

**OPEN SPACE BOARD OF TRUSTEES**

**Wednesday, March 11, 2015 at 6:00 p.m.**

**Council Chambers, 1777 Broadway**

**MEETING AGENDA**

*(Please note that times are approximate.)*

- 6:00 I. Approval of Minutes
- 6:05 II. Public Participation for Items Not on the Agenda
- 6:15 III. Matters from Staff  
Trail Sustainability  
Progress Reports on Projects  
North Trail Study Area Update  
Update Regarding Supplemental Appropriation to the 2015 Budget
- 7:15 IV. Matters from the Board
- 7:25 V. Summary of 2014 Open Space and Mountain Parks Volunteer Services and Declaration to Honor Open Space and Mountain Parks Volunteers during National Volunteer Week, April 12-18, 2015.\*
- 7:45 VI. Consideration of a motion to modify an existing Open Space Board of Trustees approval of a conservation easement amendment on the property owned by the Graham Casden 2009 Trust at 5097 Flagstaff Rd.\*
- 8:10 VII. Consideration of a motion to approve the purchase of the Robert Oliver parcel consisting of 11.61 acres of land, all mineral rights and one share of Howard Ditch water located at 5893 Baseline Rd. from James C. Bish III for \$1,000,000 for Open Space and Mountain Parks purposes and an additional \$22,000 is recommended to be authorized from the acquisition budget for immediate needs for fencing, ditch culverts and irrigation infrastructure improvements.\*
- 8:35 VIII. Consideration of a motion to recommend granting a nonexclusive license for a mirror stand proposed to be temporarily placed on Valmont Butte by the National Institute of Standards and Technology for scientific purposes.\*
- 9:00 IX. Adjournment

\*Public Participation

## OPEN SPACE BOARD OF TRUSTEES

Minutes

Meeting Date February 18, 2015

### BOARD MEMBERS PRESENT

Tom Isaacson      Shelley Dunbar      Frances Hartogh      Molly Davis      Kevin Bracy Knight

### STAFF MEMBERS PRESENT

Tracy Winfree      Jim Reeder      Mark Gershman      Phil Yates      Kelly Wasserbach  
Mike Orosel      Don D'Amico      Alyssa Frideres      Lynn Riedel      Steve Armstead  
Leah Case

### GUESTS PRESENT

Scott McCarey, Boulder County Transportation and Planning

### CALL TO ORDER

The meeting was called to order at 5:02 p.m.

### AGENDA ITEM 1 – Approval of the Minutes

Shelley Dunbar moved the Open Space Board of Trustees to approve the minutes from Dec. 10, 2014. Kevin Bracy Knight seconded. This motion passed unanimously.

Shelley said in the Jan. 14, 2015 minutes, on page three, it should say, “. . . specifically parking areas and the trailhead.” Shelley said in page four it should say, “Shelley asked if the owner would independently be able to divide this parcel on his/her own.”

Frances Hartogh moved the Open Space Board of Trustees to approve the minutes from Jan. 14, 2015 as amended. Shelley Dunbar seconded. This motion passed unanimously.

### AGENDA ITEM 2 – Public Participation for Items not on the Agenda

Suzanne Webel, spoke on behalf of Boulder County Horse Association (BCHA). She read a statement from Brian Joder highlighting some of his statements including his request that this process happen as quickly as possible. He said he would like to see this property opened to all user groups, and cooperation among user groups may help to speed up this process. He noted that some areas might be more suitable for certain uses. Suzanne said Boulder County has approved Open Space and Mountain Parks (OSMP) to move forward with parking; at the very least staff should move forward on this right away.

Mike Barrow, on behalf of the Boulder Mountainbike Alliance (BMA), said that meeting with the stakeholder groups and digital town hall meetings will allow Open Space to bring forth the contentious issues on which to focus. This will also allow staff to gather meaningful feedback. That same approach should be applied to the North Trail Study Area (TSA).

Marcus Popetz, Boulder, said he felt that getting this process onto the internet would get more varied opinions and give those people that do not have the gumption to participate in what could be a contentious meeting an opportunity to do so.

Chuck Anderson, Boulder, said that he is new to Boulder but he has a long history with trail advocacy and conservation resources. Chuck said that Boulder has led the nation in Open Space conservation and he would like to see Boulder lead with this public process as well. He agreed that using the internet provides more opportunity for people to be heard.

Brady Robinson, on behalf of Open Boulder, thanked staff for prioritizing the North TSA and is hoping for a less contentious and more collaborative public process. He said they hope for a public process where everyone feels that their opinions are valued. Brady said that recreation is not always at odds with conservation and if that the starting point, the process will not be any better than it was for the West TSA. He said since Joder is a new addition, staff should have special sessions to work on it outside of the North TSA process, including the parking issue for equestrian use. Brady asked that staff re-evaluate the Habitat Conservation Area (HCA) designation for the Joder property.

Mark McIntyre, Boulder, said that he is excited to see that improving the visitor experience is on the work plan. He said something to add to this section would be eliminating unnecessary gates and fences in the North TSA. He said they create maintenance issues and have a negative effect on the user experience. Staff should install cattle guards instead of gates and fences. He said he supports the expansion of the dog waste program.

### **AGENDA ITEM 3 – Staff Updates**

Tracy Winfree, Interim Director, announced that the 2014 Annual Report is out in hard copy and available online. She also gave an update on the Voice and Sight program numbers to date.

Frances asked if dog guardians are getting a clear message of what Voice and Sight is, and if there is a number people can call if they witness a violation of the rules. Staff said if it is outside of regular business hours, people can call the non-emergency dispatch phone for the City of Boulder. Tom Isaacson asked if staff has numbers on how many tickets have been issued for Voice and Sight violations to date. Tracy said staff can bring that back to the Board. Frances asked if the ranger presence has increased on weekends proportionate to use. Tracy said staff would bring this information back as well.

### **2015 Work Plan**

Tracy Winfree presented information on the 2015 Work Plan.

Kevin said he would have liked to see more information regarding redesigning, rebuilding or rerouting trails as part of Improving the Visitor Experience. He asked for the 2016 bike patrol training to be moved to quarter one, to better fit schedules. Shelley asked if there would be a study session for the Agricultural Resource Management Plan. Tracy said yes. Tom asked if there was some discussion about doing trail work on Four Pines. Jim Reeder said that it is not a 2015 project but it may show up in 2016. Frances said one item that deserves focus is recovering and improving existing trails. She noted that seeing wildlife is a big part of the visitor experience, and would like an effort to be made for this to continue. Molly said the work plan is really good. She asked where the Acquisition Plan falls within the priorities. Tracy said in Core Services.

### **Progress Reports on Projects**

Jim Reeder, Land and Visitor Services Division Manager, gave an update on the Joder Property.

Frances asked if the horse trailer parking would be fast-tracked. Jim said parking would happen at the same time as the interim trail from the highway. Shelley asked about the neighbor who had an easement on the property. Tracy said that easement has been extinguished. Frances asked if the imperiled species, particularly the butterflies, were dispersed all over the property. Steve Armstead said this habitat is associated with certain types of grasses that exist all across the property. Frances asked if the construction of the interim trail would disrupt those species. Steve responded that the interim trail is on an old road base and has seen previous activity.

Frances asked how many permits have been issued to the public for access to this property. Tracy said she will ask staff to follow up with this information. Frances asked if permits are issued with any guidance as far as protecting the land. Tracy said she believes that a staff escort is required. Frances said it would be worth looking at this process to ensure the land is being protected. Molly said the timeline for gathering data on this property seems too quick, especially with staff being so busy.

Jim Reeder gave an update on Skunk Canyon, Bear Canyon and Chapman Drive.

Tom asked if there was going to be some sort of flood control installed in Gregory Canyon. Jim said yes. Frances asked if staff plans to fill in the fire road on South Shanahan. Jim said there are no plans for that right now, but staff can take a look at it.

#### **AGENDA ITEM 4 – Matters from the Board**

Frances asked that staff prepare a discussion on HCA designations and explain the criteria. She said she would like to hear about what goes into these recommendations, especially for properties that have had prior use.

#### **AGENDA ITEM 5 – Recommendation to dispose of an interest in Open Space lands pursuant to Boulder City Charter Section 177 through the grant of an easement to Public Service Company of Colorado for three power pole support beams on the ~~East Rudd~~ Open Space property that were required to be relocated by the construction of the Boulder County/Colorado Department of Transportation road improvements on State Highway 93.\***

Jim Schmidt, Property Agent, gave a presentation to the Board on a possible disposal. The memo is incorrect; it is on the Stanger Open Space property rather than East Rudd. The correct information was in the public notice.

#### **Public Comment**

None.

#### **Return to the Board**

No further comment.

#### **Motion**

**Shelley Dunbar moved the Open Space Board of Trustees to approve the disposal of an interest in Open Space lands pursuant to Boulder City Charter Section 177 through the grant of an easement to Public Service Company of Colorado for three power pole support beams on the Stanger Open Space property that were required to be relocated by the construction of the Boulder County/CDOT road improvements on SH 93. Frances Hartogh seconded. This motion passed unanimously.**

#### **AGENDA ITEM 6 – Consideration of a motion to recommend that City Council authorize an Intergovernmental Agreement with Boulder County for design and construction of the extension of the Boulder Creek Bike Path.\***

Jim Reeder gave a presentation to the Board regarding the Intergovernmental Agreement (IGA) with Boulder County.

Kevin asked if this path would extend all the way to the tunnel. Jim said that is a possibility; they have talked about potential access to Betasso and Four Mile but a lot will depend on cost of construction. Tracy said that the IGA is not about approving a final design; this is a recommendation from the Board to City Council. Molly asked if OSMP would patrol this path. Tracy said no, it would be the county.

### **Public Comment**

Suzanne Webel, on behalf of BCHA, said that part of the IGA should contain provisions for trailhead parking. She said the Board has a letter from BCHA outlining why they feel so strongly that the Schnell property be used as horse trailer parking. The Community Collaborative Group (CCG), OSBT and council directed in the West TSA plan to include trailer parking at trailheads.

Mike Barrow, on behalf of BMA, said the IGA was awesome and he had not expected this to happen in his lifetime. This is the one silver lining resulting from the 2013 floods; the reason things are coming together is because the road needs to be completely redone. This extension is sorely needed and highly desired for the recreational experience of regional trails coming out of Boulder.

Linda Parks, Boulder, said she would love to see horse trailer space at Chapman Drive and for people to be able to reserve a spot ahead of time. She said trailhead parking is a priority.

### **Return to the Board**

The Board agreed that horse parking is not an IGA issue. Tom said that the Board will find a more appropriate time to discuss this process in an informed way. Kevin noted that he really liked the online reservation idea for trailhead horse trailer parking; it would be a nice system to have in place and would help in understanding the volume of use.

Frances asked if this plan can be modified if it becomes too expensive. Jim said not without having to go back to council. Frances asked if the county would be responsible for the maintenance. Tracy said yes. Frances said if it is worded that they have sole discretion she is concerned that OSMP is giving up the right to do any maintenance. Jim said he does not believe that this wording will prevent OSMP from going out and clearing snow or improving the path. Molly asked if the OSMP rangers are going to be monitoring that area. Tracy said that the county would be patrolling that area.

### **Motion**

**Kevin Bracy Knight moved the Open Space Board of Trustees recommend City Council authorize the attached Intergovernmental Agreement with Boulder County for design and construction of the extension of the Boulder Creek Bike Path. Molly Davis seconded. This motion passed unanimously.**

ADJOURNMENT – The meeting adjourned at 6:45 p.m.

These draft minutes were prepared by Alyssa Frideres.

## MEMORANDUM

TO: Open Space Board of Trustees

FROM: Tracy Winfree, Interim Director, Open Space and Mountain Parks  
Mike Orosel, Finance Manager, Open Space and Mountain Parks

DATE: March 11, 2015

SUBJECT: Update Regarding Supplemental Appropriation to the 2015 Budget

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As discussed as a part of the 2015 Work Plan Update during the Feb. 18 Open Space Board of Trustees (OSBT) meeting, staff is in the midst of proceeding with a 2015 Budget Supplemental request supporting the City Council, board and community 2015 priorities. Attached is the March 3 City Council first reading memorandum on an accelerated 2015 supplemental budget for the city. Staff will provide an update to the Board at the March 11 OSBT meeting.

The March 3 memorandum to council was forwarded to the Board in advance of the March 3 council meeting. The second reading of this proposed budget action is scheduled for March 17. As described in the council memo, this particular schedule is earlier than typical supplemental budget actions.

Staff's 2015 Work Plan development process and the accelerated North Trail Study Area (TSA) Plan helped staff identify that the department needs to budget for sufficient resources if significant progress is to be made on 2015 priorities. The most significant component of the proposed budget request is for flood recovery. Significant flood recovery engineering and design work has occurred since the original 2015 budget was approved. Other proposed increases support the North TSA, flood recovery, and other top priorities for the department.

The department's financial manager has evaluated the capacity of the fund financial to support these one-time and fixed-term budget adjustments and has found there is little to no risk to the fund under current assumptions and forecasts. Also, staff currently estimates that FEMA reimbursements, which will return to the Open Space and Mountain Parks (OSMP) fund balance, will exceed \$5 million. Even if it takes an extended period of time to receive these reimbursements the OSMP fund can support the cash flow needed to cover these 2015 priorities.

For the Board's ease of reference, below is a summary of the supplemental request specific to OSMP excerpted from the March 3 council memo:

### **Supplemental Request Related to Open Space and Mountain Parks**

As noted at the council retreat, there are a number of high-priority initiatives that OSMP needs to focus on doing well in the near future, including recovery from the 2013 Flood, North TSA process, continued implementation of the West TSA, Regional Trails and other

initiatives. OSMP is requesting one-time and fixed-term increases to assure that the department is sufficiently resourced to deliver on these commitments.

In late 2014 and early 2015, OSMP staff developed more in-depth 2015 work plan priorities and milestones, which were presented to the OSBT at its February meeting. The OSBT also discussed the North TSA scope, goals, objectives, and process framework in a study session on the same evening. Based on new information from the work plan process, including additional design and estimating work for flood recovery projects, it became apparent that significant one-time resources are needed for flood recovery in particular. Also, given council and OSBT interest in pursuing existing priorities with enough support to deliver quality results, staff is proposing added resources to support the environmental planning group and the ecological systems group. These teams are largely responsible for advancing the North TSA planning and evaluation process, reviewing and issuing permits for West TSA, and flood recovery projects, in addition to their regular duties.

Staff proposes accelerating flood recovery work to maximize FEMA reimbursement and to provide more timely repairs for the community. The OSBT was updated and provided positive feedback about this request for supplemental funding at its February meeting. Recently completed engineering and design have resulted in updated cost information for projects, such as the Chapman Trail and Bear Creek Canyon Road improvements. With the availability of this updated information, one-time dollars are being requested to bid projects for timely repair. The highest priority category of flood recovery projects that are reimbursable involve 14 projects that meet community desires or are needed for logistical purposes. Six projects are included in the second category of flood recovery that is not reimbursable. However, these latter projects are of high value to the community, given that they restore natural habitats; FEMA does not consider such work to be reimbursable. The total cost of these flood recovery projects is \$3.86 million.

Additional funding of \$190,000 for the North TSA is requested for a consultant to facilitate the public process, to support temporary services supporting planning, analysis and outreach, and to provide funding for ancillary costs. Additional costs for the Joder interim trail are included in this category as well.

Supplemental funding of \$90,000 for West TSA Plan implementation is requested for unfunded projects. Additionally, funds totaling \$290,000 previously allocated to Flagstaff summit improvements will be reallocated to other West TSA projects as the Flagstaff summit improvements will not be made in 2015.

Finally, funding of \$76,800 is requested for a three-year, fixed-term ecologist position to assist with flood recovery and West TSA Plan implementation permitting, and North TSA resource evaluation. Given the significant load of timely projects that all must be reviewed, analyzed and/or permitted through this work group, this added staff resource will help with timely delivery of projects and assessments.

**Overview of Total Requests**

In total, \$4,212,375 are requested to be appropriated from the Open Space Fund balance to supplement OSMP's 2015 budget.

First reading of the supplemental appropriation ordinance by council was on March 3, 2015; the second reading of this item is scheduled for the March 17 City Council meeting.

**ATTACHMENT**

- A. City Council memorandum dated March 3, 2015 introducing a first reading ordinance approving supplemental appropriations to the 2015 budget.

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**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: March 3, 2015**

**AGENDA TITLE:** Introduction, first reading and consideration of a motion to order published by title only an ordinance approving supplemental appropriations to the 2015 Budget.

**PRESENTERS:**

Jane S. Brautigam, City Manager  
 Bob Eichen, Chief Financial Officer  
 Cheryl Pattelli, Director of Finance  
 David Driskell, Executive Director of Community Planning and Sustainability (CP&S)  
 Tracy Winfree, Interim Director of Open Space and Mountain Parks (OSMP)  
 Peggy Bunzli, Budget Officer  
 Trish Jimenez, Senior Financial Manager, Public Works and CP&S  
 Mike Orosel, Financial Manager, OSMP

**EXECUTIVE SUMMARY**

As described in the *Budget Philosophy and Process* section of the annual budget document, each year at least two supplemental ordinances (known as Adjustments to Base, where the “base” is the original annual budget) are presented to City Council for review and approval. Council receives what is often the first ordinance, the **Carryover and Budget Supplemental**, in April/May. In years where new initiatives are launched and other unique circumstances become apparent after annual budget approval, additional adjustments to base may be brought forward for council consideration. The proposed adjustments to the 2015 Budget included in this memo are an example of the latter scenario.

