

**BOULDER CITY COUNCIL MEETING
MUNICIPAL BUILDING, 1777 BROADWAY
Tuesday, October 29, 2013
6 p.m.**

AGENDA

1. CALL TO ORDER AND ROLL CALL

A. Flood Cleanup and Recovery Update

B. Declarations of Appreciation

2. OPEN COMMENT and COUNCIL/STAFF RESPONSE (limited to 45 min.) Public may address any city business for which a public hearing is not scheduled later in the meeting (this includes the consent agenda and first readings). After all public hearings have taken place, any remaining speakers will be allowed to address council. All speakers are limited to three minutes.

3. CONSENT AGENDA (to include first reading of ordinances) Vote to be taken on the motion at this time.

A. Consideration of a Motion to approve the Historic Preservation Plan

B. Consideration of a Resolution approving an amended and restated Fire and Police Money Purchase Pension Plan and Trust Agreement of the City of Boulder and authorizing the City Manager to execute it on the city's behalf.

C. Consideration of a Motion to adjourn from City Council and convene as the Boulder Municipal Property Authority Board of Directors; and

Consideration of **Resolution No. 135 approving** and authorizing the **issuance of Boulder Municipal Property Authority Lease Purchase Revenue Note, Series 2013A in the aggregate principal amount of \$5,000,000** and approving and authorizing a Lease Purchase Agreement **for the purchase of 221 acres** of land and water rights located at **8323 Valmont Road, Boulder, CO from Energy Resources Technology land, Inc. (ERTL) for Open Space and Mountain Parks purposes; and**

Consideration of a Motion to adjourn from the Boulder Municipal Property Authority Board of Directors and re-convene as City Council.

D. Consideration of the following items related to the Annexation of Boulder County properties identified as 6234 Arapahoe, and 1492 Cherryvale associated with the property commonly known as the Boulder Jewish Commons site:

1. A resolution finding the annexation petition in compliance with state statutes and establishing Dec. 17, 2013, as the date for a public hearing;
2. Introduction, first reading and consideration of a motion to order published by title only, an ordinance annexing a 0.74 acre portion of Arapahoe Road from a point at the northwest property line of 6234 Arapahoe extending eastward to a point at the northeast property line north property line of 6234 Arapahoe Road with an initial zoning classification of Residential Medium – 1 (RM-1) per subsection Land Use Code subsection 9-5-2(c)(7), B.R.C. 1981;
3. Introduction, first reading and consideration of a motion to order published by title only, an ordinance annexing a 16.4 acre area of land generally located at the northern half of the property at 6234 Arapahoe with an initial zoning classification of Residential Medium (RM-1) and Public (P);
4. Introduction, first reading and consideration of a motion to order published by title only, an ordinance annexing a 1.8 acre area of land generally located 1492 Cherryvale with an initial zoning classification of Rural Residential - 1 (RR-1);
5. Introduction, first reading and consideration of a motion to order published by title only, an ordinance permitting an Indoor Recreation or Athletic Facility use at the associated property at 5890 Arapahoe Ave.

Applicant/Property Owner: Oreg Foundation

4. **POTENTIAL CALL- UP CHECK IN**

Opportunity for Council to indicate possible interest in the call- up of an item listed under agenda Item 8-A1.

ORDER OF BUSINESS

5. **PUBLIC HEARING**

A. **Second reading** and consideration of three **emergency ordinances** all **to implement** and comply with the requirements of **Amendment 64** to the Colorado State Constitution as follows:

1. **Ordinance No. 7929 amending Section 6-14, “Medical Marijuana,”** B.R.C., 1981; and
2. **Ordinance No. 7930 adding a new Chapter 6-16, “Recreational Marijuana,” and a new Section 4-20-67, “Recreational Marijuana Businesses,”** B.R.C., 1981; and
3. **Ordinance No. 7931 amending Section 5-10, “Marijuana Offenses,”** B.R.C., 1981

B. Second Reading and consideration of a motion to adopt **Ordinance No. 7941 creating a pilot project allowing electric assisted bicycles on certain hard surfaced multi-use paths** by amending Definitions in Sections 1-2-1 and 7-1-1 **and** amending Sections 7-4-16, 7-5-5 and 7-5-9 and adding Section 7-5-26 authorizing electric assisted bicycles where permitted by rule adopted by the City Manager, establishing a sunset date of December 31, 2014

6. MATTERS FROM THE CITY MANAGER

A. Consideration of a motion to adopt the Economic Sustainability Strategy

7. MATTERS FROM THE CITY ATTORNEY

None

8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL

A. Potential Call-Ups

1. Site Review at 800 28th Street Information Packet: October 29 Last Opportunity for Call-up: October 29

B. Update on work of the Council Committee on Boards and Commissions

C. Retreat Committee Update

9. PUBLIC COMMENT ON MATTERS (15 min.) Public comment on any motions made under Matters.

10. FINAL DECISIONS ON MATTERS Action on motions made under Matters.

11. DEBRIEF (5 Min.) Opportunity for Council to discuss how the meeting was conducted

12. ADJOURNMENT

This agenda and the meetings can be viewed at www.bouldercolorado.gov / City Council. Meetings are aired live on Municipal Channel 8 and the city's Web site and are re-cablecast at 6 p.m. Wednesdays and 11 a.m. Fridays in the two weeks following a regular council meeting. DVDs may be checked out from the Main Boulder Public Library. Anyone requiring special packet preparation such as Braille, large print, or tape recorded versions may contact the City Clerk's Office at (303) 441-3002, 8 a.m. – 5 p.m. Monday through Friday. ***48 hours notification prior to the meeting or preparation of special materials IS REQUIRED.*** If you need Spanish interpretation or other language-related assistance for this meeting, please call (303) 441-1905 at least three days prior to the meeting. *Si usted necesita interpretación o cualquier otra ayuda con relación al idioma para esta junta, por favor comuníquese al (303) 441-1905 por lo menos 3 días antes de la junta.* Electronic presentations to the city council must be pre-loaded by staff at the time of sign up and will NOT be accepted after 3:30 p.m. at regularly scheduled meetings. Electronic media must come on a prepared USB jump (flash/thumb) drive and no technical support is provided by staff.



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: October 29, 2013

AGENDA TITLE

Consideration of a motion to approve the Historic Preservation Plan.

PRESENTER/S

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
David Driskell, Executive Director, Community Planning and Sustainability (CP&S)
Susan Richstone, Deputy Director, CP&S
Lesli Ellis, Comprehensive Planning Manager
James Hewat, Senior Historic Preservation Planner
Marcy Cameron, Historic Preservation Planner

PURPOSE

The purpose of this agenda item is for City Council to consider approval of the Historic Preservation Plan (**Attachment A**).

STAFF RECOMMENDATION

Staff recommends council consideration of this matter and action in the form of the following motion:

*Motion to approve the Historic Preservation Plan (**Attachment A**).*

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic:** Numerous studies have found that historic preservation adds to local economic vitality and tourism. The historic preservation plan seeks to make the city's program more proactive and effective while streamlining review processes to benefit property owners and the public as a whole. It is anticipated that implementation of the recommendations will help make historic preservation a more robust contributor to the local economy.
- **Environmental:** The preservation of historic buildings is inherently sustainable. Owners of individually landmarked buildings are encouraged to reuse and repair as much of the original building as possible when making exterior alterations, thereby reducing the amount of building material waste deposited in landfills. The plan outlines strategies to keep Boulder's historic preservation on the cutting edge when it comes to environmental sustainability.
- **Social:** The Historic Preservation Ordinance was adopted to "...enhance property values, stabilize neighborhoods, promote tourist trade and interest, and foster knowledge of the city's living heritage." Section 9-11-1 (a), B.R.C., 1981. The primary beneficiaries of historic designation are the property owners of a historic landmark and adjacent neighbors, who are ensured that the character of the immediate area will be protected through the design review process. The Plan proposes innovative strategies to ensure historic preservation remains a priority in maintaining the social, cultural and historic built fabric of the city.

OTHER IMPACTS:

- **Fiscal:** For the most part, recommendations outlined in the Historic Preservation Plan historic are anticipated and ongoing function of the Historic Preservation program. However, a few long term recommendations may require additional resources to implement. The plan identifies funding sources such as grants that might provide these resources.
- **Staff Time:** Near-Term recommendations outlined in the plan are manageable in the current work plan; Grant funding for certain recommendations will likely be pursued in the future.

BOARDS AND COMMISSIONS FEEDBACK

The Landmarks Board reviewed this same version of the Historic Preservation Plan at its September 4, 2013 meeting and voted to recommend approval of the plan by City Council.

PUBLIC FEEDBACK

The development of the plan has included internal and external stakeholder group meetings, input from Historic Boulder, Inc., a forum hosted by PLAN-Boulder County. The stakeholder group met three times and included representatives from designated and potential historic districts, realtor and business associations, and local historic preservation organizations.

BACKGROUND

In 2012, the City of Boulder was awarded a Certified Local Government (CLG) grant to develop a Historic Preservation Plan. Although Boulder has a robust preservation program and a long history of protecting historically important buildings and districts, there is not a specific plan in place to provide an overall vision and policy direction for the long-term future of the Historic Preservation Program. The goal of the plan is to establish a long-term vision for historic preservation in Boulder and to identify and prioritize specific strategies for achieving the identified goals and objectives of the plan.

City Council has reviewed the plan's development throughout the process. At a February 12, 2013 study session, council provided comments on the draft Current Program Assessment. City Council also provided comments on the draft Historic Preservation Plan during an August 13, 2013 dinner discussion. A summary of those meetings is included as **Attachment B**.

HISTORIC PRESERVATION PLAN

Based on council's discussion in August, the following changes have been made to the plan:

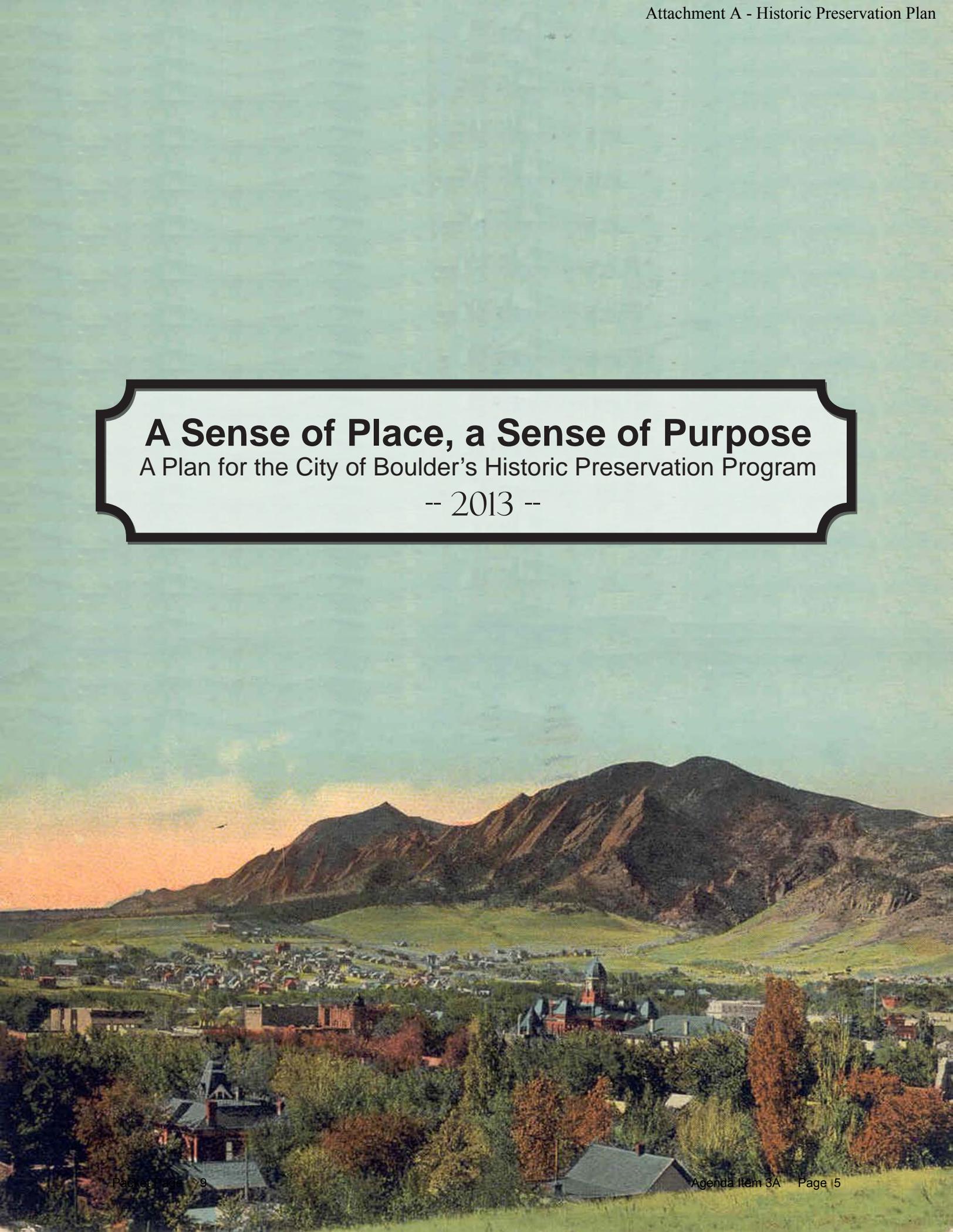
- Clarification of recommendations related to Postwar architecture;
- Elaboration of Recommendation 1.1: "Develop a plan to identify and prioritize historic resource protection and implement strategies for their protection."
- Clarification of a "proactive approach" to Historic Preservation.

NEXT STEPS

Staff will incorporate any changes that council requests on October 29th and finalize the plan. The completed plan will be available as a PDF online and on file at city offices and the library, and will constitute the officially adopted version of the plan.

ATTACHMENTS

- | | |
|----------------------|---|
| Attachment A: | Historic Preservation Plan |
| Attachment B: | Summaries of Feb. 12, 2013 Study Session and Aug. 13, 2013 Dinner Discussion. |



A Sense of Place, a Sense of Purpose
A Plan for the City of Boulder's Historic Preservation Program
-- 2013 --

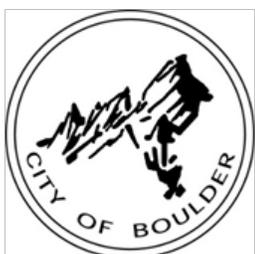
A Sense of Place, a Sense of Purpose

A Plan for the City of Boulder's Historic Preservation Program - 2013 -

City of Boulder, Colorado
Community Planning &
Sustainability Department
1739 Broadway, 4th Floor
Boulder, Colorado 80306

Certified Local Government
Project #CO-12-017

August 2013



Acknowledgements

This document benefitted from insight and contributions from a number of individuals:

Consultant

Dr. Mary Therese Anstey, HistoryMatters, LLC

City of Boulder Landmarks Board

Nicholas Fiore
Mark Gerwing, Chair
Kurt Nordback
Elizabeth Payton
Kate Remley
Kirsten Snobeck
John Spitzer

Boulder City Council Members

Matt Applebaum, Mayor
Suzy Ageton
KC Becker
Macon Cowles
Suzanne Jones
George Karakehian
Lisa Morzel
Tim Plass
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Historic Preservation Plan Stakeholder Group

Abby Daniels, Historic Boulder Inc.
Jancy Campbell, Historic Boulder, Inc.
Susan Connelly, Colorado Chautauqua Association
Crystal Gray, Whittier neighborhood representative
Tom Hay, Board of Area Realtors
Larry Kaptein, Floral Park representative
Jyotsna Raj, University Hill representative
Valerie Yates, Mapleton Hill representative

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Julie Johnson, Cultural Resources, OSMP
Dave Thacker, Chief Building Official
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Carnegie Branch Library for Local History

All historic photographs courtesy of the Carnegie Branch Library for Local History, Boulder Historical Society Collection.

Historic Boulder, Inc

Ruth McHeyser, Co-President
Deon Wolfenbarger, Co-President

History Colorado

Dan Corson
Patrick Eidman

The citizens of Boulder, especially those who participated in the various public meetings.

The activity that is the subject of this material has been financed in part with Federal funds from the National Historic Preservation Act, administered by the National Park Service, U.S. Department of the Interior for the State Historical Society of Colorado. However, the contents and opinions do not necessarily reflect the views or policies of the U.S. Department of the Interior or the Society, nor does the mention of trade names or commercial products constitute an endorsement or recommendation by the Department of the Interior or the Society.

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In addition, funds for this project were provided in part by the History Colorado, State Historical Fund

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EXECUTIVE SUMMARY

In 2012, the City of Boulder was awarded a Certified Local Government (CLG) grant to develop a Historic Preservation Plan. The purpose of the plan is to establish an enduring vision for the city's Historic Preservation program, to set near- and long-term priorities for the program, and to identify proactive and innovative strategies for achieving the identified goals and objectives.

The vision set out in the plan is for the City of Boulder to continue to be a leader in historic preservation by proactively identifying historic resources and creating a shared community vision for the preservation of sites and areas that are significant to Boulder's past. The plan establishes five goals to guide the program:

- Ensure the Protection of Boulder's Significant Historic, Architectural, and Environmental Resources
- Actively Engage the Community in Historic Preservation Efforts
- Make Review Processes Clear, Predictable, and Objective
- Continue Leadership in Historic Preservation and Environmental Sustainability
- Encourage Preservation of Historic Resources

The recommendations are organized into three themes: Historic Resource Protection, Community Engagement and Collaboration, and Program Operation. The recommendations are prioritized to ensure that existing historic preservation activities are addressed before expanding the program through new initiatives.

Key Near-Term Action Items Include:

Historic Resource Protection

- Develop a plan to prioritize historic resource protection;
- Develop additional historic context reports;
- Promote, as demonstration projects, city-owned buildings that incorporate historic preservation and sustainability; and
- Foster greater awareness of postwar architecture.

Community Engagement and Collaboration

- Establish neighborhood liaisons;
- Share stories of Boulder's historic places;
- Honor property owners for careful stewardship of historic properties; and
- Improve the Historic Preservation website.

Program Operation

- Establish follow-up processes for Landmark Alteration Certificates;
- Revise applications and forms;
- Explore ways to make design review more consistent and predictable; and
- Develop a disaster response plan for the Historic Preservation program.

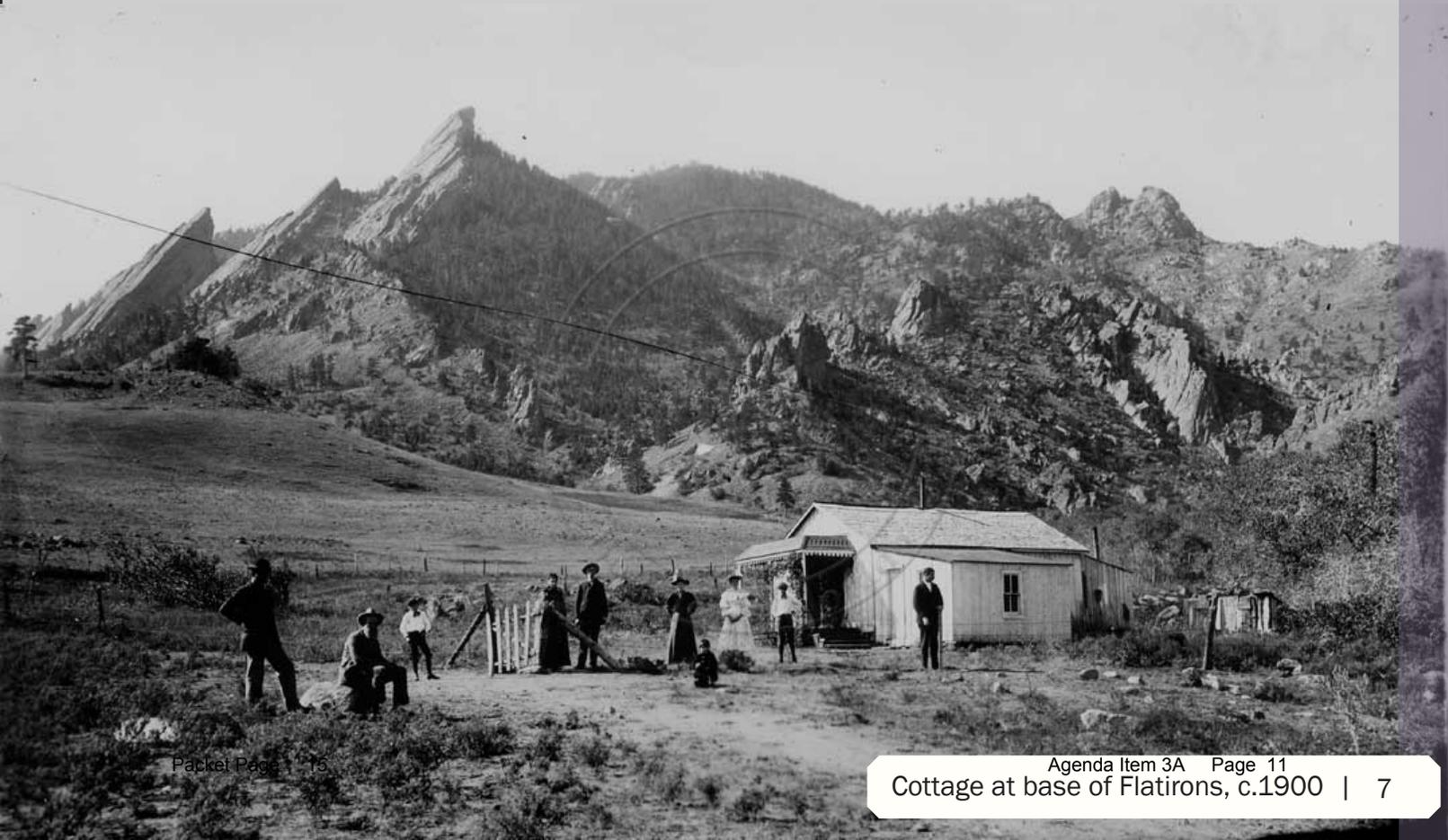
The plan will be used to help guide upcoming annual work plans for the Historic Preservation program. Each year, it is recommended that a report and presentation be prepared for the City Council to gauge the progress of the recommendations and help prioritize initiatives for the next year.

Public and Board Input

The plan has been shaped by considerable input from members of the public, a stakeholder group, various city departments, City Council and the Landmarks Board. The development of the plan included a program assessment, comparisons with other historic preservation programs, a customer survey of applicants, public and Landmarks Board meetings, internal and external stakeholder group meetings, input from Historic Boulder, Inc., a joint City Council and Landmarks Board Study Session, a Planning Board meeting, and a forum hosted by PLAN-Boulder County. The stakeholder group met three times and included representatives from designated and potential historic districts, realtor and business associations, and local historic preservation organizations.

Implementation of the plan will require strong partnerships between the city, Landmarks Board, property owners, community members, historic preservation organizations, real estate groups and neighborhood associations.

A SENSE OF PLACE: DEVELOPMENT OF THE HISTORIC PRESERVATION PLAN



DEVELOPMENT OF THE HISTORIC PRESERVATION PLAN

In 2012, the City of Boulder received grant funding to develop a plan to establish a long-term vision for the city's Historic Preservation program, proactively set priorities for future activities, and identify innovative strategies for achieving the identified goals and objectives. Over the course of its nearly forty years, Boulder's Historic Preservation program has accomplished much and today is often cited as a model of historic preservation at the local government level. Its successes are the result of innovative thinking in a community that places great value on the character of its city. While few would dispute the importance of preserving Boulder's irreplaceable historic and architectural resources, establishment of a comprehensive plan to guide these efforts will ensure historic preservation efforts remain relevant and dynamic.

Few communities with established historic preservation programs have adopted plans. This may be due to the perception that preservation is largely reactive in nature, responding to threats only at the last moment. In reality, current historic preservation practice is often woven into many facets of a city government's activities and plans. This is the case in Boulder.

The Historic Preservation Plan builds on past successes by identifying what roles historic preservation will play in shaping Boulder's urban form and character and how it will contribute to the city's goals of environmental, social and economic sustainability. The plan also aspires to bring vision to the diverse initiatives, programs, needs, opportunities, goals, and principles of the City of Boulder's historic preservation activities in the

twenty-first century. On a practical level, the plan is intended to establish implementable work program priorities that will assist in streamlining the city's historic preservation processes.

Adoption of a historic preservation plan for the city and county is recommended in the Boulder Valley Comprehensive Plan as a way to integrate historic preservation issues into broader goals and policies in the Boulder Valley. This plan is more limited in scope, applying only to the City of Boulder's historic preservation activities, but may be useful in developing a broader historic plan for the Boulder Valley.

The plan briefly describes and analyzes fourteen program areas, establishes goals and priorities for the program, and includes recommendations and a plan for implementing those recommendations under three themes: Historic Resource Protection, Community Engagement and Collaboration, and Program Operations. It provides concrete strategies for implementation, with near- and long-term outcomes to refine and improve the city's Historic Preservation program over the next 10-15 years.

COMMUNITY INPUT

The planning effort reflects considerable public input from a broad range of stakeholders, some with a more direct interest in historic preservation. It recognizes the value of community engagement in undertaking an honest assessment of Boulder's Historic Preservation program and developing strategies for the future that will benefit the community as a whole. Groups engaged through the plan development process include the Boulder Area Realtors Association (BARA), the Boulder County historic preservation program, the Boulder History Museum, the Colorado Chautauqua Association, Downtown Boulder, Inc. (DBI), the Carnegie Library for Local History, Floral Park Neighbors, Historic Boulder, Inc., the Mapleton Hill Neighborhood Association, PLAN-Boulder County, the city's Planning and Development stakeholder group, and the Whittier Neighborhood Association. The plan also integrates the six goals for local historic preservation as outlined in "The Power of Heritage and Place: The Statewide Plan for Historic Preservation in Colorado" (2013).



A SENSE OF PLACE

Boulder possesses remarkable environmental, cultural, and historic wealth and an unmistakable sense of place. Archaeological finds indicate that humans have lived in, what now comprises, Boulder's city limits for at least 10,000 years. The Southern Arapaho people also recognized Boulder Valley's appeal, establishing a village near Haystack Mountain. Over the centuries, Utes, Cheyennes, Comanches, and Sioux are known to have visited and camped in the area.

When permanent settlement by European descendents first took place in the 1850s, Boulder was part of the Nebraska Territory. On February 28, 1861, the Territory of Colorado was created by the U.S. Congress. The 1860s saw the town quickly grow into a supply base for miners searching for gold and silver. Early Boulder was a rough-hewn place, providing miners with needed equipment, agricultural products, housing, transport services, as well as numerous gambling and drinking establishments.

The city's first residential areas were located in what is now downtown and in some parts of the Goss-Grove, Whittier and Mapleton Hill neighborhoods. In 1860, Boulder citizens began lobbying to have the University of Colorado located in the town, and in 1874, the small community was granted the location, secured a donated 44.9 acre site and raised \$15,000 to match a similar grant by the state legislature. By 1900, growth of the university led to the development of parts of the University Hill neighborhood.

By 1905, the economy was faltering and Boulder looked to tourism and health seekers to boost its fortunes; however, it had no first-class lodgings

to attract summer visitors and group meetings. By 1906, a subscription drive had raised enough money to construct a large hotel in the center of town. The hotel's first event was a reception for Boulder citizens on December 30, 1908, and the Hotel Boulderado opened to guests on January 1, 1909. Tourism continued to dominate the Boulder economy for the next 40 years. Each summer, shopkeepers, transport firms, and lodging managers eagerly awaited the influx of Chautauqua visitors, primarily from Texas.

EARLY PLANNING AND PRESERVATION EFFORTS

Efforts to protect Boulder's setting and natural resources represent some of the first conservation efforts within the community. A voter-approved ballot measure in the late 1890s allowed the city to purchase 40 acres of land to establish the Colorado Chautauqua, marking the community's commitment to preserving and celebrating Boulder's natural beauty. Boulder citizens continued to play a strong role in determining the town's future growth. In 1903, the Boulder City Improvement Association was established to develop park lands and encourage desirable city improvements. This body had similar goals to Boulder's Park Board, which actively acquired lands along Boulder Creek and other areas surrounding the city for park use. In 1908, the Improvement Association commissioned nationally-recognized landscape architect Frederick Law Olmsted, Jr. to suggest ways to improve Boulder's physical environment. Olmsted advised the city to promote itself as a residential community to ensure its stability, and to distance polluting industries from central Boulder. Olmsted's report established a guide for growth in Boulder. In 1926, the city hired Denver planning consultant Saco R. DeBoer to formulate a zoning ordinance. Adopted



in 1928, this ordinance established seven zoning districts and made Boulder one of the first western cities to have such land-use guidance.

MID-CENTURY HISTORIC PRESERVATION EFFORTS

Like so many other communities across the western United States, Boulder experienced tremendous post-World War II population growth. A rising population, along with a national mood that emphasized the “new” after years of Depression-era and wartime deprivation, was perceived as a threat to both the natural setting and many older buildings. As a result, historic preservation and conservation efforts re-emerged from a combination of concerns about the effects of dramatic growth and a desire to protect the city’s distinct sense of place. In 1959, after a successful grassroots campaign, Boulder voters approved an amendment to the city charter that introduced a “blue line” restricting water service at higher elevations as a way to preserve the views and character of nearby mountain areas. In 1967, Boulder was the first city in the United States to vote for an open space tax, and as a result, over 45,000 acres of protected parks and open space surround the city today. In 1971, Boulder citizens again supported an effort to protect Boulder’s character. Construction of the nine-story Colorado Building at 14th and Walnut streets encouraged voters to pass a law restricting the height of new buildings to fifty-five feet.

HISTORIC PRESERVATION ORDINANCE

Responding to the loss of several important historic buildings in the 1960s and early 1970s,

Historic Boulder, Inc. drafted a historic preservation ordinance, which City Council unanimously adopted in 1974. It established an official municipal process to preserve and protect the historic, architectural, and environmental assets that contribute to Boulder’s unique sense of place.

THE HISTORIC PRESERVATION PROGRAM TODAY

During its nearly 40-year history, the city’s Historic Preservation program has grown, evolved, and matured. Today, Boulder boasts a well-established and dynamic program that is cited as a model in Colorado and nationwide. The local historic preservation ethic in the city is complex and focused on preserving vital aspects of the community’s character that improve the urban quality of life by promoting distinct, lively, and sustainable neighborhoods. Designated properties span from the 1866 Squires-Tourtellot House to Modernist architecture of the 1960s. While these landmarks represent a broad diversity of cultural resources, Boulder still has properties and areas worthy of recognition and in need of protection. From the outset, the Historic Preservation Ordinance has sought to balance private property rights with the public interest of resource protection, and this fundamental principle continues to guide the city’s Historic Preservation program. While this balance is not always easy to achieve (and sometimes results in controversy), historic preservation efforts in Boulder have resulted in the designation of many significant buildings and neighborhoods, enhancing the community’s character for citizens today and generations to come.

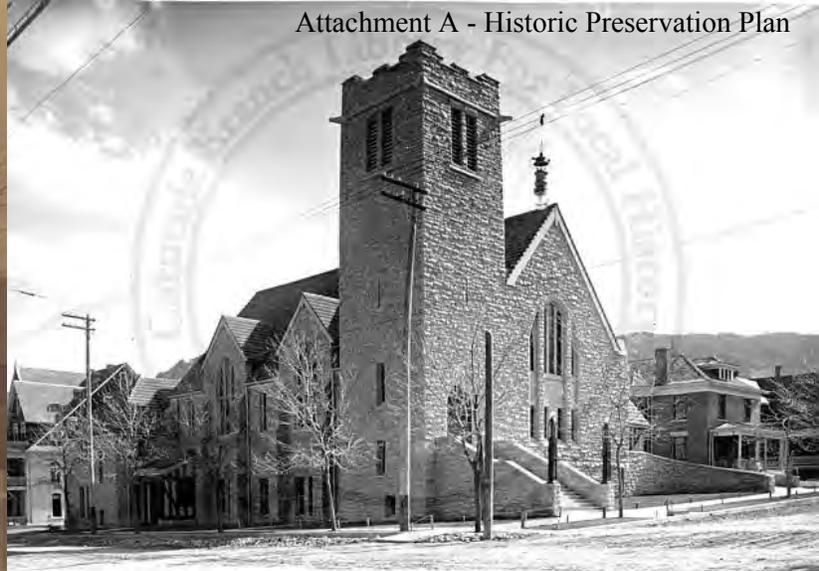


HISTORIC PRESERVATION PROGRAM DESCRIPTION AND ANALYSIS

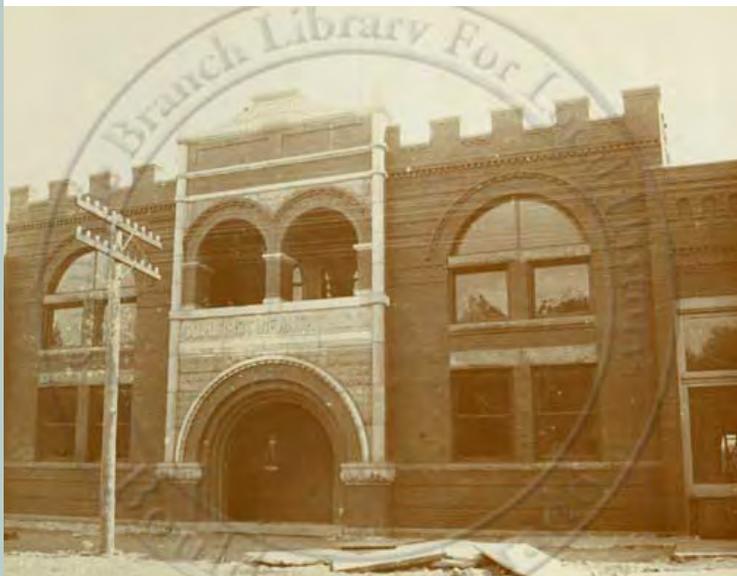




Squires-Tourtellot House
1019 Spruce Street
Built in 1865



First Congregational Church
1128 Pine Street
Built in 1908



The Armory
934 Pearl Street
Built in 1898



Boettcher-Valentine Building
1142-48 Pearl Street
Built in 1878



Grill Mansion, 2305 Broadway, built in 1904



Highland School, 885 Arapahoe Avenue, built in 1892

OVERVIEW

The City of Boulder's Historic Preservation program was established in 1974, following a citizen-driven effort to recognize and protect buildings and sites important to Boulder's history. The program began with the designation of five individual landmarks, and in 1978, Floral Park was designated as the city's first historic district. Over the past 40 years, the program has grown to include 162 individual landmarks and 10 historic districts, for a total of over 1,300 designated properties.

CERTIFIED LOCAL GOVERNMENT PROGRAM (CLG)

The City of Boulder has been a Certified Local Government (CLG) since 1985. The purpose of the program certification is to encourage and expand local involvement in preservation issues and establish strong local preservation programs. Certified programs are eligible for grants from a designated fund, and landmarks within the CLG jurisdiction are eligible for a 20 percent State Historic Preservation Income Tax Credit.

The National Historic Preservation Act of 1966 established State Historic Preservation Offices, funded by the Secretary of the Interior through the National Park Service. History Colorado's Office of Archaeology and Historic Preservation administers the state program, including state and federal grants, review and maintenance of survey records, and nomination of properties to the State and National Registers of Historic Places. In 1980, the state-federal partnership was expanded to local governments.

A Certified Local Government must establish a historic preservation ordinance, an adequate and qualified Historic Preservation Commission such as the Landmarks Board, a system for survey and inventory of historic properties, and encourage public participation in historic preservation programs.

Boulder has been successful in securing grant funds nearly every year since it was certified, which have funded survey and historic context projects, staff and board member training, and public outreach efforts. CLG evaluations occur every four years and provide third-party analysis of the program to ensure compliance with the CLG requirements.

OVERVIEW OF PROGRAM AREAS

The Historic Preservation Ordinance outlines the key functions of the Historic Preservation program, including designation of individual landmarks and historic districts, recognition of properties as Structures of Merit, ruling on Landmark Alteration Certificates, enforcement of historic preservation violations, and granting permits for demolition of buildings over 50 years old.

In addition to these key functions, the program includes public outreach efforts and functions related to the operation of the program within the Community Planning and Sustainability Department and the city organization.

The program descriptions and analyses are organized into three themes: **Historic Resource Protection, Program Operation, and Community Engagement and Collaboration.**



BOULDER'S HISTORIC PRESERVATION ORDINANCE

Boulder's Historic Preservation Ordinance is the foundation for Boulder's Historic Preservation program. It outlines the intent, processes and standards by which preservation activities are undertaken by the city and continues to guide the program. Its stated purpose is to:

Promote the public health, safety and welfare by protecting, enhancing, and perpetuating buildings, sites, and areas of the city reminiscent of past eras, events, and persons important in local, state, or national history or providing significant examples of architectural styles of the past... to develop and maintain appropriate settings and environments for such buildings, sites, and areas to enhance property values, stabilize neighborhoods, promote tourist trade and interest, and foster knowledge of the city's living heritage.

The intention is not to “preserve every old building in the city, but instead...draw a reasonable balance between private property rights and the public interest...” At its adoption, the ordinance established:

- The procedure for designation of individual landmarks and historic districts
- The process for the review of alterations to or demolition of designated buildings
- The Landmarks Historic Preservation Advisory Board (now known as the Landmarks Board)
- The enforcement penalties to be levied if alteration or demolition decisions are violated

ANALYSIS

Boulder's ordinance has served the city well over the past 39 years, establishing a solid framework for the Historic Preservation program. Both adopted rules and ordinance revisions have allowed the program to change and adapt as needed. The most significant change occurred in 1994 and established a review process for the demolition and relocation of non-designated buildings over 50 years old. The Landmarks Board's authority to initiate landmark designation over an owner's objection strengthens Boulder's historic preservation program. Although rarely and judiciously used, this has resulted in the preservation of a number of significant properties that might otherwise have been lost. In comparison with historic preservation ordinances in similar communities, Boulder's ordinance is comprehensive, with a clear purpose and articulated roles of the Board, staff, and various review processes.

However, recent feedback from the public, the Landmarks Board, and staff indicate the demolition section of the ordinance is unclear and the process often results in an unintended outcome. Revisions to this section of the ordinance, providing for more flexibility in its application, might be appropriate. Likewise, the Landmarks Design Review Committee (LDRC) process might be better articulated to clarify the subcommittee's role and increase overall consistency.



LANDMARKS BOARD

Boulder's original historic preservation ordinance established the Landmarks Preservation Advisory Board, a body assigned designation and review responsibilities for the City of Boulder's Historic Preservation program. Renamed the Landmarks Board in 2007, the five City Council-appointed members, two of whom are design professionals, serve five year terms and include at least two representatives from the architecture or urban planning professions. The board fulfills four major roles and has the authority to make rules and regulations to interpret the ordinance. The Landmarks Board also includes a single non-voting member from the Planning Board who attends meetings and comments on historic preservation issues that may have larger planning implications. Members of the Landmarks Board and staff attend conferences, forums, and workshops annually to increase current knowledge that will assist in designation, design review, and review of non-designated buildings older than 50 years. As Boulder property values and development pressures continue to rise, the board is increasingly faced with more complex issues that require balancing community interests when making decisions regarding designation, design review, and demolitions.

ANALYSIS

Landmarks Board members are volunteers who devote considerable time carrying out the intent of the city's Historic Preservation Ordinance. The board frequently forms subcommittees to engage in special initiatives, including drafting design

guidelines and public outreach efforts. Over the years, these subcommittees have been effective in promoting historic preservation in the city and can be credited with a number of accomplishments, including establishment of the Structure of Merit program and the Historic Preservation and Environmental Sustainability Initiative. Public feedback indicates a desire to increase objectivity and consistency in the review of projects. To this end, staff and the Landmarks Board should engage in regular training to ensure decisions are consistent with the Secretary of the Interior's Standards for Historic Preservation and the Historic Preservation Ordinance.

Key Duties of the Landmarks Board, as Specified in the Ordinance:

- Designating individual landmarks and historic districts
- Recognizing properties for the Structure of Merit list
- Ruling on Landmark Alteration Certificates
- Review of permit applications for demolition of buildings over 50 years old.

Other Landmarks Board Activities:

- Annual retreat to discuss past year and plan future initiatives
- Certified Local Government training workshops, hosted by History Colorado
- Attendance at annual Saving Places conference
- Annual letter to City Council



LANDMARK AND HISTORIC DISTRICT DESIGNATION

Boulder's Historic Preservation Ordinance authorizes the Landmarks Board to recommend to City Council the designation of sites and areas of historic, architectural, and/or environmental significance. Designation of important historic properties helps ensure their protection while providing financial and other incentives for rehabilitation. Property owners, historic preservation organizations, the Landmarks Board or City Council may start the designation process. In rare cases, the board has initiated landmark designation over an owner's objection. Historic Preservation staff researches the significance of the site or area and prepares a summary report with a recommendation regarding designation for a Landmarks Board public hearing. The Landmarks Board makes a designation recommendation to the City Council, which decides whether the property or district should be landmarked. Once City Council approves a designation, a copy of the document is placed in the Boulder County real estate records, notifying future owners of the listed status of their building. Because the local landmark program is dynamic and because of the high level of protection it provides, there are relatively few properties in Boulder listed in the State or National Register of Historic Places.

ANALYSIS

The rate of designations in Boulder, both individual landmarks and historic districts, has remained fairly stable over time. Designations of individual landmarks and historic districts have generally been reactive, and often due to a perceived threat. The majority of historic districts were designated in the 1980s and 1990s, with over half of those in the 1990s. Many designations of districts have occurred following historic survey. The program should seek

to adopt a more proactive approach in the future.

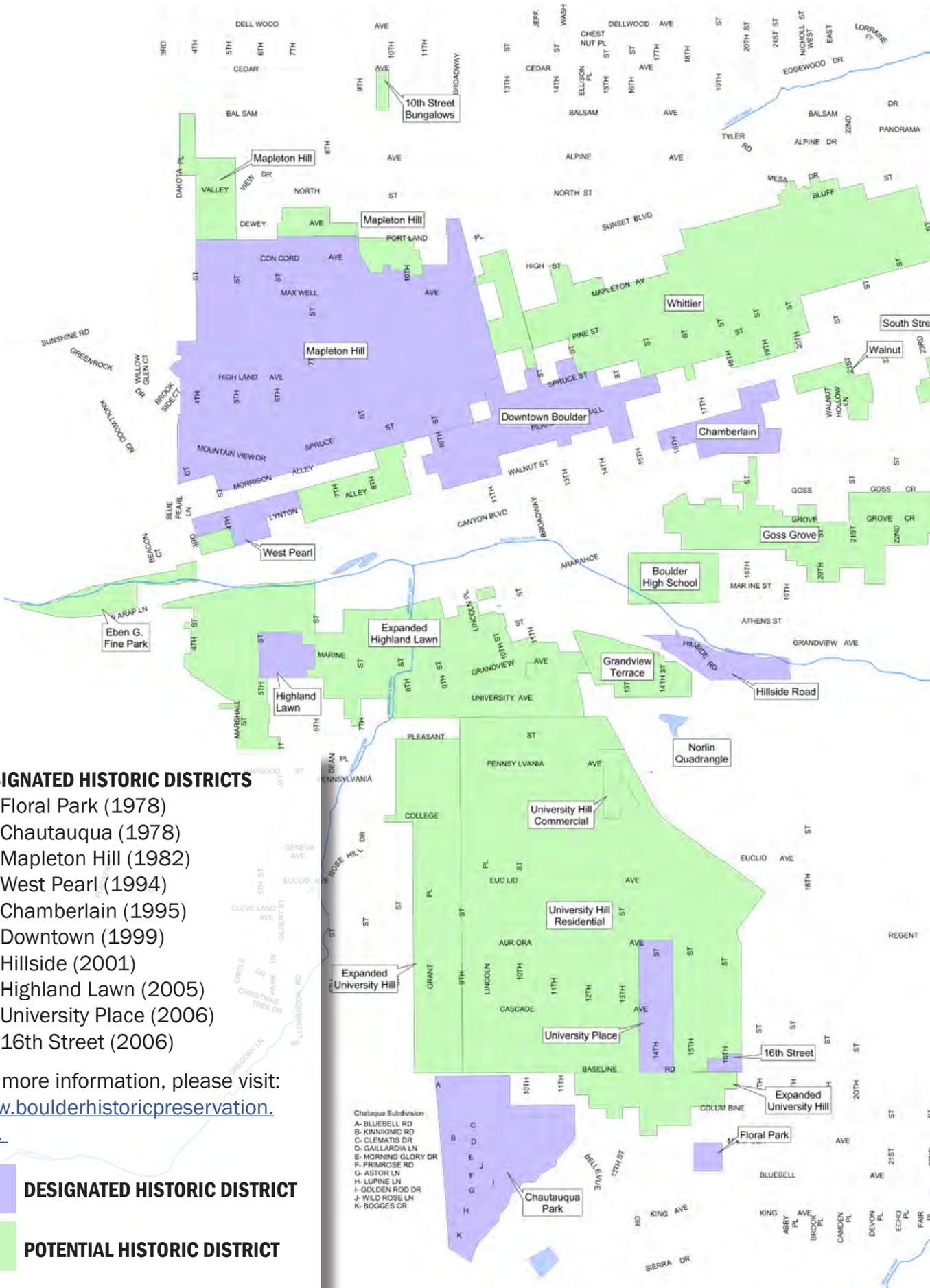
The majority of Boulder's landmarks and historic districts reflect the city's early history, as is typical of historic preservation programs that tend to focus, at least initially, on older and rarer resources. While broad landmark representation exists for most types and eras from the pre-World War II years, few buildings are designated from the post-World War II era.

There are many identified areas and buildings in the city that are not protected through designation. These include older areas that have been previously identified as potential historic districts (often representing vernacular buildings and resources associated with minority populations), and modern buildings constructed during the 1950s through the 1970s. Data on the most vulnerable and underrepresented resources needs to be updated and analyzed.

A 2007 ordinance revision allowed for a longer time period between historic district initiation and designation, which placed greater emphasis on property owner support and collaboration. Historic districts designated since 2004 represent smaller geographic areas than districts established prior to that time. The trend toward smaller districts reflects the complexities of listing larger areas and also makes the public outreach process more manageable. Public input indicates that the Historic Preservation program should better publicize information about the designated historic districts and ensure property owners are aware of the benefits and responsibilities of living in a historic district.



DESIGNATED AND POTENTIAL HISTORIC DISTRICTS



CURRENT PROGRAM DESCRIPTION AND ANALYSIS

DESIGN REVIEW

Change continually occurs in Boulder's historic districts and to individually landmarked properties. The Design Review process, and the requirement of a Landmark Alteration Certificate for exterior alterations, is in place to ensure that changes are consistent with the Secretary of the Interior's Standards for Rehabilitation by preserving key architectural features while addressing the needs of modern living. Through this process, staff reviews minor alterations, such as the construction of rear fences and roofing. The Landmarks Design Review Committee reviews applications for more significant changes, including front and side yard fences, window rehabilitation and replacement, and additions to designated buildings.

Composed of two rotating Landmarks Board members and one Historic Preservation staff member, the Landmarks Design Review Committee meets weekly and works collaboratively with property owners, architects, and builders within the framework of the Secretary of the Interior's Standards for Historic Preservation and relevant design guidelines. If the three committee members do not agree that the proposal is consistent with the guidelines, the request is referred to the full Landmarks Board for review at a public hearing. If an applicant does not agree with the committee recommendation, he or she may also request a full board public hearing. Full Landmarks Board review is required for demolition or construction of a new building over 340 square feet on a landmarked property or in a designated historic district. The Landmarks Board's decisions are forwarded to the

City Council for review and possible "call up" for their own consideration. Members of the Landmarks Board and staff attend conferences, forums, and workshops annually to assist in their design review activities.

ANALYSIS

Design review is vitally important in maintaining the visual and material character of Boulder's historically designated areas and properties. Landmarked sites, subject to design review over the years, represent some of the most dynamic areas and valuable properties in the city. Boulder's Design Review process has evolved into an efficient, thorough, and collaborative means to appropriately manage change to the city's historic fabric. The vast majority of the over 200 Landmark Alteration Certificates reviewed annually are approved or approved with modifications. As rising real estate values and land use pressures have continued to increase over the past decade, more ambitious proposals within historic districts are being seen. Such projects present ever-increasing challenges in balancing private property rights with the public interest.

Public feedback suggests there is sometimes confusion about the review process and a perceived lack of consistency regarding decisions. Such criticism of historic preservation design review is not unique to Boulder and underscores the challenges of reviewing changes to historic properties, where flexibility is required and "one size fits all" regulations do not work. Care needs to be taken in citing the specific design guideline provisions that inform review decisions, as this approach illustrates to the public how such review decisions are both objective and predictable. Historic Preservation staff should provide applicants with clear information about what to expect from the review process and explain the rationale behind the design guidelines and how decisions are made. Landmarks Board members and staff should be encouraged to participate in regular design training sessions to ensure the highest level of historic preservation design review. Consideration might also be given to an independent evaluation of the design review process.



HISTORIC DISTRICT DESIGN GUIDELINES

Boulder's historic district design guidelines are written to provide guidance for property owners undertaking exterior changes to designated individual landmarks or buildings within historic districts. They are based on the federal Secretary of the Interior's Standards for the Treatment of Historic Properties and assist staff and the Landmarks Board in evaluating alterations in a consistent, equitable, and predictable manner. The City of Boulder has a total of eight design guideline documents, including the General Design Guidelines and seven district-specific guidelines. In 2008, the city received a best practices award from the National Alliance of Historic Preservation Commissions for developing design guidelines that assist in achieving Boulder's sustainability goals in a manner consistent with the Secretary of the Interior's Standards.

Early design guidelines were prepared after historic district designation, but more recently, staff has worked collaboratively with property owners to develop appropriate design guidelines prior to designation. Using this approach, specific issues identified by residents can be integrated into the guidelines. This approach incorporates the proposed design guidelines into the pre-designation outreach process and has proven effective in cultivating critical public support for new historic districts. The guidelines are available on the city's Historic Preservation website and in printed form.

ANALYSIS

Boulder's historic preservation design guidelines provide more specific guidance for design review

than in similar communities. It is important that the guidelines are as understandable, accessible, and comprehensive as possible. Public and the Landmarks Board comments indicate that people are often not aware of the guidelines and their rationale. Furthermore, public and the Landmarks Board comments show that difficulties arise when proposals are submitted for alterations not fully addressed in current guidelines, such as the use of alternative materials or new construction in historic districts.

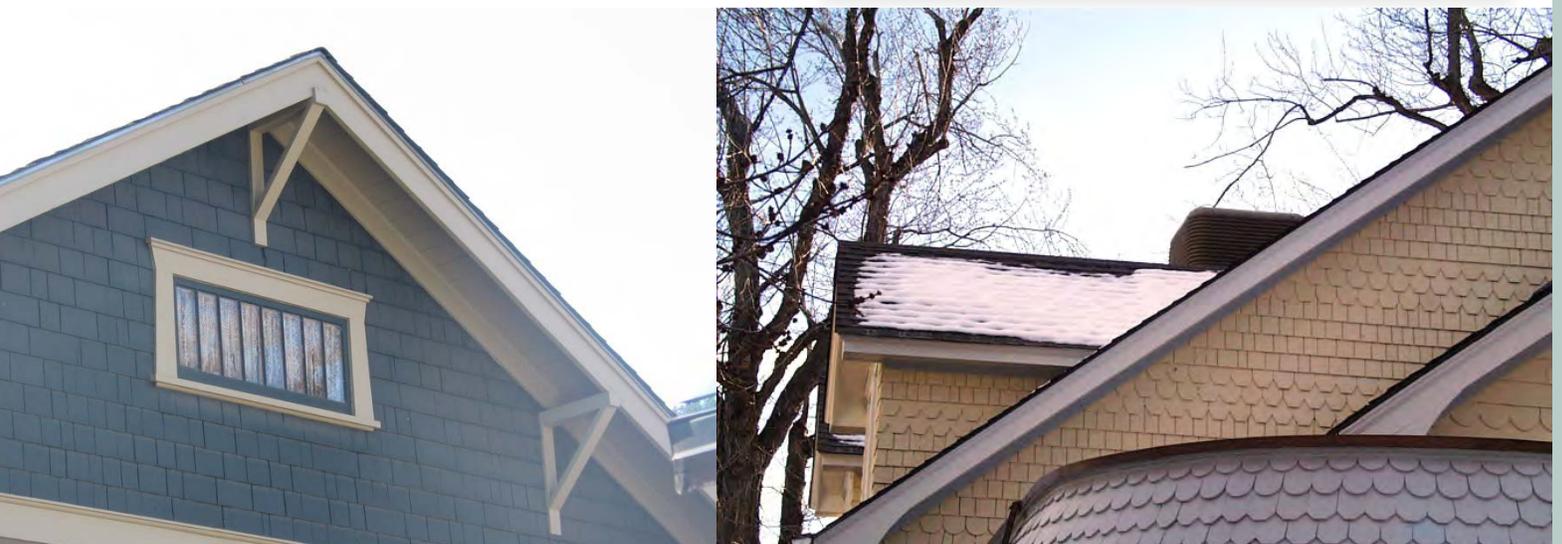
DISTRICT-SPECIFIC DESIGN GUIDELINES

- Mapleton Hill Design Guidelines (1985, Revised 1994)
- Chautauqua Design Guidelines (1989)
- Chamberlain Design Guidelines (1996)
- West Pearl Design Guidelines (1996)
- Downtown Design Guidelines (2002)
- Highland Lawn Design Guidelines (2005)
- University Place Design Guidelines (2006)

GENERAL DESIGN GUIDELINES

- General Design Guidelines (2007)

Guidelines are available online on the city's website: www.boulderhistoricpreservation.net



DEMOLITION REVIEW

Intended to prevent the loss of buildings that may have historic or architectural significance, and to provide the time necessary to consider alternatives to demolition (including landmark designation), the Historic Preservation Ordinance outlines a review process for non-designated buildings over 50 years old that are proposed for demolition. If a building is found to be potentially eligible for designation as an individual landmark, a Landmarks Board public hearing is scheduled. If the board determines the property is not eligible for designation as an individual landmark, a building permit is issued. However, if the board finds there is “probable cause” that the building may be eligible for landmark designation, a 180-day stay of demolition is imposed. During the “stay” period, the board may take any action it deems necessary to preserve the property, including consulting with civic groups and citizens, recommending acquisition to preserve the building or moving the building. In rare cases, the Landmarks Board has initiated landmark designation over an owner’s objection.

During this period, staff and the board engage in discussions with the applicant to explore alternatives to demolition. Historic Boulder, Inc. has also played a key role in proposing alternatives to demolition. If it is determined there is not probable cause for landmarking, or no action is taken during the stay, a demolition permit is issued.

ANALYSIS

While Boulder’s demolition ordinance has been effective in preventing the loss of historically significant properties, it is intended to be a “last resort” form of resource protection. Nonetheless, it is one of the city’s main resource protection activities and more time is spent administering the demolition ordinance than is spent on proactive historic resource protection.

Strong housing demand and limited opportunities for new single-family housing growth means land use pressures are likely to continue in Boulder and demolition reviews will likely remain a significant aspect of the city’s Historic Preservation program workload. Because the community does not have a clear understanding of the demolition process or agreement on the priorities and strategies for protection of historic resources, this process is more complicated than it might otherwise be. While the

program generally has historic information on nearly all buildings over 50 years of age, this information is dated and does not include a clear determination of local significance (typically, only state or national register eligibility is highlighted). For this reason, staff must research each building and make a recommended determination for local landmark designation, and everyone must react to the information and the recommendation in a short time frame. To make the demolition review process more predictable and efficient, priority should be given to updating historic survey information, developing historic contexts and identifying historic resource types most in need of protection (see Survey and Historic Context Section).

For purposes of the Historic Preservation Ordinance, “demolition” is defined more narrowly than it is elsewhere in the city code. The definition was revised in the early 2000s in reaction to the de-facto demolition of significant resources that, for example, kept one wall standing as a way to avoid review by the Historic Preservation program. Nevertheless, it can trigger a demolition review for non-historic features (e.g., demolition of a 1980s addition) or other alterations that may not have a significant impact of the historic building. Steps have been taken to revise the definition of demolition (for instance, establishing a minimum width of a street-facing wall to be considered a demolition, and to not include additions less than fifty years in age to a building older than fifty years in the wall and roof calculation). It would be beneficial to continue studying these cases and refine the definition in the code to address unintended consequences of a narrow definition of demolition.

Another challenging aspect of the demolition review process is when the Landmarks Board reviews an application where the “demolition” does not involve demolition of a building (i.e. removal of 55 percent of the roof), the board may review only whether the subject building is potentially eligible as an individual landmark and does not have the authority to assess the relative impact of the “demolition” on the potential historic building. Continued consideration should be given to revising the ordinance to allow for the level of demolition to be taken into consideration or the possibility that such a change could be made through adoption of an administrative regulation.

HISTORIC PRESERVATION INCENTIVES

Boulder currently administers 14 different incentives to encourage the stewardship of landmarked buildings and properties located in designated historic districts. Incentives, such as the state tax credit and the city sales tax waiver, convey a direct financial benefit. Other available incentives allow for relief from land use regulations or honor owners of historic properties. The most utilized incentive is the state tax credit. As a Certified Local Government, Boulder reviews these applications in-house, usually as part of the Landmark Alteration Certificate process. Between 2003 and 2009, a total of 39 State Tax Credit applications, the second-highest number of any municipality in Colorado, were approved. The practice of providing free plaques to all owners of individual landmarks is also popular.

ANALYSIS

Boulder has been creative in developing incentives to encourage historic preservation. While specialized tax revenues for historic preservation projects currently are not available in the city as they are in Louisville, Boulder's zoning incentives are more expansive than those available in most other Colorado communities. Public input revealed that many owners of historic properties are not aware of available incentives. Enhanced promotion of existing incentives would be beneficial, and the city should explore additional financial incentives.

AVAILABLE INCENTIVES FOR LANDMARKED PROPERTIES

- Eligibility for a 20% Federal Tax Credit for income-producing properties listed on the National Register of Historic Places
- Eligibility for a 20% Colorado State Income Tax for individually landmarked properties and those located within a historic district
- City sales tax waiver on construction materials when applying for a building permit if at least 30% of the value of materials will be used for the building's exterior
- Eligibility for grants through the State Historical Fund. Projects must demonstrate a public benefit to be eligible for a grant
- Potential exemptions or variances from select building code and zoning standards, including floodplain, height, solar and residential growth management requirements
- Newly-designated landmarks are honored with a bronze plaque presented at a public ceremony
- Staff assistance for applicants for development review, Landmark Alteration Certificate, and building permit processes



INTERNAL COORDINATION

The city's Historic Preservation program intersects with many other city departments, reflecting the institutional value of historic preservation in Boulder. This arrangement also illustrates the complex relationship of historic preservation with other city goals, such as housing, economic vitality, transportation, and environmental sustainability. In addition, the Community Planning and Sustainability Department and Historic Preservation program collaborates with the Development Review, Land Use, and the Local Environmental Action divisions. For example, alteration permits pertaining to disability access are evaluated on a case-by-case basis in an effort to provide maximum accessibility with minimum impact to historic structures. If significant historic resources are identified, a condition of Site Review approval is often that an application for landmark designation be made. Historic Preservation is regularly involved with updates to the Boulder Valley Comprehensive Plan and its preservation and conservation policies.

ANALYSIS

Feedback from the internal coordination group indicated that coordination between city departments and the Historic Preservation program has improved markedly over the last few years. In particular, coordination through the discretionary review process takes place from the pre-application stage. However, there was also acknowledgment of a need for continued engagement with the community and continued communication among city staff. In particular, increased coordination with Housing, Transportation, Parks and Recreation, Open Space and Mountain Parks, and Facilities and Asset Management should occur. The internal group suggested better information and more internal training and coordination on the historic

ENFORCEMENT

preservation Design Review Process, the Landmarks Design Review Committee, and how Landmarks Alteration Certificate decisions work.

The Historic Preservation Ordinance outlines the enforcement policies and penalties for historic preservation violations, including work completed without a Landmark Alteration Certificate (LAC) and the unauthorized demolition of buildings over 50 years old. Demolition violations are rare; most violations involve work completed without an LAC. Many enforcement cases are initiated when neighborhood residents notify Historic Preservation staff of a potential violation. If warranted, a stop-work order is issued. Except in the cases of unauthorized demolition and relocation, property owners have thirty days to resolve the violation with Historic Preservation staff. The city may issue a summons if there is no attempt to resolve the situation or work on correcting the problem ceases. In the instance of an unlawful demolition or relocation of a historic building, the city issues both a notice of violation and a summons. The maximum penalty in Boulder for demolishing a historic building without the proper review and permit is a fine of not more than \$5,000 per violation, incarceration for not more than ninety days, or both a fine and jail time.

ANALYSIS

Staff generally uses an educational rather than punitive approach to reduce violations and the need for enforcement. Staff makes every effort to provide as much relevant information as possible to historic building owners. Details about the Landmark Alteration Certificate and demolition review processes are posted on the city's website, provided over the phone and in person, and also appear in specialized brochures and publications. Staff also cooperates with other city employees to enhance



the enforcement program. While this approach is relatively effective, public feedback indicates frustration in neighbor-initiated enforcement reports and a desire for a process to ensure compliance with Landmark Alteration Certificates. Enforcement practices could be strengthened through the establishment of a historic preservation training program for inspectors.

SURVEY AND HISTORIC CONTEXTS

Historic and architectural surveys and historic contexts are the foundation for understanding and preserving a community's cultural and historic resources. Surveys inform a community about the historic resources it has and why they may be important. Since Boulder implemented a survey program in 1977, a total of 16 survey projects have been completed, resulting in the documentation of nearly all of the city's historic buildings built prior to the 1960s.

Historic context reports help narrate the stories of Boulder's historic places. These thematic reports have focused on social groups, such as early Swedish immigrants and Boulder's African American community, as well as the transformative impact of the railroad and automobile on the city, and the use of native stone construction in Boulder. The context reports identify specific properties associated with key historic events and patterns, important people, architectural styles or buildings types. From 1988 to 1999, the city utilized grants to develop a historic context program. This initiative created 14 documents on a wide variety of historic, architectural and cultural topics. These documents are available on the city's website and are used by staff in the research of properties proposed for demolition or landmark designation, and in the development of walking tours.

ANALYSIS

Boulder is recognized as having one of the most comprehensive historic building survey records in the state. Yet, it is important to realize that survey is never truly complete, with recent past resources and other under-represented resources requiring documentation, as well as previously documented buildings needing resurvey to reflect current conditions. To remain effective, responsive, and proactive, work is necessary to maintain current records of the aging building stock. Much of Boulder's survey information and contexts is 30 years old and out of date. Identifying areas in need of survey/resurvey should occur. Likewise, priority should be given to developing a citywide context to identify subsequent historic context topics.

HISTORIC CONTEXT REPORTS

1990

- "Foreign Born Immigrants in Boulder, Colorado 1859-1884," Lysa Wegman-French

1992

- "The Grange Movement in Boulder County," Anne Dyni
- "The Development of Boulder's University Hill Neighborhood in Relation to Economic Factors," Merle Adams
- "History of the Boulder County Poor Farm and Hospital," Anne Dyni
- "Boulder County Burial Sites," Kay Lukoskie
- "Frederick Law Olmstead, Jr.: Maker of Parks, Planner of Cities," Beverly Carrigan
- "Boulder County, Colorado: Major Transportation Routes, Pre-1860 to 1920," Lara Juliusson

1993

- "Northern Lights: Boulder's Swedish Heritage," Cynthia Shaw McLaughlin
- "Downtown Churches: Sacred Places," Marilee Dunn

1996

- "The Black Community in Boulder, Colorado," Dan Corson
- "Roads of the Mountains and Plains," Sylvia Pettem
- "Tracking Down Boulder, Colorado's Railroads," Sylvia Pettem

1999

- "Use of Native Stone in Boulder Construction," Sylvia Pettem
- "The Automobile Era in Boulder," Sylvia Pettem

HISTORIC AND PREHISTORIC ARCHAEOLOGY

Currently, the city does not have established procedures for how to address archaeological resources encountered during construction or excavation. The city has 122 records for surveyed historic and prehistoric archaeological resources within city limits, and recent archaeological finds indicate that humans have resided in the area for at least 10,000 years. The Boyd Smelter currently is the only landmarked archaeological site in Boulder. The city does not have a staff archaeologist and the Landmarks Board is not required to appoint a member with archaeological expertise.

ANALYSIS

The Boulder Valley Comprehensive Plan calls for identifying, designating, and protecting archaeological resources such as open ditches, street and alleyscapes, railroad rights of way, and designed landscapes. Despite the identification of these archeological resources within city limits, the city does not have its own archaeological program, relying primarily on state and federal protections. Protocol should be developed for individual landmarking of archaeological sites and their protection. Consideration should also be given to providing archeology training to staff and the Landmarks Board and, over the long term, developing a full archaeology program.

DISASTER PREPAREDNESS

Boulder has the highest risk for flash flooding in Colorado, and there is a high risk of wildfire in the area. Such disasters have the potential to cause catastrophic damage to the city's historic and cultural resources. The Historic Preservation program is involved in a county-led effort to prepare a disaster management plan. However, the city currently does not have a plan focused on historic preservation that addresses post-disaster mobilization to assure historic buildings are not lost to hasty and possibly needless demolition, and that property owners have the appropriate level of support and advice.

ANALYSIS

The city is fortunate to have thorough and relatively current survey forms that document many buildings constructed prior to 1960. The city also scanned all survey records to ensure this information is electronically backed up. Such records can be essential for restoring the appearance and character-defining features of individual landmarks, buildings within historic districts, and other important sites in a post-disaster period. Plans for the utilization of this information in the event of a disaster should be a prime component of a disaster plan. Additionally, a protocol for the review of historic buildings damaged or destroyed in a disaster should be established as part of a disaster plan.



COMMUNITY ENGAGEMENT

Historic preservation efforts do not take place without strong community support and broad public engagement. In Boulder, engagement and outreach occur mostly through the designation, design review, and demolition processes. Other ongoing outreach activities include events for Historic Preservation Month, presentations to community groups, and informational packets sent to new owners of properties within Boulder's historic districts. The program utilizes its website, brochures, videos, and historic district signage to inform Boulder citizens about historic preservation. The relationship between the Historic Preservation program and Historic Boulder, Inc. cannot be overstated, but important partnering also occurs with the Boulder History Museum, Colorado Preservation, Inc., and History Colorado, particularly in community engagement efforts. Staff provides technical assistance to the public and regularly gives talks to neighborhood groups and organizations like the Boulder Area Realtors Association on local historic preservation issues. The Landmarks Board has recently re-established a public outreach subcommittee dedicated to exploring ways to better engage the community about historic preservation issues.

ANALYSIS

Customer service extends beyond program applicants to the much wider audience of the community that benefits from historic preservation and its character, economy, and other benefits. Public feedback indicates a need for more robust engagement and outreach efforts to tell the stories of Boulder's history while better explaining the benefits and responsibilities of historic preservation. Enhanced public engagement and collaboration should be a priority for the Historic Preservation program. Customer feedback should be used to objectively address issues or concerns and continually improve the program. Recognizing resource constraints, this should include revisions to the Historic Preservation website to make information more accessible, better promotion of the benefits of historic preservation and environmental sustainability, incentives, workshops to assist property owners, lecture series, and outreach efforts at events like the Farmers' Market.



STRUCTURE OF MERIT PROGRAM

In 1987, the Landmarks Board established the Structure of Merit program to recognize properties possessing historic, architectural, or aesthetic merit. This recognition is an alternative to landmark designation. Buildings and sites listed on either the National Register of Historic Places or the Colorado State Register of Historic Properties are automatically added to the Structure of Merit program. This program is strictly honorary and not subject to design review. Currently, 64 properties are recognized as Structures of Merit.

ANALYSIS

The Landmarks Board work plan has mentioned potential candidates for new listings, yet no new entries have been added to the Structure of Merit program since 1997. This lapse is likely related to a general lack of community awareness. Recent Landmarks Board discussion indicates a high level of interest in reactivating this program and using it as a way to promote the stories associated with Boulder historic properties, to increase understanding of historic preservation, and to enhance owner pride. Reactivation of this program should include review of properties that might be eligible for recognition and more active promotion of this program as a public outreach tool.

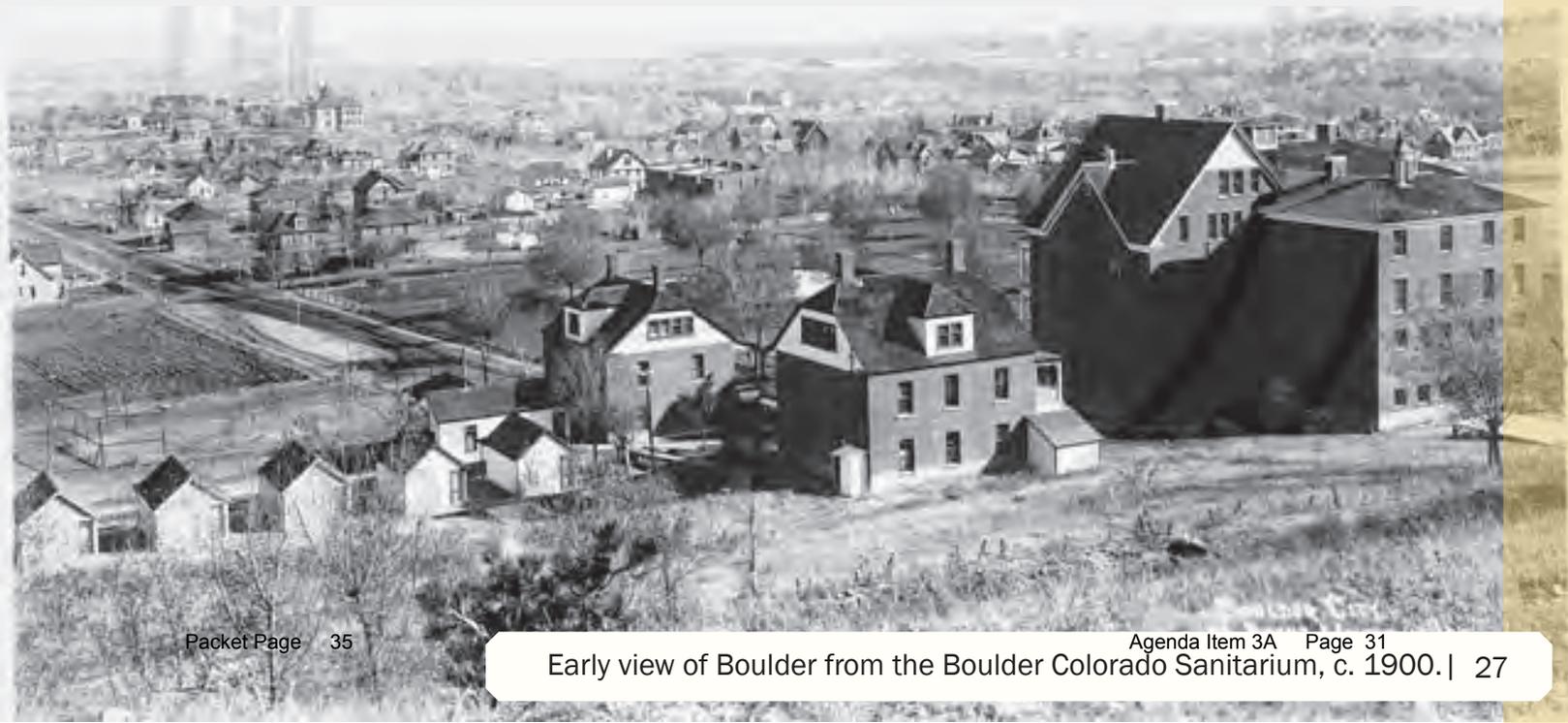
More information about the Structure of Merit program is available on the city's website:
www.boulderhistoricpreservation.net

Structures of Merit

845 11th St.	2059-61 Bluff St.
983 14th St.	2105-07 Bluff St.
*907 7th St.	315-17 Canyon Blvd.
977 9th St.	*1911-1915 Pearl St.
1915 ½ Goss Cir.	835-37 Walnut St.
1935 ½ Goss Cir.	2334-36 14th St.
2102 Goss Cir.	2014 Pearl St.
2202 Goss Cir.	1515 Spruce St.
2250 Goss Cir.	1734 Spruce St.
1638 Grove St.	1414 Pine St.
1728 Grove St.	1424 Pine St.
1902 Grove St.	1514 Pine St.
2141 Grove St.	1836 Baseline Rd.
*646 Pearl St.	1420 Bluebell Ave.
*2442 Pearl St.	*896 17th St.
*1813 Pine St.	1515 Baseline Rd.
1105 Spruce St.	1440 Bellevue Ave.
1850 Table Mesa Dr.	1714-18 Broadway
1602-1620 Walnut St.	420 Christmas Tree Dr.
575 Arapahoe Ave.	*550 College Ave.
3345 Broadway	450 College St.
*2019 Goss Cir.	780 Flagstaff Rd.
821 Lincoln Pl.	*1135 Jay St.
*1123 Spruce St.	630 Northstar Ct.
711 Walnut St.	2385 Panorama Ave.
2127-31-35 14th St.	630 Pennsylvania Ave.
2330-32 14th St.	650 Pennsylvania Ave.
1815-21 17th St.	1025 Rosehill Dr.
2017-23 17th St.	719 Walnut St.
2117-21 18th St.	
*2010-14 19th St.	*Bold= Later
2535-37 5th St.	landmarked



A SENSE OF PURPOSE



A SENSE OF PURPOSE

The Historic Preservation Plan builds on past successes by identifying what roles historic preservation will play in shaping Boulder's urban form and character, in contributing to the city's goals of environmental, social and economic sustainability, and maintaining its high quality of life. The plan also aspires to bring vision to the diverse initiatives of the city's historic preservation activities in the twenty-first century. On a practical level it is intended to establish implementable work program priorities that will assist in streamlining the city's historic preservation processes.

