

**OPEN SPACE BOARD OF TRUSTEES**  
**February 13, 2019**  
**Council Chambers, 1777 Broadway**

**MEETING AGENDA**  
*(Please note that times are approximate.)*

- 6:05 I.** Approval of Minutes
- 6:10 II.** Public Comment for Items Not Identified for Public Hearing
- 6:25 III.** Matters from the Department
- 6:30 IV.** \*Request for a recommendation to approve the North Route as the preferred alignment for construction of a multi-use trail connection between Eldorado Canyon State Park and Walker Ranch and continue to collaborate with stakeholders to mitigate capacity related issues affecting the greater Eldorado Springs Community
- 10:00 V.** \*Request for a recommendation to City Council to approve the conveyance of approximately 0.5 acres of the approximately 70-acre Saint Walburga Abbey Open Space, Boulder County Parcel Number 157702001004, and the vacation of access easements on 6417 South Boulder Road; together with the acquisition of approximately 0.5 acres of land, the conveyance of an Amended and Restated Conservation Easement on approximately 21.5 acres, and the granting of an Access Easement over 6417 South Boulder Road for Open Space and Mountain Parks purposes
- 10:30 VI.** Matters from the Board
- A. Master Plan Process Committee Update
  - B. Upcoming Public Meetings

\*Public Hearing

**Written Information:**

- A. Clarification of OSMP's Colorado-Big Thompson (CBT) Water Interests
- B. Upcoming City of Boulder Tribal Consultation

**Reminder: An OSBT Study Session regarding OSMP's Master Plan is scheduled for Wed. February 20 @ 5:30 pm, at the OSMP HUB: 2520 55<sup>th</sup> Street.**

**Open Space Board of Trustees**  
**TENTATIVE\*** Board Items Calendar  
 (updated Feb. 6, 2019)

March 13	April 10	May 8
<p><b>Action Items:</b></p> <p><b>Matters from the Department:</b></p> <ul style="list-style-type: none"> <li>• Master Plan Update</li> <li>• Boulder Open Space Conservancy (BOSC) Update</li> </ul> <p><b>Matters from the Board:</b></p> <ul style="list-style-type: none"> <li>• Master Plan Process Committee Update</li> </ul>	<p><b>Action Items:</b></p> <ul style="list-style-type: none"> <li>• Prairie Dog Phase II Analysis and Approval</li> </ul> <p><b>Matters from the Department:</b></p> <ul style="list-style-type: none"> <li>• Wonderland ISP Update</li> <li>• Acquisition Program Update</li> <li>• CIP Update</li> <li>• Soil Carbon Farming Project Update</li> </ul> <p><b>Matters from the Board:</b></p> <ul style="list-style-type: none"> <li>• New OSBT Member Swearing-In</li> <li>• Master Plan Process Committee Update</li> </ul> <p><i>Adjourn to Study Session</i></p>	<p><b>Action Items:</b></p> <ul style="list-style-type: none"> <li>• Public Trail Easement Approval</li> </ul> <p><b>Matters from the Department:</b></p> <ul style="list-style-type: none"> <li>• North Foothills Integrated Site Project (ISP)</li> <li>• Master Plan Update</li> <li>• Undesignated Trail Monitoring results and Management</li> <li>• CIP Update</li> </ul> <p><b>Matters from the Board:</b></p> <ul style="list-style-type: none"> <li>• Master Plan Process Committee Update</li> </ul>
June 12	July 10	August 14
<p><b>Action Items:</b></p> <ul style="list-style-type: none"> <li>• CIP Recommendation</li> </ul> <p><b>Matters from the Department:</b></p> <ul style="list-style-type: none"> <li>• Partnerships and Memorandum of Understanding (MOU) Update</li> <li>• Update on Grassland and Soil Monitoring</li> <li>• Gebhard ISP Update</li> </ul> <p><b>Matters from the Board:</b></p> <ul style="list-style-type: none"> <li>• Master Plan Process Committee Update</li> </ul> <p><i>Adjourn to Study Session</i></p>	<p><b>Action Items:</b></p> <p><b>Matters from the Department:</b></p> <ul style="list-style-type: none"> <li>• Master Plan Update</li> <li>• Gunbarrel Hill ISP</li> <li>• Operating Budget</li> </ul> <p><b>Matters from the Board:</b></p> <ul style="list-style-type: none"> <li>• Master Plan Process Committee Update</li> </ul>	<p><b>Action Items:</b></p> <ul style="list-style-type: none"> <li>• Master Plan Recommendation</li> <li>• Budget Recommendations</li> </ul> <p><b>Matters from the Department:</b></p> <p><b>Matters from the Board:</b></p>

\*All items are subject to change. A final version of the agenda is posted on the web during the week prior to the OSBT meeting.

**Upcoming Public Participation Events:**

- OSMP Trail Projects: Bear Canyon Trail and 2019 Trail Improvements – Feb. 26, 5:30-7:30 p.m. at the OSMP Hub
- Master Plan Community Workshop – Mar. 18, time and location to be determined.

## OPEN SPACE BOARD OF TRUSTEES

Action Minutes

Meeting Date January 16, 2019

*There was no video recording for this meeting due to the change in meeting location. Audio recording can be found on the OSBT webpage: <https://bouldercolorado.gov/boards-commissions/open-space-board-of-trustees>*

### BOARD MEMBERS PRESENT

Kevin Bracy Knight      Tom Isaacson      Curt Brown      Andria Bilich      Karen Hollweg

### STAFF MEMBERS PRESENT

Dan Burke      Steve Armstead      Mark Davison      Mark Gershman      John Potter  
Jim Reeder      Leah Case      Lauren Kilcoyne      Alison Ecklund      Deryn Wagner  
Arian Hampel      Natasha Steinman      Lisa Dierauf      Steve Mertz      Curry Rosato  
Kacey French      Juliet Bonnell      David Ford      Erica Jensen      Eric Fairlee  
Andy Pelster      Brian Anacker      Casey Bries      Jennelle Freeston

### CALL TO ORDER

The meeting was called to order at 6:00 p.m.

### AGENDA ITEM 1 – Youth Opportunities Advisory Board (YOAB) and Promotores Presentations on Master Plan Micro-Engagements

Members from Promotoras: Leticia Abajo and Jetzabel Martinez and members from Youth Opportunities Advisory Board (YOAB): Quan Li, Lily Margolis and Rango Reyes presented on each of their programs.

### AGENDA ITEM 2 – Approval of the Minutes

Karen Hollweg moved that the Open Space Board of Trustees approve the minutes from Dec. 12, 2018 as amended. Curt Brown seconded. This motion passed unanimously.

### AGENDA ITEM 3 – Public Participation for Items not on the Agenda

Linda Parks, Boulder, said she is a hiker, horse owner and member of the Boulder County Horse Association (BCHA). She said she is concerned about the grasslands and the impact prairie dogs have had on agricultural lands. She asked that action be taken so that the limited resource of environmental and economic value are preserved, and agricultural lands remain productive.

Kimberly Lavender, Boulder, said she was surprised that there were only two agricultural properties up for lease. It was also surprising the large number of acres for both of these. She said she would love to hear more about opportunities for young farmers as well as those looking for smaller acreage. She added she would like to hear more about transparency in the bid process.

Ray Bridge, Boulder County Audobon Society, said in regard to the Eldo/Walker trail connection, the assertion that the three agencies agreed can be put off. Additionally, the document reverses the obvious order, putting off a feasibility study and going straight to trail alignment. He suggested that the Board direct staff to do a feasibility study first. He added that this park is one of the few locations that caters to underserved families.

Susan Douglass, Boulder, said she recommends taking no action in regard to the Eldo/Walker trail connection. She said she cannot imagine greater evidence of exceeding carrying capacity than the proposed Eldo/Walker plans. This would degrade an HCA and cause overflow of recreation. Having an existing trail is not a good enough defense to move forward with this plan.

Zoe Wells, Boulder, said it is crucial that grazing take place on agricultural lands; Open Space land is just sitting which makes it easier for toxic runoff to occur. Grazing is also needed to become carbon neutral. She added that she thought more properties would be up for lease; please make more land available for lease. It is harder for young females and diverse groups to apply; make this process more equal.

Andre Houssney, Boulder, said the current process for leasing land needs to continue to be looked at. There have been mixed messages which create a credibility problem. He asked the Board and staff for more information on what will change with this process so there is more accountability.

Austin Hamilton, Boulder, said he would also like to hear more about the transparency of this process. He also asked what the process is for holding current lessees accountable for what they presented in their initial bid.

**AGENDA ITEM 4 – Matters from the Department**

Dan Burke let the Board know that council will be talking about the Wonderland Lake ISP on Feb. 5. This item will likely come back to the Board in April.

**AGENDA ITEM 5 – Matters from the Board**

Tom Isaacson and Curt Brown gave an update on the Master Plan Process Committee Update and the subcommittee meetings that have taken place. Staff will present a proposal to the Board during the Feb. 20 Study Session.

