS, approximately 5.2 acres of the five parcels purchased by the City were not required to complete the expansion of Taft Avenue and Council approved the sale of that 5.2 acres of real property located at 905, 915, 925, 933 and 935 N. Taft Avenue (the "Property") to Joseph Shrader ("Shrader") on December 1, 2009 pursuant to Ordinance 5477; and

WHEREAS, the City and Shrader executed that certain Contract to Buy and Sell Real Estate dated December 14, 2009 and Amendment Number One to Contract to Buy and Sell Real Estate dated December 20, 2010 attached hereto as **Exhibit A** and incorporated herein by this reference (collectively, the "Contract"), pursuant to which Shrader agreed to purchase the Property from the City; and

WHEREAS, pursuant to Section 25.1 of the Contract, Shrader's obligation to purchase the Property is contingent upon final approval by the City of a final subdivision plat no later than January 1, 2012; and

WHEREAS, Shrader has determined that higher density is necessary to support subdivision and development of the Property in an economically feasible manner and is pursuing City approval of a higher density housing plan for the Property, and has therefore requested that the deadline for approval of a final subdivision plat for the Property set forth in in the Contract be extended to April 30, 2012, with closing to occur ninety (90) days after final approval, all as more fully set forth in Amendment Number Two to Buy and Sell Real Estate attached hereto as **Exhibit B** and incorporated herein by this reference ("Amendment Number Two").

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

Section 1. That Amendment Number Two, attached hereto as **Exhibit B** and incorporated herein by this reference, is hereby approved.

Section 2. That the City Manager is authorized, following consultation with the City Attorney, to modify Amendment Number Two 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, on behalf of the City of Loveland, Amendment Number to the Contract.

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

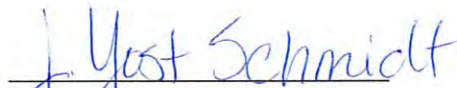
ADOPTED this ____ day of May, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Deputy City Attorney

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission.
(CBS1-8-07) (Mandatory 1-08)

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

CONTRACT TO BUY AND SELL REAL ESTATE (ALL TYPES OF PROPERTIES) with Closing Instructions

Date: _____, 2009

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

2. DEFINED TERMS.

2.1. Buyer. Buyer, Joseph Shrader, or assigns, will take title to the real property described below as ☐ Joint Tenants ☐ Tenants In Common ☒ Other to be determined.

2.2. Property. The Property is the following legally described real estate in the County of Larimer, Colorado:
See Exhibit A attached hereto

known as No. 905, 915, 925, 935, 933 N. Taft Avenue Loveland CO 80537
Street Address City State Zip

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

2.3. Dates and Deadlines.

Item No.	Reference	Event	Date or Deadline
1	§ 4.2.1	Alternative Earnest Money Deadline	10 days after approval under Section 25.1
2	§ 5.1	Loan Application Deadline	N/A
3	§ 5.2	Loan Conditions Deadline	N/A
4	§ 5.3	Buyer's Credit Information Deadline	N/A
5	§ 5.3	Disapproval of Buyer's Credit Information Deadline	N/A
6	§ 5.4	Existing Loan Documents Deadline	N/A
7	§ 5.4	Existing Loan Documents Objection Deadline	N/A
8	§ 5.4	Loan Transfer Approval Deadline	N/A
9	§ 6.2.2	Appraisal Deadline	N/A
10	§ 7.1	Title Deadline	December 15, 2009
11	§ 8.1	Title Objection Deadline	15 days after title deadline
12	§ 7.3	Survey Deadline	N/A
13	§ 8.3.2	Survey Objection Deadline	N/A
14	§ 7.2	Document Request Deadline	5 days after title deadline
15	§ 7.4.4	CIC Documents Deadline	N/A
16	§ 7.4.5	CIC Documents Objection Deadline	N/A
17	§ 8.2	Off-Record Matters Deadline	December 15, 2009
18	§ 8.2	Off-Record Matters Objection Deadline	December 30, 2009
19	§ 8.6	Right of First Refusal Deadline	N/A
20	§ 10.1	Seller's Property Disclosure Deadline	N/A
21	§ 10.2	Inspection Objection Deadline	N/A
22	§ 10.3	Inspection Resolution Deadline	N/A
23	§ 10.5	Property Insurance Objection Deadline	N/A
24	§ 12	Closing Date	See 25.2
25	§ 17	Possession Date	Same as closing date
26	§ 17	Possession Time	5:00 p.m. MDT
27	§ 31	Acceptance Deadline Date	
28	§ 31	Acceptance Deadline Time	Noon MDT

2.4. Applicability of Terms. A check or similar mark in a box means that such provision is applicable. The abbreviation "N/A" or the word "Deleted" means not applicable and when inserted on any line in **Dates and Deadlines** (§ 2.3), means that the corresponding provision of the Contract to which reference is made is deleted. The abbreviation "MEC" (mutual execution of this Contract) means the date upon which both parties have signed this Contract.

3. INCLUSIONS AND EXCLUSIONS.

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

3.1.1. Fixtures. If attached to the Property on the date of this Contract, lighting, heating, plumbing, ventilating, and air conditioning fixtures, TV antennas, inside telephone wiring and connecting blocks/jacks, plants, mirrors, floor coverings, intercom systems, built-in kitchen appliances, sprinkler systems and controls, built-in vacuum systems (including accessories), garage door openers including remote controls; and ☐ N/A

3.1.2. Personal Property. The following are included if on the Property whether attached or not on the date of this Contract: ~~storm windows, storm doors, window and porch shades, awnings, blinds, screens, window coverings, curtain rods, drapery rods, fireplace inserts, fireplace screens, fireplace grates, heating stoves, storage sheds, and all keys.~~ If checked, the following are included: ☐ Water Softeners ☐ Smoke/Fire Detectors ☐ Security Systems ☐ Satellite Systems (including satellite dishes).

3.1.3. Other Inclusions.
None

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

3.1.4. Trade Fixtures. With respect to trade fixtures, Seller and Buyer agree as follows:
N/A

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

3.1.5. Parking and Storage Facilities. ☐ Use Only ☐ Ownership of the following parking facilities: _____; and ☐ Use Only ☐ Ownership of the following storage facilities: N/A

3.1.6. Water Rights. The following legally described water rights:
None

Any water rights shall be conveyed by ☐ N/A **Deed** ☐ Other applicable legal instrument. If well rights are to be transferred to Buyer, Seller agrees to supply the required information to Buyer for Buyer to submit, and also, if required, a Change in Ownership form as promulgated by the Colorado State Engineer's office. The Well Permit # is N/A.

3.1.7. Growing Crops. With respect to growing crops, Seller and Buyer agree as follows:
N/A

3.2. Exclusions. The following items are excluded: N/A

4. PURCHASE PRICE AND TERMS.

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

Item No.	Reference	Item	Amount	Amount
1	§ 4.1	Purchase Price	\$ 473,846.00	
2	§ 4.2	Earnest Money		\$ 5,000.00
3	§ 4.5	New Loan		
4	§ 4.6	Assumption Balance		
5	§ 4.7	Seller or Private Financing		
6				
7				
8	§ 4.3	Cash at Closing		468,846.00
9		TOTAL	\$ 473,846.00	\$ 473,846.00

4.2. Earnest Money. The Earnest Money set forth in this section, in the form of check _____, is part payment of the Purchase Price and shall be payable to and held by City of Loveland (Earnest Money Holder), in its trust account, on behalf of both Seller and Buyer. ~~The Earnest Money deposit shall be tendered with this Contract unless the parties mutually agree to an Alternative Earnest Money Deadline (§ 2.3) for its payment. The parties authorize delivery of the Earnest Money deposit to the company conducting the Closing (Closing Company), if any, at or before Closing. In the event Earnest Money Holder has agreed to have interest on Earnest Money deposits transferred to a fund established for the purpose of providing affordable housing to Colorado residents, Seller and Buyer acknowledge and agree that any interest accruing on the Earnest Money deposited with the Earnest Money Holder in this transaction shall be transferred to such fund.~~

4.2.1. Alternative Earnest Money Deadline. The deadline for delivering the Earnest Money, if other than at the time of tender of the Contract is as set forth as the Alternative Earnest Money Deadline (§ 2.3).

4.3. Cash at Closing. All amounts paid by Buyer at Closing, including Cash at Closing, plus Buyer's closing costs, shall be in funds which comply with all applicable Colorado laws, which include cash, electronic transfer funds, certified check, savings and loan teller's check and cashier's check (Good Funds). Buyer represents that Buyer ☒ Does ☐ Does Not have funds that are immediately verifiable and available in an amount not less than the amount stated as Cash at Closing in § 4.1.

4.4. Seller Concession. Seller, at Closing, shall pay or credit, as directed by Buyer, a total amount of \$ N/A to assist with Buyer's closing costs, loan discount points, loan origination fees, prepaid items (including any amounts that Seller agrees to pay because Buyer is not allowed to pay due to FHA, CHFA, VA, etc.), and any other fee, cost, charge, expense or expenditure related to Buyer's New Loan or other allowable Seller concession (collectively, Seller Concession). The Seller Concession is in addition to any sum Seller has agreed to pay or credit Buyer elsewhere in this Contract. If the amount of Seller Concession exceeds the aggregate of what is allowed, Seller shall not pay or be charged such excess amount.

4.5. New Loan.

4.5.1. Buyer, except as provided in § 4.4, if applicable, shall timely pay Buyer's loan costs, loan discount points, prepaid items and loan origination fees, as required by lender.

4.5.2. Buyer may select financing appropriate and acceptable to Buyer, including a different loan than initially sought, except as restricted in § 4.5.3 or § 25, Additional Provisions.

4.5.3. Loan Limitations. Buyer may purchase the Property using any of the following types of loan: ☒ Conventional ☒ FHA ☒ VA ☒ Bond.

4.5.4. Good Faith Estimate – Monthly Payment and Loan Costs. Buyer is advised to review the terms, conditions and costs of Buyer's New Loan carefully. If Buyer is applying for a residential loan, the lender generally must provide Buyer with a good faith estimate of Buyer's closing costs within three days after Buyer completes a loan application. Buyer should also obtain an estimate of the amount of Buyer's monthly mortgage payment. If the New Loan is unsatisfactory to Buyer, then Buyer may terminate this Contract pursuant to § 5.2 no later than Loan Conditions Deadline (§ 2.3).

4.6. Assumption. Buyer agrees to assume and pay an existing loan in the approximate amount of the Assumption Balance set forth in § 4.1, presently payable at \$ N/A per including principal and interest presently at the rate of % per annum, and also including escrow for the following as indicated: ☐ Real Estate Taxes ☐ Property Insurance Premium ☐ Mortgage Insurance Premium and ☐ .

Buyer agrees to pay a loan transfer fee not to exceed \$ N/A. At the time of assumption, the new interest rate shall not exceed % per annum and the new payment shall not exceed \$ N/A per principal and interest, plus escrow, if any. If the actual principal balance of the existing loan at Closing is less than the Assumption Balance, which causes the amount of cash required from Buyer at Closing to be increased by more than \$ N/A, then ☐ Buyer May Terminate this Contract effective upon receipt by Seller of Buyer's written notice of termination or ☐ .

Seller ☐ Shall ☐ Shall Not be released from liability on said loan. If applicable, compliance with the requirements for release from liability shall be evidenced by delivery ☐ on or before Loan Transfer Approval Deadline ☐ at Closing of an appropriate letter of commitment from lender. Any cost payable for release of liability shall be paid by in an amount not to exceed \$.

4.7. Seller or Private Financing. Buyer agrees to execute a promissory note payable to N/A, as ☐ Joint Tenants ☐ Tenants In Common ☐ Other , on the note form as indicated:

☐ (Default Rate) NTD81-10-06 ☐ Other secured by a (1st, 2nd, etc.) deed of trust encumbering the Property, using the form as indicated:

☐ Strict Due-On-Sale (TD72-10-06) ☐ Creditworthy (TD73-10-06) ☐ Assumable – Not Due On Sale (TD74-10-06)

☐ Other .

The promissory note shall be amortized on the basis of ☐ Years ☐ Months, payable at \$ per including principal and interest at the rate of % per annum. Payments shall commence and shall be due on the day of each succeeding . If not sooner paid, the balance of principal and accrued interest shall be due and payable after Closing. Payments ☐ Shall ☐ Shall Not be increased by of estimated annual real estate taxes, and ☐ Shall ☐ Shall Not be increased by of estimated annual property insurance premium. The loan shall also contain the following terms: (1) if any payment is not received within calendar days after its due date, a late charge of % of such payment shall be due; (2) interest on lender disbursements under the deed of trust shall be % per annum; (3) default interest rate shall be % per annum; (4) Buyer may prepay without a penalty except ; and (5) Buyer ☐ Shall ☒ Shall Not execute and deliver, at Closing, a Security Agreement and UCC-1 Financing Statement granting the holder of the promissory note a (1st, 2nd, etc.) lien on the personal property included in this sale.

Buyer ☐ Shall ☐ Shall Not provide a mortgagee's title insurance policy, at Buyer's expense.

5. FINANCING CONDITIONS AND OBLIGATIONS.

5.1. Loan Application. If Buyer is to pay all or part of the Purchase Price by obtaining one or more new loans (New Loan), or if an existing loan is not to be released at Closing, Buyer, if required by such lender, shall make a verifiable application by Loan Application Deadline (§ 2.3).

5.2. Loan Conditions. If Buyer is to pay all or part of the Purchase Price with a New Loan, this Contract is conditional upon Buyer determining, in Buyer's subjective discretion, that the availability, terms, conditions, and cost of such New Loan are satisfactory to Buyer. This condition is for the benefit of Buyer. If such New Loan is not satisfactory to Buyer, Seller must receive written notice to terminate from Buyer, no later than Loan Conditions Deadline (§ 2.3), at which time this Contract shall terminate. ~~IF SELLER DOES NOT RECEIVE TIMELY WRITTEN NOTICE TO TERMINATE, THIS CONDITION SHALL BE DEEMED WAIVED, AND BUYER'S EARNEST MONEY SHALL BE NONREFUNDABLE, EXCEPT AS OTHERWISE PROVIDED IN THIS CONTRACT (e.g., Appraisal, Title, Survey).~~

5.3. Credit Information and Buyer's New Senior Loan. If Buyer is to pay all or part of the Purchase Price by executing a promissory note in favor of Seller, or if an existing loan is not to be released at Closing, this Contract is conditional (for the benefit of Seller) upon Seller's approval of Buyer's financial ability and creditworthiness, which approval shall be at Seller's subjective discretion. In such case: (1) Buyer shall supply to Seller by Buyer's Credit Information Deadline (§ 2.3), at Buyer's expense, information and documents (including a current credit report) concerning Buyer's financial, employment and credit condition and Buyer's New Senior Loan, defined below, if any; (2) Buyer consents that Seller may verify Buyer's financial ability and creditworthiness; (3) any such information and documents received by Seller shall be held by Seller in confidence, and not released to others except to protect Seller's interest in this transaction; (4) in the event Buyer is to execute a promissory note secured by a deed of trust in favor of Seller, this Contract is conditional (for the benefit of Seller) upon Seller's approval of the terms and conditions of any New Loan to be obtained by Buyer if the deed of trust to Seller is to be subordinate to Buyer's New Loan (Buyer's New Senior Loan). Additionally, Seller shall have the right to terminate, at or before Closing, if the Cash at Closing is less than as set forth in § 4.1 of this Contract or Buyer's New Senior Loan changes from that approved by Seller; and (5) if Seller does not deliver written notice of Seller's disapproval of Buyer's financial ability and creditworthiness or of Buyer's New Senior Loan to Buyer by Disapproval of Buyer's Credit Information Deadline (§ 2.3), then Seller waives the conditions set forth in this section as to Buyer's New Senior Loan supplied to Seller. If Seller delivers written notice of disapproval to Buyer on or before said date, this Contract shall terminate.

5.4. Existing Loan Review. If an existing loan is not to be released at Closing, Seller shall deliver copies of the loan documents (including note, deed of trust, and any modifications) to Buyer by Existing Loan Documents Deadline (§ 2.3). For the benefit of Buyer, this Contract is conditional upon Buyer's review and approval of the provisions of such loan documents. If written notice of objection to such loan documents,

signed by Buyer, is not received by Seller by ~~Existing Loan Documents Objection Deadline~~ (§ 2.3), Buyer accepts the terms and conditions of the documents. If the lender's approval of a transfer of the Property is required, this Contract is conditional upon Buyer's obtaining such approval without change in the terms of such loan, except as set forth in § 4.6. If lender's approval is not obtained by ~~Loan Transfer Approval Deadline~~ (§ 2.3), this Contract shall terminate on such deadline. If Seller is to be released from liability under such existing loan and Buyer does not obtain such compliance as set forth in § 4.5, this Contract may be terminated at Seller's option.

6. APPRAISAL PROVISIONS.

6.1. Property Approval. If the lender imposes any requirements or repairs (Requirements) to be made to the Property (e.g., roof repair, repainting), beyond those matters already agreed to by Seller in this Contract, Seller may terminate this Contract (notwithstanding § 10 of this Contract) by written notice to Buyer on or before three calendar days following Seller's receipt of the Requirements. The right to terminate in this § 6.1 shall not apply if on or before five calendar days prior to **Closing Date** (§ 2.3): (1) the parties enter into a written agreement; or (2) the Requirements are completed by Seller; or (3) the satisfaction of the Requirements is waived in writing by Buyer.

6.2. Appraisal Condition.

☒ **6.2.1. Not Applicable.** This § 6.2 shall not apply.

☐ **6.2.2. Conventional/Other.** Buyer shall have the sole option and election to terminate this Contract if the Purchase Price exceeds the Property's valuation determined by an appraiser engaged by _____. This Contract shall terminate by Buyer delivering to Seller written notice of termination and either a copy of such appraisal or written notice from lender that confirms the Property's valuation is less than the Purchase Price, received on or before **Appraisal Deadline** (§ 2.3). If Seller does not receive such written notice of termination on or before **Appraisal Deadline** (§ 2.3), Buyer waives any right to terminate under this section.

☐ **6.2.3. FHA.** It is expressly agreed that, notwithstanding any other provisions of this Contract, the Purchaser (Buyer) shall not be obligated to complete the purchase of the Property described herein or to incur any penalty by forfeiture of Earnest Money deposits or otherwise unless the Purchaser (Buyer) has been given in accordance with HUD/FHA or VA requirements a written statement issued by the Federal Housing Commissioner, Department of Veterans Affairs, or a Direct Endorsement lender, setting forth the appraised value of the Property of not less than \$ _____. The Purchaser (Buyer) shall have the privilege and option of proceeding with the consummation of the Contract without regard to the amount of the appraised valuation. The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value nor the condition of the Property. The Purchaser (Buyer) should satisfy himself/herself that the price and condition of the Property are acceptable.

☐ **6.2.4. VA.** It is expressly agreed that, notwithstanding any other provisions of this Contract, the purchaser (Buyer) shall not incur any penalty for forfeiture of Earnest Money or otherwise or be obligated to complete the purchase of the Property described herein, if the Contract Purchase Price or cost exceeds the reasonable value of the Property established by the Department of Veterans Affairs. The purchaser (Buyer) shall, however, have the privilege and option of proceeding with the consummation of this Contract without regard to the amount of the reasonable value established by the Department of Veterans Affairs.

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

7. EVIDENCE OF TITLE, SURVEY AND CIC DOCUMENTS.

7.1. Evidence of Title. On or before **Title Deadline** (§ 2.3), Seller shall cause to be furnished to Buyer, at Seller's expense, a current commitment for owner's title insurance policy (Title Commitment) in an amount equal to the Purchase Price, or if this box is checked, ☐ **An Abstract** of title certified to a current date. At Seller's expense, Seller shall cause the title insurance policy to be issued and delivered to Buyer as soon as practicable at or after Closing. If a title insurance commitment is furnished, it ☒ **Shall** ☐ **Shall Not** commit to delete or insure over the standard exceptions which relate to:

- (1) parties in possession,
- (2) unrecorded easements,
- (3) survey matters,
- (4) any unrecorded mechanics' liens,
- (5) gap period (effective date of commitment to date deed is recorded), and
- (6) unpaid taxes, assessments and unredeemed tax sales prior to the year of Closing.

Any additional premium expense to obtain this additional coverage shall be paid by ☒ Buyer ☐ Seller.

Note: The title insurance company may not agree to delete or insure over any or all of the standard exceptions. Buyer shall have the right to review the Title Commitment pursuant to § 8.1.

7.2. Copies of Exceptions. On or before **Title Deadline** (§ 2.3), Seller, at Seller's expense, shall furnish to Buyer and Stephen Howard, (1) copies of any plats, declarations, covenants, conditions and restrictions burdening the Property, and (2) if a Title Commitment is required to be furnished, and if this box is checked ☒ **Copies of any Other Documents** (or, if illegible, summaries of such documents) listed in the schedule of exceptions (Exceptions). Even if the box is not checked, Seller shall have the obligation to furnish these documents pursuant to this section if requested by Buyer any time on or before **Document Request Deadline** (§ 2.3). This requirement shall pertain only to documents as shown of record in the office of the clerk and recorder in the county where the Property is located. The abstract or Title Commitment, together with any copies or summaries of such documents furnished pursuant to this section, constitute the title documents (Title Documents).

7.3. Survey. ~~On or before Survey Deadline (§ 2.3);~~ ☐ Seller ☐ Buyer shall order and cause Buyer (and the issuer of the Title Commitment or the provider of the opinion of title if an abstract) to receive a current ☐ **Improvement Survey Plat** ☐ **Improvement Location Certificate** ☐ _____ (the description checked is known as Survey). An amount not to exceed \$ _____ for Survey shall be paid by ☐ Buyer ☐ Seller. If the cost exceeds this amount, ☐ Buyer ☐ Seller shall pay the excess on or before Closing. Buyer shall not be obligated to pay the excess unless Buyer is informed of the cost and delivers to Seller, before Survey is ordered, Buyer's written agreement to pay the required amount to be paid by Buyer.

7.4. Common Interest Community Documents. The term CIC Documents consists of all owners' associations (Association) declarations, bylaws, operating agreements, rules and regulations, party wall agreements, minutes of most recent annual owners' meeting and minutes of any directors' or managers' meetings during the 6-month period immediately preceding the date of this Contract, if any (Governing Documents), most recent financial documents consisting of (1) annual balance sheet, (2) annual income and expenditures statement, and (3) annual budget (Financial Documents), if any (collectively CIC Documents).

☒ **7.4.1. Not Applicable.** This § 7.4 shall not apply.

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

☐ **7.4.3. Not Conditional on Review.** Buyer acknowledges that Buyer has received a copy of the CIC Documents. Buyer has reviewed them, agrees to accept the benefits, obligations and restrictions that they impose upon the Property and its owners and waives any right to terminate this Contract due to such documents, notwithstanding the provisions of § 8.5.

☐ **7.4.4. CIC Documents to Buyer.**

☐ **7.4.4.1. Seller to Provide CIC Documents.** Seller shall cause the CIC Documents to be provided to Buyer, at Seller's expense, on or before **CIC Documents Deadline** (§ 2.3).

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

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

7.4.5. Conditional on Buyer's Review. If the box in either § 7.4.4.1 or § 7.4.4.2 is checked, the provisions of this § 7.4.5 shall apply. Written notice of any unsatisfactory provision in any of the CIC Documents, in Buyer's subjective discretion, signed by Buyer, or on behalf of Buyer, and delivered to Seller on or before **CIC Documents Objection Deadline** (§ 2.3), shall terminate this Contract.

Should Buyer receive the CIC Documents after **CIC Documents Deadline** (§ 2.3), Buyer shall have the right, at Buyer's option, to terminate this Contract by written notice delivered to Seller on or before ten calendar days after Buyer's receipt of the CIC Documents. If Buyer does not receive the CIC Documents, or if such written notice to terminate would otherwise be required to be delivered after **Closing Date** (§ 2.3), Buyer's written notice to terminate shall be received by Seller on or before three calendar days prior to **Closing Date** (§ 2.3). If Seller does not receive written notice from Buyer within such time, Buyer accepts the provisions of the CIC Documents, and Buyer's right to terminate this Contract pursuant to this section is waived, notwithstanding the provisions of § 8.5.

NOTE: If no box in this § 7.4 is checked, the provisions of § 7.4.4.1 shall apply.

8. TITLE AND SURVEY REVIEW.

8.1. Title Review. Buyer shall have the right to inspect the Title Documents. Written notice by Buyer of unmerchantability of title, form or content of Title Commitment or of any other unsatisfactory title condition shown by the Title Documents, notwithstanding § 13, shall be signed by or on behalf of Buyer and delivered to Seller on or before **Title Objection Deadline** (§ 2.3), or within five calendar days after receipt by Buyer of any change to the Title Documents or endorsement to the Title Commitment together with a copy of the document adding any new Exception to title. If Seller does not receive Buyer's notice by the date specified above, Buyer accepts the condition of title as disclosed by the Title Documents as satisfactory.

8.2. Matters Not Shown by the Public Records. Seller shall deliver to Buyer, on or before **Off-Record Matters Deadline** (§ 2.3) true copies of all leases and surveys in Seller's possession pertaining to the Property and shall disclose to Buyer all easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or other title matters (including, without limitation, rights of first refusal and options) not shown by the public records of which Seller has actual knowledge. Buyer shall have the right to inspect the Property to investigate if any third party has any right in the Property not shown by the public records (such as an unrecorded easement, unrecorded lease, boundary line discrepancy or water rights). Written notice of any unsatisfactory condition disclosed by Seller or revealed by such inspection, notwithstanding § 13, shall be signed by or on behalf of Buyer and delivered to Seller on or before **Off-Record Matters Objection Deadline** (§ 2.3). If Seller does not receive Buyer's notice by said deadline, Buyer accepts title subject to such rights, if any, of third parties of which Buyer has actual knowledge.

8.3. Survey Review.

☒ **8.3.1. Not Applicable.** This § 8.3 shall not apply.

☐ **8.3.2. Conditional on Survey.** If the box in this § 8.3.2 is checked, Buyer shall have the right to inspect the Survey. If written notice by or on behalf of Buyer of any unsatisfactory condition shown by the Survey, notwithstanding § 8.2 or § 13, is received by Seller on or before **Survey Objection Deadline** (§ 2.3) then such objection shall be deemed an unsatisfactory title condition. If Seller does not receive Buyer's notice by **Survey Objection Deadline** (§ 2.3), Buyer accepts the Survey as satisfactory.

8.4. Special Taxing Districts. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND EXCESSIVE TAX BURDENS TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYER SHOULD INVESTIGATE THE DEBT FINANCING REQUIREMENTS OF THE AUTHORIZED GENERAL OBLIGATION INDEBTEDNESS OF SUCH DISTRICTS, EXISTING MILL LEVIES OF SUCH DISTRICT SERVICING SUCH INDEBTEDNESS, AND THE POTENTIAL FOR AN INCREASE IN SUCH MILL LEVIES.

In the event the Property is located within a special taxing district and Buyer desires to terminate this Contract as a result, if written notice, by or on behalf of Buyer, is received by Seller on or before **Off-Record Matters Objection Deadline** (§ 2.3), this Contract shall terminate. If Seller does not receive Buyer's notice by such deadline, Buyer accepts the effect of the Property's inclusion in such special taxing district and waives the right to terminate for that reason.

8.5. Right to Object, Cure. Buyer's right to object shall include, but not be limited to, those matters set forth in § 13. If Seller receives notice of unmerchantability of title or any other unsatisfactory title condition or commitment terms as provided in §§ 8.1, 8.2, 8.3 and 8.4, Seller

shall use reasonable efforts to correct said items and bear any nominal expense to correct the same prior to Closing. If such unsatisfactory title condition is not corrected to Buyer's satisfaction on or before Closing, this Contract shall terminate; provided, however, Buyer may, by written notice received by Seller on or before Closing, waive objection to such items.

8.6. Right of First Refusal or Contract Approval. If there is a right of first refusal on the Property, or a right to approve this Contract, Seller shall promptly submit this Contract according to the terms and conditions of such right. If the holder of the right of first refusal exercises such right or the holder of a right to approve disapproves this Contract, this Contract shall terminate. If the right of first refusal is waived explicitly or expires, or the Contract is approved, this Contract shall remain in full force and effect. Seller shall promptly notify Buyer of the foregoing. If expiration or waiver of the right of first refusal or Contract approval has not occurred on or before **Right of First Refusal Deadline** (§ 2.3), this Contract shall terminate.

8.7. Title Advisory. The Title Documents affect the title, ownership and use of the Property and should be reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the title, ownership and use of the Property, including without limitation, boundary lines and encroachments, area, zoning, unrecorded easements and claims of easements, leases and other unrecorded agreements, and various laws and governmental regulations concerning land use, development and environmental matters. **The surface estate may be owned separately from the underlying mineral estate, and transfer of the surface estate does not necessarily include transfer of the mineral rights or water rights. Third parties may hold interests in oil, gas, other minerals, geothermal energy or water on or under the Property, which interests may give them rights to enter and use the Property.** Such matters may be excluded from or not covered by the title insurance policy. Buyer is advised to timely consult legal counsel with respect to all such matters as there are strict time limits provided in this Contract [e.g., **Title Objection Deadline** (§ 2.3) and **Off-Record Matters Objection Deadline** (§ 2.3)].

9. LEAD-BASED PAINT. Unless exempt, if the improvements on the Property include one or more residential dwellings for which a building permit was issued prior to January 1, 1978, this Contract shall be void unless a completed Lead-Based Paint Disclosure (Sales) form is signed by Seller and the required real estate licensees, which must occur prior to the parties signing this Contract. Buyer acknowledges timely receipt of a completed Lead-Based Paint Disclosure (Sales) form signed by Seller and the real estate licensees.

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

10.1. Seller's Property Disclosure Deadline. On or before **Seller's Property Disclosure Deadline** (§ 2.3), Seller agrees to deliver to Buyer the most current version of the Colorado Real Estate Commission's Seller's Property Disclosure form completed by Seller to the best of Seller's actual knowledge, current as of the date of this Contract.

10.2. Inspection Objection Deadline. Buyer shall have the right to have inspections of the physical condition of the Property and Inclusions, at Buyer's expense. If the physical condition of the Property or Inclusions is unsatisfactory in Buyer's subjective discretion, Buyer shall, on or before **Inspection Objection Deadline** (§ 2.3):

10.2.1. notify Seller in writing that this Contract is terminated, or

10.2.2. deliver to Seller a written description of any unsatisfactory physical condition which Buyer requires Seller to correct (Notice to Correct).

If written notice is not received by Seller on or before **Inspection Objection Deadline** (§ 2.3), the physical condition of the Property and Inclusions shall be deemed to be satisfactory to Buyer.

10.3. Inspection Resolution Deadline. If a Notice to Correct is received by Seller and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Inspection Resolution Deadline** (§ 2.3), this Contract shall terminate one calendar day following **Inspection Resolution Deadline** (§ 2.3), unless before such termination Seller receives Buyer's written withdrawal of the Notice to Correct.

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

10.5. Insurability. This Contract is conditional upon Buyer's satisfaction, in Buyer's subjective discretion, with the availability, terms and conditions of and premium for property insurance. This Contract shall terminate upon Seller's receipt, on or before **Property Insurance Objection Deadline** (§ 2.3), of Buyer's written notice that such insurance was not satisfactory to Buyer. If said notice is not timely received, Buyer shall have waived any right to terminate under this provision.

10.6. Buyer Disclosure. Buyer represents that Buyer ☐ Does ☒ Does Not need to sell and close a property to complete this transaction.

Note: Any property sale contingency should appear in **Additional Provisions** (§ 25).

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

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

11. METHAMPHETAMINE LABORATORY DISCLOSURE (Residential Property Only). The parties acknowledge that Seller is required to disclose whether Seller knows that the Property, if residential, was previously used as a methamphetamine laboratory. No disclosure is required if the Property was remediated in accordance with state standards and other requirements are fulfilled pursuant to § 25-18.5-102, C.R.S. Buyer further acknowledges that Buyer has the right to engage a certified hygienist or industrial hygienist to test whether the Property has ever been used as a methamphetamine laboratory. If Buyer's test results indicate that the Property has been used as a methamphetamine laboratory, but has not been remediated to meet the standards established by rules of the State Board of Health promulgated pursuant to § 25-18.5-102, C.R.S., Buyer shall promptly give written notice to Seller of the results of the test, and Buyer may terminate this Contract.

12. CLOSING. Delivery of deed from Seller to Buyer shall be at closing (Closing). Closing shall be on the date specified as the **Closing Date** (§ 2.3) or by mutual agreement at an earlier date. The hour and place of Closing shall be as designated by mutual agreement.

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

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

13.2. distribution utility easements (including cable TV),

13.3. those specifically described rights of third parties not shown by the public records of which Buyer has actual knowledge and which were accepted by Buyer in accordance with **Matters Not Shown by the Public Records** (§ 8.2) and **Survey Review** (§ 8.3),

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

13.5. other NONE.

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

15. **CLOSING COSTS, DOCUMENTS AND SERVICES.**

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

15.2. **Closing Information and Documents.** Buyer and Seller will furnish any additional information and documents required by Closing Company that will be necessary to complete this transaction. Buyer and Seller shall sign and complete all customary or reasonably required documents at or before Closing.

15.3. **Closing Services Fee.** The fee for real estate Closing services shall be paid at Closing by ☐ Buyer ☐ Seller ☒ One-Half by Buyer and One-Half by Seller ☐ Other _____.

15.4. **Closing Instructions.** The Colorado Real Estate Commission's Closing Instructions ☐ Are ☒ Are Not executed with this Contract. Upon execution, ☐ Seller ☐ Buyer shall deliver such Closing Instructions to the Closing Company.

15.5. **Status Letter and Transfer Fees.** Any fees incident to the issuance of Association's statement of assessments (Status Letter) shall be paid by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller. Any fees incident to the transfer from Seller to Buyer assessed by the Association (Association's Transfer Fee) shall be paid by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller.

15.6. **Local Transfer Tax.** ☐ The Local Transfer Tax of .01% of the Purchase Price shall be paid at Closing by ☒ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller.

15.7. **Sales and Use Tax.** Any sales and use tax that may accrue because of this transaction shall be paid when due by ☒ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller.

16. **PRORATIONS.** The following shall be prorated to **Closing Date** (§ 2.3), except as otherwise provided:

16.1. **Taxes.** Personal property taxes, if any, and general real estate taxes for the year of Closing, based on ☐ Taxes for the Calendar Year Immediately Preceding Closing ☒ Most Recent Mill Levy and Most Recent Assessed Valuation ☒ Other see Section 25.6.

16.2. **Rents.** Rents based on ☐ Rents Actually Received ☐ Accrued. Security deposits held by Seller shall be credited to Buyer. Seller shall assign all leases to Buyer and Buyer shall assume such leases.

16.3. **Association Assessments.** Current regular Association assessments and dues (Association Assessments) paid in advance shall be credited to Seller at Closing. Cash reserves held out of the regular Association Assessments for deferred maintenance by the Association shall not be credited to Seller except as may be otherwise provided by the Governing Documents. Any special assessment by the Association for improvements that have been installed as of the date of Buyer's signature hereon shall be the obligation of Seller. Any other special assessment assessed prior to **Closing Date** (§ 2.3) by the Association shall be the obligation of ☐ Buyer ☐ Seller. Seller represents that the Association Assessments are currently payable at \$ N/A per _____ and that there are no unpaid regular or special assessments against the Property except the current regular assessments and _____. Such assessments are subject to change as provided in the Governing Documents. Seller agrees to promptly request the Association to deliver to Buyer before **Closing Date** (§ 2.3) a current Status Letter.

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

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

17. **POSSESSION.** Possession of the Property shall be delivered to Buyer on **Possession Date** at **Possession Time** (§ 2.3), subject to the following leases or tenancies:
None

If Seller, after Closing, fails to deliver possession as specified, Seller shall be subject to eviction and shall be additionally liable to Buyer for payment of \$ 100.00 per day (or any part of a day) from **Possession Date** and **Possession Time** (§ 2.3) until possession is delivered.

Buyer ☐ Does ☒ Does Not represent that Buyer will occupy the Property as Buyer's principal residence.

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

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

19.1. **Casualty Insurance.** In the event the Property or Inclusions are damaged by fire or other casualty prior to Closing in an amount of not more than ten percent of the total Purchase Price, Seller shall be obligated to repair the same before **Closing Date** (§ 2.3). In the event such damage is not repaired within said time or if the damage exceeds such sum, this Contract may be terminated at the option of Buyer by delivering to Seller written notice of termination on or before Closing. Should Buyer elect to carry out this Contract despite such damage, Buyer shall be entitled to a credit at Closing for all insurance proceeds that were received by Seller (but not the Association, if any) resulting from such damage to the Property and Inclusions, plus the amount of any deductible provided for in such insurance policy. Such credit shall not exceed the Purchase Price. In the

event Seller has not received such insurance proceeds prior to Closing, then Seller shall assign such proceeds at Closing, plus credit Buyer the amount of any deductible provided for in such insurance policy, but not to exceed the total Purchase Price.

19.2. Damage, Inclusions and Services. Should any Inclusion or service (including systems and components of the Property, e.g. heating, plumbing) fail or be damaged between the date of this Contract and Closing or possession, whichever shall be earlier, then Seller shall be liable for the repair or replacement of such Inclusion or service with a unit of similar size, age and quality, or an equivalent credit, but only to the extent that the maintenance or replacement of such Inclusion, service or fixture is not the responsibility of the Association, if any, less any insurance proceeds received by Buyer covering such repair or replacement. Seller and Buyer are aware of the existence of pre-owned home warranty programs that may be purchased and may cover the repair or replacement of such Inclusions. The risk of loss for damage to growing crops by fire or other casualty shall be borne by the party entitled to the growing crops as provided in § 3.1.7 and such party shall be entitled to such insurance proceeds or benefits for the growing crops.

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

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

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

21.1. If Buyer is in Default:

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

☐ **21.1.2. Liquidated Damages.** All Earnest Money (whether or not paid by Buyer) shall be forfeited by Buyer, paid to Seller, and retained by Seller. Both parties shall thereafter be released from all obligations hereunder. It is agreed that the Earnest Money specified in § 4.1 is LIQUIDATED DAMAGES, and not a penalty, which amount the parties agree is fair and reasonable and (except as provided in §§ 10.4, 19, 21.3, 22 and 23), said forfeiture shall be SELLER'S SOLE AND ONLY REMEDY for Buyer's failure to perform the obligations of this Contract. Seller expressly waives the remedies of specific performance and additional damages.

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

21.3. Cost and Expenses. In the event of any arbitration or litigation relating to this Contract, the arbitrator or court shall award to the prevailing party all reasonable costs and expenses, including attorney and legal fees.

22. MEDIATION. If a dispute arises relating to this Contract, prior to or after Closing, and is not resolved, the parties shall first proceed in good faith to submit the matter to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. The parties to the dispute must agree before any settlement is binding. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The mediation, unless otherwise agreed, shall terminate in the event the entire dispute is not resolved within 30 calendar days of the date written notice requesting mediation is delivered by one party to the other at the party's last known address. This section shall not alter any date in this Contract, unless otherwise agreed.

23. EARNEST MONEY DISPUTE. Except as otherwise provided herein, Earnest Money Holder shall release the Earnest Money as directed by written mutual instructions, signed by both Buyer and Seller. In the event of any controversy regarding the Earnest Money (notwithstanding any termination of this Contract), Earnest Money Holder shall not be required to take any action. Earnest Money Holder, at its option and sole discretion, may (1) await any proceeding, (2) interplead all parties and deposit Earnest Money into a court of competent jurisdiction and shall recover court costs and reasonable attorney and legal fees, or (3) provide notice to Buyer and Seller that unless Earnest Money Holder receives a copy of the Summons and Complaint or Claim (between Buyer and Seller) containing the case number of the lawsuit (Lawsuit) within 120 calendar days of Earnest Money Holder's notice to the parties, Earnest Money Holder shall be authorized to return the Earnest Money to Buyer. In the event Earnest Money Holder does receive a copy of the Lawsuit, and has not interpleaded the monies at the time of any Order, Earnest Money Holder shall disburse the Earnest Money pursuant to the Order of the Court. The parties reaffirm the obligation of **Mediation** (§ 22).

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

25. ADDITIONAL PROVISIONS. (The following additional provisions have not been approved by the Colorado Real Estate Commission.)

See attached

26. ATTACHMENTS. The following are a part of this Contract:
Exhibit A - legal description

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

27. GOOD FAITH. Buyer and Seller acknowledge that each party has an obligation to act in good faith, including but not limited to exercising the rights and obligations set forth in the provisions of **Financing Conditions and Obligations** (§ 5) and **Property Disclosure, Inspection, Indemnity, Insurability, Buyer Disclosure and Source of Water** (§ 10).

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

29. FORECLOSURE DISCLOSURE AND PROTECTION. Seller acknowledges that, to Seller's current actual knowledge, the Property ☐ Is ☒ Is Not in foreclosure. In the event this transaction is subject to the provisions of the Colorado Foreclosure Protection Act (the Act) (i.e., generally the Act requires that the Property is residential, in foreclosure, and Buyer does not reside in it for at least one year), a different contract that complies with the provisions of the Act is required, and this Contract shall be void and of no effect unless the Foreclosure Property Addendum is executed by all parties concurrent with the signing of this Contract. The parties are further advised to consult with their own attorney.

30. NOTICE, DELIVERY, AND CHOICE OF LAW.

30.1. Physical Delivery. Except for the notice requesting mediation described in § 22, delivered after Closing, and except as provided in § 30.2, all notices must be in writing. Any notice to Buyer shall be effective when physically received by Buyer, any individual buyer, any representative of Buyer, or Brokerage Firm of Broker working with Buyer. Any notice to Seller shall be effective when physically received by Seller, any individual seller, any representative of Seller, or Brokerage Firm of Broker working with Seller.

30.2. Electronic Delivery. As an alternative to physical delivery, any signed document and written notice may be delivered in electronic form by the following indicated methods only: ☐ Facsimile ☐ Email ☒ No Electronic Delivery. Documents with original signatures shall be provided upon request of any party.

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

31. NOTICE OF ACCEPTANCE, COUNTERPARTS. This proposal shall expire unless accepted in writing, by Buyer and Seller, as evidenced by their signatures below, and the offering party receives notice of such acceptance pursuant to § 30 on or before **Acceptance Deadline Date** (§ 2.3) and **Acceptance Deadline Time** (§ 2.3). If accepted, this document shall become a contract between Seller and Buyer. A copy of this document may be executed by each party, separately, and when each party has executed a copy thereof, such copies taken together shall be deemed to be a full and complete contract between the parties.

Date: 12-8-09 Date: _____
 Buyer's Name: Joseph Shrader Buyer's Name: _____
 Address: 267 N. County Road 23E Address: _____
Loveland, CO 80537
 Phone No.: (970) 593-9514 Phone No.: _____
 Fax No.: _____ Fax No.: _____
 Email Address: _____ Email Address: _____

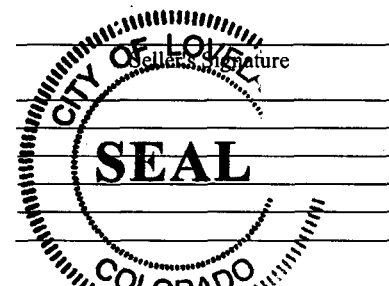
Joseph Shrader
 Buyer's Signature

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

Date: December 14, 2009 Date: _____
 Seller's Name: City of Loveland, Colorado Seller's Name: _____
 Address: 500 E. THIRD ST. Address: _____
LOVELAND, CO 80537
 Phone No.: _____ Phone No.: _____
 Fax No.: _____ Fax No.: _____
 Email Address: _____ Email Address: _____

Don Williams
 Seller's Signature DON F. WILLIAMS, CITY MGR
500 E. THIRD ST.
LOVELAND, CO 80537

APPROVED AS TO FORM
 By: Just Schmidt
DEPUTY CITY ATTORNEY



32. COUNTER; REJECTION. This offer is ☐ Countered ☐ Rejected.
 Initials only of party (Buyer or Seller) who countered or rejected offer _____

ATTEST:
Leresa J. Andrews
CITY CLERK

END OF CONTRACT TO BUY AND SELL REAL ESTATE

BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.

(To be completed by Broker working with Buyer)

Broker ☐ Does ☐ Does Not acknowledge receipt of Earnest Money deposit specified in § 4 and, while not a party to the Contract, agrees to cooperate upon request with any mediation concluded under § 22.

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

Brokerage Firm's compensation or commission is to be paid by ☐ Listing Brokerage Firm ☐ Buyer ☐ Other _____.

Date: _____

Brokerage Firm's Name: _____

Broker's Name: _____

Broker's Signature

Address: _____

Phone No.: _____

Fax No.: _____

Email Address: _____

BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.

(To be completed by Broker working with Seller)

Broker ☐ Does ☐ Does Not acknowledge receipt of Earnest Money deposit specified in § 4 and, while not a party to the Contract, agrees to cooperate upon request with any mediation concluded under § 22.

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

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

Date _____

Brokerage Firm's Name: _____

Broker's Name: _____

Broker's Signature

Address: _____

Phone No.: _____

Fax No.: _____

Email Address: _____

The following Closing Instructions are **not** part of the Contract to Buy and Sell Real Estate.

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission.
(CL8-8-07) (Mandatory 1-08)

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

CLOSING INSTRUCTIONS

Date: _____

1. PARTIES, PROPERTY. _____, Seller, and _____, Buyer,
engage _____, Closing Company, who agrees to

provide closing and settlement services in connection with the Closing of the transaction for the sale and purchase of the Property known as No.

Street Address _____ City _____ State _____ Zip _____
and more fully described in the Contract to Buy and Sell Real Estate, dated _____, including any counterproposals and amendments (Contract)

2. INFORMATION, PREPARATION. Closing Company is authorized to obtain any information necessary for the Closing. Closing Company agrees to prepare, deliver, and record those documents (excluding legal documents) that are necessary to carry out the terms and conditions of the Contract.

3. CLOSING FEE. Closing Company will receive a fee not to exceed \$ 250.00 for providing these closing and settlement services.

4. RELEASE, DISBURSEMENT. Closing Company is not authorized to release any signed documents or things of value prior to receipt and disbursement of Good Funds, except as provided in §§ 8 and 9.

5. DISBURSER. Closing Company shall disburse all funds, including real estate commissions, except those funds as may be separately disclosed in writing to Buyer and Seller by Closing Company or Buyer's lender on or before Closing. All parties agree that no one other than the disbursing can assure that payoff of loans and other disbursements will actually be made.

6. SELLER'S NET PROCEEDS. Seller will receive the net proceeds of Closing as indicated:

- ☐ Cashier's Check, at Seller's expense ☒ Funds Electronically Transferred (wire transfer) to an account specified by Seller, at Seller's expense
☐ Closing Company's trust account check.

7. CLOSING STATEMENT. Closing Company will prepare and deliver an accurate, complete and detailed closing statement to Buyer and Seller at time of Closing.

8. FAILURE OF CLOSING. If Closing or disbursement does not occur on or before Closing Date set forth in the Contract, Closing Company, except as provided herein, is authorized and agrees to return all documents, monies, and things of value to the depositing party, upon which Closing Company will be relieved from any further duty, responsibility or liability in connection with these Closing Instructions. In addition, any promissory note, deed of trust or other evidence of indebtedness signed by Buyer shall be voided by Closing Company, with the originals returned to Buyer and a copy to Buyer's lender.

9. EARNEST MONEY DISPUTE. Closing Company shall comply with the provisions of § 23 of the Contract incorporated herein by reference.

10. SUBSEQUENT AMENDMENTS. Any amendments to, or termination of, these Closing Instructions must be in writing and signed by Buyer, Seller and Closing Company.

11. WITHHOLDING. The Internal Revenue Service and the Colorado Department of Revenue may require Closing Company to withhold a substantial portion of the proceeds of this sale when Seller either (a) is a foreign person or (b) will not be a Colorado resident after Closing. Seller should inquire of Seller's tax advisor to determine if withholding applies or if an exemption exists.

12. ADDITIONAL PROVISIONS. (The following additional provisions have not been approved by the Colorado Real Estate Commission.)

13. COUNTERPARTS. This document may be executed by each party, separately, and when each party has executed a copy, such copies taken together shall be deemed to be a full and complete contract between the parties.

14. BROKER'S COPIES. Closing Company shall provide, to each broker in this transaction, copies of all signed documents that such brokers are required to maintain pursuant to the rules of the Colorado Real Estate Commission.

15. NOTICE, DELIVERY AND CHOICE OF LAW.

15.1. Physical Delivery. Except as provided in § 15.2, all notices must be in writing. Any notice to Buyer shall be effective when physically received by Buyer, any individual buyer, any representative of Buyer, or Brokerage Firm of Broker working with Buyer. Any notice to Seller shall be effective when physically received by Seller, any individual seller, any representative of Seller, or Brokerage Firm of Broker working with Seller. Any notice to Closing Company shall be effective when physically received by Closing Company, any individual of Closing Company, or any representative of Closing Company.

15.2. Electronic Delivery. As an alternative to physical delivery, any signed documents and written notice may be delivered in electronic form by the following indicated methods only: ☐ Facsimile ☒ Email ☐ No Electronic Delivery. Documents with original signatures shall be provided upon request of any party.

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

Date:

12 - 8 - 09

Date:

Buyer's Name:

Joseph Shrader

Buyer's Name:

Joseph Shale
 Buyer's Signature

Address:

Address:

Buyer's Signature

Phone No.:

Phone No.:

Fax No.:

Fax No.:

Email Address:

Email Address:

Date:

Date:

Seller's Name:

Seller's Name:

Seller's Signature

Address:

Address:

Seller's Signature

Phone No.:

Phone No.:

Fax No.:

Fax No.:

Email Address:

Email Address:

Date:

Closing Company's Name:

Authorized Signature

Title

Address:

Phone No.:

Fax No.:

Email Address:

(TO BE COMPLETED ONLY BY BROKER AND CLOSING COMPANY)

☐ Working with Buyer engages Closing Company as Broker's scrivener to complete, for a fee not to exceed \$ _____ (Broker) ☐ Working with Seller
 Broker, the following legal documents:

☐ Deed ☐ Bill of Sale ☐ Colorado Real Estate Commission approved Promissory Note ☐ Colorado Real Estate Commission approved
 Deed of Trust. Closing Company agrees to prepare, on behalf of Broker, the indicated legal documents pursuant to the terms and conditions of the
 Contract.

The documents stated above shall be subject to Broker's review and approval and Broker acknowledges that Broker is responsible for the accuracy
 of the above documents.

Date:

Brokerage Firm's Name:

Broker's Name:

Broker's Signature

Date:

Closing Company's Name:

Authorized Signature

Title

ATTACHMENT TO CONTRACT TO BUY AND SELL REAL ESTATE

25.1 This contract shall be contingent on final approval by the City of Loveland of a final subdivision plat for the property on or before June 15, 2011. Buyer shall submit a preliminary subdivision plat to the City by January 1, 2011 and pursue approval of the final subdivision plat for the property with reasonable diligence. If final approval has not been obtained June 15, 2011, the parties agree to extend the contract for the additional time needed to obtain such approval or until Buyer makes a good faith determination that he cannot feasibly develop the property in a way that the City will approve, but in no event shall the deadline for approval of a final subdivision plat be extended beyond January 1, 2012.

25.2 Subject to the provisions of §25.1, the closing date shall be the 90th day after final approval by the City of Loveland of a final subdivision plat for the property.

25.3 The purchase price includes 5 water taps which shall be transferred to Buyer with the property free and clear of any encumbrance or assessment. Any transfer fee normally assessed by the City shall be paid by Buyer.

25.4 The earnest money held by the City pursuant to §4.2 shall accrue no interest and shall be credited to Buyer at Closing.

25.5 Notwithstanding any provisions of §4.5, which permits the Buyer to use any of the types of loans indicated to finance the purchase of the property, the Buyer's obligation to purchase the property is not conditioned upon the application for or availability of any loan or financing.

25.6 The property is current exempt from real property taxes so no proration of property taxes shall be required. Buyer shall take title subject to real property taxes for the year in which closing occurs.

EXHIBIT A

Description:

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

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

COMMENCE at the Southeast Corner of the Northeast 1/4 of Section 15, Township 5 North, Range 69 West of the 6th Principal Meridian, Larimer County, Colorado;
thence N 00°56'37" W, on the East line of the Northeast 1/4 of Section 15, a distance of 371.19 feet;
thence S 89°03'23" W a distance of 103.91 feet to the POINT OF BEGINNING, said point being on the West right-of-way of North Taft Avenue and on the South line of that parcel described at Reception No. 2004-0050232, Larimer County, Colorado;
thence S 89°02'13" W, on said South line, a distance of 556.09 feet to the East line of Romar Addition, City of Loveland, Colorado;
thence on said East line of Romar Addition the following two (2) courses and distances:
1.) thence N 00°57'22" W a distance of 132.00 feet;
2.) thence N 00°54'57" W a distance of 336.10 feet to the South right-of-way line of the Atkins Branch of the Colorado and Southern Railroad;
thence S 78°39'32" E, on said South right-of-way line, a distance of 565.06 feet to the aforesaid West right-of-way of North Taft Avenue;
thence S 01°34'28" E, on said West right-of-way, a distance of 347.71 feet to the Point of Beginning.

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

EXHIBIT B

AMENDMENT NUMBER TWO TO CONTRACT TO BUY AND SELL REAL ESTATE

This Amendment Number Two to Contract Buy and Sell Real Estate (“Amendment”) is entered into as of this ____ day of May, 2011 by and between **JOSEPH SHRADER**, an individual (“Buyer”) and **THE CITY OF LOVELAND, COLORADO**, a Colorado home-rule municipality (“Seller”)

RECITALS

WHEREAS, Buyer and Seller are parties to that certain Contract to Buy and Sell Real Estate dated December 14, 2009 and Amendment Number One to Contract to Buy and Sell Real Estate dated December 20, 2010 (collectively, the “Contract”) pursuant to which Buyer has agreed to buy and Seller has agreed to sell that certain real property described therein and generally referred to as 905, 915, 925, 935, and 933 North Taft Avenue, Loveland, Colorado (the “Property”); and

WHEREAS, the Contract was approved by the City Council of Loveland, Colorado, on December 1, 2009 pursuant to Ordinance No. 5477; and

WHEREAS, pursuant to Section 25.1 of the Contract, Buyer’s obligation to purchase the Property is contingent upon final approval by the City of a final subdivision plat no later than January 1, 2012; and

WHEREAS, Buyer has determined that higher density is necessary to support subdivision and development of the Property in an economically feasible manner and is pursuing City approval of a higher density housing plan for the Property, and has therefore requested that Seller extend the deadline for approval of a final subdivision plat for the Property to April 30, 2012, with closing to occur ninety (90) days after final approval; and

WHEREAS, Seller is willing to grant such request and the parties desire to confirm such extension by execution of this Amendment.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual promises and covenants contained herein, and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the parties agree as follows:

1. Paragraph 25.1 of the Contract is hereby deleted in its entirety and the following substituted in lieu thereof:

“25.1 This contract shall be contingent upon final approval by the City of Loveland of a final subdivision plat for the property on or before April 30, 2012. Buyer shall submit a preliminary subdivision plat to the City and pursue approval of the final subdivision plat for the property with reasonable diligence. If final approval of the final subdivision plat for the property is not obtained on or before April 30, 2012, this contract shall terminate and the parties shall have no further obligations hereunder.”