The City of Boulder strives to be a leader in historic preservation by proactively identifying historic resources, creating a shared community vision for the preservation of sites and areas that are significant to Boulder's past, fostering a collaborative relationship among the Landmarks Board, staff and the community, ensuring clear and predictable review processes, continuing to promote the natural alignment between historic preservation and environmental sustainability, and encouraging the preservation of historic resources through incentives.

The public, stakeholder group, and Landmarks Board helped develop the goals and associated objectives. They establish the vision and more specific outcomes to guide the program and its intent to protect, enhance and perpetuate buildings and sites reminiscent of past eras. The program should balance proactive and reactive activities by improving current program operations, actively engaging the community and continuing to be on the forefront of integrating historic preservation and environmental sustainability.

THEMES

Three themes emerged through the development of the Goals and Objectives and are used to help organize the Recommendations.

Historic Resource Protection

Individual landmark and historic district designation, and the resulting design review process, are the primary means of protecting Boulder's historically, architecturally, and environmentally significant resources. Care should be taken to make the city's designation program representative of its overall development patterns, including properties representative of all classes and functions. To

this end, a shared community vision should be established that will identify the types of resources and areas that are important to Boulder's history and establish strategies for their protection. The inherent sustainability of historic preservation should be promoted and city policies should be integrated to ensure cohesion between programs. Currently designated resources should be celebrated for their continued contribution to Boulder's unique sense of place.

Community Engagement and Collaboration

The program strives to foster collaborative relationships and actively engage the community in preservation efforts. Community support will be strengthened through the establishment of a shared community vision for historic preservation. The Landmarks Board and staff should work collaboratively with property owners, residents and organizations such as Historic Boulder, Inc. to advance historic preservation goals. Clear, accessible information should be provided about the design review, demolition review, and landmark designation processes to increase the transparency of the program. Engaging and accurate information on existing landmarked buildings and sites should be distributed to enhance community support for historic preservation. The Landmarks Board and staff should engage in an open dialogue with the community about historic preservation and be a resource for property owners in the stewardship of their historic places.

Program Operation

Through the establishment of a shared community vision, the program can be proactive in its operation, dedicating more resources to landmark designation, support of existing landmarks and education initiatives. It is important to continually improve the current program to ensure it is responsive to changing circumstances, emerging issues, and community needs and desires. Having clear and current design guidelines that are consistent with the Secretary of the Interior's Standards is a critical aspect of a successful design review program. Ways to make the demolition review process clearer and more predictable should be a priority for Boulder's Historic Preservation program. As the program continues to develop, and after the existing program is improved, additional initiatives should be established.

GOALS AND OBJECTIVES

ENSURE THE PROTECTION OF BOULDER'S SIGNIFICANT HISTORIC, ARCHITECTURAL, AND ENVIRONMENTAL RESOURCES

- Create a shared community vision for the protection of resources and areas that are historically, architecturally and/or environmentally significant, and develop strategies for their protection consistent with local, state and federal historic preservation practices;
- Ensure the City of Boulder remains a leader in historic preservation through the careful stewardship of its own historic resources and encouragement of innovative and collaborative approaches to preservation;
- Ensure consistency of historic preservation goals with other city plans, policies and priorities and enhance internal coordination;
- Improve and increase community understanding of the inherent connection between historic preservation and environmental sustainability;
- Establish a clear process for the protection and management of historic resources in the event of natural disaster;
- Explore innovative and alternative strategies to recognize and protect important resources from the recent past.

ACTIVELY ENGAGE THE COMMUNITY IN HISTORIC PRESERVATION EFFORTS

- Encourage collaboration and open dialogue among the community, Landmarks Board, other boards, City Council, city staff and historic preservation organizations to advance historic preservation goals and enhance community support;
- Interpret Boulder's historic, architectural, and environmental resources for residents and visitors;
- Celebrate, promote, and raise awareness about historic preservation successes in Boulder;
- Establish on-going outreach initiatives that engage the community and promote the benefits of historic preservation;
- Cultivate and maintain collaborative relationships with owners of properties that are individually landmarked and/or located within a historic district.

MAKE REVIEW PROCESSES CLEAR, PREDICTABLE, AND OBJECTIVE

- Provide excellent customer service;
- Provide training opportunities for board and staff to ensure objective and consistent decision-making;
- Provide clear, accurate and easily-accessible information to the public;
- Ensure regulations and design guidelines are current, relevant, and effective in balancing the protection of historic buildings with other community priorities and policies;
- Protect historic resources through effective, consistent and transparent review and enforcement policies and practices;
- Recognize and communicate that historic designation allows for change that is sensitive to the character of the building, landmark, or district.

CONTINUE LEADERSHIP IN HISTORIC PRESERVATION AND ENVIRONMENTAL SUSTAINABILITY

- Integrate historic preservation and environmental sustainability policies, such as the Greenpoints program and the Energy Code, to maintain shared community resources for future generations;
- Recognize innovative scholarship and projects that successfully balance historic preservation and environmental sustainability;
- Continue to address common energy efficiency issues as technology evolves, to address window rehabilitation and replacement, solar panel installation, and the use of alternative materials.

ENCOURAGE PRESERVATION OF HISTORIC RESOURCES

- Better publicize and promote existing incentives, such as eligibility for tax credits and relief from building and zoning codes;
- Explore creative and innovative initiatives to encourage historic preservation, improve public perception and defray the cost of rehabilitation and restoration projects;
- Improve public perception of Historic Preservation program through enhanced communication, meaningful collaboration, and involvement between the city and the community at large;
- Recognize and honor property owners for exemplary stewardship of historic buildings.

RECOMMENDATIONS

The recommendations identify the actions needed to achieve the Goals and Objectives. It is not possible to accomplish all actions with current resources or in the near term. Therefore, a prioritized chart is provided at the end of the section. Some actions may require additional resources, such as specialized consultants or supplemental funding. Those best suited to funding from grants are marked with a diamond. Staff and the Landmarks Board should consider how best to prioritize these, developing a multi-year grants plan that specifies projects, request amounts, and best funding source based upon project objectives. The city should continue to apply to History Colorado's State Historical Fund and Certified Local Government programs, though other grant funding sources should be explored.

This plan should be used to help guide upcoming annual work plans for the program. For instance, at the annual board retreat, the Landmarks Board and staff should undertake a detailed discussion of progress, with staff preparing a report of plan-related accomplishments and the board recommending initiatives for the next year. The report and work plan should be posted on the city's website and presented at the May Landmarks Board meeting, during Historic Preservation Month.

The implementation of this plan will require strong partnerships among the city, Landmarks Board, community members, historic preservation organizations, real estate groups and neighborhood associations.



Bright Spot Grocery Store on University Hill, c.1926.

1. HISTORIC RESOURCE PROTECTION

The purpose of the Boulder's Historic Preservation program is to identify, evaluate, and protect Boulder's significant historic resources. To this end, it is important for the city's Historic Preservation program to reflect the diversity and development patterns of the city and establish a shared community vision for resource protection. The identification of significant sites and encouragement of their protection would enable the program to further engage the community in historic preservation and balance proactive and reactive activities.

1.1 Develop a Plan to Identify and Prioritize Historic Resources and Implement Strategies for their Protection

A critical component of this plan is the development a long-term vision for future historic resource protection. The goal of this vision would make the city's historic preservation activities more proactive by focusing on implementing the vision, which would be achieved through community engagement and the development of strategies to protect significant buildings and areas. It would also help make the preservation program more predictable for applicants by clarifying which buildings and areas are important to preserve.

This resource plan should include:

- An assessment of designated and potential historic and cultural resources in the community to identify which types of properties and areas are currently protected, and which are underrepresented;
- Development of an overall historic context for the city that describes the important eras, events, persons, architectural styles, etc. that are important to Boulder's history; to be used as a basis for prioritizing the resource types that are important to protect.

The program should continue to encourage the designation of significant resources and areas found eligible for listing. Key action steps include:

- Maintaining survey records to ensure information is current and accurate;
- Reassessment of the map of potential historic districts, since many of the identified areas have experienced significant change since the boundaries were established;

- Developing strategies to provide financial and/or technical support and incentives for owners of historic properties (see Recommendations 1.5 and 1.6);
- Continuing to mail letters to owners of eligible properties encouraging designation;
- Hosting informational sessions within potential historic districts; and
- Fostering a network of owners of landmark properties.

1.2 Develop Additional Historic Context Reports

The 14 existing documents, developed through the historic context project, should continue to be utilized and additional historic context reports should be developed and made available electronically. A broad historic context of the development of Boulder should be undertaken to help identify significant themes of the city's history. This broad context report should inform subsequent, thematic-based studies. Other possible topics for new historic contexts include Boulder's Hispanic community, its agricultural past, the community's significant relationship with the University of Colorado, the city's vernacular buildings, and the architectural commissions of Charles Haertling. These may be developed through partnership with a graduate program or by hiring consultants. The documents may be utilized to assess the eligibility of thematic districts. All historic context reports should be easily accessible and posted on the Historic Preservation website.

1.3 Explore Ways to Preserve Smaller Buildings that are Eligible for Landmark Designation

Many of Boulder's working-, and middle-class houses and those associated with Boulder's early history are modest in both size and architectural detailing. Nationwide, the average square footage of single family houses has grown in recent decades. The desire for larger houses makes smaller buildings to vulnerable additions that overwhelm the historic character of the building. To maintain the character of small, vernacular buildings in Boulder, the city should explore strategies to preserve significant examples of this building type. Possible action steps include forming a working group to focus on this issue, studying how other similar communities have dealt with threats to smaller buildings and

vernacular architecture, promoting specialized design solutions (such as excavation to add more square footage) to make small buildings more suitable for contemporary use, and establishing a funding source to preserve small buildings.

1.4 Ensure Continued Integration of Local, State and Federal Policies

The Landmarks Board has adopted the Secretary of the Interior's Standards for the Treatment of Historic Properties as the basis for guidance in the review Landmark Alteration Certificate review and the National Register Criteria for the Evaluation of Historic Properties for determining eligibility of landmark designation. Boulder's adopted design guidelines are consistent with these standards and evaluation for landmark designation is generally based upon the National Register's criteria. While developing a community vision has been identified as a critical component to ensure historic preservation remains relevant in Boulder, it is important that such a vision is consistent with national historic preservation standards, whether for historic designation, design review, demolition, or tax credit review. Likewise, the City of Boulder is committed to universal access to people with disabilities and life safety consideration through the building code. To this end, the Historic Preservation program should continue to explore innovative ways to make sure that all designated historic properties meet the Americans with Disabilities Act and provide a high level of life safety without compromising important historic character defining features.



The Boulder Museum of Contemporary Art is an example of a city-owned building that is locally landmarked.

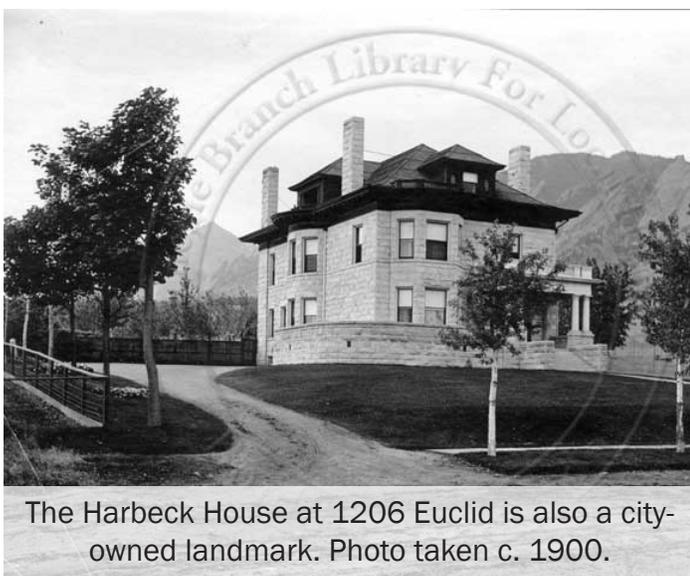
1.5 Publicize Existing Incentives

Public feedback indicates many owners of historic properties are not aware of the available historic preservation incentives for which they may be eligible. The city should publicize these existing incentives more broadly to increase usage and to benefit historic buildings. Suggested action steps include posting information prominently on the Historic Preservation website, and developing and distributing a specialized brochure about existing incentives.

1.6 Initiate New Incentives

Non-monetary incentives recognize building owners for their community contributions and reward stewardship. New honorary incentives might include recognizing responsible owners of historic buildings with City Council proclamations or providing owners with framed historic images of their property. Such items could be distributed at existing award ceremonies held during Historic Preservation Month in May, on the anniversary of designation, or at a special time of the year devoted to honoring owners of landmark properties and buildings within Boulder historic districts.

Financial incentives assist property owners to make appropriate alterations or changes to their historic buildings. Possible options for new historic preservation incentives in Boulder include low- or no-interest loans, increases to existing fee waivers, or specialized funding for both maintaining small and accessory buildings and making historic properties more energy efficient. Introducing new financial incentives will require a great deal of planning.



The Harbeck House at 1206 Euclid is also a city-owned landmark. Photo taken c. 1900.

Key steps in that planning process should include discussing desirable funding options with owners of historic properties, exploring how other communities manage and finance historic preservation incentives (i.e., in Louisville, proceeds from a specialized tax may be used to restore or rehabilitate resources within the downtown historic district); securing both initial and long-range funding sources; launching a small pilot incentive program; and adapting the pilot program (based upon results and public feedback) to assure it is both effective and self-supporting.

1.7 Designate Eligible City-Owned Buildings and Lead by Example

Boulder aspires to lead by example, modeling excellent stewardship for city-owned historic buildings. Additionally, city-owned buildings can be used to effectively illustrate successful integration of historic preservation and environmental sustainability. Many of the actions below aim to achieve goals included in the Boulder Valley Comprehensive Plan.

The city's willingness to actively participate in its own Historic Preservation program will instill a sense of unity with owners of landmark properties and buildings within historic districts. Key actions include continuing to maintain the Facilities Asset Management list of city-owned buildings 50 years or older, assuring the survey (or resurvey) of city-owned properties to determine eligibility for landmark designation, discussing the importance of designation at City Staff Working Group meetings, and designating eligible buildings.

Model stewardship of city buildings would illustrate how to successfully integrate historic preservation and environmental sustainability, and demonstrate the use of materials and techniques appropriate for older buildings. Key actions include continuing to designate eligible buildings, as appropriate; choosing city-owned buildings for energy upgrades; documenting technologies and materials and comparing pre- and post-project energy efficiency; and hosting open houses, either actual or virtual, to share results.

1.8 Increase Coordination between the City and County Regarding Landmark Designation

The BVCP fosters collaboration on wide range

of preservation issues not just in the city, but throughout Boulder County. Consistent with the BVCP, the city and county should coordinate to designate significant publicly-owned buildings outside of Boulder's municipal limits that reflect the region's significant history and architecture. For example, county-owned commissions attributed to prominent Boulder architect Charles Haertling should be designated. Key actions for achieving such coordinated designations might include developing a list of eligible county-owned resources, assuring the survey (or resurvey) of such properties, and discussing the importance of designation at meetings of the existing Boulder County Heritage Roundtable.

1.9 Explore Establishment of an Archaeological Program

The BVCP recommends development of an archaeology program for the city. Historic Preservation staff and Landmarks Board should consult with local archaeologists to determine how to integrate it into the existing Historic Preservation program. It seems most feasible to model a new archaeology program after provisions within the existing Historic Preservation ordinance, detailing procedures for identification, designation, and protection of both prehistoric and historic archaeological resources and specifying how the Landmark Alteration Certificate process will apply for archaeological remains. The composition of the Landmarks Board could also be changed to include a non-voting member with archaeological expertise. The second step should be to modify the ordinance as necessary and raise awareness of a new archaeology program.

1.10 Continue Dialogue About Postwar Architecture

Boulder, like many cities in the western United States, flourished in the postwar period. Organizations such as the National Center for Atmospheric Research, Ball Aerospace and the National Institute of Standards and Technology attracted thousands of people to Boulder, greatly impacting the built environment. Given the importance of this period's history and the high proportion of extant buildings constructed after 1945, addressing postwar resources is crucial if Boulder's Historic Preservation program is to reflect the community's overall development patterns.

Public feedback revealed a generally low-level of awareness of postwar resources. Yet, in many communities, a growing number of artists, empty nesters, and first-time homebuyers have found houses from this era affordable and adaptable. Actions for increased knowledge about postwar housing in Boulder include showcasing articles from national publications; preparing stories about Boulder's postwar development, houses, and current neighborhoods for editors of local and national media; and working with neighborhood associations to host tours of "recent past" properties.

1.11 Explore Creation of Conservation Districts

Given the sheer size of postwar neighborhoods and the city's recent efforts to promote smaller, more manageably sized historic districts, investigating the use of conservation areas to protect the scale, house size, and setback within postwar neighborhoods may be appropriate. Such efforts should be coordinated with the development of other community goals, such as walkable neighborhoods.



Postwar subdivision in North Boulder, c.1950s

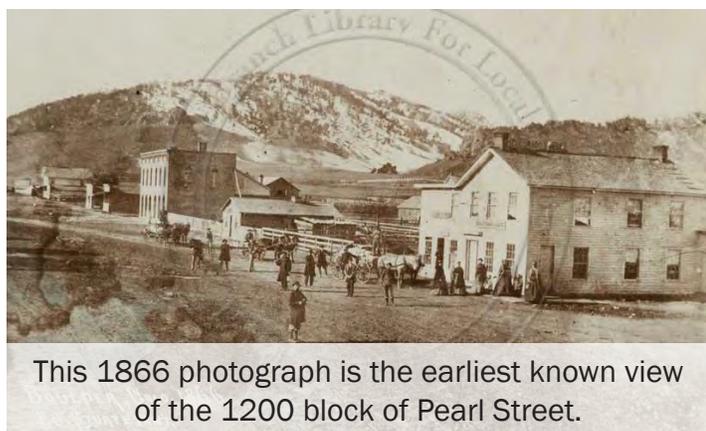
Action steps include studying how other communities have integrated conservation areas into existing historic preservation programs, developing a working group to discuss the desirability and implications of conservation areas, revising the ordinance to include suitable language for conservation area designation, and working with neighbors to designate eligible postwar neighborhoods or subdivisions as conservation areas. Pattern books, such as those developed in Arvada, may be an appropriate tool to illustrate design solutions that adapt common housing types to meet contemporary desires while maintaining a cohesive neighborhood scale.

2. COMMUNITY ENGAGEMENT AND COLLABORATION

The plan suggests responsibility for actions to a wide variety of individuals and groups. Participation in the action steps provides an opportunity to continue the discussions among the community, Landmarks Board, City staff, and historic preservation organizations initiated as part of the public input process for the Historic Preservation Plan.

2.1 Strengthen Partnerships with Historic Preservation Organizations

The partnership between the city and Historic Boulder, Inc. has been beneficial in raising awareness of historic preservation, fostering community engagement, and designating significant resources. Key action steps include the nonprofit continuing to initiate and facilitate designations, coordinating with Historic Preservation staff and the Landmarks Board to identify significant resources and develop educational offerings, and advocating for historic preservation. In addition, the Landmarks Board and Historic Boulder Board should consider holding



This 1866 photograph is the earliest known view of the 1200 block of Pearl Street.

regular joint retreats to discuss other ways to offer mutual support for historic preservation initiatives in Boulder.

2.2 Collaborate with Owners of Existing Landmarks and Properties in Designated Historic Districts; Establish Neighborhood Liaisons

Historic property ownership involves both benefits and responsibilities. This situation is not unique to Boulder, with historic buildings everywhere offering the opportunity for individuals to possess a tangible link to history but also requiring higher levels of investment for compatible materials and specialized trades people or design professionals. Given this situation, it is important both to support owners of historic buildings and provide incentives to offset the higher costs associated with alterations and maintenance.

Owners of existing landmark properties and buildings within Boulder's historic districts are important preservation partners, and support of these individuals is critical. Fostering an open dialogue about the benefits and responsibilities of landmark designation, collaborating on streamlining the design review process, and implementing improvements to the program to promote collaboration would be most useful. Events such as window rehabilitation workshops would provide hands-on opportunities for property owners to learn from professional trades people how to best maintain and repair historic windows. This initiative may be a strong candidate for grant funding.

2.3 Foster Greater Understanding of Historic Preservation

Public feedback indicated some individuals have developed ideas about how the Historic Preservation staff and Landmarks Board operate based upon second-hand accounts rather than personal experience. These anecdotes can negatively impact the program's reputation and efforts to distribute accurate information and foster a collaborative relationship among the Landmarks Board, staff and residents should be undertaken.

Action steps include recruiting volunteers willing to act as neighborhood liaisons; developing a neighborhood liaison training course featuring thorough background information about the designation, Landmark

Alteration Certificate, and demolition processes and available historic preservation incentives; meeting routinely with neighborhood liaisons and residents to engage in an open dialogue about common issues and concerns within historic districts; and distributing clear and accurate information about the Historic Preservation program.

2.4 Share Stories of Boulder's Historic Places

Historic preservation, at its most engaging, is about stories. These accounts help identify the past and value of the city's history. Key recommendations for sharing the stories of Boulder's historic places include erecting more interpretive signage throughout the city, presenting "then and now" slideshows, encouraging local media to focus on the stories of Boulder's historic sites, developing mobile apps (like Denver Story Trek) which provide access to personal recollections and allow for the collections of new site-specific memories, and utilizing more oral history accounts in nominations for landmark and historic district designation. Current and future historic context reports should be used as a basis for this information.

The city should launch a "Preservation Roadshow" initiative with a focus on outreach to the Boulder community to encompass a wide variety of offerings at historic sites and in historic neighborhoods throughout Boulder. Key action steps include sponsoring "open house" events with neighborhood associations within historic districts, offering how-to workshops for increasing energy efficiency in historic properties, creating brochures that illustrate examples of alterations adhering to design guidelines, staffing a booth at the Farmers' Market to promote historic preservation, and hosting tours highlighting projects that made effective use of historic preservation incentives. Planning for the "Preservation Roadshow" needs to consider logistics, funding, volunteer recruitment, promotion, curriculum, potential instructors, and effectiveness assessment

2.5 Revitalize the Structure of Merit Program

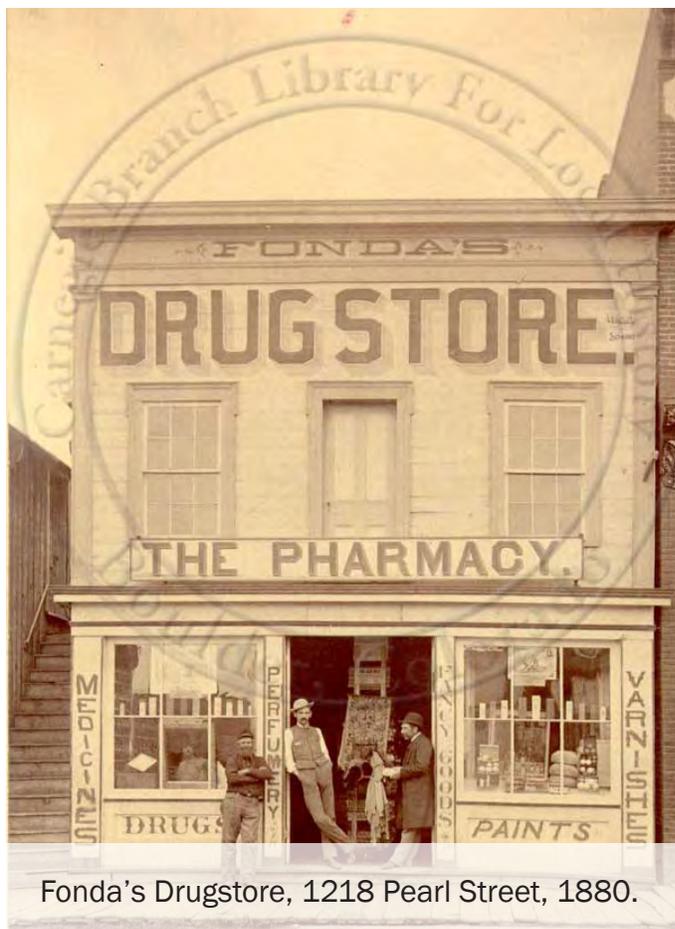
The Structure of Merit program is an effective way to promote historic preservation, increase the inventory of recognized buildings that can be

highlighted in the local media, and expand public outreach and education efforts. Key actions in revitalizing this program include developing promotional materials to increase public awareness of its existence, compiling an updated list of eligible buildings and sites for listing, refining the process for selection, and launching a publicity campaign to increase awareness about the historic and architectural significance of both existing and new listings. The Landmarks Board should consider creating a Structure of Merit subcommittee to oversee the reinitiated program.

2.6 Improve the City's Historic Preservation Website

Clear, accurate, and easily-accessible information is crucial for the public to participate more fully in the city's Historic Preservation program.

The existing Historic Preservation program website is adequate, but should be improved in terms of content, format, and ease of navigation. The review processes should be clearly outlined to reduce confusion. Design guidelines for each of the historic districts should be prominently featured and easily accessible. Possible additions to the website



Fonda's Drugstore, 1218 Pearl Street, 1880.

include: an annual “State of Historic Preservation” report, citing relevant statistics, highlighting program successes, and soliciting public input on future initiatives; links to useful information available from preservation partners (National Park Service, National Alliance of Preservation Commissions, Historic Boulder, Inc. and others); and details about existing historic preservation incentives, including eligibility and requirements. The website should also include a single link offering access to all relevant sustainability and historic preservation information available online and a section devoted to tracking progress on this plan. Finally, the website should be used as a tool to engage the community and provide information on currently designated resources for community members and visitors alike. Materials focused toward kids and teens would help encourage families to tour designated historic districts and learn about Boulder’s history through the built environment. Key actions include adding new content and establishing a schedule for assessment and routine updates.

2.7 Distribute Historic District Design Guidelines

Public feedback indicated a need for greater publicity regarding the existence and importance of the city’s historic district design guidelines, particularly to realtors and potential homebuyers. Key actions for distributing the design guidelines include updating and maintaining links of district-specific design guidelines on the city’s website, developing and maintaining a list of individuals (architects, contractors, realtors, owners of landmarked properties and buildings in historic districts) who should be familiar with them, emailing links to the guidelines, and informing these same individuals when the guidelines are revised or changed.

2.8 Publicize Current Scholarship

Historic buildings are inherently “green” through the retention of existing materials, which additionally enhances the community’s sense of place and represents responsible stewardship for increasingly finite resources. It is important to Boulder’s cultural and environmental legacy to preserve historic resources.

There are many misconceptions regarding historic window rehabilitation vs. window replacement and

energy efficiency. The City of Boulder’s Historic Preservation and Environmental Sustainability Integration Project (2006) and the Center for Resource Conservation’s Effects of Energy Efficiency Treatments on Historic Windows (2011), both accessible through the city’s historic preservation website, offer scientific evidence about which window treatments are most effective, a major issue for owners of historic properties. These studies should be more widely publicized, and similar studies to evaluate metal casement window treatments should be undertaken. The city should also pursue opportunities to conduct similar studies regarding the use of solar power, wind power, other energy efficiency advances, and new materials in historic buildings. Key actions include posting the windows study and providing links to other research projects on the Historic Preservation website, delivering educational sessions based upon the window study results, and applying for grants to complete additional studies.

2.9 Recognize Projects that Successfully Integrate Historic Preservation and Sustainability

Honoring projects that combine historic preservation and environmental sustainability is a way to bring greater exposure to such efforts and offer examples for other property owners to emulate. Key actions include bestowing a new award (possibly given as part of the Historic Preservation Month ceremony) to property owners, architects, contractors, and other professionals involved with a successful project; developing a specialized plaque initiative to mark building projects that have balanced historic preservation and energy efficiency; and creating a mobile app to highlight these same projects.

2.10 Engage the Community in Historic Preservation Activities

Boulder’s mature Historic Preservation program has enjoyed numerous successes over its history. It is crucial to the program to celebrate, promote, and raise awareness about historic preservation successes in Boulder.

An informed public is more likely to engage in the Historic Preservation program. Key action steps for providing more information about historic preservation in Boulder include making an annual presentation

to City Council highlighting preservation activities and successes, improving the Historic Preservation website, holding more community events and educational sessions, and providing stories about historic preservation to the local media.

2.11 Honor Property Owners for Careful Stewardship of Historic Properties

The owners of landmark properties and buildings within historic districts have the honor and responsibility of safeguarding historic structures. It is crucial to recognize the important role these owners play for historic preservation in the city by honoring them for exemplary stewardship of historic buildings. Key actions include recognizing successfully completed projects, perhaps with a ribbon cutting, yard sign, or congratulatory letter.

3. PROGRAM OPERATION IMPROVEMENTS

Historic Preservation staff and the Landmarks Board strive to make objective and consistent decisions regarding designation, design review, and demolition permits. Specialized training and continuing education can enhance skill levels and offer increased knowledge about the range of techniques currently employed in the historic preservation field.

3.1 Enhance Training Opportunities for Staff and the Landmarks Board

Training for Landmarks Board members is important to ensure continuity, consistency, and capacity. New board members need a detailed orientation and all members require ongoing opportunities that provide core knowledge, institutional background, and practical skills regarding operations and relevant historic preservation issues. Historic Preservation staff training should also emphasize time management, stress reduction, networking, and problem solving. Key action steps include improving current in-house training, encouraging Board members and staff to take advantage of available CLG-sponsored workshops, and seeking appropriate training based upon staff and Board assessment of needs and competence.

3.2 Analyze Existing Historic District Design Guidelines

Design guidelines offer advice on how to allow changes to historic properties and areas while still

protecting sense of place. The Landmarks Board needs current and relevant guidelines to provide effective protection of Boulder's landmarks and historic districts.

Guidelines must be complete, current and clear to facilitate consistent design review decisions. Public feedback also indicated a need for more examples of how design guidelines should be implemented and increasing the understanding of the relationship between Boulder's guidelines and the Secretary of Interior's Standards, which provide a philosophic framework for all of the city's guidelines. Key actions include instituting a schedule for review and revision of existing documents, maintaining a list of new topics to be addressed during scheduled updates, creating a standard template to make content and format of guidelines consistent, crafting a handbook with case studies illustrating the appropriate application of frequently-referenced design guideline provisions to assist both the Landmarks Board and property owners, and promoting the Secretary's Standards.



View of Pine Street in the Mapleton Hill Historic District.

3.3 Develop Design Guidelines for New Historic Districts in Collaboration with Property Owners

Design guidelines for new historic districts should continue to be developed collaboratively, with participation from both Historic Preservation staff and district residents. Key actions include identifying the character-defining features of the historic district and the appropriate design approaches for retaining them, recruiting members for the design guideline committee, preparing guidelines, and offering opportunities for community input.

3.4 Establish Follow-Up Processes for Landmark Alteration Certificates

Review of Landmark Alteration Certificates (LAC) represents a large portion of the Historic Preservation staff and Landmarks Board workload. To ensure compliance, the city should follow-up with property owners to assure projects are completed in accordance with LAC approval. Other communities require certified contractors to work on historic properties and levy fines for non-compliance on property owners and design professionals. Public input indicated some support for similar enforcement in Boulder.

Key actions for improving overall compliance include providing additional enforcement training to city inspectors (focusing on appropriate preservation treatments, applicable design guidelines, and issues associated with the design review process in Boulder) and coordinating with contractors and building professionals to discuss ways to increase understanding of the responsibilities of working on landmark properties or buildings within historic districts.

3.5 Explore Ways to Make Design Review More Consistent and Predictable

Effective, consistent, and transparent design review processes, enforcement policies, and historic preservation practices are necessary to make the city's program predictable and user friendly. Issues of consistency occasionally arise due to the rotating nature of the Landmarks Design Review Committee and the unique conditions of each site.

Design review is one of the most important and time-consuming duties for the Historic Preservation

staff and Landmarks Board. An efficient design review process is necessary to allow the program to engage in more outreach activities. The staff and board should discuss options for increasing the administrative (staff) review of minor alterations to lessen time spent on less significant projects. To ensure consistency throughout a project's review, staff should continue the practice of taking detailed notes at each meeting as a record for subsequent meetings. LDRC members should ensure that their decisions are based upon adopted design guidelines and established national historic preservation practices. Since historic properties are nearly always unique, decisions may differ from project to project. However, staff and board members should be aware of past rulings to ensure that ongoing decisions are made with as much relevant information as possible. For instance, a study undertaken of approved fences in the Mapleton Hill Historic District has been very useful in making decisions. Such a study showing appropriate and inappropriate additions to historic buildings and examples of new construction in historic districts would assist the public, staff, and the Landmarks Board in the future.

3.6 Analyze Effectiveness of the Existing Demolition Ordinance

Since 1994, the demolition ordinance has resulted in the preservation of historic resources in Boulder. There is an opportunity to analyze the overall effectiveness of this provision and consider further efforts to better protect eligible buildings 50 years or older. Key action steps include continuing to gather statistics on demolition reviews (i.e., numbers of applications, approvals, and locations) to better understand overall development patterns; analyzing past difficult demolition reviews and developing options to address key issues; clarifying the demolition process for Boulder residents to increase understanding that it applies to all non-designated buildings 50 years or older; developing a framework for demolition review decision-making based upon identification of significant and threatened resource types; and considering revisions to the ordinance language to define demolition in a way which allows the Landmarks Board more flexibility in demolition reviews. The proactive identification of significant historic resources (1.1) through ongoing survey and historic context development will also assist in making

the demolition review process more consistent and predictable.

3.7 Revise Applications and Forms

Recent public input indicated that many individuals and members of the Landmarks Board believe existing historic preservation applications should be simplified to reduce confusion. Key actions for streamlining forms include simplifying formats, clarifying directions, and making greater use of checklists and flowcharts to enhance understanding of review processes.

3.8 Develop a Disaster Response Plan for the Historic Preservation Program

The City of Boulder is at high risk for both wildfire and flash floods. For that reason, it is crucial to consider how best to deal with historic resources in the wake of these or other types of natural and human-made disasters.

The city should have a disaster plan specifically for historic resources. The plan should include pre-disaster mitigation steps, identify post-disaster mitigation efforts, such as accurate survey forms and feature a process for recruiting historic preservation professionals from outside the city who can assist in the post-disaster period, appropriate collaboration procedures with other city departments, and the possibility of fast-track design review. Referring to existing disaster plans for similar communities or municipalities also facing the threat of fires and floods is recommended. Key action steps include writing a grant application to cover the cost associated with development of a disaster plan for Boulder's historic resources.

3.9 Coordinate Existing Environmental Sustainability and Historic Preservation Programs

The inherent alignment between historic preservation and environmental sustainability should be better expressed in the city's policies and practices between historic preservation and environmental sustainability.

Various city departments, local boards, and other groups are active in shaping policies for both historic preservation and environmental sustainability. The Greenpoints program and city energy codes represent the two areas of greatest overlap. Key action steps to ensure integration between the

city's sustainability and historic preservation goals include promoting the reuse of historic buildings city-wide, reviewing the Greenpoints program and energy code to ensure adequate recognition of the impact of retaining an existing building, discussing increased integration of future policies at city working group meetings, and publishing and distributing scholarship on the topics from beyond Boulder.

3.10 Continue to Address Energy Efficiency Concerns as Technology Evolves

Key actions include continuing to encourage window rehabilitation to benefit historic character and conserve scarce natural resources, utilizing lessons learned from demonstration projects at city-owned historic buildings and other projects citywide, investigating new technologies and posting findings of such studies to the Historic Preservation website.

3.11 Pursue Collaborative Approaches to Integrate Historic Preservation with Other City Operations

Lack of consistency among city policies is particularly frustrating to applicants and can be counterproductive to historic preservation. Enhanced internal coordination is crucial for making historic preservation practices user friendly.

Internal coordination should continue with discussions focusing on how best to integrate city policies related to historic preservation and environmental sustainability, universal accessibility, and building code regulations. Key action steps include scheduling regular meetings to improve communication and brainstorm methods for enhancing internal coordination to benefit historic preservation goals and objectives and developing a series of checklists of historic preservation-related policies and goals for other city departments to consult when considering any policy or ordinance revisions.



Chamberlain & Co Sampling Works building,
800 Pearl St., c.1890

IMPLEMENTATION OF THE PLAN

Continued coordination within the city and through community partnerships is important to the successful implementation of this plan. Staff will coordinate changes and updates to the plan with the development of or updates to other relevant city and county plans, such as the Boulder Valley Comprehensive Plan.

Staff will prepare an annual report summarizing the progress to date of the plan recommendations. This report will be posted on the website and reviewed by the Landmarks Board at their annual retreat. The board will identify key action items to be undertaken in the next year. This recommendation will be included in an annual letter to City Council as input to the work program. The work program will be determined annually through direction from City Council and will reflect availability of current resources.

AMENDING THE PLAN

The city will amend the plan following the same process used to approve it, with review and recommendation by the Landmarks Board for acceptance by the City Council. Non-substantive changes and changes to correct factual information can be made at any time by staff.

PRIORITIZATION CHART

Public input influenced the suggested recommendations and timeframes for implementation of the Historic Preservation Plan. Participants in the public meetings agreed the city should strengthen and improve its existing program before expanding into new initiatives. The chart is meant to be used as a guide to prioritize preservation activities and inform the annual work plan. “Near-Term” refers to items of the highest priority that should be undertaken in the next five years, and “Long-Term” refers to items that should be addressed in the 5-15 year range. “On-Going” recommendations are those that are currently implemented and should be continued and strengthened. Recognizing that some of the “Near-Term” recommendations may take more than a year to complete and may require additional resources, the plan should be assessed each year to measure the implementation progress.

Many of the recommendations will require additional resources. If the city is able to broaden its resources, through grants or additional funding, it could address priority objectives more quickly.

1. HISTORIC RESOURCE PROTECTION			
Objectives	Recommendations	Time Frame	Responsible Parties
Create a shared community vision for the protection of resources and areas that are historically, architecturally and/or environmentally significant and representative of Boulder's past, and develop strategies for their protection, consistent with local, state and federal historic preservation practices	.1 Develop a plan to identify and prioritize historic resource protection and implement strategies for their protection (◇)	Near	Historic Preservation staff, Landmarks Board, consultants
	.2 Develop additional historic context reports (◇)	Near	Historic Preservation staff, Landmarks Board, consultants
	.3 Explore ways to protect smaller buildings that are eligible for landmark designation	Near	Historic Preservation staff, Landmarks Board, design professionals, building owners
	.4 Ensure continued integration of local, state and federal policies	On-Going/Near	Historic Preservation staff, Landmarks Board
Encourage historic preservation and defray the cost of rehabilitation and restoration projects	.5 Publicize existing incentives	On-Going/ Near	Historic Preservation staff, Landmarks Board, Historic Boulder, Inc.
	.6 Initiate new incentives	Long	Historic Preservation staff, Landmarks Board
Ensure the City of Boulder remains a leader in historic preservation through the careful stewardship of its own historic resources and encouragement of innovative and collaborative approaches to historic preservation	.7 Designate eligible city-owned buildings and lead by example	On-Going/ Long	Historic Preservation staff, Landmarks Board, other city staff
	.8 Increase landmark designation coordination between city and county	On-Going/ Near	Historic Preservation staff, other city staff, county staff, Preservation Roundtable members
	.9 Explore establishment of an archaeological program (◇)	Long	Historic Preservation staff, Landmarks Board, local archaeologists
Explore alternative strategies to recognize and protect important resources from the recent past	.10 Continue dialogue about postwar architecture	Near	Historic Preservation staff, Landmarks Board, neighborhood associations
	.11 Explore creation of conservation districts	Long	Historic Preservation staff, Landmarks Board, Planning Board, City Council, neighborhood associations, property owners

(◇) Symbol indicates recommendations that would likely require additional resources.

2. COMMUNITY ENGAGEMENT AND COLLABORATION			
Objectives	Recommendations	Time Frame	Responsible Parties
Encourage open dialogue among the community, Landmarks Board, City staff, and Historic Preservation organizations to advance historic preservation goals and enhance community support	.1 Strengthen partnerships with historic preservation organizations	On-Going/ Near	Historic Preservation staff, Landmarks Board, Historic Boulder, Inc., community members
	.2 Collaborate with owners of existing landmarks and properties in designated historic districts; Establish neighborhood liaisons	On-Going/ Near	Historic Preservation staff, Landmarks Board, representatives of historic districts
Improve public perception of historic preservation program through enhanced communication, meaningful collaboration, and involvement between the City and the community-at-large.	.3 Foster greater understanding of historic preservation	Near	Historic Preservation staff, Landmarks Board, Historic Boulder, Inc.
Interpret Boulder's historic, architectural, and environmental resources to positively raise the profile of historic preservation and create an enhanced sense of place	.4 Share stories of Boulder's historic places (◇)	Near	Historic Preservation staff, Landmarks Board, consultants
	.5 Revitalize the Structures of Merit program	On-Going/ Near	Landmarks Board
Provide clear, accurate, and easily-accessible information to the public	.6 Improve the city's Historic Preservation website	On-Going/ Near	Historic Preservation staff, Landmarks Board
	.7 Distribute historic district design guidelines	On-Going/ Near	Historic Preservation staff, Landmarks Board
Improve and increase community understanding of the inherent connection between historic preservation and environmental sustainability	.8 Publicize current scholarship	Near	Historic Preservation staff, Landmarks Board
	.9 Recognize projects that successfully integrate historic preservation and sustainability	Near	Historic Preservation staff, Landmarks Board
Celebrate, promote, and raise awareness about historic preservation successes in Boulder	.10 Engage the community in historic preservation activities	On-Going/ Near	Historic Preservation staff; Landmarks Board; Historic Boulder, Inc.
	.11 Honor property owners for careful stewardship of historic properties	Near	Historic Preservation staff, Landmarks Board, City Council

(◇) Symbol indicates recommendations that would likely require additional resources.

3. PROGRAM OPERATION			
Objectives	Recommendations	Time Frame	Responsible Parties
Provide training opportunities to ensure fair, objective, and consistent decision-making	.1 Enhance training opportunities for staff and the Landmarks Board	On-Going/ Near	Historic Preservation staff, Landmarks Board, neighborhood liaisons, specialized trainers/consultants
Ensure regulations and design guidelines are current, relevant, and provide effective protection of historic buildings	.2 Analyze existing historic district design guidelines	On-Going/ Long	Historic Preservation staff, Landmarks Board, property owners in historic districts
	.3 Develop design guidelines for new historic districts in collaboration with property owners (◇)	On-Going/ Near	Historic Preservation staff, Landmarks Board, property owners in historic districts
Pursue effective, consistent and transparent design review processes, enforcement policies, and historic preservation practices	.4 Establish follow-up processes for Landmark Alteration Certificates	Near	Historic Preservation staff, Landmarks Board, neighborhood liaisons
	.5 Explore ways to make design review more consistent and predictable	On-Going/ Near	Historic Preservation staff, Landmarks Board
	.6 Analyze effectiveness of the existing demolition ordinance	On-Going/ Near	Historic Preservation staff, Landmarks Board
	.7 Revise applications and forms	Near	Historic Preservation staff, Landmarks Board
Establish a clear process for the protection and management of historic resources in the event of natural disaster	.8 Develop a disaster response plan for the historic preservation program (◇)	Near	Historic Preservation staff, Landmarks Board, consultants
Integrate historic preservation and environmental sustainability policies to maintain shared community resources for future generations	.9 Coordinate existing sustainability and historic preservation programs	On-Going/ Near	Historic Preservation staff, Landmarks Board
	.10 Continue to address common energy efficiency concerns as technology evolves	On-Going/ Long	Historic Preservation staff, Landmarks Board
Align historic preservation goals with other city plans and policies and enhance internal coordination	.11 Pursue collaborative approaches to integrate historic preservation with other city operations	On-Going/ Near	Historic Preservation staff, other city staff

(◇) Symbol indicates recommendations that would likely require additional resources.

February 12, 2013
City Council/Landmarks Board Joint Study Session
Historic Preservation Plan

City Council: Suzy Ageton, KC Becker, Macon Cowles, Suzanne Jones, George Karakehian, Deputy Mayor Lisa Morzel, Tim Plass, Ken Wilson

Landmarks Board: Chair Mark Gerwing, Kurt Nordback, John Spitzer, Liz Payton, Kirsten Snobeck

Staff: Jane Brautigam, City Manager; David Driskell, Executive Director Community Planning & Sustainability; Susan Richstone, Deputy Director Community Planning & Sustainability; Lesli Ellis, Comprehensive Planning Manager; James Hewat, Historic Preservation Planner; Marcy Cameron, Historic Preservation Planner; Deb Kalish, Senior Assistant City Attorney

Consultant: Mary Therese Anstey, HistoryMatters

PURPOSE: The purpose of the study session was to:

- Provide an update and solicit feedback on the work to date on a Historic Preservation Plan.
- Request input on goals and objectives to guide future direction for the city's historic preservation program.

The work to date on development of the plan includes a program assessment by Dr. Mary Therese Anstey of HistoryMatters, a comparison to other historic preservation programs, a customer survey of applicants, and a public and Landmarks Board meeting held on January 16, 2013.

OVERVIEW OF THE PRESENTATION:

Staff and the consultant presented an overview of the work to date on a Historic Preservation Plan. The City Council was asked for feedback.

COUNCIL AND BOARD RESPONSE TO STUDY SESSION QUESTIONS:

Summary of Council and Board feedback:

1. Do the City Council and the Landmarks Board have comments or questions about the work to date, including the Current Program Assessment and the customer survey responses?

- a. Council member Karakehian noted that the Current Program Assessment included significant inaccuracies about how the Pearl Street Pedestrian Mall was created as well as the relocation of the depot. He requested that this erroneous information be corrected to reflect the actual history crediting the Pearl Street property owners for the creation of the Mall and recognizing the Boulder Jaycees pivotal role in preserving the depot.
- b. Public outreach needs to continue throughout the process and be broadened.

- c. Cities nationwide, not just other cities within Colorado, should be used for comparison and evaluation of Boulder's preservation program, particularly ones with similar sustainability goals and demographics.
- d. It was suggested that the 50 year demolition threshold should be reconsidered and consideration given to revising the demolition ordinance.
- e. Post-war resources and the review process for these resources might be handled differently than other historic resources, allowing for flexibility to transform and evolve, perhaps aided through the development of pattern books. .
- f. One council member didn't think there would be much support for historic preservation restrictions being placed on post-war houses such as those in Martin Acres.
- g. Councilmember Plass noted that the program assessment was relevant and accurate based on his six years of experience on the Landmarks Board.
- h. It was requested that the final assessment and plan include fewer acronyms for ease of reading and understanding.

2. *What key issues should the historic preservation plan address?*

- a. Landmarks Board stated that outreach is the foundation for a successful plan and emphasized the importance of solid public understanding and support for it. The board also considered that the plan should address the following issues:
 - Sustainability and its relationship to historic preservation
 - Demolition ordinance changes (in particular, looking at giving the board the authority to assess the effect of the proposed demolition, not just whether or not the building is potentially a landmark)
 - Creating additional and broader incentives for historic preservation
 - Ensuring that design guidelines are transparent, predictable, and applied consistently
 - Potentially establishing conservation districts
 - Plan for handling historic resources in the event of a natural disaster
 - Post-war building stock
 - Being proactive instead of reactive, approaching historic preservation with bigger picture, longer-term thinking
- b. The City Council generally agreed with the Landmarks Board's list of priorities and added that the plan should address the following issues:
 - There is a need for more public outreach and listening to the community and responding to concerns about the Landmarks Board process.
 - Work on improving transparency, consistency in how cases are handled, public perception, understanding and the operation of Boulder's preservation program.
 - Clarify the vision and what infill in historic districts actually means.
 - Embodied energy is an important consideration toward preserving resources.
 - City-owned resources should be examined and perhaps designated as historic landmarks and be made publicly accessible.
 - The City Council also expressed interest in providing more incentives and stated that they could play a more active role in improving public perception of the historic preservation program and partnering with the Landmarks Board.

3. What should be the primary goals and objectives for the historic preservation plan to help guide the program over the next 10-15 years?

- a. The Landmarks Board considered that the goals and objectives should be:
 - A more proactive program, increasing outreach and community collaboration and cooperation
 - Reassessing demolition ordinance, in particular, looking at giving the board the authority to assess the effect of the proposed demolition, not just whether or not the building is potentially a landmark
 - Continue integrating sustainability goals (e.g. retrofitting storm windows)
 - Exploring the notion of establishing conservation districts
 - Ensuring that design guidelines are current, clear, and predictable
 - Providing more incentives to encourage historic preservation
 - Establishing post-disaster preparedness for historic resources
- b. The City Council agreed and requested additional information about the demolition ordinance to determine whether a change to it would be supported.

4. Do the City Council and the Landmarks Board have any questions regarding the proposed steps and timeline for completion of the plan?

- a. The City Council and the Landmarks Board agreed that community input is critical and the city's plans and actions should respect and reflect this input. An expanded community survey was requested. The city website should be used to better communicate and clarify the historic preservation processes.
- b. The City Council suggested that the current program be strengthened before it is expanded to include initiatives like conservation districts.
- c. The City Council stated that the plan should include an "areas of discussion" section that would outline where energy and resources should be focused over the next 10-15 years.
- d. The City Council asked staff to clarify why growth and density are perceived as threats in the report.
- e. Development and historic character need to be balanced.

NEXT STEPS

The consultant and the staff team will develop preliminary goals and objectives based on the City Council, Landmarks Board, Planning Board and public's feedback. During February, March and May, stakeholder meetings will be held, followed by the development of a draft plan. In May, the public, Landmarks Board and City Council will review the Draft Historic Preservation Plan.

In July, staff expects to return to City Council for acceptance of the Final Historic Preservation Plan to be submitted to OAHP in July 2013. Staff clarified that after submitting the Plan to the state, revisions can be made and implementation will be on-going.

August 13, 2013
City Council Dinner Discussion
Draft Historic Preservation Plan

City Council: Mayor Matt Applebaum, Suzy Ageton, KC Becker, Macon Cowles, Suzanne Jones, George Karakehian, Tim Plass, Ken Wilson

Staff: Jane Brautigam, City Manager; David Driskell, Executive Director Community Planning & Sustainability; Susan Richstone, Deputy Director Community Planning & Sustainability; Lesli Ellis, Comprehensive Planning Manager; James Hewat, Senior Historic Preservation Planner; Marcy Cameron, Historic Preservation Planner; Deb Kalish, Senior Assistant City Attorney

PURPOSE: The purpose of the discussion was to gather feedback on the Draft Historic Preservation Plan.

OVERVIEW OF THE PRESENTATION:

Staff presented an overview of the Draft Historic Preservation Plan. The City Council was asked for feedback.

COUNCIL FEEDBACK:

1. Does the City Council have feedback on the Draft Historic Preservation Plan?

Overall Comments

- It is a great idea to have a vision for the program and it is important to be proactive instead of reactive.
- It is important that the plan recommends improvements to the current program to increase clarity and predictability.

Historic Resource Protection

- Clarify what it means to “Foster Greater Awareness for Postwar Architecture;”
 - Greater community dialogue is needed to determine the value postwar neighborhoods and whether and how they might be preserved. The development of pattern books also needs to be discussed further and related to the broader discussion of potential zoning changes and the idea of walkable neighborhoods.
 - The opportunity to own a new, single-family house was an exciting prospect for many of the first occupants in postwar neighborhoods in Boulder. This sentiment should be carried through.
- It is important to clarify that fostering a more proactive program does not mean that properties and areas will be aggressively targeted for landmark designation.
- Encouraging the preservation of smaller houses a good idea, but outreach is needed to explain what designation entails;
- Existing incentives need to be publicized more broadly; many people are not aware they exist.

Community Engagement

- Community engagement and collaboration are an important aspect of the plan;
- Stories are the engaging part of preservation; continue to develop historic context reports;
- The integration of sustainability and historic preservation continues to be a point of apprehension for many; current treatment of this issue is lacking. More outreach is needed and current scholarship should be publicized.

Program Operation

- Recommendations to improve the consistency and predictability of the program strengthen the plan;
- A proactive approach is encouraged, but clarify what this means; avoid prescriptive designations, and do not send the message that the city will “go after” properties.

Implementation

- Each recommendation will require resources; leverage volunteers.
- It will be important to prioritize the items each year; all have costs.



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: October 29, 2013

AGENDA TITLE: Consideration of a resolution approving an amended and restated Fire and Police Money Purchase Pension Plan and Trust Agreement of the City of Boulder and authorizing the City Manager to execute it on the city's behalf.

PRESENTER: Bob Eichen, Chief Financial Officer as sponsor for the Fire and Police Money Purchase Pension Plan and Trust Agreement Trustees

EXECUTIVE SUMMARY:

The Fire and Police Money Purchase Plan and Trust Agreement ("the Plan") began January 1, 1983. Since that time it has been amended in order to comply with various changes in the applicable federal tax laws, to adjust contribution rates, and to finalize the steps required for changes approved by the membership of "the Plan." All prior amendments have been approved by the City Council in its legislative capacity. Increases in plan costs cannot occur without going through the budget or bargaining negotiations process.

The Plan is a defined contribution retirement plan for commissioned police officers and qualifying firefighters hired after April 7, 1978. Commissioned police officers and qualifying firefighters hired before this date (called old hires) are covered under a different type of pension plan called a defined benefit plan.

Article XIII 13.2 (a) of the plan provides that any changes to the plan require the approval of 65 percent of the participating employees, unless it is an amendment to the plan made to comply with federal and state tax codes. These changes have been approved by the required 65 percent.

The proposed amendment has no incremental financial impact on the city or the participants in the plan. None of the proposed changes are substantive in nature. The proposed changes have been made to make the plan, more readable, modified to comply with state or federal law, and to make it more understandable by the members of the plan. Attachment A is copy of the proposed resolution. A full copy of the amendment that has been signed by the trustees is attached as Attachment B. Since the proposed changes are all administrative in nature and have no financial impact to the city or the plan, it is proposed that the amendment be made retroactive to January 1, 2013. The delay in bringing it to council has been due to other pressing priorities in the finance department that have taken precedent. Though there were no financial or substantive changes proposed it has required a significant amount of time to trace through all of the formatting and administrative changes that are proposed. The new hire board has been kept informed that the delay would occur and has been very supportive during the heavy workload that needed to be completed first.

STAFF RECOMMENDATION:

Staff recommends that the City Council approve the proposed resolution (Attachment A) approving the amended and restated Fire and Police Money Purchase Pension Plan and Trust Agreement and authorizes the City Manger to execute it on the city's behalf.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:

- Economic: The proposed changes do not have an additional new or incremental economic impact on the community, the city as a corporation, or members of the pension plan.
- Environmental: None of the proposed changes have been determined to have a direct or indirect environmental impact on the community, the city as a corporation, or members of the pension plan.
- Social: None of the proposed changes have been determined to have a direct or indirect social impact on the community or the city as a corporation. The plan is designed to support equity and diversity for all members of the plan and to support the ability to meet the basic needs of the participants of the pension plan once they retire.

OTHER IMPACTS:

Fiscal: There are no new fiscal impacts associated with any of the proposed changes.

BOARD AND COMMISSION FEEDBACK:

The Fire and Police Money Purchase Pension Plan and Trust Board of Trustees is the Board making this request.

BACKGROUND AND ANALYSIS

Because of significant under funding of locally maintained defined benefit fire and police pension plans required by state statutes, the Colorado Legislature passed the Fire and Police Pension Reform Act in 1978, that, among other things, divided Colorado police officers and paid firefighters into two categories: (1) those hired on or before April 7, 1978 (“Old Hires”), and (2) those hired after April 7, 1978 (“New Hires”).

The New Hires were mandated to participate in the then newly created Statewide Fire and Police Pension Association defined benefit pension plan (“FPPA Pension Plan”), which was maintained and administered by the newly created quasi-governmental entity known as the Colorado Fire and Police Pension Association (“FPPA”). The Fire and Police Pension Reform Act permitted a local government and its firefighter and police officer employees a one-time option to opt-out of the FPPA Pension Plan to establish a locally administered and financed defined contribution money purchase pension plan.

As of January 1, 1983, the city and its firefighter and police officer employees elected to opt-out of the FPPA Pension Plan and establish a locally administered and financed defined contribution money purchase pension plan. Thus, the city adopted the Fire and Police Money Purchase Plan and Trust Agreement, effective January 1, 1983, which is a defined contribution money purchase pension for commissioned police officers and qualifying firefighters hired after April 7, 1978 (i.e., “New Hires”). State law required that commissioned police officers and qualifying firefighters hired after this date must participate in this type of plan if the plan was locally administered. Defined contribution plans define the contributions that will be made and do not guarantee any certain amount of retirement benefit when the employee retires. Therefore, a defined contribution pension plan will never have an unfunded liability (a situation in which the liabilities of the pension plan are greater than the assets in the pension plan). The amount the employee will receive is based totally on the amount contributed to the plan in the employee’s name (employee and employer contributions) and the earnings on the contribution. The funds are kept in trust and are not assets of the city. There are currently 378 active, separated and beneficiary members in the plan.

The plan is administered by the Plan Administration Committee and they also serve as the Trustees for the plan. The membership of the committee is made up of five members, two current police officer employees who are in the plan, two current firefighter employees who are in the plan, and one person who is not a participant in the plan, and who has business and/or investment experience within the local community.

The contribution amounts by the city have been determined and agreed to by the fire or police bargaining groups in the city or based on the contribution rates of management non-union if applicable. The minimum contribution percentage to be made by the

employee is set by state law. At the city of Boulder, employer contributions can only be increased through the negotiations process.

The current contribution rates are as follows:

- Fire bargaining unit: City 13.0% of salary, employee 8.0%.
- Fire management group: City 13.0% of salary, employee 8.0%.
- Police bargaining unit: City 13.8% of salary, employee 6.2%.
- Police management group: City 13.8% of salary, employee 6.2%.

Colorado statutes allow the Police and Fire Chiefs to choose to participate in the Plan or they may choose other retirement options.

The differences in the contribution rates are due to various negotiation agreements that have occurred. Since city cost increases in the plan can only occur in negotiations or the budget process, it was decided when the plan was created in 1983 that no city management representation would be needed on the Plan Administration Committee. This has created confusion when changes in the plan need to be brought to the City Council. In most cases the department that provides staff support for a group will sponsor agenda items that need to be brought forward for Council action. Since there is no specific department that provides support to the New Hire Plan it has been done on an ad hoc basis by various departments. This has sometimes caused confusion and delays in bringing items forward.

Finance department staff provides staff support to the “Old Hire” Fire and Police pension plans (for police officers and fire fighters hired before April 7, 1978). To ensure there is a designated sponsor for the New Hire plan and to help bring proposals forward the finance department provides sponsorship for any changes that will require council approval.

Due to the specialized expertise required, the City Attorney’s Office does not provide direct counsel to the plan. This is provided by outside counsel that has expertise in pension plans. However, all amendments and proposed changes are reviewed by the City Attorney’s office before they are presented to City Council.

Periodically, amendments are required in the plan to comply with applicable state law changes, federal tax law changes, changes that occur due to labor negotiation agreements within the city, and changes in administrative processes that have been approved by the membership of the plan. The current proposed plan changes are administrative in nature but need to be approved by the city council due to the administrative and legislative structure required for plan changes. Many of the changes are formatting or cosmetic in nature to make the plan more readable and understandable by the members of the plan. Though there are many redline changes none of them are substantive and are instead made from rearranging the document or moving more items into the definitions part of the plan.

In anticipation of submission of the plan to the Internal Revenue Service (“IRS”) for a determination as to the tax qualified status of the Fire and Police Money Purchase Pension Plan and Trust Agreement of the City of Boulder (the “Plan”), the Plan was restated. In the restatement process, the Plan was revised to incorporate previously approved amendments, changes required by law, and other desirable minor administrative changes. These proposed changes include:

- Article 3.2 CONTRIBUTION ALLOCATION. Is proposed to modify the wording with the removal of an express obligation to contribute employee contributions “as soon as administratively practical” under the plan. The requirement to do this is required whether or not stated in the plan document, and failure to do so in any one instance could create a plan qualification error for failure to follow the terms of the plan document. By removing the reference, it reduces potential tax qualification correction work to the plan in the event contributions are not made as soon as administratively practical.
- Article 3.4 (b) Disposition of Excess Amount. If amounts are mistakenly contributed above certain limits under the Internal Revenue Code, certain tax qualification correction steps must be undertaken. Specific instructions on the correction procedure (instructions on disposition of amounts over the limits) have been replaced with a general reference to the correction procedure provided by the IRS. This provides more flexible correction alternatives as well as coordination with any future changes to the correction procedure.
- Article 6.8 PAYMENT OF QUALIFIED HEALTH INSURANCE PREMIUMS. Clarifications to qualified health insurance premium payments by the plan were made, including clarifications to eligibility and administration of the payments.
- Article 12.11 PARTNER TO A CIVIL UNION. This change is required to comply with Colorado law, specifically, the Colorado Civil Unions Act. Under this new Colorado law, civil union partners are provided similar rights under the retirement plan to those rights afforded to spouses. However, not all spousal rights under the plan will be afforded to civil union partners. Some spousal plan rights are provided by federal law which does not recognize a partner in a civil union as a spouse. For instance, a partner in a civil union is not currently eligible for the relaxed spousal rollover rules or relaxed spousal required minimum distribution rules under the Internal Revenue Code because such rights are only afforded to spouses. The proposed changes in the restatement states that partners to a Colorado civil union have the rights and responsibilities afforded to spouses except as where not recognized by federal law. This language will also allow the plan to conform to future federal law changes (for instance, surrounding the treatment of civil union partners) without a required amendment.

Attachment A is the proposed resolution. Attachment B is a non - redline copy of the Proposed Plan as amended. The update to the plan has been written by the law firm that now provides legal counsel to the new hire plan. This update consisted of a total

restructuring of the format of the plan. This led to massive changes in the formatting and made the plan nearly unreadable in redline form. After reviewing the plan in detail it was the conclusion of the city attorney's office and the finance department that the only substantive changes to the plan are listed above as bullet items. If a redline copy is desired please contact Bob Eichen, eichemb@bouldercolorado.gov or 303-441-1819 for a copy.

ATTACHMENTS:

A: Proposed Resolution

B: Proposed Plan as Amended

RESOLUTION NO. _____

A RESOLUTION APPROVING THE 2013 RESTATED FIRE AND POLICE MONEY PURCHASE PENSION PLAN AND TRUST AGREEMENT OF THE CITY OF BOULDER AND AUTHORIZING THE CITY MANAGER TO EXECUTE IT ON THE CITY'S BEHALF

WHEREAS, effective as of January 1, 1983, the City adopted a qualified retirement plan know as the "Fire and Police Money Purchase Pension Plan and Trust Agreement of the City of Boulder" (hereinafter the "Plan"); and

WHEREAS, the Plan and all amendments were incorporated into the 2009 Restated Plan in order to make it more concise and comprehensible and approved by the city by Resolution No. 1049; and

WHEREAS, the Plan's trustees have proposed the First Amendment to the Restated Plan regarding the distribution of benefits to participant's that are totally or occupationally disabled; and

WHEREAS, all proposed changes are permissible under current pension laws applicable to the Plan; and

WHEREAS, all applicable changes have been approved by a favorable vote by at least sixty-five percent of the employees participating in the Plan have approved the changes as is required by the Plan.

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

Subject to any approval by the Fire and Police Pension Association which may be necessary, 2013 Restated Fire and Police Money Purchase Pension Plan and Trust Agreement is hereby approved and the City Manager is authorized to execute it on the City's behalf.

ADOPTED this ___ day of _____, 2013

Mayor

Attest:

City Clerk

**FIRE AND POLICE MONEY PURCHASE PENSION PLAN
AND TRUST AGREEMENT
OF THE CITY OF BOULDER**

(AMENDED AND RESTATED EFFECTIVE JANUARY 1, 2013)

Any statements regarding tax matters made herein, including any attachments, cannot be relied upon by any person to avoid tax penalties and are not intended to be used or referred to in any marketing or promotional materials. To the extent this communication contains a tax statement or tax advice, Holland & Hart LLP does not and will not impose any limitation on disclosure of the tax treatment or tax structure of any transactions to which such tax statement or tax advice relates.

Prepared by



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FIRE AND POLICE MONEY PURCHASE PENSION PLAN
AND TRUST AGREEMENT OF
THE CITY OF BOULDER

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13.8 Applicability66

**FIRE AND POLICE MONEY PURCHASE PENSION PLAN
AND TRUST AGREEMENT OF
THE CITY OF BOULDER**

CITY OF BOULDER, a Colorado municipality, makes this Agreement as the Employer with the Trustees hereunder.

WITNESSETH:

CITY OF BOULDER continues, within this Trust Agreement, a Plan for the administration and distribution of contributions made by the Employer and its eligible Employees for the purpose of providing retirement benefits for its eligible Employees. This Plan is an amended plan, in restated form for the principal purpose of complying with the tax qualification requirements under the Internal Revenue Code of 1986, as amended by the applicable provisions of the Pension Protection Act of 2006, the Heroes Earnings Assistance and Relief Tax Act of 2008 and the Worker, Retiree, and Employer Recovery Act of 2008. In addition, the City of Boulder will request a determination as to the qualified status of the Plan under Cycle C of the remedial amendment period.

The original Plan was established effective as of January 1, 1983, and was last amended and restated to comply with the tax qualification requirements under the Internal Revenue Code of 1986, as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001. The provisions of this Plan, as amended, shall apply solely to an Employee whose employment with the Employer terminates on or after the restated Effective Date of the Plan. If an Employee's employment with the Employer terminates prior to the restated Effective Date, that Employee shall be entitled to benefits under the Plan as the Plan existed on the date of the Employee's termination of employment.

Now, therefore, in consideration of their mutual covenants, the Employer and the Trustees agree as follows:

**ARTICLE 1.
DEFINITIONS**

- 1.1 **Account** shall mean the separate account(s) which the Plan Administration Committee or the Trustee shall maintain for a Participant under the Plan.
- 1.2 **Accounting Date** shall be the last day of the Plan Year.
- 1.3 **Accrued Benefit** shall mean the amount held in a Participant's Employer Contributions Account, Participant Mandatory Contributions Account, Participant Voluntary Contributions Account and Participant Rollover Contributions Account as of any date.
- 1.4 **Annual Addition** shall mean the sum of the following amounts allocated on behalf of a Participant for a Limitation Year: (a) all Employer Contributions; (b) all Forfeitures; and (c) all Participant contributions. Except to the extent provided in Treasury regulations, Annual Additions include excess contributions described in Code Section 401(k), excess aggregate contributions described in Code Section 401(m) and excess deferrals described in Code Section 402(g), irrespective of whether the plan distributes or forfeits such excess amounts. Annual Additions also shall include Excess Amounts reapplied to reduce Employer Contributions under Section 3.4. Annual Additions also include amounts allocated after March 31, 1984, to an individual medical account (as defined in Code Section 415(1)(2)) included as part of a defined benefit plan maintained by the Employer. Furthermore, Annual Additions include contributions paid after December 31, 1985, for taxable years ending after December 31, 1985, attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Code Section 419A(d)(3)) under a welfare benefit fund (as defined in Code Section 419(e)) maintained by the Employer, but only for purposes of the dollar limitation applicable to the Maximum Permissible Amount. For purposes of Code Section 415, Annual Additions do not include:
- (a) restorative payments made to restore losses to the Plan resulting from actions by a fiduciary for which there is a reasonable risk of liability for breach of a fiduciary duty under ERISA or other applicable law, where Participants who are similarly situated are treated similarly with respect to the payments;
 - (b) Direct transfer of a benefit or employee contributions from a qualified plan to this Plan;
 - (c) Rollover contributions (as described in Code Sections 401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d)(3) and 457(e)(16));
 - (d) Repayments of loans made to a Participant from the Plan; and
 - (e) Repayments of amounts described in Code Section 411(a)(7)(B) (in accordance with Code Section 411(a)(7)(C)) and Code Section 411(a)(3)(D) or repayment of contributions to a governmental plan (as defined in Code Section 414(d) as described in Code Section 415(k)(3), as well as Employer restorations of benefits that are required pursuant to such repayments.
- 1.5 **Authorized Leave of Absence** shall mean any absence authorized by the Employer under the Employer's standard personnel practices, and supplemented by an applicable labor agreement

as may from time to time be in effect. An absence due to military service described in CRS Section 28-3-601, et seq. (or other applicable law), including annual, extended and emergency military leave, shall be governed by CRS Section 28-3-601, et seq. and shall be considered an Authorized Leave of Absence hereunder, provided that the absence meets the requirements set forth in CRS Section 28-3-601, et seq.

- 1.6 **Beneficiary** shall mean the person designated by a Participant who is or may become entitled to a benefit under the Plan. A Beneficiary who becomes entitled to a benefit under the Plan shall remain a Beneficiary under the Plan until the Trustee has fully distributed his or her benefit to him or her. A Beneficiary's right to (and the Plan Administrator's, the Plan Administration Committee's or the Trustee's duty to provide to the Beneficiary) information or data concerning the Plan shall not arise until he or she first becomes entitled to receive a benefit under the Plan.
- 1.7 **Code** shall mean the Internal Revenue Code of 1986, as amended.
- 1.8 **Compensation** shall mean the total regular salary and regular hourly wages received for the portion of the Plan Year during which the Employee was a Participant, as determined by the Employer under its current employment policies, and paid by the Employer to the Participant for services rendered by such Participant as an Employee, including longevity pay (where eligible therefor), but excluding bonuses, commissions, overtime pay, holiday pay, other taxable income, and other forms of extra pay, received for services performed as an Employee. However, the term "Compensation" shall not be reduced by Participant Mandatory Contributions which are picked up by the Employer pursuant to Article 4, nor shall "Compensation" be reduced by any Elective Deferrals, as defined in Section 1.12. "Compensation" includes amounts representing "differential wage payments" within the meaning of Code Section 414(u)(12).

Any reference in this Plan to Compensation is a reference to the definition in this Section 1.8, unless the Plan reference specifies a modification to this definition. The Plan Administration Committee will take into account only Compensation actually paid during (or as permitted under the Code, paid for) the relevant period. Compensation includes Compensation by the Employer through another person under the common paymaster provisions in Code Sections 3121 and 3306.

For any Plan Year beginning after December 31, 2001, the Trustee in allocating Employer Contributions and Participant Mandatory Contributions shall not take into account more than \$200,000 (as may be adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B)) of any Participant's "Annual Compensation." "Annual Compensation" means a Participant's Compensation for the applicable "Determination Period." "Determination Period" means the Plan Year. The cost-of-living adjustment in effect for a calendar year applies to Annual Compensation for the Determination Period that begins with or within such calendar year.

For purposes of applying the limitations of Sections 3.4 and 3.5, "Compensation" means Compensation as defined in this section, except:

- (a) Compensation does not include Participant Mandatory Contributions;

- (b) Compensation includes Elective Deferrals for any Limitation Years beginning after December 31, 1997;
 - (c) Compensation includes pay after severance of employment if the payment is regular compensation, would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer, and is paid by the later of 2½ months after severance from employment, or by the end of the Limitation Year that includes the date of such severance from employment;
 - (d) Compensation includes unused accrued bona fide sick, vacation, or other leave if the Participant would have been able to use the leave if employment had continued and is paid by the later of 2½ months after severance from employment, or by the end of the Limitation Year that includes the date of such severance from employment;
 - (e) Compensation does not include compensation paid to a Participant who is permanently and totally disabled (as defined in Code Section 22(e)(3)); and
 - (f) Compensation does not include amounts earned but not paid during the Limitation Year solely because the timing of the pay periods and pay dates (i.e., the first few weeks rule does not apply).
- 1.9 **CRS** shall mean Colorado Revised Statutes, as amended.
- 1.10 **Disability** shall mean when a Participant is determined by the Board of Directors of the FPPA to be eligible for disability benefits as a result of such Participant's becoming disabled, whether occupational or total, and whether on-duty or whether not on-duty, as provided under and defined in CRS, Title 31, Article 31, Part 8, and specifically in CRS Section 31-31-801, 31-31-803 and 31-31-806.5, or any successor provision thereto.
- 1.11 **Effective Date** of this Plan as restated shall be effective for the Plan Years and Limitation Years beginning on or after January 1, 2013, except as specifically provided to the contrary in this Plan.
- 1.12 **Elective Deferrals** shall mean amounts excludible from the Employee's gross income under Code Sections 125, 132(f)(4), 402(e)(3), 402(h)(2), 403(b), 408(p), or 457, and contributed by the Employer, at the Employee's election, to a cafeteria plan, a qualified transportation fringe benefit plan, a 401(k) arrangement, a SARSEP, a tax-sheltered annuity, a SIMPLE plan or a Code Section 457 plan.
- 1.13 **Employee** shall mean any person:
- (a) who is employed by the Employer as a Police Officer or Firefighter;
 - (b) whose most recent employment with the Employer commenced on or after April 8, 1978; and
 - (c) who can normally be expected to be credited with at least one thousand six hundred (1,600) Hours of Service each Plan Year.