**ADJOURNMENT** – The business meeting adjourned at 8:54 p.m.

These draft minutes were prepared by Leah Case.



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

**MEETING DATE: February 13, 2019**

**AGENDA TITLE:** Request for a recommendation to approve the North Route as the preferred alignment for construction of a multi-use trail connection between Eldorado Canyon State Park and Walker Ranch and continue to collaborate with stakeholders to mitigate capacity related issues affecting the greater Eldorado Springs Community

**PRESENTER/S**

Dan Burke, Interim Director, Open Space and Mountain Parks  
Steve Armstead, Interim Deputy Director  
Mark Davison, Community Connections and Partnerships Division Manager  
Mark Gershman, Planning and Design Supervisor  
Kacey French, Planner II

**EXECUTIVE SUMMARY**

For many years, there has been a desire to create a multi-use link from Eldorado Canyon State Park (ECSP) to Walker Ranch as noted in the following plans:

- West Trail Study Area (TSA) Plan – City of Boulder Open Space and Mountain Parks (OSMP) (2011) **Attachment A:** West TSA Guidance contains additional information.
- Eldorado Mountain/Doudy Draw TSA Plan – City of Boulder, OSMP (2006)
- OSMP Visitor Master Plan (2005)
- Boulder Valley Comprehensive Plan – Trails Map (2001, 2005, 2010, 2015)
- Walker Ranch Management Plan – Boulder County Parks and Open Space (BCPOS) (2013)
- Boulder County Comprehensive Plan – County Trails Map (1999)
- State of Colorado – Colorado the Beautiful Initiative (2016)
- Eldorado Canyon State Park Management Plan - Colorado State Parks (2000)

More detailed language surrounding plan guidance can be found on pages 2-3 in the [Feasibility Study](#) posted on the project website.

In response to this guidance, BCPOS, the City of Boulder OSMP and Colorado Parks and Wildlife (CPW) (the partner agencies), partnered to complete a feasibility study and planning process to consider opportunities for the multi-use connection.

After collaboration to complete the feasibility study and careful consideration of the findings, the partner agencies jointly recommended the North Route (using segment N1-N2-N4) as the preliminary recommendation for a preferred alignment. The project partners recommended this

alternative because it completes the multi-use trail connection in a way that best balances the environmental conservation and recreation needs of the area.

There also was agreement among the project partners that challenges such as parking capacity, congestion, state park access, and the Eldorado Springs community interface must be addressed as part of future planning, design, and construction phases.

After consideration of input from community stakeholders, the project partners affirmed their joint recommendation of the North Route and finalized a recommendation for consideration by Boulder County’s Parks and Open Space Advisory Committee (POSAC), the City of Boulder Open Space Board of Trustees (OSBT), and the Boulder County Commissioners (BOCC).

**STAFF RECOMMENDATION:**

Staff requests the Open Space Board of Trustees make a motion to 1) approve the North Route (N1-N2-N4) as the preferred alignment for construction of a multi-use trail connection between Eldorado Canyon and Walker Ranch, 2) continuing to work with BCPOS and CPW in collaboration with stakeholders to develop and implement strategies that mitigate capacity related issues affecting the greater Eldorado Springs community, and 3) ensuring capacity mitigation efforts are identified, funded, and executed, and relevant metrics are met prior to initiating construction of trail<sup>1</sup>

**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 recommended alternative for the Eldorado Canyon to Walker Ranch connection (the North Route) lies in a Habitat Conservation Area (HCA). It is anticipated that the trail can be designed and constructed to have minimal impacts.
- Economic: OSMP contributes to the economic vitality goal of the city as it provides part of the context for the diverse and vibrant economic system that sustains services for residents. The land and trail system and the quality of life it represents attract visitors and help businesses to recruit and retain quality employees.
- Social: The Eldorado Canyon to Walker Ranch North Route will increase sustainable access by a broad spectrum of community members. The multi-use trail will increase accessibility to opportunities that improve physical wellbeing, mental health and enjoyment of the many special features of state parks and open space lands. The partner agencies also recognize the importance of collaboration with stakeholders to develop and implement strategies that mitigate capacity related issues affecting the greater Eldorado Springs community.

**OTHER IMPACTS**

- Fiscal – The funding allocation from the 2019 budget includes funding to support regional trails planning, including the Eldorado Canyon to Walker Ranch trail connection. If the multi-use trail connection is approved, requests for implementation funding, including funds related to a suite of mitigation strategies to address capacity

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<sup>1</sup> The third part of the recommendation reflects the recommendations of Parks and Open Space Advisory Committee (POSAC). The recommendation brought to POSAC was “ 3 ) ensuring capacity mitigation efforts are in place before the trail is opened to biking”.

related challenges will be integrated into the City of Boulder's six-year Capital Improvement Program and annual budgeting processes.

- Staff time – The staff time needed to complete regional trails including this project is part of the 2019 work plan for OSMP staff.

## **PUBLIC COMMENT AND PROCESS**

### **Public Engagement Process and Comment**

Two community engagement windows were held during the planning process prior to consideration by the city and county open space boards.

The first was in August of 2018. The project partners hosted an open house and comment period on 1) the project timeline and process, 2) the analysis topics to be used to evaluate the alternatives, and 3) the routes to be included in the feasibility study. Over 100 people attended the open house, and approximately 475 comments were received. Two documents capturing this feedback are published on the project web page (see [Compendium of Initial Public Comments](#) and [Summary and Responses to Initial Public Comments](#)). Several themes emerged from the comments including the analysis topics, request to consider an alternative that included a multi-use trail on both the north and south routes, request to consider connecting the Doudy Draw/Marshall Mesa trail network via the Fowler Trail, and concerns about increasing visitation as well as capacity related challenges such as parking and access. In response to feedback on the analysis topics, criteria were added or refined to better describe and/or report out on the visitor experience. While the comment form did not specifically ask about route preferences, many respondents provided their preliminary preferences. All comments were considered in developing the feasibility study and informed the partner agencies' preliminary recommendation.

From September 2018 through November 2018 the partner agencies finalized the feasibility study in preparation for the second window of engagement. In November 2018 and after careful consideration of the feasibility study findings, the partner agencies shared a preliminary preferred alignment for an Eldorado Canyon to Walker Ranch multi-use trail connection using the North Route (using segments N1-N2-N4). There also was agreement among the project partners that current challenges such as parking, capacity, congestion, park access, and the Eldorado Springs interface must be addressed as part of the future planning, design, and construction phases.

The second window of engagement took place in late November/early December 2018. The project partners presented the feasibility report and preliminary partner recommendation for community review and feedback. An open house on Nov. 28, 2018 coincided with the start of the comment period. Community members were provided with a questionnaire asking how supportive, or not, they were of the recommendation and why. Approximately 150 people attended the open house and approximately 675 comments were received. Three documents capturing this feedback are available on the project web page (A [Summary of Online Questionnaire Responses](#), [Online Questionnaire Responses](#), and [Compendium of Comments received by Written Correspondence](#).) Overall, a majority (76%) of the individuals who provided feedback indicated support for the preliminary agency recommendation. Respondents who supported the agency recommendation expressed a variety of reasons why, the most frequent being that the route provides an enjoyable and quality visitor experience, meets desired bike trail design standards and has minimal new environment impacts. The 21% of respondents who supported the No Action alternative expressed a variety of reasons, the most frequent being a concern that bike users will impact exiting trail/park users, concerns about increased visitor density and potential conflict along existing trails, additional traffic through Eldorado Springs, environmental impacts, parking and increased visitation to the park. Approximately 90% of

Eldorado Springs residents who provided feedback did not support the preliminary agency recommendation. A common theme expressed by many respondents, regardless of their level of support was that access, local traffic congestion, and parking impacts to the State Park and greater Eldorado Springs community need to be addressed as part of the commitment to plan, design and construct a multi-use trail connection.

Upon consideration of community input the three partner agencies affirmed their joint recommendation of the North Route (using segment N1-N2-N4) as the preferred alignment for an Eldorado Canyon to Walker Ranch multi-use trail connection and the commitment to continue collaboration to address current conditions related to parking, capacity, congestion and access. In response to input the joint agency recommendation was drafted to strengthen the commitment to collaborate with stakeholders to develop and implement strategies that mitigate the capacity related issues that have been affecting the greater Eldorado Springs community for years.

Public comments received after the formal public comment window closed on December 9 and through February 5 are provided on the project website in a [Compendium of Comments Received Dec.10, 2018-Feb.5, 2019](#).

The January 2019 POSAC meeting provided the opportunity for the public to comment after which POSAC affirmed the partner agency recommendation with modifications to item 3 of the staff recommendation. POSAC passed the motion recommending the Boulder County Commissioners approve the proposed trail connection with the associated qualifiers listed in items 2 and 3 of the staff recommendations with a five-member majority in support (one nay, two abstentions). The POSAC modifications are reflected and incorporated in staff's recommendation in this memo.