Since the adoption of the 2015 Budget in October of 2014, new work plan related initiatives in the Community Planning & Sustainability (CP&S) and Open Space and Mountain Parks (OSMP) Departments have been discussed and considered by City Council and staff. In response to the identified priorities, proposed adjustments to the work plan, and the acknowledgement that the additional work cannot be accomplished

with existing resources, new resources are proposed for council consideration in both areas to successfully achieve the desired 2015 work plan outcomes.

Key investments in Open Space:

At the January retreat, council expressed interest for OSMP to focus on doing existing priorities well, including a focus on flood recovery, North Trail Study Area (TSA) planning, West TSA implementation, Regional Trails, and other efforts. In parallel, staff had been conducting a 2015 work plan update in late 2014/early 2015 and has identified the need to increase resources to adequately advance these community/council priorities. The proposed one-time increases, outlined below, are able to be covered through the existing OSMP fund balance and are expected to be partially reimbursed through FEMA.

Key investments in Community Planning:

Based on Council direction, the 2015 work plan for CP&S has been revised and expanded to address a number of key priorities, including next steps on the Design Excellence work (form based code pilot; site review criteria update; community benefit definition); expanded analysis, modeling and engagement for the Boulder Valley Comprehensive Plan update; and completion of the Housing Boulder strategy process and beginning of implementation, including its ongoing governance. Achieving these outcomes (near term and long term) and ensuring a high level of community engagement will require the addition of both ongoing and fixed term resources, as well as consultant budget, as outlined later in this memo. These resources can be supported in large part from the Planning and Development Services fund balance, as well as from the city's Affordable Housing fund, with the remainder requiring General Fund support. The proposed CP&S adjustments were presented in draft form by staff at a check-in on planning issues as part of the February 24 council study session.

As the impact of some of the adjustments is ongoing, staff have matched these with identified ongoing revenues and this impact will be reflected in all revenue and expenditure projections used in 2015 budget implementation and in 2016 budget development.

This packet includes budget supplemental line items that represent new budgeted amounts for 2015. A proposed ordinance is provided as **Attachment A** to this packet. Detailed narrative information on each budget supplemental request is included in **Attachment B**.

## STAFF RECOMMENDATION

### Suggested Motion Language:

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

Motion to introduce and order published by title only an ordinance approving supplemental appropriations to the 2015 Budget.

## COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

This supplemental ordinance appropriates funding for a variety of citywide projects and services that positively affect economic, environmental or social sustainability in the community.

## OTHER IMPACTS

- Fiscal:  
In the **General Fund**, this ordinance will appropriate \$142,000 from fund balance.  
  
In **restricted funds**, this ordinance will appropriate \$4,786,375 from fund balance.
- Staff time for this process is allocated in the Budget Division's regular annual work plan.

## ANALYSIS

### Supplemental Request Related to Community Planning

The supplemental request for Community Planning identifies five and a half positions needed to address both current resource deficiencies related to increased work load and to successfully complete additional work items requested at Council's January retreat.

Increased demands on staff resources over the past year is the result of both increased development activity and heightened expectations from the council, boards and community for additional analysis, information, and participation in shaping responsive policies and facilitating public review and input processes. Two areas where it has become clear in recent months that there is an ongoing deficiency in staff resources are urban design and housing policy.

The city's Senior Urban Designer is increasingly tapped as a resource to support major policy initiatives (such as Civic Area, Design Excellence and area planning) as well as

ongoing development review, where expectations for high quality design outcomes are (and will remain) high. The proposed addition of an ongoing “Urban Designer I” position as part of the city team recognizes the importance of this function, the need for additional resource to meet current and projected work load, and the centrality of good design in a city where nearly all new development is infill and must be sensitive to context and the creation of a high quality public realm. The position will help support current project initiatives (e.g., Form-based Code and Civic Area) as well as ongoing development review needs and design support for other departments. It will also provide the opportunity to “build the bench” in the city team in relation to design skills, support succession planning, and provide better support to design-related boards such as the Design Advisory Board, Landmarks Board and Planning Board.

The Senior Housing Planner is proposed as a new, ongoing position in recognition of a key issue area that is the focus of current work efforts but which also represents an area of ongoing need and priority. The position will support successful completion of the current Housing Boulder initiative and then have primary responsibility for ongoing implementation of the housing strategy’s priorities and continued monitoring of housing outcomes and policies. The addition of this position – shared between the city’s Housing Division and Comprehensive Planning Division – recognizes that housing affordability will be an ongoing challenge in Boulder, and that responding successfully to this challenge will require the integration of policy and program approaches linking land use and community design with financial and regulatory tools. The position will also be responsible for ongoing research and analysis related to housing market trends and conditions, with the aim of helping the council and boards (including any new board charged with responsibility for housing) to be more proactive in advancing community priorities.

The remaining three and a half positions are all requested as fixed-term, in support of current work program priorities, including items added to the 2015/16 work plan at the January council retreat. These include a full-time, two-year Planner Associate position in Comprehensive Planning to support data research, analysis and mapping expectations for the 2015 Comprehensive Plan update and resilience planning; a two-year extension and repurposing of a Senior Project Manager position to both refill the vacant Civic Area Coordinator position and provide the necessary support for that ongoing effort as well as support for related efforts (Civic Use Pad, Uni Hill Revitalization, coordination with CU, and, potentially, evaluation and planning related to the Broadway campus of Boulder Community Health); the addition of 0.5 FTE to an existing part-time position in Comprehensive Planning to support community outreach and engagement on several initiatives, including working as a partner with Code for America to help ensure continuity of engagement initiatives set in motion by their work; and lastly, but definitely not least, a fixed term Administrative Support position to help ensure the success of all of these positions and the priority work efforts they will be undertaking.

In summary, the total personnel budget requested (including related non-salary expenses) is approximately \$541,000 of which \$223,000 is ongoing and \$318,000 is fixed-term. Based on the nature of the work for each position, these proposed budget additions will

be shared between the General Fund (\$142,000), the Affordable Housing Fund (\$59,000), and the Planning and Development Services Fund (\$340,000).

Lastly, this Adjustment to Base for Community Planning includes requested non-personnel expenses for consultant support specific to two new initiatives: the Form-Based Code Pilot and work on Site Review Criteria and Community Benefit. The total estimated budget to support these two work efforts is \$175,000 and will be funded from the Planning and Development Services Fund.

The Form-Based Code Pilot is proposed for a specified area of the city (Boulder Junction) in which there is a clear agreed upon vision for development and the implementation tool of a form-based code could be most easily tested. A form-based code is an emerging tool in the planning field that is used to provide more certainty and direction for the form of built outcomes through a prescriptive approach, in which discussions and policy decisions regarding building height, bulk, setback and other issues occur prior to there being a specific building proposal. In its purest form, adoption of a form-based code creates the opportunity to have little or no public participation in the development review process, as issues of building form and even architecture are determined in advance, and the review is simply to confirm compliance. The form-based code pilot will be an opportunity for the Boulder community to better understand this tool, and decide if it's the right tool (and in what form) to guide better outcomes in Boulder, for use in both the pilot area and, subsequently, in other parts of the city. The proposed budget of \$125,000 (paid for from the Planning and Development Services Fund) will cover the cost of consultant work for the pilot and, potentially, next steps.

The work on Site Review Criteria and Community Benefit is proposed to proceed in parallel with the Form-Based Code Pilot, but as a separate initiative, as it relates to development review citywide (recognizing that implementation of a citywide form-based code, should that be the direction decided upon, will take several years to implement). The proposed budget will cover anticipated consultant support for the effort, working under the direction of a staff project manager and with active participation from the community and boards. The proposed budget of \$50,000 will be funded from the Planning and Development Services Fund.

### **Supplemental Request Related to Open Space and Mountain Parks (OSMP)**

As noted at the council retreat, there are a number of high priority initiatives that OSMP needs to focus on doing well in the near future, including recovery from the 2013 Flood, North Trail Study Area (TSA) Process, continued implementation of the West TSA, Regional Trails and other initiatives. OSMP is requesting one-time and fixed-term increases to assure that the department is sufficiently resourced to deliver on these commitments.

In late 2014 and early 2015, OSMP staff developed more in-depth 2015 work plan priorities and milestones, which were presented to the Open Space Board of Trustees (OSBT) at its February meeting. The OSBT also discussed the North TSA scope, goals,

objectives, and process framework in a study session on the same evening. Based on new information from the work plan process, including additional design and estimating work for flood recovery projects, it became apparent that significant one-time resources are needed for flood recovery in particular. Also, given council and OSBT interest in pursuing existing priorities with enough support to deliver quality results, staff is proposing added resources to support the environmental planning group and the ecological systems group. These teams are largely responsible for advancing the North TSA planning and evaluation process, reviewing and issuing permits for West TSA, and flood recovery projects, in addition to their regular duties.

OSMP is requesting a total supplemental appropriation of \$4,212,375 from the Open Space fund balance to fund additional projects related to recovery from the 2013 Flood, preparation of a draft plan for the North Trail Study Area (TSA) and implementation of the West TSA Plan.

Staff proposes accelerating flood recovery work to maximize FEMA reimbursement and to provide more timely repairs for the community. The OSBT was updated and provided positive feedback about this request for supplemental funding at its February meeting and will receive additional information at its March meeting. Recently completed engineering and design have resulted in updated cost information for projects, such as the Chapman trail and Bear Creek Canyon Road improvements. With the availability of this updated information, one-time dollars are being requested to bid projects for timely repair. The highest priority category of flood recovery projects that are reimbursable involve 14 projects that meet community desires or are needed for logistical purposes. Six projects are included in the second category of flood recovery that is not reimbursable. However, these latter projects are of high value to the community, given that they restore natural habitats; FEMA does not consider such work to be reimbursable. The total cost of these flood recovery projects is \$3.86 million.

Additional funding of \$190,000 for the North TSA is requested for a consultant to facilitate the public process, to support temporary services supporting planning, analysis and outreach, and to provide funding for ancillary costs. Additional costs for the Joder interim trail are included in this category as well.

Supplemental funding of \$90,000 for West TSA Plan implementation is requested for unfunded projects. Additionally, funds totaling \$290,000 previously allocated to Flagstaff summit improvements will be reallocated to other West TSA projects as the Flagstaff summit improvements will not be made in 2015.

Finally, funding of \$76,800 is requested for a three-year fixed term ecologist position to assist with flood recovery and West TSA plan implementation permitting, and North TSA resource evaluation. Given the significant load of timely projects that all must be reviewed, analyzed and/or permitted through this work group, this added staff resource will help with timely delivery of projects and assessments.

**Overview of Total Requests**

A summary table of the supplemental requests by fund can be found in **Attachment C**. In total, the city recommends \$4,928,375 in appropriations from fund balance.

**Attachment D** is a schedule reflecting the impact of the supplemental appropriations for 2015 on the projected fund balance for each fund.

The council's second reading of this item is scheduled for the Mar. 17 City Council meeting.

**ATTACHMENTS**

- A. Proposed Ordinance containing supplemental appropriations to the 2015 Budget
- B. Narrative descriptions of supplemental appropriations to the 2015 Budget by fund
- C. Table of all proposed supplemental appropriations to the 2015 Budget by fund
- D. 2015 Fund Activity Summary

**ORDINANCE NO. 8033**

AN ORDINANCE RELATING TO THE FINANCIAL AFFAIRS OF THE CITY OF BOULDER, COLORADO, MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING DECEMBER 31, 2015 SETTING FORTH DETAILS IN RELATION TO THE FOREGOING.

WHEREAS, Section 102 of the Charter of the City of Boulder provides that: "At any time after the passage of the annual appropriation ordinance and after at least one week's public notice, the council may transfer unused balances appropriated for one purpose to another purpose, and may by ordinance appropriate available revenues not included in the annual budget;" and

WHEREAS, the City Council now desires to make certain supplemental appropriations for purposes not provided for in the 2015 annual budget; and,

WHEREAS, required public notice has been given;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, that the following amounts are appropriated from additional projected revenues to the listed funds:

Section 1. General Fund

Appropriation from Fund Balance \$142,000

Section 2. Affordable Housing Fund

Appropriation from Fund Balance \$59,000

Section 3. Open Space Fund

Appropriation from Fund Balance \$4,212,375

Section 4. Planning and Development Services Fund

Appropriation from Fund Balance \$515,000

Section 5. The City Council finds that 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 6. If any part or parts hereof are for any reason held to be invalid, such shall not affect the remaining portion of this ordinance.

Section 7. The 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 3<sup>rd</sup> day of March, 2015.

\_\_\_\_\_  
Mayor

Attest:

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

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 17<sup>th</sup> day of March, 2015.

\_\_\_\_\_  
Mayor

Attest:

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

## **BUDGET SUPPLEMENTAL DETAILS BY FUND**

### **GENERAL FUND**

Budget Supplemental From Fund Balance

#### **CP&S – Senior Housing Planner – \$59,000**

This request provides ongoing funding for .50FTE of a Senior Housing Planner (the other .50FTE is funded from the Affordable Housing Fund – see below) to support successful completion of the current Housing Boulder initiative and ongoing implementation of the housing strategy’s priorities and continued monitoring of housing outcomes and policies. This position will also be responsible for ongoing research and analysis related to housing market trends and conditions.

#### **CP&S – Planner Associate – \$83,000**

This request supports a 2-year fixed term position to help address current work program priorities including items added to the 2015/16 workplan at the January council retreat. This position will support data research, analysis and mapping expectations for the 2015 Comprehensive Plan update and resilience planning.

### **AFFORDABLE HOUSING FUND**

Budget Supplemental From Fund Balance

#### **Housing – Senior Housing Planner – \$59,000**

This request provides ongoing funding for .50FTE of a Senior Housing Planner (the other .50FTE is funded from the General Fund – see above) to support successful completion of the current Housing Boulder initiative and ongoing implementation of the housing strategy’s priorities and continued monitoring of housing outcomes and policies. This position will also be responsible for ongoing research and analysis related to housing market trends and conditions.

### **OPEN SPACE FUND**

Budget Supplemental From Fund Balance

#### **OSMP – Flood Recovery projects partially reimbursable / community desire / logistically needed – \$3,336,200**

This request appropriates additional funds for flood recovery projects that are partially reimbursable by FEMA and/or the state, satisfy community desires or are necessary logistically because they are required before other work can be more efficiently performed. Major projects include Chapman Drive flood repairs; design and replacement of the bridge over South Boulder Creek at the South Mesa Trailhead; replacement of the flood damaged bridge over South Boulder Creek at South Boulder Road; Bear Canyon Road design and construction; and Boulder Falls trail repair.

OSMP – Flood Recovery projects non reimbursable – \$519,375

This request appropriates additional funds for flood recovery projects that have been determined to be non reimbursable by FEMA. Major projects include restoration of Boulder Creek at Green ditch; restoration of the Boulder Creek/South Boulder Creek confluence area; and repair of habitat structures on South Boulder Creek that had been damaged during the flood.

OSMP – North Trail Study Area Plan development – \$190,000

These funds will provide for a consultant to facilitate the public process when needed and ancillary costs associated with the North Trail Study Area Plan development. In addition, funding will be provided for a traffic study for the Joder Trailhead and for construction of an interim trail on Joder.

OSMP – West Trail Study Area Plan implementation – \$90,000

These funds, and funds available after reallocation from other projects, will enable additional work towards West TSA Plan implementation. Funds totaling \$290,000 previously allocated to Flagstaff summit improvements will be reallocated to other West TSA projects as the Flagstaff summit improvements will not be made in 2015. Major projects include continuation of construction of the Anemone Hill Trail; a second sediment basin on Flagstaff; additional climbing access at Boulder Falls; completion of the Lion’s Lair Trail on the Wittemyer Property; and repair and rerouting of the trail at NIST.

OSMP – Additional Ecologist position to support permitting – \$76,800

These funds will allow the hiring of a 3-year fixed term Ecologist position to provide a resource to obtain necessary permits for flood recovery projects, West TSA Plan implementation projects and for North TSA Plan preparation and implementation. Obtaining necessary permits for projects is a critical step in the construction process.

**PLANNING AND DEVELOPMENT SERVICES FUND**

Budget Supplemental From Fund Balance

CP&S – Urban Designer – \$105,000

This request supports the ongoing funding for an Urban Designer position to meet current and projected work load and expectations for high quality design outcomes related to development. The position will help support current project initiatives (e.g., Form-based Code and Civic Area), better support design related boards such as the Design Advisory Board, Landmarks Board and Planning Board, as well as ongoing development review needs and design support for other departments.

CP&S – Senior Project Manager – \$118,000

This request provides funding for a 2-year extension and repurposing of the Civic Area Coordinator position to provide the necessary support for that ongoing effort as well as support for related efforts such as Civic Use Pad, Uni Hill Revitalization, coordination with CU, and, potentially, evaluation and planning related to the Broadway campus of Boulder Community Health.

CP&S – Community Outreach and Engagement – \$52,000

This request provides funding for a 1-year fixed term .50FTE in Comprehensive Planning to support community outreach and engagement on several planning initiatives, including working as a partner with Code for America to ensure continuity of engagement initiatives as a result of their work.