The term “Employee” shall not mean or include clerical or other personnel whose services for the Employer are auxiliary to actual fire or police protection services and any volunteer fireman, as defined in CRS 31-30.5-302(6), as may be amended in the future.

The Employer shall, under its current employment policy, make the determination of whether a person employed by it meets the definition of “Employee” as set forth in this Section 1.13.

- 1.14 **Employer** shall mean the City of Boulder.
- 1.15 **Employer Contributions** shall mean the amount contributed by the Employer under Section 3.1, excluding Participant Mandatory Contributions, Participant Voluntary Contributions, Participant Rollover Contributions, and Forfeitures (except to the extent allocated pursuant to Section 3.3(a)(3)).
- 1.16 **Employer Contributions Account** means the account maintained by the Plan Administration Committee in the name of a Participant to record the Participant’s interest in the Trust represented by (a) such Participant’s share of Employer Contributions (including any allocation of Forfeitures pursuant to Section 3.3(a)(3)), and (b) the increase or decrease in the net worth of the Trust allocable thereto.
- 1.17 **ERISA** shall mean the Employee Retirement Income Security Act of 1974, as amended.
- 1.18 **Excess Amount** shall mean the excess of the Participant’s Annual Additions for the Limitation Year over the Maximum Permissible Amount.
- 1.19 **Firefighter** shall mean any individual employed by the Employer who is trained to respond to fire alarms, medical emergency and other calls to protect life and property and includes individuals covered under a collective bargaining agreement (“Union Firefighters”) and individuals not covered by a collective bargaining agreement (“Non-Union Management Firefighters”).
- 1.20 **Forfeiture** means that portion of a Participant’s Accrued Benefit which is forfeited in accordance with Sections 5.4 or 9.14.
- 1.21 **Former Participant** means an individual who has ceased to be a Participant because of the Participant’s Separation from Service for any reason and who has an undistributed Account.
- 1.22 **FPPA** shall mean the Colorado Fire and Police Pension Association established pursuant to CRS, Title 31, Article 31, Part 2.
- 1.23 **Highly Compensated Employee** means an Employee who during the preceding Plan Year had Compensation in excess of \$80,000 (as adjusted by the Commissioner of Internal Revenue for the relevant year).

For purposes of this Section 1.23 “Compensation” means Compensation as defined in Section 1.8, except any exclusions from Compensation set forth in Section 1.8 do not apply, and Compensation specifically includes Elective Deferrals, as defined in Section 1.12. The Trustee shall make the determination of who is a Highly Compensated Employee consistent with Code Section 414(q) and regulations issued thereunder. For purposes of this Section 1.23, if the current Plan Year is the first year of the Plan, then the term “preceding

Plan Year” means the 12-consecutive month period immediately preceding the current Plan Year.

Anything contained in this Section 1.23 or any other provision of the Plan to the contrary notwithstanding, the provisions of this Section 1.23 shall only apply to the Plan if so required under the Code, including, but not limited to Code Section 414(q).

1.24 ***Hour of Service*** shall mean:

- (a) Each hour for which the Employer pays an Employee, or for which the Employee is entitled to payment, for the performance of duties. The Plan Administration Committee credits Hours of Service under this subsection (a) to the Employee for the computation period in which the Employee performs the duties, irrespective of when paid.
- (b) Each hour for back pay, irrespective of mitigation of damages, to which the Employer has agreed or for which the Employee has received an award. The Trustee shall credit Hours of Service under this subsection (b) to the Employee for the computation period(s) to which the award or the agreement pertains rather than for the computation period in which the award, agreement or payment is made.
- (c) Each hour for which the Employer pays an Employee, or for which the Employee is entitled to payment, pursuant to the terms of an applicable labor agreement from time to time in effect, (irrespective of whether the employment relationship is terminated), for reasons other than for the performance of duties during a computation period, such as Authorized Leave of Absence, vacation, holiday, sick leave, jury duty or military duty. Except as otherwise required by applicable law, the Plan Administration Committee shall credit no more than five hundred one (501) Hours of Service under this subsection (c) to an Employee on account of any single continuous period during which the Employee does not perform any duties (whether or not such period occurs during a single computation period). An hour for which an Employee is paid, or entitled to payment, on account of a period during which no duties are performed is not required to be credited to the Employee if such payment is made or due under a plan maintained solely for the purpose of complying with applicable workmen’s compensation, or unemployment compensation or disability insurance laws. Hours of Service are not required to be credited for a payment which solely reimburses an Employee for medical or medically related expenses incurred by the Employee. The Plan Administration Committee credits Hours of Service under this subsection (c) in accordance with the rules of paragraphs (b) and (c) of Labor Reg. Section 2530.200b-2, which the Plan, by this reference, specifically incorporates in full within this subsection (c).
- (d) Hours of Service shall also include any Service which the Plan must credit for contributions and benefits in order to satisfy the crediting of Service requirements of Code Section 414(u). The provisions of this subsection (d) shall apply beginning December 12, 1994.

For purposes of this Section 1.24, a payment shall be deemed made by the Employer regardless of whether such payment is made by the Employer directly, or indirectly through,

among others, a trust fund, or insurer, to which the Employer contributes or pays premiums and regardless of whether contributions made or due to the trust fund, insurer or other entity are for the benefit of particular Employees or are on behalf of a group of Employees in the aggregate.

The Plan Administration Committee shall not credit an Hour of Service under more than one of the above subsections. For example, an Employee who receives a back pay award following a determination that such Employee was paid at an unlawful rate for Hours of Service previously credited will not be entitled to additional credit for the same Hours of Service. Crediting of Hours of Service for back pay awarded or agreed to with respect to periods described in subsection (c) shall be subject to the limitations set forth in such subsection. For example, no more than 501 Hours of Service are required to be credited for payments of back pay, to the extent that such back pay is agreed to or awarded for a period of time during which an Employee did not or would not have performed duties.

A computation period for purposes of this Section 1.24 is the Plan Year in which the Plan Administration Committee is measuring an Employee's Hours of Service.

The Employer shall credit every Employee with Hours of Service on the basis of the "actual" method. For purposes of the Plan, "actual" method means the determination of Hours of Service from records of hours worked and hours for which the Employer makes payment or for which payment is due from the Employer.

1.25 ***In-Service Distribution*** shall have the meaning assigned to it in Section 6.7(a) of the Plan.

1.26 ***Leased Employee*** shall mean an individual (who otherwise is not an Employee of the Employer) who, pursuant to an agreement between the Employer and any other person, has performed services for the Employer (or for the Employer and any persons related to the Employer within the meaning of Code Section 144(a)(3)) on a substantially full time basis for at least one year and who performs such services under primary direction or control of the Employer within the meaning of Code Section 414(n)(2). Except as otherwise provided in this Section 1.26 a Leased Employee is an Employee for purposes of the Plan. If a Leased Employee is treated as an Employee by reason of this Section 1.26, "Compensation" includes compensation from the leasing organization which is attributable to services performed for the Employer.

Notwithstanding anything contained in this Section 1.26 or any other provision of the Plan to the contrary, the provisions of this Section 1.26 shall only apply to the Plan if so required under the Code.

1.27 ***Limitation Year*** shall mean the Plan Year. If the Employer amends the Limitation Year to a different 12 consecutive month period, the new Limitation Year must begin on a date within the Limitation Year for which the Employer makes the amendment, creating a short Limitation Year.

1.28 ***Maximum Permissible Amount*** shall mean for Limitation Years beginning after December 31, 2001, the lesser of (a) \$40,000 (or, as adjusted under Code Section 415(d)), or (b) 100% of the Participant's Compensation for the Limitation Year. If there is a short Limitation Year because of a change in Limitation Year, the Plan Administrator will multiply the \$40,000 limitation (as may be adjusted) on Annual Additions by the following fraction:

Number of months in the short Limitation Year

12

The 100% limitation shall not apply to any contribution for medical benefits after Separation from Service (within the meaning of Code Section 401(h) or 419A(f)(2)) which is otherwise treated as an Annual Addition.

- 1.29 **Nonforfeitable** shall mean a Participant's or Beneficiary's unconditional claim, legally enforceable against the Plan, to the Participant's Accrued Benefit.
- 1.30 **Nontransferable Annuity** shall mean an annuity which by its terms provides that it may not be sold, assigned, discounted, pledged as collateral for a loan or security for the performance of an obligation or for any purpose to any person other than the insurance company. If the Trustee distributes an annuity contract, the contract must be a Nontransferable Annuity.
- 1.31 **Normal Retirement Age** shall mean the date a Participant attains age fifty (50), provided he or she is employed as an Employee by the Employer on such date.

Except as specifically provided in this Plan, the provisions of this Section 1.31 and the term Normal Retirement Age are expressly intended, and are expressly to be construed and interpreted, to have no legal application whatsoever upon the Employer's general employment policies, rules, ordinances or laws. Therefore, except as specifically provided in this Plan, the provisions of this Section 1.31 and the term Normal Retirement Age shall in no manner give or entitle, or be in any manner construed or interpreted to give or entitle, any Employee, Employee-Participant or any Beneficiary any additional legal right or equitable right against the Employer which any such Employee, Employee-Participant or any Beneficiary does not otherwise possess or to which he or she is already entitled.

A Participant who remains in the employ of the Employer after attaining Normal Retirement Age shall continue to participate in the Plan.

- 1.32 **Participant** shall mean an Employee who is eligible to be and becomes a Participant in accordance with the provisions of Section 2.1.
- 1.33 **Participant Mandatory Contributions** shall mean the contributions made under Section 4.1 by a Participant, excluding Employer Contributions, Participant Voluntary Contributions, Participant Rollover Contributions, and Forfeitures.
- 1.34 **Participant Mandatory Contributions Account** shall mean the account maintained by the Plan Administration Committee in the name of a Participant to record such Participant's interest in the Trust represented by (a) such Participant's Mandatory Contributions and (b) the increase or decrease in the net worth of the Trust allocable thereto.
- 1.35 **Participant Rollover Contributions** shall mean the contributions made under Section 4.3, excluding Employer Contributions, Participant Mandatory Contributions, Participant Voluntary Contributions, and Forfeitures,
- 1.36 **Participant Rollover Contributions Account** shall mean the account maintained by the Plan Administration Committee in the name of a Participant to record such Participant's interest in

the Trust represented by the Participant's Participant Rollover Contributions (if any) and the increase or decrease in the net worth of the Trust allocable thereto.

- 1.37 **Participant Voluntary Contributions** shall mean the contributions made under Section 4.2, excluding Employer Contributions, Participant Mandatory Contributions, Participant Rollover Contributions, and Forfeitures.
- 1.38 **Participant Voluntary Contributions Account** shall mean the account maintained by the Plan Administration Committee in the name of a Participant to record such Participant's interest in the Trust represented by such Participant's Voluntary Contributions and the increase or decrease in the net worth of the Trust allocable thereto.
- 1.39 **Plan** shall mean the retirement plan established and continued by the Employer in the form of this Plan and Trust Agreement, designated as the Fire and Police Money Purchase Pension Plan of the City of Boulder.
- 1.40 **Plan Administration Committee** shall mean the Administrative Committee as from time to time constituted pursuant to the terms of Article 9.
- 1.41 **Plan Administrator** shall mean the Plan Administration Committee unless the Plan Administration Committee designates another person to hold the position of Plan Administrator. In addition to its other duties, the Plan Administrator shall have full responsibility for compliance with the reporting and disclosure rules under applicable law as respects this Plan.
- 1.42 **Plan Year** shall mean the calendar ending every December 31.
- 1.43 **Police Officer** shall mean any individual employed by the Employer who is trained in law enforcement and crime prevention and detection and includes individuals covered under a collective bargaining agreement ("Union Police Officers") and individuals not covered by a collective bargaining agreement ("Non-Union Management Police Officers").
- 1.44 **Qualified Health Insurance Premiums** shall mean premiums for coverage for a Participant, the Participant's spouse and dependents (as defined in Code Section 152) by an accident or health insurance plan or qualified long-term care insurance contract (as defined in Code Section 7702B(b)).
- 1.45 **Related Group/Related Employers** shall mean a controlled group of corporations (as defined in Code Section 414(b)), trades or businesses (whether or not incorporated) which are under common control (as defined in Code Section 414(c)) or an affiliated service group (as defined in Code Section 414(m)) or an arrangement otherwise described in Code Section 414(o). Each Employer/member of the Related Group is a Related Employer. The term "Employer" includes every Related Employer for purposes of crediting Service, Hours of Service and Vesting Years of Service, applying the definitions of Employee, Highly Compensated Employee, Compensation and Leased Employee, determining Separation from Service, and for any other purpose required by the Code or by a Plan provision. However, an Employer may contribute to the Plan only by being a signatory to the Plan or to a participation agreement to the Plan. If a Related Employer executes a participation agreement to the Plan, such Related Employer is a participating Employer. A participating Employer is an Employer for all purposes of the Plan.

Notwithstanding anything contained in this Section 1.45 or any other provision of the Plan to the contrary, the provisions of this Section 1.45 shall only apply to the Plan if so required under the Code.

- 1.46 **Separation from Service** shall mean the date the Employee no longer has an employment relationship with the Employer maintaining this Plan.
- 1.47 **Service** shall mean any period of time the Employee is in the employ of the Employer, including any period the Employee is on an unpaid leave of absence authorized by the Employer under a uniform, nondiscriminatory policy applicable to all Employees.
- 1.48 **Trust** shall mean the separate Trust created under the Plan.
- 1.49 **Trust Agreement** shall mean the agreement set forth herein between the Employer and the Trustee providing for the administration of the Trust Fund, as the same may be amended from time to time, which forms a part of the Plan.
- 1.50 **Trustee(s)** shall mean the person or persons who are named on the last page hereof and referred to as such and who have executed this Agreement as trustee; and any person or persons who become successor trustees pursuant to the terms of the Plan. Each Trustee shall be a member of the Plan Administration Committee.
- 1.51 **Trust Fund** shall mean all property of every kind held or acquired by the Trustee under the Trust Agreement.
- 1.52 **Vesting Years of Service** shall be computed on the basis of the Plan Year. A Participant will be credited with one (1) Vesting Year of Service for each Plan Year during which he or she is credited with not less than one (1) Hours of Service, including vesting Years of Service prior to the Effective Date of the Plan.

* * * * **End of Article 1** * * * *

**ARTICLE 2.
ELIGIBILITY AND PARTICIPATION**

- 2.1 **ELIGIBILITY.** An Employee shall be eligible to become a Participant and shall begin participation in the Plan on the date he or she is first credited with an Hour of Service as an Employee. However, each Employee who has satisfied the above requirement on the Effective Date shall become a Participant on the Effective Date, provide he or she is an Employee on the Effective Date.
- 2.2 **PARTICIPATION UPON RE-EMPLOYMENT.** If the Service of an Employee terminates and he or she is re-employed as an Employee, such re-employed Employee will be eligible to become a Participant and shall begin participation in the Plan on the date he or she is re-employed by the Employer as an Employee and is first credited with an Hour of Service as a re-employed Employee.
- 2.3 **MANDATORY PARTICIPATION IN PLAN.** Except as provided in the following sentence, all Employees who are eligible to participate in the Plan must participate in the Plan as a condition of their employment, and no current Participant may elect to discontinue his or her participation in the Plan. The provisions of this Section 2.3 may not be applicable to the fire chief or police chief of the Employer, provided that the applicable provisions of the CRS are complied with, and further provided that if said chief or chiefs participate in another retirement plan sponsored by the Employer, such participation in such other retirement plan does not detrimentally impact the continued tax qualification of this Plan and Trust Agreement under the Code.

* * * * *End of Article 2* * * * *

**ARTICLE 3.
EMPLOYER CONTRIBUTIONS AND FORFEITURES**

3.1 **EMPLOYER CONTRIBUTIONS.**

(a) ***Contributions for Police Officers.***

(1) ***Union Police Officers.***

(A) For each Plan Year beginning on or after January 1, 1989, but prior to the Plan Year beginning on January 1, 1998, the Employer will contribute to the Trust on behalf of each Union Police Officer who is eligible to share in Employer Contributions for any such Plan Year, an amount, which together with any Forfeitures which are required to be reallocated under the provisions of Section 3.3 for such Plan Year, equals eleven and eight tenths percent (11.8%) of each such Union Police Officer's Compensation for such Plan Year.

(B) For each Plan Year beginning on or after January 1, 1998, the Employer will contribute to the Trust on behalf of each Union Police Officer who is eligible to share in Employer Contributions for any such Plan Year, an amount, which together with any Forfeitures which are required to be reallocated under the provisions of Section 3.3 for such Plan Year, equals thirteen and eight tenths percent (13.8%) of each such Union Police Officer's Compensation for such Plan Year.

(2) ***Non-Union Management Police Officers.***

(A) For each Plan Year beginning on or after January 1, 1989, and for the portion of the 2004 Plan Year beginning on January 1, 2004 and ending on October 31, 2004, the Employer will contribute to the Trust on behalf of each Non-Union Management Police Officer who is eligible to share in Employer Contributions for any such Plan Year and/or for the portion of the 2004 Plan Year beginning on January 1, 2004 and ending on October 31, 2004, an amount, which together with any Forfeitures which are required to be reallocated under the provisions of Section 3.3 for such Plan Year and/or for the portion of the 2004 Plan Year beginning on January 1, 2004 and ending on October 31, 2004, equals eleven and eight tenths percent (11.8%) of each such Non-Union Management Police Officer's Compensation for such Plan Year and/or for the portion of the 2004 Plan Year beginning on January 1, 2004 and ending on October 31, 2004.

(B) For the portion of the 2004 Plan Year beginning on November 1, 2004 and ending on December 31, 2004, and for each Plan Year thereafter, the Employer will contribute to the Trust on behalf of each Non-Union Management Police Officer who is eligible to share in Employer Contributions for the portion of the 2004 Plan Year beginning on November 1, 2004 and ending on December 31, 2004

and/or for any such Plan Year thereafter, an amount, which together with any Forfeitures which are required to be reallocated under the provisions of Section 3.3 for the portion of the 2004 Plan Year beginning on November 1, 2004 and ending on December 31, 2004 and/or for such Plan Year thereafter, equals thirteen and eight tenths percent (13.8%) of each such Non-Union Management Police Officer's Compensation for the portion of the 2004 Plan Year beginning on November 1, 2004 and ending on December 31, 2004 and/or for such Plan Year thereafter.

(b) ***Contributions for Firefighters.***

(1) ***Union Firefighters.***

- (A) For the Plan Year beginning on January 1, 1992 and ending on December 31, 1992, the Employer will contribute to the Trust on behalf of each Union Firefighter who is eligible to share in Employer Contributions for the Plan Year beginning on January 1, 1992 and ending on December 31, 1992, an amount, which together with any Forfeitures which are required to be reallocated under the provisions of Section 3.3 for the Plan Year beginning on January 1, 1992 and ending on December 31, 1992, equals ten percent (10%) of each such Union Firefighter's Compensation for the Plan Year beginning on January 1, 1992 and ending on December 31, 1992.
- (B) For the portion of the 1993 Plan Year beginning on January 1, 1993 and ending on June 30, 1993, the Employer will contribute to the Trust on behalf of each Union Firefighter who is eligible to share in Employer Contributions for the portion of the 1993 Plan Year beginning on January 1, 1993 and ending on June 30, 1993, an amount, which together with any Forfeitures which are required to be reallocated under the provisions of Section 3.3 for the portion of the 1993 Plan Year beginning on January 1, 1993 and ending on June 30, 1993, equals ten and five tenths percent (10.5%) of each such Union Firefighter's Compensation for the portion of the 1993 Plan Year beginning on January 1, 1993 and ending on June 30, 1993.
- (C) For the portion of the 1993 Plan Year beginning on July 1, 1993 and ending on December 31, 1993, and for each Plan Year thereafter, the Employer will contribute to the Trust on behalf of each Union Firefighter who is eligible to share in Employer Contributions for the portion of the 1993 Plan Year beginning on July 1, 1993 and ending on December 31, 1993 and/or for any such Plan Year thereafter, an amount, which together with any Forfeitures which are required to be reallocated under the provisions of Section 3.3 for the portion of the 1993 Plan Year beginning on July 1, 1993 and ending on December 31, 1993 and/or for such Plan Year thereafter, equals eleven percent (11%) of each such Union Firefighter's Compensation

for the portion of the 1993 Plan Year beginning on July 1, 1993 and ending on December 31, 1993 and/or for such Plan Year thereafter.

(2) ***Non-Union Management Firefighters.***

- (A) For each Plan Year beginning on or after January 1, 1992, and for the portion of the 2004 Plan Year beginning on January 1, 2004 and ending on October 31, 2004, the Employer will contribute to the Trust on behalf of each Non-Union Management Firefighter who is eligible to share in Employer Contributions for any such Plan Year and/or for the portion of the 2004 Plan Year beginning on January 1, 2004 and ending on October 31, 2004, an amount, which together with any Forfeitures which are required to be reallocated under the provisions of Section 3.3 for such Plan Year and/or for the portion of the 2004 Plan Year beginning on January 1, 2004 and ending on October 31, 2004, equals ten percent (10%) of each such Non-Union Management Firefighter's Compensation for such Plan Year and/or for the portion of the 2004 Plan Year beginning on January 1, 2004 and ending on October 31, 2004.
- (B) For the portion of the 2004 Plan Year beginning on November 1, 2004 and ending on December 31, 2004, and for each Plan Year thereafter, the Employer will contribute to the Trust on behalf of each Non-Union Management Firefighter who is eligible to share in Employer Contributions for the portion of the 2004 Plan Year beginning on November 1, 2004 and ending on December 31, 2004 and/or for any such Plan Year thereafter, an amount, which together with any Forfeitures which are required to be reallocated under the provisions of Section 3.3 for the portion of the 2004 Plan Year beginning on November 1, 2004 and ending on December 31, 2004 and/or for such Plan Year thereafter, equals eleven percent (11%) of each such Non-Union Management Firefighter's Compensation for the portion of the 2004 Plan Year beginning on November 1, 2004 and ending on December 31, 2004 and/or for such Plan Year thereafter.
- (c) ***All Contributions.*** The percentage contributions set forth in this Section 3.1 may be modified hereafter by the applicable terms, which make specific reference to such percentage contributions, of any subsequent binding labor negotiation contract between the Employer and the Boulder Police Benefit Association or the International Association of Firefighters, Local 900 (as the case may be), and in such event, the terms and provisions of this Plan and Trust relating to such percentage contributions shall be deemed modified in accordance with the applicable terms of such binding labor negotiation contact with respect to the Employees covered under said contract. Any and all such amendments shall be affixed hereto, and the terms and provisions of this Plan and Trust Agreement relating to such percentage contributions shall be deemed modified as of and in accordance with the terms of such binding agreement.

Employer Contributions made to the Trust for any Plan Year shall be paid to the Trustees, such payments shall be made on at least a monthly basis during the Plan Year concerned, and pending allocation under Sections 3.2 and 3.3, shall be invested by the Trustees.

- 3.2 **CONTRIBUTION ALLOCATION.** The Plan Administration Committee shall allocate and credit to each Participant's Account each Employer Contribution to this Trust upon the same basis as the Employer makes its contributions under Section 3.1; that is, the Plan Administration Committee shall credit each Participant's Account with that portion of the Employer Contribution which is equal to the percentage, set forth in Section 3.1, of the Compensation the Employer paid such Participant during such period.
- 3.3 **FORFEITURE ALLOCATION.** The amount of a Participant's Accrued Benefit forfeited under the Plan is a Forfeiture. Subject only to any restoration allocation required under Section 9.14, the Plan Administration Committee will use, allocate and credit the Forfeiture, as directed by the Employer in its discretion, in accordance with this Section 3.3 as follows:
- (a) ***Allocation.***
- (1) First, to pay or reimburse the current and future costs and expenses of establishing, administering, amending and operating the Plan and/or the Trust to the extent approved by the Employer upon annual submission by the Plan Administration Committee of requests for such payment or reimbursement to the City Manager of the Employer in the context of the Employer's budget process;
 - (2) Second, after the application of the provisions of subsection (1), to a reserve account established to pay or reimburse future costs and expenses of establishing, administering, amending or operating the Plan and/or the Trust, in an amount determined by the Employer in consultation with the Plan Administration Committee, subject to the provisions of subsection (b); and
 - (3) Third, to be allocated and credited in accordance with Section 3.2 to reduce the Employer Contribution for the Plan Year in which the Forfeiture occurs and any subsequent Plan Year if required.
- (b) ***Balance in Reserve Account.*** Anything contained in this Section 3.3 to the contrary notwithstanding, the Employer and the Plan Administration Committee shall retain a balance in the reserve account, as provided for in subsection (a)(2), in an amount of not less than \$10,000.00 to pay or reimburse the costs and expenses described in such subsection for future Plan Years; no allocation of Forfeitures under the provisions of subsection (a)(3) to reduce Employer Contributions shall be made in the event such an allocation would cause a reduction of the amount in the reserve account to below \$10,000.00.
- (c) ***Holding of Account.*** The Plan Administration Committee will continue to hold the undistributed, non-vested portion of a terminated Participant's Accrued Benefit in his or her Account solely for his or her benefit until a Forfeiture occurs at the time specified in Section 5.4. A Participant will not share in the allocation of a Forfeiture of any portion of his or her Accrued Benefit.

3.4 **LIMITATIONS ON ALLOCATIONS TO PARTICIPANTS' ACCOUNTS.** The amount of Annual Additions which the Plan Administration Committee may allocate under this Plan on a Participant's behalf for a Limitation Year shall not exceed the Maximum Permissible Amount. If the amount the Employer otherwise would contribute to a Participant's Account would cause the Annual Additions for the Limitation Year to exceed the Maximum Permissible Amount, the Employer will reduce the amount of its contributions so the Annual Additions for the Limitation Year will equal the Maximum Permissible Amount.

- (a) ***Estimation of Compensation.*** Prior to the determination of a Participant's actual Compensation for a Limitation Year, the Plan Administration Committee may determine the Maximum Permissible Amount on the basis of a Participant's estimated annual Compensation for such Limitation Year. The Plan Administration Committee shall make this determination on a reasonable and uniform basis for all Participants similarly situated. The Plan Administration Committee shall reduce Employer Contributions (after applying any available Forfeiture allocation) based on estimated annual Compensation by any Excess Amount carried over from prior Limitation Years. As soon as is administratively feasible after the end of the Limitation Year, the Plan Administration Committee shall determine the Maximum Permissible Amount for the Limitation Year on the basis of a Participant's actual Compensation for the Limitation Year.
- (b) ***Disposition of Excess Amount.*** If, pursuant to subsection 3.3(a), or because of the allocation of Forfeitures, there is an Excess Amount with respect to a Participant for a Limitation Year, the Plan Administration Committee shall dispose of such Excess Amount as provided under the Employee Plans Compliance Resolution System or such other correction method allowed by statute, regulations or regulatory authorities.

3.5 **DEFINED BENEFIT PLAN LIMITATION.**

- (a) ***Limitation Years Beginning Before January 1, 2000.*** If any Participant presently participates, or has ever participated, under a defined benefit plan maintained by the Employer, then the sum of the defined benefit plan fraction and the defined contribution plan fraction for such Participant for any Limitation Year beginning before January 1, 2000 must not exceed 1.0. To the extent necessary to satisfy the limitation under this Section 3.5, the Employer will reduce its contribution or allocation on behalf of any such Participant to the defined contribution plan under which such Participant participates and then, if necessary, such Participant's projected annual benefit under the defined benefit plan under which such Participant participates.
- (b) ***Limitation Years Beginning After December 31, 1999.*** Subsection (a) does not apply for any Limitation Year beginning after December 31, 1999.
- (c) ***Definitions.*** For purposes of this Section 3.5, the following terms shall mean:
- (1) "Defined contribution plan" – A retirement plan which provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant's account, and any income, expenses, gains and losses, and any Forfeitures of accounts of other participants which

the Plan Administration Committee may allocate to such participant's account. The Plan Administration Committee shall treat all defined contribution plans (whether or not terminated) maintained by the Employer as a single plan. For purposes of the limitations of this section, the Plan Administration Committee shall treat employee contributions made to a defined benefit plan maintained by the Employer as a separate defined contribution plan. The Plan Administration Committee shall treat as a defined contribution plan an individual medical account (as defined in Code Section 415(l)(2)) included as part of a defined benefit plan maintained by the Employer and, for taxable years ending after December 31, 1985, a welfare benefit fund under Code Section 419(e) maintained by the Employer to the extent there are post-retirement medical benefits allocated to the separate account of a key employee (as defined in Code Section 419A(d)(3)).

- (2) "Defined benefit plan" – A retirement plan which does not provide for individual accounts for Employer contributions. The Plan Administration Committee must treat all defined benefit plans (whether or not terminated) maintained by the Employer as a single plan.
- (3) "Defined benefit plan fraction" -

Projected annual benefit of
the Participant under the defined benefit plan(s)
 The lesser of (A) 125% (subject to the "100% limitation"
 in subsection(6) of the dollar limitation in effect
 under Code Section 415(b)(1)(A) for the Limitation Year,
 or (B) 140% of the Participant's average
 Compensation for his or her high 3
 consecutive years of service

To determine the denominator of this fraction, the Plan Administration Committee will make any adjustment required under Code Section 415(b) and will determine a "year of service" as a Plan Year in which the Employee completed at least 1,000 Hours of Service. The "projected annual benefit" is the annual retirement benefit (adjusted to an actuarially equivalent straight life annuity if the plan expresses such benefit in a form other than a straight life annuity or qualified joint and survivor annuity) of the Participant under the terms of the defined benefit plan on the assumptions he or she continues employment until his or her normal retirement age (or current age, if later) as stated in the defined benefit plan, his or her compensation continues at the same rate as in effect in the Limitation Year under consideration until the date of his or her normal retirement age and all other relevant factors used to determine benefits under the defined benefit plan remain constant as of the current Limitation Year for all future Limitation Years.

- (4) "Current Accrued Benefit" - If the Participant accrued benefits in one or more defined benefit plans maintained by the Employer which were in existence on May 5, 1986, the dollar limitation used in the denominator of the defined benefit plan fraction will not be less than the Participant's Current Accrued

Benefit. A Participant's Current Accrued Benefit is the sum of the annual benefits under such defined benefit plans which the Participant had accrued as of the end of the 1986 Limitation Year (the last Limitation Year beginning before January 1, 1987), determined without regard to any change in the terms or conditions of the Plan made after May 5, 1986, and without regard to any cost of living adjustment occurring after May 5, 1986. This Current Accrued Benefit rule applies only if the defined benefit plans individually and in the aggregate satisfied the requirements of Code Section 415 as in effect at the end of the 1986 Limitation Year.

(5) "Defined contribution plan fraction" -

The sum, as of the close of the
Limitation Year, of the Annual Additions to the
Participant's account under the defined contribution plan(s)
The sum of the lesser of the following amounts determined for
the Limitation Year and for each prior year of service with
the Employer: (A) 125% (subject to the "100% limitation"
in subsection(6) of the dollar limitation in effect
under Code Section 415(c)(1)(A) for the Limitation Year
(determined without regard to the special dollar
limitations for employee stock ownership plans),
or (B) 35% of the Participant's Compensation
for the Limitation Year

For purposes of determining the defined contribution plan fraction, the Plan Administration Committee will not recompute Annual Additions in Limitation Years beginning prior to January 1, 1987, to treat all Employee contributions as Annual Additions. If the Plan satisfied Code Section 415 for Limitation Years beginning prior to January 1, 1987, the Plan Administration Committee will redetermine the defined contribution plan fraction and the defined benefit plan fraction as of the end of the 1986 Limitation Year, in accordance with this subsection (c). If the sum of the redetermined fractions exceeds 1.0, the Plan Administration Committee will subtract permanently from the numerator of the defined contribution plan fraction an amount equal to the product of (A) the excess of the sum of the fractions over 1.0, times (B) the denominator of the defined contribution plan fraction. In making the adjustment, the Plan Administration Committee must disregard any accrued benefit under the defined benefit plan which is in excess of the Current Accrued Benefit. This Plan continues any transitional rules applicable to the determination of the defined contribution plan fraction under the Employer's Plan as of the end of the 1986 Limitation Year.

(6) "100% Limitation" - If the 100% limitation applies, the Plan Administration Committee shall determine the denominator of the defined benefit plan fraction and the denominator of the defined contribution plan fraction by substituting 100% for 125%. The 100% limitation applies only if (A) the Plan's top heavy ratio exceeds 90%; or (B) the Plan's top heavy ratio is

greater than 60%, and the Employer does not provide extra minimum benefits which satisfy Code Section 416(h)(2).

The definitions in subsections (4), (5) and (6) only apply if the limitation described in subsection (a) applies to the Plan.

3.6 **WITHHELD MONIES**. In addition to and apart from, any and all Employer Contributions, or any and all contributions made by the Participants under Article 4, all monies withheld by the Employer from the Participants covered by the Plan as punishment for any breach of discipline, misconduct or violation of rules and regulations of the Employer shall be paid to the Trustee and be held under a separate reserve account in order to defray the costs of administering this Plan.

* * * * *End of Article 3* * * * *

**ARTICLE 4.
PARTICIPANT CONTRIBUTIONS**

4.1 PARTICIPANT MANDATORY CONTRIBUTIONS.

- (a) ***Rate of Participant Mandatory Contributions.***
- (1) Each Police Officer shall be required to contribute an amount equal to six and two tenths percent (6.2%) of his or her Compensation to the Trust for each Plan Year in which he or she is a Participant, which amount shall be picked up each pay period by the Employer on behalf of each Police Officer.
 - (2) Each Firefighter shall be required to contribute an amount equal to eight percent (8%) of his or her Compensation to the Trust for each Plan Year in which he or she is a Participant, which amount shall be picked up each pay period by the Employer on behalf of each Firefighter.
- (b) ***Change in Rate of Participant Mandatory Contributions.*** The percentage set forth in subsection (a) may be modified hereafter by the applicable terms, which make specific reference to such percentage contributions, of any subsequent binding labor negotiation contract between the Employer and the Boulder Police Benefit Association or the International Association of Firefighters, Local 900 (for Union Police Officers or Union Firefighters, as the case may be), and in such event the terms and provisions of this Plan and Trust relating to such percentage contributions shall be deemed modified in accordance with the applicable terms of such binding labor contract with respect to the Employees covered under said contract. Any and all such amendments shall be affixed hereto, and the terms and provisions of this Plan and Trust Agreement relating to such percentage contributions shall be deemed modified as of and in accordance with the terms of such binding labor contract.
- (c) ***Pick Up and Treatment of Participant Mandatory Contributions.*** It is understood that the amounts set forth in subsection (a) shall be paid by the Employer to the Trust in lieu of such contributions being paid directly by each Participant. No Participant shall have the option of choosing to have the Employer pay him or her directly the Participant Mandatory Contribution required under this section instead of having such Participant Mandatory Contribution picked up and paid over to the Trust by the Employer. Although the Participant Mandatory Contribution under this section is otherwise designated and treated herein as the contribution of such Participant, it is intended that such contribution shall be treated, for federal income tax purposes, as an Employer Contribution under Code Section 414(h)(2).
- (d) ***Participant Mandatory Contributions and Compensation.*** For purposes of determining the amount of the percentage contributions set forth in this section, Compensation, as defined in Section 1.8, shall be used. However, for federal income tax purposes, the amount of a Participant's taxable income and wages for withholding tax purposes shall not include the Participant Mandatory Contribution picked up by the Employer under this section.
- (e) ***Timing.*** The Participant Mandatory Contributions required pursuant to the provisions of this Section 4.1 shall be paid by the Employer to the Trustee on a basis

during the Plan Year concerned that coincides with the Employer's then current payroll period for Participants.

4.2 **PARTICIPANT VOLUNTARY CONTRIBUTIONS.**

- (a) ***Participant Voluntary Contributions After September 1, 1991.*** From and after September 1, 1991, Participant Voluntary Contributions shall no longer be permitted under the Plan.
- (b) ***Participant Voluntary Contributions Prior to September 1, 1992.*** Any Participant may make voluntary contributions to the Trust for his or her own benefit, subject to the Annual Additions limitations for voluntary contributions. A Participant must make a voluntary contribution for a particular Plan Year not later than thirty (30) days after the Accounting Date of that Plan Year. The Plan Administration Committee will allocate and credit a voluntary contribution made for a particular Plan Year to the contributing Participant's Account as of the Accounting Date of that Plan Year. The Plan Administration Committee may establish whatever procedures it deems necessary to facilitate Participant Voluntary Contributions.

4.3 **PARTICIPANT ROLLOVER CONTRIBUTIONS.** The Trustee may, but shall not be obligated to, accept from a Participant a "rollover contribution" which the Code permits an Employee to transfer either directly or indirectly from one qualified plan to another qualified plan. Before accepting a rollover contribution, the Trustee may require an Employee to furnish satisfactory evidence that the proposed transfer is in fact a "rollover contribution" which the Code permits an Employee to make to a qualified plan. Additionally, before accepting a rollover contribution, the Trustee may require the Employer's written consent, and the Employee's filing with the Trustee any forms prescribed by them for such purpose. The Trustee may also require that if property other than cash is to be contributed to the Trust as a rollover contribution, such property must be liquidated into cash prior to its contribution to the Trust. A rollover contribution is not an Annual Addition or a Participant Voluntary Contribution.

The Trustee, in its sole discretion, may invest the rollover contribution either in a segregated investment account for the Participant's sole benefit or as part of the Trust Fund. As of the Accounting Date (or other valuation date) for each Plan Year, the Trustee shall allocate and credit the net income (or net loss) from a Participant's segregated Account, any expenses allocable thereto and the increase or decrease in the fair market value of the assets of a segregated Account solely to that Account as provided in Section 9.11.

An Employee, prior to satisfying the Plan's eligibility conditions, may make a rollover contribution to the Trust to the same extent and in the same manner as a Participant. If an Employee makes a rollover contribution to the Trust prior to satisfying the Plan's eligibility conditions, the Trustee shall treat the Employee as a Participant for all purposes of the Plan except the Employee is not a Participant for purposes of sharing in Employer Contributions or Forfeitures under the Plan nor may the Employee make Participant Mandatory Contributions under Article 4 until he or she actually becomes a Participant in the Plan. If the Employee has a Separation from Service prior to becoming a Participant, the Trustee shall distribute the Participant Rollover Contribution Account to the Participant as if it were an Employer Contribution Account.

4.4 **PARTICIPANT CONTRIBUTION – ACCRUED BENEFIT.** The Plan Administration Committee shall maintain, or shall direct the Trustee to maintain, a separate Account(s) in the name of each Participant to reflect the Participant’s Accrued Benefit under the Plan derived from his or her Participant contributions under this Article 4. A Participant’s Accrued Benefit derived from his or her Participant contributions as of any applicable date is the balance of his or her separate Participant contribution Account(s).

* * * * *End of Article 4* * * * *

**ARTICLE 5.
VESTING**

- 5.1 **GENERAL.** A Participant, Former Participant or Beneficiary shall acquire a Nonforfeitable interest in the Accounts standing in his or her name only as provided in this Article 5. After a Participant acquires a Nonforfeitable interest under the provisions of this Article 5, such Nonforfeitable interest shall carry over and continue after the Participant becomes a Former Participant or a Beneficiary designation with respect thereto becomes applicable, subject to charges, deductions, distributions and Forfeitures under the Plan. A Participant's interest in the Trust Fund is not an interest in any specific assets of the Trust Fund, but rather a right to receive his or her Nonforfeitable interest, as determined by the Plan Administration Committee, in cash or in kind from the Trustee at the time and in the manner described in this Article 5.
- 5.2 **DEATH AND DISABILITY.** If a Participant's employment with the Employer terminates as a result of death or Disability (or as required by Code Section 414(u), death of the Participant while performing qualified military service), the Participant's Accrued Benefit derived from Employer Contributions will be 100% Nonforfeitable.
- 5.3 **VESTING.** A Participant's Accrued Benefit is, at all times, one hundred percent (100%) Nonforfeitable to the extent the value of his or her Accrued Benefit is derived from Participant Mandatory Contributions, Participant Voluntary Contributions and Participant Rollover Contributions, or is derived from the excess of the value of his or her Employer Contributions Account over the forfeitable percentage (if any) of the aggregate amount of all actual Employer Contributions then credited to such Participant's Employer Contributions Account.

Except as provided below and in Sections 5.1 and 5.2, for each Vesting Year of Service, a Participant's Nonforfeitable percentage in the aggregate amount of all actual Employer Contributions then credited to such Participant's Employer Contributions Account equals the percentage in the following vesting schedule:

<u>Vesting Years of Service With the Employer</u>	<u>Percent of Nonforfeitable Accrued Benefit</u>
Less than 2	0%
2 but less than 3	20%
3 but less than 4	30%
4 but less than 5	40%
5 but less than 6	50%
6 but less than 7	60%
7 but less than 8	70%

<u>Vesting Years of Service With the Employer</u>	<u>Percent of Nonforfeitable Accrued Benefit</u>
8 but less than 9	80%
9 but less than 10	90%
10 or more	100%

Notwithstanding anything in this Section 5.3 or the Plan to the contrary, a Participant’s Accrued Benefit derived from Employer Contributions is 100% Nonforfeitable upon and after his or her attaining Normal Retirement Age (if employed by the Employer on or after that date).

5.4 **FORFEITURE OCCURS.** Except for a Forfeiture under Section 9.14, a Forfeiture, if any, of a Participant’s Accrued Benefit derived from Employer Contributions occurs under the Plan as of the earlier of (a) the date the Participant receives a cash out distribution, as such term is defined in the following sentence, and (b) the last day of the calendar quarter immediately following the calendar quarter in which such Participant terminates employment as an Employee with the Employer. A “cash out distribution” is a distribution of a Participant’s entire Nonforfeitable Accrued Benefit under the Plan.

If the Trustee forfeits a lost Participant’s Accrued Benefit under Section 9.14(b), such Forfeiture occurs as of the date the Trustee makes the Forfeiture as provided in Section 9.14.

The Trustee shall determine the percentage of a Participant’s Forfeiture, if any, under this Section 5.4 solely by reference to the vesting schedule of Section 5.3. A Participant will not forfeit any portion of his or her Accrued Benefit for any other reason or cause except as expressly provided by this Section 5.4 or as provided under Section 9.14.

* * * * *End of Article 5* * * * *

**ARTICLE 6.
DISTRIBUTIONS**

- 6.1 **TIMING OF DISTRIBUTIONS.** The Plan Administration Committee shall direct the Trustee to make distribution of a Participant's Nonforfeitable Accrued Benefit in accordance with this Section 6.1. For all purposes of this Article 6, the term "annuity starting date" means the first day of the first period for which the Plan distributes an amount as an annuity or in any other form, but in no event shall the "annuity starting date" be earlier than (a) a Participant's Separation of Service, (b) a Participant's Disability, or (c) a Participant's In-Service Distribution, whichever is applicable. A "distribution date" under this Article 6 is the earliest administratively feasible date following the earlier to occur of the Participant's Separation from Service or the Participant's Disability.

Anything contained herein to the contrary notwithstanding, any distribution of a Participant's Nonforfeitable Accrued Benefit is subject to the applicable provisions of Section 6.9.

- 6.2 **WITHDRAWALS OF PARTICIPANT VOLUNTARY OR ROLLOVER CONTRIBUTIONS.** A Participant, by giving prior written notice to the Trustee, may withdraw all or any part of the value of his or her Accrued Benefit derived from his or her Participant Voluntary Contributions or Participant Rollover Contributions. A distribution of a Participant's Accrued Benefit derived from his or her Participant Voluntary Contributions or Participant Rollover Contributions must comply with the qualified joint and survivor and pre-retirement survivor annuity provisions of Code Sections 401(a)(11) and 417 if applicable. Furthermore, a Participant may not exercise his or her right to withdraw the value of his or her Accrued Benefit derived from Participant Voluntary Contributions or Participant Rollover Contributions more than once during any Plan Year. The Trustee, in accordance with the direction of the Plan Administration Committee, shall distribute a Participant's unwithdrawn Accrued Benefit attributable to his or her Participant Voluntary Contributions and Participant Rollover Contributions at the same time the Trustee distributes the Participant's Accrued Benefit attributable to Employer Contributions and Participant Mandatory Contributions.
- 6.3 **DISTRIBUTION UPON SEPARATION FROM SERVICE OF A PARTICIPANT FOR A REASON OTHER THAN DEATH OR DISABILITY.** Except as otherwise provided to the contrary in Section 6.5 regarding the Disability of a Participant, in the event a Participant's Separation from Service is for any reason other than his or her death, the Plan Administration Committee shall direct the Trustee to distribute such Participant's Nonforfeitable Accrued Benefit in a form elected by such Participant pursuant to this Article 6.
- (a) ***Nonforfeitable Accrued Benefit of \$5,000 or Less.*** In the event a Participant's Separation from Service is for any reason other than his or her death, and if his or her Nonforfeitable Accrued Benefit is \$5,000 or less, then the Plan Administration Committee shall direct the Trustee to distribute to such Participant his or her Nonforfeitable Accrued Benefit in the form of a lump sum distribution, except as otherwise provided in Section 6.6 to the contrary, on any distribution date the Plan Administration Committee, in its discretion, may select.
- (b) ***Nonforfeitable Accrued Benefit of More Than \$5,000.*** In the event a Participant's Separation from Service is for any reason other than his or her death or Disability, and if his or her Nonforfeitable Accrued Benefit is more than \$5,000, the Plan

Administration Committee shall direct the Trustee to distribute such Participant's Nonforfeitable Accrued Benefit in a form and at the time elected by such Participant pursuant to Section 6.10. If such Participant fails to make such an election within six (6) months after his or her receipt of the written notice required under Section 6.10, then the Plan Administration Committee may direct the Trustee to distribute to such Participant his or her Nonforfeitable Accrued Benefit in the form of a lump sum distribution, except as otherwise provided in Section 6.6 to the contrary, on any distribution date the Plan Administration Committee, in its discretion, may select.

- 6.4 **DISTRIBUTION UPON DEATH OF A PARTICIPANT.** In the event a Participant's Separation from Service is on account of his or her death, the Plan Administration Committee shall direct the Trustee to distribute such Participant's Nonforfeitable Accrued Benefit to such Participant's designated Beneficiary, in accordance with this section.

The Plan Administration Committee shall direct the Trustee to distribute such deceased Participant's Nonforfeitable Accrued Benefit in the form elected by such Participant or, if applicable, by such Participant's Beneficiary, as permitted under this Article 6.

- (a) ***Nonforfeitable Accrued Benefit of \$5,000 or Less.*** In the event that a Participant incurs a Separation from Service on account of his or her death, and if his or her Nonforfeitable Accrued Benefit is \$5,000 or less, then the Plan Administration Committee shall direct the Trustee to distribute to such deceased Participant's designated Beneficiary such deceased Participant's Nonforfeitable Accrued Benefit in the form of a lump sum distribution, except as otherwise provided in Section 6.6 to the contrary, on any distribution date, as soon as administratively practicable following the death of such Participant, that the Plan Administration Committee, in its discretion, may select, or, if later, on any distribution date, as soon as administratively practicable following the date the Plan Administration Committee receives notification of, or otherwise confirms, such Participant's death, that the Plan Administration Committee, in its discretion, may select.
- (b) ***Nonforfeitable Accrued Benefit of More Than \$5,000.*** In the event that a Participant incurs a Separation from Service on account of his or her death, and if his or her Nonforfeitable Accrued Benefit is more than \$5,000, the Plan Administration Committee shall direct the Trustee to distribute such deceased Participant's Nonforfeitable Accrued Benefit at the time and in the form elected by such Participant or, if applicable, by such Participant's Beneficiary, as permitted under this Article 6. In the absence of such election, the Plan Administration Committee may direct the Trustee to distribute to such deceased Participant's designated Beneficiary such Participant's Nonforfeitable Accrued Benefit in the form of a lump sum distribution, except as otherwise provided in Section 6.6 to the contrary, on any distribution date, as soon as administratively practicable following the death of such Participant, that the Plan Administration Committee, in its discretion, may select, or, if later, on any distribution date, as soon as administratively practicable following the date the Plan Administration Committee receives notification of, or otherwise confirms, such Participant's death, that the Plan Administration Committee, in its discretion, may select.

6.5 **DISTRIBUTION UPON FPPA ON-DUTY TOTAL DISABILITY OR ON-DUTY PERMANENT OCCUPATIONAL DISABILITY.** In the event FPPA determines that a Participant has an “on-duty” Disability, which is either a total disability or a permanent occupational disability, pursuant to the provisions of CRS Section 31-31-806.5 (as the same may be amended), then the Plan Administration Committee shall direct the Trustee to distribute such disabled Participant’s Nonforfeitable Accrued Benefit to such Participant, in accordance with this Section 6.5, regardless of whether such disabled Participant has incurred a Separation from Service.

- (a) ***Distribution of Participant’s Lump Sum Plan Offset Amount.*** If all of the following circumstances occur:
- (1) A Participant is determined by FPPA to have an on-duty Disability, which is either a total disability or a permanent occupational disability, pursuant to the provisions of CRS Section 31-31-806.5, as the same may be amended;
 - (2) Such Participant is, therefore, found by FPPA to be entitled to either a total disability or a permanent occupational disability benefit pursuant to the provisions of CRS Section 31-31-806.5, as the same may be amended (hereinafter referred to as the “FPPA On-Duty Disability Benefit”);
 - (3) Such disabled Participant’s FPPA On-Duty Disability Benefit is excludible from such disabled Participant’s gross income for federal income tax purposes under the provisions of Code Section 104(a)(1), which excludes from gross income amounts that are received by an employee under a workmen’s compensation act or under a statute in the nature of a workmen’s compensation act that provides compensation to employees for personal injuries or sickness incurred in the course of employment;
 - (4) Pursuant to the provisions of CRS Section 31-31-804(2), as the same may be amended, such disabled Participant’s FPPA On-Duty Disability Benefit that would otherwise be payable under CRS Section 31-31-806.5 is reduced by FPPA in an amount that is the actuarial equivalent of the lump sum value of the Participant’s Nonforfeitable Accrued Benefit under the Plan as of a date selected by FPPA when making such actuarial calculation (hereinafter referred to as the “Lump Sum Plan Offset Amount”); and
 - (5) The Plan Administration Committee and the Trustee make a good faith determination that pursuant to applicable federal tax law, regulations and rulings that such Participant’s Lump Sum Plan Offset Amount is also exempt from federal income taxation under the provisions of Code Section 104(a)(1) as an on-duty workmen’s compensation type of benefit, **then** the Plan Administration Committee shall direct the Trustee to distribute to the disabled Participant that portion of his or her Nonforfeitable Accrued Benefit equal to the Participant’s Lump Sum Plan Offset Amount (or all of his or her Nonforfeitable Accrued Benefit if it is equal to or less than the Participant’s Lump Sum Plan Offset Amount) in the form of a lump sum distribution on any distribution date as soon as administratively practicable coincident with or following the date of the determination by FPPA that the Participant has an

on-duty Disability, which is either a total disability or a permanent occupational disability, pursuant to the provisions of CRS Section 31-31-806.5, as the same may be amended.

- (b) ***Distribution of Remaining Balance of Participant's Nonforfeitable Accrued Benefit.*** If pursuant to the provisions of subsection (a), a disabled Participant's Lump Sum Plan Offset Amount is distributed to him or her in the form of a lump sum distribution, and if after such lump sum distribution is made there is any remaining balance in the disabled Participant's Nonforfeitable Accrued Benefit (hereinafter referred to as the "Remaining Balance"), then the Plan Administration Committee shall direct the Trustee to distribute to the disabled Participant the entire Remaining Balance of his or her Nonforfeitable Accrued Benefit in the form of a lump sum distribution after his or her receipt of the written notice required under Section 6.10, except as otherwise provided to the contrary in Section 6.6, on any distribution date the Plan Administration Committee, in its discretion, may select.
- (c) ***Tax Treatment of Disability Distributions.***
- (1) ***Lump Sum Plan Offset Amount.*** Any lump sum distribution of the disabled Participant's Lump Sum Plan Offset Amount made pursuant to subsection (a) shall be treated by the Plan Administration Committee, the Trustee and the disabled Participant as a distribution that is excludible from the disabled Participant's gross income for federal income tax purposes under the provisions of Code Section 104(a)(1), which excludes from gross income amounts that are received by an employee under a workmen's compensation act or under a statute in the nature of a workmen's compensation act that provides compensation to employees for personal injuries or sickness incurred in the course of employment; and the lump sum distribution of the disabled Participant's Lump Sum Plan Offset Amount shall not be treated as a distribution from a Code Section 401(a) qualified plan which would otherwise be subject to the rules of federal income taxation under the provisions of Code Sections 402(a) and 72, and the lump sum distribution of the disabled Participant's Lump Sum Plan Offset Amount shall not be subject to the provisions of Sections 6.6, 6.10 and 6.12.
- (2) ***Remaining Balance.*** Any lump sum distribution of the Remaining Balance in the disabled Participant's Nonforfeitable Accrued Benefit made pursuant to subsection (b) shall be treated by the Plan Administration Committee, the Trustee and the disabled Participant as a lump sum distribution from a Code Section 401(a) qualified plan which is subject to the rules of federal income taxation under the provisions of Code Sections 402(a) and 72, and the lump sum distribution of the Remaining Balance shall be subject to the applicable provisions of Sections 6.6, 6.10 and 6.12.
- 6.6 **MANDATORY DISTRIBUTIONS GREATER THAN \$1,000.** Except as otherwise expressly provided to the contrary pursuant to the provisions of Section 6.5(c)(1), anything contained herein to the contrary notwithstanding, the following provisions shall apply:

- (a) In the event the Plan Administration Committee directs the Trustee to distribute a Participant's Nonforfeitable Accrued Benefit in the form of a lump sum distribution as a result of the failure of the Participant to make a distribution election within the six (6) month period described in Section 6.3 and if such Participant's Nonforfeitable Accrued Benefit exceeds \$1,000.00, then the Plan Administration Committee shall instead direct the Trustee to distribute the Participant's Nonforfeitable Accrued Benefit in the form of a direct rollover distribution to an individual retirement account as may be designated by the Plan Administration Committee in the name of the Participant.
- (b) In the event the Plan Administration Committee directs the Trustee to distribute a deceased Participant's Nonforfeitable Accrued Benefit in the form of a lump sum distribution to such deceased Participant's designated Beneficiary as a result of the absence of a distribution election by such deceased Participant or his or her designated Beneficiary as described in Section 6.3(a), and if such deceased Participant's Nonforfeitable Accrued Benefit under the Plan exceeds \$1,000.00, then the Plan Administration Committee shall instead direct the Trustee to distribute the deceased Participant's Nonforfeitable Accrued Benefit in the form of a direct rollover distribution to an individual retirement account as may be designated by the Plan Administration Committee in the name of the deceased Participant's designated Beneficiary.
- (c) In the event the Plan Administration Committee directs the Trustee to distribute to a disabled Participant the entire Remaining Balance of his or her Nonforfeitable Accrued Benefit in excess of his or her Lump Sum Plan Offset Amount in the form of a lump sum distribution as described in Section 6.5(b), and if the entire Remaining Balance of the disabled Participant's Nonforfeitable Accrued Benefit in excess of his or her Lump Sum Plan Offset Amount exceeds \$1,000.00, then the Plan Administration Committee shall instead direct the Trustee to distribute the entire Remaining Balance of the disabled Participant's Nonforfeitable Accrued Benefit in excess of his or her Lump Sum Plan Offset Amount in the form of a direct rollover distribution to an individual retirement account as may be designated by the Plan Administration Committee in the name of the disabled Participant.

6.7 IN-SERVICE DISTRIBUTION.

- (a) Prior to incurring a Separation from Service or a Disability, a Participant who has attained Normal Retirement Age may elect to receive a distribution from the Plan of all or any portion of his or her Nonforfeitable Accrued Benefit (an "In-Service Distribution").
- (b) Subject to the provisions of Section 6.7(d), in order to receive an In-Service Distribution, a Participant shall make an election under this Section 6.7 on a written form prescribed by the Plan Administration Committee at any time during the Plan Year for which his or her election is to be effective and, in such written election form, the Participant shall specify the percentage or dollar amount of his or her Nonforfeitable Accrued Benefit that he or she wishes the Plan Administration Committee to direct the Trustee to distribute to him or her for the Plan Year for which the election is to be effective.

- (c) Subject to the provisions of Section 6.7(d), an In-Service Distribution shall only be payable and distributed in a single lump sum cash payment, and any such single lump sum cash payment shall be distributed to the Participant as soon as administratively practicable after the Plan Administration Committee approves the Participant's written election. The Plan Administration Committee shall distribute the balance of the Participant's Nonforfeitable Accrued Benefit not distributed pursuant to his or her election(s) under this Section 6.7 in accordance with the other applicable distribution provisions of the Plan.
- (d) Notwithstanding anything contained in this Section 6.7 to the contrary, the Plan Administration Committee may adopt investment education requirements and programs that a Participant must meet and/or participate in prior to exercising his or her right to elect to receive a distribution from the Plan under the provisions of this Section 6.7. Such investment education requirements and programs may be adopted or modified by the Plan Administration Committee from time to time and may contain such terms and conditions, as the Plan Administration Committee shall determine in their sole and absolute right and discretion.

6.8 **PAYMENT OF QUALIFIED HEALTH INSURANCE PREMIUMS.** A Participant who, by reason of Disability or reaching Normal Retirement Age, separates from service with the Employer as a public safety officer, as defined under Section 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968, is eligible to elect to have distributions for which he or she otherwise is eligible to receive (but has not yet received) and that are otherwise subject to inclusion in the Participant's gross income pursuant to Code Section 72, to be paid directly from the Plan for Qualified Health Insurance Premiums, provided, that:

- (a) The payment for Qualified Health Insurance Premiums on behalf of the Participant must be made directly to the provider of the accident or health insurance plan or qualified long-term care insurance contract (as defined in Code Section 7702B(b)) by deduction from the Participant's distributions from the Plan.
- (b) The payment of Qualified Health Insurance Premiums shall be limited per Participant to the lesser of (1) the amount paid by the Participant for such premiums during the Participant's taxable year or (2) \$3,000 during the Participant's taxable year.
- (c) The direct payment from the Plan of Qualified Health Insurance Premiums shall terminate immediately upon the Participant's death.
- (d) An eligible Participant pursuant to this Section 6.8 can elect the payment of Qualified Health Insurance Premiums from his or her unpaid distributable Accrued Benefit once per Plan Year and can terminate such election once per Plan Year. The Participant's affirmative election of payment of Qualified Health Insurance Premiums must be made no later than thirty (30) days prior to the date for which the premiums will be paid directly from the Plan on his or her behalf, and the payment will terminate automatically at the end of the Plan Year. The Participant's affirmative termination of payment of Qualified Health Insurance Premiums during the Plan Year must be made no later than thirty (30) days prior to the date on which such termination is effective.

- (e) A Participant otherwise eligible to make an election under this Section 6.8 shall not be eligible for the election for any Plan Year for which Qualified Health Insurance Premiums are being made on his or her behalf from any other governmental plan (including a governmental plan other than the Plan of which the Employer sponsors) that is defined as an eligible retirement plan under Code Section 402(l)(4)(A).

6.9 REQUIRED MINIMUM DISTRIBUTIONS.

- (a) ***Precedence.*** All distributions required under this section shall be determined and made in accordance with Code Section 401(a)(9) and Treasury Regulation Sections 1.401(a)(9)-2 through -9, including the incidental benefit rules of Code Section 401(a)(9)(G). The requirements of this section shall take precedence over any provisions of the Plan that are inconsistent with Code Section 401(a)(9) and the regulations thereunder.
- (b) ***TEFRA Section 242(b)(2) Elections.*** Notwithstanding anything to the contrary herein, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to TEFRA Section 242(b)(2).
- (c) ***Definitions.***
- (1) “Designated Beneficiary” means the individual who is designated as the Beneficiary under the Plan and is the designated beneficiary as defined under Treasury Regulation Section 1.401(a)(9)-1, Q&A-4.
 - (2) “Distribution calendar year” means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant’s death, the first distribution calendar year is the calendar year immediately preceding the calendar year that contains the Participant’s required beginning date. For distributions beginning after the Participant’s death, the first distribution calendar year is the calendar year in which distributions are required to begin under subsection (e)(2). The required minimum distribution for the Participant’s first distribution calendar year will be made on or before the Participant’s required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant’s required beginning date occurs, will be made on or before December 31 of that distribution calendar year.
 - (3) “Life expectancy” means the life expectancy as computed by use of the Single Life Table in Treasury Regulation Section 1.401(a)(9)-9.
 - (4) “Required beginning date” means the April 1 following the close of the calendar year in which the Participant reaches age 70½ or, if later, incurs a Separation from Service. The Participant’s pre-1997 required beginning date (if applicable) is the April 1 following the close of the calendar year in which the Participant attains age 70½.

- (d) ***Required Distributions During Participant's Lifetime.*** During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:
- (1) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in Treasury Regulation Section 1.401(a)(9)-9, using the Participant's age as of the Participant's birthday in the distribution calendar year; or
 - (2) if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's Accrued Benefit by the number in the Joint and Last Survivor Table set forth in Treasury Regulation Section 1.401(a)(9)-9, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

Required minimum distributions will be determined under this subsection (d) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

- (e) ***Required Distributions After Participant's Death.***
- (1) ***Death On or After Date Distributions Begin.*** If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Accrued Benefit by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:
 - (A) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
 - (B) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.
 - (C) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Accrued Benefit by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

- (2) *Death Before Date Required Distributions Begin.* If the Participant dies before required distributions begin, the Participant's Accrued Benefit will be distributed, or begin to be distributed, no later than as follows:
- (A) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year during which the Participant died, or, if later, by December 31 of the calendar year during which the Participant would have attained age 70½.
 - (B) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
 - (C) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's Accrued Benefit will be distributed by December 31 of the calendar year containing the 5th anniversary of the Participant's death.
 - (D) If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this subsection (2), other than subsection (A), will apply as if the surviving spouse were the Participant.

Distributions are considered to begin on the Participant's required beginning date, provided that if subsection (D) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under subsection (A). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection (A)), the date distributions are considered to begin is the date distributions actually commence.

- (3) *Minimum Amount Distributed.*
- (A) If the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed

for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Accrued Benefit by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in subsection (1); provided, however, that distribution of the Participant's Accrued Benefit may be completed by December 31 of the calendar year containing the 5th anniversary of the Participant's death if so elected by the Participant or designated Beneficiary pursuant to procedures established by the Plan Administrator.

(B) If the Participant dies before the date distributions begin and there is **no** designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's Accrued Benefit will be completed by December 31 of the calendar year containing the 5th anniversary of the Participant's death.

(f) **2009 Required Minimum Distributions.** Effective January 1, 2012, notwithstanding the above provisions of this Section 6.9, a Participant or Beneficiary who would have been required to receive a required minimum distribution for 2009 but for the enactment of Code Section 401(a)(9)(H) ("2009 RMD"), and who would have satisfied that requirement by receiving a single distribution at the end of the year equal to the (1) 2009 RMD, or (2) one or more payments in a series of substantially equal distributions (that include a 2009 RMD) made at least annually and expected to last for the life of the participant, the joint lives (or joint life expectancy) of the participant and the participant's designated beneficiary, or for a period of at least 10 years ("Extended 2009 RMD"), will receive that distribution for 2009 unless the Participant or beneficiary affirmatively chooses not to receive such distribution. Participants and beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence.

6.10 NOTICE, ELECTION AND METHOD OF DISTRIBUTION.

(a) **Distribution Notice.** Except as otherwise expressly provided herein to the contrary, not earlier than ninety (90) days, but not later than thirty (30) days, before the Participant's annuity starting date, the Plan Administration Committee must provide a written notice (or a summary notice as permitted under Treasury regulations) to a Participant who is eligible for a distribution of his or her Nonforfeitable Accrued Benefit under the Plan ("distribution notice"). The distribution notice must include information required by the Code or applicable Treasury regulations, such as an explanation of the optional forms of benefit in the Plan, the material features and relative values of those options, the Participant's right to defer distribution and consequences for failing to defer as may be permitted in the Plan, the provisions under which the Participant may have a distribution directly transferred to another eligible retirement plan, and the provisions which require the withholding of tax on the distribution if it is not directly transferred to another eligible retirement plan.

Except as otherwise expressly provided herein to the contrary, a Participant may elect any method of payment of the Participant's Nonforfeitable Accrued Benefit that is

otherwise permitted under the provisions of this Article 6, which payment(s) commence as of any administratively practicable time (as determined in the sole discretion of the Plan Administration Committee) which is earlier than thirty (30) days following such Participant's receipt of the distribution notice, by such Participant executing a waiver in writing of the remainder of such thirty (30) day period and delivering such written waiver to the Plan Administration Committee.

- (b) ***Right of Election.*** Except as otherwise expressly provided herein to the contrary, the Participant (or his or her Beneficiary in the case of the Participant's death, or his or her legal representative in the case of the Participant's Disability) shall have the sole right and discretion to elect the method of payment of the Participant's Nonforfeitable Accrued Benefit, as long as the method of payment selected is one of the methods described in subsection (c), and otherwise complies with the provisions and requirements of Section 6.1 and any other applicable provisions of the Plan. With respect to the election of a method of payment authorized under subsection (c)(5), the Participant (or his or Beneficiary in the case of the Participant's death, or his or her legal representative in the case of the Participant's Disability) shall have the right and discretion to elect such a method of payment, but any such method of payment so elected must be approved by the Plan Administration Committee and must otherwise comply with the provisions and requirements of Section 6.1 and any other applicable provisions of the Plan. In granting or denying its approval of any such method of payment so elected under the provisions of subsection (c)(5), the Plan Administration Committee shall not unreasonably withhold its approval and shall act in a non-discriminatory manner.
- (c) ***Methods of Distribution.*** Subject to the provisions of subsection (b), the Plan Administration Committee after consultation with the Participant, (or his or Beneficiary in the event of the Participant's death, or his or her legal representative in the event of the Participant's Disability), shall direct the Trustee to distribute all or a portion of his or her Nonforfeitable Accrued Benefit to the recipient thereof under one of the following methods:
- (1) By payment in a lump sum.
 - (2) By payment in monthly, quarterly or annual installments over a fixed reasonable period of time, not exceeding the life expectancy of the Participant, or the joint life and last survivor expectancy of the Participant and the Participant's designated Beneficiary.
 - (3) A straight life annuity, payable no less frequently than annually, with payment of the Participant's Nonforfeitable Accrued Benefit ending on the Participant's death.
 - (4) A life annuity, payable no less frequently than annually, with a term certain guaranteed. The term certain cannot exceed the Participant's life expectancy, or the joint life and last survivor expectancy of the Participant and his or her designated Beneficiary. If a Participant dies before the Trustee has made the guaranteed number of payments, the Plan Administration Committee shall

direct the Trustee to continue the balance of the payments to the Participant's designated Beneficiary.

- (5) Any other form of payment of the Participant's Nonforfeitable Accrued Benefit which the Plan Administration Committee may approve. However, such form of payment cannot extend beyond the Participant's life, the life of the Participant and his or her designated Beneficiary, the Participant's life expectancy or the joint life and last survivor expectancy of the Participant and his or her designated Beneficiary.
- (d) ***Plan Administration Committee's Right to Modify Method of Distribution.*** The Plan Administration Committee may at any time modify the method of payment elected pursuant to the provisions of subsection (c) to the extent there is still an adjusted balance in the Accounts concerned from which payments are to be made and so long as (1) the new method of payment is consented to in writing by the Participant concerned (or his or her Beneficiary in the event of such Participant's death, or his or her legal representative in the event of such Participant's Disability), (2) the new method of payment is one available under the Plan, and (3) the new method of payment otherwise complies with the provisions and requirements of this Section 6.10, Section 6.1 and any other applicable provisions of the Plan.
- (e) ***Participant's Right to Modify Method of Distribution.*** A Participant may reconsider his or her distribution election under subsection (c) at any time prior to his or her annuity starting date and make a different distribution election as of any other distribution date permitted under the Plan provided that such different distribution election and method of payment otherwise comply with the provisions and requirements of this Section 6.10, Section 6.1 and any other applicable provisions of the Plan.
- (f) ***Segregated Investment Account.*** To facilitate installment payments under this Article 6, the Plan Administration Committee may segregate all or any part of the Participant's Nonforfeitable Accrued Benefit in a segregated investment Account as provided under Section 9.11(d).
- (g) ***Nontransferable Annuity.*** Anything contained herein to the contrary notwithstanding, if an annuity method of payment of a Participant's Nonforfeitable Accrued Benefit is the method of payment selected as provided under the provisions of this Section 6.10, the Plan Administration Committee, in its sole discretion, may effectuate said annuity payment by purchasing a Nontransferable Annuity from an insurance company with the value of the Nonforfeitable Accrued Benefit of such Participant, provided that such Nontransferable Annuity satisfies the distribution requirements of Section 6.1.
- (h) ***Exceptions.*** Anything contained in this Section 6.10 to the contrary notwithstanding, a Participant (or his or Beneficiary or legal representative) shall not have the right to select the method of payment as provided for above in this Section 6.10 in the case of distributions to a disabled Participant of his or her Nonforfeitable Accrued Benefit made pursuant to the provisions of Sections 6.5(a) or 6.5(b) since all such distributions shall be made in the form of a lump sum distribution; provided,

however, that distributions to a disabled Participant of his or her Nonforfeitable Accrued Benefit made pursuant to the provisions of Section 6.5(b), shall be subject to the provisions of Sections 6.6, 6.10 and 6.12, and further provided, however, that distributions to a disabled Participant of his or her Lump Sum Plan Offset Amount made pursuant to the provisions of Sections 6.5(a) shall not be subject to the provisions of Sections 6.6, 6.10 and 6.12.

6.11 **DISTRIBUTIONS UNDER DOMESTIC RELATIONS ORDERS.** This Plan is generally not subject to Code Section 414(p) and corollary provisions of ERISA relating to qualified domestic relations orders (as defined in Code Section 414(q)). However, the following provisions shall apply:

- (a) Effective for all dissolution of marriage, legal separation and declaration of invalidity of marriage actions in which the court, prior to January 1, 1997, entered a final property division order concerning the division of a Participant's Accrued Benefit, the Plan Administration Committee shall be permitted to comply with the provisions of such property division order if, and only if, such order is an assignment for child support purposes only, as allowed by and provided for under Section 8.5.
- (b) Effective for causes of action for dissolution of marriage, legal separation or declaration of invalidity of marriage filed on or after January 1, 1997, and for all dissolution of marriage, legal separation or declaration of invalidity of marriage actions filed prior to January 1, 1997, in which the court did not enter a final property division order concerning the division of a Participant's Accrued Benefit prior to January 1, 1997, the Plan Administration Committee shall comply with a properly executed court order approving a written agreement entered into pursuant to CRS Section 14-10-113(6), concerning the division of a Participant's Accrued Benefit under the Plan, all in accordance with and to the extent required under the provisions of CRS Section 14-10-113(6). In accordance with the provisions of CRS Section 14-10-113(6), the Plan Administration Committee may adopt, modify and revoke from time to time rules or procedures governing the implementation of this subsection. Any such rules or procedures implementing this subsection may include, but are not limited to: (1) a requirement that, in order for the parties' agreement concerning the division of a Participant's Accrued Benefit under the Plan to be effective, a standardized form adopted by the Plan Administration Committee must be used by the parties and the court; (2) the timing and method of payment to the alternate payee under such court order of a Participant's Accrued Benefit under the Plan; and (3) any other provisions that are consistent with the provisions of CRS Section 14-10-113(6).
- (c) To the extent the provisions relating to domestic relations orders described in this Section 6.11 are modified or repealed by applicable Colorado law, then the provisions of this Section 6.11 shall be deemed modified or repealed in accordance therewith.

6.12 **DIRECT ROLLOVER.**

- (a) ***Election.*** Notwithstanding any other provision of the Plan to the contrary that would otherwise limit a distributee's election under this Article 6, a distributee may elect, at the time and in the manner prescribed by the Plan Administration Committee, to have

any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

Not earlier than ninety (90) days, but not later than thirty (30) days, before the Plan Administration Committee directs the Trustee's distribution of an eligible rollover distribution, the Plan Administration Committee must provide a written notice (or a summary notice as permitted under Treasury regulations) to a distributee explaining his or her rollover options ("rollover notice"). The rollover notice must explain, among other information required by the applicable provisions of the Code and regulations, the optional forms of benefit in the Plan, including the material features and relative values of those options, the provisions under which the distributee may have a distribution directly transferred to another eligible retirement plan, and the provisions which require the withholding of tax on the distribution if it is not directly transferred to another eligible retirement plan.

A distributee may also elect to receive distribution as of any administratively practicable time (as determined in the sole discretion of the Plan Administration Committee) which is earlier than thirty (30) days following such distributee's receipt of the rollover notice by such distributee executing a waiver in writing of the remainder of such thirty (30) day period and delivering such written waiver to the Plan Administration Committee.