### **Community Outreach Efforts**

Multiple outreach efforts and various methods of communication were used to inform stakeholders (**Attachment B**) about the trail feasibility study process and engagement opportunities including:

- 2 Direct mail postcards to approximately 200 property owners in the vicinity of the Eldorado Canyon State Park entrances (including the Eldorado Springs townsite, Crescent Meadows, and the trailheads at Walker Ranch) notifying them of the open houses and input opportunities
- Multiple press releases
- Email notifications to a combined list of potential stakeholder organizations generated by OMSP, Boulder County Parks and Open Space, and CPW
- Email notifications to other OSMP email groups
- One NextDoor post
- Bi-lingual (Spanish) trailhead fliers (in the State Park and nearby open space lands, both city and county)
- Social media posts from all agencies
  - for OSMP this includes Facebook and Twitter posts
- Project web page (hosted by Boulder County)
- Web alerts on OSMP's website (August 2018 through January 2019)

## **OSBT PROCESS**

### **Need for a Board Recommendation**

There is agreement among the partner agencies that the multi-agency recommendation should be vetted through the appropriate approval process and that such approval is necessary to the success of future planning and implementation phases. Like other regional trails projects, such as the Longmont to Boulder (LOBO) Jay Road Segment and the Rocky Mountain Greenway, OSMP interests are only one part of a regional picture or process. It is not uncommon for staff to request the use of OSMP lands for a trail connection anticipating and committing to additional planning and implementation measures.

Approval of a preferred alignment for trail construction will facilitate continued collaboration among the partner agencies, help align long-term planning, funding, and resources and minimize potential disruption due to organizational changes. Without a commitment to the North Route it may be difficult for agencies to determine their level of investment and increases the risk for investment without interests getting met. Approval also reinforces the collaboration among the partner agencies and maintains momentum among stakeholders that might otherwise dissipate.

Developing and implementing solutions to long-standing transportation, traffic, and access issues is of special interest to the community. The affirmation that a regional trail is part of the intended future for these public lands informs future planning efforts and the selection of appropriate management strategies. The shared commitment to the North Route creates a platform to work with the community on addressing access, local traffic congestion, and parking impacts.

### **OSBT Project Updates**

Staff has provided the following updates to the OSBT:

1. August 2018 presentation on the process, timeline, analysis criteria and routes to be evaluated.
2. [December 2018 written update](#) on the summary of community input following the August engagement, the feasibility study findings, the preliminary partner agency recommendation and initial community feedback on the preliminary joint recommendation.
3. December 2018 presentation on the community feedback on the preliminary joint agency recommendation.
4. [January 2019 written update](#) on topics for which the Board requested additional clarifications and/or information on during the December update and included:
  - Supplemental information on the North Route including impacts to the Western Mountain Parks HCA,
  - Potential tools and management strategies to address the implementation challenges, especially those surrounding the Eldorado Canyon State Park interface and capacity related topics such as access, parking, and congestion, and
  - OSBT involvement in future planning, design, and implementation phases.

At the January 2019 board meeting some OSBT members indicated a desire for additional information. This memo contains requested outreach efforts in the Public Comment and Process and Analysis section of the memo. Other information will be provided during the staff presentation at the Feb. 13, 2018 OSBT meeting.

## ANALYSIS

### **Feasibility Study Findings Summary**

The [feasibility study](#) evaluated two conceptual corridors, a north and south route, each with two sub-alternatives to make a multi-use connection between Eldorado Canyon and Walker Ranch. The routes were evaluated using the following analysis topics:

#### Environmental and Cultural Resources

- Wetland and riparian areas
- Significant natural communities
- Wildlife habitat impacts
- Undisturbed habitat impacts
- Cultural Resources

#### Visitor Experience

- Regional trail connectivity
- Trail aesthetic and character
- Access and parking
- Trail access opportunities
- Seasonality
- Visitor density
- Visitor conflict management

#### Trail Construction Costs

#### Trail Management and Maintenance

- Trail sustainability and maintenance
- Emergency response
- Interagency management

#### Eldorado Canyon State Park Interface

- Park capacity and visitation
- Access and parking
- Revenue and fee collection
- Trail and facility sustainability
- Visitor conflict and enjoyment
- Emergency access and response

The routes and sub-alternatives were assigned an impact score for each analysis topic ranging from a Major Benefit to a Major Impact. The impact scores were informed by best available and comparable data and were determined by reaching a consensus among subject area experts from all partner agencies. The intent of the feasibility study and impact scores were to provide a foundation and tool for the development of a recommendation.

The analysis found that the north routes would have few impacts on environmental and cultural resources, while the south routes would have major impacts. Along with the complete feasibility study a [Summary of Findings](#) was created and is available on the project website.

### **Analysis of North Route - N3 and N4**

The feasibility study concluded that the environmental impacts to OSMP's Western Mountain Parks HCA of N3 and N4 are the same or similar. The comparison of environmental impacts between the route options were presented in the [January 2019 OSBT written update](#). However, there are large differences between the two sub-routes when considering trail sustainability and the visitor experience. These differences include:

- *Visitor Experience/Trail Aesthetic and Character* -While all of N4 will likely be rideable for advanced and intermediate riders, it is estimated by OSMP staff that approximately 75% of N3 will likely be rideable for an advanced cyclist. Approximately up to 25% will be "hike-a-bike" for advanced riders. A greater proportion of the trail would be "hike-a-bike" for intermediate riders. In addition to being significantly more difficult for cyclists than N4, N3 has very few (perhaps no) opportunities to incorporate a range of difficulty or to adjust the difficulty to reduce the hike-a-bike distance. The N4 alternative can be designed to incorporate a greater range of difficulty.
- *Trail Sustainability and Maintenance* – N4 would achieve the desired bike trail standards, while substantial portions of N3, approximately 75% cannot meet design standards or be constructed sustainably. As such, the costs to maintain N3 will be higher. As the current

condition of N3 is unsustainable it may be in need of rerouting in the future to accommodate current uses.

- *Visitor Conflict Management* - The potential for visitor conflict along N3 will be higher as the trail cannot be designed with appropriate sight lines, grades and other features to minimize potential trail user conflicts.

The N4 alternative was intentionally designed and specifically studied to assess if it were possible and how to best minimize impacts to the HCA while meeting desired trail standard and visitor experiences. If selected as the preferred alternative future design work will continue to focus on refinements that minimize impacts to natural resources within the HCA while meeting desired trail standards and visitor experiences. The HCA designation does not exclude trail reroutes. It is common practice to reroute trails in HCAs to increase both long-term environmental and trail sustainability with some recent examples including Green Mountain West Ridge and Bear Canyon.

### **Analysis of ECSP Feasibility Study Findings**

The feasibility study demonstrated that either route has the potential to have major impacts on the state park and the greater Eldorado Springs community. In particular, the multi-use trail would likely increase traffic, parking demand, and visitation to the park.

Local and state land management agencies, visitors, and Eldorado Springs residents have been experiencing capacity-related challenges such as congestion, parking, and crowding for over a decade. These current challenges have been a theme expressed in public comments and were identified in the feasibility study. The partner agencies recognize these implementation challenges and are confident that collaborative management actions can effectively mitigate impacts.

Some possible strategies that are currently being used in other popular recreation destinations that could be considered in the subsequent planning process include:

- Shuttle or bus services to limit vehicle traffic.
- Infrastructure redesign and improvements.
- Permit and reservation systems.
- Limits on use by visitor type and days of the week.

A list of potential strategies for consideration was included in the [January 2019 OSBT written update](#).

Independent of this process, several projects have been initiated by CPW to alleviate existing issues within the park. These include:

- **ECSP Entry Station Upgrade:** CPW has funded planning and design to upgrade and improve the entry station, which will allow for a more efficient processing of visitors as they enter the park and provide a vehicle turn-around for times when the park is full or closed.
- **Streamside Trail Extension:** The park is in the early planning stages to extend the Streamside Trail along the north bank of South Boulder Creek to reach the Rincon parking area near the Visitor Center. The trail, once completed, will provide better trail connectivity and circulation through the Inner Canyon for all visitors, and reduce pedestrian traffic on the road. The planning is anticipated to begin soon.

## **NEXT STEPS**

### **Review and Approval Process for Partner Agency Recommendation**

Following OSBT deliberation and action the partner agencies will take the following next steps:

- OSMP staff will provide an information item to Boulder City Council informing them of the process to date and the board recommendations.
- The Boulder County Commissioners will host a public hearing in March 2019 (tentative) to consider and take action on the final partner agency recommendation on the preferred alternative for a multi-use trail connection.
- Council, should they wish to, will host a public hearing in April 2019 (tentative) to consider and take action on the final partner agency recommendation on the preferred alternative for a multi-use trail connection.