2. Except as amended herein, all other terms and conditions of the Contract shall remain in full force and effect and unmodified.

IN WITNESS WHEREOF, the parties have executed this Amendment Number Two to Buy and Sell Real Estate as of the date set forth above.

BUYER:

JOSEPH SHRADER,
an individual

Date

SELLER:

CITY OF LOVELAND

By: William D. Cahill, City Manager

Date

ATTEST:

City Clerk

APPROVED AS TO FORM:

Deputy City Attorney

EXHIBIT C HIGHER DENSITY HOUSING PLAN

CITY OF LOVELAND – CURRENT PLANNING DIVISION
(970) 962-2525

Revised August 19, 2009

CONCEPT REVIEW TEAM / PRE-APPLICATION FORM

Project Name: NORTH TAFT AVENUE SUB. Date Submitted: 04/07/10

Address or Location: TBD N. TAFT AVE / NE 1/4 S15-T5N-R6W

Legal Description: Tract/Lot _____ Block _____ Subdivision/Addition NORTH TAFT AVENUE 1ST ADD. -696

Special Review: TBD Zoning: RZ

Applicant Name: JOE SHREAGER Phone No.: 970-593-9514

Applicant Address: 267 N. COUNTY ROAD 23E, LOVELAND, CO 80537

Contractor/Owner: INTERMILL LAND SURVEYING, INC. Phone No.: 970-669-0516
ROB PERSICITTE

Project Time Frame: TBD

(Note any critical timing issues)

PROJECT INFORMATION

(Provide a description of the project including uses, square footage of building(s) and any unique attributes.)

PROPOSED SUBDIVISION OF A PORTION OF NORTH TAFT AVENUE
FIRST ADDITION. (DUPLEXES & TRIPLEXES(?)).

Please list any specific questions that you want answered

1. REVIEW STREET LAYOUT / ACCESS POINT(S)?
2. EMERGENCY ACCESS OR STREET CONNECTION (SOUTH)?
3. CITY UTILITY AVAILABILITY / LOCATIONS?
4. DETENTION REQUIRED IN THIS AREA?
5. ROW DEDICATION (TAFT) DOCS?
6. BUFFER YARD REQUIREMENTS?

Existing Use: SF / VACANT LAND Existing Zoning: RZ

Proposed Use: 2 FAMILY / 3 FAMILY Proposed Zoning: RZ

Number of Lots Proposed: 24± Number of Phases: 1

Is any portion of this property located in a floodplain? Yes X No

If yes, please attach a legal description of floodplain.

CITY OF LOVELAND – CURRENT PLANNING DIVISION
(970) 962-2525

Revised August 19, 2009

Location of Meeting: Municipal Building, 500 East Third Street, Main Floor Conference Room

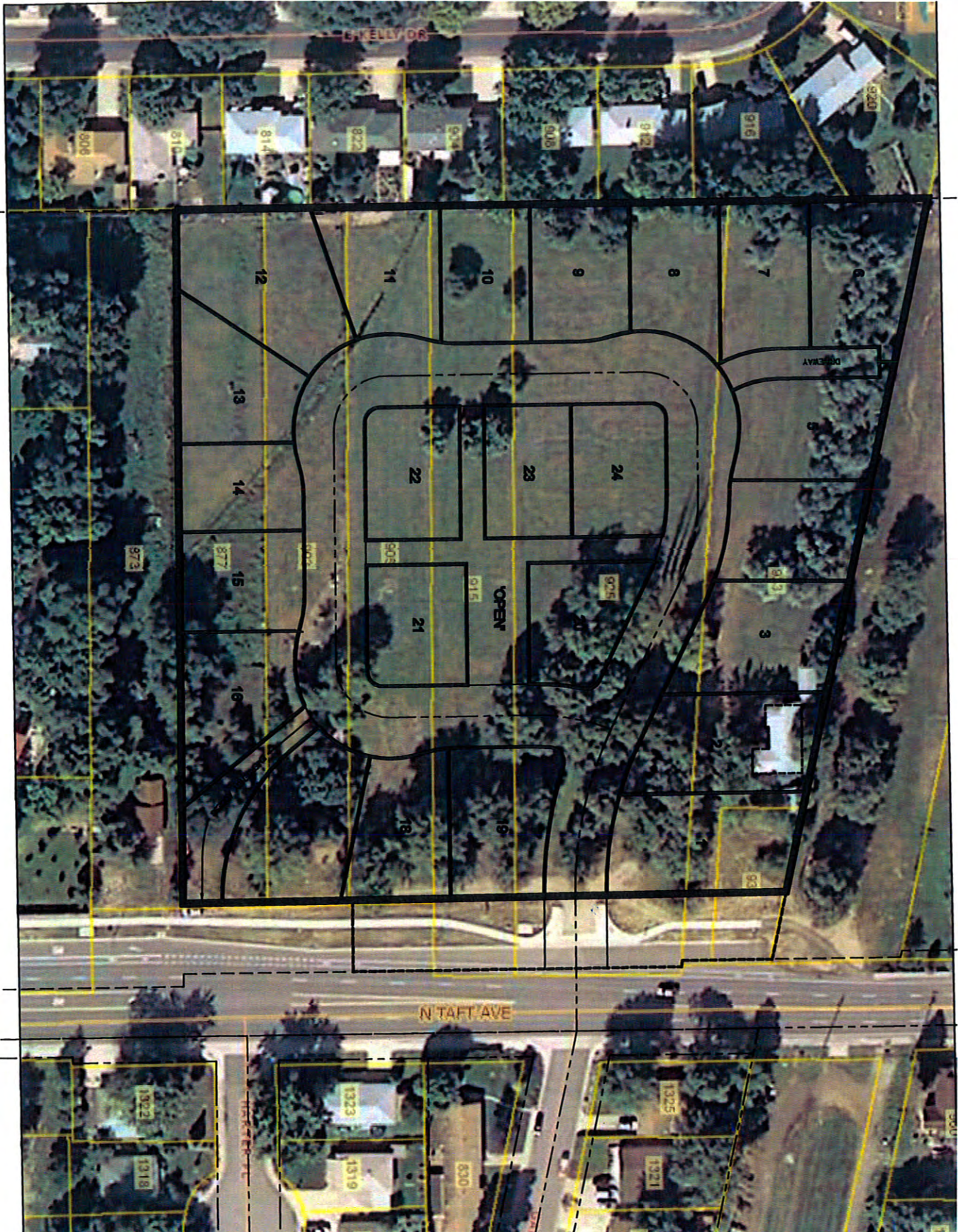
Sketch Plan/Site Plan Distribution ☒ Check box if confidential; to be distributed to staff only.

Concept Review Team (for annexation, zoning, and subdivision applications):
Pre-Application (for uses-by-right and special reviews):

Current Planning
Traffic Engineering
Light and Power
Fire Prevention
Airport
Thompson R2J School District

Parks and Recreation
Water/Wastewater
Building
Storm Drainage
Community & Strategic Planning

Any questions, please call Judy at (970) 962-2525





CITY OF LOVELAND
HUMAN RESOURCES DEPARTMENT
Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2371 • FAX (970) 962-2919 • TDD (970) 962-2620

AGENDA ITEM: 11
MEETING DATE: 5/3/2011
TO: City Council
FROM: Terry Andrews, City Clerk
PRESENTER: Bill Cahill

TITLE: Motion setting Special Meetings for Tuesday, May 10, 2011 and May 24, 2011 at 6:30 p.m. in the City Council Chambers 500 E. 3rd St, Loveland, CO.

DESCRIPTION:

Staff is requesting City Council call Special Meetings, on May 10, 2011 and May 24, 2011 at 6:30 p.m. The purpose of the meetings is to discuss, consider any necessary items and possibly hold an Executive Session concerning matters related to the ACE Manufacturing and Innovation Park. Certain items will require discussion and consideration that may fall outside of the Council's regular meeting times.

BUDGET IMPACT:

☒ Yes ☐ No

SUMMARY:

No additional summary necessary

LIST OF ATTACHMENTS:

None

RECOMMENDED CITY COUNCIL ACTION:

Approve a motion setting Special Meetings for Tuesday, May 10, 2011 and May 24, 2011 at 6:30 p.m. in the City Council Chambers 500 E. 3rd St, Loveland, CO. The purpose of the meetings is to discuss, consider any necessary items and possibly hold an Executive Session concerning matters related to the ACE Manufacturing and Innovation Park.

REVIEWED BY CITY MANAGER:

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

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

AGENDA ITEM: 12
MEETING DATE: 5/3/2011
TO: City Council
FROM: Greg George, Development Services
PRESENTER: Bob Paulsen, Current Planning Manager

TITLE:

AN ORDINANCE AMENDING TITLES 16 AND 18 OF THE LOVELAND MUNICIPAL CODE BY REVISING PROVISIONS OF TITLES 16 AND 18, WHICH RETAINS THE ZONING BOARD OF ADJUSTMENT HEARING OFFICER, AND ENACTING A NEW CHAPTER 18.80 REGARDING APPEAL PROVISIONS

DESCRIPTION:

Consideration of a legislative action to:

Adopt an ordinance on second reading: (i) amending Title 16 and Title 18 relating to appeals of subdivision, zoning and land use actions; (ii) adding Chapter 18.80 to consolidate and clarify appeal provisions; (iii) amending Chapter 18.60 concerning the Zoning Board of Adjustment; and (iv) amending Chapter 18.52 concerning Supplementary Regulations.

BUDGET IMPACT:

☐ Yes ☒ No

SUMMARY:

Following adoption of the ordinance on first reading on April 19th, the City Attorney's Office made some minor technical corrections to the ordinance. These corrections are not substantive. The packet includes a redline version of the ordinance (see Attachment B) showing the corrections.

The proposed code amendments provide clear, uniform and easy to find provisions for the appeal of subdivision, zoning and land use decisions. All appeal provisions are consolidated and standardized in a new chapter of Title 18 which specifies appeal criteria, procedures and notice requirements. The amendments also revise provisions dealing with the Zoning Board of Adjustment to provide clearer criteria and procedures for granting variances; the ordinance retains the ZBA hearing officer based the Council's decision on first reading to adopt the

ordinance recommended by the Planning Commission. Amendments to the Supplementary Regulations concerning administrative variations specify procedures and limitations for administrative approval of setback reductions.

LIST OF ATTACHMENTS:

- A. Ordinance amending Title 16 and 18 – as recommended by the Planning Commission
 - B. Redline Version of the corrections – highlighting technical revisions made following first reading of the ordinance
-

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motions for City Council action:

- 1. Move to accept the Planning Commission recommendation and adopt on second reading: AN ORDINANCE AMENDING TITLES 16 AND 18 OF THE LOVELAND MUNICIPAL CODE BY REVISING PROVISIONS OF TITLES 16 AND 18 WHICH RETAIN THE ZONING BOARD OF ADJUSTMENT HEARING OFFICER AND ENACTING A NEW CHAPTER 18.80 REGARDING APPEAL PROVISIONS.

REVIEWED BY CITY MANAGER:

First Reading: April 19, 2011

Second Reading: May 3, 2011

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLES 16 AND 18 OF THE LOVELAND MUNICIPAL CODE BY REVISING PROVISIONS OF TITLES 16 AND 18 WHICH RETAIN THE ZONING BOARD OF ADJUSTMENT HEARING OFFICER AND ENACTING A NEW CHAPTER 18.80 REGARDING APPEAL PROVISIONS.

WHEREAS, City Council finds that updates to Titles 16 and 18 of the Loveland Municipal Code are necessary and required in the interest of the health, safety and welfare of the citizens of Loveland; and

WHEREAS, the Planning Commission held a public hearing regarding appeal provisions in Titles 16 and 18 of the Loveland Municipal Code; and

WHEREAS, City Council has received a recommendation from the Planning Commission regarding updates to the Code regarding appeal provisions, and the City Council desires to adopt such updates by amending Titles 16 and 18 and by adopting a new Chapter 18.80 regarding appeals.

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

Section 1. Chapter 16.04 of the Loveland Municipal Code is amended by the addition of a new Section 16.04.020 to read in full as follows:

16.04.020 Penalty.

Any person, firm or corporation violating any provisions of this title 16, upon conviction therefore, shall be fined not more than one thousand dollars or incarcerated not more than one year, or both. Each day during which the violation continues is deemed a separate offense.

Section 2. Title 16 of the Loveland Municipal Code is amended by the addition of the following definitions to Section 16.08.010:

“Final decision” shall have the same meaning as set forth in Code section 18.80.020.

“City staff decision maker” shall have the same meaning as set forth in Code section 18.80.020.

Section 3. Title 16 of the Loveland Municipal Code is amended by the addition of a new chapter 16.10 Appeals, to read in full as follows:

Chapter 16.10

APPEALS

16.10.010 Appeals of final decisions.

An appeal of a final decision by the director, other city staff decision maker, or the planning commission regarding any provision in this title, shall be brought in accordance with Chapter 18.80 of this Code.

Section 4. Sections 16.16.030.B and 16.16.030.E of the Loveland Municipal Code are revised to read in full as follows:

16.16.030 Review procedures, general.

. . .

B. Development Review.

1. Submission of Application Signatures/Certified Lists.

- a. Once the applicant has received comments on the sketch plan, the applicant may submit an application for the development review sought. Applications shall be submitted to the current planning division on forms provided for this purpose. The application shall include all required supporting documentation as specified on submittal checklists provided by the current planning division. Unless otherwise specified herein, the applicant shall provide the number of copies specified in the checklist. Applications shall be signed by all fee owners of the land described in the application; except, that where the fee is held by two or more owners as joint tenants or as tenants in common, such application may be signed by only one joint tenant or tenant in common. All other owners and lienholders who have an interest in the land described in the application shall be noted on the application.
- b. At the time of filing a development review application requiring a public hearing, or where otherwise required under this title, the applicant shall submit to the current planning division all information required pursuant to Section 16.16.070 and Tables 16.16.070-1 and 16.16.070-2.
- c. Each application shall be submitted with the fee established for that application pursuant to resolution of the city council.

2. **Application Submittal Date.** The official application submittal date shall be the date on which the applicant submits a reviewable application. The director shall schedule the applicant for a meeting with the development review team upon determination that such application is reviewable. The director may exempt applications for final plats, minor subdivisions, lot mergers, and boundary line adjustments from meeting with the development review team.
3. **Applications Referred to Development Review Team/Determination of a Reviewable Application.** The development center shall refer the reviewable application to the development review team members for their review. The development review team members shall comment on the application. Said comments shall be completed and compiled within approximately thirty days from the official application submittal date or by such time as required by the director. The director may require that any applicant for any development review under this title, reimburse the city for the cost of any legal or technical consultant fees incurred by the city in connection with reviewing the application. The application shall be deemed complete on the application acceptance date, which is the date that the director finds that the application contains adequate information on which to determine compliance with the review and design standards of this title and other applicable code provisions, city ordinances, comprehensive master plan, city policies, and state laws.
4. **Written Comments to the Applicant.** The development center shall make available to the applicant the development review team's comments a minimum of two working days prior to the development review team meeting or at such time as may be required by the director.
5. **Development Review Team Meeting.** On the scheduled date, the applicant shall meet with the development review team to discuss their comments. If the development review team determines that the application is not complete, the director may table further processing of the application and inform the applicant of the materials or revisions needed to make the application complete. The applicant shall submit a revised application no later than the deadline determined by the development review team. If the development review team finds that an application is not complete and cannot be made complete without revisions so extensive as to constitute a new application, the director may reject the application. Such application shall be resubmitted for development review under this title, in accordance with the applicable provisions of this title. The director will accept amendments to applications as long as they are submitted at least fifteen days prior to the scheduled development review team meeting. Nothing herein shall prevent the development review team, the planning commission, city council or director from requesting additional information in the course of the review if it is deemed necessary to determine compliance with the standards set forth in this title, or in Title 17 or 18 as applicable.
6. **Scheduling Public Hearings.** An application shall not be scheduled for planning commission or city council review or decision unless the director determines that the application is complete. Upon a finding that the

application is complete, the director shall schedule the application for the next available planning commission or city council meeting, as applicable.

. . .

- E. Appeal Procedure. Appeals from any final decision by the director or the planning commission shall be conducted in accordance with Chapter 18.80 of this Code.

Section 5. Section 16.16.040.C of the Loveland Municipal Code is revised to read in full as follows:

16.16.040 Staff review of certain applications.

. . .

C. Appeal Procedure.

1. Appeals from any final decision by the director for final plats, minor subdivisions, boundary line adjustments and lot mergers shall be conducted by the planning commission in accordance with Chapter 18.80 of this Code.
2. The appeal of a final decision of the planning commission to the city council shall be conducted in accordance with Chapter 18.80 of this Code.

Section 6. Section 16.16.070.D.10 and section 16.16.070.E.2 of the Loveland Municipal Code are revised to read in full as follows:

16.16.070 Public Notice Requirements.

. . .

D. Content of Public Notice. Where public notice is required for neighborhood meetings, public hearings, director's decisions, or as otherwise required under this title, the notice shall include the following:

. . . .

10. For director decision notices, a statement that interested parties may submit an appeal in accordance with the requirements of Chapter 18.80 of this Code.

E. Mailed Notice. At least fifteen (15) days prior to a neighborhood meeting, public hearing, or the date of the director's decision, the applicant shall, by first class mail, send written notice to all property owners on the certified list required in Section 16.16.070.E.1 at the address listed for each owner. An affidavit of the applicant's compliance with such requirements shall be provided to the City prior to the public hearing for which the notice was given and shall meet the provisions of Section 16.16.070.

. . . .

2. For all applications requiring mailed notice, the radius distances specified in Table 16.16.070-2 Area of Public Notice Distance by Application Type and Size, shall be used to determine the area to which such notice shall be given, except as provided in Sections 16.16.070.E. 3 and 4.

Table 16.16.070-2 AREA OF MAILED NOTICE DISTANCE BY APPLICATION TYPE AND SIZE			
Application Type	20 acres or less	21 – 50 acres	Greater than 50 acres
Obsolete Subdivisions	See Chapter 16.36		
Preliminary Plat	500 ft.	750 ft.	1,000 ft.
Minor Subdivision	150 ft.	150 ft.	150 ft.
Vacation (of easements or rights-of-way)	See Chapter 16.36		

Section 7. Section 16.20.060.D of the Loveland Municipal Code is revised to read in full as follows:

16.20.060. Preliminary Plat Review Procedure.

. . .

D. Appeal Procedures of Planning Commission Decisions. An appeal under this section of a final decision of the planning commission shall be made to the city council and shall be conducted in accordance with Chapter 18.80 of this Code.

Section 8. Section 16.20.080.C.1 of the Loveland Municipal Code is revised to read in full as follows:

16.20.080. Final plat review procedure.

. . .

C. Final Plat Review.

1. Pursuant to the powers granted to the city in the Colorado Constitution and the city of Loveland Charter, the director is hereby assigned the power to approve all final plats. The director shall make final decision on the final plat application within thirty days after a complete final plat is submitted to the development center. The director shall make appropriate findings based on the applicable review standards, or adopted plans. Using the review standards set forth in this title, the director shall approve, approve with conditions or deny the application. All conditions of approval applicable to the final plat shall be included in a development agreement, which shall be recorded with Larimer County clerk and recorder concurrent with recordation of the final plat. Appeals of final decisions of the director shall be made to the planning commission and shall be conducted in accordance with Chapter 18.80 of this Code.

Section 9. Section 16.20.100 of the Loveland Municipal Code is revised to include an addition of a new Subsection E to read in full as follows:

16.20.100 Minor subdivision review procedures.

. . .

- E. Appeals from any final decision by the director for a minor subdivision shall be made to the planning commission and shall be conducted in accordance with Chapter 18.80 of this Code.

Section 10. Section 16.20.120 of the Loveland Municipal Code is revised to include an addition of a new Subsection D to read in full as follows:

16.20.120 Simple plat review procedure.

. . .

- D. Appeals from any final decision by the director for a simple plat shall be made to the planning commission and shall be conducted in accordance with Chapter 18.80 of this Code.

Section 11. Section 16.28.060 of the Loveland Municipal Code is revised to read in full as follows:

16.28.060 Deed restriction in lieu of boundary line adjustment.

- A. In the event the owner of property consisting of one or more adjacent lots and an adjacent unsubdivided parcel of land upon which a structure is located, wishes to obtain a building permit for either an accessory structure to be located on the property, an addition to the existing structure, or interior remodeling work without completing a boundary line adjustment, the owner may request that in lieu of a boundary line adjustment the city issue the building permit after receiving from the

owner a deed restriction in a form approved by the city attorney. The deed restriction shall restrict the owner's ability to convey the property without first subdividing it or completing a boundary line adjustment. The deed restriction shall be released by the city upon completion of a boundary line adjustment combining all adjacent lots and un-subdivided parcels in common ownership, or upon the determination of the director that the purpose for which the deed restriction was given is no longer served. The director shall have the authority to execute any such deed restriction and any release of a deed restriction on behalf of the city.

- B. Appeals from any final decision by the director for a deed restriction in lieu of a boundary line adjustment shall be made to the planning commission and shall be conducted in accordance with Chapter 18.80 of this Code.

Section 12. Section 16.32.060 of the Loveland Municipal Code is revised to read in full as follows:

16.32.060 Deed restriction in lieu of lot merger.

- A. In the event the owner of property, consisting of two or more adjacent lots and containing an existing residential use, wishes to obtain a building permit for either an accessory structure to be located on the property or an addition to the existing structure without completing a lot merger, the owner may request that in lieu of a lot merger the city issue the building permit after receiving from the owner a deed restriction in a form approved by the city attorney. The deed restriction shall restrict the owner's ability to convey the property without first subdividing it or completing a lot merger. The deed restriction shall be released by the city upon completion of a lot merger combining all adjacent lots in common ownership, or upon the determination of the director that the purpose for which the deed restriction was given is no longer served. The director shall have the authority to execute any such deed restriction and any release of a deed restriction on behalf of the city.
- B. Appeals from any final decision by the director for a deed restriction in lieu of a lot merger shall be made to the planning commission and shall be conducted in accordance with Chapter 18.80 of this Code.

Section 13. Section 16.40.090 of the Loveland Municipal Code is revised to read in full as follows:

16.40.090 Guarantee period.

- A. All workmanship and materials (except materials provided by the city) for all required public improvements installed by the applicant (including, but not limited to the water supply system, sanitary sewage disposal system, storm drainage facilities, electrical distribution system, curbs, gutters, street pavement, sidewalks, street signs, survey monuments, landscaping, and pavement markings) shall be guaranteed to be free from defects by the applicant for a period of two years from the date of acceptance of the required improvement by the city, provided, that such defects are not the result of public abuse, misuse or natural causes, as determined by the city. In the event any other provision of this code or specifications adopted pursuant thereto shall require a guarantee

of workmanship or materials or both for a different period of time, that provision regarding the longer period of guarantee shall govern. City inspection shall not relieve the property owner of such guarantee of workmanship and materials. Upon notification, the applicant shall promptly make all adjustments, repairs, or replacements in accordance with a repair plan approved by the city, which repair, in the opinion of the city, arose out of defects and became necessary during the guarantee period. The cost of all materials, parts, labor, transportation, supervision, special tools, and supplies required for replacement or repair of parts and for correction of defects shall be paid by the applicant, the contractor or by the holder of the approved financial security.

B. This guarantee shall be extended to cover all repairs and replacements furnished under the guarantee, and the period of the guarantee for each repair or replacement shall be extended one year after installation or completion of the repair or replacement.

C. If, within fifteen days after the city has notified the applicant of a defect, failure, or abnormality in the work, the applicant has not started to make the necessary repairs or adjustments or submitted a written objection to the city's request for repair work, the city is authorized to make the repairs or adjustments or to order the work be done by a third party. The cost of the work shall be paid by the applicant. The director may authorize a temporary repair if necessary due to weather conditions or materials availability.

D. If an applicant has cause to object to the city's request for repair work, such objection shall be made in writing to the director. If the director confirms that the repair is necessary because of a defect in the applicant's materials or workmanship, the applicant shall complete the repairs as directed by the city.

E. In the event of an emergency, where in the judgment of the city, delay would cause serious loss or damage, repairs, or adjustments may be made by the city or a third party chosen by the city without advance notice to the applicant, the cost of the work shall be paid by the applicant or the holder of the financial security.

F. Within thirty days prior to expiration of the guarantee period, the applicant shall request, in writing, that the city verify that no defects exist. The city shall, within thirty days, inspect the completed work and, if no defects, failures, or abnormalities are observed or detected, the city shall cause the bond, deposit, escrow agent, or letter of credit to be released.

G. In the event that the applicant fails to complete any required repair work, or fails to reimburse the city for legitimate repair work performed by the city on behalf of the applicant, or fails to enter into an agreement with city regarding the satisfactory resolution of the obligation, the applicant shall be prohibited from participating in any further land development activity in the city of Loveland until such repair, reimbursement, or agreement is completed to the satisfaction of the director. Both the developer of the project and the contractor performing the defective work shall be subject to this restriction. The developer shall be prohibited from receiving any additional building permits for any lots owned by the developer, as well as from submitting or continuing the processing of any land development applications for review and consideration by the city. The contractor shall be subject to the issuance of a stop work order issued by the city to the contractor for any work within any city right-of-way or easement. Appeals from any final decision by the director under this Chapter shall be made to the planning commission and conducted in accordance with Chapter 18.80 of this Code.

Section 14. The introductory language to Chapter 18.04 of the Loveland Municipal Code is revised to read in full as follows:

*For statutory provisions regarding zoning of cities and towns generally, see CRS § 31-23-201 et. seq. ; for provisions authorizing local authorities to adopt zoning regulations, see CRS § 31-23-301 et. seq.

Section 15. Section 18.04.050 of the Loveland Municipal Code is revised to read in full as follows:

18.04.050 Building, structure, or use exempt.

Any building, structure, or use, as to which satisfactory proof shall be presented to the city council that the present or proposed situation of such building, structure, or use is reasonably necessary for the convenience or welfare of the public, may be exempted from the operation of this title by the city council after conducting a public hearing in accordance with Chapter 18.05 with a mailed notice requirement of 300 feet. Upon the council's making such required findings that exemption of the building, structure or use from the operation of this title is reasonably necessary for the convenience or welfare of the public, the council shall adopt a resolution exempting the building, structure or use from operation of this title.

Section 16. Section 18.32.050 of the Loveland Municipal Code is revised to read in full as follows:

18.32.050 Site plan review process.

The site plan required by Chapter 18.46 shall be submitted to the current planning manager for review and approval or disapproval. In the event of disapproval, the applicant may appeal the current planning manager's final decision to the planning commission in accordance with chapter 18.80 of this Code.

Section 17. Section 18.36.025 of the Loveland Municipal Code is revised to read in full as follows:

18.36.025 Site plan review process.

The site plan required by Chapter 18.46 shall be submitted to the current planning manager for review and approval or disapproval. In the event of disapproval, the applicant may appeal the current planning manager's final decision to the planning commission in accordance with chapter 18.80 of this Code.

Section 18. Section 18.40.055 of the Loveland Municipal Code is revised to read in full as follows:

18.40.055 Appeal of an administrative or planning commission final decision.

A. Appeal of administrative decision.

1. Any party-in-interest as defined in Chapter 18.80, may appeal to the planning commission a final decision of the planning division on a type 2 zoning permit in accordance with the procedures set forth in chapter 18.80 so long as the appeal is filed within ten (10) days of the mailing of a notice from the planning division office that a type 2 zoning permit will be issued.
 2. Upon the filing of an appeal, the permit application shall be suspended pending conclusion of the appeal process. The appeal shall be scheduled for a public hearing in accordance with chapter 18.80, at which time the applicant shall have the burden of proving that the applicant is entitled to a permit under the standards set forth in Sections 18.40.030K and 18.40.005.
 3. Following the close of the public hearing, the planning commission may deny the application for a special review permit or direct the planning division to issue a type 3 zoning permit with or without restrictions or conditions as the planning commission deems appropriate. If the applicant fails to object to any condition or restriction on the record, the applicant shall be deemed to have agreed with such condition or restriction.
- B. Appeal of planning commission decision.
1. Any party-in-interest as defined in chapter 18.80, may appeal a final decision of the planning commission to the city council in accordance with the procedures set forth in chapter 18.80, within ten (10) days following the planning commission's final decision.
 2. If the city council determines that a decision to deny a type 3 zoning permit should be reversed, the city council shall direct the planning division to issue a type 3 zoning permit with or without restrictions or conditions as the council deems appropriate. If the applicant fails to object to any condition or restriction on the record, the applicant shall be deemed to have agreed with such condition or restriction. If the city council determines that a decision to issue a type 3 zoning permit should be reversed, no such permit shall be issued and the application shall be denied. If the city council determines that certain conditions or restrictions should or should not have been imposed upon the type 3 zoning permit, it shall direct the planning division to issue the type 3 zoning permit subject to a modification in the conditions or restrictions. If the council determines that the conditions and restrictions should remain as provided by the planning commission, then it shall direct the planning division to issue the type 3 zoning permit without modification. In making its decision on the appeal, the city council shall consider the standards in Sections 18.40.030K and 18.40.005.

Section 19. Section 18.41.050.E.3 of the Loveland Municipal Code is revised to read in full as follows:

18.41.050 Procedures for approval of a planned unit development.

. . .

E. Preliminary Development Plan Approval.

. . .

3. Final Decisions and Appeals.
 - a. The effective date of the planning commission's final decision shall be the date that the planning commission adopts its written findings and conclusions. The planning commission shall issue findings and conclusions in support of any decision within thirty days of its decision. Any party-in-interest as defined in chapter 18.80, may file a written notice of appeal with the planning division within ten (10) days of the effective date of the planning commission's final decision. Upon the filing of a notice of appeal, the appeal shall be scheduled for a full public hearing in accordance with chapter 18.80. At the public hearing, the city council shall approve, approve with conditions, or disapprove the matter, considering the same standards as prescribed for the planning commission in this Title 18.
 - b. If there is no applicable general development plan for the development, then the planning commission shall only make a recommendation to the city council regarding the approval, conditional approval or denial of the preliminary development plan. The council shall proceed in the same manner as in the case of general development plans as provided in Section 18.41.050.D.1-10.;

Section 20. Section 18.41.050.F.3 of the Loveland Municipal Code is revised to read in full as follows:

18.41.050 Procedures for approval of a planned unit development.

. . .

F. Final Development Plan Approval.

. . .

3. If the chief planner approves the final development plan, he shall issue an approval of final development plan which shall incorporate by reference the final development and shall be recorded in the real property records of Larimer County without due delay. The final development plan shall be filed with the building division and be available for public inspection. If the chief planner denies approval of the final development plan, he shall mail a written notice of denial to the applicant setting forth the basis for the denial. Within ten days of the date the chief planner mails the notice of denial to the applicant, the applicant may file an appeal of the denial in accordance with chapter 18.80 to the planning commission, which shall hear the matter in accordance with the procedures set forth in chapter 18.80, except that no

further public notice of the appeal shall be required. Both the chief planner and the applicant shall appear before the planning commission and be given an opportunity to speak to the issues. Except as permitted by a majority vote of the planning commission members present at the meeting, no other person shall be entitled to address the planning commission. The planning commission shall consider the same factors used by the chief planner when making his determination;

Section 21. Section 18.41.060 of the Loveland Municipal Code is repealed in its entirety.

Section 22. Section 18.41.090 of the Loveland Municipal Code is repealed in its entirety.

Section 23. Section 18.42.030.A of the Loveland Municipal Code, (but not including Table 18.42-1 Parking Spaces Required), is revised to read as follows:

18.42.030 Spaces required.

. . .

A. Upon submittal of written justification by the applicant, the current planning manager may allow application of an alternative standard, different than a Type 2 standard, provided the current planning manager determines the following:

1. The applicant has demonstrated that either:
 - a. Site-specific, physical constraints necessitate application of the alternative standard, and such constraints will not allow a reasonable use of the property without application of such alternative standard; or
 - b. The alternative standard achieves the intent of the subject Type 2 standard to the same or greater degree than the subject standard, and results in equivalent or greater benefits to the community as would compliance with the subject standard.

B. Whenever the current planning manager grants alternative compliance, the current planning manager shall prepare a written statement of findings based on the above criteria for such action. Such statement shall be placed in the development application file. The current planning manager's final decision with respect to such alternative compliance may be appealed to the planning commission in accordance with Section 18.60.020.

Section 24. Section 18.45.090.A.1 of the Loveland Municipal Code is revised to read in full as follows:

18.45.090 Nonconforming buildings or uses.

. . .

1. Any nonconforming use of property may be expanded, provided that such expansion is approved by the public works director. Any appeal of the public works

director's final decision shall be made to the planning commission in accordance with chapter 18.80 of this Code.

Section 25. Section 18.48.020.G of the Loveland Municipal Code is revised to read in full as follows:

G. Appeal.

1. Appeal of director's decision. Any applicant or member of the neighborhood may appeal a final decision of the director regarding the granting or denial of a business occupancy permit so long as the appeal is filed with the city within ten days of the date that a notice of intent to issue a business occupancy permit was mailed by the director, or the permit was denied. Upon the filing of an appeal, the permit application shall be suspended pending conclusion of the appeal process. Appeals shall be conducted by the planning commission in accordance with chapter 18.80 of this Code. The applicant shall be notified of the appeal, and shall be responsible for sending a notice to the members of the neighborhood. The notice shall be in a form approved by the city and shall be mailed a minimum of fifteen days in advance of the scheduled public hearing.
2. Planning commission consideration. At the appeal hearing, the planning commission shall follow the procedures set forth in chapter 18.80, and shall consider the application, the findings and determinations of staff, and take public testimony regarding the proposed home occupation. The planning commission shall review the application for compliance with the provisions of this code and other adopted regulations, the compatibility of the application with the character of the surrounding neighborhood and adverse influences that might result from approval of the application. The planning commission may either approve, approve with modifications or conditions or deny the application. The planning commission's final decision may be appealed to the city council in accordance with chapter 18.80.

Section 26. Section 18.48.020.I of the Loveland Municipal Code is revised to read in full as follows:

- I. Revocation of Permit and Appeal. A business occupancy permit may be revoked by the director if the director finds that the home occupation no longer conforms to the provisions of this section or the conditions of approval of the business occupancy permit. A business occupancy permit may also be revoked upon a determination by the city that the mailing list was faulty or the applicant failed to follow the application, review and appeal process. Notification to the applicant shall include findings in support of the revocation and the applicant's rights of appeal. The written notification of revocation shall be mailed to the last known address of the permit holder. The date of the mailing shall be the date of notification. The business occupancy permit holder may appeal the director's final decision to the planning commission in accordance with chapter 18.80.

Section 27. Section 18.50.100.A.4.h of the Loveland Municipal Code is revised to read in full as follows:

18.50.100 Sign regulations in nonresidential zones.

. . .

h. A request for variance to the maximum sign area, height or setback for a sign containing an electronic message module shall be heard by the zoning board of adjustment in accordance with the procedures specified in Chapter 18.60. In addition to the findings specified Section 18.60.040, before granting any request, the Board shall find that:

1. The proposed area, setback and/or height of the electronic message sign module is the minimum required to be fully visible from the adjacent arterial or interstate roadway right-of-way; and
2. Traffic safety conditions will not be diminished by the increased square footage, increased height or decreased setback of the electronic message sign module; and
3. There are no reasonable alternatives to the increased size, height, setback and/or design of the electronic message sign.

Section 28. Section 18.50.100.B.11 of the Loveland Municipal Code is revised to read in full as follows:

18.50.100 Sign regulations in nonresidential zones.

. . .

11. Appeal of a Planning Division Decision. Should the applicant for a planned sign program not be satisfied with the decision of the planning division, the applicant shall have the right to appeal the final decision to the planning commission in accordance with chapter 18.80 of this Code.

Section 29. Section 18.50.150.B of the Loveland Municipal Code is revised to read in full as follows:

18.50.150 Nonconforming signs.

. . .

- B. Prohibited, illegal, nonconforming, abandoned or hazardous signs are declared nuisances and shall not be allowed within the city nor continued by variance. If any person fails to comply with the provisions of this chapter, in addition to the penalty provided therefor, a written order may be served upon the owner or agent in charge of such property, such order to be served personally or by mail, requiring the abatement of the nuisance within fifteen days, excluding weekends and official holidays, after mailing such notice. Such notice shall also advise the owner or agent of his or her right to appeal pursuant to chapter 18.80. If the abatement has not occurred within the stated time and an appeal has not been filed pursuant to the provisions of chapter 18.80, then the city may remove said sign, provided that the sign is either an off-premise sign, portable sign, free standing sign made of paper, balloons, pennants or banners, and charge the direct cost incurred by the city for removal of the sign, including five percent for inspection and other incidental costs in connection therewith. Such assessment shall be a perpetual lien upon the land on which the sign is located until the assessment is paid. In addition to any other means provided by law for collection, if any such assessment is not paid within thirty days after it is made and notice thereof is mailed, the same may be certified by the city clerk to the county treasurer and by him placed upon the tax list for the current year, and thereby collected in the same manner as other taxes are collected, with ten percent penalty thereon to defray the cost of collection.

Section 30. Section 18.50.190 of the Loveland Municipal Code is revised to read in full as follows:

18.50.190 Appeals.

A final decision of the current planning manager relative to the provisions of this chapter may be appealed to the planning commission in accordance with chapter 18.80 of this code. The decision of the current planning manager shall be upheld unless the planning commission finds that the current planning manager's findings are clearly erroneous, arbitrary or capricious. Any appeal of the planning commission's final decision to the city council shall be made in accordance with Chapter 18.80 of this code and the city council shall uphold the decision of the current planning manager unless the city council finds that the current planning manager's findings are clearly erroneous, arbitrary or capricious.

Section 31. Section 18.52.020 of the Loveland Municipal Code is revised to read in full as follows:

18.52.020 Supplementary yard regulations.

A. The purpose of a setback creating a yard is for the preservation of light and air to adjoining properties, fire protection, maintenance of property, preservation of open space

and the retention of a visually cohesive pattern established by buildings and the spaces which separate them. To maximize the amount of open space on a lot and/or the beneficial use of the property, the current planning manager may approve a reduction of up to thirty-three percent (33%) of a required setback, so long as the current planning manager determines and makes written findings that:

1. The alternative setback would be in harmony with the spirit of this title;
2. The alternative setback would not limit the use or enjoyment of nearby property;
3. A letter of non-objection to the alternative setback is submitted from all adjacent property owners; and
4. A letter of non-objection to the alternative setback is submitted by other potentially impacted property owners, as determined by the current planning manager, who own property that falls wholly or partially within 150 feet of the subject property.

B. The front yard in all residential zones may be reduced by five feet for garages where the vehicle access door does not face directly onto the street. This allowance shall not apply to properties within a planned unit development or special review that contain specific yard provisions.

C. The following items may extend into required yards if determined to be incidental and harmless to adjacent properties by the current planning manager:

1. Architectural features including cornices, eaves, bay windows, an exterior chase for a fireplace or other similar features;
2. At grade uncovered decks and patios that are exempt from building permit requirements; and
3. Fire escapes that extend into the required rear yards by no more than six feet.

Section 32. Section 18.53.020 of the Loveland Municipal Code is revised to read in full as follows:

18.53.020 Compliance.

- A. Type 1 Standards. Compliance with the Type 1 standards set forth in this Chapter 18.53 is mandatory, unless a variance is granted pursuant to Chapter 18.60.
- B. Type 2 Standards.
 1. Alternative compliance. Compliance with the Type 2 standards set forth in this Chapter 18.53 is mandatory, unless the current planning manager grants alternative compliance in accordance with the following provisions. The current planning manager may allow application of an alternative standard, different than a Type 2 standard, provided the current planning manager determines that:
 - a. The applicant has demonstrated that either:
 - i. Site-specific, physical constraints necessitate application of the alternative standard, and such constraints will not allow a reasonable use of the property without application of such alternative standard; or
 - ii. The alternative standard achieves the intent of the subject Type 2 standard to the same or greater degree than the subject standard, and

results in equivalent or greater benefits to the community as would compliance with the subject standard.

2. Statement of findings. Whenever the current planning manager grants alternative compliance, the current planning manager shall formulate a written statement of findings based on the above criteria for such action. Such statement shall be filed in the development application file.
3. Appeals. Final decisions by the current planning manager with respect to such alternative compliance may be appealed to the planning commission in accordance with chapter 18.80.

Section 33. Sections 18.54.050 and 18.54.060 of the Loveland Municipal Code are revised to read in full as follows:

18.54.050 Request for exception.

The owner of the proposed building or structure may request an exception from the height limitations imposed by this chapter. A request for an exception shall be made to the planning commission. The planning commission shall hold a public hearing on such request, which hearing shall be noticed in accordance with Section 16.16.070 of this code.

Before granting any request, the planning commission shall find that:

- A. The requested exception allows adequate light and air to the adjacent neighborhood; and
- B. The requested exception is compatible with the character of the surrounding neighborhood; and
- C. The requested exception will not be injurious to the adjacent neighborhood or otherwise detrimental to the public health, safety and welfare; and
- D. The requested exception is consistent with the intent of the zoning district and the entire zoning ordinance.

18.54.060 Appeal to city council.

Any party-in-interest, as defined in section 18.80.020, may appeal the final decision of the planning commission to the city council. The city council shall hold a public hearing on such appeal, which appeal shall be conducted in accordance with chapter 18.80. Using the criteria set forth in section 18.54.050, the city council may affirm, modify or reverse the planning commission's final decision.

Section 34. Chapter 18.60 of the Loveland Municipal Code is repealed in its entirety and reenacted to read in full as follows:

ZONING BOARD OF ADJUSTMENT*

Sections:

18.60.010	Board of adjustment established.
18.60.020	Powers and duties.
18.60.030	General Variance Review Criteria.
18.60.040	Sign Variance Review Criteria.
18.60.050	Applications.

18.60.060 Procedure.
18.60.070 Notice.

*For statutory provisions regarding boards of adjustment, see CRS §§ 31-23-301 and 31-23-307.

18.60.010 Board of adjustment established.

The planning commission shall serve as the board of adjustment for the city.

18.60.020 Powers and duties.

The board of adjustment shall have the powers and duties to grant variances from certain standards set forth in this title 18 subject to and in compliance with this chapter and the laws of the state. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this title, the board of adjustment may vary or modify certain regulations or provisions of the title so that the spirit of the title is observed, public safety and welfare secured, and substantial justice done. The board of adjustment has the power to vary or modify the application of the regulations or provisions of this title related to the following:

- A. Standards for lot area, lot dimensions, and setback requirements;
- B. Square footage of accessory structures;
- C. Percentage of open space; and
- D. Setbacks for a freestanding sign, spacing between freestanding signs and the area for freestanding and wall mounted signs.

After considering if the proposed variance meets the applicable criteria in Section 18.60.030 and 18.60.040 below, the board shall take action to approve, approve with conditions, or deny the application.

18.60.030 General Variance Review Criteria

To approve a zoning variance application, the board of adjustment shall consider the following review criteria and find that each criterion has been met or determined to be inapplicable:

- A. There are unique circumstances or conditions that are particular to or related to the land or structure for which the variance is requested. The circumstances may include, but are not limited to, exceptional topographic conditions, the shape or dimensions of the property, or the existence of mature landscaping or natural features that impact the property;
- B. The special circumstances are not the result of actions or inactions by the applicant or the current owner;
- C. The strict interpretation and enforcement of the provisions of the code would cause an unnecessary or undue hardship;
- D. Granting the variance is the minimum action needed to accommodate or alleviate the difficulty or hardship involved;

E. The variance would not substantially impact the reasonable use and enjoyment or development of other property in the vicinity of the subject land or structure;

F. The variance would not authorize any use in a zoning district other than a use specifically permitted in such zoning district; and

G. The variance would not waive or modify the requirements of any use approved by special review.

18.60.040 Sign Variance Review Criteria

A. Variances to the requirements of Chapter 18.50 shall not be permitted, except as related to the requirements concerning the setback of a freestanding sign, the spacing between freestanding signs, or the maximum sign area. To approve a zoning variance application to Chapter 18.50, the board must consider the following review criteria and find that each criterion has been met.

1. There are special physical circumstances or physical conditions, including, without limitation, buildings, topography, vegetation, sign structures, or other physical features on adjacent properties or within the adjacent public right-of-way that would substantially restrict the effectiveness of the sign in question, and such special circumstances or conditions are unique to the business to which the applicant desires to draw attention and do not apply generally to all businesses in the area;

2. The variance would be consistent with the purposes set forth in Section 18.50.010 and would not adversely affect the neighborhood or other businesses within the vicinity in which the subject business is located; and

3. The variance is the minimum necessary to permit the applicant to reasonably draw attention to its business.

B. In addition to the above criterion, for signs that contain an electronic message module, the board must consider the review criteria in Section 18.50.100.A.4.h and find that each criterion has been met.

18.60.050 Applications.

Any person seeking action or review upon any matter within the jurisdiction of the board of adjustment, shall make an application on forms provided by the current planning division. The application shall be accompanied by such supporting material as may be required. The applicant shall also pay, at the time of filing of the application, any required filing fee as established by resolution of the city council.

18.60.060 Procedure.

The board of adjustment may designate one or more hearing officers from within the board to conduct public hearings on matters coming before the board. The designated hearing officer shall have the discretion to forward any matter onto the full board of adjustment for the initial public hearing. Within ten (10) days after the conclusion of any hearing conducted by the hearing officer, the hearing officer shall submit proposed findings and order to the board, to the applicant, and to all parties participating in the hearing, which findings and order shall constitute the hearing officer's final decision. The hearing officer's final decision may be appealed to the full board of adjustment by any

party-in-interest as defined in chapter 18.80, by the filing of a written appeal with the current planning division in accordance with the provisions contained in Section 18.80.030.B, within ten (10) days of the decision of the hearing officer. If an appeal is filed, the hearing officer shall forward to the board of adjustment the record of the hearing. The board shall consider any such appeal on the first available date for which proper notice can be provided pursuant to Chapter 18.05. The appeal shall be conducted as a de novo hearing as defined in Chapter 18.80, and shall follow the procedures set forth in Section 18.80.090. Whether as a result of an initial public hearing by the board or an appeal of the hearing officer's final decision, the board shall submit its findings and order to the applicant and all parties participating in the hearing within thirty (30) days following the conclusion of the hearing. The findings and order of the board representing the board's final decision, may be appealed to city council by any party-in-interest as defined in chapter 18.80, by the filing of a written appeal with the current planning division in accordance with the provisions contained in Section 18.80.030.B within ten (10) days of the mailing of the findings and order. City council shall consider any such appeal at a public hearing noticed in accordance with Section 18.80.050.C. and conducted in accordance with Section 18.80.090. Unless otherwise stated in the findings and order, or in the decision of city council, all permits or actions authorized as a result of an approval of a variance must be initiated within six months of the date such findings and order became final. Upon written request by the applicant, an additional six months may be granted by the current planning manager for initiating such permits or actions. In reviewing the proposed time extension, the current planning manager shall consider the following criteria:

- A. Has there been a change of zoning for the site, or for any property adjacent to the site since the original approval?
- B. Has a change of use taken place on the site or on any adjacent property since the original approval, or is a change of use proposed for the site which would be divergent from the use shown in the application documents for the original variance?
- C. Have there been changes in the regulations and requirements specified in the Loveland Municipal Code which are applicable to the site and which should be addressed prior to the development of the site?
- D. Has the ownership of any adjacent property changed?
- E. Will the granting of the extension be detrimental to the public health, safety, or general welfare?
- F. Will the granting of the extension be in keeping with the purposes set forth in this title to the same degree as intended in the original approval?

18.60.070 Notice.

Notice requirements for appeals shall be provided in accordance with chapter 18.80. All other notices required by this Chapter shall be provided pursuant to Chapter 18.05.

Section 35. Section 18.68.045 of the Loveland Municipal Code is revised to read in full as follows:

18.68.045 Code Enforcement Guidelines

A duly appointed peace officer or code enforcement officer of the City may enforce the provisions of this title and of Titles 15 and 16 of the city code by the issuance of a summons and complaint as provided in Rule 204 of the Colorado Municipal Courts Rules of Procedure.

Section 36. Section 18.68.050.A of the Loveland Municipal Code is revised to read in full as follows:

18.68.050 Violation.

. . .

- A. Any violation of any of the provisions of this title or of any agreement or development plan approved under this title or under title 16, exists in any building, other structure or tract of land; or

Section 37. Section 18.68.070 of the Loveland Municipal Code is revised to read in full as follows:

18.68.070 Penalty.

Any person, firm or corporation violating any provisions of this title, upon conviction therefore, shall be fined not more than one thousand dollars or incarcerated not more than one year, or both. Each day during which the illegal erection, construction, reconstruction, alteration, maintenance, use, or any other violation of this title continues, is deemed a separate offense.

Section 38. A new chapter 18.80 regarding Appeals is added to the Loveland Municipal Code to read in full as follows:

APPEALS

18.80.010 Purpose

18.80.020 Definitions

18.80.030 Appeal of Final Decision Permitted; Effect of Appeal; Grounds for Appeal

18.80.040 Appeal of City Staff Decision Maker or Director's Final Decision

18.80.050 Appeal of Zoning Board of Adjustment or Planning Commission's Final Decision

18.80.060 Notice of Appeal Requirements**18.80.070 Cost of Appeal****18.80.080 Record on Appeal****18.80.090 Procedure at Hearing****18.80.010 Purpose.**

This Chapter shall govern the procedures for appeals from any final decision made under Title 16 or Title 18 of this Code.

18.80.020 Definitions.

The following words, terms and phrases, when used in this Title 18, shall have the meanings hereafter ascribed to them in this Chapter unless the context requires otherwise:

Appellant shall mean a party-in-interest who has filed a notice of appeal under the provisions of this Chapter.

Applicant shall mean a person that has submitted to the City an application related to the development, zoning or subdivision of real property in the city as authorized or required under the provisions of Title 16 or Title 18 and which application is the subject of appeal under this Chapter.

City staff decision maker shall mean any City staff member granted authority to make decisions under titles 16 and 18 of this Code.

City council shall mean the city council of the City of Loveland.

Current planning division shall mean the current planning division for the City of Loveland development services department.

Days shall mean all calendar days including Saturday and Sunday. Any computation of days under this Chapter shall not include the date a final decision is made. If a filing deadline falls upon a Saturday, Sunday or other legal holiday when City offices are closed, the filing deadline shall continue to the following day when City offices are open.

De novo hearing shall mean a new public hearing at which new and additional evidence may be presented.

Director shall mean the City's director of development services or his or her designee.

Evidence shall mean documentary, electronic or testimonial evidence relevant to any application that was the subject of a final decision under the provisions of Title 16 or Title 18, presented at a hearing to support or refute a particular proposition or conclusion.

Evidence shall not include argument as to how information offered as evidence should be viewed or interpreted.

Effective date of the final decision, as it pertains to a city staff decision maker's or director's final decision, shall mean the date the city staff decision maker or director mails his or her written decision to the affected applicant and to any other party-in-interest to whom the written decision is required by this title to be mailed. As this phrase pertains to the zoning board of adjustment or the planning commission, it shall mean the date on which the board or commission adopts its written findings and conclusions.

Final decision, as it pertains to a city staff decision maker or the director, shall mean a decision or action by the city staff decision maker or director under Title 16 or Title 18 that the city staff decision maker or director has reduced to writing and has promptly mailed to the affected applicant and to any other party-in-interest to whom the written decision is required by this Code to be mailed. As this term pertains to the zoning board of adjustment or the planning commission, it shall mean a decision or action by the board or commission under this Code for which the board or commission has adopted written findings and conclusions. A *Final decision* shall not include any decision made by a city staff decision maker or the director that is a recommendation to the planning commission or to the city council, or a decision by the planning commission under this Code that constitutes a recommendation to city council.

Notice of appeal shall mean an appellant's written request for an appeal of a final decision submitted in the form required by Section 18.80.060.

Party-in-interest, as it pertains to an appeal under this Chapter of a final decision by a city staff decision maker or the director, shall mean: the applicant; any person required in Title 16 or this Title 18 to be mailed the city staff decision maker's or director's written final decision; two or more planning commission members; or two or more city council members. As this term pertains to an appeal under this Chapter of a final decision by the zoning board of adjustment or the planning commission, it shall mean: the applicant, the director, any person required in Title 16 or this Title 18 to be mailed notice of the zoning board of adjustment or planning commission's public hearing; any person who provided written or verbal testimony at the zoning board of adjustment or planning commission's public hearing (other than a city employee who was providing written or verbal testimony in his or her capacity as a city employee); or two or more city council members. For an appeal of a Final Plat for a major subdivision or a Final Development Plan, only the applicant shall be considered a party-in-interest with standing to appeal.

Person shall mean an individual, corporation, partnership, limited liability company or other legal entity.

Planning commission shall mean the City of Loveland planning commission established pursuant to Section 2.60.080 of this Code.

Record shall mean all relevant documents reviewed by a previous board, commission or city staff decision maker, and any transcript or written record of any such previous hearing.

Zoning board of adjustment shall mean the City of Loveland zoning board of adjustment established pursuant to Section 18.60.010 of this code.

18.80.030 Appeal of Final Decision Permitted; Effect of Appeal; Grounds for Appeal.

A. An appeal of a final decision may be filed pursuant to sections 18.80.040 and 18.80.050 of this Chapter. Upon the filing of an appeal, any application process with the City pertaining to the subject matter being appealed shall be suspended while the appeal is pending. Any action taken in reliance upon any decision of a board, commission or other city staff decision maker that is subject to appeal under the provisions of this Chapter shall be totally at the risk of the person(s) taking such action until all appeal rights related to such decision have been exhausted, and the City shall not be liable for any damages arising from any such action taken during said period of time.

B. Except for appeals by members of the city council, the permissible grounds for appeal shall be limited to allegations that the board, commission or other city staff decision maker committed one (1) or more of the following errors:

(1) Failure to properly interpret and apply relevant provisions of the Municipal Code or other law; or

(2) Failure to conduct a fair hearing in that:

a. The board, commission or other city staff decision maker exceeded its authority or jurisdiction as contained in the Municipal Code or Charter;

b. The board, commission or other city staff decision maker considered evidence relevant to its findings which was substantially false or grossly misleading; or

c. The board, commission or other city staff decision maker improperly failed to receive all relevant evidence offered by the appellant.

C. Appeals filed by members of the city council need not include specific grounds for appeal, but shall include a general description of the issues to be considered on appeal. Council members who file an appeal shall not participate in deciding the appeal.

18.80.035 Review of Notice of Appeal by City Attorney.

Within seven (7) days of the date of the filing of the notice of appeal, the notice shall be reviewed by the City Attorney for any obvious defects in form or substance. A notice of appeal which fails to conform to the requirements of Section 18.80.030 shall be deemed deficient. The City Attorney shall notify the appellant in writing of any such deficiency, which notice shall be mailed no more than seven (7) days from the date of the filing of the notice of appeal. The appellant shall have seven (7) days from the date of mailing of the notice of deficiency to cure such deficiency. If the deficiency is cured, the date the revised notice of appeal is received shall be considered the date of the filing of the notice of appeal. If the appellant does not file a revised notice of appeal within said time period, the appeal shall be deemed to be dismissed.