(b) **Definitions.** For purposes of this Section 6.12, the following definitions shall apply:

- (1) **Eligible Rollover Distribution.** An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include (A) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten years or more, (B) any distribution to the extent such distribution is required under Code Section 401(a)(9), or (C) any amount that is distributed on account of hardship. For purposes of the direct rollover provisions in this Section 6.12, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax Participant contributions or any other distribution which are not includible in gross income; provided, however, such portion may be paid only to an individual retirement account or annuity described in Code Sections 408(a) or 408(b), or to a qualified defined contribution plan described in Code Sections 401(a) or 403(b) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. Notwithstanding anything in the Plan to the contrary, a 2009 RMD and Extended 2009 RMD as defined in Section 6.9, will be treated as an eligible rollover distribution in 2009.
- (2) **Eligible Retirement Plan.** An eligible retirement plan is (A) an individual retirement account described in Code Section 408(a); (B) an individual

retirement annuity described in Code Section 408(b); (C) a Roth IRA described in Code Section 408A; (D) an annuity plan described in Code Section 403(a); (E) a qualified trust described in Code Section 401(a) that accepts the distributee's eligible rollover distribution; (F) an annuity contract described in Code Section 403(b); and (G) an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Code Section 414(p). For distributees who are non-spouse Beneficiaries, an eligible retirement plan means only an arrangement described in subsections (A), (B) and (C) that is treated as an inherited IRA pursuant to Code Section 402(c)(1).

- (3) *Distributee.* A distributee includes a Participant or former Participant. In addition, the Participant's or former Participant's surviving spouse and the Participant's or former Participant's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p) or applicable provisions of the CRS, are distributees with regard to the interest of the spouse or former spouse. Effective for distributions made on or after January 1, 2010, distributee also includes a non-spouse Beneficiary of a Participant or former Participant.
- (4) *Direct Rollover.* A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.
- (5) *Default Rollover.* The Trustee in the case of a distributee who does not respond timely to the notice described in subsection (a) may make a direct rollover of the Participant's Nonforfeitable Accrued Benefit to which the distributee is entitled (in the manner and subject to the procedures of Revenue Ruling 2000-36 or in any successor law or guidance) in lieu of distributing such Nonforfeitable Accrued Benefit to the distributee.

* * * * *End of Article 6* * * * *

**ARTICLE 7.
EMPLOYER ADMINISTRATIVE PROVISIONS**

- 7.1 **INFORMATION TO COMMITTEE.** The Employer will make available current information to the Plan Administration Committee as to the name, date of birth, date of employment, annual compensation, Leaves of Absence, Vesting Years of Service and date of termination of employment of each Employee who is, or who will be eligible to become, a Participant under the Plan, together with any other information which the Plan Administration Committee reasonably considers necessary. The Employer’s records as to the current information the Employer makes available to the Plan Administration Committee shall be conclusive as to all persons.

- 7.2 **INDEMNITY OF COMMITTEE AND TRUSTEE.** Subject to any limitations under applicable law, the Plan and Trust indemnify and save harmless the Trustee, the Plan Administrator and the members of the Plan Administration Committee, and each of them, from and against any and all loss resulting from liability to which the Trustee, the Plan Administrator and the Plan Administration Committee, or the members of the Plan Administration Committee, may be subjected by reason of any act or conduct (except willful misconduct or gross negligence) in their official capacities in the administration of this Trust or Plan or both, including all expenses reasonably incurred in their defense. The indemnification provisions of this Section 7.2 shall not relieve the Trustee, the Plan Administrator or any Plan Administration Committee member from any liability they may have for breach of a fiduciary duty.

* * * * *End of Article 7* * * * *

ARTICLE 8.
PARTICIPANT ADMINISTRATIVE PROVISIONS

- 8.1 **BENEFICIARY DESIGNATION.** Any Participant may from time to time designate, in writing, any person or persons, including a trust or other entity, contingently or successively, to whom the Trustee shall pay his or her Nonforfeitable Accrued Benefit (including any life insurance proceeds payable to the Participant's Account) on event of his or her death. The Plan Administration Committee shall prescribe the form for the written designation of Beneficiary and, upon the Participant's filing the form with the Plan Administration Committee, it effectively shall revoke all designations filed prior to that date by the same Participant.
- 8.2 **NO BENEFICIARY DESIGNATION.** If a Participant fails to name a Beneficiary in accordance with Section 8.1, or if the Beneficiary named by a Participant predeceases the Participant, then the Trustee shall pay the Participant's Nonforfeitable Accrued Benefit in accordance with Article 6 in the following order of priority to:
- (a) the Participant's surviving spouse;
 - (b) the Participant's surviving children, including adopted children, in equal shares;
 - (c) the Participant's surviving parents, in equal shares; or
 - (d) the Participant's estate.

If the Beneficiary does not predecease the Participant, but dies prior to distribution of the Participant's entire Nonforfeitable Accrued Benefit, the Trustee shall pay the remaining Nonforfeitable Accrued Benefit to the Beneficiary's estate unless the Participant's Beneficiary designation provides otherwise.

The Plan Administration Committee shall direct the Trustee as to the method and to whom the Trustee shall make payment under this Section 8.2.

- 8.3 **PERSONAL DATA TO COMMITTEE.** Each Participant and each Beneficiary of a deceased Participant must furnish to the Plan Administration Committee such evidence, data or information as the Plan Administration Committee considers necessary or desirable for the purpose of administering the Plan. The provisions of this Plan are effective for the benefit of each Participant upon the condition precedent that each Participant will furnish promptly full, true and complete evidence, data and information when requested by the Plan Administration Committee, provided the Plan Administration Committee shall advise each Participant of the effect of his or her failure to comply with its request.
- 8.4 **ADDRESS FOR NOTIFICATION.** Each Participant and each Beneficiary of a deceased Participant shall file with the Plan Administration Committee from time to time, in writing, his or her post office address and any change of post office address. Any communication, statement or notice addressed to a Participant, or Beneficiary, at his or her last post office address filed with the Plan Administration Committee, or as shown on the records of the Employer, shall bind the Participant, or Beneficiary, for all purposes of this Plan.
- 8.5 **ASSIGNMENT OR ALIENATION.** Except for (a) assignments for child support purposes as provided for in CRS Sections 14-10-118(1) and 14-14-107, as they existed prior to July 1,

1996, (b) income assignments for child support purposes pursuant to CRS Section 14-14-111.5, (c) writs of garnishment which are the result of a judgment taken for arrearages for child support or for child support debt, and (d) payments made in compliance with a properly executed court order approving a written agreement entered into pursuant to CRS Section 14-10-113(6), as set forth in Section 6.11 of the Plan, neither a Participant nor a Beneficiary shall anticipate, assign or alienate (either at law or in equity) any benefit provided under the Plan, and no part of the Trust Fund, or any benefit hereunder, either before or after any order for distribution thereof to a Participant, a Beneficiary, a Participant's surviving spouse or parent, or a guardian or personal representative of a minor child of a deceased Participant, shall be held, seized, taken, subjected to, detained, or levied on, whether by virtue of any attachment, execution, protest or proceeding of any nature whatsoever, issued out of or by any court in the State of Colorado or any other jurisdiction, for payment or satisfaction, in whole or in part, of any debt, damages, claim, demand, judgment, fine or amercement of such Participant, Beneficiary, surviving spouse, parent, or minor child. The Trust Fund shall be kept, secured and distributed only for the purposes of pensioning and protecting Participants and their Beneficiaries and for no other purposes whatsoever.

To the extent the provisions relating to anticipation, assignment, or alienation of benefits under the Plan described in this Section 8.5 are modified or repealed by applicable Colorado law, then the provisions of this Section 8.5 shall be deemed modified or repealed in accordance therewith.

- 8.6 **NOTICE OF CHANGE IN TERMS.** The Plan Administrator, within a reasonable time, shall furnish all Participants and Beneficiaries a summary description of any material amendment to the Plan.
- 8.7 **LITIGATION AGAINST THE TRUST.** A court of competent jurisdiction may authorize any appropriate equitable relief to redress violations of applicable law as respects this Plan or its administration or to enforce any provisions of such law or the terms of the Plan. A fiduciary may receive reimbursement of expenses properly and actually incurred in the performance of his or her duties with the Plan.
- 8.8 **INFORMATION AVAILABLE.** Any Participant in the Plan or any Beneficiary may examine copies of the Plan description, latest financial reports, this Plan and Trust, contract or any other instrument under which the Plan was established or is operated. The Plan Administrator will maintain all of the items listed in this Section 8.8 in its office, or in such other place or places as the Plan Administrator may designate from time to time for examination during reasonable business hours. Upon the written request of a Participant or Beneficiary the Plan Administrator shall furnish him or her with a copy of any item listed in this Section 8.8. The Plan Administrator may make a reasonable charge to the requesting person for the copy so furnished.
- 8.9 **APPEAL PROCEDURE FOR DENIAL OF BENEFITS.** A Participant or a Beneficiary ("Claimant") may file with the Plan Administration Committee a written claim for benefits, if the Participant or Beneficiary determines the distribution procedures of the Plan have not provided him or her his or her proper Nonforfeitable Accrued Benefit. The Plan Administration Committee must render a decision on the claim within 60 days of the Claimant's written claim for benefits. The Plan Administration Committee must provide adequate notice in writing to any Claimant whose claim for benefits under the Plan the Plan

Administration Committee has denied. The Plan Administration Committee's notice to the Claimant shall set forth:

- (a) the specific reason for the denial;
- (b) specific references to pertinent Plan provisions on which the Plan Administration Committee based its denial;
- (c) a description of any additional material and information needed for the Claimant to perfect his or her claim and an explanation of why the material or information is needed; and
- (d) that any appeal the Claimant wishes to make of the adverse determination must be in writing to the Plan Administration Committee within seventy-five (75) days after receipt of the Plan Administration Committee's notice of denial of benefits. The Plan Administration Committee's notice must further advise the Claimant that his or her failure to appeal the action to the Plan Administration Committee in writing within the seventy-five (75) day period will render the Plan Administration Committee's determination final, binding and conclusive.

Appeals from Plan Administration Committee determinations shall be in accordance with procedures adopted from time to time by the Plan Administration Committee. The Plan Administration Committee may, in its sole discretion, appoint a hearing officer to conduct any necessary evidentiary hearing into the facts of the appeal and to make recommendations to the Plan Administration Committee.

The Plan Administration Committee's notice of denial of benefits shall identify the name of each member of the Plan Administration Committee and the name and address of the Plan Administration Committee member to whom the Claimant may forward his or her appeal.

The provisions of this Section 8.9 shall not be in conflict with any constitutional and due process rights of any affected Participant or Beneficiary, and to the extent of any such conflict, the provisions of this Section 8.9 shall be amended or superseded to avoid such conflict.

8.10 **PARTICIPANT DIRECTION OF INVESTMENT.** A Participant's direction of the investment of his or her Account is subject to the provisions of this Section 8.10. For purposes of this Section 8.10, a "Participant" (as used in this Section 8.10) shall also include a Beneficiary if the Beneficiary has succeeded to the Participant's Account, and if the Plan or the Plan Administration Committee, in its discretion, affords the Beneficiary the same self-direction as the Participant.

- (a) ***Plan Administration Committee Authorization and Procedures.*** Subject to subsection (c), a Participant has the right to direct the Plan Administration Committee with respect to the investment or re-investment of the assets comprising the Participant's individual Account(s) only if the Plan Administration Committee consents in writing to permit such direction. If the Plan Administration Committee consents to Participant direction of investment, the Plan Administration Committee will only accept direction from each Participant on a written direction of investment form the Plan Administration Committee or the Plan service provider provides for

this purpose. The Plan Administration Committee, or with the Plan Administration Committee's consent, the Plan service provider, may establish written procedures relating to Participant direction of investment under this Section 8.10, including procedures or conditions for electronic transfers or for changes in investments by Participants. The Plan Administration Committee will maintain, or direct the Plan service provider to maintain, appropriate individual investment Account(s) to the extent the Participant's Account(s) are subject to Participant self-direction.

- (b) ***Fiduciary Exculpation.*** To the fullest extent permitted by applicable law, no Plan fiduciary (including the Employer, Plan Administration Committee and Trustee) is liable for any loss or for any breach resulting from a Participant's direction of the investment of any part of his or her self-directed Account(s) to the extent the Participant's exercise of his or her right to direct the investment of his or her Account(s) satisfies the requirements of applicable law.

- (c) ***Limitations.*** Notwithstanding anything herein to the contrary, a Participant's direction of the investment of his or her Account under this Section 8.10 may only be exercised after such Participant reaches Normal Retirement Age. The Plan Administration Committee may adopt investment education requirements and programs that a Participant must meet and/or participate in prior to his or her direction of the investment of his or her Account under the provisions of this Section 8.10. Such investment education requirements and programs may be adopted or modified by the Plan Administration Committee from time to time, and may contain such terms and conditions, as the Plan Administration Committee determines in its sole and absolute right and discretion.

* * * * ***End of Article 8*** * * * *

**ARTICLE 9.
PLAN ADMINISTRATION COMMITTEE**

- 9.1 **PLAN ADMINISTRATION COMMITTEE.** The following provisions shall apply with respect to the Plan Administration Committee.
- (a) **Plan Administrator.** The Plan Administration Committee shall be the Plan Administrator.
 - (b) **Membership.** The Plan Administration Committee shall be made up of five (5) individual members who shall be: two (2) current Participants who are Police Officer Employees; two (2) current Participants who are Firefighter Employees; and one (1) person who is not a Participant and who has business and/or investment experience within the local community.
 - (c) **Election.** The member of the Plan Administration Committee who is not a Participant shall be elected by majority vote of the other members of the Plan Administration Committee. The two (2) members of the Plan Administration Committee who are Police Officer Participants shall be elected by plurality vote of the current Police Officer Participants and the two (2) members of the Plan Administration Committee who are Firefighter Participants shall be elected by a plurality vote of the current Firefighter Participants.
 - (d) **Resignation.** Any member of the Plan Administration Committee may resign by delivering his or her written resignation to the Employer and the other members of the Plan Administration Committee. Any resignation of a member of the Plan Administration Committee shall be effective thirty (30) days after written notice has been delivered, unless otherwise agreed to by the other members of the Plan Administration Committee.
 - (e) **Removal.** Members of the Plan Administration Committee who are Participants may be removed, with or without cause, as follows: the current Participants who are Police Officer Employees, by majority vote, may remove either or both of their members; the current Participants who are Firefighter Employees, by majority vote, may remove either or both of their members; the four (4) members of the Plan Administration Committee who are Police Officer Employees and Firefighter Employees, by majority vote, may remove the fifth member appointed by them. Written notice of any such removal shall be delivered to any such removed member, to the other members of the Plan Administration Committee and to the Employer. Any removal of any member of the Plan Administration Committee shall be effective thirty (30) days after written notice has been delivered.
 - (f) **Vacancies.** Any vacancy on the Plan Administration Committee arising as a result of the resignation, removal, death or otherwise of a member who was a Participant shall be filled in the same manner described before in subsection (c) of this Section 9.1, relating to the election of the members of the Plan Administration Committee.
 - (g) **Trustee.** Each member of the Plan Administration Committee shall also be a Trustee.

- (h) ***Compensation and Expenses.*** The members of the Plan Administration Committee shall serve without compensation for services rendered as a Plan Administration Committee member. However, the Plan Administration Committee may, in its discretion, grant a commemorative gift or award to a former committee member in recognition of his or her length of service as a committee member and such amount will be made from the Trust Fund. Each Plan Administration Committee member shall be reimbursed by the Trustee from the Trust Fund for any expenses he or she may properly incur in connection with the performance of his or her duties as a member of the Plan Administration Committee.
- (i) ***Bond.*** Every member of the Plan Administration Committee shall be bonded if required by applicable law, or as they deem appropriate, and the costs of such bond will be paid by the Trustee from the Trust Fund.
- 9.2 **TERM.** Each member of the Plan Administration Committee who is elected by the current Participants shall serve for so long as he or she remains a Participant in the Plan or until the appointment of his or her successor. The other member of the Plan Administration Committee who is appointed by the majority vote of the other members of the Plan Administration Committee shall serve for a term designated by the Plan Administration Committee or until the appointment of his or her successor.
- 9.3 **POWERS.** In case of a vacancy in the membership of the Plan Administration Committee, the remaining members of the Plan Administration Committee may exercise any and all of the powers, authority, duties and discretion conferred upon the Plan Administration Committee pending the filling of the vacancy.
- 9.4 **GENERAL.** The Plan Administration Committee shall have the following powers and duties:
- (a) To select a President, Secretary and other officers, who need not be members of the Plan Administration Committee;
 - (b) To determine the rights of eligibility of an Employee to participate in the Plan and the value of a Participant's Accrued Benefit;
 - (c) To adopt by-laws, rules of procedure and regulations necessary for the proper and efficient administration of the Plan provided the rules are not inconsistent with the terms of this Agreement;
 - (d) To construe and enforce the terms of the Plan and the by-laws, rules and regulations it adopts, including interpretation of the Plan documents and documents related to the Plan's operation;
 - (e) To direct the Trustee as respects the crediting and distribution of the Trust;
 - (f) To review and render decisions respecting a claim for (or denial of a claim for) a benefit under the Plan;
 - (g) To furnish the Employer with information which the Employer may require for tax or other purposes;

- (h) To engage the service of agents whom it may deem advisable to assist it with the performance of its duties;
- (i) To engage the services of an Investment Manager or Managers (as defined in ERISA Section 3(38)), each of whom shall have full power and authority to manage, acquire or dispose (or direct the Trustee with respect to acquisition or disposition) of any Plan asset under its control; and
- (j) To establish and maintain a funding standard account and to make credits and charges to the account to the extent required by and in accordance with the provisions of the Code.

The Plan Administration Committee shall exercise all of its powers, duties and discretion under the Plan in a uniform and nondiscriminatory manner.

- 9.5 **FUNDING POLICY.** The Plan Administration Committee shall review, not less often than annually, all pertinent Employee information and Plan data in order to establish the funding policy of the Plan and to determine the appropriate methods of carrying out the Plan's objectives. The Plan Administration Committee shall communicate periodically, as it deems appropriate, to the Trustee and to any Investment Manager the Plan's short-term and long-term financial needs so the investment policy can be coordinated with Plan financial requirements.
- 9.6 **MANNER OF ACTION.** Any action or decision of the Plan Administration Committee shall be decided by majority vote of the members of the Plan Administration Committee then appointed and qualified.
- 9.7 **AUTHORIZED REPRESENTATIVE.** The Plan Administration Committee may authorize any one of its members, or its President or Secretary, to sign on its behalf any notices, directions, applications, certificates, consents, approvals, waivers, letters or other documents. The Plan Administration Committee must evidence this authority by an instrument signed by all members.
- 9.8 **INTERESTED MEMBER.** No member of the Plan Administration Committee may decide or determine any matter concerning the distribution, nature or method of settlement of his or her own benefits under the Plan, except in exercising an election available to that member in his or her capacity as a Participant.
- 9.9 **INDIVIDUAL ACCOUNTS.** The Plan Administration Committee will establish and maintain an individual Account or multiple Accounts in the name of each Participant as of the date a contribution is first made to the Trust Fund on his or her behalf to reflect the Participant's Accrued Benefit under the Plan. An Employer Contributions Account will be so established and maintained for each Participant to record his or her interest in the Trust Fund attributable to his or her share of Employer Contributions and Forfeitures. A Participant Mandatory Contributions Account will be so established and maintained for each Employee to record his or her interest in the Trust Fund attributable to his or her Participant Mandatory Contributions made to the Trust Fund pursuant to Section 4.1. A Participant Voluntary Contributions Account will be so established and maintained for each Employee to record his or her interest in the Trust Fund attributable to his or her Participant Voluntary Contributions made to the Trust Fund pursuant to Section 4.2. A Participant Rollover Contributions account will be so

established and maintained for each Employee to record his or her interest in the Trust Fund attributable to his or her Participant Rollover Contributions made to the Trust Fund pursuant to Section 4.3. The Trustee will not be required, however, to segregate Trust Fund assets because of the maintenance of separate Accounts, unless required or permitted under another provision of the Plan.

The Plan Administration Committee will make its allocations, or request the Trustee to make its allocations, to the Accounts of the Participants in accordance with the provisions of Section 9.11. The Plan Administration Committee may direct the Trustee to maintain a temporary segregated investment Account in the name of a Participant to prevent a distortion of income, gain or loss allocations under Section 9.11. The Plan Administration Committee shall maintain records of its activities.

- 9.10 **VALUE OF PARTICIPANT’S ACCRUED BENEFIT.** If any or all Plan investment accounts are pooled, each Participant’s Account(s) has an undivided interest in the assets comprising the pooled account. In a pooled account, the value of each Participant’s Accrued Benefit consists of that proportion of the net worth (at fair market value) of the Trust Fund which the net credit balance in his or her Account(s) (exclusive of the cash value of incidental benefit insurance contracts) bears to the total net credit balance in the Accounts (exclusive of the cash value of the incidental benefit insurance contracts) of all Participants, plus the cash surrender value of any incidental benefit insurance contracts held by the Trustee on the Participant’s life.

If any or all Plan investment accounts are Participant directed, the directing Participant’s Accrued Benefit is comprised of the assets held within such Participant’s Account(s) and the value of such Participant’s Account(s) is the fair market value of such assets.

For purposes of a distribution under the Plan, the value of a Participant’s Accrued Benefit is its value as of the valuation date immediately preceding the date of the distribution.

- 9.11 **ALLOCATION AND DISTRIBUTION OF NET INCOME GAIN OR LOSS.** This Section 9.11 applies solely to the allocation of net income, gain or loss of the Trust Fund. The Plan Administration Committee will allocate Participant Mandatory, Voluntary and Rollover Contributions in accordance with the applicable provisions of Article 4 and Employer Contributions and Forfeitures in accordance with the applicable provisions of Article 3.

- (a) ***Valuation Date.*** A “valuation date” under this Plan is each Accounting Date and any other valuation date the Plan Administration Committee elects. The Plan Administration Committee may elect alternative valuation dates for the different Account types which the Plan Administration Committee maintains under the Plan. As of each valuation date, the Plan Administration Committee must adjust Accounts to reflect net income, gain or loss since the last valuation date. The valuation period is the period beginning on the day after the last valuation date and ending on the current valuation date.
- (b) ***Methods of Allocation.*** The Plan Administration Committee will allocate net income, gain or loss to Participant Accounts in accordance with the daily valuation method, balance forward method, weighted average method, or other method the Plan Administration Committee elects from time to time. The Plan Administration

Committee may elect alternative methods of allocation under which the Plan Administration Committee will allocate the net income, gain or loss to the different Account types which the Plan Administration Committee maintains under the Plan. If the Plan Administration Committee elects to apply a weighted average allocation method, the Plan Administration Committee will treat a weighted portion of the applicable contributions as if includible in the Participant's Account as of the beginning of the valuation period. The weighted portion is a fraction, the numerator of which is the number of months in the valuation period, excluding each month in the valuation period which begins prior to the contribution date of the applicable contributions, and the denominator of which is the number of months in the valuation period. The Plan Administration Committee may elect to substitute a weighting period other than months for purposes of this weighted average allocation. If the Plan Administration Committee elects to apply the daily valuation method, the Plan Administration Committee will allocate the net income, gain or loss on each day of the Plan Year for which Plan assets are valued on an established market. If the Plan Administration Committee elects to apply the balance forward method, the Plan Administration Committee first will adjust the Participant Accounts, as those Accounts stood at the beginning of the current valuation period, by reducing the Accounts for any Forfeitures arising under the Plan, for amounts charged during the valuation period to the Accounts in accordance with Section 9.13 (relating to distributions) and for insurance premiums and for the cash value of incidental benefit insurance contracts, if applicable to the Accounts. The Plan Administration Committee then, subject to the restoration allocation requirements of the Plan, will allocate the net income, gain or loss pro rata to the adjusted Participant Accounts. The allocable net income, gain or loss is the net income (or net loss), including the increase or decrease in the fair market value of assets, since the last valuation date.

- (c) ***Trust Fund (Pooled) Investment Accounts.*** A pooled investment account is an account which is not a segregated investment Account or an individual investment account.
- (d) ***Segregated Investment Accounts.*** A segregated investment Account receives all income it earns and bears all expense or loss it incurs. The Plan Administration Committee may establish for a Participant a segregated investment Account(s) to prevent a distortion of Plan income, gain or loss allocations or for such other purposes as the Plan Administration Committee may direct. The Plan Administration Committee will invest the assets of a segregated investment Account(s) consistent with such purposes. As of each valuation date, the Plan Administration Committee must reduce a segregated Account(s) for any Forfeiture arising under Section 5.4 after the Plan Administration Committee has made all other allocations, changes or adjustments to the Account(s) for the valuation period.
- (e) ***Individual (Directed) Investment Accounts.*** An individual investment Account is an Account which is subject to Participant or (if permitted) Beneficiary self-direction under Section 8.10. An individual investment Account receives all income it earns and bears all expense or loss it incurs. As of each valuation date, the Plan Administration Committee must reduce an individual Account for any Forfeiture arising from Section 5.4 after the Plan Administration Committee has made all other allocations, changes or adjustment to the Account for the valuation period.

- (f) **Code Section 415 Excess Amounts.** An Excess Amount described in Article 3 does not share in the allocation of net income, gain or loss described in this Section 9.11.
- 9.12 **INDIVIDUAL STATEMENT.** As soon as practicable after the Accounting Date of each Plan Year, the Plan Administrator will deliver to each Participant (and to each Beneficiary) a statement reflecting the condition of his or her Accrued Benefit in the Trust as of that date and such other information the Plan Administrator deems appropriate. No Participant, except a member of the Plan Administration Committee, shall have the right to inspect the records reflecting the Account of any other Participant. The Plan Administration Committee may, but shall not be required to, provide Participants with the statement referred to in this Section 9.12 more frequently than annually.
- 9.13 **ACCOUNT CHARGED.** The Plan Administration Committee shall charge a Participant's Account(s) for all distributions made from that Account to the Participant or to his or her Beneficiary. The Plan Administration Committee also will charge a Participant's Account(s) for any administration expenses incurred by the Plan or Trust directly related to that Account.
- 9.14 **LOST PARTICIPANTS.** If the Plan Administration Committee is unable to locate any Participant or Beneficiary whose Account becomes distributable under Article 6 (a "lost Participant"), the Plan Administration Committee will apply the provisions of this Section 9.14.
- (a) **Attempt to Locate.** The Plan Administration Committee will use one or more of the following methods to attempt to locate a lost Participant: (1) provide a distribution notice to the lost Participant at his or her last known address by certified or registered mail; (2) use the IRS letter forwarding program under Revenue Procedure 94-22 (or similar or successor guideline); (3) use a commercial locator service, the internet or other general search method; or (4) use the Social Security Administration search program.
- (b) **Failure to Locate.** If a lost Participant remains unlocated for one year following the date of the Plan Administration Committee's first attempts to locate the lost Participant using one or more of the methods described in subsection (a), the Plan Administration Committee may forfeit the lost Participant's Account at any time after the one year period. If the Plan Administration Committee so forfeits the lost Participant's Account, the Forfeiture occurs as of the date the Plan Administration Committee makes such Forfeiture, and the Plan Administration Committee will allocate the Forfeiture in accordance with Section 3.3. If a lost Participant whose Account was forfeited thereafter at any time, but before the Plan has been terminated, makes a claim for his or her forfeited Account, the Plan Administration Committee will restore the forfeited Account to the same dollar amount as the amount forfeited, unadjusted for net income, gains or losses occurring subsequent to the Forfeiture. The Plan Administration Committee will make the restoration in the Plan Year in which the lost Participant makes the claim, first from the amount, if any, of Participant Forfeitures the Plan Administration Committee otherwise would allocate for the Plan Year, then from the amount or additional amount the Employer contributes to the Plan for the Plan Year. The Plan Administration Committee will distribute the restored Account to the lost Participant not later than sixty (60) days after the close of the Plan Year in which the Plan Administration Committee restores

the forfeited Account. If the Plan Administration Committee forfeits a lost Participant's Account under this subsection (b), such Forfeiture will be of the entire Account of the lost Participant, including any and all Participant contributions.

- (c) ***Nonexclusivity and Uniformity.*** The provisions of this Section 9.14 are intended to provide permissible, but not exclusive, means for the Plan Administration Committee to administer the Accounts of lost Participants. The Plan Administration Committee may utilize any other reasonable method to locate lost Participants and to administer the Accounts of lost Participants, including the default rollover under Section 6.5(b) and such other methods as the Internal Revenue Service or the U.S. Department of Labor ("DOL") may in the future specify. The Plan Administration Committee will apply this Section 9.14 in a reasonable, uniform and nondiscriminatory manner, but may in determining a specific course of action as to a particular Account, reasonably take into account differing circumstances such as the amount of a lost Participant's Account, the expense in attempting to locate a lost Participant, the Plan Administration Committee's ability to establish and the expense of establishing a rollover IRA, and other factors deemed relevant under the circumstances of each case. The Plan Administration Committee may charge to the Account of a lost Participant the reasonable expenses incurred by the Trust Fund under this Section 9.14 and which are associated with the lost Participant's Account.

- 9.15 **PLAN CORRECTION.** The Plan Administration Committee in conjunction with the Employer may undertake such correction of Plan errors as the Plan Administration Committee deems necessary, including correction to preserve tax qualification of the Plan under Code Section 401(a) or to correct a fiduciary breach under applicable law. Without limiting the Plan Administration Committee's authority under the prior sentence, the Plan Administration Committee, as it determines to be reasonable and appropriate, may undertake correction of Plan document, operational, demographic and Employer eligibility failures under a method described in the Plan or under the Employee Plans Compliance Resolution System ("EPCRS") or any successor program(s) to EPCRS. The Plan Administration Committee, as it determines to be reasonable and appropriate, also may undertake or assist the appropriate fiduciary or plan official in undertaking correction of a fiduciary breach, including correction under the Voluntary Fiduciary Correction Program ("VFC") or any successor program(s) to VFC. If the Plan includes a 401(k) arrangement, the Plan Administration Committee to correct an operational error, may require distributions from the Plan of Elective Deferrals or vested matching contributions, including earnings, where such amounts result from an operational error other than a failure of Code Section 415, Code Section 402(g), a failure of the ADP or ACP tests, or a failure of the multiple use limitation.

* * * * ***End of Article 9*** * * * *

**ARTICLE 10.
TRUSTEES, POWERS AND DUTIES**

- 10.1 **ACCEPTANCE.** Each Trustee accepts the Trust created under the Plan and agrees to perform the obligations imposed. The Trustee shall provide bond for the faithful performance of his or her duties under the Trust to the extent required by applicable law or as the Trustee deems appropriate.
- 10.2 **RECEIPT OF CONTRIBUTIONS.** Each Trustee shall be accountable to the Employer for the funds contributed to the Trust by the Employer.
- 10.3 **INVESTMENT POWERS.**
- (a) Except as provided in subsection (b), the Trustee shall have full discretion and authority with regard to the investment of the Trust Fund, except with respect to a Plan asset under the control or direction of a properly appointed Investment Manager (as defined in Section 9.4(i)) or with respect to a Plan asset subject to Employer or Participant direction of investment. The Trustee shall coordinate his or her investment policy with Plan financial needs as communicated by the Plan Administration Committee. Each Trustee is authorized and empowered, subject to the provisions of subsection (b), with the following powers, rights and duties:
- (1) To invest any part or all of the Trust Fund in any common or preferred stocks, open-end or closed-end mutual funds, repurchase agreements, United States retirement plan bonds, corporate and municipal bonds, debentures, convertible debentures, commercial paper, U.S. Treasury bills, U.S. Treasury notes, U.S. Treasury bonds and other direct or indirect obligations of the United States Government or its agencies, improved or unimproved real estate situated in the United States, limited partnerships, insurance contracts of any type, mortgages, notes or other property of any kind, real or personal, and to buy or sell options on common stock on a nationally recognized exchange with or without holding the underlying common stock, as a prudent man would do under like circumstances with due regard for the purposes of this Plan. Any investment made or retained by the Trustees in good faith shall be proper but must be of a kind constituting a diversification considered by law suitable for trust investments;
- (2) To retain in cash so much of the Trust Fund as it may deem advisable to satisfy liquidity needs of the Plan and to deposit any cash held in the Trust Fund in a bank account at reasonable interest, including, if a bank is acting as Trustee, specific authority to invest in any type of deposit of the Trustee at a reasonable rate of interest or in a common trust fund (the provisions of which govern the investment of such assets and which the Plan incorporates by this reference) as described in Code Section 584 which the Trustee (or an affiliate of the Trustees, as defined in Code Section 1504) maintains exclusively for the collective investment of money contributed by the bank (or the affiliate) in its capacity as trustee and which conforms to the rules of the Comptroller of the Currency;

- (3) To manage, sell, contract to sell, grant options to purchase, convey, exchange, transfer, abandon, improve, repair, insure, lease for any term even though commencing in the future or extending beyond the term of the Trust, and otherwise deal with all property, real or personal, in such manner, for such considerations and on such terms and conditions as the Trustees shall decide;
- (4) To credit and distribute the Trust as directed by the Plan Administration Committee. The Trustees shall not be obliged to inquire as to whether any payee or distributee is entitled to any payment or whether the distribution is proper or within the terms of the Plan, or as to the manner of making any payment or distribution. The Trustees shall be accountable only to the Plan Administration Committee for any payment or distribution made by it in good faith on the order or direction of the Plan Administration Committee;
- (5) To extend mortgages;
- (6) To compromise, contest, arbitrate or abandon claims and demands, in the discretion of the Trustees;
- (7) To have with respect to the Trust all of the rights of an individual owner, including the power to give proxies, to participate in any voting trusts, mergers, consolidations or liquidations, and to exercise or sell stock subscriptions or conversion rights;
- (8) To lease for oil, gas and other mineral purposes and to create mineral severance by grant or reservation; to pool or unitize interests in oil, gas and other minerals; and to enter into operating agreements and to execute division and transfer orders;
- (9) To hold any securities or other property in the name of the Trustees or their nominee, with depositories or agent depositories or in another form as they may deem best, with or without disclosing the trust relationship;
- (10) To perform any and all other acts in the judgment of the Trustees necessary or appropriate for the proper and advantageous management, investment and distribution of the Trust;
- (11) To retain any funds or property subject to any dispute without liability for the payment of interest, and to decline to make payment or delivery of the funds or property until final adjudication is made by a court of competent jurisdiction;
- (12) To file all tax returns required of the Trustees;
- (13) To furnish to the Employer, the Plan Administrator and the Plan Administration Committee an annual statement of account showing the condition of the Trust Fund and all investments, receipts, disbursements, the source and amount of Forfeitures to the Employer and other transactions effected by the Trustees during the Plan Year covered by the statement and also stating the assets of the Trust held at the end of the Plan Year, which

accounts shall be conclusive on all persons, including the Employer, the Plan Administrator and the Plan Administration Committee, except as to any act or transaction concerning which the Employer, the Plan Administrator or the Plan Administration Committee files with the Trustees written exceptions or objections within ninety (90) days after the receipt of the accounts or for which applicable law authorizes a longer period within which to object; and

- (14) To begin, maintain or defend any litigation necessary in connection with the administration of the Plan, except that the Trustees shall not be obliged or required to do so unless indemnified to their satisfaction.
- (b) Anything contained herein to the contrary notwithstanding, the following provisions shall apply:
- (1) The provisions of this subsection (1) shall be effective prior to July 1, 1997. Anything contained herein to the contrary notwithstanding, the Trust Fund shall be invested by the Trustees; provided that, subject to the limitations on investments described in the CRS Section 15-1-304, as amended, the Trustees may invest all or any part of the fund in the types of investments authorized by CRS Sections 15-1-304, 31-30-1012(5) and 31-30-1012(8), including, but not limited to, obligations of the United States Government and in obligations fully guaranteed as to principal and interest by the United States Government, in state or municipal bonds, in corporate notes, bonds, or debentures, convertible or otherwise, in railroad equipment trust certificates, in real property and in loans secured by first mortgages or deeds of trust on real property, in participation guarantee agreements with life insurance companies, in real estate limited partnerships, and in other types of investment agreements, and the foregoing investments may be made without limitation as to the percentage of the book value of the assets of the retirement fund so invested. Investments may also be made in either common or preferred corporate stocks, but the original cost of all investments in corporate stocks or corporate bonds, notes, or debentures which are convertible into stock, or in investment trust shares, shall not exceed sixty-five percent (65%) of the then book value of the assets of the Trust Fund. In no event shall any investment be made in the common or preferred stock, or both, of any single corporation in an amount in excess of five percent (5%) of the then book value of the assets of the Trust Fund nor shall more than seven percent (7%) of the outstanding stock or bonds of any single corporation be acquired for the Trust Fund, except that the Trustees may acquire up to one hundred percent (100%) of the outstanding stock of any corporation described in Code Sections 501(c)(2) and 501(c)(25).

In accordance with the provisions of CRS Section 31-30-1012(5), as used in this subsection (1), unless the context otherwise requires, (A) "book value" means current market value, (B) "current market value" means the current exchange price of an asset that is publicly traded, and, for a nonpublicly traded asset, it means the current valuation as reflected in the books of the FPPA, and (C) "original cost" means the acquisition cost of an asset.

- (2) The provisions of this subsection (2) shall be effective on and after July 1, 1997. Anything contained herein to the contrary notwithstanding, the Trust Fund shall be invested by the Trustees; provided that, the Trust Fund shall be managed and invested by the Trustees pursuant to the standard and other provisions for trustees set forth in the Colorado Uniform Prudent Investor Act, Article 1.1 of Title 15, CRS. Such investments shall be audited at least biennially.

To the extent the investment limitations described in this subsection (2) are modified or repealed by applicable Colorado law, then the provisions of this subsection shall be deemed modified or repealed in accordance therewith.

- 10.4 **RECORDS AND STATEMENTS.** The records of the Trustees pertaining to the Plan shall be open to the inspection of the Plan Administrator, Plan Administration Committee and the Employer at all reasonable times and may be audited from time to time by any person or persons as the Employer or Plan Administration Committee may specify in writing. The Trustees shall furnish the Plan Administration Committee or the Plan Administrator with whatever information relating to the Trust Fund the Plan Administration Committee or Plan Administrator considers necessary.
- 10.5 **FEES AND EXPENSES FROM FUND.** Each Trustee shall serve without compensation for services rendered as a Trustee, unless authorized by majority vote of the Trustees if payment is to be made from the Trust Fund. The Trustees shall pay all fees and expenses reasonably incurred by them in their administration of the Plan from the Trust Fund unless the Employer pays the fees and expenses.
- 10.6 **PARTIES TO LITIGATION.** Except as otherwise provided by applicable law, only the Employer, the Plan Administrator, the Plan Administration Committee, and the Trustees shall be necessary parties to any court proceeding involving the Trustees or the Trust Fund. No Participant, or Beneficiary, shall be entitled to any notice of process unless required by applicable law. Any final judgment entered in any proceeding shall be conclusive upon the Employer, the Plan Administrator, the Plan Administration Committee, the Trustees, Participants and Beneficiaries.
- 10.7 **PROFESSIONAL AGENTS.** The Trustees may employ and pay from the Trust Fund reasonable compensation to agents, attorneys, accountants and other persons to advise the Trustees as in their opinion may be necessary. The Trustees may delegate to any agent, attorney, accountant or other person selected by the Trustees any non-Trustee power or duty vested in the Trustees by the Plan, and the Trustees may act or refrain from acting on the advice or opinion of any agent, attorney, accountant or other person so selected.
- 10.8 **DISTRIBUTION OF CASH OR PROPERTY.** The Trustees may make distribution under the Plan in cash or property, or partly in each, at its fair market value as determined by the Trustees. For purposes of a distribution to a Participant or to a Participant's designated Beneficiary or surviving spouse, "property" shall include a Nontransferable Annuity, provided the contract satisfies the distribution requirements under Article 6.
- 10.9 **DISTRIBUTION DIRECTIONS.** If no one claims a payment or distribution made from the Trust, the Trustees shall promptly notify the Plan Administration Committee and shall dispose of

the payment in accordance with the subsequent direction of the Plan Administration Committee.

- 10.10 **THIRD PARTY.** No person dealing with the Trustees shall be obligated to see to the proper application of any money paid or property delivered to the Trustees, or to inquire whether the Trustees have acted pursuant to any of the terms of the Plan. Each person dealing with the Trustees may act upon any notice, request or representation in writing by the Trustees, or by the Trustees' duly authorized agent, and shall not be liable to any person whomsoever in so doing. The certificate of the Trustees that they are acting in accordance with the Plan shall be conclusive in favor of any person relying on the certificate.
- 10.11 **RESIGNATION.** A Trustee(s) may resign at any time as a Trustee of the Plan by giving thirty (30) days' written notice in advance to the Employer and to the Plan Administration Committee.
- 10.12 **REMOVAL.** A Trustee may be removed in the same manner as a member of the Plan Administration Committee, as set forth in Section 9.1(e). Vacancies in the Trustees shall be filled in the same manner as vacancies in the Plan Administration Committee, as set forth in Section 9.1(f).
- 10.13 **INTERIM DUTIES AND SUCCESSOR TRUSTEES.** Each successor Trustee shall succeed to the title to the Trust vested in his or her predecessor by accepting in writing his or her appointment as successor Trustee and filing the acceptance with the former Trustee and the Plan Administration Committee without the signing or filing of any further statement. The resigning or removed Trustee, upon receipt of acceptance in writing of the Trust by the successor Trustee, shall execute all documents and do all acts necessary to vest the title of record in any successor Trustee. Each successor Trustee shall have and enjoy all of the powers, both discretionary and ministerial, conferred under this Agreement upon his or her predecessor. A successor Trustee shall not be personally liable for any act or failure to act of any predecessor Trustee. With the approval of the Employer and the Plan Administration Committee, a successor Trustee, with respect to the Plan, may accept the account rendered and the property delivered to it by a predecessor Trustee without incurring any liability or responsibility for so doing.
- 10.14 **VALUATION OF TRUST.** The Trustees shall value the Trust Fund as of each Accounting Date to determine the fair market value of each Participant's Accrued Benefit in the Trust, and the Trustees shall value the Trust Fund on such other date(s) as directed by the Plan Administration Committee.
- 10.15 **LIMITATION ON LIABILITY – IF INVESTMENT MANAGER APPOINTED.** The Trustees shall not be liable for the acts or omissions of any Investment Manager or Managers the Plan Administration Committee may appoint, nor shall the Trustees be under any obligation to invest or otherwise manage any asset of the Plan which is subject to the management of a properly appointed Investment Manager. The Plan Administration Committee, the Trustees and any properly appointed Investment Manager may execute a letter agreement as a part of this Plan delineating the duties, responsibilities and liabilities of the Investment Manager with respect to any part of the Trust Fund under the control of the Investment Manager.

- 10.16 **INVESTMENT IN GROUP TRUST FUND.** The Trustees, for collective investment purposes may combine into one trust fund the Trust created under this Plan with the trust created under any other qualified retirement plan the Employer maintains. However, the Trustees shall maintain separate records of account for the assets of each Trust in order to reflect properly each Participant's Accrued Benefit under the plan(s) in which he or she is a Participant.
- 10.17 **MANNER OF ACTION.** Any action or decision of the Trustees shall be decided by majority vote of the Trustees then appointed and qualified.

* * * * *End of Article 10* * * * *

**ARTICLE 11.
INSURANCE**

- 11.1 **INSURANCE BENEFIT.** To the extent permitted under applicable Colorado law, the Plan Administration Committee may elect to provide incidental life insurance benefits for insurable Participants who consent to life insurance benefits by signing the appropriate insurance company application form; provided however, that the aggregate of life insurance premiums paid for the benefit of a Participant, at all times, shall not exceed the following percentages of the aggregate of the Employer's contributions allocated to any Participant's Account: (a) forty-nine percent (49%) in the case of the purchase of ordinary life insurance contracts; or (b) twenty-five percent (25%) in the case of the purchase of term life insurance contracts. Furthermore, if the Trustees purchase a combination of ordinary life insurance contract(s) and term life insurance contract(s), or universal life insurance contract(s), then the sum of one-half (½) of the premiums paid for the ordinary life insurance contract(s) and the premiums paid for the term life insurance contracts) or the universal life insurance contract(s) shall not exceed twenty-five percent (25%) of the Employer Contributions allocated to any Participant's Account. The Trustees shall not purchase any incidental life insurance benefit for any Participant prior to the Accounting Date as of which the Plan Administration Committee first makes an Employer contribution allocation to the Participant's Account. At an insured Participant's written direction, the Trustees shall use all or any portion of the Participant's voluntary contributions to pay insurance premiums covering the Participant's life. The purchase of life insurance and the premiums payable therefore shall not lessen or diminish the Forfeiture derived from the nonvested component in the Employer Contributions Account allocated to the Employer pursuant to Sections 3.3 and 5.4.

The Plan Administration Committee may select the insurance company or companies and insurance agent(s) through which the Trustees are to purchase the insurance contracts, the amount of the coverage and the applicable dividend plan; provided, however, that no such agent shall be a Trustee, a member of the Plan Administration Committee, a Participant, a Beneficiary, an employee of the Employer, or anyone related to any of the above named persons. Each application for a policy, and the policies themselves, shall designate the Trustees as sole owner, with the right reserved to the Trustees to exercise any right or option contained in the policies, subject to the terms and provisions of this Agreement. The Trustees shall be the named beneficiary for the Account of the insured Participant. Proceeds of insurance contracts paid to the Participant's Account under this Article 11 shall be subject to the distribution requirements of Article 5 and Article 6. The Trustees shall not retain any such proceeds for the benefit of the Trust.

The Plan Administration Committee shall charge all amounts paid by the Trustees pursuant to this Section 11.1 for the premiums on any incidental benefit insurance contract(s) covering the life of a Participant to the Account of the Participant. The Trustees shall hold all incidental benefit insurance contracts issued under the Plan as assets of the Trust created under the Plan.

- 11.2 **LIMITATION ON LIFE INSURANCE PROTECTION.** The Plan Administration Committee shall direct the Trustees to not continue any life insurance protection for any Participant beyond his or her annuity starting date (as defined in Article 6).

If the Trustees hold any incidental benefit insurance contract(s) on the life of a Participant when he or she terminates his or her employment (other than by reason of death), the Plan Administration Committee must direct the Trustees to proceed as follows:

- (a) If the entire cash value of the contract(s) is vested in the terminating Participant, or if the contract(s) will have no cash value at the end of the policy year in which termination of employment occurs, the Trustees will transfer the contract(s) the Participant endorsed so as to vest in the transferee all right, title and interest to the contract(s), free and clear of the Trust; subject however, to restrictions as to surrender or payment of benefits as the issuing insurance company may permit;
- (b) If only part of the cash value of the contract(s) is vested in the terminating Participant, the Trustees, to the extent the Participant's interest in the cash value of the contract(s) is not vested, may adjust the Participants interest in the value of his or her Account attributable to Trust assets other than incidental benefit insurance contracts and proceed as in subsection (a), or the Trustees must effect a loan from the issuing insurance company on the sole security of the contract(s) for an amount equal to the difference between the cash value of the contract(s) at the end of the policy year in which termination of employment occurs and the amount of the cash value that is vested in the terminating Participant, and the Trustees must transfer the contract(s) endorsed so as to vest in the transferee all right, title and interest to the contract(s), free and clear of the Trust; subject however, to the restrictions as to surrender or payment of benefits as the issuing insurance company may permit;
- (c) If no part of the cash value of the contract(s) is vested in the terminating Participant, the Trustees must surrender the contract(s) for cash proceeds as may be available.

The Plan Administration Committee will direct the Trustees to make any transfer of contract(s) under this Section 11.2 on the Participant's annuity starting date (or as soon as administratively feasible after that date). The Plan Administration Committee shall direct the Trustees to not transfer any contract under this Section 11.2 which contains a method of payment not specifically authorized by Article 6. In this regard, the Trustees either shall convert such a contract to cash and distribute the cash instead of the contract, or before making the transfer, require the issuing company to delete the unauthorized method of payment option from the contract.

11.3 **DEFINITIONS.** For purposes of this Article 11:

- (a) "Policy" means an ordinary life insurance contract or a term life insurance contract issued by an insurer on the life of a Participant.
- (b) "Issuing Insurance Company" is any life insurance company which has issued a policy upon application by the Trustees under the terms of this Agreement.
- (c) "Contract" or "Contracts" means a policy of insurance. In the event of any conflict between the provisions of this Plan and the terms of any contract or policy of insurance issued in accordance with this Article 11, the provisions of the Plan shall control.

- (d) “Insurable Participant” means a Participant to whom an insurance company, upon an application being submitted in accordance with the Plan, will issue insurance coverage, either as a standard risk or as a risk in an extra mortality classification.

- 11.4 **DIVIDEND PLAN.** The dividend plan shall be premium reduction unless the Trustees in their discretion decide to the contrary. The Trustees shall use all premiums for a contract to purchase insurance benefits or additional insurance benefits for the Participant on whose life the insurance company has issued the contract. Furthermore, the Trustees shall arrange, where possible, that all policies issued on the lives of Participants under the Plan shall have the same premium due date and all ordinary life insurance contracts shall contain guaranteed cash values with as uniform basic options as are possible to obtain. The term “dividends” includes policy dividends, refunds of premiums and other credits.

- 11.5 **INSURANCE COMPANY NOT A PARTY TO AGREEMENT.** No insurance company is a party to this Agreement nor shall any insurance company be responsible for its validity.

- 11.6 **INSURANCE COMPANY NOT RESPONSIBLE FOR TRUSTEES’ ACTIONS.** No insurance company is required to examine the terms of this Agreement nor be responsible for any action taken by the Trustees.

- 11.7 **INSURANCE COMPANY RELIANCE ON TRUSTEES’ SIGNATURE.** For the purpose of making application to an insurance company and in the exercise of any right or option contained in any policy, the insurance company may rely upon the signature of the Trustees and shall be saved harmless and completely discharged in acting at the direction and authorization of the Trustees.

- 11.8 **ACQUITTANCE.** An insurance company shall be discharged from all liability for any amount paid to the Trustees or paid in accordance with the direction of the Trustees and it shall not be obliged to see to the distribution or further application of any moneys it so pays.

- 11.9 **DUTIES OF INSURANCE COMPANY.** Each insurance company shall keep such records; make such identification of contracts, funds and accounts within funds; and supply such information as may be necessary for the proper administration of the Plan under which it is carrying insurance benefits.

* * * * *End of Article 11* * * * *

**ARTICLE 12.
MISCELLANEOUS**

- 12.1 **EVIDENCE.** Anyone required to give evidence under the terms of the Plan may do so by certificate, affidavit, document or other information which the person to act in reliance may consider pertinent, reliable and genuine, and to have been signed, made or presented by the proper party or parties. Both the Plan Administration Committee and the Trustees shall be fully protected in acting and relying upon any evidence described under the immediately preceding sentence.
- 12.2 **NO RESPONSIBILITY FOR EMPLOYER ACTION.** Neither the Trustees nor the Plan Administration Committee shall have any obligation nor responsibility with respect to any action required by the Plan to be taken by the Employer, any Participant or eligible Employee, nor for the failure of any of the above persons to act or make any payment or contribution, or to otherwise provide any benefit contemplated under this Plan, nor shall the Trustees or the Plan Administration Committee be required to collect any contribution required under the Plan, or determine the correctness of the amount of any Employer Contribution. Neither the Trustees nor the Plan Administration Committee need inquire into or be responsible for any action or failure to act on the part of the others. The Employer shall not be responsible for any act or failure to act on the part of the Plan Administration Committee, the Trustees or any Participant or eligible Employee, nor for the payment of any benefits under this Plan except for its obligation to make Employer Contributions as provided under Section 3.1.
- 12.3 **FIDUCIARIES NOT INSURERS.** The Trustees, the Plan Administration Committee, the Plan Administrator and the Employer in no way guarantee the Trust Fund from loss or depreciation. The Employer does not guarantee the payment of any money which may be or becomes due to any person from the Trust Fund. The liability of the Plan Administration Committee and the Trustees to make any payment from the Trust Fund at any time and all times is limited to the then available assets of the Trust.
- 12.4 **WAIVER OF NOTICE.** Any person entitled to notice under the Plan may waive the notice, unless the Code or Treasury regulations (if applicable) prescribe the notice or specifically or impliedly prohibit such a waiver.
- 12.5 **SUCCESSORS.** The Plan shall be binding upon all persons entitled to benefits under the Plan, their respective heirs and legal representatives, upon the Employer, its successors and assigns, and upon the Trustees and the Plan Administration Committee and their successors.
- 12.6 **WORD USAGE.** Words used in the masculine shall apply to the feminine where applicable, and wherever the context of the Employer's Plan dictates, the plural shall be read as the singular and the singular as the plural. The headings of Articles and Sections are included solely for convenience of reference, and if there be any conflict between such headings and the text of this Plan, the text will control.
- 12.7 **STATE LAW.** Colorado law shall determine all questions arising with respect to the provisions of this Agreement except to the extent Federal statute supersedes Colorado law.
- 12.8 **EMPLOYMENT NOT GUARANTEED.** Nothing contained in this Plan, or with respect to the establishment of the Trust, or any modification or amendment to the Plan or Trust, or in the

creation of any Account, or the payment of any benefit, shall give any Employee, Employee-Participant or any Beneficiary any right to continue employment, any legal or equitable right against the Employer, or Employee of the Employer, or against the Trustees, or its agents or employees, or against the Plan Administrator, except as expressly provided by the Plan, the Trust, by a separate agreement, or by applicable law. Nothing contained in this Plan will be construed as a contract of employment between the Employer and any Employee or Participant, or as a limitation on the right of the Employer to employ, discipline or discharge any Employee or Participant.

12.9 **EXEMPTION FROM ACT AND STATUTORY CONSTRUCTION.** It is intended that this Plan is a “governmental plan” as defined in ERISA Section 3(32) and is therefore exempt from the applicability of ERISA and certain provisions of the Code related to tax qualified plans and trusts, except to the extent, and only to the extent, expressly provided to the contrary herein. Nothing contained herein shall be interpreted or construed to be or to represent a waiver of said exemptions nor a consent to the application of any provisions of ERISA or the Code to which governmental plans are exempted, except to the extent, and only to the extent, expressly provided to the contrary herein.

12.10 **QUALIFIED MILITARY SERVICE.**

- (a) ***General.*** Notwithstanding any provision in this Plan to the contrary, contributions, benefits and Service credit with respect to or related to qualified military service will be provided in accordance with and will comply with the requirements of Code Section 414(u) and applicable regulations thereunder. Loan repayments, if any, will be suspended under this Plan as permitted under Code Section 414(u)(4). The provisions of this Section 12.10 shall be effective as of December 12, 1994.
- (b) ***Contributions for a Period of Military Leave.*** Any provision of the Plan to the contrary notwithstanding:
 - (1) Contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u); and
 - (2) Effective January 1, 2007, if any Participant dies while performing qualified military service, the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under this Plan had the Participant resumed and then terminated employment on account of death.
- (c) ***Participant’s Election Rights.*** Without regard to any limitations on contributions set forth in Article 3 of the Plan, a Participant who is reemployed on or after October 14, 1994, because of a period of absence due to military services of the United States, may elect to contribute to the Plan the Participant Mandatory Contributions that could have been contributed to the Plan in accordance with the provisions of Section 4.1 of the Plan had he or she remained continuously employed by the Employer throughout such period of absence (“make-up contributions”). The amount of make-up contributions will be determined on the basis of the Participant’s Compensation in effect immediately prior to the period of absence, and the terms of the Plan at such time. Any such Participant Mandatory Contributions so determined shall be limited

with respect to the Plan Year or Plan Years to which such contributions relate rather than the Plan Year in which payment is made. Any payment to the Plan described in this subsection (c) shall be made during the “applicable repayment period.” The applicable repayment period shall equal three times the Participant’s immediate past period of uniformed service, but not longer than five (5) years. The applicable repayment period shall begin on the Participant’s date of reemployment; provided, however, that the applicable repayment period will end upon the Participant’s subsequent Separation from Service or his or her death. Make-up contribution(s) shall be adjusted for investment net income, gain or loss as specified in Section 9.11 commencing with the date the make-up contribution(s) is made by such Participant.

- (d) ***Employer Contributions.*** With respect to a Participant who makes the election described in subsection (c), the Employer shall make Employer Contributions with respect to any make-up contribution in the amount described under the applicable provisions of Section 3.1, as in effect for the Plan Year to which any such make-up contribution relates. The Employer Contributions under this subsection (d) shall be made during the period described in subsection (c). Any Employer Contributions under this subsection (d) will be adjusted for investment net income, gain or loss as specified in Section 9.11, commencing with the date(s) any such Employer Contributions are made. Any limitations under the Plan on any Employer Contributions will be applied with respect to the Limitation Years to which such Employer Contributions relate, rather than the Limitation Years during which any Employer Contributions is made.
- (e) ***Annual Additions.*** All contributions under this Section 12.10 are considered “Annual Additions,” as defined in Code Section 415(c)(2), and will be limited in accordance with the provisions of Sections 3.4 and 3.5 with respect to the Limitation Years to which such contributions relate, rather than the Limitation Years during which any such contribution is made.

12.11 **PARTNER TO A CIVIL UNION.** A “partner to a civil union” as defined in CRS Section 14-15-103 will have all of the rights and responsibilities afforded to a “spouse” as such term is used under the Plan except as where a partner to a civil union would not be recognized as a spouse under federal law.

* * * * *End of Article 12* * * * *

**ARTICLE 13.
EXCLUSIVE BENEFIT, AMENDMENT, TERMINATION**

13.1 **EXCLUSIVE BENEFIT.** Except as provided under Article 3, relating to utilization of Forfeitures to reduce Employer Contributions, the Employer shall have no beneficial interest in any asset of the Trust and no part of any asset in the Trust shall ever revert to or be repaid to an Employer, either directly or indirectly; nor prior to the satisfaction of all liabilities with respect to the Participants and their Beneficiaries under the Plan, shall any part of the corpus or income of the Trust Fund, or any asset of the Trust, be (at any time) used for, or diverted to, purposes other than the exclusive benefit of the Participants or their Beneficiaries. Notwithstanding the foregoing provision for impossibility of diversion of Trust assets to the Employer, if the Commissioner of Internal Revenue, upon the Employer's request for initial approval of this Plan, determines that the Trust created under the Plan is not a qualified trust exempt from Federal income tax, then the Trustees, upon written notice from the Employer, shall return the Employer's contributions (and earnings increment attributable to the contributions) to the Employer. The Trustees must make the return of the Employer Contribution under this Section 13.1 within one year of a final disposition of the Employer's request for initial approval of the Plan. The Plan and Trust shall terminate upon the Trustees' return of the Employer's contributions and earnings increment

13.2 **AMENDMENT BY EMPLOYER.**

- (a) The Employer reserves the right to amend the Plan and the Trust Agreement from time to time, provided that: (1) except as otherwise provided hereafter in this subsection (a), at least sixty-five percent (65%) of the participating Employees who are affected by such amendment approve of it; (2) no amendment will reduce the non-forfeitable interest in the Accrued Benefit of any Participant, Former Participant or Beneficiary as of the date of such amendment; and (3) no amendment will result in any part of the Trust Fund reverting or being paid to the Employer. If the Employer amends the Plan or Trust Agreement in any way which will affect the Plan's and Trust's continued qualification under Code Section 401 or the Trust's tax-exempt status under Code Section 501, the amended Plan and Trust Agreement will be submitted to the Internal Revenue Service for application for determination. To the extent not prohibited by applicable law, the Plan and the Trust Agreement may be amended by written agreement of the Employer and all of the then acting members of the Plan Administration Committee without approval of at least sixty-five percent (65%) of the participating Employees who are affected by such amendment if, but only if: (1) the Plan Administration Committee and the Employer determine that such amendment is required in order to obtain or maintain the Plan's or the Trust's initial or continued qualification under Code Section 401 or the Trust's tax-exempt status under Code Section 501, as the same may be amended, [the Plan Administration Committee and the Employer may rely upon the good faith advice of its pension or tax counsel in making any such determination]; and (2) the Plan Administration Committee and the Employer determine that such amendment does not affect the rights or interests of any Participant, Former Participant or Beneficiary in the Plan or in their Plan benefit in a material way.
- (b) No amendment may authorize or permit any of the Trust Fund (other than the part which is required to pay taxes and administration expenses) to be used for or diverted

to purposes other than for the exclusive benefit of the Participants or their Beneficiaries or estates. No amendment may cause or permit any portion of the Trust Fund to revert to or become a property of the Employer. The Employer also may not make any amendment which affects the rights, duties or responsibilities of the Trustees, the Plan Administrator or the Plan Administration Committee without the written consent of the affected Trustees, the Plan Administrator or the affected member of the Plan Administration Committee.

- 13.3 **CONTINUANCE OF THE PLAN.** The Employer expects to continue this Plan and Trust indefinitely. However, in the event that the Employer is legally dissolved pursuant to federal or state statute, court order or judicial decision, the Employer may terminate the Plan and Trust, but only if such termination is permitted under applicable Colorado law.
- 13.4 **FULL VESTING ON TERMINATION.** Notwithstanding any other provision of this Plan to the contrary, upon either full or partial termination of the Plan by the Employer at any time, an affected Participant's right to his or her Accrued Benefit shall be one hundred percent (100%) Nonforfeitable.
- 13.5 **MERGER.** Applicable Colorado law may currently prohibit the merger or consolidation of this Plan with, or the transfer of its assets or liabilities to, another qualified deferred compensation plan. However, in the event that applicable Colorado law would ever permit this Plan to merge or consolidate with, or transfer its assets or liabilities to, any other qualified deferred compensation plan, and subject to Section 13.2, the Trustees shall not consent to, or be a party to, any merger or consolidation with another plan, or to a transfer of assets or liabilities to another plan, unless immediately after the merger, consolidation or transfer, the surviving Plan provides each Participant a benefit equal to or greater than the benefit each Participant would have received had the Plan terminated immediately before the merger or consolidation or transfer. The Trustees possess the specific authority to enter into merger agreements or direct transfer of assets agreements with the trustees of other retirement plans described in Code Section 401(a), including an elective transfer, and to accept the direct transfer of plan assets, or to transfer plan assets, as a party to any such agreement.

The Trustees may accept a direct transfer of plan assets on behalf of an Employee prior to the date the Employee satisfies the Plan's eligibility condition(s). If the Trustees accepts a direct transfer of plan assets, the Plan Administration Committee and Trustees shall treat the Employee as a Participant for all purposes of the Plan except the Employee may not make Participant Mandatory Contributions under Article 4 nor shall the Employee share in Employer Contributions or Forfeitures under the Plan until he or she actually becomes a Participant in the Plan.

The Trustees shall not consent to, or be a party to a merger, consolidation or transfer of assets with a pension plan that is subject to the provisions of the Code and ERISA related to qualified joint and survivor annuities and preretirement survivor annuities, except with respect to an "elective transfer", as such term is described in Treasury Regulation Section 1.411(d)-4, Q & A3. The Trustees shall hold, administer and distribute the transferred assets as a part of the Trust Fund and the Trustees shall maintain a separate Employer Contribution Account for the benefit of the Employee on whose behalf the Trustees accepted the transfer in order to reflect the value of the transferred assets.

- 13.6 **TERMINATION.** Upon termination of the Plan, the distribution provisions of Article 6 shall remain operative, with the following exception: the Participant or the Beneficiary, in addition to the distribution events permitted under Article 6, may elect to have the Trustees commence distribution of his or her Nonforfeitable Accrued Benefit as soon as administratively practicable after the Plan terminates.

To liquidate the Trust, the Plan Administration Committee shall purchase a deferred annuity contract for each Participant which protects the Participant's distribution rights under the Plan, if the Participant does not elect an immediate distribution pursuant to the preceding sentence and the distribution provisions of Article 6. The Trust shall continue until the Trustees in accordance with the direction of the Plan Administration Committee have distributed all of the benefits under the Plan.

On each Accounting Date, the Plan Administration Committee shall credit any part of a Participant's Accrued Benefit retained in the Trust with its proportionate share of the Trust's income, expenses, gains and losses, both realized and unrealized. Upon termination of the Plan, the amount, if any, in a suspense account under Article 3 shall revert to the Employer, subject to the conditions of the Treasury regulations permitting such a reversion. A resolution or amendment to freeze all future benefit accrual but otherwise to continue maintenance of this Plan, is not a termination for purposes of this Section 13.6.

- 13.7 **PLAN TO CONFORM TO CODE AND COLORADO LAWS.** It is the intention of the Employer that it shall be impossible for any part of the Trust Fund ever to be used for or diverted to purposes other than for the exclusive purpose of providing benefits to Participants and their Beneficiaries and defraying reasonable expenses of administering the Plan and Trust Fund. The Plan and Trust Agreement will, therefore, be construed and administered to follow the spirit and intent of the Code and applicable Colorado laws.

- 13.8 **APPLICABILITY.** The provisions of this Plan and Trust shall apply only to an Employee who terminates employment on or after the Effective Date. The rights and Plan Benefits, if any, of an employee of the Employer whose employment terminates prior to the Effective Date shall be determined in accordance with the provisions of the prior Plan, if any, in effect on the date his or her employment terminated.

* * * *End of Article 13* * * * *

IN WITNESS WHEREOF, the Employer and each Trustee has executed this Plan and Trust Agreement effective January 1, 2013.

ATTEST:

"EMPLOYER"

City Clerk

By: _____
City Manager

Dated: _____

Approved as to Form:

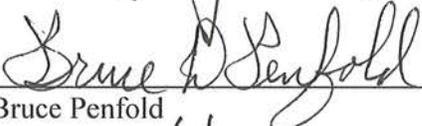
City Attorney

"TRUSTEES"



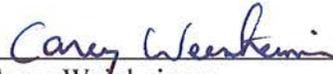
Kerry Yamaguchi

Dated: 10/9/2013



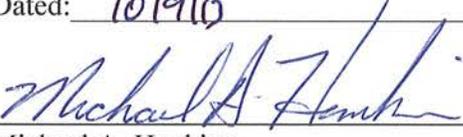
Bruce Penfold

Dated: 10/9/13



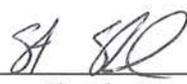
Carey Weinheimer

Dated: 10/9/13



Michael A. Hankins

Dated: 10/9/13



Steve Shrader

Dated: 10/9/13



**CITY OF BOULDER
BOULDER MUNICIPAL PROPERTY AUTHORITY AGENDA ITEM**

MEETING DATE: October 29, 2013

AGENDA TITLE Consideration of a motion to adjourn from City Council and convene as the Boulder Municipal Property Authority Board of Directors; and

Consideration of Resolution #135 approving and authorizing the issuance of Boulder Municipal Property Authority Lease Purchase Revenue Note, Series 2013A in the aggregate principal amount of \$5,000,000 and approving and authorizing a Lease Purchase Agreement for the purchase of 221 acres of land and water rights located at 8323 Valmont Rd., Boulder, CO from Energy Resources Technology Land, Inc. for Open Space and Mountain Parks purposes.

Consideration of a motion to adjourn from the Boulder Municipal Property Authority Board of Directors and re-convene as City Council.

PRESENTER/S

Jane S. Brautigam, City Manager

Paul Fetherston, Deputy City Manager

Michael D. Patton, Director, Open Space and Mountain Parks

Jim Schmidt, Property Agent

EXECUTIVE SUMMARY

The City Council approved the purchase of the ERTL property for Open Space and Mountain Parks purposes at its Oct. 1, 2013 meeting and also approved, as part of the financial structure for the acquisition, entering into a Lease Purchase Agreement with the Boulder Municipal Property Authority (BMPA), a non-profit Colorado corporation owned by the City of Boulder. In order to complete the ERTL transaction, it is additionally necessary for the Board of Directors of BMPA to: 1) pass a Resolution which authorizes the issuance of the \$5,000,000 BMPA note and 2) authorize BMPA to enter into the Lease Purchase Agreement with the City.

STAFF RECOMMENDATION

Staff requests the Board of Directors of the Boulder Municipal Property Authority consideration of this matter and action in the form of the following motions:

1. Motion to approve Resolution #135 approving and authorizing the issuance of Boulder Municipal Property Authority Revenue Note Series 2013A in the aggregate principal amount of \$5,000,000.
2. Motion to approve and authorize a Lease Purchase Agreement for the purchase of 221 acres of land together with water rights located at 8323 Valmont Rd., Boulder, CO from Energy Resources Technology Land, Inc. for Open Space and Mountain Parks purposes.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Environmental: Open Space and Mountain Parks (OSMP) is a significant community-supported program that is recognized worldwide as a leader in preservation of open space lands contributing to the environmental sustainability goal of the City Council. The department's land acquisition, land and resource management and visitor service programs help preserve and protect the Open Space values of the surrounding publicly-owned lands.
- Economic: Open Space and Mountain Parks contributes to the economic vitality goal of the city as it provides the context for the diverse and vibrant economic system that sustains services for residents. The land system and the quality of life it represents attract visitors and help businesses to recruit and retain quality employees.
- Social: Because Open Space and Mountain Parks lands, facilities and programs are equally accessible to all members of the community, they help to support the city's community sustainability goal because all residents "who live in Boulder can feel a part of and thrive in" this aspect of their community.

OTHER IMPACTS

- Fiscal – The purchase price for the ERTL property interests being acquired is \$7,575,000 payable as follows: \$2,575,000 down payment at the time of closing (scheduled for Oct. 31, 2013) and the balance of the purchase price shall be paid by BMPA executing a note and deed of trust in the principal amount of \$5,000,000, with a 3.25 percent interest rate, payable over 10 years with yearly payments of \$593,655.37.
- Staff time – This acquisition is part of the normal work plan for the OSMP real estate property agents.

PUBLIC COMMENT AND PROCESS

At its July 10 and Sept. 11, 2013 meetings, the Open Space Board of Trustees (OSBT) unanimously recommended that City Council approve the purchase of the ERTL property. At its Oct. 1, 2013 meeting, the City Council unanimously approved the ERTL

purchase and authorized the Lease Purchase Agreement as part of the financial structure for this Open Space acquisition.

ANALYSIS

The ERTL acquisition was approved by City Council on Oct. 1, 2013, please refer to Agenda Item 5B from the Oct. 1, 2013 meeting for background information concerning this Open Space and Mountain Parks acquisition.

ATTACHMENTS:

A. Resolution #135

RESOLUTION NO. 135

A RESOLUTION OF THE BOULDER MUNICIPAL PROPERTY AUTHORITY AUTHORIZING THE ISSUANCE OF A NOTE IN THE AGGREGATE PRINCIPAL AMOUNT OF \$5,000,000.00; AUTHORIZING THE EXECUTION AND DELIVERY OF SAID NOTE, A LEASE PURCHASE AGREEMENT WITH THE CITY OF BOULDER, COLORADO, AND A DEED OF TRUST FOR THE BENEFIT OF THE REGISTERED OWNER OF THE NOTE, AND AUTHORIZING CERTAIN OTHER TRANSACTIONS IN CONNECTION THEREWITH.

THE BOULDER MUNICIPAL PROPERTY AUTHORITY

WHEREAS, the City of Boulder, Colorado (the "City"), is a municipality and a political subdivision, duly organized and existing under and by virtue of the Constitution and laws of the State of Colorado and the home rule charter of the City; and

WHEREAS, the City has previously authorized and directed the creation of The Boulder Municipal Property Authority (the "Authority") as a non-profit corporation under the Colorado Non-profit Corporation Act, Articles 20 through 29, Title 7, Colorado Revised Statutes (the "Act"), pursuant to the provisions of an ordinance duly adopted by the City Council of the City; and

WHEREAS, under the Articles of Incorporation of the Authority (the "Articles"), the objects and purposes for which the Authority has been founded and incorporated are: (i) to purchase, lease or otherwise acquire real estate, and to construct, install or acquire and place thereon any and all public improvements, or to maintain such real estate as open space, and to purchase, lease or otherwise acquire personal property of any kind, all for the use and benefit of the City, and to lease, convey, donate, sell, transfer or otherwise make available such real estate improvements, if any, and personal property to the City; (ii) to operate, maintain, repair, and improve or to cause to be operated, maintained, repaired, and improved any and all real property and improvements, if any, as well as personal property acquired, constructed or installed by the Authority; (iii) upon the prior approval of a majority of the membership of the City Council of the City, by ordinance or resolution duly adopted, to borrow money and become indebted, and to execute and deliver bonds, notes, debentures, or other evidences of indebtedness for the purpose of acquiring such real or personal property, constructing, installing, and acquiring such improvements, if any, or maintaining any such real property as open space, and for such other purpose or purposes as may be necessary to accomplish the objectives of the Authority, such indebtedness to be either unsecured or secured by any mortgage, trust deed, or other lien upon the property to be acquired, or any other rights or interests of the Authority; and (iv) to conduct the business of the Authority

in such manner so that the real and personal property and improvements thereon shall benefit the City; and

WHEREAS, the Authority is possessed under the Articles of all powers set forth in the Act, the Constitution, and other laws of the State of Colorado; and

WHEREAS, Energy Resources Technology Land, Inc. a Colorado Corporation, the Seller, is the owner in fee simple of certain real property described in Exhibit A hereto (the "Property"); and

WHEREAS, a certain Lease Purchase Revenue Note, Series 2013A (the "Note") is to be issued by the Authority in the aggregate principal amount of \$5,000,000.00, and the proceeds thereof are to be used by the Authority for the purpose of acquiring the Property; and

WHEREAS, it is proposed that the Authority and the City enter into a Lease Purchase Agreement (the "Agreement") pursuant to which the Authority will lease that portion of the Property described in Exhibit A thereto (the "Leased Property") to the City, subject to the City's appropriation of monies each year from the fund indicated therein; and

WHEREAS, the Authority will cause to be executed a Deed of Trust (the "Deed of Trust") to the Public Trustee of Boulder County, Colorado, for the benefit of the party designated therein, relating to the Leased Property; and

WHEREAS, the proposed forms of the Note, the Agreement and the Deed of Trust have been presented before the Board of Directors of the Authority at this meeting; and

WHEREAS, the City Council has authorized and approved the issuance of the Note by the Authority for the purpose described herein and has authorized the execution and delivery of the Agreement by the City; and

WHEREAS, the Board of Directors of the Authority is desirous of authorizing the issuance of the Note in substantially the form presented at this meeting, and the execution and delivery by the Authority of the Note, the Agreement and the Deed of Trust, all in substantially the forms presented at this meeting, and is further desirous of authorizing and approving the participation by the Authority in such other transactions as are contemplated hereby and thereby, all in accordance with provisions of the Articles.