CP&S – Administrative Support – \$65,000

This request provides funding for a 2-year fixed term position to provide administrative support to the new positions and to help ensure the success of all the priority work efforts the department is undertaking.

CP&S – Form Based Code Pilot –\$125,000

This request provides funding for consultant work for a Form-Based Code Pilot which is proposed for a specified area of the city (Boulder Junction). A form-based code is an emerging tool in the planning field that is used to provide more certainty and direction for the form of built outcomes through a prescriptive approach, in which discussions and policy decisions regarding building height, bulk, setback and other issues occur prior to there being a specific building proposal. The form-based code pilot will be an opportunity for the Boulder community to better understand this tool, and decide if it's the right tool (and in what form) to guide better outcomes in Boulder, for use in both the pilot area and, subsequently, in other parts of the city.

CP&S – Site Review Criteria/Community Benefit – \$50,000

The request provides funding for a consultant to support work related to Site Review Criteria and Community Benefit. This project is proposed to proceed in parallel with the Form-Based Code Pilot, but as a separate initiative, as it relates to development review citywide (recognizing that implementation of a citywide form-based code, should that be the direction decided upon, will take several years to implement).

**REQUEST BY FUND AND DEPT**

Fund/ Dept#	Dept Title	Type / Item	Source			Increase (Decrease) in Revenue Only
			Budget Supplemental	Additional Revenue	Fund Balance	
<b>GENERAL FUND</b>						
<b>Budget Supplemental(s) from Fund Balance</b>						
385	Community Planning & Sustainability	Senior Housing Planner	\$ 59,000		\$ 59,000	
385	Community Planning & Sustainability	Planner Associate	83,000		83,000	
<b>Subtotal</b>			<b>\$ 142,000</b>	<b>\$ -</b>	<b>\$ 142,000</b>	<b>\$ -</b>
<b>AFFORDABLE HOUSING FUND</b>						
<b>Budget Supplemental(s) from Fund Balance</b>						
405	Housing	Senior Housing Planner	\$ 59,000		\$ 59,000	
<b>Subtotal</b>			<b>\$ 59,000</b>	<b>\$ -</b>	<b>\$ 59,000</b>	<b>\$ -</b>
<b>OPEN SPACE FUND</b>						
<b>Budget Supplemental(s) from Fund Balance</b>						
555	Open Space and Mountain Parks	Flood Recovery (reimbursable)	\$ 3,336,200		\$ 3,336,200	
555	Open Space and Mountain Parks	Flood Recovery (non reimbursable)	519,375		519,375	
555	Open Space and Mountain Parks	North Trail Study Area Plan Development	190,000		190,000	
555	Open Space and Mountain Parks	West Trail Study Area Plan Implementation	90,000		90,000	
555	Open Space and Mountain Parks	Ecologist	76,800		76,800	
<b>Subtotal</b>			<b>\$ 4,212,375</b>	<b>\$ -</b>	<b>\$ 4,212,375</b>	<b>\$ -</b>
<b>PLANNING &amp; DEVELOPMENT SERVICES FUND</b>						
<b>Budget Supplemental(s) from Fund Balance</b>						
385	Community Planning & Sustainability	Urban Designer	\$ 105,000		\$ 105,000	
385	Community Planning & Sustainability	Senior Project Manager	118,000		118,000	
385	Community Planning & Sustainability	Community Outreach and Engagement	52,000		52,000	
385	Community Planning & Sustainability	Administrative Support	65,000		65,000	
385	Community Planning & Sustainability	Form Based Code Pilot	125,000		125,000	
385	Community Planning & Sustainability	<b>Site Review Criteria/Community Benefit</b>	50,000		50,000	
<b>Subtotal</b>			<b>\$ 515,000</b>	<b>\$ -</b>	<b>\$ 515,000</b>	<b>\$ -</b>
<b>Total General Fund</b>			<b>\$ 142,000</b>	<b>-</b>	<b>\$ 142,000</b>	<b>-</b>
<b>Total Restricted Funds</b>			<b>4,786,375</b>		<b>4,786,375</b>	
<b>Total All Funds</b>			<b>\$ 4,928,375</b>	<b>\$ -</b>	<b>\$ 4,928,375</b>	<b>\$ -</b>

**2015 FUND ACTIVITY SUMMARY (in \$1,000s)**  
**COMMUNITY PLANNING AND OSMP BUDGET SUPPLEMENTAL OF 2015**

FUND	At January 1, 2015			Appropriation Ordinance March 17, 2015	Projected Dec 31, 2015
	Unreserved Fund Balance	Original Estimated Revenues (Including Xfers In)	Original Appropriations (Including Xfers Out)	Appropriations	Fund Balance
General	34,251	120,575	128,483	142	26,201
Affordable Housing	6,491	1,264	1,221	59	6,475
Open Space and Mountain Parks	13,399	30,280	29,720	4,212	9,747
Planning and Development Services	5,007	9,815	11,209	515	3,098



**CITY OF BOULDER  
OPEN SPACE BOARD OF TRUSTEES AGENDA ITEM**

**MEETING DATE: March 11, 2015**

**AGENDA TITLE:** Summary of 2014 Open Space and Mountain Parks Volunteer Services and Declaration to Honor Open Space and Mountain Parks Volunteers during National Volunteer Week, April 12-18, 2015.

**PRESENTER/S:**

Tracy Winfree, Interim Director, Open Space and Mountain Parks  
Jim Reeder, Land and Visitor Services Division Manager  
Lisa Dierauf, Community Outreach Coordinator  
Jennelle Freeston, Coordinator of Volunteer Services  
Kristin Weinberger, Coordinator of Group Volunteer Projects

**EXECUTIVE SUMMARY:**

National Volunteer Week is April 12-18, 2015. The City of Boulder Open Space and Mountain Parks (OSMP) Department joins communities across the country and around the world in recognizing volunteers for their efforts and contributions.

Every year, hundreds of volunteers aid the OSMP department in carrying out its mission, goals and objectives. They help to inform the public and protect the resources that make OSMP lands a special place. In 2014, more than 2,000 dedicated volunteers contributed over 24,000 hours, including assistance with continued flood restoration efforts. Reports highlighting volunteer projects and programs are attached (Attachments A, B and C).

## **STAFF RECOMMENDATION**

Open Space and Mountain Parks Volunteer Services staff members request that the Open Space Board of Trustees join them in honoring these dedicated people during National Volunteer Week with a declaration:

*The Open Space Board of Trustees joins the staff of the City of Boulder Open Space and Mountain Parks Department in recognizing all of our volunteers during National Volunteer Week 2015. We salute the more than 2,000 Open Space and Mountain Parks volunteers who contributed their talents and efforts in helping the department carry out its mission. These irreplaceable individuals are an inspiration as they help to protect the resources that make Boulder's Open Space and Mountain Parks so special.*

## **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- **Environmental:** City of Boulder OSMP is a significant community-supported program that is recognized as a leader in preservation of open space lands, contributing to the environmental sustainability goal of Boulder's City Council. The department's volunteers act as stewards to help preserve and protect the values of these lands.
- **Economic:** OSMP 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.
- **Social:** Because the Open Space land system is accessible to all members of the community, it helps support council's community sustainability goal because all residents who live in Boulder have the opportunity to feel a part of, and thrive in, this aspect of their community.

## **OTHER IMPACTS**

- **Fiscal:** The work provided by OSMP volunteers is equivalent to about 13 full-time staff members. In addition to a significant monetary value, this volunteer effort supports community priorities while also building a stronger sense of community. Engaged, educated and informed citizens are a priceless asset to the well-being of a community, and the land which we enjoy and strive to protect.
- **Staff time:** Working with volunteers requires staff time and planning. Two Full Time Equivalent (FTE) Volunteer Coordinators and two seasonal staff members are dedicated to directly manage both volunteer projects and programs, and over 40 other staff members work with volunteers as program leads and field supervisors.

## **PUBLIC COMMENT AND PROCESS**

This item is being heard at this public meeting, advertised in the *Daily Camera* on March 8, 2015.

## **BACKGROUND**

In the late 1800s, volunteers built the first trails in the newly-established Mountain Parks system. For more than 100 years, volunteers have been contributing time and effort to

building trails and constructing some of the historic shelters. OSMP's formal volunteer programs have been in place since the 1980s, providing residents a way to contribute and give back to the land through stewardship projects and programs. Volunteers greet visitors on trails, monitor wildlife, lead interpretive hikes, restore natural habitats, pull noxious weeds, build trails, staff the Flagstaff Summit Nature Center, monitor rare plants and much more. OSMP volunteers span in age from 8 to 80, and some have volunteered with OSMP for decades. The volunteer application process is competitive; most of the programs fill to capacity each year. Two of OSMP's most recognized volunteer programs are the Raptor Monitoring Program, which was one of the first of its kind, and the award-winning, state-recognized Volunteer Naturalist Program, which requires over 70 hours of training before volunteers are able to lead hikes.

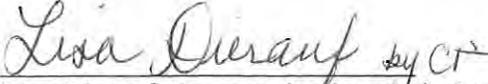
In 2014, the Volunteer Services staff was busy supporting continued flood restoration efforts. The tremendous outpouring of help from residents, local organizations and businesses in response to the flood rebuilding was inspiring. Volunteer Services organized 48 flood-related projects including working on damaged fence-line and repairing the historic Royal Arch Trail. In addition, 54 non-flood related projects were completed including seed collections, wetland plantings and many trail projects. In order to meet the project demands, Volunteer Services hired two field staff members. Volunteer Services also offered three new volunteer programs, including Native Bee Monitoring through the University of Colorado Bees' Needs project, North Trail Study Area Visitation Monitoring and Air Quality Hikes and Monitoring.

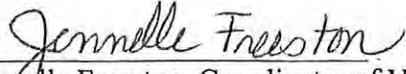
Staff is thankful for all of the volunteers who make both long-term and short-term commitments to the environment and the community. For more information on OSMP volunteer opportunities, please visit [www.bouldercolorado.gov/osmpvolunteers](http://www.bouldercolorado.gov/osmpvolunteers).

Submitted by:

  
Tracy Winfree, Interim Director

  
Jim Reeder, Division Manager

  
Lisa Dierauf, Community Outreach Coordinator

  
Jennelle Freeston, Coordinator of Volunteer Services

  
Kristin Weinberger, Coordinator of Group Volunteer Projects

**ATTACHMENTS:**

- A. Volunteer Services Annual Report 2014**
- B. Volunteer Project Summary 2014**
- C. Volunteer Program Summary 2014**

# Volunteer Services Annual Report 2014

## City of Boulder Open Space and Mountain Parks

*“You make a living by what you get. You make a life by what you give.”~ Winston Churchill*

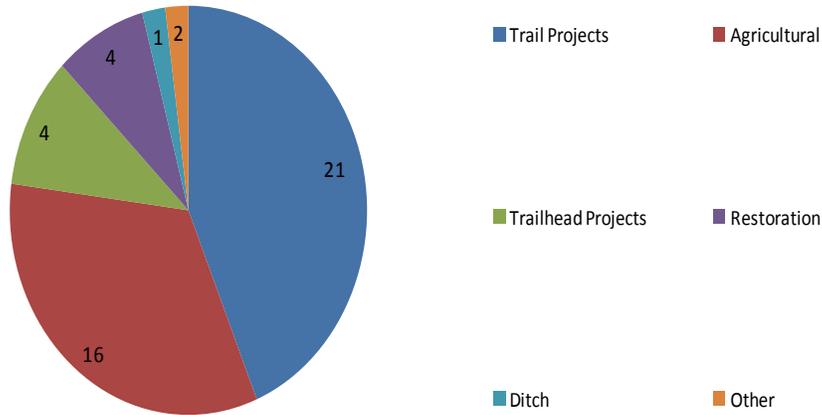
The Open Space and Mountain Parks (OSMP) Volunteer Services program serves departmental programs, projects, and events as well as requests from community members and organizations year-round. OSMP connects with the community through an outstanding volunteer program! There are many opportunities for people to give back to the land in meaningful ways. OSMP offers a variety of volunteer projects and program-related volunteer opportunities. After the historic flooding in September of 2013, hundreds of people offered to lend a hand to continue to help restore OSMP’s trails and infrastructure in 2014. These volunteers joined the ranks of many others that help the department every year in carrying out its mission and goals. In 2014, OSMP offered 54 non-flood volunteer projects and 48 flood-specific work days restoring natural habitats, repairing trails, building and clearing cattle fence from flood debris and pulling noxious weeds. In addition, OSMP’s program volunteers continued doing the great work that they do every year, including greeting visitors on the trails, monitoring wildlife and rare plants and leading interpretive hikes. **In 2014, more than 2,000 volunteers contributed over 24,000 hours!** The department appreciates the dedication and commitment from the community.

## Flood Restoration Volunteers

A year after the 2013 Flood, OSMP was still tasked to complete many flood restoration projects. Calls from organizations kept coming, and residents continued to lend a hand to help the department rebuild. The continued assistance from neighbors, local organizations and businesses is impressive! Volunteers helped with debris and sediment removal, fence demolition and repair, and trail maintenance including the reopening of the historic Royal Arch Trail. **In 2014, more than 494 volunteers assisted with 48 flood restoration projects giving over 2,896 hours!**



## Flood-Restoration Volunteer Projects 2014



**Project Volunteers** participate in one-day or multi-day, on-the-ground projects. They help with restoration, trail building, trail cleanups, ditch maintenance, integrated pest management and more. In 2014, over 1,551 Project Volunteers contributed 11,724 hours. (This includes all flood restoration projects as well.)



### Project Volunteer Highlights 2014:

- Two AmeriCorps National Civilian Community Corps (NCCC) teams worked with OSMP for 40 hours a week during the spring. These teams helped with various projects throughout the OSMP system. The projects included agricultural flood recovery projects, trail work at Saddle Rock, and preparing irrigation structures in the spring for local agriculture production.

- Dozens of community service individuals and groups assisted trailhead staff on many projects throughout the system to comply with the Americans with Disabilities Act (ADA) standards, as well as flood restoration efforts.
- Several Eagle Scout troops completed flood restoration projects repairing ADA trails and cleaning up debris. The scouts also assisted with general maintenance at trailheads, and painting trailhead and picnic infrastructure.
- Wildlands Restoration Volunteers (WRV) collaborated with staff for multiple seed collections, planted thousands of shrubs, clipped teasel and removed myrtle spurge along South Boulder Creek. They planted wetland plugs at Sombrero Marsh, removed Russian olive at Weiser and Kolb, and helped with an erosion control project at NIST. WRV also assisted with the annual Mediterranean Sage removal project on the East Beech property.
- OSMP offered several summertime public trail projects, including a flood restoration project for National Trails Day on the East Boulder White Rocks Trail where community members worked side by side shoveling crusher fines.
- Front Range Climbing Stewards worked with OSMP to organize dozens of volunteers from August through November to rebuild and reopen the historic Royal Arch Trail.
- Members of the public were invited to plant tomatoes and asparagus in the spring, and then harvest potatoes, tomatoes, onions and garlic later in the summer at two local organic farms.
- University of Colorado Sewall Hall, Civic Engagement and Alpha Sigma Phi students, assisted with the installation of 4,300 feet of fence in the Shanahan Ridge area. This project will allow the department to manage tall oat grass (an invasive grass species) with cattle grazing.
- Whitewave Foods volunteered at several flood restoration projects at ERTL and installed a wildlife friendly fence at the Varra property, to ensure the safe travel of ungulates.
- Several local community organizations and companies participated in a number of flood restoration and non-flood projects, totaling hundreds of hours. These include: United Way, Rhode Island University, Lutheran Campus Ministry, New Vista High School, Boulder Mountainbike Alliance (BMA), Boulder Mountain Bike Patrol, Boulder Trail Runners, CU Sewall Hall, CU Civic Engagement, Alpha Sigma Phi, Better Boulder Better World, WRV, VOC, Youth Services Initiative, SolidFire, Alex Heit Memorial Project, Eagle Scouts, County Courts, Flatirons Climbing Council, Front Range Climbing Stewards, Engineers Without Borders, Dish Volunteers, BCIA – PUP, Only Natural Pet Store and Whitewave Foods. See Attachment B for more details.



**Program Volunteers** participate in longer-term or year-round programs. Over 448 volunteers contributed 12,317 hours in 2014, including three new programs for 2014 only: Bees' Needs Monitoring, North Trail Area Study Visitation Monitoring and Naturalists leading Air Quality Hikes. See below for more details.



### **Program Volunteer Highlights 2014:**

**Bat Monitors** venture out at dusk to ponds and known bat roost sites. They perform auditory and visual counts for two consecutive nights a month, June through September. Information gathered aids resource management decisions. Both Mallory Cave and Harmon Cave roost sites are monitored. This program started in 1995. In 2014, 52 volunteers completed 180 site visits.

**Bear Care and Coyote Care Team** members educate neighbors about living safely with bears and coyotes in the neighborhood. Information is primarily dispersed door-to-door in areas where bear and coyote activity has occurred. These volunteers also assist OSMP Rangers and Colorado Parks and Wildlife officers by “bear sitting” bears that come into town, monitoring and minimizing disturbances. In 2014, BearCare volunteers assisted with 12 separate “bear sitting” events.