18.80.040 Appeal of City Staff Decision Maker or Director's Final Decision.

A. A party-in-interest may appeal any final decision by the director or other city staff decision maker to the planning commission.

B. To appeal a city staff decision maker or director's final decision to the planning commission, a party-in-interest must file a notice of appeal with the current planning division within ten (10) days of the effective date of the final decision. Failure of a party-in-interest to timely file a notice of appeal under this section shall result in the dismissal of that appeal.

C. When a party-in-interest timely files a notice of appeal under this section, the current planning division shall schedule a public hearing for the appeal to be heard by the planning commission not less than thirty (30) nor more than sixty (60) days of the filing of the notice of appeal unless a longer period of time is agreed to by the appellant. Public notice of the hearing shall be given as required in Section 16.16.070, except the notice requirements imposed on the applicant in Section 16.16.070 shall be the responsibility of the current planning division unless the applicant is an appellant. The owner of the property associated with the appeal shall allow posting of one or more signs as needed on the subject property.

D. The planning commission shall conduct the appeal hearing as a de novo hearing and shall apply the standards set forth in the Loveland Municipal Code applicable to the matter being appealed. After conducting the hearing, the planning commission may uphold, reverse or modify the final decision being appealed. The planning commission shall adopt at the public hearing or within thirty (30) days of the public hearing its written findings and conclusions concerning the appeal.

18.80.050 Appeal of Zoning Board of Adjustment or Planning Commission's Final Decision.

A. A party-in-Interest may appeal any final decision by the zoning board of adjustment or the planning commission to the city council. An appeal of a decision made by the

zoning board of adjustment hearing officer, shall follow the procedures set forth in Section 18.60.060.

B. To appeal a final decision by the zoning board of adjustment or planning commission to the city council, a party-in-interest must file a notice of appeal with the current planning division within ten (10) days of the effective date of the final decision. Failure of a party-in-interest to timely file a notice of appeal under this section shall result in dismissal of that appeal.

C. When a party-in-interest timely files a notice of appeal under this section, the current planning division shall schedule a public hearing for the appeal to be heard by the city council not less than thirty (30) nor more than sixty (60) days of the filing of the notice of appeal unless a longer period of time is agreed to by the appellant. Public notice of the hearing shall be given as required in Section 16.16.070, except the notice requirements imposed on the applicant in Section 16.16.070 shall be the responsibility of the current planning division unless the applicant is an appellant. The property owner of the property associated with the appeal shall allow posting of one or more signs as needed on the subject property.

D. The city council shall conduct the appeal hearing as a de novo hearing, and shall apply the standards set forth in the Loveland Municipal Code applicable to the matter being appealed. After conducting the hearing, the city council may uphold, reverse or modify the final decision being appealed. The city council may also remand the appeal to the zoning board of adjustment or the planning commission with directions for the zoning board of adjustment or planning commission's further consideration of the matter. If the city council upholds, reverses or modifies a final decision made by the zoning board of adjustment or the planning commission, the city council shall adopt at the public hearing or within thirty (30) days of the public hearing its written findings and conclusions. The city council's written findings and conclusions shall be considered the city council's final decision for purposes of any appeal of the city council's decision to the Larimer County District Court under Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

18.80.060 Notice of Appeal Requirements.

The notice of appeal required to be filed under this Chapter shall include all of the following information:

A. A description of the final decision being appealed.

B. The date of the final decision being appealed.

C. The name, address, telephone number and relationship of each appellant to the subject of the final decision being appealed including a statement for each appellant as to the appellant's qualification for being considered a party-in-Interest under this Chapter.

D. For all appeals, except those filed by members of city council, a description the grounds for the appeal of the final decision, including specific allegations of error as required in Section 18.80.030.B. For notices of appeal filed by members of city council, the notice must contain the general description of issues to be considered on appeal as required by Section 18.80.030.C.

E. In the case of an appeal by more than one (1) appellant, the name, address and telephone number of one (1) such appellant who shall be authorized to receive, on behalf of all appellants, any notice required to be mailed by the City to the appellants under the provisions of section 18.80.040 or section 18.80.050.

18.80.070 Cost of Appeal

In all appeals under this Chapter except those filed by two or more members of the planning commission or those filed by two or more members of the city council, the appellant shall be charged a fee for the cost of the appeal as such fee is established by city council pursuant to Code section 3.04.025. The city council may establish a fee for each level of appeal.

18.80.080 Record on Appeal

The record provided to the planning commission or city council for appeals filed under this chapter shall include a record of any previous proceedings before a board, commission or other city staff decision maker, including without limitation, all exhibits, writings, drawings, maps, charts, graphs, photographs and other tangible items received or viewed by the board, commission or other city staff decision maker at any previous proceedings. A video recording of the zoning board of adjustment hearing or planning commission hearing is not required as part of the record on appeal provided summary minutes of such hearings are included as part of the record.

18.80.090 Procedure at Hearing

A. At the appeal hearing, the presentation of argument regarding the appeal shall be made in the following order, subject to the discretion of the Chairperson or Mayor relating to limitations in time and scope, or allowances accommodating adequate presentation of evidence or opportunity for rebuttal:

- (1) Explanation of the nature of the appeal by City staff;
- (2) Appellant's presentation of evidence, testimony and argument in support of the appeal;
- (3) Presentation of evidence, testimony and argument of the applicant if the applicant is not the appellant; or, if the applicant is the appellant, presentation of evidence, testimony and argument by any city staff member or other party-in-interest in opposition to the appeal.

- (4) Public comment;
- (5) Rebuttal presentation by the appellant; and
- (6) Motion, discussion and vote by the board, commission or city council.

B. No person making a presentation or providing testimony at an appeal hearing shall be subject to cross-examination except that members of the planning commission or city council and the City Attorney may at any time make inquiries for the purpose of eliciting information and for the purpose of clarifying information presented.

C. In the event of multiple appeals involving the same subject matter considered by the planning commission or city council, the Chairperson or Mayor, in his or her discretion, may modify the procedure contained in Subsection (A) above so as to expedite the hearing of such appeals.

D. The city council shall consider an appeal based upon evidence submitted at the public hearing, the record on appeal, the relevant provisions of the Municipal Code and Charter, and the grounds for appeal cited in the notice of appeal. Grounds for appeal raised for the first time at the public hearing, and therefore not raised in the notice of appeal, shall not be considered by the city council in deciding the appeal.

Section 38. 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).

Signed this _____ day of _____, 2011.

ATTEST:

CITY OF LOVELAND, COLORADO

City Clerk

Mayor

APPROVED AS TO FORM:


Assistant City Attorney

APPEALS, SUPPLEMENTARY REGULATIONS AND ZONING BOARD OF ADJUSTMENT AMENDMENT: **REDLINE VERSION***

*Redline text has been adjusted since the April 19, 2011 City Council meeting.

Title 16

Chapter 16.04

16.04.020 Penalty.

Any person, firm or corporation violating any provisions of this title 16, upon conviction therefore, shall be fined not more than one thousand dollars or incarcerated not more than one year, or both. Each day during which the violation continues is deemed a separate offense.

Chapter 16.08

DEFINITIONS

16.08.010 Definitions.

“Final decision” shall have the same meaning as set forth in Code section 18.80.020.

“City staff decision maker” shall have the same meaning as set forth in Code section 18.80.020.

Chapter 16.10.10

APPEALS

Section:

16.10.010 Appeals of ~~F~~final ~~D~~ecisions.

An appeal of a final decision by the director, other ~~C~~city staff decision maker, or the planning commission regarding any provisions in this title, shall be brought in accordance with Chapter 18.80 of this Code.

16.16.030 Review procedures, general.

B. Development Review.

1. Submission of Application Signatures/Certified Lists.

- a. Once the applicant has received comments on the sketch plan, the applicant may submit an application for the development review sought. Applications shall be submitted to the ~~C~~current ~~P~~planning ~~D~~ivision on forms provided for this purpose. The application shall include all required supporting documentation as specified on submittal checklists provided by the ~~C~~current ~~P~~planning ~~D~~ivision. Unless otherwise specified herein, the applicant shall provide the number of copies specified in the checklist. Applications shall be signed by all fee owners of the land described in the application; except, that where the fee is held by two or more owners as joint tenants or as tenants in common, such

application may be signed by only one joint tenant or tenant in common. All other owners and lienholders who have an interest in the land described in the application shall be noted on the application.

- b. At the time of filing a development review application requiring a public hearing, or where otherwise required under this title, the applicant shall submit to the ~~C~~urrent ~~P~~lanning ~~D~~ivision all information required pursuant to Section 16.16.070 and Tables 16.16.070-1 and 16.16.070-2.
 - c. Each application shall be submitted with the fee established for that application pursuant to resolution of the city council.
 2. Application Submittal Date. The official application submittal date shall be the date on which the applicant submits a reviewable application. The director shall schedule the applicant for a meeting with the development review team upon determination that such application is reviewable. The director may exempt applications for final plats, minor subdivisions, lot mergers, and boundary line adjustments from meeting with the development review team.
 3. Applications Referred to Development Review Team/Determination of a Reviewable Application. The development center shall refer the reviewable application to the development review team members for their review. The development review team members shall comment on the application. Said comments shall be completed and compiled within approximately thirty days from the official application submittal date or by such time as required by the director. The director may require that any applicant for any development review under this title, reimburse the city for the cost of any legal or technical consultant fees incurred by the city in connection with reviewing the application. The application shall be deemed complete on the application acceptance date, which is the date that the director finds that the application contains adequate information on which to determine compliance with the review and design standards of this title and other applicable code provisions, city ordinances, comprehensive master plan, city policies, and state laws.
 4. Written Comments to the Applicant. The development center shall make available to the applicant the development review team's comments a minimum of two working days prior to the development review team meeting or at such time as may be required by the director.
 5. Development Review Team Meeting. On the scheduled date, the applicant shall meet with the development review team to discuss their comments. If the development review team determines that the application is not complete, the director may table further processing of the application and inform the applicant of the materials or revisions needed to make the application complete. The applicant shall submit a revised application no later than the deadline determined by the development review team. If the development review team finds that an application is not complete and cannot be made complete without revisions so extensive as to constitute a new application, the director may reject the application. Such application shall be resubmitted for development review under this title, in accordance with the applicable provisions of this title. The director will accept amendments to applications as long as they are submitted at least fifteen days prior to the scheduled development review team meeting. Nothing herein shall prevent the development review team, the planning commission, city council or director from requesting additional information in the course of the review if it is deemed necessary to determine compliance with the standards set forth in this title, or in Title 17 or 18 as applicable.
 6. Scheduling Public Hearings. An application shall not be scheduled for planning commission or city council review or decision unless the director determines that the application is complete. Upon a finding that the application is complete, the director shall schedule the application for the next available planning commission or city council meeting, as applicable.

- C. Public Hearing Notification. The director and applicant shall give or cause to be given notice as provided in Section 16.16.070.
- D. Planning Commission and City Council Review and Approval. The planning commission and city council shall review applications for development review under this title, in accordance with the specific provisions herein. If, as determined by the director, the applicant makes substantial revisions to the application after planning commission review, the development review team and the planning commission shall review the revised application prior to review by the city council. Such additional review by the development review team and the planning commission shall be scheduled as if the application were a new application.

E. Appeal Procedure.

Appeals from any final decision by the director or the planning commission shall be conducted pursuant to chapter 18.80 of this Code.

16.16.040 Staff review of certain applications.

C. Appeal Procedure.

1. Appeals from any final decision by the director for final plats, minor subdivisions, boundary line adjustments and lot mergers shall be conducted by the planning commission chapter 18.80 of this Code.
2. The appeal of a final decision of the planning commission to the city council shall be conducted in accordance with chapter 18.80 of this Code.

16.16.070 Public notice requirements.

- D. Content of Public Notice. Where public notice is required for neighborhood meetings, public hearings, ~~D~~director's decisions, or as otherwise required under this title, the notice shall include the following:

10. For ~~D~~director decision notices, a statement that interested parties may submit an appeal in accordance with the requirements of and the deadlines and requirements for filing an appeal, pursuant to chapter 18.80 of this Code.

- E. Mailed Notice. At least fifteen (15) days prior to a neighborhood meeting, public hearing, or the date of the ~~D~~director's decision, the applicant shall, by first class mail, send written notice to all property owners on the certified list required in Section 16.16.070.E.1 at the address listed for each owner. An affidavit of the applicant's compliance with such requirements shall be provided to the City prior to the public hearing for which the notice was given and shall meet the provisions of Section 16.16.070.J. When Mailed Notice is required under this Chapter, the following shall apply:
 2. For all applications requiring mailed notice, the radius distances specified in Table 16.16.070-2 Area of Public Notice Distance by Application Type and Size, shall be used to determine the area to which such notice shall be given, except as provided in Sections 16.16.070.E. 3 and 4.

Table 16.16.070-2 AREA OF MAILED NOTICE DISTANCE BY APPLICATION TYPE AND SIZE			
Application Type	20 acres or less	21 – 50 acres	Greater than 50 acres
Obsolete Subdivisions	See Chapter 16.36		
Preliminary Plat	500 ft.	750 ft.	1,000 ft.
Minor Subdivision	150 ft.	150 ft.	150 ft.

Vacation (of easements or rights-of-way)	See Chapter 16.36

Chapter 16.20

SUBMITTAL PROCEDURES AND REQUIREMENTS

16.20.060 Preliminary plat review procedure.

D. Appeal Procedures of Planning Commission Decisions. An appeal under this section of a final decision of the planning commission shall be made to the city council and shall be conducted in accordance with chapter 18.80 of this Code.

16.20.080 Final plat review procedure.

C. Final Plat Review.

1. Pursuant to the powers granted to the city in the Colorado Constitution and the city of Loveland Charter, the director is hereby assigned the power to approve all final plats. The director shall make final decision on the final plat application within thirty days after a complete final plat is submitted to the development center. The director shall make appropriate findings based on the applicable review standards, or adopted plans. Using the review standards set forth in this title, the director shall approve, approve with conditions or deny the application. All conditions of approval applicable to the final plat shall be included in a development agreement, which shall be recorded with Larimer County clerk and recorder concurrent with recordation of the final plat. Appeals of final decisions of the director shall be made to the planning commission and shall be conducted in accordance with chapter 18.80 of this Code.

16.20.100 Minor subdivision review procedures.

- E. Appeals from any final decision by the director for a minor subdivision shall be made to the planning commission and shall be conducted in accordance with chapter 18.80 of this Code.

16.20.120 Simple plat review procedure.

- D. Appeals from any final decision by the director for a simple plat shall be made to the planning commission and shall be conducted in accordance with chapter 18.80 of this Code.

Chapter 16.28

BOUNDARY LINE ADJUSTMENTS

16.28.060 Deed restriction in lieu of boundary line adjustment.

A. In the event the owner of property consisting of one or more adjacent lots and an adjacent unsubdivided parcel of land upon which a structure is located, wishes to obtain a building permit for either an accessory structure to be located on the property, an addition to the existing structure, or interior remodeling work without completing a boundary line adjustment, the owner may request that in lieu of a boundary line adjustment the city issue the building permit after receiving from the owner a deed restriction in a form approved by the city attorney. The deed restriction shall restrict the owner's ability to convey the property without first subdividing it or completing a boundary line adjustment. The deed restriction shall be released by the city upon completion of a boundary line adjustment combining all adjacent lots and unsubdivided parcels in common ownership, or upon the determination of the director that the purpose for which the deed restriction was given is no longer

served. The director shall have the authority to execute any such deed restriction and any release of a deed restriction on behalf of the city.

- B. Appeals from any final decision by the director for a deed restriction in lieu of a boundary line adjustment shall be made to the planning commission and shall be conducted in accordance with chapter 18.80 of this Code.

Chapter 16.32

LOT MERGER

16.32.060 Deed restriction in lieu of lot merger.

A. In the event the owner of property, consisting of two or more adjacent lots and containing an existing residential use, wishes to obtain a building permit for either an accessory structure to be located on the property or an addition to the existing structure without completing a lot merger, the owner may request that in lieu of a lot merger the city issue the building permit after receiving from the owner a deed restriction in a form approved by the city attorney. The deed restriction shall restrict the owner's ability to convey the property without first subdividing it or completing a lot merger. The deed restriction shall be released by the city upon completion of a lot merger combining all adjacent lots in common ownership, or upon the determination of the director that the purpose for which the deed restriction was given is no longer served. The director shall have the authority to execute any such deed restriction and any release of a deed restriction on behalf of the city.

B. Appeals from any final decision by the director for a deed restriction in lieu of a lot merger shall be made to the planning commission and shall be conducted in accordance with chapter 18.80 of this Code.

Chapter 16.40

IMPROVEMENTS

16.40.090 Guarantee period.

A. All workmanship and materials (except materials provided by the city) for all required public improvements installed by the applicant (including, but not limited to the water supply system, sanitary sewage disposal system, storm drainage facilities, electrical distribution system, curbs, gutters, street pavement, sidewalks, street signs, survey monuments, landscaping, and pavement markings) shall be guaranteed to be free from defects by the applicant for a period of two years from the date of acceptance of the required improvement by the city, provided, that such defects are not the result of public abuse, misuse or natural causes, as determined by the city. In the event any other provision of this code or specifications adopted pursuant thereto shall require a guarantee of workmanship or materials or both for a different period of time, that provision regarding the longer period of guarantee shall govern. City inspection shall not relieve the property owner of such guarantee of workmanship and materials. Upon notification, the applicant shall promptly make all adjustments, repairs, or replacements in accordance with a repair plan approved by the city, which repair, in the opinion of the city, arose out of defects and became necessary during the guarantee period. The cost of all materials, parts, labor, transportation, supervision, special tools, and supplies required for replacement or repair of parts and for correction of defects shall be paid by the applicant, the contractor or by the holder of the approved financial security.

B. This guarantee shall be extended to cover all repairs and replacements furnished under the guarantee, and the period of the guarantee for each repair or replacement shall be extended one year after installation or completion of the repair or replacement.

C. If, within fifteen days after the city has notified the applicant of a defect, failure, or abnormality in the work, the applicant has not started to make the necessary repairs or adjustments or submitted a written objection to the city's request for repair work, the city is hereby authorized to make the repairs or adjustments or to order the work be done by a third party. The cost of the work shall be paid by the applicant. The director may authorize a temporary repair if necessary due to weather conditions or materials availability.

D. If an applicant has cause to object to the city's request for repair work, such objection shall be made in writing to the director. If the director confirms that the repair is necessary because of a defect in the applicant's materials or workmanship, the applicant shall complete the repairs as directed by the city.

E. In the event of an emergency, where in the judgment of the city, delay would cause serious loss or damage, repairs, or adjustments may be made by the city or a third party chosen by the city without advance notice to the applicant, the cost of the work shall be paid by the applicant or the holder of the financial security.

F. Within thirty days prior to expiration of the guarantee period, the applicant shall request, in writing, that the city verify that no defects exist. The city shall, within thirty days, inspect the completed work and, if no defects, failures, or abnormalities are observed or detected, the city shall cause the bond, deposit, escrow agent, or letter of credit to be released.

G. In the event that the applicant fails to complete any required repair work, or fails to reimburse the city for legitimate repair work performed by the city on behalf of the applicant, or fails to enter into an agreement with city regarding the satisfactory resolution of the obligation, the applicant shall be prohibited from participating in any further land development activity in the city of Loveland until such repair, reimbursement, or agreement is completed to the satisfaction of the director. Both the developer of the project and the contractor performing the defective work shall be subject to this restriction. The developer shall be prohibited from receiving any additional building permits for any lots owned by the developer, as well as from submitting or continuing the processing of any land development applications for review and consideration by the city. The contractor shall be subject to the issuance of a stop work order issued by the city to the contractor for any work within any city right-of-way or easement. Appeals from any final decision by the director under this Chapter shall be to the planning commission and shall be conducted in accordance with chapter 18.80 of this Code.

Title 18**ZONING**

*For statutory provisions regarding zoning of cities and towns generally, see CRS § 31-23-201 et. seq. ; for provisions authorizing local authorities to adopt zoning regulations, see CRS § 31-23-301 et. seq.

18.04.050 Building, structure, or use exempt.

Any building, structure, or use, as to which satisfactory proof shall be presented to the city council, that the present or proposed situation of such building, structure, or use is reasonably necessary for the convenience or welfare of the public, may be exempted from the operation of this title by the city council after conducting a public hearing in accordance with Chapter 18.05 with a mailed notice requirement of 300 feet. Upon the council's making such required findings that exemption of the building, structure or use from the operation of this title is reasonably necessary for the convenience or welfare of the public, the council shall adopt a resolution exempting the building, structure or use from operation of this title.

Chapter 18.32**PP DISTRICT – PUBLIC PARK DISTRICT****18.32.050 Site plan review process.**

The site plan required by Chapter 18.46 shall be submitted to the current planning manager for review and approval or disapproval. In the event of disapproval, the applicant may appeal the current planning manager's final decision to the planning commission in accordance with chapter 18.80 of this Code.

Chapter 18.36**I DISTRICT-DEVELOPING INDUSTRIAL DISTRICT****18.36.025 Site plan review process.**

The site plan required by Chapter 18.46 shall be submitted to the current planning manager for review and approval or disapproval. In the event of disapproval, the applicant may appeal the current planning manager's final decision to the planning commission in accordance with chapter 18.80 of this Code.

Chapter 18.40**USES PERMITTED BY SPECIAL REVIEW****18.40.055 Appeal of an administrative or planning commission final decision.****A. Appeal of ~~A~~administrative ~~D~~decision.**

1. Any party-in-interest as defined in Chapter 18.80, may appeal to the planning commission a final decision of the planning division on a type 2 zoning permit in accordance with the procedures set forth in chapter 18.80 so long as the appeal is filed within ten (10) days of the mailing of a notice from the planning division office that a type 2 zoning permit will be issued.

2. Upon the filing of an appeal, the permit application shall be suspended pending conclusion of the appeal process. The appeal shall be scheduled for a public hearing in accordance with chapter 18.80, at which time the applicant shall have the burden of proving that the applicant is entitled to a permit under the standards set forth in Sections 18.40.030K and 18.40.005.
3. Following the close of the public hearing, the planning commission may deny the application for a special review permit or direct the planning division to issue a type 3 zoning permit with or without restrictions or conditions as the planning commission deems appropriate. If the applicant fails to object to any condition or restriction on the record, the applicant shall be deemed to have agreed with such condition or restriction.

B. Appeal of ~~P~~lanning ~~C~~ommission ~~D~~ecision.

1. Any party-in-interest as defined in chapter 18.80, may appeal a decision of the planning commission to the city council in accordance with the procedures set forth in chapter 18.80, within ten (10) days following the planning commission's final decision.
2. If the city council determines that a decision to deny a type 3 zoning permit should be reversed, the city council shall direct the planning division to issue a type 3 zoning permit with or without restrictions or conditions as the council deems appropriate. If the applicant fails to object to any condition or restriction on the record, the applicant shall be deemed to have agreed with such condition or restriction. If the city council determines that a decision to issue a type 3 zoning permit should be reversed, no such permit shall be issued and the application shall be denied. If the city council determines that certain conditions or restrictions should or should not have been imposed upon the type 3 zoning permit, it shall direct the planning division to issue the type 3 zoning permit subject to a modification in the conditions or restrictions. If the council determines that the conditions and restrictions should remain as provided by the planning commission, then it shall direct the planning division to issue the type 3 zoning permit without modification. In making its decision on the appeal, the city council shall consider the standards in Sections 18.40.030K and 18.40.005.

Chapter 18.41

UNIT DEVELOPMENT ZONE DISTRICT REQUIREMENTS AND PROCEDURES

18.41.050 Procedures for approval of a planned unit development.

E. Preliminary Development Plan Approval.

3. Final Decisions and Appeals.
 - a. The effective date of the planning commission's final decision shall be the date that the planning commission adopts its written findings and conclusions. The planning commission shall issue findings and conclusions in support of any decision within thirty days of its decision. Any party-in-interest as defined in chapter 18.80, may file a written notice of appeal with the planning division within ten (10) days of the effective date of the planning commission's final decision.

Upon the filing of a notice of appeal, the appeal shall be scheduled for a full public hearing. in accordance with chapter 18.80. At the public hearing, the city council shall approve, approve with conditions, or disapprove the matter, considering the same standards as prescribed for the planning commission in this Title 18.

b. If there is no applicable general development plan for the development, then the planning commission shall only make a recommendation to the city council regarding the approval, conditional approval or denial of the preliminary development plan. The council shall proceed in the same manner as in the case of general development plans as provided in Section 18.41.050.D.1-10.;

F. Final Development Plan Approval.

3. If the chief planner approves the final development plan, he shall issue an approval of final development plan which shall incorporate by reference the final development and shall be recorded in the real property records of Larimer County without due delay. The final development plan shall be filed with the building division and be available for public inspection. If the chief planner denies approval of the final development plan, he shall ~~communicate~~mail a written notice of denial to the applicant setting forth the basis for the denial. Within ten days of the date the chief planner mails the notice of denial to the applicant, the applicant may file an appeal of the denial in accordance with chapter 18.80 to the planning commission, which shall hear the matter in accordance with the procedures set forth in chapter 18.80, except that no further public notice of the appeal shall be required. Both the chief planner and the applicant shall appear before the planning commission and be given an opportunity to speak to the issues. Except as permitted by a majority vote of the planning commission members present at the meeting, no other person shall be entitled to address the planning commission. The planning commission shall consider the same factors used by the chief planner when making his determination;

Chapter 18.42

OFF-STREET PARKING AND LOADING REQUIREMENTS

18.42.030 Spaces required.

Adequate off-street parking shall be required for all development. The number of off-street parking spaces on Table 18.42-1 shall be required with land uses or buildings containing such land uses. These requirements shall be Type 2 Standards which shall be mandatory, unless otherwise approved by alternative compliance in accordance with the following provisions or as part of an approved special review, or an approved Planned Unit Development.

A. Upon submittal of written justification by the applicant, the ~~C~~current ~~P~~planning ~~M~~manager may allow application of an alternative standard, different than a Type 2 standard, provided the ~~C~~current ~~P~~planning ~~M~~manager determines the following:

1. The applicant has demonstrated that either:
 - a. Site-specific, physical constraints necessitate application of the alternative standard, and such constraints will not allow a reasonable use of the property without application of such alternative standard; or
 - b. The alternative standard achieves the intent of the subject Type 2 standard to the same or greater degree than the subject standard, and results in equivalent or greater benefits to the community as would compliance with the subject standard.

~~2. Granting of alternative compliance and appeal of final decision.~~

aB. Whenever the ~~C~~current ~~P~~planning ~~M~~anager grants alternative compliance, the ~~C~~current ~~P~~planning ~~M~~anager shall ~~prepare~~~~formulate~~ a written statement of findings based on the above criteria for such action. Such statement shall be placed in the development application file.

b..—~~Decisions by t~~The ~~C~~current ~~P~~planning ~~M~~anager's final decision with respect to such alternative compliance may be appealed to the planning commission in accordance with chapter 18.80. The planning commission, when hearing such an appeal shall apply the standards set forth in section 18.60.020.

Chapter 18.45

FLOODPLAIN REGULATIONS

18.45.090 Nonconforming buildings or uses.

- A. A structure or use within a structure or use of premises which was lawful before the passage of this chapter, but which is not in conformity with the provisions of this chapter may be continued without compliance with this chapter. Such nonconforming uses or nonconforming buildings may be repaired, expanded or altered only upon compliance with the following conditions:
 - 1. Any nonconforming use of property may be expanded, provided that such expansion is approved by the public works director.. Any appeal of the public works director's final decision shall be made to the planning commission in accordance with chapter 18.80 of this Code.

Chapter 18.48

ACCESSORY BUILDINGS AND USES

18.48.020 Home occupations.

- G. Appeal.
 - 1. Appeal of director's decision. Any applicant or member of the neighborhood may appeal a final decision of the director regarding the granting or denial of a business occupancy permit so long as the appeal is filed with the city within ten days of the date that a notice of intent to issue a business occupancy permit was mailed by the director, or the permit was denied. Upon the filing of an appeal, the permit application shall be suspended pending conclusion of the appeal process. Appeals shall be conducted by the planning commission in accordance with chapter 18.80 of this Code. The applicant shall be notified of the appeal, and shall be responsible for sending a notice to the members of the neighborhood. The notice shall be in a form approved by the city and shall be mailed a minimum of fifteen days in advance of the scheduled public hearing.
 - 2. Planning ~~C~~ommission consideration. At the appeal hearing, the planning commission shall follow the procedures set forth in chapter 18.80, and shall consider the application, the findings and determinations of staff, and take public testimony regarding the proposed home occupation. The planning commission shall review the application for compliance with the provisions of this code and other adopted regulations, the compatibility of the application with the character of the surrounding neighborhood and adverse influences that might result from approval of the application. The planning commission may either approve, approve with modifications or conditions or deny the application. The planning commission's final decision may be ~~further~~ appealed to the city council in accordance with chapter 18.80.

H. Permit.

1. All applications for a business occupancy permit shall include a list of the names and addresses of all the property owners and tenants who were mailed a notice and an affidavit which certifies that the property owners and tenants on the list have been notified at each step in the review process.
2. Prior to the issuance of the business occupancy permit, the applicant shall certify that he or she will operate the home occupation in conformity with the provisions of this title and any conditions agreed upon at the neighborhood and city council meetings, if applicable.
3. Once issued, said permit shall apply only to the applicant, occupation and premises stated in the application. The permit is non-transferable and non-assignable and shall remain in full force and effect unless revoked pursuant to subsection J of this section. Said permit shall also be deemed to be automatically revoked when the applicant ceases engaging in the home occupation at the approved premises for ninety consecutive days or longer.

- I. Revocation of Permit and Appeal. A business occupancy permit may be revoked by the ~~city~~ director if the ~~city~~ director finds that the home occupation no longer conforms to the provisions of this section or the conditions of approval of the business occupancy permit. A business occupancy permit may also be revoked upon a determination by the city that the mailing list was faulty or the applicant failed to follow the application, review and appeal process. Notification to the applicant shall include findings in support of the revocation and the applicant's rights of appeal. The written notification of revocation shall be mailed to the last known address of the permit holder. The date of the mailing shall be the date of notification. The business occupancy permit holder may appeal the ~~city~~ director's final decision to the planning commission in accordance with as provided for in chapter 18.80.

Chapter 18.50

SIGNS

18.50.100 Sign regulations in nonresidential zones.

The following regulations shall apply to all uses in nonresidential zoning districts. Included are districts Be, B, I, MAC, E and DR. In addition, within the downtown development authority boundary, all signs shall comply with Section 18.50.110, and along Interstate Highway-25 (I-25), all signs shall comply with Chapter 8 of the Site Development Performance Standards and Guidelines and Section 18.50.120. All signs allowed pursuant to this section shall have their sign area applied to the total allowable sign area. (Ord. 5431 § 3, 2009)

A. Basic Sign Regulations. Every business desiring signs as allowed by right in this code may apply for a sign permit and a permit shall be issued if all the provisions in this section are met.

4. Electronic Message Signs. Electronic message signs shall be subject to the following limitations:

- h. A request for variance to the maximum sign area, height or setback for a sign containing an electronic message module shall be heard by the ~~Z~~ zoning ~~B~~ board of ~~A~~ adjustment in accordance with the procedures specified in Chapter 18.60. In addition to the findings specified in Section 18.60.040, before granting any request, the Board shall find that:

1. The proposed area, setback and/or height of the electronic message sign module is the minimum required to be fully visible from the adjacent arterial or interstate roadway right-of-way; and
2. Traffic safety conditions will not be diminished by the increased square footage, increased height or decreased setback of the electronic message sign module; and
3. There are no reasonable alternatives to the increased size, height, setback and/or design of the electronic message sign.

B. Planned Sign Program Regulations. Owners or tenants of a premise desiring signs which vary from the basic sign regulations as contained in Section 18.50.100 A, may apply for approval of a planned sign program for the entire premises.

11. Appeal of a Planning Division Decision. Should the applicant for a planned sign program not be satisfied with the decision of the planning division, the applicant shall have the right to appeal the final decision to the planning commission in accordance with chapter 18.80 of this Code.

18.50.150 Nonconforming signs.

B. Prohibited, illegal, nonconforming, abandoned or hazardous signs are declared nuisances and shall not be allowed within the city nor continued by variance. If any person fails to comply with the provisions of this chapter, in addition to the penalty provided therefor, a written order may be served upon the owner or agent in charge of such property, such order to be served personally or by mail, requiring the abatement of the nuisance within fifteen days, excluding weekends and official holidays, after mailing such notice. Such notice shall also advise the owner or agent of his or her right to appeal pursuant to chapter 18.80. If the abatement has not occurred within the stated time and an appeal has not been filed pursuant to the provisions of chapter 18.80, then the city may remove said sign, provided that the sign is either an off-premise sign, portable sign, free standing sign made of paper, balloons, pennants or banners, and charge the direct cost incurred by the city for removal of the sign, including five percent for inspection and other incidental costs in connection therewith. Such assessment shall be a perpetual lien upon the land on which the sign is located until ~~such~~the assessment is paid. In addition to any other means provided by law for collection, if any such assessment is not paid within thirty days after it is made and notice thereof is mailed, the same may be certified by the city clerk to the county treasurer and by him placed upon the tax list for the current year, and thereby collected in the same manner as other taxes are collected, with ten percent penalty thereon to defray the cost of collection.

18.50.190 Appeals.

A final decision of the current planning manager relative to the provisions of this chapter may be appealed to the planning commission in accordance with chapter 18.80 of this ~~title~~code. The decision of the current planning manager shall be upheld unless the planning commission finds that the current planning manager's findings are clearly erroneous, arbitrary or capricious. Any appeal of the planning commission's final decision to the city council shall be made in accordance with Chapter 18.80 of this code and the city council shall uphold the decision of the current planning manager unless the city council finds that the current planning manager's findings are clearly erroneous, arbitrary or capricious.

Chapter 18.52

SUPPLEMENTARY REGULATIONS

18.52.020 Supplementary yard regulations.

- A. The purpose of a setback creating a yard is for the preservation of light and air to adjoining properties, fire protection, maintenance of property, preservation of open space and the retention of a visually cohesive pattern established by buildings and the spaces which separate them. To maximize the amount of open space on a lot and/or the beneficial use of the property, the current planning manager may approve a reduction of up to thirty-three percent (33%) of a required setback, so long as the current planning manager determines and makes written findings that:
1. The alternative setback would be in harmony with the spirit of this title;
 2. The alternative setback would not limit the use or enjoyment of nearby property;
 3. A letter of non-objection to the alternative setback is submitted from all adjacent property owners; and
 4. A letter of non-objection to the alternative setback is submitted by other potentially impacted property owners, as determined by the current planning manager, who own property that falls wholly or partially within 150 feet of the subject property.
- B. The front yard in all residential zones may be reduced by five feet for garages where the vehicle access door does not face directly onto the street. This allowance shall not apply to properties within a planned unit development or special review that contain specific yard provisions.
- C. The following items may extend into required yards if determined to be incidental and harmless to adjacent properties by the current planning manager:
1. Architectural features including cornices, eaves, bay windows, an exterior chase for a fireplace or other similar features;
 2. At grade uncovered decks and patios that are exempt from building permit requirements; and
 3. Fire escapes that extend into the required rear yards by no more than six feet.

Chapter 18.53

COMMERCIAL AND INDUSTRIAL ARCHITECTURAL STANDARDS

18.53.020 Compliance.

- A. Type 1 Standards. Compliance with the Type 1 standards set forth in this Chapter 18.53 is mandatory, unless a variance is granted pursuant to Chapter 18.60.
- B. Type 2 Standards.
1. **Alternative compliance.** Compliance with the Type 2 standards set forth in this Chapter 18.53 is mandatory, unless the current planning manager grants alternative compliance in accordance with the following provisions. The current planning manager may allow application of an alternative standard, different than a Type 2 standard, provided the current planning manager determines that:
 - a. The applicant has demonstrated that either:
 - i. Site-specific, physical constraints necessitate application of the alternative standard, and such constraints will not allow a reasonable use of the property without application of such alternative standard; or

- ii. The alternative standard achieves the intent of the subject Type 2 standard to the same or greater degree than the subject standard, and results in equivalent or greater benefits to the community as would compliance with the subject standard.
- 2. **Statement of findings.** Whenever the current planning manager grants alternative compliance, the current planning manager shall formulate a written statement of findings based on the above criteria for such action. Such statement shall be filed in the development application file.
- 3. **Appeals.** Final decisions by the current planning manager with respect to such alternative compliance may be appealed to the planning commission in accordance with chapter 18.80.

Chapter 18.54

BUILDING HEIGHT REGULATIONS

18.54.050 Request for exception.

The owner of the proposed building or structure may request an exception from the height limitations imposed by this chapter. A request for an exception shall be made to the planning commission. The planning commission shall hold a public hearing on such request, which hearing shall be noticed in accordance with Section 16.16.070 of this code.

Before granting any request, the planning commission shall find that:

- A. The requested exception allows adequate light and air to the adjacent neighborhood; and
- B. The requested exception is compatible with the character of the surrounding neighborhood; and
- C. The requested exception will not be injurious to the adjacent neighborhood or otherwise detrimental to the public health, safety and welfare; and
- D. The requested exception is consistent with the intent of the zoning district and the entire zoning ordinance.

18.54.060 Appeal to city council.

Any party-in-interest, as defined in section 18.80.020, may appeal the decision of the planning commission to the city council. The city council shall hold a public hearing on such appeal, which appeal shall be ~~held~~conducted in accordance with chapter 18.80. Using the criteria set forth in section 18.54.050, the city council may affirm, modify or reverse the planning commission's final decision.

Chapter 18.60

ZONING BOARD OF ADJUSTMENT*

Sections:

- 18.60.010 Board of adjustment established.
- 18.60.020 Powers and duties.
- 18.60.030 General Variance Review Criteria.
- 18.60.040 Sign Variance Review Criteria.
- 18.60.050 Applications.
- 18.60.060 Procedure.
- 18.60.070 Notice.

*For statutory provisions regarding boards of adjustment, see CRS §§ 31-23-301 and 31-23-307.

18.60.010 Board of adjustment established.

The planning commission shall serve as the board of adjustment for the city.

18.60.020 Powers and duties.

The board of adjustment shall have the powers and duties to grant variances from certain standards set forth in this title 18 subject to and in compliance with this chapter and the laws of the state. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this title, the board of adjustment may vary or modify certain regulations or provisions of the title so that the spirit of the title is observed, public safety and welfare secured, and substantial justice done. The board of adjustment has the power to vary or modify the application of the regulations or provisions of this title related to the following:

- A. Standards for lot area, lot dimensions and setback requirements;
- B. Square footage for accessory structures;
- C. Percentage of open space; and
- D. Setbacks for a freestanding sign, spacing between freestanding signs and the area for freestanding and wall mounted signs.

After considering if the proposed variance meets the applicable criteria in Section 18.60.030 and 18.60.040 below, the board shall take action to approve, approve with conditions, or deny the application.

18.60.030 General Variance Review Criteria

To approve a zoning variance application, the board of adjustment shall consider the following review criteria and find that each criterion has been met or determined to be inapplicable:

- A. There are unique circumstances or conditions that are particular to or related to the land or structure for which the variance is requested. The circumstances may include, but are not limited to, exceptional topographic conditions, the shape or dimensions of the property, or the existence of mature landscaping or natural features that impact the property;
- B. The special circumstances are not the result of actions or inactions by the applicant or the current owner;
- C. The strict interpretation and enforcement of the provisions of the code would cause an unnecessary or undue hardship;
- D. Granting the variance is the minimum action needed to accommodate or alleviate the difficulty or hardship involved;
- E. The variance would not substantially impact the reasonable use and enjoyment or development of other property in the vicinity of the subject land or structure;
- F. The variance would not authorize any use in a zoning district other than a use specifically permitted in such zoning district; and
- G. The variance would not waive or modify the requirements of any use approved by special review.

18.60.040 Sign Variance Review Criteria

A. Variances to the requirements of Chapter 18.50 shall not be permitted, except as related to the requirements concerning the setback of a freestanding sign, the spacing between freestanding signs, or the maximum sign area. To approve a zoning variance application to Chapter 18.50, the board must consider the following review criteria and find that each criterion has been met.

1. There are special physical circumstances or physical conditions, including, without limitation, buildings, topography, vegetation, sign structures, or other physical features on adjacent properties or within the adjacent public right-of-way that would substantially restrict the effectiveness of the sign in question, and such special circumstances or conditions are unique to the business to which the applicant desires to draw attention and do not apply generally to all businesses in the area;

2. The variance would be consistent with the purposes set forth in Section 18.50.010 and would not adversely affect the neighborhood or other businesses within the vicinity in which the subject business is located; and

3. The variance is the minimum necessary to permit the applicant to reasonably draw attention to its business.

B. In addition to the above criterion, for signs that contain an electronic message module, the board must consider the review criteria in Section 18.50.100.A.4.h and find that each criterion has been met.

18.60.050 Applications.

Any person seeking action or review upon any matter within the jurisdiction of the board of adjustment, shall make an application on forms provided by the current planning division. The application shall be accompanied by such supporting material as may be required. The applicant shall also pay, at the time of filing of the application, any required filing fee as established by resolution of the city council.

18.60.060 Procedure.

The board of adjustment may designate one or more hearing officers from within the board to conduct public hearings on matters coming before the board. The designated hearing officer shall have the discretion to forward any matter onto the full board for the initial public hearing. Within ten (10) days after the conclusion of any hearing conducted by the hearing officer, the hearing officer shall submit proposed findings and order to the board, ~~and to the applicant, and to all parties participating in the hearing, which findings and order shall constitute the hearing officer's final decision.~~ The ~~findings and order of the hearing officer's final decision~~ may be appealed to the board by any party-in-interest as defined in chapter 18.80, by the filing of a written appeal with the current planning division in accordance with the provisions contained in Section 18.80.030.B, within ten (10) days of the decision of the hearing officer. ~~If no appeal is filed, the proposed findings and order shall become final without further action by the board.~~ If an appeal is filed, the hearing officer shall forward to the board the record of the hearing. The board shall consider any such appeal on the first available date for which proper notice can be provided pursuant to Chapter 18.05. The appeal shall be conducted as a ~~De Novo~~ hearing as defined in Chapter 18.80, and the board shall follow the procedures set forth in Section 18.80.090. Whether as a result of an initial public hearing by the board or an appeal of the hearing officer's final decision, the board shall submit its findings and order to the applicant and all parties participating in the hearing within thirty (30) days following the conclusion of the hearing. The findings and order of the board representing the board's final decision, may be appealed to city council by any party-in-interest as defined in chapter 18.80, by the filing of a written appeal with the current planning division in accordance with the provisions contained in Section 18.80.030.B, within ten (10) days of the mailing of the findings and order. City ~~C~~ouncil shall consider any such appeal at a public hearing noticed in accordance with Section 18.80.050.C. and conducted in accordance with Section 18.80.090. Unless otherwise stated in the findings and order, or in the decision of city council, all permits or actions authorized as a result of an approval of a variance must be initiated within six months of the date such findings and order became final. Upon written request by the applicant, an additional six months may be

granted by the current planning manager for initiating such permits or actions. In reviewing the proposed time extension, the current planning manager shall consider the following criteria:

- A. Has there been a change of zoning for the site, or for any property adjacent to the site since the original approval?
- B. Has a change of use taken place on the site or on any adjacent property since the original approval, or is a change of use proposed for the site which would be divergent from the use shown in the application documents for the original variance?
- C. Have there been changes in the regulations and requirements specified in the Loveland Municipal Code which are applicable to the site and which should be addressed prior to the development of the site?
- D. Has the ownership of any adjacent property changed?
- E. Will the granting of the extension be detrimental to the public health, safety, or general welfare?
- F. Will the granting of the extension be in keeping with the purposes set forth in this title to the same degree as intended in the original approval?

18.60.070 Notice.

Notice requirements for appeals shall be provided in accordance with chapter 18.80. All other notices required by this Chapter shall be provided pursuant to Chapter 18.05.

Chapter 18.68

ENFORCEMENT-PENALTIES

18.68.045 Code Enforcement Guidelines

A duly appointed peace officer or code enforcement officer of the City may enforce the provisions of this title and of Titles 15 and 16 of the city code by the issuance of a summons and complaint as provided in Rule 204 of the Colorado Municipal Courts Rules of Procedure.

18.68.050 Violation.

A person is guilty of a violation of this title in any case where:

- A. Any violation of any of the provisions of this title or of any agreement or development plan approved under this title or under title 16, exists in any building, other structure or tract of land;
or
- B. An order to remove any alleged violation has been served upon the owner, general agent, lessee or tenant of the building, other structure or tract of land (or any part thereof) or upon the architect, builder, contractor or any other person who commits or assists in any alleged violation, and such person fails to comply with such order within fifteen days, excluding weekends and legal holidays, after the service thereof

18.68.070 Penalty.

Any person, firm or corporation violating any provisions of this title, upon conviction therefore, shall be fined not more than one thousand dollars or incarcerated not more than one year, or both. Each day during which the illegal erection, construction, reconstruction, alteration, maintenance, use, or any other violation of this title continues, is deemed a separate offense.

APPEALS

18.80.010 Purpose

18.80.020 Definitions

18.80.030 Appeal of Final Decision Permitted; Effect of Appeal; Grounds for Appeal

18.80.040 Appeal of City Staff Decision Maker or Director's Final Decision

18.80.050 Appeal of Zoning Board of Adjustment or Planning Commission's Final Decision

18.80.060 Notice of Appeal Requirements

18.80.070 Cost of Appeal

18.80.080 Record on Appeal

18.80.090 Procedure at Hearing

18.80.010 Purpose.

This Chapter shall govern the procedures for appeals from any ~~F~~final ~~D~~decision made under Title 16 or Title 18 of this Code.

18.80.020 Definitions.

The following words, terms and phrases, when used in this Title 18, shall have the meanings hereafter ascribed to them in this Chapter unless the context requires otherwise:

Appellant shall mean a ~~P~~party-in-~~i~~interest who has filed a ~~N~~notice of ~~A~~appeal under the provisions of this Chapter.

Applicant shall mean a ~~P~~person that has submitted to the City an application related to the development, zoning or subdivision of real property in the city as authorized or required under the provisions of Title 16 or Title 18 and which application is the subject of appeal under this Chapter.

City ~~S~~staff ~~D~~decision ~~M~~maker shall mean any City staff member granted authority to make decisions under titles 16 and 18 of this Code.

City ~~C~~council shall mean the ~~C~~city ~~C~~council of the City of Loveland.

Current ~~P~~planning ~~D~~division shall mean the ~~C~~current ~~P~~planning ~~D~~division for the City of Loveland ~~D~~development ~~S~~services ~~D~~department.

Days shall mean all calendar days including Saturday and Sunday. Any computation of days under this Chapter shall not include the date a ~~F~~final ~~D~~decision is made. If a filing deadline falls upon a Saturday, Sunday or other legal holiday when City offices are closed, the filing deadline shall continue to the following day when City offices are open.

De ~~N~~ovo ~~H~~hearing shall mean a new public hearing at which new and additional evidence may be presented.

Director shall mean the City's ~~D~~irector of Development Services or his or her designee.

Evidence shall mean documentary, electronic or testimonial evidence relevant to any application that was the subject of a final decision under the provisions of Title 16 or Title 18, presented at a hearing to

support or refute a particular proposition or conclusion. *Evidence* shall not include argument as to how information offered as evidence should be viewed or interpreted.

Effective ~~D~~ate of the ~~F~~inal ~~D~~decision, as it pertains to a ~~C~~ity ~~S~~taff ~~D~~decision ~~M~~aker's or ~~D~~irector's ~~F~~inal ~~D~~decision, shall mean the date the ~~C~~ity ~~S~~taff ~~D~~decision ~~M~~aker or ~~D~~irector mails his or her written decision to the affected ~~A~~pplicant and to any other ~~P~~party-in-~~I~~nterest to whom the written decision is required by this title to be mailed. As this phrase pertains to the ~~Z~~oning ~~B~~oard of ~~A~~adjustment or the ~~P~~lanning ~~C~~ommission, it shall mean the date on which the Board or Commission adopts its written findings and conclusions.

Final ~~D~~decision, as it pertains to a ~~C~~ity ~~S~~taff ~~D~~decision ~~M~~aker or the ~~D~~irector, shall mean a decision or action by the ~~C~~ity ~~S~~taff ~~d~~Decision ~~M~~aker or ~~D~~irector under Title 16 or Title 18 that the ~~C~~ity ~~S~~taff ~~d~~Decision ~~m~~Maker or ~~D~~irector has reduced to writing and has promptly mailed to the affected ~~A~~pplicant and to any other ~~P~~party-in-~~I~~nterest to whom the written decision is required by this Code to be mailed. As this term pertains to the ~~Z~~oning ~~B~~oard of ~~A~~adjustment or the ~~P~~lanning ~~C~~ommission, it shall mean a decision or action by the Board or Commission under this Code for which the Board or Commission has adopted written findings and conclusions. A *Final ~~D~~decision* shall not include any decision made by a ~~C~~ity ~~S~~taff ~~D~~decision ~~M~~aker or the ~~D~~irector that is a recommendation to the ~~P~~lanning ~~C~~ommission or to the ~~C~~ity ~~C~~ouncil, or a decision by the ~~P~~lanning ~~C~~ommission under this Code that constitutes a recommendation to ~~C~~ity ~~C~~ouncil.

Notice of ~~A~~ppeal shall mean an ~~a~~ppellant's written request for an appeal of a ~~F~~inal ~~D~~decision submitted in the form required by Section 18.80.060.

Party-in-~~I~~nterest, as it pertains to an appeal under this Chapter of a ~~F~~inal ~~D~~decision by a ~~C~~ity ~~S~~taff ~~D~~decision ~~M~~aker or the ~~D~~irector, shall mean: the ~~A~~pplicant; any person required in Title 16 or this Title 18 to be mailed the ~~C~~ity ~~S~~taff ~~D~~decision ~~m~~Maker's or ~~D~~irector's written ~~F~~inal ~~D~~decision; two or more ~~P~~lanning ~~C~~ommission members; or two or more ~~C~~ity ~~C~~ouncil members. As this term pertains to an appeal under this Chapter of a ~~F~~inal ~~D~~decision by the ~~Z~~oning ~~B~~oard of ~~A~~adjustment or the ~~P~~lanning ~~C~~ommission, it shall mean: the ~~A~~pplicant, ~~any city staff member~~the ~~director~~, any ~~P~~person required in Title 16 or this Title 18 to be mailed notice of the ~~Z~~oning ~~B~~oard of ~~A~~adjustment or ~~P~~lanning ~~C~~ommission's public hearing; any ~~P~~person who provided written or verbal testimony at the ~~Z~~oning ~~B~~oard of ~~A~~adjustment or ~~P~~lanning ~~C~~ommission's public hearing (other than a city employee who was providing written or verbal testimony in his or her capacity as a city employee); or two or more ~~C~~ity ~~C~~ouncil members. For an appeal of a Final Plat for a major subdivision or a Final Development Plan, only the ~~A~~pplicant shall be considered a ~~P~~party-in-~~I~~nterest with standing to appeal.

Person shall mean an individual, corporation, partnership, limited liability company or other legal entity.

Planning ~~C~~ommission shall mean the City of Loveland ~~P~~lanning ~~C~~ommission established pursuant to Section 2.60.080 of this Code.

Record shall mean all relevant documents reviewed by a previous ~~B~~oard, ~~C~~ommission or ~~C~~ity ~~S~~taff ~~D~~decision ~~M~~aker, and any transcript or written record of any such previous hearing.

Zoning ~~B~~oard of ~~A~~adjustment shall mean the City of Loveland ~~Z~~oning ~~B~~oard of ~~A~~adjustment established pursuant to Section 18.60.010 of this code.

18.80.030 Appeal of Final Decision Permitted; Effect of Appeal; Grounds for Appeal.

A. An appeal of a ~~F~~final ~~D~~decision may be filed pursuant to sections 18.80.040 and 18.80.050 of this Chapter. Upon the filing of an appeal, any application process with the City pertaining to the subject matter being appealed shall be suspended while the appeal is pending. Any action taken in reliance upon any decision of a ~~B~~board, ~~C~~commission or other ~~C~~city ~~S~~staff ~~D~~decision ~~m~~Maker that is subject to appeal under the provisions of this Chapter shall be totally at the risk of the ~~P~~person(s) taking such action until all appeal rights related to such decision have been exhausted, and the City shall not be liable for any damages arising from any such action taken during said period of time.

B. Except for appeals by members of the ~~C~~city ~~C~~council, the permissible grounds for appeal shall be limited to allegations that the ~~B~~board, ~~C~~commission or other ~~C~~city ~~S~~staff ~~D~~decision ~~M~~maker committed one (1) or more of the following errors:

(1) Failure to properly interpret and apply relevant provisions of the Municipal Code or other law; or

(2) Failure to conduct a fair hearing in that:

- a. The ~~B~~board, ~~C~~commission or other ~~C~~city ~~S~~staff ~~D~~decision ~~M~~maker exceeded its authority or jurisdiction as contained in the Municipal Code or Charter;
- b. The ~~B~~board, ~~C~~commission or other ~~C~~city ~~S~~staff ~~D~~decision ~~M~~maker considered evidence relevant to its findings which was substantially false or grossly misleading; or
- c. The ~~B~~board, ~~C~~commission or other ~~C~~city ~~S~~staff ~~D~~decision ~~M~~maker improperly failed to receive all relevant evidence offered by the ~~A~~appellant.

C. Appeals filed by members of the ~~C~~city ~~C~~council need not include specific grounds for appeal, but shall include a general description of the issues to be considered on appeal. Council members who file an appeal shall not participate in deciding the appeal.

18.80.035 Review of Notice of Appeal by City Attorney.

Within seven (7) days of the date of the filing of the notice of appeal, the notice shall be reviewed by the City Attorney for any obvious defects in form or substance. A notice of appeal which fails to conform to the requirements of Section 18.80.030 shall be deemed deficient. The City ~~Attorney~~Manager shall notify the appellant in writing of any such deficiency, which notice shall be mailed no more than seven (7) days from the date of the filing of the notice of appeal. The appellant shall have seven (7) days from the date of mailing of the notice of deficiency to cure such deficiency. If the deficiency is cured, the date the revised notice of appeal is received shall be considered the date of the filing of the notice of appeal. If the appellant does not file a revised notice of appeal within said time period, the appeal shall be deemed to be dismissed. ~~cure the deficiency within said period of time, the appeal may be dismissed if, in the judgment of the City Manager, the notice of appeal does not provide adequate information to allow the parties involved to prepare for the hearing on the appeal.~~

18.80.040 Appeal of City Staff Decision Maker or Director's Final Decision.

A. A ~~P~~party-in-~~i~~nterest may appeal any final decision by the ~~D~~director or other ~~C~~city ~~S~~staff ~~D~~decision ~~M~~maker to the ~~P~~planning ~~C~~commission.