NOW, THEREFORE, be it resolved by the Board of Directors of The Boulder Municipal Property Authority as follows:

1. Approval of Prior Action. All action heretofore taken (not inconsistent with the provisions of this Resolution) by the Board of Directors of the Authority toward the creation and establishment of the Authority and the accomplishment of the transactions herein authorized are hereby ratified, approved, and confirmed.

2. The Agreement. The proposed Agreement, in substantially the form presented at this meeting, is in all respects approved, authorized, and confirmed, and the President of the Authority is authorized to execute and deliver the Agreement on behalf of the Authority, and the Secretary-Treasurer of the Authority is authorized to attest and affix the seal of the Authority to the same.
3. The Deed of Trust. The proposed Deed of Trust, in substantially the form presented at this meeting, is in all respects approved, authorized, and confirmed, and the President of the Authority is authorized to execute and deliver the Deed of Trust on behalf of the Authority, and the Secretary-Treasurer of the Authority is authorized to attest and affix the seal of the Authority to the same.
4. Issuance of the Note. The Authority shall issue the Note pursuant to this Resolution in the aggregate principal amount of \$5,000,000.00 and such issuance is, in all respects, hereby approved, authorized, and confirmed by the Authority. The Note shall be issued solely in fully registered form without coupons and shall be in substantially the form set forth in Exhibit B hereto, with such changes as shall not be inconsistent herewith. The terms and provisions of the Note, including, but not limited to, maturities, interest rates, denominations, and the provisions for the signatures, payment, registration, transfer, and number are set forth in Exhibit C hereto. Exhibits A, B, and C are hereby incorporated by reference into this Resolution.
5. Delivery of the Note. The President of the Authority is hereby authorized and directed to execute and deliver to Seller, or its written designee or assignee, the Note upon transfer of title of the Property to the Authority.
6. Other Action. The President, the Secretary-Treasurer and other appropriate officers of the Authority are hereby authorized and directed to take all other action necessary or reasonably required by the terms of the Note, the Agreement and the Deed of Trust to carry out, give effect to, and consummate the transactions contemplated thereby.
7. No Indebtedness of the City. No provision of this Resolution nor of the Agreement, the Deed of Trust, the Note or any other instrument shall be construed as creating an indebtedness or obligation on the part of the City to pay the principal of or interest on the Note. The City shall have no power to pay out of its funds, revenues, or accounts, or otherwise contribute any part of the cost of acquiring the Property or of making any payment in respect to the Note.
8. Security for Note. The Note and all obligations of the Authority under this Resolution, the Agreement and the Deed of Trust constitute special, limited revenue obligations of the Authority, payable solely from rental payments made by the City under the Agreement and from the net proceeds, if any, of foreclosure and sale of the Leased Property pursuant to the Deed of Trust. All payment obligations of the City under the Agreement, including, without limitation, the obligation of the City to pay rentals, are from year to year only, are subject to the appropriation in each year by the City Council

of monies from the City's Open Space and Street Fund maintained under Section 3-2-39, Boulder Revised Code 1981, sufficient to make said payments, and do not constitute a mandatory payment obligation of the City in any fiscal year beyond a fiscal year in which the Agreement shall, by its terms, be in effect. The Agreement is subject to annual renewal at the option of the City and will be terminated upon the occurrence of an event of nonappropriation. In such event, all payments from the City under the Agreement will terminate, and the Note and the interest thereon shall be payable only from monies made available, if any, from foreclosure on the Leased Property pursuant to the Deed of Trust.

9. Covenants Concerning Tax Exemption of Interest on the Note. The Authority covenants that it shall not use or permit the use of any proceeds of the Note or any other funds of the Authority from whatever source derived, directly or indirectly, to acquire any securities or obligations and shall not take or permit to be taken any other action or actions which would cause the Note to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), or would otherwise cause the interest on the Note to be includable in gross income for federal income tax purposes. The Authority covenants that it shall at all times do and perform all acts and things permitted by law and which are necessary or desirable in order to assure that interest paid by the Authority on the Note shall, for purposes of federal income taxation, not be includable in gross income under the Code or any other valid provision of law.

In particular, but without limitation, the Authority further represents, warrants, and covenants to comply with the following restrictions of the Code, unless it receives an opinion of nationally recognized bond counsel stating that such compliance is not necessary:

- (a) Gross proceeds of the Note will not be used in a manner which will cause the Note to be considered a "private activity bond" within the meaning of the Code.
 - (b) The Note is not and shall not become directly or indirectly "federally guaranteed."
 - (c) The Authority shall timely file Internal Revenue Form 8038-G which shall contain the information required to be filed pursuant to Section 149(e) of the Code.
10. The Authority hereby establishes "The Boulder Municipal Property Authority, Series 2013A Rebate Fund" (the "Rebate Fund"), which shall be expended in accordance with the provisions hereof. The Authority expects to expend all Note proceeds as of the date the Note is issued and expects to have no other gross proceeds of the Note other than monies which may be held in a bona fide debt service fund, which will be spent in its entirety within 12 months of receipt. To the extent that the Authority does receive gross proceeds of the Note, the Authority shall employ, at its expense, a person or firm with recognized expertise in the area of rebate calculation, to make required rebate calculations, and the Authority will pay all rebate amounts necessary to maintain the

exclusion on interest on the Note from gross income for federal and State of Colorado income tax purposes.

Records of any of the determinations required by this Section shall be retained by the Authority until six (6) years after the final retirement of the Note to the extent required by the Code.

Not later than sixty (60) days after the end of the fifth anniversary of the date of issuance of the Note and every five (5) years thereafter, the Authority shall pay to the United States of America ninety percent (90%) of the amount required to be on deposit in the Rebate Fund (if any) as of such payment date. Not later than sixty (60) days after the final retirement of the Note, the Authority shall pay to the United States of America one hundred percent (100%) of the balance remaining in the Rebate Fund. Each payment required to be paid to the United States of America pursuant to this Section shall be filed with the Internal Revenue Service Center, Philadelphia, PA 19255. Each payment shall be accompanied by a copy of the Internal Revenue Form 8038-G originally filed with respect to the Note.

11. Amendments to Documents by Authority. The President of the Authority is hereby authorized to make any alterations, changes, or additions in the Agreement or the Deed of Trust which may be necessary to correct errors or omissions therein, to remove ambiguities therefrom, to conform the same to other provisions of said instruments to the provisions of this Resolution, any future resolution adopted by the Authority, or the provisions of the laws of the State of Colorado or the United States.
12. Appointment of Paying Agent. The Authority hereby appoints US Bank National Association, 180 E. 5th Street, St. Paul, MN 55101 as paying agent for the Note (the "Paying Agent"). The President of the Authority is hereby authorized to enter into a paying agency agreement with the Paying Agent in a form acceptable to the President of the Authority.
13. Severability. If any provision of this Resolution (including any Exhibits attached hereto) should be held invalid, the invalidity of such provisions shall not affect any of the other provisions of this Resolution or any Exhibits.
14. Other Actions by Authority. The Secretary-Treasurer of the Authority is hereby authorized and directed to attest to all signatures and acts of any proper officer of the Authority, and to place the seal of the Authority on the Agreement, the Deed of Trust and any other documents authorized, necessary, or proper to carry out the purposes of this Resolution. The appropriate officers of the Authority, and each of them, are hereby authorized to execute and deliver for and on behalf of the Authority any or all additional certificates, documents, and other papers, and to perform all other acts they may deem necessary or appropriate in order to implement and carry out the matters authorized in this Resolution and any future resolution of the Authority.

15. Immediate Effect. The resolution shall take effect immediately upon its passage.

RESOLUTION ADOPTED AND APPROVED this October 29, 2013.

[SEAL]

President
The Boulder Municipal Property Authority
a Colorado non-profit corporation

ATTEST:

Secretary-Treasurer
The Boulder Municipal Property Authority
a Colorado non-profit corporation

EXHIBIT A to Resolution # 135

LEGAL DESCRIPTION

Outlots: N, ERTL Farm N.U.P.U.D., and Revised Outlot Q1, Replat A ERTL Farm N.U.P.U.D. and the following water rights: 13.0 shares of Jones & Donnelly, 8.0 shares of Green Ditch, .22 shares of Cottonwood No. 2, 6.75 shares of Butte Mill, and 19.5 shares of Andrews-Farwell.

EXHIBIT B

FORM OF NOTE

THIS NOTE HAS BEEN PRIVATELY PLACED BY THE BOULDER MUNICIPAL PROPERTY AUTHORITY; ANY REGISTERED OWNER HEREOF, INCLUDING ANY TRANSFEREE, IS RESPONSIBLE FOR MAKING ITS OWN INVESTMENT DECISION, AND ANY SUCH REGISTERED OWNER IS NOT ENTITLED TO RELY ON THE AUTHORITY OR THE CITY OF BOULDER, COLORADO, FOR PURPOSES OF DISCLOSURE WITH RESPECT TO SAID REGISTERED OWNER'S DECISION IN PURCHASING THIS NOTE. BY ITS OWNERSHIP OF THIS NOTE, THE REGISTERED OWNER HEREOF ACCEPTS THE FOREGOING PROVISIONS.

Lease Purchase Revenue Note, Series 2013A

For value received, The Boulder Municipal Property Authority (the "Authority") promises to pay to Energy Resources Technology Land, Inc. a Colorado Corporation, in the manner and only from the sources hereinafter provided, the principal sum of \$5,000,000.00, together with interest on unpaid principal from the date hereof until paid, at the rate of 3.25% per annum, said principal and interest to be payable pursuant to the following schedule, provided however, that should any payment date set forth in the Payment Schedule below not be a business day on which the Authority's Paying Agent, which shall initially be U.S. Bank National Association (the "Paying Agent"), shall be open for business, then such payment shall be made on the succeeding business day that the Paying Agent is open for business, (said schedule to be conclusive with respect to the interest payments hereon notwithstanding the foregoing provisions of this Note):

PAYMENT SCHEDULE

<u>October 31</u> <u>Year</u>	<u>Principal</u> <u>Payment</u>	<u>Interest</u> <u>Payment</u>	<u>Total</u> <u>Payment</u>
2014	431,155.37	162,500.00	593,655.37
2015	445,167.91	148,487.46	593,655.37
2016	459,635.87	134,019.50	593,655.37
2017	474,574.04	119,081.33	593,655.37
2018	489,997.69	103,657.68	593,655.37
2019	505,922.62	87,732.75	593,655.37
2020	522,365.10	71,290.27	593,655.37
2021	539,341.97	54,313.40	593,655.37
2022	556,870.58	36,784.79	593,655.37
2023	574,968.88	18,686.49	593,655.37

The principal of and interest on this Note are payable in lawful monies of the United States of America without deduction for collection charges. The principal of and interest on this Note are

payable to the registered owner hereof by wire transfer according to the instructions provided by the person in whose name the Note is registered on the registration books of the Authority or the Paying Agent as the case may be, at the close of business on the third (3rd) day preceding such principal and interest payment date, whether or not a business day (the "Record Date"); provided, however, that the final payment of the principal of and interest hereon shall be made solely upon presentation and surrender of this Note at the office of the Authority, 1777 Broadway, Boulder, Colorado 80302.

If the wiring instructions for the registered owner change during the course of the payment of this Note, it is the responsibility of the registered owner hereof to notify the Paying Agent and provide the Paying Agent with new wiring instructions. If such wire transfer is rejected, the Paying Agent shall hold such payment (without accruing additional interest) until it has been provided with new wire instructions from the registered owner hereof. If, due to the registered owners failure to provide the Paying Agent with proper wiring instructions, payment is received by a party other than the registered owner hereof, neither the Authority nor the Paying Agent shall be held responsible for such payment(s) to the registered owner hereof.

This Note is a note of the Authority denominated as "Lease Purchase Revenue Note, Series 2013A" issued in the aggregate principal amount of \$5,000,000.00 (the "Note"). As provided in the resolution of the Authority authorizing this Note (the "Resolution"), this Note is issuable solely in the form of one fully registered note without coupons and in the denomination of \$5,000,000.00. This Note is issued to acquire certain open space property (the "Property"), to be leased to the City of Boulder, Colorado (the "City"). The Property so leased (the "Leased Property") shall be leased pursuant to a Lease Purchase Agreement (the "Agreement") October 31, 2013.

This Note may be prepaid by the Authority at any time without penalty.

The Authority may deem and treat the registered owner of this Note as the absolute owner hereof for all purposes (whether or not this Note shall be overdue), and any notice to the contrary shall not be binding upon the Authority.

This Note is transferable by the registered owner hereof in person or by his attorney, duly authorized in writing, at the principal office of the Paying Agent designated above, but only in the manner, subject to the limitations and upon payment of the charges, provided in the Resolution. This Note may be transferred upon the registration books by delivery of this Note to the Paying Agent together with a written instrument or instruments of transfer in form and with guarantee of signature satisfactory to the Paying Agent, duly executed by the registered owner of this Note or his or her attorney-in-fact or legal representative, containing written instructions as to the details of the transfer of the Note, along with the social security number or federal employer identification number of such transferee and wire instructions, if applicable, for principal and interest payments on the Note to such transferee executed by the transferee. In the event of the transfer of this Note, the Paying Agent shall enter the transfer of ownership in the registration books. The Authority and the Paying Agent shall charge the registered owner of this Note for every such transfer an amount sufficient to reimburse the Authority and the Paying Agent for his reasonable fees and for any tax or other governmental charge required to be paid

with respect to such transfer. The Authority may replace a lost, stolen or destroyed Note upon receiving indemnity satisfactory to the Authority from the registered owner thereof.

EXCEPT TO THE EXTENT PAYABLE FROM NET PROCEEDS OF FORECLOSURE AND SALE OF THE LEASED PROPERTY PURSUANT TO A DEED OF TRUST DATED OCTOBER 31, 2013 (THE "DEED OF TRUST") FROM THE AUTHORITY TO THE PUBLIC TRUSTEE OF BOULDER COUNTY, COLORADO, FOR THE BENEFIT OF THE REGISTERED OWNER HEREOF, THIS NOTE SHALL BE PAYABLE SOLELY FROM RENTALS TO BE PAID BY THE CITY UNDER THE AGREEMENT. ALL PAYMENT OBLIGATIONS OF THE CITY UNDER THE AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE OBLIGATION OF THE CITY TO PAY RENTALS, SHALL ONLY BE MADE FROM THE CITY'S OPEN SPACE AND STREET FUND MAINTAINED UNDER SECTION 3-2-39, BOULDER REVISED CODE 1981, ARE FROM YEAR TO YEAR ONLY, AND DO NOT CONSTITUTE A MANDATORY PAYMENT OBLIGATION OF THE CITY IN ANY FISCAL YEAR BEYOND A FISCAL YEAR IN WHICH THE AGREEMENT SHALL THEN BE IN EFFECT. THE AGREEMENT IS SUBJECT TO ANNUAL RENEWAL AT THE OPTION OF THE CITY AND SHALL BE TERMINATED UPON THE OCCURRENCE OF AN EVENT OF NONAPPROPRIATION. IN SUCH EVENT, ALL PAYMENTS FROM THE CITY UNDER THE AGREEMENT SHALL TERMINATE, AND THIS NOTE AND THE INTEREST HEREON SHALL BE PAYABLE SOLELY FROM MONIES AVAILABLE, IF ANY, FROM FORECLOSURE ON THE LEASED PROPERTY PURSUANT TO THE DEED OF TRUST.

None of the Agreement, this Note or the Deed of Trust constitute a general obligation or other indebtedness of the City within the meaning of any constitutional, statutory, or home rule charter debt provision or limitation. None of the Agreement, this Note or the Deed of Trust of the Authority have directly or indirectly obligated the City to make any payments beyond those appropriated for any fiscal year in which the Agreement shall then be in effect.

The obligations of the Authority under the Resolution and the Deed of Trust shall be discharged as and to the extent provided in the Resolution upon deposit of cash and/or United States government securities with an escrow agent, in which case the registered owner of this Note shall promptly release the lien of the Deed of Trust and shall be secured solely as provided in the Resolution.

Upon receiving written notice of a default from the registered owner hereof, the Authority shall have 30 days to cure such default, whereupon if such default is not cured, then the entire principal amount hereof, together with interest hereon, shall, at the election of the registered owner hereof, become due and payable, but only from the sources hereinabove described. Failure to exercise this election or any other remedies upon a default shall not constitute a waiver of that right in the event of a subsequent or continuing default.

The rights or remedies of the registered owner hereof as provided in this Note and the Deed of Trust shall be cumulative and concurrent and may be pursued singly, successively, or together against the Leased Property at the sole discretion of the registered owner hereof. The failure to

exercise any such right or remedy shall in no event be construed as a waiver or release of said rights or remedies, or of the rights to exercise them at any later time.

This Note may not be amended, modified, or changed, nor shall any waiver of any provision hereof be effective, except by an instrument in writing and signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought.

It is hereby certified and recited that all the requirements of law have been fully complied with by the proper Authority officers in the issuance of this Note, and that this Note was duly and lawfully authorized by the Resolution duly adopted and approved by the Board of Directors of the Authority prior to the issuance hereof.

The registered owner of this Note, by acceptance hereof, acknowledges and agrees to be bound by all provisions of the Resolution relating hereto.

This Note shall not be entitled to any benefit under the Resolution, or become valid or obligatory for any purpose until the Paying Agent, as registrar, shall have signed the certificate of authentication hereon.

IN WITNESS WHEREOF, the Board of Directors of the Authority has caused this Note to be executed with the signature of the President of the Authority and attested by the signature of its Secretary-Treasurer and has caused the seal of the Authority to be impressed or imprinted hereon.

Date: October 31, 2013

[SEAL]

THE BOULDER MUNICIPAL PROPERTY
AUTHORITY, a Colorado non-profit corporation

By: _____
President

ATTEST:

By: _____
Secretary-Treasurer

CERTIFICATE OF AUTHENTICATION

This Note is described in the within mentioned Resolution of the Authority.

Date of Authentication: _____

US Bank National Association, as Registrar

By: _____
Authorized Officer

FORM OF ASSIGNMENT OF NOTE

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto _____

(please print or type name and address of transferee) (Tax Identification or Social Security No. _____)

and hereby irrevocably constitutes and appoints _____

attorney to transfer the within Note on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature

Assignor must attach notarized acknowledgment.

Signature must be guaranteed by a member of a Medallion Signature Program.

NOTE: PLEASE RETURN ORIGINAL NOTE WITH THIS ASSIGNMENT. The signature on this assignment must correspond with the name as it appears on the face of this original note.

EXHIBIT C

NOTE TERMS

The Note shall be issued in the aggregate principal amount of \$5,000,000.00 and shall be known as "Lease Purchase Revenue Note, Series 2013A". The Note shall be issued as one fully registered Note in the denomination of \$5,000,000.00.

The Note shall be dated October 31, 2013, and shall bear interest on unpaid principal from its date payable on each October 31st, commencing October 31, 2014, until maturity or prior payment. The Note shall be numbered R-1. The Note shall bear interest on the unpaid principal thereof from its date at a rate of 3.25 % per annum. The Note shall mature as to principal in the amounts and on October 31st of the years, as follows:

R-1

<u>October 31st</u> <u>Maturity</u>	<u>Principal</u> <u>Amount</u>
2014	431,155.37
2015	445,167.91
2016	459,635.87
2017	474,574.04
2018	489,997.69
2019	505,922.62
2020	522,365.10
2021	539,341.97
2022	556,870.58
2023	574,968.88

The interest on the Note payable on each October 31st, based on the interest rate provided above, shall be as follows (which schedule shall take precedence over the interest rate set forth above in the case of any conflict in the determination of the interest payable on any date):

<u>Year</u>	<u>Interest</u> <u>Payable</u>
2014	162,500.00
2015	148,487.46
2016	134,019.50
2017	119,081.33
2018	103,657.68
2019	87,732.75
2020	71,290.27
2021	54,313.40
2022	36,784.79
2023	18,686.49

The principal of and interest on the Note shall be payable in lawful money of the United States of America to the registered owner thereof, without deduction for collection charges, by wire

transfer according to the instructions provided by the person in whose name the Note is registered, or, if requested by the Authority, by wire transfer according to the instructions provided by the person in whose name the Note is registered on the registration books of the Paying Agent at the close of business on the Record Date; provided however, that the last payment of principal and interest shall be made only upon presentation and surrender thereof at the office of the Authority, 1777 Broadway, Boulder, Colorado 80302. Record Date shall mean the day preceding each interest payment date, whether or not a business day.

The Note shall be executed in the name of the Authority, shall be signed by the manual signature of the President of the Authority, shall be imprinted or impressed with the seal of the Authority, and shall be attested by the manual signature of the Secretary-Treasurer of the Authority.

The authentication certificate upon the Note shall be substantially in the form and tenor provided in the form of the Note. No Note shall be secured or entitled to the benefit of this Resolution, or shall be valid or obligatory for any purpose, unless the certificate of authentication, substantially in such form, has been duly executed by the Paying Agent, as registrar; and such certificate of the Paying Agent upon any Note shall be conclusive evidence and the only competent evidence that such Note has been authenticated and delivered under this Resolution. The certificate of authentication shall be deemed to have been duly executed if manually signed by an authorized signatory of the Paying Agent, but it shall not be necessary that the same authorized signatory sign the certificate of authentication on all of the Notes issued under this Resolution.

The Note may be prepaid by the Authority at any time without penalty.

The Note may be transferred upon the registration books upon delivery of the Note to the Paying Agent, accompanied by a written instrument or instruments of transfer in form and with guarantee of signature satisfactory to the Authority, duly executed by the owner of the Note to be transferred or his attorney-in-fact or legal representatives, containing written instructions as to the details of the transfer of such Note, along with the social security number or federal employer identification number of such transferee and wire instructions for principal and interest payments on the Note to such transferee executed by the transferee. No transfer of any Note shall be effective until entered on the registration books. The Authority and the Paying Agent may replace a lost, stolen or destroyed Note upon receiving indemnity satisfactory to the Authority and the Paying Agent from the registered owner thereof.

In the event of the transfer of a Note, the Paying Agent shall enter the transfer of ownership in the registration books and of the same denomination, maturities, and interest rates for the aggregate principal amount which the registered owner is entitled to receive at the earliest practicable time in accordance with the provisions of this Resolution. The Authority and the Paying Agent shall charge the registered owner of such Note for every such transfer of the Note an amount sufficient to reimburse the Authority and the Paying Agent for his reasonable fees and for any tax or other governmental charge required to be paid with respect to such transfer.

The Authority and the Paying Agent may deem and treat the registered owner of any Note as the absolute owner thereof for all purposes (whether or not such Note shall be overdue), and any notice to the contrary shall not be binding upon the Authority or the Paying Agent.

If the Authority shall irrevocably deposit with a banking institution of its choice, constituting an escrow agent for the benefit of the note holders, sufficient cash, or cash and/or direct noncallable obligations of the United States of America, to pay the principal of and interest on the Note, as the same become due, and shall furnish the registered owners of the Note with an opinion of nationally recognized bond counsel to the effect that said deposit will not adversely affect the exclusion of interest on the Note from gross income of the owner thereof, then the Note shall no longer be deemed outstanding, and the Deed of Trust and this Resolution shall be satisfied and discharged, and the only remaining obligations of the Authority with respect to the Note shall be to make the payments of principal and interest thereon when due, and, so long as the escrow shall remain in effect, to comply with the provisions of this Resolution concerning transfer and registration of the Note and Section 9 of this Resolution. In determining the sufficiency of the escrow, the Authority shall be entitled to consider as available the interest earnings to be received with respect to such direct obligations of the United States of America.

This item will
be provided
prior to the
Council
Meeting



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: October 29, 2013

AGENDA TITLE:

Second reading and consideration of three emergency **ordinances** all to implement and comply with the requirements of Amendment 64 to the Colorado State Constitution as follows:

1. Ordinance No. 7929 amending Section 6-14, "Medical Marijuana," B.R.C. 1981;
2. Ordinance No. 7930 adding a new Chapter 6-16, "Recreational Marijuana," and a new Section 4-20-67, "Recreational Marijuana Businesses," B.R.C. 1981; and
3. Ordinance No. 7931 amending Section 5-10, "Marijuana Offenses," B.R.C. 1981.

PRESENTERS:

Jane S. Brautigam, City Manager
Tom Carr, City Attorney
Kathy Haddock, Senior Assistant City Attorney
Mishawn Cook, Tax and License Manager
Beverley Bookout, Police Officer
Dale Goetz, Building Code Compliance Specialist
Jeff Kessler, Police Sergeant
Mike Whitney, Assistant City Attorney

EXECUTIVE SUMMARY:

This agenda item is intended to address the regulation of recreational marijuana in Boulder under the authority of Amendment 64 to the Colorado State Constitution. These matters were originally set for second reading on September 17, 2013 and due to the flood rescheduled and heard on October 22, 2013. On October 22, council addressed a series of issues that members had previously identified as areas of concern. These issues were:

1. Whether the requirement for a 1000 foot separation from day cares, schools and universities should apply to existing businesses.
2. Whether alcohol and drug treatment facilities should be included in the separation criteria.
3. Whether there should be a 1,000 plant limit for new recreational marijuana cultivation facilities.
4. Whether the city should allow co-location with physical separation of recreational and medical marijuana facilities with the same owner holding separate licenses.
5. If so, whether the city should treat co-located marijuana businesses as one business for purposes of the density limitation of no more than 3 marijuana businesses within 500 foot.
6. Whether the city should adopt the staff's proposed schedule for processing pending medical marijuana applications, applications for conversion of all or part of an open and existing medical marijuana business for recreational marijuana, and acceptance of applications for new medical marijuana and recreational marijuana businesses.

Council discussed each of these questions and directed staff to present to council on October 29, 2013 a new ordinance incorporating council's changes. The council meeting on October 22, 2013 ended at 11:25 p.m. To be available to the public by the close of business on Thursday October 24, the ordinance would have to have been completed by 12 noon on October 23, 2013. Accordingly, council gave staff leave to submit this memorandum and publish the ordinance on the "Hotline" as soon as possible. Council's changes are summarized below. Council did not approve any of the three ordinances on second reading. Accordingly, the October 29, 2013 meeting will be considered a continuation of the second reading on all three proposed ordinances. No changes were requested to Ordinance No. 7931 that was contained in the second reading packet.

STAFF RECOMMENDATION:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to approve three emergency ordinances as follows: Emergency Ordinance No. 7929 amending Section 6-14, "Medical Marijuana," B.R.C. 1981; Emergency Ordinance No. 7930 adding a new Chapter 6-16, "Recreational Marijuana," and a new Section 4-20-67, "Recreational Marijuana Businesses," B.R.C. 1981, and Emergency Ordinance No. 7931 amending Section 5-10 "Marijuana Offenses," B.R.C. 1981, all to implement and comply with the requirements of Amendment 64 to the Colorado State Constitution.

FIRST AND SECOND READING AGENDA MEMORANDA:

The first reading agenda memo is located in the September 3, 2013 council meeting packet - <https://documents.bouldercolorado.gov/weblink8/0/doc/123525/Electronic.aspx>.

The second reading agenda memo is located in the October 22, 2013 council meeting packet – (Laurel, can you fill this in?)

PUBLIC FEEDBACK AND REQUESTS:

The public feedback is summarized in the first and second reading agenda memoranda. On October 22, 2013, the council held a public hearing at which approximately 30 persons testified.

Council Response to Staff Questions:

Question: Whether a 1000 foot separation requirement between marijuana businesses and day cares, schools and universities should apply to existing businesses.

Council direction: Council directed staff not to apply the 1000 foot separation requirement to existing medical marijuana businesses that convert to recreational marijuana businesses. The limit would apply to new businesses or to existing businesses that are sold to a new owner or relocated. Council directed that “existing medical marijuana businesses” be defined to include only businesses licensed and operating as of October 22, 2013. This is a change from staff’s proposal which was to define such businesses as those with applications pending as of October 1, 2013. The 1,000 foot separation requirement would apply only to retail businesses and not cultivation facilities or marijuana infused products businesses. The current 500 foot separation requirement would continue to apply to cultivation facilities or marijuana infused products businesses.

Question: Whether alcohol and drug treatment facilities should be included in the separation criteria.

Council direction: Alcohol and drug treatment facilities would be included as separation criteria, but only with respect to new businesses.

Question: Whether there should be a 1,000 plant limit for new recreational marijuana cultivation facilities.

Answer: Council rejected the 1,000 plant limit proposed by staff. Council recognized that under the proposed ordinance, cultivation facilities would be allowed only in light industrial zones, which limits the size to 15,000 square feet. Council was unable to agree upon any other limitation and directed staff to research and propose alternatives to the proposed 1000 plant limit.

Question: Whether the city should allow co-location of recreational and medical marijuana facilities with the same owner, physical separation and separate licenses.

Answer: Yes, provided that such separated businesses can meet all city requirements, including all building and zoning codes, allow for separation into two businesses within the same footprint of the existing and operating medical marijuana business.

Question: If so, whether the city should treat co-located marijuana businesses as one business for purposes of the limitation of no more than 3 marijuana businesses within 500 feet.

Answer: Only existing medical marijuana businesses, co-locating within the same footprint, and with a commonly owned new recreational marijuana business will be considered one business for the purposes of the 500 foot separation requirement. New recreational marijuana businesses

may co-locate with a medical marijuana facility, but those businesses will be counted as two businesses.

Question: Whether the city should adopt the staff’s proposed schedule for processing pending medical marijuana applications, abatement of acceptance of new medical marijuana business applications, acceptance of conversion applications, and acceptance of applications for new businesses.

Answer: Council would prefer a more aggressive schedule for accepting applications for conversion and new recreational marijuana business licenses. Council directed staff to accept conversion applications only from businesses that do not require a background check and commit to not changing any owners, financiers or business managers until the city actually receives background check information from the state. That is, businesses whose ownership and management for the recreational marijuana business would not differ from that for the currently approved medical marijuana business at the time of application or until approximately June 2014. This restriction is necessary, because current state law does not allow the city to obtain criminal history information from the Colorado Bureau of Investigation. There is an expectation that this limitation may be removed in the next legislative session. This is why staff proposed that the city begin accepting recreational marijuana licenses on June 1, 2014.

Council asked staff to propose a new schedule for completing the processing of existing medical marijuana licenses, preparing to accept recreational marijuana applications and accepting recreational marijuana licenses including a restriction limiting recreational marijuana applications to existing medical marijuana businesses with no changes in ownership or management. Council acknowledged that this more immediate schedule would require abatement of acceptance of new medical marijuana applications earlier and may create increased staffing needs that would impact current budget projections. The following chart shows the original proposed schedule and the new proposed schedule

Date	Original Proposed Schedule	New Proposed Schedule
Stop accepting new MMB applications	March 1, 2014	November 1, 2013
Abate processing of MMB applications	None	November 1, 2013
Begin accepting conversion of new RMB applications	June 1, 2014	January 1, 2014
Begin accepting new MMB applications	October 1, 2014	June 1, 2014
Begin accepting new RMB applications	October 1, 2014	June 1, 2104

This is necessarily a very aggressive schedule. It would disadvantage the applicants with medical marijuana business licenses pending whose licenses would not be processed while the city was accepting conversion applications. It would, however, allow the city to begin accepting applications for conversion of existing businesses on January 1, 2014.

In addition to these changes, council directed staff to make additional changes regarding advertising, renewable energy requirements and address some clean-up issues regarding where minors could be in any marijuana businesses and that the public possession of recreational marijuana in the ordinances is consistent with the constitutional amendments. Finally, there was some conversation about whether licensing could occur at all if the marijuana excise and sales tax fail to pass. Council did not vote on this issue, so no such provision is included in the new proposed ordinance. Nevertheless, staff recommends that the ordinance include language stating that the ordinances are subject to change depending on the results of the elections. Such language would not bind the next council, but could serve to protect the city against a claim by a business that makes an investment relying on a provision enacted before the election, but changed after.

Advertising. Council directed staff to draft language prohibiting giveaways or specials by marijuana businesses, and language eliminating electronic signs.

Renewable Energy Requirements. Council directed staff to amend both the medical marijuana ordinance and the recreational marijuana ordinance to require all marijuana businesses to meet the renewable energy requirements currently imposed only on cultivation facilities. Existing businesses would be required to meet these standards by the time of the next renewal.

**Proposed Ordinances will be provided at the City Council meeting.



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: OCTOBER 29, 2013

AGENDA TITLE: Second reading and consideration of a motion to adopt ordinance No. 7941 creating a pilot project allowing electric assisted bicycles on certain hard surfaced multi-use paths by amending Definitions in Sections 1-2-1- and 7-1-1 and amending Sections 7-4-16, 7-5-5 and 7-5-9 and adding Section 7-5-26 authorizing electric assisted bicycles where permitted by rule adopted by the City Manager, establishing a sunset date of December 31, 2014.

PRESENTER/S

Jane S. Brautigam, City Manager
Tom Carr, City Attorney
Paul J. Fetherston, Deputy City Manager
Bob Eichem, Chief Financial Officer
Maureen Rait, Executive Director of Public Works
Tracy Winfree, Director of Public Works for Transportation
Michael Gardner-Sweeney, Transportation Planning and Operations Coordinator
Kathleen Bracke, GO Boulder Program Manager
Jeff Haley, Parks Planner, Parks and Recreation Department
Dean Paschall, Communication & Public Process Manager, Open Space and Mountain Parks
Carey Weinheimer, Traffic Commander, Boulder Police Department
Molly Winter, Executive Director of Downtown, University Hill and Parking Services
Marni Ratzel, Senior Transportation Planner

EXECUTIVE SUMMARY

As part of the city's Transportation Master Plan (TMP) update, the Transportation Division is introducing a "Complete Streets Bike and Pedestrian Living Laboratory" to test innovative treatments and programs to see if they are appropriate for Boulder. An ordinance to authorize use of electric assisted bicycles (E-bikes) on hard-surface multi-

use paths is being proposed to evaluate behavior of e-bike users and determine whether these vehicles can co-exist with current users on multi-use paths.

The proposed ordinance is included as **Attachment A**. It enables the City Manager, under rulemaking authority, to regulate the hard-surface paths where a person may activate the motor of an e-bike and establishes a sunset date of Dec. 31, 2014. During the pilot project the definition of a motorized vehicle will be amended to exclude an e-bike. The ordinance also will amend the definition of an e-bike to conform to state law. The pilot project duration allows for data collection, evaluation, community input, and quarterly updates to the City Council on the pilot findings.

The pilot would not include use on facilities that are pedestrian-only or intended to preserve the natural environment. Specifically, the proposed ordinance states that e-bike use would continue to be prohibited on sidewalks and the soft-surface trails in the Open Space and Mountain Park (OSMP) system surrounding Boulder. The pilot would be focused in the urban service area where there is a network of hard-surface, off-street multi-use paths.

The Open Space Board of Trustees passed a motion finding that the use of e-bikes on open space land is not consistent with the charter. OSBT asked staff to investigate possible disposal of paved paths maintained by the Department of Transportation. Under the charter, disposal occurs when land is “sold, leased, traded, or otherwise conveyed.” The land in question already is owned by the City of Boulder. Transferring responsibility from one department to another is not a disposal as that term is used in the charter. Thus, staff will not be working on disposal of these paths. Council has three options: 1) develop a protocol for designating lands as no longer “open space land” as that term is used in the charter; 2) find that the use of paved paths for e-bikes is an open space purpose; or 3) exclude from the pilot project paved paths in open space property.

Attachment B shows hard-surface multi-use paths on city land that are potentially managed by OSMP. Public Works for Transportation is responsible for both routine and capital maintenance of all of these hard surface paths, which are maintained to a transportation standard. To facilitate a viable travel option for commuters to complete trips by bike during seasonal snow/ice and debris removal is prioritized and anticipated by community members. Transportation and OSMP staff are working in partnership to refine the map based on property acquisition research and management practices.

BACKGROUND

All background and board recommendation information can be viewed as part of the Oct. 1 first reading packet available at <https://bouldercolorado.gov/city-council/city-council-meetings>.

FIRST READING QUESTIONS

The proposed ordinance was introduced to City Council for first reading on Oct. 1 and council had the following question.

Question: There was a question raised about whether e-bikes will be permitted to engage the motor on multi-use paths.

Answer: The intent of the pilot project is to allow e-bike users to engage the electric assisted motor while traveling on paved multi-use paths. During the pilot project the definition of a motorized vehicle will be amended to exclude an e-bike. The ordinance adds a new section to the Boulder Revised Code that authorizes the City Manager's rulemaking authority to regulate use of the motor option on an e-bike.

STAFF RECOMMENDATION

As detailed in the 'options' section of this memo, staff considered several alternatives for defining and regulating e-bikes in the City of Boulder. The staff recommended option for an e-bike definition is Option 2. Accordingly, staff also recommends Option 2 for regulating the use of e-bikes, with the amendment to allow e-bike use on hard surface multi-use paths on OSMP fee-property identified as serving primarily a transportation function. These options propose to amend the definition of an e-bike to be consistent with state law and allow a pilot project to test e-bike use on hard-surface, multi-use paths in the City of Boulder that are maintained to a transportation standard.

If approved by City Council, the e-bike pilot project will begin in November 2013 and run through Dec. 31, 2014. E-bike use on "Open Space land" will be prohibited. , .

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to adopt an ordinance creating a pilot project allowing electric assisted bicycles on certain hard surfaced multi-use paths by amending Definitions in Sections 1-2-1- and 7-1-1 and amending Sections 7-4-16, 7-5-5 and 7-5-9 and adding Section 7-5-26 authorizing electric assisted bicycles where permitted by rule adopted by the City Manager, establishing a sunset date of December 31, 2014.

OPTIONS

Below is a list of options considered for defining and regulating e-bikes in the City of Boulder:

Option 1: No change to the existing e-bike Definition (BRC 7-1-1 Definitions): "Electric assisted bicycle" means a bicycle with a battery powered electric motor with a capacity of *no more than four hundred watts* continuous input power rating which assists the person pedaling and which is not capable of propelling the bicycle and rider at more than *twenty miles per hour* on level pavement.

Option 2: Amend e-bike definition to conform with Colorado State Law* CRS 42-1-102(28.5): "Electrical assisted bicycle" means a vehicle having two tandem wheels or two parallel wheels and one forward wheel, fully operable pedals, an electric motor *not exceeding seven hundred fifty watts* of power, and a top motor-powered speed of *twenty miles per hour*.

**Denver and Fort Collins also uses this definition.*

Options for regulating an e-bike

Option 1: Clarify the existing law regulating e-bikes. E-bikes may operate on the roadway and within designated on-street bike lanes but are prohibited from using the motor on multi-use paths, trails and sidewalks.

Option 2: Adopt an ordinance to test e-bike use on multi-use paths for a pilot period. This ordinance would sunset on Dec. 31, 2014. E-bike use on the following would continue to be prohibited:

- OSMP soft-surface trails, including those that currently allow bikes; and
- Sidewalks, except those designated as multi-use paths.

The above option would allow the city to evaluate the impacts of allowing e-bike riders to operate the motor while bicycling on hard-surface, multi-use paths, with the exception of those on OSMP managed property. Signs to inform path users of the pilot project and the current 15 mph speed limit would be installed at select locations along the pathway system to educate users. Formal police enforcement activities may be scheduled as resources allow and based on the findings of the field observations. Automatic in-pavement loop detectors will track bike volume. Manual counts would be conducted to collect volume data by user type (pedestrian, bike, e-bike, other). Additionally, an online survey and intercept surveys of multi-use path users would be conducted to gather input on the pilot program and use of e-bikes on multi-use paths.

Option 3: Adopt an ordinance to test e-bike use on multi-use paths, except for a segment of the Boulder Creek Path, for a demonstration period. This ordinance would sunset on Dec. 31, 2014. E-bike use on the following would continue to be prohibited:

- OSMP soft-surface trails, including those that currently allow bikes;
- Sidewalks, except those designated as multi-use paths; and
- The Boulder Creek Path between Eben G. Fine Park and Scott Carpenter Park

Public input on the potential pilot program to test e-bike use on hard-surface, multi-use paths has expressed concern for impacts to the pedestrian experience and safety. This option would restrict the use of the electric-assisted motor on an e-bike along the Boulder Creek Path from the western city limit (west of Eben G. Fine Park) to 30th Street (Scott Carpenter Park). As the spine of the greenway system, this segment of the Boulder Creek Path is a well-publicized tourist destination and serves as a linear park along the Boulder Creek riparian corridor. In addition to the comprehensive program outlined in Option 2,

additional strategies would likely be required to regulate the use of e-bikes as non-motorized vehicles along the prohibited segment of the Boulder Creek path.

Options for Addressing OSMP Managed Land

As noted above, the Open Space Board of Trustees has passed a motion finding that the use of e-bikes is not appropriate under the charter. The OSBT minutes will reflect the motion as follows:

Tom Isaacson moved the Open Space Board of Trustees finds that the use of e-bikes on Open Space paved paths is not appropriate under the charter, however the Open Space Board of Trustees recommends that the Open Space and Mountain Parks staff begin investigating a possible disposal of those identified paved multi use paths on Open Space and Mountain Parks land that principally serve a transportation function. Shelley Dunbar seconded. This motion passed four to one. Frances Hartogh dissented.

There is a gap in the charter with respect to open space land. Open space land is defined as follows:

As used in this charter, "open space land" shall mean any interest in real property purchased or leased with the sales and use tax pledged to the open space fund pursuant to the vote of the electorate on November 7, 1967, or proceeds thereof, any interest in real property dedicated to the city for open space purposes, and any interest in real property that is ever placed under the direction, supervision, or control of the open space department, unless disposed of as expressly provided in section 177 below.

Disposal as noted above involves a conveyance of the land. Yet, it is clear that open space land is owned by the city and managed by OSMP. Thus, conveyance is not appropriate. Open space land may only be used for open space purposes, which are as follows:

Open space land shall be acquired, maintained, preserved, retained, and used only for the following purposes:

- (a) Preservation or restoration of natural areas characterized by or including terrain, geologic formations, flora, or fauna that are unusual, spectacular, historically important, scientifically valuable, or unique, or that represent outstanding or rare examples of native species;
- (b) Preservation of water resources in their natural or traditional state, scenic areas or vistas, wildlife habitats, or fragile ecosystems;

(c) Preservation of land for passive recreational use, such as hiking, photography or nature studies, and, if specifically designated, bicycling, horseback riding, or fishing;

(d) Preservation of agricultural uses and land suitable for agricultural production;

(e) Utilization of land for shaping the development of the city, limiting urban sprawl, and disciplining growth;

(f) Utilization of non-urban land for spatial definition of urban areas;

(g) Utilization of land to prevent encroachment on floodplains; and

(h) Preservation of land for its aesthetic or passive recreational value and its contribution to the quality of life of the community.

OSBT's motion can be viewed as the board's recommendation that riding e-bikes is not one of the purposes identified by the above-quoted charter section. As a policy recommendation by the board charged with advising the council regarding open space land, this recommendation should be given deference, but is not binding on the council. Council is ultimately the body that is charged with interpreting the charter. Thus, council has the option of deciding that riding e-bikes is an appropriate use of open space land.

In the alternative, council could direct staff to explore a means to address the question of how to make open space land no longer open space land.

Staff's recommendation is that a one-year pilot is not worth the effort to resolve these issues. They should be addressed only if a future council decides to make the policy permanent.

NEXT STEPS

If the proposed e-bikes pilot project is approved by City Council, staff will proceed with implementation, including on-going community outreach, education, enforcement, and evaluation throughout the year long pilot project. Transportation and OSMP staff will work in partnership to identify the paths on OSMP property recommended for disposal as a transfer to transportation. The estimated timeline and process is anticipated to be complete by the first quarter 2014.

For more information regarding e-bikes, please see the city's webpage and links from www.GOBoulder.net

ATTACHMENTS

Attachment A Ordinance No. 7941

Attachment B Paved paths on OSMP fee property

ORDINANCE NO. 7941

AN ORDINANCE CREATING A PILOT PROJECT ALLOWING ELECTRIC ASSISTED BICYCLES ON CERTAIN HARD-SURFACED, MULTI-USE PATHS BY AMENDING DEFINITIONS IN SECTIONS 1-2-1 AND 7-1-1; AMENDING SECTIONS 7-4-16, 7-5-5, AND 7-5-9 TO SPECIFY SAFETY STANDARDS THAT WILL APPLY TO ELECTRIC ASSISTED BICYCLES; ADDING A NEW SECTION 7-5-26 AUTHORIZING ELECTRIC ASSISTED BICYCLES WHERE PERMITTED BY A RULE ADOPTED BY THE CITY MANAGER; ESTABLISHING A SUNSET DATE OF DECEMBER 31, 2014; AND SETTING FORTH RELATED DETAILS.

WHEREAS, THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THE FOLLOWING:

- A. The 2013 Transportation Master Plan (TMP) update builds on a strong foundation of success through policy refinement, using a collaborative approach and addressing the current and future transportation needs of the community while integrating with the city's broader sustainability planning initiatives.
- B. As part of the TMP update, the Transportation Division is introducing new strategies to increase bicycle and pedestrian mode share. It includes a "Complete Streets Bike and Pedestrian Living Laboratory" that provide test facilities and pilot programs to better understand the community's transportation choices and identify potential opportunities, barriers, and ultimately strategies to encourage more people to walk and bike.
- C. The purpose of this ordinance is to establish a one-year electric assisted bicycle demonstration Pilot Project (the "Pilot Project"), which would allow and test use of electric assisted bicycles on off-street, hard-surfaced, multi-use path system within the City of Boulder limits.

- D. The Pilot Project is focused on the urban service area where there is a network of hard-surfaced, off-street, multi-use paths maintained to a transportation standard.
- E. The Pilot Project would not include use on facilities that are pedestrian only or intended to preserve the natural environment. Specifically, electric assisted bicycle use would continue to be prohibited on sidewalks and on the Open Space and Mountain Park (OSMP) trail system surrounding Boulder.
- F. The Pilot Project will evaluate behavior of electric assisted bicycle users to determine whether these vehicles can co-exist with current uses on these multi-use paths.
- G. The Pilot Project is part of a Living Laboratory being implemented to introduce new strategies to increase bicycle mode share and encourage more people to complete trips by bicycle.
- H. The city's ordinances do not permit any self-propelled vehicle to be driven on any paths.
- I. In order to provide assurance that the use of electric assisted bicycles as an alternate mode of transportation contemplated by this program is safe, prudent, and in the best interest of all users of the city's hard-surfaced, multi-use path system, city staff will evaluate the following factors and data on an ongoing basis:
 - 1. The number of reported traffic collisions involving electric assisted bicycles occurring on hard-surfaced, multi-use paths that result in severe injury or fatality;
 - 2. The number of reported close call incidents involving electric assisted bicycles occurring on hard-surfaced, multi-use paths;
 - 3. Reported and observed unsafe behavior including speeding and other safety concerns along the hard-surfaced, multi-use path system by various users including electric assisted bicyclists, regular bicyclists, pedestrians and other users;

4. The time spent by Boulder Police officers conducting enforcement activities along the hard-surfaced, multi-use path system and the number of warnings and citations issued involving electric assisted bicycles.
- J. The greater Boulder community and affected Advisory Boards considered options and provided input to guide a staff recommendation on the Pilot Project.
 - K. On September 23, 2013, the Transportation Advisory Board held a public hearing to consider the staff recommendation on the Pilot Project and make a formal recommendation to City Council.
 - L. This program will sunset and be of no further force and effect after December 31, 2014, unless extended by affirmative council action.

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

Section 1. Section 1-2-1, B.R.C. 1981, is amended to read:

1-2-1 Definitions.

...

"Motor vehicle" means any self-propelled vehicle other than a moped, electric assisted bicycle or motorized wheelchair.

Section 2. Section 7-1-1, B.R.C. 1981, is amended to read:

7-1-1 Definitions.

...

"Electric assisted bicycle" means a ~~bicyele-vehicle having two tandem wheels or two parallel wheels and one forward wheel, fully operable pedals, an~~ with a battery powered electric motor not exceeding with a capacity of no more than fourseven hundred-fifty watts of continuous input power rating, ~~which assists the person pedaling and which is not capable of propelling the bicyele and a top motor-powered speed of rider at more than twenty miles per hour on level pavement.~~

"Motor vehicle" means any self-propelled vehicle other than a moped, electric assisted bicycle or motorized wheelchair.

Section 3. Section 7-4-16, B.R.C. 1981, is amended to read:

7-4-16 Yield Required Before Entering or Leaving Street.

- (a) A driver entering a street at any place other than an intersection shall yield the right-of-way to any pedestrian or bicycle approaching on a sidewalk or path, to any electric assisted bicycle approaching on a multi-use path where such vehicles are permitted, and to any vehicle approaching on a roadway of the street.
- (b) A driver leaving a street at any place other than an intersection shall yield the right-of-way to any pedestrian or bicycle approaching on a sidewalk or path, and to any electric assisted bicycle approaching in a multi-use path where such vehicles are permitted.

Section 4. Section 7-5-5, B.R.C. 1981, is amended to read:

7-5-5 Use of Crosswalk.

- (a) No person shall immediately approach, enter or traverse a crosswalk which spans a roadway at a speed greater than eight miles per hour.
- (b) Persons driving bicycles across a roadway upon and along a crosswalk from a sidewalk or path, and persons driving electric assisted bicycles across a roadway upon and along a crosswalk from a multi-use path where such vehicles are permitted, shall have all the duties applicable to pedestrians under the same circumstances.
- (c) Such persons similarly have the rights of a pedestrian, but only if the bicyclist was entitled to use the sidewalk or path, and the approach, entry and traversal of the crosswalk are made at a speed no greater than a reasonable crossing speed so that other drivers may anticipate the necessity to yield when required.

Section 5. Section 7-5-9, B.R.C. 1981, is amended to read:

7-5-9 Bicycle Must Yield Right-of-Way and Obey Traffic Control Devices on Sidewalk, Crosswalk, or Path.

- (a) A person driving a bicycle on a sidewalk, a crosswalk, or a path, and any person driving an electric assisted bicycle on a multi-use path, shall yield the right of way to any pedestrian and shall give an audible signal before overtaking and passing any pedestrian.

- (b) If any traffic control device is in place alongside of or on a sidewalk or a path, no driver of a bicycle or pedestrian, and no driver of an electric assisted bicycle on a multi-use path where such vehicles are permitted, shall fail to obey the requirements of the device.

Section 6. Chapter 7-5, “Pedestrian, Bicycle and Animal Traffic,” B.R.C. 1981, is amended by the addition of a new section to read:

7-5-26 Electric Assisted Bicycles.

No person shall activate the motor of an electric assisted bicycle on any bike or pedestrian path or on a recreational trail except where permitted by a rule adopted by the city manager in accordance with Chapter 1-4, “Rulemaking.” B.R.C. 1981.

Section 7. The city manager shall report to the City Council at least quarterly, and shall present a program evaluation after the program concludes.

Section 8. This ordinance shall be effective until December 31, 2014. The City Council suspends the prohibition against operating a motorized vehicle on hard-surfaced, multi-use paths until that time for the limited purpose of implementing the Pilot Project described by this ordinance. For all other purposes, the regulations governing electric assisted bicycles remain in full force and effect.

Section 9. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 10. The City Council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
TITLE ONLY this 1st day of October 2013.

Attest:

Mayor

City Clerk

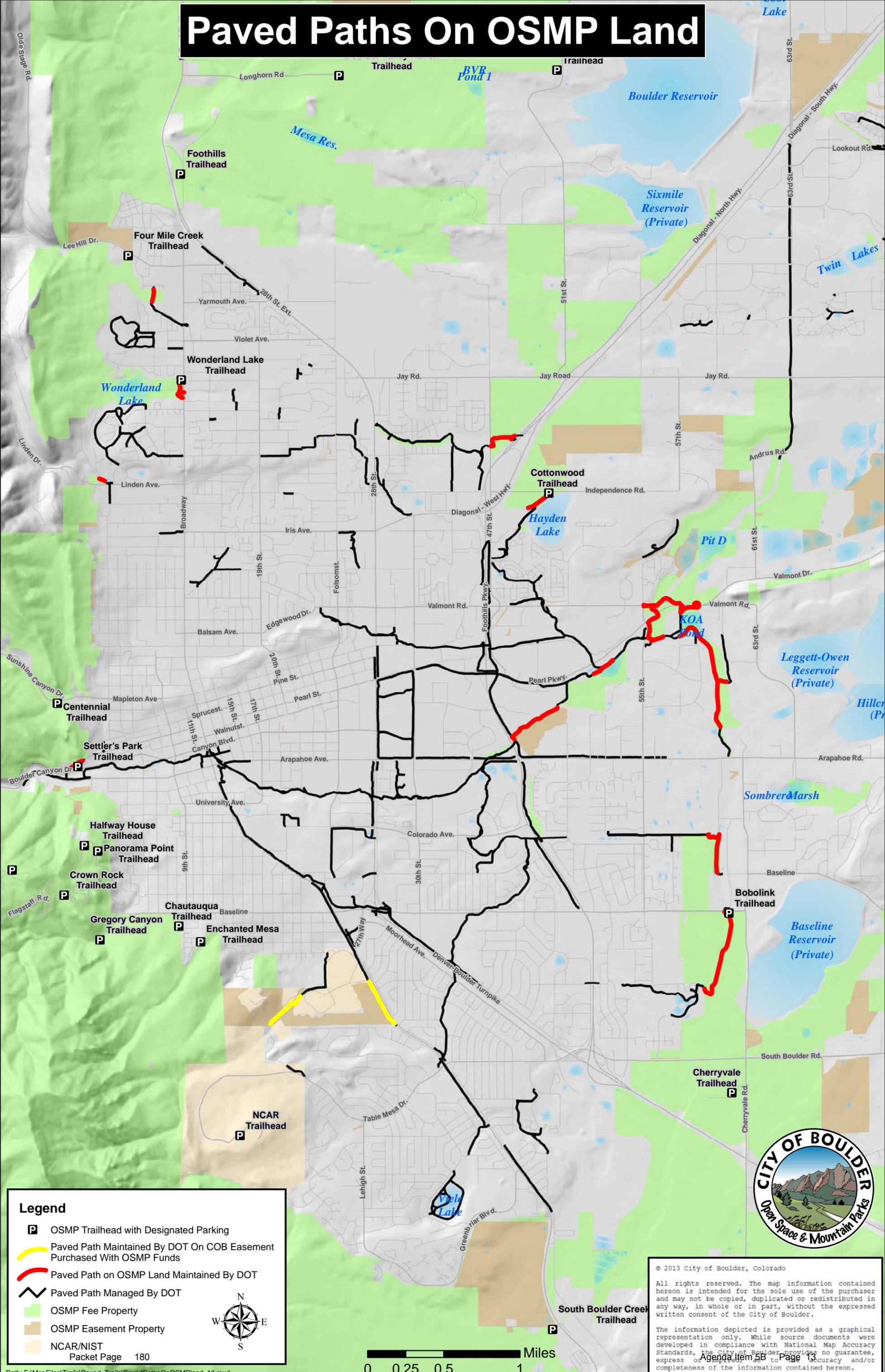
READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
PUBLISHED BY TITLE ONLY this 29th day of October 2013.

Attest:

Mayor

City Clerk

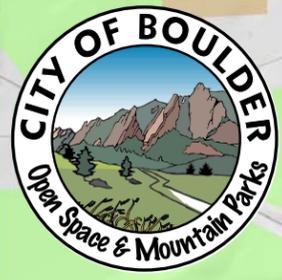
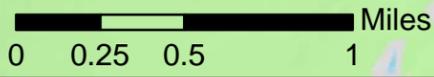
Paved Paths On OSMP Land



Legend

- OSMP Trailhead with Designated Parking
- Paved Path Maintained By DOT On COB Easement Purchased With OSMP Funds
- Paved Path on OSMP Land Maintained By DOT
- Paved Path Managed By DOT
- OSMP Fee Property
- OSMP Easement Property
- NCAR/NIST

Packet Page 180



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**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: October 29, 2013

AGENDA TITLE: Consideration to accept a motion to adopt the Economic Sustainability Strategy.

PRESENTER/S

Jane S. Brautigam, City Manager

Paul J. Fetherston, Deputy City Manager

Bob Eichen, Chief Financial Officer

David Driskell, Executive Director, Community Planning and Sustainability

Susan Richstone, Deputy Director, Community Planning and Sustainability

Liz Hanson, Economic Vitality Coordinator

Chris Meschuk, Planner II

Molly Winter, Director, Downtown and University Hill Management Division /Parking Services

Anna Gerstle, Economic Vitality Assistant

EXECUTIVE SUMMARY

The purpose of this item is for the City Council to consider the Economic Sustainability Strategy (ESS) for adoption.

Since the first quarter of 2013, city staff has worked with business partners including the Boulder Economic Council (BEC) to develop the ESS, based on the 2012 Primary Employer Study. The cross-departmental effort involved staff from the city's Economic Vitality (EV) Team, Community Planning and Sustainability, Housing, and Transportation to ensure that the new strategy document is coordinated with other existing and proposed city plans, strategies, and programs.

The proposed ESS document is in **Attachment A**. The strategy is an integrated approach to Boulder's continued economic vitality. As a key tool to implement the economic vitality strategy area of the city's Sustainability Framework, the ESS is consistent with

the Boulder Valley Comprehensive Plan (BVCP) and helps to guide the implementation of adopted BVCP policies (particularly economic policies).

STAFF RECOMMENDATION

Staff requests council consideration of this matter and action in the form of the following motion.:

Motion to adopt the Economic Sustainability Strategy

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – The Economic Sustainability Strategy is the key tool to implement the Economic Vitality strategy areas of the city’s Sustainability Framework. The Sustainability Framework is based on the goals and policies of the Boulder Valley Comprehensive Plan and the city’s priority based budgeting process and is used to assess and evaluate plans and programs against the desired outcomes defined by City Council and the community.

The intent of the strategy is to support the city’s economic vitality by building on its strengths and addressing challenges. This strategy is based on simultaneously maintaining and enhancing the existing community of businesses while also positioning Boulder to grow new segments of its economy associated with larger economic, environmental, and social trends.

- Environmental – Part of Boulder’s economic sustainability strategy is to prepare Boulder and its businesses to be able to both minimize the impacts of environmental changes as well as position Boulder as a leader in the emerging market for technical, technological and social innovations, which is an essential element in Boulder’s Climate Commitment.
- Social – The application of a comprehensive “sustainability lens” acknowledges that efforts to ensure and enhance economic vitality must be approached and implemented in conjunction with the environmental, social and cultural quality that are the foundation of Boulder’s long-term health and quality of life. Aspects of the strategy include placemaking efforts, workforce development, and housing and transportation strategies.

OTHER IMPACTS

- Fiscal – None. The current action items in the document are based on the existing work plan. Any future actions would be prioritized and funded through the development of the annual work plan.
- Staff time – The implementation of the strategies and actions in the ESS are part of the existing work plan.

BOARD AND COMMISSION FEEDBACK

Planning Board

On Oct. 10, staff briefed Planning Board on the Economic Sustainability Strategy. Overall, Planning Board members appreciated that the strategy was short, clear, and easy to read. Topics discussed included:

- Place-Based Approach:
 - Supportive of the “place-based” approach to the document, and strategies and actions
 - Interested in how the ESS strategies will shape the physical environment through future planning and development
 - Revisit options for area planning frameworks – the typical model for area planning may not be successful in order to achieve the strategies and actions in the document.
 - Encouraged that this document may spark the addition of amenities and creative housing and business spaces in certain areas of the city, and to explore targeted incentives with creating opportunities by reducing regulations

- Transportation:
 - Appreciated the coordination of the ESS with the Transportation Master Plan
 - The potential of East Boulder as a transportation hub, similar to Downtown and Boulder Junction

- Housing:
 - Discussed providing workers with information to assist them with their housing decisions and to encourage them to live in Boulder through a city housing liaison for businesses
 - The need to address in-commuting and better understand what housing characteristics the Boulder workforce desires through surveys such as the one for the Comprehensive Housing Strategy

- Workforce Training:
 - Suggested expanding workforce training and highly skilled technical education strategies and actions to include BVSD

Downtown Management Commission & University Hill Commercial Area Management Commission

Staff briefed the DMC and UHCAMC on the draft of the ESS. The two boards expressed support for the city undertaking the ESS and for including downtown and the Hill. The DMC had these specific comments:

- The need to address the needs of employees commuting into Boulder,
- Widen the focus of the strategy beyond primary employers, and
- The Civic Area Plan needs to be comprehensive and connected to the downtown.

PUBLIC FEEDBACK

On August 5, staff sent a draft of the ESS to 39 stakeholders in the business community requesting their comments and recommendations on the draft document. The stakeholders included architects, brokers, developers, property owners, and primary employers, as well as representatives from business and partner organizations. Many also participated in the Primary Employer Study focus groups and/or provided input on the development of the study. Twenty-one stakeholders provided feedback on the draft by either phone or email.

Generally, respondents noted the document successfully captured the key issues related to Boulder’s economic sustainability and appreciated the city laying out a strategy. Several noted that people who want to do business here will find a way to do so, but that surrounding areas are catching up with Boulder’s “coolness.” Overall, respondents noted that the ESS correctly addressed the challenges, but in some cases did not reflect the magnitude of the issues. Frequently raised topics included housing needs and costs, East Boulder commercial areas, redevelopment density, timing of city processes, and city incentives for amenities and upgrades. The proposed ESS in **Attachment A** was edited to reflect many of these comments and suggested areas of emphasis. Detailed stakeholder comments can be found in **Attachment B**.

BACKGROUND

In 2006, the City of Boulder defined “primary employer” by ordinance as “a business or organization of any number of employees that generates more than 50 percent of its revenues from activities outside of Boulder County, and shall include, but is not limited to those facilities of such business and organization devoted to manufacturing, research and development, data processing, telecommunications and publishing, but shall not include hotels, motels, retailers, or food service facilities.” Whether primary employers have five or 500 employees, they bring “new money” into the Boulder economy, support local secondary employers (e.g. caterers, printers, restaurants), and pay substantial property taxes, sales and use taxes and permit fees to the city.

In 2012, the city with consultants prepared a Primary Employer Study to analyze the needs of primary employers in relation to the city’s industrial and commercial areas. At the [August 28, 2012 Study Session](#), City Council received the Primary Employer Study, which included findings from a report authored by the University of Colorado (CU) Leeds School of Business, Business Research Division (BRD), and a survey conducted by the Boulder Economic Council (BEC) and four stakeholder meetings. The results featured a summary of the issues, needs, and challenges of Boulder’s primary employers as well as profiles of Boulder’s commercial and industrial space and primary employers.

During the August 2012 study session, City Council expressed support for the exploration of near-term actions to improve codes and processes that affect primary employers and the development of an Economic Sustainability Strategy (ESS). On December 11, 2012, city staff sent an Information Packet to City Council to provide an update on the proposed framework and work plan for the ESS.

ANALYSIS

The Primary Employer Study revealed four key issues that could potentially slow the ability of companies to be successful contributors to the city's economic vitality:

1. Limited availability of suitable space for primary employer expansion
2. Lack of flexibility in allowed uses
3. Cost of land/cost of doing business is high
4. Lack of amenities in some parts of the city

The results of these four key issues, along with the input and analysis in the study lead to the development of the ESS to address these issues.

The ESS is based on a cross-cutting and “place-based” approach to economic vitality. It seeks to create vibrant, amenity-rich business districts that vary in their focus and intensity, and offer environments that support key industry clusters, retain talented workers and enhance a unique and sustainable “Boulder” quality of life. The strategies and actions are organized into three sections:

- **People** – social and workforce amenities (addresses arts, culture, etc.)
- **Place** – physical environment (addresses public realm infrastructure/amenities, buildings, etc.)
- **Process** – ease of doing businesses (addresses city processes and procedures)

Each category contains a description of the issues and challenges, specific strategies, and 2014 and longer term actions. The issues and challenges capture the key conclusions for each category that were raised in the 2012 Primary Employer Study, other research conducted by the city, and the stakeholder engagement processes.

Strategies describe how the city can best respond to issues and challenges raised while furthering the Economic Sustainability Strategy vision and the goals articulated in the Boulder Valley Comprehensive Plan (BVCP). The strategies are based on a “place-based” approach to economic vitality, improving city codes and process and addressing broader policy issues.

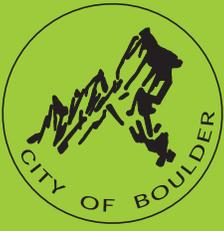
The strategies help to prioritize the action items, which would be updated each year based on resources available (city work plan and budget). Each year's action items would reflect what can realistically be accomplished; 2014 action items are shown in the attached ESS and some items are already in progress. Longer term action items are also

listed, for future prioritization and scheduling and to help guide the development of the city-wide annual work plan.

The ESS is intended to be a strategy document for both the Boulder city government and the community. Some of the action items are to be implemented solely by city staff. For other action items, the city would play a supporting or facilitating role. For example, the city would likely play a strong role in implementing “Place” and “Process” action items, while supporting community and business partners for several “People” action items.

ATTACHMENTS

- A. Economic Sustainability Strategy
- B. Summary of Stakeholder Comments on the Economic Sustainability Strategy



ECONOMIC SUSTAINABILITY STRATEGY

Draft for CC Adoption 10-29-13



INTRO

Boulder's highly educated workforce, superb quality of life, high concentration of companies in growing industries, and synergies with the University of Colorado and 14 federal labs are the foundation of its economic success. The city attracts talented entrepreneurs who have created a unique business community focused on cutting edge innovation and vision, earning Boulder recognition as one of the nation's best cities for start ups in 2013. In fact, Richard Florida, author of *The Rise of the Creative Class*, named Boulder the most creative city in the U.S. in 2012 based on a detailed analysis of how more than 350 metro areas ranked in technology (new ideas, inventions, high-tech companies), talent (skilled, ambitious individuals), and tolerance (non-judgmental, open-minded).

This success didn't just happen—many ingredients came together to support Boulder's economic vitality. However, in terms of city-led efforts, many of the most important actions were not undertaken to promote economic development. On the contrary, many were initiated in response to growth pressures and the sense that the community's unique sense of place and quality of life would otherwise be lost. But, from preserving open space to protecting historic buildings in the downtown, many of those same actions have played a significant role in securing Boulder's current economic success. The uniqueness of place, compactness, connectedness and recreational amenities—combined with the innovation engines of CU and the labs—have helped attract and retain a talented and entrepreneurial workforce, fostering the growth of leading edge companies across a range of key industries.

Economic vitality in the city of Boulder is a public-private collaboration to promote a healthy economy that supports the outstanding quality of life enjoyed by its residents. Boulder is following a sustainable path to economic development, adopting strategies that foster innovation, competitiveness, and entrepreneurship, and maintaining a positive business climate, while enhancing community character and preserving environmental quality.

SUSTAINING BOULDER'S ECONOMIC VITALITY

Since 2003, Boulder has had an economic vitality program aimed at working with community partners to create and sustain a favorable business climate. The program focuses in particular on the needs of primary employers—those that are the primary drivers of the city's economic health—helping to ensure that they are supported in their desire to be a growing and continuing part of Boulder's economy and community life. While the city does not focus on business attraction, it has become more proactive in working with partners to understand the needs of employers and respond accordingly. Two Economic Vitality programs—the Flexible Rebates program and Microloan program—are examples of how the city has responded to identified needs.

But while Boulder is fortunate to enjoy economic success today, challenges are on the horizon. The cost and lack of office space that meets contemporary standards; limited opportunities for home-grown businesses to remain in Boulder as their space needs change; and the impact of housing costs on employee retention are often cited as chal-

lenges that could impede Boulder's future economic vitality. Developing a more strategic approach to economic vitality can help respond to today's challenges and help ensure continued economic success in the future.



Boulder Farmers' Market

CREATING AN ECONOMIC SUSTAINABILITY STRATEGY

The Economic Sustainability Strategy (ESS) is an integrated, cross-cutting approach to Boulder's continued economic vitality. This strategy is not a typical economic development approach, but will support the city's economic vitality by building on its strengths and addressing challenges. This strategy is based on simultaneously maintaining and enhancing the existing community of businesses while also positioning Boulder to grow new segments of its economy associated with larger economic, environmental and social trends. The strategy is focused on Boulder's primary employers. While the retail base cannot be ignored as a significant part of our economic vitality, it is not a focus of this strategy.

Use of the term "economic sustainability" instead of "economic development" or even "economic vitality" reflects two key tenets. First, economic sustainability focuses on long-term conditions and outcomes, with a critical

look at how current and anticipated issues and trends may affect the community's future economic vitality. It identifies near- and long-term strategies and actions that can help ensure success over time. Second, the application of a comprehensive "sustainability lens" acknowledges that efforts to ensure and enhance economic vitality must be approached and implemented in conjunction with the environmental, social and cultural qualities that are the foundation of Boulder's long-term health and quality of life.

This recognition now includes the acknowledgement that significant and far reaching changes are taking place in climatic systems that are having impacts both globally and locally. These impacts are leading to changes in international, national and state policies that will likely influence both regulatory and market activities. Part of Boulder's economic sustain-

ability strategy is to prepare our community and our businesses to be able to both minimize the impacts of these changes as well as position Boulder as a leader in the emerging market for technical, technological and social innovations, which is an essential element in the orientation of Boulder's new Climate Commitment strategy.



A Boulder view

HOW WILL THE ECONOMIC SUSTAINABILITY STRATEGY BE USED?

The Economic Sustainability Strategy is the key tool to implement the Economic Vitality strategy area of the city's Sustainability Framework. The Sustainability Framework is based on the goals and policies of the Boulder Valley Comprehensive Plan and the city's priority based budgeting process and is used to assess and evaluate plans and programs against the desired outcomes defined by City Council and community. In many cases, priority strategies will be implemented by, integrated with or used to inform other city priorities and processes. For example, the

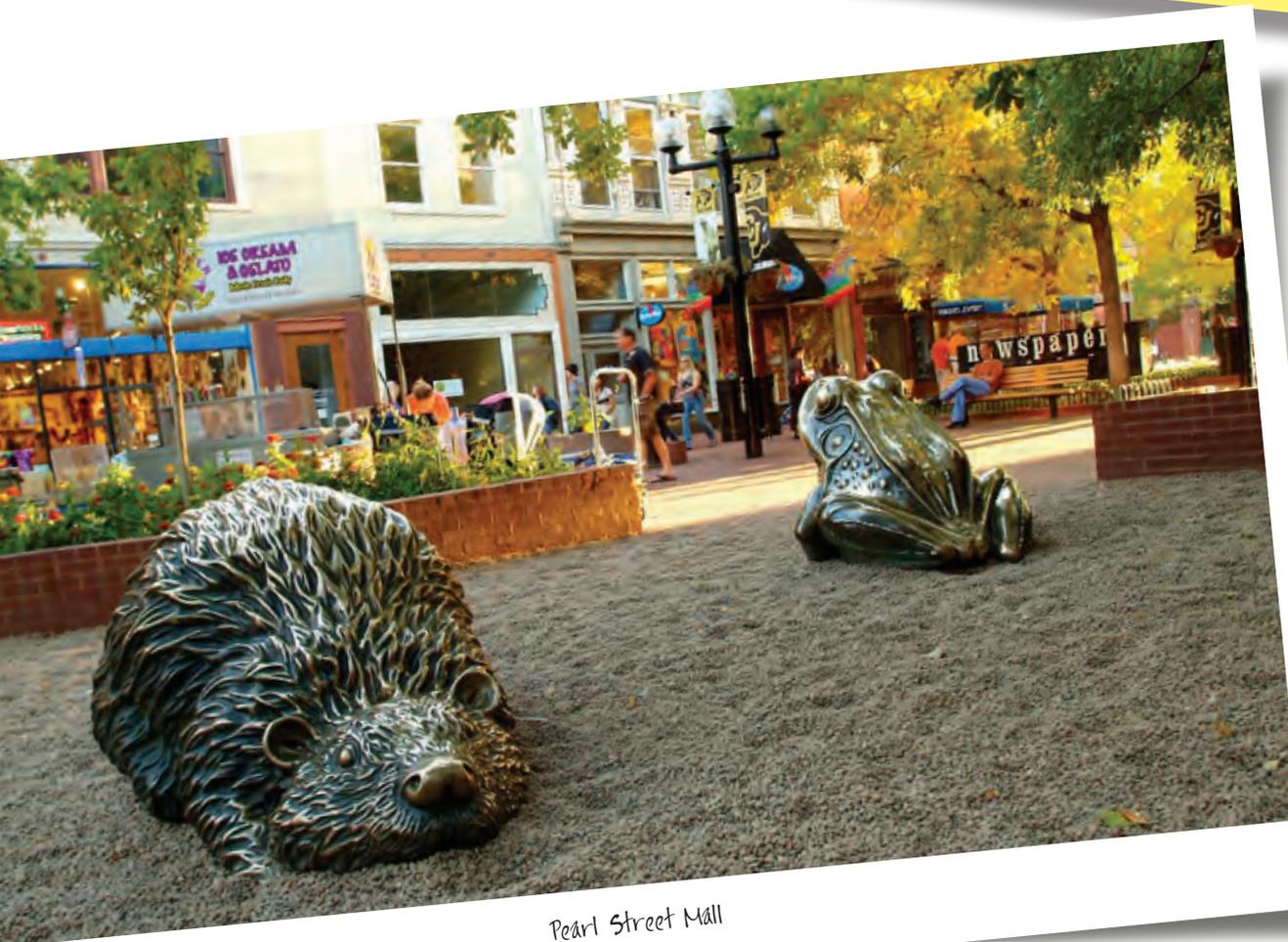
need for expanded workforce housing opportunities is identified in the Economic Sustainability Strategy as an important need for Boulder's primary employers, and the community's long-term economic health, with that priority being implemented through the Comprehensive Housing Strategy work effort already underway. Identifying the strategic priority in the Economic Sustainability Strategy helps underscore the importance of affordable housing to Boulder's economy, and will help ensure that the economic impacts of housing decisions are given due weight in the housing strategy development process.