### **CPW Visitor Use Management Plan for Eldorado Canyon State Park**

In 2019 CPW will initiate a Visitor Use Management Plan for Eldorado Canyon State Park. This effort is an opportunity for the three partner agencies, state park visitors, and the Eldorado Springs community to plan for the future and address current park access and capacity related challenges. The planning process will include robust public input and seek ideas for possible solutions, to weigh options, and to generate a plan that will attend to existing capacity issues at the park and impacting the greater Eldorado Springs Community. It is likely that during this planning effort, other collaborations with additional partners such as Boulder County Transportation and CDOT will also be initiated and included in the community discussions.

An initial task will be to develop a public engagement plan that ensures the Eldorado Springs community, state park recreationalists, and adjacent public lands managers are represented. Involvement from and collaboration among these community stakeholders will be essential.

The timeline for the Visitor Use Management Plan is:

- Early 2019: CPW will secure funding for a consultant
- Early 2019: Internal scoping
- Mid-late 2019: RFP for consultant, design public process engagement plan
- 2020: Conduct public process to gather ideas and strategies, provide alternatives, and generate a plan

### **Additional Planning and Community Engagement**

Pending the approval to pursue the North Route the partner agencies commit to continue working collaboratively and with stakeholders to develop the appropriate mitigation strategies that mitigate capacity-related challenges affecting the greater Eldorado Springs community. OSMP staff will be engaged in other efforts and collaborations in addition to the ECSP Visitor Use Plan with additional partners such as Boulder County Transportation and CDOT which will include community engagement opportunities.

### **Future OSBT Role**

The OSBT will have the opportunity to provide input into the management strategies under consideration that are relevant to OSMP interests during subsequent planning processes such as the ECSP Visitor Use Management Planning process as well as receive regular information updates on planning actions led by the partner agencies that are subject to their own approvals. In addition, management strategies may be brought to the board for action including, but not limited to:

- Amendments to TSA plan commitments (West TSA and EMDD TSA)
- Changes to existing OSMP regulations
- Allocation of OSMP capital improvement funds
- Other significant financial investments by the city
- Significant improvements or modifications to OSMP lands

### **ATTACHMENTS**

- **Attachment A:** West TSA Guidance
- **Attachment B:** List of Stakeholders

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## **West TSA Plan Guidance Discrepancy Between the Council Motion and Plan Language for the Eldorado Canyon to Walker Ranch Multi-Use Connection**

During the process of discussing the feasibility study and alignment recommendations, a discrepancy became evident between the language in the West TSA Plan for the Eldorado Canyon to Walker Ranch multi-use trail connection and the actual motion language that was passed by City Council when approving the West TSA Plan.

The actual motion that City Council approved when adopting the West TSA Plan on March 30, 2011 was for OSMP to . . . *work with Eldorado State Park, Boulder County and other groups to create a Walker connection as soon as a source of funding is identified.* This language comes from a Council motion moved by Councilmember Morzel, seconded by Councilmember Gray, and carried unanimously “to amend the mountain biking section on page 47 to look at [the] possibility to extend the Boulder Creek Path to provide access to the Betasso Preserve consistent with the contents of the Boulder County Parks and Open Space Betasso Preserve Management Plan; and to work with Eldorado State Park, Boulder County and other groups to create a Walker connection as soon as source of funding is identified.”

The language in the draft West TSA Plan that Council was considering was: “*Use best efforts to work with Eldorado Canyon State Park, Boulder County Parks and Open Space (BCPOS) and community groups to examine the feasibility of a multiple-use trail connection from Eldorado Springs to Walker Ranch. This includes the potential use of a portion of the Eldorado Canyon Trail on OSMP land.*” This is the same language that currently is in the final adopted plan.

Staff has watched and listened to the video recordings of the March 30, 2011 Council Meeting and transcribed the portions of the meeting where the Eldorado Canyon to Walker Ranch connection motion was made and the corresponding Council deliberations (transcription provided below). After reviewing the meeting proceedings and determining that the draft plan was never amended to reflect the final Council motion language, it is staff’s belief that the final plan was not updated to accurately reflect the council motion. An addendum to the plan will be made to accurately reflect the council motion.

Based on this information, staff believes the actual motion language is most in-line with the intended Council guidance for the Eldorado Canyon to Walker Ranch multi-use connection.

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To confirm the motion and amendment to the West TSA Plan, staff reviewed the recording of the council meeting and prepared the following partial transcript of the most relevant portions of the meeting.

Councilmember Morzel: . . . *so I would like us to look at what was accepted in the CCG [West Trail Study Area Community Collaborative Group], and I would like to add the following things to it . . . Second thing I would like to do is—one of the recommendations is to work with Eldorado State Park, Boulder County Parks, anyways—these other groups. Let's get this done and let's make a commitment to get this done in 2012. I think this has been out here way, way, way too long, you know, and I talk to the mountain biking community—they say, "we've been asking for this for ten years and we've got no movement on it; let's just finish it; let's get it done and let's make that a top priority."*

Councilmember Gray: *Thanks Lisa, we need a motion to continue.*

NA: [The motion passes]

Councilmember Gray: *So, things that Lisa brought up actually I didn't anticipate in a motion, but one of the reasons I put the CIP on there was because I've heard the same thing from people, you know, are we going to get the Walker Ranch connection? and, you know, we can all say "sure"—we've had discussions with the Open Space department, with various board members, we're working on it—but I think it would give people actually, you know, feeling like there is some certainty in getting that done, and I'm not asking you to reveal all of your property negotiations right now.*

Councilmember Morzel: *The Walker-Eldo, I'm saying, let's put that in the CIP in 2012. Let's just—or try—and that is contingent on our work with Eldorado Canyon State Park—*

Councilmember Ageton: *—state approval, it's conditional.*

Councilmember Morzel: *—and State approval, and that's, I guess, the only oddball out here.*

Mike Patton (OSMP Director): [Eldo-Walker cannot be inserted into the CIP] . . . it's gonna be a multijurisdictional trail that will rely on GOCO funding . . . but, no matter what we do there the expense is gonna be very large. . .

Councilmember Morzel: *Okay, so why don't I just change that into as soon as a source of funding is identified, okay?*

Unknown Councilmember: *As soon as what?*

Councilmember Morzel: *A source of funding is identified so that, I mean, I just can't be hanging out here anymore and it needs to get done—this has been, I think, a fair request of this group and—let's just get that done.*

City Clerk/Recorder: *So then, I've heard three things. One is to look at ways to extend to Betasso. Number two is to find a way to have a Walker connection as soon as a funding source is found—or identified, yes, and then three is to explore two-way traffic on Chapman.*

[Item #3 is removed from the motion]

[There is no more comment on the motion]

[The motion passes unanimously]

## Identified Stakeholder

### Local community stakeholders

- Eldorado Springs residents/property owners
- Eldorado Springs Community Association

### Land Managers/Agencies

- Bureau of Land Management, Colorado State Office
- Colorado State Forest Service
- Colorado State Land Board
- Colorado State University
- District Forester
- Forester
- U.S. Fish and Wildlife Service
- University of Colorado at Boulder
- USFS Arapahoe Roosevelt NF, Boulder Ranger District
- Wildlands Restoration Volunteers

### Land/wildlife stewardship organizations

- Boulder Bird Club
- Boulder County Audubon Society
- Boulder County Nature Association
- Boulder Open Space Conservancy
- Boulder Rights of Nature
- Boulder Tomorrow
- Colorado Native Plant Society
- Colorado Natural Areas program
- Colorado Natural Heritage Program
- Defenders of Wildlife
- Friends of Boulder Open Space
- Land use Coalition
- Plan Boulder/County
- Sierra Club
- Society of Wetland Scientists
- Nature Conservancy
- Westernaries
- NATO and Nederland PROSAB

### Recreation organizations

- Back Country Hunters and Anglers
- Boulder Area Trails Coalition (BATCO)
- Boulder Climbing Community
- Boulder County Horse Association
- Boulder Hiker Chicks
- Boulder Mountain Bike Alliance
- Boulder Rock Club
- Boulder Trail Runners
- Coal Creek Park and Recreation District
- Colorado Equestrian Center
- Colorado Mountain Club - Boulder
- CU Equestrian Team
- CU Hiking Club
- CU Triathlon Team
- Fairview HS Equestrian Club (Knight Riders)
- FIDOS (Friends Interested in Dogs + Open Space)
- Flatirons Climbing Council
- Friends Interested in Dogs on Open Space
- Geocaching Colorado
- Grand county Mtb Alliance
- Headwaters Trails Alliance
- Indian Peaks Group of the Sierra Club
- Indian Peaks Traverse Coalition
- International Mountain Bike Alliance
- Open Boulder
- Trout Unlimited