**Bees' Needs Monitors** participated in a pilot partnership between OSMP and the University of Colorado Museum of Natural History, by monitoring 40 bee block houses at 30 trailheads. Twenty-four volunteers monitored the native solitary wood-nesting bees/wasps from May-October. These insects are gentle, and generally are not aggressive. The data collected from these blocks helped to provide much needed information about the abundance, diversity and biology of these fascinating insects in order to better understand nesting patterns in context of the local landscape.

**Hayfield Monitors** play a vital role in protecting rare birds that nest in grasslands. Volunteers survey hayfields at dusk or dawn in May and June, collecting data on bird species of concern. Their data help staff plan for better protection of nesting birds. This program started in 2006. In 2014, 7 volunteers made 28 site visits.

**Hosts** greet the public and provide information and education; they reach thousands of visitors each year.

**Flagstaff Summit Nature Center** is filled with exhibits and information about OSMP. It is staffed 100 percent by volunteers, and is open May through September, on weekends and some weekdays. In 2014, 13 volunteers staffed 83 shifts, which allowed 3,107 visitors to enjoy the Flagstaff Summit Nature Center, an all time visitation record!

**Meadow Music** volunteers act as “safety bunnies” to greet attendees, make sure they cross the streets safely, assist with the nature hike, and provide extra eyes and ears to ensure these very popular summer events go smoothly.

**Ranger Cottage & Events** hosts assist with visitor questions at the Ranger Cottage and outreach events. In 2014, volunteers assisted at several events such as Dino Days and Voice and Sight dog-related events.

**Mountain Bike Patrollers** assist and educate trail users. By doing this, they help to reduce user conflict on trails. These volunteers also patrol for and help these partnering agencies: US Forest Service (USFS), Boulder County Parks and Open Space (BCPOS), and City of Boulder Parks and Recreation at Valmont Bike Park. BMA is a part of the partnership as well. In 2014, bike patrollers made over 1,193 visitor contacts on OSMP during 694 separate patrol rides.

**Native Garden Team** members plan, plant and maintain the Ann Armstrong Memorial Native Garden at the Chautauqua Ranger Cottage. At this demonstration garden, all of the plants are labeled for educational purposes. While working in the garden, volunteers provide information on native gardening to interested visitors.

**Naturalists** started in 1995, providing interpretive nature programs for school-aged children, both on trails and in the classrooms. In 2014, Volunteer Naturalists provided 229 programs, inspiring thousands of school-aged children and their teachers. Programs include field-based hikes, winter bear and mountain lion classroom programs, and Natural Selection Programs. In 2014, Naturalists offered 15 Natural Selections flood-related hikes, which provided contemplative time to absorb the changes on the land, as well as an overview of these events from the perspective of natural geologic change. Naturalists also offered three air quality hikes in conjunction with the Discover-AQ Front Range air quality study in July.

**North Trail Study Area (NTSA) Visitation Monitors** used direct observation methods to determine observable visitor party demographics, activity distributions, visitation distributions and the mode of access for select OSMP trailheads/access points in the NTSA. Eleven volunteers covered 70 shifts from June through November.

**Open Space Board of Trustees** research issues, advise on policy and recommend actions on behalf of OSMP.

**Raptor Monitors** enjoy the unique and rare opportunity of monitoring courtship, nest development and fledging of Front Range birds of prey. This program started in 1985 and is a model for the country. Volunteers commit to a two-hour shift each week, February through July. In 2014, 61 volunteers made over 750 site visits.

**Resource Restoration Stewards**, also known as *Weed Warriors*, scout the land looking for non-native species, such as myrtle spurge. They report the non-native plants to OSMP’s Integrated Pest Management (IPM) staff, and then pull the non-native plants, helping to keep plant systems in balance.

**Staff Assistants and Interns** provide support with research, field work, outreach and administrative duties. In 2014, OSMP had 6 interns.

**Trail Guides** have been traveling OSMP trails for over 20 years, enhancing the visitor experience. These 87 volunteers provide information on trails, area features, natural and cultural history, seasonal changes, policies, safety, regulations and more. In 2014, several Trail Guides hiked with air quality monitoring devices during the month of July to participate in the Discover-AQ Front Range air quality study. They also assist those in need, and serve as extra “eyes and ears” on the land. In 2014, they made over 28,357 visitor contacts on the OSMP system.

*Thank you to all of our 2,000 volunteers in 2014!*



If you are interested in volunteering, go to our web page at [www.bouldercolorado.gov/osmpvolunteers](http://www.bouldercolorado.gov/osmpvolunteers)

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**Mountain Bike Patrollers** assist and educate trail users. By doing this, they help to reduce user conflict on trails. These volunteers also patrol for and help these partnering agencies: US Forest Service (USFS), Boulder County Parks and Open Space (BCPOS), and City of Boulder Parks and Recreation at Valmont Bike Park. BMA is a part of the partnership as well. In 2014, bike patrollers made over 1,193 visitor contacts on OSMP during 694 separate patrol rides.

**Native Garden Team** members plan, plant and maintain the Ann Armstrong Memorial Native Garden at the Chautauqua Ranger Cottage. At this demonstration garden, all of the plants are labeled for educational purposes. While working in the garden, volunteers provide information on native gardening to interested visitors.

**Naturalists** started in 1995, providing interpretive nature programs for school-aged children, both on trails and in the classrooms. In 2014, Volunteer Naturalists provided 229 programs, inspiring thousands of school-aged children and their teachers. Programs include field-based hikes, winter bear and mountain lion classroom programs, and Natural Selection Programs. In 2014, Naturalists offered 15 Natural Selections flood-related hikes, which provided contemplative time to absorb the changes on the land, as well as an overview of these events from the perspective of natural geologic change. Naturalists also offered three air quality hikes in conjunction with the Discover-AQ Front Range air quality study in July.

**North Trail Study Area (NTSA) Visitation Monitors** used direct observation methods to determine observable visitor party demographics, activity distributions, visitation distributions and the mode of access for select OSMP trailheads/access points in the NTSA. Eleven volunteers covered 70 shifts from June through November.

**Open Space Board of Trustees** research issues, advise on policy and recommend actions on behalf of OSMP.

**Raptor Monitors** enjoy the unique and rare opportunity of monitoring courtship, nest development and fledging of Front Range birds of prey. This program started in 1985 and is a model for the country. Volunteers commit to a two-hour shift each week, February through July. In 2014, 61 volunteers made over 750 site visits.

**Resource Restoration Stewards**, also known as *Weed Warriors*, scout the land looking for non-native species, such as myrtle spurge. They report the non-native plants to OSMP’s Integrated Pest Management (IPM) staff, and then pull the non-native plants, helping to keep plant systems in balance.

**Staff Assistants and Interns** provide support with research, field work, outreach and administrative duties. In 2014, OSMP had 6 interns.

**Trail Guides** have been traveling OSMP trails for over 20 years, enhancing the visitor experience. These 87 volunteers provide information on trails, area features, natural and cultural history, seasonal changes, policies, safety, regulations and more. In 2014, several Trail Guides hiked with air quality monitoring devices during the month of July to participate in the Discover-AQ Front Range air quality study. They also assist those in need, and serve as extra “eyes and ears” on the land. In 2014, they made over 28,357 visitor contacts on the OSMP system.

*Thank you to all of our 2,000 volunteers in 2014!*



If you are interested in volunteering, go to our web page at [www.bouldercolorado.gov/osmpvolunteers](http://www.bouldercolorado.gov/osmpvolunteers)

# Volunteer Project Hours 2014

<b>Multiple Work Groups Served</b>	<b>Project/Location</b>	<b>Volunteer #</b>	<b>Hours</b>
AmeriCorps, NCCC One Round - Ag, Water Resources, Trails	Multiple Projects	19	2,928
<b>Agriculture - Non-Flood</b>	<b>Project/Location</b>	<b>Volunteer #</b>	<b>Hours</b>
Sewall Hall - Debris Removal Ag Fence	Shanahan Ridge	45	257.5
Cure Organic Farms - Planting and Harvesting	Cure Farm/Eccher	53	185
Whitewave - Worm Fence Construction (Elk Jump)	Varra	11	66
Black Cat - Asparagus Planting	Lousberg	20	76.5
Navigant Consulting - Fence Maintenance	Axelson	9	36
<b>Agriculture - Flood Restoration</b>	<b>Project/Location</b>	<b>Volunteer #</b>	<b>Hours</b>
Whitewave - Debris Removal	ERTL	23	126
United Way - Debris Removal	ERTL	9	36
County Courts - Debris Removal Ag Fence	Kolb	18	45
Sewall Hall - Debris Removal Ag Fence	Lakecentre LTD and Short Milne	17	102
AmeriCorps, NCCC City of Lyons - Debris Removal Ag Fence	ERTL	20	90
Rhode Island University- Debris Removal Ag Fence	ERTL	26	182
Lutheran Campus Ministry - Debris Removal Ag Fence	CO Open Lands	7	49
Community Project and AmeriCorps, NCCC - Debris Removal Ag Fence	Tracy Collins	16	96
Better Boulder Better World - Sediment Removal	Campbell	11	27.5
New Vista HS - Debris Removal Ag Fence	KOA	7	42
Community Project - Debris Removal Ag Fence	ERTL	23	92
<b>Ecological Systems - Non-Flood</b>	<b>Project/Location</b>	<b>Volunteer #</b>	<b>Hours</b>
Wildland Restoration Volunteers - Mediterranean Sage, Planting Shrubs and Plugs, Russian Olive Removal, Myrtle Spurge, Teasel, Erosion Control, Rock Wall Construction	Kolb/Weiser/Sombrero Marsh/Beech /S Boulder Creek/NIST	292	1383.5
Community Project - Planting Plugs	Dammyanovich	8	48
Community Seed Collection - Tallgrass Seed	Sam's Lane/South Mesa	26	52
Youth Services Initiative/WRV	Marshall Mesa	29	72.5
WRV Seed Collections - Tallgrass Seed	Van Vleet/Sam's Lane/Wonderland Lake Area/Marshall Mesa	163	578.5
SolidFire - Tall Grass Seed	Short Property	6	21
Alex Heit Memorial Project - Planting and Buck Rail Installation	S Boulder Creek	40	120
<b>Ecological Systems - Flood Restoration</b>	<b>Project/Location</b>	<b>Volunteer #</b>	<b>Hours</b>
Community Project - Planting Shrubs	Bluebell Drainage	4	24
WRV - Wetland Planting	South Boulder Creek	35	175
<b>Trailheads - Non-Flood</b>	<b>Project/Location</b>	<b>Volunteer #</b>	<b>Hours</b>
Eagle Scout Projects	Multiple Projects	35	280
Individual Community Service	Multiple Projects	43	1087
<b>Trailheads - Flood Restoration</b>	<b>Project/Location</b>	<b>Volunteer #</b>	<b>Hours</b>
Eagle Scouts - ADA Improvements	Buckingham Park/South Mesa/Dry Creek	144	1,170
County Court Community Service	Multiple Projects	19	152

<b>Trails - Non-Flood</b>	<b>Project/Location</b>	<b>Volunteer #</b>	<b>Hours</b>
Flatirons Climbing Council (FCC) Access Repairs	Seal Rock	5	23
Community Project - Trail Maintenance	Crown Rock/Monkey Traverse	19	123.5
BMA - Trail Maintenance	Cowdry Draw	42	30
Boulder Trail Runners - Trail Maintenance	Lyon's Lair	16	112
Community Projects with BridgeHouse Ready to Work	Chautauqua Meadow	42	305
VOC - Crusher Fines	Chautauqua Meadow	62	496
<b>Trails - Flood Restoration</b>	<b>Project/Location</b>	<b>Volunteer #</b>	<b>Hours</b>
National Trails Day - Crusher Fines	East Boulder/White Rocks	47	329
Front Range Climbing Stewards Community Projects - Trail Repair	Royal Arch	52	363.75
BMA - Trail Maintenance	Prairie Vista/Greenbelt Plateau	14	84
Bike Patrol - Crusher Fines	Greenbelt Plateau	16	31.2
Community Project - Trail Repair	Green Mt Lodge	18	96
<b>Water Resources - Non-Flood</b>	<b>Project/Location</b>	<b>Volunteer #</b>	<b>Hours</b>
Dish Volunteers - Irrigation Maintenance	Burke & Hodgson	12	48
<b>Water Resources - Flood Restoration</b>	<b>Project/Location</b>	<b>Volunteer #</b>	<b>Hours</b>
Engineers Without Borders	Farmers Ditch Lateral	14	56
<b>Whole System Cleanup</b>	<b>Project/Location</b>	<b>Volunteer #</b>	<b>Hours</b>
Only Natural Pet Store - PUP	Bobolink Trail	8	12
Boulder City Improvement Association BCIA - PUP	Dry Creek/PUP	6	15

<b>2014 Total</b>	<b>Volunteer #</b>	<b>Hours</b>
	1,551	11,724

Independent Sector estimates the hourly rate for volunteer work is \$22.55. Total value for Project Volunteer work is \$264,376.20

## Volunteer Program Summary 2014

Program	Workgroups Served	Volunteer #	Hours
Bat Monitors	Wildlife & Rangers	52	1290
Bear Care & Coyote Care Team	Wildlife & Rangers	18	78
Bee Monitors	Wildlife	24	160
Hayfield Monitors	Agriculture Wildlife & Rangers	7	51.5
Hosts: Flagstaff Nature Center, Meadow Music, Ranger Cottage & Events	Community Outreach	13	388
Mountain Bike Patrollers	Community Outreach & Rangers	79	1748
Native Garden Team	Ecological Systems	25	269
Naturalists (including flood hikes and winter classroom programs)	Community Outreach	53	851
NTSA Visitation Monitors	Planning	11	140
Open Space Board of Trustees	All	5	1000
Raptor Monitors	Wildlife & Rangers	61	2421
Resource Restoration Stewards	Ecological Systems	7	20
Staff Assistants: Admin, Interns, Vegetation Studies	All	6	225
Trail Guides	Community Outreach & Rangers	87	3675
	<b>2014 Total</b>	<b>448*</b>	<b>12316.5</b>
<b>Training for Program Volunteers</b>	All	340	495
Independent Sector estimates the hourly rate for volunteer work is \$22.55. The total value for Program Volunteers is \$277,737.08			

\* Many Program volunteers are involved with multiple Programs. There were 340 individual Program Volunteers in 2014.



**CITY OF BOULDER  
OPEN SPACE BOARD OF TRUSTEES AGENDA ITEM**

**MEETING DATE: March 11, 2015**

**AGENDA TITLE:** Consideration of a motion to modify an existing Open Space Board of Trustees approval of a conservation easement amendment on the property owned by the Graham Casden 2009 Trust at 5097 Flagstaff Rd.

**PRESENTER/S**

Tracy Winfree, Interim Director, Open Space and Mountain Parks  
Linda VanDervort, Conservation Easement Specialist

**EXECUTIVE SUMMARY**

On Nov. 12, 2014 the Open Space Board of Trustees (OSBT) approved a conservation easement amendment on the property owned by the Graham Casden 2009 Trust at 5097 Flagstaff Rd. When Mr. Casden came in to sign the final approved amendment, he raised two concerns related to landscaping and asked Open Space and Mountain Parks (OSMP) staff if paragraph 18.4 could be modified to address those concerns. Staff and the City Attorney's Office (CAO) agreed that this paragraph could be modified as long as the revisions were approved by OSBT before the city manager signed. Nothing else would be changed from the prior amendment approved by the OSBT.

Specifically, Mr. Casden has stone benches and landscape retaining walls that would not be permitted by the new amendment approved by OSBT because they exceed the 12-inch limit that is in paragraph 18.4. The 12-inch limit was originally inserted because staff did not want another deck to be built and 12 inches was the figure used by Boulder County for the definition of a deck. Mr. Casden agreed that if OSMP were to raise the permitted limit for landscape improvements from 12 inches to 48 inches, he would specifically include a clause prohibiting any decks or other platforms. In addition, staff research showed that retaining walls of all kinds are regulated by Boulder County. As discussed at length in the prior memo, staff's main concern about this property is visibility of structures from the nearby OSMP trail. These minor landscape clarifications would not permit tall shade structures, etc. but would leave the owner with some reasonable options for landscaping that would not be visible from the trail. The following paragraph is the red-line version showing the proposed changes to paragraph

18.4. The entire conservation easement amendment document that includes these changes is Attachment A.

18.4 Landscaping Improvements. Grantor may construct, maintain, repair, replace and remodel residential landscaping improvements within the building envelope including, but not limited to, sidewalks, paths, patios and fire pits. ~~None~~ The height of these improvements may any landscaping improvement shall not exceed 48 inches above grade. 48” without any prior written approval from the City. This paragraph does not permit recreational structures, such as a swimming pool or tennis court, nor does it permit elevated decks or platforms in the landscape. Grantor may construct and maintain a dirt foot path, not to exceed 18 inches wide, outside of the building envelope. – This paragraph does not pertain to or limit retaining walls used for landscaping as permitted by the Boulder County planning and building departments.

#### **STAFF RECOMMENDATION**

Staff recommends that the Open Space Board of Trustees approve a modification of the original OSBT approval of the conservation easement amendment on the property owned by the Graham Casden 2009 Trust at 5097 Flagstaff Rd., as written in Attachment A.