Implementation of the Economic Sustainability Strategy will rely on both the city and community partners, including businesses, institutions, commercial property owners and non-profit organizations that work with businesses. While the city plays a central role in the development of "place" (through planning, investment and regulation) as well as in "process" (balancing community perspectives and priorities in the review and approval of new development), those approaches alone will not achieve the vision. Leveraging community assets is critical to maintaining a strong and diverse economy, and many actions surrounding people, workforce, training and collaboration require leadership by community partners.

KEEPING THE ECONOMIC SUSTAINABILITY STRATEGY ALIVE

The Economic Sustainability Strategy is a strategy, not a plan. It is a living document designed to be a flexible tool with actions that are updated annually as community needs and priorities change. It will be regularly evaluated through informal and formal (surveys, focus groups, etc.) feedback to ensure that actions are achieving desired results.

A "place-based" approach to economic sustainability seeks to create vibrant, amenity-rich business districts that vary in their focus and intensity and provide environments that support key industry clusters, retain talented workers and enhance a unique and sustainable "Boulder" quality of life. Each area of the city is different and a place-based approach looks at Boulder's various employment areas to identify desired change and then develop tailored strategies and actions for achieving that change.



Pearl Street Mall

ECONOMIC SUSTAINABILITY STRATEGY VISION

Boulder will continue to be recognized throughout the world as a city where employers and employees innovate, create, and thrive in a manner consistent with Boulder's environmental and social values.

To achieve this vision, the city and its partners will focus on strategies and actions in three inter-related categories:

- PEOPLE** – workforce, quality of life and social issues
- PLACE** – physical environment (infrastructure, amenities, buildings)
- PROCESS** – ease of doing businesses (city processes, programs, codes and procedures)

Strategies describe how the city can best respond to issues raised in the 2012 Primary Employer Study and other research conducted by the city while furthering the Economic Sustainability Strategy vision and the goals articulated in the Boulder Valley Comprehensive Plan (BVCP). The strategies are based on a “place-based” approach to economic vitality, improving city codes and process and addressing broader policy issues.

Action items identify how strategies will be implemented. Some actions can be accomplished by the city through improvements in internal processes and procedures. Others involve coordination with external stakeholders or require further analysis, particularly when an issue to be addressed may lead to policy changes or major program additions or enhancements. Action items are categorized as priority actions to be completed in 2014 or longer term actions that may begin in 2014 but be completed at a later date.

BOULDER'S ECONOMY

Boulder is a highly desirable place to work, live, and play. The city is an important employment center for the area and has a diverse and healthy economy. Boulder businesses represent a wide variety of industries and the city has a high concentration of aerospace, bio-science, clean tech, data storage, digital media, natural and organic products, outdoor recreation and software companies. While the majority of the city's employers are small businesses, several Fortune 300 corporations have a presence in Boulder. This diversity has contributed to the city's economic vitality and helped mitigate effects of recent economic downturns.

Many people choose to work or live in Boulder because of its high quality of life, sense of place and extensive amenities. Boulder boasts hundreds of miles of bike and walking trails, excellent bus service, easy access to open space and the mountain backdrop, numerous and varied art, cultural, dining, entertainment and

shopping options, excellent schools, and high quality healthcare. These community characteristics have created a strategic economic advantage that is difficult to replicate, but requires careful consideration and planning to ensure its viability into the future.

Boulder is a land-constrained, compact community by design, reflecting the city's commitment to a sustainable urban form while protecting the area's scenic beauty, open space and recreational opportunities. With relatively little undeveloped land available for commercial development, the city is strategic about economic vitality. Boulder's economic sustainability efforts recognize the importance of jobs already in the city; and business retention and support for homegrown companies is a priority. While the Economic Sustainability Strategy is intended to help implement the results of the 2012 Primary Employer Study, Boulder's economic sustainability is much broader. Economic sustainability also results from the unique mix of a successful and healthy tourist industry, partnerships with universities and federal laboratories, and many arts, cultural, entertainment and retail options. The city

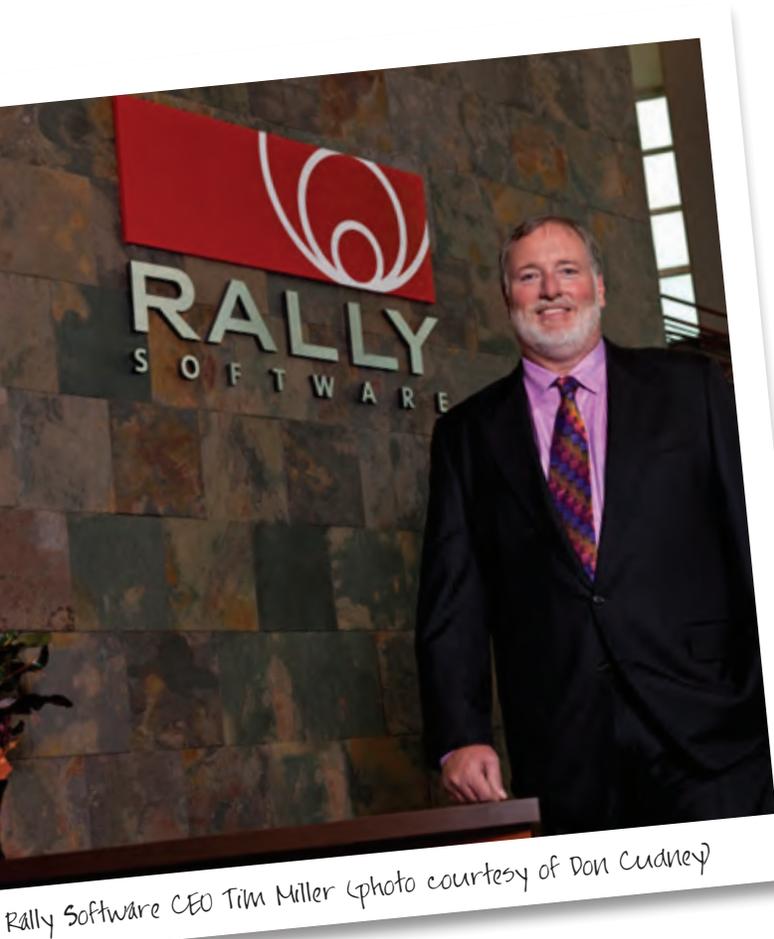


Twisted Pine Brewing Company's newly expanded ale house and outdoor deck

also recognizes the importance of the primary employers that make up the core of the local economy. Primary employers are defined by city ordinance as:

A business or organization of any number of employees that generates more than 50 percent of its revenues from activities outside of Boulder County, and shall include, but is not limited to those facilities of such business and organization devoted to manufacturing, research and development, data processing, telecommunications and publishing, but shall not include hotels, motels, retailers, or food service facilities.

Primary employers bring new money into the local economy, support secondary employers (restaurants, printers, banks, etc.) and pay substantial property taxes, sales and use taxes and permit and development fees to the city. Many of the city's economic vitality efforts, including business outreach and assistance, a flexible rebate program and a microloan program, have focused on primary employers.



Rally Software CEO Tim Miller (photo courtesy of Don Cudney)

In 2012, city staff, along with the University of Colorado Leeds Business Research Division and the Boulder Economic Council, conducted a primary employer study identifying the issues, trends and needs of Boulder's primary employers relative to the city's existing industrial and commercial space.

Key findings from the 2012 Primary Employer Study include:

- Boulder has approximately 554 primary employers
8.2% of all Boulder employers
- Boulder's primary employers employ an estimated 26,059 individuals
29% of all individuals employed in Boulder (excluding self-employed)
- Boulder's primary employers occupy approximately:
538 commercial buildings (29% of all commercial buildings in city)
7.5 million square feet of commercial space (35% of total)
- Primary employers are concentrated in three main areas:
East Boulder (44%), Gunbarrel (15%) and Downtown (15%).
- A significant number of primary employers expect to expand in the next few years and many anticipate needing more space and moving to a new location.

The four key issues identified in the Primary Employer Study were:

- 1** Availability of suitable space for expansion
- 2** Lack of flexibility in allowed uses
- 3** High cost of land / cost of doing business
- 4** Lack of amenities in some areas of the city

PEOPLE



Upslope Brewing's Founder Matt Cutter, Director of Sales and Marketing Henry Wood, and Director of Brewing Operations Dany Pages. In 2012, Upslope opened a new brewery and taproom in Flatiron Park in East Boulder.

Boulder has a well educated, highly skilled and creative workforce. The city has the nation's highest percentage of college graduates and a very high concentration of individuals employed in scientific and technical occupations including aerospace engineers, architects, biochemists, environmental scientists and software developers. This high concentration of talent reflects the presence of the University of Colorado at Boulder, federal labs, and technology-intensive industries which draw companies and entrepreneurs from around the world.

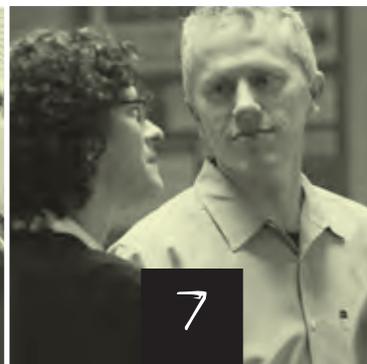
Boulder's workforce draws from several key sources. The desirability of Boulder's quality of life and a collaborative and supportive business climate has attracted people with world-class talent and skills for many

decades, and the workforce includes many who chose Boulder as a place to live and found a job here. The innovation economy workforce also includes technically trained and "creative class" workers drawn to growing Boulder companies, residents who grew up and remained in Boulder and University of Colorado and other area college graduates who find work and careers in the city. City-wide, inflation-adjusted median income has decreased for Boulder households since 2000. Poverty rates and other negative economic indicators are increasing among certain populations (e.g. Latino residents, seniors, children).

Photos from left to right: Eetrex, Rally Software (photo courtesy of Don Cudney), Populus



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ISSUES & CHALLENGES

- 1** An educated, creative and productive workforce has always been vital to Boulder's economic prosperity, and will be even more so in the future as other communities, other states, even other nations cultivate the education, creativity and productivity of their workforces. Workforce training and high quality education needs to be a focus, especially in the Science, Technology, Education and Math (STEM) fields.
- 2** Boulder's workforce is drawn to employment areas with a wide variety of amenities, uses, and services (e.g. restaurants, retail), recreational amenities, the arts, and increased walkability to public transportation, bicycle, and pedestrian facilities. East Boulder and Gunbarrel are primary employment centers that lack the same diversity of amenities that are available to downtown workers.
- 3** Changing work patterns and technology have resulted in more individuals operating small businesses and start-ups from their homes, with occasional visitors or part-time employees. Current city regulations for home occupations do not always reflect these types of home-based businesses that many times are compatible with residential uses. (Note: see Process: 2014 Action chart)
- 4** While most of the individuals who work in Boulder are residents within Boulder County, between half and two-thirds of Boulder employees live outside the city limits. While the city has a high concentration of self employed and residents who work from home, over 59,000 employees commute into the city for work (2013 City of Boulder estimate), using the U.S. 36 Corridor (26%) and the Diagonal Highway 119 (18%) (Boulder Economic Council Commuting Patterns Study 2012). Ongoing transportation challenges include traffic congestion and public transit improvements.
- 5** As technology changes, there will be increased demand for workforce with specialized skills. Current K-12 and post K-12 higher education options, including non-university training, professional and technical schools, and community colleges, may need to be expanded and customized to meet the needs of employers, workers and residents. In addition, demographic trends indicate between 2020 and 2025 Colorado will require a significant in-migration of employees to fill vacancies from retirees.

STRATEGIES

- 1** Expand opportunities for workers to live within the city, including moderately priced market rate housing.
- 2** Expand regional transit alternatives with local partners so that commuters have more transportation options other than single occupant vehicles.
- 3** Work with employers, educators and partners to develop and support programs designed to help attract workers with highly specialized skills and experience, and provide workforce training opportunities.



EVOL Foods is headquartered at the base of the foothills and manufactures in Boulder.

Photos from left to right: Namaste Solar, Seth Ellis Chocolatier

PEOPLE



PEOPLE: 2014 ACTION CHART

	ACTIONS	RESPONSIBLE PARTIES	TIMING
action 1.1	Increase collaboration with employers, universities and colleges, and state and local workforce and economic development partners to support ongoing development of the workforce available to Boulder employers.	Community Planning & Sustainability, Boulder Economic Council	Ongoing
action 1.2	Ensure that the city's Transportation Master Plan update , city involvement in the RTD Northwest Area Mobility Study , and the city's Access Management and Parking Strategy focus on developing strategies and funding mechanisms for addressing the local and regional commuting challenges and opportunities for Boulder workers.	Public Works – Transportation and Downtown & University Hill Management Division/ Parking Services	In progress – TMP adopted by 2014, AMPS implementation in 2014 and NAMS study will conclude in Spring 2014.
action 1.3	Through the city's Comprehensive Housing Strategy currently under development, understand and develop approaches for the needs, desires and preferences of Boulder workers who do not live inside the city limits. Expand housing opportunities for those working in Boulder.	Division of Housing and Community Planning & Sustainability	In progress
action 1.4	Support local business and industry organizations to foster “productive collisions” of local workers which provide opportunities for exchanges of ideas and collaboration. Enhance opportunities through civic area, Innovation HQ, and downtown development.	Community Planning & Sustainability, Boulder Economic Council	Ongoing

PEOPLE: LONGER TERM ACTIONS

- 1 Work with strategic partners – industry associations, business organizations, and education institutions – and employers to develop a plan to help attract workers in select fields.
- 2 Work with the Boulder Chamber and other community partners to implement the Innovation Blueprint 3.0, in particular to “expand mentoring and training programs for entrepreneurs, female and minority business leaders, facilitate cross-industry collaboration, and develop talent among our university student population”.
- 3 Implement programs to foster attractive and affordable housing options for in-commuters.

Photos from left to right: LogRhythm, Boulder Chamber Event, Rally Software Founder and CTO Ryan Martens (photo courtesy of Don Cudney)



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PLACE



Ligit (photo courtesy of Tres Birds) recently moved into a renovated space on the second floor of Twenty Ninth Street.

The workplace needs of today's employers are vastly different from those of just a few years ago. The city's employment areas need to make a similar transformation. Each area of the city is different and a more place-based approach would identify desired change and tailored strategies for achieving that change. There is enormous opportunity to improve Boulder's employment areas to provide a greater diversity of uses and services, increased walkability, improved quality of the built environment, and increased access to public transportation, bicycle and pedestrian facilities. Public investment in infrastructure is also a key component.

The city has three major employment centers, generally described as Downtown, East Boulder, and Gunbarrel. Primary employers have also

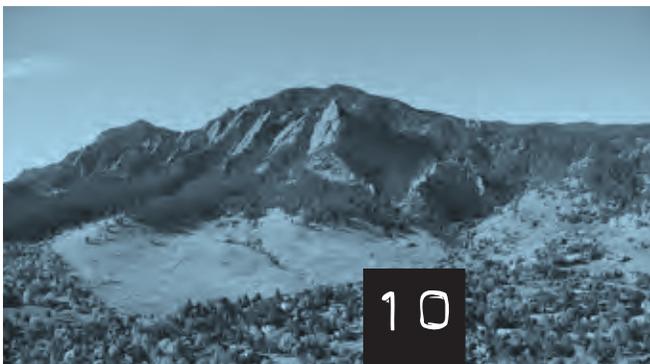
clustered in other areas like the Twenty Ninth Street area (Crossroads subcommunity), Boulder Junction, the North Boulder subcommunity, as well as smaller commercial centers such as University Hill. However, with the development of the city, those employment areas on the west side of Boulder benefit from the smaller, tighter street grid and pre-war development pattern with a mix of uses, amenities and services. East Boulder and Gunbarrel employment areas were developed in a more post-war pattern with large superblocks, and a lack of a connected street grid, access to nearby restaurants, amenities and services.

The city's urban form is shaped by the location and design of streets, paths and open spaces; the mix of uses and activities that are allowed in each area of the city; and the design and intensity of development

Photos from left to right: West Pearl Street in downtown Boulder, Boulder's mountain backdrop, numerous recreational options (Copyright © 2012 - Rob O'Dea)



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and public improvements. The city's goal is to evolve toward an urban form that supports sustainability, from a citywide scale down to the "15 minute neighborhood" scale. This "sustainable urban form" is defined with 5 components: Compact; Connected; Complete; Green; Attractive and Distinct; and Inclusive.

For each employment area the same components of a sustainable urban form can be applied. Density should be in appropriate locations to create and support viable commercial opportunities; there should be an integrated multi-modal transportation system, with daily needs within easy access of home, work or school without driving a car.

As the city works towards its climate commitment goals, the built environment, including our commercial and industrial buildings, and the activities within those buildings play a significant role related to energy use and greenhouse gas emissions. Regulatory changes, financial incentives, innovations and education together will help our commercial and industrial buildings become more efficient, attractive, and cost efficient for employers and property owners.

The 2012 Primary Employer Study highlights the unique characteristics and needs of specific Boulder areas where most primary employers are located. Desired public and private amenities like restaurants, shopping, parking, bike paths, and transportation – and the needs of primary employers – differ greatly between Downtown, East Boulder, and Gunbarrel.

Downtown restaurants, retail, district parking, and the Pearl Street Mall serve downtown employees, residents, and visitors. Downtown zoning includes non-industrial primary employer offices in addition to financial services and other professional offices. Employers love downtown for the many opportunities for "casual collisions" on the mall or in a coffee shop. Some companies find the parking district convenient, while others do not choose a downtown location because they don't want their employees or visitors to pay for parking. High demand has resulted in very limited office space availability. The completion of the vision for the civic area, including office, arts, and event/performance spaces provides the opportunity to explore public-private partnerships.

East Boulder houses a mix of manufacturers, research and development, and a wide range of industrial uses, and is the city's largest employment center for primary employers. Free and abundant parking is seen as a plus for most employers. Bike paths and sidewalks provide pedestrian access. There are some lunchtime options within Flatiron Park and in the area of the 55th and Arapahoe intersection, but many employees drive to Twenty Ninth Street, downtown, or other commercial areas for more eating options. Additional amenities such as pedestrian connec-

tions, restaurants and other services are desired. Shuttle buses or other transportation options have been requested.

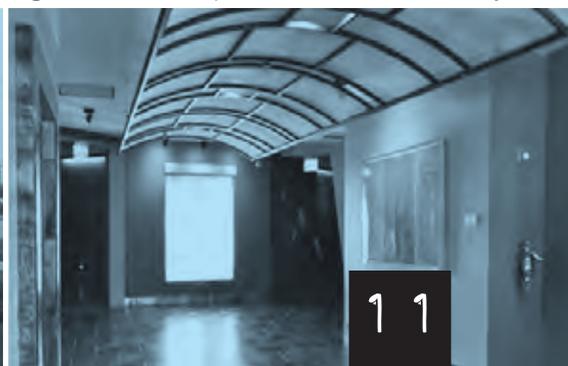
Gunbarrel is evolving, with new housing, retail, brewery/restaurant, and hotel development all under construction. Gunbarrel is home to many larger companies, and employers desire more eating options and services in this portion of Boulder. As in East Boulder, parking is free for employees and visitors. More Gunbarrel housing options – in type and price – would allow more Gunbarrel workers to consider living closer to work.

As a mature, compact city with little remaining vacant land, the city has an opportunity to revitalize areas of the city that are not reaching their full potential. Strategic planning to address the unique needs and priorities of each employment area and ensure that economic sustainability and place-making is a primary outcome is the essence of the place-based approach. While supporting and sustaining these vibrant places, the city can help to retain and attract primary employers as well as enhance the unique character of Boulder's subcommunities and advance other community sustainability goals. Strategic planning has been done in downtown, 28th St. and Boulder Junction. The new buildings proposed and under construction are fulfilling the vision of the planning efforts for the area, and helping to address needed office space for employers. The primary employer study identified that additional demand for office space remains strong, even with these new developments.



Courtyard at the St Julien Hotel and Spa

Photos from left to right: Spectra Logic's Boulder headquarters, interior of a W.W. Reynolds building (photo courtesy of Britt Augustine), Pearl Street Mall



ISSUES & CHALLENGES

- 1** Main employment centers of East Boulder and Gunbarrel lack a diversity of amenities, uses, and services (e.g. restaurants, retail), increased walkability, recreational amenities, the arts, and increased access to public transportation, bicycle, and pedestrian facilities to meet the needs of Boulder's workforce.
- 2** As an older community, Boulder has an older commercial building stock as compared to newer, remodeled space in neighboring or similar cities. As a result, "tired" buildings may not provide the amenities or upgrades desired by employers.
- 3** There is limited availability of high quality, large floor plate commercial space to meet the demand of growing Boulder larger primary employers. Many larger employers look for the efficiencies provided by larger floor plates.
- 4** The very low supply (low vacancy rate) of downtown office space presents a challenge due to the high desirability and demand for downtown space (and its numerous amenities and concentration of companies) by Boulder primary employers.

STRATEGIES

- 1** Support the vitality of Boulder's varied employment areas throughout the community (e.g. Twenty Ninth Street, South Boulder, and North Boulder) through a place-based approach that builds upon the unique amenities to those areas, in addition to the city's main employment centers.
- 2** Enhance the East Boulder employment area to create a more desirable place for companies and workers with desired amenities and mixed use: eating and drinking places, retail services, the arts, and increased multi-modal access to public transportation and bicycle and pedestrian facilities.
- 3** Continue the efforts in the Gunbarrel community center, to create a more inviting and diverse place for companies and workers, with desired amenities and increased access to public transportation and bicycle and pedestrian facilities.
- 4** Ensure Downtown Boulder's continued success as a vibrant, desirable location for a rich mix of uses by finding opportunities to upgrade and create additional space for key industries as well as high quality outdoor spaces, including implementation of the civic area plan.
- 5** Encourage and incentivize the upgrading of Boulder commercial buildings in appearance, tenant amenities, energy efficiency, and other sustainability measures.
- 6** Support a multi-pronged, community development based strategy to maximize the unique assets and opportunities of University Hill.



Downtown Boulder is home to Bing's maps team and imagery processing office

PLACE

Photos from left to right: Chautauqua Park (photo courtesy of LogRhythm), Amgen's Boulder headquarters



PLACE: 2014 ACTION CHART

	ACTIONS	RESPONSIBLE PARTIES	TIMING
action 2.1	Implement the Civic Area Plan Phase 1 including investment strategies, financing tools, capital improvements, flood protection, safety improvements, and feasibility planning for future phases.	City Manager's Office, Finance, Community Planning & Sustainability, Public Works, Parks & Recreation, Library and Arts	Begin early 2014
action 2.2	Work to support public and private investment in amenities in the East Boulder employment area through the East Arapahoe area planning effort .	Community Planning & Sustainability, Public Works – Transportation	In progress – Scoping to City Council in 1st Quarter 2014
action 2.3	Examine the mix and type of businesses located in and around North Boulder as part of the Subcommunity Plan update, including analysis of the feasibility of fully developing the Village Center.	Community Planning & Sustainability	In progress – Adoption by 3rd Quarter 2014
action 2.4	In partnership with the Hill stakeholders, provide resources and coordination for the implementation of the Residential Service District and the innovation district concept . Develop a cross departmental Hill team to ensure coordination of and communication about Hill programs and activities.	Downtown & University Hill Management Division	In progress – implementation through 2014
action 2.5	Continue implementation of Boulder Junction to support economic development, and community goals for transit-oriented development.	Community Planning & Sustainability, Transportation Division, Housing Division	Ongoing

PLACE: LONGER TERM ACTIONS

- 1 Support areas like Diagonal Plaza to maximize redevelopment opportunities and strengthen economic health.
- 2 Explore incentives and financial tools for commercial property owners to upgrade their building stock, catalyze commercial energy upgrades, and provide employee amenities.
- 3 Through the Sustainable Streets and Centers project and East Arapahoe area planning, study East Boulder and Gunbarrel zoning (e.g. open space, parking, and floor area requirements) and consider updates to reflect current employment trends and needs of primary employers.
- 4 Complete the implementation of Phase 1 of the Transit Village Area Plan, and continue to Phase 2 of implementation.

Photos from left to right: Entrance to Lijit's new office (photo courtesy of tres birds), The Hill, Google's Boulder office



PROCESS

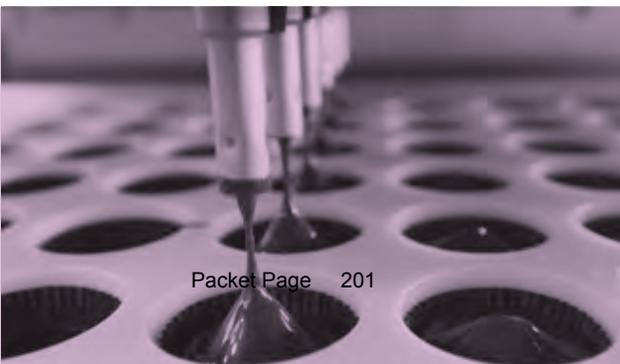


A collection of code books

Many issues related to primary employers' space, location, and expansion are purely defined by the market. To support the retention and attraction of today's talented workforce and progressive employers, however, the city can make it easier to do business in Boulder and have a direct influence on a number of important issues:

- The city's comprehensive plan sets broad economic policy and land use direction.
- The city's zoning districts define the uses allowed in different areas occupied by primary employers.
- Developing new space or upgrading existing buildings require review and permits by the city.
- Business retention, expansion, outreach, and incentives through the city's economic vitality program.

Photos from left to right: Seth Ellis Chocolatier, Mobile Assay, LogRhythm



Economic Sustainability Strategy

The comprehensive plan recognizes that land use regulations impact the ability of businesses to evolve. One of the city's largest roles in supporting and fostering economic sustainability is through land use authority. Therefore, the city's regulations and review processes need to provide flexibility to allow businesses to be responsive to emerging technologies and evolving industry sectors. There are daily interactions between employers and Boulder's city government. These occur when companies get services from the city and are subject to city regulations and programs. These include licensing and taxing, permitting and development review, the adoption of legislation, and business assistance and business retention services provided by the Economic Vitality program. Over the past few years, the city has placed additional focus on the improvement of these business services, as part of the city's vision to strive for service excellence. Efforts implemented and underway include expanded economic vitality services, a web business portal, and new ways to communicate about city news and projects that matter to businesses.

Many Boulder primary employers lease their space. They often grow quickly and move frequently, triggering remodeling to meet tenants' needs. Remodeling construction requires some combination of city development review and permits. Timing windows are routinely affected by lease timing and company operations. As companies plan their moves from space to space (often every few years), the cost, predictability, and timing of building improvement projects and permits (including code-triggered upgrades) become key factors in their decisions to stay and grow in Boulder.

The city's economic vitality program provides support for business relocation, retention, and expansion. One tool is the flexible rebate business incentive program in which the city manager can approve customized rebates of sales and use taxes and permit and development review fees to key primary employers. A microloan program provides an additional funding source for Boulder small businesses.

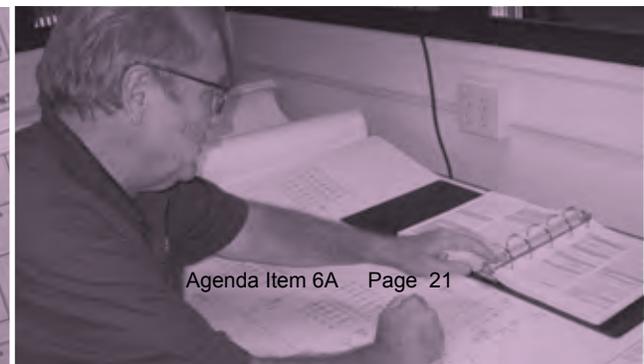
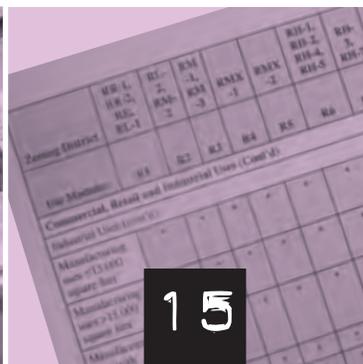


A recent kitchen upgrade in a W.W. Reynolds building (photo courtesy of Britt Augustine)

Photos from left to right: TIGON Enertec, Zoning use chart, City permit reviewer/inspector



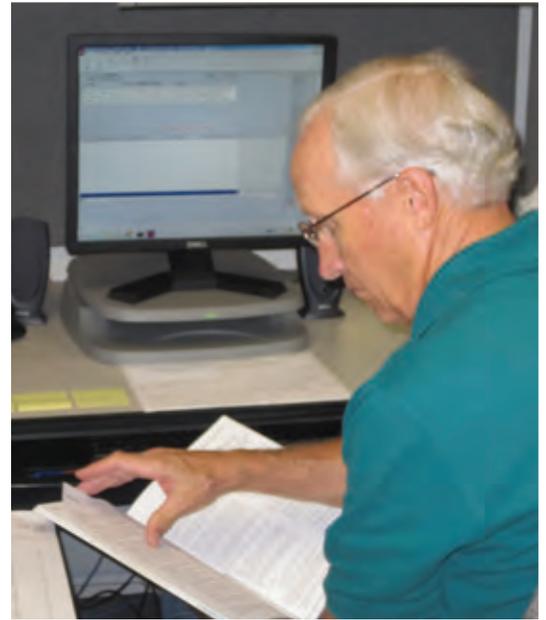
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ISSUES & CHALLENGES

- 1 The city's discretionary review process can result in a wide range of outcomes that can increase the level of risk and associated costs (which affects the ability to build the development potential according to the zoning code).
- 2 Because most primary employers are lessees (81 percent) and move frequently, employers and property owners may not invest capital in building upgrades.
- 3 Certain city zoning regulations on the uses of commercial space (and size of uses) may unnecessarily limit use flexibility.
- 4 Upgrading older buildings can result in significant building improvement requirements (e.g. energy code, accessibility, wiring, utilities) that may be unexpected to a property owner or a business tenant.
- 5 Land cost is a significant factor; Boulder's commercial land cost is generally higher than surrounding communities and this affects decisions to upgrade and develop commercial property.



City building official / permit reviewer

STRATEGIES

- 1 Ensure that Boulder's land use and other codes respond to changes that support 21st century employer needs for flexibility in commercial uses and employee workplaces.
- 2 Encourage owners of Boulder's industrial and commercial building stock to update their buildings so that they become models of 21st century energy efficiency.
- 3 Make doing business with the city easier, through improved application and permitting processes.
- 4 Continue and expand the city's economic vitality efforts in business retention and expansion, outreach, incentives, and assistance.



Twisted Pine Brewery's expanded ale house

PROCESS

Photos from left to right:
Community engagement outreach event held by the city, Planning and Development Services Center



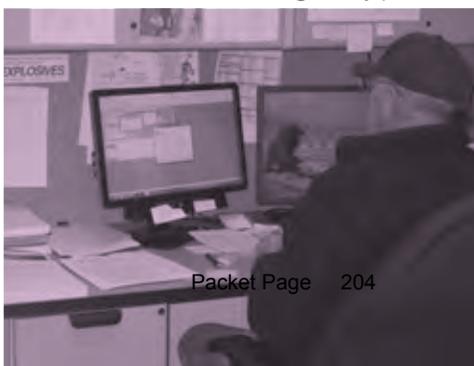
PROCESS: 2014 ACTION CHART

	ACTIONS	RESPONSIBLE PARTIES	TIMING
action 3.1	Update commercial and industrial zoning use charts and definitions to provide more flexibility for space options, respond to the dynamic nature of Boulder's primary employers, and to allow and encourage desired amenities.	Community Planning & Sustainability	In progress
action 3.2	Continue to improve the commercial tenant finish permit process to make it more timely and predictable (with predictable requirements) for applicants and property owners.	Public Works and Community Planning & Sustainability	In progress
action 3.3	Update home-based occupation regulations to reflect current industries and businesses, the use of the Internet, and to balance potential impacts to residential neighborhoods while allowing flexibility for home-based businesses.	Community Planning & Sustainability	Complete by end of 2014
action 3.4	Continue to improve energy efficiency in commercial buildings and business operations through the implementation and evaluation of voluntary programs. Work with building owners and businesses on the 2014 pilot with Pecan Street that further policy and strategy development aimed at reducing energy waste in commercial buildings.	Community Planning & Sustainability	Ongoing
action 3.5	Revise the land use regulations to allow, through Site Review, the density and floor area that would otherwise be permitted prior to the dedication of land for public right-of-way in areas where the city has adopted connections plans.	Community Planning & Sustainability	In progress
action 3.6	Update the land use regulations for required site improvements and upgrades by changing how the assessed value is calculated , by allowing the option of using the professionally appraised fair market value of the structure.	Community Planning & Sustainability	In progress

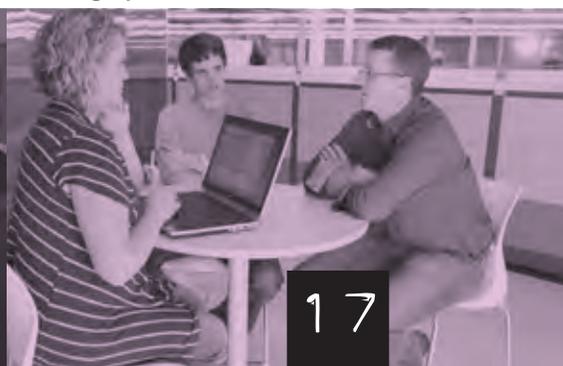
PROCESS: LONGER TERM ACTIONS

- 1 Evaluate updates to zoning bulk and intensity methods (height, stories, FAR, building size, open space, setbacks, parking).
- 2 Examine policies and regulations around complementary uses and amenities in employment centers, such as eating establishments, retail and services.
- 3 Consider increased funding for flexible rebate incentives.
- 4 Modify/enhance development review processes (review thresholds, review times, fees, predictability).

Photos from left to right: City permit reviewer, LogRhythm, Interior of Advanced Thin Films



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Summary of Stakeholder Comments on the ESS

1. Introduction/General Comments

Architects:

- Good plan, overall.
- It's great. I appreciate the emphasis on developing the housing and building stock.

Brokers:

- This looks great to me!
- This looks really good. From my perspective, this addresses all of the commercial real estate challenges that we have discussed in the past.
- The word sustainable is used in various places, including the mission statement, but never defined. What are we hoping to sustain?
- It doesn't sound like the U [CU] is getting a lot of play here. I personally feel its influence is enormous and could be played up to a larger degree.

[8.2% of all employers are primary employers is] lower than I would have guessed.

Partner Organizations:

- Generally looks good.
- It would be better to **address up front the assumption that we all make that Boulder will host and nurture start-up companies and that those who really make and need substantial space will most likely need to move to surrounding communities.**
- I have always been a little fuzzy on the goals of economic vitality, what it is and how the [my organizations] fits into it. I think this document is a good attempt at bridging the reality of what Boulder is today to a vision of what it is aiming at in the future.
- In short . . . this is great!

- There is a lot to like about this straightforward report. The analysis of primary employers and their needs is especially good. Of course the report's strategies could use more tactics.

Thanks for leading on this topic. It's a big, important one, and I like the way you have broadened it from business to incorporate housing and transportation.

- My critique is that **there is not a mitigation strategy for all of the identified issues and challenges; or there is a strategy where issues and challenges are omitted.**

Primary Employers:

- I am extremely pleased that Gunbarrel is gaining additional amenities (such as the Hampton Inn hotel) and lower cost housing options (the mixed use community east of King Soopers).
- Overall, this document is very well written. It's clear and understandable, so as a "draft", it seems to me like it's in pretty good shape. The comment and thoughts I'm listing are just some points that the group considering the strategy may want to consider. I respect that these thoughts may not be in line with conventional Boulder thinking.

I don't know if these ideas are helpful or not, but I believe it is important that the strategies the City considers should support the needs of business, in conjunction with the environmental and social goals, not subservient to those goal.

- This is a very well written document. The content is concise and stated clearly. However, it is cumbersome and not a nimble document that is easily "consumed" by Boulder stakeholders. Distill it to a 'manifesto', one pager summary and allow for detail as a supplemental document. The intro does not achieve this. A manifesto has pizzazz, energy and a bit of marketing savvy.

And here's a whammy.....this reads well as I said, but it can easily be assessed as government mumbo jumbo. What I mean, is there needs to **be more 'meat' behind why this is important, how is the city staff participating and innovating, how can the community engage, how/why will businesses benefit.** What is the tone at the top? For instance:

- We have a local hero on conscious capitalism, Bud Sorenson; he can help summarize much of the energy/purpose that I take from the ESS presentation.
- Shared 'Fate'...we're in this together, we're fair, think through how this impacts all stakeholders. Not maximizing financial returns, but optimizing stakeholder interests
- The city should 'activate' a slate of mentors, strategic influencers...and share results with complete transparency

- Out of 28 companies that practice conscious capitalism, their 10 year ROI from 96-2006 was 1026%...S&P same time period = 122%

Since you asked for my opinion, I'd love to see **more behind 'WHY' and less emphasis on who/how**. Regarding Boulder's competitive advantage, we all want a healthy, vibrant, improving quality of life.

- First of all, I completely agree with the 4 primary issues [that came out of the Primary Employer Study].
- Overall, I thought it was excellent - it was very well organized and touched on the key issues for each of the three major employment centers.

Property Owners:

- Seems like a solid overview of most of the drivers of economic development as they pertain to primary employers.
- We appreciate the opportunity you've given us to comment on the draft City of Boulder Economic Sustainability Strategy, [the company has] significant commercial real estate investments in East Boulder, Longmont and the Denver CBD that influence our views on the issues discussed in the paper. Overall, we are very much in agreement with the paper's description of Boulder's strengths, weaknesses and the resulting areas of focus for Boulder's economic sustainability strategy.

While the City of Boulder is unique, **Denver is closing the "coolness" gap very rapidly** and increasingly attracting the types of employers typically associated with Boulder. Denver is certainly unlikely to achieve Boulder's status but Denver has its own unique advantages such as scale, central location relative to the employment base, developed and expanding transportation system, proximity to DIA and, most importantly, rapidly expanding amenities and housing in and near the urban core. The implication for Boulder in our opinion is that it **doesn't have the luxury of time to make the adjustments necessary to retain and attract the primary employers** that are vital to achieving Boulder's economic sustainability strategy.

We welcome the opportunity to stay involved in the dialog as the economic sustainability strategy progresses.

- First impression: thorough, well presented, good work. The ESS says "work with stakeholders"; they will be cooperative, but the city may not (the city is agenda-driven; some CC members are anti-growth, anti-jobs). Will the strategy be flexible? How will it be used, adapted? It needs to be an enabling document. Boulder is not an easy place to do business - intersection of past programs & process.

Boulder doesn't really recognize the need to improve tired buildings. Council approval of zoning changes is the key regarding the high cost of land. **If the city is attractive & welcoming, companies will afford to be here.** The key is to let companies grow in place.

- Put a lot of work into it, hopefully turns into a useful template.

2. People

Architects:

- Regarding the importance of affordability of housing, I'd like to highlight that **low and high priced housing is being adequately addressed, but the City needs to enable the creation of more moderate priced market rate housing.** My interns can find roommates in Martin Acre houses, and my mid-level staff qualify for the City's Affordable Housing program, but my senior staff have to move to Longmont or Broomfield in order to buy an actual house, townhome or newer condo. The City's Affordable Housing Consultant's report was dead-on - we have been intentionally creating an inverse bell-curve supply of housing. **Boulder desperately needs more moderate price market rate housing.**

There are many ways to achieve this and it will take a quiver of new policies to support that idea. Here are a few possibilities:

1. **Create a new by-right zoning designation called Pocket Neighborhoods.** It would allow for substantially increased unit density for houses under 1500 square feet, and would allow for Pocket Neighborhood mini-PUD's to be created on what are currently single family parcels. This program is being successfully used here and in other communities:
 - http://www.solarvillagehomes.com/case_studies/turnkey/Thistle-C.php
 - <http://www.pocket-neighborhoods.net/>
2. Eliminate the Inclusionary Housing fee for all new units smaller than 1500 square feet. These homes are already affordable due to their size.
3. Eliminate the Inclusionary Housing fee for all apartments. Apartments are by their very nature where one goes if you need affordable housing.

Brokers:

- The current residential conditions in the city speak volumes about where the market is taking us (**there is no house available for sale less than \$600,000 west of Broadway**). If the city wants a diverse housing stock it must get aggressive about densification. The city must actually lead on this. There are only approximately 65,000 total units in the city and without assistance no one making less than \$160,000 can afford to own.

- Can you provide an example of one of these [workforce training] programs? I'm a little skeptical about this.

Partner Organizations:

- The thing that made the biggest single impression on me was the fact that **there will need to be an in-migration in the 2020 – 2025 timeframe to supply the talent needed for “retirement” of current employees.** Just about every week I speak with people thinking about moving to Boulder. I think you capture pretty well in the first third of this document the reasons people are attracted to the community. I did not see much in the plan about how best to attract these folks over the next 10+ years. **I am not sure that STEM, job training, housing, which I view as more tactical than strategic, and while important, will attract the best and the brightest to Boulder.** I do think the amenities, open spaces, outdoor options, CU, and the view that somehow the community fosters the creation and growth of new successful companies [can help attract a high quality work force]. I would **think about whether or not some kind of ongoing messaging aimed at attracting these folks to Boulder should be part of the future economic vitality plan.**
- It would be great if you could mention the **Innovation HQ concept for co-locating many of Boulder’s business support organizations,** providing greater efficiency in our support of businesses (i.e. one-stop for support services, which could include a city liaison office) as well as enhanced collaboration on economic initiatives.

Primary Employers:

- Most of Boulder's workforce is already very well educated in their field and most of them received their education prior to arriving in Boulder. Once they get here, the companies they work for are best suited for determining what additional training is required. It seems to me that it will be **very difficult for bureaucrats to determine and foster the "right" training for the non-governmental workforce.** At the surface this sounds like a good idea, but it seems to me that the **specialized training needed by Boulders technical elite will be missed by this Action Plan.**

While the "strategy" to cooperate with RTD is listed here, the reality is that even our little company has people commuting in from south of Castle Rock to Fort Collins. While RTD will occasionally help some of these people, they will continue to drive single or double occupancy vehicles. Since the concept of a single occupant vehicle appears to be considered an environmental disaster by the politically correct in Boulder, **it seems that policies will be developed to "encourage" people to not drive, and "punish" them if they do. Ultimately this will encourage good people to find employment in other places that do not punish them.**

Most of the Boulder housing plans seem to promote increasing density. Most of the people that work in Boulder are professionals who are at the point in their lives where they

would like to have their own, single family residence, and would like at least a small yard where their families to grow up. **Since these single family homes are very expensive compared to the surrounding cities, the workforce chooses to commute.** If Boulder continues to simply promote the increased density, I'm sure the apartments and condos will fill up, but most of the people who will live in these places will have to commute out of Boulder to the surrounding cities, where the trades and manufacturing jobs are located. This will only increase the commute trips. The professionals will still do the math and determine they can buy twice the house in Broomfield.

- Productive or 'casual' collisions ([currently] under Place, but should be highlighted within Boulder government/People) occur when groups have the opportunity to cross pollinate and share perspectives. This should be baked into the Boulder City approach to staffing and articulating vision docs like this. Innovate with more diversity of talent.

Regarding working with employers on workforce training opportunities, it goes back to productive collisions. Strategic partners that are empowered, yet work with the City initiatives. I'm building an Institute with area key stakeholders; this may be a strong mutual opportunity.

Property Owners:

- Action 1.3 (housing strategy): I question the commitment to do that [develop approaches for the needs and preferences of Boulder workers who don't live in the city]. Why don't we have small affordable housing units?

3. Place

Architects:

- I was hoping there would be **more focus on the Transit Village**. This area is going to be where I think a lot of action can happen fairly quickly to satisfy needs for central Boulder office space, and some retail, arts, and housing (although I know housing is not germane to this plan). If for no other reason than just to allow for this plan to assist that area in the future, I think you should **add the Transit Village to the "Longer Term Action" section**.
- Better yet, I'd love to see a **"2.5" under Action Plan to "monitor activity in the Transit Village to support economic development, BJAD, and community goals for transit-oriented development."**
- I've been hearing a popular idea that everyone can get behind, which is that Boulder should be this **"15-minute" city** -- where you can get anywhere alt-modes of transport (walk, bike, bus) and do basically anything (work, shop, play) in 15 minutes. Supporting that would be huge.

Brokers:

- **Retail needs to be directly addressed.** After all it is retail tax dollars that pay for so much of the city's amenities. Love or hate the new WalMart it's going to help raise the quality of everything the city can do. The ignorance around this link is mind boggling.
- **East Boulder and Gunbarrel regulations must be adjusted to allow for retail additions.** This will reduce driving and encourage neighborhood gathering.

Partner Organizations:

- I would **add the potential for even higher density mixed use opportunities** that include housing options, with the potential to create something that I think will address many community/business needs (e.g. more office space, affordable housing, better promote transit and create a walkable environment) while relieving Pearl Street development pressures.
- **I wouldn't isolate the innovation district concept to the Hill.** Instead, I think we should **promote innovation districts in strategic areas throughout the community** where you can accommodate the mix of assets that makes Boulder such an innovation hub, including CU and federal laboratory research facilities, businesses activity space/offices, and the opportunity for more intense walkable mixed use development that promotes creative collisions (e.g. near the 30th Street and Arapahoe area).
- I agree with the ULI TAP analysis that the **Innovation District on the Hill, with its small spaces and relatively high rents, is a tough goal to achieve.** On the other hand, maybe things have changed since March 2011. Walking through the Hill just yesterday, I noticed a lot more vacancies, mainly among small storefront.

Of course **I like the call for more housing for skilled workers and more mixed-use in East Boulder commercial areas.**

- *[Regarding the above comment about there not being a mitigation strategy for all of the identified issues and challenges or there being a strategy for which issues and challenges are omitted.]* For instance, **I did not see a strategy that addresses the following downtown Boulder item:**
 - Ensure Downtown Boulder's continued success as a vibrant, desirable location for a rich mix of uses by finding opportunities to upgrade and create additional space for key industries as well as high quality outdoor spaces, including implementation of the civic area plan.

Also, **I wonder what tasks would be associated with some of these actions** (e.g., tasks to support a multi-pronged University Hill strategy). Should these actions be articulated in the report?

Primary Employers:

- As a business owner, I believe **a much better approach, rather than "incentivizing" owners, is to simply "get out of the way", and reduce the burdens that the City places on people who are actively working toward improvements.** I can list several items where the City rules required that our business makes unnecessary modification to our building, and quite honestly, this used up all of the budget that we could have used in making our building more environmentally friendly. When we're required to spend hundreds of thousands of dollars for things that are not needed, we couldn't invest in solar.

Additionally, as we invest in improving buildings within the City, our sales & use taxes increase significantly. We have made choices to not make certain investments and improvements knowing that our long-term, ongoing, monthly tax burden will increase.

Property Owners:

- It seems like the elephant in the room is downtown density. The report is focused on creating a high-end building stock and complementary amenities to attract and retain primary employers while pointing out limited space. However, **there's virtually no mention of the need to re-evaluate downtown density.** I do not think there is a danger of Boulder becoming a metropolis with skyscrapers, but it's nearly impossible to retain growing start-ups with severe space constraints. **I do not think the report should advocate for increasing density, but merely advocate for the need to evaluate the possibility.**

The report repeatedly mentions primary employers needing to frequently move due to growth. At some fairly early point, many companies growth exceeds what downtown Boulder can supply. However, many of these companies attract top talent with their location and instead of going to East Boulder or Gunbarrel, will move to Denver, Seattle, or San Francisco. While Boulder will never house the Facebooks and Amazons of the world, **considering slightly increased density downtown could help Boulder hold on to some of these companies for a bit longer** – a situation that creates greater and longer-lasting revenue, decreased road congestion and transportation issues, as well as a stable community – all drivers of economic development.

- Given that 1) **East Boulder** represents 44% of primary employers in Boulder and 2) it is the largest office and industrial real estate submarket in Boulder and has the highest vacancy rate of any submarket in the city it **should be the area receiving the greatest immediate attention from the city.** There is broad agreement on many issues that could be addressed immediately versus waiting for years for a study to be completed. Examples include:
 - Need for a larger, more dynamic retail amenity base in East Boulder in and around Flatiron Park. Upslope Brewing/Ozo Coffee Roasters have been exceptionally well received. There should be city **incentives to encourage and pave the way to create amenities.**

- **Encouraging multifamily development in East Boulder** would be helpful relative to both amenity development as well as locating housing near a major employment center. Need for **a circulator bus/shuttle** to easily transport East Boulder workers and residents to downtown/central Boulder.
- More **incentive/rebate programs to encourage owners to update/upgrade landscaping and lighting to updated code**, as well as incentives to encourage building facade upgrades to improve the aesthetics of the existing building stock.

We also would also like to understand more about the East Arapahoe area planning effort and would be pleased to be involved in that effort.

- **East Boulder** - major area of opportunity; allowed FAR is too low.

"Boulder recognizes the need to renovate old, tired buildings" - Really? **Zoning & incentives don't reflect need to renovate tired buildings.**

I would like to **see an implementable plan that has commitment & funding behind it for certain city zoning regulations & size, if spaces may limit use flexibilities.** The code that governs East 30th Street hasn't changed. What are the incentives for property owners to upgrade?

4. Process

Architects:

- The only thing that I might add is that the general perception among architects and developers is that Boulder is exceedingly controlling (no surprise); however, that has directly resulted in the Wall of Buildings on Canyon that Council has routinely disparaged (that may be a surprise). By that I mean that because everything is codified and controlled, **architects feel that they have little freedom to create great designs (the landmarks of the future) and developers carefully follow the formulas (like the Downtown design guidelines)** that the City puts out. Essentially we walk on eggshells in order to navigate the highly uncertain process. **We react instead of create.**

Some of the best spaces in Boulder (the Centro and West End patios) were largely illegal (incrementally enclosed) – very few property owners or architects are willing to risk getting denied or fined.

By contrast, in Denver you get Taxi. Much of Taxi (including bridges, the pool, some of the mixture of uses, and the landscaping) are wildly illegal (and in many cases simply unpermitted). But Denver's attitude is "we want to create projects like this", so they let it fly.

In the Highlands there are four-story, zero setback apartment buildings right next to one story bungalows. Is that okay? Did it destroy the quality of life? Quite the opposite. People LOVE it. **Boulder touts diversity and “keep Boulder weird”, but we are actually very conservative. If we have no diversity of our building stock, we won’t have much diversity of uses or demographics.**

A client hired me to do a feasibility analysis on putting an 8 bed micro-senior care facility (group home or assisted living) in a downtown residential neighborhood. It would have been a perfect use on the site. The city process was so daunting and uncertain that they decided to abandon the project (there are **three nearly identical zoning categories for assisted living, but two of the three were prohibited and there was no way to pre-determine which category the city would designate our project until we submitted for permit**).

It essentially comes down to how to the question **“how do we create an atmosphere of freedom and innovation in order to encourage the creation of a physical environment that supports the highest quality of life”**.

How can Boulder make this change? I’m not sure. Architects and Developers need to see precedents of approved projects before they start taking similar risks. **If Boulder wants great and innovative architecture it needs to officially go out of its way to encourage and approve it.**

“First we create our buildings. Then they create us.” - Winston Churchill

Brokers:

- [Uses of commercial space (and size of uses) that may unnecessarily limit use flexibility] is a huge issue.

Another issue is the **timing of building permits**, currently running 8 weeks in Boulder.

The planning department is now adversarial to commercial and residential real estate business, and this harms employers.

Primary Employers:

- While I believe in being a good environmental steward, it seems that **environmental strategies should work in conjunction with the realities that Boulder businesses face every day**, rather than working against them. For example, in order to get a permit to improve my building, I was forced to remove several parking spaces at significant cost. While I don't have a parking shortage now, it is conceivable that I could run out of parking spaces long before I run out of desks to seat workers. In this case, it seems that the City's rules needlessly penalized a new local business in hopes that there would be some sort of

environmental improvement, without actually considering that the rule helped nothing, but cost my business significantly.

Action 3.3 seems to imply that the City will improve the situation by "facilitating" home based business. **There is little incentive for home-based businesses to get "legal" with the city; it will only result in increased scrutiny and taxes.** It seems to me that most small home-based businesses will simply continue to stay underground.

Regarding the Flexible Rebates, while I am honored and happy that my company received the Flexible Rebate, it seems that most of the local business owners that I talk with would **prefer a reduced tax burden over a process that provides kickbacks.** If Boulder seriously wants to attract more businesses, it seems that it would be wise to explore ways to **make it easier to do business in the city,** rather than simply providing rebates after a business has succeeded.

It seems to me that **revisiting zoning to support growth of amenities** in areas that are traditionally not rich in amenities is a great idea.

- I think that "softening" the codes as addressed in the strategy will help in all 4 areas [that came out of the Primary Employer Study)
- Under the manufacturing near-term section of improvements. What is meant by "more contemporary business models"? Expanding on this would help.

I have felt that the city doesn't really know what to do with **breweries.** It's mostly due to the fact that they're **both a manufacturer and a retailer under one roof.** They also serve alcohol which has its own impact on the surrounding communities. I heard recently that Ft. Collins is creating some kind of a "brewery district" that will allow those uses, and similar uses, in those areas. Might be worth a phone call to see what they are doing. At Flatiron Park we had to go through extensive use reviews for our silo, the patio, and the change of use from office space to tap room "restaurant space".

- The "Process" challenges were articulated well and touch on our key concerns as a primary employer moving into Boulder – lack of available office space generally, tough review process with the City which leads to uncertainty and the inability to plan, etc. I don't know the facts, but it would be interesting to know what percentage of leasable square feet of commercial space in Boulder is controlled by one or two landlords (Unico/Midyette and Reynolds). The tight control on the available commercial properties makes it challenging as the landlords seems to have the ability to demand onerous terms on tenants. When that factor is compounded with the challenges in dealing with the City, it is not a pretty picture.

Property Owners:

- In the final section (“Process”), the report calls out **energy codes as a deterrent or obstacle to improving the commercial building stock. I tend to think that numerous cities similar to Boulder have recently proved this to be just the opposite.** Seattle, Denver, and Pittsburgh (not a comprehensive list) are showing that **achieving greater energy efficiency is actually driving economic development.** Energy efficient commercial buildings are cheaper to occupy, healthier, and generally more modern and nicer. As such, these buildings attract companies that market both their companies and facilities/cities to potential employees. Seattle’s energy efficiency goals through their 2030 District have been a huge economic development boon to the city and we’re hoping that a Denver 2030 District (launching soon) will be just the same.

That being said, implemented in a top-down sort of manner, I can see how energy codes can become an obstacle, and I think this is an important nuance to point out. Like many cities, Boulder has lofty environmental and efficiency goals. **Whether those goals inhibit or encourage economic vitality is more a matter of implementation than simple existence.** I agree that Boulder’s current implementation and enforcement has been primarily a hindrance, but for that reason I think we have a significant opportunity to encourage economic vitality through energy codes, but through a different means of implementation. I’m happy to brainstorm/expand on these other means in a different email/conversation (and spare you the essay here).

- There is broad agreement on many issues [in East Boulder] that could be addressed immediately versus waiting for years for a study to be completed. Examples include:
 - **Need to update the prohibitive zoning in East Boulder to remove restrictions on certain office user groups** (professional services, medical, etc.) as well as **allow more density to encourage redevelopment of older existing sites** to create larger more modern floor plate buildings.
- Process - ease of doing these process & code changes?
- Shared a quote from an architect re: Boulder code review:
 - Most complicated existing zoning code in Front Range
 - Obstructionist
 - Meant to deter development
 - Need high level degree to understand it and contemplate a rational solution for a client
 - 3 weeks to get an answer as to what the city would support for zone change (good answer)
 - City is mired by civic plan, municipalization – difficult to get responses

No useful hierarchy in the city (i.e. when people go on vacation). Understand that it has been addressed. The municipal process is difficult to navigate.

Statement that bothers me – encouraging owners to make their properties 21st century energy efficient

- Could try, but would make it even more difficult, as cost/rates for various properties are very high.
- If you require upgrades, it adds another layer of bureaucracy.
- Costs are already high, people from out of town's jaws drop when see rates. When they compare to alternatives in metro area, the response is "well Boulder is Boulder".
- Additional requirements would just make it harder and more expensive.
- Boulder is already requiring things far in excess and is already pushing the limit for energy codes.

Technical document review (TEC) and permitting process are challenging. Must go through discretionary approval if it is a major project, and then it may get called up to Planning Board or Council. Then there is a new process to jump into. Other costs come in the TEC process, exactions & other costs scare people and the results are unpredictable results.

Also, it is very frustrating because it drags out project many months, aside from code issues. **Once the code issues are figured out, you have to jump into new process that has to happen consecutively rather than concurrently.** You wait a long time before you can start – all kinds of costs and levels of detail emerge at that point, so it is very difficult to get things done

In a particular case, it was hard to transition from temporary uses. It is also very **challenging to match the tenants lead time (3-4 mo) with the city process times (a year)**, especially when a tenant plan, drawing, and approval is necessary.

ESS adequately captured the comments, but wanted to embellish them in order to help show things from his side.

5. Is there something missing that should be added or mentioned?

Architects:

- In terms of adding other aspects, I think there are few opportunities to get buy-in politically for **public-private-partnerships (PPP)**. To a fault, Boulder is skeptical of these. This document could be a soft introduction to the idea that ESS could begin to explore PPP's where appropriate.

Partner Organizations:

- **Traffic management is not addressed in any detail.** A commitment to moving people into and out of East Boulder and Gunbarrel would be a comfort to people considering locating here.
- With respect to elements I wonder if the strategy document could address, here are some general thoughts:
 - Consistent with the **Innovation Blueprint 3.0**, is this the place to suggest initiatives to **support marketing Boulder as an innovation capital** (i.e. to recruit startup businesses and creative class employees), **support efforts to draw in capital investment resources** (e.g. we are working on some pretty creative strategies for getting the attention of coastal finance companies), and giving even a mention to that gosh darn **conference center** (i.e. as part of the effort to continue drawing creative innovators to our community).
 - One thing that I continue to hear about is the need to invest in our **fiber system** and I think it warrants a mention as a key missing piece of infrastructure.
 - I think, in general, it would be great to make a plug for **more city investment in our innovation economy**. This includes support for things I mention in the first bullet, but also things like Startup Week and programs that competitor communities always seem to seed with funding.

Primary Employers:

- [My company] is **extremely concerned about the City of Boulder's municipalization effort, which is not covered in your report.** Although we are extremely efficient, [the company] employs a lot of people and uses electricity to design, build and manufacture and ship our data storage machines. We believe that the added energy cost and substantial risk of interruption of service from municipalization will force us to relocate much of our employment to other counties or countries. Certainly with the extreme level of uncertainty we will be cautious about future expansion and investment in Boulder.

I have personally heard the same concerns from multiple large Boulder based employers—therefore I am surprised that it is not covered in the report.

Perhaps supply **more detailed information about public transportation.**

- One topic that was not addressed was **the level of crime** in each of the 3 employment centers. What are the differences, if any, in crime rates between Downtown, Gunbarrel and 29th St.? How do crime rates in Boulder compare to other cities in CO (Denver, Fort Collins) and US?



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: October 29, 2013

AGENDA TITLE: Update on Work of the Council Committee on Boards and Commissions

PRESENTER/S

Suzy Ageton, Council Member
Tim Plass, Council Member

SUMMARY

This memo provides an update on the work of the Council Board and Commission Committee since June when the committee was created. Each of the activities described below are focused on one of the short-term recommendations contained in the report provided to Council in June and included here as Attachment A for reference.

1. Council and B&C Interaction

The committee began by circulating the committee report to all the City's Boards and Commissions. The report was accompanied by a letter describing the goals of the committee and indicating that each board and commission would be contacted for an individual presentation by either Tim Plass or Suzy Ageton. The purpose of these presentations is to describe the overall effort, the potential for B&C involvement and to seek any input on the general project.

These individual meetings have begun and should be concluded by the end of November. To date, they have been well received. Most boards and commissions are pleased to have direct contact with Council and look forward to continuing engagement on many issues of interest.

2. Staff Support of B&Cs

The committee met with Jane Brautigam to discuss the proposal to consider developing a citywide boards and commissions staff support group. Jane was interested in this idea and we proposed a meeting with support staff in September to discuss the potential for such a group. The purpose of the meeting was to introduce the work of the Boards and Commissions Committee, explain the idea of a citywide staff group and learn whether there was sufficient interest in this approach to proceed further.

The meeting was originally set for September 17 but then cancelled due to the flood and ongoing recovery work. We have re-scheduled this meeting for November 4th.

3. Clarify B&C Roles & Responsibilities

We also discussed with Jane an issue we heard repeatedly in our interviews, which is the desire from board and commission members for greater clarity as to their role and responsibilities as board members. We asked about exploring a system the City uses in job profiling and skill assessment for its applicability to develop a clearer role definition for board and commission members, should Council be interested. We are pursuing this idea and will have more to report in the future.

4. Recruitment

We have met with Patrick von Keyserling and Cale Rogers to discuss the idea of creating videos for Channel 8 of current and former board and commission members for education and recruitment purposes. At present, we are developing three different types of videos:

- a. A 30 second video that will have lots of images of what different boards and commissions do;
- b. A 60 second video, which is directed at encouraging folks to apply for boards and commissions;
- c. A longer, story video that focuses on some of the boards and commissions for which we traditionally have more difficulty recruiting.

We plan to start running these on Channel 8 beginning in November and hope that we will have one of these videos to pilot for the Council on October 29.

Next Steps

The committee work is ongoing but there will be a need to replace Suzy when she leaves Council effective 11/19/2013. Since the committee's work has a strong focus on the recruitment, application and interview processes for boards and commissions, which begin in January 2014, we request that a replacement to work with Tim be selected as quickly as possible once the new Council is seated.

We are open to any questions or comments about the work we have undertaken so far.

Attachment A: June 10, 2013 Board and Commission Committee Report and Recommendation

BOARD AND COMMISSION COMMITTEE REPORT AND RECOMMENDATIONS

**Suzy Ageton and Tim Plass
June 10, 2013**

INTRODUCTION

At the Council retreat in January 2013, Council member Ageton proposed that the Council discuss how to enhance the functioning and performance of the City's many boards and commissions (B&Cs). The discussion focused on issues that have arisen with the B&Cs as well as ways in which the Council might become more engaged in and supportive of these bodies. The Council agreed that work in this area could be useful and later appointed a committee composed of Council members Ageton and Plass to gather information from staff and B&C members and return to Council with a report and recommendations for any proposed changes.

As the Committee, we began meeting in February to design a work plan. Based on the Council retreat discussion and our own thinking, three main objectives emerged: (1) enhance Council recruitment, selection, engagement, support and oversight of B&Cs; (2) improve the performance of B&Cs to better serve the Council and community through enhanced group dynamics, capacity building, and adoption of best practices; and (3) strive to assure a rewarding and positive experience for our citizen volunteers who serve on B&Cs.

In developing these objectives, we identified several main areas of focus to pursue in gathering information from City staff involved in working with B&Cs, as well as from current and former B&C members. These areas of focus included: (1) recruitment; (2) application and selection processes; (3) orientation, both general and Board specific; (4) ongoing training and capacity building; (5) Council interaction with B&Cs; (6) Council oversight role; (7) staff support of B&Cs and (8) experience of B&C volunteers.

DATA GATHERING EFFORT

We began our work by acknowledging that among the twenty main City Boards and Commissions (see Attachment A for the list), there is great variety in terms of origins, structure, and responsibilities. Some B&Cs are defined in the City Charter (e.g., the Library Commission and Open Space Board of Trustees), others have their structure and purpose defined by state law (e.g., Boulder Housing Partners and Boulder Urban Renewal Authority) and still others have been created by prior City councils through legislation (e.g., Transportation Advisory Board and Water Resources Advisory Board). Certain of the B&Cs have quasi-judicial authority (e.g., Human Relations Commission and Landmarks) while the primary purpose of others is to provide advice to council (e.g., Arts Commission and Environmental Advisory Board). The Committee's data collection efforts were tailored to take into account these varying roles and responsibilities.

The basic method of data collection we selected was the personal interview, believing it would provide the best opportunity to gain detailed information about the areas of focus. Given the number and variety of B&Cs, however, we tried to choose enough different B&Cs to provide reasonable coverage recognizing that it would be too time consuming to talk with both staff and B&C members from all twenty boards. For the B&C input, we generally chose the chair, either current or just past. We also sought interviews with the staff supporting the B&Cs we selected to interview.

For each individual interviewed, we provided a general introduction to the effort and asked them to consider three basic questions:

- What experiences have you had with your B and/or C, if any, that suggest a need for support, training or some other action to help the B and/or C function/perform more successfully?
- Have you or your staff taken any specific actions in support of your B/C that you found particularly helpful or effective? If yes, please describe. This may include efforts to support the entire B/C, specific members or your department employees who staff the B/C.
- What actions could the Council take that would enhance/improve the performance and functioning of the B/Cs? Your suggestions are welcome both for your department B/C as well as all City B/Cs.

These questions were used as a starting point in the interviews. The interviews were far ranging and more conversational than a formal, structured process. We allowed the interviewees to introduce new topics and often just listened to the issues and concerns that were raised.

For those staff and B&C members we did not select for an interview, we sent email requests asking the same basic questions posed to those interviewed in person.

In total, we interviewed 17 people: 4 B&C members and 8 support staff in addition to the City Attorney, Deputy City Attorney and the City Clerk with her two support staff. We received email responses from 9 B&C members and 8 support staff. The City Manager was kept informed of our efforts with an initial meeting and then an update when we had finished all interviews.

Additional data collection included reviewing past materials and Council discussions of B&C issues, as well as several Charter sections referring to specific B&Cs along with Charter Section 130 which refers to Advisory Commissions.

WHAT WE HEARD

This section provides a brief summary of the comments we heard, organized by the main areas of focus or by topics, which we heard from enough individuals to highlight. There is also a Miscellaneous section to capture some unique comments we thought worth sharing.

A. Recruitment

1. How do we get a larger pool of applicants? Better utilize Channel 8; social media.
2. Consider Channel 8 spots on B&Cs featuring montage of board members in promotional piece.
3. Make better use of the Communications Department. Outreach feels “blah” right now.
4. Rotate venue of B&C meetings to attempt to engage different segments of our community.

5. Reconsider the 5 year term length. Is this an impediment to a larger applicant pool?
6. Let's take a chance and appoint people outside of the usual cast of characters.
7. B&C members need to better reflect the whole community.
8. Improvements to B&C Database—more attractive web page, ease of accessing/filling out applications (plus other benefits) could help recruitment.
9. Increase advertising budget for B&C recruitment.

B. Application and Selection Processes

1. Consider creating job description; core competencies called out (consider card sort).
2. City Council (CC) needs to consider emotional intelligence in selection process as well as substantive knowledge.
3. CC needs to consider whether applicant represents the community as a whole and has good interpersonal skills and weight that more than any particular technical expertise.
4. If lack good candidates, it is sound policy to reopen the position.
5. Ask particular board what the qualities are for a good board member.
6. Consider holding interviews on a Saturday.
7. Consider changing interview format.

C. Orientation

1. New Board Member 101—particularly for those with no board experience.
2. Biggest challenge—getting old board members to attend.
3. New appointees—lucky to get half of them to attend orientation.

4. Emphasize roles and responsibilities training in orientation.
5. Consider the potential of online orientation.
6. Orientation could also consist of a video shown at a regular board meeting to assure better attendance.
7. Make materials more uniform for orientation.
8. Tap into CML for ideas regarding B&C training. They have many resources.
9. Prepare video that features council members to be shown at orientation.
10. Rework 2004 Guiding Principles re: B&C.
11. Distribute CAO Advice to Library Commission re: permitted communications to all boards.
12. Reconsider breadth of orientation—perhaps too siloed.
13. Have a “Lessons Learned” panel of former B&C members who have recently served to answer questions.
14. More of a focus on practical and organizational issues, including procedure.
15. Quasi judicial boards need specific training.
16. Create a “Policies and Procedures” manual for each B&C.
17. Create individualized orientation handout for each board.

D. Roles/Responsibilities

1. Distribute CC Reference Notebook to all B&Cs to facilitate better grasp of city wide goals and priorities.
2. Address the role of a board member as a decision-maker, rather than an advocate for a particular point of view or interest group.
3. Clarify that B&C and staff do not always have the same perspective.
4. Explain role of staff supporting the board.
5. Reinforce that board member is not another staff member.

6. Differentiate particular board role from other boards when there is overlap.
7. Emphasize criteria-based decision-making. (e.g. site review standards for Planning Board).
8. Make it clear that CC sets policy, not the boards.
9. Clearer direction from CC would be helpful.
10. "Decorum Guidelines" would be helpful for meeting procedure.

E. Ongoing Training/Capacity Building/Group Dynamics

1. Annual retreats are very helpful, focused not just on substance, but capacity building.
2. Agenda meetings are important.
3. Use of outside facilitator can be valuable.
4. Encourage out-of-meeting board opportunities (e.g., bike tours, field trips, etc.).
5. Periodic meeting of board chairs.
6. Use debrief at end of each meeting to get meeting management issues out on the table.
7. How the board chair is selected is important. Prioritize skill set over seniority. Culture of boards varies as to selection.
8. Specialized training for the board chair can be helpful.
9. Training sessions must include staff, as well as the board members.
10. Newly elected chair should reach out to all board members.
11. Some B&Cs have a budget for professional development and attending conferences and workshops, while others do not.

F. Council/B&C Interactions

1. CC Members—Go to B&C in person to offer thanks for service. Divvy up responsibilities.
2. CC Members—attend B&C meetings, or even better, dinner beforehand. Just make sure to give a heads-up that you will be attending.
3. Better response to B&C letters during CC retreat. Make sure to invite appropriate B&C members to relevant CC sessions.
4. Board chair could sit in on relevant CAC items to have a better understanding of what is expected during the CC meeting.
5. Ask for priorities from board for work plan.
6. CC liaison for B&C? A possibility expressed by multiple people.
7. Schedule joint meeting/SSs on a regular basis, even if not yearly.

G. CC Oversight

1. CC needs to be both more and less involved with the boards. More involved in giving clear direction on policy and less involved in the details of what the boards do.

H. Staff Support of B&C

1. Staff needs to view the board as a resource rather than a rubber stamp.
2. Bring items to board before they are set in stone.
3. Important to manage staff expectations regarding board.
4. Distribute staff work plan to board and commission members.
5. Staff responsibility to close loop on CC retreat results with regard to B&C letter of priorities.
6. On the issue of board member requests of staff for additional research, require a nod of 3 or 5, similar to what CC does.

7. Memos from staff can clearly spell out the role of the board on a particular agenda item.
8. Staff should make an effort to involve all board members through outreach, etc.

I. Miscellaneous

1. All B&Cs do not have the same perks such as catered meals, opportunities to attend conferences, etc.
2. Difference of opinion about types of minutes to present to Council; some B&Cs favor more detailed minutes than the standard form/what does Council want?

PROPOSED RECOMMENDATIONS

The following recommendations are organized by the main areas of focus with one exception. We heard so many comments about the need to define roles and responsibilities for B&C members that we created a separate set of recommendations for this topic. Please note that the recommendations are both general and specific in nature, not prioritized and intended to suggest areas where more work is needed if the Council wishes to pursue the ideas.

In Attachment B, we organized the individual recommendations by how quickly we believe they could be implemented based upon such factors as budget, staff resources needed, length of discussion to clarify, etc.

A. Clarify B&C Roles and Responsibilities

1. Create job description with core competencies applicable to all B&Cs. Consider using the Leadership Architect Library Structure¹ already employed by the City to develop this description.
2. Identify specific responsibilities/competencies associated with quasi-judicial B&Cs.
3. Distinguish the role of B&C member from staff and Council (e.g., clarify through training that staff and B&C members may have different perspectives, Council sets policy, not B&Cs, etc.)
4. Address role of board member as decision maker and community representative rather than advocate for a specific interest group or point of view.

¹ The Leadership Architect Library Structure is a system used by the City to assess competencies for selection, job profiling, skill assessment and other matters. One of its uses is to identify qualities and skills desired in particular positions. This is accomplished through an elaborate card sort system. Both of us thought it may have applicability if the Council is interested in developing a job description for B&C members.