### First Responders

- Boulder County Sheriff's Office
- Front Range Rescue Dogs
- Coal Creek Fire District
- Rocky Mountain Fire District
- Rocky Mountain Rescue Group



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

**MEETING DATE: February 13, 2019**

**AGENDA TITLE**

Request for a recommendation to City Council to approve the conveyance of approximately 0.5 acres of the approximately 70-acre Saint Walburga Abbey Open Space, Boulder County Parcel Number 157702001004, and the vacation of access easements on 6417 South Boulder Road; together with the acquisition of approximately 0.5 acres of land, the conveyance of an Amended and Restated Conservation Easement on approximately 21.5 acres, and the granting of an Access Easement over 6417 South Boulder Road for Open Space and Mountain Parks purposes

**PRESENTER/S**

Dan Burke, Interim Director, Open Space and Mountain Parks  
Bethany Collins, Interim Real Estate Services Supervisor, Open Space and Mountain Parks  
Luke McKay, Property Agent, Open Space and Mountain Parks

**EXECUTIVE SUMMARY**

This agenda item is the consideration of a motion to approve and recommend that City Council approve the conveyance of approximately 0.5 acres of the approximately 70-acre Saint Walburga Abbey Open Space (Open Space) and the vacation of two access easements (Joint Use Access Easement and City Access Easement) on 6417 South Boulder Road (Zen Center Property) to Chung Tai Chan Monastery USA (Monastery). In accordance with Section 177 of the Boulder City Charter, an Open Space Board of Trustees (OSBT) approval and recommendation to City Council is required to dispose of any open space land interests under Section 177 of the Boulder City Charter.<sup>1</sup> In

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<sup>1</sup>According to Section 177 of the Boulder City Charter, “no open space land owned by the city may be sold, leased, traded, or otherwise conveyed, nor may any exclusive license or permit on such open space land be given, until approval of such disposal by the city council. Such approval may be given only after approval of such disposal by the affirmative vote of at least three members of the open space board of trustees after a public hearing held with notice published at least ten days in advance in a newspaper of general circulation in the city, giving the location of the land in question and the intended disposal thereof. No open space land owned by the city shall be disposed of until sixty days following the date of city council approval of such disposal. If, within such sixty-day period, a petition meeting the requirements of Section 45 and signed by registered electors of the city to the number of at least five percent of the registered electors of the city as of the day the petition is filed with the city clerk, requesting that such disposal be submitted to a vote of the electors, such disposal shall not become effective until the steps indicated in Sections 46 and 47 have been followed.”

exchange for the 0.5 acres and the vacation of the two access easements, the Monastery will vacate their interest in the Joint Use Access Easement and convey to the city an equally sized parcel of approximately 0.5 acres of the Zen Center Property, an Amended and Restated Conservation Easement protecting more of the Property, and an Access Easement over the Property (collectively, Land Trade) (**Attachments A and B**).

In 2015, a tenant of the existing property owner encroached on the Open Space by depositing large piles of mulch north of the driveway that provides access to both the Open Space and the Zen Center Property. While investigating that encroachment, OSMP learned that the legal description of the Joint Use Access Easement did not correspond with the location of the constructed driveway and access over the Open Space and Zen Center Property, and that the tenant had deposited the mulch on the Joint Use Access Easement. After refusing to remove the mulch, the tenant was cited and charged by OSMP rangers for damaging public property. The tenant ultimately plead guilty in Municipal Court and under the Court Agreement (**Attachment C**), the city agreed to correct the Joint Use Access Easement so that it overlaid the existing driveway and access.

Since that time, Open Space and Mountain Parks (OSMP) staff and the existing property owner have been working to correct the Joint Use Access Easement to overlay the existing driveway and access and replace both the Joint Use Access Easement and the City Access Easement with a single mutual access easement agreement.<sup>2</sup> However, last year the property owner went under contract to sell the Zen Center Property to the Monastery. On Jan. 24, 2019, the Monastery was unanimously approved for a Special Use Review and Site-Specific Development Plan by the Boulder County Commissioners to develop the Zen Center Property with a 25,000 square foot Buddhist meditation and monastic training educational center (Zen Center).<sup>3</sup>

As proposed, the Zen Center will be developed on the southern portion of the Zen Center Property that is not protected by the city's conservation easement (St. Walburga-Liu Conservation Easement). However, access to the Zen Center will be over the Open Space due to the Joint Use Access Easement. Based on their Transportation System Impact Analysis at Review Level (TSIR), the Zen Center anticipates 106 vehicle-trips on weekdays and 290 vehicle-trips on Sundays. In order to accommodate this change in use, Boulder County's Transportation Department is requiring (at a minimum) an 18-foot-wide paved driveway with an adjacent pedestrian path and side ditch for drainage for access to the Zen Center over the Open Space.

Although the Monastery has the right to improve the existing Joint Use Access Easement for access to the Zen Center, developing and improving the Joint Use Access Easement would impact habitat for the Ute-ladies'-tresses orchid (*Spiranthes diluvialis*), a federally

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<sup>2</sup>In addition to the Joint Use Access Easement, OSMP has learned that the legal description for the City Access Easement is also incorrect hence the desire to replace both access easements with a single access easement that corresponds with the actual constructed access over the Open Space and the Zen Center Property.

<sup>3</sup>For more information on the Special Use Review and Site Specific Development Plan please see: <http://landuse.boco.solutions/boco.lu.docketlistings/app/detail.html?docket=SU-18-0012>.

threatened species. Furthermore, while correcting the Joint Use Access Easement so that it overlays with the existing driveway and access will help to mitigate impacts to the Ute-ladies'-tresses orchid habitat and other ecological resources, the enhanced use and improvement of the corrected Joint Use Access Easement will still result in some impacts to the Open Space. Given the estimates of the TSIR and the requirements of Boulder County's Multi-Modal Transportation Standards, the Joint Use Access Easement will not only receive significantly more traffic and use by the Zen Center but also require additional improvements in order to support that increased traffic and use such as surfacing, access for pedestrians and a drainage ditch. In OSMP's opinion, the enhanced traffic and intensified use of the Joint Use Access Easement and the required improvements within that easement will have a significantly greater impact to the Open Space and Open Space Charter purposes than the existing uses on the Zen Center Property—access for a single-family home and agricultural purposes. Therefore, to better protect Open Space Charter purposes and the Open Space's natural resources, and in order to meet the conditions of the aforementioned Municipal Court Agreement to correct the Joint Use Access Easement, OSMP is recommending this Land Trade. OSMP believes this trade will not only increase the protection of Open Space Charter purposes but also allow for more effective stewardship and management of the Open Space in the long term.

#### **STAFF RECOMMENDATION**

Staff recommends that the Open Space Board of Trustees approve a motion to approve, and recommend that City Council approve, the conveyance of approximately 0.5 acres of the approximately 70-acre Saint Walburga Abbey Open Space, Boulder County Parcel Number 157702001004, to Chung Tai Chan Monastery USA, but reserving any appurtenant mineral rights, and the vacation of a Joint Use Access Easement and Access Easement on 6417 South Boulder Road, pursuant to the disposal procedures of Article XII, Section 177, of the Boulder City Charter; together with the acquisition of approximately 0.5 acres of land, the conveyance of an Amended and Restated Conservation Easement on approximately 21.5 acres, and the granting of an Access Easement over 6417 South Boulder Road from Chung Tai Chan Monastery USA for Open Space and Mountain Parks purposes

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

- Environmental: OSMP is a significant community-supported program that is recognized worldwide as a leader in preservation of open space lands contributing to the environmental sustainability goal of the City Council. Approval of the Land Trade will satisfy the Municipal Court Agreement, enhance Open Space Charter purposes, and enable OSMP to better steward and manage the Open Space in accordance with its mission and the Open Space Charter.
- Economic: OSMP contributes to the economic vitality goal of the city as it provides the context for a diverse and vibrant economic system that helps attract businesses and talent. The city's open space system supports the city's quality of life which attracts visitors and helps businesses 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 – OSMP has determined that the value of the total consideration to the city in the Land Trade exceeds the value of the vacated access easements and the approximately 0.5 acres being conveyed to the Monastery.
- Staff time – Sufficient funding for staff time is available to process the Land Trade.

### **PUBLIC COMMENT AND PROCESS**

This item is being heard as part of this public meeting advertised in the *Daily Camera* on February 10, 2019. A Notice of Disposal of Open Space Lands was published in the *Daily Camera* on February 1 and 2, 2019 pursuant to Section 177 of the Boulder City Charter.

### **ANALYSIS**

When OSMP considers the disposal of an open space land interest or amending a conservation easement, the primary criteria staff considers is whether the disposal will enhance Open Space Charter purposes and better enable staff to protect and steward those purposes providing an overall net benefit to the city's open space program and system. OSMP also considers the alternatives and whether the same goals and purposes can be achieved without disposing open space. The following is a summary of OSMP's analysis of the Land Trade and the alternatives to it.