#### **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- Environmental: OSMP is a significant community-supported program that is recognized as a leader in preservation of open space lands contributing to the environmental sustainability goal of the City Council. The department's land and conservation easement acquisition, land and resource management and visitor service programs help preserve and protect the Open Space values of the surrounding publicly-owned lands. The properties off of Flagstaff Road, including Casden's, are important wildlife habitat.
- Economic: OSMP 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: This amendment meets the objectives of OSMP Charter Section 176 by preserving land for its aesthetic value and its contribution to the quality of life of the community. The Green Mountain West Ridge Trail is adjacent to the Casden property and used frequently by the citizens of Boulder who enjoy the view over the Casden property of Bear Canyon and all the foothills in the area.

#### **OTHER IMPACTS**

- Fiscal – There is no cost to the city for this amendment.
- Staff time – This matter has been handled by staff during its normal work hours.

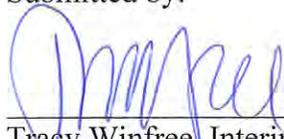
## **PUBLIC COMMENT AND PROCESS**

This item is being heard at this public meeting, advertised in the *Daily Camera* on March 8, 2015.

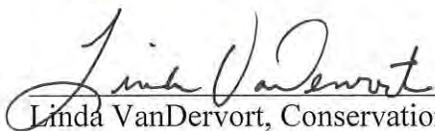
## **ANALYSIS**

OSMP and Mr. Casden have worked diligently to create a conservation easement amendment that protects the OSMP conservation easement values as well as the nearby OSMP trail while still allowing Mr. Casden reasonable use of his property. The existing conservation easement (Attachment B) has no limit on the amount, location or size of development. The amendment as previously approved by OSMP (and Mr. Casden) includes many limits and the proposed landscape modifications include additional limits. OSMP appreciates Mr. Casden's interest in preserving the area for future generations and that he has been willing to add limitations to the existing conservation easement. Mr. Casden realizes that he should have brought up his concerns about the landscaping improvement paragraph sooner and apologizes. He was focused on the more important provisions in the amendment relating to his home and a proposed greenhouse and did not notice the details of the landscaping restrictions until he came in to sign it. OSMP thinks the proposed changes to the landscaping paragraph 18.4 are a good compromise and do not diminish the conservation easement previously approved by OSBT. In addition, the CAO and OSMP are always looking for maximum clarity in their documents and believe that the proposed new paragraph better represents the intent of the parties. OSMP staff think that the original amendment approved by OSBT plus the new landscaping paragraph provide a much greater level of protection of the conservation values than was provided by the conservation easement before being amended.

Submitted by:



Tracy Winfree, Interim Director



Linda VanDervort, Conservation Easement Specialist

## **ATTACHMENTS:**

- A. Amended Casden Conservation Easement to be approved**
- B. Original Casden Conservation Easement**

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## ATTACHMENT A

### AMENDED CONSERVATION EASEMENT

Recitals:

The parties agree to this Amended Conservation Easement considering the following:

- A. This Document ("Amended Conservation Easement") is an amendment of the February 12, 1998 Conservation Easement ("Original Conservation Easement"), granted by Vern Ray Bunch ("Original Grantor") to the City of Boulder ("City" or "Grantee"), a Colorado home rule city recorded February 17, 1998 in the records of the Boulder, Colorado County Clerk under reception number 1771752; and
- B. The purpose of this Amendment is to clarify that the easement allows a carport, greenhouse and landscaping improvements with certain restrictions, and to limit further development. In addition, agricultural use is clarified and the definition of the building envelope is clarified; and
- C. From the date of this Amended Conservation Easement, this Amended Conservation Easement replaces conflicting terms of the Original Conservation Easement, but only to the extent of such conflict. Nothing in this Amended Conservation Easement shall affect the effectiveness or enforceability of any terms of the Original Conservation Easement as to any act or omission occurring before this Amended Conservation Easement; and
- D. The Original Conservation Easement was granted by Original Grantor on the 12th day of February, 1998, to the City. At that time he was the owner of the property described in Exhibit A attached and incorporated herein by reference (the "Property"); and
- E. Graham Casden purchased the Property from Vern Ray Bunch on March 12, 2001. He then conveyed the Property to the Graham Casden 2009 Trust (hereinafter "Grantor") on August 11, 2009. The Trust is the current owner of the Property; and
- F. The Property is located adjacent to lands owned by the City; and
- G. The Property is improved with a single-family residence and other improvements as described in Paragraph 18; and
- H. The Property currently remains in a substantially undisturbed natural state and has significant wildlife habitat and is used by wildlife for migration routes; and
- I. The parties intend to preserve the Property for wildlife habitat purposes and City of Boulder, Mountain Parks buffer zone purposes; and
- J. The parties intend to restrict the development of the Property as provided herein.

NOW THEREFORE, for good and valuable consideration, the Grantor hereby grants and conveys to the City a conservation easement in gross, pursuant to CRS 38-30.5-101 *et.seq.*, over and on the Property.

The terms of this Amended Conservation Easement are as follows:

1. Grantee shall have the right to preserve and protect the land and the view of and over the Property, and to protect and enhance its wildlife habitat and ecological condition.
2. Grantee shall have the right to enter upon the Property in a reasonable manner and at reasonable times for the purposes of inspection and enforcement of any and all rights granted herein.
3. Grantee shall have the right, in a reasonable manner and at reasonable times, to enforce by proceedings at law or in equity the rights granted hereby, including but not limited to the right to require the restoration of the Property if any damage is caused by acts or omissions of Grantor or Grantor's agents in violation of this agreement. Grantee shall not be deemed to waive or forfeit the rights to take any action to insure compliance herewith by any failure to act.
4. Except as expressly granted herein, Grantor reserves all rights as owner of the Property, including the right to use the Property for all purposes not inconsistent herewith.
5. Grantor shall not use the Property or allow the Property to be used in a manner inconsistent with the spirit and purposes stated herein. Use of the Property for business purposes of any kind except those home occupations allowed by the Boulder County Land Use Code and uses specifically listed herein is prohibited.
6. Grantor may restrict public access to the Property. Nothing contained herein shall be construed to give the public any right to enter or use the Property.
7. Grantor shall not allow any hunting or trapping of wildlife or the discharge of firearms or fireworks. Notwithstanding the above, should an instance arise when the capture, destruction, or harassing of wildlife becomes necessary in the opinion of the Colorado Division of Wildlife, then neither the Grantor nor the Grantee shall prohibit such necessary activity which the Colorado Division of Wildlife deems appropriate.
8. Grantor shall not allow any mineral extraction activities on the Property.
9. Grantor shall not adversely impact any natural wetlands, riparian areas, or natural features of a similar nature.
10. To protect wildlife habitat and other ecological values on the Property, where practicable, harvesting of trees shall be conducted so as to afford protection of soil and watershed values, riparian areas, and wildlife habitat. In addition, the harvesting of trees shall avoid trees in a floodplain or in a riparian zone; trees with evident bird or mammal nest holes or dens; and standing dead trees with a diameter exceeding six inches at an elevation four feet above the surface level. Forest management practices shall also emphasize the

conservation of old growth forest structural components, for example: large live trees, large snags (standing dead trees), and large fallen trees either on land or in water.

- 10.1. The selective harvesting of trees shall be allowed only for the following purposes: control of forest disease; protection of persons or property from the hazards of falling trees or branches; providing firewood for limited domestic use on the Property (15 trees per year); wildfire hazard reduction; and enhancing wildlife habitat.
- 10.2. Grantor shall not allow any commercial timber harvest operations on the Property unless first approved by the Grantee, which approval shall not be unreasonably withheld if sustainable harvesting methods are utilized.
11. Grantor shall not allow or permit their unsupervised pets or livestock to run at-large on the Property. Pets restricted to certain areas within the Property by means of electronic collars or similar devices, shall not be deemed to be unsupervised or running at-large.
12. Grantor shall neither place nor maintain any fencing on the Property, which unreasonably restricts the movement of wildlife, except within the building envelope. All references in this Amended Conservation Easement to “building envelope” shall be to the building envelope shown on Exhibit B.
13. Grantor shall not attract wildlife to the Property through artificial means such as feeding or baiting, except that this prohibition specifically shall not apply to bird feeders.
14. The Grantor shall not introduce non-native species of plants, shrubs, or trees to the Property, except within the building envelope.
15. There shall be no construction or placing or maintenance of any commercial or industrial structure or use on the Property, including, but not limited to, a mobile or manufactured home, a feed lot, a commercial chicken farm, a junk yard, a vehicle or vehicle replacement parts, storage area, parking lot, or a horse, dog, motorcycle, bicycle or automobile race track, golf course, helicopter or airplane landing area, or a permanent sign, billboard, or other advertising except one sign of not more than 12 square feet in area, to advertise the sale, hire or lease of the Property. Any sign shall be in compliance with the sign code regulations of Boulder County.
16. There shall be no dumping or storage of ash, trash, junk, rubbish, sawdust, garbage, chemicals, or other unsightly or offensive material, or changing of the topography through dredging or filling, or the placing of soil or other substances, material or landfill on the Property, except within the building envelope.
17. Grantor shall not allow, dedicate, or convey any easement or right of way including without limitation, any private, municipal, county or state roads, pipelines, bikeways, trails, or pedestrian access, without prior approval of Grantee. There shall not be any construction of any additional road to serve the residential area described in Paragraph 18 below without prior approval of Grantee. Grantee shall not be responsible for the maintenance and repair of that portion of the existing access road located on the Property.

18. The following structures currently exist on the Property: one single-family residence consisting of approximately 6254 square feet of floor area, one 470 square foot carport and one ground-mounted solar panel array of approximately 850 square feet. Exhibit B shows the location of these structures. Grantor may not construct, locate, place or install on the Property additional structures of any kind, temporary or permanent, without the prior written consent of the City; except that, Grantor, as owner of the Property, reserves the following rights:
  - 18.1. Existing Structures. Grantor may maintain and repair the existing structures listed above only in accordance with this Amended Conservation Easement. Grantor may replace and remodel the existing structures subject to Paragraphs 18.1 through 18.5.
  - 18.2. Single-family Residence and Carport. Subject to Paragraph 18.5, in the respective existing footprint locations shown on Exhibit B, Grantor may replace and remodel the existing carport and may replace and remodel the existing single-family residence.
  - 18.3. Greenhouse. Grantor may construct and use one greenhouse in the location shown on Exhibit B; provided, Grantor may not use the greenhouse for growing marijuana. The greenhouse shall not exceed 1500 total square feet and shall not exceed a structure height of 20 feet. Subject to Paragraph 18.5, Grantor may maintain, repair, replace and remodel the greenhouse only in accordance with this Amended Conservation Easement.
  - 18.4. Landscaping Improvements. Grantor may construct, maintain, repair, replace and remodel residential landscaping improvements within the building envelope including, but not limited to, sidewalks, paths, patios and fire pits. The height of any landscaping improvement shall not exceed 48” without prior written approval from the City. This paragraph does not permit recreational structures, such as a swimming pool or tennis court, nor does it permit elevated decks or platforms in the landscape. Grantor may construct and maintain a dirt foot path, not to exceed 18 inches wide, outside of the building envelope. This paragraph does not pertain to or limit retaining walls used for landscaping as permitted by the Boulder County planning and building departments.
  - 18.5. Force Majeure. Subject to Boulder County limitations and requirements, if a Force Majeure requires replacement or Major Remodeling, the structures may be replaced or remodeled within the building envelope as follows:
    - 18.5.1. a single-family residence, not exceeding 6254 square feet of floor area;
    - 18.5.2. a carport, not exceeding 470 square feet;
    - 18.5.3. a ground-mounted solar panel array not exceeding 850 square feet; and
    - 18.5.4. a greenhouse, subject to the square-foot and height restrictions stated in this Amended Conservation Easement.

“Force Majeure” means an event, contingency or cause beyond the control and without the fault of Grantor or Grantee, including, fire, flood, earthquake, lightning, unusually severe weather or acts of God. “Major Remodeling” means demolition, removal or reconstruction of 50% or more of the total existing above grade exterior wall area or of the combined total area(s) of the existing roof framing system and structural floor systems, not including eaves or decks.

19. Other Construction Provisions. Grantor shall minimize the visibility of any structures on the Property from City of Boulder "open space land", as defined in the City of Boulder home rule charter. In addition, all construction undertaken under this Amended Conservation Easement is subject to any required review or approval by the Boulder County Land Use Department or other entity having jurisdiction at the time. Grantor shall give City prior written notice before beginning any construction, except for repair or maintenance of the current structures, the greenhouse or the landscaping improvements.
20. Maximum Square Footage Not Guaranteed. This Amended Conservation Easement does not guarantee any maximum square footage permitted in this Paragraph 18 because Boulder County has authority to review the structures stated in this Amended Conservation Easement and may decide the square footage under this Amended Conservation Easement exceeds that permissible under County regulations. In that case, the maximum allowed by Boulder County Land Use Regulations, in effect at the time of any construction, remodeling or replacement, is the maximum allowed under this Amended Conservation Easement. Therefore, the maximum square footage is the lesser of that permitted in this Amended Conservation Easement or the square footage ultimately permitted by Boulder County. Further, this Amended Conservation Easement does not grant Boulder County's approval for any development within the limits established in this Amended Conservation Easement or for any activity regulated by the Boulder County Land Use Regulations.
21. Grantor shall not use or convey further, or assign any density or development right relating to the Property, except that Grantor may convey the entire fee, subject to this Amended Conservation Easement.
22. Grantee shall not be responsible for the construction and maintenance of all fences and gates on the Property.
23. Grantor agrees to pay any taxes and assessments levied on the Property.
24. Grantor shall have the right to operate a greenhouse, subject to the restrictions in Paragraph 18 above. Grantor may make no other agricultural uses of the Property, including, without limitation, outdoor production of crops (including marijuana), grazing or keeping of livestock, accessory agricultural sales, bed and breakfast type arrangements, farm store and weddings and other farm events.
25. Dumping or other disposal of refuse, animal carcasses, or any wildlife-attracting materials shall be prohibited on the property. Refuse shall be stored indoors or in bear-

proof containers in such a way as to not present an attractive nuisance to bears and other wildlife.

26. Each of the parties shall be entitled to specific performance by the other party of all rights granted herein. In the event one of the parties fails to abide by the terms hereof, the other party shall be entitled to all applicable remedies at law or in equity, including, but not limited to, restraining orders, temporary and permanent injunctions, and damages for destruction or injury of the Property and the injured party's interest herein.
27. All notices under this agreement shall be given by registered or certified mail, postage prepaid, directed as follows, and shall be deemed given on the date of mailing:

If intended for Grantor:

Graham Casden  
5097 Flagstaff Road  
Boulder, CO 80302

If intended for City:

City Manager  
c/o Director of Open Space and Mountain Parks Department  
P.O. Box 791  
Boulder, CO 80306

28. The terms of this Amended Conservation Easement shall be binding upon Grantor and Grantee and their agents, personal representatives, heirs, lessees, and assigns, and all other successors to it in interest, and shall continue as a servitude running in perpetuity with the Property.
29. Grantor and Grantee covenant that they will defend and maintain the validity of the Amended Conservation Easement granted hereby.
30. This instrument and the attached exhibits contain the entire agreement between the parties relating to the Amended Conservation Easement on the Property, and may be modified only by an instrument in writing executed by all parties.
31. The parties agree that, except for such of the terms, conditions, covenants and agreements which are, by their very nature, fully and completely performed upon the closing of the transaction herein provided for, all of the terms, conditions, covenants and agreements herein set forth and contained shall survive the closing to run with the Property and to be binding upon and inure to the benefit of the parties hereto, their agents, personal representatives, heirs, lessees, successors, and assigns.

IN WITNESS WHEREOF, the parties have caused this instrument to be duly executed and effective as of \_\_\_\_\_, 2015.

GRANTEE:  
City of Boulder

By: \_\_\_\_\_  
Jane Brautigam  
City Manager

ATTEST:

Approved as to form:

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

\_\_\_\_\_  
City Attorney

STATE OF COLORADO    )  
  ) ss  
COUNTY OF BOULDER    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015  
by Jane Brautigam, City Manager of the City of Boulder.

My commission expires:

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

GRANTOR:  
Graham Casden 2009 Trust

By: \_\_\_\_\_  
Graham Stuart Casden, Trustee

The foregoing instrument was acknowledged before me this \_\_\_\_\_day of January, 2015 by  
Graham Stuart Casden, Trustee of the Graham Casden 2009 Trust.