B. To appeal a ~~C~~ity ~~S~~taff ~~D~~ecision ~~M~~aker or ~~D~~irector's ~~F~~inal ~~D~~ecision to the ~~P~~lanning ~~C~~ommission, a ~~P~~arty-in-~~I~~nterest must file a notice of appeal with the ~~C~~urrent ~~P~~lanning ~~D~~ivision within ten (10) days of the effective date of the ~~F~~inal ~~D~~ecision. Failure of a ~~P~~arty-in-~~I~~nterest to timely file a ~~N~~otice of ~~A~~ppel under this section shall result in the dismissal of that appeal.

C. When a ~~P~~arty-in-~~I~~nterest timely files a ~~N~~otice of ~~A~~ppel under this section, the ~~C~~urrent ~~P~~lanning ~~D~~ivision shall schedule a public hearing for the appeal to be heard by the ~~P~~lanning ~~C~~ommission not less than thirty (30) nor more than sixty (60) days of the filing of the ~~N~~otice of ~~A~~ppel unless a longer period of time is agreed to by the ~~A~~ppellant. Public notice of the hearing shall be given as required in Section 16.16.070, except the notice requirements imposed on the ~~A~~pplicant in Section 16.16.070 shall be the responsibility of the ~~C~~urrent ~~P~~lanning ~~D~~ivision unless the ~~A~~pplicant is an ~~A~~ppellant. The owner of the property associated with the appeal shall allow posting of one or more signs as needed on the subject property.

D. The ~~P~~lanning ~~C~~ommission shall conduct the appeal hearing as a ~~D~~e ~~N~~ovo ~~H~~earing and shall apply the standards set forth in the Loveland Municipal Code applicable to the matter being appealed. After conducting the hearing, the ~~P~~lanning ~~C~~ommission may uphold, reverse or modify the ~~F~~inal ~~D~~ecision being appealed. The ~~P~~lanning ~~C~~ommission shall adopt at the public hearing or within thirty (30) days of the public hearing its written findings and conclusions concerning the appeal.

18.80.050 Appeal of Zoning Board of Adjustment or Planning Commission's Final Decision.

A. A ~~P~~arty-in-~~I~~nterest may appeal any ~~F~~inal ~~D~~ecision by the ~~Z~~oning ~~B~~oard of ~~A~~adjustment or the ~~P~~lanning ~~C~~ommission to the ~~C~~ity ~~C~~ouncil.

B. To appeal a ~~F~~inal ~~D~~ecision by the ~~Z~~oning ~~B~~oard of ~~A~~adjustment or ~~P~~lanning ~~C~~ommission to the ~~C~~ity ~~C~~ouncil, a ~~P~~arty-in-~~I~~nterest must file a ~~N~~otice of ~~A~~ppel with the ~~C~~urrent ~~P~~lanning ~~D~~ivision within ten (10) days of the effective date of the ~~F~~inal ~~D~~ecision. Failure of a ~~P~~arty-in-~~I~~nterest to timely file a ~~N~~otice of ~~A~~ppel under this section shall result in dismissal of that appeal.

C. When a ~~P~~arty-in-~~I~~nterest timely files a ~~N~~otice of ~~A~~ppel under this section, the ~~C~~urrent ~~P~~lanning ~~D~~ivision shall schedule a public hearing for the appeal to be heard by the ~~C~~ity ~~C~~ouncil not less than thirty (30) nor more than sixty (60) days of the filing of the ~~N~~otice of ~~A~~ppel unless a longer period of time is agreed to by the ~~A~~ppellant. Public notice of the hearing shall be given as required in Section 16.16.070, except the notice requirements imposed on the ~~A~~pplicant in Section 16.16.070 shall be the responsibility of the ~~C~~urrent ~~P~~lanning ~~D~~ivision unless the ~~A~~pplicant is an ~~a~~ppellant. The property owner of the property associated with the appeal shall allow posting of one or more signs as needed on the subject property.

D. The ~~C~~ity ~~C~~ouncil shall conduct the appeal hearing as a ~~D~~e ~~N~~ovo ~~H~~earing, and shall apply the standards set forth in the Loveland Municipal Code applicable to the matter being appealed. After conducting the hearing, the ~~C~~ity ~~C~~ouncil may uphold, reverse or modify the ~~F~~inal ~~D~~ecision being appealed. The ~~C~~ity ~~C~~ouncil may also remand the appeal to the ~~Z~~oning ~~B~~oard of ~~A~~adjustment or the ~~P~~lanning ~~C~~ommission with directions for the ~~Z~~oning ~~B~~oard of ~~A~~adjustment or ~~P~~lanning ~~C~~ommission's further consideration of the matter. If the ~~C~~ity ~~C~~ouncil upholds, reverses or modifies a ~~F~~inal ~~D~~ecision made by the ~~Z~~oning ~~B~~oard of ~~A~~adjustment or the ~~P~~lanning ~~C~~ommission, the ~~C~~ity ~~C~~ouncil shall adopt at the public hearing or within thirty (30) days of the public hearing its written findings and conclusions. The ~~C~~ity ~~C~~ouncil's written findings and conclusions shall be considered the ~~C~~ity ~~C~~ouncil's ~~F~~inal ~~D~~ecision for purposes of any appeal of the ~~C~~ity ~~C~~ouncil's

decision to the Larimer County District Court under Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

18.80.060 Notice of Appeal Requirements.

The ~~N~~notice of ~~A~~appeal required to be filed under this Chapter shall include all of the following information:

- A. A description of the ~~F~~final ~~D~~decision being appealed.
- B. The date of the ~~F~~final ~~D~~decision being appealed.
- C. The name, address, telephone number and relationship of each ~~A~~appellant to the subject of the Final Decision being appealed including a statement for each ~~A~~appellant as to the ~~A~~appellant's qualification for being considered a ~~P~~party-in-~~I~~interest under this Chapter.
- D. For all appeals, except those filed by members of ~~E~~city ~~E~~council, a description the grounds for the appeal of the ~~F~~final ~~D~~decision, including specific allegations of error as required in Section 18.80.030.B. For notices of appeal filed by members of city council, the notice must contain the general description of issues to be considered on appeal as required by Section 18.80.030.C.
- E. In the case of an appeal by more than one (1) ~~A~~appellant, the name, address and telephone number of one (1) such ~~a~~Appellant who shall be authorized to receive, on behalf of all ~~a~~Appellants, any notice required to be mailed by the City to the ~~A~~appellants under the provisions of section 18.80.040 or section 18.80.050.

18.80.070 Cost of Appeal

In all appeals under this Chapter except those filed by ~~three~~~~two~~ or more members of the ~~P~~lanning ~~E~~commission or those filed by ~~three~~~~two~~ or more members of the ~~E~~city ~~E~~council, the ~~A~~appellant shall be charged a fee for the cost of the appeal as such fee is established by ~~E~~city ~~E~~council pursuant to Code Section 3.04.025. The ~~E~~city ~~E~~council may establish a fee for each level of appeal.

18.80.080 Record on Appeal

The record provided to the ~~P~~lanning ~~E~~commission or ~~E~~city ~~E~~council for appeals filed under this chapter shall include a record of any previous proceedings before a ~~B~~oard, ~~E~~commission or other ~~E~~city ~~S~~taff ~~D~~decision ~~M~~maker, including without limitation, all exhibits, writings, drawings, maps, charts, graphs, photographs and other tangible items received or viewed by the ~~B~~oard, ~~E~~commission or other ~~E~~city ~~S~~taff ~~D~~decision ~~M~~maker at any previous proceedings. A video recording of the ~~Z~~oning ~~B~~oard of ~~A~~adjustment Hearing or ~~P~~lanning ~~E~~commission hearing is not required as part of the record on appeal provided summary minutes of such hearings are included as part of the record.

18.80.090 Procedure at Hearing

A. At the appeal hearing, the presentation of argument regarding the appeal shall be made in the following order, subject to the discretion of the Chairperson or Mayor relating to limitations in time and scope, or allowances accommodating adequate presentation of evidence or opportunity for rebuttal:

- (1) Explanation of the nature of the appeal by City staff;

- (2) Appellant's presentation of evidence, testimony and argument in support of the appeal;
- (3) Presentation of evidence, testimony and argument of the ~~A~~applicant if the ~~A~~applicant is not the ~~A~~appellant; or, if the ~~A~~applicant is the ~~A~~appellant, presentation of evidence, testimony and argument by any City staff member or other ~~P~~party-in-~~i~~interest in opposition to the appeal.
- (4) Public comment;
- (5) Rebuttal presentation by the ~~A~~appellant; and
- (6) Motion, discussion and vote by the ~~B~~board, ~~C~~commission or ~~C~~city ~~C~~council.

B. No person making a presentation or providing testimony at an appeal hearing shall be subject to cross-examination except that members of the ~~P~~planning ~~C~~commission or ~~C~~city ~~C~~council and the City Attorney may at any time make inquiries for the purpose of eliciting information and for the purpose of clarifying information presented.

C. In the event of multiple appeals involving the same subject matter considered by the ~~P~~planning ~~C~~commission or ~~C~~city ~~C~~council, the Chairperson or Mayor, in his or her discretion, may modify the procedure contained in Subsection (A) above so as to expedite the hearing of such appeals.

D. The ~~C~~city ~~C~~council shall consider an appeal based upon evidence submitted at the public hearing, the record on appeal, the relevant provisions of the Municipal Code and Charter, and the grounds for appeal cited in the ~~N~~notice of ~~A~~appeal. Grounds for appeal raised for the first time at the public hearing, and therefore not raised in the ~~N~~notice of ~~A~~appeal, shall not be considered by the ~~C~~city ~~C~~council in deciding the appeal.



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

AGENDA ITEM: 13
MEETING DATE: 5/3/2011
TO: City Council
FROM: Greg George, Development Services Director
PRESENTER: Brian Burson, Current Planning Division

TITLE:

1. AN ORDINANCE APPROVING THE ANNEXATION OF CERTAIN TERRITORY TO THE CITY OF LOVELAND, COLORADO, TO BE KNOWN AND DESIGNATED AS "TIMKA FIRST ADDITION" TO THE CITY OF LOVELAND.
2. AN ORDINANCE AMENDING SECTION 18.04.040 OF THE LOVELAND MUNICIPAL CODE, THE SAME RELATING TO ZONING REGULATIONS FOR TIMKA FIRST ADDITION TO THE CITY OF LOVELAND.

DESCRIPTION:

1. Legislative consideration of an ordinance, on second reading, annexing the Timka First Addition to the City of Loveland, subject to an annexation agreement;
2. Quasi-judicial consideration of an ordinance, on second reading, zoning the Timka First Addition as I-Developing Industrial District.

BUDGET IMPACT:

☐ Yes ☐ No

SUMMARY:

The application proposes to annex 9.91 acres located along the south side of 14th Street Southeast (Highway 402), approximately one-half mile east of South Boise Avenue, and zone the property I-Developing Industrial. A set of site-specific development standards has also been created which will also govern all development/redevelopment of the property to assure quality development and consistency with the vision for Employment Center land uses, as described in the City of Loveland 2005 Comprehensive Plan.

On April 19, 2011 City Council held a public hearing and voted unanimously to adopt the ordinances on first reading, subject to the terms of annexation set forth in Section III of the April

19, 2011 staff memorandum. The terms of annexation are now incorporated into an annexation agreement and made part of the annexation ordinance, along with the site-specific development standards. Adoption of the annexation ordinance will automatically approve the annexation agreement and authorize the City Manager to sign the agreement.

Following the April 19, 2011 hearing, staff was made aware that two individuals had desired to offer testimony at that hearing, but were unable to do so. To provide this opportunity at the May 3, 2011 meeting, this report also includes the entire April 19, 2011 staff memorandum, with exhibits, and the item will appear on the Regular Agenda for May 3, 2011.

LIST OF ATTACHMENTS:

- A. Ordinance approving the annexation of Timka First Addition into the City.
 - B. Ordinance approving a zoning of I-Developing Industrial District for the Timka First Addition.
 - C. Vicinity map
 - D. Staff memorandum dated April 19, 2011 with exhibits.
-

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motions for City Council action, in the order provided:

- 1. Move to make the findings set forth in Section VI. of the January 24, 2011 Planning Commission staff report and approve, on second reading, AN ORDINANCE APPROVING THE ANNEXATION OF CERTAIN TERRITORY TO THE CITY OF LOVELAND, COLORADO, TO BE KNOWN AND DESIGNATED AS TIMKA FIRST ADDITION TO THE CITY OF LOVELAND.
- 2. Move to make the findings set forth in Section VI. of the January 24, 2011 Planning Commission staff report and approve, on second reading, AN ORDINANCE AMENDING SECTION 18.04.040 OF THE LOVELAND MUNICIPAL CODE, THE SAME RELATING TO ZONING REGULATIONS FOR TIMKA FIRST ADDITION TO THE CITY OF LOVELAND.

REVIEWED BY CITY MANAGER:

FIRST READING: April 19, 2011

SECOND READING: May 3, 2011

ORDINANCE NO. _____

**AN ORDINANCE APPROVING THE ANNEXATION OF
CERTAIN TERRITORY TO THE CITY OF LOVELAND,
COLORADO, TO BE KNOWN AND DESIGNATED AS "TIMKA
FIRST ADDITION" TO THE CITY OF LOVELAND**

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

Section 1. That a Petition for Annexation, together with four (4) copies of the map of said territory as required by law, was filed with the City on January 12, 2011, by more than fifty percent (50%) of the owners who own more than fifty percent (50%) of the area of the territory hereinafter described, exclusive of public streets and alleys. The Council, by resolution at its regular meeting on April 19, 2011, found and determined that the proposed annexation complies with and meets the requirements of the applicable parts of Section 30 of Article II of the Colorado Constitution §§31-12-104 and 31-12-105, C.R.S. and further determined that an election was not required under Section 30(1)(a) of Article II of the Colorado Constitution §31-12-107(2), C.R.S. and further found that no additional terms and conditions were to be imposed upon said annexation except those set out on said Petition.

Section 2. That the annexation to the City of Loveland of the following described property to be designated as "**TIMKA FIRST ADDITION**" to the City of Loveland, Larimer County, Colorado is hereby approved:

Serial Parcel 1

Legal description of a parcel of land being a portion of the Northwest Quarter of the Northeast Quarter of Section 30, Township 5 North, Range 68 West of the 6th P.M., County of Larimer, State of Colorado, being more particularly described as follows:

Beginning at the North Quarter corner of said Section 30, thence along the North line of the Northeast Quarter of said Section 30 South 89°48'00" East 993.54 feet; thence departing said North line South 00°02'31" East 30.11 feet to the TRUE POINT OF BEGINNING; thence South 89°50'32" East 331.17 feet to a point on the East line of the Northwest Quarter of the Northeast Quarter of said Section 30; thence along said East line South 00°01'35" East 652.39 feet; thence departing said East line North 89°45'46" West 331.00 feet to a point on the West line of the East Half of the East Half of the Northwest Quarter of the Northeast Quarter of said Section 30; thence along said West line North 00°02'31" West 651.93 feet to the TRUE POINT OF BEGINNING.

The above described parcel contains 4.957 acres, more or less and is subject to all easements, agreements and rights-of-way of record.

Serial Parcel 2

Legal description of a parcel of land being a portion of the Northwest Quarter of the Northeast Quarter of Section 30, Township 5 North, Range 68 West of the 6th P.M., County of Larimer, State of Colorado, being more particularly described as follows:

Beginning at the North Quarter corner of said Section 30, thence along the North line of the Northeast Quarter of said Section 30 South 89°48'00" East 993.54 feet; thence departing said North line South 00°02'31" East 30.11 feet; thence South 89°50'32" East 331.17 feet to a point on the East line of the Northwest Quarter of the Northeast Quarter of said Section 30; thence along said East line South 00°01'35" East 652.39 feet to the TRUE POINT OF BEGINNING; thence continuing along said East line South 00°01'35" East 652.39 feet to a point on the South line of the Northwest Quarter of the Northeast Quarter of said Section 30; thence along said South line North 89°41'00" West 330.83 feet to a point on the West line of the East Half of the East Half of the Northwest Quarter of the Northeast Quarter of said Section 30; thence along said West line North 00°02'31" West 651.93 feet; thence departing said West line South 89°45'46" East 331.00 feet to the TRUE POINT OF BEGINNING.

The above described parcel contains 4.954 acres, more or less and is subject to all easements, agreements and rights-of-way of record.

Section 3. That the annexation of said territory is subject to the conditions set forth in Paragraph (14) of the Petition for Annexation of said territory filed with the City of Loveland.

Section 4. That the Annexation Agreement, attached hereto as **Exhibit A** and incorporated herein by this reference, is hereby approved. The City Manager is authorized, following consultation with the City Attorney, to approve changes to the form of the Annexation Agreement provided that such changes do not impair the intended purpose of the Annexation Agreement as approved by this Ordinance. The City Manager and the City Clerk are authorized and directed to execute the Annexation Agreement on behalf of the City of Loveland.

Section 5. That the City Council hereby consents to the inclusion of the annexed territory in the Municipal Subdistrict of the Northern Colorado Water Conservancy District pursuant to Section 37-45-136 (3.6), C.R.S.

Section 6. Should any court of competent jurisdiction determine that any portion of the land annexed in this ordinance was unlawfully annexed, then it is the intent of the City Council that the remaining land lawfully annexed to the City of Loveland should be so annexed and the City Council affirmatively states that it would have annexed the remaining land even though the court declares the annexation of other portions of the land to have been unlawfully annexed.

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

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

Section 8. That the City Clerk is hereby directed to record the Ordinance with the Larimer County Clerk and Recorder after its effective date in accordance with State Statutes.

Dated this ____ day of _____, 2011.

ATTEST:

CITY OF LOVELAND, COLORADO:

City Clerk

Mayor

APPROVED AS TO FORM:


Assistant City Attorney

EXHIBIT A

ANNEXATION AGREEMENT PERTAINING TO THE TIMKA FIRST ADDITION TO THE CITY OF LOVELAND, LARIMER COUNTY, COLORADO

THIS ANNEXATION AGREEMENT (the "Agreement") is entered into this _____ day of _____, 20____, by and between Timothy J. Pivonka, a private individual, (the "Developer"); and the CITY OF LOVELAND, COLORADO, a home rule municipality (the "City").

RECITALS

WHEREAS, the Developer owns approximately 9.911 acres, more or less, of real property located in Larimer County, Colorado, more particularly described in **Attachment 1** attached hereto, but not including any existing public streets and highways which may be included in said description, which description, by this reference, is incorporated herein and designated as "the Property";

WHEREAS, the Developer is requesting that the City annex and zone said Property to allow for the coordinated development of the Property to the benefit of the parties, including the City; and

WHEREAS, the City is unable to annex the Property under the terms of this Agreement without the consent of the Developer.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and other good and valuable consideration, the receipt and adequacy of which the Parties acknowledge, the Parties agree as follows:

AGREEMENT

1. **Consent to annexation.** Developer has petitioned for the annexation of the Property described in the attached **Attachment 1**. The Developer hereby consents to the annexation of the Property subject to the terms of the Petition for Annexation and this Agreement. In the event the City enters into this Agreement prior to approval by the City Council of the annexation, the parties agree that the binding effect of this Agreement and the effectiveness of the annexation and zoning of the Property in accordance with the Developer's application is expressly conditioned upon such approval by the City Council and the execution and delivery of this Agreement by all parties thereto.

2. **Development and re-development to be governed by site specific Development Standards.** All development and redevelopment of the Property shall be governed by the Development Standards set forth in the attached **Exhibit B**, which, by reference is incorporated herein, as well as all applicable codes, standards and policies of the City.
3. **Future consideration and implementation of the 2005 Comprehensive Plan, as amended.** When reviewing and acting upon any application for a use permitted by special review on the Property, the City shall be authorized to consider the goals, objectives and criteria for the E-Employment Center land use category, as set forth in the 2005 Comprehensive Plan, as amended. Applications that do not meet the intent of the goals, objectives and criteria for the E-Employment Center land use category, as set forth in the 2005 Comprehensive Plan, as amended, may be disapproved by the City.
4. **Certain uses of the Property prohibited.** Notwithstanding the provisions of Sections 18.36.010 and 18.36.020 of the City of Loveland Municipal Code, the following uses shall not be permitted within the Property:
 - a. Crematorium
 - b. Heavy industrial
 - c. Truck stop
 - d. Junkyard
 - e. Packing facility
 - f. Jails, detention and penal center
 - g. Outdoor storage as a principle use
 - h. Sexually Oriented Businesses
 - i. Recycling collection facility attended
 - j. Recycling collection facility unattended
5. **Certain uses of the Property allowed irrespective of approved zoning.** Notwithstanding the provisions of Sections 18.36.010 and 18.36.020 of the City of Loveland Municipal Code, all uses normally permitted by right and by special review in the E-Employment District, as set forth in Chapter 18.30 of the City of Loveland Municipal Code, as amended, shall also be permitted on the Property. In cases where a use is normally permitted by right in the I zone but normally requires a special review in the E zone, said uses shall be permitted by right on the Property.
6. **Future development to comply with Larimer County Urban Area Street Standards and the 2030 Transportation Plan, as amended.** All future development within the Property shall comply with the Larimer County Urban Area Street Standards (LCUASS), the 2030 Transportation Plan, and any updates to either in effect at the time of a building permit, and/or a site-specific development application. Any and all variances from these standards and plans require specific written approval by the City Engineer.
7. **Location, design and configuration of streets to be determined at time of future development application.** Notwithstanding any conceptual information presented in the Annexation/Zoning submittal; street layout, street alignments, access locations, intersection configurations and intersection operations (traffic controls) shall be determined at the time of application for a building permit, and/or a site-specific development application.

- 8. Future dedication of internal or adjacent rights-of-way required.** The Developer shall dedicate to the City, at no cost to the City, right-of-way for all street facilities adjacent to, or within, this addition that are shown on the adopted Transportation Plan prior to approval of a building permit and/or a site specific development application within the Property. Furthermore, the owner shall dedicate additional right-of-way for 14th Street SE (“Highway 402”) on any future platting application for the property in order to achieve a 70-foot total half right-of-way on Highway 402 adjacent to the Property.
- 9. Future dedication of off-site rights-of-way required.** The Developer agrees to acquire, at no cost to the City, any off-site right-of-way necessary for mitigation improvements. Prior to the approval of a building permit, and/or a site specific development application within the Property, the Developer shall submit documentation satisfactory to the City, establishing the Developer's unrestricted ability to acquire sufficient public right-of-way for the construction and maintenance of any required street improvements to both adjacent and off-site streets.
- 10. Design and construction of future street improvements by the Developer.** The ultimate roadway improvements, including sidewalk, adjacent to the property for Highway 402 shall be designed and constructed by the Developer, unless designed and constructed by others. A cash-in-lieu payment may be accepted for all or part of the improvements, if approved in writing by the City Engineer. The timing and detailed scope of these improvements will be determined by the City through review and approval of the building permit application and/or a site-specific development application.
- 11. Traffic Impact Study required for all future development.** Any future proposed development within the Property shall submit a Traffic Impact Study and demonstrate compliance with current City Standards at the time of development.
- 12. Written concurrence of Colorado Department of Transportation required.** Any future proposed development within the Property shall obtain written concurrence from CDOT for access to Highway 402. The Developer shall provide a copy of said written concurrence to the City Engineer.
- 13. Developer to provide Water and Wastewater Impact Design Analysis Report.** At the time of development on the Property, the Developer shall provide to the City a Water and Wastewater Impact Design Analysis Report for the development.
- 14. All subdivision plats to include note regarding electric energy surcharge.** All subsequent plats of the Property shall include the following note:

"When the property being annexed into the City of Loveland is currently located within the REA certified territory, this property is subject to a five percent (5%) surcharge on electrical energy as defined in 40-9.5-204, CRS, and the City of Loveland Municipal Code 13.12.180. This surcharge applies to any subsequent subdivisions of property annexed after January 31, 1987 within the REA certified service territory. A surcharge of 5% will be added to all bills for the sale of electric power to additional services which came into the existence after

January 31, 1987, within the territory herein annexed which surcharge will expire ten years after effective date of this annexation."

15. General Terms and Conditions.

- A. Ownership.** The Developer warrants that he is the legal and equitable owner of the Property.
- B. Waiver of Damages.** In the future, the Developer may be granted vested property rights associated with the approval of a site specific development plan within the Property. In the event that such vested property rights are granted, and the City applies an initiated or referred measure to the property which would (a) change any term of this Agreement, (b) impose a moratorium on development within the Property, or otherwise materially delay the development of the Property, or (c) limit the number of building or utility permits to which the Developer would otherwise be entitled, the Developer agrees to waive any right to damages against the City to which Developer may otherwise be entitled under the Vested Rights Statute.
- C. Incorporation.** The terms and conditions of this Agreement shall be deemed to be incorporated into the Developer's petition for annexation of the Property.
- D. Integration and Amendment.** This Agreement represents the entire agreements between the parties with respect to the Property and supersedes all prior written or oral agreements or understandings with regard to the obligations of the parties with regard to the Property. If conflicts between the Annexation Conditions listed in the Staff Report for City Council on April 19, 2011, and the terms and conditions of this Annexation Agreement occur, this Annexation Agreement shall prevail. This Agreement may only be amended by written agreement signed by the Developer and the City. Only the City Council, as a representative of the City, shall have authority to agree to any amendment of this Agreement.
- E. Remedies.** In the event that a party breaches its obligations under this Agreement, the injured party shall be entitled to equitable relief (including specific performance) and such other remedies at law or in equity as may be available under applicable law.
- F. Effective date.** This Agreement shall become effective on the date that it is executed and delivered and has been approved by the City Council. If the City Council considers but does not adopt an ordinance annexing the Property, this Agreement shall become null and void and of no force or effect whatsoever. If the City does not annex the Property, no party will be liable to any other for any costs that the other party has incurred in the negotiation of this Agreement or in any other matter related to the potential annexation of the Property.
- G. Binding effect and recordation.** The promises made in this Agreement by the Developer shall be deemed to have been made by any corporation or other business

affiliated with Developer that acquires ownership or possession of all or any portion of the Property. The parties agree to execute a memorandum of this Agreement that the City shall record with the Clerk and Recorder for Larimer County, Colorado. It is the intent of the parties that their respective rights and obligations set forth in this Agreement shall constitute covenants and equitable servitudes that run with the land and shall benefit and burden any heirs, personal representatives, successors and assigns of the parties. Failure to abide by the terms and conditions of this Agreement will result in the forfeiture of any vested property rights that may apply to the Property.

- H. Annexation map.** The Final Annexation Map for the Property shall be recorded by the City within thirty (30) days of final adoption of the ordinance annexing the Property. The Map shall contain a note that it is subject to this Agreement and shall recite the book and page or reception number where this Agreement is recorded. The note shall recite that all lien holders, if any, agree to the terms and conditions of this Agreement and subordinate their interests to this Agreement.
- I. Notices.** Whenever notice is required or permitted hereunder from one party to the other, the same shall be in writing and shall be given effect by hand delivery, or shall be effective three (3) days after being mailed by certified mail, return receipt requested, to the party for whom it is intended. Notices to any of the parties shall be addressed as follows:

To City: City Clerk
 City of Loveland
 500 E. Third Street
 Loveland, CO 80537

To Developer: Timothy J. Pivonka
 2116 East Highway 402
 Loveland, CO 80537

A party may at any time designate a different person or address for the purposes of receiving notice by so informing the other party in writing.

- J. Waiver.** No waiver by the City or Developer of any term or condition of this Agreement shall be deemed to be or construed as a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach of the same provision of this Agreement.
- K. Applicable law/Severability.** This Agreement shall be construed in accordance with the laws of the State of Colorado. The parties to this Agreement recognize that there are legal restraints imposed upon the City by the City Charter and Code and by the constitution, statutes and laws of the State of Colorado, and the United States of America, and that, subject to such restraints, the parties intend to carry out the terms and conditions of this Agreement. Whenever possible, each provision of this

Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement or any application thereof to a particular situation shall be held invalid by a court of competent jurisdiction, such provision or application thereof shall be ineffective only to the extent of such invalidity without invalidating the remainder of such provision or any other provision of this Agreement

- L. Compliance with Article XXVIII of the Colorado Constitution.** If and only to the extent this Agreement constitutes a “sole source government contract” within the meaning of Article XXVIII of the Colorado Constitution (“Article XXVIII”), then the provisions of Sections 15 through 17 of Article XXVIII (“Amendment 54”) are hereby incorporated into this Agreement, and the parties hereto shall comply with the provisions of Amendment 54. In such case, for purposes of this Agreement, Developer shall constitute a “contract holder” for purposes of Amendment 54, as shall any additional persons, officers, directors, or trustees related to Developer who qualify as “contract holders” pursuant to the definition set forth in Article XXVIII. In addition, if and only to the extent this Agreement constitutes a “sole source government contract,” Developer hereby certifies that it is not ineligible to hold any “sole source government contract” pursuant to Amendment 54 or any contract thereunder, and Developer hereby agrees to notify City immediately if, at any point during the term of this Agreement, Developer shall become ineligible to hold any “sole source government contract” pursuant to Amendment 54 or any contract thereunder. If any provision or provisions of Amendment 54 are held to be unconstitutional or otherwise invalid by a court of competent jurisdiction in a non-appealable action, have been repealed retroactively or otherwise do not apply to this Agreement, such provision or provisions shall no longer be incorporated into this Agreement, and the parties hereto shall have no obligations under such provision or provisions.
- M. Paragraph headings.** Paragraph headings in this Agreement are for convenience of reference only and are not to be construed as a part of this Agreement or in any way limiting or amplifying the provisions hereof.
- N. No Waiver of Legislative Authority.** Nothing contained in this Agreement shall constitute or be interpreted as a repeal of the City’s Charter, Code or ordinances or as a waiver or abnegation of the City’s legislative, governmental, or police powers to promote and protect the health, safety, or general welfare of the municipality or its inhabitants; nor shall this Agreement prohibit the enactment by the City of any fee permitted under the law.
- O. Disconnection.** No right or remedy of disconnection of the Property from the boundaries of the City shall accrue from this Agreement, other than that provided in Section 31-12-119, C.R.S., as amended.
- P. Term of Agreement.** The term of this Agreement shall be perpetual in duration unless terminated as follows: (1) this Agreement shall terminate upon the date of

its execution if the Developer fails to submit to the City a valid petition of annexation as required above in paragraph 3.A. of this Agreement; or (2) this Agreement shall terminate on the date the Loveland City Council votes not to adopt an ordinance annexing the Property.

- Q. Annexation Challenged by Referendum or Judicially.** If the annexation of the Property or any portion thereof is challenged by a referendum, all provisions of this Agreement, together with the duties and obligations of each party, shall be suspended pending the outcome of the referendum election. If the referendum challenge to the annexation results in disconnection of the Property from City, then this annexation Agreement and all provisions contained herein shall be null and void and of no further effect. If the referendum challenge fails, the Developer and the City shall continue to be bound by all the terms and provisions of this Annexation Agreement. In the event that the annexation of the Property or any portion thereof is voided by final action of any court (such action not being associated with a referendum or initiative action), the City and the Developer shall cooperate to cure the legal defect which resulted in disconnection of the Property, and upon such cure this Annexation Agreement shall be deemed to be an agreement to annex the Property to the City pursuant to C.R.S. §31-12-121, as amended, and Title 17 of the City Code. The Developer shall reapply for annexation when the Property becomes eligible for annexation as determined and requested by the City.

IN WITNESS WHEREOF, the parties have caused this Annexation Agreement to be executed as of the date first written above.

ATTEST:

THE CITY OF LOVELAND, COLORADO

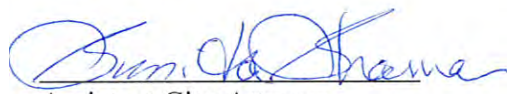
City Clerk

By: _____
William D. Cahill, City Manager

APPROVED AS TO SUBSTANCE:

Greg George, Development Services Director

APPROVED AS TO FORM:


Assistant City Attorney

DEVELOPER: TIMOTHY J. PIVONKA

By:_____

STATE OF _____)
)ss
County of _____)

The foregoing Agreement was executed before me this _____ day of _____, 2011 by

(name of Developer)

WITNESS my hand and official seal.

My commission expires _____.

SEAL

Notary Public

ATTACHMENT 1

TIMKA FIRST ADDITION LEGAL DESCRIPTION

Serial 1

Legal description of a parcel of land being a portion of the Northwest Quarter of the Northeast Quarter of Section 30, Township 5 North, Range 68 West of the 6th P.M., County of Larimer, State of Colorado, being more particularly described as follows:

Beginning at the North Quarter corner of said Section 30, thence along the North line of the Northeast Quarter of said Section 30 South 89°48'00" East 993.54 feet; thence departing said North line South 00°02'31" East 30.11 feet to the TRUE POINT OF BEGINNING; thence South 89°50'32" East 331.17 feet to a point on the East line of the Northwest Quarter of the Northeast Quarter of said Section 30; thence along said East line South 00°01'35" East 652.39 feet; thence departing said East line North 89°45'46" West 331.00 feet to a point on the West line of the East Half of the East Half of the Northwest Quarter of the Northeast Quarter of said Section 30; thence along said West line North 00°02'31" West 651.93 feet to the TRUE POINT OF BEGINNING.

The above described parcel contains 4.957 acres, more or less and is subject to all easements, agreements and rights-of-way of record.

Serial 2

Legal description of a parcel of land being a portion of the Northwest Quarter of the Northeast Quarter of Section 30, Township 5 North, Range 68 West of the 6th P.M., County of Larimer, State of Colorado, being more particularly described as follows:

Beginning at the North Quarter corner of said Section 30, thence along the North line of the Northeast Quarter of said Section 30 South 89°48'00" East 993.54 feet; thence departing said North line South 00°02'31" East 30.11 feet; thence South 89°50'32" East 331.17 feet to a point on the East line of the Northwest Quarter of the Northeast Quarter of said Section 30; thence along said East line South 00°01'35" East 652.39 feet to the TRUE POINT OF BEGINNING; thence continuing along said East line South 00°01'35" East 652.39 feet to a point on the South line of the Northwest Quarter of the Northeast Quarter of said Section 30; thence along said South line North 89°41'00" West 330.83 feet to a point on the West line of the East Half of the East Half of the Northwest Quarter of the Northeast Quarter of said Section 30; thence along said West line North 00°02'31" West 651.93 feet; thence departing said West line South 89°45'46" East 331.00 feet to the TRUE POINT OF BEGINNING.

The above described parcel contains 4.954 acres, more or less and is subject to all easements, agreements and rights-of-way of record.

FIRST READING: April 19, 2011

SECOND READING: May 3, 2011

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 18.04.040 OF THE LOVELAND MUNICIPAL CODE, THE SAME RELATING TO ZONING REGULATIONS FOR "TIMKA FIRST ADDITION" TO THE CITY OF LOVELAND

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

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

That the following described property recently annexed to the City of Loveland and within the area known as "TIMKA FIRST ADDITION" to the City of Loveland, Colorado, shall be included within the boundaries of the district designated as follows:

I – DEVELOPING INDUSTRIAL DISTRICT:

Legal description of a parcel of land being a portion of the Northwest Quarter of the Northeast Quarter of Section 30, Township 5 North, Range 68 West of the 6th P.M., County of Larimer, State of Colorado, being more particularly described as follows:

Beginning at the North Quarter corner of said Section 30, thence along the North line of the Northeast Quarter of said Section 30 South 89°48'00" East 993.54 feet; thence departing said North line South 00°02'31" East 30.11 feet to the TRUE POINT OF BEGINNING; thence South 89°50'32" East 331.17 feet to a point on the East line of the Northwest Quarter of the Northeast Quarter of said Section 30; thence along said East line South 00°01'35" East 1304.78 feet to a point on the South line of the Northwest Quarter of the Northeast Quarter of said Section 30; thence along said South line North 89°41'00" West 330.83 feet to a point on the West line of the East Half of the East Half of the Northwest Quarter of the Northeast Quarter of said Section 30; thence along said West line North 00°02'31" West 1303.87 feet to the TRUE POINT OF BEGINNING.

The above described parcel contains 9.911 acres, more or less and is subject to all easements, agreements and rights-of-way of record.

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).

Section 3. That the City Clerk is hereby directed to record the Ordinance with the Larimer County Clerk and Recorder after its effective date in accordance with State Statutes.

Dated this ____ day of _____, 2011.

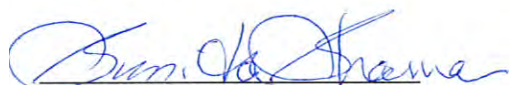
ATTEST:

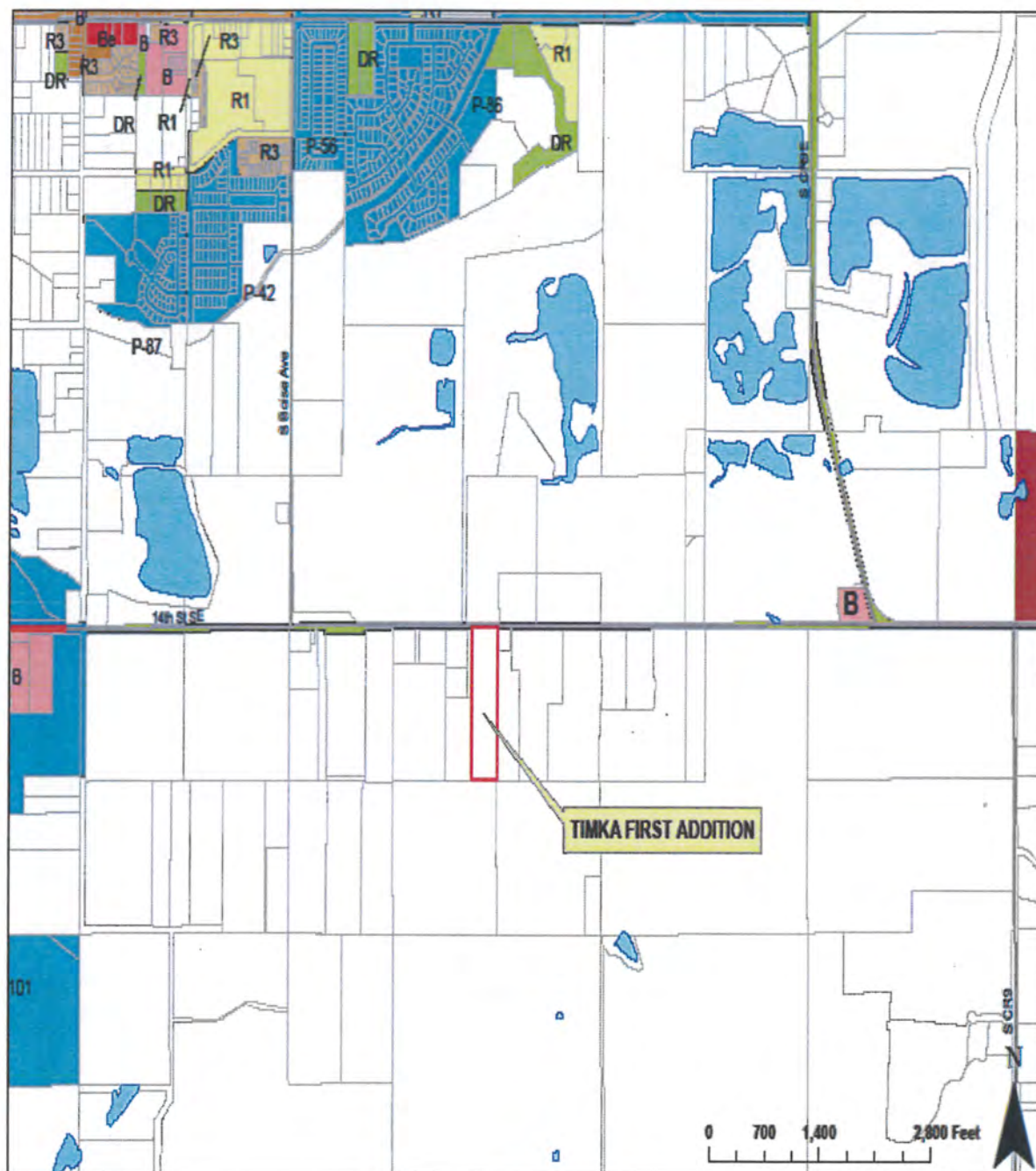
CITY OF LOVELAND, COLORADO:

City Clerk

Mayor

APPROVED AS TO FORM:


Assistant City Attorney



VICINITY MAP
TIMKA FIRST ADDITION



**DEVELOPMENT SERVICES
ADMINISTRATION**
500 East Third Street, Suite 210 • Loveland, CO 80537
(970) 962-2346 • Fax (970) 962-2903 • TDD (970) 962-2620
www.cityofloveland.org

MEMORANDUM

TO: City Council

FROM: Brian Burson, Current Planning Division

DATE: April 19, 2011

SUBJECT: Timka First Addition

I. EXHIBITS

- A. Vicinity map.
- B. January 24, 2011 Planning Commission staff report, with Attachments.
- C. Approved January 24, 2011 Planning Commission minutes.

II. EXECUTIVE SUMMARY

A. Project Description

The application proposes to annex 9.91 acres of land into the City and zone it as I-Developing Industrial District, subject to specific criteria and standards for development. The property is located along the south side of 14th Street Southeast (Highway 402) approximately 2,500 feet east of South Boise Avenue, and is currently zoned C-Commercial in Larimer County. The property has a mixture of existing uses that could best be described as light industrial. If approved, this application would allow interim continuation of the existing uses of the property, as well as future development/redevelopment of most uses permitted in the I-Developing Industrial zone district and most of the uses permitted in the E-Employment District. Certain uses that would be inconsistent with the character for Employment Center land uses will be prohibited.

The technique of serial annexation will be used to achieve the required annexation contiguity for this site. This technique is allowed by state statutes. Contiguity for the first serial is achieved from the adjacent 14th Street Southeast which was annexed as part of the Bentley Third Addition. The City annexed the Bentley Addition in order to provide the opportunity for subsequent annexations and

development of quality employment land uses in this major corridor, subject to City standards and codes rather than Larimer County codes.

The 2005 City Comprehensive Plan recommends that much of the Highway 402 corridor, including this property, be developed for E-Employment Center land uses. The Plan recognizes that a zoning of E-Employment, I-Developing Industrial, B-Developing Business, or Planned Unit Development are all appropriate for fulfilling this vision. The application proposes a zoning of I-Developing Industrial, with a set of site-specific Development Standards to augment the normal City codes and standards for the site. All subsequent development/redevelopment would be governed by all requirements of the City of Loveland Municipal Code, but augmented by these site-specific Development Standards. These standards will be an important factor to assure that future development/redevelopment on this site fulfills the vision for Employment Center in this corridor. Staff believes that the combination of normal City codes and standards, along with these special Development Standards, will result in development/redevelopment that will be consistent with the vision for Employment Center land uses, as described in the City of Loveland 2005 Comprehensive Plan. These criteria and standards would be incorporated into an annexation agreement, along with the other terms of annexation from other City departments and divisions.

(For further analysis, please see the January 24, 2011 Planning Commission staff report included with this staff memorandum as **Exhibit B.**)

B. Key Issues

Staff review has given careful attention to each aspect of the proposed development that is governed by City codes, standards and policies; as well as the provisions of the 2005 Comprehensive Plan, as amended. City staff has not identified any key issues with this request that have not been addressed through the revised application and the recommended terms of annexation below.

C. Planning Commission Recommendation

The Planning Commission held a public hearing on the application on January 24, 2011. Only one neighborhood property owner gave testimony. This was limited to whether future development of Timka First Addition would prompt the need for using an existing access easement on his property as a shared access for both properties. The Planning Commission discussed questions and concerns such as:

- appropriate zoning of the site;
- use of the serial annexation technique;
- expansion of existing uses and buildings;
- types of existing uses and their non-conforming status; and
- changes in property taxation resulting from annexation and industrial zoning

After receiving all testimony and information from the Applicant, City staff and the general public, the Planning Commission recommended, by unanimous vote, to recommend approval of the annexation and zoning, subject to the revised terms of annexation set forth below in **Section III** of this staff

memorandum. (For further information, please see the approved January 24, 2011 Planning Commission minutes included with this staff memorandum as **Exhibit C.**)

D. Subsequent to Planning Commission

Following the Planning Commission hearing, no additional information has been submitted to amend the application, and staff has received no further inquiries or concerns from the neighborhood or general public.

III. RECOMMENDED TERMS OF ANNEXATION

Planning Commission and City staff recommend the following revised terms of annexation:

1. Upon annexation of the property, all development and redevelopment of the property shall be governed by the Development Standards in Attachment #2, as well as all applicable codes, standards and policies of the City. These Development Standards shall be incorporated into the Annexation Agreement between the Owner and the City.
2. When reviewing and acting upon any application for a use permitted by special review, the City shall be authorized to consider the goals, objectives and criteria for the E-Employment Center land use category, as set forth in the 2005 Comprehensive Plan, as amended. Applications that do not meet the intent of the goals, objectives and criteria for the E-Employment Center land use category, as set forth in the 2005 Comprehensive Plan, as amended, may be disapproved by the City.
3. Upon annexation and zoning into the City, and notwithstanding the provisions of Sections 18.36.010 and 18.36.020 of the City of Loveland Municipal Code, the following uses shall not be permitted on this site:
 - a. Crematorium
 - b. Heavy industrial
 - c. Truck stop
 - d. Junkyard
 - e. Packing facility
 - f. Jails, detention and penal center
 - g. Outdoor storage as a principle use
 - h. Sexually Oriented Businesses
 - i. Recycling collection facility attended
 - j. Recycling collection facility unattended
4. Upon annexation and zoning into the City, and notwithstanding the provisions of Sections 18.36.010 and 18.36.020 of the City of Loveland Municipal Code, all uses normally permitted by right and all uses normally permitted by special review in the E-Employment District shall also be permitted on this property as specified in Chapter 18.30 of the City of Loveland Municipal Code. In cases where a use is allowed in the I zone by right but normally requires a special review in the E zone, the uses allowed by right in the I zone shall govern.

Transportation Engineering:

5. All future development within this addition shall comply with the Larimer County Urban Area Street Standards (LCUASS), the 2030 Transportation Plan, and any updates to either in effect at the time of a building permit, and/or a site-specific development application. Any and all variances from these standards and plans require specific written approval by the City Engineer.
6. Notwithstanding any conceptual information presented in the Annexation/Zoning submittal; street layout, street alignments, access locations, intersection configurations and intersection operations (traffic controls) shall be determined at the time of application for a building permit, and/or a site-specific development application.
7. The owner shall dedicate to the City, at no cost to the City, right-of-way for all street facilities adjacent to, or within, this addition that are shown on the adopted Transportation Plan prior to approval of a building permit and/or a site specific development application within this addition. Furthermore, the owner shall dedicate additional right-of-way for SH 402 on any future platting application for the property in order to achieve a 70-foot total half right-of-way on SH 402 adjacent to the property.
8. The developer agrees to acquire, at no cost to the City, any off-site right-of-way necessary for mitigation improvements. Prior to the approval of a building permit, and/or a site specific development application within this addition, the developer shall submit documentation satisfactory to the City, establishing the Developer's unrestricted ability to acquire sufficient public right-of-way for the construction and maintenance of any required street improvements to both adjacent and off-site streets.
9. The ultimate roadway improvements, including sidewalk, adjacent to the property for SH 402 shall be designed and constructed by the developer, unless designed and constructed by others. A cash-in-lieu payment may be accepted for all or part of the improvements, if approved in writing by the City Engineer. The timing and detailed scope of these improvements will be determined through review and approval of the building permit application and/or a site-specific development application.
10. Any future proposed development within the addition shall submit a Traffic Impact Study and demonstrate compliance with current City Standards at the time of development.
11. Any future proposed development within the addition shall obtain written concurrence from CDOT for access to SH 402.

Water/Wastewater:

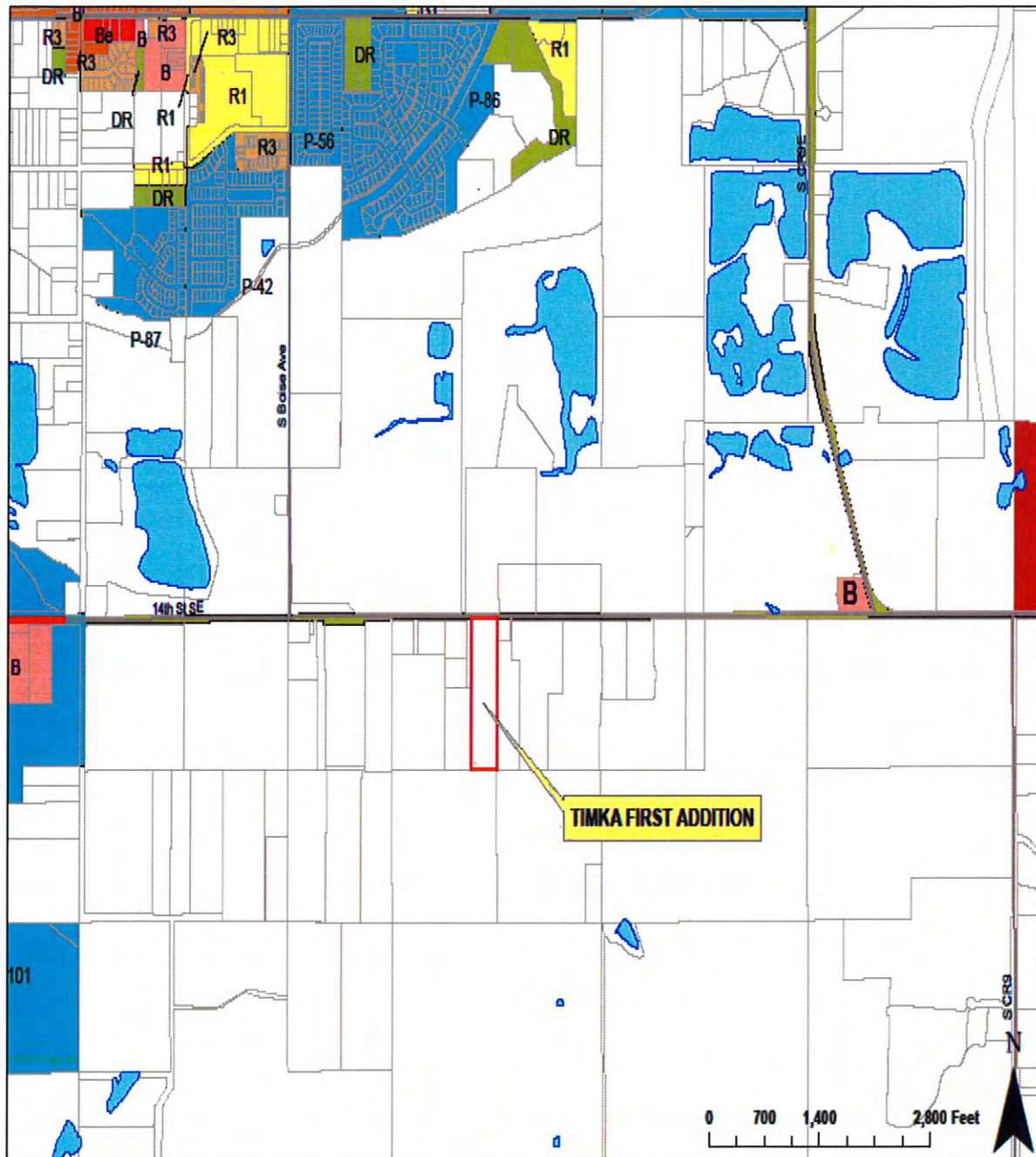
12. At the time of Development, the Developer shall, provide the City a Water and Wastewater Impact Design Analysis Report for the Development.

Power:

13. All plats of this property shall include the following note:

"When the property being annexed into the City of Loveland is currently located within the REA certified territory, this property is subject to a five percent (5%) surcharge on electrical energy as

defined in 40-9.5-204, CRS, and the City of Loveland Municipal Code 13.12.180. This surcharge applies to any subsequent subdivisions of property annexed after January 31, 1987 within the REA certified service territory. A surcharge of 5% will be added to all bills for the sale of electric power to additional services which came into the existence after January 31, 1987, within the territory herein annexed which surcharge will expire ten years after effective date of this annexation."



VICINITY MAP
TIMKA FIRST ADDITION



DEVELOPMENT SERVICES Current Planning

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

Planning Commission Staff Report

January 24, 2011

Agenda #: Regular - Item #1
Title: Timka First Addition
Applicant: Timothy J. Pivonka
Request: annexation and zoning
Legal Description:
Location: along the south side of 14th St SE (Hwy 402) approximately 2500 lf east of the intersection of 14th Street SE and S. Boise Avenue
Existing Zoning: C-Commercial (LARCO)
Staff Planner: Brian Burson

Summary of Analysis

This is a public hearing to consider an annexation and zoning for 9.9 acres. Planning Commission action on this application is both legislative and quasi-judicial. Planning Commission action is a recommendation to the City Council.

Staff believes that all key issues have been resolved, based on City codes and standards, and the recommended terms of annexation. No opposition has been expressed by the neighborhood or general public.

Staff Recommendation

RECOMMENDATION OF APPROVAL of the Timka Addition, with a zoning of I-Developing Industrial District, subject to the Conditions of Approval listed in Section VIII of the January 24, 2011 staff report, and subject to additional evidence presented at the public hearing.

Recommended Motion

"Move to make the findings listed in Section VI of the staff report dated January 24, 2011, and recommend that City Council approve the Timka First Addition to the City of Loveland and zone the Timka First Addition as I-Developing Industrial, subject to the terms of annexation listed in Section VII of said report, as amended on the record"

Vicinity Map

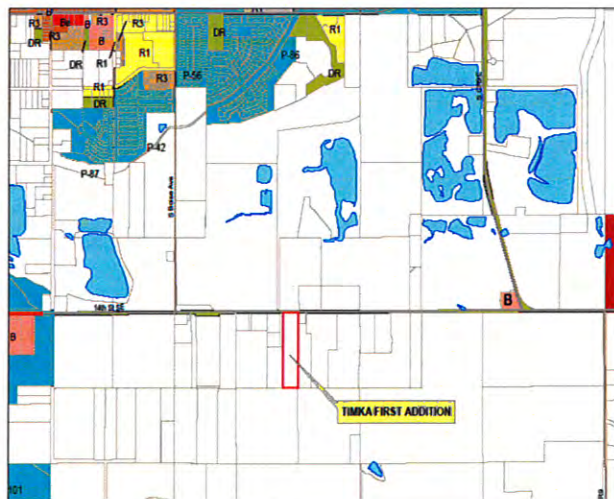


EXHIBIT B

I. PROJECT SUMMARY

A. Process

This is a public hearing to consider an annexation and initial City zoning. It is a serial annexation, achieving contiguity from the adjacent 14th Street Southeast. Serial annexations are expressly allowed under the provisions of the state statutes, provided each serial meets the contiguity requirements for annexation.