#### **Land Trade**

As proposed under the Land Trade, the city would vacate their interests in the Joint Use Access Easement and City Access Easement, and convey approximately 0.5 acres of the Open Space, including the existing driveway and access, to the Monastery in exchange for: (1) approximately 0.5 acres of land currently protected by the St. Walburga-Liu Conservation Easement; (2) the vacation of the Monastery's interest in the Joint Use Access Easement; (3) an Amended and Restated Conservation Easement with additional restrictions to better protect open space charter purposes; (4) protecting additional acreage under the Amended and Restated Conservation Easement; and (5) a new Access Easement to the city over and through the Zen Center Property.

The land the city is trading to the Monastery is partially burdened with the Joint Use Access Easement, is bordered to the east and west by private landowners and South Boulder Road to the south, and consists primarily of the constructed driveway and access which includes an iron gate with brick columns on either side of it. Beyond the constructed access, the approximately 0.5 acres consists of smooth brome vegetation (**Attachment D**). Given this land's primary use for access, and adjacent land uses, the Open Space Charter purposes this 0.5 acres support and protect are nominal. However, in OSMP's opinion, the approximately 0.5 acres the city is receiving in fee has superior

Open Space Charter purposes and natural resources. The land is in active agricultural production, is identified in the Boulder County Comprehensive Plan (BCCP) as “Significant Agricultural Land,” and includes riparian habitat buffering New Dry Creek Carrier Ditch. City ownership of this land will allow OSMP to bring it under the same resource management regime as the Open Space and widen the connector between the Open Space’s western and eastern parcels (**Attachment E**).

In addition to the land being traded between the city and the Monastery, the Monastery is also conveying an Amended and Restated Conservation Easement to the city. The Amended and Restated Conservation Easement will replace the St. Walburga-Liu Conservation Easement and will better protect Open Space Charter purposes and the Zen Center Property’s natural resources. Of the new protections under the Amended and Restated Conservation Easement, the most significant is that the Monastery has agreed to tie their water rights, which includes a one half share of McGinn Ditch, to the Zen Center Property. This will ensure that the Monastery (or a future owner) cannot sell their water off of the Zen Center Property thereby “drying up” the land protected under the Amended and Restated Conservation Easement which would significantly affect the land’s agricultural viability as well as its ecological resources.

Furthermore, the Amended and Restated Conservation Easement will protect more of the Zen Center Property than the approximately 20 acres currently protected under the St. Walburga-Liu Conservation Easement. This additional protected land would include more of the Zen Center Property’s partially restored wetlands—including a wet meadow community—and “High Biodiversity Areas” as identified in the BCCP. As currently proposed, an additional 1.3 acres will be protected under the Amended and Restated Conservation Easement.

Lastly, the final consideration from the Monastery to the city under the Land Trade is that the Monastery will vacate their interest in the Joint Use Access Easement and convey a new Access Easement so that the city will maintain legal access to the Open Space that is afforded by the existing access easements. Currently, under the terms of the Joint Use Access Easement, the city is responsible for sharing maintenance costs associated with this easement. However, under this proposal, the city will not be responsible for maintaining the Access Easement over the Zen Center Property thereby reducing OSMP’s stewardship and management costs for the Open Space.

### Alternatives

Once the city became aware of the discrepancy between the legal description of the Joint Use Access Easement and the location of the constructed driveway and access, and agreed to correct it per the Municipal Court Agreement, OSMP worked with the existing property owner on correcting the Joint Use Access Easement and the City Access Easement and replacing both with a single mutual access easement agreement. However, when the existing property owner went under contract to sell the Zen Center Property to the Monastery in order to develop the Zen Center, OSMP began to develop alternatives—one being the Land Trade.

Although the city and the Monastery could correct the Joint Use Access Easement by simply moving it to overlay with the existing driveway and access, OSMP was concerned that both the increased frequency in the use of the Joint Use Access Easement and the improvements required to support that use would further impact the Open Space's Charter purposes and natural resources and continue to pose a stewardship and management challenge to the department.<sup>4</sup> The Zen Center is anticipating 106 vehicle-trips on weekdays and 290 vehicle-trips on Sundays and Boulder County's Transportation Department is requiring (at a minimum) an 18-foot-wide paved driveway with an adjacent pedestrian path and side ditch for drainage for access to the Zen Center over the Open Space. In comparison, the existing access ranges from 12-18 feet wide, is partially paved, and is used to access a single-family residence and agricultural operations.

Another alternative to correcting the Joint Use Access Easement is for the Monastery to develop and improve the Joint Use Access Easement as it is legally described. Although the Monastery has the legal right to develop and improve the Joint Use Access Easement, this is the least preferred option for the city. Doing so would not only impact habitat for the Ute-ladies'-tresses orchid (*Spiranthes diluvialis*), a federally threatened species, but also impact land that's currently undisturbed and require restoration of the existing driveway and access.

#### Conclusion

In conclusion, based on the above alternatives and OSMP's determination that the Land Trade will satisfy the Municipal Court Agreement, enhance Open Space Charter purposes, and better enable staff to protect, steward and manage those purposes, OSMP recommends that OSBT approve this motion.

#### ATTACHMENTS:

- **Attachment A – Location & Access Map**
- **Attachment B – Land Trade Map**
- **Attachment C – Municipal Court Agreement**
- **Attachment D – Photos**
- **Attachment E – Photos**

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<sup>4</sup>The city also determined that correcting the Joint Use Access Easement is a disposal under Section 177 of the Boulder City Charter.



# Attachment A: Location & Access Map

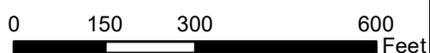
City of Boulder Open Space & Mountain Parks



- Joint Use Access Easement
- City Access Easement
- Open Space
- Zen Center Property
- OSMP Ownership
- OSMP Conservation Easement

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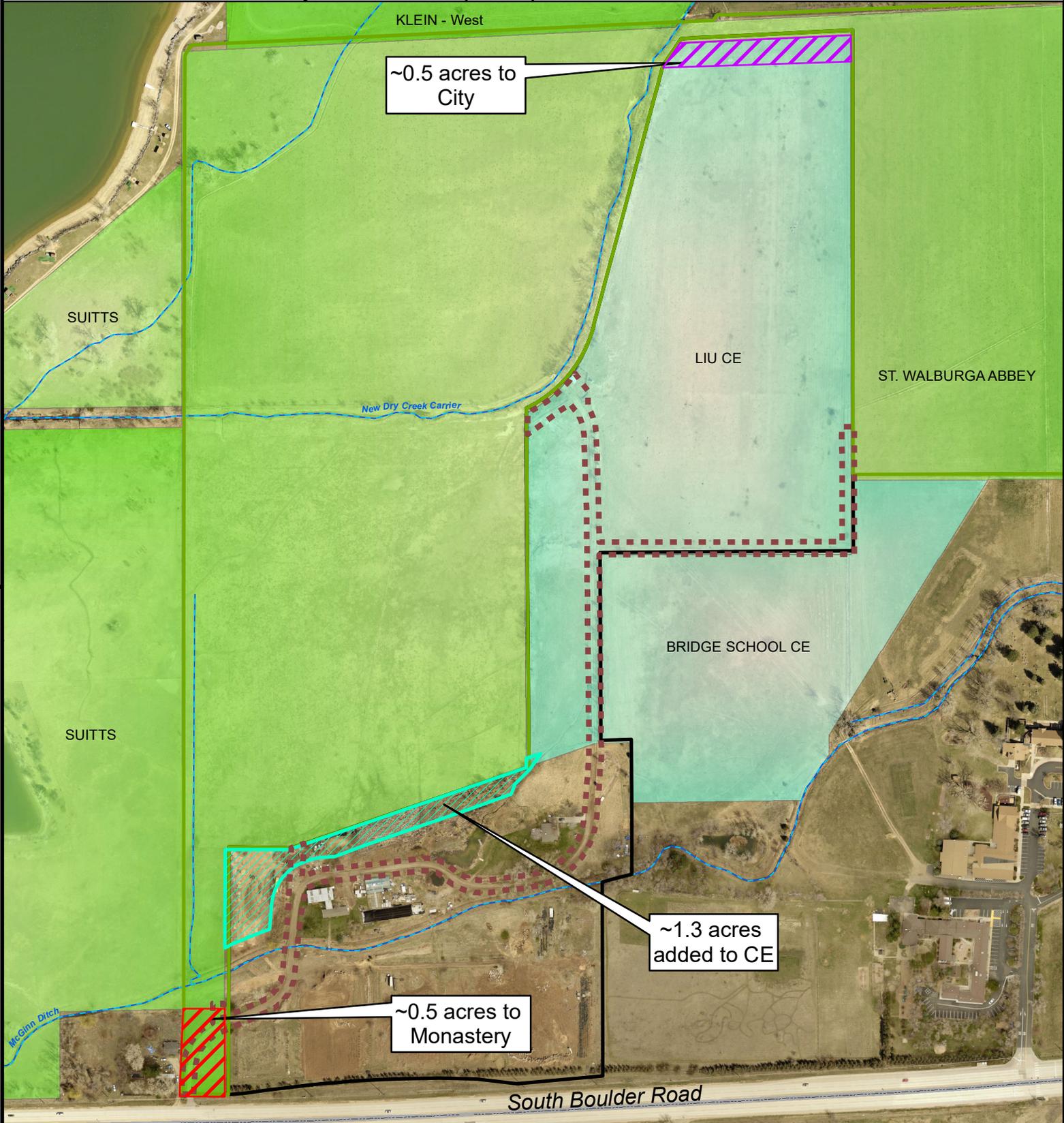