My commission expires:

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

EXHIBIT A

A tract of land located in the Southwest 1/4 of the Northeast 1/4 of Section 11, Township 1 South, Range 71 West of the 6th P.M., County of Boulder, Colorado more particularly described as follows:

Commencing at the Northwest corner of the said Southwest 1/4 of the Northeast 1/4 of Section 11, thence South 82°16'55" East along the North line of said Southwest 1/4, said line also being the North line of a tract of land as described at Reception No. 1528586, of the Boulder County records, 200.00 feet to the POINT OF BEGINNING:

Thence South 82°16'55" East continuing along said North line, 962.04 feet;

Thence South 00°33'04" West parallel with the East line of said Southwest 1/4 of the Northeast 1/4 of Section 11, 310.59 feet;

Thence South 80°32'01" West, 975.35 feet, to a point on the West line of a tract of land described at Reception No. 1288400, of the Boulder County records;

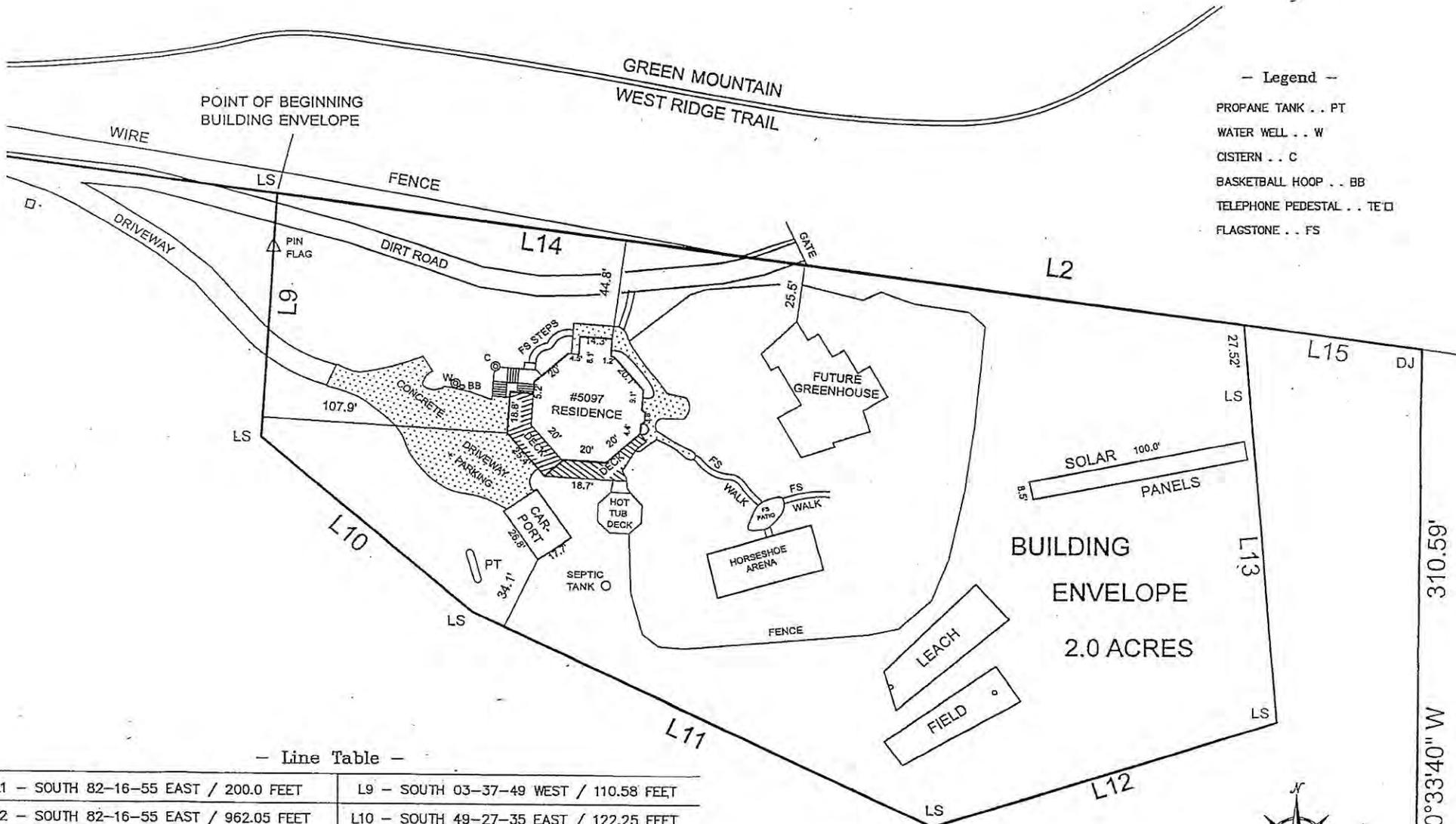
Thence North 01°07'20" East along said East line, 462.47 feet;

Thence South 88°52'40" East, 11.22 feet;

Thence North 01°07'20" East, 10.00 feet;

Thence North 88°52'40" West, 11.22 feet;

Thence North 01°07'20" East, 127.86 feet to a point on the said North line of said Southwest 1/4 and the POINT OF BEGINNING.



- Legend -
- PROPANE TANK . . . PT
  - WATER WELL . . . W
  - CISTERN . . . C
  - BASKETBALL HOOP . . . BB
  - TELEPHONE PEDESTAL . . . TE □
  - FLAGSTONE . . . FS

- Line Table -

L1 - SOUTH 82-16-55 EAST / 200.0 FEET	L9 - SOUTH 03-37-49 WEST / 110.58 FEET
L2 - SOUTH 82-16-55 EAST / 962.05 FEET	L10 - SOUTH 49-27-35 EAST / 122.25 FEET
L3 - SOUTH 88-52-40 EAST / 11.22 FEET	L11 - SOUTH 64-20-50 EAST / 225.39 FEET
L4 - NORTH 01-07-20 EAST / 10.00 FEET	L12 - NORTH 72-14-55 EAST / 159.02 FEET
L5 - NORTH 88-52-40 WEST / 11.22 FEET	L13 - NORTH 04-30-56 WEST / 181.71 FEET
L6 - NORTH 01-07-20 EAST / 127.86 FEET	L14 - NORTH 82-16-55 WEST / 430.11 FEET
L7 - SOUTH 82-16-55 EAST / 202.31 FEET	L15 - SOUTH 82-16-55 EAST / 78.97 FEET
L8 - SOUTH 82-16-55 EAST / 452.97 FEET	DEGREES-MINUTES-SECONDS / DECIMAL FEET

- DJ • FOUND #4 REBAR WITH RED PLASTIC CAP SET BY THE CITY OF BOULDER DON JENSEN - PLS 24959
- LS • SET #5 REBAR WITH 2 INCH DIAMETER ALUMINUM CAP MARKED "LEE STADELE / LS 26300" AT BUILDING ENVELOPE CORNER

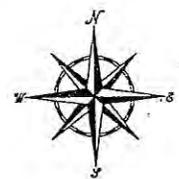


EXHIBIT B

1"=60'



- Flagstaff Surveying Inc. -

CONSERVATION EASEMENT ATTACHMENT B

This Conservation Easement is granted by Vern Ray Bunch (Grantor") on the 12<sup>th</sup> day of February, 1998, to the City of Boulder ("Grantee" or "City"), a Colorado home rule city.

WHEREAS, the Grantor is the owner of the Property described in Exhibit A attached and incorporated herein by reference (the "Property"); and

WHEREAS, the Property is located adjacent to lands owned by the City of Boulder; and

WHEREAS, the Property is improved with a single family residence and outbuildings, sheds, and/or barns; and

WHEREAS, the Property currently remains in a substantially undisturbed natural state and has significant wildlife habitat and is used by wildlife for migration routes; and

WHEREAS, the parties intend to preserve the Property for wildlife habitat purposes and City of Boulder, Mountain Parks buffer zone purposes; and

WHEREAS, the parties intend to restrict the development of the Property to one single family residence.

NOW THEREFORE, for good and valuable consideration, the Grantor hereby grants and conveys to the City a conservation easement in gross, pursuant to CRS 38-30.5-101 et.seq., over and on the Property.

The terms of this easement are as follows:

1. Grantee shall have the right to preserve and protect the land and the view of and over the Property, and to protect and enhance its wildlife habitat and ecological condition.
2. Grantee shall have the right to enter upon the Property in a reasonable manner and at reasonable times for the purposes of inspection and enforcement of any and all rights granted herein.
3. Grantee shall have the right, in a reasonable manner and at reasonable times, to enforce by proceedings at law or in equity the rights granted hereby, including but not limited to the right to require the restoration of the Property if any damage is caused by acts or omissions of Grantor or Grantor's agents in violation of this agreement. Grantee shall not be deemed to waive or forfeit the rights to take any action to insure compliance herewith by any failure to act.

Mtnbunch.

- 4. Except as expressly granted herein, Grantor reserves all rights as owner of the Property, including the right to use the Property for all purposes not inconsistent herewith.
- 5. Grantor shall not use the Property or allow the Property to be used in a manner inconsistent with the spirit and purposes stated herein. Use of the Property for business purposes of any kind except those home occupations allowed by the Boulder County Land Use Code and uses specifically listed herein is prohibited. *b-7*
- 6. Grantor may restrict public access to the Property. Nothing contained herein shall be construed to give the public any right to enter or use the Property.
- 7. Grantor shall not allow any hunting or trapping of wildlife or the discharge of firearms or fireworks. Notwithstanding the above, should an instance arise when the capture, destruction, or harassing of wildlife becomes necessary in the opinion of the Colorado Division of Wildlife, then neither the Grantor nor the Grantee shall prohibit such necessary activity which the Colorado Division of Wildlife deems appropriate.
- 8. Grantor shall not allow any mineral extraction activities on the Property.
- 9. Grantor shall not adversely impact any natural wetlands, riparian areas, or natural features of a similar nature.
- 10. In order to protect wildlife habitat and other ecological values on the Property, where practicable, harvesting of trees shall be conducted so as to afford protection of soil and watershed values, riparian areas, and wildlife habitat. In addition, the harvesting of trees shall avoid trees in a floodplain or in a riparian zone; trees with evident bird or mammal nest holes or dens; and standing dead trees with a diameter exceeding six inches at an elevation four (4) feet above the surface level. Forest management practices shall also emphasize the conservation of old growth forest structural components, for example: large live trees, large snags (standing dead trees), and large fallen trees either on land or in water.

The selective harvesting of trees shall be allowed only for the following purposes: control of forest disease; protection of persons or property from the hazards of falling trees or branches; providing firewood for limited domestic use on the Property ( 15 trees per year); wildfire hazard reduction; and enhancing wildlife habitat.

Grantor shall not allow any commercial timber harvest operations on the Property unless first approved by the Grantee, which approval shall not be unreasonably withheld if sustainable harvesting methods are utilized.

- 11. Grantor shall not allow or permit their unsupervised pets or livestock to run at-large on

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the Property. Pets restricted to certain areas within the Property by means of electronic collars or similar devices shall not be deemed to be unsupervised or running at-large.

- 12. Grantor shall neither place nor maintain any fencing on the Property which unreasonably restricts the movement of wildlife, except within the building envelope area.
- 13. Grantor shall not attract wildlife to the Property through artificial means such as feeding or baiting, except that this prohibition specifically shall not apply to bird feeders. 63
- 14. The Grantor shall not introduce non-native species of plants, shrubs, or trees to the Property, except within the building envelope.
- 15. There shall be no construction or placing or maintenance of any commercial or industrial structure or use on the Property, including, but not limited to, a mobile or manufactured home, a feed lot, a commercial chicken farm, a junk yard, a vehicle or vehicle replacement parts storage area, parking lot, or a horse, dog, motorcycle, bicycle or automobile race track, golf course, helicopter or airplane landing area, or a permanent sign, billboard, or other advertising material, except one sign of not more than 12 square feet in area, to advertise the sale, hire or lease of the Property. Any sign shall be in compliance with the sign code regulations of Boulder County.
- 16. There shall be no dumping or storage of ash, trash, junk, rubbish, sawdust, garbage, chemicals, or other unsightly or offensive material, or changing of the topography through dredging or filling, or the placing of soil or other substances, material or landfill on the Property, except within building envelopes.
- 17. Grantor shall not allow, dedicate, or convey any easement or right of way including without limitation, any private, municipal, county or state roads, pipelines, bikeways, trails, or pedestrian access, without prior approval of Grantee. There shall not be any construction of any additional road to serve the residential area described in Paragraph 18 below without prior approval of Grantee. Grantee shall not be responsible for the maintenance and repair of that portion of the existing access road located on the Property.
- 18. Grantor shall have the right to construct or reconstruct a maximum of one single family residence and associated outbuildings on the property.
- 19. Grantor shall not use or convey further, or assign any density or development right relating to the Property, except that Grantor may convey the entire fee, subject to this Conservation Easement.
- 20. Grantee shall not be responsible for the construction and maintenance of all fences and gates on the Property.

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- 21. Grantor agrees to pay any taxes and assessments levied on the Property.
- 22. The grazing of livestock on the Property shall be prohibited, unless grazing standards are mutually agreed to by Grantee and Grantor. 6. 4/
- 23. Dumping or other disposal of refuse, animal carcasses, or any wildlife-attracting materials shall be prohibited on the property. Refuse shall be stored indoors or in bear-proof containers in such a way as to not present an attractive nuisance to bears and other wildlife.
- 24. Each of the parties shall be entitled to specific performance by the other party of all rights granted herein. In the event one of the parties fails to abide by the terms hereof, the other party shall be entitled to all applicable remedies at law or in equity, including, but not limited to, restraining orders, temporary and permanent injunctions, and damages for destruction or injury of the Property and the injured party's interest herein.
- 25. All notices under this agreement shall be given by registered or certified mail, postage prepaid, directed as follows, and shall be deemed given on the date of mailing:
  - a. If intended for Grantor:  

Vern Ray Bunch  
5097 Flagstaff Road  
Boulder, CO 80302
  - b. If intended for City:  

City Manager  
c/o Director of Mountain Parks Division  
P.O. Box 791  
Boulder, CO 80306
- 26. The terms of this Conservation Easement shall be binding upon Grantor and Grantee and their agents, personal representatives, heirs, lessees, and assigns, and all other successors to it in interest, and shall continue as a servitude running in perpetuity with the Property.
- 27. Grantor and Grantee covenant that they will defend and maintain the validity of the Conservation Easement granted hereby.
- 28. This instrument and the attached exhibits contain the entire agreement between the parties relating to the Conservation Easement on the Property, and may be modified only by an instrument in writing executed by all parties.
- 29. The parties agree that, except for such of the terms, conditions, covenants and agreements

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EXHIBIT "A"

LEGAL DESCRIPTION

a tract of land located in the Southwest 1/4 of the Northeast 1/4 of Section 11, Township 1 South, Range 71 West of the 6th P.M., County of Boulder, Colorado more particularly described as follows:

Commencing at the Northwest corner of the said Southwest 1/4 of the Northeast 1/4 of Section 11, thence South 82°16'55" East along the North line of said Southwest 1/4, said line also being the North line of a tract of land as described at Reception No. 1528586, of the Boulder County records, 200.00 feet to the POINT OF BEGINNING:

- Thence South 82°16'55" East continuing along said North line, 962.04 feet;
- Thence South 00°33'04" West parallel with the East line of said Southwest 1/4 of the Northeast 1/4 of Section 11, 310.59 feet;
- Thence South 80°32'01" West, 975.35 feet, to a point on the West line of a tract of land described at Reception No. 1288400, of the Boulder County records;
- Thence North 01°07'20" East along said East line, 462.47 feet;
- Thence South 88°52'40" East, 11.22 feet;
- Thence North 01°07'20" East, 10.00 feet;
- Thence North 88°52'40" West, 11.22 feet;
- Thence North 01°07'20" East, 127.86 feet to a point on the said North line of said Southwest 1/4 and the POINT OF BEGINNING.

6-6

**CITY OF BOULDER  
OPEN SPACE BOARD OF TRUSTEES AGENDA ITEM**

**MEETING DATE: March 11, 2015**

**AGENDA TITLE:** Consideration of a motion to approve the purchase of the Robert Oliver parcel consisting of 11.61 acres of land, all mineral rights and one share of Howard Ditch water located at 5893 Baseline Rd. from James C. Bish III for \$1,000,000 for Open Space and Mountain Parks purposes and an additional \$22,000 is recommended to be authorized from the acquisition budget for immediate needs for fencing, ditch culverts and irrigation infrastructure improvements.

**PRESENTER/S**

Tracy Winfree, Interim Director, Open Space and Mountain Parks  
Jim Schmidt, Property Agent

**EXECUTIVE SUMMARY**

The Oliver parcel lies just north of Baseline Road and west of South Boulder Creek and contains a small older house, and various small outbuildings used as equipment and animal shelters. This 11.61-acre parcel is contiguous to the Burke II Open Space property (see Attachments A and B) and supports similar vegetation to the adjacent pastures found there including mesic tallgrass prairie and wet meadows. The property also contains high-quality cottonwood/willow riparian woodlands and riparian wetlands along South Boulder Creek. The property provides a protective buffer from the urban edge and an extension of these important natural values.

The property falls within the Boulder Valley Comprehensive Plan Acquisition Area in the 2013-2019 Open Space and Mountain Parks Acquisition Plan. The city of Boulder has annexed land on the west side of this parcel and recently annexed land along Gapter Road to the east. The property is across Baseline Road from the Burke and Kentucky Open Space and Mountain Parks (OSMP) properties and the recently acquired Opal and Granite parcels. Included in the purchase is one full share of the very desirable Howard Ditch, the senior water right in the area, which yields approximately 31-acre feet of water per year.

OSMP staff will fully evaluate the property to determine the best usage of this land and water rights.

## **STAFF RECOMMENDATION**

Staff recommends that the Open Space Board of Trustees approve a motion recommending that the Boulder City Council approve the purchase of the Robert Oliver parcel consisting of 11.61 acres, all mineral rights and one share of Howard Ditch water located at 5893 Baseline Rd. for \$1,000,000 for Open Space and Mountain Parks purposes and an additional \$22,000 is recommended to be authorized from the acquisition budget for immediate needs for fencing, ditch culverts and irrigation infrastructure improvements.