Planning Commission's role will be to make a recommendation to the City Council for both the annexation and zoning. Since the action is only a recommendation, no appeal of the Planning Commission's action is possible. Under applicable state statutes, municipalities are under no obligation to annex property at any time; therefore, annexation is a legislative matter for the Planning Commission. However, when a municipality has adopted a comprehensive master plan, the city is generally obligated to zone property in a manner that is reasonably consistent with that comprehensive plan. Therefore, consideration of the proposed zoning is a quasi-judicial matter for the Planning Commission. The application is currently scheduled for City Council hearing on March 15, 2011.

B. General Description

The application proposes to annex the property into the City of Loveland and zone it as I-Developing Industrial District with specific criteria and standards for development and redevelopment to be incorporated into an annexation agreement. Contiguity for the first serial is achieved from the adjacent 14th Street Southeast which was annexed as part of the Bentley Third Addition, which was also a serial annexation.

Much of the Hwy 402 corridor, including this property, is recommended for development of E-Employment Center land uses. The City annexed the Bentley Addition in order to provide the opportunity for subsequent annexations and development of quality employment land uses in this major corridor. If approved, the application would allow interim continuation of the existing uses of the property, as well as future development/redevelopment of other uses, as allowed in the I zone district. All subsequent development/redevelopment would be governed by the requirements of the City of Loveland Municipal Code, but augmented by the site-specific Development Standards proposed by the Applicant. Staff believes that this combination will assure that all development/redevelopment will be consistent with the general criteria for Employment Center land uses, as described in the City of Loveland 2005 Comprehensive Plan.

C. Neighborhood Response

A neighborhood meeting was held on October 21, 2010 in the City Council hearing room. Only the owner of the adjacent property to the east attended the meeting, along with City staff and the applicant. Questions from the attendee included

- type of wastewater system to be used for future development

- type of water supply for future development
- type and location of access from Hwy 402, and the street improvements that might be required for this future access
- setback and height of future buildings.

Generally, there was no opposition to the project voiced at the neighborhood meeting. Since the neighborhood meeting, staff has received no other inquiries or concerns from the neighborhood or general public concerning the application.

D. Key Issues

Staff review has given careful attention to each aspect of the proposed development that is governed by City codes and standards as well as the provisions of the 2005 Comprehensive Plan, as amended. City staff has not identified any key issues with this request that have not been addressed through the revised application and the recommended terms of annexation below.

II. ATTACHMENTS:

1. Vicinity Map
2. Applicant's proposed Development Standards for development/redevelopment of the site
3. I-Developing Industrial Zone District Regulations
4. E-Employment Zone District Regulations
5. Comp Plan policy summary for the E-Employment Center land use
6. Timka First Addition - annexation map
7. Timka First Addition - rezoning map
8. Timka First Addition - existing conditions/nonconforming uses map

III. SITE DATA

ACREAGE OF SITE - GROSS	9.911 ACRES
ACREAGE OF SITE-NET	9.911 AC
ACREAGE OF RIGHT-OF-WAY	0.00 AC
EXISTING ZONING.....	C- COMMERCIAL (LARCO)
PROPOSED ZONING	I-DEVELOPING INDUSTRIAL
MASTER PLAN DESIGNATION.....	E-EMPLOYMENT CENTER
EXISTING USE.....	MIXED LIGHT INDUSTRIAL
PROPOSED USE	MIXED LIGHT INDUSTRIAL & COMMERCIAL
ACREAGE OF OPEN SPACE PROPOSED.....	20%
EXISTING ADJACENT ZONING AND USE - NORTH	FA (LARCO); RURAL RES/AG
EXISTING ADJACENT ZONING AND USE - EAST	FA(LARCO); RURAL RES/AG
EXISTING ADJACENT ZONING AND USE - SOUTH.....	FA (LARCO) RURAL RES/AG

EXISTING ADJACENT ZONING AND USE - WEST C-COMMERCIAL (LARCO)/MIXED LIGHT
INDUSTRIAL & COMMERCIAL

UTILITY SERVICE PROVIDER - SEWER.....CITY OF LOVELAND

UTILITY SERVICE PROVIDER - ELECTRIC CITY OF LOVELAND

UTILITY SERVICE PROVIDER - WATER.....LITTLE THOMPSON WATER DISTRICT

WATER RIGHTS PAID.....NA

IV. BACKGROUND

The site is currently zoned in Larimer County as C-Commercial, and is currently used for a number of limited light/medium industrial and commercial uses on the property. Staff believes these existing uses will be consistent with the City's I zone district.

V. STAFF, APPLICANT, AND NEIGHBORHOOD INTERACTION

- A. Notification:** An affidavit was received from Landmark Engineering certifying that on January 7, 2011 written notice was mailed to all record owners of surrounding property within 1,000 feet of the property; and a notice was posted in a prominent location on the perimeter of the project site. In addition, a notice was published in the Reporter Herald on January 8, 2011. All notices stated that the Planning Commission would hold a public hearing on January 24, 2011.
- B. Neighborhood Response:** A neighborhood meeting was held on October 21, 2010 in the City Council hearing room. Only the owner of the adjacent property to the east attended the meeting, along with City staff and the applicant. See information in Section I.C. above for concerns voiced at the meeting. Since the neighborhood meeting, staff has received no other inquiries or concerns from the neighborhood or general public concerning the application.

VI. FINDINGS AND ANALYSIS

A. *Annexation Policies and Eligibility*

1. *Loveland Comprehensive Master Plan, Section 4.2*

- a. *Annexation ANX2.A: Whether the annexation encourages a compact pattern of urban development.*
- b. *Annexation ANX2.B: Whether the annexation would result in the creation of an enclave*
- c. *Annexation ANX5.B: Whether the applicant has demonstrated that reasonable efforts have been made to assemble adjoining land parcels to allow for the preparation of a master plan for a larger area, rather than submit separate individual proposals.*
- d. *Annexation ANX1.C and 6: Whether the annexation encourages infill development and ensures that land is immediately contiguous to other land in the City that is already receiving City services, discouraging leapfrog and scattered site development.*

- e. **Land Use Plan LU5:** Whether development of multi-use, high-quality employment districts, where campus-type settings are appropriate, will be located along appropriate transportation corridors such as I-25, US 34 and the south side of SH 402.*
- f. **Growth Management GM7:** Whether the land proposed for annexation is within the City of Loveland Growth Management Area.*
- g. **Regional Cooperation IGA3:** Whether urban development is concentrated in areas designated for such development.*

Current Planning: The site is within the Growth Management Area, as described and depicted in Sections 4.3 and 4.7 of the 2005 Comprehensive Plan, as amended. However, the property is in an area which is not covered by the related Inter-governmental Agreement between the City and Larimer County. This would allow the Applicant to pursue land use approvals for the proposed uses through Larimer County. However, since the City is the best source of sewer and power for the desired development, the Applicant has chosen to approach the City with the requested annexation and zoning.

Much of the Hwy 402 corridor, including this property, is recommended for development of employment land uses. Over time, the City will be working to achieve employment, along with supporting commercial and housing for this corridor. The combined recommended uses and implementation of the pertinent City standards will achieve the desired compact urban development pattern and the concentration desired and appropriate in the corridor.

This is one of the first properties in this stretch of the corridor to annex into the City; therefore no enclaves will be created by the annexation. The site is a single property, consisting of 9.911 acres, and there has been no attempt to assemble other parcels into a larger combined annexation. However, this property could form a "contiguity anchor" for future annexations of other nearby properties. Annexation of this site plays no role in encouraging infill development. Contiguity to City urban services will not come until main utility lines are installed along this corridor by the City or other developers. Installation of such utility mains are required for development of properties further east in the corridor, such as Bentley Addition, Olson Farms Addition, and Ehrlich Addition. The site is currently without contiguity to existing or imminent City urban service mains. Approvals of annexation and zoning of these other sites to the east will obligate the City to play a major role in installation of utility mains along this corridor when they are ripe for development.

Development in the corridor will be dominated by employment uses, especially along the south side of Hwy 402, and the quality of such uses is essential along this major entryway from I-25. The Comprehensive Plan recognizes the possible choices if E, I, PUD and B zone districts for properties along this corridor. In order to fulfill the vision of the Employment Center areas under I, PUD or B zoning, additional criteria and limitations will be required at the time of annexation and zoning. This application includes such additional criteria to achieve the 60/40 ratio for uses, and the campus-like setting with consistent themes for architecture, landscape, open space, and view corridor protection.

2. **Loveland Municipal Code, Section 17.04.020:** *The annexation complies with the laws of the State of Colorado regarding annexation; and the property proposed for annexation is otherwise eligible to be annexed because there is at least one-sixth contiguity between the City and the area seeking annexation and there is no evidence that two or more of the following conditions have been met:*
- a. Less than 50% of the adult residents of the area proposed to be annexed use some of the recreation, civic, social, religious, industrial or commercial facilities of the municipality and less than 25% of its adult residents are employed in the annexing municipality.*
 - b. One-half or more of the land proposed to be annexed is agricultural, and the landowners of such agricultural land have expressed an intention under oath to devote the land to agricultural use for at least five years.*
 - c. It is not physically practical to extend urban service which the municipality provides normally.*
 - d. The area proposed to be annexed is urban or will be urbanized in the near future and said area is able to be integrated with the City of Loveland.*
 - e. No land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, is divided into separate parts without the written consent of the landowners thereof unless such tracts or parcels are separated by a dedicated street, road or other public way.*
 - f. No land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising 20 acres or more and which, together with the buildings and improvements situated thereon has a valuation for assessment in excess of \$2000,000 for ad valorem tax purposes for the year next preceding the annexation, is included within the area proposed for annexation without the written consent of the landowner or landowners.*
 - g. No annexation proceedings have been commenced for the annexation to another municipality of part or all of the area to be annexed.*
 - h. The annexation of the area proposed to be annexed will not result in the detachment of the area from any school district and the attachment of the same area to another school district.*
 - i. The annexation of the area proposed to be annexed would not have the effect of extending the boundary of the City of Loveland more than three miles in any direction from any point of such boundary in any one year.*
 - j. The annexation of the area proposed for annexation will not deny reasonable access to any landowner, owner of an easement or owner of a franchise adjoining a platted street or alley which is included in said area but which is not bounded on both sides by the City of Loveland.*

Current Planning Division: The annexation is a serial annexation, tied to the adjacent right-of-way for 14th Street Southeast (Hwy 402) which was annexed as part of Bentley Addition. The total perimeter of Serial 1 is 1966.50 feet. A total of 331.17 feet of this perimeter is contiguous with the existing Hwy 402 right-of-way. The total perimeter of Serial 2 is 1966.15 feet. A total of 331.00 feet of this perimeter is contiguous with Serial 1. This meets the contiguity

requirements for a serial annexation. Once urban level services are available to the site, it is expected to be urbanized for the uses allowed in the I-Developing Industrial zone.

There is no indication of how many of the residents of the property use some of the recreation, civic, social, religious, industrial or commercial facilities of the City of Loveland, or if any adult residents are employed in the City. The site is not agricultural, nor is there any indication from the owners that they intend to use it for agricultural uses in the next 5 years. The site is currently used for a single-family residence, as well as a mix of light/medium industrial and commercial land uses. All providers of urban level services have reviewed the application, and there is no indication that it is not practical to provide urban level services to the site in the future.

The annexation application and petition have been signed by the owner. There is no indication that the land is being considered for annexation by any other jurisdiction. Annexation will not result in a change to the boundaries of any school district. Since the existing City limits are adjacent to the property, it will not extend the municipal boundary of Loveland by more than 3 miles in any direction. Annexation will not affect the access of any owner to any public street or alley.

B. City Utilities and Services

1. Loveland Comprehensive Master Plan, Section 4.2

a. Annexation ANXI.B: *Whether the annexation minimizes the short and long term costs of providing community facilities and services for the benefit of the annexed area.*

b. Commercial and Industrial Land Use CLU1 and ILU2: *Whether the commercial or industrial development is located where proper sizing of facilities such as water, sewer, electric, communications and transportation has occurred or can be properly planned and implemented.*

2. Loveland Municipal Code

a. Section 17.04.040:

(i) *Whether certain public facilities and/or community services are necessary and may be required as a part of the development of any territory annexed to the City in order that the public needs may be served by such facilities and services. Such facilities include, but are not limited to, parks and recreation areas, schools, police and fire station sites, and electric, water, wastewater and storm drainage facilities. Such services include, but are not limited to, fire and police protection, provision of water, and wastewater services.*

(ii) *Whether the annexation and development pursuant to the proposed zoning will create any additional cost or burden on the existing residents of the City to provide such facilities and services in the area proposed for annexation.*

(iii) *The annexation complies with the water rights requirements set forth in Title 19 of the Loveland Municipal Code.*

Water/Wastewater - The subject annexation is situated within the boundaries of, and accommodated by, the City's water master plan. It is also within the City's current service area for water. Currently the existing development is served water from the Little Thompson Water

District.

The subject annexation is situated within the boundaries of and accommodated by the City's wastewater master plans. It is also within the City's current service area for wastewater. The nearest public wastewater main is located at the intersection of CR 11H (Boise Ave) and Highway 402.

The proposed annexation and zoning is consistent with the Department's Wastewater master plan and is consistent with the 2005 Comprehensive Master Plan.

Power - The proposed development currently lies in the certified service territory of Poudre Valley REA. Upon completion of successful annexation, existing and future development of the proposed annexation will be serviced by the City of Loveland. When the property being annexed into the City of Loveland is currently located within the REA certified territory, this property is subject to a five percent (5%) surcharge on electrical energy as defined in 40-9.5-204, CRS, and the City of Loveland Municipal Code 13.12.180. This surcharge will expire ten years after effective date of the annexation.

Three-phase underground power is available in a vault/switchgear located on the North-west corner of Highway 402 and S. Boise Ave. Conduits have been stubbed out to the East of this vault approx. 900feet on the North side of Highway 402. Power will be extended onto the site from these conduits at the Developer's expense per City of Loveland Municipal Codes.

The existing uses, as well as any future development requirements, are current with the Power Division's existing infrastructure and system master plan.

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

1. With the annexation and future development, the Developer will engineer certain private stormwater facilities that will adequately collect, detain, and release stormwater runoff in a manner that will eliminate off-site impacts.
2. Development of the Timka First Addition pursuant to any of the uses permitted by right under the zoning district would result in impacts on City infrastructure and services that are consistent with current infrastructure and service master plans.

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

1. The site will comply with the interim requirements in the ACF Ordinance for response distance requirements and is approximately 2.6 miles from the first-due engine company (Station 1).

C. Transportation

1. Loveland Comprehensive Master Plan, Section 4.2

- a. Annexation ANXI.A:** *Whether the annexation of land minimizes the length of vehicle trips generated by development of the land.*

b. Commercial CLUI and Industrial ILUI: Whether the commercial or industrial development permitted in the PDP is located near transportation facilities that offer the required access to the development and does not exceed the desired capacity of a level of service C for the existing and future transportation network of the City.

2. Loveland Municipal Code

a. Section 17.04.040: Whether all existing and proposed streets in the newly annexed property are, or will be, constructed in compliance with City street standards, unless the City determines that the existing streets will provide proper access during all seasons of the year to all lots and that curbs, gutters, sidewalks, bike lanes, and other structures in compliance with City standards are not necessary to protect public health, safety, and welfare.

Transportation Engineering Division: Annexing and zoning a parcel or property does not warrant compliance with the City's Adequate Community Facilities (ACF) ordinance. A condition is recommended to clearly ensure that all future development or land application within this proposed property shall be in compliance with the City of Loveland 2030 Street Plan, the Larimer County Urban Area Street Standards and any updates to either in effect at the time of development application. Moreover, as identified in the City Municipal Code Title 16, a Traffic Impact Study shall be required with all future development or other land use applications. The annexation will also be required to dedicate, free and clear, all applicable right-of-way to the City, at no cost to the City, at the time of development. Therefore, pending future proposed development within this property, of which review and approval by the City is required, the Transportation Engineering Staff does not object to the proposed annexation and zoning.

D. Land Use

I. Loveland Comprehensive Master Plan, Sections 4.3 and 4.7

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

Current Planning Division: Sections 4.3 and 4.7 of the 2005 Comprehensive Plan recommends much of the Hwy 402 corridor, including this property, be developed for E-Employment Center uses. The Plan recognizes that a zoning of E-Employment, I-Developing Industrial, Planned Unit Development (PUD) and B-Developing Business can all fulfill this recommendation, depending on the type of proposed development. Section 4.3 and Table LU1 of Section 4.7 of the Plan describe a number of specific policies and criteria to be achieved regarding the character of development in the Employment Center areas. This is generally described as "...a range of high-quality, well designed uses, where campus-type settings are encouraged".

The E-Employment Zone District in Title 18 of the Municipal Code contains criteria to fulfill the intent of the E land areas in the Comprehensive Plan. It specifies that sixty per cent (60%) of the land area should be devoted to "primary land uses" (uses that focus on jobs) and limits "non-primary uses" (uses that focus on providing goods and services to the general public) to forty per

cent (40 %) of the land. It also gives more specific criteria for establishing the meaning of "campus-type character", that being development that requires "strong unifying design elements". These unifying elements are further specified as "Unified Building Design", "Unified Open Space", "Viewshed Protection", and "Other Unifying Elements" such as well-defined entries, shared plazas, common open space and amenities, shared well-located parking, and quality identity signage.

Section 18.30.050 of the E zone district also sets forth specific process requirements for development under E zoning. This stipulates that when the site is to be developed in phases, a Concept Master Plan for the entire site must accompany the initial zoning to establish the site-specific criteria and standards necessary to establish the "unifying design elements" for achieving the "high quality, campus-type development". Once approved, this master plan becomes the base document for review and approval of all development and building permits in the project.

If E land areas are developed under I, PUD or B zoning, all development would comply with the normal City codes and standards, including architecture, landscape, open space, parking, and signs. However there would be no "strong unifying design elements" to assure the campus-type character desired. It would also not be governed by the 60/40 ratio for primary and non-primary uses. In that case, additional criteria and standards are needed, to be implemented in some other manner than the zoning standards or Master Plan, to truly fulfill the recommendations of the Plan.

This application began with a proposed zoning of E-Employment, and the Applicant's consultant, Landmark Engineering, presented a Concept Master Plan for staff review. However, with no true developer as part of the current process, selection of clear and specific "strong unifying design elements" was very problematic. The property is less than 10 acres in size, which increases the difficulty in establishing a campus-type character for employment uses. Following staff review, and discussions with Landmark staff, it was determined that, since I zoning is also deemed as acceptable for Employment Center areas, staff would support a proposal of I zoning if the general design standards created by Landmark were incorporated into a set of development standards for the site. This assures that the intent of the E land use category will be fulfilled but allows the more specific choice for areas "strong unifying design elements" can be made later by a future developer of the project. The proposed development standards, if approved by City Council, will be part of the terms of annexation and incorporated into the annexation agreement. (See **Attachment # 2**)

b. Community Design Objectives, Section 5.0: Whether the proposed zoning is consistent with the design elements set forth in the City of Loveland Community Design, including creating neighborhoods, ecological responsibility, streetscape, neighborhood aesthetics, pedestrian and bike ways, open spaces, historical preservation and maintenance.

Current Planning Division:

2. Loveland Municipal Code, Section 18.04.010

- a. *Whether the purposes set forth in Section 18.04.010 of the Loveland Municipal Code would be met if any of the uses permitted by right in the zone district were developed on the subject property.*
- b. *Whether development of the subject property pursuant to any of the uses permitted by right under the zoning district would result in development that is compatible with existing land uses adjacent to and in close enough proximity to the subject property to be effected by development of it.*

Current Planning Division - The purposes set forth in Section 18.04.010 of the Loveland Municipal Code include lessening of congestion on public streets, secure safety from fire and panic, promote general health and welfare, provide adequate light and air, prevent overcrowding of land, avoid undue concentration of population, and facilitate adequate provision of public facilities and infra-structure. The application has been reviewed in light of these purposes by City staff and all utility providers. Staff believes that, based on application of all adopted City codes and standards, as well as the proposed Development Standards for the project, these purposes will be adequately met.

Compatibility with existing and future land uses is considered generally at the time of promulgation of the Comprehensive Plan. As indicated above, this proposal is consistent with the Comp Plan recommendation for land uses. The uses allowed by right in the E zone are numerous, and emphasize uses that provide jobs. By its location along a major corridor, it enhances the opportunity for employees to reach the site from a wide area both in and outside of the City. The non-employment uses that are allowed are expected to primarily support the employment uses with typical products and services needed by those who come to the site for employment, and, in limited extent, to residents in the immediate area.

The uses allowed by right in the E zone district are numerous, and focus on uses that provide jobs. The uses allowed under I zoning are similar, but not identical with those allowed under E zoning. The I zone actually allows more "employment" uses by right, but it would also allow some uses that would not be compatible with future uses developed under E zoning for other properties in the corridor. Such uses would also be difficult to incorporate into a "campus-type setting". For this reason staff recommends that some uses normally allowed under I zoning, not be allowed in the Timka First Addition. Those uses to be excluded would also be incorporated into the annexation agreement. Staff believes that the Applicant is in agreement with this limitation. (See **Term of Annexation # 3**)

E. Environmental Impacts

1. Loveland Comprehensive Master Plan, Section 4.2

- a. *Annexation ANX3.A: Whether the annexation and PDP comply with the recommendations contained in the adopted Open Lands Plan and preserves open space or natural areas.*

Annexation ANX3.B: Annexation will be allowed for the purpose of preserving or acquiring open space or natural areas.

Annexation ANX4.A and B: If the planning staff and/or the City have determined that significant negative impacts on the environment may occur from development

allowed under the PDP, an Environmental Impact Report, including a Wetlands Reconnaissance Report, has been prepared by a qualified specialist.

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

Annexation ANX4.D: *All development agreements must deal satisfactorily with any environmental impacts upon the property.*

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

Current Planning Division: The Open Lands Plan does not identify any areas on this property or nearby properties to be set aside for public open space. There are no natural areas or natural features on the site that should be preserved or enhanced. There are not wetlands or floodplains on the site.

The application included a Phase I Environmental Site Assessment, prepared by Patrick Mestas, P.E. of Landmark Engineering. Although the site is currently used for a number of light/medium industrial uses, the report indicates that there are no Recognized Environmental Conditions on, or adjacent to, the site.

F. Fiscal Impacts, Section 4.2

- 1. Loveland Comprehensive Master Plan, Section 4.2 Annexation ANXI.F:*** *If required by the City, a cost/benefit analysis has been prepared detailing the economic impacts of the proposed development based upon a fiscal model acceptable to the City. City Council may make any appropriate findings as a result of said cost benefit analysis.*

Current Planning Division: No cost/benefit analysis was required for this application. Based on a previous model for such analyses, non-residential developments typically show an overall cost benefit to the City.

H. Miscellaneous

- 1. Loveland Comprehensive Master Plan, Section 4.2 Annexation ANX5:*** *The annexation is contingent upon a development agreement that clearly details the rights and obligations of the City and the land owner regarding the annexation and development of the land to be annexed.*
- 2. Loveland Municipal Code, Section 17.04.040.F:*** *Whether the annexation is in the best interest of the citizens of the City of Loveland.*

Current Planning Division: If annexed, all terms of annexation related to the site will be incorporated into an annexation agreement, approved by City Council and recorded along with the annexation map and ordinances.

Acquiring sites for future development of employment uses is a high value to the City, and will have the potential of providing jobs for citizens. Development under City codes, standards regulations will provide greater assurance of this than if developed under Larimer County zoning. Staff believes it is in the best interest of the citizens of Loveland to annex this property.

I. Mineral Extraction

Colorado Revised Statutes: The proposed location and the use of the land, and the conditions under which it will be developed, will not interfere with the present or future extraction of a commercial mineral deposit underlying the surface of the land, as defined by CRS 34-1-3021 (1) as amended.

Current Planning: A Mineral Extraction Report, prepared by Rod Harr, P.E. of Landmark Engineering, was submitted with the application. The report indicates that the site is underlain by a layer of sand and cobble approximately 6-7 feet thick, covered by 7-8 feet of overburden. Groundwater was encountered at the same depth as the sand/cobble layer, meaning that pumping would be necessary for any extraction. The report indicates that, due to the size, shape and constraints of the deposit, it is not deemed to be economically viable. The title commitment submitted with the application indicates there are no severed mineral rights for the property.

VII. RECOMMENDED TERMS OF ANNEXATION

The following terms of annexation are recommended by City staff.

Current Planning:

1. Upon annexation of the property, all development and redevelopment of the property shall be governed by the Development Standards in **Attachment #2**, as well as all applicable codes, standards and policies of the City. These Development Standards shall be incorporated into the Annexation Agreement between the Owner and the City.
2. When reviewing and acting upon any application for a use permitted by special review, the City shall be authorized to consider the goals, objectives and criteria for the E-Employment Center land use category, as set forth in the 2005 Comprehensive Plan, as amended. Applications that do not meet the intent of the goals, objectives and criteria for the E-Employment Center land use category, as set forth in the 2005 Comprehensive Plan, as amended, may be disapproved by the City.
3. Upon annexation and zoning into the City, and notwithstanding the provisions of Sections 18.36.010 and 18.36.020 of the City of Loveland Municipal Code, the following uses shall not be permitted on this site:

- a. Crematorium
- b. Heavy industrial
- c. Truck stop
- d. Junkyard
- e. Packing facility
- f. Jails, detention and penal center
- g. Outdoor storage as a principle use

Transportation Engineering:

4. All future development within this addition shall comply with the Larimer County Urban Area Street Standards (LCUASS), the 2030 Transportation Plan, and any updates to either in effect at the time of a building permit, and/or a site specific development application. Any and all variances from these standards and plans require specific written approval by the City Engineer.

5. Notwithstanding any conceptual information presented in the Annexation/Zoning submittal; street layout, street alignments, access locations, intersection configurations and intersection operations (traffic controls) shall be determined at the time of application for a building permit, and/or a site specific development application.

6. The owner shall dedicate to the City, at no cost to the City, right-of-way for all street facilities adjacent to, or within, this addition that are shown on the adopted Transportation Plan prior to approval of a building permit and/or a site specific development application within this addition. Furthermore, the owner shall dedicate additional right-of-way for SH 402 on any future platting application for the property in order to achieve a 70-foot total half right-of-way on SH 402 adjacent to the property.

7. The developer agrees to acquire, at no cost to the City, any off-site right-of-way necessary for mitigation improvements. Prior to the approval of a building permit, and/or a site specific development application within this addition, the developer shall submit documentation satisfactory to the City, establishing the Developer's unrestricted ability to acquire sufficient public right-of-way for the construction and maintenance of any required street improvements to both adjacent and off-site streets.

8. The ultimate roadway improvements, including sidewalk, adjacent to the property for SH 402 shall be designed and constructed by the developer, unless designed and constructed by others. A cash-in-lieu payment may be accepted for all or part of the improvements, if approved in writing by the City Engineer. The timing and detailed scope of these improvements will be determined through review and approval of the building permit application and/or a site specific development application.

9. Any future proposed development within the addition shall submit a Traffic Impact Study and demonstrate compliance with current City Standards at the time of development.

10. Any future proposed development within the addition shall obtain written concurrence from CDOT for access to SH 402.

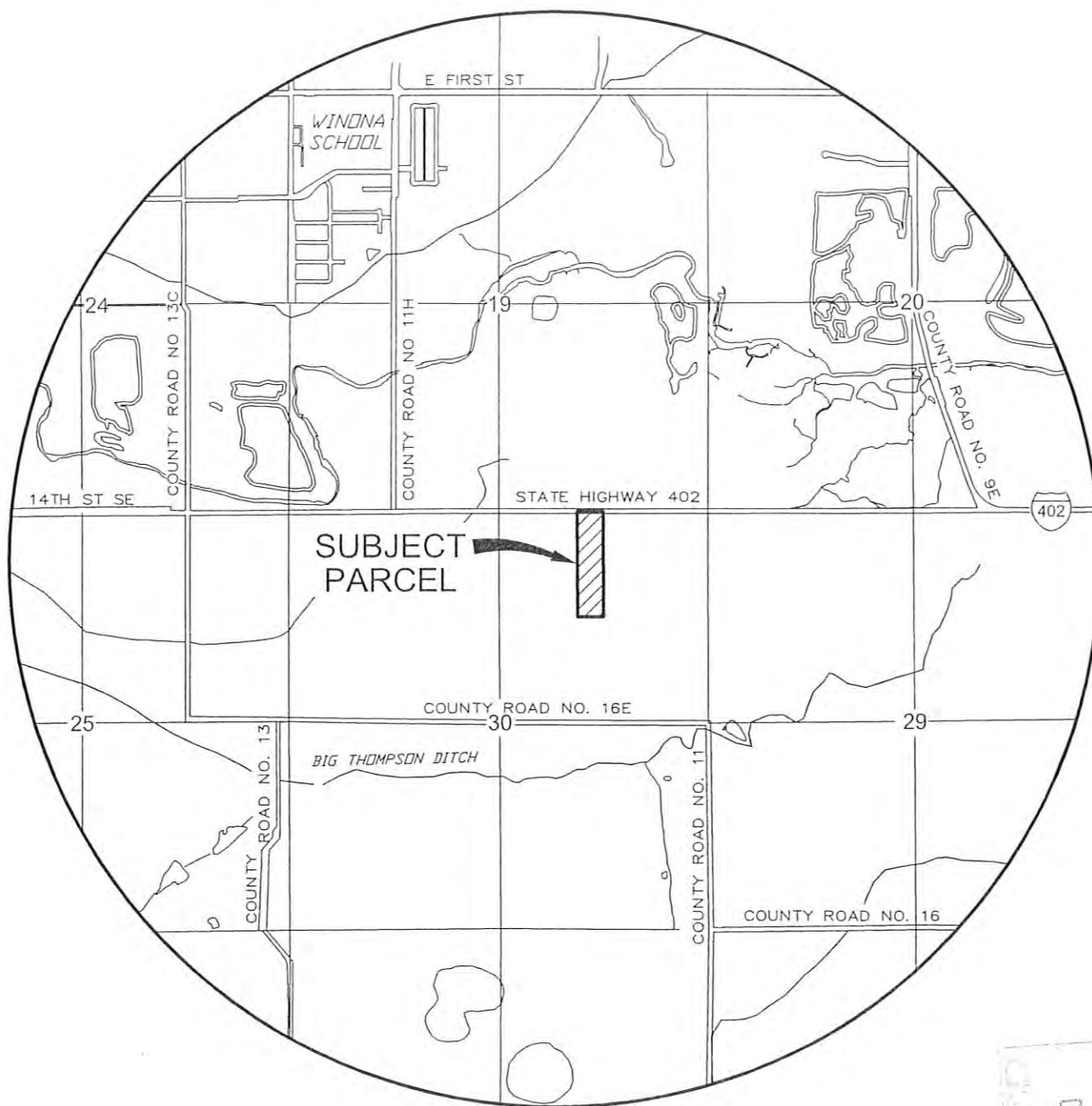
Water/Wastewater:

11. At the time of Development, the Developer shall design and construct a wastewater main along Highway 402 to the site, if not previously constructed by others. The main shall be designed in accordance to the then current Wastewater Master Plan and Wastewater Development Standards.
12. At the time of Development, the Developer shall, provide the City a Wastewater Impact Design Analysis Report for the Development.

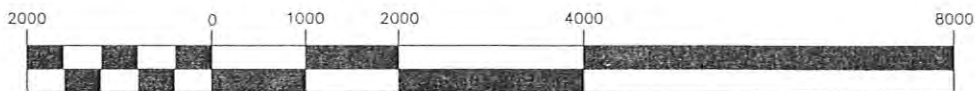
Power:

13. All plats of this property shall include the following note:

"When the property being annexed into the City of Loveland is currently located within the REA certified territory, this property is subject to a five percent (5%) surcharge on electrical energy as defined in 40-9.5-204, CRS, and the City of Loveland Municipal Code 13.12.180. This surcharge applies to any subsequent subdivisions of property annexed after January 31, 1987 within the REA certified service territory. A surcharge of 5% will be added to all bills for the sale of electric power to additional services which came into the existence after January 31, 1987, within the territory herein annexed which surcharge will expire ten years after effective date of this annexation."



GRAPHIC SCALE



(IN FEET)
1 inch = 2000ft.

MAR 22 2010

Landmark
Engineering

Engineers Planners Surveyors Architects Geotechnical
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CLIENT: TIM PIVONKA

TITLE: VICINITY MAP

DATE:03-01-2010

JOE

ATTACHMENT 1

SITE DEVELOPMENT STANDARDS

The following Site Development Standards shall be supplemental to the I-District-Developing Industrial District Development Standards by way of an approved Annexation Agreement.

INTRODUCTION

It is the intent of this Timka development is to create quality development that complies at a minimum, with the standards outlined in Chapter 18.36 I-District - Developing Industrial District while meeting the goal of Employment Center Land Use Category as identified in the Comprehensive Master Plan.

The Timka Serial Annexation is approximately 9.911± acres located one-half mile east of Boise Avenue on Colorado State Highway 402 and is located in Larimer County with Commercial. The subject property is adjacent to the Loveland City Limits and falls within the Loveland Growth Management Area (GMA).

ZONING

The property is designated on the City's Land Use Plan as E-Employment Center and I-District Developing Industrial zoning as defined in Chapter 18.36 is being requested in along with a provision that allow those Uses also identified under Chapter 18.30.020 and 18.30.030 E-District - Employment Center District when developed in conjunction with these Site Development Standards.

IMPLEMENTATION

All development in the I- District Developing Industrial zoning district is required to process a Site Plan Review. The Site Plan Review will ensure that all development and/or redevelopment will be designed to comply with the Municipal Code including, required Public Improvement Construction Drawings necessary to support the proposed development. During the Site Plan Review process, the City may require all existing non-conforming uses and structures be removed or brought into conformance. The first approved Site Plan Review application shall dictate the design style character for all future development applications to ensure a unified development theme including building style, material, and colors throughout the 9.911± acre site.

The accompanying minor subdivision application subdivides the property into two lots just north of the existing residence allowing for new development to occur on the north lot and re-development to occur on the south lot.

New development occurring on the north lot will be subject to all applicable codes and the Site Development Standards however, development of the north lot will not trigger a requirement for any existing non-conforming uses or structures on the south lot to be brought into conformance with the City of Loveland standards.

Only upon redevelopment of the south lot, shall all existing uses and buildings conform to City of Loveland Code.

REVISED

ATTACHMENT 2

CAMPUS CHARACTER

The architectural design is intended to reflect a "campus-type" character with strong unifying design features, elements and characteristics occurring on each of the buildings found within the development. The overall design of a campus-type development should be compatible and complementary with the existing and developing character of the neighboring area. The exterior elevation design of all buildings should be coordinated with regard to color, materials, architectural forms, significant features, and detailing to achieve design harmony, continuity, and horizontal and vertical relief and interest. They shall utilize pedestrian scale features while maintaining prominent types of features that are typically dictated by this significant location along Highway 402. The visibility of parking areas from Highway 402 should be minimized through the use of buffering, berms, walls and landscaping elements that will be found throughout the development to ensure a unified theme.

To the extent possible, '360° architecture' shall be considered when creating the Industrial District, such that all sides of a building have equally designed features, elements and characteristics, as viewed from any location in the area. Repeated use of features, elements and characteristics throughout the site shall strengthen the "campus" character.

BALANCE OF LAND USE

Upon annexation to the City of Loveland, the property shall meet the goals of the Employment Land Use Category Comprehensive Plan by encouraging primary and non-primary uses. Non-Primary uses can not exceed 40% (3.84± acres) of the Site Development Area.

The intent is to provide locations for a variety of workplaces including light industrial, research and development, offices, institutions, and commercial services as primary uses. Other uses may be allowed if they are determined by the City to be primarily employment based.

Primary and Non-primary Workplace may be combined however, in no circumstance shall non-primary workplace uses account for more than 40% of the site development area. Primary use areas are intended to provide locations for a variety of workplaces including but not limited to office, light industrial, warehouse, research, public and private schools, art galley (studio and workshop including live/work studio and workshop), congregate care facilities, financial services, hospitals, health care service facilities, medical and dental laboratories, print shop etc.

Non-Primary use areas are intended as "secondary" uses and shall support the primary uses. Examples of Non-Primary uses include but are not be limited to hotels, retail convenience and service uses, restaurants, child care, or housing.

VIEW CORRIDOR

View corridors along Highway 402 shall be protected with deep setbacks, bufferyards and building orientation to maintain mountain vistas to the extent possible. The property edge along Highway 402 shall consist of a 60' setback.

BUILDING SITING AND ORIENTATION

It is important to locate and orient the buildings to compliment adjacent development, create positive visual experiences, and allow ease of way-finding for the user. This shall be done by emphasizing "campus type" design principles, pedestrian oriented and scaled site planning, and features; and by creating an efficient pattern of buildings relative to open spaces that will concentrate like activities (pedestrian and general vehicular traffic) and separate incompatible activities (truck traffic).

Key elements in achieving this goal are:

- Coordinate and comprehensively plan the sitting of the buildings (current and future) to provide order and compatibility, avoiding jumbled or confusing development patterns.
- To orient the buildings to frame and/or enclose pedestrian corridors, streets, parking areas, public spaces, plazas, greens, and on-site amenities.
- Buildings shall be setback a minimum of 60 feet from Highway 402 right of way
- Buildings shall maintain a minimum 50 foot setback from zoning boundaries.

LANDSCAPE DEVELOPMENT STANDARDS

OVERALL CONCEPT

The site and common open space areas shall be developed to create quality views to, from and within the site; protect and enhance the environmental conditions in and around the site; create buffering opportunities where differing uses may exist; and soften the hardscape by creating interesting transitions from the buildings to streets, sidewalks, parking lots and plazas. When possible common areas should be shared between development areas to create a campus like settings. All buildings shall have safe and clear pedestrian access to common areas. Where pedestrian routes cross vehicular corridors, parking lots, or other circulation routes the pedestrian access shall have distinctive pavement treatments to ensure safe pedestrian access. If a "Highway 402 Corridor Plan" has been developed and adopted by the City of Loveland at the time of a Site Plan Review, requirements of that plan shall prevail. Landscape treatments along Highway 402 shall be characterized by a minimum 60' landscape buffer, uniformly spaced canopy trees, shrub beds and 6' wide meandering walk.

A minimum of 20% of the site area shall be devoted to common open space features including common area landscape buffers, parks, plaza spaces, entrance treatment, natural areas, or wetlands. Open space and landscape areas within setbacks or parking lots shall NOT be counted toward the required 20%.

A minimum 15' wide landscape buffer shall be designed between the property boundary and access drives and parking lots.

Additionally, landscaping and other site elements (such as berms, walls and plazas) throughout the development shall provide a unifying theme which connects the various development areas. Care should be taken to provide landscaping and site elements with a variety of sizes, scales and types which will create visual and spatially interesting elements throughout the development while considering the benefits and impacts to the adjacent property and the environment.

Planting design and materials shall be of a nature that is typically found along the front range of Colorado, and shall compliment both the site and architectural features found throughout the site. The use of water-wise plant materials and design shall be encouraged.

GENERAL LANDSCAPE GUIDELINES

The landscaping is intended to soften the building architecture on all sides; create an attractive and pleasant pedestrian environment; provide shade and visual interest to sidewalks and parking lots; and to buffer/screen differing land uses/intensities.

Creating a 'layered' effect by utilizing plant materials of varying sizes, shapes and heights shall be used to create a sense of place and space. This design style shall be used to draw attention towards building entrances or other significant features, or draw attention away from undesirable (but necessary) site features such as utility boxes, trash enclosures and/or loading zones.

The following landscape features shall be implemented throughout the site in the appropriate locations to embrace a campus type character:

- **Building Landscaping:** To provide visual interest that compliments the structures and guides the users to the main entries and important features.
- **Plant Containers and Planters:** Use clay or concrete plant containers to define outdoor spaces, accent building entrances and provide visual interest along the street and pedestrian corridors.
- **Other Site Amenities:** Items such as way finding signs, benches, bike racks, lights and trash receptacles shall be included where appropriate, and shall be consistent with the design theme and quality of the development.

ENTRY SIGNAGE

Entry signage shall incorporate the same character and materials utilized on buildings and architectural features throughout the site. Landscaping shall include evergreen and deciduous trees, shrubs and perennials to provide interest while maintaining adequate site distance. All signs shall conform to the sign requirements identified in Section 18.50 of the Municipal Code.

ARCHITECTURAL DEVELOPMENT STANDARDS

The buildings shall be developed with consistent and complimentary features, elements and details that are reflected on all sides of the building.

Mixed use buildings that may be included in this development shall be comprised of a variety of exterior elevations proportional to the number of overall units for each development area. The goal is to create an interesting mix of complementary details that will stimulate creative visual characteristics, but not to the extent that a fragmented and dis-similar character is achieved.

Development or re-development of typical industrial uses such as, but not limited to, light industrial, research and development, and office regardless of whether they are deemed primary workplace uses or non-primary uses, shall be subject to the Industrial Architectural Standards, as set forth in Section 18.53.040 of the City of Loveland Municipal Code

Development or re-development of typical commercial uses such as, but not limited to, retail, office, restaurant, or institutional, regardless of whether they are deemed primary workplace uses or non-primary uses, shall be subject to the Commercial Architectural Standards, as set forth in Section 18.53.030 of the City of Loveland Municipal Code.

BUILDING ELEMENTS

Building Elements shall be defined as those parts of an overall structure that will be included on each building located in the development. These elements are secondary in nature to the overall building massing elements of base, middle and cap, and are used to create those patterns, textures, colors and materials that will form the base, middle and cap. It is important to note that while a variety of Building Elements may be used, they must be complementary in nature, and must be replicated on each building to provide visual continuity.

A particular 'style' of architecture (i.e. Mountain, Mediterranean, Tuscan, Industrial, etc.) has not been designated for this development. Rather, the creative use of the Building Elements shall create the 'character' of the development and shall be carried out throughout the project in a cohesive manner.

Different Building Elements may be used in a variety of combinations throughout the site provided they express a cohesive and complimentary sense of architecture that conveys a sense of depth and substance without creating an overly complex facade, and are replicated throughout the site.

Key components in achieving this goal are:

- Consideration of the vertical street walls. While articulation of the street walls shall be used, avoid overly complex facades that lead to confusion for the user.
- Avoid monumental, undifferentiated and scale-less building masses. Differentiate individual buildings along long streetscapes by slight variations in

height, massing and rhythm of openings, while incorporating those Building Elements in each structure.

The use of these types of architectural elements shall be consistent throughout the development and compliment the main massing of the each building. The use of identical architectural elements is not required at each building, but differing elements must be comprised of the same materials, textures or patterns in order to provide visual continuity throughout the development.

Chapter 18.36

I DISTRICT-DEVELOPING INDUSTRIAL DISTRICT

Sections:

18.36.000	Purpose.
18.36.010	Uses permitted by right.
18.36.020	Uses permitted by special review.
18.36.025	Site plan review process.
18.36.030	Lot area.
18.36.040	Yards.
18.36.045	Height limitations.
18.36.050	Off-street parking area.
18.36.060	Special review performance standards.
18.36.070	Open space.
18.36.080	Applicability.

18.36.000 Purpose.

This district is intended to provide a location for a variety of employment opportunities such as manufacturing, warehousing and distribution, and a wide range of commercial and higher intensity industrial operations. The Industrial District (I) is intended to implement the Industrial (I) category as depicted on the Comprehensive Master Plan Land Use Plan Map. The Industrial District also accommodates complementary and supporting uses such as convenience shopping centers and appropriately located accessory commercial child day care centers. Locations for this zone require good access to major arterial streets. (Ord. 5114 § 1, 2006)

18.36.010 Uses permitted by right.

All uses permitted by right and set forth in this section shall be subject to the provisions of Chapter 18.46. The following uses are permitted by right in an I district:

- A. Administrative, insurance and research facilities;
- B. Experimental or testing laboratories;
- C. Manufacturing, assembly or packaging of products from previously prepared materials;
- D. Manufacture of electric or electronic instruments and devices;
- E. Manufacture and preparation of food products;
- F. Warehouses, distribution and wholesale uses;
- G. Any industrial or manufacturing use similar in character and external effects to above uses;
- H. Utility service facilities;
- I. Retail and wholesale sales of products produced on site or products incidental to such products, provided such use is incidental to the primary manufacturing use;
- J. Minor recycling processing facilities;
- K. Accessory uses which are reasonably required to provide necessary maintenance or security of the principal use, including, a dwelling unit for occupancy as a caretaker's quarters or for occupancy by the business or property owner;
- L. Accessory buildings and uses including commercial child day care centers when incorporated as part of a development project and compatible with surrounding uses;
- M. Antennas, as defined in Section 18.55.020(A), located on an existing tower or structure as provided in Section 18.55.030 and Section 18.55.030 and meeting all other requirements of Chapter 18.55;

- N. Art gallery, studio and workshop including live/work studio and workshop. Such facilities may include the display, sale, fabrication or production of paintings, sculptures, ceramics and other art media. Limited outdoor fabrication of art work may be permitted subject to special review as provided in Chapter 18.40.
- O. Bar or tavern;
- P. Car wash;
- Q. Clubs and lodges;
- R. Convention and Conference Center;
- S. Domestic animal day care facility;
- T. Food catering;
- U. Funeral home;
- V. Greenhouse;
- W. Health care service facility;
- X. Indoor recreation;
- Y. Light industrial;
- Z. Lodging establishments (hotel and motel);
- AA. Lumber yards with outdoor storage screened as required by Section 4.06 of Site Development Performance Standards and Guidelines;
- BB. Parking garage and parking lot;
- CC. Personal and business service shop;
- DD. Place of worship or assembly;
- EE. Special trade contractor's shop (any outdoor storage screened as required by Section 4.06 of Site Development Performance Standards and Guidelines);
- FF. Medical or professional office/clinic;
- GG. Office, general administrative;
- HH. Outdoor storage subject to Site Development Performance Standards and Guidelines, Section 4.06;
- II. Restaurant standard (indoor and outdoor);
- JJ. Retail store;
- KK. Self-service storage facility;
- LL. Vehicle minor and major repair, servicing, & maintenance;
- MM. Vehicle rentals for cars, light trucks and light equipment;
- NN. Vehicle rentals for heavy equipment, large trucks and trailers;
- OO. Vehicle sales and leasing for cars and light trucks;
- PP. Sales & leasing of farm equipment, mobile homes, recreational vehicles, large trucks & boats with outdoor storage; and
- QQ. Veterinary facility, clinic or hospital; and
- RR. Workshop and custom small industry. Limited outdoor fabrication of products may be permitted subject to special review as provided in Chapter 18.40.
- SS. Crematorium located more than 500 feet, as measured by a straight line, from any property boundary zoned R1, R1e, R2, R3, R3e, or located more than 500 feet from any residential property within a Planned Unit Development, subject to Section 18.52.080. (Ord. 5446 § 7, 2009; Ord. 5114 § 2, 2006, Ord. 4246 § 1 (part), 1997; Ord. 4236 § 10, 1997; Ord. 4221 § 1 (part), 1996; Ord. 3648 § 4, 1990; Ord. 3630 § 4, 1990; Ord. 1934 §§ 1, 2, 1980; Ord. 1276 § 23, 1973; Ord. 1004 § 11.1, 1968)

18.36.020 Uses permitted by special review.

The following uses are permitted by special review in an I district subject to the provisions of Chapter 18.40:

- A. Any business, commercial, industrial or manufacturing use which by virtue of its site, location, traffic or other external impacts, as determined by the community development director, warrants exceptional review and public hearing, as set forth in Chapter 18.40;
- B. Parks and recreation areas;
- C. Community facility;
- D. Major recycling processing facilities;
- E. Personal wireless service facility as defined in Section 18.55.020(A), located on a new structure, meeting all requirements of Chapter 18.55;
- F. Sexually oriented businesses;
- G. Essential public utility uses, facilities, services, & structures (above ground)
- H. Heavy industrial use;
- I. Open-air farmers market;
- J. Plant nursery;
- K. Kennel;
- L. Truck stop;
- M. Junkyard;
- N. Packing facility;
- O. Recycling collection facility, attended;
- P. Recycling collection facility, unattended;
- Q. Resource extraction, process, and sales;
- R. Restaurant, drive-in or fast food
- S. Airport and heliport; and
- T. Jails, detention, and penal centers. (Ord. 5114 § 3, 2006)
- U. Crematorium located 500 feet or less, as measured by a straight line, from any property boundary zoned R1, R1e, R2, R3, R3e, or located 500 feet or less from any residential property within a Planned Unit Development, subject to Section 18.52.080. (Ord. 5446 § 8, 2009)

18.36.025 Site plan review process.

The site plan required by Chapter 18.46 shall be submitted to the community development director for review, recommendation and approval or disapproval. In the event of disapproval, the applicant may request that the site plan be further reviewed by the city council, and, in the event of such further review, the approval or disapproval of the city council shall be final. (Ord. 1934 § 4, 1980)

18.36.030 Lot area.

The minimum area of lot in an I district shall be two times the total floor area of the building. (Ord. 4246 § 1 (part), 1997; Ord. 1004 § 11.3, 1968)

18.36.040 Yards.

The minimum yards in an I district, being the minimum distance of any building from an alley, street or zoning district line, shall be twenty-five feet. (Ord. 4246 § 1 (part), 1997; Ord. 1004 § 11.4, 1968)

18.36.045 Height limitations.

Buildings and structures in this zone shall comply with Chapter 18.54 of this Code. (Ord. 4106 § 11, 1995)

18.36.050 Off-street parking area.

The minimum off-street parking area for all permitted uses in an I district shall be as provided in Chapter 18.42. (Ord. 4246 § 1 (part), 1997; Ord. 1628 § 1 (part), 1977; Ord. 1004 § 11.5, 1968)

18.36.060 Special review performance standards.

Uses permitted by special review within the I district shall be subject to the performance standards set forth in Section 18.46.020. (Ord. 4246 § 1 (part), 1997; Ord. 1934 § 5, 1980; Ord. 1628 § 1 (part), 1977; Ord. 1276 § 25, 1973; Ord. 1004 § 11.6, 1968)

18.36.070 Open space.

The open space in an I district, exclusive of streets and off-street parking areas, shall be not less than ten percent of the total lot area. (Ord. 4246 § 1 (part), 1997; Ord. 1745 § 3, 1979)

18.36.080 Applicability.

Compliance with Section 18.36.025 for a use permitted by right under Section 18.36.010 shall satisfy any requirement imposed upon the annexation of any property prior to October 1, 1980, requiring compliance with special review provisions of this code for any use thereon. (Ord. 1934 § 6, 1980)

Chapter 18.30

E DISTRICT – EMPLOYMENT CENTER DISTRICT

Sections:

18.30.010	Purpose.
18.30.020	Uses permitted by right.
18.30.030	Uses permitted by special review.
18.30.040	Development standards and balance of land uses.
18.30.050	Development approval.
18.30.060	Schedule of flexible standards.

18.30.010 – Purpose.

The E - Employment Center District is a mixed-use district intended to provide locations for a variety of workplaces and commercial uses, including light industrial, research and development, offices, institutions, commercial services and housing. This district is intended to encourage the development of planned office and business parks; promote excellence in the design and construction of buildings, outdoor spaces, transportation facilities, streetscapes, lodging and other complementary uses. This district is intended to implement the E- Employment Center category set forth in the City's Comprehensive Master Plan. Uses that complement and support primary workplace uses, such as hotels, retail, restaurants, convenience shopping, child care and housing are intended to be secondary uses and not intended to be the primary or predominant uses in E districts. Such uses should be limited to guidelines set forth in this district. (Ord. 5156, § 1, 2006)

18.30.020 Uses permitted by right.

The following uses are permitted by right in an E district:

- A. Art gallery, studio and workshop including live/work studio and workshop. Such facilities may include the display, sale, fabrication or production of paintings, sculptures, ceramics and other art media. Limited outdoor fabrication of art work may be permitted subject to special review as provided in Chapter 18.40.
- B. Commercial child day care center licensed according to the statutes of the state;
- C. Convention and Conference Center;
- D. Entertainment Facilities and Theaters, indoor;
- E. Financial Services;
- F. Food Catering;
- G. Gas station with or without convenience goods or other services subject to Section 18.52.060 and located three hundred (300) feet or more from a residential use or zone district (measurement shall be made from the nearest site or lot line of the gas station to the nearest lot line of the residential use or zone district);
- H. Health Care Service Facility;
- I. Hospital;
- J. Indoor Recreation;
- K. Lodging Establishment (hotel and motel);
- L. Long Term Care Facility;
- M. Medical and dental laboratories;
- N. Office, general administrative;
- O. Parking Garage;
- P. Parking Lot;
- Q. Personal and Business Service Shops;

- R. Place of Worship or Assembly;
- S. Print Shop;
- T. Professional Office/Clinic;
- U. Restaurant, Standard indoor or outdoor;
- V. Retail store;
- W. Veterinary Clinic;
- X. Light Industrial;
- Y. Research Laboratory;
- Z. Public and Private Schools;
- AA. Workshop and Custom Small Industry (entirely enclosed within a building and provided there is no excessive odor, glare, smoke, heat, vibration, etc.), Limited outdoor fabrication of products may be permitted subject to special review as provided in Chapter 18.40;
- BB. Dwelling, Attached Single-Family;
- CC. Dwelling, Detached Single-Family;
- DD. Dwelling, Multi-Family;
- EE. Dwelling, Two-Family;
- FF. Elderly housing;
- GG. Dwelling, Mixed Use;
- HH. Community Facility;
- II. Park or Recreation Area;
- JJ. Congregate care facility;
- KK. Antennas, as defined in Section 18.55.020(A), co-located on an existing tower or structure as provided in Section 18.55.030 and Section 18.55.030 and meeting all other requirements of Chapter 18.55; and
- LL. Accessory buildings and uses. (Ord. 5156, § 2, 2006)

18.30.030 Uses permitted by special review.

The following uses are permitted by special review in an E district subject to the provisions of Chapter 18.40:

- A. Bar or tavern;
- B. Car Wash;
- C. Domestic Animal Day Care Facility;
- D. Gas station with or without convenience goods or other services subject to Section 18.52.060 and located less than 300 feet from a residential use or zone district (measurement shall be made from the nearest site or lot line of the gas station to the nearest lot line of the residential use or zone district);
- E. Nightclub;
- F. Open-Air Farmers Market;
- G. Plant Nursery and Greenhouses;
- H. Restaurant, Drive-In or Fast Food;
- I. Self-Service Storage Facility;
- J. Vehicle Minor Repair, Servicing, and Maintenance;
- K. Vehicle Rentals for Cars, Light Trucks and Light Equipment;
- L. Vehicle Rentals for Heavy Equipment, Large Trucks and Trailers;
- M. Vehicle Sales and Leasing for Cars and Light Trucks;
- N. Veterinary Hospital;
- O. Warehouse and distribution;
- P. Outdoor Storage;
- Q. Airports and Heliports;

- R. Essential Public Utility Uses, Facilities, Services, & Structures;
- S. Group Care Facility;
- T. Personal wireless service facility as defined in Section 18.55.020(A), located on a new structure, meeting all requirements of Chapter 18.55; and
- U. Public Service Facility.
- V. Crematorium subject to Section 18.52.080. (Ord. 5446 § 6, 2009)

18.30.040 Development standards and balance of land uses.

The following standards shall be administered as Type 2 standards in accordance with Section 18.53.020 Compliance.