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# Attachment B: Land Trade Map

## City of Boulder Open Space & Mountain Parks



- Access Easment
- Open Space
- Zen Center Property
- OSMP Ownership

OSMP Conservation Easement

**\*DISCLAIMER: BOUNDARIES OF THE TRADE LANDS, EXPANDED CE, AND ACCESS EASEMENT ARE GENERALLY DEPICTED AND SUBJECT TO THE MUTUAL AGREEMENT OF OSMP AND THE MONASTERY AS WELL AS A SURVEY.**

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## Attachment C

<b>MUNICIPAL COURT, CITY OF BOULDER, STATE OF COLORADO 1777 6<sup>TH</sup> Street, Boulder, CO 80302</b>		
<b>Plaintiff:</b>	<b>THE PEOPLE OF THE CITY OF BOULDER, by and on behalf of, THE PEOPLE OF THE STATE OF COLORADO</b>	
<b>Defendant:</b>	<b>SCOTT C ANDERSON</b>	
Attorney Name:	Office of the City Attorney By Karyn Carroll, #43468 Lucas Markley, #40315 Chris Reynolds, # 42282	Case Number: CR-2015-0005275-GE
Address:	P.O. Box 8015, Boulder, CO 80306	Appearance Date: 1/20/2016
Telephone:	303/441-3025	
<b>MOTION FOR ACCEPTANCE OF PLEA AND TO DEFER SENTENCING, AND DEFENDANT'S WAIVER OF RIGHTS</b>		

The People and the Defendant jointly move that this Court accepts Defendant's plea of guilty to the charge(s) of: BRC Damaging Public Property (Include Damage Estimate as a Part of the Bond) and defer sentencing for 12 months from the date this agreement is accepted by the Court.

1. This disposition is subject to the following conditions:
  - a. Defendant is not charged anywhere with a criminal violation similar in nature to the present charge (including but not limited to: damaging property of another, damaging government property, obstructing government operations) between the date of this plea and the end of the deferral period which results in a conviction. If the Defendant has been charged with such an offense and that matter is not fully resolved by conviction, dismissal, or acquittal within the deferral period, the deferral period will be extended as to such offense until such resolution is accomplished. For the purposes of this agreement, a conviction includes entry into a deferred sentence agreement.
  - b. Defendant pay Court costs of \$25.00 and Administrative costs of \$100.00, per section 2-6-26, B.R.C. 1981, on entry and acceptance of plea, and Community Service fee of \$35.00 per section 4-20-55, B.R.C. 1981, if Community Service is ordered.
  - c. Defendant agrees to keep this Court informed of Defendant's current address during the period of this deferred sentence (Court's Address: P.O. Box 8015, Boulder, CO 80306 Phone: 303-441-1842).
  - W d. **Defendant certifies that he/she has no other criminal charges pending and that he/she has fully informed the City Attorney and the Court of all prior criminal history.**
  - W e. Other: Defendant agrees to pay restitution, in the amount of \$1,000.00 to the City of Boulder through the municipal court.
  - R f. Other: The city agrees not to interfere with the following with regards to 6417 South Boulder Road, where the defendant is a lessee:
    - i. Access to the property via the existing gravel driveway, and the city agrees to move the existing easement, as long as the property owner consents, to overlay the existing gravel driveway.
    - ii. The use of the current existing driveway for the purpose of ingress and egress for pedestrian, animal, and vehicular traffic
    - iii. Maintenance by the defendant of the existing gravel driveway from 6405/6417 boundary (the property leased by Mr. Anderson), to South Boulder Road, to include snow shoveling, filling pot holes raking driveway to maintain grade, sweeping and maintaining cleanliness of asphalt approach.
    - iv. Maintenance of mailboxes within the mutual access easement, where they currently exist.

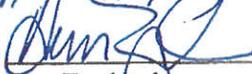
2. If Defendant satisfies all of these conditions, this action will be dismissed upon the City's motion and without the need for further action by the Defendant, and any bond will be returned to the address provided by the Defendant.
3. If Defendant fails to comply with one or more conditions, Defendant will be ordered to return to Court and agrees to so return. At that time, if noncompliance is shown, Defendant will be sentenced on above charge(s). Defendant specifically waives the right to a trial on the above charge(s) by this plea, and may only challenge such a sentence, if any and not this conviction, in any appellate court.
4. Defendant has been fully advised of his/her rights by the Judge's arraignment advisement of rights and/or has read this advisement in printed form, and understands the advisement which explains that the Defendant has:
  - a. A privilege against self-incrimination and the presumption of innocence;
  - b. The right to have a speedy trial to judge or a jury during which the People would be required to prove beyond a reasonable doubt every element of the offense charges;
  - c. The right at trial to confront one's accusers, to compel by Court process the attendance of witnesses, and to testify on one's own behalf;
  - d. The right to be sentenced without unreasonable delay;
  - e. The right to be represented by an attorney, and the right to court appointed counsel; and
  - f. The right to appeal the decision in this Court to Boulder County or District Court provided certain filing deadlines are met.
  - g. The right to a jury trial and to a court appointed attorney if the possible penalty includes a jail sentence.
5. Defendant stipulates that a factual basis for this plea exists, that this plea is made voluntarily, and that Defendant understands the nature of the charges.
6. Defendant understands that the **maximum penalty** for the violation is a fine of **\$1000 or 90 days in jail, or both**, and that the Court will not be bound by any representations made to the Defendant by anyone concerning the penalty to be imposed or the granting or denial of probation.

**HAVING BEEN FULLY INFORMED AND UNDERSTANDING THESE RIGHTS, DEFENDANT KNOWINGLY AND VOLUNTARILY ENTERS A PLEA OF GUILTY TO THE OFFENSE(S) CHARGED ABOVE, AND WAIVES ALL RIGHT TO A TRIAL.**

  
 \_\_\_\_\_  
 SCOTT C ANDERSON  
 Defendant  
 38069 BOULDER CANYON DR  
 BOULDER, CO 80502

*ce 17 south boulder  
 court  
 Boulder Co 80323  
 (303) 618-1834*

  
 \_\_\_\_\_  
 Assistant City Attorney  
 P.O. Box 8015, Boulder, CO 80306  
 (303) 441-3025 Fax: (303) 441-1949

  
 \_\_\_\_\_  
 Ann England  
 Attorney for Defendant Reg #26025

Date: 4/20/16

ORDER

Being fully advised, the Court accepts the Defendant's plea and grants the motion for deferral of sentence upon the above stated terms and conditions.

Done this 20<sup>th</sup> day of January, 2016.

BY THE COURT:

Jeff Cohen

MUNICIPAL JUDGE

Should the Court, acting upon input from the Probation Department, determine in its discretion to terminate the deferred probation period early and enter an order dismissing this case, the People will not object.

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## Attachment D

### *Photos of the Approximately One-Half Acre the City is Trading to the Monastery*

Taken by Luke McKay, Open Space & Mountain Parks  
February 5, 2019





**Attachment E**

***Photos of the Approximately One-Half Acre the Monastery is Trading to the City***

**Taken by Luke McKay, Open Space & Mountain Parks  
February 5, 2019**





## MEMORANDUM

TO: Open Space Board of Trustees

FROM: Dan Burke Interim Director, Open Space and Mountain Parks  
John Potter, Resource and Stewardship Division Manager  
Andy Pelster, Agricultural Stewardship Supervisor  
Amy Willhite, Water Resources Administrator

DATE: February 13, 2019

SUBJECT: Written Information: Clarification of OSMP's Colorado-Big Thompson Water Interests

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### Summary

The following information relates to an administrative action to clarify the city's interest in Colorado-Big Thompson (CBT) water owned by the city as part of the Northern Colorado Water Conservancy District (Northern), some acquired by the Utilities department and some acquired by Open Space and Mountain Parks (OSMP). The result of this action does not require disposal, acquisition, or a change in the value of the water, but seeks to clarify the separate ownership interests of OSMP and the Utilities Division of the Public Works Department (Utilities) in the CBT water resource. This clarification should result in a water assessment savings to OSMP, enable the future acquisition of CBT units for agricultural purposes (if desired), and allow OSMP to manage its CBT units more directly and efficiently.