## **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- Environmental: OSMP is a significant community-supported program that is recognized 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: OSMP 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 OSMP 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 Robert Oliver parcel being acquired is \$1,000,000 payable at the time of closing. There are sufficient monies in the Open Space Fund for this acquisition; a Cash Flow Projection is included as Attachment C.
- Staff time - This acquisition is part of the normal work plan for the OSMP real estate property agent.

## **PUBLIC COMMENT AND PROCESS**

This item is being heard as part of this public meeting advertised in the *Daily Camera* on March 8, 2015.

## **ANALYSIS**

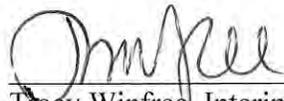
The Oliver parcel lies just north of Baseline Road and west of South Boulder Creek and contains a small older house, and various small outbuildings used as equipment and animal shelters. This 11.61-acre parcel is contiguous to the Burke II Open Space property and supports similar vegetation to the adjacent pastures found there including mesic tallgrass prairie and wet meadows. The mesic tallgrass prairie patches are dominated by prairie cordgrass and are considered rare and imperiled on state and national levels. The property also contains high-quality cottonwood/willow riparian woodlands and riparian wetlands along South Boulder Creek. These areas provide habitat for the federally-protected Preble's meadow jumping mouse

as well as riparian and grassland dependent birds. The federally-protected Ute ladies'-tresses orchid is found nearby on the Burke II property which is maintained by carefully-timed irrigation and cattle grazing. The property provides a protective buffer from the urban edge and an extension of these important natural values.

The property falls within the Boulder Valley Comprehensive Plan Acquisition Area in the 2013-2019 Open Space and Mountain Parks Acquisition Plan. The city of Boulder has annexed land on the west side of this parcel and recently annexed land along Gapter Road to the east. The property is across Baseline Road from the Burke and Kentucky OSMP properties and the recently-acquired Opal and Granite parcels. Included in the purchase is one full share of the very desirable Howard Ditch, the senior water right in the area, which yields approximately 31-acre feet of water per year.

OSMP staff will fully evaluate the parcel to determine whether this is an appropriate site for: 1) a local sustainable agricultural operation, with possibly renting the house and grounds to a tenant interested in undertaking such an operation; 2) combining part or all of the property with the Burke II agricultural fields; 3) improving habitat conditions and, where necessary, restoring these habitats; 4) returning to the Board with a recommendation to dispose of the house together with a small area containing the outbuildings; or 5) some combination of the above.

Submitted by:



Tracy Winfree, Interim Director, Open Space and Mountain Parks



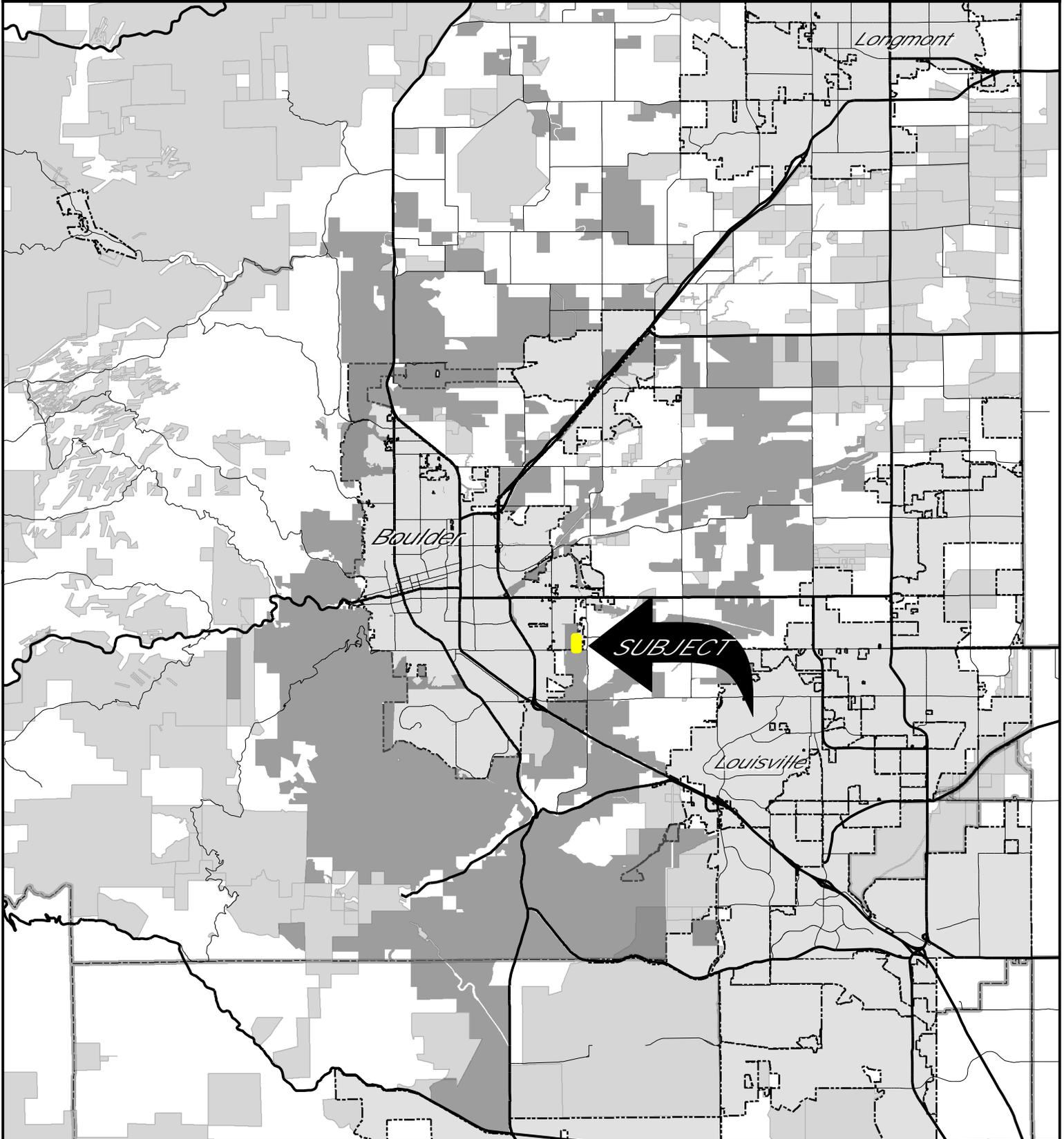
Jim Schmidt, Property Agent

**ATTACHMENTS:**

- A. Vicinity Map**
- B. Location Map**
- C. Cash Flow Projection**

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# ATTACHMENT A - City of Boulder Open Space & Mountain Parks VICINITY MAP - Oliver



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The information depicted is provided as a graphical representation only. While source documents were developed in compliance with National Map Accuracy Standards, the City of Boulder provides no guarantee, expressed or implied, as to the accuracy and/or completeness of the information contained hereon.

Path: E:\MapFiles\Property\Oliver\VICINITY-Oliver.mxd

-  Subject Property
-  City of Boulder OSMP
-  Other Public Lands



0 0.5 1 2 3 4 5 Miles

Approximate property boundaries from County

# ATTACHMENT B - City of Boulder Open Space & Mountain Parks LOCATION MAP - Oliver Property

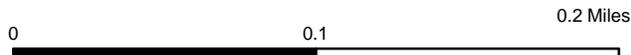


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- Proposed Purchase
- OSMP Fee Property
- OSMP Conservation Easement



Projected Open Space Cashflow 2014-2020  
**Robert Oliver**  
**3/11/2015**

	<u>2014 Actual</u>	<u>2015 Adopted</u>	<u>2016 Projected</u>	<u>2017 Projected</u>	<u>2018 Projected</u>	<u>2019 Projected</u>	<u>2020 Projected</u>
<b>PROJECTED SALES TAX GROWTH</b>							
1 2011-2018 Sales Tax forecast 05/08/2012	3.48%	3.28%	3.29%	3.20%	3.15%	3.15%	
2 2013-2019 Sales Tax forecast 04/05/2013	-1.78%	8.26%	3.02%	3.73%	3.41%	-9.52%	
3 2014-2019	3.50%	3.35%	3.35%	3.25%	3.20%	3.20%	
4 2015-2020		3.13%	3.02%	3.73%	3.41%		3.41%
5 <b>BEGINNING CASH BALANCE</b>	\$17,110,163	\$28,801,431	\$22,736,445	\$23,832,153	\$28,373,618	\$33,639,435	\$37,459,806
<b>SOURCES OF FUNDS</b>							
6 OS Sales Tax Revenue (for 2014 budget used as not all 2014 sales tax received)	\$26,295,672	\$28,467,600	\$29,327,322	\$30,421,231	\$31,458,595	\$28,464,917	\$23,701,368
7 OS Fund - Investments/Leases/Misc.	\$831,242	\$671,856	\$817,193	\$669,163	\$682,428	\$696,090	\$710,163
8 Proceeds from RE sale	\$6,791						
9 Proceeds from 2014 Bond Sale	\$10,123,341						
10 Funds from CDOT for Granite acquisition							
11 General Fund Transfer for Mountain Parks:	\$1,103,384	\$1,140,735	\$1,171,553	\$1,208,122	\$1,245,832	\$1,284,720	
12 General Fund Appropriation for Real Estate Services:	\$152,642	\$148,889	\$150,378	\$151,882	\$153,400	\$154,934	\$156,484
13 Lottery Fund Appropriation for CIP Purposes:	\$343,000	\$355,300	\$355,300	\$355,300	\$355,300	\$355,300	\$355,300
14 Unexpended Lottery Funds Carried Over from Previous Year	\$141,764						
15 Grants	\$72,525						
16 Total Annual Sources of Funds:	<u>\$39,070,361</u>	<u>\$30,784,380</u>	<u>\$31,821,746</u>	<u>\$32,805,698</u>	<u>\$33,895,555</u>	<u>\$30,955,961</u>	<u>\$24,923,315</u>
17 Total Sources of Funds Available:	<u>\$56,180,524</u>	<u>\$59,585,811</u>	<u>\$54,558,191</u>	<u>\$56,637,851</u>	<u>\$62,269,174</u>	<u>\$64,595,397</u>	<u>\$62,383,121</u>
<b>USES OF FUNDS</b>							
18 Total Debt Service for Bonds & Notes:	\$7,313,610	\$5,499,199	\$5,377,423	\$4,780,124	\$4,566,365	\$2,685,917	\$660,686
19 Capital Available for Land Acquisitions & Preservation	\$5,400,000	\$5,400,000	\$5,400,000	\$5,400,000	\$5,400,000	\$5,400,000	\$5,400,000
20 2014 Bond Proceeds	\$10,123,341	\$6,892,413					
21 Total Capital Available for Land Acquisitions & Preservation:	<u>\$15,523,341</u>	<u>\$12,292,413</u>	<u>\$5,400,000</u>	<u>\$5,400,000</u>	<u>\$5,400,000</u>	<u>\$5,400,000</u>	<u>\$5,400,000</u>
22 RE Acquisition 2014	\$5,174,203						
23 Less Other 2015 Land Acquisition/Commitments YTD		\$400,000					
24 <b>Robert Oliver</b>		<b>\$1,000,000</b>					
25 Remaining Land Acquisition Capital Available:	<u>\$10,349,138</u>	<u>\$10,892,413</u>	<u>\$5,400,000</u>	<u>\$5,400,000</u>	<u>\$5,400,000</u>	<u>\$5,400,000</u>	<u>\$5,400,000</u>
26 Capital for Visitor Infrastructure:	\$1,005,257	\$1,758,700	\$1,010,000	\$1,010,000	\$1,070,000	\$920,000	\$930,000
27 Unexpended Visitor Infrastructure Funds Carried Over from Previous Year							
28 Supplemental Visitor Infrastructure Appropriation							
29 Vehicle Acquisition			\$300,000				
30 Highway 93 Underpass							
31 Capital for Water Rights Acquisition:	\$89,511	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000
32 Unexpended Water Rights Funds Carried Over from Previous Year							
33 South Boulder Creek Flow In Stream Flow:	\$1,912	\$150,000	\$2,000,000				
34 South Boulder Creek Flow In Stream Flow Carried Over from Previous Year							
35 Capital for Mineral Rights Acquisition:	\$0	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000
36 Unexpended Mineral Rights Funds Carried Over from Previous Year							
37 Lottery Capital for MP Restoration	\$224,226	\$355,300	\$355,300	\$355,300	\$355,300	\$355,300	\$355,300
38 Unexpended Lottery Funds Carried Over from Previous Year							
39 Total CIP Expenditures:	<u>\$6,495,109</u>	<u>\$14,856,413</u>	<u>\$9,365,300</u>	<u>\$7,065,300</u>	<u>\$7,125,300</u>	<u>\$6,975,300</u>	<u>\$6,985,300</u>
40 Management Operating Expenditures - OSMP Program:	\$12,309,332	\$14,996,163	\$14,416,801	\$14,779,984	\$15,223,383	\$15,680,085	\$16,150,487
41 Operating Supplemental and Carryover							
42 Management Operating Expenditures - RE Services:	\$152,642	\$148,889	\$150,378	\$151,882	\$153,400	\$154,934	\$156,484
43 Cost Allocation:	\$1,108,400	\$1,348,701	\$1,416,136	\$1,486,943	\$1,561,290	\$1,639,354	\$1,721,322
44 Total Management Operating Expenditures:	<u>\$13,570,374</u>	<u>\$16,493,753</u>	<u>\$15,983,315</u>	<u>\$16,418,809</u>	<u>\$16,938,073</u>	<u>\$17,474,373</u>	<u>\$18,028,293</u>
45 Total Uses of Funds:	<u>\$27,379,093</u>	<u>\$36,849,365</u>	<u>\$30,726,038</u>	<u>\$28,264,233</u>	<u>\$28,629,738</u>	<u>\$27,135,590</u>	<u>\$25,674,279</u>
<b>ENDING CASH BALANCE:</b>							
46 Less Reserves:	\$28,801,431	\$22,736,445	\$23,832,153	\$28,373,618	\$33,639,435	\$37,459,806	\$36,708,842
47 Less Reserve for 27th Pay Period	\$3,500,000	\$2,500,000	\$2,400,000	\$2,000,000	\$2,000,000	\$1,100,000	\$100,000
48 Sick/Vacation/Bonus Reserve	\$45,000	\$95,000	\$145,000	\$195,000			
49 Property and Casualty Reserve	\$490,000	\$490,000	\$490,000	\$490,000	\$490,000	\$490,000	490000
50 South Boulder Creek Flow Reserve	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	400000
51 IBM Connector Trail	\$1,750,000	\$2,000,000					
52 Vehicle Acquisition Reserve	\$200,000	\$300,000					
53 Facility Maintenance Reserve	\$150,000	\$300,000	\$300,000	\$400,000	\$500,000	\$600,000	
54 <b>UNRESTRICTED CASH BALANCE AFTER RESERVES:</b>	<u>\$22,366,431</u>	<u>\$16,551,445</u>	<u>\$20,097,153</u>	<u>\$24,888,618</u>	<u>\$30,249,435</u>	<u>\$34,869,806</u>	<u>\$36,608,842</u>



**CITY OF BOULDER  
OPEN SPACE BOARD OF TRUSTEES AGENDA ITEM**

**MEETING DATE: March 11, 2015**

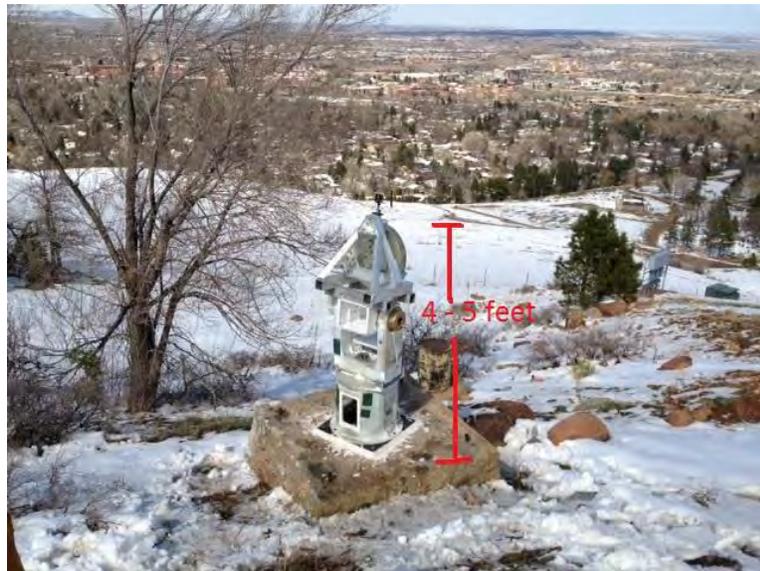
**AGENDA TITLE** Consideration of a motion to recommend granting a nonexclusive license for a mirror stand proposed to be temporarily placed on Valmont Butte by the National Institute of Standards and Technology for scientific purposes.