5. Distribute Council Reference Manual to all B&C members to better facilitate understanding of City-wide goals and priorities.

B. Recruitment

1. Better utilize Communication Dept., Channel 8 and social media to create more excitement re: B&C messaging, (e.g., create promos featuring B&C members).
2. Consider increasing advertising budget for recruitment.
3. Broaden outreach for B&C applicants by going directly to community groups and other relevant organizations to recruit.

C. Application and Selection Processes

1. Redesign application to include questions about collaborative efforts, problem-solving skills, emotional intelligence and other qualities and experiences tied to the core competencies.
2. Set goal of having application revised and operative on-line for 2015 process; this timing will depend on Council interest and cost to upgrade technology.
3. Consider Saturday interview sessions to accommodate applicants.
4. In selection, focus Council attention on ability of applicant to work effectively in a group setting, not just on substantive qualifications.
5. Make debrief after interview sessions a standard part of process.
6. Prior to interviews, consider having Council members check in with Support Staff Group (see recommendation G1) to gain insight into how the various

B&Cs have been functioning; ask about any special skill sets, personal capabilities or other qualities that staff believes would add value to their B&C.

D. Orientation

1. Consider “New Board Member 101,” especially for those with no prior board experience; this should highlight roles and responsibilities.
2. Require attendance of all board members at orientation session each year or consider conducting orientation during a regular board meeting.
3. Ensure uniformity of materials for orientation and include Communication Memo developed by CAO for Library Commission.
4. Create video featuring Council members/B&C members to show at orientation.
5. Develop a “Lessons Learned” panel of former B&C members to share their experiences.

E. Council and B&C Interaction

1. Schedule joint meetings/study sessions with B&Cs as needed but with coverage of all B&Cs at least once every 3 years.
2. Encourage Council members to attend B&C meetings and consider joining the group for dinner beforehand.
3. Assure response to B&C letters sent to Council for retreat to communicate what discussion and action, if any, the Council took w/regard to the matters raised.

F. Ongoing Training and Capacity Building

1. Make annual retreats part of B&C procedure and focus on capacity building such as conflict resolution, ethical communication and group dynamics, as well as substantive issues.
2. Seek to develop opportunities for all B&C members to attend relevant conferences, workshops and other board development experiences.
3. Institute agenda meetings for all B&Cs.
4. Consider adding debrief at end of meetings to get issues out on the table.
5. Encourage out-of meeting opportunities, e.g., field trips and bike tours to help build group camaraderie.
6. Consider ways to enhance performance of B&C Chairs including selection processes and specialized training.

G. Staff Support of Boards and Commissions

1. Develop a City-wide B&C staff support group to enhance capabilities of staff to address B&C needs, issues and especially capacity building.
2. Distribute staff work plan to B&C members.
3. Encourage staff to engage all B/C members and to view them as a resource rather than a “rubber stamp.”
4. In B&C memos, clarify role of the B/C with regard to the particular agenda item.

5. Develop procedure that requires support of X% of B/C before staff undertakes specific requested research (similar to Council nod of 3 or 5).

H. Council Oversight

1. Develop process for Council when exercising its authority to remove a B/C member; clarify process with B&Cs as it is not clear how this process works in practice (see Charter Section 130).
2. Consider having the Council Board and Commission Committee meet regularly with B&C Support Staff Group to keep current with B&C actions and issues.
3. Discuss how Council can ensure that B&Cs are operating within relevant policy and regulatory frameworks.

I. Miscellaneous

1. Review amenities that each B&C receives, e.g., catered meals, opportunities to attend conferences, etc.; there are significant differences among the B&Cs and no clear rationale as to why some B&Cs have amenities and others do not.
2. Clarify form in which Council wishes to receive B&C minutes; there is an ongoing debate about this among some B&Cs and guidance from Council would be helpful.

NEXT STEPS

We are seeking Council direction with regard to the proposed recommendations and possible additional work on B&C issues. Responses to the following questions will help us determine the level of Council interest in pursuing these matters.

- In general, does Council believe that the proposed recommendations capture B&C issues that are worthy of attention?
- Are there any of the proposed recommendations that Council would not wish to pursue?
- Are there any additional issues the Council wishes to add?
- Does Council wish to prioritize the recommendations?
- If the Council is interested in pursuing any of these recommendations, does the Council wish to appoint a more permanent committee to lead the effort to refine and develop the recommendations of interest?

Attachments: Attachment A – List of City Boards and Commissions

Attachment B – Potential Timing of Implementation for Proposed Recommendations

List of City Boards and Commissions

Arts Commission

Beverages Licensing Authority

Board of Zoning Adjustment

Boulder Design Advisory Board

Boulder Junction Access District – Parking Commission

Boulder Junction Access District – Travel Demand Management Commission

Boulder Urban Renewal Authority

Chautauqua Board

Downtown Management Commission

Environmental Advisory Board

Housing Partners

Human Relations Commission

Landmarks Board

Library Commission

Open Space Board of Trustees

Parks and Recreation Advisory Board

Planning Board

Transportation Advisory Board

University Hill Commercial Management Advisory Commission

Water Resources Advisory Board

**Potential Timing of Implementation
for Proposed Recommendations
(by # of recommendation)**

		Short-Term	Medium	Long
A.	Clarify Roles & Responsibilities	#5	#2-#4	#1
B.	Recruitment		#3	#1 and #2
C.	Application & Selection	#5	#3 and #4	#1, #2 and #6
D.	Orientation	#5	#2 and #3	#1 and #4
E.	Council and B&C Interaction	#1-#3		
F.	Ongoing Training & Capacity Building	#3-#5	#1 and #6	#2
F.	Staff Support	#2 and #4	#3 and #5	#1
G.	Council Oversight		#2	#1 and #3
H.	Miscellaneous		#2	#1



TO: Members of Council
FROM: Dianne Marshall, City Clerk's Office
DATE: October 29, 2013
SUBJECT: Information Packet

1. Call Ups

- A. 800 28th Street: Student Apartments by American Campus Communities (LUR2013-00025)

2. Information Item

- A. Update on Council Chambers audiovisual upgrades
- B. Plan for distribution of gift of \$7, 000 from sister city Yamagata, Japan to benefit children impacted by Boulder flood

3. Boards and Commissions

- A. Art Commission – August 21, 2013
- B. Art Commission – September 18, 2013
- C. Beverages Licensing Authority – August 21, 2013
- D. Beverages Licensing Authority – September 18, 2013
- E. Open Space Board of Trustees – October 10, 2013
- F. Transportation Advisory Board – August 1, 2013
- G. Transportation Advisory Board – August 21, 2013

4. Declarations

None.



INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
David Driskell, Executive Director of Community Planning + Sustainability
Charles Ferro, Land Use Review Manager
Elaine McLaughlin, Senior Planner

Date: October 21, 2013

Subject: Call-Up Item: 800 28th Street: Student Apartments by American Campus Communities (LUR2013-00025)

EXECUTIVE SUMMARY

On October 17, 2013, the Planning Board unanimously approved with conditions (5-0, two members recused) the above-referenced application as provided in the attached Notice of Disposition (**Attachment A**), finding the project consistent with the Site Review criteria of Land Use Code section 9-2-14(h), B.R.C. 1981. Approval of the application would permit construction of 100 residential units on the 4.3 acre site located in the BT-1 (Business Transition -1) zoning district. The proposed application includes requests for height modification to 55 feet; a 13 percent parking reduction; and a solar exception. The site currently contains the Boulder Outlook Hotel and is intended to be redeveloped as rental apartments for university students as it is located across 28th Street from the University of Colorado's main campus.

The Planning Board decision is subject to City Council call-up within 30 days. There is one City Council meeting within this time period for call-up consideration on October 29, 2013.

The staff memoranda of recommendation to Planning Board and other related background materials are available on the city website for Planning Board, follow the links: www.bouldercolorado.gov → A to Z → Planning Board → search for past meeting materials planning board → 2013 → 10.24.2013 PB Packet.

BACKGROUND

The site is currently occupied by the Boulder Outlook Hotel that was originally built as a Holiday Inn in 1963. There have been a number of additions to the hotel over time including a three story addition at the rear of the property along with interior improvements and a three story atrium above the indoor swimming pool area. The site is located within the Business Transition zoning district which permits attached residential as a by-right use.

Concept Plan Review

This project was reviewed twice as a Concept Plan, first on Nov. 15, 2012 and then on March 21, 2013 at the request of the Planning Board. At the first review, the board provided the applicant with a number of suggestions and recommended that the applicant submit a subsequent Concept Plan intended to address those suggestions. Based on concerns from the property owners of condominiums within the Spanish Towers, and comments made by staff and Planning Board at the original Concept Plan the four story parking structure originally proposed on the east end of the site adjacent to Spanish Towers condominiums, was relocated and the site was rearranged. The center of the site was opened up to create a view corridor through the center of the site to minimize viewshed impacts, and a plaza space that serves a dual purpose as pedestrian and fire access was created.

At the Site Review hearing on Oct. 17, 2013, the board indicated that the previous comments had been addressed and stated support for the project as the application meets many Boulder Valley Comprehensive Plan policies and the Site Review Criteria of the Land Use Code.

Surrounding Context. Within the immediate context there are three residential condominium buildings: the six-story Spanish Towers to the east, the three-story Montclair Court to the north east, and the four-story Flatiron Terrace to the north. A six-story office building, Dar Plaza, is located to the southeast of the site and the two-story Best Western Boulder Inn is adjacent to the south. Within walking distance of ¼ to ½ mile proximity are several services including: the Basemar Shopping Center and a new in-line retail center at Baseline just east of 28th Street; along with the Sprouts Market and a number of restaurants and commercial uses. There is direct pedestrian and bicycle access to the university via a connector below 28th Street, located approximately 200 feet to the north of the site, at the terminus of Aurora Avenue.

The 28th Street Frontage Road Transportation Connections Plan (TCP). The plan was adopted in April 2010 to support the city's sustainability goals and to ensure that logical pedestrian and vehicular connections were considered in the frontage road area where redevelopment has been anticipated. It describes the city's vision for future transportation improvements in the area including sidewalk connections to the east of the site.

Proposed Project: Site Plan

As shown in Figure 1 and 2, the proposed project consists of two contemporary -styled buildings. The north building wraps a portion of the proposed central open space, and the ground floor units of both buildings directly access the open space. Amenities include a sand volleyball court, an open lawn area, and a warm-months swimming pool area. A pedestrian plaza is located on the south side of the open space where ground floor units directly access the open space and also serves as emergency access into the site. Figure 3 illustrates the landscape and site plan.

The site is surrounded on all four sides by pedestrian paths, with the west being a multi-use path and the two sides being sidewalks, all in consistency with the 28th Street Frontage Road Transportation Connections Plan. Parking for the residential units would be provided in a six level parking structure of which two levels would be below grade. The four above grade levels would be wrapped by the residential units. Access to the parking structure is internal to the site and not visible from 28th Street. There are 260 parking spaces proposed where 300 are required under the code, necessitating a

13 percent parking reduction. There are also 264 covered and secured bike parking spaces also proposed, well in excess of the standards where 30 are required.



Figure 1: Rendering of proposed project as seen from 28th Street



Figure 2: Rendering of proposed project as seen from Spanish Towers

The applicant requested a height modification through Site Review, along with a 13 percent parking reduction and a solar encroachment onto neighboring building walls at the deepest point of the winter, Dec. 21st mid-morning and mid-afternoon.

The western portion of the north building is planned as a community center for the students including a student lounge, fitness center, and leasing office. A small entry plaza along with bike parking is located outside of this community space and access to the outdoor recreation amenities is through this space. The space also serves to activate the streetscape that combined with the “building forward” design helps create a pedestrian-scaled and attractive new student housing complex.

The application meets the relatively high open space requirement of 1,200 square feet per dwelling unit, by providing 121,000 square feet of open space. The applicant has proposed a variety of open space areas from the walking paths to active recreation areas and outdoor plaza and picnic areas at the center of the site, to roof top decks. A large roof deck is planned atop the parking structure, intended as passive open space. The landscape requirements have been exceeded for the number of trees and

Public Hearings and Comments

The proposed project was reviewed as a Concept Plan twice by the Planning Board. The applicant also hosted three good neighbor meetings where attendance averaged six people. Between the first and second Concept Plan review, the applicant made significant changes to the project to address neighbor, staff, and Planning Board comments including reconfiguration of the site to open up the center and consolidating the parking into the residential. Several property owners of the adjacent Spanish Towers to the east articulated concerns at the Planning Board that their viewshed would be impacted by the proposed project. In addressing comments, the board indicated that the location, use, and density of the proposed project is acceptable and the application meets the Site Review Criteria for minimizing viewshed impacts.

In addition, the property owner of the hotel to the south had articulated concerns about noise. The board indicated that the management plan submitted which includes a provision of around-the-clock, on-site staff, along a densely planted landscape buffer and partially walled balconies on the south side of the building will minimize noise impacts.

SUMMARY OF ANALYSIS

The proposal was found to be consistent with the Site Review criteria of the Land Use Code subsection 9-2-14(h), B.R.C. 1981, because:

1. The proposed project's massing, scale and design is compatible with the surrounding context, where larger and taller residential buildings have been built along this major transit route and across from the CU campus.
2. The proposed project's contemporary design and creative layout meet the Site Review Criteria for pedestrian oriented building design and de-emphasis of an auto-oriented site layout.
3. Also consistent with Site Review criteria, the centralized open space with buildings moved to the sides of the site helps to minimize viewshed impacts for nearby residents of the Spanish Towers, who had articulated concerns about blocking of viewshed. Additionally, the heavily planted landscape buffer, along with a management plan and partially walled balconies were proposed to help minimize noise impacts to neighbors.
4. The 13 percent parking reduction request is acceptable given the nature of occupancy being student rental apartments across the street from CU campus. Given the well documented high alternate transportation mode use by university students, with 94 percent of students walking, biking or using public transit to and from campus; and with the parking characteristics for off-campus housing primarily oriented to auto storage, the parking reduction was found to be consistent with the review criteria. With the city's extensive bike lanes, trails, and multi-use paths in and around the campus and particularly at and near the site, there are a significant number of students in the immediate area who walk and bike to campus.

This, combined with the city's policies in support of trip reduction, use of multi-modal travel, and the efficient use of land for parking encourages a site plan that uses less parking. This is also particularly applicable for the site that is located directly across the street from the university, with close proximity

to the pedestrian underpasses, part of the recently completed 28th Street transportation improvements. Given all of the considerations, the Planning Board granted an even greater parking reduction, up to 20 percent, if the applicant chose to use the vehicular space for alternative vehicle or bicycle parking. This was made after a request by the applicant to increase the parking reduction to 14 percent rather than 13 percent to accommodate additional bike parking.

5. The requested Solar Exception within the adjacent properties that are part of Solar Access Area II is acceptable given the fact that the roof tops of the adjacent buildings on the property will not be impacted and will still have solar access for rooftop solar collectors.

CONCLUSION

Planning Board agreed with the staff analysis and approved the application with conditions. In the board's approval, there was consensus on the board that the applicant did minimize viewshed impacts to the neighboring Spanish Towers, while acknowledging that some viewshed impacts will remain. The board also noted that the city's policy direction to provide additional housing in the city for students helps to free up work force housing elsewhere. The board also acknowledged the applicants efforts to work with the city through two separate Concept Plan reviews and that the review's resulted in the applicant's response pro-active response to comments

If the City Council disagrees with the decision of the Planning Board, it may call up the application within the call up period which expires on Nov. 18, 2013. City Council is scheduled to consider this application for call-up at its **Oct. 29, 2013, 2013** public meeting.

ATTACHMENTS:

- A. Planning Board Notice of Disposition dated Oct. 17, 2013



**CITY OF BOULDER
Community Planning & Sustainability**

1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
phone 303-441-1880 • fax 303-441-3241 • web www.bouldercolorado.gov

**CITY OF BOULDER PLANNING BOARD
NOTICE OF DISPOSITION**

You are hereby advised that on October 17, 2013 the following action was taken by the Planning Board based on the standards and criteria of the Land Use Regulations as set forth in Chapter 9-2, B.R.C. 1981, as applied to the proposed development.

DECISION:	APPROVED WITH CONDITIONS
PROJECT NAME:	AMER. CAMPUS COMMUNITIES: REDEVELOP OUTLOOK HOTEL
DESCRIPTION:	SITE REVIEW for redevelopment of Boulder Outlook Hotel. Proposal is to create two four-story buildings for student housing and associated six-level parking garage (two levels below grade, four levels wrapped within residential units). Requested modifications include height: 55 feet where 35 feet is standard; four stories where three are standard; parking reduction of 13 percent (260 where 300 are required).
LOCATION:	800 28TH ST
COOR:	N01W04
LEGAL DESCRIPTION:	Refer to Exhibit A
APPLICANT:	JAKE NEWMAN
OWNER:	ACC OP DEVELOPMENT LLC
APPLICATION:	Site Review, LUR2013-00025
ZONING:	BT-1
CASE MANAGER:	Elaine McLaughlin
VESTED PROPERTY RIGHT:	NO; the owner has waived the opportunity to create such right under Section 9-2-19, B.R.C. 1981.

This decision may be called up before the City Council on or before **November 18, 2013**. If no call-up occurs, the decision is deemed final thirty days after the Planning Board's decision.

FOR CONDITIONS OF APPROVAL, SEE THE FOLLOWING PAGES OF THIS DISPOSITION.

IN ORDER FOR A BUILDING PERMIT APPLICATION TO BE PROCESSED FOR THIS PROJECT, A SIGNED DEVELOPMENT AGREEMENT AND SIGNED FINAL PLANS MUST BE SUBMITTED TO THE PLANNING DEPARTMENT WITH DISPOSITION CONDITIONS AS APPROVED SHOWN ON THE FINAL PLANS, IF THE DEVELOPMENT AGREEMENT IS NOT SIGNED WITHIN NINETY (90) DAYS OF THE FINAL DECISION DATE, THE PLANNING BOARD APPROVAL AUTOMATICALLY EXPIRES.

Pursuant to Section 9-2-12 of the Land Use Regulations (Boulder Revised Code, 1981), the applicant must begin and substantially complete the approved development within three years from the date of final approval [or in compliance with the phasing plan]. Failure to "substantially complete" (as defined in Section 9-2-12, Boulder Revised Code 1981) the development within three years [or in compliance with the phasing plan] shall cause this development approval to expire.

At its public hearing on October 17, 2013 the Planning Board approved the request with the following motion:

On a motion by A. Brockett, seconded by J. Putnam the Planning Board voted 5-0 (L. May and C. Gray recused) to approve Site Review #LUR2013-00025 incorporating this staff memorandum and the attached Site Review Criteria Checklist as findings of fact, and subject to the recommended conditions of approval found in the Planning Board packet with the following modifications:

- A. Condition 1 is to be revised to read: The Applicant shall be responsible for ensuring that the development shall be in compliance with the approved plans dated August 5, 2013 and, to the extent they ensure compliance with the site review criteria in the Boulder Revised Code applicable to this application, the written statement dated August 5, 2013, and the management plan dated October 2013 on file with the City of Boulder Planning Department, except to the extent that the development may be modified by the conditions of approval.
- B. The following shall be added to Condition 2.b. An additional parking reduction that increases the parking reduction to up to 20% is approved provided that the additionally reduced number of parking spaces (7%) is converted to bike parking spaces.

A friendly amendment offered by S. Weaver was accepted by A. Brockett and J. Putnam to incorporate the change to Condition 1.

CONDITIONS OF APPROVAL

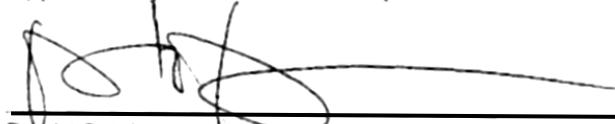
1. The Applicant shall be responsible for ensuring that the **development shall be in compliance with all approved plans** dated Aug. 5, 2013 along with the written statement dated Aug. 5, 2013 on file in the City of Boulder Planning Department, except to the extent that the development may be modified by the conditions of approval.
2. Prior to a building permit application, the Applicant shall submit a Technical Document Review application for the following items, subject to approval of the City Manager:
 - a. **Final architectural plans**, including materials and colors, to insure compliance with the intent of this approval and the architectural intent shown on the elevation plans dated Aug. 5, 2013.
 - b. A **final site plan** showing the corrections and additions requested by this approval, including building setbacks on fully dimensioned plans. A signed survey drawing should also be submitted.
 - c. A **final utility plan** meeting the City of Boulder Design and Construction Standards.
 - d. A **final storm water report and plan** meeting the City of Boulder Design and Construction Standards, which shall include information regarding the groundwater conditions (geotechnical report, soil borings, etc.) on the Property, and all discharge points for perimeter drainage systems.
 - e. **Final transportation plans** in accordance with City of Boulder Design and Construction Standards for all transportation improvements. These plans must include, but are not limited to: street plan and profile drawings, plan and profile drawings for the public access drive, detail drawings for the transit

stop, signage and striping plans in conformance with Manual on Uniform Traffic Control Devices (MUTCD) standards, geotechnical soils report and pavement design report.

- f. A **detailed landscape plan**, including size, quantity, and type of plants existing and proposed; type and quality of non-living landscaping materials; any site grading proposed; and any irrigation system proposed, to insure compliance with this approval and the city's landscaping requirements. Removal of trees must receive prior approval of the Planning Department. Removal of any tree in city right-of-way must also receive prior approval of the City Forester.
 - g. A **detailed lighting plan** showing location, size, and intensity of illumination units.
3. Prior to a building permit application, the Applicant shall dedicate to the City, at no cost, the following as shown on the approved plans, meeting the City of Boulder Design and Construction Standards, as part of Technical Document Review applications, the form and final location of which shall be subject to the approval of the City Manager:
 - a. The additional **right-of-way** required for the 28th Street frontage road.
 - b. A **25-foot wide utility easement** around the perimeter of the site.
 - c. A **20-foot wide emergency access easement** running through the center of the site.
 - d. A **10-foot wide public access easement** along the north property line.
 - e. A **10-foot wide public access easement** along the south property line.
 4. Prior to a building permit application, the Applicant shall submit the necessary applications to vacate the following easements, subject to the approval of the City Manager:
 - a. The utility easement (Reception Number 527442) running through the center of the site.
 - b. The public access easement (Reception Number 2468671) along the western property line.
 - c. The utility easement (Reception Number 1488823) in the southwest corner of the site.
 5. Prior to requesting a final inspection on any building permit, the Applicant shall construct and complete, subject to acceptance by the City, all public improvements necessary to serve the development in conformance with the approved Engineering Plans, including, but not limited to, the following:
 - a. A **water line** loop around the perimeter of the property, to include three fire hydrants
 - b. An extension of the **sewer main** within the 28th Street Frontage Road
 6. Prior to requesting a final inspection on any building permit, the Applicant shall construct and complete, subject to acceptance by the City, all private improvements necessary to serve the development in conformance with the approved Engineering Plans, including, but not limited to, the following:

- a. One rain garden in the northeastern corner of the property
 - b. One rain garden in the southeastern corner of the property
 - c. One rain garden located within the courtyard area, between the north and south buildings
7. Prior to building permit application, the Applicant shall submit a financial guarantee, in a form acceptable to the Director of Public Works, in an amount equal to the cost of constructing all public improvements necessary to serve the development.
 8. Prior to building permit application, the Applicant shall submit a **financial guarantee**, in a form acceptable to the Director of Public Works, in an amount equal to the cost of providing eco-passes to the employees of the development for three years after the issuance of a certificate of occupancy as proposed in the Applicant's Transportation Demand Management (TDM) plan.
 9. The building permit application for the building addition shall show that the **building meets the energy efficiency requirements** of the 2012 IECC as locally amended. Should the 2012 IECC not have been adopted at the time of building permit application, the building permit application for each building shall show that (1) the building exceeds the energy efficiency requirements of ANSI/ASHRAE/IESNA Standard 90.1 – 2010 Energy Standard for Buildings Except for Low-Rise Residential Buildings by at least 20 percent or (2) the building is designed to meet a set of prescriptive requirements, subject to review and approval of the city manager, that result in a building that is at least 20 percent more energy efficient than the 2012 IECC requires.

Approved By:



David Driskell, Executive Director
Department of Community Planning and Sustainability

Exhibit A

LEGAL DESCRIPTION

A TRACT OF LAND, SITUATED IN THE STATE OF COLORADO, COUNTY OF BOULDER, LOCATED IN THE SE1/4 OF THE SW1/4 OF SECTION 32, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHWEST CORNER OF THE NW1/4 OF THE SE1/4 OF THE SW1/4 OF SAID SECTION 32; THENCE N 0 DEGREES 01'00"E, 450.00 FEET ALONG THE WEST LINE OF THE SE1/4 OF THE SW1/4 OF SAID SECTION 32 TO THE NORTHWEST CORNER OF THAT TRACT OF LAND AS DESCRIBED IN DEED RECORDED ON FILM 592 AS RECEPTION NO. 836566 OF THE RECORDS OF BOULDER COUNTY, COLORADO;
THENCE N 89 DEGREES 55'20"E, 415.00 FEET ALONG THE NORTH LINE OF THAT TRACT OF LAND AS DESCRIBED ON SAID FILM 592 AS RECEPTION NO. 836566 TO THE NORTHEAST CORNER THEREOF;
THENCE S 0 DEGREES 01'00"W, 450.14 FEET ALONG THE EAST LINE OF THAT TRACT OF LAND AS DESCRIBED ON SAID FILM 592 AS RECEPTION NO. 836566 AND THE EAST LINE OF THAT TRACT OF LAND DESCRIBED IN INSTRUMENT RECORDED IN BOOK 1238 AT PAGE 375 OF THE RECORDS OF BOULDER COUNTY, COLORADO AND PARALLEL TO THE WEST LINE OF THE SE1/4 OF THE SW1/4 OF SAID SECTION 32 TO THE SOUTH LINE OF THE NW1/4 OF THE SE1/4 OF THE SW1/4 OF SAID SECTION 32;
THENCE S 89 DEGREES 56'30"W, 415.00 FEET ALONG THE SOUTH LINE OF THE NW1/4 OF THE SE1/4 OF THE SW1/4 OF SAID SECTION 32 TO THE POINT OF BEGINNING,
COUNTY OF BOULDER, STATE OF COLORADO.

CONTAINING 4.288 ACRES



INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
Tom Carr, City Attorney
Paul J. Fetherston, Deputy City Manager
Patrick von Keyserling, Director of Communications
Don Ingle, Information Technology Director
Maureen Rait, Executive Director of Public Works
Joe Castro, Facilities and Fleet Manager
Glenn Magee, Facilities Design and Construction Manager

Date: Oct. 29, 2013

Subject: Information Item: Update on Council Chambers audiovisual upgrades

EXECUTIVE SUMMARY

This memo is to update City Council on the status of the planned project to increase audience engagement by improving the physical usability of the Municipal Building Council Chambers and quality of the integrated audiovisual (A/V) systems. The memo also details the design changes made in response to the council feedback received at the [Aug. 20 City Council meeting](#).

The existing floor plan for the Council Chambers is shown in **Attachment A**. The final design is shown in **Attachment B**. Major components of the project are shown in **Attachment C**.

FISCAL IMPACT

Cost estimates for the project include approximately \$190,000 in physical construction and approximately \$225,000 in A/V technology upgrades, for an estimated total cost of \$415,000. Physical changes will be funded from the Facilities and Asset Management (FAM) facility replacement funds. Cablecast-related upgrades to the Council Chambers A/V equipment will be funded with \$160,000 from public access, education and government (PEG) channels. Other technology-related improvements will be funded with \$65,000 from the Equipment Replacement Fund.

Channel 22 currently has about \$400,000 available for PEG capital purchases; city-contracted managers of Education Access have not historically utilized the full PEG fee allocations. The city intends to reallocate \$160,000 in PEG funds to improve the A/V equipment in Council Chambers for enhanced Channel 8 coverage of City Council meetings. In addition to the one-time costs of the technology upgrades, staff recommends \$25,000 in ongoing funding from PEG

as an annual contribution to fund the future replacement of the cablecast equipment at the end of its seven-year lifecycle. The ongoing replacement fund contribution requires a \$25,000 annual reallocation of Education Access dollars to Government Access. The Education Access allocation would be \$50,000 annually to meet projected equipment needs.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic:** Funding for this project is proposed from the 2013 Budget.
- **Environmental:** As with any remodel project in city facilities, zero-Volatile Organic Compound (VOC) paints, sustainable carpets, ENERGY STAR appliances, and reused materials will be specified in the contract. The council's current rounded desk will be reused and modified. Current energy codes will be met or exceeded.
- **Social:** The planned upgrades to Council Chambers will allow study sessions occurring in the flex seating areas to be televised so that more people can view these meetings live through Channel 8 and streaming online. Relocation of the dais closer to the audience will bring the council, boards and commissions closer to the public.

BACKGROUND

In 2011, a major remodel in the Municipal Building was completed that focused on improving public meeting spaces by increasing the size of the Fishbowl and 1777 West conference rooms, providing a meeting space in the council office, and replacing deteriorated carpet and seating in the audience portion of Council Chambers. In the Council Chambers, approximately half of the seats were replaced with flexible furniture to provide a multipurpose space. The 2011 project intentionally excluded changes to the dais to provide time to evaluate how the flexible space and dais worked together.

In May 2013, a conceptual plan was presented to council that addressed the need for improved public engagement through remodeling of the space, and an A/V consultant was engaged to specify replacement equipment that would improve a number of issues currently affecting the quality of presentations and broadcasting. The general proposed changes were outlined in the [May 7, 2013 Information Packet Memorandum](#). The design team was tasked with soliciting feedback from the boards and commissions that utilize Council Chambers in an effort to further inform the concept and details of the project.

Boulder Valley School District (BVSD), the contracted manager of education access Channel 22 since 2012, was consulted prior to the decision to reallocate PEG dollars from Channel 22 to Channel 8 as a part of the renovation to the Council Chambers. BVSD agreed that sufficient dollars would remain in the Education Access allocation to provide for equipment replacement and maintenance of Channel 22 equipment. BVSD stated that there would be no negative impact to the Education Access channel as a result of reallocation and anticipates a need for up to \$50,000 in annual PEG fees to meet the capital needs of Channel 22.

In August 2013, a revised design was presented to council that addressed the concerns raised by 11 boards and commissions. Major areas for improvement were for:

- Improved accessibility to the raised dais for people with disabilities, as well as improved access to the Women's Restroom;
- Provision of adequate floor space in front of the main desk for presentations;
- Screening of exit doors behind the council desk;
- Improved visibility of video screens from the council and staff desks, as well as for the audience in the flex space;
- Minimized impacts to areas adjacent to Council Chambers; and
- Improved kitchenette layout.

Information about the revised design was outlined in the [Aug. 20, 2013 Information Packet Memorandum](#).

ANALYSIS

Council review of the revised design in August 2013 identified the following areas of improvement:

- Need laptop connections at each council member location and at the staff desk to display presentation graphics onto the main screens;
- Improve line-of-sight from the end council member seats to the audience by increasing the distance between the staff desk and the City Clerk's desk, and by recessing the computer monitors at the clerk's desk;
- Add an electric dropdown screen and projector at the foot of the dais for presentations to the audience during meetings or trainings in the flexible seating area;
- Provide a remodeled and updated kitchenette with new, lockable storage cabinets and a slight increase to the available counters and cabinet space;
- Provide flip-down podiums at both staff desks for public speaking so speaker location can be flexible; and
- Increase staff seating from three to four positions to allow the City Manager, City Attorney and two staff members to address council.

City staff and consultants have incorporated the requested changes into the final design shown in **Attachment B**, which accomplishes the project goals. Major components of the project are listed in **Attachment C**.

NEXT STEPS

Consultants are completing the design and construction documents for the project, including integration of the A/V technology systems. The project will be managed by FAM as the general contractor with pre-approved vendors subcontracted. The anticipated construction start date is Nov. 15, 2013.

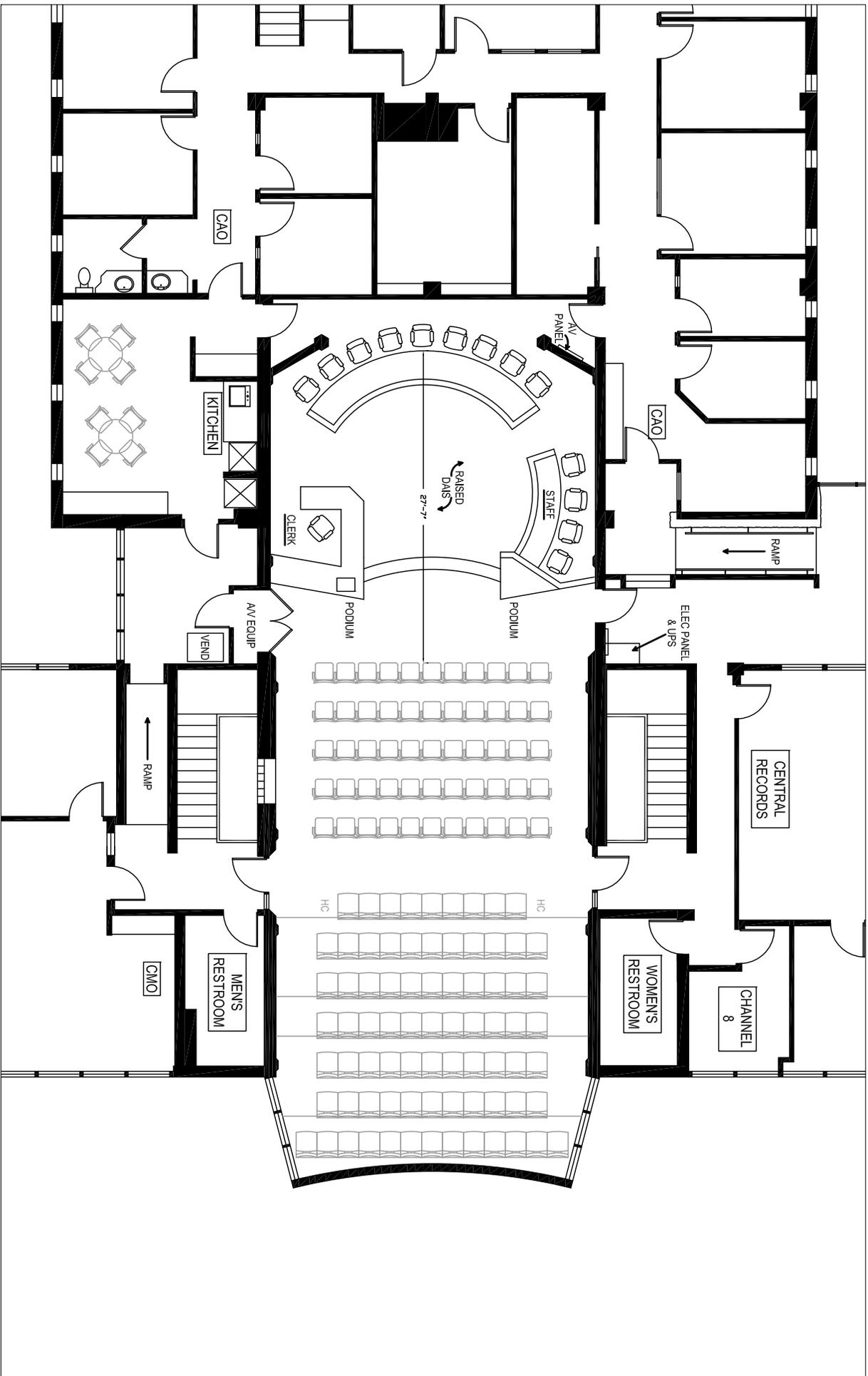
The City Council and impacted boards and commissions will be holding meetings in alternative locations during the entire construction period from Nov. 15, 2013 through Jan. 10, 2014. During construction, regular City Council meetings will be held in the Canyon Theater Auditorium of the Main Boulder Public Library to maintain Channel 8 broadcasts, and study sessions will be held at the West Senior Center once it becomes available again following flood damage repairs.

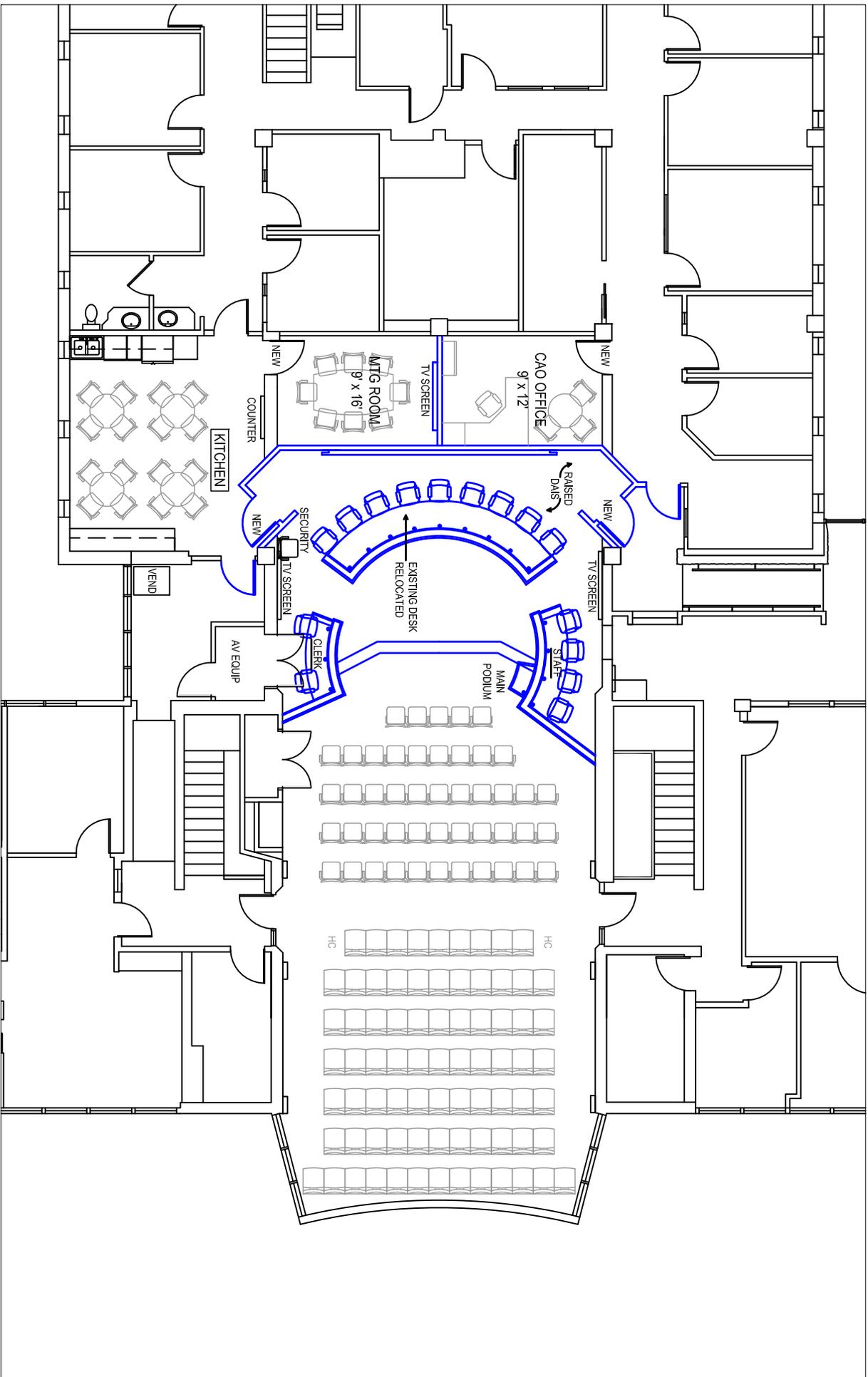
FAM Design and Construction Manager Glenn Magee will be the primary contact for the project. For more information, contact Glenn at mageeg@bouldercolorado.gov or 303-441-4202.

ATTACHMENTS

- A. Existing floor plan
- B. Final design, October 2013
- C. Project components

ATTACHMENT A: Council Chambers Existing Floor Plan





Attachment C - Council Chambers Project Components

Technology

- Each station at the main and staff desks will have a built-in, slanted panel that will contain a microphone jack (to keep microphones off the horizontal surface), HDMI and VGA connection jacks for receiving internet signal, and HDMI and VGA connection jacks for the ability to show their screen images on the large LCD screens. There will also be a small speaker in the slanted section so council will be able to better hear presentations
- There will also be an additional Wireless Access Point (WAP) in proximity to the desks
- Council will be able to bring their own devices (laptop / tablet or larger monitor) to plug into the jacks at the desk
- The clerk will have (2) recessed monitors and a printer close by in the cabinetry
- The main podium, to the north side, will be fold-down and will have a microphone jack, countdown timer and jack for laptop connection for presentations. No fixed monitor will be provided
- There will be a second fold-down podium on the southern side with capabilities to be full-service (countdown timer and jacks)
- An 80" diagonal LCD screen on adjustable mount will be located to the north and south of the dais. The screen can be swiveled for better audience viewing
- New LCD monitors will be installed at existing locations in the ceiling bridges (4 total). There will not be new screens facing council
- An electric operated, drop-down screen and projector will be provided at the foot of the dais for presentations to the audience for trainings. Input jacks will be provided at the podium locations and one of the dais steps
- An assisted listening loop will be installed for hearing impaired
- Other technology replacements will be with equipment and wiring per K2 recommendations: digital video capabilities; simplification of the local presentation computer including new software; new interface between Chambers and Channel 8 control room; new amplifiers; portable microphone system in the flex space; new ceiling speakers

Physical Space Changes

- Council desk will be moved to the east approximately 9'
- New staff and clerk desks will be provided
- Flex space seating will be reduced by 9 seats
- The western ceiling "bridge" will remain and new monitors will be installed on the east side
- The staff desk will accommodate 4 staff
- The west wall will receive special wall treatment including new logo sign
- Fabric wall panels will be re-surfaced with new colors
- Lighting and engaged columns will be modified
- Lighting controls will be simplified and relocated
- A new door existing the space to the west of the dais will be installed with card-access entry from the elevator lobby
- New LED lighting will be installed throughout
- The kitchenette will be remodeled and updated – new, lockable storage cabinets will be provided. Existing appliances will be re-used
- A new meeting room and CAO office to the west of Chambers will be constructed
- Doors to the A/V equipment closet will be installed for easier access
- New carpet will be installed on the dais



INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Karen Rahn, Director, Human Services
Cindy Smith, Division Manager, Children, Youth and Families

Date: Oct. 29, 2013

Subject: Information Item: Plan for distribution of gift of \$7, 000 from sister city Yamagata, Japan to benefit children impacted by Boulder flood

EXECUTIVE SUMMARY

Boulder sister city Yamagata, Japan has raised approximately \$7,000 to benefit children impacted by the unprecedented September flood in Boulder. This memorandum outlines a process for distribution of these funds to child care providers in the City of Boulder to replace children's items lost in the flood or to purchase additional items needed due to an increase in flood-impacted clients.

FISCAL IMPACT

This project is within the current scope of work for the Human Services Department.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

Social: For families, recovering as quickly as possible from the devastating effects of the flood is critical. Consistent child care with known providers lends stability to a child's life during a time of crisis and allows families to continue working or return to work.

BACKGROUND

Our sister city, Yamagata, Japan, is providing approximately \$7,000 for children impacted by the September flood in Boulder.

Several Boulder child care centers and in-home child care businesses centers were totally destroyed, others lost items needed to provide child care, such as toys, books, cribs, blankets and other items. Eight centers or homes incurred loss of or significant damage to facilities, 26 incurred moderate losses (reparable damage to facilities or items needed to conduct business).

Many of these businesses, which typically operate on very limited profit margins, are not eligible for FEMA assistance and must take out SBA loans to cover losses. Assistance in replacing lost

items needed to do business will help child care providers return to normal operations more quickly.

The City of Boulder's Early Childhood Services has been in contact with all licensed child care providers in the city to assess impacts to businesses and families served. Assistance has been provided to child care centers and families to help them find alternative care or other locations to do business, where possible.

Many providers in the town of Lyons have been unable to operate due to loss of facility or lack of city infrastructure. As a result, many families have temporarily moved to Boulder and are seeking alternative care, placing increased pressure on child care capacity and causing some centers to take on additional children.

Assistance that allows providers to stay in business, return to operations more quickly, increase capacity or provide daily operational resources for children will help meet this community need.

NEXT STEPS

- Staff will contact flood-impacted child care providers and develop a list of needed resources for children, such as books, toys, cribs and other items.
- A process for distributing funds based on need will be developed.
- At the conclusion of the project, staff will create a report on providers and children helped by the funding. This report will be sent to City Council and Yamagata. This report may take the form of a children's book with pictures and messages from the children and child care providers who were helped.



CITY OF BOULDER
Boards and Commissions Minutes

NAME OF COMMISSION: Boulder Arts Commission
DATE OF MEETING: August 21, 2013
NAME/EXTENSION OF PERSON PREPARING SUMMARY: Gregory Ravenwood (x4113)
MEMBERS: Felicia Furman, Richard Turbiak, Anna Salim, Ann Moss, Linda Haertling STAFF: Greg Ravenwood, Valerie Maginnis, Mary Wohl Haan, Mary Fowler, David Mallett COMMUNITY MEMBERS: Chelsea Pohl, Annette Coleman, Janet Heimer, Amy Tremper, Sally Eckert, Janet Heimer, Randee Toler, Sage Hamilton, Dia Ingalls, Beth Merckel
TYPE OF MEETING: REGULAR
<p>Call to Order & Approval of Minutes: The meeting was called to order at 5:30 p.m. The July 24 minutes were approved as amended.</p> <p>Information and Discussion Items: Maginnis reviewed her memo to the commission, asking for a member of the Arts Commission to participate in a public art selection panel which Furman volunteered to do. Maginnis announced that the City's HR Department was in the process of making an offer to the preferred candidate for the Arts Manager position. She also announced that the North Boulder arts district community-building meeting was scheduled for August 29.</p> <p>Arts and Business Collaborative Grant Proposals, Round 1: The Commissioners reviewed their comments and scores for each of the Round 1 applications. The proposals from Boulder Ensemble Theater Company with Fiske Planetarium for the project Star Power Event Series; Boulder Museum of Contemporary Art with Boulder 2140 and HUB Boulder for the project Art Meets Tech; the Dairy Center for the Arts with Ciolo Foods and Edible Communities for the project Art of Food Festival; Gateway Apprenticeship Program with Golden Bridge, CU Ethnic Studies and Shining Mountain Waldorf School for the project Intensive Performance Blocks; and Locheart Arts (Claw and Talon Tattoo) with Factory made and Shine for the project The Boulder Tattoo Project were discussed. Of the proposals, Boulder Ensemble Theater Company's moved on to the final round of consideration for the grant award.</p> <p>Grant Categories Discussion: Maginnis and Mallett led the commissioners through continued discussions of the grant categories with Mallett recording suggestions and resolutions to present in comprehensive form at the September BAC meeting. Topics addressed at this meeting included the Arts in Education and Theater Rental/Marketing Assistance grants, the Americans for the Arts Convention Scholarships, potential new grant categories and funding options.</p> <p>Grant Budget Reports: The Commission reviewed the reports submitted by Boulder Ballet (2013 Major Grant – Ballet in the Park); Shoshana Bass (2013 Mini-Grant and Theater Rental/Marketing Assistance Grants – Wanda & the Wave); and The Upstart Crow (2013 Theater Rental/Marketing Assistance Grant – Henry V by William Shakespeare). Haertling motioned to approve all reports; Furman seconded and the motion passed unanimously.</p> <p>Adjournment: The meeting was adjourned at 8:58 p.m.</p>
ATTACH BRIEF DETAILS OF ANY PUBLIC COMMENTS: Chelsea Pohl and Sage Hamilton spoke on their separate ABC grant applications. Sally Eckert spoke on an art project in progress for the Boulder Housing Partners at 1175 Lee Hill. Janet Heimer spoke to the possibility of the City's de-accessioning the Kimbrough Field sculpture at the Boulder Municipal. Annette Coleman suggested the Commission should look to create subordinate panels for grant jurying.
TIME AND LOCATION OF ANY NEXT MEETINGS: 6 p.m., Wednesday, September 18, 2013 in the North Meeting Room, Boulder Public Library, 1001 Arapahoe Avenue.



CITY OF BOULDER
Boards and Commissions Minutes

NAME OF COMMISSION: Boulder Arts Commission
DATE OF MEETING: September 18, 2013
NAME/EXTENSION OF PERSON PREPARING SUMMARY: Gregory Ravenwood (x4397)
MEMBERS: Felicia Furman, Richard Turbiak, Anna Salim, Ann Moss, Linda Haertling STAFF: Greg Ravenwood, Valerie Maginnis, Maureen Rait, Matt Chasansky, Paul Fetherston COMMUNITY MEMBERS: Annette Coleman, Susan Douglas, Steven Weitz, Heather Beasley
TYPE OF MEETING: REGULAR
<p>Call to Order & Approval of Minutes: The meeting was called to order at 6 p.m. The August 21 minutes were approved.</p> <p>Information and Discussion Items: Maginnis introduced Matt Chasansky who was hired as the Arts and Cultural Services Manager, and Maureen Rait, who was to serve as Interim Library & Arts Director when Maginnis retired on September 20. Maginnis reviewed her memo to the commission. The library renovation public art project was discussed, as well as the North Boulder arts district planning group. Maginnis responded to Salim's query about the Arts department budget.</p> <p>Arts and Business Collaborative Grant, Q&A WITH FINALIST: Weitz and Beasley from Boulder Ensemble Theater company introduced themselves as representatives of the proposal submitted by BETC with Fiske Planetarium (proposed project: Star Power Event Series). A dialog ensued during which the commissioners posited questions regarding the proposal.</p> <p>Biannual Reports: Written reports were turned in by Boulder Arts Resource, Boulder Museum of Contemporary Art, The Dairy Center for the Arts and the Dance Bridge. The commissioners accepted all proposals without comment.</p> <p>Grant Categories Discussion: Maginnis and Turbiak led the commissioners through a final discussion of intended changes to the grant categories. Chasansky recorded suggestions and resolutions to present all final changes for approval at the October BAC meeting.</p> <p>Boulder Arts Week: Salim spoke about the intended collaborative project, Boulder Arts Week, which was planned for March 29 – April 5. Partners currently committed to the venture were: BMOCA, the Dairy, CU Presents, Boulder Bach Festival, BCAA, Downtown Boulder, CVB and the City.</p> <p>Grant Budget Reports: The Commission reviewed the reports submitted by Boulder Asian Pacific Alliance (2013 Major Grant – 2013 Boulder Asian Festival) and Interweave Dance Theatre (2013 Mini-Grant – In the Realm of the Senses). All reports were approved.</p> <p>Adjournment: The meeting was adjourned at 8:55 p.m.</p>
ATTACH BRIEF DETAILS OF ANY PUBLIC COMMENTS: Local artist Susan Douglas spoke to the North Boulder Arts District and voiced her support for the NoBo board and a compact boundary for the district. Annette Coleman, president of the NoBo art district board, asked for a representative from the BAC to participate on the advisory board for the arts district.
TIME AND LOCATION OF ANY NEXT MEETINGS: 6 p.m., Wednesday, October 16, 2013 in the North Meeting Room, Boulder Public Library, 1001 Arapahoe Avenue.

CITY OF BOULDER
BEVERAGE LICENSING AUTHORITY
*** * * MINUTES * * ***
WEDNESDAY, AUGUST 21, 2013, 3:00 P.M.
BOULDER CITY COUNCIL CHAMBERS
MUNICIPAL BUILDING - 2nd FLOOR
1777 BROADWAY, BOULDER, COLORADO

NAME OF BOARD/COMMISSION: Beverage Licensing Authority (BLA)

DATE OF MEETING: August 21, 2013

NAME & PHONE OF PERSON

PREPARING SUMMARY: Mishawn Cook, Licensing Manager (303.441.3010)

NAMES OF MEMBERS, STAFF, AND INVITED GUESTS PRESENT:

Board Members: Harriett Barker, Timothy McMurray, Lisa Spalding, David Timken, and Dave Zessin.

Staff Present: Sandra Llanes, Assistant City Attorney, Mishawn Cook, Licensing Manager, and Michele Lamb, License Assistant.

QUASI-JUDICIAL MEETING OUTLINE OF AGENDA

1. Member roll call; Approval of Beverage Licensing Authority (BLA) minutes from July 17, 2013, and hearing agenda issues from licensing clerk.

Roll call was taken, four Authority members were present, Member McMurray was absent, thus there was a quorum of 4.

Member Spalding moved, Barker seconded, to approve the July 17, 2013 minutes with typographical errors corrected. Motion approved 4:0.

Under hearing agenda issues from the licensing clerk, Ms. Cook mentioned that agenda item #5 NoEntiendo transfer had been continued until Monday, August 26, 2013 at 4:00 pm. The applicant is aware of the continuance. Agenda exhibit amended preliminary findings, the agenda for August 26, 2013, and the publication notice for Monday were provided to the board members.

2. Matters from the Boulder Police Department (BPD).

Officer Carlene Hofmann, Boulder Police Department's alcohol enforcement officer, appeared before the Authority. Officer Hofmann noted that the students would be back in classes on Monday and was anticipating getting busier over the next few months.

3. Matters from the Responsible Hospitality Group (RHG).

Jon Balliet was not present at this time. Ms. Cook provided the RHG meeting attendance to the members as agenda #3, exhibit 1. Mr. Balliet appeared later during the hearing and addressed the board. He described the legend on the attendance sheets, exhibit 1. RHG held a nontraditional meeting this month – door staff training. Speakers were Officer Carlene Hofmann of the BPD and Jon Balliet of TIPS Colorado. Next month is the state training by the Liquor Enforcement Division. The RHG is still searching for new officers for next year.

4. Informational Update from Facilities and Management Department on Anticipated Renovations to Municipal Building.

Glenn Magee, Facilities Design and Construction Manager, appeared before the board. Mr. McGee is addressing all boards that use the council space about an upcoming project beginning in November. He provided the BLA a concept plan of the Council Chambers upgrades and asked for any feedback. The anticipated timeframe is November 15 – January 2014. Mr. Magee will keep the board updated and notify them of the alternate meeting place.

5. Public hearing and continued consideration of a March 15, 2013 application from Innkeeper Limited d/b/a/ NoEntiendo, 1325 Broadway Unit 201, Boulder, CO 80302; Kyle McNamara, 100% Owner and Registered Manager, with a business mailing address of 8025 Grasmere Drive, Boulder, CO 80301, for Transfer of Ownership of a Hotel-Restaurant type liquor license.

Member Timken moved to set this agenda item to Monday, August 26, 2013, in 1777 West Conference Room at 4:00 pm for a special hearing, seconded by Member Barker. Motion passed 4:0. Mr. Adam Stapen, attorney for applicant, had no comment.

6. Public hearing and consideration of a May 24, 2013 application from Boulder Hospitality, LLC d/b/a Hampton Inn & Suites, 6333 Lookout Road, Boulder CO 80301; Charles D. McDermid, as Managing Member and 24.51% Owner, and with BST Hospitality LLC (BST) as 100% owner, and McDermid 1980 Living, Terminable Interest, and Credit Trusts (Trusts) as 24.51% Owner and Bay Area Mountain Partners, LLC (BAMP) as 34% owner of BST, and with no others owning over a 10% interest in BST, Trusts or BAMP, and with a business mailing address of 6666 Gunpark Drive, Suite 102, Boulder CO 80301, for a New Beer & Wine type liquor license.

Mr. Adam Stapen recorded his appearance on behalf of the applicant. Mr. Charles McDermid was sworn in and confirmed the 10 day posting period. Mr. Max Scott, who conducted the petitioning, was sworn in. Reading of the Rules of procedure was waived. No ex parte contact or conflicts were disclosed by the board. There were no interested persons

present. Mr. Scott testified regarding the conduct and manner of petitioning and his summary report. Mr. McDermid then testified regarding his experience with managing hotels and liquor licenses. He articulated the reasons why he chose this hotel franchise and location. He also testified regarding the hotel's experience since opening this summer. Mr. McDermid explained the rationale behind the complementary "manager's reception" areas, the accompanying diagram, and how the areas would be monitored to ensure compliance with liquor laws.

It was then opened to the board for questions. Member Barker asked about the alcohol service training including checking IDs by employees. Member Spalding requested clarification regarding the diagram and specific areas to be licensed. She also had questions concerning the financial statement and IHRs. Member Timken asked if and when written policies and procedures would be in place.

Member Spalding moved to approve the new beer and wine type liquor license with amendments to the financial statements and the development and submission of written procedures within 3 months to the clerk's office. Member Barker seconded. Motion approved 4:0.

7. Public hearing and consideration of a June 14, 2013 application from Xianfa, Inc. d/b/a Yurihana, 6525 Gunpark Drive, Unit 330, Boulder, CO 80301; Lian Hua Xian, 100% Owner and Registered Manager, with a premise business mailing address, for Transfer of Ownership of a Hotel-Restaurant type liquor license.

Mr. Zongbing Li recorded his appearance of the applicant. Mr. Lian Hua Xian was sworn in and confirmed the 10 day posting period. Mr. Xian had an interpreter present. The Rules of Procedure were read. No ex parte contacts or conflicts were disclosed by the board. There were no interested parties present. Mr. Li questioned Mr. Xian who testified concerning his background in the restaurant industry, his familiarity with liquor laws, and his current restaurant.

It was opened to questions by the authority. Member Barker asked about TIPS training. Member Spalding asked who helped Mr. Xian complete the application. She also asked about Mr. Xian's experience in serving alcohol. On behalf of the board, Attorney Llanes requested clarification on the charges turned up by the background check. There were three charges and a motion to dismiss (agenda item 7, exhibit 1) in federal district court. Mr. Li answered describing the efforts he has made to find out disposition of his client's case in the short time frame he had. Mr. Xian attempted to describe what had happened and whether the motion to dismiss applied to all three charges or just one.

Moved into deliberation by the authority. Member Spalding moved to continue the hearing until the board could receive more information regarding the charges from the indictment as it is unclear what charge was dismissed. She requested that the applicant complete TIPS training during the time.

Chair Zessin moved back into participation in order to address the attorney, Mr. Li, to explain what the board was discussing and suggesting. Member Spalding strongly suggested that Mr. Xian receive the TIPS training as soon as possible. Member Barker endorsed Member Spalding's suggestion regarding the TIPS training. Mr. Xian agreed to take the TIPS training.

Moved backed into deliberation. Member Spalding restated her motion to continue the hearing to allow time to receive further clarification as to the disposition of the three charges found in the background check. Member Barker seconded. Motion passed 4:0.

- 8. Public hearing and consideration of a June 14, 2013 application from Wal-Mart Stores Inc. d/b/a Walmart Market #3096, 2972 Iris Avenue, Boulder CO 80301; Michael T. Duke, Director, President, CEO; Phyllis P. Harris, SVP, CCO; Jeffrey A. Davis, Treasurer; Lori L. Cottrell, Assistant Secretary; and Amy Y. Thrasher, Assistant Secretary, with each owning under a 1% Interest and Applicant Corporation publicly traded with no persons or entities owning over a 10% Interest; with a business mailing address of 702 SW 8th St, Bentonville, AR 72716-0500, for a New 3.2% Beer Off Premises type liquor license.**

Kevin Coates recorded his appearance on behalf of the applicant. Adiena Holder, general manager for this location, was sworn in. Max Scott from Oedipus was sworn in and confirmed the 10 day posting period. Mr. Scott provided a photo and affidavit of posting. Reading of the Rules of Procedure was waived. No ex parte contacts or conflicts were disclosed. There were no interested parties present. Mr. Coates had a preliminary matter relating to the Preliminary Findings and Report, #6. He discovered a conflict between the attached map and list of licensees. The map shows the Safeway 3.2% Off-premise Beer license which the list of licensees does not include. Mr. Coates then proceeded with his initial remarks before questioning Mr. Scott regarding the petitioning materials. Following Mr. Scott's testimony, Mr. Coates questioned Ms. Holder. Ms. Holder testified about her relationship and experience as a manager with Wal-Mart. Ms. Holder testified regarding plans for employee training including internal on-line and in-person training and state approved TIPS training. She expounded on the lack of liquor violations during her tenure at Wal-Mart and her desire to comply with liquor laws, license renewal requirements, to be a good neighbor, and be involved in the community. Ms. Holder envisions this business as a neighborhood grocery store able to provide lower prices than Safeway; she does not expect a high volume of alcohol sales.

It was then opened to questions by the authority. Member Barker reiterated the importance on training regarding to the liquor laws. Member Timken asked about the Individual History Records included with the packet materials and the "canned" answers contained therein. Mr. Coates first replied to Member Timken's concern and question. Ms. Holder followed up and further addressed Member Timken's concerns. Member Spalding echoed Mr. Timken's concern regarding the language used by Wal-Mart's in the Master File and Individual History Records. Mr. Coates tried to further address this issue. Member Spalding reminded Ms. Holder that computer based training is not approved state training. Ms. Holder replied it is intended to be supplemental training. Member Spalding then asked about inconsistencies in a couple of the Individual History Records of the officers and directors. Chair Zessin summed up the participation period by stating that the board

definitely had issues with some of the responses by Wal-Mart. He also confirmed with Ms. Holder that this store would be a neighborhood grocery store selling consumable goods as opposed to electronics, etc.

The board moved into deliberation. Member Barker moved for approval of the New 3.2% Beer Off Premises type liquor license. Member Timken seconded. Motion passed 4:0.

9. Public hearing and consideration of a June 17, 2013 application from Holy Sushi, Inc. d/b/a Japango, 1136 Pearl Street, Suite 103, Boulder, CO 80302; Jonathan M. Banis, President and Joseph Banis, VP, and with a premise business mailing address, for Permanent Modification of a Hotel-Restaurant type liquor license.

Michael Wussow entered his appearance on behalf of the applicant. Jonathan Banis, President, and Max Scott of Oedipus were both sworn in. Mr. Scott confirmed the 10 day posting period. Mr. Scott previously provided the board with a photo and affidavit of posting which was included in the BLA packet. Reading of the Rules of Procedure was waived. There were no ex parte contacts or conflicts disclosed and no interested parties present. Mr. Scott testified describing the petitioning and results. Mr. Scott agreed to make a couple of minor corrections to the signatures and was excused. Mr. Jonathan Banis then testified regarding his relationship and position with the business and its operations. He testified as to their desire to have a patio on Pearl Street to provide more visibility for the business. Mr. Banis confirmed that they have possession of the area for the patio. He also testified regarding their plans to exercise control over the patio area and monitor the service of alcohol and comply with the liquor code.

Opened to questions by the board. Both Member Barker and Chair Zessin asked for clarifications about the diagram and dimensions. Member Spalding cautioned about late hours and “morphing” into a tavern/bar.

Moved into deliberation by the authority. Member Spalding moved to grant the permanent modification of a hotel-restaurant type liquor license. Member Timken seconded. Motion passed 4:0.

10. Public hearing and consideration of a June 17, 2013 application from Wok Eat Colorado #1, LLC d/b/a Wok Eat, 946 Pearl Street, Boulder, CO 80302; P. Stacey Reed, 100% Owner and Manager of Record, with a business mailing address of PO BOX 7330, Broomfield, CO 80021, for Transfer of Ownership of a Beer & Wine type liquor license.

Patricia Stacey Reed was sworn in and confirmed the 10 day posting period. Reading of the rules of procedure was waived. No ex parte contacts or conflicts were disclosed. No interested parties were present. Ms. Reed testified and notified the board that she has selected a manager. Dennis Alvez will be the new manager and Charles Clark will be the shift manager. Both have completed the TIPS training. Ms. Reed further testified regarding their concept of “fast casual”, operation of the business and points of sale. Ms. Reed referred to their diagram and stated that they have applied for building permits to put a

small hole in the wall to pass ingredients between the wok chefs and the kitchen, and then an extension to the bar to allow for the point of sale. They are also putting in an HVAC system on the roof. Landmark folks have been involved.

It was opened to questions from the authority. Member Spalding asked about the menu and the induction woks. Member Barker asked about the occupant load. Closed participation and moved into deliberation by the authority. Member Spalding moved to approve the transfer of ownership of a Beer & Wine type liquor license, Member Timken seconded, motion passed 4:0.

11. Public hearing and consideration of a June 17, 2013 application from Fresh Thymes Eatery, LLC d/b/a Fresh Thymes Eatery, 2500 30th Street, Suite 101, Boulder CO 80301; Christine Ruch, 100% Owner and manager of record, with a business mailing address of 4486 Applewood Ct., Boulder CO 80301, for a New Beer & Wine type liquor license.

Nikki Dugas, Manager, and Christine Ruch were sworn in and confirmed the 10 day posting period. The Rules of Procedure were read, no ex parte contacts or conflicts were disclosed. No interested parties were present. A marketing flyer was marked and entered as agenda 11, exhibit #1. Ms. Dugas provided testimony regarding this applicant. Member Spalding requested information regarding the seating capacity and asked about training. Member Spalding also noted that a signature on the business petition was outside the boundary and the petition was amended. Chair Zessin noted the financing model. Participation was closed participation and the board moved into deliberation. Member Barker moved to approve the new beer & wine type liquor license and Member Timken seconded. Motion approved 4:0.

12. Matters from the Assistant City Attorney

Attorney Llanes had none.

13. Matters from the Licensing Clerk:

A. Neighborhood boundaries for September 18, 2013 hearing:

- i) Villas at the Atrium at 3350 30th Street, Boulder, CO 80301 - New Hotel-Restaurant liquor license. Member Spalding moved to set the boundaries at *North: Jay; South: Valmont; West: Folsom; East: 47th*. Chair Zessin seconded. Motion approved 4:0.
- ii) Gondolier Italian Eatery at 4800 Baseline Rd, Suite A-104, Boulder, CO 80303 - New Hotel-Restaurant liquor license. Moved by Member Timken to set the boundaries at *North: Arapahoe; South: South Boulder Road; West 30th Street extended to Hwy 36; and East: 55th Street*. Member Barker seconded. Motion approved 4:0.
- iii) Caffe Sole at 637 R. South Broadway, Boulder CO 80305 – Permanent Modification of a Beer & Wine license. *Ms. Cook requested the board to table this item as they have not yet had their minor modification approved by the planning department.*

B. Informational items:

- i) August Special Events and Temporary Modifications - included in the packet.
- ii) August Liquor License renewal mailing list – included in the packet. Member Spalding asked about the four non administrative renewals.
- iii) Planning board packet materials on proposed land use definitions changes for hospitality establishments – included in the packet. Ms. Cook reported that she attended the planning board meeting in order to answer any liquor licensing questions. She anticipates it will go before City Council on October 1 for 1st reading, and October 15 for 2nd reading.
- iv) Information Emails to BLA from John Balliet, TIPS Trainer.
- v) No Entiendo Food Sales Reports – attached

Because of the board's interest and earlier discussions about transfers to landlords, Ms. Cook made the following report to the board: H Burger had surrendered its license, and Ms. Cook has taken a new Hotel-Restaurant license application for that location. Member Spalding asked Ms. Cook to look into Geisty's Dogg House. San Francisco Soup Company on 29th Street surrendered its license on August 8, 2013. **2013 Restaurant Alby**, surrendered its license on August 13, 2013. Ms. Cook had questions regarding A Café Boulder because their windows are covered with plywood and she is checking on that. Bacaro is opened and is scheduled to come before the board for a renewal hearing. Ms. Cook checked on the Bus Stop and it is opened. Jimmy & Drew's received a call in regards to a transfer, new restaurant, marked as expired. Ms. Cook had some conversations relating to Lolitas. She checked on them and found they are still open but no longer sell 3.2 beer so she is not expecting a renewal. She also had some inquiry regarding Sushi Hana but found they are still open. Thunderbird Burgers is closed and their license expired July 22, 2013. Trattoria on Pearl – Ms. Cook had some inquiries, it is on non-administrative renewal and is coming before the board next month. She had some inquiries regarding Cantina Laredo and found they are still open and serving. There have been some inquiries regarding to Minglewood but they are also still open and serving.

Member Spalding asked if Attorney Llanes, Ms. Cook and Ms. Lamb were able to meet and discuss transfers to landlord. Attorney Llanes reported on the meeting. She stated it is difficult to prove with statute as written, hard to prove a negative. Attorney Llanes' conclusion was to follow up on leads, and keep an eye on inactives. Ms. Cook confirmed that we need to keep an eye out for indications that a business is closed. She said the first indication a business is closed is that they stop paying their occupation tax. Member

Spalding asked Mr. Whitney if he is willing to bring a show cause for failure to maintain possession. He said he is willing to present that. Officer Hofmann stated her practice is to notify Ms. Cook when she discovers that a business has a license but is no longer serving alcohol. Attorney Llanes reiterated that Ms. Cook cannot not accept a properly filed and complete transfer to landlord application since it is available under the statute.

14. Matters from the Chair and Members of the Authority

Member Spalding addressed the petition materials and whether there is unfairness in the materials and her concern about objective petitioning.

ADJOURNMENT

Chair Zessin adjourned the hearing at 7:15PM.

TIME AND LOCATION OF FUTURE MEETINGS, COMMITTEES OR SPECIAL HEARINGS:

3rd Wednesday of every Month at 3PM in City Council Chambers for 2013.

Attested:

Approved:

Mishawn J. Cook, Tax and License Manager

Beverage Licensing Authority Chair

CITY OF BOULDER
BEVERAGE LICENSING AUTHORITY
*** * * MINUTES * * ***
WEDNESDAY, SEPTEMBER 18, 2013, 3:00 P.M.
BOULDER CITY COUNCIL CHAMBERS
MUNICIPAL BUILDING - 2nd FLOOR
1777 BROADWAY, BOULDER, COLORADO

NAME OF BOARD/COMMISSION: Beverage Licensing Authority (BLA)

DATE OF MEETING: September 18, 2013

NAME & PHONE OF PERSON PREPARING SUMMARY: Mishawn Cook, Licensing Manager (303.441.3010)
And Michele Lamb, Licensing Assistant (303.441.3091)

NAMES OF MEMBERS, STAFF, AND INVITED GUESTS PRESENT:

Board Members: Harriet Barker, Lisa Spalding, Dave Zessin, and David Timken.

Staff Present: Sandra Llanes, Assistant City Attorney, Mishawn Cook, Licensing Manager, and Michele Lamb, License Assistant.

QUASI-JUDICIAL MEETING OUTLINE OF AGENDA

1. Member roll call; hearing agenda issues from licensing clerk.

Roll call was taken, four Authority members were present, Member McMurray was absent, and thus there was a quorum of 4. The minutes from August 21, 2013, and August 26, 2013 were not completed and so were tabled until next month.

Ms. Cook brought up a couple of issues on the hearing agenda of which she was aware. The first was agenda item #6 Family Learning Center – since Boulder Reservoir is closed due to recent flooding, the event has been postponed and the event organizer doesn't yet know if he will be able to reschedule the event. Member Barker moved, Spalding seconded, to continue this item until October 16, 2013. Motion passed 4:0.

The next item Ms. Cook was aware of was agenda item #11, Brookdale Senior Living Communities application for a new Hotel-Restaurant type liquor license. Their executive director had a family emergency and was unable to be present at this hearing. Ms. Cook agreed on behalf of Brookdale's attorney, Brian Proffitt, to request a continuance on their behalf. Member Timken moved, Barker seconded, continue this item to October 16, 2013. Motion passed 4:0.

In addition, on agenda item #14 Caffe Sole, Ms. Cook requested that BLA not set neighborhood boundaries for this application, because their minor modification with the Planning and Zoning department was still in play. If it is completed in time, she will put on the agenda for October 16, 2013.

2. Matters from the Boulder Police Department (BPD).

Officer Carlene Hofmann appeared on behalf of the Boulder Police Department. She stated that she has been busy conducting over-service checks which resulted in a couple of show causes scheduled for hearing in November 2013. There will also be a couple of upcoming show causes scheduled for failed compliance checks. Officer Hofmann noted that the state training originally scheduled for September 16, was canceled and will be rescheduled.

3. Matters from the Responsible Hospitality Group (RHG).

No RHG member was present to report.

4. Show cause hearing concerning a May 31, 2013 violation and whether the Brew Pub type liquor license held by Pearl LLC d/b/a West Flanders Brewing Company, 1125 Pearl Street, Boulder CO 80302, should be suspended or revoked.

Mike Whitney appeared on behalf the Boulder Police Department. Barry Wolfman, Mark Heinritz, and Chris Heinritz, licensee co-owners for West Flanders and were all sworn in. Mr. Whitney submitted a Stipulation as to the facts which was marked and entered as exhibit 3. The Chair read the hearing procedures. There were no conflicts of interest or ex- parte contacts reported by the Authority members. Member Barker moved, Timken seconded, to accept the Stipulation to the facts. Motion passed 4:0.

Mark Heinritz testified, and he submitted West Flanders' employee training manual and related documents which were marked and entered as exhibits 1 and 2. Mr. Heinritz stated that their business has made community donations amounting to \$8,000 throughout the year. Mr. Wolfman, registered manager, then testified on day to day operations at the location. Mr. Heinritz requested the board to consider a fine in lieu of due to the flood and their business already being closed for a few days. It was then opened up to questions by the authority. After questioning by the authority, they moved into deliberation noting significant mitigating evidence but also referencing the short time that this licensee has held this license at this location.