### CBT Background

CBT water is an important water resource on the front range for municipal, industrial and irrigation uses. CBT is a large-scale, trans-mountain water supply, operated by Northern Water and the U.S. Bureau of Reclamation. The supply is generated from the Colorado River basin and pumped through a series of canals, starting at Grand Lake and Lake Granby, eventually being conveyed to front range reservoirs such as Boulder Reservoir. It provides a supplemental supply of water to OSMP in the form of late season irrigation water when many ditches are out of priority. It is also a significant source of supply for the Boulder Water Utility (held by Utilities). Unlike ditch shares, CBT is allocated through contracts with Northern and is allocated as units. Each unit yields a variable amount of water depending on annual snowpack, but the average is about 0.70 acre-feet of water (consumptive) per unit.

OSMP owns a relatively small amount of CBT units as only a small portion of its ditch conveyance systems are physically connected to the CBT system. Prior to the Boulder Valley Farm acquisition, OSMP held a systemwide total of 264 units of CBT. With Boulder Valley Farm, OSMP increased its holdings to a total of 324 units. This is still a relatively small amount, as Utilities has 21,000 units.

### Background of Issues

In working with Northern to transfer the CBT units associated with the Boulder Valley Farm acquisition, Northern raised concerns that the city was over its allowable maximum ownership

for municipal water suppliers. The purpose of this “cap” is to ensure that CBT is used as a supplemental supply of water for municipal, industrial and agricultural purposes. The cap calculation for municipal suppliers is based on native water supply ownership and build out demand, and for agriculture it is based on the amount of water required to supplement the native water supply to provide three acre-feet per acre of water to irrigated land. This was problematic as there is currently no distinction between OSMP and Utility contracts as they are all simply in the name of the City of Boulder.

#### Analysis of OSMP’s CBT and Split of CBT Contracts

Staff explored the option of splitting the contracts to allow OSMP to purchase the Boulder Valley Farm units. Northern responded by requiring a full evaluation of OSMP’s capacity for CBT. This prompted OSMP to determine the following:

1. Verification of historical transactions and the number of CBT units that were purchased by OSMP versus Utilities;
2. If there is a clear, documented delineation between OSMP and Utilities’ CBT units and how they are to be used, with a process precluding a simple transfer of units from OSMP to Utilities in the future;
3. Calculations showing that OSMP is not over its allowable allocation (“cap”) if units are separated from Utilities, and how much capacity there is to acquire future units.

OSMP’s investigation showed that OSMP, if considered separately from Utilities, has additional capacity to purchase CBT units. Working together with Utilities and the City Attorney’s Office (CAO), it was also determined that there is a significant process required if the city ever desired to transfer CBT water from OSMP to Utilities. This was a salient issue of concern for Northern. That is, any transfer or use of open space assets, including water, to Utilities for municipal water supply purposes would be a disposal that requires OSBT and Council approval following public hearings. Of note, is that Northern has expressed their interest in seeing CBT units remain in agriculture, and OSMP’s charter specifically describes that the water will be used for its historic purposes, meaning agriculture in most cases.

#### Boulder Valley Farm

Northern performed a field investigation and more detailed analysis on Boulder Valley Farm’s ability to use the 60 CBT units that were sold with the Boulder Valley farm property. The farm came with what appeared to be a large excess of water rights, but after the recent field investigation, full capacity analysis and our plan to split the contracts, we will be able to officially obtain transfer of the 60 new CBT units to OSMP with no restrictions.

#### Next Steps

The separation of units between departments and associated reissuance of allotment contracts will be presented for council resolution in March. If approved, OSMP could expect to officially obtain the Boulder Valley Farm units through Northern board action at its April board meeting. OSMP anticipates a more streamlined ability to allocate CBT to farms and ranches on the OSMP system as well as a decrease in assessment costs because the resulting OSMP contracts would now be assessed at an agricultural rather than the higher municipal and industrial rate.

## MEMORANDUM

TO: Open Space Board of Trustees

FROM: Dan Burke, Interim Director, Open Space and Mountain Parks  
John Potter, Resource and Stewardship Manager  
Frances Boulding, Recreation and Cultural Stewardship Supervisor  
Christian Driver, Cultural Resources Program Coordinator

DATE: February 13, 2019

SUBJECT: Written Information: Upcoming City of Boulder Tribal Consultation

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### **Background and History of City of Boulder Tribal Consultation:**

Tribal consultation is broadly defined as a process of meaningful government-to-government communication and coordination between government agencies and tribal governments prior to an agency taking actions or implementing decisions that may affect tribes or tribal interests. Although consultation was originally established as a federal government policy with President Bill Clinton's signing of Executive Order EO 13175, numerous states and municipalities have also sought the input of tribal governments when their actions are thought to affect tribal interests.

The City of Boulder currently has four legal agreements with 13 Native American tribes. These agreements are the result of formal consultations between the city and the tribes that took place between the late 1990s and approximately 2005. The consultations originated from concerns related to the construction of a National Institute of Standards and Technology (NIST) building in southwest Boulder. Several individuals and groups alleged that a series of prehistoric stone alignments – described as a medicine wheel – were at the site of the proposed building and had been overlooked during cultural surveys. These claims resulted in the federal government initiating formal tribal consultation procedures with 14 tribes in 1994. This consultation process led to a 1998 Memorandum of Agreement (MOA) between the federal government and the tribes that, among other things, protected part of the property from development and allowed members of federally recognized tribes to conduct ceremonies at the site.

During that process, the City of Boulder also signed a MOA with the federal government and obtained a conservation agreement for an undeveloped area at the NIST property in 1993. This agreement established limits on further development and gave the City of Boulder the right to manage the areas within the agreement area. As a result of this agreement, the city began to consult with the tribes in the late 1990s. The consultations resulted in the adoption of two Memorandums of Understanding (MOUs) between the City of Boulder and the tribes in 1999. The MOUs recognized that the tribes and the city had a common interest in preserving open space in and around the City of Boulder to protect natural values and Native American cultural resources on that land. In addition, one of the 1999 MOUs established that the city would provide reasonable fire-protection services during any ceremonies conducted at the NIST property.

In 2002, the city and the tribes signed agreements that established yearly consultations if the city budget allowed; restricted development on the Jewel Mountain Open Space Property; and established a procedure to notify the tribes if Native American cultural resources are inadvertently discovered on Open Space and Mountain Parks (OSMP) land. These agreements also established the right for federally recognized tribal members and sponsored individuals to erect structures, such as a sweat lodge or a tipi, for ceremonies on

all OSMP lands and for the city to provide fire-protection services for any such ceremonies. Ceremonial use of Valmont Butte by certain individuals was also agreed to at this time. Tribal interest in the protection of cultural resources on OSMP also resulted in the adoption of department policies and additional legal agreements to protect cultural resources. A 2003 MOU between the city and the Colorado Historical Society that protects cultural resources, human remains, and their associated information is also the result of consultation over the years.

The city conducted regular consultations with the signatory tribes until approximately 2005 when the tribes were informed via letter of plans to close Valmont Butte to public access. In 2009 during the last recession, letters were sent to the tribes informing them that the city lacked the budget to host consultation. No responses to that letter were received by the city, and the city has not held any consultations since.

### **March 2019 Tribal Consultation Update:**

In 2016 the City Council adopted Resolution No.1190 which recognized the second Monday of October as Indigenous People's Day in Boulder and which was intended to correct omissions of the Native American presence in public places, resources and cultural programming. The resolution also requested input from representatives of those tribes and other interested parties regarding a name that commemorates the indigenous presence on the park land known as "Settlers Park."

In recognition of the indigenous peoples whose traditional lands now constitute Boulder and our shared past, good as well as bad, the City of Boulder is planning to resume government-to-government tribal consultation and to renew relationships with tribal governments that have existing agreements with the city. As part of that planned consultation, the city has proposed to:

- Review the city's agreements with the 13 signatory tribes, and to understand how we can work together to improve them;
- Present information about Boulder's Indigenous Peoples' Day Resolution that recognizes and appreciates Indigenous Peoples with connections to the Boulder area;
- Fulfill a key part of the resolution by receiving input and ideas concerning a name change for a city open space area known as "Settlers Park;" and
- Listen and learn about matters of importance to tribes and to hear if – and how – they would like to engage with the Boulder community.

This consultation is currently scheduled for Tuesday, March 19 and Wednesday, March 20, 2019 and will be held at the Millennium Harvest House in Boulder. To date, the city has received responses from 11 tribes. The consultation sessions will include Tribal Representatives and representatives from the City of Boulder. The specific agenda is still being finalized, however, the sessions will address the goals listed in the bullet points above through government-to-government discussions between the tribes and the city, along with field visits to Settler's Park and possibly other locations on OSMP property of importance to the tribes. OSMP staff will be helping to support this citywide effort.