**PRESENTER/S**

Tracy Winfree, Interim Director, Open Space and Mountain Parks  
Jim Reeder, Manager Land and Visitor Services  
Doug Newcomb, Property Agent

**EXECUTIVE SUMMARY**

The Fiber Optics Group at the National Institute of Science and Technology (NIST) has requested a nonexclusive license or permit (Attachment A) to install a mirror stand on the Valmont Butte Open Space and Mountain Parks (OSMP) property for one year beginning in May. An example of a mirror stand is shown in the photo to the right. The proposed four-to-five foot tall and two-to-three foot wide mirror stand will be anchored with sand bags. No concrete will be used. The color and design are to be determined. The proposed location is near the top of Valmont Butte but below the ridgeline on the south side. The top of the mirror stand will be low enough to be back



dropped by the ridge line and a nearby large rock outcropping when viewed from 63<sup>rd</sup> Street, Butte Mill Road or Valmont Road. The proposed location is level and lacks native vegetation.



Proposed mirror stand location on the Valmont Butte property

NIST will coordinate access to the site with the city through the entrance at 63<sup>rd</sup> Street and the gate at the parking area. NIST has offered to cooperate with city staff to reduce the visibility of the mirror stand through design and color. City staff and NIST staffs do not have safety concerns about the installation and operation of the proposed mirror stand.

A list of NIST's answers to staff's initial questions is found on Attachment B.

### **STAFF RECOMMENDATION**

Staff recommends that the Open Space Board of Trustees adopt the following motion:  
*The Open Space Board of Trustees recommends that the city manager enter into a nonexclusive license agreement with NIST subject to the terms and conditions that are substantially in the form as shown in Attachment A to this Memorandum.*

### **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS**

- Economic - OSMP 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. This proposal is not expected to diminish OSMP's contribution to the context of the community's economy.

- Environmental - OSMP is a significant community-supported program that is recognized as a leader in preservation of Open Space lands contributing to the environmental sustainability goal of the City Council. This proposal would have minimal impact on the overall environmental value of the OSMP system or of the Valmont Butte property. This nonexclusive license will allow a federal government research program to work toward development of extremely precise sensors of carbon gases including carbon dioxide and methane concentrations. One possible use of this new technology is to improve the monitoring of gas wells for methane leaks.
- Social – Because the Open Space land system is equally accessible to all members of the community, it helps support council’s community sustainability goal. NIST and the other federal labs at 325 Broadway are members of the Boulder community. Their proposal will not change accessibility to or use of the Open Space land system.

#### **OTHER IMPACTS**

- Fiscal – No new dollars are required to be spent and none are to be received.
- Staff time – Sufficient staff time is available to complete the licensing and then the supervision of the licensee regarding this proposal.

#### **PUBLIC COMMENT AND PROCESS**

This item was scheduled for a public hearing at this board meeting. The meeting notice was published in the *Daily Camera* on March 8, 2015.

#### **ANALYSIS**

The temporary mirror stand’s proposed location is not in a location containing sensitive environmental or cultural resources. Access is proposed to be by foot only for installation and operation of the mirror stand. Sand bags will be used to anchor the mirror stand to reduce the proposal’s disturbance of the land.

The primary concern is visibility. City and NIST staffs have worked to site the mirror stand in a location that is hard to see. City and NIST staffs plan to continue to work together during the designing of the mirror stand to limit its visibility from public roads and OSMP users. (See Attachment C)

There would be minimal environmental impact to OSMP from this proposal. There are potential environmental and social benefits to be gained by cooperating with the proposal because successful development of frequency comb lasers could improve environmental monitoring.

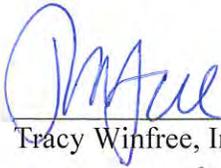
The mirror stand and the associated beam do not create a safety hazard. The sensor NIST is testing is designed for urban areas. The light to be reflected off the mirror is at a very innocuous infrared wavelength (1.6 microns) and is also over a thousand times less intense than sunlight. It is not dangerous or even noticeable. The only possible issue is that the mirror itself will have 24-volt batteries in its base but the batteries and all electronics will be enclosed and locked to protect from both weather and passersby.

Considering that the expected environmental impact of this proposal is minimal and the proposal could result in social and environmental benefits, staff supports issuing a non-exclusive license with conditions for the mirror stand.

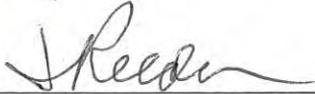
**OPTIONS**

- A. Deny the proposal entirely
- B. Table the proposal and request more information
- C. Approve the request with conditions

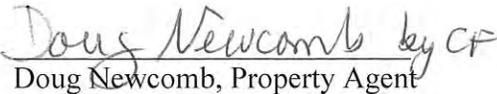
Submitted by:



Tracy Winfree, Interim Director



Jim Reeder, Manager Land and Visitor Services



Doug Newcomb, Property Agent

**ATTACHMENTS:**

- A. Draft of Nonexclusive License**
- B. Questions from staff and answers from NIST**
- C. Photo of the proposed site from 63<sup>rd</sup> Street**
- D. Charter authority to issue nonexclusive licenses**

## ATTACHMENT A

**CITY OF BOULDER AGREEMENT WITH** the United States Department of Commerce, National Institute of Standards and Technology, an executive agency of the United States of America (NIST) **FOR USE OF THE CITY OF BOULDER OPEN SPACE** to temporarily install and operate a mirror stand on Valmont Butte, entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

This document states the agreement between or among the City of Boulder, a Colorado home-rule city ("City"), and NIST ("Licensee") for a nonexclusive license to use certain City open space property.

### RECITALS

The parties make this agreement considering the following:

City is the sole owner, of various open space properties, including the Licensed Property described below, being the city of Boulder Open Space and Mountain Parks portion of the Valmont Butte property located at approximately at 63<sup>rd</sup> Street and Valmont Road the county of Boulder, state of Colorado ("OSMP property"):

Further described as approximately 20 square feet of land and foot access to it, located in the S1/2 SE1/4 Section 22, T1N, R70W

The location of the mirror stand will be in accordance with the location map attached as Exhibit A and included in the March 11, 2015 Memorandum to the City of Boulder Open Space Board of Trustees about this matter.

The City wants to insure that Licensee's use of the Licensed Property will not adversely affect City rights in the Licensed Property.

The City and Licensee wish to clarify their respective rights and obligations concerning such use of the Licensed Property.

This terms and conditions of this Agreement will insure that Licensee's use of the Licensed Property will preserve natural areas, and utilize the land for shaping the development of the city, limiting urban sprawl and disciplining growth, under City of Boulder Home Rule Charter Section 176 and Subsection 2-3-9 (d), B.R.C. 1981.

This terms and conditions of this Agreement will insure that, to the extent it allows improvements on the Licensed Property, such improvements are necessary to protect or maintain the land, under City of Boulder Home Rule Charter Section 176 and Subsection 2-3-9 (d), B.R.C. 1981.

Under Section 171 of the City of Boulder Home Rule Charter, the Director of the Department of Open Space, subject to section 175 of the Charter shall supervise, administer, preserve and maintain all open space land and other property associated therewith and may grant nonexclusive licenses and permits.

Under Section 175 of the City of Boulder Home Rule Charter, the city of Boulder Open Space Board of Trustees has recommended approval of this nonexclusive license agreement.

## **AGREEMENT**

In consideration for the fees, terms, conditions and mutual promises stated in this Agreement and for other good and valuable consideration, the Parties agree as follows:

1. City grants to Licensee a nonexclusive license to use the Licensed Property to temporarily place and operate one mirror stand and mirror stand base on the terms and conditions stated in this document.

### 2. SPECIFICATIONS AND LOCATION

A. Maximum Size. The maximum height of the mirror stand shall be 5 feet. The maximum width of the mirror stand shall be 3 feet. The maximum size of the non-concrete mirror stand base shall be 10 feet.

B. Location. Licensee may use the following part of the Licensed Property: the small area shown on the map attached as Exhibit A and access to it along the existing dirt road and trail from the Valmont Butte historic mill parking area on General Fund owned land. The Licensee shall pay all costs associated with the installation and removal of the mirror stand and mirror stand base. Before beginning the installation of the mirror stand and mirror stand base, Licensee must obtain City and Boulder County approval of plans and specifications for any such installation on the Licensed Property. Construction of the mirror stand and mirror stand base is subject to inspection by City's Water Resource Administrator for Open Space and Mountain Parks (Administrator), and shall conform to approved plans and specifications. Licensee shall schedule and perform any installation and removal to avoid any interference with City's operation of the Licensed Property for its own purposes (including, without limitation, agricultural use by others under agreement with the City).

C. Additional Conditions. The mirror stand base will be anchored with sand bags; no concrete will be used to anchor the mirror stand base; any pedestrian and vehicle access on OSMP property shall be approved by the City; Licensee shall comply with Boulder County Land Use Code during the term of the license; no safety hazards shall be created; Licensee shall continue to work with City staff to mitigate the visibility of the mirror stand; the mirror stand and everything associated with it shall be removed from the property upon expiration or termination of the license; and any land restoration deemed necessary by the City shall be completed by Licensee.

### 3. OBLIGATIONS OF LICENSEE.

A. Fees. Upon signing this Agreement, Licensee shall pay to the City the sum of \$0.00 to offset operational, administrative and legal costs associated with the negotiation and implementation of this Agreement. This payment is due upon

signature of this Agreement. Should Licensee fail to pay such fee, after written notice to Licensee, the City may unilaterally terminate this Agreement.

4. OBLIGATIONS OF THE CITY

The City shall provide access to City property for Licensee to engage in the operation and maintenance activities under this Agreement. The location of such access is at the sole discretion of the City.

5. USE OF MIRROR STAND

A. Maintenance of Mirror Stand. The mirror stand and mirror stand base licensed under this Agreement and all appurtenant structures shall be the property of Licensee. Licensee shall, at all times reasonably maintain the mirror stand and mirror stand base and all appurtenant structures to avoid any hazard to persons or property of others, including the public, the City, its officials, employees, and contractors and to prevent threatened or actual damage to or interference with the facilities or operations of the City or any City tenant.

B. Property of City. The Licensed Property is the property of the City, and nothing in this Agreement shall compromise or interfere with the right of the City at all times to reasonably to maintain the Licensed Property.

C. Notice of Defects. Each party agrees to notify the other of any defects or potential defects, dangerous conditions or potential dangerous conditions, claims or potential claims for damage or injury that come to their attention in connection with the use of the mirror stand and mirror stand base.

6. LICENSE TERM AND RENEWAL

Unless terminated sooner, this Agreement shall terminate in one year from its effective date. Licensee may NOT renew this Agreement for additional time periods.

7. NO INDEMNITY AND HOLD HARMLESS.

Neither Party is required to indemnify the other in connection with this Agreement. However, each party assumes responsibility for its actions and omissions in the performance or failure to perform work under this Agreement, as well as the actions and omissions of its agents and employees. City does not waive or intend to waive the limitations on liability which are provided to the city, its officers, and employees under the Colorado Governmental Immunity Act, Section. 24-10-101 *et. seq.*, C.R.S.

8. MISCELLANEOUS.

A. Notice. Any notice required by this Agreement shall be in writing, made by hand-delivery or first class mail, to the following:

To the City:

Doug Newcomb  
Property Agent  
P.O. Box 1777  
Boulder, CO 80306

To Licensee:

Ian Coddington  
NIST Quantum Electronics and Photonics  
325 Broadway  
Boulder, CO 80305

- B. Entire Agreement. This Agreement represents the entire agreement between the parties. Amendment of this Agreement requires a written document signed by all parties to this Agreement. Waiver of rights under this Agreement requires a written document signed by each waiving party.
- C. Assignment. Licensee may not assign their rights under this Agreement.
- D. No Third Party Beneficiaries. The covenants and agreements contained in this Agreement are for the sole benefit of Licensee, their approved assigns, and the City only, and create no obligations or duties to persons not parties hereto.
- E. Disputes. The parties hereto agree to attempt to resolve any conflicts regarding enforcement or interpretation of this Agreement through mediation before initiating litigation.
- F. Governing Law. Colorado law shall govern this Agreement and its application, construction and interpretation.
- G. Termination. Notwithstanding any other terms of this Agreement, the City may terminate this Agreement by delivering written notice of termination to Licensee at least thirty days before the termination date contained in the notice. In recognition of the substantial investment in facilities Licensee will make, the City agrees that termination will only occur based on reasonable cause.
- H. Waiver. No waiver of any breach under this Agreement shall operate as, or be construed as, a waiver of any subsequent breach of the same or any other terms of this Agreement.
- I. Cooperation. Each party agrees to perform all other acts and to execute and deliver all other documents as may be necessary or appropriate to carry out the intent and purposes of this Agreement.
- J. Annual Appropriation. Any express or implied financial obligations of the City under this Agreement in future fiscal years are subject to annual appropriation in accordance with Colorado law.

- K. Reservation of Police Powers. Licensee's rights under this Agreement are subject to the police powers of the City to adopt and enforce ordinances for the safety, health and welfare of the public and Licensee agrees to comply with all applicable laws and ordinances. The City reserves the right to exercise its police powers and nothing in this Agreement shall constitute a waiver of said police power.
- L. Authority. The parties represent that the individuals signing this Agreement on their behalf possess full power and authority from their respective governing boards in compliance with all applicable laws.

CITY OF BOULDER

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk on behalf of

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney's Office

LICENSEE:  
UNITED STATES DEPARTMENT OF COMMERCE

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

Attest:

\_\_\_\_\_

Exhibit A



**QUESTIONS FROM STAFF and ANSWERS FROM NIST:**

**Desired installation date:** May 1st or whenever things are dry enough to work up there.

**Duration of the proposed use:** 1 year

**Approximate height & width of the mirror stand What color is it?** We haven't built it yet but height would be 4 to 5 feet and the width might be as much as 3 feet at the base and 2 feet at the top. Color is flexible. We were planning to paint the structure brown but are open to suggestions. Obviously the mirror face can't be painted

**Diameter of the mirror:** The mirror we settled on is a little smaller than the one I sent you a picture of (above) and it will be 16 inches by 22 inches (and rectangular).

**How will you access the site?** Access will be coordinated with the city through the entrance at 63<sup>rd</sup> Street and the gate at the parking area.

**How many times will you access the site?** Depends a little on how well it works, ideally twice a month once things are running well but maybe as much as once a week if they are not. During initial setup and debugging we may need to visit every day for 5 to 7 days.

**Will this experiment create a safety hazard?** No, the sensor we are testing is designed for urban areas. The light we reflect off the mirror is at a very innocuous infrared wavelength (1.6 microns) and is also over a thousand times less intense than sunlight. It is not dangerous or even noticeable.

The only other possible issue is that the mirror itself will have 24 volt batteries in its base but the batteries and all electronics will be enclosed and locked to protect from both weather and passersby.

**Will you erect a small informative sign at the mirror?** Yes, we would be happy to include a little information on the project and contact info.

**When you are done will you remove everything you brought onto the property?** Yes, all aspects of the installation will be temporary.

**Approximately one paragraph about the project that causes a need for this mirror.**

There are three projects that will use this mirror. The first two are closely related and are the monitoring of carbon dioxide and methane concentrations in the atmosphere. Increasingly there is a need to identify and quantify carbon dioxide and methane emissions in urban areas but the current sensor technology is inadequate. We have been developing a new high precision sensor technology based on frequency combs and would like very much to test it over the length scales relevant to urban areas. The 5.8 km to Valmont Butte is nearly perfect in this respect.

The related application is that we have recently been tasked by the Department of Energy to apply this technology to monitoring gas wells for methane leaks. Natural gas wells and related infrastructure can be leaky and this has real implications for local air quality and global climate change. If we can make our measurement work over 5 km then one could monitor many wells with a single sensor and the cost per well becomes low enough that the industry might voluntarily adopt the technology without having to wait for regulation.

The third experiment would use the same frequency comb lasers to compare two state-of-the-art optical clocks. If successful, one could then use general relativity to measure local gravitational field (*i.e.* clocks tick slower if they are next to something heavy). This has important implications in predicting flood plains and 5 km is a very attractive length scale here as well.

**Where is the source of the beam?** The beam will originate on from a lab on the fifth floor of NIST.

**How far is it from the beam's source to Valmont Butte?** 5.8 km. I attached a picture if it helps.

**Approximately one paragraph about the NIST Quantum Electronics and Photonics lab. Any other information you think would be helpful for the staff and Board's understanding and review of your request.**

The NIST Fiber Optics Components Group (our part of the larger Quantum Electronics and Photonics division) has spent that last several years developing technology based on optical frequency combs. The frequency comb is a powerful new type of laser that was actually first demonstrated in Boulder and its invention is what led to Dr. John Hall (NIST and CU) receiving the Nobel Prize in physics in 2005. Recently it has been shown that frequency combs can be extremely precise open path sensors of carbon gases and are one of only a few technologies able to perceive very small changes in carbon dioxide and methane concentration even on a large background as is necessary in real world sensors.



Proposed path.



Proposed mirror stand site viewed from 63<sup>rd</sup> Street

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**OSMP AUTHORITY TO GRANT NON-EXCLUSIVE LICENSES**

City Charter, Article XII Open Space:

**Section 171 Functions of the department**

(a) Shall acquire, supervise, administer, preserve, and maintain all open space land and other property associated therewith and **may grant nonexclusive licenses and permits** and agricultural leases for crop or grazing purposes for a term of five years or less;

**Section 175 Functions of the Board**

(h) **Shall make recommendations** concerning the grant or denial of any **nonexclusive license or permit** in or on open space land;