Chair Zessin moved, Timken seconded, to set the penalty for this violation at 4 days served with 10 days held in abeyance. Motion passed 4:0. Member Spalding moved, Barker seconded, for 2 suspension days served and 2 days fine in lieu paid. The board then discussed the fine in lieu. Member Spalding withdrew her motion and Member Barker agreed to withdraw her second. Member Spalding then moved, Barker again seconded, for 3 days suspension days served, 1 day fine in lieu, and 10 days held in abeyance. Motion passed 3:1 with Chair Zessin opposed. The licensee requested to serve the 3 days suspension from September 30 through October 2, 2013. Member Barker moved, Timken

seconded, to approve the days served as September 30 through October 2, 2013. Motion passed 4:0.

5. **Show cause hearing concerning a June 29, 2013 violation and whether the Hotel-Restaurant type liquor license held by Restaurante 100% Mexican LLC d/b/a Restaurante 100% Mexicano, 2850 Iris Avenue, Suite H, Boulder, CO 80301, should be suspended or revoked.**

Mike Whitney appeared on behalf of the Boulder Police Department. Shawn Camden, restaurant owner, was sworn in. A signed Stipulation as to fact was entered and marked as Exhibit 1. Reading of the hearing procedures was waived. No ex- parte contacts or conflicts were revealed by the Authority. Mr. Zessin asked Mr. Whitney whether he had been contacted by either licensee timely for both show cause hearings. Mr. Whitney answered no. Member Spalding moved, Timken seconded, to accept the Stipulation to the facts. Motion passed 4:0.

Mr. Camden testified concerning mitigation materials in the hearing packet. It was then opened to questions from the authority. After questions, the board moved into deliberations noting limited mitigation. Member Barker moved, Timken seconded, to enact the table value for this violation of 5 suspension days served and 9 days held in abeyance. Motion passed 4:0. Mr. Camden requested to serve the 5 days from September 30 to October 4, 2013. Member Spalding moved, Barker seconded, to accept the suggested days from September 30 to October 4, 2013. Motion passed 4:0.

6. **Public hearing and consideration of an application filed on August 24, 2013 for Family Learning Center Inc. for a proposed alcohol permit event titled "Boulder Marathon and Half Marathon" on Sunday September 22, 2013 from 10AM to 3PM at the Boulder Reservoir, 5565 N. 51st Street, Boulder, CO 80301; Family Learning Center, Inc, Colorado Non-Profit with a business mailing address of 3164 34th Street, Boulder, CO 80301; Brenda Lyle, Non-profit Executive Director, and Jeff Mason, Race Organizer, with a business mailing address at the non-profit location, for a Malt, Vinous, and Spirituous Liquors Special Event Liquor Permit.**

At the request of Ms. Cook as described in these minutes, this item was continued to October 16, 2013.

7. **Public Hearing and Consideration of whether there is good cause for a non-renewal of a June 10, 2013 application from Casarrubias Inc. d/b/a Trattoria on Pearl, 1430 Pearl Street, Boulder, CO 80302; Guillermo Casarrubias, President and Sara Casarrubias, VP, with a premise business mailing address, for a renewal of a Hotel-Restaurant type liquor license.**

Guillermo Casarrubias, restaurant co-owner, was sworn in and confirmed 10 day posting. Ms. Cook informed the board that this hearing was scheduled due to administrative issues. The sales tax staff would now approve the renewal and the occupation tax AR staff would now also approve the renewal. Ms. Cook suggested that the board may want to address the

lease issue. Rules of procedure were read. There were no ex- parte contacts or conflicts of interest disclosed by Authority members. Chair Zessin asked if Mr. Whitney, the BPD's attorney had anything to add in this matter, and Mr. Whitney replied that he did not. Guillermo Casarrubias testified as to his reply for administrative issues and the duration of his lease on his restaurant.

No third parties requested interested party status and no public comment was given. It was then opened to questions by the board followed by deliberations. Member Spalding moved, Timken seconded, to renew this hotel-restaurant liquor license, under the condition that timely filing of both monthly sales tax and bi-annual occupation tax take place on-going, and that a copy of current lease and updated proof of training and copies of TIPS cards be delivered to the clerk by Monday September 23, 2013. The licensee was not put on non-administrative renewal for 2014. Motion passed 4:0.

8. Public Hearing and Consideration of whether there is good cause for a non-renewal of an August 7, 2013 non-administrative renewal application from Imagine Entertainment LLC d/b/a Lazy Dog and Naked Fish, 1346 Pearl Street, Boulder, CO 80302; Steve Ross, LLC Member, and Tanelle Ward, Registered Manager, with a premise business mailing address, for a renewal of a Hotel-Restaurant type liquor license.

Tanelle Ward, registered manager, and Steven Ross, restaurant owner, were both sworn in and confirmed the 10 day posting. Ms. Cook informed the authority that the reason this licensee was scheduled for a renewal hearing was because the Authority had requested they be put on non-administrative renewal at their prior show cause hearing. Reading of the rules was waived. No ex-parte communications or conflicts of interest were disclosed by Authority members. No third parties requested interested party status and there was no public comment given.

Mr. Ross testified about restaurant operations and changes, and new manager, Ms. Ward testified about her restaurant experience. The Authority discussed that e-TIPS is not a state approved training. Member Spalding moved, Barker seconded, to approve this hotel-restaurant liquor license renewal with condition that training for employees involved with service of alcohol be fully completed and that copies of TIPS cards be provided to the licensing clerk by December 31, 2013. Motion passed 4:0.

9. Public hearing and continued consideration of a June 14, 2013 application from Xianfa, Inc. d/b/a Yurihana, 6525 Gunpark Drive, Unit 330, Boulder, CO 80301; Lian Hua Xian, 100% Owner and Registered Manager, with a premise business mailing address, for Transfer of Ownership of a Hotel-Restaurant type liquor license.

Attorney Leo Z. Li entered his appearance. Lian Hua Xian, owner, was sworn in and confirmed 10 day posting. Mr. Xian also had an interpreter present. Chair Zessin reminded everyone that this item was continued from last month and read the hearing procedures. No conflicts of interest or ex-parte contacts were disclosed by Authority members. No third parties requested interested party status and no public comment was given. Mr. Li

addressed the two issues that the Authority had brought up at the last hearing, alcohol service training and prior background check arrest dismissal.

Member Barker moved approval of license, but the motion failed for lack of a second. After more discussion, Member Spalding moved, Timken seconded, to approve the hotel-restaurant liquor license transfer with the condition of the licensee being placed on non-administrative review for the first year's renewal. Motion passed 3:1 with Member Barker opposed.

10. Public hearing and consideration of a June 28, 2013 application from Meelan Pratik Inc. d/b/a Gurkhas Restaurant, 6565 Gunpark Drive, Unit 190, Boulder, CO 80301; Kalpana Gurung, President and Registered Manager, with a premise business mailing address, for Transfer of Ownership of a Hotel-Restaurant type liquor license.

Kalpana Gurung, restaurant owner, was sworn in and confirmed 10 day posting. Hearing procedure reading was waived. No conflicts of interest or ex- parte contacts were disclosed by the Authority members. No third parties requested interested party status and no public comment was provided. Ms. Gurung testified about her purchase of 100% of this restaurant, instead of 50% which she had prior owned. Member Spalding noted that the state application and background check form should be updated based on prior ownership.

Member Barker moved, Spalding seconded, to approve this hotel-restaurant liquor license transfer with the corrections made to the answers to the state questions and the Individual History Report form. Motion approved 4:0.

11. Public hearing and consideration of a June 28, 2013 application from Brookdale Senior Living Communities Inc. d/b/a Villas at the Atrium, 3350 30th Street, Boulder CO 80301; Brookdale Senior Living Communities Inc., John McElderry, Registered Manager, T. Andrew Smith, CEO, Mark W. Ohlendorf, CFO, Kristin A. Ferge, Treasurer, and Bryan D. Richardson, EVP, and with FEBC-ALT Holdings Inc. at 6737 W. Washington Street, Suite 2300, Milwaukee, WI 53214, as 100% Owner and Parent Company, FEBC-ALT Investors LLC, as 100% Owner of Parent Company, and with Brookdale Senior Living, Inc, a publicly traded corporation as 100% Owner of FEBC-ALT Investors LLC, and with no individual persons owning over a 10% Interest in Applicant; with a premise business mailing address, for a New Hotel-Restaurant type liquor license.

Ms. Cook requested that this item be continued until the next BLA hearing on Oct. 16, 2013.

12. Public hearing and consideration of a July 12, 2013 application from LIT Holdings Co d/b/a Gondolier Italian Eatery, 4800 Baseline Road, Suite A-104, Boulder CO 80303; Nelson Kugel, 100% Owner, President, and Registered Manager, with a business mailing address of 2432 10th Street, Boulder, CO 80304, for a New Hotel-Restaurant type liquor license.

Nelson Kugel, restaurant owner, was sworn in and testified about this new restaurant. Tina Scott, with Oedipus Petitioning, was sworn in, confirmed 10 day posting, and testified about door to door petition results. Hearing procedures were read. There were no conflicts of

interest or ex parte contacts disclosed by Authority members. No third parties requested interested party status and no public comment was given. Mr. Kugel entered a 1976 menu and a current menu as exhibits 1 and 2. Member Spalding reviewed the petitions with Ms. Scott and directed that some business signatures should be deleted. Member Timken moved, Barker seconded, to approve this new hotel-restaurant liquor license. Motion passed 4:0.

13. Matters from the Assistant City Attorney

No matters were addressed.

14. Matters from the Licensing Clerk:

A. Neighborhood boundaries for August 21, 2013 hearing:

- i) Caffe Sole at 637 R. South Broadway, Boulder CO 80305** – Permanent Modification of a Beer & Wine liquor license – Ms. Cook asked that boundary setting to be tabled for one month to October 16, 2013 hearing.
- ii) Zeal – Food for Enthusiasts, 1710 Pearl St., Boulder CO 80302** – New Hotel-Restaurant liquor license. The following boundaries were discussed: North- Bluff Street Extended; South- Canyon Boulevard; West- Broadway; East- Folsom. Member Spalding moved, Timken seconded, to set these boundaries for this application. Motion passed 4:0.
- iii) Old Chicago at 1102 Pearl Street, Boulder CO 80302** – Permanent Modification of a Hotel-Restaurant liquor license. The following boundaries were discussed: North- Maxwell; South- Arapahoe; West- 6th Street; East- 17th Street. Member Timken moved, Barker seconded, to set these boundaries for this application. Motion passed 4:0.

B. Informational items:

- i) September Special Events and Temporary Modifications**
- ii) September Liquor License renewal mailing list**
- iii) Information Emails to BLA from John Balliet, TIPS Trainer (if any).**

Above items 1 to 3, were noted to be in the hearing packet.

- iv) K's China Food Sales Reports.**

The Authority noted the received email totals for food and alcohol sales from Bo Main and the receipt copies which were forwarded from Kyle McNamara. The Authority provided Ms. Cook with direction under their matters.

- v) Report by the clerk as to apparently closed establishments.** Ms. Cook notified the board that her office has received a renewal filing by Changlee Inc. d/b/a K's

China. Ms. Cook also received email confirmation from Landlord that Changlee Inc. is in possession of the premises. K's China had paid the late filing fee. Because K's China renewal is on non-administrative renewal status, their renewal hearing will most likely be scheduled for renewal hearing on November 20, 2013.

Officer Hofmann went to Geisty's Doghouse on 8/30/2013 and it appears to be closed for business. Ms. Cook has received an email from a tentative purchaser.

Ms. Cook has gone to Minglewood location and it appears to be dark. Ms. Cook has also received an inquiry from a buyer's broker. Apparently licensee has disappeared.

Member Spalding asked about the status of Bite Penfold's Lounge license and Ms. Cook stated that the city and state licenses have been issued but that there have been construction delays that have delayed the premise inspection.

15. Matters from the Chair and Members of the Authority.

Chair Zessin complimented Ms. Cook and Ms. Lamb on being prepared for the hearing, despite the municipal building being closed for two days due to local flooding.

Member Barker brought up the K's China's receipts and NoEntiendo's receipts and the difficulty in deciphering them. The Authority discussed that the email food and alcohol totals and the emailed receipts are not clear and understandable. As such, the Authority stated that the licensing clerk should direct that Bo Mai listen to prior BLA direction recorded at previous hearings for the way that they would like food percentage report details conveyed.

Member Spalding brought up the special event liquor license code, state regulations, and the requirements that the profits from the service of alcohol must go directly to the non-profit under such permits. This topic was discussed with Ms. Cook.

16. ADJOURNMENT.

The Authority members all discussed that the hearing should be adjourned, thus hearing was adjourned at 6:35 p.m. by acclamation.

TIME AND LOCATION OF FUTURE MEETINGS, COMMITTEES OR SPECIAL HEARINGS:

3rd Wednesday of every Month at 3PM in City Council Chambers for 2013.

Attested:

Approved:

Mishawn J. Cook, Tax and License Manager

Beverage Licensing Authority Chair



CITY OF BOULDER
Boards and Commissions Minutes

NAME OF COMMISSION: Open Space Board of Trustees			
DATE OF MEETING: October 10, 2013			
NAME/EXTENSION OF PERSON PREPARING SUMMARY: Leah Case x2025			
NAMES OF MEMBERS, STAFF AND INVITED GUESTS PRESENT:			
MEMBERS: Allyn Feinberg, Tom Isaacson, Shelley Dunbar, Molly Davis			
STAFF: Jim Reeder Dean Paschall Eric Stone Annie McFarland Phillip Yates Andy Pelster Joe Reale Don D'Amico Todd Doherty Dave Kuntz Jennelle Freeston Leah Case Mark Gershman Michele Gonzales			
TYPE OF MEETING:	<u>REGULAR</u>	CONTINUATION	SPECIAL
SUMMATION:			
AGENDA ITEM 1- Approval of the Minutes Tom Isaacson moved to approve the minutes from September 11, 2013 as amended. Frances Hartogh seconded. This motion passed unanimously. Tom Isaacson moved to approve the minutes from September 25, 2013 as amended. Shelley Dunbar seconded. This motion passed unanimously.			
AGENDA ITEM 2- Public Participation 17 members from the public spoke. All were in favor of OSMP opening back up all of the trails, as well as utilizing all of the available volunteers.			
AGENDA ITEM 3- Director's Updates Update on Flood Impacts to OSMP Andy Pelster, Land and Facilities Operations Supervisor; Todd Doherty, Water Resources Administrator; Don D'Amico, Ecological Systems Supervisor; Annie McFarland, Visitor Access Coordinator; Jennelle Freeston, Volunteer Coordinator; Joe Reale, Ranger Supervisor; and Mark Gershman, Planning Supervisor all gave updates to the Board on flood damage to different facilities as well as different areas throughout the system. All presentations are saved in S:OSMP\admin\OSBT\Minutes\Minutes 2013\October.			
Open Space Access during Flood Recovery Eric Stone, Resource Systems Division Manager, gave an update on Open Space access.			

Update on McClintock Trail Area Dog Closure

The Board has read this memo and has no further questions or comments.

E-bikes

Dean Paschall gave the Board an update on e-bikes, and council having their second reading October 22nd. The Board is going to consider a possible disposal of some paved Open Space paths to another department.

Pipeline on Flagstaff

Jim Reeder notified the Board about a exposed high pressure natural gas line that serves the Flagstaff House restaurant. He asked for their recommendation on granting a non-exclusive license to Xcel for them to be able to move this pipeline onto Open Space.

Allyn Feinberg moved the Open Space Board of Trustees recommend that Open Space and Mountain Parks grant a non-exclusive license to Xcel Energy to relocate the pipeline for some period of time. The OSBT recommends that when Xcel finds a permanent location, if at all possible, it be in the road and not on Open Space. Shelley Dunbar seconded. This motion passed unanimously.

ADJOURNMENT: The meeting adjourned at 10:30 p.m.

ATTACH BRIEF DETAILS OF ANY PUBLIC COMMENTS:

None.

TIME AND LOCATION OF ANY FUTURE MEETINGS, COMMITTEES OR SPECIAL HEARINGS:

The next OSBT meeting will be at 1777 Broadway in the Council Chambers November 13, 2013 at 6:00 p.m.

**CITY OF BOULDER
BOULDER, COLORADO
BOARDS AND COMMISSIONS MEETING
MINUTES**

Name of Board/ Commission: Transportation Advisory Board	
Date of Meeting: 12 August 2013	
Contact Information Preparing Summary: Laurel Olsen-Horen 303.441.3203	
Board Members Present: Dom Nozzi, Jessica Yates, Matt Moseley, Zane Selvans Board Members Absent: Andria Bilich	
Staff Present: Tracy Winfree, Director of Public Works for Transportation Kathleen Bracke, GO Boulder Manager J.R. Clanton, Transportation Budget Analyst Randall Rutsch, Senior Transportation Planner Marni Ratzel, Senior Transportation Planner Cris Jones, Transportation Planner Micki Kaplan, Transportation Planner Sam Assefa, Senior Urban Designer Kathy Haddock, City Attorney Laurel Olsen-Horen, Board Secretary	
Consultants Present: Tom Brennan: Nelson Nygaard Consultant	
Type of Meeting: Advisory/ Regular	
Agenda Item 1: Call to Order	[6:01 p.m.]
The meeting was called to order at 6:01 p.m.	
Agenda Item 2: Approval of minutes from 8 July 2013	[6:02 p.m.]
Motion to approve the 8 July minutes as amended by: Moseley; Seconded: Yates Vote: 3-0 Motion Passes (board member Selvans was not at the July meeting)	
Agenda Item 3: Public Participation	[6:06 p.m.]
Peter Richards: Mr. Richards is commenting on the Living Lab bicycle innovations for University Ave. University is a wide street from 6 th -17 th Street. The street is 60' wide which is too wide and should be reduced by 30-40%. There was a neighborhood meeting on 9 May 2013 regarding the entire project. The back in parking is great. Mr. Richards has issue with the buffered bike lanes. What is the need for buffered bike lanes in this location? The entire street needs to be looked at. It shouldn't be kept at 60 feet wide. Testing buffered bike lanes is great, but perhaps not in this specific location. The cost of removing the paint from proposed street design on University only to repaint the new lines one foot away from the existing ones is unnecessary and is a bad use of funds. The current bike/vehicle situation west of Broadway is fine.	
Paul Heller: both Mr. Heller and his wife ride E-bikes. Using them on the bike paths has never been an issue. Is it really worth the staff effort to do a pilot project? How many tickets have been issued to E-bike riders? How many serious issues have occurred on bike paths involving E-bikes? If there haven't been many tickets and many issues, then that should be the city's pilot. Speed control and power limits are worth investigating. Devoting too much staff time to something that many people already do, [and isn't enforced] isn't a good use of taxpayer dollars. What is the purpose of the pilot? Legalizing E-bikes (Mr. Heller is not going to quit riding his E-bike) isn't necessarily the answer. Most E-bike riders probably aren't even aware of the city's ordinance against them. Look into what problems there have been. There's not an appreciation to what is going on. It's not feasible to accomplish the types of errands Mr. Heller would like to do without his E-bike.	
Scott Allman: Mr. Allman supports the city's proposed pilot study as he did 10 years ago. According to the article in the Daily Camera, the city rejected the use of E-bikes 10 years ago, which is not the case. The topic was tabled. In order to have proper discussion, then information has to be correct. Boulder is going to continue to ride and walk on the paths. E-bikes are Mr. Allman's choice to get around because it allows him to go farther, not faster. It is Mr. Allman's choice to use the electric assist or manual pedal. In Mr. Allman's case, he will not discontinue the use of his E-bike. Please get the facts straight to start the pilot.	
Charlotte Sorenson: Ms. Sorenson is founder of Walk Boulder. Ms. Sorenson is here to represent pedestrians. The MUPs are already congested and in some cases, are already narrower than the federally required 10'. Enforcement is impossible as there is currently no meaningful enforcement on the paths. Allowing E-bikes opens the doors to other	

motorized mobility devices on the MUPs such as mopeds or segways. All E-bikes weigh significantly more than regular bikes. How will the city monitor and enforce the transfer of these devices from paved trails to unpaved trails and MUPs? Everyone is a pedestrian, but walking is such a daily activity that all too often the pedestrian is forgotten in issues of this type. Legal access to the MUPs would signal a dramatic change to the MUPs for pedestrians.

Byron James: Mr. James supports the pilot program. He is an E-bike rider. They are no different than a regular bicycle except that they allow people a more relaxed and comfortable way to commute, run errands or recreate. E-bikes would help facilitate getting people outdoors and out of their vehicles. By using an E-bike, Mr. James used to ride a regular bike to work. By using an E-bike, Mr. James was able to arrive at work without having to worry about using the company shower, wearing his work clothes and ready to work. Not everyone has the same ability to power a regular bike. Having an E-bike allows three generations of people to go out at the same speed. Every bike has a motor on it whether it's a human motor or an electric motor.

Danny Larson: Mr. Larson is supportive for people to use E-bikes. However, they should not be allowed on the paths. They are already allowed on the streets. There's a disparity of power that an E-bike can travel at 20 mph for hours on end, whereas the human may not be able to go for long periods of time. Any powered vehicle on the path is a bad idea. The city needs facilities where the users don't need to worry about someone speeding along side them. It doesn't matter what type of powered device a user has, they will always be a bad idea and there will always be a disparity in speed between the individuals on the path. Mr. Larson asks the TAB to entertain a notion of looking down the way a little bit; E-bikes are fairly new, and thus there aren't that many users. Five-10 years down the road they may be more popular. If we allow for E-bikes to use the paths now, then what will happen 10 years from now when they clog up the MUP system? By that point, they will already be used to being able to use the infrastructure, thus the behavior will be hard to remediate and congestion will be tremendous.

Ralph Sorenson: Mr. Sorenson sent the TAB some comments last week. Safety, speed, congestion and courtesy are already issues along Boulder's paths. There are already issues along the paths between the different user groups. The whole idea of the paths is to allow the user to feel free to use the path without fear. Mr. Sorenson asked 19 random pedestrians along the Boulder Creek path what they thought of e-bikes and the city's proposal to allow them on the MUP system. Many of them commented that it was a bad idea. Others wondered what the city is thinking. Only two people said they wouldn't mind seeing them on the paths. The city needs to ask, in a neutral fashion, similar questions that Mr. Sorenson asked. The paths already have "No motor vehicles on paths" if the city changes its stance, than those signs will need to be changed. Do what Davis, CA is currently doing which is allowing only non-motorized vehicles on the paths.

Ann Haebig: This is a difficult issue as both sides have good points. The problem is the paths, not E-bikes. The cities that have allowed E-bikes don't list any problems. The cities that do allow E-bikes don't post any problems due directly to conflicts with E-bikes. The city is working on climate goals and E-bikes would help with reaching those goals especially for individuals that live farther from town and want to commute in without driving. The way our streets are built currently, it is not safe for riders to utilize the city's surface road infrastructure.

Agenda Item 4: Public hearing and consideration of a recommendation regarding the City Council August Study Session on the TMP Update [6:45 p.m.]

Randall Rutsch and Tom Brennan presented the item.
Power point given for this item. Handout given for this item.

Executive Summary from Packet Materials:

This memo shares the draft memorandum for the August 13, 2013 City Council Study Session on Transportation Master Plan Update. The study session materials have been prepared to highlight updates and progress-to-date in each of the TMP Focus Areas as well as the integration efforts with the TMP Update and other city-wide planning initiatives.

Staff requests that Transportation Advisory Board (TAB):

- Provide comments on the draft memo and presentation for the August 13, 2013 Study Session

Board Discussion and comments included:

- The nexus between what is happening with transportation funding – would we be looking for different things we can use the excess funding for once it's been used for O&M?
- The increases of transit ridership are likely to be constrained by the population densities which are implied by the BVCP growth limitations.
- How did the city add eight in-commuters per every additional job that has been created in Boulder? The Comprehensive housing strategy is looking into the dynamics of the study.
- Be more plain spoken and use less jargon
- Comparisons between Boulder and other cities – it may be more fair to compare Boulder to peer cities or

other college towns rather than to national averages. The picture can become more “flowery” when compared to the national averages rather than peer cities.

- Expansion of revenue sources is important in the TMP.
- Boulder transportation behavior is set by self-selected citizens of Boulder. People that come to Boulder that already use alt modes not necessarily due to Boulder’s policies or infrastructure. Be careful about not assigning to transportation behavior too much kudos as the behavior is set by our demographics.
- Safety can mean making it safer for people to drive cars faster and more inattentively. Peds, bikes, and transit users need to be taken into consideration in regards to safety.
- There needs to be some awareness of how many of the regional commuters are parking in free parking.
- TDM – emphasis should be on demand reduction rather than focused on “carrots” (user fees and efficient parking, rather than “carrots” such as better transit or better bike lanes) .
- The regional focus slide didn’t include information from BVSD. Perhaps mentioning BVSD and open enrollment would be important.
- There appears to be a lot of concern regarding the overall congestion of the Boulder creek path. Please keep that in staff’s sights.
- Perhaps adjusting the current transit system with pilot programs may assist with getting people excited about the TMP update.
- Accessibility over mobility needs to be emphasized.

Public Comment: None

Agenda Item 5: Matters

[7:39 p.m.]

Matters from the Board Included:

Board Member Yates brought up the below matter(s):

- Update on Funding/Ballot Issues. Council voted to go to a final reading on two different ballot measures. 1.) New 0.15% tax for six years dedicated to transportation. 2.) 0.15% sales tax originally dedicated to OSMP to continue for an additional ten years for Transportation. After that, it would go another ten years into the general fund.
- What about the rules for campaigning for TAB members? Staff provided a brief memo and city attorney Kathy Haddock helped the TAB understand the proper role and communication when involved as a community member in campaign.

Board Member Selvans brought up the below matter(s):

- Joint board workshop next Monday. What are we doing? Staff response: a joint board workshop with TAB, Planning Board, EAB and some Parking/Access District boards. It will be an opportunity to discuss overlapping topics related to the TMP update, the Access Management and Parking Strategies and Climate commitment.
- The busses on 14th Street are often parking in front of the bike path, thus blocking the entrance to the bike path.

Matters from staff included:

[7:53 p.m.]

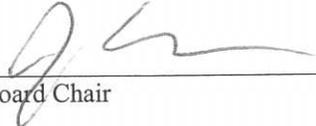
- **Sustainable Streets and Centers:** There are three distinct corridors being addressed in this project. Will there be differing design treatments based on land use? Staff response: Each area will need to be looked at specifically for design solutions for that area. Transportation drives land use. There needs to be equal analysis on both sides – transportation and land use.
- **E-Bikes Update:** (6:37 p.m. item was done right after public comment to allow for the community to not have to wait until the end of the meeting) City Council directed the transportation division to test the use of electric assist bicycles on multi-use paths on an accelerated timeline. Between now and the 23 Sept TAB meeting, staff is working on public outreach. Last week, the city held a public open house on whether or not there is support for a pilot project. Boulder is looking into a peer review to see what other communities that allow for E-bikes do and how they enforce the use of E-bikes and what the results are. There is an E-bike survey on the TMP webpage seeking comments on concerns. On 22 September the community can test E-bikes at the Boulder Green Streets event. Intercept surveys were suggested at the open house, so staff will continue to gather information.
 - Do other cities that allow E-bikes have any regrets or things they would’ve done differently?
 - The paths aren’t designed to handle such variable types of users.
 - Did law enforcement weigh in on any issues surrounding enforcement? The PD is involved with the

- interdepartmental group discussing E-bikes. The PD did not indicate any major issues as of yet.
- Educating current users may need to occur to help facilitate change in behavior.
- **Regional Studies Update:**
 - There was a link in the memo sent to TAB for tomorrow night's Study Session.
 - RAMP funding and Jefferson parkway has submitted for state funding when they were included in the regional plan at the DRCOG based on private and local funding only.
 - The Northwest Area Mobility Study (NAMS) – we're waiting for data to come in. Boulder may only be included as a station if the NW Rail line extended all the way to Longmont. If there's going to be a rail line, then Boulder needs to be a part of that. Overall, NAMS options will be considered based on future data and performance analysis.
- **Project Updates/Closure (i.e. progress, Council action, "after" studies):**
 - Araphaoe Ave is going to reopen in both directions by Saturday, 17 August. It will go back to one lane next summer and it will be completed by fall of 2014.
 - Boulder Transit Center Area Improvements should be done mid-September.
 - Depot Square commencement of construction groundbreaking will occur in the next week or so. An invitation will be sent to TAB.
 - Pavement maintenance program will have over 29 miles of resurfaced, chip-n-seal or reconstructed projects completed thanks to the voter-approved Capital Improvement Bond.
 - The city is going to proceed with a single left turn on NB 30th at the Diagonal and watch the impacts from adjacent development and consider TMP policy discussion.
- **Other Matters:** Council Chambers will be under construction Nov. 12- Jan. 10th so TAB will be meeting in an alternate location.

Agenda Item 6: Future Schedule Discussion: [8:13 p.m.]
 September meeting will need to be rescheduled to September 23rd, which is when the E-bikes public hearing is scheduled
 October meeting may include agenda item(s) recommending changes to existing NPP neighborhoods. Two expansions and one reduction.

Agenda Item 7: Adjournment [8:15 p.m.]
 There being no further business to come before the board at this time, by motion regularly adopted, the meeting was adjourned at 8:15 p.m.
Motion: moved to adjourn; Selvans, seconded by: Moseley
Motion passes 4:0

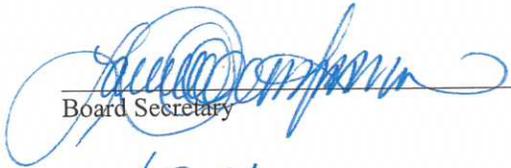
Date, Time, and Location of Next Meeting:
 The next meeting will be a re-scheduled September meeting on Monday, 23 September 2013 in the 1777 West Conference Room, 1st floor of the Municipal Building, at 6 p.m.; unless otherwise decided by staff and the Board.

APPROVED BY:


 Board Chair

 10/14/13

 Date

ATTESTED:


 Board Secretary

 14 October 2013

 Date

An audio recording of the full meeting for which these minutes are a summary, is available on the Transportation Advisory Board web page.

**CITY OF BOULDER
BOULDER, COLORADO
BOARDS AND COMMISSIONS MEETING
MINUTES**

Name of Board/ Commission: Transportation Advisory Board	
Date of Meeting: 1 August 2013	
Contact Information Preparing Summary: Laurel Olsen-Horen 303-441-3203	
Board Members Present: Andria Bilich, Dom Nozzi, Jessica Yates, Matt Moseley, Zane Selvans, Board Members Absent:	
Staff Present: Kathleen Bracke, GO Boulder Manager Chris Hagelin, Senior Transportation Planner J.R. Clanton, Transportation Budget Analyst Laurel Olsen-Horen, Board Secretary	
Type of Meeting: Special	
Agenda Item 1: Call to Order	[6:01 p.m.]
The meeting was called to order at 6:01 p.m.	
Agenda Item 2: Public hearing and TAB Consideration and Response to City Council July 16th Transportation Funding Ballot Issue Motion	[6:06 p.m.]
Executive Summary from Packet Materials: This item is a Board requested agenda item, thus there were no packet materials provided prior to the meeting.	
Public Comment: Steve Pomerance: Mr. Pomerance believes that 0.15% is adequate for O&M purposes. \$500M per year is needed to shift off of tax dependency. User fees, additional parking fees, VMT fee and/or new development fees are necessary. With new development, a reasonable build-out could mean 60,000 new jobs within the city. The current transportation plan is inadequate. There is not a solution acceptable currently on the table for the citizens of Boulder. The current transportation goals must be made into standards. The citizens of Boulder will not support a significant increase to street capacity. Charging on new development would also bring in much needed funds. The city of Boulder should adopt the model currently used by the city of Fort Collins – legal basis (?). The city needs to work with RTD on eco pass pricing.	
Sue Prant: Community Cycles is in support of the message from council member Becker earlier today. Community Cycles thinks the conversation needs to remain focused on funding.	
Board Discussion and comments included:	[6:10 p.m.]
<ul style="list-style-type: none"> • A draft resolution was sent to the TAB by board member Bilich prior to the meeting. • Discussion began with board members sharing where they feel council members currently stand. 	
<u>Length and amount of Funding:</u>	
<ul style="list-style-type: none"> • Convey to council that more than five years is needed to secure funding. • 0.15% may be alright for the course of five years. • The main purpose is to close a major funding gap needed for transportation operations and maintenance. • At least ten years is needed to allow time to develop a permanent solution for bridging the gap. • However, too long of a duration could mean losing political momentum and the crisis mentality for immediate funding. 	
<u>Policy issues discussed:</u>	
<ul style="list-style-type: none"> • One TAB member wanted TAB recommendation to clearly call out for user fees. • Funding should not be used for system enhancements for capacity; TMP already states that the City will not be adding new capacity. • The board is going to keep working on funding issues even if the 0.15% is approved by council. • Parking fees could be implemented as needed, but politics may not allow for that. 	

Resolution: The TAB supports Council's current direction in proposing to dedicate some portion of the City's sales tax to the Transportation Department, which will help close the current \$3.2 million annual funding gap for basic operations and maintenance. TAB thanks Council for their leadership in addressing this long-standing issue, which if left unaddressed could undermine Transportation infrastructure City-wide, and lead to additional costs over the long-term. TAB requests that the final ballot proposal provide at least 10 years of dedicated funding, that funding begins immediately, and that the proposed sales tax at 0.15% will provide approximately \$4.2 million per year to continually close the ever-expanding O&M gap.

As part of our workplan, TAB will continue to investigate funding mechanisms related to system use that also support Transportation Master Plan goals. Given TAB's experience in grappling with such a challenge, TAB believes that it will take much more than five years -- and could easily take ten or more years -- to develop one or more such alternative funding mechanisms that are equitable, cost-effective, legal, reasonable, and around which the community can coalesce. In addition, we expect it to take 10 years or more for system use monitoring technology to be implemented in a way that allows for such technology to facilitate alternative funding mechanisms within city limits, while also allowing time for TAB and Boulder to learn valuable lessons from other communities that implement and test such mechanisms. Accordingly, TAB recommends that any sales tax initiative placed on the 2013 ballot provide for funding for at least ten years.

Motion: Moved by: Moseley, Seconded by: Yates 16:19

Motion: TAB moves to accept the resolution as stated above and to forward the resolution to Council as TAB's position on the issue of Transportation Funding Ballot Measures for the 2013 Election.

Vote: 4:1

Board member Nozzi opposed.

Agenda Item 3: Adjournment

[7:15 p.m.]

There being no further business to come before the board at this time, by motion regularly adopted, the meeting was adjourned at 7:15 p.m.

Motion: moved to adjourn; Yates, seconded by: Selvans

Motion passes 4:0

Date, Time, and Location of Next Meeting:

The next meeting will be a regularly scheduled meeting on Monday, 12 August 2013 in the Council Chambers, 2nd floor of the Municipal Building, at 6 p.m.; unless otherwise decided by staff and the Board.

APPROVED BY:



Board Chair

10/14/13

Date

ATTESTED:



Board Secretary

14 October 2013

Date

An audio recording of the full meeting for which these minutes are a summary, is available on the Transportation Advisory Board web page.

Council Working Agreements

Council Process:

- The Council will work on general discipline in being prepared to ask questions and make comments.
- The Council asks the Mayor to intervene if discussion on agenda items extends beyond a reasonable time frame.
- The council will engage in the practice of colloquy to fully explore the different sides of a specific point.
- The Mayor will ask the city clerk to set the timer lights for council members if discussions begin to exceed efficient debate. Members should respect the lights as a time reminder, but will not be bound by them as absolute limits.
- Rather than restating a point, council members should simply say "I agree."
- The council agenda committee may, with advance notice, adjust each public speaker's time to two rather than three minutes during public hearings for items on which many speakers want to address the council.
- Council members will grant each other permission to mentor and support each other on how each person contributes to the goal of being accountable for demonstrating community leadership.
- In order to hear each other respectfully and honor the public, council will avoid body language that could convey disrespect, side conversations, talking to staff, whispering to neighboring council members, passing notes, and leaving the council chambers.
- Regarding not revisiting past discussions, the council should check-in with fellow members periodically to ensure that this is not an issue.

Council Communication:

- Council members agree to keep quasi-judicial roles scrupulously clean between members of boards and members of council, like expressing ideas to board members on things coming before the Board, and carefully disclose or recuse themselves when they're involved with board members on a topic.
- Council agrees to e-mail the city manager about issues that they run into that staff or boards may be working on so that the manager can be actively involved in managing issues and keeping the full council informed well in advance of items coming before council for action.
- Members will keep the full council informed on issues from committees, public groups or other agencies that they are following, the a hot line e-mails, brief verbal reports at the end of council meetings or other means.
- The Council will find ways to support majority council decisions and adequately inform the public, through response letters that explain how divergent points of view were heard and honored in decisions, via standard e-mail responses for hot issues, by occasional council Letters to the Editor to clarify the facts, or by seeking out reporters after meetings to explain controversial decisions.

Council Committees

- Council goal committee meetings will be scheduled to accommodate the council members on the committee.
- Notice of the times and places for each goal committee meeting will be noticed once per month in the Daily Camera.
- The council agenda will include time for reports from committees under Matters from Members of Council, noting that written communications from the committees are appropriate as well.

**2013
Study Session Calendar**

Date	Topic	Time	Televised
12/10/13	Pre-Council Retreat Work		
12/24/13	No Meeting		

November 12, 2013

Start Time: 5:00 PM - Administrative Hearing

Location: Council Chambers, 1777 Broadway

Agenda Section	Item Name	Time
Administrative Hearing	Platform of Mayor and Mayor Pro Tem	1 Hour
	Total Estimated Meeting Time (Hours)	1.00

November 19, 2013

Start Time: 10:00 AM Special Meeting - Oath of Office

Location: Library Auditorium, 1001 Arapahoe Ave

Agenda Section	Item Name	Time
	Certification of Election Results and Oath of Office for new members	1 Hour
	Total Estimated Meeting Time (Hours)	1.00

November 19, 2013

Start Time: 6:00 PM Business Meeting

Location: Library Auditorium, 1001 Arapahoe Ave

Agenda Section	Item Name	Time
OPEN COMMENT:		45 Minutes
CONSENT:	1st Reading Food Vehicle Follow Up to April 16, 2013 IP	10 Minutes
	First reading of an emergency ordinance BRC Supplement 118	
	Motion to dispose of any real or personal property interests necessary for the creation and formation of the Randolph Commercial and Parking Condos	
	Authorize City manager to enter into a 3 year lease extension containing an option to renew for an additional 3 years between Boulder and Mustard's Last Stand	
	Continued Second Reading Proposed Changes to Demolition Ordinance No. 7885	
	First Reading of the Second Adjustment to Base Ordinance	
PUBLIC HEARINGS:	2nd Reading Grandview Bungalow Relocation Project	1 Hour
MATTERS FROM CITY MANAGER:	Municipalization Exploration Update	10 Minutes
	Evaluation Committee: Six Month Check-in	10 Minutes
	Legislative Agenda	1 Hour
MATTERS FROM CITY ATTORNEY:		
MATTERS FROM MAYOR AND MEMBERS:		
CALL-UPS:		
Packet Page 296	Total Estimated Meeting Time (Hours)	3.25

December 3, 2013		
Start Time: 6:00 PM Business Meeting		
Location: Library Auditorium, 1001 Arapahoe Ave.		
Agenda Section	Item Name	Time
OPEN COMMENT:		45 Minutes
CONSENT:	Second adjustment to Base - CAGID Resolution	10 Minutes
	First Reading of an ordinance to renew the cable television franchise agreement between the City of Boulder and Comcast of Colorado LLC	
	Approve a new air rights lease for the alley bridge at 1048 Pearl St. approved as part of the former Daily Camera site redevelopment - located in DT-5 zoning district	
	Legislative Agenda	
	Second Reading of Second Adjustment to Base of the 2013 Budget	
PUBLIC HEARINGS:	Second Reading Three NPP Expansions (in east Ridge/Pennsylvania, Mapleton, Whittier zones) and One Street Removal (in Fairview NPP zone)	15 Minutes
	Second Reading Jewish Commons Annexation	1 Hour
	Second Reading E-Bikes Pilot Program Ordinance	1.5 Hours
MATTERS FROM CITY MANAGER:	Legislative Agenda	1 Hour
MATTERS FROM CITY ATTORNEY:		
MATTERS FROM MAYOR AND MEMBERS:		
CALL-UPS:		
	Total Estimated Meeting Time (Hours)	4.67

December 17, 2013		
Start Time: 6:00 PM Business Meeting		
Location: Library Auditorium, 1001 Arapahoe Ave.		
Agenda Section	Item Name	Time
OPEN COMMENT:		45 Minutes
CONSENT:		10 Minutes
PUBLIC HEARINGS:	2nd Reading Food Vehicle Follow Up to April 16, 2013 IP	1 Hour
	Second Reading of an ordinance to renew the cable television franchise agreement between the City of Boulder and Comcast of Colorado LLC	1 Hour
MATTERS FROM CITY MANAGER:	Municipalization Exploration Project Update	2 Hours
MATTERS FROM CITY ATTORNEY:		
MATTERS FROM MAYOR AND MEMBERS:		
CALL-UPS:		
	Total Estimated Meeting Time (Hours)	4.92

City Council Goals – 2013

Top Priorities:

1. Boulder's Energy Future

The top priority for the City in 2013 is the development of a framework for planning the energy future for the city of Boulder. This framework will focus on the idea of localization, the overarching goal of which is:

To ensure that Boulder residents, businesses and institutions have access to energy that is increasingly clean, reliable and competitively priced.

2. Climate Action Plan

Outline the next generation of climate action efforts in Boulder

Consider extension of CAP tax

3. Affordable Housing

Receive report of the Task force created in 2010 to evaluate goals and the approach to affordable housing and Based on Council review and discussion of these recommendations, develop an action plan to improve the availability of affordable housing in the city

Consider policies regarding inclusionary housing for rental units

4. Civic Center Master Plan

Study and develop a master plan for the area between 15th and 9th Streets, with a focus on Farmer's Market and area between Broadway and 15th Street.

Next Tier Priorities:

1. University Hill Revitalization

Continue work of Ownership Group to develop comprehensive revitalization strategy

Investigate formation of a general improvement district, including the commercial area and part of the residential area to control trash and other problems

Change boundaries of BMS land use to coincide with UHGID through BVCP process

Support private development and investment in Hill area

Partner with CU to consider opportunities for properties in the Hill area

Provide an opportunity to explore big ideas

2. Homelessness

Participate in Ten Year Plan to Address Homelessness

Balance long term and short term approaches to address needs

Invest new resources in Housing First model

Work with partners, such as BOHO, to address approaches to immediate needs

3. Boulder Junction Implementation

Work with RTD and selected developer of site to maximize mixed use urban center

Invest in planned infrastructure

Achieve goals of plan while ensuring flexibility in working with developers

Prioritize city actions to facilitate private investment

Focus additional planning work on reconsidering use for Pollard site



**City Council
2013 Work Plan by Council Goal**

TOP PRIORITIES

GOAL: Boulder's Energy Future			
1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
<ul style="list-style-type: none"> ▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables ▪ Recommended strategies to achieve community's energy goals - Study Session and Public Hearing 	<ul style="list-style-type: none"> ▪ Boulder's Energy Future – based on the strategies approved by Council in 1st Quarter, ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables ▪ Municipalization Exploration Project Work Plan Phase 2 – Study Session 	<ul style="list-style-type: none"> ▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables ▪ Study Session 	<ul style="list-style-type: none"> ▪ Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables ▪ Study Session

GOAL: Climate Action Plan			
1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
<ul style="list-style-type: none"> ▪ Boulder Canyon Hydroelectric Project ▪ Climate Commitment – RFQ for consulting assistance for targets and goal setting, development of new GHG inventory, and tracking and reporting tools ▪ Energy Efficiency: <ul style="list-style-type: none"> ○ Launch of 2013 program priorities ○ Upgrades in City Buildings – employee education and outreach project (IP) ▪ Disposable Bag Fee – implementation plan and revised budget (IP) ▪ Transportation Master Plan (TMP) – 	<ul style="list-style-type: none"> ▪ Commercial Energy Efficiency Strategy (CEES) - feedback on options (Study Session) ▪ Climate Commitment – Study Session to review program annual targets, short/ long term goals, tracking and reporting systems ▪ Electric/ Hybrid vehicles – project closeout ▪ Energy Efficiency – finalize Market Innovations approach (Study Session) ▪ Solar/ Wind Generation Facility Code Changes ▪ SmartRegs – code changes 	<ul style="list-style-type: none"> ▪ CEES – adopt Energy Rating and Reporting Ordinance ▪ Climate Commitment – policy integration with TMP and ZWMP ▪ Energy Efficiency – launch Market Innovations competition ▪ Zero Waste Master Plan (ZWMP) – draft 	<ul style="list-style-type: none"> ▪ Climate Commitment – policy integration with TMP and ZWMP ▪ Energy Efficiency <ul style="list-style-type: none"> ○ Upgrades in City Buildings – results of employee education and outreach (IP) ▪ SmartRegs – options for quality control of rental housing inspections



initial results of Transportation Funding Task Force (Study Session)			
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GOAL: Affordable Housing

1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
<ul style="list-style-type: none"> ▪ ADU/ OAU – study results (IP) ▪ Comprehensive Housing Strategy issues - stakeholder engagement process ▪ Density and Distribution of affordable and special needs housing - report ▪ Inclusionary Housing Rental Policy – consideration of ordinance changes following stakeholder engagement process ▪ Mobile Homes Parks – legislative agenda 	<ul style="list-style-type: none"> ▪ Comprehensive Housing Strategy <ul style="list-style-type: none"> ○ Stakeholder engagement process ○ Study Session 	<ul style="list-style-type: none"> ▪ Comprehensive Housing Strategy issues - stakeholder engagement process 	<ul style="list-style-type: none"> ▪ Comprehensive Housing Strategy issues - stakeholder engagement process

GOAL: Civic Area Plan

1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
<ul style="list-style-type: none"> ▪ Board and community input ▪ Council participation in Ideas Competition 	<ul style="list-style-type: none"> ▪ Council direction on preferred option(s) and strategies ▪ Draft plan <ul style="list-style-type: none"> ○ Development ○ Community input ○ Study Session ▪ Municipal Space Study Final Report 	<ul style="list-style-type: none"> ▪ Boulder Civic Area vision and plan <ul style="list-style-type: none"> ○ Study session ○ Public hearings on adoption 	



NEXT TIER PRIORITIES

GOAL: University Hill Revitalization			
1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
<ul style="list-style-type: none"> ▪ 2013 action priorities confirmed by Council at January retreat ▪ Hill Residential Service District – update ▪ Innovation District - update 	<ul style="list-style-type: none"> ▪ Action on other priorities ▪ Hill Residential Service District – 1st reading of petition 	<ul style="list-style-type: none"> ▪ Capital infrastructure improvements for the residential and commercial areas – consider during CIP process 	

GOAL: Addressing Homelessness			
1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
<ul style="list-style-type: none"> ▪ City and Community Efforts – Denver sleeping ordinance (IP) ▪ Housing First (1175 Lee Hill Road) – Statement of Operations (IP) ▪ Work plan check in and priority – Council retreat 	<ul style="list-style-type: none"> ▪ Analysis of funding for homeless services and alignment with the Ten Year Plan and unmet needs ▪ Ten Year Plan to Address Homelessness – progress update (IP) 	<ul style="list-style-type: none"> ▪ Analysis and recommendations regarding banning panhandling on street corners 	<ul style="list-style-type: none"> ▪ Ten Year Plan to Address Homelessness – progress update (IP)

GOAL: Boulder Junction Implementation			
1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
<ul style="list-style-type: none"> ▪ Depot Square implementation – update ▪ MU-4 zone change - consideration ▪ TDM District Implementation Update (IP) ▪ Update on potential policy issues related to key public improvements and city owned site (as needed) 	<ul style="list-style-type: none"> ▪ Update on potential policy issues related to key public improvements and city owned site (as needed) 	<ul style="list-style-type: none"> ▪ Boulder Junction Access District Parking – update ▪ TDM Access District implementation - IP 	



OTHER

GOAL: Other City Goals and Work Plan Items			
1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
<ul style="list-style-type: none"> ▪ 13th Street Plaza - IP ▪ 28th Street Multi-use Path and Bikeable Shoulders Iris to Yarmouth CEAP – potential call up ▪ Acquisition Plan Update - OSMP ▪ Alcohol/ Land Use Code Changes – options and recommendations ▪ Boating on Barker Reservoir ▪ Burke Park/ Thunderbird Lake – recommendations on lake water levels and enhancing park facilities ▪ BVCP Area III Planning Reserve Amendments (if approved by County) ▪ Chautauqua Guiding Principles, Next Steps –update on progress ▪ Civic Use Task Force – update from Council members ▪ Cultural Master Plan ▪ Design and Construction Standards Update – consideration of minor updates ▪ Development Review Projects: <ul style="list-style-type: none"> ○ Hogan Pancost – annexation and site review ○ Wonderland Creek Townhouses – potential call up ○ 28th and Canyon (Eads/ Golden Buff) – potential call up ○ Landmark Lofts II (970 28th Street) – potential call up ▪ East Arapahoe Study – potential action on limited zoning changes ▪ Economic Sustainable Strategies – 	<ul style="list-style-type: none"> ▪ Access and Parking Management Strategies – study session ▪ Alcohol Land Use Code Changes - action ▪ Baseline Underpass East of Broadway CEAP – Call up ▪ Bike Parking Ordinance Updates ▪ Capital Improvement Bond Projects status update - IP ▪ Capital Projects – carry over and first supplemental ▪ Critical Facilities Ordinance – public hearing and motion ▪ Education Excise Tax – consideration of City Manager funding recommendations ▪ Floodplain Management including Boulder Creek Mapping, South Boulder Creek Mitigation, and Critical Facilities ▪ Human Rights Ordinance – proposed changes regarding age discrimination ▪ Integrated Pest Management Program Changes - IP ▪ International Building and Energy Codes – public hearing ▪ North Boulder Subcommunity Plan - IP ▪ Old Hire Fire and Police Pension Plans – Study Session 	<ul style="list-style-type: none"> ▪ 2014 Budget Process ▪ Access and Parking Management strategies (update) ▪ Boulder Reservoir Site Management Plan – status of planning efforts and outcomes of community engagement (IP) ▪ Capital Improvement Program – study session ▪ Carter Lake Pipeline – thru CIP process ▪ Contractor Licensing – proposed changes (IP) ▪ Development Review Projects: <ul style="list-style-type: none"> ○ Blue Spruce Auto (4403 Broadway) – potential call up ○ Boulder Outlook Hotel Redevelopment (800 28th Street) – potential call up ○ Colorado Building Parking Lot (1301 Walnut) - ordinances ○ 1000 Alpine – potential call up ○ 3085 Bluff – potential call up ○ 3390 Valmont (Former Sutherlands Site) – potential call up ▪ Eco Pass- report on results of Joint Study with Boulder County on community-wide Eco Pass Feasibility ▪ FAM Master Plan – study session ▪ Harbeck-Bergheim House – Future Use Options (IP) ▪ North Trail Study Area – study 	<ul style="list-style-type: none"> ▪ Access and Parking Management Strategies – update ▪ Agriculture Plan (OSMP) – public hearing ▪ Capital Improvement Program – adoption of CIP; 2nd budget supplemental ▪ Contractor Licensing – consideration of proposed changes ▪ Design and Construction Standards Update – consideration of additional changes ▪ Development Review Projects: <ul style="list-style-type: none"> ○ Village Shopping Center Hotel (26th and Canyon) – potential call up ▪ East Arapahoe Study – check in on project scope and work plan (3/4Q) ▪ Energy Efficiency Upgrades in City Buildings – results of employee education and outreach project (IP) ▪ FAM Master Plan – consideration of acceptance ▪ Fourmile Canyon Creek Violet Avenue to Broadway CEAP – potential call up ▪ Human Relations Commission Work Plan update - IP ▪ Human Services Fund allocations - IP ▪ Light Response Vehicle Pilot Program - IP ▪ OSMP Natural Resources Overarching Issues – Study session



<ul style="list-style-type: none"> study session ▪ Education Excise Tax Allocation of Funds – refine RFP criteria ▪ Energy Efficiency Upgrades in City Buildings – employee education and outreach project (IP) ▪ Floodplain Management including Boulder Creek Mapping, South Boulder Creek Mitigation, and Critical Facilities ▪ Hazardous Materials Management IGA ▪ Hydroelectric operations and opportunities - IP ▪ Keep It Clean IGA ▪ Mobile Food Vending – options for ordinance changes ▪ Multi-hazard mitigation plan – possible consent item ▪ Nuisance Mosquito Control Pilot Project Evaluation - IP ▪ OSMP Overarching Issues – discussion and possible action on Voice and Sight Tag Program, Commercial Use Program, Pilot Parking Permit Program; IP on timeline and process for evaluation of remaining topics ▪ Police Department Master Plan – Study Session ▪ State of the Court Presentation ▪ Sustainable Streets & Centers – update on proposed scope options, next steps and integration with TMP, East Arapahoe Area Plan and proposed Economic Sustainability Strategy ▪ Transportation Funding (SS) ▪ TMP Update – additional direction 	<ul style="list-style-type: none"> ▪ OSMP natural resources – overarching policy issues <ul style="list-style-type: none"> ○ Temporal Regulations ○ Penalties for violations ○ Multi-modal access and parking opportunities ○ Analysis of trail network and distribution of activities ▪ Parks and Recreation Master Plan ▪ Pearl Street Mall Code Changes ▪ Police Department Master Plan ▪ Randolph Center Condominium Declaration ▪ Recirculation of wastewater – CU Williams Village North (IP if necessary) ▪ Skunk Creek, Bluebell Creek and King’s Gulch Flood Mapping Update – public hearing and motion ▪ Smoking Ban on Pearl Street Mall - IP ▪ Snow and Ice Control Evaluation – study session ▪ Transportation Funding – study session ▪ TMP Update – additional direction ▪ Twomile and Upper Goose Creek Flood Mapping Update – public hearing and motion ▪ Water budgets – commercial, industrial and institutional – Council direction ▪ Water supply status – IP 	<ul style="list-style-type: none"> session or dinner discussion ▪ Old Hire Fire and Police Pension Plans – possible discussion during budget process ▪ Parks and Recreation Master Plan ▪ Regional Trail Connections (OSMP) – IP ▪ South Boulder Creek Flood Mitigation Study – public hearing and motion ▪ Transportation Demand Management Toolkit - IP ▪ Valmont Butte Future Use Discussions – study session ▪ Water Conservation Futures Study ▪ Youth Opportunities Funding allocations - IP 	<ul style="list-style-type: none"> on remaining topics ▪ Urban Wildlife – Consideration of Wildlife Protection Ordinance ▪ Water budgets – commercial, industrial and institutional – consideration of changes
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<ul style="list-style-type: none"> ▪ US36 Bikeway Maintenance – Enhancements IGA (tentative based on if extra community investments are desired) ▪ Urban Wildlife – Black Bear Education and Enforcement pilot program update ▪ Woodland Creek Diagonal to Winding Trail CEAP – potential call up ▪ Zero Waste Master Plan Update 			
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KEY

ADU	Accessory Dwelling Units
BVCP	Boulder Valley Comprehensive Plan
CEAP	Community and Environmental Assessment Process
CIP	Capital Improvement Program
CU	University of Colorado
DUHMD/PS	Downtown and University Hill Management District/ Parking Services (City Division)
FAM	Facility and Asset Management
ICC	International Code Council
IGA	Intergovernmental Agreement
IP	Information Packet
OAU	Owner Accessory Units
OSMP	Open Space/Mountain Parks Department
RFQ	Request for Qualifications
RFP	Request for Proposals
TDM	Transportation Demand Management
TMP	Transportation Master Plan
ZWMP	Zero Waste Master Plan



**CITY COUNCIL
ACCOMPLISHMENTS – 1ST AND 2ND QUARTER 2012**

TOP PRIORITIES:

GOAL: BOULDER’S ENERGY FUTURE

**FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS**

- Hiring of Executive Director for Energy Strategy and Electric Utility Development
- Retention of FERC and acquisition legal counsel
- Initial work in developing appraisal of distribution system and preparing legal strategy
- Initial work on Phase 1 of a new Energy Action Plan, including demand side programs and renewables modeling
- Active participation at the PUC to advance Boulder’s energy goals and protect community interests
- Boulder Canyon Hydroelectric Facility Agreement: City Council authorized the dedication of easements to Public Service Company of Colorado to facilitate upgrades to the city’s Boulder Canyon Hydroelectric Facility.

GOAL: CLIMATE ACTION PLAN

**FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS**

- Third party review and evaluation of CAP tax funded programs to date
- Preparation of November 2012 CAP tax ballot options for Council consideration
- Initial steps to develop and refine a new Climate Action Framework consisting a renewed climate action commitment, five-year goals, annual targets, integration with appropriate master plans and city operations, and new reporting tools
- Initial work to identify priorities for the next generation of energy efficiency programs (as part of Phase 1 of the Energy Action Plan)
- Development of Commercial Energy Efficiency Strategy approach and stakeholder process (to be integrated as part of Phase 1 of the Energy Action Plan)
- Continued delivery of CAP programs and services to achieve annual targets (EnergySmart, Ten for Change, SmartRegs compliance, etc.)
- Energy Efficiency Upgrades in City Facilities - (a) Energy Performance Contract (EPC) – Phase III; (b) Lease purchase financing for energy conservation measures; and (c) Energy improvements, lease amendments, and payments. - Implemented the third phase of Energy Performance Contracts (EPC) for city facilities, including the installation of another 347 kilowatts of solar photovoltaic



at the Municipal Service Center buildings, Fleet Services, OSMP Annex and The Dairy Center for the Arts.

- Energy Efficiency Upgrades in City Facilities – Employee Education and Outreach Project (Information Packet) - A staff team participated in three workshops with McKinstry, the city’s Energy Performance Contractor, to help develop a new PowerED energy education and outreach program for employees. Program development will continue with other city staff focus groups through the end of December 2012.

GOAL: AFFORDABLE HOUSING

**FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS**

- Added 12 new permanently affordable homes to inventory
- Affordable housing agreement for Gunbarrel Town Center
- Affordable Housing Program Work plan - Council Consideration and Direction; new initiatives identified
- Analysis completed of affordable housing distribution
- Completed funding of major renovations to improve housing quality and economic sustainability of three BHP properties
- Development of voluntary affordable housing agreement for Depot Square project
- Inclusionary Housing Rental Policies – Council Consideration and Direction
- Thistle Community Housing completing fire sprinklers in all of its properties

GOAL: CIVIC CENTER MASTER PLAN

**FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS**

- Development of interdepartmental project team and approach; project goals and objectives; and public engagement strategy (reviewed at joint Planning Board / City Council study session in April)
- Detailed design of community visioning process and articulation of key project assumptions (reviewed with Council at June 12 study session)
- Preparation of baseline materials and launch of public engagement in July.
- The Municipal Space Study contract was awarded to StudioTerra on March 23. FAM and the consultants are interviewing city departments and conducting research on industry trends and standards for office space. Preliminary results of the space study, as it relates to the Civic Center Master Plan, will be presented at the July 31 study session.



NEXT TIER PRIORITIES:

GOAL: UNIVERSITY HILL REVITALIZATION

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

- Zoning change: Business Main Street (BMS) boundary to coincide with the University Hill General Improvement District boundary; rezoning of UHGID lots to BMS zoning (approved by Planning Board; scheduled for Council consideration in August)
- Continued work of the Hill Ownership Group to develop a comprehensive revitalization strategy.
- In coordination with a volunteer, stakeholder committee completed a proposal for a Residential Service District which includes: boundaries, scope of services, proposed budget, proposed governance structure, agreements for financial participation by tax-exempt sororities and fraternities, and a timeline for a 2013 Petition and Election process.
- Landmarking of Flatirons Theater building (and associated building renovation)
- 955 Broadway (Acacia Fraternity site redevelopment)

GOAL: ADDRESSING HOMELESSNESS

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

- Council Consideration and Direction on: 1175 Lee Hill Project; added 31 permanent housing units for chronically homeless, disabled adults
- Continued Homeless Service Provider Coordination Project to develop action plans for case management, outreach and service coordination
- Continued implementation of Ten year Plan to Address Homelessness

GOAL: BOULDER JUNCTION IMPLEMENTATION

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

- Developed and implemented a funding strategy to finance the acquisition of 100 parking spaces by the Boulder Junction Access District – Parking (BJAD-P) in the Depot Square parking garage including a Lease/Purchase Agreement between BJAD-P and the developer, and a City of Boulder/BJAD-P Cooperation Agreement
- Developed a strategy to manage parking in the parking structure through technology and a management agreement among the



users. The arrangement provides for parking spaces to be paid, unbundled, and shared in a manner to meet the needs of the various users of Depot Square (hotel, residential, RTD) and general parking in BJAD-P spaces. Agreement was reached with RTD regarding short term and long term parking management strategies given their current legislative mandate.

- Finalized the ownership structure for five different owners to coordinate management of their units and common areas through a Condominium Declaration for the Depot Square project
- Finalized a renovation agreement and lease consistent with guiding principles with Pedersen Development Corporation for the Depot
- Finalized legal agreements for joint public/private development of Depot Square (RTD facility, shared parking, affordable housing, hotel, public space and rehabilitation of historic depot
- Approved changes to the Transportation Network Plan in support of the Transit Village Area Plan (TVAP)
- Revised Street Design for Pearl Parkway and Connections Plan Revisions (adopted by Council January 17)
- Consistent with the TVAP connections plan and along with private redevelopment, a number of capital improvements are underway, including the installation of underground power lines, preparations for installing a traffic signal at Junction Place and Pearl Parkway, and portions of the Pearl Parkway multi-way boulevard
- Consistent with the TVAP connections plan, design work continues for the bridge over Goose Creek and the multi-use path on the north side of Pearl Parkway between 30th Street and Foothills Parkway
- Received a Federal Hazard Elimination Program grant award through the Colorado Department of Transportation (CDOT) that will allow installation of a traffic signal at 29th Street and Valmont Road, improving safety and implementing improvements identified in the Transit Village Area Plan (TVAP) (project will begin in 2014)
- Completion of engineering and building construction plan review for a 319 unit residential development at 3100 Pearl and the RTD Depot Square transit-oriented development



GOAL: OTHER CITY GOALS AND WORK PLAN ITEMS

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

CAPITAL ITEMS

- Anemone Trails (new) – design work completed
- Arapahoe Avenue (Folsom to 30th) - Multimodal Improvements Project Completed construction on the Arapahoe Avenue multi-use path project. The remaining street resurfacing and landscaping work will be completed in 2012.
- Boulder Creek and South Boulder Creek – restoration of grassland and riparian areas continued
- Broadway (Euclid to 18th) - Transportation Improvements Project - Made progress on the Broadway (Euclid to 18th) Transportation Improvements Project. 16th Street opened the first week of May and the Broadway underpass and the four lanes on Broadway (two in each direction) are scheduled for completion by early July.
- Broke ground in January for a new multi-use path on the south side of Baseline, connecting U.S. 36 and the Bear Creek Underpass, including a pedestrian crossing for Baseline Road at Canyon Creek. Completion of the multi-use path on the west end is underway through a redevelopment project.
- Completed a new sidewalk along Gillaspie Drive, connecting Greenbriar Boulevard and Juilliard Street connecting to Fairview High School
- Completed the course bunker renovation/playability project at Flatirons Golf Course by installing 19 new sand bunkers
- Continued work at Valmont City Park, including additional construction at Valmont Bike Park; outreach and design for Valmont Dog Park; and design and construction of the interim disc golf course
- Facility ADA Compliance - An Americans with Disabilities Act (ADA) consultant completed comprehensive ADA assessments for the Park Central and Municipal buildings. Costs for the recommendations are being identified and prioritized, with other buildings planned for assessment.
- Green Bear Trail Re-route – work in progress with one section completed and opened to public
- Gregory Canyon Trailhead Site Plan – initial site plan design work began
- Homestead Trail Re-route – work in progress with one section completed and opened to public
- Library Facility Upgrades and Enhancements (New Children’s Library and New Teen Space): The selection of a design firm is underway
- Linden Avenue Sidewalk Project (Safe Routes to School) - Completed a Safe Routes to School Project, providing a sidewalk on the north side of Linden Avenue between Fourth Street and Broadway.
- New Wildland Fire Facilities - Responses to the request for qualifications (RFQ) for facility designs were received on May 11. Requests for proposals (RFP) to be sent in early June
- Organic farming – agricultural contract written for 47 acres



- Replaced traffic signal incandescent lamps with sustainable, energy-saving light-emitting diode (LED) lamps
- Sanitas Stone Hut Repair – hut was reinforced and stonework repaired
- South Boulder Creek West Trailhead – Parking areas for cars and horse trailers completed and open to public; working through permit process for outhouse and kiosk installations; interpretive signs in production
- South Boulder Recreation Center - The contaminated sub floors from the gymnasium, racquetball court, and Pilates room have been removed and are expected to be replaced with new wood floors by early June 2012.
- Street repair expanded efforts – began the first of three years

OTHER SIGNIFICANT ACTIONS¹

- Boulder B-cycle station at the North Boulder Recreation Center sponsored
- Boulder Community Hospital Expansion Rezoning
- BVCP: Area II study results and potential next steps (IP to City Council in July)
- BVCP Comprehensive Rezoning (scheduled for council consideration in August)
- BVCP 2010 Major Update: planning reserve policy changes (study session discussion with Council on May 29; Council and County Commissioner dinner discussion on June 14)
- Boulder Reservoir Master Plan completed
- Boulder Valley School District Faculty and Staff Eco Pass Program Expansion - Continued partnership with the Boulder Valley School District (BVSD) to expand the BVSD faculty and staff Eco Pass program.
- Chautauqua Stewardship Framework: Draft and Next Steps
- City Website Redesign Kickoff - Kicked off redesign with Vision Internet and the City of Arvada. Gathered a list of key stakeholders and surveyed them regarding elements the new website should contain.
- Code enforcement - reallocation of resources to the Boulder Police Department was fully implemented to ensure efficient and effective service delivery
- Community and Environmental Assessment Process (CEAP) for flood mitigation and transportation improvements along Fourmile Canyon Creek, near Crest View Elementary School completed, including a City Council call-up opportunity.
- Compatible Development implementation - annual report to Council
- Congregate Care code changes (pending further consideration based on Council direction)
- Constituent Relationship Management (CRM) procurement effort - Designed and implemented a staff engagement and procurement initiative to implement a new CRM application resulting in the unanimous selection of Government Outreach. Vendor contract negotiations are currently underway. This initiative is designed to significantly improve our customers' ability to request, track and ultimately receive more timely and effective services while providing staff with automated tools to better



manage these requests.

- Disposable Bag Reduction Ordinance: research and options presented to Council on May 15; work on nexus study underway
- Draft Fire-Rescue Master Plan completed and approved by Planning Board.
- Economic Sustainability Strategy: phase one study of primary employer space needs underway; presentation of results to Council scheduled for August
- Elks neighborhood park planning, outreach and design continued with construction and completion in 2013
- Family Resource Center opened at Manhattan Middle School in partnership with Boulder County Housing and Human Services
- FasTracks' Northwest Rail Plan - Approved guiding principles for developing and designing a hybrid approach to FasTracks' Northwest Rail Plan.
- Fire Master Plan – Council feedback on strategies (April 3, 2012); Planning Board recommendation for acceptance (May 17, 2012); Scheduled for Council consideration (June 19, 2012)
- Heather wood Trail Intergovernmental Agreement (IGA) - City Council authorized the signing of an intergovernmental agreement (IGA) with Boulder County related to the maintenance of a trail that crosses the Wastewater Treatment Facility property.
- Integrated Pest Management Policy Revision and Program Direction (Council provided direction on May 1)
- Landmarking of First Christian Church building (950 28th Street)
- Locomotive #30 narrow gauge historic cosmetic restoration completed
- Mesa Memorial Park design and development initiated
- Mosquito control annual report (Completed report on the IPM web site – link will be provided to council with first weekly mosquito report in June)
- Named number 3 on list of best cities for bicycling by *Bicycling Magazine*, in part due to the Valmont Bike Park and new path connections made possible by the capital improvement bond
- New Transportation Safety Ordinances - Approved ordinance changes to improve transportation safety in the city and initiated education and enforcement efforts to support the ordinance changes
- Organic turf and landscape bed program at six park locations launched
- Received a Safe Routes to School Grant to install a traffic signal at South Boulder Road and Manhattan Drive to create a safe crossing for middle school students taking transit, riding, or walking to and from school.
- RH-2 Zone District Changes (scheduled for council consideration in August)
- *Safe Streets Boulder* report published in February.
- SmartRegs - Continued the successful implementation of SmartRegs and the pilot program for rental housing licensing enforcement. The backlog of rental license compliance cases is almost entirely eliminated.
- Transportation Report on Progress, *Transportation to Sustain a Community* published in February.
- Valmont Butte – VCUP implementation commenced; excavation work began on April 4 with both the tribe-designated native cultural monitor and the city's archaeologist consultant present.



▪ Veterans and active duty military personnel recreation pass program developed

Key:

ADA = Americans with Disabilities Act
BHP = Boulder Housing Partners
BVSD = Boulder Valley School District
BMS = Business Main Street
CAP = Climate Action Plan
CDOT = Colorado Department of Transportation
EPC = Energy Performance Contract
EET = Education Excise Tax
FAM = Facilities and Asset Management (City Division)
FERC = Federal Energy Regulatory Commission
IGA = Inter-governmental Agreement
IP = Information Packet
OSMP = Open Space/ Mountain Parks Department
PUC = Colorado Public Utilities Commission
RFP = Request for Proposals
RFQ = Request for Qualifications
RTD = Regional Transportation District
TVAP = Transit Village Area Plan
UHGID = University Hill General Improvement District
VCUP = Colorado Voluntary Cleanup Program

COUNCIL MEMBERS

Matthew Appelbaum	Mayor
Lisa Morzel	Mayor Pro Tem
Suzy Ageton	Council Member
KC Becker	Council Member
Macon Cowles	Council Member
Suzanne Jones	Council Member
George Karakehian	Council Member
Tim Plass	Council Member
Ken Wilson	Council Member

COUNCIL EMPLOYEES

Thomas A. Carr	City Attorney
Jane S. Brautigam	City Manager
Linda P. Cooke	Municipal Judge

KEY STAFF

Bob Eichem	Chief Financial Officer
Alisa D. Lewis	City Clerk
Patrick von Keyserling	Communications Director
David Driskell	Community Planning + Sustainability - Executive Director
Paul J. Fetherston	Deputy City Manager
Molly Winter	Downtown, University Hill Management & Parking Services Director
Heather Bailey	Energy Strategy and Electric Utility Development Executive Director
Larry Donner	Fire Chief
Mary Ann Weideman	Housing, Assistant City Manager for Human Resources (Acting) Director
Karen Rahn	Human Services Director
Don Ingle	Information Technology Director
Eileen Gomez	Labor Relations Director
Valerie Maginnis	Library and Arts Director
Lynne C. Reynolds	Municipal Court Administrator
Michael Patton	Open Space and Mountain Parks Director
Kirk Kincannon	Parks and Recreation Director
Mark Beckner	Police Chief
Maureen Rait	Public Works - Executive Director
Tracy Winfree	Transportation Director
Jeff Arthur	Utilities Director

2013 City Council Committee Assignments

INTERGOVERNMENTAL ORGANIZATIONS

Beyond the Fences Coalition	Morzel, Plass
Boulder County Consortium of Cities	Karakehian, Wilson (alt)
Colorado Municipal League (CML) – Policy Committee	Jones, Appelbaum (Castillo – staff alternate)
Denver Regional Council of Governments (DRCOG)	Becker, Jones (Alternate)
Housing Authority (Boulder Housing Partners)	Ageton
Metro Mayors Caucus	Appelbaum
National League of Cities (NLC)	Appelbaum
Resource Conservation Advisory Board	Plass, Morzel (at large seat)
Rocky Flats Stewardship	Morzel, Plass (1 st alternate), Castillo (2 nd alternate)
University of Colorado (CU) / City Oversight	Wilson, Jones, Karakehian
US36 Mayors and Commission Coalition	Appelbaum, Ageton (alternate)
US36 Commuting Solutions	Ageton, Karakehian (alternate)
Urban Drainage and Flood Control District	Morzel

LOCAL ORGANIZATIONS

Boulder Museum of Contemporary Art (BMoCA)	Cowles, Becker (alternate)
Boulder Convention and Visitors Bureau	Becker, Plass (alternate)
Dairy Center for the Arts	Karakehian
Downtown Business Improvement District Board	Plass, Jones

INTERNAL CITY COMMITTEES

Audit Committee	Morzel, Becker, Cowles
Boulder Urban Renewal Authority (BURA) Mayoral Appointment	Becker (appointed through 2015)
Charter Committee	Morzel, Cowles, Ageton, Karakehian
Civic Use Pad/ 9 th and Canyon	Morzel, Jones, Becker
Council Budget Action Plan Committee	Ageton, Becker, Plass
Evaluation Committee	Karakehian, Morzel
Legislative Committee	Ageton, Karakehian, Wilson, Jones

SISTER CITY REPRESENTATIVES

Jalapa, Nicaragua	Jones
Kisumu, Kenya	Morzel
Llaza, Tibet	Ageton
Dushanbe, Tajikistan	Karakehian
Yamagata, Japan	Wilson
Mante, Mexico	Plass
Yateras, Cuba	Cowles
Sister City Sub-Committee	Morzel, Cowles