- A. Balance of land Uses: Not more than 40 percent of the land area within a development plan shall be dedicated to non-primary workplace uses. Non-primary workplace uses include hotels, retail, convenience and service uses, restaurants, child care, housing or other uses intended to support and compliment primary workplace uses. For the purposes of this requirement primary workplace uses shall include but shall not be limited to office, research or light industrial. A proposed development plan that does not meet this requirement may be permitted if within two miles of the proposed development plan, primary workplace uses exist or the zoning for such uses is in place, in an amount that is sufficient to comply with the intent of this section and meet the long term need for primary employment land uses anticipated by the City's Comprehensive Master Plan.
- B. Campus-Type Character: E-Employment Center Districts are intended to have a "campus-type" character with strong unifying design elements meeting the following standards:
 - 1. Unified Building Design: Building design shall be coordinated with regard to color, materials, architectural form and detailing to achieve design harmony, continuity and horizontal and vertical relief and interest.
 - 2. Unified Open Space: Projects shall include a unifying internal system of pedestrian-oriented paths, open spaces and walkways that function to organize and connect buildings, and provide connections to common origins and destinations (such as transit stops, restaurants, child care facilities and convenience shopping centers). The development plan shall utilize open space and natural features that serve as buffers and transitions to adjacent area(s). Development plans shall include at least 20 percent of the gross site area devoted to common open space features, including features such as common area landscaped buffers, parks or plaza spaces, entrance treatments, natural areas, or wetlands, but excluding any open space or landscaped areas within required building setbacks or parking lots. Areas dedicated to storm water drainage may also be counted toward meeting the open space requirement, provided they are designed to be recreation space or as an attractive site feature incorporating a naturalistic shape and/or landscaping.
 - 3. Other Unifying Features: Major project entry points shall include well designed signage and entry features such as quality identity signage, sculpture, plazas, special landscape clusters, etc. The visibility of parking lots or structures shall be minimized by placement to the side or rear of buildings and/or with landscape screening. Shared vehicular and pedestrian access, shared parking, common open space and related amenities should be integrated into the project's design. The overall design and layout shall be compatible with the existing and developing character of the neighboring area.
 - 4. Viewshed Protection: Care shall be taken to minimize disruptions to adjacent neighborhood views of open spaces or natural features through the sensitive location and design of structures and associated improvements. Visual impacts can be reduced and better view protection provided through careful building placement and consideration of building

heights, building bulk, and separations between buildings.

5. Unified Design Agreement: In the case of multiple parcel ownerships, an applicant shall make reasonable attempts to enter into cooperative agreements with adjacent property owners to create a comprehensive development plan that establishes an integrated pattern of streets, outdoor spaces, building styles and land uses consistent with the standards in this section.

C. Other Standards:

1. Significant retail and office components shall comply with standards in Section 18.29.040 – Development Standards for MAC districts.
2. See also Chapter 18.53 Commercial and Industrial Architectural Standards and Site Development Performance Standards and Guidelines.
3. Section 18.29.040 paragraphs D. Loading Areas, E. Utility Boxes, F. Trash Enclosures, and G. Other Standards shall apply in E-Employment Center Districts. (Ord. 5156, § 3, 2006)

18.30.050 Development approval.

- A. Development Approval: Uses listed in Section 18.30.020 are permitted subject to the applicant obtaining a Type 1 Zoning Permit as required by Section 18.04.020 with approval of the site plan as required by Chapter 18.46 - Site Plan Review Requirements & Performance Standards excluding single and two-family residential uses and accessory buildings as excepted by Section 18.04.020. Special review uses listed in Section 18.30.030 may be permitted subject to the applicant obtaining a Type 2 or 3 Zoning Permit as required by Chapter 18.40 - Uses Permitted B Special Review.
- B. Phased Approval: For larger development sites where site development details are not known for the entire site at the time of obtaining a Type 1, Type 2 or Type 3 Zoning Permit as prescribed above, a conceptual master plan shall be provided for the entire parcel subject to phased approval of site plans to ensure the coordinated development of the entire parcel. The conceptual master plan must include the general type, intensity and location of land uses and public facilities and the overall classification and design of the primary road and pedestrian network, including all information that the planning division may require. The conceptual master plan shall also include a narrative statement, conceptual renderings, schematic designs, architectural guidelines or other information as needed to demonstrate how the proposed development plan complies with development standards in Section 18.30.040 paragraphs B. and C. Additionally, the conceptual master plan shall depict an allocation of land uses in a manner that demonstrates compliance with Section 18.30.040.A. The conceptual master plan shall be provided with an E-Employment rezoning application and the rezoning approval shall be subject to compliance with the conceptual master plan. Subsequent site plans submitted for Type 1, Type 2 or Type 3 Zoning Permit approval shall conform to the conceptual master plan.
- C. Plan Modifications: Modifications to the conceptual master plan as required to show compliance with Section 18.30.040 Development Standards, or that comply with Section 18.30.060 Schedule of Flexible Standards, may be approved administratively by the Director of Development Services. Changes to permitted uses or substantial changes to the location of land uses as depicted on the conceptual master plan shall be submitted for review and recommendation by the Planning Commission with final approval by the City Council. (Ord. 5156, § 4, 2006)

18.30.060 Schedule of flexible standards.

Chapter 18.30 MAC and E Districts Schedule of Flexible Standards								
Non-Residential				Residential				
District	Front Bldg. Setback (1)	Rear & Side Bldg. Setbacks (2)	Bldg. Height (3)	Residential Density	Front (2)	Rear (2)	Side (2)	Height
MAC- Community Activity Center	I-25: 80 ft Arterial: 35 ft Non-Arterial: 25 ft	See buffer requirements, Section 4.04 SDPSG	50 ft (4) 120 ft (5)	Up to 16dw/ac (6) (7)	20 ft	15 ft	5 ft	40 ft
E-Employment Center	I-25: 80 ft Arterial: 35 ft Non-Arterial: 25 ft	See buffer requirements, Section 4.04 SDPSG	50 ft (4) 120 ft (5)	Residential up to 20% of total project area, up to 16dw/ac (7)	20 ft	15 ft	5 ft	40 ft

Use	Maximum height of building or structure	Maximum height of accessory building or structure
E-Employment Center District	As provided in Chapter 18.30 E District Schedule of Flexible Standards	50

Notes to MAC and E Districts Schedule of Flexible Standards:

- (1) Building setbacks shall be measured from the edge of the future right-of-way. Development sites within the area covered by the U.S. 34 Corridor Plan shall conform to all road setback and design requirements of that plan. Exceptions from U.S. 34 Corridor Plan standards may be permitted for development plans following guidelines for optional flexible standards in note (2) below. (Ord. 5156, § 1, 2006, Ord. 4453 § 5 (part), 1999)
- (2) **Optional Flexible Standards:** Setback required by this section and buffer standards required by Section 4.04 of the Site Development Performance Standards and Guidelines (SDPSG) may be reduced or waived for projects that orient buildings to streets to create an attractive pedestrian environment following “New Urbanism” or “Smart Code” principles (see “The Lexicon of the New Urbanism” or “Smart Code”).
 - a. Where front setbacks are reduced, a treelawn not less than four feet in width shall be provided between the outer edge of the curb and the sidewalk. Canopy trees planted not less than 30 feet on-center (Figure 18.31-1) shall be provided in the treelawn. Landscaped bulb-outs and trees planted in tree grates in the sidewalk (Figure 18.31-2), with on-street parking, may be provided instead of a treelawn. Where garages face and are accessed from the street, at least 20 feet shall be provided between the face of the garage and the back of the sidewalk so that adequate space is provided for vehicle parking in the driveway.
 - b. Residential buildings with reduced setbacks shall include features such as covered porches or front stoops and walkways between buildings and the public sidewalk. Also, garages should be placed to the rear of the lot behind the primary structure, with side driveway or alley access.
 - c. In evaluating proposals with reduced setbacks, consideration shall be given to existing setbacks in adjacent developed areas to avoid incompatible and/or inconsistent design conditions.
- (3) Subject to height restriction in Section 18.54.040, which restricts any nonresidential use or multi-family use located closer than fifty (50) feet from the property boundary of a residential use, excluding multi-family dwelling units, shall be limited to the maximum height allowed for a single family residential use.
- (4) All uses other than office, research, lodging and mixed-use (see Note (5)).
- (5) Office, research, lodging and mixed-use (mixed-use means residential located in the same building as non-residential uses).
- (6) There shall be no limit on the amount of land area within a MAC district that may be devoted to

residential use; however, for projects exceeding 50 percent residential land area, the applicant must demonstrate that sufficient land area is devoted to commercial use within the project, or within the vicinity of the project, to meet future commercial needs and demands. Such evidence may consist of a market analysis and/or an analysis of development trends and existing and proposed land uses within the vicinity of the project.

- (7) Maximum number of dwelling units permitted per acre. The density calculation shall include the gross land area dedicated to residential use, including roads, drainage areas and open space within and serving the residential component of the project. Residential units that are part of a building that includes non-residential uses (mixed-use) shall not be included in the residential density calculation.

approved on the site of the former Walgreens block utilizing TIF financing and several other historic renovation projects are underway and planned in the downtown area.

- **Historic Preservation:** In 2003 a Historic Preservation Commission was created to provide access to state and federal tax credits and state preservation grants. Numerous properties have since been designated and many have undergone renovation, taking advantage of these important incentives.
- **Downtown Zoning Update:** In 2003, the Be-Established Business District, which applies to the downtown area, was updated to include design standards intended to preserve the character of the downtown and encourage redevelopment.
- **Community Activity Centers¹**
The Land Use Plan provides for five Community Activity Centers at key locations in the future city. One existing community activity center is located at US 287 and 29th Street. It is classified as an activity center only for its commercial function, as it serves much of the north area of Loveland. This existing “older” activity center was not designed as a unit with the mix of uses desired in a true activity center. Future Community Activity Centers are planned for US 287 and SH 402, SW 14th Street and Taft, Wilson and 43rd Street, and US 34 and County Road 9.
- **Regional Activity Center**
The Centerra development (Millennium GDP) is the core for this regional center. Located at the junction of I-25 and US 34, this area has matured into a true mixed-use area with regional shopping, offices, and a wide variety of residential development. Poudre Valley Hospital is currently constructing a regional hospital facility within this area and the Shoppes at Centerra, a 900,000 square foot regional lifestyle shopping center, opened in 2005.

Employment Land Use Category

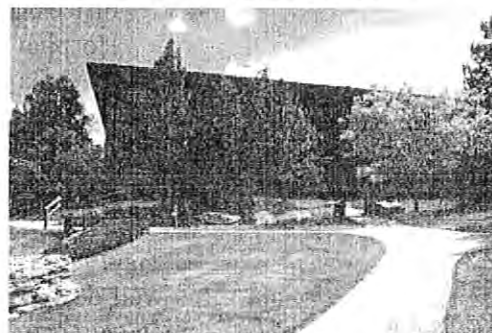
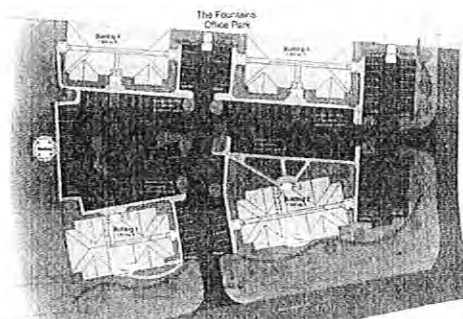
The Employment category provides land for a range of high-quality, well-designed uses where campus-type (see note) settings are encouraged. Uses should be a mix of office and light-industrial, together with lodging, retail, restaurants, and other non-residential

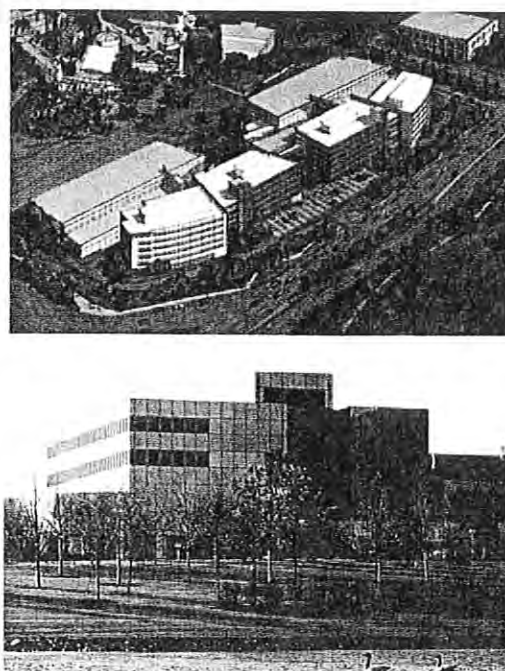
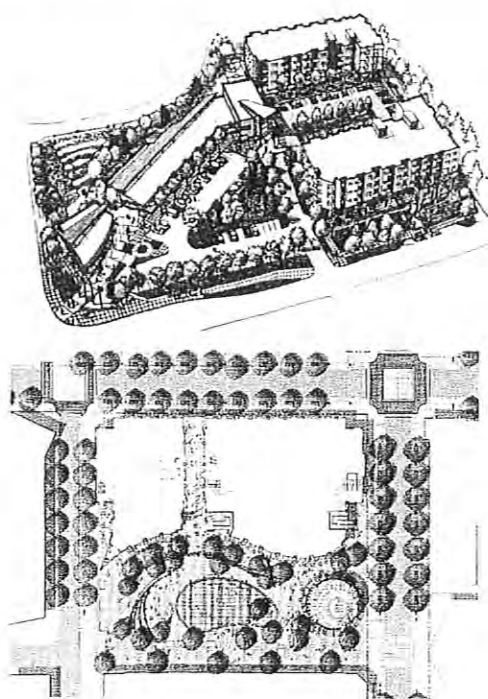
¹ According to the 2000 Land Use Plan, these activity centers were referred to as “Neighborhood Activity Centers.” As part of the 2006 Land Use Plan update, the “neighborhood” moniker was changed to “community” to more appropriately reflect the scale and function of these centers and the fact that they typically include a “community” shopping center. “Neighborhood” centers are placed lower in the revised hierarchy and are typically small commercial centers that serve a smaller neighborhood area.

complementary uses in a planned development. A proposed development plan that does not contain office or light-industrial uses may be deemed to be consistent with the Employment Center category if, in the vicinity of the proposed development plan, a) such office or light-industrial uses exist or the appropriate zoning for such uses is in place; and b) such existing or appropriately zoned office or light-industrial uses constitute the predominant land uses.

The Employment Land Use Category allows for residential development with an emphasis on vertical mixed-use developments. Generally, residential development is limited to 20 percent of the land area of any development. However, residential mixed-use development is not limited in area. Residential mixed-use includes office or commercial uses in the same building as residences, and should be designed to create a pedestrian-friendly environment.

Most of these uses will be located along major transportation corridors such as I-25, US 34, and SH 402. There will be circumstances, such as Woodward Governor, where it is appropriate to locate high-quality employment uses adjacent to residential areas. Each case should be evaluated on its own merits.





Note: "Campus-type" means a form of development that emphasizes open space and the preservation of natural features that may serve as buffers and transitions to adjacent area(s). Retail should be a "secondary" use to office and light industrial uses. The visibility of parking areas, whether structured or otherwise, should be minimized. The exterior elevation design of all buildings should be coordinated with regard to color, materials, architectural form and detailing to achieve design harmony, continuity and horizontal and vertical relief and interest. Shared vehicular and pedestrian access, shared parking, common open space and related amenities should be integrated into the project's design. The overall design of a campus-type development should be compatible with the existing and developing character of the neighboring area.

Estate Residential Land Use Category

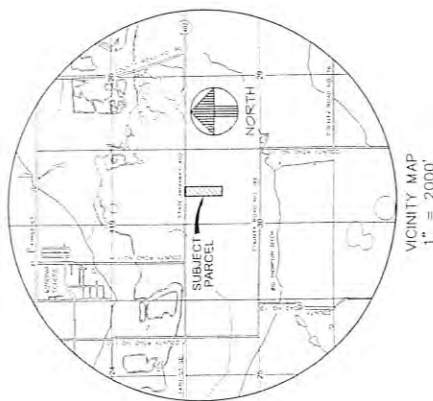
Areas designated ER are intended to provide for lower residential densities and larger lot areas than other residential land use categories. The gross density for ER neighborhoods is up to a maximum of two (2) units per acre on developable land. ER neighborhoods should consist of single family detached homes. Generous building setbacks and lot frontages result in significant space between dwellings to create an estate residential appearance within the developed area and to preserve view corridors.—Significant environmentally sensitive areas are preserved as permanent open space.

REVISED

Table LU-1: Activity Center/Mixed-Use Category Descriptions

Activity Center/Mixed-Use Category Descriptions					RAC-Regional Activity Center	
Purpose	CC- Corridor Commercial	E-Employment	NC-Neighborhood Center	CAC-Community Activity Center	DAC-Downtown Activity Center	Center
	- Wide range of commercial and office uses - Follows linear pattern of older strip commercial - Potential for redevelopment - Varies – may serve local and regional traffic - Varies - typically shallow strip along major portions of existing arterial roads - Predominantly auto dependent - Located along major transportation corridors - Connections encouraged thru the use of shared/cross access - Discouraged where it worsens traffic problems	- Campus-type (1) setting for employment & related commercial(2) - Intended to meet both community and regional employment needs - Up to 300 acres or larger - Predominantly auto dependent - Plan for multi-modal access - Located along, or with access to, major corridors - May be adjacent to residential neighborhoods where appropriate	- Serves daily convenience needs of surrounding neighborhood - Possible social and recreational focal point - Primary service area is 1/2 mile walking distance - Up to 6 acres - Designed to encourage walking and biking access directly to and from adjacent neighborhood - Located along and/or with access to minor arterials and/or collectors	- Serves shopping needs of the community sub-area - Typically anchored by grocery store - Potential for employment and civic uses - Primary market area is 3 miles – may serve a larger area 10 to 30 acres - Primarily auto access - Emphasis on pedestrian connections to neighborhood - Transit and trail access	- Downtown business area - Encourage preservation of historic character, redevelopment and infill - Encourage diverse mix of land use, including arts-related uses - Serves the entire community and beyond 40 acres - Both auto and pedestrian-access emphasized - pedestrian circulation emphasized in "core" - Major transit hub and accessible by community trail system - Alleys provide alternate access points	- Serves regional commercial, service and employment uses - Serves regional market area - up to 300 acres or larger - Accessible by all modes of travel - Dependant on easy highway access to serve regional market - Potential transit stops/transit points
Service/ Market Area						
"Core" Non-Residential Area						
Access and Location						
Typical Non-residential Uses	Retail, low-rise office, public/quasi-public uses, entertainment (e.g. restaurants, theatres), hotels/motels, medical facilities, place of worship, senior or community center, middle/high schools, park and ride facilities	Mix of low- to medium-rise office, light-industrial, retail, lodging and other complementary uses	Convenience grocery, small drug store, insurance offices, gift shop, deli, branches of public/quasi-public uses (post office, library, etc.) day care center, elementary school	Low-rise office, public/quasi-public uses, entertainment (restaurants, theatres, etc.), hotels/motels, medical facilities, place of worship, senior or community center, middle/ high schools; park and ride facilities	Office, hotels, major cultural and entertainment uses; regional & corporate offices in a urban-style setting, retail and services; technology/light manufacturing; higher education; transit facility; major public/quasi-public	Mid & high-rise office; hotels; major cultural and entertainment; regional & corporate offices, retail and service, technology/light manufacturing; higher education; transit facility; major public/quasi-public
Development Guidelines	- Upgrade existing streetscape and building appearance, - Screen existing parking lots - Improve circulation and access control	"Campus-type" setting with unified building design, open space, viewshed protection - Encourage high-quality architecture	- Blends with surrounding context - Dispersed parking - Attractive pedestrian circulation - May include place for neighborhood activities	- Blends with surrounding context - Dispersed parking - Attractive pedestrian circulation - Public plaza/open space should be provided within "core" - Links to park/open space	- Emphasis on streetscape - Outdoor seating encouraged in conjunction with plazas - Preserve historic character	- Larger scale plazas and paths - Encourage high-quality architecture
Residential Component						
General	- As may be permitted by underlying zoning (e.g. B-Developing Business permits single and multiple family) - Mixed-use/residential may be most appropriate uses	- Up to 20% of total employment land area may be residential - Mixed-use³ residential within core	- N/A (These centers will typically be subcomponents of a larger residential development) - Mixed-use³ residential encouraged where appropriate	- Single-family attached/detached and multi-family adjacent to core - Mixed-use³ residential w/in core - See note (4) for projects exceeding 50% residential land area	Single-family attached/detached, multifamily and mixed-use³ residential throughout	- Up to 50% of total land area may be residential - Medium to high density residential
Density	As permitted by zoning (see below)	Up to 16 du/acre (Plus mixed-use ³ residential)	N/A (Mixed-use ³ residential permitted)	Up to 16 du/acre (Plus mixed-use ³ residential)	Up to 25 du/acre (Plus mixed-use ³ residential)	Up to 16 du/ac (Plus mixed-use ³ residential)
Examples	US 34 and US 287 corridors	Woodward Governor, Interlocken, Centerra office	Meadowview Village Center in Longmont	Thompson Valley Center Greeley	Downtown Loveland	Centerra (Millennium GDP)
Alignment with Zoning	- B-Developing Business - Planned Development (PUD) - MAC-Mixed-use Activity Center	- B-Developing Business - I-Industrial - Planned Development (PUD) - E-Employment District	- B-Developing Business - R3e-Established High Density - MAC-Mixed-use Activity Center	- Planned Development (PUD) - MAC-Mixed-use Activity Center	BE-Established Business District	- MAC-Mixed-use Activity Center - Planned Development (PUD)
Notes: 1.) See definition of "Campus-Type" on Page 19. 2.) A proposed development plan that does not contain office or light-industrial uses may be found consistent with the Employment Center category if, in the vicinity of the proposed development plan, a) office or light-industrial uses exist or the zoning for such uses is in place such that these uses or zoning constitute the predominant land uses. "Campus-type" means development that emphasizes open space and the preservation of natural features that may serve as buffers and transitions to adjacent area(s). 3.) Mixed-use residential means residential in the same building with non-residential uses, such as residential at ground level with non-residential or above a non-residential use. In the case of mixed-use above a ground floor non-residential use, the mixed-use residential does not count toward the area limits on residential uses within total activity center area. 4.) For projects exceeding 50 percent residential land area, applicant must demonstrate that sufficient land area is devoted to commercial use within the project, or within the vicinity of the project, to meet future commercial needs and demands.						

TIMKA FIRST ADDITION
BEING A SERIAL ANNEXATION OF PORTIONS OF THE
NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF
SECTION 30, TOWNSHIP 5 NORTH, RANGE 68 WEST OF
THE 6TH P.M., LARIMER COUNTY, COLORADO.



WOMEN BRITNEY J. PAVOLKA 27115 E. HIGHWAY 402 LOVELAND, COLORADO 80537	CONCELA LAH LAURENCE MCDILL (MRS. LUI) 3524 W. COLAHOUE BLVD. LOVELAND, CO 80527

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BASE CATALYST DATA TABLE—1994A FIRST ADDITION SERIAL 1

LOCAL DISCONTINUITY OF A HARTMAN-WINTNER TYPE, PART 2

ADDITIONAL DATA TABLE - 1000A 10025 ADDITION - 2000A 2

TOTAL CONCENTRATION =	33.00 FEET
176 TOTAL PRODUCTION =	3.54
TOTAL PRODUCTION TOES ADDITION =	1966.15 FEET
PRODUCTION TOES ADDITION =	1966.15 FEET
CONCENTRATION OF TOES ADDITION =	1966.15 FEET

Uptake of ^{14}C -labeled TOTAL PHOSPHATE by *Amphispiza bilinearis*

ATTACHMENT 6

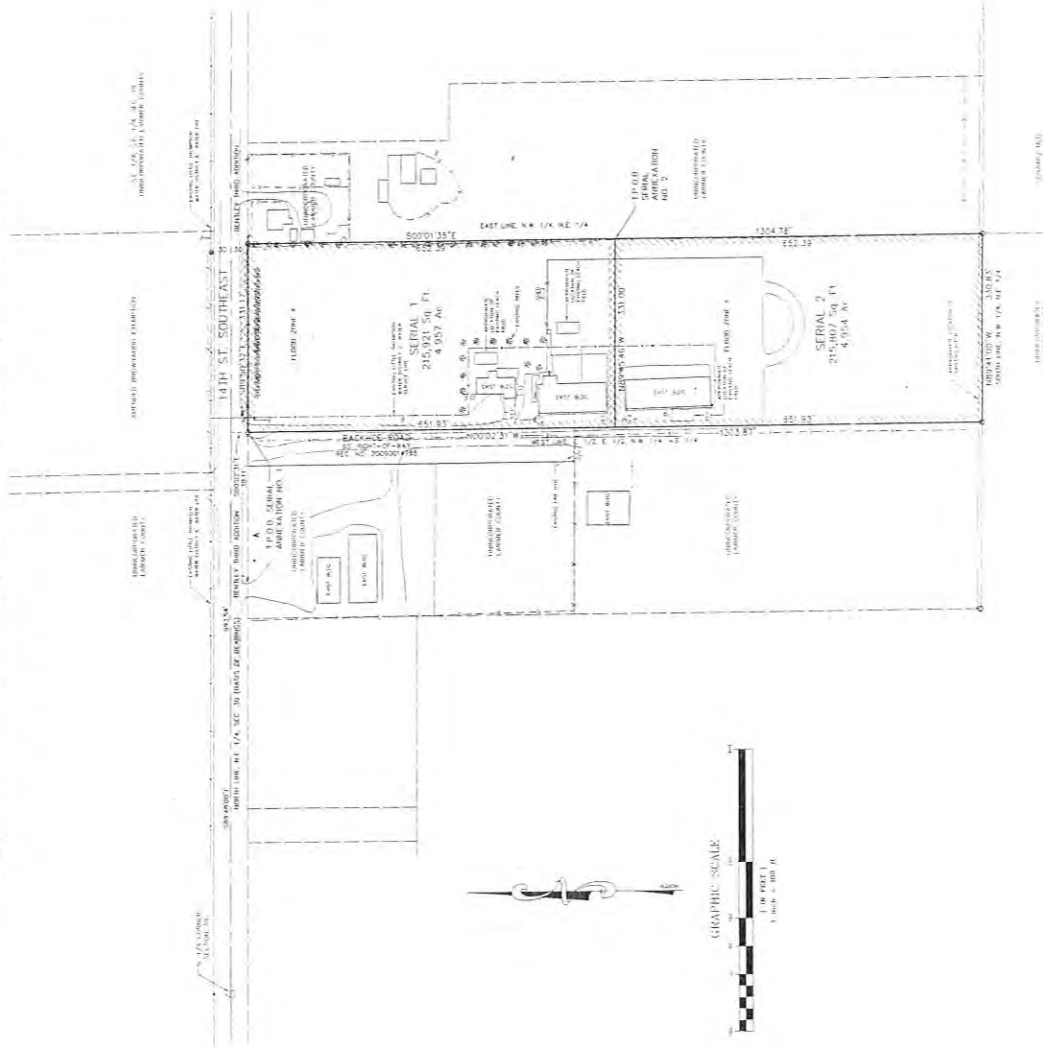
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TIMKA FIRST ADDITION

BEING A SERIAL ANNEXATION OF PORTIONS OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH P.M., LARIMER COUNTY, COLORADO.

ANNEXATION DATA TABLE - TIMKA FIRST ADDITION SERIAL 1
TOTAL CONTIGUITY = 251.17 FEET
1/4 TOTAL PERMETER = 15.93
PERMETER TOTAL = 63.68 FEET
PRESENT CITY LIMITS OF LOVELAND = 1066.20 FEET
CONTIGUOUS BOUNDARY OF LOVELAND =

ANNEXATION DATA TABLE - TIMKA FIRST ADDITION SERIAL 2
TOTAL CONTIGUITY = 541.80 FEET
1/4 TOTAL PERMETER = 13.54
PERMETER TOTAL = 54.16 FEET
PRESENT CITY LIMITS OF LOVELAND = 1066.15 FEET
CONTIGUOUS BOUNDARY OF LOVELAND =



Landmark Engineering
Engineering Services Surveying Architecture
2021 West Eisenhower Blvd., Loveland Colorado 80537
(970) 687-4444 FAX (970) 687-4500
www.landmarkeng.com

DATE	1-10-2018
SCALE	1"=100'
DRAWN	P.A.H.
CHECKED	T.V.J.
APPROVED	P.A.H.

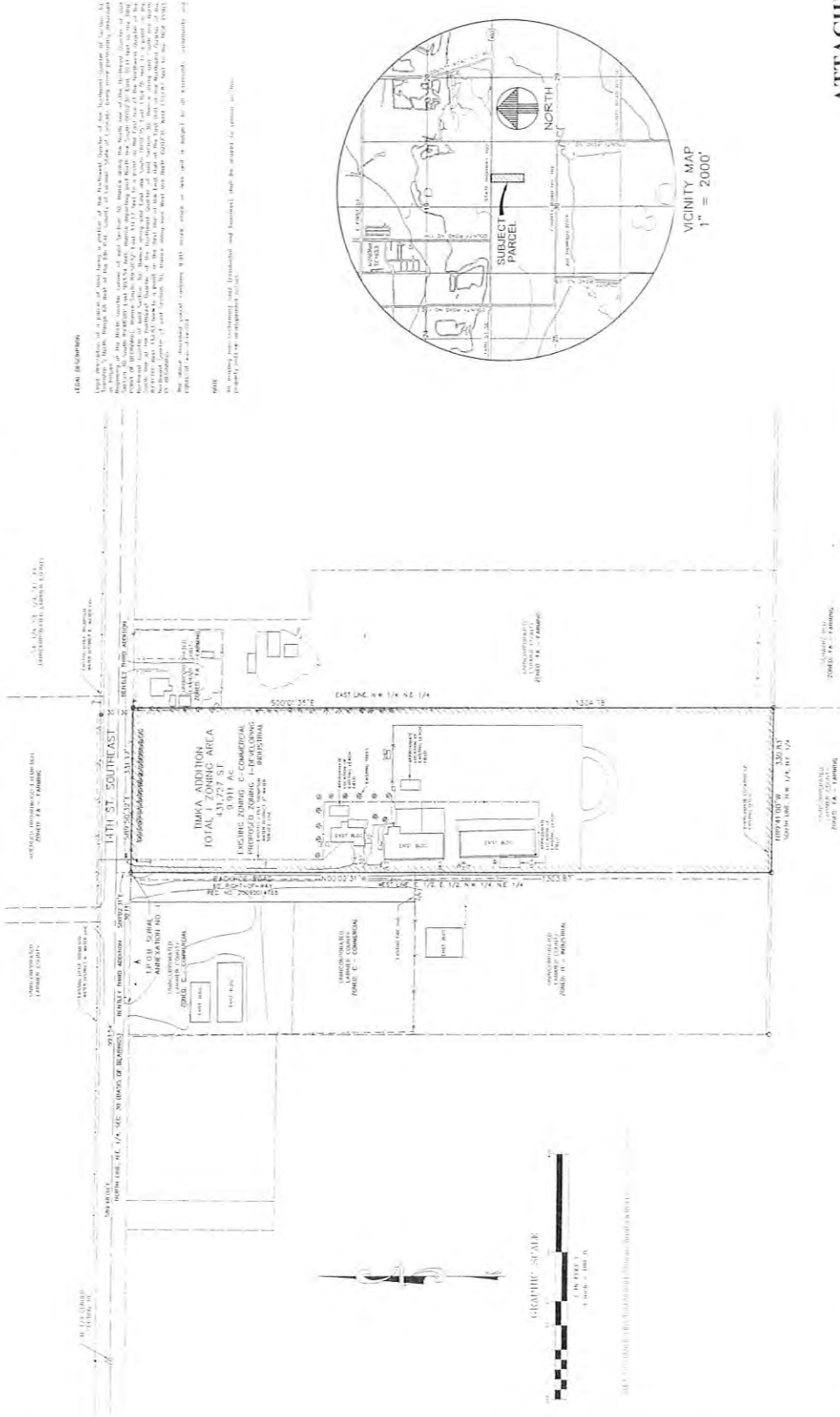
TIMKA FIRST ADDITION
CITY OF LOVELAND, COLO.

SHEET	2
OF	2

TIMKA FIRST ADDITION

TIMKA FIRST ADDITION SERIAL ANNEXATION REZONING MAP

BEING A PORTION OF THE NORTHWEST QUARTER OF THE NORTHEAST
QUARTER OF SECTION 30, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE
6TH P.M., LARIMER COUNTY, COLORADO.



ATTACHMENT 7

TIMKA REZONING MAP CITY OF LOVELAND, COLO.		DATE: 10/10/2017	SCALE: 1" = 100'	PROJECT: 17-000	DESIGNER: J.E.D.	APPROVED: J.E.D.	
TIMOTHY PIVONKA		ENGINEER'S ADDRESS: 1000 N. 10TH ST., SUITE 100, DENVER, CO 80202		PHONE: (303) 697-4328		FAX: (303) 697-4328	
SHEET 1 OF 1		SHEET 1 OF 1		SHEET 1 OF 1		SHEET 1 OF 1	

BEING A PORTION OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH P.M., LARIMER COUNTY, COLORADO.



VICINITY MAP
1" = 2000'

ATTACHMENT 8

**CITY OF LOVELAND
PLANNING COMMISSION MINUTES
January 24, 2011**

 1. Timka First Addition

This is a public hearing to consider an annexation and initial I-Developing Industrial District zoning for a 9.9-acre property located on 14th Street Southeast. This is a serial annexation, achieving contiguity with the City by virtue of being adjacent to 14th Street SE, which was annexed as part of the Bentley 3rd Addition. Serial annexations are expressly allowed under the provisions of the state statutes, provided each serial meets the contiguity requirements for annexation. This matter is legislative in nature.

Brian Burson, project planner, gave a brief background on this item. He stated the request is to annex into the city and zone it I-Developing Industrial, with special provisions and design standards to assure that the desired character of the E-Employment land areas is achieved. The county zoning is currently C-Commercial. He stated that the role of the Planning Commission is to make a recommendation to the City Council for both the annexation and zoning. He stated that when a municipality has adopted a comprehensive master plan, the city is generally obligated to zone property in a manner that is reasonably consistent with that comprehensive plan which would make this proposal a quasi-judicial matter for the Planning Commission. He further reported that the applicant and staff have been working together to develop the terms of annexation as listed in Section VII of the report. He presented the commission with revised terms of annexation (**Secretary's note:** The revisions are included in these minutes).

Ken Merrit, Landmark Engineering representing the applicant, briefly oriented the Commission and audience on the location of the proposed annexation, clarifying that the property is located entirely within the Growth Management Area (GMA), and is designated as E-Employment Land Use. He spoke of the potential uses as outlined in the Land Use Master Plan.

There was a lengthy discussion regarding how annexation could be achieved as a serial to assure that the 1/6 contiguity is met, and explained how the serial annexation would be accomplished. He clarified that the first serial annexation is gained by its contiguity from the adjacent city right-of-way on the southern boundary of Highway 402 and the second serial annexation would come from the southern boundary of the 1st serial annexation, which would then allow for the entire property to be annexed. He pointed out that all uses that are permitted by right in the E-Employment and I-Industrial zones would be permitted. He stated that the following uses would normally be permitted by a special review would not be allowed to occur on this property:

- a. Crematorium
- b. Heavy industrial
- c. Truck stop
- d. Junkyard
- e. Packing facility
- f. Jails, detention and penal center

- g. Outdoor storage as a principle use
- h. Sexually Oriented Businesses
- i. Recycling collection facility attended
- j. Recycling collection facility unattended

Mr. Merrit reported that the applicant is requesting I-Industrial zoning and stated that the annexation and development agreement should be achieved by establishing supplemental site development standards through an annexation agreement. He stated that this property had a high level of site development standards ie., development of a unified campus character, 60% of uses would be employment, 40% support uses; protection of view corridors using setbacks using a minimum 60 ft setback along the 402 corridor, extensive set of landscape and development standards as well as extensive architectural development standards which would be added into an annexation agreement.

Mr. Merrit mentioned that in the future there would be a minor subdivision application on the property, which would also be dedicating additional right-of-way on Highway 402.

Commissioner Meyers asked if lot 2 would be accessible from lot 1.

Mr. Merrit clarified that there is an access easement located along western property boundary allowing access to both lots from Highway 402.

Commissioner Dowding spoke of the two maps, one being the contiguity map differentiating the north and south being in a different location than what is shown in the site development standards. She asked what activities would be allowed in the north and south lots.

Mr. Merrit clarified that minor subdivisions are approved at a staff level and that the lots would be required to comply with the conditions that are required in the I-Industrial zoning as well as the conditions in the annexation agreement. He further clarified that those uses have not been defined yet and stated that they will be consistent with what is allowed by the zoning.

Commissioner Krenning questioned why the applicant chose I-Industrial not B-Business zoning.

Mr. Merrit stated they struggled with that B-Business has some very specific uses, which were slightly more limiting. He stated that they also looked at using the MAC zone, which includes uses that contain a higher level of residential, and retail and stated that the E zone would require extensive conditions and since the site was so small it did not make sense and felt it was out of character. He stated that since the I zone was lacking in development standards they felt that it would be better to require the conditions that are in the staff report to make it a more quality development.

Commissioner Krenning asked why the applicant is not zoning the property DR and questioned if there were plans for development at this time.

There was a lengthy discussion regarding the IGA with Larimer County. The IGA requires that property owners ask the City to be annexed if they are eligible. **Mr. Merrit** stated that this property does not meet the contiguity requirement, and was not required to ask to be annexed. He stated that if the applicant were to request a DR zone then all rights that the property owner had in the County could be lost. He further commented that there is not an IGA for this part of the County.

Mr. Merrit assured Commissioner Dowding that the building setback minimums would be met. He stated that due to the size of the property and all the standards that have to be met in the E zone it was their opinion that the I zone was easier to write the development standards.

Chair Molloy stated that he did not understand why the E zone was not maintained as shown on the Comprehensive Plan.

Mr. Burson clarified that the Comprehensive Plan does recognize that the I-Industrial zone fulfills the E-Employment area recommendation but does not instruct on how to adapt it to the character. He stated that if the I-Industrial zoning were acceptable than staff believed it should add the additional character which is needed. He stated that the concept master plan requires specific unified development and you would have narrow choices on design and at this time there is no developer on board to say what they want with regards to design.

After discussion regarding state requirements for contiguity, **Tiffane Johnson, Landmark Planners and Engineers**, clarified that there were currently five companies located on the site: landscape maintenance; two oil and gas service companies; Timka Resources; Timberline Tools and French Concrete.

Mr. Merrit clarified that they are not setting boundaries for this particular annexation because it is a serial annexation.

After discussion regarding state requirements for contiguity, **Tiffane Johnson, Landmark Planners and Engineers**, clarified that there were currently five companies located on the site: landscape maintenance; two oil and gas service companies; Timka Resources; Timberline Tools and French Concrete.

Mr. Paulsen clarified that the provisions of the Code would allow nonconforming uses to expand to up to 25%.

Commissioner Krenning stated that he would be supporting the application and believed that staff does work in the best interest of the City.

Assistant City Attorney Sunita Sharma made the following changes to the conditions:

- 3.b. Upon annexation and zoning into the City, and notwithstanding the provisions of Sections 18.36.010 and 18.36.020 of the City of Loveland Municipal Code, all uses permitted by right and all uses permitted by special review in the E-Employment District shall also be permitted on this property as

specified in the E-Employment District. In cases where a use is allowed in the I zone by right ~~by~~ **but** normally requires a special review in the E zone, the uses allowed by right in the I zone shall govern.

AND

Striking the following Water/Wastewater condition:

~~11. — At the time of Development, the Developer shall design and construct a wastewater main along Highway 402 to the site, if not previously constructed by others. The main shall be designed in accordance to the then current Wastewater Master Plan and Wastewater Development Standards.~~

Commissioner Krenning made a motion to make the findings listed in Section VI of the staff report dated January 24, 2011, and recommend that City Council approve the Timka First Addition to the City of Loveland and zone the Timka First Addition as I-Developing Industrial, subject to the terms of annexation listed in Section VII of said report, as amended on the record. Upon a second by Commissioner Middleton the motion was unanimously adopted.

Mr. Merrit agreed to the conditions.

RECOMMENDED TERMS OF ANNEXATION

The following terms of annexation are recommended by City staff.

Current Planning:

1. Upon annexation of the property, all development and redevelopment of the property shall be governed by the Development Standards in **Attachment #2**, as well as all applicable codes, standards and policies of the City. These Development Standards shall be incorporated into the Annexation Agreement between the Owner and the City.
2. When reviewing and acting upon any application for a use permitted by special review, the City shall be authorized to consider the goals, objectives and criteria for the E-Employment Center land use category, as set forth in the 2005 Comprehensive Plan, as amended. Applications that do not meet the intent of the goals, objectives and criteria for the E-Employment Center land use category, as set forth in the 2005 Comprehensive Plan, as amended, may be disapproved by the City.
3. Upon annexation and zoning into the City, and notwithstanding the provisions of Sections 18.36.010 and 18.36.020 of the City of Loveland Municipal Code, the following uses shall not be permitted on this site:
 - a. Crematorium
 - b. Heavy industrial
 - c. Truck stop

- d. Junkyard
- e. Packing facility
- f. Jails, detention and penal center
- g. Outdoor storage as a principle use
- h. Sexually Oriented Businesses
- i. Recycling collection facility attended
- j. Recycling collection facility unattended

3.b. Upon annexation and zoning into the City, and notwithstanding the provisions of Sections 18.36.010 and 18.36.020 of the City of Loveland Municipal Code, all uses permitted by right and all uses permitted by special review in the E-Employment District shall also be permitted on this property as specified in the E-Employment District. In cases where a use is allowed in the I zone by right but normally requires a special review in the E zone, the uses allowed by right in the I zone shall govern.

Transportation Engineering:

4. All future development within this addition shall comply with the Larimer County Urban Area Street Standards (LCUASS), the 2030 Transportation Plan, and any updates to either in effect at the time of a building permit, and/or a site-specific development application. Any and all variances from these standards and plans require specific written approval by the City Engineer.

5. Notwithstanding any conceptual information presented in the Annexation/Zoning submittal; street layout, street alignments, access locations, intersection configurations and intersection operations (traffic controls) shall be determined at the time of application for a building permit, and/or a site-specific development application.

6. The owner shall dedicate to the City, at no cost to the City, right-of-way for all street facilities adjacent to, or within, this addition that are shown on the adopted Transportation Plan prior to approval of a building permit and/or a site specific development application within this addition. Furthermore, the owner shall dedicate additional right-of-way for SH 402 on any future platting application for the property in order to achieve a 70-foot total half right-of-way on SH 402 adjacent to the property.

7. The developer agrees to acquire, at no cost to the City, any off-site right-of-way necessary for mitigation improvements. Prior to the approval of a building permit, and/or a site specific development application within this addition, the developer shall submit documentation satisfactory to the City, establishing the Developer's unrestricted ability to acquire sufficient public right-of-way for the construction and maintenance of any required street improvements to both adjacent and off-site streets.

8. The ultimate roadway improvements, including sidewalk, adjacent to the property for SH 402 shall be designed and constructed by the developer, unless designed and constructed by others. A cash-in-lieu payment may be accepted for all or part of the improvements, if approved in writing by the City Engineer. The timing and detailed scope of these improvements will be

determined through review and approval of the building permit application and/or a site-specific development application.

9. Any future proposed development within the addition shall submit a Traffic Impact Study and demonstrate compliance with current City Standards at the time of development.

10. Any future proposed development within the addition shall obtain written concurrence from CDOT for access to SH 402.

Water/Wastewater:

11. At the time of Development, the Developer shall, provide the City a Wastewater Impact Design Analysis Report for the Development.

Power:

12. All plats of this property shall include the following note:

"When the property being annexed into the City of Loveland is currently located within the REA certified territory, this property is subject to a five percent (5%) surcharge on electrical energy as defined in 40-9.5-204, CRS, and the City of Loveland Municipal Code 13.12.180. This surcharge applies to any subsequent subdivisions of property annexed after January 31, 1987 within the REA certified service territory. A surcharge of 5% will be added to all bills for the sale of electric power to additional services which came into the existence after January 31, 1987, within the territory herein annexed which surcharge will expire ten years after effective date of this annexation."

Larry Ryder, Larimer County resident and adjacent neighbor, expressed concerns regarding an access easement. He stated that County required him to dedicate a 30-foot right-of-way easement.

Mr. Merrit stated that in the future their maybe a joint access easement, but the city is not prepared to make this a public road at this time. He stated that when development occurs then the access would be addressed.



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

AGENDA ITEM: 15

MEETING DATE: 5/3/2011

TO: City Council

FROM: Betsey Hale, Business Development

PRESENTER: Betsey Hale, Business Development Manager

TITLE:

A Resolution Awarding 2011 Lodging Tax Grants and Authorizing Contracts for City of Loveland Lodging Tax Grant Funds

DESCRIPTION: This is an administrative action. The Resolution awards Lodging Tax Grants, approves the form of the Grant Contract and authorizes the City Manager to execute Grant contracts in the amounts and to the specified recipients.

BUDGET IMPACT: \$60,000

☒ Yes ☐ No

The action will award \$60,000 in lodging tax revenues appropriated for expenditure in the 2011 City budget.

SUMMARY: This Resolution awards Lodging Tax Grant Funds in the total amount of \$60,000 previously appropriated for 2011. The Resolution approves the award of a specified amount of grant funds to specified recipients for specified projects, approves the form of the grant contract and authorizes the City Manager to sign the grant contracts for each award. Grant recommendations were determined and approved by the Community Marketing Commission through an online scoring process followed by an evaluation meeting and a final vote.

LIST OF ATTACHMENTS:

1. Staff Report
2. Resolution
3. Grant Contract Form

RECOMMENDED CITY COUNCIL ACTION: Approval of the Resolution

REVIEWED BY CITY MANAGER:



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

DATE: May 3, 2011
TO: CITY COUNCIL
FROM: Betsey Hale, Business Development
RE: Staff Report for City Council Agenda Item

The grant process for the Lodging Tax funds closed on March 20 with 17 applications requesting almost \$300,000 in funding. After two weeks reviewing and scoring the applications, the Community Marketing Commission met and submitted their final votes on the grant applications. On April 7, 2011 the Community Marketing Commission recommended City Council approval of \$60,000 in funding for the following Grant Applications.

The Community Marketing Commission recommended City Council approval of the grants based on the *2005 Comprehensive Plan*.

Objective 13.7.4. Explore various funding mechanism such as a lodging tax to support the community's tourism marketing and promotional efforts.

The grant applications meet the following criteria as outlined in the October 2009 City Council approved *Process for Distribution of Lodging Tax*:

Commission's Mission: To promote Tourism, conventions and related activities within Loveland, Colorado. ***Intent:*** The intent of the Community Marketing Commission is to provide funding for the development and/or enhancement of city attractors that increase the economic impact of tourism to Loveland.

1. May Historic Preservation Month- Recommended amount \$3,000.

The grant request was for \$3,715 from the City of Loveland Historic Preservation Commission to assist in funding marketing materials and events primarily located in Downtown Historic Loveland during the month of May 2011. The Community Marketing Commission voted to recommend the funding of a walking brochure that could be utilized throughout the year, not just during the event in the month of May. The CMC recommends that the brochure be distributed to area hotels and the Loveland Visitor's Center as well as the Loveland Museum and other venues. In addition, the CMC recommends that the brochure be featured in electronic form on the City's website and other appropriate websites.

2. Snow Sculpture in the Dark and Holiday Festival- Recommended Amount \$10,000

The grant request was for \$10,000 from Engaging Loveland to assist in funding advertising, marketing materials, entertainment, printed materials and other various event costs. The event will be held December 5-11, 2011 in Downtown Loveland and four other locations in Loveland. The

Community Marketing Commission voted to recommend the funding of this event due to the well thought out marketing plan to reach potential visitors in the Denver, Wyoming and Nebraska areas as well as counties in Colorado inside and outside Larimer and Weld Counties. This will be the second year for the event which is modeled after the Snow Sculpting Event held in Breckenridge in January each year.

3. Sweetheart Balloon Rally- Recommended Amount \$5,000

The grant request was for \$5,000 from Engaging Loveland to assist in funding advertising, marketing materials, printed materials and other various event costs. The event will be held during the Corn Roast Festival at Fairgrounds Park August 26, 27 and 28, 2011 in Loveland. Twenty hot air balloons will be launched at this year's event with the eventual goal of 100 balloons. Engaging Loveland partners with the Colorado Balloon Rally which brings out of the region visitors, balloonists, their teams and families. Promotional reach includes Cheyenne, Wyoming to Colorado Springs, CO. The Loveland Sweetheart Balloon Rally is the only event of its kind in Northern Colorado.

4. Denver Marketing Test for Sculpture In The Park 2011-Recommended Amount \$15,000

The grant request was for \$15,000 from High Plains Arts Council to assist in funding a direct mail promotion plan in the Denver area. An annual event, Sculpture in the Park is held in Benson Sculpture Park on August 12-14, 2011. It is a nationally recognized sculpture show featuring 171 sculptors and over 2100 pieces of artwork from across the nation. In its 28th year, the show attracts over 15,000 visitors (19% from out of state) and has revenues of over one million dollars per year. Approximately 2,640 room nights are consumed by show visitors during the event. Direct economic impacts include sales tax revenue, \$110,000 of show expenses spent locally, and the donation of approximately \$100,000 annually to the City of Loveland in the form of sculpture and capital improvements. The grant funds will be used on new advertising to targeted high income zip codes within the Denver area. The results expected are an increase of \$45,000 in show revenue.

5. Marketing To Increase Patron Attendance at Sculpture Invitational-Recommended Amount \$19,000

The grant request was for \$24,900 from Loveland Sculpture Invitational to assist in increasing attendance to the event to be held on August 12-14, 2011. An annual event, Loveland Sculpture Invitational is held in North Lake Park and attracts with the two other events, approximately 15,000 visitors (33% are from outside Larimer and Weld Counties). It is recognized as the largest outdoor sculpture event in the country, with 250 sculptors and their representatives (62% are from out of state) participating. Show revenue is generated by gate sales, sponsorships and booth spaces paid for by the artists. The grant funds will be used for a mailing campaign that will go out to 15,000 homes which will include past patrons, art collectors, galleries, CEOs and home owners with discretionary income. In 2010, the Community Marketing Commission granted \$10,150 for this marketing effort due to a budgeting error (LSI submitted the budget for the marketing plan and not their whole budget and the CMC was restricted by their policy to award only 35% of the budget). The amount recommended makes up for this error. The LSI's goal is to increase attendance to the event by 5,000 to 7,000 paying visitors.

6. Front Range/Colorado Coop Marketing-Recommended Amount \$5,000

The grant request was for \$10,000 from Engaging Loveland to assist in funding a cooperative program to promote and market Loveland to potential visitors statewide and nationally, potential

conferences, art exhibitions, sporting and recreational events. Leads generated will receive information about Loveland business opportunities, relocation opportunities, hotel and hospitality information, special events, public art, galleries and artists. Hotels, local businesses and retail, the Chamber, restaurants, local galleries and artists, real estate agencies, distilleries, wineries, breweries, tourist and visitor attractions will benefit from this program. Publications include the Colorado State Vacation Guide, Colorado.com, AARP Magazine, listings in winery and brewery brochures, public art museum brochures, Scenic By-way brochure and destination websites. The funding will be matched by the Colorado Tourism Office. The CMC agreed that it is important to continue funding this program annually and intends to have more input into this marketing program once their Strategic Marketing Plan is complete.

7. Loveland Wedding Professionals Wedding Today TV – Recommended Amount \$3,000

The grant request was for \$3,000 from Loveland Wedding Professionals and Events to fund advertising with Weddings Today TV, Colorado's online television show and resource guide. Colorado Digital Video will produce and host a video that will expose Loveland and its services to potential wedding clients throughout the entire state of Colorado and the world wide web. This is a ten minute video promo infomercial highlighting Loveland's assets, such as Benson Sculpture Park, Lake Loveland, and other wedding venues in Loveland. The video will air 36 times per year. A web version and trade show DVD will also be created. The grant will cover production costs and air time. The average wedding cost in Colorado is \$20,966. The average wedding had 140 guests with each guest spending \$153 per person during their stay in Loveland. The CMC plans on working with the Loveland Wedding Professionals to gather more data on the number of weddings held in Loveland each year, venues chosen and services used to accurately calculate return on investment.

R E S O L U T I O N #R-29-2011

A RESOLUTION AWARDING 2011 LODGING TAX GRANTS AND AUTHORIZING CONTRACTS FOR CITY OF LOVELAND LODGING TAX GRANT FUNDS

WHEREAS, the City imposes a lodging tax pursuant to Chapter 3.24 of the Loveland Municipal Code (the “Lodging Tax”) for the purpose of promoting tourism, conventions and related activities within the City by marketing the City and sponsoring community events, both in support of this purpose (the “Dedicated Purpose”); and

WHEREAS, the Community Marketing Commission (“Commission”) serves as an advisory body to the City Council concerning the City’s use of the revenues received from the Lodging Tax for the Dedicated Purpose pursuant to Section 2.60.075 of the Loveland Municipal Code; and

WHEREAS, applications for grants funded by the Lodging Tax (the “Lodging Tax Grants”) have been received and evaluated by the Commission; and

WHEREAS, the Commission has made a recommendation to Council to: (i) fund 2011 Lodging Tax Grants in the amounts (the “Grants”) to the recipients (the “Grant Recipients”) for the projects (the “Projects”) identified on **Exhibit A** attached hereto and incorporated herein by this reference; and (ii) authorize the City Manager to enter into a grant agreement with each Grant Recipient substantially in the form attached hereto as **Exhibit B** attached hereto and incorporated herein by this reference (the “Lodging Tax Grant Contract(s)"); and

WHEREAS, City Council desires to award Grants to the Grant Recipients for the Projects and authorize the City Manager to enter into the Lodging Tax Grant Contracts.

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

Section 1. That the City Council hereby finds that the Grants and Projects satisfy the requirements regarding use of the Lodging Tax for the Dedicated Purpose as set forth in Section 3.24.105 of the Loveland Municipal Code.

Section 2. That the Grants to the Grant Recipients in the Grant Amounts and for the Projects identified on **Exhibit A** attached hereto and incorporated herein by this reference, are hereby approved.

Section 3. That the form of the Lodging Tax Grant Contract attached hereto as **Exhibit B** and incorporated herein by this reference is hereby approved and the City Manager is hereby authorized to administer the terms and conditions of the Lodging Tax Grant Contract, with such advice of the Commission as may be requested.

Section 4. That the City Manager and the City Clerk are hereby authorized to execute the Lodging Tax Grant Contracts with the Grant Recipients for the Grant Amounts on behalf of the City. The City Manager, in consultation with the City Attorney, may amend the Lodging Tax Grant Contracts in form or substance as deemed necessary to effectuate the purposes of this Resolution or protect the interests of the City.

Section 5. That this Resolution shall go into effect as of the date and time of its adoption.

ADOPTED this 3rd day of May, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

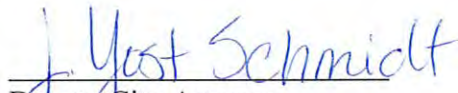

Deputy City Attorney

Exhibit A		Lodging Tax Grants Recommendation May 2011	
Project Title	Organization	Amount	
Marketing to Increase Patron Attendance	Loveland Sculpture Invitational	\$	19,000.00
Denver Marketing Test 2011 SITP	High Plains Arts Council	\$	15,000.00
Snow Sculpture in the Dark/Holiday Festival	Engaging Loveland	\$	10,000.00
Sweetheart Balloon Rally	Engaging Loveland	\$	5,000.00
May Historic Preservation Month	Historic Preservation Commission	\$	3,000.00
Front Range Colorado Co-op Marketing	Engaging Loveland	\$	5,000.00
Weddings Today TV Campaign	Loveland Wedding Professionals	\$	3,000.00
Total		\$	60,000.00

EXHIBIT B

CONTRACT FOR CITY OF LOVELAND LODGING TAX GRANT FUNDS

THIS CONTRACT FOR CITY OF LOVELAND LODGING TAX GRANT FUNDS ("Contract") is made and entered into this _____ day of _____, 2011, by and between the CITY OF LOVELAND, COLORADO, a home rule municipality ("City"), and _____, a _____ ("Recipient").

WHEREAS, the City imposes a lodging tax pursuant to Chapter 3.24 of the Loveland Municipal Code (the "Lodging Tax") for the purpose of promoting tourism, conventions and related activities within the City by marketing the City and sponsoring community events, both in support of this purpose; and

WHEREAS, the Community Marketing Commission serves as an advisory body to the City Council concerning the City's use of the revenues received from the Lodging Tax and has recommended to Council to fund a grant in the amount set forth below (the "Grant") to Recipient for the Project described in this Contract; and

WHEREAS, City Council approved Resolution #R-50-2010 awarding Lodging Tax Grant Funds, including the Grant to Recipient, and authorizing the City Manager to sign Lodging Tax Grant Contracts reflecting such awards; and

WHEREAS, the Recipient desires to receive the Grant from the City on the terms and conditions set forth in this Contract.

NOW, THEREFORE, in consideration of the mutual covenants and agreement contained herein, the parties agree as follows:

1. Scope of Project. The scope of services and the project to be accomplished and/or rendered by the Recipient (the "Project") is set forth in City of Loveland Lodging Tax Application For Funding attached hereto as **Exhibit A** and incorporated herein by reference, including the modifications or additional requirements set forth on the coversheet for Exhibit A, if any. The Recipient agrees to complete the Project as set forth in **Exhibit A** on or before _____ (the "Completion Date") and warrants and represents that it has the requisite authority and capacity to complete the Project in compliance with the provisions of this Contract.

2. Recognition of Funding. If requested by the City, Recipient agrees to recognize the Grant coming from the City of Loveland Lodging Tax in marketing and promotion materials for the Project.

3. Compensation and Payment.

a. Total Amount of Compensation. The City shall pay to the Recipient the Grant in the amount of _____ Dollars (\$_____) within 30 days after execution of this Contract (the "Payment Date").

b. Post Project Report. The Recipient shall submit to the City a post event evaluation report (the "Post Project Report") on the form available on the Community Marketing Commission website (<http://www.ci.loveland.co.us/CMC/cmcmainpage.htm>) or at the City of Loveland City Clerk's Office, within 30 days after completion of the Project, but no later than 30 days after the Completion Date. If Recipient fails to complete the Project on or before the Completion Date or fails to submit the Post Project Report within the 30-day period, Recipient will not be eligible for future City Of Loveland Lodging Tax Grants until the Post Project Report is received. The Post Project Report shall be accompanied by: (i) invoices certified by the Recipient as true and correct copies of all payments made on behalf of the Recipient for the Project; and (ii) payment to the City in the amount by which the Grant amount paid to Recipient exceeds 35% of the actual expenditures by Recipient to complete the Project as reflected by certified invoices.

4. Term. The City's obligation to provide funding under this Contract shall begin on the date this Contract is executed by the City ("Effective Date") and end on the Payment Date. The City shall not pay any costs or expenses incurred by the Recipient before the Effective Date of this Contract.

5. Termination, Default, and Remedies.

a. For Cause by the City. The City may immediately terminate this Contract if the Recipient materially fails to comply with any term or condition of the Contract.

b. Without Cause by Either Party. Either party may terminate the Contract upon 30 days written notice to the other party. In the event the City terminates the Contract, for reason other than the Recipient's failure to comply with any term or condition of the Contract, the Recipient shall be entitled to retain payment for costs of the Project actually incurred and paid or payable as of the date on which the notice of termination is received by the Recipient. The Recipient shall refrain from incurring any additional costs in connection with the Project following the date on which the notice of termination is received by the Recipient. In the event the City terminates the Contract, for reason other than the Recipient's failure to comply with any term or condition of the Contract, the Recipient shall return all unexpended Grant funds to the City within 10 days after written notice of termination

c. Materials and Documents. In the event this Contract is terminated or upon completion of the Project, all finished or unfinished materials, documents,

data, studies, and reports prepared by the Recipient pursuant to this Contract shall, at the option of the City, become the City's property.

d. Non-Performance Payback. The parties acknowledge that the primary goal of this Contract is for the Recipient to complete the Project on or before the Completion Date. In the event that Recipient fails to comply with any term or condition of this Contract, Recipient shall repay the entire Grant amount received from the City within 10 days after written demand therefore from the City.

e. Remedies. The Recipient's obligations for repayment under this Paragraphs 3 and 5 shall survive any termination of this Contract, and in the event the City terminates the Contract for failure to comply with any term or condition of the Contract, the City may pursue any and all remedies available to it under the law or in equity to collect any or all of the amounts owed to it under this Contract, including repayment of the entire Grant amount.

f. Expenses and Costs of Collection. In the event that Recipient fails to comply with any term or condition of this Contract and, as a result, the City pursues collection efforts through suit or otherwise, Recipient agrees to pay all of the City's reasonable expenses and costs of collection incurred by the City in connection with any such collection efforts and/or suit, in addition to any other amounts owed under this Contract, which expenses and costs of collection shall include, without limitation, the following: attorney's fees; receiver's fees and costs; expert witness fees; deposition costs; filing fees; the cost of mailing notices and other documents; the cost of serving process, notice and other documents; and copy costs.

6. Assignability. This Contract may be terminated by the City if assigned by the Recipient without the City's prior written consent.

7. Responsibility of City. The City shall designate representatives of the City authorized to make all necessary decisions required of the City on behalf of the City in connection with the execution of this Contract and disbursement of the Grant.

8. Recipient Financial Records. The Recipient shall keep all records of reimbursable expenses pertaining to the Project and all records of accounts between the City and the Recipient on a generally recognized accounting basis. The City and its duly authorized representatives shall have access to all of the Recipient's books, documents, papers, and records which are directly pertinent to this Contract for the purpose of making an audit or examination. Upon completion of this Contract, all financial records pertaining to this Contract shall remain the City's property. The Recipient shall provide the City Manager's Office with a copy of its financial records pertaining to this Contract.

9. Monitoring and Evaluation. The City reserves the right to monitor and evaluate the progress and performance of the Recipient to ensure that the terms of this

Contract are being satisfactorily met in accordance with the City and other applicable monitoring and evaluating criteria and standards. The Recipient shall cooperate with the City relating to such monitoring and evaluation.

10. Recipient Files and Activity Reports. The Recipient shall retain information in its files which shall clearly document all activities performed in conjunction with this Contract including, but not limited to, financial transactions, conformance with assurances, and Recipient activity reports. These files shall be retained by the Recipient for a period not less than 3 years after the completion of the Project and shall make such files available to the City for review at the City's request.

11. Independent Contractor. The parties agree that the Recipient shall be an independent contractor and shall not be an employee, agent, or servant of the City. Neither this Contract nor the actions of the parties hereto shall make or be construed to make the Recipient, its employees, agents, or servants the employees, agents, or servants of the City. The Recipient shall be solely and entirely responsible for its acts and the acts of its employees, agents, servants, and subcontractors. **The Recipient shall be solely responsible for providing necessary and adequate workers' compensation insurance and for withholding and paying all federal and state taxes. The Recipient and its employees are not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by the Recipient or an entity other than the City.**

12. Indemnification. The Recipient shall assume the risk of all personal injuries, including death resulting therefrom, to persons and damage to or destruction of property, including loss of use therefrom, caused by or sustained, in whole or in part, in connection with or arising out of the performance or nonperformance of this Contract by the Recipient, its employees, agents, servants, or subcontractors, or by the conditions created thereby. The Recipient shall indemnify and hold harmless the City, its officers, agents, and employees from and against any and all claims, liabilities, costs, expenses, penalties, attorney's fees, and defense costs arising from such injuries to persons or damages to property based upon or arising out of the performance or nonperformance of this Contract by the Recipient, its employees, agents, servants, or subcontractors or out of any violation by the Recipient its employees, agents, servants, or subcontractors of any law, regulation, or ordinance.

13. Assurances. The Recipient shall use the Grant funds received from the City pursuant to this Contract only for the purposes authorized by this Contract.

14. Conflicts of Interest. The Recipient covenants that no member of its Board of Directors or any officer or employee presently has any personal interest in the Project and shall not acquire any interest therein that would conflict with the performance of the Project required under this Contract or by any applicable law, regulation, or ordinance.

15. Entire Agreement. This Contract 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. No statement, promise, condition, understanding, inducement, or representation, oral or written, express or implied, that is not contained herein shall be binding or valid.

16. Binding Effect. This Contract shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, personal representatives, successors, and assigns.

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

18. Severability. In the event a court of competent jurisdiction holds any provision of this Contract invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Contract.

19. Headings. Paragraph headings used in this Contract are for convenience of reference and shall in no way control or affect the meaning or interpretation of any provision of this Contract.

20. Notices. Written notices required under this Contract and all other correspondence between the parties shall be directed to the following and shall be deemed received when hand-delivered or 3 days after being sent by regular first class mail:

If to the City:

City Manager's Office
City of Loveland
500 East Third Street, Suite 210
Loveland, CO 80537

If to the Recipient:

(Print Entity Name & Notice Address)

21. Compliance with Article XXVIII of the Colorado Constitution. If and only to the extent this Contract constitutes a "sole source government contract" within the meaning of Article XXVIII of the Colorado Constitution ("Article XXVIII"), then the provisions of Sections 15 through 17 of Article XXVIII ("Amendment 54") are hereby incorporated into this Contract, and the parties hereto shall comply with the provisions of Amendment 54. In such case, for purposes of this Contract, the Recipient shall constitute a "contract holder" for purposes of Amendment 54, as shall any additional persons, officers, directors, or trustees related to the Recipient who qualify as "contract holders" pursuant to the definition set forth in Article XXVIII. In addition, if and only to the extent this Contract constitutes a "sole source government contract," the Recipient hereby certifies that it is not ineligible to hold any "sole source government contract" pursuant to Amendment 54 or any contract thereunder, and the Recipient hereby agrees to notify the City immediately if, at any point during the term of this Contract, the Recipient shall become ineligible to hold any "sole source government contract" pursuant to Amendment 54 or any contract thereunder. If any provision or provisions of Amendment 54 are held to be unconstitutional or otherwise invalid by a court of competent jurisdiction in a non-appealable action, have been repealed retroactively or otherwise do not apply to this Contract, such provision or provisions shall no longer be incorporated into this Contract, and the parties hereto shall have no obligations under such provision or provisions.

IN WITNESS WHEREOF, the Recipient and the City have executed this Contract as of the date first above written.

CITY OF LOVELAND, COLORADO

By: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

Deputy City Attorney

RECIPIENT:

(Print Entity Name & Type of Entity)

By:

Print Name & Title:

STATE OF COLORADO

)

) ss.

COUNTY OF LARIMER

)

The foregoing Recipient Contract for City of Loveland Lodging Tax Grant Funds was signed and acknowledged before me this _____ day of _____, 20____, by _____ as _____ of _____.

(Print Name of ABOVE Signer)

(Print Title)

(Print Recipient Entity)

Witness my hand and official seal.

My commission expires _____.

Notary Public

**CITY OF LOVELAND**
FINANCE DEPARTMENT

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

AGENDA ITEM: 16
MEETING DATE: 5/3/2011
TO: City Council
FROM: William D. Cahill, City Manager
PRESENTER: Bill Cahill

TITLE:

Review and acceptance of Report of the City Council's Annual Advance

DESCRIPTION:

This is an administrative action accepting and approving the Report of the City Council's Annual Advance held on February 5, 2011.

BUDGET IMPACT:

☐ Yes ☒ No

None

SUMMARY:

The City Council held its Annual Advance on February 5, 2011 at Group Publishing in Loveland. This annual event is intended for the Council to set major goals and priorities for the coming year. The Council's work is contained in the Report (Attachment 2), and is further summarized in the one-page Summary (Attachment 1). These documents have been previously supplied to Council members in draft form.

As follow-up to the Advance, the Council expressed interest in:
Receiving and approving a Report of the Advance;
Receiving periodic reports of progress on goals outlined for the year; and
Holding an additional event mid-year to more thoroughly review progress.

This item is the first of those three follow-ups. Periodic reports will be made, and the mid-year event is recommended to be scheduled in August 2011 as a study session.

LIST OF ATTACHMENTS:

1. Summary of City Council Advance.
2. Report of the City Council Advance.

RECOMMENDED CITY COUNCIL ACTION: Adopt a motion accepting and approving the Report of the City Council's Annual Advance held on February 5, 2011.

REVIEWED BY CITY MANAGER:

Summary: City of Loveland 2011 Council Goals and Priorities



Goals and Activities	Lead Responsibility	Schedule
Goal 1, Public Safety: Continue public safety as the key priority of the City.		
1.1 Regional Crime Lab	Police	Draft IGA by December 2011
1.2 Consolidation of City & Rural District for Fire/Rescue Services	Fire	Draft IGA by December 2011
1.3 Public Safety Infrastructure	Police, Fire	Ongoing
Goal 2, Economic Vitality: Build and strengthen Loveland's economic vitality.		
2.1 Economic Development Strategy	Economic Development	Complete November 2011
2.2 Downtown Catalyst Projects	Development Services	Developer Selection July 2011
2.3 Redevelopment of the Agilent Campus, including public engagement	City Manager, Econ Dev't	Development Agreement August 2011
2.4 Rialto Bridge	Development Services	Construction underway May 2011
2.5 Airport Growth and Capital Projects	Public Works	Major project summer 2011
2.6 Targets of Opportunity	as needed	Ongoing
2.7 Regionalism and Annexation Agreement with Johnstown	Council, City Manager	Discussions by September 2011
2.8 Artspace Project	Development Services	Finance application by July 2011
2.9 Pulliam Building	Development Services	Ongoing
2.10 "Black Boxes" (significant vacant buildings)	Economic Development	Program adopted by November 2011
Goal 3, Financial Responsibility: Maintain Loveland's healthy financial position.		
3.1 Financial Sustainability Strategy	Finance, City Manager	Complete May 2011
3.2 "De-Brucing" Election	Finance, CFAC, Council	Ballot Measure drafted July 2011
3.3 Analyze and Reduce Reliance on Intergovernmental Revenue	Finance	Complete October 2011
3.4 Capital Expansion Fees (CEFs)	Dev Svcs, Fiscal Advisor	Complete July 2011

Goals and Activities

Goal 4, Infrastructure Quality: Maintain and develop Loveland's infrastructure.

4.1 Street Maintenance Funding	Public Works	Ongoing
4.2 Water Shares, Supply and Infrastructure	Water & Power	Master Plan complete September 2011
4.3 Electric Power Infrastructure	Water & Power	Ongoing

Goal 5, Quality of Life: Preserve and enhance Loveland's quality of life.

5.1 Public policy concerning poverty and homelessness	Community Partnership	Policy Draft complete September 2011
5.2 Environmental Sustainability Plan	Public Works	Ongoing
5.3 Comprehensive Plan Update	Development Services	Draft to Council October 2011
5.4 Visual Arts Commission: Selection Process for Public Art	Cultural Services	Draft to Council December 2011
5.5 Transportation Plan	Public Works	Council Review by September 2011

Governance

Lead Responsibility

Schedule

G.1 Council Meetings: Combine Council comment periods to one	City Manager	By May 2011
G.2 Print suggested time limits on City Council study session items	City Manager	By April 2011
G.3 Council members contact staff in advance with questions	Council	Ongoing
G.4 Improve staff reports thru: redlining, history of issues, use of PowerPoint:	City Manager	Ongoing
G.5 Pilot test of laptops - iPods with interested Council Members	Information Technology	By July 2011
G.6 Provide Communications policy to Council Members	Assistant City Manager	By April 2011
G.7 Resume Legislative Day	Assistant City Manager	By June 2011
G.8 Review Boards & Commissions as part of financial sustainability process	City Manager	By June 2011
G.9 Improve Process for Key Management Evaluations	Human Resources	By September 2011

Implementation

Lead Responsibility

Schedule

I.1 Publish Report of the Advance	City Manager	By April 2011
I.2 Periodic Reporting on progress toward Goals	City Manager	Quarterly
I.3 Mid-Year Review with City Council and management staff	CM/Council	By August 2011



City of Loveland City Council Advance February 5, 2011

Mayor Cecil Gutierrez
Mayor Pro Tem Larry Heckel
Council Member Carol Johnson
Council Member Daryle Klassen
Council Member Cathleen McEwen
Council Member Hugh McKean
Council Member Donna Rice
Council Member Joan Shaffer
Council Member Kent Solt

Contents

Introduction
Review of the Previous Year's Goals
Goals for 2011
Governance and Meeting Management Changes
Follow-Up and Implementation
Evaluation and Planning for Next Year's Advance

Exhibits

1. Agenda
2. Review of the Previous Year's Agenda Themes
3. Compendium of Possible Topics
4. Planning of Advance

Introduction

The purpose of the Loveland City Council's annual Advance is to set priorities and goals for the year. This involves a review of progress on the past year's goals; identification of topic areas for discussion; ranking issues in priority order; and considering issues of meeting management and governance.

The Loveland City Council Advance was held February 5, 2011, at Group Publishing. Dr. Judy Skupa of the Thompson Valley School District served as facilitator. All Council members attended, as did members of the City's executive Management Team. The Agenda for the Advance is included as Exhibit 1.

The one-day Advance was preceded by Council and staff submittal of possible topics for discussion, and a ranking exercise at the January 18 City Council study session to narrow the list of topics to a manageable number for the February 5 discussion.

Review of The Previous Year's Goals

The Advance included review of last year's goals, and progress made. Themes from the 2010 Council Retreat are included in Exhibit 2. Review of progress was accomplished in small group discussions, and each activity was rated with a Plus (+) if significant accomplishments were achieved, a Minus (-) if no significant progress, and an X if the issue is unresolved but continuing.

The consensus ratings are shown below in abbreviated form:

- (+) Downtown revitalization
- (+) Redevelop / repurpose HP property
- (+) Economic development
- (X) Public / private partnerships and associated infill / redevelopment mixes
- (X) Balancing risk and benefits / Incentives
- (-) Support of local entrepreneurial efforts through business assistance partnerships
- (+) Assure adequate funding for planned Library remodel / expansion
- (+) Improving City Manager / Council communications
- (-) Time saving opportunities at Council and study-session meetings
- (-) Importance of Loveland's regionalism role in Northern Colorado
- (+) Transparency in government
- (+) Campaign finance limitations
- (X) Review and consider use and fees for City facilities

Goals for 2011

Five goal areas were identified for 2011. Specific action items were identified for each of the five goal areas, and priorities assigned.

The five goal areas are:

1. Public Safety
2. Economic Vitality
3. Financial Responsibility
4. Infrastructure Quality
5. Quality of Life

Goal 1, Public Safety: Continue public safety as the key priority of the City.

1.1 Regional Crime Lab

A Northern Colorado crime laboratory has advanced as a regional project between the primary law enforcement agencies in Larimer and Weld Counties. The objective is to create a regional cost sharing agreement that permanently draws all the forensic specialists together under one roof in a fully functional lab facility. Substantial organizational energy has already been invested in this effort by the Police Department. This year, the City will need to make a firm commitment for its share of operating costs.

1.2 Consolidation of City & Rural District for Fire/Rescue Services

A study of fire service consolidation has been in process for two years. A fire authority has been selected as the most appropriate governance model for the City of Loveland and the Loveland Rural Fire Protection District to enter into a more productive partnership. Substantial planning and critical Council decisions will be needed this year. The Rural District plans a ballot measure for an increased mill levy in May 2012.

1.3 Public Safety Infrastructure

The Council wishes to emphasize the importance of other public safety infrastructure and systems, giving to these projects and programs a high priority as needed.

Goal 2, Economic Vitality: Build and strengthen Loveland's economic vitality.

2.1 Economic Development Strategy

The creation of an Economic Development Strategy has been authorized by the council and will require substantial work effort during 2011. The recommended process will be the establishment of an Ad Hoc Committee which will be created in April and meet thru August. There will be educational meetings, data review and then facilitated strategic plan development. Staff is anticipating a draft for review in October.

2.2 Downtown Catalyst Projects

The Downtown Request for Proposals for developers has been issued and will result in the City receiving developer proposals in April. This launches a period of developer selection, project negotiation and contract development. The City will also need to conclude the acquisition of Leslie's Cleaners, an environmentally impeded property. The project management of any proposed developments will require significant funding, major allocation of staff time and several formal policy decisions by the Council.

2.3 Redevelopment of the Agilent Campus, including public engagement

If the community secures the ACE project it is expected that major allocation of staff time, City funding and several formal policy decisions by the Council will need to be made. Substantial organizational energy and resources have already been invested in this redevelopment opportunity.

2.4 Rialto Bridge

The Rialto Bridge project has been in development for about two years. Specific decisions for funding and project agreements will need to be made early in the year. Those key decisions will be followed by project construction, which may also require additional actions by the City Council. Significant staff effort will be needed throughout 2011.

2.5 Airport Growth & Capital Projects

In 2009, the cities of Fort Collins and Loveland adopted a formal business plan for the airport, the first ever adopted. The plan lays out long term financial needs to support both aviation and non-aviation economic development. Substantial new investments, both public and private, are expected to be initiated throughout 2011.

2.6 Targets of Opportunity

Economic development is not very predictable on an annual basis. The City needs to retain flexibility and resources to be able to respond to opportunities which are not known at this

time. The Council and organization will need to be nimble in order to capitalize on opportunities of benefit to Loveland.

2.7 Regionalism and Annexation Agreement with Johnstown

The City has a history of supporting regional cooperation, including Intergovernmental Agreements with Larimer County, City of Fort Collins and Windsor addressing the areas of growth boundaries, overlay land use zoning and transportation. The City will engage with Johnstown in discussion of highway improvements and development in the area of Hwy 402 and I-25. The effort will require significant allocation of staff time, organizational resources and several outreach meetings and policy decisions by the Council.

2.8 Artspace Project

Council has previously approved a \$550,000 predevelopment contract with Art Space in November. Artspace is currently working with the Loveland Housing Authority on a tax credit application and with the community on private donations to support the construction. It is expected that by mid-year, substantial organizational resources and policy decisions by Council will be needed.

2.9 Pulliam Building

Norm Rehme has led a community effort to restore the historic Pulliam Building. The current estimates call for a \$2.9 million renovation with approximately \$1 to \$1.9 million coming from community fundraising with the City expected to match. Although no City plans currently include financial commitment to the project, staff resources may be needed to move project planning forward.

2.10 “Black Boxes” (significant vacant buildings)

Several significant buildings in Loveland have been vacant for some time. Most are retail in nature, but some are office/industrial. The City Council may desire that efforts to fill “black boxes” become a part of the Economic Development Strategic Plan. This may be accomplished most effectively by a retail recruitment program.

Goal 3, Financial Responsibility: Maintain Loveland’s healthy financial position.

3.1 Financial Sustainability Strategy

A process has begun to develop solutions for a \$3.5M projected gap between the revenue and expenditures estimates for 2012-2020. It engages the public in identifying priorities and engages employees at all levels of the organization. Solutions will be developed and transmitted to the City Council in May so that they can be incorporated into the 2012 budget development process that starts in June.

3.2 “De-Brucing” Election

In 2002, the voters authorized the City to receive and expend all revenues in excess of the TABOR revenue limit from 2003 through 2012. This voter authorization sunsets on December 31, 2012. The Council has indicated its desire to place a new “de-Brucing” measure on the ballot in November 2011. This requires City Council adoption of the ordinance to refer the measure to the ballot on first reading August 2 and on second reading August 16.

3.3 Analyze and Reduce Reliance on Intergovernmental Revenue

The City may be at risk of loss or reduction of revenues that come from other governmental agencies in the next few years based on the budgetary challenges that those agencies are also facing. The General Fund is expected to receive \$6.3 million in 2011, or 10% of General Fund total revenue excluding internal transfers. Analysis of reliance on intergovernmental revenues will be included in the Financial Sustainability Strategy.

3.4 Capital Expansion Fees (CEFs)

An organized process has begun to solicit public comment about the City's Capital Expansion Fee Program. A report to the City Council will be made in late April, 2011. Substantial organizational energy has already been allocated towards this effort and several future policy decisions will be asked of Council.

Goal 4, Infrastructure Quality: Maintain and develop Loveland's infrastructure.

4.1 Street Maintenance Funding

In 2008 and 2009 staff reviewed with Council the increasing costs of roadway maintenance. Since that time, the amount contributed to road maintenance actually declined in the 2010 and 2011 budgets by \$600K. Currently Loveland has a strong pavement and roadway system, but failure to maintain it will cause dramatic costs in the future, because rebuilding is substantially more expensive than maintenance.

4.2 Water Shares, Supply and Infrastructure

The City's water supply strategy is to have a supply capable of meeting the needs of the community during a 100 year drought event. The City is a participant in the Windy Gap Firing Project with adequate cash reserves on hand and has been very active in the C-BT Market recently. The City's Raw Water Master Plan and Water Conservation Plan will be updated during 2011, with substantial public participation and significant City Council decisions.

4.3 Electric Power Infrastructure

The short and long term strategies of the power utility come in two main areas: Generation and Transmission (G&T); and Retail Distribution. The City is working with the other owner cities and staff at the Platte River Power Authority (PRPA) to plan long term generation needs. Agreements with other utilities in the Western U.S. play a major role in accomplishing economies of scale and increased reliability through diversification. On the retail distribution side, the City is planning for significant capital improvements to enhance reliability by making the system flexible in how loads can be transferred from substation to substation.

Goal 5, Quality of Life: Preserve and enhance Loveland's quality of life.

5.1 Public policy concerning poverty and homelessness.

Efforts to reduce poverty and homelessness have been undertaken primarily by non-profit organizations, the County and the State. The City has not traditionally had a significant role in social programs, but can play a leadership role in the community in stimulating additional efforts to combat poverty and homelessness. Current efforts to work with business and social service agencies should continue and receive additional focus.

5.2 Environmental Sustainability Plan

In 2008, staff began developing a draft plan to bring forward to Council for consideration on the topic of environmental sustainability. The City is already engaged in many sustainable

practices but has not adopted a formal policy statement. The Sustainability Plan concept will be built around existing concepts already in City plans, and will add strategy to identify the City's role in guiding and supporting sound environmental decision-making. Draft materials can be brought forward to Council by mid-year.

5.3 Comprehensive Plan Update

The current Comprehensive Plan, which contains City policies regarding all aspects of City government, was adopted in 2005 following an extensive community outreach and visioning effort. The Plan contains 6 Vision Statements, 31 Guiding Principles, 113 Goals and 432 Objectives. Staff is in the process of updating the plan. The primary goal is to greatly simplify and streamline the Objectives so the Plan becomes more strategic. As part of the update, staff is engaging all the City Boards and Commissions. Several Council public hearings and formal policy decisions will be needed in 2011.

5.4 Visual Arts Commission: Selection Process for Public Art

Artwork is added to the City's collection through direct purchase, donations, and competitions. Competitions are the most frequent method of acquisition and are often tied to a specific capital project, such as the Library or Chilson Center. While the final decision is made by the VAC, guest jurors are included in almost every selection process. The Acquisition Policy is available on the City's web site. It will be scheduled for Council information and review during the year.

5.5 Transportation Plan

The City is required to have a Transportation Master Plan, updated every five years. The current document has a planning horizon to 2030. This update will also include a look at long term planning trends around "living streets" and enhanced connectivity for other transportation modes in addition to vehicles.

Governance and Meeting Management Issues

Meeting Procedures

Several different measures for streamlining and improving meeting processes were discussed. Generally, Council meetings are felt to be effective and improved over the

past, but additional steps should be taken to improve the meetings and reduce the time spent. The following specific actions were agreed upon:

- M1. Combine the two City Council comment/announcement periods to one, to clarify for the public and Council members.
- M2. For Study Sessions, print suggested time limits for each item on the agenda. This will be tried at least twice and evaluated for effectiveness.
- M3. Council Members should contact staff in advance of meetings to address questions, even if calls are made the day of the meeting.
- M4. Staff reports and presentations can be improved with the following:
 - a. When lengthy documents are revised and presented again in a subsequent Council meeting, the documents should be in redlined format so that Council members can review them easily for changes.
 - b. Cover sheets should include a brief history of the issue in the Summary, if the issue has been presented to Council or other City bodies before.
 - c. PowerPoints should be used differently. They should not introduce significant new information at the meeting that has not been seen before; and should not just repeated material from the packet. If PowerPoint is presented in the packet, it should be legible and not dark.
 - d. Staff reports or cover sheets should fairly present options for Council consideration.

Use of Technology: Laptops

There was discussion of the use of laptops or iPads for Council Members, rather than paper agendas. Not all Council Members are interested in paperless agendas.

There will be a pilot test of iPads or laptops for Council Members who wished to try them. Tentatively, that will be Mayor Gutierrez and Members Solt and McEwen.

Communications Policy

The Council discussed the importance of using multiple media to communicate with the Loveland citizenry whenever possible.

Several Councilors referenced the City-wide Communications Plan that was formally approved back in 2008. Copies of that document will be provided to Council for a refresher.

Legislative Day

The Council will resume a Legislative Day with state and federal legislators, to strengthen the legislative relationship, as well as to address critical issues.

Boards and Commissions

The City has 24 standing boards and commissions, and a variety of ad-hoc committees. City Council Members have liaison responsibilities to these and other groups. Some have expressed a concern that this is too many bodies, stretching the time and resources of Council Members.

However, these advisory bodies provide a valuable feedback to the Council, and democratic values of participation need to be balanced with the value of efficiency.

The role of boards and commissions will be explored during the Financial Sustainability process.

Key Management Evaluations

The City Council directly evaluates three staff: the City Manager, the City Attorney, and the Municipal Judge. In general, processes for evaluation can be improved. Three steps can be taken for improvement:

1. Create a City Council Subcommittee to develop and lead the evaluation process.
2. Seek suggestions from the three key personnel as to evaluation methods.
3. Create and use a new evaluation instrument.

Follow-Up and Implementation

The following specific measures will be carried out to implement the goals and priorities from the Advance.

1. Publish this Report of the Advance, and present it at a City Council Study Session for consensual ratification.
2. Create periodic reports to Council on the goals and priorities established.
3. Hold a Mid-Year Review to monitor the results to date on the goals, and make any necessary mid-course corrections.

Evaluation and Planning for Next Year's Advance

Council Members evaluated this year's Advance. Positive features:

1. Management staff participation in discussion was helpful.
2. Starting with a review of 2010 accomplishments was positive.
3. Sharing of ideas and advance preparation of materials for the 52 items was important.
4. Having the new City Manager in place was critical.

Suggestions for improvements:

1. Add names to the items to be discussed.
2. Spread the advance over two days; one day was not quite enough.
3. The Advance should be scheduled in January.

Exhibit 1: Agenda for the Advance



City Council Advance Agenda February 5, 2011 8:00 – 4:00 Group Publishing

8:00 - 8:15	Welcome and Introductions	
8:15-8:30	Review Agenda and Norms Review the Mission and Vision of the City of Loveland and discuss its role in determining goals/key priorities.	
8:30 – 9:00	Review the 2010 Goals: Small Group Work: Review the goals placing a + on what was achieved, an x on in progress, and a – on what did not get accomplished. What did we achieve? What did not get accomplished and why? Is this goal still important? Do we continue or abandon? What key lessons did we learn from our goal setting last year that we can use this year?	
9:00 – 9:30	Large Group: Who are we in the decision making process? What is consensus? Decision making process: the focusing 4	
9:30 – 9:45	Break	
9:45 - 12:00	Reviewing the list for 2011 and establishing priorities Inquiry: Asking others to make their thinking visible Advocacy: Making your thinking and reasoning visible Final Selection by Council	
12:00 – 12:30	Lunch	
12:30 – 1:30	Review Priority Goals Key questions	

1:30 – 1:45	Break	
1:45 – 3:15	Governance and Structure Issues Key Topics: Staff Responsibilities v Board Responsibilities How do we address the issues of work quality by staff and groups? What challenges do we face and how do we address these? How do we restructure (reculture) our organization? How will we organize our study sessions?	
3:15 – 3:30	Break	
3:30 – 4:00	Reflections of the Day --What went well? --What do we need to change? --What questions do we still have? --What are our next steps?	

Exhibit 2: Themes and Issues from 2010 City Council Retreat

- Downtown revitalization through private investment
- Redevelop / repurposing HP property
- Economic development as it relates to jobs, jobs, jobs....
- Public / private partnerships and associated infill / redevelopment mixes
- Balancing risk and benefits / Incentives
- Support of local entrepreneurial efforts through business assistance partnerships
- Assure adequate funding for planned Library remodel / expansion
- Improving City Manager / Council communications
- Time saving opportunities at Council and study-session meetings
- Importance of Loveland's regionalism role in Northern Colorado
- Transparency in government
- Campaign finance limitations
- Review and consider use and fees for City facilities

Exhibit 3: Compendium of Possible Topics

Council	Board and Commission Evaluation, Possible Consolidation
Council	City Council Meeting Procedures—Length and Order of the Agenda
Council	Change Council Packets to Laptop Computers
Council	Community Vision Process/Strategic Plan
Council	Regionalism and Annexation Agreement with Johnstown
Council	Key Management Evaluations, Process and Timing
Finance	Financial Sustainability Project
Finance	De-Brucing Election in November 2011
Finance	Intergovernmental financial dependence (grants, pass-throughs)
Dev Svcs	Review of Capital Expansion Fees
Dev Svcs	Update of Comprehensive Plan
Dev Services	Development Code Update
Dev Services	Permitting Process Improvements
Fire	Consolidation of City Fire and Rural Fire District
Fire	Strategic Plan
Police	Regional Crime Lab Project
Police	Regional Law Enforcement Training Facility
Water& Power	Water Master Plan
Water & Power	Water infrastructure needs: short term plan; long term (20-30 years) strategy
Water & Power	Power infrastructure needs: short term plan; long term (20-30 years) strategy
Water & Power	Water: shares and storage acquisition and development – supply side and strategy
Econ Dev	Economic Development Strategy
Econ Dev	Redevelopment of Agilent Campus/ ACE Research Center
Econ Dev	CMC Strategic Marketing Plan/Branding
Econ Dev	Launch of Office of Creative Sector Development
Econ Dev	Marketing/Development of 25/402 Property (Ehrlich Property)
Econ Dev	Fill “Black Boxes”

Downtown	Rialto Bridge
Downtown	Catalyst Projects
Downtown	Purchase Leslie the Cleaners
Downtown	ArtSpace Project (possible tax credit application In June)
Downtown	Pulliam Building Restoration
Downtown	Agilent-Fairgrounds Park-Downtown Connectivity
Library	Consider moving to a Library District
Library	Complete Library Expansion
Library	Friends of the Library Fundraising Campaign/Wrap-up
Cultural Services	Museum Expansion Planning
Cultural Services	Visual Arts Commission: Selection Process for Public Art
Public Works	Highway 402 and Highway 43 Traffic Improvements
Public Works	Transportation Master Plan Review and Update
Public Works	Transportation Funding Issues
Public Works	Airport Growth and Capital Projects
Public Works	Sustainability Strategy
Public Works	Street Maintenance Funding Gap
Human Services	Homeless Issues in Loveland
Human Services	Tackle the skyrocketing poverty rate in Loveland
Parks -Recreation	Hike/Bike Trails: number of bikes, winter uses
Citywide	CIP Changes to Make in 2011, including Mehaffey Park

Exhibit 4: Planning for 2011 City Council Advance

City Council Planning Committee:

Mayor Cecil Gutierrez, Mayor Pro-Tem Larry Heckel, Council Member Hugh McKean

Desired Results

- Goals, Priorities, and Work Program for 2011
- Secondly, Clarify Relationships and Roles as Needed

Logistics/Mechanics

Saturday, February 5, 2011, 8 am to 5 pm

Group Publishing (tentative)

Food: Group Publishing - continental breakfast; noon sandwich bar; afternoon break

Facilitator (no charge): Dr. Judy Skupa, Thompson School District

Topics and Agenda

Draft list circulated to Council; awaiting additions by Council members

List to be reviewed/voted at the January 11 City Council study session

List to be brought into Advance for final confirmation

Preliminary Agenda Outline for the Day

Introductory matters/expectations (brief!)

Preliminary review of major issues/confirmation of topics for discussion
(Management staff present and participating)

In-depth discussions of the selected topics

Governance/process issues to achieve goals
Study session topic identification

Final goals and objectives (voting or consensus; Council only)

Summary/confirmation/wrapup of results from the day

Follow-up

Periodic reports on progress, to City Council

Mid-year study session or "mini-Advance" to review

**CITY OF LOVELAND****FINANCE DEPARTMENT**

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

AGENDA ITEM: 17
MEETING DATE: 5/3/2011
TO: City Council
FROM: Renee Wheeler, Assistant City Manager/Finance Director
PRESENTER: Renee Wheeler

TITLE:
March 2011 Financial Report

DESCRIPTION:

This is an information only item. No action is required. The Snapshot Report includes the City's preliminary revenue and expenditures including detailed reports on tax revenue, health claims and cash reserves for the three months ending March 31, 2011.

BUDGET IMPACT:

☒ Yes ☐ No

SUMMARY:

The Snapshot Report is submitted for Council review and includes the reporting of the City's preliminary revenue and expenditures including detailed reports on tax revenue, health claims and cash reserves for the three months ending March 31, 2011. Citywide Revenue (excluding internal transfers) of \$44,327,134 is 101.7% of year to date (YTD) budget or \$723,085 over the budget. Sales Tax collections year to date are 102.4% of the YTD budget or \$192,827 over budget. Building Material Use Tax is 41.8% of YTD budget, or \$254,766 under budget. The year to date Sales and Use Tax collections were 98.8% of YTD budget or \$103,980 under YTD budget. When the combined sales and use tax for the current year are compared to 2010 the same period last year, they are lower by .3% or \$24,279.

City wide total expenditures of \$42,137,040 (excluding internal transfers) are 91.2% of the YTD budget or \$4,090,385 under the budget, primarily due to the construction timing of capital projects (65.8% YTD budget).

The City's health claims paid year-to-date is \$2,088,500 or 105.9% of budget. Compared to 2010 for the same period, claims paid in 2011 decreased \$535 or .03%. The City's cash and reserve balance year-to-date was \$191,512,686.

LIST OF ATTACHMENTS:

Snapshot report for March 2011

RECOMMENDED CITY COUNCIL ACTION:

No action is required

REVIEWED BY CITY MANAGER:

SnapShot

Monthly Financial Report

March 2011

Inside this edition

Citywide Revenues & Expenditures	2
General Fund Revenues & Expenditures	4
Tax Totals & Comparison	6
Sales Tax SIC & Geo Codes	8
Health Care Claims	9
Activity Measures	10
Cash & Reserves	11
Capital Projects	12

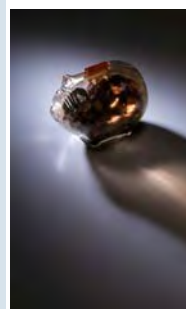


A Snapshot In Time

- Citywide Revenue, excluding transfers between funds, \$44.3 million (101.7% of Year-To-Date Budget, 1.7% above projected)
- Sales & Use Tax Collection, \$8.8 million (98.8% of Year-To-Date Budget, 1.2% below projected)
- Citywide Expenditures, excluding transfers between funds, \$42.1 million (91.2% of Year-To-Date Budget, 8.8% below projected)
- Citywide Year-To-Date revenues exceed Year-To-Date expenditures by \$2.2 million.
- General Fund Revenue, excluding transfers between funds, \$15.8 million (102.5% of Year-To-Date Budget, 2.5% above projected).
- General Fund Expenditures, excluding transfers between funds, \$13.4 million, (91.8% of Year-To-Date Budget, 8.2% below projected)
- General Fund Revenues exceed Expenditures by \$2.7 million.
- Health Claims, \$2.1 million (105.9% of Year-To-Date Budget, 5.9% above projected)
- Cash & Reserves Year-To-Date Balance, \$191.5 million, \$141.8 million or 74.1% of these funds are restricted or reserved primarily for future capital projects.



The Sales Tax Basics



MARCH 2011	Sales Tax	Motor Vehicle		Building	
		Use Tax	Materials	Use Tax	Combined
Budget 2011	\$ 7,970,040	\$ 478,790	\$ 437,520	\$ 8,886,350	
Actual 2011	\$ 8,162,867	\$ 436,749	\$ 182,754	\$ 8,782,370	
% of Budget	102.4%	91.2%	41.8%	98.8%	
Actual 2010	\$ 7,641,251	\$ 429,754	\$ 735,644	\$ 8,806,649	
Change from prior year	6.8%	1.6%	-75.2%	-0.3%	

Financial Sustainability

The City maintains projections for financial performance over 10 years into the future. Projections, based on the current information available, indicate that the revenues in the General Fund will not be sufficient to cover expenditures in each of the future years. The average gap between revenues and expenditures is projected to be \$3.5 million annually, 2012–2020. The Financial Sustainability Process has been designed to strategically evaluate durable solutions. City Council has been working on setting priorities and principles to guide the evaluation of ideas generated for solutions. Many different groups of people have been submitting ideas, including employees and citizens. Three Financial Sustainability Forums were held with members of the public. An online survey was open to the public through April 30. Financial sustainability strategy recommendations will be presented to City Council May 24.



Citywide Revenues & Expenditures

Monthly Financial Report

Combined Statement of Revenues and Expenditures

MARCH 2011

REVENUE	Current Month	YTD Actual	YTD Revised Budget **	% of Budget
General Governmental				
1 General Fund	\$ 6,167,220	\$ 15,829,835	\$ 15,440,271	102.5%
2 Special Revenue	(1,912)	138,308	198,718	69.6%
3 Other Entities	2,923,413	3,382,060	3,166,585	106.8%
4 Internal Service	1,289,851	3,839,322	4,049,328	94.8%
5 Subtotal General Govt Operations	\$ 10,378,572	\$ 23,189,524	\$ 22,854,902	101.5%
6 Capital Projects	823,990	2,459,539	2,375,571	103.5%
Enterprise Fund				
7 Water & Power	4,831,785	15,831,821	15,451,185	102.5%
8 Stormwater	351,230	1,041,844	1,074,999	96.9%
9 Golf	218,587	506,389	489,010	103.6%
10 Solid Waste	443,302	1,298,016	1,358,382	95.6%
11 Subtotal Enterprise	\$ 5,844,904	\$ 18,678,071	\$ 18,373,576	101.7%
12 Total Revenue	\$ 17,047,467	\$ 44,327,134	\$ 43,604,049	101.7%
Prior Year External Revenue		43,805,882		
Increase (-Decrease) From Prior Year		1.2%		
13 Internal Transfers	186,978	1,168,623	2,700,207	43.3%
14 Grand Total Revenues	\$ 17,234,445	\$ 45,495,757	\$ 46,304,256	98.3%

EXPENDITURES

General Governmental				
15 General Fund	\$ 4,277,691	\$ 13,295,365	\$ 14,141,305	94.0%
16 Special Revenue	27,793	92,430	166,702	55.4%
17 Other Entities	2,888,641	3,140,453	2,596,737	120.9%
18 Internal Services	1,216,456	3,036,224	4,227,890	71.8%
19 Subtotal General Gov't Operations	\$ 8,410,581	\$ 19,564,471	\$ 21,132,634	92.6%
20 Capital	994,324	8,593,178	13,059,580	65.8%
Enterprise Fund				
21 Water & Power	4,226,047	12,425,848	9,841,590	126.3%
22 Stormwater	128,828	383,864	487,275	78.8%
23 Golf	154,678	412,916	662,071	62.4%
24 Solid Waste	238,805	756,764	1,044,275	72.5%
25 Subtotal Enterprise	\$ 4,748,359	\$ 13,979,391	\$ 12,035,211	116.2%
26 Total Expenditures	\$ 14,153,264	\$ 42,137,040	\$ 46,227,425	91.2%
Prior Year External Expenditures		35,697,322		
Increase (-Decrease) From Prior Year		18.0%		
27 Internal Transfers	186,978	1,168,623	2,700,207	43.3%
28 Grand Total Expenditures	\$ 14,340,242	\$ 43,305,663	\$ 48,927,632	88.5%

** Based on seasonality of receipts and expenditures since 1995.

Special Revenue Funds: Community Development Block Grant, Cemetery, Local Improvement District, Lodging Tax, Affordable Housing, Seizure & Forfeitures.

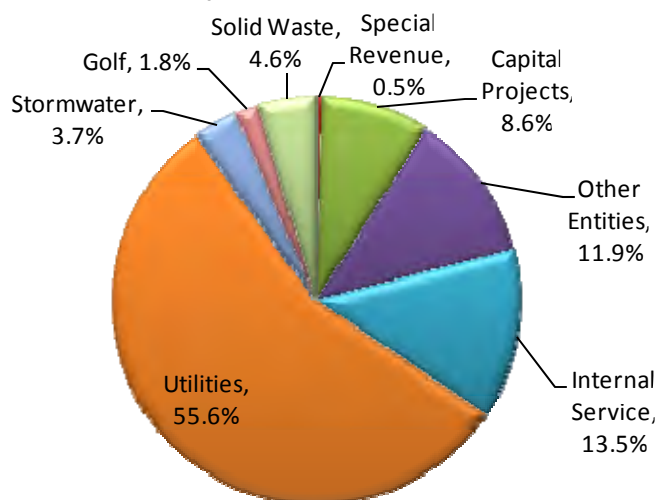
General Government Capital Projects Fund: Capital Expansion Fee Funds, Park Improvement, Conservation Trust, Open Space, Art In Public Places.

Other Entities Fund: Special Improvement District #1, Airport, General Improvement District #1, Loveland Urban Renewal Authority, Loveland/Larimer Building Authority.

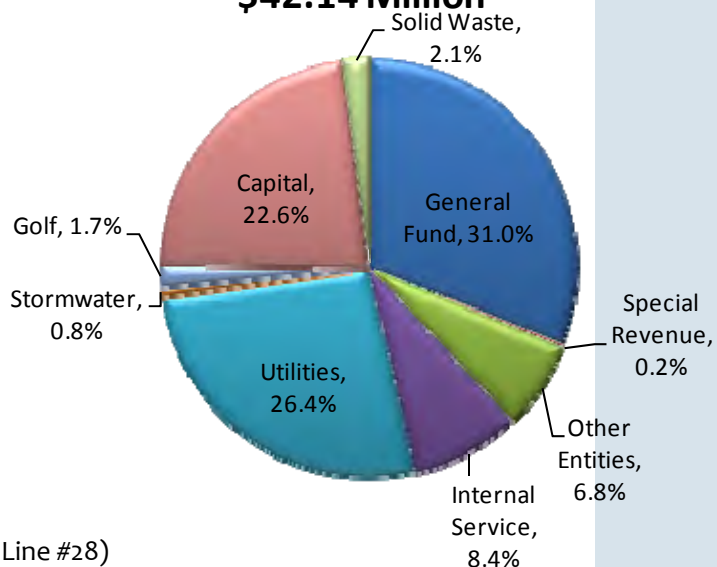
Internal Service Funds: Risk/Insurance, Fleet, Employee Benefits.

March 2011

YTD Operating Revenues of \$44.33 Million



YTD Operating Expenditures of \$42.14 Million



Revenues exceed expenditures YTD by \$2,190,093. (Line #14 less Line #28)

Special Revenues (Line #2) are under budget due to a slow quarter for lodging tax and less grants from Community Development Block program.

Other Entities (Line #3) is over budget mainly due to a large receipt of property tax in the Loveland Urban Renewal Authority.

Internal Service (Line #4) is under budget mainly due to lower contributions for health and dental insurance in the Employee Benefits Fund.

Internal transfers (Line #13) are under budget due to transfers for capital projects have not been made to cover project costs.

Special Revenue (Line #16) is under budget due to timing of Community Development Block Grants and grants from lodging tax revenue.

Other Entities (Line #17) is over budget due to a payment made for Centerra TIF distribution in the Urban Renewal Authority fund not budgeted to go out until April.

Internal services (line#18) is under budget due to timing of health claims, inventory purchases and payments for property, liability, and workers compensation.

Capital expenditures (Line #20) is under budget mainly due to low activity in the Wastewater and Power projects.

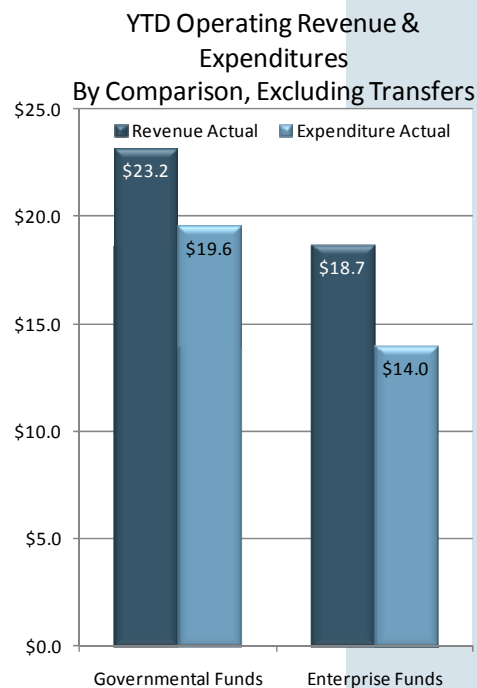
Water & Power (Line #21) is over budget due to the budget allocation for purchased power not being split evenly over the 12 months.

Stormwater (Line #22) is under budget due to less spending in their personal services, supplies, and purchased services.

Golf (Line #23) is under budget due to less spending in their personnel services, supplies and purchased services budgets.

Solid Waste (Line #24) is under budget due to less spending on carts and bins, yard waste and solid waste disposal charges, and personnel services.

Internal Transfers (Line #27) is under budget due to timing of capital projects, transfers are made based on actual expenses of capital projects; there have been no transfers made yet in 2011.



General Fund Revenues & Expenditures

Monthly Financial Report

General Fund Revenue & Expenditures MARCH 2011

	REVENUE	MARCH 2011	YTD Actual	YTD Revised Budget	% of Budget
1	Taxes				
2	Property Tax	2,140,863	2,194,586	1,878,380	116.8%
3	Sales Tax	2,299,237	8,162,867	7,970,040	102.4%
4	Building Use Tax	79,590	182,753	437,520	41.8%
5	Auto Use Tax	129,489	436,749	478,790	91.2%
6	Other Taxes	241,150	676,588	735,586	92.0%
7	Intergovernmental	383,143	1,465,055	1,338,269	109.5%
8	License & Permits				
9	Building Permits	94,157	232,553	195,270	119.1%
10	Other Permits	51,262	131,661	71,518	184.1%
11	Charges For Services	257,444	901,791	917,898	98.2%
12	Fines & Forfeitures	81,769	235,358	240,582	97.8%
13	Interest Income	53,263	124,362	111,945	111.1%
14	Miscellaneous	355,853	1,085,511	1,064,473	102.0%
15	<i>Subtotal</i>	<i>\$ 6,167,220</i>	<i>\$ 15,829,835</i>	<i>\$ 15,440,271</i>	<i>102.5%</i>
16	Internal Transfers	171,653	514,960	514,940	100.0%
17	Total Revenue	\$ 6,338,874	\$ 16,344,795	\$ 15,955,211	102.4%
EXPENDITURES					
	Operating				
18	Legislative	\$ 9,128	\$ 23,671	\$ 32,430	73.0%
19	Executive & Legal	123,754	391,069	384,563	101.7%
20	Comm. & Bus. Relations	18,769	72,162	105,352	68.5%
21	Cultural Services	81,805	248,973	287,169	86.7%
22	Development Services	190,716	646,414	688,821	93.8%
23	Finance	145,185	435,013	500,522	86.9%
24	Fire & Rescue	577,456	1,825,064	1,858,960	98.2%
25	Human Resources	50,511	165,283	235,580	70.2%
26	Information Technology	197,251	985,023	1,150,836	85.6%
27	Library	171,833	567,817	584,402	97.2%
28	Parks & Recreation	490,975	1,379,954	2,021,612	68.3%
29	Police	1,282,228	4,023,562	3,860,251	104.2%
30	Public Works	888,035	2,457,298	2,522,230	97.4%
31	Non-Departmental	51,174	191,965	378,747	50.7%
32	<i>Subtotal Operating</i>	<i>\$ 4,278,820</i>	<i>\$ 13,413,268</i>	<i>\$ 14,611,475</i>	<i>91.8%</i>
33	Internal Transfers	3,342	222,713	1,354,236	16.4%
34	Total Expenditures	\$ 4,282,162	\$ 13,635,981	\$ 15,965,711	85.4%

March 2011

Property Tax (Line #2) is over budget due to March collections higher than anticipated.

Building Use Tax (Line #4) is under budget due to low building activity.

Auto Use Tax (Line #5) is under budget due to low sales.

Other Taxes (Line #6) is under budget due to low receipts for gas franchise fees.

Intergovernmental (Line #7) is over budget due to revenue received from CDOT for the signal maintenance contract for 2010.

Building Permits (Line #9) is over budget due to fees paid for an office building on Rocky Mountain Avenue.

Other permits (Line #10) is over budget primarily due to school fees in lieu of land, and police special events permits.

Legislative (Line #18) is under budget mainly due to budget dollars for the Council Advance and travel and meetings not used.

Comm. & Bus. Relations (Line #20) is under budget due to timing in spending their purchased services and personnel services budget.

Cultural Services (Line #21) is under budget due to timing in spending their supplies, repair and maintenance, and artist fees budgets.

Development Services (Line #22) is under budget due to timing in spending their supplies budget, and historic preservation grants.

Finance (Line #23) is under budget due to timing in spending their supplies and purchased services budgets.

Human Resources (Line #25) is under budget due to timing in spending their supplies, and purchased services budget, as well as a vacant position.

Information Technology (Line #26) is under budget due to timing in spending their computer supplies budget.

Parks & Recreation (Line #28) is under budget due to timing in spending their personnel services, supplies, and purchased services budget.

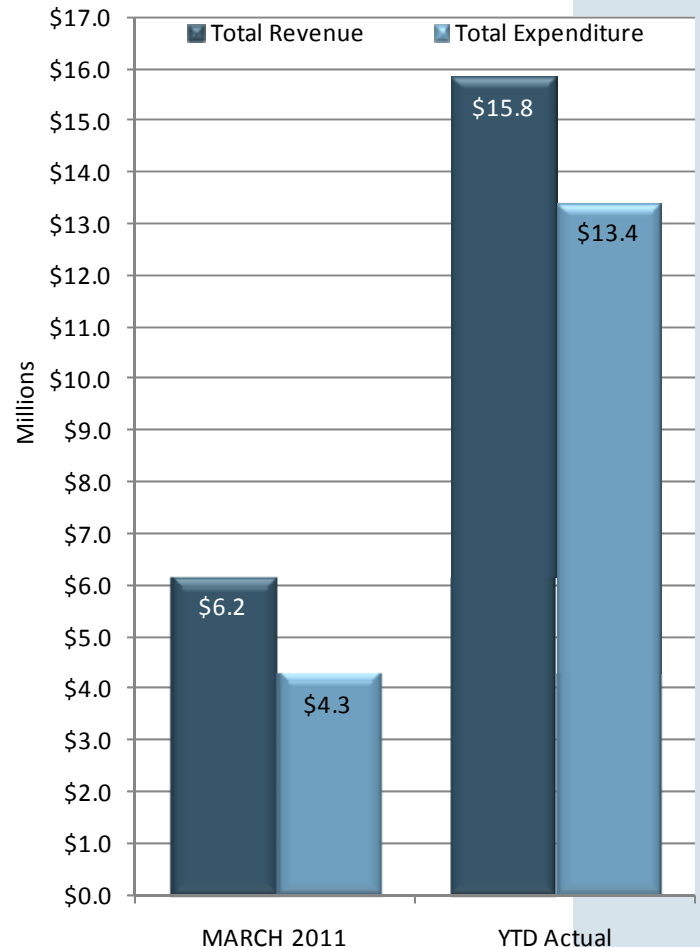
Police (Line #29) is over budget due to a payment made for Tri-Tech software systems maintenance agreement made in full in January, but the budget allocation was split equally between all months of the year.

Non-departmental (Line #31) is under budget due to economic incentive agreements not given and timing in spending their purchased services budget.

Internal transfers (Line #33) are under budget due to timing of capital projects expenditures. Transfers are made monthly based on actual project costs.

Revenues exceed expenditures by \$2,708,814. (Line #17 less Line #34)

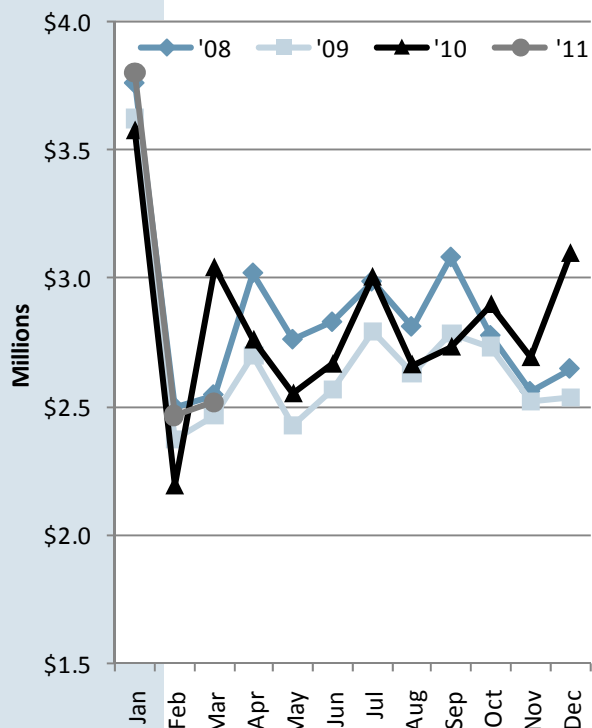
General Fund Operating Revenue & Expenditures By Comparison, Excluding Transfers



Tax Totals & Comparisons

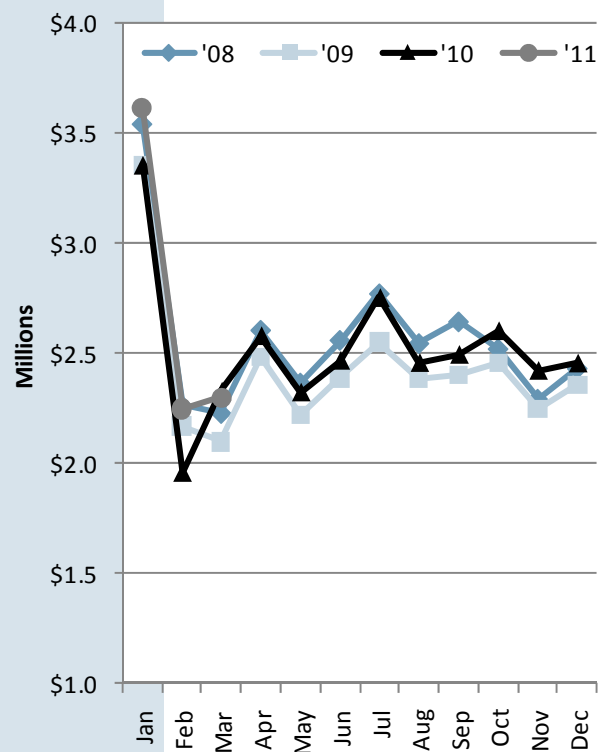
Monthly Financial Report

Sales & Use Tax



	'08	'09	'10	'11	2011 Budget	+ / - Budget
Jan	\$ 3,763,212	\$ 3,622,251	\$ 3,573,972	\$3,799,760	\$ 3,708,140	2.5%
Feb	\$ 2,499,464	\$ 2,374,608	\$ 2,191,609	\$2,465,448	\$ 2,618,440	-5.8%
Mar	\$ 2,544,688	\$ 2,468,095	\$ 3,041,068	\$2,517,162	\$ 2,559,770	-1.7%
Apr	\$ 3,020,580	\$ 2,701,737	\$ 2,759,556		\$ 2,910,840	
May	\$ 2,761,197	\$ 2,428,860	\$ 2,550,227		\$ 2,628,350	
Jun	\$ 2,829,423	\$ 2,569,125	\$ 2,665,632		\$ 2,738,110	
Jul	\$ 2,987,495	\$ 2,794,222	\$ 3,004,324		\$ 2,968,340	
Aug	\$ 2,811,579	\$ 2,628,842	\$ 2,662,932		\$ 2,815,690	
Sep	\$ 3,082,644	\$ 2,782,768	\$ 2,732,087		\$ 2,884,640	
Oct	\$ 2,776,559	\$ 2,733,964	\$ 2,897,370		\$ 2,941,910	
Nov	\$ 2,557,802	\$ 2,522,092	\$ 2,690,549		\$ 2,659,950	
Dec	\$ 2,646,945	\$ 2,537,802	\$ 3,096,111		\$ 2,682,740	
	\$ 34,281,588	\$ 32,164,365	\$ 33,865,435	\$ 8,782,370	\$ 34,116,920	
YTD	\$ 8,807,364	\$ 8,464,955	\$ 8,806,649	\$ 8,782,370	\$ 8,886,350	-1.2%

Retail Sales Tax

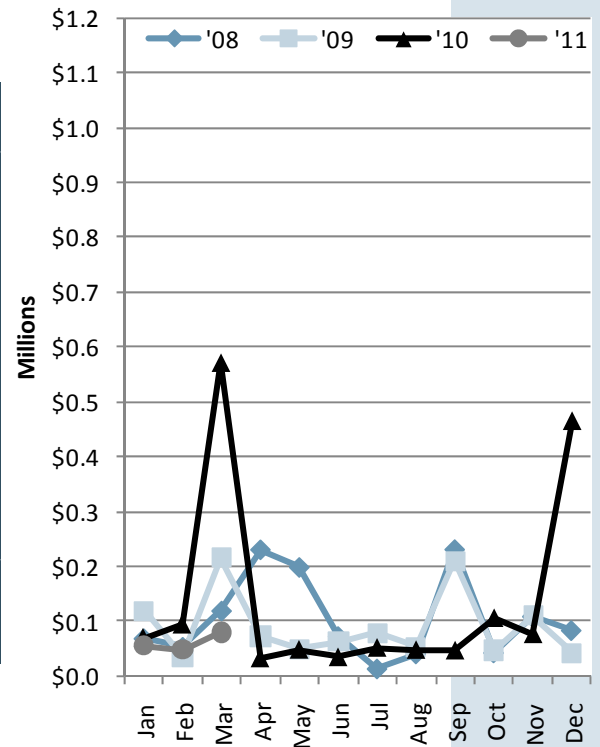


	'08	'09	'10	'11	2011 Budget	+ / - Budget
Jan	\$ 3,538,021	\$ 3,354,704	\$ 3,352,821	\$3,613,881	\$ 3,419,500	5.7%
Feb	\$ 2,266,805	\$ 2,170,562	\$ 1,959,729	\$2,249,749	\$ 2,333,970	-3.6%
Mar	\$ 2,229,963	\$ 2,100,216	\$ 2,328,701	\$2,299,237	\$ 2,216,570	3.7%
Apr	\$ 2,605,919	\$ 2,482,752	\$ 2,579,918		\$ 2,585,290	
May	\$ 2,367,597	\$ 2,218,482	\$ 2,324,395		\$ 2,310,110	
Jun	\$ 2,560,453	\$ 2,390,535	\$ 2,468,207		\$ 2,489,270	
Jul	\$ 2,770,864	\$ 2,552,195	\$ 2,752,870		\$ 2,657,610	
Aug	\$ 2,546,052	\$ 2,383,119	\$ 2,458,382		\$ 2,481,550	
Sep	\$ 2,644,113	\$ 2,401,596	\$ 2,495,338		\$ 2,500,790	
Oct	\$ 2,521,253	\$ 2,457,158	\$ 2,602,599		\$ 2,558,640	
Nov	\$ 2,294,503	\$ 2,245,659	\$ 2,422,352		\$ 2,338,410	
Dec	\$ 2,432,635	\$ 2,358,273	\$ 2,455,821		\$ 2,424,090	
	\$ 30,778,179	\$ 29,115,253	\$ 30,201,133	\$ 8,162,867	\$ 30,315,800	
YTD	\$ 8,034,789	\$ 7,625,482	\$ 7,641,251	\$ 8,162,867	\$ 7,970,040	2.4%

March 2011

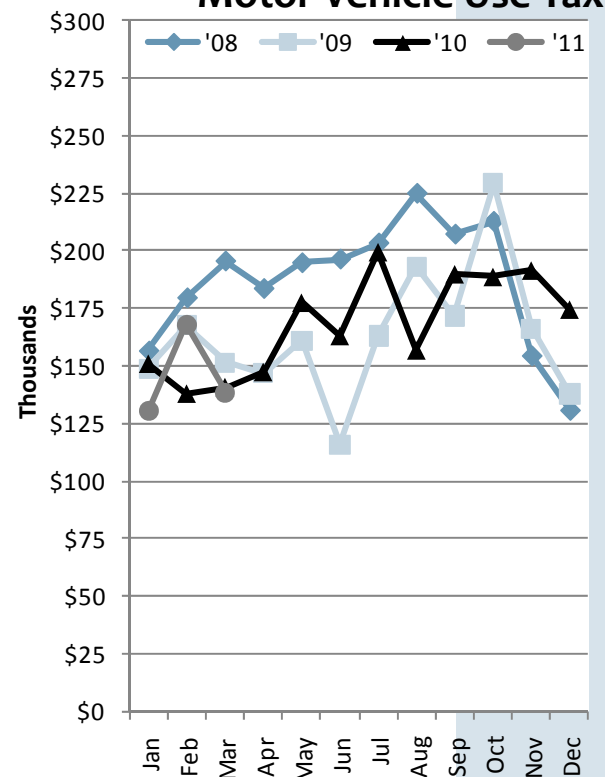
	'08	'09	'10	'11	2011 Budget	+ / - Budget
Jan	\$ 68,522	\$ 118,719	\$ 70,117	\$ 55,542	\$ 136,380	-59.3%
Feb	\$ 52,986	\$ 36,254	\$ 93,928	\$ 47,622	\$ 112,810	-57.8%
Mar	\$ 119,149	\$ 216,500	\$ 571,599	\$ 79,590	\$ 188,330	-57.7%
Apr	\$ 230,954	\$ 72,251	\$ 32,260		\$ 175,440	
May	\$ 198,765	\$ 49,434	\$ 48,145		\$ 153,590	
Jun	\$ 72,544	\$ 62,723	\$ 34,349		\$ 130,300	
Jul	\$ 13,276	\$ 79,061	\$ 51,657		\$ 144,010	
Aug	\$ 40,683	\$ 52,578	\$ 47,716		\$ 136,550	
Sep	\$ 231,321	\$ 209,338	\$ 46,646		\$ 208,060	
Oct	\$ 42,561	\$ 47,437	\$ 105,818		\$ 148,620	
Nov	\$ 108,737	\$ 110,207	\$ 76,444		\$ 151,490	
Dec	\$ 83,315	\$ 41,844	\$ 465,626		\$ 115,540	
	\$ 1,262,815	\$ 1,096,346	\$ 1,644,305	\$ 182,754	\$ 1,801,120	
YTD	\$ 240,657	\$ 371,473	\$ 735,644	\$ 182,754	\$ 437,520	-58.2%

Building Material Use Tax



	'08	'09	'10	'11	2011 Budget	+ / - Budget
Jan	\$ 156,669	\$ 148,828	\$ 151,034	\$ 130,337	\$ 152,260	-14.4%
Feb	\$ 179,673	\$ 167,793	\$ 137,951	\$ 168,077	\$ 171,660	-2.1%
Mar	\$ 195,576	\$ 151,378	\$ 140,768	\$ 138,335	\$ 154,870	-10.7%
Apr	\$ 183,707	\$ 146,734	\$ 147,378		\$ 150,110	
May	\$ 194,835	\$ 160,943	\$ 177,687		\$ 164,650	
Jun	\$ 196,426	\$ 115,867	\$ 163,076		\$ 118,540	
Jul	\$ 203,356	\$ 162,966	\$ 199,797		\$ 166,720	
Aug	\$ 224,843	\$ 193,144	\$ 156,834		\$ 197,590	
Sep	\$ 207,209	\$ 171,833	\$ 190,102		\$ 175,790	
Oct	\$ 212,745	\$ 229,369	\$ 188,953		\$ 234,650	
Nov	\$ 154,561	\$ 166,225	\$ 191,753		\$ 170,050	
Dec	\$ 130,995	\$ 137,685	\$ 174,664		\$ 143,110	
	\$ 2,240,595	\$ 1,952,766	\$ 2,019,997	\$ 436,749	\$ 2,000,000	
YTD	\$ 531,918	\$ 467,999	\$ 429,754	\$ 436,749	\$ 478,790	-8.8%

Motor Vehicle Use Tax



Sales Tax Collections

Monthly Financial Report

Collections By Standard Industrial Classification Code

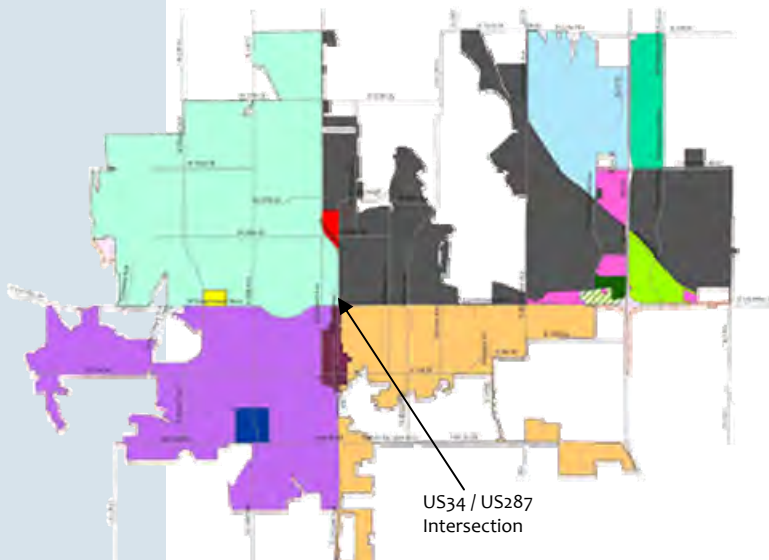
Description	YTD 2011	YTD 2010	\$ Change	% Change	% of Total	Cumulative %
1 Department Stores & General Merchandise	\$ 1,914,356	\$ 1,910,488	\$ 3,868	0.2%	23.5%	23.5%
2 Grocery Stores & Specialty Foods	912,923	856,985	55,938	6.5%	11.2%	34.6%
3 Restaurants & Bars	891,823	812,569	79,254	9.8%	10.9%	45.6%
4 Clothing & Clothing Accessories Stores	575,177	494,493	80,684	16.3%	7.0%	52.6%
5 Utilities	544,662	560,822	(16,161)	-2.9%	6.7%	59.3%
6 Sporting Goods, Hobby, Book & Music Stores	434,983	396,855	38,128	9.6%	5.3%	64.6%
7 Motor Vehicle Dealers, Auto Parts & Leasing	424,541	377,617	46,924	12.4%	5.2%	69.8%
8 Building Material & Lawn & Garden Supplies	403,931	369,414	34,517	9.3%	4.9%	74.8%
9 Broadcasting & Telecommunications	346,804	333,377	13,427	4.0%	4.2%	79.0%
10 Electronics & Appliance Stores	229,481	217,187	12,294	5.7%	2.8%	81.8%
11 Used Merchandise Stores	215,756	202,729	13,027	6.4%	2.6%	84.5%
12 Beer, Wine & Liquor Stores	172,060	161,558	10,502	6.5%	2.1%	86.6%
13 Health & Personal Care Stores	147,038	135,602	11,437	8.4%	1.8%	88.4%
14 Hotels, Motels & Other Accommodations	145,283	117,443	27,840	23.7%	1.8%	90.1%
15 Electronic Shopping & Mail-Order Houses	129,189	60,754	68,435	112.6%	1.6%	91.7%
16 Consumer Goods & Commercial Equipment Rental	128,481	130,652	(2,171)	-1.7%	1.6%	93.3%
17 Office Supplies, Stationery & Gift Stores	102,242	99,819	2,423	2.4%	1.3%	94.6%
18 Furniture & Home Furnishing Stores	101,686	96,106	5,580	5.8%	1.2%	95.8%
19 Gasoline Stations with Convenience Stores	51,808	48,646	3,162	6.5%	0.6%	96.4%
20 All Other Categories	290,642	258,136	32,506	12.7%	3.6%	100.0%
	\$ 8,162,867	\$ 7,641,251	\$ 521,616	6.8%	100.0%	

Sales tax received through March 2011, has seen a gain of 6.83% over 2010. All 14 geographical areas continue to show positive sales trends, with the Airport and Ranch areas leading the way due in part to two new businesses

and increased scheduling at the Event Center and the Fairgrounds. The outlet mall is up over 12% due to several new store openings and strong sales performance from several existing brand name stores.

By business category The "Electronic shopping/mail order houses" sector is up 112% and more than \$68,000 year-to-date due to compliance efforts by the City and 13 new on-line businesses in this category. "Clothing and Clothing Accessories" have seen the largest dollar increase over 2010 at more than \$80,000 which is 16.3% up year-to-date. Restaurants and Bars have seen strong increases that have improved sales tax collections by more than \$79,000 or 9.8% so far in 2011.

The year to date Audit Revenue is \$55,111 and \$72,275 has been collected in Lodging Tax.



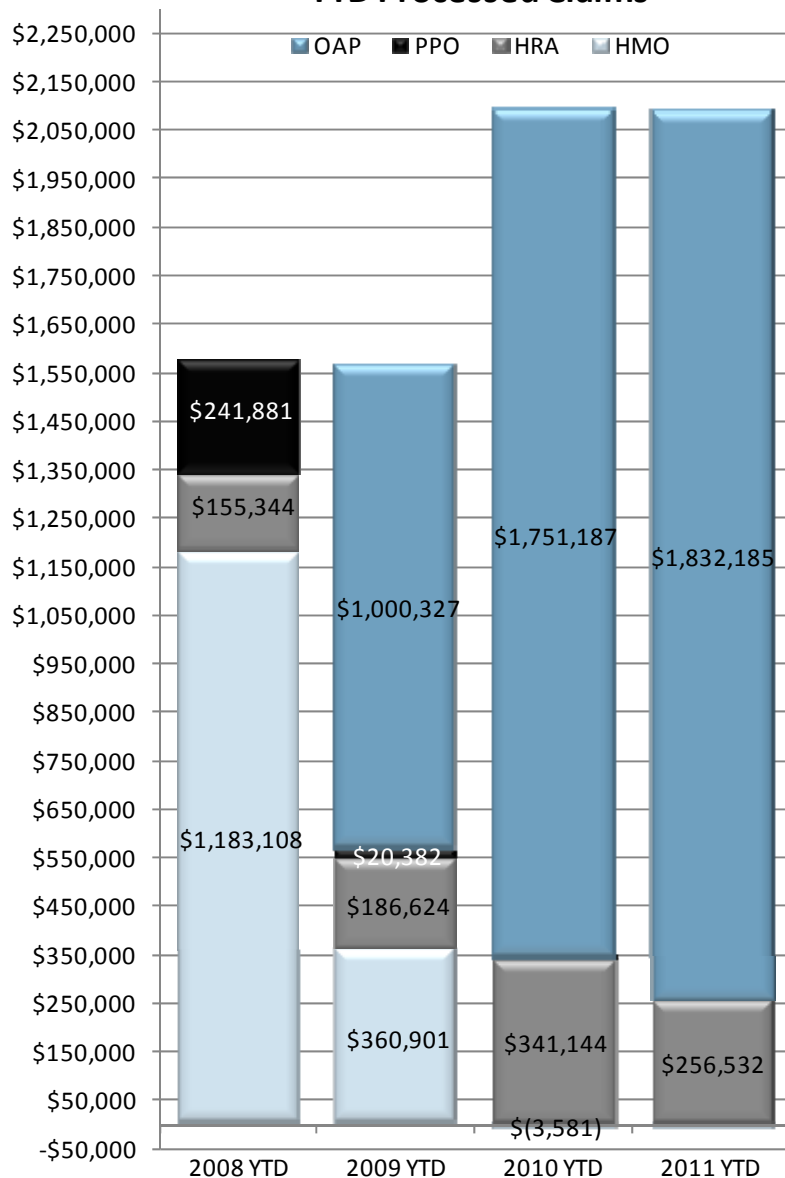
Collections By Geographical Code

Geographical Area	YTD 2011	YTD 2010	% Change
North West Loveland	\$930,623	\$898,060	3.6%
South West Loveland	\$243,732	\$214,883	13.4%
North East Loveland	\$484,258	\$453,878	6.7%
South East Loveland	\$1,876,491	\$1,833,209	2.4%
Orchards Shopping Center	\$552,936	\$522,030	5.9%
Columbine Shopping Center	\$141,915	\$135,540	4.7%
Downtown	\$253,424	\$247,910	2.2%
Centerra	\$775,287	\$696,355	11.3%
Promenade Shops	\$680,667	\$625,345	8.8%
Outlet Mall	\$304,056	\$270,859	12.3%
Thompson Valley Shopping Center	\$442,988	\$407,013	8.8%
The Ranch	\$164,417	\$125,397	31.1%
Airport	\$69,902	\$54,774	27.6%
All Other Areas	\$1,242,170	\$1,155,998	7.5%
	\$8,162,867	\$7,641,251	6.8%

Health Care Claims

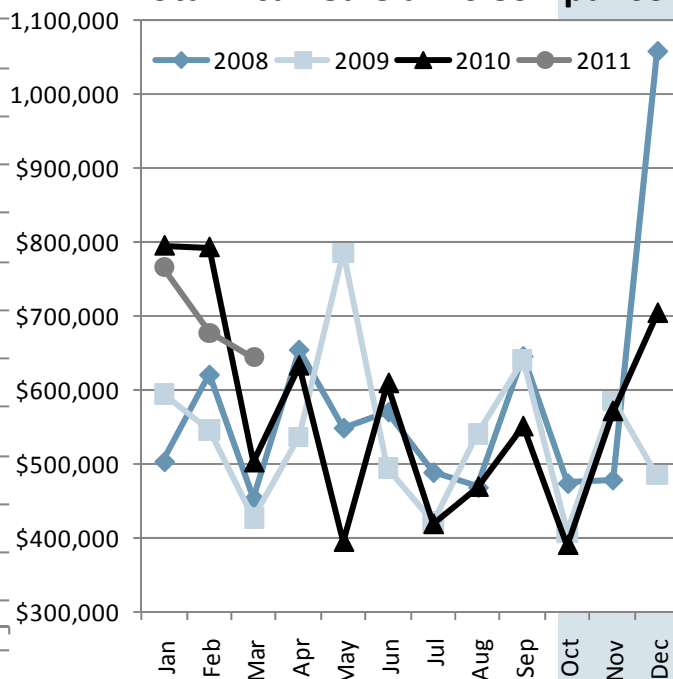
March 2011

YTD Processed Claims



March 2011 claims were lower than February 2011 but higher than March 2010.

Total Incurred Claims Comparison



Cash Basis for Claims Paid

		HMO	OAP	HRA	PPO	Total	Budget	\$ Over / (Under) Budget	% Over / (Under) Budget
2011	March	\$ -	\$ 554,938	\$ 89,491	\$ -	\$ 644,429	\$ 657,278	\$ (12,849)	-2.0%
	YTD	-	1,832,186	256,314	-	2,088,500	1,971,835	116,665	5.9%
2010	March	\$ -	\$ 425,327	\$ 77,148	\$ -	\$ 502,475	\$ 630,045	\$ (127,570)	-20.2%
	YTD	\$ (3,581)	\$ 1,751,187	\$ 341,144	\$ 285	\$ 2,089,035	\$ 1,890,135	\$ 198,900	10.5%
Change	March	\$ -	\$ 129,611	\$ 12,343	\$ -	\$ 141,954			
	% Mar	0.0%	30.5%	16.0%	0.0%	28.3%			
	YTD	\$ (3,581)	\$ 80,999	\$ (84,830)	\$ (285)	\$ (535)			
	% YTD	100.0%	4.6%	-24.9%	0.0%	0.0%			

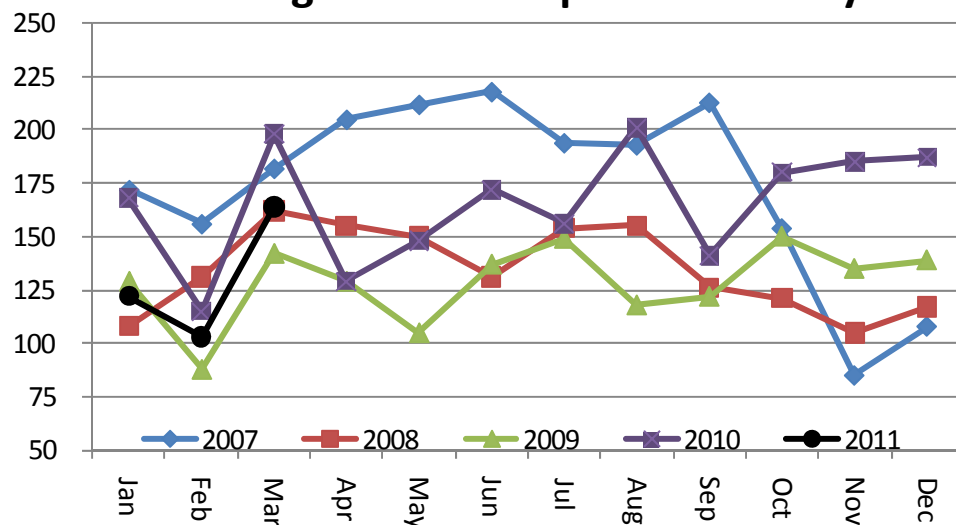
Activity Measures

Monthly Financial Report

Activity Measures

Measures	Mar '09	Mar '10	Mar '11	2009 YTD	2010 YTD	2011 YTD
# of Building Permits	142	198	164	359	481	389
Building Permit Valuations	\$ 8,695,483	\$40,319,446	\$ 6,515,635	\$ 22,111,371	\$ 57,173,230	\$ 15,852,056
# of Certified Occupancies	12	13	14	56	39	50
Net # of Sales Tax Licenses	3	21	10	59	17	(10)
New Residential Electric Meter Sets	6	10	54	42	18	150
# of Utility Bills Sent	33,594	34,887	35,472	100,791	104,764	106,327
Rounds of Golf	7,027	4,504	7,693	13,497	4,504	10,751
Health Claim Costs/Emp.	\$ 905	\$ 812	\$ 1,026	\$ 3,221	\$ 3,389	\$ 3,331
# of Vacant Positions	5	7	6			
# of Frozen Vacant Positions	1	13	14			
# of Eliminated Positions	14	38	42			
KWH Demand (kH)	82,212	84,387	92,678	266,257	275,897	295,617
KWH Purchased (kwh)	54,538,437	55,283,895	56,297,383	166,555,073	168,459,585	173,339,631
Gallons of Water Sold	143,254,577	135,946,375	135,946,375	429,502,070	421,069,305	417,884,826
# of Workers' Comp Claims	7	11	12	20	47	30
\$ of Workers' Comp Claims Paid	\$ 2,432	\$ 3,840	\$ 5,348	\$ 9,290	\$ 6,071	\$ 10,963
# of Open Claims Current Year	NA	7	13			
# of Total Open Claims	NA	14	17			
\$ of Total Open Claims	\$ 24,673	\$ 195,500	\$ 70,372			
# of Hotel Rooms	NA	1,117	1,117			
\$ of Lodging Tax Collected	NA	\$ 26,755	\$ 35,518	\$ -	\$ 56,209	\$ 72,275

Building Permit Comparison History



Cash & Reserves

March 2011

Cash & Reserves

Total Cash & Reserves = \$191.5 million, of which \$141.8 million is restricted or reserved, or 74.1%, leaving \$49.7 million unrestricted.

Statement of Cash March 2011			
	Beginning	YTD Activity	Ending
Restricted			
1 Capital Expansion Fees	\$ 36,464,857	\$ 967,250	\$ 37,432,107
2 Other Special Revenue Funds	20,268,968	283,215	20,552,183
3 Capital Projects	3,439,842	(1,994,914)	1,444,929
4 Debt Reserves-Golf	-	-	-
5 Water System Impact Fees	5,634,568	362,833	5,997,400
6 Windy Gap	4,776,059	21,992	4,798,051
7 Raw Water	22,801,762	(3,799,714)	19,002,047
8 Wastewater System Impact Fees	4,258,451	239,126	4,497,576
9 Storm Drainage System Impact Fees	1,542,372	33,664	1,576,036
10 Power System Impact Fees	5,624,382	365,077	5,989,459
11 Cemetery	2,433,991	29,837	2,463,829
12 Other Entities	3,393,300	(89,970)	3,303,330
13 Total Restricted	\$ 110,638,551	\$ (3,581,604)	\$ 107,056,947
Committed/Assigned Balance Amounts			
14 General Fund			
15 Operating/Emergency ***	1,731,040	-	1,731,040
16 Council Contingency	-	-	-
17 Council Capital Reserve ***	4,730,850	(1,091,750)	3,639,100
18 Liability	125,000	-	125,000
19 Equipment Replacement	-	-	-
20 Police Communication Console Replacement	512,000	104,000	616,000
21 Library Reserve	158,379	741	159,120
22 Library Building Reserve	16,750	-	16,750
23 Telephone Switch Reserve	261,460	-	261,460
24 Excess TABOR	5,698,193	-	5,698,193
25 Water	660,898	(232,328)	428,570
26 Wastewater	816,746	(12,016)	804,729
27 Storm Water	442,355	59,761	502,116
28 Power	2,696,087	207,693	2,903,780
29 Golf	243,784	1,140	244,924
30 Insurance Reserves	4,632,532	(126,240)	4,506,293
31 Employee Benefits	6,443,162	348,409	6,791,571
32 Fleet Replacement	6,208,177	129,870	6,338,047
33 Total Committed/Assigned	\$ 35,377,415	\$ (610,720)	\$ 34,766,694
34 Total Restricted/Committed/Assigned	\$ 146,015,966	\$ (4,192,324)	\$ 141,823,642
Unassigned Balance Amounts			
35 General	12,740,445	2,960,426	15,700,871
36 Airport	814,146	10,709	824,855
37 Internal Service - Vehicle Maintenance	57,032	78,011	135,043
38 Golf	902,662	(88,288)	814,375
39 Water	3,745,091	(1,316,525)	2,428,566
40 Wastewater	7,350,712	(108,148)	7,242,564
41 Power	15,277,828	1,176,927	16,454,755
42 Stormwater	2,506,679	338,644	2,845,323
43 Solid Waste	2,873,450	369,243	3,242,693
44 Total Unassigned	\$ 46,268,044	\$ 3,421,001	\$ 49,689,045
45 Total Cash	\$ 192,284,010	\$ (771,324)	\$ 191,512,686

*Operating/Emergency: TABOR Amendment requirement for 3% of operating expenditures excluding transfers and debt.

**Other Entities Fund: Special Improvement District #1, Airport, General Improvement District #1, Loveland Urban Renewal Authority, Loveland/Larimer Building Authority

***Contributions made at year end.

(Line #17) Council Capital Reserve: \$900,000 Downtown Infrastructure \$191,750 Interfund Loan Payment

(Line #22) The market value of the Proctor & Gamble Stock as of December 31, 2010 is \$205,856. This value represents the original value of the stock when it was first donated.

Prepared by:
Finance Department

WEBSITE: WWW.CITYOFLOVELAND.ORG

Citywide Capital Projects Over \$500,000

Project Title	2011 Budget	2011 Expenditures	Remaining 2011 Budget	% of 2011 Budget (Exp/Bud)	Budget Book Page #
Water Capital					
Washington Ave WL Replacement	\$ 547,810	\$ -	\$ 547,810	0.00%	C-115
Filter Plant 2 Improvements	\$ 827,210	\$ 825,677	\$ 1,533	99.81%	C-113
Raw Water Capital					
Windy Gap Firming Project	\$ 596,490	\$ -	\$ 596,490	0.00%	C-86
Purchase Colorado Big Thompson Water	\$ 4,500,000	\$ 4,500,000	\$ -	100.00%	C-87
Wastewater Utility Capital					
Carlisle Phase IV (Taft to RR)	\$ 601,510	\$ 20,639	\$ 580,871	3.43%	C-101
Waste Activated Sludge Thickening	\$ 5,738,330	\$ 428,538	\$ 5,309,792	7.47%	C-88
Power Capital					
Horseshoe Sub tie S along Taft to ckt existing on West 29th	\$ 2,300,000	\$ 1,858	\$ 2,298,142	0.08%	
West Sub tie E along Arkins Branch, N along Wilson to 29th	\$ 1,300,000	\$ 2,526	\$ 1,297,474	0.19%	
Valley Sub tie W along 402, N along Wilson, W along Arkins to W Sub	\$ 1,100,000	\$ 1,768	\$ 1,098,232	0.16%	
Horseshoe Sub - New Transformer	\$ 1,200,000	\$ -	\$ 1,200,000	0.00%	
Stormwater Capital					
Washington Ave Outfall Phase 4	\$ 3,313,990	\$ 28,201	\$ 3,285,789	0.85%	
Streets Transportation Program					
Boyd Lake Ave Extension	\$ 1,005,100	\$ 198,302	\$ 806,798	19.73%	C-71
2011 Street Rehabilitation	\$ 2,956,210	\$ 60,694	\$ 2,895,516	2.05%	C-39
All Other					
Downtown Infrastructure	\$ 900,000	\$ -	\$ 900,000	0.00%	C-40
Open Lands Acquisition	\$ 2,950,000	\$ -	\$ 2,950,000	0.00%	C-29
MeHaffey Park Development	\$ 640,000	\$ -	\$ 640,000	0.00%	C-28
Library Expansion*	\$ 7,022,384	\$ 412,769	\$ 6,609,615	5.88%	

*Budget will be rolled from 2010

City of Loveland
500 East 3rd Street
Loveland, CO 80537

For more information regarding this report contact:
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970.962.2704 or wheeler@ci.loveland.co.us





CITY OF LOVELAND
CITY MANAGER'S OFFICE

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AGENDA ITEM: 18
MEETING DATE: 5/3/2011
TO: City Council
FROM: Alan Krcmarik, Executive Fiscal Advisor
PRESENTER: Alan Krcmarik

TITLE: Investment Report for March 2011

DESCRIPTION:

This is an information only item. No Council action is required. The budget estimate for investment earnings for 2011 is \$3,163,130. For the first quarter, the amount posted to the investment account is \$877,669 including realized gains. The actual year-to-date earnings are *higher* than the year-to-date projection by \$86,886. Based on the March monthly statement, the estimated annualized yield is about 2.03%, just over the annual target rate.

BUDGET IMPACT: Investment earnings provide revenue to the City's various funds.

☒ Yes ☐ No

SUMMARY: At the end of March, the City's total portfolio had an estimated market value of \$189.7 million, about \$ 4.6 million more than a month ago. Of this amount, USBank held (including accrued interest) \$182.2 million in trust accounts; other funds are held in local government investment pools, in operating accounts at WellsFargo Bank, and a few miscellaneous accounts. Based on the monthly report from the trustee, USBank, the estimated annualized yield on securities held at the end of March was 2.03%, slightly higher than the prior month. Investments are held in US Treasury Notes, highly-rated US Agency Bonds, highly-rated corporate bonds, money market accounts, and local government investment pools. The City's investment strategy emphasizes safety of principal, then sufficient liquidity to meet cash needs, and finally, return on investment. Each percent of earnings on the portfolio equates to \$1.9 million annually. Each basis point would be about \$18,970 annually.

LIST OF ATTACHMENTS: Investment Focus March 2011

RECOMMENDED CITY COUNCIL ACTION: For Council's information; questions welcomed.

REVIEWED BY CITY MANAGER:



Investment Focus

Monthly Investment Report

March 2011

What's in here?

Focal Points	1
Gain / Loss	
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Investment types	
Transactions /	5
Maturity	
Future Scan	6

Focal Points

- * **2011 targets for the City's portfolio: 1) the interest rate target is 2.0%; 2) the earnings goal = \$3,163,130**
- * **City investments are in high quality, low risk securities, in compliance with state law and the adopted investment policy.**
- * **Interest received on trust accounts = \$501,704. There has been one sale in this year, resulting in a gain of \$17,598.**
- * **Each 1% of the total portfolio amounts to about \$1.9 million.**
- * **The unrealized loss increased to \$2.5 million.**

Most Hawkish Fed in Years Still Adds Up to Easy Policy

"In recent weeks, five regional Fed presidents have questioned whether the Fed should continue its quantitative easing policy. . . there are no true doves left at the Fed.

On balance, it might seem like a slam dunk tilt toward tightening. But as is so often the case with the Federal Reserve, things are not as simple as they seem. " *Expect the status quo on rates.*
FTN *Financial Weekly* 4/1/2011.

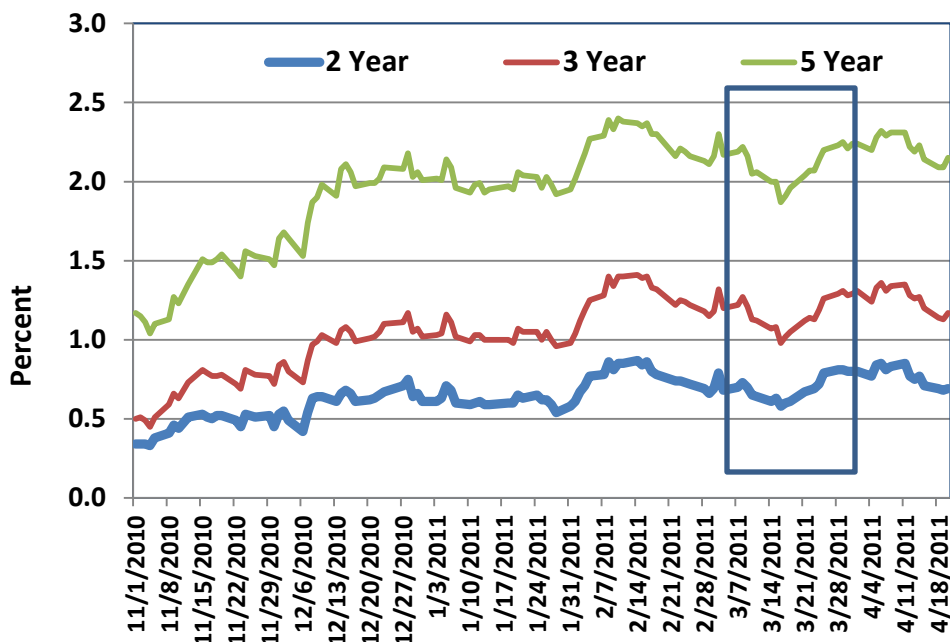
Type of Investment	Purchase Price	Market Price	Unrealized Gain or Loss
Checking Accounts	\$ 7,284,055	\$ 7,284,055	--
Investment Pools	270,339	270,339	--
Money Markets	<u>3,619,803</u>	<u>3,619,803</u>	--
Subtotal	\$ 11,174,197	\$ 11,174,197	--
Notes and Bonds	<u>181,151,611</u>	<u>178,603,576</u>	<u>(\$ 2,548,035)</u>
Total Portfolio	\$ 192,325,808	\$ 189,777,773	(\$ 2,548,035)
Data Sources	(Morgan Stanley)	(US Bank)	

Interest rate trends / forecast?

Since reaching record lows in early November, interest rates rose through December. After a virtually flat January, the upward trend resumed in early February.

Based on the 2-year treasury, the March month-end rate was 14 basis points higher (a 21% increase) than February.

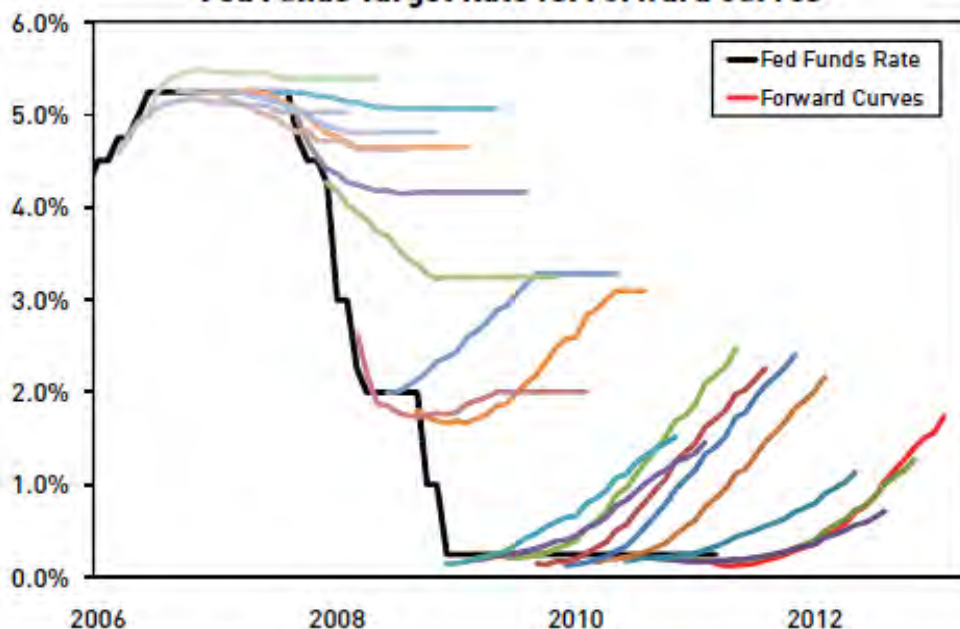
When the treasury market shifts like this, the value of prior investments shifts lower. The up-side is that reinvestment yields are higher.



When might rates begin to rise?

Each quarter, economists and financial experts try to predict where rates will be moving. They have not been very accurate in recent years.

Fed Funds Target Rate vs. Forward Curves



Source: Federal Reserve, Chicago Board of Trade

"Fed funds futures expect a hike in the rate to 50bp by January of next year.

But fed funds futures are not a very good predictor of the rate.

The chart shows historical actual fed funds target rate in black, the other curves are the fed funds futures curve on the last day of each quarter starting with the first quarter of '06."

The red line on the lower right is the most recent forecast.

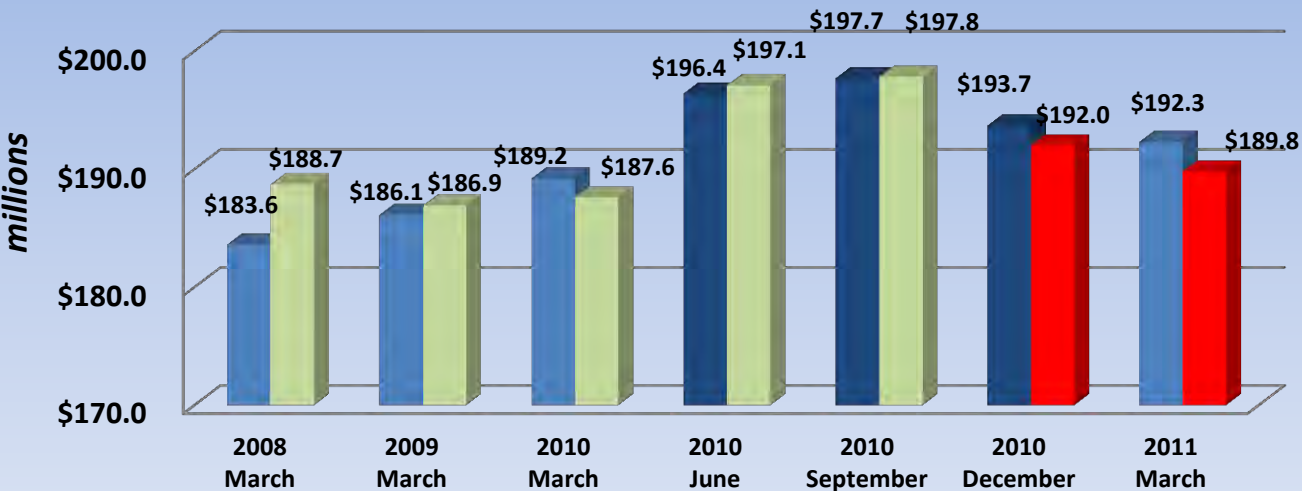
Cash Position Summary

Cash & Reserves (unaudited)

		2011 Beginning	YTD Activity	Month End Total
Restricted Reserves				
1	Capital Expansion Fees	\$ 36,464,857	\$ 967,250	\$ 37,432,107
2	Water System Impact Fees	5,634,568	362,833	5,997,400
3	Raw Water Revenue – Windy Gap	27,577,821	(3,777,722)	23,800,099
4	Wastewater System Imp. Fees	4,258,451	239,126	4,497,576
5	Storm Drain System Imp. Fees	1,542,372	33,664	1,576,036
6	Power Plant Investment Fees	5,624,382	365,077	5,989,459
7	Cemetery Perpetual Care	2,433,991	29,837	2,463,829
8	Other Restricted	27,102,110	(1,801,669)	25,300,442
9	Total Restricted	\$ 110,638,551	\$ (3,581,604)	\$ 107,056,947
Reserve Balance Amounts				
10	General Fund	\$ 13,233,672	\$ (987,009)	\$ 12,246,694
11	Enterprise Funds	4,859,870	24,250	4,884,120
12	Internal Service Funds	17,283,872	352,039	17,635,911
13	Total Reserves	\$ 35,377,415	\$ (610,720)	\$ 34,766,694
14	Total Restricted and Reserved	\$ 146,015,966	\$ (4,192,324)	\$ 141,823,642
Unrestricted				
15	General Fund	\$ 12,740,445	\$ 2,960,426	\$ 15,700,871
16	Airport	814,146	10,709	824,855
17	Internal Service – Vehicle Maint	57,032	78,011	135,043
18	Enterprise Funds	32,656,422	371,855	33,028,276
19	Total Unrestricted	\$ 46,268,044	\$ 3,421,001	\$ 49,689,045
20	TOTAL CASH	\$ 192,284,010	\$ (771,324)	\$ 191,512,686

Portfolio Size / Types of Investments

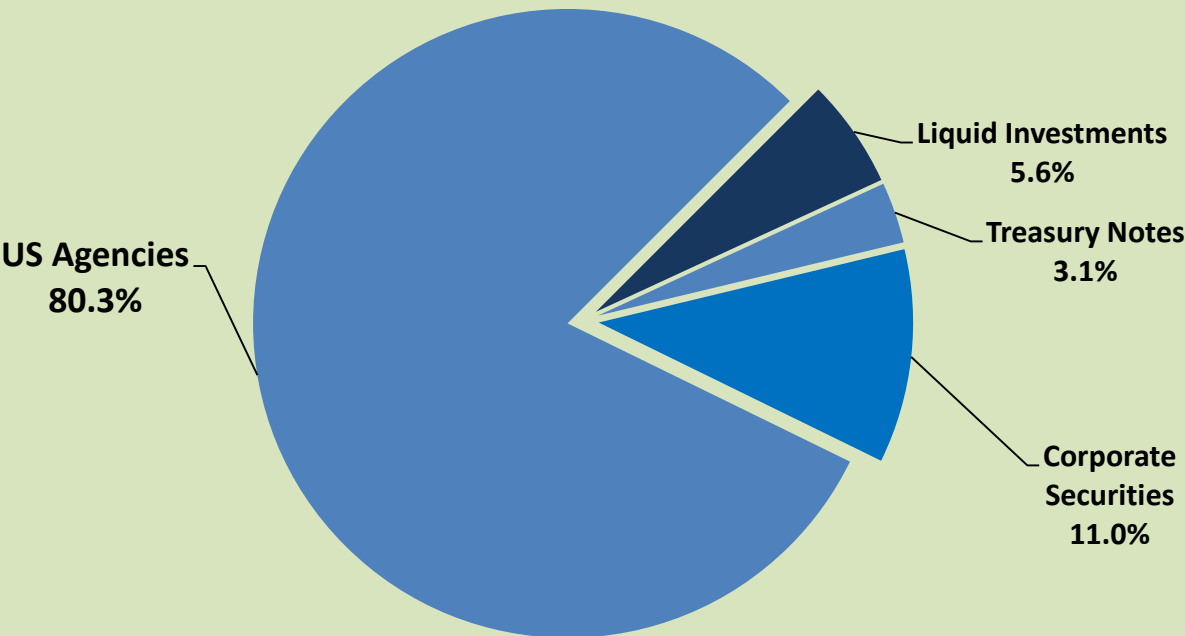
Portfolio Size since March 2008



Blue bars show Purchase value, red and green bars show market value, red = loss and green = gain

Portfolio by Type of Investment

March 2011 – Value of \$191.1 million

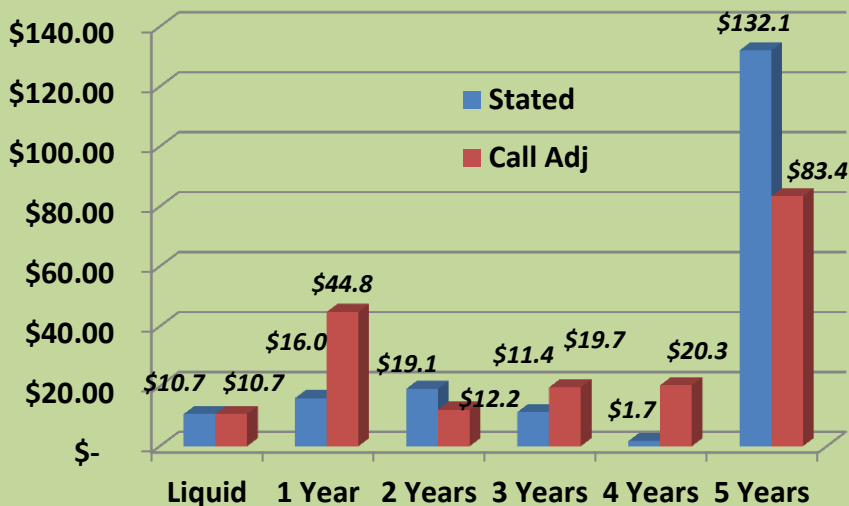


Transactions / Portfolio by Maturity

	Maturity Date	Face Value	Purchase \$	Stated Rate
<u>Purchases</u>				
General Electric Corp Note	01/07/14	\$ 2,000,000	\$ 2,013,400	2.100%
<u>Matured</u>				
	None this month			
<u>Called</u>				
	None this month		<u>Call Value \$</u>	
<u>Sales</u>				
	None this month		<u>Sales \$</u>	

Portfolio by Maturity Term

(in millions - Total = \$191.1 at the end of March 2011)



The target rate for 2011 is 2.0%. For the 1st quarter rates have been near this level, so the portfolio is on track to reach the interest rate target level for 2011.

To support earnings or to reposition the portfolio, bonds may be sold.

The blue bars show the stated term. Red bars show the calls given the recent interest rate trends. It is expected that some of the five year bonds will be called early.



Future Scan / rates on hold and slow recovery

- ❖ The Federal Open Market Committee met on March 15, 2011; they maintained the federal funds target interest rate at 0 to 25 basis points. (25 basis points is 0.25%.) “The economic recovery is on a firmer footing, and overall conditions in the labor market appear to be improving gradually. Household spending and business investment in equipment and software continue to expand. However, investment in nonresidential structures is still weak, and the housing sector continues to be depressed.” The FOMC decision to keep short term rates low is designed to maintain liquidity to help the economy recover. The FOMC is expected to keep rates low throughout 2011. The next meeting will be on April 26-27.
- ❖ Several national economic indicators – Unemployment Rate, Consumer Spending, Motor Vehicle sales, showed improvement. Job creation is picking up, but still too slow to attain pre-recession employment levels within five years. Foreclosures, falling housing prices, and resetting adjustable rate mortgages are risks to banks’ stability. The debt crises in Europe, military action in North Africa and the Mid East, the crisis in Japan keep the tension high in the international financial markets. These events have helped keep interest rates low.
- ❖ Loveland’s labor market **expanded** in March with 394 more jobs when compared to February. Compared to the revised estimate for March 2010, there are 364 more jobs for city residents. Using non-seasonally adjusted data for March, the national unemployment rate was 9.2%, the State of Colorado was also 9.2%, Larimer County was 7.7%, Fort Collins was 8.8% and Loveland was 6.7%. Of Colorado cities, only Lafayette and Parker were lower at 5.6% and 5.1% respectively. Aurora (Adams County) had the high unemployment rate of 17.8%.
- ❖ Several economists use the stock market as a leading indicator. Through the first four and a half months the US markets have been strong and money is flowing from cash and bond investments back into stocks. Some analysts are concerned that the market is priced too high and will be facing a correction. Volatility should be expected in coming months.
- ❖ Average interest rates in February increased 26% (basis the two-year treasury). With the higher rates, the City’s unrealized loss position rose by \$655,000. The upside is that the City can now invest in securities that pay slightly higher rates than a few months ago. For 2011 the interest rate projection is 2%. This is close to current rate levels for the five-year treasury.

[For more information regarding this report, please contact:](#)

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Monthly Investment Report

March 2011

